

# MENTAL DISORDERS AND THE “SYSTEM OF JUDGMENTAL RESPONSIBILITY”

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## Possible Applications:

Free Will/Determinism  
Selfhood  
Moral Agency  
Bioethics

**Readability:** Easy

## Complimentary Texts/Resources:

Susan Wolf “*Sanity and the Metaphysics of Responsibility*”

Alisa Carse “*Vulnerability, Agency, and Human Flourishing*”

Elyn Saks *Ted Talk* [This is included in the Head Games compilation - there are some other interesting talks here that may be used to discuss a related critique of the two prong judgmental responsibility model. Should there be special accommodation for agents that are not mentally ill but do bad things in situations that seem to diminish their capacity to act morally (Milgram experiment, Stanford Prison Experiment, mob psychology)? Should we have to choose between holding them fully responsible and total absolution? Once we are aware of the effect of these situations what are the responsibilities of a just society?]

**Thesis:** Those affected by mental disorders whose actions are episodically influenced by their disorder are often overlooked by philosophers of moral and ethical responsibility. Allen gives us reasons for thinking it is inappropriate to either:

a) “summarily exclude people with mental problems out of the universe of moral agents, reducing them to the status of rocks, trees, animals, and infants”

b) “include the group on the false assumption that their moral lives are precisely like the paradigmatic moral lives of the epistemically-sound and well-regulated people never personally touched by a mental condition”

We must explore a revised approach to moral and ethical responsibility and obligation for this group.

## Key Definitions:

*Judgmental Responsibility* an ethical and moral capacity

- a) it is appropriate to hold someone responsible for their actions
- b) is necessary and sufficient for ascription of moral agency
- c) requires free will and the capacity to reason morally

*Determinism* “a scientific theory holding that every ‘decision, reflective as well as unreflective, is fully determined by processes and events that precede it and lie outside the control of the decider.’”

*Epiphenomenalism* “the scientific claim that the ‘causal chain that ends in movements of nerve and muscle’ does not include decisions at all. Decisions, which may appear to a person as prompting action, are ‘epiphenomena’ of external processes and events.”

[A more explicit definition of compatibilism/incompatibilism may be needed to supplement the text]

*Ethics vs. Morals* both relate to “right” and “wrong” conduct. However, ethics refer to the series of rules provided to an individual by an external source, e.g. their profession or religion. Morals refer to an individual’s own principles regarding right and wrong.

**Resource:** This definition is from [http://www.diffen.com/difference/Ethics\\_vs\\_Morals](http://www.diffen.com/difference/Ethics_vs_Morals) this site also has a comparison chart and video examples

## Summary:

### I. Introducing the Ideas

Dworkin: “people each have a general, foundational responsibility to live well, to make something of their lives, and that living well is a matter of making appropriate decisions over one’s life.”

*Responsibility may be compromised by:*

- self-interest
- moral schizophrenia
- moral compartmentalization

How do we assess agents whose mental disorders have made them more vulnerable to these types of compromises?

Dworkin sees these agents as lacking the *creative epistemic* and *regulative capacities*, which undercuts their moral responsibility. He does not, however, see them as being driven by some external ‘hydraulic’ force. This interpretation of agents affected by mental disorders avoids the threat of determinism regarding the responsibility of ‘normal’ adults.

Allen questions Dworkin’s:

- a) understanding of mental conditions
- b) assessment of responsibility in the context of mental conditions
- c) distinction between
  - i) lacking a epistemic and regulative capacity
  - ii) being driven by causal forces from the outside

II./III. Allen motivates her skepticism citing three main reasons and giving supporting evidence:

- 1) the prevalence of mental illness
- 2) the diversity of those affected by mental illness
- 3) evidence that those affected do indeed have rich moral lives  
(*they do not lack creative epistemic or regulative capacities in the way Dworkin assumes*)

### IV. Free Will/Determinism

[This section addresses the free will/determinism debate as it relates to moral responsibility and offers Dworkin’s version of compatibilism.]

*“Before a philosopher can ascribe moral and ethical responsibility to individuals, he or she must first prove that either individuals possess freedom of will or that freedom of will does not matter.”*

Dworkin is a *compatibilist*. Judgmental responsibility is an “interpretative concept”. Whether or not determinism or epiphenomenalism is true, judgmental responsibility is valuable because it helps us navigate the ‘responsibility system’ already in place in our lives.

*“The responsibility system ascribes judgmental responsibility to a person not just in case the person is scientifically free, but if he or she (1) has a minimal ability to form true beliefs about the world, other people’s mental states, and the likely consequences of what they do; and (2) the ability to make decisions that fit ‘the agent’s normative personality: his desires, preferences, convictions, attachments, loyalties and self image.’ These are epistemic and regulative capacities, respectively.”*

Judgmental Responsibility obtains when an agent:

- a) has a minimal ability to form true beliefs and understand consequences [**epistemic prong**]
- c) can act reliably in accordance with their personality [**regulative prong**]

V./VI. Do persons with mental conditions possess judgmental responsibility?

Dworkin's emphasis on the narrative/internal/creative in determining judgmental responsible makes it possible to ascribe some form of responsibility to those with mental disorders.

*"People with symptoms of bipolar disorder, depression, anxiety, obsessive compulsive disorder, dissociative identity disorder, schizophrenia, and the like are creative actors, narrative builders. They are intelligent; they are not robots. They are not the people Dworkin indelicately terms "idiots" who do not know that guns kill. Yet the narratives of responsibility shaping Dworkin's interpretation of responsible actors are the narratives of mental wellness not mental disorder or illness."*

**Major Mistake:** Not recognizing the episodic nature of much mental illness

#### VII. Responsibility and Assessing Capacities - Rethinking the Causal/Narrative Distinction

"When assessing his responsibility for his outrageous assaults and property damage, Jeremy...must assess his own epistemic and regulative capacities. He must wonder if he is in control or if he is a tumbleweed. Jeremy believes his regulative capacities are impaired and that it is a medical problem prescription drugs can relieve. But he also believes he is driven, willy-nilly, to behave badly by genetic inheritance from his schizophrenic father and childhood abuse. **The internal dialogue combines the creative and the hydraulic.**"

#### VIII. Accountability - Moral Praise and Blame

"We must encourage greater respect for the moral potential and contributions of people with mental illness, through identifying realms of moral responsibility and legal liability that properly – and improperly – apply to them."

#### **Possible Amendments:**

##### *Recognizing Levels of Accountability*

**Dworkin** - people with mental illness owe nothing for the wrong they do when ill

**Full Accountability** - the mentally ill owe complete apologies and compensation for the wrong they do once recovered

**Partial Accountability** - the mentally ill have an obligation to try to seek and follow medical advice, but otherwise only to offer brief factual explanations of illness-caused injuries

##### *Exploring Additional Obligations and Responsibilities*

- Could those prone to mental disorders be obligated to take reasonable steps to prevent bouts of acute illness?
- Does a just society have an obligation to provide access to services that assist those seeking treatment?

#### IX. Legal Liability and Diminished Capacity