Chapter 13
Why Mental Disorders Can Diminish Responsibility: Proposing a Theoretical Framework

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13.1 Introduction

The question 'What makes us moral?' might suggest that we can take our moral responsibility for granted, and that we merely have to answer the question: *what* is it that makes us moral? Yet, although human beings are usually considered morally responsible agents, we do not take this responsibility for granted. For example, we take a person's age into account: (young) children are usually not considered truly morally responsible for their actions (Widerker and McKenna 2003). But in adults too, there may be reasons not to consider them morally responsible agents. This chapter considers one of such reasons: the influence of a mental disorder on a particular action.[1]

The significance of a mental disorder for ascribing moral agency is generally accepted (Fields 1987; Mele 1995; Elliott 1996; Edwards 2009). For instance, consider an elderly patient who has been admitted to a general hospital because of a hip fracture. On the first night in the hospital he suffers from a delirium and he rudely accuses his doctor and several nurses of conspiring against him. He even punches some of the staff members. As long as the patient's behaviour is understood within the context of a mental disorder (a delirium in this case), the patient is unlikely to be blamed for his unjustified accusations and even for hitting personnel. The view that mental disorders can excuse is also reflected in criminal law via the insanity defence

[1] In this chapter, I will not address the question whether or why, in general, it is justified to hold people responsible for their actions; I will assume that human beings are generally responsible for their actions, and that at least in some cases mental disorders can undermine such responsibility.

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(Elliott 1996). Yet, the example of this elderly patient makes clear that the relevance of this idea extends beyond criminal scenarios and courtrooms.

Although the view that mental disorders can excuse is widespread, there is an on-going debate about why it is that, in certain circumstances, mental disorders diminish responsibility (Elliott 1996; Kinscherff 2010; Perring 2010; Pouncey and Lukens 2010). Interestingly, some people do not accept that mental disorders can affect responsibility at all. Recently, Pouncey and Lukens (2010) pointed to the tension between the recovery movement in psychiatry on the one hand and ethicists, psychiatrists and lawyers on the other regarding the widespread idea that mental disorders may exculpate. Although ethicists, psychiatrists, and lawyers agree that mental disorders in some instances excuse, the recovery movement's message has been 'that persons with severe mental illness can and should be responsible for their own life choices' (Pouncey and Lukens 2010). This powerful message was helpful to diminish the stigma of mental illness. Yet, by 'deliberately emphasizing the capabilities of persons with mental illness for self-determination, recovery advocates leave unaddressed important questions about how, when, and to what extent mental illness can limit a person's capacity to make sound choices, or even her moral accountability' (Pouncey and Lukens 2010, p. 94). In fact, Pouncey and Lukens (2010, p. 103) state that 'the question of agency in severe mental illness is fundamental, but neither the recovery movement nor bioethics has devoted much attention to it, either severally or jointly', and they suggest that efforts should be made to clarify and articulate why exactly it is that mental disorders sometimes affect moral agency.

The purpose of this paper is to develop a theoretical framework that explains why, in certain instances, a mental disorder excuses a person for a harmful action. Since it is meant to facilitate actual discussions within society, e.g. between psychiatrists, lawyers and clients – thereby reaching beyond the borders of academic philosophy and ethics – the model should consist of components that have a *prima facie* relevance and plausibility with respect to psychiatric features and symptoms. In other words, the model should neither require several argumentative steps nor commitments to certain philosophical positions before one can explain why a person is exculpated.[2] The framework should enable straightforward translations from particular psychopathological symptoms to the model's components. In principle, holding a person responsible for a harmful action can result in either praise or blame; in this paper, however, I focus on blame (or rather excuse).

One could suppose that what excuses a person is that the mental disorder influenced the action. But this answer is not very helpful. For instance, a crime may be influenced by a person's hate, but the mere fact that hate influences the act does not excuse that person. So, the basic question is: What is so special about the influence of a mental disorder on human behaviour and agency that explains why

[2]Given this approach, in this paper I am not committed to a particular account of moral responsibility, like the one suggested by Fischer and Ravizza (1998). Such commitment would render the model only applicable to those supportive of – and familiar with – this view.

we excuse that person? Some have answered this question by referring to 'free will'. In their view, the reason that mental disorders can diminish legal responsibility is by affecting a person's free will (Reich 2005; Stone 2008).[3] In a previous paper I explored the relationship between the concept of 'free will' and mental disorder (Meynen 2010). Three senses of 'free will' were considered and I examined how they can be related to (various kinds of) psychopathology.[4] In the present paper I will acknowledge the relevance of 'free will' in this context (Sect. 13.2), but I will conclude that although 'free will'-related elements are helpful in explaining why mental disorders excuse, they are *not sufficient*. Additional factors, namely urges (Sect. 13.3), false beliefs (Sect. 13.4), and moral insensitivity (Sect. 13.5) are needed in order to straightforwardly explain and communicate why mental disorders sometimes excuse.[5]

The model in fact *combines* several concepts that have been identified in the literature as responsibility-relevant features undermined by specific mental disorders. In that sense, the model's four components – free will, urge, false belief, moral insensitivity – are not meant to be new or original.[6] This paper intends, however, to show that in so far as one aims at straightforward explanations with respect to the full range of mental disorders, firstly, *each* of these factors (free will, urge, false belief, and moral sensitivity) is relevant; secondly, the relevance of each factor is *limited*; therefore, a theoretical model comprising *less* than these four elements is deficient. To my knowledge, so far no account integrates these four elements. The model could facilitate the dialogue between those who do and do not think that mental disorders can excuse – either in general or in particular cases.

The four factors – free will, urges, false beliefs, and moral insensitivity – can have different meanings. For instance, with respect to free will, there is no consensus about its definition. Therefore, depending on one's position on free will, the factor free will could (partially) overlap with, for example, the factor 'urge'. So, depending on the specific meaning attached to each of the four factors, there may be some redundancy in the proposed model. This will be addressed in some more detail in Sect. 13.6.

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[3] Morse (2007) for instance, criticizes this view.

[4] Derived from Walter (2001), see Sect. 13.2 of the present chapter.

[5] Whereas the focus of the paper is to explain our moral responses, the analysis is informed by discussions on moral responsibility as well as legal responsibility. This is in line with, e.g., the accounts by Pouncey and Lukens (2010) and Elliott (1996) who do not make a strict distinction between the moral and legal domain as far as relationship between responsibility and mental disorder is concerned. Notably though, jurisdictions vary considerably worldwide in the exact way they approach 'criminal responsibility'. Still, there appears to be a profound and shared view reflected by these different legal systems: that somehow mental disorders can excuse. The present paper tries to build a framework from an ethical perspective that could also inform the legal/forensic debate.

[6] They feature in various forms in legal and ethical debates on criminal and moral responsibility of people suffering from a mental disorder (see the next sections for references). Often an attempt has been made to understand exculpation using (only) one overarching concept, like free will, or irresistible impulse. For an overview within the context of the insanity defence, see Elliott (1996).

13.2 Factors Related to Free Will

Often, the idea that mental disorders can excuse a defendant is thought to be crucially related to free will (Stone 2008; Juth and Lorentzon 2010). This might not seem surprising since many moral philosophers take free will to be central in ascribing responsibility (Kane 2002; McKenna 2009). So, in principle, given the strong relationship between the concept of responsibility and free will, free will could be helpful in explaining why the responsibility of a defendant can be suspended by mental disorder.

Still, the debate in forensic psychiatry on the conceptual grounds for the insanity defence has been troubled by the problematic nature of free will; often, in philosophy as well as in (neuro)science, the very existence of free will is contested (Kane 2002). Within the context of the present paper, however, I intend not to take a specific position on the metaphysical issues surrounding free will.[7] The concept of free will and notions attached to this concept are used only as far as they don't imply a commitment to one particular metaphysical position.[8] Basically, I will take 'free will' to refer to certain agency-related capacities.

What concept of free will could be of use for this paper? Various views of free will are present in the current philosophical debate (Kane 2002). My approach is to discuss three senses or aspects of free will based on an account suggested by the philosopher and psychiatrist Henrik Walter (2001).[9] He proposes to take three elements as key players in the philosophical discussion on free will: (1) acting for reasons, (2) being able to do otherwise, and (3) being the source of an action. In this section I will indicate to what extent these three elements can be helpful to explain why certain features of mental disorders are sometimes considered grounds for excuse.

Firstly, let us consider the element of *acting for reasons*. I use this 'acting for reasons' in a broad sense: the action should have been sensitive to (or based on) reasons (Muller and Walter 2010).[10] In the neuropsychiatric Tourette syndrome, people may do things – e.g., say nasty words – without any reason for that behaviour:

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[7] Such as compatibilism and (hard) incompatibilism, and the specific notions of free will that have been developed within the context of these positions (Kane 2002).

[8] It is virtually impossible to talk about free will in a way that would not conflict with any of the many metaphysical positions on free will (Kane 2002). Since free will is central to many ethical as well as forensic psychiatric considerations of moral responsibility and to the effects of mental disorder on responsibility, I take the concept of free will – in spite of the many metaphysical complexities – as the first factor to examine in order to find out why mental disorders sometimes excuse.

[9] See Meynen (2010) for a more detailed exploration of the relationship based on the account suggested by Walter (2001). With some variations, in this paper, I will follow the same line of thought as in Meynen (2010).

[10] I do not take these reasons to be, for instance, 'reasonable', or 'rational', or 'the right reasons', or the result of a perfect reflective process or of an infallible perception apparatus. Of course, the reasons *may* be the result of such perfect processes, and the reasons may be 'reasonable', or

the tics may come without any motivation in terms of reasons for that utterance or movement. If a person diagnosed with Tourette's insults another person due to a tic, we might say: 'He didn't do it for *any reason* at all, *it just happened*', and therefore we may not consider this an act for which the person can be justifiably held responsible.[11] So, not acting for reasons appears to be relevant to excuse due to mental disorders.

Secondly, mental disorders may undermine a person's *ability to act or choose otherwise*. This notion has been central in the metaphysical debates on free will: is free will possible in a deterministic world, i.e. a world without alternative possibilities? In this paper I aim to avoid strict metaphysical notions and discussions, which is especially challenging with respect to the notion of 'alternative possibilities' (see Meynen 2010). Still, some psychiatric phenomena may provide compelling examples of conditions in which alternative scenarios are blocked. For instance, consider certain voices (auditory hallucinations) as they may occur in schizophrenia. A particular kind of voices that these patients may hear are 'commanding' voices (Braham et al. 2004). Now, usually patients have the freedom not to obey these voices, but there are instances where the nature of these voices is such, that the patient cannot but obey them; no 'alternative possibilities' are left to the patient. If a patient commits a crime because voices of such a commanding nature occurred, we may well excuse the patient, because, apparently, he could not but act on these voices. So, the notion of 'alternative possibilities' enables one to explain some cases in which mental disorders excuse as well.[12]

Thirdly, people suffering from a mental disorder may not be considered to be the *real source* of the action. For instance, Peter Strawson, in his seminal paper on reactive attitudes, paid attention to the moral reactive attitudes we may find ourselves to have in response to the actions influenced by mental conditions (Strawson 2003). In response to a person who performed such an action we may say: 'He wasn't himself'. For instance, a person who has involuntarily taken a drug (like cocaine) might not be considered to be himself: he still does a lot of things, contemplates a lot of things, makes decisions for reasons etcetera, but it is just not *him* (at least not the way people have known him for the last 15 years). Now, in case this person performs a harmful action, we might excuse him because he himself wasn't the *genuine source* of the action. So, the concept 'being the source of an action', also helps to explain some cases in which mental disorders excuse.

The gist of the discussion so far is that (each of the three senses of) free will can be helpful in explaining and communicating why it is that we excuse a

'rational/right', but the aspect of free will that is considered here merely brings forward that the action was responsive to or based on reasons (no matter their specific nature).

[11]Surely, the tic may be influenced by – or a response to – another person's behaviour or certain features of the situation. But the tic itself is not generated 'for a reason' in the sense our behaviour usually is. Meanwhile, not all tics are performed involuntarily according to patients themselves, see Lang (1991), Verdellen et al. (2008).

[12]Note that in the Tourette case, people might also want to refer to the lack of alternative options with respect to tics in order to explain why they excuse a Tourette patient for a particular action.

particular person who suffers from a mental disorder when violating a moral or legal obligation. In fact, we might disagree about which element of free will helps *best* to explain exculpation in individual cases. Probably more than one of them can be applied (this should not be surprising, since the three elements are not unrelated). Still, although these three factors appear to provide us with a substantial conceptual toolkit for explaining excuse due to mental disorder, we can ask ourselves: Does this differentiated approach to free will help to clearly and straightforwardly explain *all* cases in which we excuse a person with a mental disorder who violated a moral or legal norm? My answer is that other factors should be considered as well. In fact, given the diversity of mental disorders and their symptomatology, three other, separate factors seem to be required for the framework: urge (next section), false belief (Sect. 13.4), and moral insensitivity (Sect. 13.5).

13.3 Urges

Mental disorders may result in extreme urges (I take urges to be on a par with impulses in this analysis). As it seems, responsibility can be undermined by such extreme urges – at least partially. Notably, *irresistible* impulses are not the topic of this section, because such irresistible impulses, in my understanding of the concept, undermine – or bypass – free will: if an impulse is so strong that it is irresistible it appears that there are no 'alternative possibilities' open to the patient other than to act according to the impulse. Therefore, such irresistible urges have to do with the subject matter of the previous section (second sense of free will, above).[13] The phenomena referred to in the present section, however, are extreme but not irresistible urges. In extreme but resistible impulses, the capacity for decision making itself is uncompromised. For even an (extreme) urge by itself doesn't suspend the fact that a person can act for a reason, or still has alternatives, or is himself the source of the action. In other words, based on the three senses of free will, these people can be considered *free not* to give in to such urges and impulses.

Kleptomania might be a good example of a disorder accompanied by an extreme urge. At least, the DSM-IV criteria are compatible with the fact that the urge to steal is in principle resistible, though very strong.[14] Within the context of this paper, let us

[13]Irresistible impulses have been considered relevant for the insanity defence, see Elliott (1996), the Irresistible impulse test in criminal law.

[14]DSM-IV criteria for kleptomania are: A. Recurrent failure to resist impulses to steal objects that are not needed for personal use or for their monetary value. B. Increasing sense of tension immediately before committing the theft. C. Pleasure, gratification, or relief at the time of committing the theft. D. The stealing is not committed to express anger or vengeance and is not in response to a delusion or a hallucination. E. The stealing is not better accounted for by Conduct Disorder, a Manic Episode, or Antisocial Personality Disorder (American Psychiatric Association 1994). Notably, these criteria do not state that the impulses are irresistible; they merely state that there is recurrent *failure* to resist.

consider kleptomania to be a condition in which people experience a massive urge to steal. Notably, as it appears, the conditions of 'free will' described in the previous section are, basically, still intact. Yet, should the person concerned give in to the urge to steal, for example, sunglasses, then we might (partially) withhold blame, because we know it is *so much harder* for such a person not to steal the sunglasses than it would be for us. (Still we might blame her for going to the shop in the first place, at least if she knows that she is particularly vulnerable to such an urge in this shop.) Often, mental disorders may result in quite extreme urges, like the urge to escape from a fearful situation in anxiety disorders. We may take these urges into account when assessing a person's responsibility after that person violated a moral or legal norm. So, (massive) urges can be a component of the conceptual framework developed in the present paper.

Meanwhile, some people might still want to explain our intuitions in these cases of extreme urges in terms of *lack of alternative possibilities* (so in terms of a free will-related factor). Consider, however, cognitive behavioural treatment of an anxiety patient. Such patients are likely to experience extreme fear and a massive urge to flee from a frightening situation. Yet, the fact that, in principle, alternative possibilities *are* open to this patient is the cornerstone of behavioural therapy for anxiety disorders. In (cognitive) behavioural therapy of anxiety disorders, patients explore and pursue *other* behavioural responses to their fears than giving in to the *almost* overwhelming urge to flee from that particular fearful situation (for instance, in case a person experiences a panic attack in a supermarket) (Olatunji et al. 2010). Behavioural therapy, in general, will encourage patients *not* to give in to anxiety-based urges but to expose themselves to what they fear. Denying that patients suffering from such disorders have alternative possibilities open to them would also deprive them of an (effective) form of therapy.

13.4 False Belief

The relevance of epistemic factors in addition to free will in ascribing responsibility is well established in moral philosophy, like *not knowing* about a certain state of affairs or certain alternative options (O'Connor 2010). In order to bring forward the relevance of this epistemic factor in general, let us consider Jim, a person not suffering from any mental disorder. He is convinced that someone in the shop has a gun hidden on his person and from this person's behaviour it is evident to Jim that he is about to perform an armed robbery. Jim, in a heroic mood, throws this person forcefully to the floor; the person involved being rather unfortunate in breaking his arm. Yet, Jim turns out to be completely mistaken – the person was not at all planning to rob the shop. Jim is accused of a crime (assault). Yet, Jim might be *excused* because he acted on a *false* belief. For as long as we think that he wasn't reckless or that he wasn't to blame for having this particular false belief, he may be excused. In this case a false belief exculpates Jim. Just to be sure, we can ask: Did Jim act of his own 'free will'? I think there is little reason to doubt such a thing in

the sense that Jim acted as he had been doing all day – 'freely' – and his action in the shop was not different from how he reached other decisions about behavioural options that day. In fact, he acted for a reason, was able to consider different options, he was the genuine source of the action (and he didn't act on a pathological urge either). However, in this particular case he acted on a false belief (and given this belief, his action was not inappropriate).

In Jim's case his false belief wasn't the result of a mental disorder. But mental disorders, especially psychotic disorders, may induce false beliefs in patients. In fact, with respect to the question why mental disorders may excuse a person such false beliefs appear to be highly relevant (see below), and therefore epistemic factors are the third element of the model.[15] These false beliefs may be due to delusions (Bentall et al. 2009; Bortolotti 2010) or hallucinations (Sadock and Sadock 2005), or both. For instance, due to a delusion a person may come to believe that someone is on the verge of attacking him. In 'self-defence', he attacks the other person.[16] If someone else, who does not suffer from a mental disorder, would have the *same belief* he might well have acted similarly out of self-defence. In fact, anyone could act in such a way in case a mental disorder produced such a false belief. Therefore, if we indeed excuse this person, referring to the false belief is likely to provide us with the clearest explanation of *why* we excuse the person in this particular situation. We withhold blame, then, not on the grounds of the absence of 'free will', nor because of some extreme urge, but primarily because of the presence of a *false belief* on which he acted (and which was the result of a mental disorder).

That epistemic issues are important is also reflected by the most influential legal insanity rule, the M'Naghten Rule. This is how it is formulated: 'At the time of committing the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know what he was doing was wrong' (Elliott 1996, p. 11). It is clear that the rule is not primarily about free will-related issues, like doing things for reasons, having alternative possibilities, or being the genuine source of the action. And it isn't about extreme urges either – none of the concepts discussed in Sects. 13.2 and 13.3 can be found (directly) in this rule. The rule meanwhile brings forward that something else matters: knowledge or rather, lack thereof (of course, one can ask further questions about the nature of the knowledge, but it is nevertheless first of all about 'knowing').[17]

Let us take a closer look at the historical figure Daniel M'Naghten whose case led, in the end, to the M'Naghten Rule. Daniel M'Naghten, a Scotsman, believed

[15]Within the context of mental disorder, however, it is not primarily the *absence of correct* knowledge but the *presence of false* belief that appears to be most relevant with respect to diminished responsibility.

[16]Notably, a person is not responsible for this delusional belief; it is the result of a mental disorder he could not have avoided, and for which he is not held responsible (Edwards 2009).

[17]However, as indicated at the beginning of this section, mental disorders are more likely to lead to *distorted* knowledge than to a mere *lack* of knowledge (like in amnesia).

that the Tories were persecuting him and he planned to kill the Tory prime minister because of that. Yet, in his attempt to kill the prime minister, he killed a secretary instead. Eventually, Daniel M'Naghten was acquitted because of insanity. Given his case, the reason Daniel M'Naghten was excused did *not primarily* have to do with any of the free will-related topics or with specific urges. They may be relevant, of course, but something else seems to be patently wrong with Daniel M'Naghten: his beliefs.[18]

13.5 Moral Insensitivity

So far, we have taken for granted that people have moral sensitivity. In other words, we took for granted that people have the capacity to be open to moral feelings, responses, etcetera. If a person lacked such moral responses in the first place, it is difficult to see how she could be considered morally responsible, for the moral domain does not appear to be accessible to such a person. Discussions about such moral insensitivity or amorality have evolved and revolved around the moral status of the psychopath (Fine and Kennett 2004; Haji 2010; Kinscherff 2010; Litton 2010; Malatesti and McMillan 2010). The nature and moral status of the psychopath remains controversial. Is he or she the prototype of an evil being, or in fact an amoral creature, not at all responsible for the many terrible things he or she may do? Nowadays, a considerable part of moral philosophers and scientists appear to be in favour of the latter view (Malatesti and McMillan 2010). Since the present paper aims at providing a conceptual framework that enables us to communicate our moral views about people suffering from a mental disorder, a category accommodating the alleged incapacity of the psychopath cannot be left out. Within the present framework, a psychopath could be interpreted as someone who acts for reasons, is perfectly able to contemplate different options, acts authentically (the three factors related to free will), is not subject to extreme urges that put pressure on his decisions, and finally, is not the victim of false beliefs. Yet, he lacks moral sensitivity, and, therefore we may withhold blame. Notably, also after brain damage, a person's moral sensitivity might be diminished (Cf. the famous case of Phineas Gage). In other words, other conditions than psychopathy, at least in principle, could lead to diminished 'moral sensitivity'.[19]

[18]Of course, more information about the case would be necessary in order to reach a final decision on these matters. Meanwhile, we might still think that M'Naghten's response was blameworthy: one should not kill the prime minister, even not in case one is convinced that he causes one nothing but trouble.

[19]Still, a vivid debate is going on about how to understand the specific capacity that is lacking in psychopaths. According to some, the problem psychopaths face has to do with certain 'moral beliefs' (Maibom 2008). Then, this fourth element of the proposed framework may in fact merge into the third element: (false) beliefs.

13.6 A Fourfold Framework

Based on the analysis so far, we have the global picture:

1. A person violated a legal or moral norm.
2. Looking more carefully at what happened, we may ask: Was a *mental disorder* present such that:

   (a) one or more of the three senses of free will were affected, and/or that
   (b) an extreme urge or impulse was present, and/or that
   (c) the person's beliefs were significantly distorted, e.g., via delusions or hallucinations or both, and/or that
   (d) the person's moral sensitivity is suspended or absent?

Answering 2(a)–(d) should provide us with the element(s) needed to explain why it is that we (partially) withhold blame in certain cases when a mental disorder was present at the moment a person violated a moral norm. To be sure, I do not claim that referring to the factors of the conceptual framework will result in agreement about a person's moral responsibility. It should, however, help to clarify and straightforwardly communicate why we excuse a person in a particular case, even if that means that differences of opinion become more visible.

The fact that the framework consists of four domains or areas implies that accounts aiming to explain why mental disorders excuse that focus on *one* of these (like, apparently, the M'Naghten Rule) are bound to be too narrow to accommodate our moral intuitions.[20]

[20]Christian Perring has provided an insightful account of the concept of mental disorder in which the idea of 'involuntariness' is central. He writes (Perring 2004, p. 489): 'I will propose and test the thesis … that all behavioral symptoms of mental disorders must be involuntary.' He understands involuntariness to come in three different forms (Perring 2004, p. 496): 'To summarize, I have found three ways in which we can count a form of behavior as involuntary: (a) It is the result of an irresistible craving or overpowering fear. (b) It is the result of an aberrant and temporary desire external to a person's true personality. (c) It is the result of a delusion. I am proposing involuntariness of all symptoms as a necessary condition of mental disorder, not a sufficient one.' Although there are several significant differences between his approach/proposal and mine, there are similarities as well, mainly with respect to distinguishing between delusions (although I prefer false beliefs, which includes false beliefs arising from hallucinations as well as delusions) and not being the source (b) of the action. The proposed model also contains more (and different) elements than the one proposed by Steve Matthews (2004), who basically addresses the legal insanity defence. He proposes to leave out any reference to mental disorders, 'referring instead to a defence of failed agency'. According to Matthews (2004, p. 452), 'the test of responsible agency … is failed if any one of the following three conditions is satisfied: (a) the person lacked the capacity to understand the nature of what he or she was doing; or (b) the person lacked the capacity to understand that what he or she was doing was wrong (that is, the person's conduct was insufficiently reasons-responsive, constitutively speaking, to conventional, moral or legal codes of behaviour); or (c) the person was unable to control his or her conduct.' As is clear from this quotation, Matthews conceives of the insanity defence in terms of circumscribed incapacities.

Symptomatology of mental disorders is extremely diverse. For instance, during a delirium, the person's behaviour may simultaneously be influenced by paranoid delusions, hallucinations, incoherence, and extreme urges. In other words, several aspects of the disorder *together* may have to be taken into account if one tries to explain why a person is excused in a particular situation. Meanwhile, in practical cases it is likely that one of them will be most helpful.[21]

Although it is impossible, within the context of this paper, to show that the proposed model covers *all* mental disorders, I suggest that the four factors are indeed sufficient to explain instances of excuse with respect to the entire spectrum of psychiatric illnesses. But, of course, it might be that other factors are relevant as well. In principle, the model should be flexible enough to be extended with other components.

As already mentioned, the framework is, depending on the interpretation of the distinctive factors, probably somewhat redundant. Based on certain interpretations of the components, it should be possible, therefore, to conceptually reduce the number of components. For instance, an attempt can be made to understand the component of false beliefs in terms of alternative possibilities (so, a sense of free will). This can be done as follows: the false belief (decisively) influences the options that a person considers open to him. In case of the delusionary belief that your neighbour carries a dangerous weapon, the options one perceives open to one are very much influenced. In that sense the *nature* of the options perceived is changed. However, the person's ability to choose between options in itself doesn't seem to be affected (cf. Jim's case). There are still options available, although they are distorted (so, this case is different from a commanding voice which cannot be disobeyed). In Sect. 13.3, I pointed to the *relevance of acknowledging* such behavioural alternatives in mental conditions, e.g. within the context of cognitive behavioural therapy for anxiety disorders. So, on a conceptual level, it is likely that arguments can be developed showing that some of the framework's components are related, or that they can be reduced to one another. Meanwhile, from a psychiatric or clinical point of view, it is helpful to *distinguish* between different factors. As stated in the introduction, I aim at developing a framework consisting of components that have a *prima facie* relevance and plausibility that directly reflects (clusters of) psychiatric symptomatology; it should not require various argumentative steps or commitments to certain philosophical positions or views to explain one's moral intuition. Therefore, although the conceptual framework offered in this paper may consist of elements that are not unrelated, distinguishing between them could still help given the purpose of explaining and communicating our intuitions.

[21] One can argue that it is relevant these that false delusional beliefs were acquired 'unfreely'. For if the person had *freely* chosen to believe the contents of the delusion then the person would be considered responsible. Yet, my response to this objection is that the fact that the delusional false belief has been acquired involuntarily is already entailed by the fact that we say that it was due to a mental disorder, because, as Edwards points out, people are not considered responsible for the disorder (Edwards 2009).

13.7 Conclusion

The purpose of this paper was to develop a conceptual framework, guided by actual psychiatric symptomatology, which helps to explain why we excuse a person who is suffering from a mental disorder while performing a particular harmful action.

In discussions on why it is that mental disorders exculpate, 'free will' has been mentioned as the crucial factor. In this paper I have been open to the relevance of free will-related concepts to explaining our moral intuitions with respect to mental disorder – leaving aside metaphysical issues and controversies. In fact, I took 'free will' as a starting point for the proposed model. Free will has different meanings to different people, therefore, like before (Meynen 2010), I articulated three senses or aspects of free will. Distinguishing between these three elements – instead of using the general concept of free will – enables one to be specific about what it is about the disorder that is morally salient in a particular case. Although these three elements appear to be helpful in explaining part of the cases in which we excuse a person due to the influence of a mental disorder, further factors are needed as well: mental disorders may result in extreme urges, false beliefs, and, finally, a lack of what I call 'moral sensitivity'. Apart from free will, these three factors may be helpful to explain our intuitions in concrete cases. This implies that no single factor (free will, urge, false belief, or moral insensitivity) has sufficient explanatory power to communicate and articulate why we exculpate persons with a mental disorder who violated a moral norm. Hopefully, the distinctions arrived at can facilitate the dialogue between those who do and do not think that a mental disorder excuses a person in a particular case. Such a dialogue could, in turn, lead to adjustments or additions to the proposed framework.

What makes us morally responsible agents? Within the context of the present chapter we can answer this question as follows: at least, the absence of a mental disorder influencing a person's behaviour in one of the four ways identified by the framework.

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