

Is Cognitive Liberty the Watershed between Old and New Moral Enhancers?

Paolo Sommaggio (University of Trento), **Caterina Fabiani** (University of Trento)

In this paper, we will explore whether a fine-tuned negative formulation of cognitive liberty, i.e. the right that prevents coercive interventions on one's mental states by means of neurotools, may prevent the implementation of moral enhancers to rehabilitate certain types of offenders.

Notably, there are strong reasons to believe that a remedial moral enhancement conception may revive the corrective rehabilitation theory of punishment within the criminal justice system. In fact, remedial moral enhancements encompass a wide range of (neuro)interventions aimed at treating highly undesired behaviors (e.g. child sexual abuse) caused by a sort of "moral malfunction", even if it is not directly imputable to a medical condition. Consider, for instance, the possibility of using deep brain stimulation to modulate the activity of neural circuits essential for sexual drive (e.g. ventromedial hypothalamus) in child molesters who do not suffer from pedophilic disorder. Anyhow, remedial moral enhancement rehabilitation will not be put in place as a generalized preventive measure; rather, it will be provided only to subjects who committed an actual crime perceived as particularly heinous.

Such a proposal is not radically new. In fact, ante litteram moral enhancers (e.g. chemical castration) are already in use in some criminal justice systems. Albeit they have not been used to affect brain processes, they share the same ratio: morally deplorable behaviors should be corrected through intervention on the offender's body.

Therefore, in the light of recent literature, we will analyze if remedial moral enhancers differ substantially from ante litteram moral enhancers or if they could find breeding ground and their legitimacy on the same arguments which have justified the latter. Moreover, we intend to explore whether a fine-tuned conceptualization of cognitive liberty could prevent the implementation of moral enhancers and constitute the new parameter prohibiting ante litteram moral enhancers as well.

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