



EUROPÄISCHE AKADEMIE

zur Erforschung von Folgen wissenschaftlich-technischer Entwicklungen
Bad Neuenahr-Ahrweiler GmbH

Direktor: Professor Dr. Dr.h.c. Carl Friedrich Gethmann

NEWSLETTER

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EDITORIAL

■ The Europäische Akademie organises – partly in co-operation with other institutes – expert meetings which serve to explore further research topics or to deepen the discussion on overlapping interdisciplinary topic fields. These meetings, held by small circles of experts, complement the conferences run by the academy, covering three main areas, namely ethics of medicine, environment, and engineering technology and address scientists, political authorities as well as the public, potentially affected by the consequences of science and technology.

One of those expert meetings was held recently at the beginning of December in the Europäische Akademie in cooperation with the FernUniversität in Hagen and the Ruhr-Universität-Bochum, focusing the topic of medically assisted suicide from ethical, social, and legal points of view. As far as ethics of medicine is concerned, the discussion on the subject of euthanasia and different legislation in Europe in this context is widely controversial.

While reviewing the problem as scientific issue, results of the discussion are thought of being integrated simultaneously in the professional university studies of a newly created Post Graduate Master Study Programme of Medical Ethics, hosted by the FernUniversität in Hagen, and destined to provide further education for professionals engaged in the public health system (www.medizinethik.eu). TE/UH

Further information: www.ea-aw.de

FOCUS

Moral Responsibility, Criminal Law and the Neurosciences

Felix Thiele

Recent developments in the neurosciences challenge the view that a person should be punished for illegal actions, because he or she is morally responsible for them. Many authors claim that a reasonable concept of responsibility would depend on the existence of free will and that, since the neurosciences have proven that there is no free will, it can be concluded that there can be no such thing as moral and legal responsibility for one's actions. It is obvious that this would necessitate fundamental changes in our understanding of the criminal law. In contrast to this, it will be argued here that an anti-deterministic concept of responsibility can be developed that is not dependent on the existence of free will and that likely serves the social task of criminal law better than a deterministic approach to human action.

Free will, moral responsibility and empirical findings

■ It is frequently assumed that without free will there cannot be such thing as moral responsibility or guilt. Now, the empirical findings of the neurosciences suggest that a free will is not to be found in the brain: each brain-state (and the resulting actions) is to the best of our knowledge always determined by the immediately preceding brain-state. Bypassing an extensive debate on whether the existing neuroscientific data actually warrant such far reaching claims, I will assume for the sake of argument that there indeed exists no free will kicking off our actions – neither in the brain nor elsewhere in the body.

With that the justification of punishment based on the idea of free will has failed: if there is no free will, there can be – so the argument goes – no moral responsibility. As a consequence, one would either have to abandon criminal law in its existing form – an option rarely favoured – or one would have to provide a new justification for sanctioning certain actions: punishment would no longer be a means of retaliation

and revenge. Punishment would instead become a means of influencing behaviour, i.e. the prevention of future undesired actions. In a deterministic interpretation of criminal law human beings are trained for obedient behaviour no less than a dog is trained to retrieve the stick.

Responsibility without free will

■ Waiving the talk of free will does not, however, necessitate us to give up the concepts of moral responsibility and guilt. Following the use of the term responsibility in ordinary language one can develop a concept of moral responsibility without falling back on free will.

The statement “Harry lied to Sally” is not or at least not only a description of Harry's action but also a way of ascribing Harry the moral responsibility for Sally's deception. Now, to determine whether making Harry responsible is justified, one might ask whether Harry acted on purpose, i.e. intentionally. Unfortunately, intentions are frequently equated to mental processes located in the brain (and likely caused by an act of free will). The interpretation of in-

tentions as mental acts is, however, deeply problematic, since nobody has ever been able to observe a mental act. Insofar the judge has always been confronted with what the neurosciences underpin empirically: mental acts and free will escape any attempt to make them visible. Instead of grounding intentions in un-observable mental acts, one should base the conjecture that an action was done intentionally on the observable circumstances of this action: If I have expressed the intention to visit my aunt in Cologne tomorrow afternoon, then I will not board the aeroplane to Beijing tonight. If I nonetheless did, one would have to assume that I either changed my intentions, that I do not understand what the situation demands, or that I was forced to board the aircraft. Supposing that a person did an action intentionally and thereby is responsible for this action is therefore dependent on the situation in which the action is done, further utterances of the person, her earlier actions etc. Establishing that an action was done intentionally and responsibly in this way is obviously only hypothetical and preliminary, never irrevocable and final. It is based on analogies and normally reliable assumptions that can always turn out to be erroneous. Postulating a free will is, however, not necessary for this conception of moral responsibility.

The ascription of legal responsibility in criminal law is organised in parallel to the ascription of moral responsibility in ordinary language. Assume that Smith is accused of having killed Jones. The (German) penal code does not define positively under what conditions one can correctly argue that Smith has the legal responsibility for killing Jones. Instead the criminal code defines certain observable conditions – e.g. coercion, misunderstanding, and psychiatric diseases – that, if verified, allow Smith to reject the claim that he is responsible for killing Jones. As in the case of moral responsibility the ascription of legal responsibility is not dependent on postulating or proving the existence of free will. Though the debate on the foundations of responsibility and guilt is far from being ended, one can still conclude that (i) anyone judging in practice whether a claim of the form “x is responsible for having done the action h” is valid must do so without the concept of free will and that (ii) also in moral and legal theory there are concepts of responsibility that do not depend on there being a free will.

Responsibility as functional element for organising a society

■ The “ordinary language approach” to responsibility sketched above is anti-deterministic in contrast to the “neuroscientific

approach”. A deterministic concept of human action views actions only as effects of (neurobiological) causes. In contrast, the position proposed here assumes that actions themselves can be causes too. In philosophical terminology one would say that the former position proposes a causalistic model of human action and the latter a finalistic model of human action. So far I have only shown that even if we accept the findings of the neurosciences and consequently give up the concept of free will we are not forced to rebuild our legal system by using a deterministic concept of human action and responsibility. We should do so, however, when there are good reasons for assuming that the neuroscientific (causal) model of explaining human action is superior to the finalistic model.

A prominent way of arguing for the priority of causal explanations of human action is to claim that only causal explanations qualify as scientific explanations – where ‘scientific’ means success in terms of reproducibility and predictability. (Disciplines like ethics and law do not satisfy such criteria, which is why in the Anglo-Saxon tradition these disciplines are called sciences only reluctantly.) However, it would be too restrictive to claim that only causal explanations could be valid scientific explanations. In contrast to an empiricist conception of science focusing on causal explanations – which is, by the way, dominant only since the late 19th century – ‘scientific’ might be better understood as ‘well-founded’ or ‘well-argued’. From this perspective it is by no means a settled issue that causal explanations of human action are better founded as such and thereby more scientific than finalistic explanations that ask for the reasons (intentions) somebody had for doing what he or she did.

That the natural sciences, which are the main source of causal explanations, are nonetheless favoured as epitome of science is to a large extent due to the immense contribution of these disciplines to the benefit and use of mankind: revealing a causal chain frequently offers the possibility to purposely intervene and influence this causal chain. The great (but so far largely unfulfilled) hopes pinned on the therapeutic potential of the neurosciences are grounded in this potential. It is true that it cannot be proved ex ante that the neurosciences will be successful in revealing causal chains underlying human action, but it is equally not possible to prove ex ante that this endeavour cannot be successful. There is therefore no reason for a neuroscientist not to search for causal chains. Rather the general track record of the natural sciences motivates for the opposite. One should note, however, that the search for causal chains is not, so to speak, forced

upon us by nature, but is indebted to certain aims the researcher has – e.g. the aim to intervene into certain causal chains.

If there are good reasons to search for causal explanations of human actions, it cannot be excluded offhand that there are also good reasons to search for finalistic explanations of human actions. Such a reason might be to organise our life with each other without conflicts as far as possible. It might turn out that by using (finalistic) explanations and evaluations of actions – asking for the reasons for an action – we will be more successful in organising our society than by using (causalistic) explanations that ask for the causes that prompt persons to act as they do. In addition it might turn out that for organising a society it is more suitable to postulate that humans can be ascribed moral responsibility for their actions than to reduce ‘being responsible for an action’ to ‘being the cause of this action’. The concept of responsibility resulting from this approach is a functional one: what responsibility means is dependent on the task society allocates to this concept. It is needless to say that a functional interpretation of responsibility and guilt is highly controversial in philosophy and jurisprudence – not at least since many hold that certain actions are morally reprehensible as such and not only relative to certain societal aims.

Independent of what model of human action one prefers and what concept or responsibility one favours, it should have become quite clear that this is not a question that can be solved empirically. The issue is not a matter of the correct interpretation of human action by using an established scientific method, but first of all a matter of what counts as the adequate (scientific) basis for explaining human action.

Finally, the above considerations are not meant to show that the neurosciences are of no importance for the moral and legal organisation of a society: in the same way as e.g. the determination of blood alcohol (and the explanation of the causal influence alcohol has on human action) has become an accepted part of establishing the responsibility of a suspect car driver, in this same way neuroscientific methods might help explaining the causal influence brain-states have on human action and furthermore modify our moral evaluation of these actions. However, so far there is no convincing evidence that the findings of the neurosciences give us good reason to change our concepts of responsibility and in effect our criminal law fundamentally.

Dr. med. Felix Thiele, M.Sc., is deputy director of the Europäische Akademie GmbH. Currently he is also head of the BMBF-Junior Research Group “Pharming. Genetically Modified Plants and Animals as Future Production Site of Pharmaceuticals?”.

WORKING GROUPS

PROJECT ACTIVITIES

■ Project Group “The Research Guiding Function of Metaphors from the Information Sciences and their Relevance to the Transformation of the Philosophy of Man”: 27./28.11.2006 in Bad Neuenahr-Ahrweiler

■ Project Group “Pharming. Genetically Modified Plants and Animals as Future Production Site of Pharmaceuticals?": 5./6.12. 2006 in Weihenstephan

■ Project Group “Fuel Cells and Virtual Power Plants as Elements for a Sustainable Development. Innovation Barriers and Implementation Strategies”: 7./8.12.2006 in Bad Neuenahr-Ahrweiler

■ Project Group “Responsibility for Future Generations. Implementation of Sustainability in Schooling”: 15.12.2006 in Bremen

SPOTLIGHTS

Implementation of Sustainability in Schooling

■ The project group had its first feedback meeting on 15th December 2006 at the Universität Bremen. External experts had been invited to review on the disposition of the intended study and to discuss the hitherto established work of the group. For their very committed and helpful participation the members of the project group and the Europäische Akademie GmbH thank very much Professor Dr. phil. Andreas Ernst (Universität Kassel, Center for Environmental Systems Research, environmental systems analysis, chairman of the environmental psychology division of the German Psychological Association); Professor Dr. rer. pol. Andreas Fischer (Universität Lüneburg, didactics of economics, chairman of the German Gesellschaft für berufliche Umweltbildung e.V.); Professor Dr. rer. oec. Ulrich Hampicke (Universität Greifswald, Institut für Botanik und Landschaftsökologie, economics of landscapes and resources); Professor Dr. phil. Monika Keller (Max Planck Institute for Human Development, Center for Adaptive Behavior and Cognition, Berlin) and Professor Dr. phil. Christoph Lumer (University of Siena, Moral Philosophy). Mainly their comments focused on five topics:

- The concept of critical sustainability the project group will work with. Critical sustainability allows restricted substitution between certain resource classes.
- The relation between economy and education – as it is and as it should be.
- The finalistic perspective of the project group on education in general and of edu-

cation for sustainability in particular. German education schedules are criticised for being focused too much on the matters of teaching and, thus, on the inputs instead of the competencies of pupils as the outputs of schooling. Accordingly, the concept of competencies and the canon of necessary competencies for a sustainable development are to be specified.

- The strategies for the implementation of education for sustainability in schooling.
- The strategies on how to develop the recommendations, the study will give (rather bottom-up or top-down?).

Some helpful suggestions will now be closer examined by the project group members, e.g. be restricted that the study should not, as was originally planned, on the senior years of secondary school (Sekundarstufe II) only, that an expansion of the chapters dealing with the concept of justice would be helpful, or that the agenda should be supplemented by an extensive examination of and reflexion on lifestyles. Since, however, the further agenda was approved by all commentators in its essence, the working group will now start to work out more detailed its hitherto provisional plans.

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Fuel Cells

■ The third meeting of the project group “Brennstoffzellen und virtuelle Kraftwerke als Elemente einer nachhaltigen Entwicklung. Innovationsbarrieren und Umsetzungsstrategien” (Fuel Cells and Virtual Power Plants as Elements for a Sustainable Development Innovation Barriers and Implementation Strategies) took place in Bad Neuenahr-Ahrweiler on 7th and 8th December. The working programme was adopted and will be discussed with experts from science and practice at a workshop on 22nd and 23rd January. Furthermore, the expert workshop was prepared and first written inputs to basics on technology aspects, innovation barriers and strategies, market imperfections, and aspects of law were discussed. Since January 2007, the project group has now been completed: Holger Berg, Dipl.-Ing. (Universität Duisburg-Essen, technology of energy supply and energy conversion plants), Dr.-Ing. Bert Droste-Franke, Dipl.-Phys. (Europäische Akademie, environmental science and energy economics), Annette Kötter, Dipl.-Vw. (Europäische Akademie, environmental economics), Jörg Krüger, RA (Universität Bochum, energy law), Dr. rer. pol. Karsten Mause, Dipl.-Pol. (Europäische Akademie, political science and institutional economics), Professor Dr. jur. Joh.-Christian

Pielow (Universität Bochum, energy law), Professor Dr.-Ing. Ingo Romey (Universität Duisburg-Essen, technology of energy supply and energy conversion plants) and Professor Dr. rer. pol. Thomas Ziesemer (Universität Maastricht, economics).

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NEWS

Minister Michael Breuer visited academy

■ On 14th December 2006 the local working committee “European Politics” of the German Party Christian Democratic Union (CDU) visited the Europäische Akademie GmbH. During their last visit in March they had been accompanying Professor Dr. phil. Hans-Gert Pöttering. This time Minister Michael Breuer, responsible for European and Federal Affairs in North-Rhine Westphalia, was informed about the work of the academy.

Professor Dr. phil. Dr. phil. h.c. Carl Friedrich Gethmann, Director of the Europäische Akademie, welcomed the guests and gave a short survey of the history and the aims of the academy. Furthermore project coordinator Dr. phil. Margret Engelhard presented the current project „Pharming. Genetically Modified Plants and Animals as Future Production Site of Pharmaceuticals?“. Pharming is a new branch of biotechnology using transgenic plants or animals as living “factories” to produce human or animal pharmaceuticals. Breuer affirmed his wish to deepen the work of his ministry with the Europäische Akademie.

Summer School “Neuroscience and Psychiatric Disease”

■ From 2nd to 9th October 2007 the International Summer School “The Impact of Current Developments in the Neurosciences on the Concept of Psychiatric Disease” will take place at the Universitätsclub Bonn. The latest news and information on the summer school (e.g. application requirements) can now be found on the homepage www.neuroscience-psychiatry.de

Managing Committee/ Partners' Assembly

■ On 13th November 2006 the budget of the Europäische Akademie GmbH for 2007 was reviewed and confirmed during the 20th general meeting of the Managing Committee (GA) and the Partners' Assembly (GV) in Bad Neuenahr-Ahrweiler.

Homepage of the academy

■ Having had a successful celebration of the 10th anniversary of the Europäische Akademie GmbH in September 2006, photographs of the festivity can now be found on the homepage of the academy. While the photographs provide an insight into the celebration of the anniversary, a film on the homepage informs about project, aims and mission of the academy. Please go to www.ea-aw.de and click on "Film and Photographs about the Europäische Akademie".

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www.ea-aw.de is the new web address of the Europäische Akademie GmbH; www.europaesche-akademie-aw.de, however, is also still accessible.

CONFERENCES

Spring Conference

■ On 30th and 31st March 2007 the Europäische Akademie organises a conference on "Digitales Publizieren in den Geisteswissenschaften" (Digital Publishing and the Humanities) at the SETA Hotel in Bad Neuenahr-Ahrweiler. The new options of digital publishing and the open access movement are increasingly influencing the culture of publication in the humanities. This gives new options as for example the full-text-search in sources or articles or the hyperlinkage of texts and data, or the enhanced potentialities for cooperative work. But for the same reasons there will be retroactive and side effects that influence the epistemic processes in the humanities: texts are the main objects of these disciplines, and the spreading of open and online accessible texts, either as facsimile or as hypertext, will alter the scope of perception, the focusses of debate, the conditions of publishing and archiving and the manners of reception. With its spring symposium in 2007 the Europäische Akademie contributes to an active and purposive shaping of these developments with an interdisciplinary discussion among scholars, publishers, librarians as well as representatives and practitioners from scientific institutions and organisations.

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Further information soon at www.ea-aw.de

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PUBLICATIONS

Carl Friedrich Gethmann

■ „Das Ethos des Heilens und die Effizienz des Gesundheitswesens“, in: Berlin-Brandenburgische Akademie der Wissenschaften (Hg.), *Berichte und Abhandlungen*, Bd. 11, Berlin 2006, 83–97

■ "Manned space travel as a cultural mission", in: *Poiesis & Praxis* 4 (2006), 239–252

Gerd Hanekamp/Ruth Klüser/Stephan Lingner

■ „Elektrische Energieversorgungsnetze in interdisziplinärer Perspektive“, *Energiewirtschaftliche Tagesfragen*, 56 (2006) 12

LECTURES

Carl Friedrich Gethmann

29.11.06

■ „Praktische Vernunft in einer technischen Kultur“: Philosophisches Institut der Technischen Universität Chemnitz

7.12.06

■ „Naturveränderung und Natur-Heimatrecht. Normative Fragen der Strukturveränderung des ländlichen Raumes“: Akademie-Vorlesung der Berlin-Brandenburgischen Akademie der Wissenschaften (Berlin)

15.12.06

■ „Gefahrenwahrnehmung und Risikobeurteilung. Eine philosophische Skizze“: Wissenschaftliche Sitzung der Versammlung der Mitglieder der Berlin-Brandenburgischen Akademie der Wissenschaften (Berlin)

18.12.06

■ „Die Aktualität einer lebensweltlichen Fundierung des Wissens und Handelns“: Philosophisches Seminar der Universität zu Köln in Verbindung mit dem Husserl-Archiv

Felix Thiele

19.12.06

■ „Die Einwilligung eines Patienten in eine ärztliche Maßnahme – Funktion, Struktur, Gültigkeit“: Institut für Geschichte, Theorie und Ethik der Medizin der Johannes Gutenberg-Universität Mainz

PERSONALITIES



KATHARINA MADER, M.A., studied English, Speech Sciences/Phonetics and Psychology at the universities of Jena, Nottingham (UK) and Bonn. Before starting her studies, Mader volunteered as a welfare worker both for disabled and foster children (Germany, USA). At university her main interests were German and English linguistics: in Jena she worked as student assistant in the field of phonetics (chair of English Linguistics) and organised audition evenings at the "Institut für Sprechwissenschaft und Phonetik"; in Bonn she wrote her final thesis about translation studies. Besides, she was editorial assistant at the radio stations Deutschlandfunk (Köln) and Westdeutscher Rundfunk (Bonn), and journalist co-worker at radio stations in Jena, Weimar, Nottingham (UK) and Köln. Furthermore she gained teaching and supervising experience both in Germany and the UK.

Since December 2005 Katharina Mader has been a member of staff at the Europäische Akademie in Bad Neuenahr-Ahrweiler, being responsible for public relations and editing. Her main attention is focused on the edition of the Newsletter of the academy and the organisation of the regular spring and autumn conferences as for example this year's spring conference on "Digital Publishing and the Humanities" on 30th/31st March. Together with her colleague Friederike Wütscher she edits further publications of the Europäische Akademie (Research Report, Research Programme, Graue Reihe), organises events (press meetings, press releases etc.) and is responsible for the design of the corporate identity of the academy. Furthermore Frau Mader assists Frau Wütscher in editing and presenting the series "Wissenschaftsethik und Technikfolgenbeurteilung" (Springer Verlag).

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Katharina Mader, M.A., is member of staff of the Europäische Akademie. She is responsible for public relations and scientific editing.
