



Culture and Theory

Justice and law in the thought of Arthur Schopenhauer (1788–1860)

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ABSTRACT

The German philosopher Arthur Schopenhauer (1788–1860) stated that the world has two coexisting dimensions: the Will-side, which is the metaphysical, ideal, and ultimate reality where isolated creatures do not exist; and the Representational side, which Will-powered, self-centered individual phenomenon inhabits. Schopenhauer asserted that in human societies under the imperative of the Will, *temporal* justice may only aspire to prevent ill-natured actions towards humans and animals. Absolute freedom happens at the metaphysical level of the primeval Will, and an *eternal* justice exists, because victims and perpetrators belong to the same essence, and their deeds are therefore balanced. In Schopenhauerian terms, the only bridge between *temporal* and *eternal* justice is Will-denial, which leads to compassion and asceticism, and occurs after the awareness of the unity of all living beings. However, Will-denial, by being a strictly individual and unpredictable issue, led to Schopenhauer's pessimism about an enduring collective well-being. Approaching eternal and temporal justices is thus, a worthy quest, which is visible in the current worldwide concern and interest in altruism, cooperation, and compassion. Nevertheless, if this progress is devoid of compassion and asceticism (cooperation and healthy austerity in modern terms) it could lead to increased malicious social control and manipulation. Schopenhauer's thought may thus be part of the philosophical foundations of contemporary forensic psychiatry. This paper discusses these aspects of the philosopher's work, with reference to current ideas and literature in forensic psychiatry, psychology, law, and issues in contemporary physics which are pertinent to this debate.

1. Introduction: Why Arthur Schopenhauer?

Arthur Schopenhauer was born in Danzig, now Poland in 1788 and died in Frankfurt, Germany in 1860. He obtained his doctorate in philosophy in the University of Jena in 1813 and after a failed career as a university professor, spent his life working out of the professional academy. Schopenhauer wrote with a clear, critical, and ironic prose; while he was pessimistic about a durable collective well-being, he developed a path to individual salvation by means of compassion and asceticism.

Schopenhauer further developed and applied Immanuel Kant's representational model of the mind,¹ which is a core issue in current cognitive neuroscience (Hepp, 2020), and searched for a general,

non-theistic, naturalistic principle (metaphysics) underlying the whole universe including living creatures and humans, which he named as the "Will" (Schopenhauer, 1907, 2010a).

Schopenhauer was widely read in the second half of the 19th century, but thereafter was relatively overlooked until the last three decades which have witnessed a growing interest in his work (Schopenhauer, 2010a, Introduction on p. viii). For instance, his thought was the subject of at least three popular novels (Houellebecq, 1998, 2005; Yalom, 2005). Further, two academic journals devoted to his work were recently launched, one in Brazil (*Voluntas*, <https://periodicos.ufsm.br/voluntas>) and the other in Spain (*Schopenhaueriana*, <http://sociedadsschopenhauer.com/acerca-de/>). Novel, authoritative translations of his works have been carried out (Schopenhauer, 2010a,

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¹ Immanuel Kant (1724–1804) is a central figure of the Transcendental Idealism school. He postulated that our experience is ineluctably structured by our cognitive faculties, and it puts an epistemic barrier between ourselves and the world as it is-in-itself. According to Kant, we perceive objects in space and time, but these are dimensions that are imposed *a priori* (before experience) by our intellect. Accordingly, we do not know things as they really are (<https://plato.stanford.edu/entries/kant-transcendental-idealism/>, downloaded in June 2021). The notion of the thing-in-itself is a key issue in metaphysical reasoning, which tends to be of little use in contemporary epistemology (Stern, 2020).

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2012, 2015, 2016, 2018) and a comprehensive Handbook about his thought was recently released (Wicks, 2020).

Schopenhauer influenced many fields of knowledge: philosophy, literature, art -particularly music-, religion, psychology, biology, morality, justice and notably ethics (Young, 2005). He is popularly described as the “pessimist philosopher” and the “psychologist of the will” (Thomas Moore cited by Ivars, 1976). His thought is fervently praised or criticized. For instance, Jorge Luis Borges (1899–1986) thanked Schopenhauer “who perhaps deciphered the universe” (Borges, 2016). By contrast, the Spanish philosopher Julián Marías Aguilera (1914–2005) stated that “Schopenhauer’s metaphysical foundations have scarce solidity and his influence led many to be lost in a farrago of theosophy, literature and Hinduism, where the meaning of philosophy was the actual loser” (Cardona, 1998, our translation).

On the one hand, Schopenhauer was charged as anti-Semitic (Golomb, 2020), misogynic, and devoid of a coherent social project (Ivars, 1976), but on the other, he was commended by Max Horkheimer (1895–1973) as follows: “Schopenhauer exposes the motive for solidarity shared by men and all beings” (cited by Young, 2005).

Several subjects of the philosopher’s work have been particularly explored by contemporary researchers in the mental health field. Concerning psychoanalytic theory, Young proposed that Schopenhauer’s construct of the Will (discussed further below) and that of the psychodynamic unconscious mind share their a-rational tendency (Young, 2005). Additionally, Atzert (2020) suggested an analogy between the Schopenhauerian Will-denial and the Freudian drive to death.

In the medical field, the authors are evaluating how to set a heuristic bridge between Schopenhauer’s thought and psychiatry, general and evolutionary psychology, and psychotherapy (Baptista, 2016; Baptista and Aldana, 2018; Baptista et al., 2018; Baptista et al., 2019; Baptista, 2020). The core of this project is Schopenhauer’s notion of Will-derived self-centeredness, which the authors believe pervades individual and social life (discussed further below). With the self-interest construct, Schopenhauer described the individual life cycle and social interaction. This construct is potentially suitable for psychoeducation and psychotherapy with relative independence of the specific psychiatric diagnosis (Baptista et al., 2018).

Regarding social psychology, Maner et al. (2007) explored Schopenhauer’s famous parable of the porcupines,² which according to the ironic philosopher’s prose, illustrates social human interaction. These authors found that the porcupines’ principle increases the motivation to forge social bonds with new sources of potential affiliation.

As is discussed in this paper, Schopenhauer’s thought may enrich the field of contemporary forensic psychiatry with its concern about morality, ethics, and justice. Specifically, Schopenhauer’s acumens of human motivations which depart from self-centeredness, may provide a framework for promoting cooperativeness and empathy (Baptista, 2016; Baptista et al., 2018).

Hence, in this article, after briefly reviewing his thought, we will describe Schopenhauer’s model of personality development, individual freedom, and the propensity to display malice and criminality. Then, we will focus on his theory of law and justice, which may have anticipated evolutionary-based models of cooperation and deception (Baptista et al., 2018). For this purpose, we will discuss the work of R.B. Marcin, who stated that Schopenhauer’s thought approaches the concepts of contemporary quantum physics, which may be relevant for current debates on morals, ethics, justice, and the law (Marcin, 2020). Finally, we discuss Schopenhauer’s thought under the light of contemporary science

and how it may contribute to solving the current puzzles of forensic psychiatry.

Schopenhauer is commended for his original and precise prose. Hence, we included numerous literal excerpts of his works, which we hope, will enrich this manuscript.

2. Schopenhauer’s philosophical thought

Schopenhauer described two sides of the world: one physical, the world as Representation or the world as it appears, and the other metaphysical, which is the world as it really is: the world as will (referred to as Will from now on). With this model, he bridged a gap that had long existed between Western and Eastern philosophical thoughts (Marcin, 2020).

2.1. The Will

For Schopenhauer, the Will is defined as follows:

The innermost, the kernel of every individual thing and likewise of the whole: it appears in every blind operation of a force of nature: it also appears in deliberative human action; these differ from each other only in the grade of their appearing, not in the essence of what appears (Schopenhauer, 2010a, § 2 on p. 135).

Schopenhauer asserted that, “a Will must also be attributed to all that is lifeless and inorganic” (Schopenhauer, 1907, on p. 309), and emphasized that the Will “in itself, however, is unconscious, for consciousness is conditioned by the intellect, and the intellect is a mere accident of our being” (Schopenhauer, 1909, § 19, on p. 411).

Hence, for Schopenhauer, the Will is the essence of the universe, the source of organic and inorganic beings, and the tendency to exist and/or live. The categories of space, time, and causality do not belong to the primeval Will. He initially considered the Will as the Kantian *thing-in-itself* (Schopenhauer, 2010a), which is also out of the time, space, individuality, and causality categories. Later, he posited that since we, human beings, know the Will only in relation to the succession of events (that is, in time, and, therefore, as a representation), “the act of Will is indeed the closest and most distinct manifestation of the *thing-in-itself*” (Schopenhauer, 1909, § 18, on p. 407).

2.2. Representation

For the philosopher, representation is knowledge. He asked: “What is knowledge?” (cognition):

It is primarily and essentially idea (emphasis ours and henceforth). What is idea? “A very complicated physiological process in the brain of an animal, the result of which is the consciousness of a picture there. Clearly the relation between such a picture and something entirely different from the animal in whose brain it exists can only be a very indirect one. This is perhaps the simplest and most comprehensible way of disclosing the deep gulf between the ideal and the real” (Schopenhauer, 1909, § 18, on p. 400).

Schopenhauer used the term “idea” in the above definition to refer to the mental representation of any given object, event, sensation, etc. This definition contrasts with the Platonic “Ideas”, that refer to prototypes or models, which also are, with some variations, key concepts in Schopenhauer’s thought (Marcin, 1994). In contemporary cognitive psychology, the “ideas” may correspond to the product of immediate perception and automatic analysis, whereas the “Ideas” may refer to unconscious or pre-conscious templates or frameworks with which the objects of perception are compared to (Baptista, 2016).

Therefore, the roots of Schopenhauer’s thought are in the Kantian concepts of the *thing-in-itself* (noumenon) for the Will, and phenomena or singularities for the objectivized Will through the act of

² A number of porcupines huddled together for warmth on a cold day in winter; but, as they began to prick one another with their quills, they were obliged to disperse. However, the cold drove them together again, when just the same thing happened ... In the same way the need of society drives the human porcupines together, only to be mutually repelled by the many prickly and disagreeable qualities of their nature (Schopenhauer, 2015, § 31).

representation.

2.3. Levels of the Will

Schopenhauer conceived several dimensions of objectivation (individuation) of the Will (Schopenhauer, 2010a). Given its metaphysical sense, the term “levels” is probably inadequate, and we will use it with some caution.

- (a) An unknowable primeval level (the Kantian *thing-in-itself*).
- (b) The basic forces of nature, some of them omnipresent, such as gravity and impenetrability, and others coupled to specific pieces of matter, such as rigidity, elasticity, fluidity, electricity, magnetism, chemical properties, etc.
- (c) The Platonic Ideas.
- (d) All the inorganic and organic phenomena, and,
- (e) The deliberate human actions as the pinnacle, constituting a minute part of the whole Will.³

The levels or dimensions a-c of the Will are outside space, time, causality, and individuality, which are only possible after the “*principium individuationis*” allows the existence of phenomena (see footnote n° 11).

Importantly, Schopenhauer stated that we have a privileged access to the Will by observing our body, its needs, and desires:

But since now perception can afford us only phenomena, not things in themselves, we have also absolutely no knowledge of things in themselves. I grant this of everything with the single exception of the knowledge which each of us has of his own willing. We ourselves are the-thing-in-itself (Schopenhauer, 1909, § 18, on p. 405).

Introspection always shows us to ourselves as willing (Schopenhauer, 1907, § 42, on p.169).

According to Schopenhauer’s metaphysics, the Will is the same all throughout the individual life cycle (see 3.3 below). While not explicitly pointed out in his texts, one may assume that mental disorders would not change the individual Will. But this would not be the case for the representational system, which causally depends on the functioning of the nervous system. The default hypothesis under Schopenhauer’s model would then be that the mentally ill and lawbreakers displays their intact Will along with a distorted mechanism of representation (Baptista et al., 2018).

2.4. Levels of representation

In Schopenhauer’s model, representation (cognition) appears in animals, as follows (Schopenhauer, 2010a, § 27, on p. 174–176).

- a) At the inorganic level, the basic forces of nature are guided by causes.
- b) In the next level, plants are guided by stimuli. At (a) and (b) there is no cognition in Schopenhauer’s sense.
- c) Since animals must move for feeding and reproduction, their activity requires cognition. Hence, according to Schopenhauer, animals are guided by motives. By ‘motives’ he meant an object of cognition, an

occurrent perception that is the material of the act of Will, in the sense that the act of Will is directed towards it (Schopenhauer, 2010b).⁴

- d) Humans are guided by abstract motives, as expressed in Schopenhauer’s own words:

Finally, where the will has achieved the highest degree of objectivation, the cognition from the understanding that arises in animals, and that the senses supply with data, and from which arise mere intuitions that are tied to the present – this cognition is no longer sufficient. The complicated, multifaceted, malleable, extremely needy being who is exposed to countless injuries – the human – had to be illuminated by a twofold cognition in order to exist; a higher potency of intuitive cognition, as it were, had to be added, a reflection of that intuitive cognition: reason as the faculty of abstract concepts (Schopenhauer, 2010a, § 27, on p. 176).

This way, Schopenhauer organized the dynamics of the Will’s expressions in his concept of causality through the *principle of sufficient reason* (see section 3.1).

3. Schopenhauer’s model of the mind, personality, and behavior

3.1. The mind

Schopenhauer simplified Kant’s apparatus of the faculty of cognition into the following components: a) the senses, which organize succession and position as the fundamental notions of time and space, respectively; b) the understanding, which provides the conception of causality, and c) reason, which allows concepts, that is, the maximal cognitive human capacity (Schopenhauer, 2010). It is worth noting that the brain frontal lobe plays critical roles in concepts’ development and their integration into cognitive emotional and behavioral responses. Convergent evidence points to frontal and prefrontal lobe dysfunctions in subjects with violent and criminal behaviors, and in those with severe mental disorders (Brower & Price, 2001).

Besides, Schopenhauer aimed at improving the foundations of the long-existing principle of sufficient reason which states that “everything must have a reason, cause, or ground” (Schopenhauer, 1907; Wicks 2021).⁵ For the philosopher, the four roots of the principle of sufficient reason are becoming (causality), cognition (logic), being (existence in space and time), and acting (moral and ethical issues) (Schopenhauer, 1907). He asserted that much philosophical confusion arises from attempts to explain objects of one kind by reasoning that belongs to the other kind.

Wittgenstein notably criticized the whole structure of Schopenhauer’s formulation (Phillips-Griffiths, 1976). However, the principle of sufficient reason expressed in diverse forms is an important tool in contemporary thinking. In the psychiatric field, violations of the principle of sufficient reason are implicit in the cognitive distortions observed in depression, anxiety, obsessive compulsive- and paranoid disorders. Under the effects of these distortions, the subjects confuse different levels and categories of explanations of their personal affairs, for example thoughts and/or emotions with actions and their

³ This is a core issue in Schopenhauer’s thought, since in his model of mind, the Will, as motivational force behind behavior is mainly a simple, unconscious, and blind impulse. This concept is far from the usual conception of Will, which is reflective and directed toward concrete goals.

⁴ The term “motive” along with that of “representation” are commonly used in contemporary psychology. Motivation refers to a cognitive elaboration of more basic drives, instincts and other external or internal sources of arousal. An important area of research is how motivational pressures differ among healthy people, the mentally ill and those involved in criminal behaviors (Davison & Janca, 2012; Dweck, 2017).

⁵ While this principle was implicit in the writings of several pre-Socratic thinkers, Baruch Spinoza (1632–1677) and Gottfried Wilhelm Leibniz (1646–1716) set the basis upon which Schopenhauer extended the discussion about causality in all his forms. Importantly, in contemporary epistemology, distinctions are made between *causality* and *groundings*.

consequences (Robbins et al., 2019).

While Kant argued that animals, being devoid of conceptual abilities, cannot have a full experience of the world of objects, Schopenhauer stated that they can indeed, but only in their present perception (Schopenhauer, 2010a, b). This is an important issue, where Schopenhauer differs from Kant. The latter, famously stated, “thoughts without content are empty, intuitions without concepts are blind” (<https://plato.stanford.edu/entries/kant-judgment/supplement1.html>, downloaded in July 2021). Schopenhauer adheres to the first clause but holds that there is indeed what today philosophers might call “non-conceptual content,” and what he referred to as “intuitive cognition”, “knowledge of perception” or “feeling”. This cognition allows human and many non-human animals to navigate and operate in the world, largely without concepts. Furthermore, for Schopenhauer, this is the kind of knowledge we gain, par excellence, through aesthetic experiences of nature and art; but this knowledge is not, or at least not-yet, conceptual, though it is a knowledge of the “Platonic Ideas” or essential features of the phenomenal world (Schopenhauer, 2010a, b; Shapshay, 2021).

Intuitive cognition as non-conceptual knowledge and the highly conceptual human reason arguably anticipated the contemporary terms of “cognitive and meta-cognitive” processes. The former refers to automatic information processing mostly unconscious, whereas the latter refers to thinking or reflecting about our own mental activity (Flavell, 1999). This dual information-processing model sets the basis for contemporary psychotherapy, where the subject heuristically ponders his automatic -but still cognitively meaningful-responses ((Robbins, Vaghi, & Banca). This analysis may surely exclude pure automatism often linked to brain dysfunction or involuntary intoxication, which implies a severe impairment of conscience, hence, a minimal cognitive processing. Alleging automatism may be used as a defense for criminal charges (Yeo, 2002).

Importantly, Schopenhauer considered the complex and elaborated faculties of intellect and reason as completely subordinated to the rather simple Will, as he illustrated:

The will alone is everywhere completely itself. For its function is of the utmost simplicity; it consists in willing and not willing, which goes on with the greatest ease, without effort, and requires no practice. Knowing, on the contrary, has multifarious functions, and never takes place entirely without effort, which is required to fix the attention and to make clear the object, and at a higher stage is certainly needed for thinking and deliberation (Schopenhauer, 1909, § 19, on p. 419).

3.2. The personality

Schopenhauer indistinctly used the terms ‘personality’ and ‘character’. Based on Kant, he described three dimensions of character (Schopenhauer, 2010a, b).

- The *intelligible* character is the Will as thing-in-itself so far as it appears in a definite individual in a definite grade, outside time, and therefore indivisible and unchangeable.
- The *empirical* character, also unchangeable, is named that way because one does not know it *a priori* (before) but *a posteriori* (after) by observing one’s own behavior along time.
- The *acquired* character refers to the insight one develops by observing one’s empirical character along time.⁶ This self-knowledge may change *behavior* by modifying the motives that the Will pursues.

Since the Will is the foundation of the intelligible character, the

question arises as to whether the Will is similar in all human beings. Schopenhauer stated that there are no differences in the degrees of Will’s nature among individuals; the differences pertain to the Will’s excitability. This might partially explain the notion of personality types in Schopenhauer thought (see section 3.3). However, *within* a person life’s span, the Will does not change:

The will never tires, never grows old, never learns, never improves by practice, is in infancy what it is in old age, eternally one and the same and its character in each individual is unchangeable (Schopenhauer, 1907, § 2, on p. 247).

In agreement with the notion of the acquired character, recent research has shown that the asymmetries in the global structure of personality traits such as those described as the “Big Five Personality Factors” tend to balance with age. Specifically, neuroticism and impulsivity decrease, whereas openness, agreeableness and conscientiousness tend to increase (Gerlach et al., 2018). Age-related personality balance would thus correlate with decreased criminality, particularly of a violent and visible type, irrespective of the offender’s sex. Criminality in people after their forties has been less characterized, but they seem to be more involved in surreptitious crimes such as embezzlement, stock fraud, bribery, or price-fixing. However, significant variations, which predict a better adjustment to psychosocial interventions, exist in temperament and character dimensions *within* the same age-group of young delinquents. This *within* age-group variability, along with a significant contribution of the social environment, particularly involving the access to legal employments and social support, are relevant intervening variables in the age-crime propensity association (Seidl et al., 2020; Shulman et al., 2013).

Schopenhauer conceived the human personality as comprising two dimensions: the moral nature, character, or inclinations (the Will), and the intellect (the representational dimension). The former dimension would be “imparted” by the father and the latter by the mother (Schopenhauer, 1909). The issue of intelligence and mother genetic contribution has received some support in contemporary research (Der et al., 2006; Plomin & Deary, 2015; Sanchez-Roige et al., 2018).

3.3. Personality types

Schopenhauer acknowledged the diversity of personality (character) types but did not delve deeper on how this occurs. Since the primeval Will is one and the same in every person, one wonders where, in the process of Will’s display, the diversification in the intelligible (primordial) character *might* occur.

The philosopher did not discuss this issue, but he stated that every single person is indeed a Platonic Idea. Therefore, one is tempted to speculate that *within* Schopenhauer body of thought, it is at the level of the Ideas, that the amorphous Will would reorganize itself as individual characters. How Schopenhauer may have anticipated contemporary findings in personality developments was not discussed in detail by early or recent Schopenhauer’s scholars (Atwell, 1990; Wicks, 2020). Importantly, Schopenhauer suggested functional differences at a foundational level in the Will as expressed in humans⁷:

The will, as original and the thing in itself, can never be imperfect, but every act of will is all that it can be. On account of the simplicity which belongs to the will as the thing in itself, the metaphysical in the phenomenon, its nature admits of no degrees, but is always completely itself. Only its excitement has degrees, from the weakest inclination to the

⁶ Insight or self-awareness, while involving emotions, often requires modifying concepts, that is abstract thinking. Accordingly, insight is often defined as *cognitive restructuring* (Robbins et al., 2019).

⁷ It is unclear how foundational differences in the Will may be currently interpreted. Contemporary psychology acknowledges differences in individual temperament, which is a construct with significant congenital factors. But any activity attributed to temperament implies cognitive processing, which is a level far distant from the primeval Will in Schopenhauer’s thought.

passion, and also its susceptibility to excitement, thus its vehemence from the phlegmatic to the choleric temperament (Schopenhauer, 2909, § 19, on p. 418).

3.4. Freedom, behavior, and deeds

According to Schopenhauer, all human actions proceed with necessity from a combination of their motives and their character (Schopenhauer, 2010b).

Since any human's decision will depend on the individual's character and the relative weight of a set of motives, Schopenhauer disavowed true freedom in human deeds. In fact, the philosopher conferred no special 'dignity' to reason and its capacity to construct concepts and demoted its power as a source of freedom and morality. The philosopher asserted that "... a rationally motivated action is not guaranteed to be any more morally good -or free-than one otherwise caused" (Schopenhauer, 2010b, Introduction, on p. xviii).

Schopenhauer further stated that:

Rational and vicious can combine very well, and indeed it is only through their combination that great, far-reaching crimes are possible (...) Irrational and noble-minded likewise coexist very well (Schopenhauer, 2010b, § 6, on p.151).

Schopenhauer's wrote this passage when referring to his rejection of slavery and of conquests and their wars, as vivid examples of the insatiability of the Will and of human self-centeredness. Schopenhauer did not conduct a philosophical analysis of the different types of crime, but instead focused on malice and crime in general, as conspicuous manifestations of human selfishness. Hence, strictly speaking, his thought did not anticipate the contemporary findings of positive correlations between non-violent crimes such as those of the white-collar type, with normal or high intelligence levels (IQ), and the inverse correlation between the frequency of violent crimes and low IQ. Schopenhauer's writings did not anticipate either the complex interactions between low social class, education status, IQ and criminality (Bartels et al., 2010; <https://www.encyclopedia.com/law/legal-and-political-magazines/intelligence-and-crime>, downloaded on June 2021).

Whereas Schopenhauer denied absolute freedom in human acts, he asserted that in a metaphysical sense, the Will *in-itself* at all its levels is entirely free, as expressed in an often-quoted sentence:

I can do what I will (...) But (...) Can you also will what you will? (Schopenhauer, 2010b, § 1, on p. 34).

Importantly, the Will's denial, which is the crux of Schopenhauer's ethics, is the only free act of the human Will (see section 5).

Concerning the ontogeny of the 'evil' and the 'good', Schopenhauer granted little influence on education, and rather emphasized the way in which the Will showed itself in a particular person:

Why one person is evil and another good is not a matter of motives or external influences (such as education or sermons), and in this sense it is strictly inexplicable (Schopenhauer, 2010a, § 26, on p. 163).⁸

Concerning human motivations, Schopenhauer stated that there are three fundamental incentives of human actions: egoism, malice, and compassion (Schopenhauer, 2010b). This is a key issue when discussing

ethics and justice in the philosopher's system.

- Selfishness or egoism is our usual state, since every individual struggle for preserving his own body, very often at the expense of others.
- Malice appears when a person intentionally appropriates and damages other individual's body.
- Compassion is an unusual state, where someone perceives the suffering in another one and lessens it, even at his own cost. In Schopenhauerian jargon, selfishness and malice are the expression of the "affirmation of the Will", whereas compassion is generally in the spirit of the "Will denial" (section 5). As discussed below, egoism and malice are the usual states in *Temporal justice*, whereas compassion and asceticism are instead in the domain of the *Eternal Justice*.

The lack of individual freedom and the assertion that all human actions proceed with necessity from a combination of their motives and their character, are foundations of the so-called ontological pessimism in Schopenhauer. However, contemporary analysis of behavior emphasizes the high tendency to cooperativeness in humans (Vlerick, 2020). In our model of psychoeducation and psychotherapy, cooperation is a way to redirect self-centered motives (Baptista, 2016; see section on reciprocal altruism below).

Schopenhauer employed the term *temporal* when referring to daily life affairs immersed in the time-space-causality dimensions (the world as Representation), whereas *Eternal* denotes to the world as Will, which is out of the spatial-temporal and causal dimensions.

4. Law and justice in the world as representation: *Temporal justice*

Schopenhauer's complex reflections about law and justice are relatively dispersed in several of his texts. Hence, for the sake of clarity and brevity, we present a narrative description of his model of the two sides of justice (temporal and eternal) which correspond to his core thought of the World as *Will* and *Representation* (Schopenhauer, 2010a).

Since the world at the phenomenal -representational- level is based on the affirmation of the Will-to-live and its inherent self-centeredness, Schopenhauer asserts that it is basically an amoral world, where the default prevailing ethics is that so well described by Thomas Hobbes in *Leviathan* as *bellum omnium contra omnes* (war of all against all) (Schopenhauer, 2010a).

Self-affirmation often requires the assault of other individuals, as it is clearly visible in the alimentary chain involving, minerals, plants, and fellow animals, but also in numerous human and social interactions. In Schopenhauer's words: "Every grade of the objectification of will fights for the matter, the space, and the time of the others" (Schopenhauer, 2010a). For most of us, that is the normal, socially accepted, egoistic way of living, such as the strife for possessions, control over others, imposition of our own's opinion, jealousy, etc. However, in the extreme, self-centeredness shows as malice, lying torture, robbery, treason, murder, cunningness, and many others (Schopenhauer, 2010a).

In Schopenhauer's thought, as for most of the comprehensive models of the mind such as psychoanalysis, it is the intellect which paves the way for a socially acceptable expression of self-affirmation. According to Robert Cloninger (2004), this requires a subtle balance between self-directedness and cooperativeness: both dimensions may be enhanced or inhibited. A strong tendency towards the extremes would thus lead to exaggerated self-affirmation or self-denial, respectively. This last is also promoted by passivity, guilt, and remorse.

The authors think that, given the diversity of mental disorders, mood and cognition fluctuations, short-vs. long-term consequences, and impact on people, no single model of self-affirmation/denial is expected. For example, decreased self-affirmation is observed in subjects with neurodevelopmental disorders, depression, bipolar disorder, schizophrenia, and other psychotic disorders (Garcia et al., 2013; Robson

⁸ This radical comment must be interpreted within the context of Schopenhauer's thought as the small effect that education and learning have on the primeval Will (intelligible character), as stated by the philosopher as follows: *that is why he cannot decide to be such and such, and cannot become someone different; rather he is, once and for all (Schopenhauer, 2010a, § 55, on p. 319).* However, the unchangeable Will may be redirected, and behavior changed by a novel motive; that is the acquired character (Schopenhauer, 2010a). This is the core for individual salvation according to Schopenhauer.

et al., 2020), and rather strong self-affirmation in anxiety-, attention-deficit and hyperactivity disorders, eating disorders, and post-traumatic stress disorder (Robson et al., 2020). Relatives and caretakers may feel exploited -that is a threat to their self-affirmation-, by patients with dementia, some personality- and obsessive-compulsive disorders, but it is an underexplored issue (Freckelton, 2020).

A sometimes subtle, but often visible transition occurs from the default or natural egoism to *malice*: the evil subject *intentionally* and *purposefully* hurts and causes unnecessary pain to another human. As described above, Schopenhauer conceived individual differences in the propensity to display malice, depending on the excitability of the individual Will.

Contemporary forensic psychiatry does not base legal responsibility on the metaphysical Will, which is the foundation of the Schopenhauer's concept of the intelligible character (Felthous, 2008; Luthe & Rosier, 2004; Meynen, 2010), but rather in a related way to what Schopenhauer called the "intellectual freedom of the Will" (Schopenhauer, 2010b), which is close to the current medical model (Mason, 2006).

The "intellectual freedom of the Will" refers in present-day to the set of processes through which conscious brain-related mechanisms channel human motivations (the individual Will) according to socially dictated norms. This is the foundation of the Schopenhauer's concept of the acquired character, which would be formed by the interaction between the individual organism and his environment. We have discussed elsewhere (Baptista & Aldana, 2018) how this idea approaches the ontological dependence supported by Varela et al. (1991) and Maturana (1988).

Schopenhauer acknowledged that the intellectual mechanisms that regulate the individual's Will may be impaired at diverse degrees of intensity by mental disorders and chemicals (Schopenhauer, 2010a, § 36; Schopenhauer, 1909, § 32). In this way, the philosopher approaches contemporary principles and practices concerning criminal responsibility and the fairness principle of moral proportionality in guilt and punishment. This refers to the important notion that the severity of punishment must be proportionate to the gravity of the defendant's criminal conduct (Felthous, 2008; von Hirsch, 1992).

Marcin (2020) stated that since altruism, the potential cure for the all-prevalent egoism, can neither be expected nor legislated, and virtues cannot be taught, it is then the role of the State to impose rules and regulations to prevent possible ill-natured actions of a person against his peers. Similarly, Marcin (1994, 2020) believes that Schopenhauer's theory of law is practical, pragmatic and behaviorist in tone, because the deeds, and not the intentions are what can be legislated in the world as Representation.

What the law optimally intends is to prevent malicious actions, and punishing offenders is often part of the 'preventive' strategies. Schopenhauer supported this legal spirit in Seneca's Laws: "No wise man punishes because a wrong has been done, but rather in order that it should not be done" (Schopenhauer, 2010a, § 62 on page 376)..⁹

This is the imperfect *Temporal Justice* in Schopenhauer's thought, and is the foundation of his existential pessimism. However, the philosopher stated that "When the state fully achieves its goal, it will present the same appearance that would be expected if perfect justice governed everybody's disposition" (Schopenhauer, 2010a; § 62 on page 372).

This somehow contradictory assertion, given the philosopher's pessimism at the social level, was solved by understanding what happens when egoism goes from the particular (individual) to the general (collective):

As we have said, the state is so far from being directed against egoism in general and as such, that the reverse is in fact true: the state emerges out of a cumulative, collective egoism that is fully aware of itself as such and proceeds methodically from a one-sided standpoint to that of the universal. The state is set up under the correct assumption that pure morality, i.e., morally grounded rightful action, cannot be expected; otherwise, of course, the state itself would be quite superfluous (Schopenhauer, 2010a; § 62 on page 372).

Temporal Justice is thus, the way the State may manage at the behavioral level the omnipresent and collective egoism. At this phenomenal level, the State can only prevent *wrong* actions which constitute the original and positive concepts: "the counter-concept *right* is negative and derivative" (Schopenhauer, 2010a, § 62 on page 365).

Schopenhauer's theory of law, thereby, only addresses the damaging aspects of the exercises of the Will-to-live at the individual level. However, according to the philosopher, affirming and advancing "the common egoism of all" somehow results in societal well-being (Marcin, 1994).

But the exertion of Law as it is, and Temporal Justice, are unsatisfactory in an ontological sense, because they do not address the *cause* of the conflicting exercise of the Will-to-live. Schopenhauer addressed this conflict at the ontological level, with the notion of Eternal Justice.

5. Law and justice in the world as Will: Eternal justice

When Schopenhauer turned from Temporal-to Eternal Justice, he also diverged from the standard, Western philosophical style with which he explored the Law in the world as representation, in favor of a metaphysical style to approach Justice in the world as Will (Marcin, 2020). Besides, Schopenhauer only addressed the individually damaging (self-centered) side of the exercise of the Will-to-live in the world as Representation, but here, he turned to a collectively, rather positive side.

Eternal Justice may be *understood* either at a highly rational/conceptual level or may be metaphysically and emotionally *experienced*.

Concerning the former, Schopenhauer conceived all phenomena (organic or inorganic) as temporary fragments of an eternal and indivisible primeval Will. Thus, any action directed *from* a phenomenon to another one is eventually assimilated and balanced in the pre-individualized Will; hence, there are not net gains or losses. When conceived and expressed this way, there is an Eternal state of fairness in the primeval Will.

In the metaphysical realm, the Eternal Justice refers to the realization, or the achievement of a special knowledge: the aggressor and the victim are distinct as phenomena, but both are part of the same unit or essence, which is the Will.¹⁰ Hence, at the level of the primeval Will, the victim is as guilty as the aggressor and *vice versa*. After this realization, the illuminated subject clearly perceives the unity of all creatures and suddenly, it may appear the only free act of the individual subject, which is the denial of the Will. The Will's denial expresses as *compassion* toward all beings and renunciation or *asceticism*, and, according to Schopenhauer, it is radically different from suicide, which rather derives from a strong attachment to the Will-to-live.

Schopenhauer provided a rich description of the path for understanding Eternal Justice. The term "path" must be cautiously used, because concerning the atemporal and un-spatial Will, an ordered sequence is not conceivable. Thomas Mann described this path as three existential dimensions: aesthetical, ethical, and metaphysical (Quoted by Ivars, 1976). It is an experience that inherently occurs in human beings, as follows:

⁹ Schopenhauer's endorsement of Seneca may be considered as a philosophical precursor of current proposals of alternative methods to mass incarceration, such as restorative justice, community services and many others (United Nations Office on Drugs and Crime, 2007).

¹⁰ Alternative methods to mass incarceration such as communitarian activity may be a non-metaphysical bridge between temporal and eternal justice (see footnote 9).

1) *Aesthetical*: It implies the maximal dissociation between willing and knowing. In a rather sudden experience, one becomes a subject of pure perception, who perceives an object in a Will-less state. Aesthetic contemplation is a prime but not exclusive example of such a state. The artist, or any human being, may suddenly and briefly perceive the Platonic Ideas behind phenomena. This placates the insatiable Will (Schopenhauer, 1909, § 30).

2) *Ethical*: It refers to the perfect realization of the unity of all phenomena, living and non-living, the striving that life imposes over them, and the existential liberation from the *principium individuationis*.¹¹ Echoing Hindu mythology, Schopenhauer described this as raising the “Veil of Maya”, and portrayed it as follows:

The essence of this work has finally come to us in the Upanishads, which are the greatest gift of this century; it is expressed in many forms, but particularly when all the beings of the world, living and lifeless, are led in succession past the gaze of the disciples, while a certain word is pronounced over each of them, a word that has become a formula and as such is called ‘Mahavakya Tatoumes’, or more correctly ‘tat tvam asi’, which means: ‘You are that’ (Schopenhauer, 2010a, § 63 on page 382).

3) *Metaphysical*: It is the Will’s denial. This is perhaps one of the most original expressions in Schopenhauer’s thought. Under the umbrella of the aesthetical and ethical experiences, the subject feels an imperious desire of renunciation and asceticism, and in a calm and joyful mood turns compassionately towards all other creatures. The philosopher stated this as follows:

... when we see through the principium individuationis, we immediately recognize the Ideas, indeed the essence of things in themselves, as being in everything the same will, and from this cognition comes a universal tranquillizer of willing; individual motives become ineffective, because the mode of cognition that corresponds to them retreats, obscured by an entirely different mode of cognition (Schopenhauer, 2010a, § 70, on page 430).

By eradicating the distinction between one’s own individual and that of others, this is the only thing that makes possible and explains perfect dispositional goodness that goes as far as the most disinterested love and the most generous self-sacrifice for the sake of others (Schopenhauer, 2010a, § 68, on page 405).

Schopenhauer stated that the road to, and the circumstances that surround the rare individua that follow this path are various, but frequently involve the own suffering or witnessing that of others. Schopenhauer’s scholars are delineating the personality profile of the subjects who display compassion along their life (Ribeiro, 2016). Compassion-prone people may be suitable for communitarian activities. This is relevant for the development of personalized alternative methods to mass incarceration.

The philosopher also declared that such an experience, which is the maximal expression of the freedom of the Will:

“... is that what the Christian mystics call the effect of divine grace and being born again” (Schopenhauer, 2010a, § 70, on page 431).

In a set of celebrated paragraphs concerning the Will denial, Schopenhauer emphasized several relevant issues: the originality of his proposal, its universality, the insistence in deeds rather than in intentions, and the independence of abstract cognition, specific religion, and beliefs in God:

This might be the first time that the inner nature of holiness, self-denial, asceticism, and the mortification of one’s own will has been expressed abstractly, cleansed of all mythology, as the negation of the will to life ... all of those saints and ascetics have recognized it directly and expressed it through deeds; although they have the same inner recognition, they articulate it in very different ways, according to the dogma each has rationally accepted. This leads Indian, Christian and Lamaist saints to account for their own deeds in very different ways, but this does not matter in the least. A saint can be full of the most absurd superstitions, or conversely, he can be a philosopher: it makes no difference. Only his deeds confirm him to be a saint: because morally, his deeds do not come from abstract cognition, but from an intuitively grasped, direct cognition of the world and its essence, and he filters this through some dogma only to satisfy his reason ... Naturally, we will not encounter these in everyday experience: ... You also see how little it matters whether it comes from a theistic or atheistic religion” (Schopenhauer, 2010a, § 68, on p. 410–411).

6. Discussion

6.1. Critical summary of Schopenhauer’s thought on law and justice

For Schopenhauer in daily life, that is in the world as Representation, there are no individual freedoms, true morality, or ethics; there is only *Temporal Justice*. It is a world of relative fairness, since the State organizes citizens to ideally prevent, but very often to punish for mischievous deeds, within the spirit of a collective self-centeredness. That is the basis for his ontological pessimism. Concerning, self-centeredness, which if a core topic in Schopenhauer’s psychology, a more positive evaluation of egoism, defined as ‘rational self-interest’ was stimulated in the 20th century by the work of Ayn Rand (Arrigo, 2002; Baptista et al., 2018).

R.B Marcin stated that “Schopenhauer is one with the legal economists and public-choice theorists who inhabit today’s law-and-economics movement, [whose] theory of law should be behaviorist, ... [and] sometimes see the human being as nothing more or less than an egoistic, rational, utility maximizer” (Marcin, 2020, on p. 313–322).

While the psychiatry forensic field abandoned the issue of a “metaphysical free will”, an “intellectual free will” is in the core of the concepts of *mens rea* (the intention or knowledge of wrongdoing) and *actus reus* (action or conduct which is a constituent element of a crime). This is referred as the *intention-action-effect chain*. What judges evaluate is the accused’s capacity to act in accordance with his or her intentions. The accused’s narrative on his or her agency is then normatively evaluated: that is, the narrative is confronted to current common beliefs and values. The bridges among intention-action-explanation of behavior are not optimally delineated by contemporary neuroscience (Bigenwald & Chambon, 2019). Besides, mental disorders are notoriously heterogeneous, and the issue of simultaneous substance abuse adds further complexity (Matcheswalla & De Sousa, 2015) (see the Conclusion section for further discussion).

In the world as Will, specifically after the Will’s denial, which is, according to Schopenhauer, the only place where the freedom of the Will manifests itself directly (Schopenhauer, 2010a, § 68, on p. 422),¹² suddenly the *Eternal Justice* appears. From now on, while maintaining his physical and mental individuality, the subject profoundly perceives

¹¹ The *principium individuationis* (Individuation Principle) refers to the perception of individual things (living and non-livings) departing from a unitary Will. For Schopenhauer, the principle in question is that things are distinguished from one another by their position in space and time (Schopenhauer, 2010a, Introduction, on page XXV).

¹² Why this is the only free act of the Will is a complex issue in Schopenhauer’s thought. It starts in his statement that in the world as representation the Will “trying to increase well-being in one of its appearances, produces vast amounts of suffering in another, and so, ...it sinks its teeth into its own flesh ... (Schopenhauer, 2010a, §63, in p.381). According to Lopez de SantaMaría (2020, on p. 202), once the subject reaches the knowledge of the unity of all creatures, “the Will itself frees itself from its own contradictions, arriving at its own self-denial”. How the Will-denial relates to mental illness and criminality remains underexplored.

the unity of all creatures, deeply inside knows that victim and perpetrator are the same, and spontaneously fills his life with compassion and asceticism. Concerning contemporary legal systems, Marcin thinks that “civic republicans and other communitarians sense [this] noumenal [metaphysical] level of eternal reality” [and] “see the human being as an entity fully capable of an altruistic cooperative solidarity” (Marcin, 2020, on p. 322).

As stated above, with this two-sided theory of justice, Schopenhauer “bridges a gap that has long existed between Western and Eastern approaches to philosophy” (Marcin, 2020, on p. 311).

Marcin contends that Schopenhauer’s position “may seem somewhat superficial to some of us today (Marcin, 2020, on p. 314). Marcin did not display the basis for this key criticism. However, we speculate that it is related to the lack of confidence that Schopenhauer had on the role of communitarian activities in the development of enduring and collective well-being.

In addition, Schopenhauer did not address the potential and actual missuses of temporal justice such as despotism, totalitarianism, incarceration of the general population for political reasons, and forced treatment in the mentally ill. (Haw et al., 2011).¹³ Schopenhauer did not address either, the relationship between mental illnesses and the Will denial in the metaphysical sense.

The metaphysical bridge (Will-denial, expressed as compassion and asceticism) that Schopenhauer set between *temporal* and *eternal* justice may currently appear unrealistic, as the philosopher Peter Sloterdijk (2013, on p. 64) recently affirmed: “It may be that his doctrine of the resignation of the Will must sound even stranger to the hunger for life among the inhabitants of the First World today than it would have to Schopenhauer’s contemporaries”.

However, recent scientific and psychotherapeutic advances support rephrasing the Schopenhauerian claims for compassion and asceticism by more operative terms such as cooperation and healthy austerity (Baptista, 2016). After discussing some of these advances and their relationship to current trends in justice administration, specifically alternative methods to mass incarceration, we will end pointing out how Schopenhauer thought may shed light in the challenges posed in the field of psychiatry and the law.

Our central message is that novel approaches in crime prevention and penalty (in the Schopenhauerian world as Representation, strictly dependent on a relative slow chain of space, time, and causality) coupled with the instantaneous communication of contemporary informatics (which in a minor measure resembles the world as Will), may shorten the bridge between *temporal* and *eternal* justice.

We will discuss two aspects of contemporary science which are relevant for the Forensic field: the evolutionary thinking about the key issues of altruism and cooperation, and how quantum physics is changing world-wide communication. Briefly, the former assumes that in most human interactions, some sort of retribution is expected by the involved individuals. Accordingly, compassion, conceived as disinterested interaction, may be uncommon. The latter refers to the impact of almost instantaneous transmission of personal data, on crime prevention and punishment.

6.1. Schopenhauer’s thought and contemporary science

6.1.1. Evolutionary analysis: altruism and cooperation

In this section we will specifically refer to the scientific approach to *altruism*, as an opposite interpersonal construct to *selfishness*, which constitutes the core of Schopenhauer’s analysis of social interaction. As

¹³ Schopenhauer’s little faith in humanity may be misinterpreted as a support for totalitarianism, this including delinquents and the mentally ill. That this was not the case, the authors believe, is supported by his activism against conquerors, slavery, and animal abuse, and his claim for compassion and asceticism as a path to individual salvation.

discussed above, Marcin (2020) stated that altruism, the obvious cure for the all-prevalent egoism, cannot be neither imposed, nor legislated. Altruism refers to the disinterested interest in others’ well-being, even at the price of self-sacrifice, and has been scientifically assessed in the field of evolutionary psychology (Burkart et al., 2018; Trivers, 1971).

Three types of altruism have been described under the principles of the species’ evolution theory. (Vlerick, 2020).

- 1) ‘Kin altruism’ refers to behaviors that increase the evolutionary success of genetically related organisms, that is relatives. (Trivers, 1971; Ridley, 1996; Vlerick, 2020).
- 2) ‘Reciprocal altruism’, where the altruistic organism is in fact behaving in an ‘enlightened’ self-interested way since it could expect the favor to be returned in the future. (Trivers, 1971; Vlerick, 2020). This is thus, an equivalent or a close term to ‘cooperation’.

The scientific study of cooperativeness is an important section of the so-called game theory, that conflagrates computer scientists, economists, psychologists, sociologists, anthropologists, and biologists among many other contemporary scientists. Models of cooperative behavior have been developed, notably the so-called *tit-for-tat*, the prisoner’s dilemma, the dictator game, and many others (Ridley, 1996).

- 3) ‘Rational altruism’: there are numerous instances in which the altruist cannot expect reciprocation because the beneficiary is unknown, too distant, or only amenable for a single encounter. According to Vlerick (2020), this third type of altruism, which is closer to the original meaning of the term, reflects the people’s inherent cooperative disposition, and it is only seen in humans.

6.2. Altruism and Schopenhauerian egoism

Which contemporary definition of altruism is closer to Schopenhauer’s concern *onto others* in both sides of his world: Will and Representation?

Kin- and reciprocal altruism seem to fit with standard definition of egoism in the world as Representation since they are aimed at specific individuals, follow the principle of sufficient reason, and retribution is expected, either as increased inclusive fitness or personal retribution.

‘Rational altruism’ as we called it, does not appear to be as well characterized as kin and reciprocal altruism. Its rational foundation places it under the principle of sufficient reason, tend to be short-lasting and it is less directed towards specific fellows than the kin- and reciprocal types.

Hence, the three types of altruism seem closer to *Temporal* than to *Eternal* Justice.

However, the development of Buddhist practice-related psychotherapeutic techniques, such as the Compassion-based (Gilbert, 2014) and the Mindfulness (Khouri et al., 2013) models, and the concern to the COVID-19 pandemic, have raised the interest in the issue of compassion. It is out of the scope of this essay to assess its feasibility and relatedness to the Schopenhauerian compassion. Hence, in the restricted fields of psychology and psychotherapy and for the sake of heuristics and pragmatism, we paraphrased ‘compassion and asceticism’ as ‘intensive cooperation and healthy austerity’ (Baptista, 2016).

6.3. Contemporary science and eternal justice

6.3.1. Eternal justice and quantum physics

In his analysis of the eternal justice R.B. Martin finds a parallel between the two-dimensional Schopenhauerian world (phenomenal and noumenal), and how contemporary physics conceives the world: “a Newtonian world at the level of perception in which we are ruled by the principle of cause and effect, discreteness, and the arrow of time, and a quantum world at the unobservable level of bare existence in which all is one and one is all, and one and all are driven by the angst of tendency

and probability” (Marcin, 2020, on p.322). Importantly for our discussion, since time, space, and causality are differentially conceptualized and/or measured in Newtonian and quantic physics (Fein et al., 2019; Zych et al., 2019), we can parsimoniously affirm that concerning the spatial-temporal and causality dimensions, the worlds as Will and Representation are being currently bridged.

If, as Schopenhauer claim, Eternal Justice is part of the desirable world we would like to inhabit, the contribution of quantic physics to this quest is welcome (Marcin, 2020).

Quantic physics is radically changing human communication dynamics: speed, storage of information, detection of individual features and individual location, the probable transmission of sensory information besides visual and auditive such as touch, smell and taste, artificial transmission of thoughts and emotions, and many others (Moses et al., 2021). Collectively, these technical advances will surely improve the efficiency of *Temporal Justice*, for example for fast biometric criminals’ identification, detection, and follow-up (Kloosterman et al., 2015). This appears particularly suitable for alternative methods of punishment and crime prevention, such as communitarian tasks.

How might these advances promote Eternal Justice, or alternatively, how may they improve the bridge between Temporal and Eternal Justice? The growing communication efficiency will increase interpersonal interaction greatly. Consequently, it might increase the awareness on the intimacy of our fellows and promote compassion, under the umbrella of a universal conscience. But malice may increase as well, for example in political prosecution and identity theft among many others (Burnes et al., 2020; Dadkhah et al., 2018).

In any case, it might be speculated that the phenomenal and the noumenal worlds are getting closer. This might create a new dynamic where the phenomenal world would be more metaphysical (more quantic) and *vice versa*.

7. Conclusions and the relationship between Schopenhauer and contemporary forensic psychiatry

The contemporary field of forensic psychiatry faces several challenges. Firstly, there is an ongoing search for alternative methods of crime prevention and punishment (United Nations Office on Drugs and Crime, 2007). Moreover, there is a need to counteract the fact that the mentally ill are arrested, convicted, and sent to prison in proportions that surpass their actual criminal behavior (Matcheswalla & De Sousa, 2015).

The discount of some mental disorders as legal defense also represents an ongoing issue: antisocial personality disorder (ASPD), is the most common diagnosis in prisoners (Ghiasi et al., 2021; Matcheswalla & De Sousa, 2015). Concern exists that other mental illnesses which are often underperceived, such as the obsessive-compulsive spectrum, may further impair the intellectual free will, and would be not fairly interpreted by juries (Freckelton, 2020). Further, contemporary neuroscience, despite its impressive conceptual and technological advances, waits for further refinements to better assist the issue of criminal responsibility (Bigenwald & Chambon, 2019).

Psychiatric diagnosis is also under profound revision. Dimensional diagnosis such as the model of the *Research Domain Criteria* (Cuthbert & Insel, 2013) may soon substitute categorical diagnosis such as those in the standard criteria of the American Psychiatric Association (DSM-V) and World Health Organization (ICD-11). Dimensional diagnosis might make better use of neuroscience techniques to assist the Law system in crime prevention, punishment, follow up and rehabilitation. For example, the psychiatric assessment may switch from discrete categorical diagnosis such as schizophrenia, to levels of impulsivity, anxiety, dissociation, seizure propensity and many other transdiagnostic dimensions, which perhaps offer a more reliable evaluation of delinquent behavior risk and rehabilitation than clinical diagnosis. This of course is an active field of research, whose results are eagerly expected (Cuthbert & Insel, 2013). Some of those Research Domains such as the

Arousal/Regulatory and Sensory-Motor Systems are assessed by procedures that barely involve conceptual activity and thus are relatively closer to the primeval Schopenhauerian’s Will than most psychiatric constructs used in forensic psychiatry.

As regards as the application of Schopenhauer’s thought to forensic psychiatry, contemporary justice systems arguably fit well with *Temporal Justice* as defined by the philosopher. However, the present-day reflexive mind is permanently stunned by the contradictions between Law, Morality, Ethics and Justice, which usually involve selfish acts, as defined by the philosopher. A straightforward example is a Legal but Amoral act and *vice versa*.

Schopenhauer provided a solution in the Will-denial and entitled it as *Eternal Justice*, which is metaphysically free from the above-mentioned contradictions. For the standard contemporary citizen, at least in Western countries, who supports his expectations and deeds with scientific information, Eternal Justice provides little comfort. This of course may not be the case for those with religious/theistic beliefs.

A central issue in the *Eternal Justice* construct is the realization of the unity of all creatures and the development of compassion. Advances in quantum physics, informatics, and neuroscience, by allowing instantaneous transference of individualized information may promote compassion in crime prevention and rehabilitation, for example, by practicing vivid imagery scenarios where cooperation instead of malice are prompted (Sygel & Wallinius, 2021).

In the restricted scenery of applied psychology and personal improvement in which the authors work, the Schopenhauerian notions of *compassion* and *asceticism* have been rephrased as *intensive cooperation* and *healthy austerity* (Baptista, 2016; Baptista et al., 2018). These re-statements are one with the spirit of Buddhists and mindfulness practices (Gilbert, 2014; Khoury et al., 2013) and surely with many psycho-educational and personal growth programs.

Any contemporary project aimed at evaluating or applying Schopenhauer’s reflections on individual or collective affairs, must consider the profound discussion and criticisms to Schopenhauer’s work, particularly, but not only, by Friedrich Nietzsche (1844–1900). His objections to Schopenhauer’s thought extend to several areas of the philosopher’s work. However, those related to the issue or *compassion*, are particularly relevant for the present essay. Tom Stern (2020), for example, discussed the Nietzsche’s objections to Schopenhauer’s compassion in four areas: psychological, historical, that related to the value of life and the last on the nature of pleasure and pain.

We believe that despite the difficulties of applying abstract philosophical writings in a heuristic and holistic way, Schopenhauer’s thought, because of his deep insights on human nature, may constitute part of the philosophical foundations of contemporary forensic psychiatry.

To conclude with a *coda*, concerning *Eternal Justice*, Raymond B. Marcin stated that:

We must at necessity function at the level of phenomena ... But there are occasional breakthroughs. And, at times, the breeze of the Platonic idea sweeps the veil aside momentarily and we get a glimpse of the unity of subject and object in aesthetics. And, at times, in our relations with one another, we have another glimpse at the deep level of true reality” (Marcin, 220, on p. 318).

Declaration of competing interest

The authors have no competing interests to declare.

References

- Arrigo, B. A. (2002). *Punishing the mentally ill: A critical analysis of law and psychiatry*. State University of New York Press.
- Atwell, J. E. (1990). *Schopenhauer: The human character*. PA. USA: Temple University Press.

- Atzert, S. (2020). Schopenhauer and the unconscious. In R. L. Wicks (Ed.), *The Oxford Handbook of Schopenhauer* (chap. 28). USA: NY: Oxford University Press.
- Baptista, T. (2016). Psychotherapists: Should we meet Arthur Schopenhauer? *Investigacion Clinica*, 57, 410–427.
- Baptista, T. (2020). Arthur Schopenhauer and psychiatry after 200 years of publication of *The world as will and representation* (idea). *Revista Colombiana de Psiquiatria*, 49, 120–125.
- Baptista, T., & Aldana, E. (2018). Arthur Schopenhauer and the embodied mind. *Ludus Vitalis*, XXVI, 153–181.
- Baptista, T., Aldana, E., Baptista, L., & Angeles, F. (2018). Arthur Schopenhauer and mental health education. *Schopenhaueriana*, 3, 123–140.
- Baptista, T., Aldana, E., & Abramson, Ch. I. (2019). Arthur Schopenhauer and the current conception of the origin of species: What did the philosopher anticipate? *Sage Open*, 1–15. <https://doi.org/10.1177/2158244019837467>. January–March.
- Bartels, J. M., Ryan, J. J., Urban, L. S., & Glass, L. A. (2010). Correlations between estimates of state IQ and FBI crime statistics. *Personality and Individual Differences*, 48, 579–583. <https://doi.org/10.1016/j.paid.2009.12.010>
- Bigenwald, A., & Chambon, V. (2019). Criminal responsibility and neuroscience: No revolution yet. *Frontiers in Psychology*, 10, 1406. <https://doi.org/10.3389/fpsyg.2019.01406>
- Borges, J. L. (2016). Otro poema de los dones. Retrieved from <http://www-personal.umich.edu/~jlawler/dones.html>.
- Brower, M. C., & Price, B. H. (2001). Neuropsychiatry of frontal lobe dysfunction in violent and criminal behaviour: A critical review. *Journal of Neurology Neurosurgery and Psychiatry*, 71, 720–726.
- Burkart, J. M., Brügger, R. K., & van Schaik, C. P. (2018). Evolutionary origins of morality: Insights from non-human primates. *Frontiers in Sociology*, 3(17). <https://doi.org/10.3389/fsoc.2018.00017>
- Burnes, D., DeLiema, M., & Langton, L. (2020). Risk and protective factors of identity theft victimization in the United States. *Preventive Medicine Reports*, 23(101058). <https://doi.org/10.1016/j.pmedr.2020.101058>
- Cardona, F.L.L. (1998). *Arthur Schopenhauer: El amor, las mujeres y la muerte*. Traducción de diversas obras del filósofo, prólogo y presentación. Barcelona: Edicomunicación.
- Cloninger, A. R. (2004). *Feeling good: The science of well-being*. NY: Oxford University Press, USA.
- Cuthbert, B. M., & Insel, T. R. (2013). Toward the future of psychiatric diagnosis: The seven pillars of RDoC. *BMC Medicine*, 11, 126. <https://doi.org/10.1186/1741-7015-11-126>
- Dadkhah, M., Lagzian, M., & Borchardt, G. (2018). Identity theft in the academic world leads to junk science. *Science and Engineering Ethics*, 24, 287–290. <https://doi.org/10.1007/s11948-016-9867-x>
- Davison, S., & Janca, A. (2012). Personality disorder and criminal behaviour: What is the nature of the relationship? *Current Opinion in Psychiatry*, 25(1), 39–45. <https://doi.org/10.1097/YCO.0b013e32834d18f0>. PMID: 22156936.
- Der, G., Asi, G. D., & Deary, I. J. (2006). Effect of breast feeding on intelligence in children: Prospective study, sibling pairs analysis, and meta-analysis. *British Medical Journal*, 333(7575), 945. <https://doi.org/10.1136/bmj.38978.699583.55>
- Dweck, C. S. (2017). From needs to goals and representations: Foundations for a unified theory of motivation, personality, and development. *Psychological Review*, 124(6), 689–719. <https://doi.org/10.1037/rev0000082>
- Fein, Y. Y., Geyer, P., Zwick, P., Kialka, F., Pedalino, S., Mayor, et al. (2019). Quantum superposition of molecules beyond 25 kDa. *Nat. Phys*, 15, 1242–1245. <https://doi.org/10.1038/s41567-019-0663-9>
- Felthous, A. R. (2008). The will: From metaphysical freedom to normative functionalism. *Journal of the American Academy of Psychiatry and Law*, 36, 16–24.
- Flavell, J. J. (1999). Cognitive development: children's knowledge about the mind. *Annual Review of Psychology*, 50, 21–45. <https://doi.org/10.1146/annurev.psych.50.1.21>
- Freckelton, I. (2020). Obsessive compulsive disorder and obsessive-compulsive personality disorder and the criminal law. *Psychiatry, Psychology and Law*, 27(5), 831–852. <https://doi.org/10.1080/13218719.2020.1745497>
- García, D., Anckarsäter, H., & Lundström, S. (2013). Self-directedness and cooperativeness, psychosocial dysfunction and suffering in ESSENCE. *The Scientific World Journal*. <https://doi.org/10.1155/2013/416981>. Article ID 416981.
- Gerlach, M., Farb, B., Reville, W., & Nunes Amaral, L. A. (2018). A robust data-driven approach identifies four personality types across four large data sets. *Nature Human Behavior*, 2, 735–742. <https://doi.org/10.1038/s41562-018-0419-z>
- Ghiasi, N., Azhar, Y., & Singh, J. Psychiatric illness and criminality. [Updated 2021 Apr 30]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2021 Jan-. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK537064/>.
- Gilbert, P. (2014). The origins and nature of compassion focused therapy. *British Journal of Clinical Psychology*, 53, 6–41.
- Golomb, J. (2020). The inscrutable riddle of Schopenhauer's relations to Jews and to Judaism. In R. L. Wicks (Ed.), *The Oxford Handbook of Schopenhauer* (chap. 25). NY: Oxford University Press, USA.
- Haw, C., Stubbs, J., Bickle, A., & Steward, A. (2011). Coercive treatments in forensic psychiatry: A study of patients' experiences and preferences. *Journal of Forensic Psychiatry and Psychology*, 22, 564–585.
- Hepp, K. (2020). Space, time, categories, mechanics, and consciousness: On Kant and Neuroscience. *Journal of Statistical Physics*, 180, 896–909. <https://doi.org/10.1007/s10955-020-02551-x>
- von Hirsch, A. (1992). Proportionality in the philosophy of punishment. *Crime and Justice*, 16, 55–98.
- Houellebecq, M. (1998). *The elementary particles*. New York: Knopf.
- Houellebecq, M. (2005). *The possibility of an island*. New York: Knopf.
- Ivars, J. F. (1976). *La estética del pesimismo. El mundo como voluntad y representación*. Barcelona (España): Editorial Labor (pp. 14–15).
- Khoury, B., Lecomte, T., Fortin, G., Masse, M., Therien, P., Bouchard, V., et al. (2013). Mindfulness-based therapy: A comprehensive meta-analysis. *Clinical Psychology Review*, 33, 763–771. <https://doi.org/10.1016/j.cpr.2013.05.005>
- Kloosterman, A., Mapes, A., Geradts, Z., van Eijk, E., Koper, C., van den Berg, J., et al. (2015). The interface between forensic science and technology: How technology could cause a paradigm shift in the role of forensic institutes in the criminal justice system. *Philosophical Transactions of the Royal Society B*, 370, 20140264. <https://doi.org/10.1098/rstb.2014.0264>
- Lopez de Santa María, P. (2020). The mystery of freedom. In R. L. Wicks (Ed.), *The Oxford Handbook of Schopenhauer* (chap. 11). NY: Oxford University Press, USA.
- Luthe, R., & Rosier, M. (2004). Freedom of will, freedom of action and psychiatry: Concerning the relationship of empirical to intelligible character and so-called freedom of choice in the view of forensic psychiatry. In T. Schramme, & J. Thome (Eds.), *Philosophy and psychiatry* (pp. 295–308). NY: Walter de Gruyter.
- Maner, J. K., DeWall, C. N., Baumeister, R. F., & Schaller, M. (2007). Does social exclusion motivate interpersonal reconnection? Resolving the “Porcupine problem”. *Journal of Personality and Social Psychology*, 92, 42–55.
- Marcin, R. B. (1994). Schopenhauer's theory of justice. *Catholic University Law Review*, 43, 813–865.
- Marcin, R. B. (2020). Schopenhauer on law and justice. In R. L. Wicks (Ed.), *The Oxford Handbook of Schopenhauer* (chap. 19). NY: Oxford University Press, USA.
- Mason, T. (2006). Archaeology of the psychopath: The medicalization of evil. In T. Mason (Ed.), *Forensic psychiatry: Influences of evil* (pp. 89–108). NJ: Humana Press Inc, USA.
- Matcheswalla, Y., & De Sousa, A. (2015). Crime and psychiatry. *Mens Sana Monographs*, 13(1), 143–149. <https://doi.org/10.4103/0973-1229.153325>
- Maturana, H. R. (1988). Reality: The search for objectivity or the quest for a compelling argument. *Irish Journal of Psychology*, 9, 25–82.
- Meynen, G. (2010). Free will and psychiatric assessments of criminal responsibility: A parallel with informed consent. *Medicine, Healthcare & Philosophy*, 13, 313–320. <https://doi.org/10.1007/s11019-010-9250-7>
- Moses, D. A., Metzger, S. L., Liu, J. R., Anumanchipalli, G. K., Makin, J. G., Sun, P. F., et al. (2021). Neuroprosthesis for decoding speech in a paralyzed person with anarthria. *New England Journal of Medicine*, 385, 217–227. <https://doi.org/10.1056/NEJMoA2027540>
- Phillips-Griffiths, A. (1976). Wittgenstein and the four-fold root of the principle of sufficient reason. *Proceedings of the Aristotelian Society*, 50, 1–20.
- Plomin, R., & Deary, I. J. (2015). Genetics and intelligence differences: Five special findings. *Molecular Psychiatry*, 20, 98–109. <https://doi.org/10.1038/mp.2014.105>
- Ribeiro, L. (2016). As vias de negação da vontade em Schopenhauer. *Revista Voluntatis: Estudos sobre Schopenhauer*, 7, 64–81.
- Ridley, M. (1996). *The origins of virtue: Human instincts and the evolution of cooperation*. NY: Penguin Books, USA.
- Robbins, T. W., Vaghi, M. M., & Banca, P. (2019). Obsessive-compulsive disorder: Puzzles and prospects. *Neuron*, 102, April 3.
- Robson, S. E., Repetto, L., Gountouna, V. E., & Nicodemus, K. K. (2020). A review of neuroeconomic gameplay in psychiatric disorders. *Molecular Psychiatry*, 25, 67–81. <https://doi.org/10.1038/s41380-019-0405-5>
- Sanchez-Roige, S., Gray, J. C., MacKillop, J., Chen, C.-H., & Palmer, A. A. (2018). The genetics of human personality. *Genes, Brain and Behavior*, 7, e12439. <https://doi.org/10.1111/gbb.12439>
- Schopenhauer, A. (1907). *On the fourfold root of the principle of sufficient reason and on the will in nature*. London: George Bell and sons (The Project Gutenberg eBooks).
- Schopenhauer, A. (1909). *In The world as will and idea. Vol. II* (6th ed.). London: Kegan Paul, Trench, Trübner. Available from: URL [https://archi-ve.org/details/worldaswillidea\[01-03\]schoiala](https://archi-ve.org/details/worldaswillidea[01-03]schoiala).
- Schopenhauer. (2010a). In J. Norman, A. Welshman, & Ch Janaway (Eds.), *The world as will and representation* (Vol. 1). NY: Cambridge University Press, USA. Trans.
- Schopenhauer, A. (2010b). In Ch Janaway (Ed.), *The two fundamental problems of ethics*. NY: Cambridge University Press, USA. Trans.
- Schopenhauer, A. (2012). *El mundo como voluntad y representación* (Vol. 1 & 2) (R.R. Aramayo, Trad.). México: Fondo de Cultura Económica.
- Schopenhauer, A. (2015). *Parerga and Paralipomena* (Vol. II). Cambridge: Oxford University Press, UK.
- Schopenhauer, A. (2016). *El mundo como voluntad y representación* (Vol. 1 & 2). In P. López de Santa María, & Trad (Eds.). Editor digital: Titivillus ePub base r1.2.
- Schopenhauer, A. (2018). The world as will and representation (Vol. 2.). In J. Norman, A. Welchman, Ch Janaway, & Trans (Eds.), *The Cambridge edition of the works of Schopenhauer*. NY: Cambridge University Press, USA.
- Schopenhaueriana. Sociedad de estudios en español sobre Schopenhauer. <http://s/./societadschopenhauer.com/acerca-de/>. (Accessed 20 December 2020).
- Seidl, H., Nilsson, T., Hofvander, B., Billstedt, E., & Wallinius, M. (2020). Personality and cognitive functions in violent offenders – implications of character maturity? *Frontiers in Psychology*, 11, 58. <https://doi.org/10.3389/fpsyg.2020.00058>
- Shapshay, S. (2021). Stanford Encyclopedia of Philosophy. <https://www.plato.stanford.edu/entries/schopenhauer-aesthetics/>, 29, 1.
- Shulman, E. P., Steinberg, L. D., & Piquero, A. R. (2013). The age-crime curve in adolescence and early adulthood is not due to age difference in economic status. *Journal of Youth and Adolescence*, 42(6), 848–860.
- Sloterdijk, P. (2013). *Philosophical temperaments: From Plato to Foucault* (p. 64). NY: Columbia University Press.
- Stern, T. (2020). Nietzsche's Schopenhauer. In R. L. Wicks (Ed.), *The Oxford Handbook of Schopenhauer* (chap. 27). NY: Oxford University Press, USA.

- Sygel, K., & Wallinius, M. (2021). Immersive virtual reality simulation in forensic psychiatry and adjacent clinical fields: A review of current assessment and treatment methods for practitioners. *Frontiers in Psychiatry*, 12, 673089. <https://doi.org/10.3389/fpsy.2021.673089>
- Trivers, R. (1971). The evolution of reciprocal altruism. *Quarterly Review of Biology*, 46, 35–57.
- United Nations Office on Drugs and Crime. (2007). *Handbook of basic principles and promising practices on alternatives to imprisonment*. United Nations (p. 79). New York.
- Varela, F. J., Thompson, E., & Rosch, E. (1991). *The embodied mind: Cognitive science and human experience*. Cambridge, Massachusetts: The MIT Press. Digital version: 2016.
- Vlerick, M. (2020). Explaining human altruism. *Synthese*. <https://doi.org/10.1007/s11229-020-02890-y>
- Voluntas. Estudos sobre Schopenhauer. <https://periodicos.ufsm.br/voluntas>. (Accessed 20 December 2020).
- Wicks, R. L. (2021). Stanford Encyclopedia of Philosophy. Retrieved from <https://www.plato.stanford.edu/entries/sufficient-reason/>, 23, 1.
- Wicks, R. L. (2020). *The Oxford Handbook of Schopenhauer*. NY: Oxford University Press, USA.
- Yalom, I. D. (2005). *The Schopenhauer cure*. New York: Harper Perennial.
- Yeo, S. (2002). Clarifying automatism. *International Journal of Law and Psychiatry*, 25(5), 445–458. [https://doi.org/10.1016/s0160-2527\(01\)00113-3](https://doi.org/10.1016/s0160-2527(01)00113-3)
- Young, J. (2005). *(Schopenhauer)*. NY: Routledge.
- Zych, M., Costa, F., Pikovski, I., & Brukner, C. (2019). Bell's theorem for temporal order. *Nature Communications*, 10, 3772. <https://doi.org/10.1038/s41467-019-11579-x>