

On the south tier of Death Row, in a section called "Peckerwood Flats" where the white inmates are housed, there will be a small celebration the day Robert Alton Harris dies.

A group of inmates on the row have pledged several dollars for candy, cookies and soda. At the moment they estimate that Harris has been executed, they will eat, drink and toast to his passing.

"The guy's a misery, a total scumbag; we're going to party when he goes," said Richard (Chic) Mroczko, who lived in the cell next to Harris on San Quentin Prison's Death Row for more than a year. "He doesn't care about life, he doesn't care about others, he doesn't care about himself.

"We're not a bunch of Boy Scouts around here, and you might think we're pretty cold-blooded about the whole thing. But then, you just don't know the dude."

San Diego County Assistant Dist. Atty. Richard Huffman, who prosecuted Harris, said, "If a person like Harris can't be executed under California law and federal procedure, then we should be honest and say we're incapable of handling capital punishment."

State Deputy Atty. Gen. Michael D. Wellington asked the court during an appeal hearing for Harris, "If this isn't the kind of defendant that justifies the death penalty, is there ever going to be one?"

What crime did Robert Harris commit to be considered the archetypal candidate for the death penalty? And what kind of man provokes such enmity that even those on Death Row . . . call for his execution?

On July 5, 1978, John Mayeski and Michael Baker had just driven through [a] fast-food restaurant and were sitting in the parking lot eating lunch. Mayeski and Baker . . . lived on the same street and were best friends. They were on their way to a nearby lake for a day of fishing.

At the other end of the parking lot, Robert Harris, 25, and his brother Daniel, 18, were trying to hotwire a [car] when they spotted the two boys. The Harris brothers were planning to rob a bank that afternoon and did not want to use their own car. When Robert Harris could not start the car, he pointed to the [car] where the 16-year-olds were eating and said to Daniel, "We'll take this one."

He pointed a . . . Luger at Mayeski, crawled into the back seat, and told him to drive east. . . .

Daniel Harris followed in the Harrises' car. When they reached a canyon area . . . , Robert Harris told the youths he was going to use their car in a bank robbery and assured them that they would not be hurt. Robert Harris yelled to Daniel to get the .22 caliber rifle out of the back seat of their car.

"When I caught up," Daniel said in a recent interview, Robert was telling them about the bank robbery we were going to do. He was telling them that he would leave them some money in the car and all, for us using it. Both of them said that they would wait on top of this little hill until we were gone, and then walk into town and report the car stolen. Robert Harris agreed.

"Michael turned and went through some bushes. John said, 'Good luck,' and turned to leave."

As the two boys walked away, Harris slowly raised the Luger and shot Mayeski in the back, Daniel said. Mayeski yelled: "Oh, God," and slumped to the ground. Harris chased Baker down a hill into a little valley and shot him four times.

Mayeski was still alive when Harris climbed back up the hill, Daniel said. Harris walked over to the boy, knelt down, put the Luger to his head and fired.

"God, everything started to spin," Daniel said. "It was like slow motion. I saw the gun, and then his head exploded like a balloon. . . . I just started running and running. . . . But I heard Robert and turned around.

"He was swinging the rifle and pistol in the air and laughing. God, that laugh made blood and bone freeze in me."

Harris drove [the] car to a friend's house where he and Daniel were staying. Harris walked into the house, carrying the weapons and the bag [containing] the remainder of the slain youths' lunch. Then, about 15 minutes after he had killed the two 16-year-old boys, Harris took the food out of the bag . . . and began eating a hamburger. He offered his brother an apple turnover, and Daniel became nauseated and ran to the bathroom.

"Robert laughed at me," Daniel said. "He said I was weak; he called me a sissy and said I didn't have the stomach for it."

Harris was in an almost lighthearted mood. He smiled and told Daniel that it would be amusing if the two of them were to pose as police officers and inform the parents that their sons were killed. Then, for the first time, he turned serious. He thought that somebody might have heard the shots and that police could be searching for the bodies. He told Daniel that they should begin cruising the street near the bodies, and possibly kill some police in the area.

[Later, as they prepared to rob the bank,] Harris pulled out the Luger, noticed blood stains and remnants of flesh on the barrel as a result of the point-blank shot, and said, "I really blew that guy's brains out." And then, again, he started laughing.

... Harris was given the death penalty. He has refused all requests for interviews since the conviction.

"He just doesn't see the point of talking," said a sister, ... who has visited him three times since he has been on Death Row. "He told me he had his chance, he took the road to hell and there's nothing more to say."

... Few of Harris' friends or family were surprised that he ended up on Death Row. He had spent seven of the previous 10 years behind bars. Harris, who has an eighth-grade education, was convicted of car theft at 15 and was sentenced to a federal youth center. After being released, he was arrested twice for torturing animals and was convicted of manslaughter for beating a neighbor to death after a dispute.

Barbara Harris, another sister, talked to her brother at a family picnic on July 4, 1978. He had been out of prison less than six months, and his sister had not seen him in several years.

... Barbara Harris noticed his eyes, and she began to shudder. ... "I thought, 'My God, what have they done to him?'" He smiled, but his eyes were so cold, totally flat. It was like looking at a rattlesnake or a cobra ready to strike. They were hooded eyes, with nothing but meanness in them.

"He had the eyes of a killer. I told a friend that I knew someone else would die by his hand."

The next day, Robert Harris killed the two youths. Those familiar with the case were as mystified as they were outraged by Harris' actions. Most found it incomprehensible that a man could be so devoid of compassion and conscience that he could kill two youths, laugh about their deaths and then *casually eat their hamburgers.* ...

... Harris is a dangerous man on the streets and a dangerous man behind bars, said Mroczko, who spent more than a year in the cell next to Harris' ...

"You don't want to deal with him out there," said Mroczko, ... "We don't want to deal with him in here."

During his first year on the row, Mroczko said, Harris was involved in several fights on the yard and was caught trying to supply a prisoner in an adjacent yard with a knife. During one fight, Harris was stabbed and the other prisoner was shot by a guard. He grated on people's nerves and one night he kept the whole cell block awake by banging his shoe on a steel water basin and laughing hysterically.

An encounter with Harris always resulted in a confrontation. If an inmate had cigarettes, or something else Harris wanted, and he did not think "you could hold your mud," Mroczko said, he would try to take them.

Harris was a man who just did not know "when to be cool," he said. He was an obnoxious presence in the yard and in his cell, and his behavior precipitated unwanted attention from the guards. ...

He acted like a man who did not care about anything. His cell was filthy, Mroczko said, and clothes, trash, tobacco and magazines were scattered on the floor. He wore the same clothes every day and had little interest in showers. Harris spent his days watching television in his cell, occasionally reading a Western novel.¹⁴

[During the interview] Barbara Harris put her palms over her eyes and said softly, "I saw every grain of sweetness, pity and goodness in him destroyed. . . . It was a long and ugly journey before he reached that point."

Robert Harris' 29 years . . . have been dominated by incessant cruelty and profound suffering that he has both experienced and provoked. Violence preysed his birth, and a violent act is expected to end his life.

Harris was born Jan. 15, 1953, several hours after his mother was kicked in the stomach. She was 6 1/4 months pregnant and her husband, an insanely jealous man, . . . came home drunk and accused her of infidelity. He claimed that the child was not his, threw her down and kicked her. She began hemorrhaging, and he took her to the hospital.

Robert was born that night. His heartbeat stopped at one point . . . but labor was induced and he was saved. Because of the premature birth, he was a tiny baby; he was kept alive in an incubator and spent months at the hospital.

His father was an alcoholic who was twice convicted of sexually molesting his daughters. He frequently beat his children . . . and often caused serious injury. Their mother also became an alcoholic and was arrested several times, once for bank robbery.

All of the children had monstrous childhoods. But even in the Harris family, . . . the abuse Robert was subjected to was unusual.

Before their mother died last year, Barbara Harris said, she talked incessantly about Robert's early years. She felt guilty that she was never able to love him; she felt partly responsible that he ended up on Death Row.

When Robert's father visited his wife in the hospital and saw his son for the first time, . . . the first thing he said was, "Who is the father of that bastard?" When his mother picked him up from the hospital . . . she said it was like taking a stranger's baby home.

The pain and permanent injury Robert's mother suffered as a result of the birth, . . . and the constant abuse she was subjected to by her husband, turned her against her son. Money was tight, she was overworked and he was her fifth child in just a few years. She began to blame all of her problems on Robert, and she grew to hate the child.

"I remember one time we were in the car and Mother was in the back seat with Robbie in her arms. He was crying and my father threw a glass bottle at him, but it hit my mother in the face. The glass shattered and Robbie started screaming. I'll never forget it," she said. . . .

"Her face was all pink, from the mixture of blood and milk. She ended up blaming Robbie for all the hurt, all the things like that. She felt helpless and he was someone to vent her anger on."

. . . Harris had a learning disability and a speech problem, but there was no money for therapy. When he was at school he felt stupid and classmates teased him, his sister said, and when he was at home he was abused.

"He was the most beautiful of all my mother's children; he was an angel," she said. "He would just break your heart. He wanted love so bad he would beg for any kind of physical contact.

"He'd come up to my mother and just try to rub his little hands on her leg or her arm. He just never got touched at all. She'd just push him away or kick him. One time she bloodied his nose when he was trying to get close to her."

Barbara Harris put her head in her hands and cried softly. "One killer out of nine kids. . . . The sad thing is he was the most sensitive of all of us. When he was 10 and we all saw 'Banild,' he cried and cried when Banild's mother was shot. Everything was pretty to him as a child; he loved animals. But all that changed; it all changed so much."

. . . All nine children are psychologically crippled as a result of their father, she said, but most have been able to lead useful lives. But Robert was too young, and the abuse lasted too long, she said, for him ever to have had a chance to recover.

[At age 14] Harris was sentenced to a federal youth detention center [for car theft]. He was one of the youngest inmates there, Barbara Harris said, and he grew up "hard and fast."

. . . Harris was raped several times, his sister said, and he slashed his wrists twice in suicide attempts. He spent more than four years behind bars as a result of an escape, an attempted escape and a parole violation.

"The centers were 'gladiator schools,' Barbara Harris said, and Harris learned to fight and be mean. By the time he was released from federal prison at 19, all his problems were accentuated. Everyone in the family knew that he needed psychiatric help."

The child who had cried at the movies when Banild's mother dies had evolved into a man who was arrested several times for abusing animals. He killed cats and dogs, Daniel said, and laughed while torturing them with mop handles, darts and pellet guns. Once he stabbed a prize pig more than 1,000 times.

"The only way he could vent his feelings was to break or kill something," Barbara Harris said. "He took out all the frustrations of his life on animals. He had no feeling for life, no sense of remorse. He reached the point where there wasn't that much left of him."

. . . Harris' family is ambivalent about his death sentence. [Another sister said that] if she did not know her brother's past so intimately, she would support his execution without hesitation. Barbara has a 16-year-old son; she often imagines the horror of the slain boys' parents.

"If anyone killed my son, I'd try my damndest, no matter what it took, to have my child avenged," Barbara Harris said. "I know how those parents must suffer every day."

"But Robbie in the gas chamber. . . ." She broke off in mid-sentence and stared out a window. "Well, I still remember the little boy who used to beg for love, for just one pat or word of kindness. . . . No I can't say I want my brother to die."

. . . Since Harris has been on Death Row, he has made no demands of time or money on his family. Harris has made only one request; he wants a dignified and serene ceremony after he dies — a ceremony in marked contrast to his life.

He has asked his oldest brother to take his ashes, to drive to the Sierra, hike to a secluded spot and scatter his remains in the trees.

(unamount to strict impossibility.) Now, it is perhaps true that difficulty in performing an action diminishes, *ceteris paribus*, the wrongness of not performing that action.¹⁶ I tend to think that this is not so, although I would agree that such difficulty tends to *minimize the risk of doing wrong* in not performing the action, insofar as, the greater the difficulty, the more reasonable it is to believe that one is not doing wrong in not performing the action. (For example, if the teller handed over the money to the robber but the robber would *not* have carried out his threat if he had not been given the money, then, I am inclined to say, the teller did wrong although it was quite reasonable for him to believe that he was not doing wrong (insofar as it was quite reasonable for him to believe that the robber would carry out his threat if there were no compliance with it). Compare the discussion of "objective" obligation in Section 3.1.) It also seems to me likely to be true that, the greater the moral seriousness of not performing the action, the less, *ceteris paribus*, the difficulty in performing it diminishes the wrongness, or the risk of wrongness, of not performing it.¹⁷ Perhaps there are limits here. Perhaps it matters just *how great the type of difficulty one encounters*. Perhaps it matters just *how great the seriousness is relative to the difficulty encountered* (such that sometimes difficulty serves to diminish the wrongness, or the risk of wrongness, not at all).¹⁸ I am not sure.

Now, if difficulty diminishes wrongness, or the risk of wrongness, in this way, and if the agent has a correct moral belief about this, then difficulty diminishes culpability. (See (P3.1').) (Indeed, if the agent finds himself in a position where he believes that the right, but not obligatory, thing to do is what he is compelled to do, and if he does it for this reason, then, far from being culpable, he will be *laudable*.) (See (P3.6').) Or, if the difficulty somehow renders him belief-less concerning the wrongness of handing over the money ("driving" all thought of wrongdoing from his mind), then again the difficulty diminishes, indeed eliminates, culpability. But, as before, if the agent believes that such difficulty does *not* diminish the (risk of) wrongness of what he wills to do, then there is *no* diminution of culpability. (See Section 3.6.) Suppose, for example, that the teller had believed that it was quite wrong of him to hand over the money but that he nevertheless gave into the temptation to save his skin—something it was strictly open to him to avoid doing. Then he is to be blamed for handing over the money, and the facts that it was not wrong for him to do this (if this is a fact) and that he was compelled to do this do not serve to diminish the degree to which he is to blame.

4.7 Mental Disorders

There is a widespread opinion that suffering from a mental disorder can be relevant to one's laudability or culpability, although there seems to be

very little consensus as to just what the conditions are for such relevance. I do not pretend to any expertise concerning mental disorders but, with that understood, there is nevertheless much that may be said concerning the relation between them and moral appraisability.

I use the term "mental disorder" rather than "mental illness" or "mental disease" because the former seems to me marginally more neutral than the latter two with respect to its medical status; but I have no particular axe to grind here. Thomas Szasz is well known for arguing that a mental disorder is not an illness or a disease, on the basis that it constitutes a social rather than a medical phenomenon.¹⁹ Perhaps he is right; I have no intention to try to rebut this. On the other hand, Szasz also seems to intimate that there is no such thing as a mental disorder and that there is no excuse for misconduct that is derivable from it.²⁰ This seems to me quite wrong.²¹ Clearly, there are mental disorders, however difficult they may be to understand, categorize, or deal with, and however many borderline cases between order and disorder there may be. Of course, one must be wary about misdiagnosis of such disorder and misapplication of the term "disorder"; but these caveats are not unique to the phenomenon.²²

As far as I can tell, mental disorder may be relevant to the ascription of moral appraisability in three ways. It may affect an agent's beliefs, or his strict freedom, or his broad freedom. I shall consider these in turn. It will become apparent that no modification to our account of appraisability is called for here; mental disorder does not furnish a distinct excuse, and our account is not unduly inflationary in implying that it does not.

Beliefs. A person's beliefs may be affected by mental disorder in three main ways that are relevant to the ascription of moral responsibility. He may have a false belief concerning certain non-moral facts; he may have a false belief concerning what is right or wrong; or he may have no beliefs concerning what is right or wrong. (See Section 4.1 concerning the distinction between moral and non-moral ignorance.)²³

First, suppose that Smith believes that everyone is bent on harming him and that this is a false belief. Perhaps he believes this because he is paranoid. His belief may not be reasonable, and so the actions that he takes in light of it may not be reasonable; but these actions may well be reasonable-in-light-of-his-belief. Suppose, for instance, that he acts in a hostile manner to everyone who approaches him; this may be wrong, but he may well believe it right, and this belief may well be attributable to his false belief concerning his persecution by others. In such a case as this, then, there may well be an excuse in the offing, a regular excuse derivable from Smith's paranoia.²⁴ Perhaps Smith is culpable for his paranoia (this is possible, although frankly it strikes me as unlikely in any actual case), but, even if so, and even if he is therefore culpable for his paranoid

actions, this does not imply that he is not also to be excused for his paranoid actions. As we saw in Chapter 3, it is possible to be both culpable and not culpable for one and the same event, and this is especially common in cases of indirect appraisability (such as the present case).

(Or suppose that Jones believes that lying is not wrong. Perhaps this is a relatively fleeting belief, one that is attributable to the drug that he has recently ingested and that has rendered him intoxicated. Suppose that Jones then acts on this belief—with no compunction, naturally. He may thereby do wrong, but he believes otherwise, and his belief is attributable to the mental disorder induced by the drug. In such a case as this, Jones has a regular excuse for his action that is derivable from his mental disorder. Of course, he may well also be culpable for his action.)

Finally, suppose that Brown fails to believe that lying is wrong. This failure to believe may be fleeting, perhaps attributable to intoxication, in which case Brown has an excuse for much the same reason as Jones. But it could be otherwise. It could be that Brown fails to believe that lying is wrong because he does not understand the concept of wrongdoing. This condition could be fleeting, too, but it is more likely to be chronic; in either case, it affords a radical excuse and may be attributable to a variety of causes. Brown may be an infant or an idiot, as mentioned in Section 4.1. (Idiocy, I suppose, is a mental disorder, while infancy is not; but they are alike with respect to the power to excuse.) Or Brown may be a psychopath. Now, I am not sure what psychopathy is supposed to be. Perhaps some people who are called psychopaths are simply chronically callous, or perhaps even wicked, agents. If so, their "condition" affords them *no* excuse. And, of course, we must guard against inferring otherwise simply from the fact that their condition is chronic.⁸⁷ On the other hand, chronic wrongdoing can be a sign of the failure to believe that what one is doing is wrong, and such a failure to believe may well characterize many psychopaths and surely does excuse.⁸⁸ There is evidence that psychopaths understand that certain actions are such that others disapprove of them and such that, if they perform them, they may be punished, but that they do not believe these actions to be wrong, and that this failure to believe is attributable to a failure to understand the concept of moral wrongness.⁸⁹ Many philosophers are impressed by the typical psychopath's lack of a caring attitude; he can fake remorse and shame but apparently does not feel them.⁹⁰ Some philosophers claim that having such a genuinely caring attitude is a necessary condition for understanding the concept of wrongness.⁹¹ This seems to me false, where "necessary" expresses logical necessity; but it may be true, where "necessary" expresses some weaker concept.⁹²

whether or not a person suffers from a mental disorder can indeed be relevant to the ascription of moral responsibility. But there is nothing special to be seen in such mental disorder; it calls for no modification to the account of appraisability given in the last chapter.

Strict freedom. So too with mental disorders that affect strict freedom. Clearly there are such; certain instances of so-called automatism, which is often categorized under the rubric "mental disorder," obviously affect strict freedom of action. For example, epileptic seizures strip one of one's strict freedom to do many things. But here it is worth noting three ways in which a condition may affect one's strict freedom of action. First, a condition may eliminate such freedom in such a way that one does not act at all; let us call this *undercutting* one's freedom. Presumably, an epileptic seizure undercuts strict freedom of action; when in the throes of such a seizure, one is not acting at all. Secondly, a condition may eliminate one's strict freedom in such a way that one acts (unfreely, of course); let us call this *confining* one's freedom. If the incompatibilist is right, then determinism is just such a condition on those occasions on which one acts. Thirdly, a condition may *decrease* one's strict freedom by rendering one strictly unfree to bring about some event *e* while leaving one strictly free to bring about some other event *f*.⁹³ This seems to be the case with respect to the physical condition of my body, on the one hand, and my running a four-minute-mile (bringing about *e*) and my running an eight-minute-mile (bringing about *f*), on the other.

Now, it is not clear to me that a mental disorder can affect one's strict freedom other than by undercutting it, as an epileptic seizure does; but perhaps it can. Perhaps, for example, hypnosis, or intoxication, or fear, or anger may on occasion function so as to decrease or confine, but not undercut, one's strict freedom of action. If so, then they can serve to excuse. At any rate, whenever a mental condition or disorder occasions the absence of strict freedom to bring about some event, one is not appraisable for not bringing it about; and this is so whether the condition decreases, confines, or undercuts one's freedom. But there is nothing new here and, again, nothing special to record about the relation between mental disorders and moral responsibility.

My hesitancy here to ascribe to mental disorders the power to diminish or confine, but not undercut, strict freedom might seem ill-advised. For it might seem clear that such disorders often have such power. Consider this passage by a noted writer on the subject, where it appears to be claimed that mental abnormality typically confines an agent's strict freedom of action:

The rationale of excusing for mental abnormality may be summarized in this way. Certain forms of mental incapacity deprive a person of his ability to act other

in this condition when he lacks the capacity to tell what he is doing, or what is likely to happen; or when he lacks the capacity to appreciate its significance as something wrong, or lacks the ability to restrain himself. A person incapacitated in any of these ways is unable, as a matter of choice, to do otherwise.⁸²

But this seems to me to be an attempt to force too much into the category "unable to do otherwise." A person may lack the capacity to tell what is likely to happen, for example, or lack the capacity to appreciate the wrongness of his action, but neither of these facts implies that he is strictly unable to do otherwise, although both might make it likely that he will not do otherwise. On the contrary, these facts are matters of belief and disbelief and fall into the category just treated in the last subsection.⁸³ Moreover, the inability to do otherwise may simply be broad rather than strict, as might often be the case where someone is said to be "unable" to restrain himself. So, once again, it really is not so clear that mental disorders often affect an agent's strict freedom in a non-undercutting fashion.

Broad freedom. Presumably mental disorders can affect one's broad freedom of action, that is, can compel one to do things. Compulsions (so-called), obsessions, psychoses, neuroses, delusions, illusions, and so on can, it seems, all act in this way.⁸⁴ For this reason, there may be a tendency to excuse those who suffer from such disorders. But we should note four important points in this regard.

First, there seems to be no necessity that motivational deviancies be especially compelling. For example, pedophilic desires, as far as I know, need be no stronger than normal sexual desires; one who acts on them, therefore, need not be any more compelled to do so than one who acts on normal sexual desires.⁸⁵ Of course, one must not be complacent here. Sexual desires, whether normal or not, will usually become stronger when frustrated. The normal person's desires would appear typically to be less often frustrated than the abnormal person's; thus there is probably a tendency *in fact*, even though there seems to be no *necessity*, for abnormal sexual desires typically to be more compelling than normal ones.⁸⁶

Second, while the strength of certain compulsions can increase for the reason just given, there is again no necessity that chronic compulsions be any stronger than fleeting ones. Indeed, there is reason to think that, while they can become stronger, they can also become weaker, or at least more easily accommodated, in that the agent has time to adapt to his condition. Those who recognize this fact are sometimes moved to assert that, for this reason, those who act under compulsion, when the compulsion is fleeting, have an excuse where those who do so, when the compulsion is chronic, do not.⁸⁷ While this obviously may not apply on some occasions, nevertheless it may well apply on others.

Third, we should note that, if the compelling nature of certain mental disorders is to serve to excuse at all, there must be an identity between that which one is compelled to do and that for which one has an excuse. (A similar point applies also to excuses based in ignorance or the absence of strict freedom.) A pedophile has no excuse for robbery, a kleptomaniac no excuse for child-molestation.⁸⁸

Finally, and most importantly, there is, as we saw in the last section, no necessity that there be an excuse to any degree afforded by the absence of broad freedom. Thus compelling mental disorders may afford no excuse, as long as they leave strict freedom intact. It all depends on what the agent believes concerning the relation between his disorder and wrongdoing.

The non-special nature of mental disorder. I cannot think how mental disorder might be thought to excuse other than by way of affecting an agent's beliefs, strict freedom, or broad freedom; and if I am right that, insofar as it does affect these, it serves to excuse in the ordinary way, then we can say that there is nothing special about mental disorder and its power to excuse and that our account of appraisability requires no modification in this regard. This is a position which, though inflationary (but, I would of course urge, not unduly so) with respect to much common ascription of responsibility, has come recently to be accepted by several philosophers.⁸⁹

Still, one may again feel a lingering doubt. Joel Feinberg, who feels such a doubt, notes that in our cooler moments we tend not to feel outrage at the misconduct of those with mental disorders but rather to feel pity for them. He believes that this reaction is attributable in part to our noting that their misconduct does not even benefit *them* and they appear not to have any insight into their own motives.⁹⁰ Perhaps this is so, although we should note that there are exceptions both ways. That is, surely some people with mental disorders do not satisfy both, or even one, of these conditions; and some people without mental disorders may sometimes satisfy one, or even both, of them. Perhaps we may agree that anyone who satisfies one or both of these conditions is unfortunate and to be pitied. But, again, pity may properly be felt for people who suffer not from these conditions but from others; and, also, there seems to be no necessity that, where it is proper to pity, it is not proper to blame. Of course, the real question to be asked here is this: how is the fact that some, perhaps many, of those with mental disorders satisfy these conditions relevant to their appraisability for their actions? And to this my answer is: as far as I can see, it is quite irrelevant. Of course, I suppose that it may well be true that someone who satisfies these conditions often fails to have any intention to do wrong, or belief that he will do wrong, by virtue of his condition. *HOW MUCH ASKING IS NOT SUFFICIENT TO BENEFIT HIMSELF-NOT*

the expense of others; if so he will have an excuse for his action. But, again, nothing special emerges here about the relation between mental disorders and appraisability.

4.8 Character

What is the relation between appraisability and character? It might be thought that appraisability is best understood in terms of the evaluation of an agent's character. Certainly, moral responsibility is often seen in this light.¹⁰¹ But this is *not* how appraisability is to be understood. Laudability and culpability attach primarily to an *agent*, to his "self," and not to his character. One *has* a character; one *is* not one's character. A character, in any standard sense of that term, is a set of properties; and a person is not a set of properties.¹⁰²

Normally, and to put it very roughly, a character is to be thought of as a set of relatively long-term, relatively general dispositions that a person has to feel, think, and act in certain ways.¹⁰³ (I take dispositions to be genuine properties and not merely logical constructs supervenient upon an established pattern of behavior.) One may distinguish between an agent's *given* character, which comprises those dispositions to feel, think, and act, the existence of which owes nothing to the actions of the agent himself (and some of which may be innate), and his character *as so far formed*, which comprises both his given character and those dispositions to feel, think, and act (if any) to which he has contributed by virtue of his actions.¹⁰⁴ An agent's being to blame for some event implies no defect of character in either of these two senses of "character." Of course, his being to blame does imply that there is a "defect" in what may be called his *total* property-set, in that, if he is to blame for willing e , then he has the "defective" property of having willed e . But such a property is not one which goes to make up either his given character or his character as so far formed.

But if appraisability does not concern the evaluation of an agent's character, what does it concern? It concerns the agent himself. It concerns *his* ledger, not his character's; it is *he* who is evaluated, not his character.¹⁰⁵ Of course, it is not an evaluation of him *in toto* that is at issue—at least not directly—but merely "slices" of him at particular periods of his life. One blemish does not besmirch his entire record; it is just one blemish, which takes its place alongside all the other entries in the ledger. (See again the introduction to Chapter 3.)

Even if there is no essential connection between appraisability and

is no reason why one should not on occasion be substantially appraisable concerning part of one's character. (Of course, I am here talking of one's character as so far formed; by definition, one cannot be appraisable for one's given character, since one has not contributed to it in any way.¹⁰⁶) Still, I think it not very likely that one should be appraisable for many of one's character-traits.¹⁰⁷ Those dispositions that it is easiest to affect are relatively short-term, relatively specific ones (such as my desire to write on this paper with my pen now), and these seem not to be properly classifiable as character traits. Long-term, general dispositions (such as my desire for companionship) are less easily affected. They are most easily affected when one is young and malleable, but at that point one is unlikely to grasp the concepts of right and wrong; still, they can be altered by oneself when one is older (one can submit oneself to brain surgery, for example, or one can diet and so on), and so it is certainly possible for one to be appraisable for certain of one's character traits.

One can of course be appraisable also for actions which "stem from" one's character, that is, for acting "in character," and this is possible even if one is not appraisable for the trait or traits from which the action stems. For example, I may not be appraisable for my desire for companionship, but I may well be appraisable for a certain action that constitutes acting on that desire. As long as the desire does not render me strictly unfree not to act on it, it is open to me not to try to satisfy it; if I kidnap someone in order to satisfy it, I may well be culpable for doing so.¹⁰⁸

It is possible also, I think, both to act "out of (that is, not in) character" and to be appraisable for one's action. But just what it is to act out of character is not clear to me. Certainly, doing something that it is unusual for one to do does not suffice for acting out of character; for circumstances may be extraordinary, in which case dispositions to act, which have long lain dormant, may be actualized. But it is unclear to me (i) just what dispositions are, or are supposed to be, and (ii) just what it is to have a disposition to bring about an event, to be strictly free to bring it about, to be aware of this, but not to bring it about. These are issues that I shall not try to tackle here. How we answer them will dictate how we account for acting out of character and, in particular, whether we accept the possibility that one retain one's character and yet act out of character or insist that, to act out of character, one's character must have changed (the change perhaps being only temporary).