

## DETERMINISM, FATALISM AND COMPATIBILISM: FROM THE VIEWPOINT OF CRIMINOLOGY

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### *Abstract*

Today the world is getting advanced at a speed greater than ever. This scientific advancement can also be seen in neurology and today we know much more about how our brain works, than we knew in yesteryears. One such theory presented by neuropsychology is that our brain decides to commit an act in a particular way under the influence of external and internal factors before we can consciously commit it. This gave rise to the hypothesis that free will might not exist at all and that everything is due to the causal effect. These advances have stirred a debate, especially in the world of criminal justice and criminology. People, however, also do not want to let go of the crucial concept of free will which gives humans a meaningful life and keeps a check on morals, motives and responsibilities. A concept of *determinism* has arisen which suggests that every act committed is due to the cause and effect of various factors which are outside human control. Similarly, *fatalism* also pursues the approach that any act committed is inevitable and a person does not have the power or capacity to do otherwise, as free will does not exist. This has led to a drift amongst scientists, but many suggest the common path of *compatibilism* which says that both free will and determinism can coexist in a single world, simultaneously. These concepts have led many people to believe that if the concept that free will does not exist is accepted, then the criminal judicial system and the concepts of criminology will collapse.

The evidence in criminology and neuropsychology supports the view of determinism especially in criminal law. **In this research work, an attempt is made to trace advancement of approaches of determinism, fatalism and compatibilism in relation to criminology, analyze the comparison and exchanges between these concepts and decipher the impact of these concepts on our criminal judicial system.** The research has been substantiated using and relying on studies

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of various scientific experiments of human brain especially of incriminated criminals, judicial case laws regarding the acceptance and refusal of determinism, mechanism of neurolaw, studies of autopsies and brain fMRI of serial killers, concepts as to how the future of criminal justice system and criminology will look like, and is aimed at presenting an unbiased and objective report. At the end the question that endures is as to what will the impact be upon criminology and criminal law if the theory that free will does not exist is upheld, posing that everything we, as humans do, is not under our control?

### **Introduction**

The foundation of criminal justice system is upon the postulation of free will. This acceptance of free will leads to the conclusion that if a person has committed any crime then he has chosen it out of his free will and therefore must pay the price. Contrarily, if a person has not done it out of free will or if the person has been made to do it with coercion or if he is disabled, then he is not held to be guilty for the same crime. In today's time many scientists and philosophers argue that the existence of free will is an illusion and that it does not exist. Holding this concept to be true, we might conclude that any choice that we make is out of our own free will and that everything we did or will do, has already been foreordained.

When we try to explain free will, we can say that it is when we are able to make decisions on our own in some capacity and that we can decide that how act or do a specific thing. For example, if a person wants to stab another person with a knife and he does so, we can conclude that he did it out of free will. If he decided not to stab the other person, then that too is out of his free will. Either way that person is responsible for the actions that he does.

But according to a few studies and theories, we might ponder over the conundrum if free will is an illusion. This would have an adverse impact on the mechanism of justice, because if free will does not exist in this world, then on what basis can we punish a person. Hence, many argue that punishments should be removed from the justice system. Can we hold a person responsible for the actions on which had no control or had no free will? It is an argument, that for the betterment of the society, illusion of free will shall be maintained. At present, the law considers everyone to be rational and capable of making their own decisions and mens rea, and that they also control their

actions and how they behave or act too. Contrary to this view, it is suggested that the so called free will that we experience is a charade, which arises from highly daedal interaction of brain and involved electric signals which are being controlled by physics.

The Supreme Court of the United States of America, in the case of *United States v. Grayson*<sup>2</sup>, said that free will was universal and persistent that laid the foundation stone of legal system and that determinism was inconsistent with the underlying precepts of the criminal justice system.

In our criminal justice we can only punish those which can be held responsible for their act. For example, if X is running and suddenly Y comes in front of him and they collide and Y trips and falls down hitting his head, and dies, here X will not be held responsible and the incident will be deemed as an accident. However, if X and Y have an argument and X with full force pushes Y that he trips and hits his head and dies. Here X would have committed a crime and will be held responsible for the act. In the second act, mens rea was in existence and was held culpable for the crime. But in the same situation, what if we examine the brain and find a defect that could help describe the violent behavior and find that due to defect the act was committed? Under criminal justice system would he still be considered guilty for the crime? We can conclude with surety that X, then, would not be held guilty by the reason of insanity or not of proper mental health.

As discussed, physicists are saying that the cause of any act predates our mind. That everything has always been and will be due to the interaction of the molecules in accordance to physics. Therefore, if everything has already been determined by an event in the past and therefore closes any gates supporting the existence of free will and of morality too.

The problem between free will and involuntary commitment was also addressed in the case of *Re Detention of Campbell*<sup>3</sup>, Justice Sanders reasoned that sexually violent predator is defined in legislative as a person ‘who suffers from mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence’<sup>4</sup>. But this definition makes the

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<sup>2</sup>438 U.S. 41 (1978), <https://supreme.justia.com/cases/federal/us/438/41/>

<sup>3</sup>986 P. 2d 771 (1999), 139 Wash. 2d 341, <https://law.justia.com/cases/washington/supreme-court/1999/63986-8-1.html>

<sup>4</sup>RCW 71.09.020(1), <https://apps.leg.wa.gov/rcw/default.aspx?cite=71.09.020>

person who committed the crime not liable for his actions, as he was not acting in free will because his disorder made him do the criminal act.<sup>5</sup>

Hence, it becomes important to differentiate between those who do act out of their free will and those do not commit the act with free will. What important is that if science is able to convince everyone that free will in fact does not exist then we must leave behind the ideas of punishment and conviction.

### **Determinism: Is Neurolaw the Future of Criminal Law and Criminology?**

#### ***Determinism***

Determinism explains that every behavior is caused by an influence and is hence foreseeable. It proposes that free nothing but an illusion and that our acts, morals and behaviors is ruled by forces which are both external and internal. On those forces we have no control. On the same lines as that of determinism, Clarence Darrow relied on this approach in the case of *Leopold v. United States*<sup>6</sup>, also known as the Leopold and Loeb case; he argued that alleged cold-blooded murder of Robert Frank committed by his clients was due to predetermined nature as explained by determinism.

D'Holbach agrees to the concept that events of the world, which also includes biological world are ruled by the laws of cause an effect, which is universal. Humans too are a part of this world; therefore, we too are a subject to the same laws of cause and effect. As a result, we are deemed to be incapable to act as free or on our free will, as that would be contrary to the laws of cause and effect. Hence it is not possible for humans to be a part of the biological world and also outside the laws of such world. As we are a part of the larger biological world, we are bound to be ruled by the laws of cause and effect. If we consider that we have free will, then it would require strength which would be greater than the Nature. Else, we would have to be outside Nature in order to achieve free will and be an unnatural being. Considering the fact that we neither outside Nature or have greater strength than Nature, we are governed by the laws of physics.

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<sup>5</sup>J.P. Guidry, Free Will, Determinism, and the Criminal Justice System, John P. Guidry II, <https://jgcrimlaw.com/blog/free-will-determinism-and-the-criminal-justice-system/>

<sup>6</sup>510 F.2d 617, 622 n.3 (9th Cir. 1975), <https://casetext.com/case/leopold-v-united-states>

The free will that we experience is a moderation of our mind, which sends signals to our body to do a necessary act. Any act which a person does is due to the reaction of the action of either external or internal factors. When a person does not act upon such reaction it is because a new reaction to another factor might have come up and hence brain moderates in a different way. Therefore, gives the person a new determination to do another act by which his former determination to the first act is no longer there. Any contemplation that happens is due to the effect of confusion brought for consideration to our mind from experience. Any choices that we feel are mere illusions. We live and act feeling that we are doing it on free will, we might think that we are making free choices on our own because we are not able to contemplate the complex laws of physics causing the cause-and-effect which rules over our brain and subsequently decisions. Us not having free will does not mean that we are moving and working impulsively and are predictable. It is just that the person is motivated to an act as a reaction by his interior organs which in turn have acted on the laws of physics and motivated by exterior factors. Hence, determinism cannot be termed as equal to predictability.

### ***External Determinism***

External determinism says that the act committed or any cause of a particular behavior is due to the external factors, such as society, education or television. For example, a child portrays and possesses the same quality of abuse and violence that he witnesses back at home

### ***Internal Determinism***

Contrary to external determinism, internal determinism is influenced by biological factors, which might be genetically influenced too, which are inherited rather than acquired. For example, personal qualities like how social one is or like anger and anxiety, and the behavior which is a result to these qualities is due to the hormonal and neurological process happening inside our body. It can also be due to unconscious mind and behavior called psychic determinism.

### ***Hard Determinism***

Hard determinism says that free will does not exist and that everything is ruled on the laws of cause and effect. It says that when a person commits any crime, they do not have capacity to do anything. It is the reaction and motivation from the external and internal factors and therefore done

under a stimulus. It says that when a person X stabs a person Y, then X could never have done anything other than to stab Y. Considering the laws of causality and that our actions are due to an event in the past we can conclude that free will does not exist and hence a person should not be held liable for the act that he commits.

### ***Soft Determinism***

Soft determinism states that there is middle ground that people are influenced by external and internal factor but at the same time they do have free will too. For example, being less intelligent doesn't make one feel like cheating in exam, but you become likely to try to cheat out of desperation. But there is a limitation to the theory as psychologist are not able to predict the behavior of a human with a hundred percent accuracy. In addition to just consider morals and motives to account the behavior of a person, we consider this approach to compare the explanation to nonhuman events. For example, we can say that the child was not properly taught and therefore cannot read or that a person shivers because of the reflective movement of the muscle to maintain body temperature.<sup>7</sup>

### ***Determinism And The Need Of Neurolaw***

Determinism suggests that it is not a person's free will that motivates him to do an act but instead it is due to the external factors. If this approach is correct then criminals should not exist as criminal law operates on the assumption that an act by any person is from free will but also can reason as to what is right and wrong. Criminal liability can only be extended to those people who have committed an act of crime from free will. An experiment to show that the human brain is based upon the chemical reaction and rules of physics and that free will does not exist in our brain, was conducted by Benjamin Libet. He showed that brain and the subsequent act can be predicted a few milliseconds before the act is actually committed by so called free will. Therefore, the experiment suggested that causal factor and the laws of cause and effect determine that what act has to done

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<sup>7</sup>Daniel Glaser, Compatibility of Free Will and Determinism in Criminology: Comments on an Alleged Problem, The , 67 J. CRIM. L. & CRIMINOLOGY 486 (1977).  
<https://scholarlycommons.law.northwestern.edu/jclc/vol67/iss4/14>

before the person knows it himself. Hence, the act is not due to free will and is outside the human capacity to control.

Charles Joseph Whitman, also known as Texas Tower Sniper, an American mass murderer, was shot by police after he killed fifteen people. He had left a note where he requested that his brain be examined and described that he felt overtaken by unexpected instant aggressive desire that he could not control or explain. After autopsy it was revealed that there was large tumor on his amygdale which forms the core of neural system related to fear, aggression and threatening stimuli. Kiehl, while studying in University of British Columbia, was sent to prison in Vancouver to screen the inmates. He used fMRI scans to see if brains of psychopaths differed from normal people. The fMRI scans showed that the brains of psychopaths were different and Kiehl estimated that an average of 20% prisoners qualified as psychopaths. He suggests that psychopathic nature remains innate but might exist early in life. He suggests that it is wrong to convict those who do have a fault in brain or whose brains might malfunction.

In the case of *United States v. Hinckley*<sup>8</sup>, the counsel for John Hinckley Jr., who had shot President Ronald Reagan amongst other assassination attempts, opted to have his brain scanned, which showed that he had unusually large brain ventricles. Hence, he was found not guilty on the basis of insanity.

Neurolaw was taken into consideration in the case of *Roper v. Simmons*<sup>9</sup>, the Supreme Court ruled that juvenile defendants cannot be executed for the criminals acts that they have committed as frontal-lobe structure which are for self-control are not fully developed when a person is juvenile. In the case of *Brian Thomas* (2009), the Swansea Crown Court freed Brian Thomas who had strangled his wife to death, on the basis that he had a history of sleepwalking and was dreaming that he was holding an intruder in their van while on vacation. Therefore, the crime was involuntary and the person committing the act was unconscious.

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<sup>8</sup>525 F. Supp. 1342 (1981), <https://law.justia.com/cases/federal/district-courts/FSupp/525/1342/1692613/>

<sup>9</sup>543 U.S. 551 (2005), <https://supreme.justia.com/cases/federal/us/543/551/>

In the infamous case of Brian Dugan, who was only 18 years old when started trying to rape girls. He started off with minor crimes like battery and burglary but when he was left on parole he turned to murder. In 1983 he kidnapped and murdered a 10-year-old girl, then the following year he raped and murdered a 27 years old nurse. 1985 was even worse when he killed a 7-year-old girl by drowning her after he had raped. Brian Dugan was arrested and the case went to the court. He was a mild-mannered person and wrote notes on the legal pad of his lawyers, and noting seemed serial killer about him. Kiehl was called on Brian Dugan's behalf where he prepared slides of graphic images of FMRI scans which illustrated that as to how Brian Dugan's brain worked. He showed that in Dugan's brain there was low grey matter density in the paralimbic system. This was a characteristic of psychopaths. He suggested that his antisocial behavior was due to acquired psychopathy and that he also suffered from reduced mental capacity that equaled to emotionally disturbed. But before he could present the slides to jury, the Judge accepted the objection of the counsel at opposition and made the critical ruling of death sentence.<sup>10</sup>

If criminal justice punishes anyone for a problem in his neurochemistry, it shall be considered as unethical in the eyes of law. In this matter, any conviction should only be given if it can prevent crime. As seen in the case of Brian Dugan, even though he himself was a victim to biological problems, but still restrain is important in order to keep him away from the society as posed a dangerous threat to civil life and peace. Today the criminal justice system works upon retributive approach that a punishment should be imposed which is deserved by the person the act committed. But we should consider that concept punishment in justice is based upon the promotion of social welfare.

The need of neurology and neurolaw at today's time leads to the conclusion that rehabilitation should be given priority over punishment. Almost 1/3<sup>rd</sup> of Americans in prisons suffer from mental illness. Medical treatment should never be replaced with lesser sentence. In comparison, the prison system of Norway provides prisoners with high quality care and also prepares them for life outside

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<sup>10</sup>Michael Haederle, A Mind of Crime: How Brain-scanning technology is redefining criminal culpability, Pacific Standard (June 14, 2017), <https://psmag.com/social-justice/a-mind-of-crime-8440>



prison. The United States which emphasizes on punitive measures has recidivism rate at 60% which is one of the highest in the world, whereas Norway remains at 20%. This system of Norway creates normal citizens who are able to live in the civil society out of offenders and who then go on to productively contribute to the society after they are released from the prison.<sup>11</sup>

But there are two theories which have been proposed by philosophers, are that of Compatibilism in which free will and determinism coexist and Incompatibilism in which free will and determinism cannot coexist.<sup>12</sup>

### **Compatibilism: Can Concepts of Free Will and Determinism Coexist In Criminology?**

Compatibilism explains that although determinism exists but at the same time we cannot rule out free will. It states that we can consider an act committed by a person as free till the time they are internally influenced by our desires and till we follow those desires consciously. Compatibilists refuse to believe that an act by human can be influenced by external factors. They recognize the existence of determinism a causality but at the same withhold their trust in the existence of free will too.

Another viewpoint by compatibilists is that as human have evolved and attained features by natural selection, hence free will and morals too came from that natural selection. They suggest that we have attained free will as a part along with evolution process so that a person can work and act with free will. They agree even if we do not have free will in the sense that the acts are motivated and that we can still be held responsible for the acts and deeds without the need of free will. They claim that this approach provides the way of mutual path where free will exists, gives human lives a meaning and makes a person responsible for an act while believing it to be caused by influence.

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<sup>11</sup>James Fynn, *NeuroLaw: Criminal Justice in a World without Free Will*, Political Review (Jan. 07, 2018), <https://brownpoliticalreview.org/2018/01/neuroLaw-criminal-justice-world-without-free-will/>

<sup>12</sup>S Schaffer, *Problem of Free Will in Criminology* (From *Criminology in Perspective Essays in Honor of Israel Drapkin, 1977* by Simha F Landau and Leslie Sebba- NCJ-45543), Office of Justice Programs, U.S. Department of Justice (1997), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/problem-free-will-criminology-criminology-perspective-essays-honor>

### ***Indeterminism***

This approach holds the viewpoint that a few events which include acts committed by humans are not certainly determined by previous events influenced by laws of cause and effect. They also regard the caused influence in connection to behavior of micro-particles. Indeterminists see a person as continuously conscious and exercising free will. The first thing that they assert is that we are free to control the acts and motives. They argue against determinism by asserting that determinism suggests only one future which is determined by the present and past. If we consider that there are two possibilities that the world is either determined or it is not, and since we do not have enough facts for both sides then we must consider that theory which we have experienced. They say that undetermined world is more believable as from our experience we have lived free and done acts by our free will.

### ***Libertarianism***

Libertarianism approach is of the view that humans commit act with free will and when they make a choice, they could have done the act which they did not choose. The fact that humans live their lives as if free choice helps them make decisions and commit an act proves that we do have free will. They believe that humans do have free will.

### ***Incompatibilism***

Incompatibilists say that in order one's actions be from free will then the act can never be determined. So, one would have no control over anything and punishment would have no effect. It is important that acts be determined for one to have control and to be held responsible for the acts committed.

Compatibilism maintains its claim that although we are living in a deterministic world but we still possess free will. A positive point about this approach is the suggestion that the acts committed with motive and free will even when determinism remains true. In other words, one must not worry about determinism as it would never require a recondition of free will, morals and motives. But

compatibilism does not enough evidence to support the suggestion that we must not punish a person, whom we might have idea that the person will commit a crime before they actually commit it.

### **Fatalism: Is It Inevitable For Criminals to Commit Crime?**

Fatalist approach maintains that human is unfree and that they act through necessity. They are of the idea that in the past if an unfailing being who is never wrong believed that an act would occur, then in future we can do nothing and inevitably do the act because we have no control over the past and the being had believed this act to occur in past and being unfailing and always right, we cannot say that there was a mistake. So, in this situation a person has committed an act which the being had believed and if anyone cannot do anything else other than what the being believed we would not have free will.

Simplifying the argument, supposing that a person has to go to office and either he will drive in his car to his office or he won't drive the car. So it is either true that the person will use his car to go to office or it will be true that he will not use the car. The being who is unfailing and always right believed that car will be used by considering the influences in the past, and the person next day does drive in his car to office, we can say that his actions were not by his free will.

### ***Laplace's Demon***

This concept is similar to Laplace's Demon. It suggests that as we may consider the present nature of universe as an effect of what had happened in past and that the past will have causal effect on the future. Considering that there is a person who knows that how forces set nature in motion and also that when and where is it positioned. This person being vast enough can use this data to analyze that he knows that when and what would happen and will their future act be, from atoms to humans. Hence, the acts done by humans at any given time are from a causal effect that happened in the past, therefore it doesn't leave room for free will to exist.

### ***Compatibilists Arguments Against Fatalism***

An argument put forward by compatibilists against fatalism is that if we believe that X act will take place instead of Y, it would not be wrong to suggest that in future either X or Y acts will take

place. But considering that there is a being who never fails and is always right believes that X act will take place and not Y. But according to nature too there would have been a time in past when even that being would have been unsure and it was later that the being became sure of act X. If the being knows everything then it also not possible the being has not believed that either X act will be committed or Y act. For example, we believe that next week lockdown imposed by government will be lifted, and it gets lifted in actual, we would say that we were right. But it is only right because the situations led towards that. But there was a time that we knew that either lockdown will be lifted by government or it would not be lifted.

Considering the supposition that a person X wants another person Y dead but does not want to commit the murder himself. X also knows that a third person Z has hatred towards person Y and will have a better opportunity to kill him, X therefore inserts a robotic chip in Z's brain which controls neurological activity. If the brain decides that Z will not kill Y, the robotic chip will cause Z's brain to decide otherwise. On the other hand, if Z does decide to kill Y then the chip will not intervene and let Z kill Y. Now if Z decides to kill Y, Z will be responsible for the act committed. But at the same time Z would have not been able to do otherwise. Most believe that Z is responsible for the act committed and also acts according to free will. This is the compatibilist free will against determinism and fatalism and therefore there are not any other possible alternates. Yet, liberalism suggests that Z does act on free will but there can be alternate possibilities too.

It is argued that the compulsion of the past and the occurrence of future goes hand in hand but this does not imply that there is causal effect on the entire future. We only lack control over some part of the future acts so the problem that fatalism faces is not of free will but of time and causal effects on acts that a person commits. If free is an illusion and a person murders someone and get convicted and sentenced for it, we might consider that it was anyways going to happen and was inevitable as it was destined to be. If one does have no control over the acts committed as they are inevitable because of the nature of the past, one cannot be punished for the crime though maybe one needs to be detained just for the safety of the society.

## **Conclusion**

60% of criminals in custody have received a severe blow to their head from assaults, falling or accidents. Such traumatic injuries to brain might also fuel violent crimes. We have seen examples of criminals who had a problem with their brain. It is not only that head injuries cause misbalance in the brain but also alcohol. In a study it was found that alcohol affects the size and integrity of grey matter in brain which disenables the brain to function and dismantles the communication between nerve clusters. Such brain injuries had also affected the Fred West which thought to alter his brain's structure and made him not capable of regulating his behavior and at risk of psychiatric disorders. Fred West had murdered 12 twelve women. He had suffered a fractured skull which left him unconscious for a week and shortly after that he was met with a road accident on motorcycle. A couple of years later he received another head injury and fell down two floors.<sup>13</sup>

The Burari Deaths Case in India's capital which shocked the nation and judiciary, where a family of 11 members, aged 15-80 were found hanging from the ceiling of their house. It was later found that the youngest child of the 80-year-old matriarch, who had received a severe head injury and had subsequently, lost his ability to speak for 2 years and had troubled sleep cycles and change in his behavior, had persuaded his family to commit mass suicide as he felt that the ghost of his father spoke through him and would return to save them.

It is argued that the evidence that free will does not exist will result in the collapse of criminal justice system. Psychologist of University of Cologne, Oliver Genchow attempted to fill this gap. For the study, he recruited 87 experienced judges as participants. Half of the total numbers of judges were made to read The Astonishing Hypothesis in which scientist Francis Crick argues that free will is an illusion. The others read same book but where free will was never mentioned. In the next step judges were asked to read 10 briefs of someone who had committed some crime. And after each brief,

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<sup>13</sup>Alexandra Thompson, More than half of prisoners have suffered a traumatic injury, which may fuel violent crimes, scientists claim, Daily Mail (Feb 27, 2018 12:59 BST), <https://www.dailymail.co.uk/health/article-5439757/>

judges were to recommend a sentence of imprisonment for each offender. When the results of recommended sentences were compared, researchers found that there was no difference in the two groups of judges. Both groups of judges, including the judges who had read about free will being an illusion had passed sentences of similar durations. The study showed that the fear of collapse of free will is unnecessary. Judges know that what the standard lengths of sentences for what crimes are. This is the reason that all judges gave similar sentence whether they believed in free will or not as they had decided based on precedent rather than on personal belief.<sup>14</sup>It has also been seen that judges show much more leniency while passing the sentence after lunch.

People running the criminal justice system and the capacity of judge to pass a sentence are either based on free will or it is not. If free will does not exist then even the judges can do nothing about it when they pass the sentence. If free will exists then judges do have the ability to choose sentence given by their free will then the convict's claim that when he did the act, it was causal without free will is not correct. Free will either exists or it does not and either applies universally or it does not.

In the present world we need rational sentencing and with help of science we can predict that which person might reoffend. Neuropsychological study can estimate the criminal re-offence with extreme accuracy with an average of being 95% right. This will help the criminal justice system as to whom they should punish and for whom they shall maintain a lenient view. Such neuropsychological evaluation is done on a certain kind of video game that checks the reactive aggression of criminals. Another test is to show images of human eyes to criminals and check their emotional reaction which tells us about the level of empathy and the rate of their likelihood of recidivism.<sup>15</sup>

Today judiciary and laws are based on retribution and deterrence. But both concepts do not necessarily follow the concept of free will. Till the time we have justice system that maintains what we have known about human behavior so far, believing in free will or determinism does not

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<sup>14</sup>David Ludden, Can We Have Justice Without Free Will? Crime and punishment in a deterministic world, Psychology Today (July 27, 2020), <https://www.psychologytoday.com/us/blog/talking-apes/202007/can-we-have-justice-without-free-will>

<sup>15</sup>James Fynn, Neurolaw: Criminal Justice in a World without Free Will, Political Review (Jan. 07, 2018), <https://brownpoliticalreview.org/2018/01/neurolaw-criminal-justice-world-without-free-will/>

matter. Determinism is different from influence. It is argued that the experiment by Libet does not prove much about determinism and that free will does not exist as it does not represent our decisions as humans and therefore might result into being anti-utilitarian and anti-practical.

Psychologists who support free-will think that determinism excludes freedom and dignity and devalues behavior of humans. Determinism reduces the responsibilities on individuals. A person who has committed murder might plead that it determined and was causal; therefore, it was out of his possibility to not commit murder because their upbringing was not good and they also had received severe head injuries which resulted in psychiatric problems too. But we also must not forget that mental illness does undermine freewill. People suffering from OCD can lose control of their thoughts and actions and people with depression can also lose their emotions.<sup>16</sup> This shows that an approach of freewill or another based on determinism is not appropriate when human or criminal behavior is under study.

Today, neuroscience has put a question mark on the existence of free will. Many scientists now believe that free will is a mere illusion and put the weighty blame of human behavior on chemical mechanisms and laws of physics. This concept of not accepting the existence of freewill destabilizes the concept of morals and responsibility, at many levels. The concept of neurolaw, harnesses science to understand the cause-and-effect relationship found at the base of every human action, and thereby, tries to help solve the judicial problems with the help of neuroscience. It is, indeed, a refreshing approach if our justice system, instead of blindly and blatantly adopting and following the concept of free will, acknowledges the existence of a more scientific and intrinsic force pervading the field of criminology and delivers justice holistically, after looking into the aspects of risk assessment and the possibility of recidivism and rehabilitation, instead of conviction on the basis of culpability, and also, as a consequence, furthers the cause of reformatory justice and not punitive justice.

Futuristically opining, as the theories of neuroscience and the ideologies surrounding mind and action, en masse evolve and apprise one another, neuroscience will provide an unconventional,

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<sup>16</sup>Dr. Saul McLeod, Freewill vs Determinism, Simply Psychology (April 11, 2019), <https://www.simplypsychology.org/freewill-determinism.html>

yet, benignant spectacle for understanding criminal behavior, scientifically, as well as with a touch of subjectivity. This is not to claim that this is the launch of some radical overhaul by neuroscience, but it cannot be denied that Neurolaw is the future of our judicial system since when the judicial system we follow today was constructed, people believed in an immaterial soul, existing outside the physical and natural process and frame that the world follows and lives within, and in fact, dressed up animals to convict and pass sentence against animals, creating a hierarchy that veers far from the basic virtue of humanity. Neurolaw, if established as the basis of our judicial system and criminology, will help us to create a more humane judicial system and a just society, in true spirit.

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