

Philosophy 101

Conscious Willing & Legal Responsibility

November 13, 2014

Review of Libet

The Experiment

- The temporal order of an spontaneous voluntary choice and the neural activity (readiness potential) leading to the action is the reverse of what was expected
 - Expected: choice, readiness potential, action
 - Actual result: readiness potential, choice, action

The Efficacy of Conscious Willing

- On one interpretation of the experiment, conscious willing is not casually efficacious in the generation of behavior
- According to Libet, the role of conscious willing is to *control* not *initiate* action

The Efficacy of Conscious Willing

- Conscious willing may not play a causal role in the initiation of action
- Conscious willing may play a role in the 'veto' of an intention to act
 - We have 'free won't' instead of free will

Sinnott-Armstrong on Libet

What Libet's Experiment Does Not Show

- All actions are determined
 - Libet's experiments examine whether conscious willings are causally efficacious, not whether willings in general are free/determined

What Libet's Experiment Does Not Show

- There are no such things as intentions or willings
 - The experiments only concern conscious willings or consciousness of will, not intentions or willings generally

What Libet's Experiment Does Not Show

- Conscious states (or conscious willings) in general are epiphenomenal
 - Appeal to conscious (distal) intentions seems necessary to explain why the subjects of the experiments were there in the first place and followed Libet's directions

What Libet's Experiment Does Not Show

- There are no casually efficacious 'proximal' willings or intentions
 - There are in action generally (e.g. willings may have 'veto' power)
 - Conscious willing may well play a role in the initiation of other kinds of actions

What Libet's Experiment Does Show

*What do Libet's results show? He showed that, in some cases, a conscious proximal will to move now does not initiate the brain activity (or RP) that begins the process that produces the bodily movement or action.
(Sinnott-Armstrong, 239)*

Conscious Willing & Legal Responsibility

- Our legal practices (e.g. the Model Penal Code) presuppose the causal efficacy of conscious willing for attribution of legal responsibility

Conscious Willing & Legal Responsibility

The Model Penal Code (MPC) Section 2.01: (1) *A person is not guilty of an offense unless his liability is based on conduct that includes a voluntary act or the omission to perform an act of which he is physically capable.* (2) *The following are not voluntary acts within the meaning of this Section: (a) a reflex or convulsion; (b) a bodily movement during unconsciousness or sleep; (c) conduct during hypnosis or resulting from hypnotic suggestion; (d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.*

Conscious Willing & Legal Responsibility

- Libet's results suggest that quick, unplanned actions may be the result of automatic processes over which the subject has little to no control or 'veto' power
- Legal attribution of responsibility may need to take into account Libet's results

Conscious Willing & Moral Responsibility

- Is the causal efficacy of conscious willing necessary for *moral* responsibility?
 - legal evidence suggests that it is
 - examination of cases also provides support

Conscious Willing & Moral Responsibility

*Consider someone who is asleep but grabs a knife, walks into an adjoining bedroom, stabs her daughter, walks back to her own bedroom, and is completely surprised in the morning to find her daughter dead...many people would view it as morally unfair to hold real sleepwalkers responsible. Why? The answer seems to be that they are seen as lacking consciousness and, hence, control.
(Sinnott-Armstrong, 237)*

Conscious Willing & Moral Responsibility

- Presumption that consciousness is necessary for control, and that control is necessary for moral responsibility
 - presumes something like the Source Requirement

Conscious Willing & Moral Responsibility

- General consciousness is not enough
 - disorders such as Tourette's Syndrome and 'Alien Hand' Syndrome are examples in which consciousness is present but not causally efficacious, so there is no attribution of responsibility

Conscious Willing & Moral Responsibility

Imagine that someone plans to kill a rival by running him over at 9:00 as the rival jogs by his house. It is 9:00 now, but the driver thinks it is 8:00, since he forgot daylight saving time, so the driver decides to go buy breakfast. As he drives carefully out of his driveway, the jogger appears unexpectedly and is run over and killed by accident. The driver did will to kill the jogger, had that will at the time when he killed the jogger, and killed him in the intended way at the intended place and time. (Sinnott-Armstrong, 237)

Conscious Willing & Moral Responsibility

- Is the driver morally responsible for his rival's death?
 - No: the relevant intention was the driver's desire for breakfast, which accidentally resulted in the death of his rival
- For an intention to morally culpable it must be causally relevant

The Significance of Libet's Results for Morality

- Libet's experiments show that *some* acts of *proximal willing* are not obviously casually efficacious in the production of *certain kinds* of behavior

The Significance of Libet's Results

Various moves are available if an act does not seem to result from conscious will: Either (a) we cannot hold the person responsible at all or (b) we need to remove consciousness from the requirements for responsibility or (c) we need to specify that only general consciousness is required or (d) we need to stretch the "action" to include a prior voluntary act or (e) we need to reduce the legal effects of minimal or automatic acts (e.g., by mitigation). (Sinnott-Armstrong, 245)