

OBJECTIONS TO SYSTEMATIC THERAPEUTIC REHABILITATION

- I. *Systematic Therapeutic Rehabilitation* (STR) is offered by some as a replacement for a system of punishment. Advocates usually argue that systems of punishment are ineffective in achieving the desired ends (primarily, the reduction in undesirable behavior) and rest on unjustifiable motives (for example, the desire for revenge). It is sometimes claimed that the justification of systems of punishment depends on “the illusion of free will”. The justification offered for STR does not depend on any such assumption about free will. Proponents claim that crime should be treated like an illness. It is not a fitting condition for blame or punishment. Rather, we should try to cure those with criminal tendencies. No one denies that *some* who commit crimes are not responsible for their actions; defenders of STR disagree with advocates of punishment in claiming that *all* criminality is like illness, and no criminals should be viewed as responsible. Thus, they claim, we should completely replace our system of punishment with one of therapeutic rehabilitation.

- II. Objections to STR
 - A. STR is dangerous in practice.
 1. By clothing our response to crime in benevolent guise, it makes it more difficult to see that what we are doing is *prima facie* wrong and needs justification. (Justification is required because we are imposing the treatment against the will of those treated.) This may encourage excesses.
 2. There is no “economy of ‘treatment’ principle” limiting the amount of treatment appropriate to a given sort of undesirable behavior. Very trivial misdoings could meet with extended and painful treatments. The practitioner of STR is not concerned with the justice of his activities.
 3. The justification of therapeutic rehabilitation, if sound, will work as well to justify preventive therapy. This is at least *prima facie* objectionable because it results in treating people in some way (against their wishes) not for what they have done but for being a member of a *group* the members of which are statistically more likely to commit crimes.

 - B. STR is deficient in theory.
 1. It depends on the unlikely assumption that *all* criminality is a kind (or symptom) of mental illness.
 - a. If this is claimed to be true *by definition*, then this is not a scientific claim but a semantic one; and there is no reason to suppose that some mental illness *in this artificial sense* isn’t best treated by punishment.
 - b. If this claim is offered as a scientific claim, then it is either miraculous or most implausible. There are, it seems, only two ways it could be true:
 - (1) The criminal code has been so carefully constructed that it prohibits only those actions which are, by some independent standards “crazy”. This certainly could not be true of all legal codes, and one would be very foolish to think it true of ours.
 - (2) It is a kind (or symptom) of mental illness to violate whatever rules are enacted into law in one’s society. But this is clearly too strong in light of cases of justified civil disobedience.

2. STR depends on the assumption that the criminal is never responsible for his/her behavior. But since criminal behavior may not be “crazy” or a symptom of mental illness (see II.B.1., above), this is usually defended by appeal to the claim that *no one*, criminal or not, is ever responsible for his/her actions. But both of these claims are implausible. Even confining our attention to criminal actions, this view destroys a crucial distinction between the actions of Mohandas Gandhi, Martin Luther King and Andrei Sakharov, on the one hand, and people like John Wayne Gacy, Jeffrey Dahmer or Jeffrey Dahmer, on the other. Some who violate the law are responsible for their actions. Sometimes those who *are* responsible are fitting objects of praise for their actions. Sometimes, they are to be blamed and punished. It is only when they are not responsible that responses of this sort are inappropriate.