Commentary

Is the Human Psychology Passive? An Interdisciplinary Inquiry Into Agency, Responsibility, and Neuroscience in the Legal Domain

Chetan Sinha[1]

1. Independent researcher

The social psychological movements to understand the social construction of agency, free will, and dignity of mind while reforming justice have gained new meaning through the rise of brain studies. There is also a long debate about human passivity and psychological approaches to theorize human nature. The extant brain research is emerging as an essential interdisciplinary domain engaging with psychological knowledge and the law. The conceptual errors and further debates ventured by sociocultural psychologists, neuroscientists, and social scientists tinkered new debates in the understanding of human nature and majoritarian definition of passivity of human mind. The practical and ethical implications related to the social psychological understanding of passivity, moral responsibility and the brain will be highlighted.

Corresponding author: Chetan Sinha, csinha@jgu.edu.in

> *That our action should be judged by our intentions* – Michel De Montaigne

Are we becoming passive beings in the post-human technologically determined world? If this is so, it contradicts the idea of freedom of will in the fast changing, socially accelerated times, which demands that we filter what we do not want into our social cognitive boundaries. The proponents of free will also entertain the idea of control and the meaning of responsibility diverge into two aspects of thinking about the self: controlling action in the direction of society's general moral principle and further adapting to something virtuous. It may also cater to the person intentionally doing or creating a conscious situation

 doi.org/10.32388/FYE49U.2

that does not corresponds to the ethical and moral standards appropriated by the social conventions, a general rule in which we as members of society are socialized.

Reasoning has its limitations, and it also fails to achieve the objective. It is not new to understand this in the domain of law, technology or everyday human social psychologies. The technology which boasts on advancing human senses establish itself on the model of rationality is neither perfect nor a exactly modelling the human cognition. Gigerenger recently showed how different models of rationality just don't cooperate in synchrony and end up in the rationality wars (see [1]; see also [2]; [3]), however we interpret and resolve in some way through our systems of sociocultural bargaining. Even being rational in spreading misinformation or accepting it and appropriating it with imposed logic shows the breech of dignity of someones agency through the unverified rationality outcomes (e.g. [4]). The illusory truth effect can be substantiated through different methods, like either through consensus effect, repetition, or catering to the already established biases people hold against social groups. The presentation of fascinating neuroscientific knowledge and fMRI picture may also affect the decision making of judges, disrupting their ability to critical analysis the inherent biases launched through the neutral images. The image itself is the new rational artefact. The gain and loss of dignity through the mismanagement of rational impositions and manipulations of information about any group member is also a form of toxic free will one is conscious of actively engaging in the depredation of others agency. The role of neurosciences in the identification of mechanism of our behaviour and thought process is important in understand the working of mind, however, it may fail to provide its holistic process. Since neuroscience needs a perspective to interpret its experimental designs, its integration with social and political psychology helps in better understanding and explanation of human agency, actions and the working of mind. How does the law cater to the dignity of people's thinking and actions? It usually relies on evidence, available morality codes, knowledge, and the ability to control and act. This article is an attempt to show how we critically deal with information's influencing our mind and whether we are passively driven by it or have some other way to discriminate between objective facts which is verifiable and biases which is unverifiable. The question is 'Do we passively receive knowledge?' The dominant Lockian notions about human being as a passive recipient is contested by the idea that we are also empirical being and with the new interventions of alterity we redefine our position in the social world and act to promote social change. We are ignorant till the time we become critically conscious. This repositioning of our social mind happens through the process of social constructions showing human nature as interdependent enterprise and it cater to the development of scientific ideas (see [5]). The neurosciences

cannot be sidelined as apart from these social constructions of understanding human nature and so does the law.

Passivity, Free will, and dignity

The view about the passivity of reception of external stimuli, which is considered to shape the personality, selves, and identity, is what the person is and the person's view of society. This view is about the person as part of society, whether he/she is going by the conventional societal rules or not, because in both cases, it is the societal stimuli that shape the person. In this case, wrong or right actions seem passive to the core and any verbal format to reconstruct that passivity into active language may be an illusion of free will. Billig[6] described this well when he discussed the differences between Locke's atomist and Shaftesbury's common sense and holistic view of perception. If all our acts and language are passive, then our identity is also passive and entirely ascribed. This process of being passive is a social construction, where our social and technological world seems determined by the idea of fatalism and karmic hierarchical design. Even the agency, the brain and law are interpreted according to the predominant notions that everyone position is fixed and well defined by something not in our control. This notion of our social position is accepted and nurtured in the passively designed environment seen as difficult to change or the person among the masses doesn't have any avenue to contest what is ascribed. Though the paradox is not resolved, since the society preserved by state and the law offer different avenues to preserve and conserve the value system and at the same time the desire to express or become free give hope to the person. It is a threatening movement when the person is entangled in his/her ascribed self where all the agents are passive and at the same time there are reverberations for changes newness or shifts in the technologies of everyday living. Nicholas Rose and Des Fitzgerald[7] shows through ecosocial approach how city life is affecting the mental health of people living in the cities or moving to the cities. It is an integrated approach of sociology and psychiatry. The shift in the mental health status in the accelerating societies is not happening in one spurt but it was continuous process. The sociocultural stimuli which we perceive, the actions of others, and social relations seem to have a remarkable impact on our brain processing. The everyday climate change, rise of pollutants, virus menace and exposure to the harmful and hazardous lifestyle can't be cut off from the bioscientific research and especially the shaping of the brain. It somehow stamps our being as a passive recipient may be labelled as a natural process. This so called neurourbanism (Adli, Berger, et al., 2017) is not limited to the city life as increasing toxic developments, rampant urbanization and shrinking forest and rural

spaces have continuous impact on the people social relationships. The interdependence of social and neural seems to be uncritical and forced, rather than a need of symbiotic relationship (e.g. [8]) where needs are fulfilled along with the meaningful and dignified relationship.

The ideas of passivity, determinism, and destiny are dealt with in a particular way of observation. However, to critically deal with human passivity, one must ascertain a permanent design under which the world operates, which is not yet possible. This results from uncritical examination of actions under the broader idea that everything is permanent, unchanging, passive flow and bombardment of stimuli over one another. If everything is concretely designed that humans do not have any control over the process, we can still see differences in the human individual/social process across different social groups. We can infer from the observations and experiences that the stimuli we passively receive are matters of human social cognition which operate in an integrated context. The perception of all stimuli results from socialization and phenomenological congruence. Many of the current psychologists influenced by modernity and empiricism speculated the link between behaviour and the brain, which is to some extent taken as an active regulator of human thoughts and actions, so this is also one kind of determinism where humans do not have much control, just like humans also seem to be a passive recipient of stimuli operating around them. But we must be clear that humans choose out of so many stimuli around them; maybe this type of choice-making is also determined by human nature as understood and explained by the scientific circle. Though it still not clears how exactly any organism engage with the bombardments of stimuli and chose among them and if this choice making is intentional or the result of the persons socialization with the sociocultural complexities. Is it instinctual or social as it is systematically defined and persuaded through the disciplinary advancement. The story of our brain is just not what cognitive science, neuroscience or mechanical models of minds explicates, but is also communicated through our sincerity of actions in a community, various entanglements like arts, aesthetics, practices, learned habits etc (e.g. Noe, 2025). So, we make art out our life and stamp it as our will to act. The definition of human nature, configuration of the brain structure and responses may have some linearity, the exact mechanism is still can't be modelled as human nature can't just be explained by the available scientific templates. There are many other events in our life such as our nonconscious engagement with various organisms and the rising non-human intelligences including the various minute organisms in a symbiotic relationship[8]. In the words of Eric Fromm[9],

> "the freedom of choice where determinism or indeterminism is involved is always the freedom to choose the better as against the worse-and better or worse always is

> understood about the basic moral question of life-that between progressing or regressing, between love and hate, between independence and dependence. Freedom is nothing other than the capacity to follow the voice of reason, of health, of well-being, of conscience, against the voices of irrational passions" (p. 130).

If we talk about those stimuli, we must understand the perspective that makes us think we are passive, active, or both. The perspectives are never as individual as they seem but are meant to represent something collectively sensed and conscious socially. Freedom of will is a self-conscious and dignified movement of the being. It is dignified because the person is not passively receiving and regulated by the uncontrolled brain. Still, the person has conscious and active control over the bombardment of external and internal stimuli from the external and internal environment (e.g., the brain).

Dignity is a matter of how much the being is self-conscious of his/her social presence. Dignity is the value given to the persons agency and mind. When the person is deprived from dignity, it reduces the person as mere object of control or rejected altogether from the consciousness. There are also neuroscientific researches which shows how our socialization with the dominant value system categorizes and creates hierarchies of impressions (e.g. [10]). Due to the reception of various social stimuli in a different way, the person emerges as a product of society, and his/her subjectivity shaped in the social context. The paradox between social and person has been extensively debated and tried to resolve through the eliminative and reductive epistemologies. However, this is also from the observers' viewpoint to infer the cause of the person's action; the legal domain heavily relies on these epistemologies but fails to account for human responsibility as a social responsibility. So, privacy is public and attenuated in persons in various ways, but why do people differ across cultures? We see the differences because of variations in the levels of reception and the person's engagement in society. This still does not resolve the paradox. We have to be a kind of compatibilist who acknowledges the biological difference in the person and their reception of stimuli shaping their way of adapting to the sociocultural and empirical world.

Law, determinism and the social world

Law is a matter of systematic belief and conventions about the mechanism of objects in interrelationship. These interrelationships may be about the movement of celestial objects, the movement of atoms in some solid thing, or human interaction in a class system. Every domain has its own laws in some conventions. Law is supposedly embedded in the activities; only some language describes its presence.

The legal domain is about human relationships, but it is not algorithmic but conventionally heuristic, where legal agents systematically correspond to the existing discourses. For example, a defence lawyer tries to prove his client's innocence by mitigating neuroscience evidence (e.g., [11]). So, the evidence must be discussed within the established legal systems. Evidence corresponds to the human understanding of the social world, not any other organism. Even the artificial intelligence designed to help humans corresponds to the human way of computations rather than any other organism.

The idea of evidence about knowledge and intentionality caters to the public and societal understanding of the person rather than the qualitative and undecipherable myths. The inner un-explorable and language-less experience, as assumed by a few philosophers, may lead to the illusion of hidden and unaccountable experiences, together with the impression that the person with a true feeling of oppression is manipulated through the language of dominant experience. The narration of our qualitative experiences is often congruent and true but taken as unstructured and difficult to verify. Language does not always divert from the felt experiences but denotes to the best the possibility of one's subjectivity. Jacquette[12] emphasized that "where there is action, there is an intrinsic intending of an objective or state of affairs, even if it is only a basic body action or mental act" (P. 256). What law counts is an intrinsically intentional action. Still, the only question is about consciousness and self-consciousness, which are the markers of dignity and liberty of mind, and the reality of the brain, which seems to matter beyond the control of the person (e.g., some scholars like Fuster[13] took the brain stance especially the prefrontal cortex as a precursor to the personal liberty) (see also [14]).

Freedom of action carries the intention like free speech is intended but carries the thought along with it. The empiricist passive recipients are also actors and claim to be thinking beings. They simultaneously resolve the paradox of personal and social through actions and thinking. Sometimes, the intrinsic intentions are countered or carried forward through the action cum thoughts, as in the case of a prospective criminal who, in his intended action, is controlled through opposite action or inaction by his simultaneous thoughts about the consequences of the criminal acts. The commune of humans has different dynamics from that of other animals lower on the phylogenetic scale. The animals' actions based on some observable stimuli, such as attacking prey or mating behaviour, can be considered species-typical behaviour. Still, according to human standards, they are not morally responsible despite being in some rudimentary conscious state of mind. According to Jacquette[12],

> "Even if animals are rudimentarily self-conscious agents, they are not necessarily capable of the right sort of self-conscious agency with the right sort of control over what they do to make them moral agents" (P. 263).

The standards of right and wrong are more implied to humans as they are the progenitor of moral standards and, through the folk psychological understanding, infer the possibility of difference between the animal and human beings as conscious agents. However, animals are also observed to be sacrificing and compassionate and have a grievance; reducing them generally as rudimentarily self-conscious agents is a simplified view of the human limited understanding. As local language or foreign language is written, corresponds to reality, and connects with the audience more gracefully, the idea of morality, responsibility, and consciousness will connect with the people in a trendy way. Any technical language outside the people's conscious discourse takes time to become part of the discursive self. The paradox we resolve through our attributions of self and others is the popular form rather than the actual technical display of knowledge. This popular understanding of others' actions is often taken as freely chosen rather than some destined or determined form of action. Deterministic attribution comes much later in a post hoc manner, which is not devoid of the stereotypical worldview of a person belonging to different groups. However, the active engagement of people or experts from various domains may clarify the person's situation as uncontrollable or consciously chosen.

Free will, action and law

Does the animal go into finding the cause? Do animals have free will? Is crying based on free will? Do animals have the same understanding of the moon as we have? If yes, then reality matters more for the actors of experiences than the dominant human community contemplating these questions. However, if we observe these questions as minority questions limited to some individuals, the notion of free will is also limited, and whatever boundary is drawn from time to time is normal and ostensibly for the human domain. It is difficult to say whether animals look for the cause or understand nature like humans on the above questions. Humans also have differences in perceiving the causes and their impressions about their possible choices. There are many instances where understanding the cause behind social dominance was actively countered through movements and activism. In some views, holding onto the restricted and ascribed categories of social dominance is determinism. In contrast, activism is a matter of free will, a group of free will to move from stagnant ascribing categories to new categories in a collective context. In many decolonizing attempts, people from the oppressed group shifted their identity and

affiliation from the clutches of the oppressor to the new identity. Since these changes are empirical and observable under the given assumptions about free will, they fulfil the property of human beings, being active rather than passive. But that activity of mind, soul, body, and brain (as they are prioritized in legal circles) in whatever capacity operates and is limited by those sociocultural-physical worlds and, as they shift or have been critically resisted, changes the boundary of human existence and interaction patterns. So, when people resist taking for granted banal things, the value of free will and dignity of mind makes its presence. The law values those criticalities; it is not deterministic, but structured and seems natural to the human constitution and nature. Sometimes, lawmakers′ intentions matter in interpreting any situation, showing the law as systematic, worldly, and coveted. The legal domain is limited by its domain as it never talks about something which is destined and metaphysical, but it is limited to moral actions, intentions, and responsibility. Scientific evidence is also interpreted, and they are systematic but their thrust on the public seems to carry more weight. Questioning science, in any way, looks absurd and bolstering, and in no way will a rational field like the legal domain underscore them.

Under the specificities of law, all humans are legal agents, and their ability to choose is universally accepted. Even in the case of mental disorders, which are generally used in the legal domain as insanity, as seen through the revised categories of mental disorders (e.g., DSM, ICD, RDoC; see [15]), people are observed to make choices. Out of these choices, some are within the boundaries of normal behaviour, and some are not, and that too varies within the different classifications of mental diseases. In one way, we find these classifications of mental diseases add more to the problem of intentionality and mens rea as every time the rise of mental disease categories. However, many mental diseases were removed from the conventional criteria of psychiatrists (e.g., Homosexuality, Draptomania, etc.), creating new debates about the consciousness and intention of one′s actions. The mental disease seems to be unending, and the rise of interdisciplinary research has created new debates and amendments to the understanding of normal and abnormal. The line that divides normal from abnormal seems to be blurred more than in earlier times, hence the people′s clarity about moral responsibility.

The free will of the actor in the view of an observer is intact, and causes are more within the person who seems to be responsible for the actions. Psychologists cited examples where the self and the others are situated in the attributive language, where the other is more responsible than the self, and where the causes highlighted are proximal and within the persons′ intentionality. Identification of causes in the uncontrollable neural firings of the brain paradoxically moderates the role of intentions. How we look at the freedom of a person′s action and how much one was responsible for the actions is inferred through

the behavioural observation of the person, which directly links to the intentions. However, the legal domain makes the boundary more permeable to go beyond these perceived immediate causes and allows for further exploring into uncontrollable aspects of the personality. Though still a matter of inter-subjectivity among the legal agents where consensus is attained either through the uncritical admissibility of preferred evidence, such as DNA analysis, fingerprints, witnesses, fMRI, or adopting the critical and dialogical approach to understand the responsibility and the nature of rehabilitation.

Free will is an important component of human life, where the mind has the potential to be dignified, expressive, and understand the environment. However, some of the perspectives in psychopathology indicated the suppression of free will to the social structural contexts, which gets its expression in some other format, either conforming and adapting to the norms or through some criminal acts. Social restrictions can bind free will, as it happened through religious regulations, cultural markers, and state interventions. These restrictions inadvertently shape the norms and the general understanding of group morality. The hijacking of one's independent free will by the collective consciousness indicates the passivity of the human mind. The changes humans bring to society are based on the assumption that nothing will happen if humans don't act. So, whether collectively influenced or the individual's struggles to emerge from being a passive recipient, the action is a marker of free will. Consciously controlling or expressing inner desire is an example of free will. Still, when any expression of desire is non-normative and consistently expressed without self-control in the restricted environment, it is not free will but an uncontrollable expression of publicly undesirable behaviour. Since the law is a publicly appropriated domain of control and deterrence, the legal agents who are observed to lack control over their desires are restricted from the free movement in society. The problem with the legal agent who knows what they did and about the nature of their action as right or wrong is that it is a freely willed action, and the legal domain looks for the possibility of recidivism or improvement to its standard. Societal specifications and standards also matter as they regulate the control and expression of desires. When dominant societal norms become controlling in expressing one's proclivities or practising one's culture, free will is suppressed and a new shape in its expression like a river that never stops flowing wherever it finds its way despite the barriers imposed. The notion that we are not free agents (e.g., [16]) denotes our passivity of mind, and on the other hand, limiting to the law we are wilfully responsible for our actions puts more weight on legal assumptions.

The social life of the brain and free will

Law is not that interested in the descriptions and mechanisms of the brain as it is interested in identifying the cause of action and whether that cause is within the cognitive reach of the person. However, apart from the brain imaging indicators of a causal relationship, human behavioural markers are appropriated and understood in the human community. To some extent, it is seen in other animals' communities. For example, expression of happiness, humiliation, and dehumanization is well understood in the human community, and these states of mind are directed towards some external sources like conducive behaviour directed towards the recipient to make them happy or otherwise. So, becoming happy or otherwise is observed to be connected to the sources and stimuli outside the individual, bringing shifts in the idea of free will to more extrinsically driven rather than intrinsic. This phenomenon is observed to be in pain, where an individual becomes the victim of pain. However, there are controversies in helping behaviour and altruism theories that people or animals consciously go for the pain to help others. However, social psychologists and gene scientists may go either for social determinism or gene make-up, causing one to help his/her group members or others as a form of deterministic influence. Free will, if analyzed scientifically somewhere situated into the deterministic stance where it is all mechanism through which an individual acts, leaving little reason for individuals' ability to renounce what he/ she has learned or go beyond the general understanding of the mechanism. This again causes dilemmas and paradoxical thinking where what is taken as free will is a well-designed mechanism. The paradox of this kind was illustrated by Gazzaniga (2012) as

> "We are personally responsible agents and are to be held accountable for our actions, even though we live in a determined universe" (P. 2).

About this statement, let us take an example of riots happening in the name of morality, that is, killing or dehumanizing people from different groups as a moral act on the part of ingroup members who consider themselves powerful and culturally superior. According to the determinist worldview, morality is universal and is embedded in the brain through an essentialist program of some grand design that causes our behaviour. In that case, the legal domain will go by the dominant determinists' discourse, as societal moral construction forms the structure of law, and the acts of riots may be justified if seen from those dominant societal morality discourses. However, the legal domain is a cultural context where there are different laws for the same event (e.g., abortion laws of Ireland are different from India) and in whatever form it ideally enables justice. Conversely, as it is not just the society and law connection but

there is a triangular connection among the societal moral values, science (or popular science) and the regulatory body, the general understanding of law through the media and everyday discourses feedback the system (e.g., [17]). Even the passive recipient of external dominance can be interpreted as a matter of free will to receive the pain. The angle of neuroscience is to substantiate the existing legal proceedings, but it simply identifies any atomist cause of the complexity of human acts and will. The agenda of the legal domain is to substantiate free will and not to deny it in any way. Even arrhythmic and unintentional behaviour is judged under the periphery of free will as determined or not due to uncontrollable mental and environmental circumstances.

The rule of law is a conventional form of discursive practice in some federal spaces where normative influence adds further to the psychology of free will, and in no way is it neutral, as prominently seen in the neuroscientific assertions. The mechanistic world is then non-evaluative as per the neuroscientific research, but we evaluate and judge, which captures the comparative contexts where laws are discussed and amended. The neutrality of humans and the illusion of free will is as challenging to imbibe in our consciousness as it is difficult to leave destiny behind in public life. However, the prevalent discursive practices also create critique and debate to look beyond the group, correcting the blind spot. Baxi[18] looked for both avenues of the rule of law where dignity, empowerment, resilience, and independence are together with good governance[1]. Protecting a fundamental right, judicial review, and authentic form of surveillance matters to the court to keep a check on the societal norms which sometimes contradict the individual right to express and psychological ownership. The rise of neuro-essentialism, which gives impetus to neuro-justice, is one form of neuro-surveillance happening with the aid of technologically advanced techniques that have shaped the meaning of consciousness and phenomenology. If everything is surveillance-based and dependent on the technology which picturizes the biological system in terms of firing nerves and situatedness of organs, free will then symbolizes the individual body only.

Whither self and free will?

Freedom is the liberation of the self from the toxic and foreign self, stereotypes, and dominant values. It is also about losing or giving one's space to others, like integrating all value systems in a democratic space. An effort has been made to help people get out of the globalization of brain sciences to clear the forest of confusion surrounding the meaning of free will. The form of neuro-essentialism that has overtaken free will's diverse meaning into a singularized form is a new kind of colonization (see also [19]

[20]). The development of free will can be seen from the historical, cultural, conceptual, or indigenous perspective, where it is something in the person's activity and as a marker of potential or endowment to express its intentions. Linking potentiality to act or express to passivity seems to be a category error (e.g., [21]) as it is unclear how passivity embeds the external stimuli and how it gets transformed by the person while expressing. In other words, how a person associates various stimuli, assembles them, and comes out with new meaning. Since society symbolizes conventions, moral rules, structure, and group processes, why a person thinks and acts differently and does not exactly produce what he/she receives? The amalgamation of neurosciences to the law has changed or modified the periphery of the meaning of free will. Why does any shift in the mainstream languages matter and change the ideas and perceptions? The definition of free will from time primordial has undergone many perspectival revisions, and with science, its definition is becoming subsumed as a deterministic endeavour. That is the same as a liberal determinist who believes in the irresponsible action of a person with a responsible brain (see [22]). The notion of reasons-responsiveness and the responsible brain are not two distinct ways of understanding actions and intentions, but they are set on the same platform. The person's action is judged in a context where the meaning of consciousness seems to be constructed. For example, the action of children and adults in indigenous and modern culture varies in proposition to the socialization and way of contextual understanding of the family and broader ecology.

Sociologists of neuroscience (e.g., [20]) discussed the normative dimensions of neuroscience, which impact the law and other fields like the military and give an objective view to the notions of free will. Legal scholars expressed their scepticism about taking over the legal domain by neurosciences. Berlin[23] noted that the infinity of knowledge increases rationality, power, and freedom, but that doesn't make one infinitely free (p. 179). The legal domain believes in the mental content and mental states to determine the responsibility and the intentions, which are the sources of free will. Being in the state of mind to accurately reach out one's knowledge structure may make the person strong enough to be rational, but the progenitors of neuroscience will be shying to call it free will. Free will is not limited to the conscious act; it is also a matter of acts that are done in a taken-for-granted format where the person is habituated to control or express the behaviour. This habituation in thinking and behaving creates a situation of intentions that is further interpreted as consciousness. The effort of neuroscientists to convince the legal domain that these acts and intentions are conscious is dominantly aided by brain imaging techniques.

Free will then seems like an embodied form of cognition in the bodily self. Still, this duality of body and mind was asserted by René Descartes when he affirmed that 'except our thoughts, there is nothing absolutely in our power ...'[2]. It may also imply that, except for the thought, nothing is in our power, even our bodies. The body extends and changes (or deteriorates) with time, and all effort made by some to stop or slow down those changes after some time is a will of the person. People try to resolve those dualities by engaging or disengaging with something uncontrollable. This act of engagement and disengagement with the body through the appropriate form of movements of the external muscle corresponds to the person's will and is logically intentional. The activation of the brain through one's intention can't be denied under the neuroscientific assumptions of brain activation before the intention needs further research support (e.g., [24][25][26][27]). Fox and Stein[28] presented the case that dualism had shaped the legal domain in terms of

> "the intuitions about individual responsibility, wellbeing, and dignity that pervade our doctrine today" (P. 135).

Since Cartesian dualism attributes the mind as pure and humans have complete ownership of it, intentions and thoughts are the property of the individuals, and they powerfully shape the individual's will. The problem with this dualism is the conceptual error where mind and body are two separate substances, and at the same time, they are simultaneously operational (e.g. [29]). If the law goes by this duality, the question about the intention will be answered as there is no way of connecting to the body's mechanism. According to Cartesian dualism, locating what drives the body or makes the person act is absurd.

The body's activity is a matter of mechanism and body design, together with the thought as something metaphysical, which Ryle[21] situated in the 'ghost in the machine analogy'. As discussed, free will, if not an illusion, matters in its continuity and movements, as do the brain and the thought. In the criminal justice system, engaging with the conceptual confusion that William James highlighted as an action-emotion continuum in which the action is interpreted as emotion is important. If this is true, then the person's action indulges him/her in some emotions and their interpretation in one's thought process. Moreover, the mechanism of action is passively operated by the environmental factors and then interpreted in terms of the moral convention of law and society.

The way Pardo and Patterson[30] rejected dualism paradoxically makes its presence again, whether in a new form of conceptual confusion or linguistic alignments to those interpretations and thought

processes. Presenting the case of neuroscientists, Levy[31] critically observed that the conceptual confusion between psychological properties and brain states doesn't imply that there are conceptual barriers in attributing the former to the latter. Though psychological properties attributed to the changing brain state theoretically do not give us ownership as per the neuroscientific logic through the Cartesian logic, psychological properties or attributes are the individuals' space of thought process, so what governs us in the second case is our will. In the former, it is the inbuilt design of the biological being operating in the cultural context.

Whatever the case, in an empirical world, everything exists and is real, from individuals to society to law, whose foundation is based on the responsibility and accountability of human actions. People look for the cause; their *will* is naturally directed towards others' actions and the connecting possible causes. The question is how many cases one's cognitive field may identify the actions of the other and whether that person is held responsible for all the possible causes. The concatenations of causes are linked and add to the experiences, but it is challenging to figure out the final cause of a particular action. We generally prefer an immediate cause[32][3] and avoid falling into the infinite regress or searching for the possible innumerable causes which seem to go to previous lives and destiny in some religions. Like any movie actor, we identify his actions towards the enemy as our actions. As observers, we do not act, but our will against the enemy in the movie is simultaneously translated into the hero's action.

The causes behind any action of the main actor are configured into the conscious field of the observer, which is also well understood by the observer, as the actions directed towards the co-actor are taken in terms of immediate cause by the acting other in the movie. This much understanding of the leading causes behind one's action is not immediately understood by the observer in the real world. For example, if in any science fiction movie, the change in the brain activations due to some neurotransmitter injection or any drug makes the actor behave erratically, the observer understands the designed causal connection but not the co-actor, in the observation of the audience in general. Here, the intentions are apparent in the artificial world of the movie but not in the real world. Possibly, the movie creates awareness about the possible causes of the behaviour. Still, the legal domain requires evidence and proper statutory understanding based on its foundational philosophy as Kolber[33] noted that the compatibilists' interpretation of criminal law as

> "defendants can be punished because they can be responsible for their actions even if they are not responsible for all of the causes that make them act" (p. 10).

Here, the causes give way to the actions, so the best possible causes are identified based on the condition under which they commonly occur and the time elapsed between the immediate cause and action. For the legal domain, the time between the immediate cause identified and an action matter to better conclude. These conclusions about the person's responsibility are laden with the many instances of events and time, which, if we go by the physical laws, can have infinite variations in between. The legal domain's conclusions, the notion of right or wrong actions, responsibilities, and guilty acts are defined within the boundaries of society's moral assumptions.

The notion of cause and effect depends upon the proximity of contiguity[4] in terms of time interval and as the human attention span allows. These conventional boundaries cater to the principle of 'same cause-same effect', which is generally imagined as a scientific mechanism that is challenging to replicate in different contexts and times. The cause-and-effect relationship seems post hoc, and it has become too simplistic for the legal domain to go by past events and the cause. In the case of neuroscientific, the location of cause within the brain after the occurrence of any event has witnessed a series of events in different time intervals[5]. Locating the cause based on the event and then predicting the exact cause in future events seems fallacious and unaccountable to many events, either not noticed or ignored as irrelevant. The importance of any cause to the event is what Russell[32] notices as an intelligible nexus between cause and effect, which is 'familiar to the imagination'. The collective imagination of people in the social system appropriates the intelligibility of the cause-effect nexus. This is not to say that cause and effect are continuous as per the societal impressions of social norms on individuals. Still, there are several moderators in the cause-effect impressions. Russell, however, showed that the cause-effect relationship seems symmetrical and not an illusion. In the case of the person's brain, which is attributed to have a determining or causal effect, may also be seen from the all or none principle, where once the brain activation happened, leading to behaviour has already passed or occurred and then the person operated.

The cause identified for the certain behaviour can be understood as two different events, where the former and the latter have their descriptions, and the certainty of the cause led to the certainty of the effect having a more deterministic stance. Neuroscience claims about the certainty of the brain event which eventually leads to the action give additional proof to the statement of Pardo and Patterson[30] that "free choice is not uncaused" (p. 35), where they appreciated Churchland's[34] characterization of responsibility as 'empirical'. The advancement of different brain scanning techniques made neuroscience observable, empirical, and positivist, disclaiming anything as the subjective mind, incongruent with

language structure, and lacking any perfect methodology to have an exact picture. Levy[31] expressed his faith in neuroscience as a field that can produce reliable evidence compared to subjective reports or behaviour. Neuroscientific evidence based on the meta-theoretical assumption (e.g., determinism in Libet's work) of being unregulated by the will or intention of the person saturated our understanding of free will as a misalignment of conceptual categories of uncontrollable to the person's responsibility. It is also noted that consciousness is an urgent factor in one's knowledge, awareness, and sense of being a responsible agent. The connection of the person, not just the brain, to the context and social world. It also matters as the person is visible, not the brain. We know our and others' possession of the brain through the years of reports and images of the brain in neurological studies that it has occupied our consciousness of its existence in our daily discourses. Some scholars[35] expressed that the brain is like any other body organ that must function appropriately for the human to make choices. The question that often comes to our mind is, 'Are we responsible for what we are and will be?' The answer is both ticklish and straightforward. William James gives an apt example of grabbing a glass of water if thirsty. It is the person who will act to quench his thirst by going to the glass of water and not the glass of water that comes to the person to quench his thirst. This simple example explained the logic of human existence and cleared the jungle of deterministic assumptions about human choices.

In the tussle between determinists and libertarians, the balanced protagonists were compatibilists who looked for the balance between what is uncontrollable and what is wilfully possessed by the person. They looked for the truth rather than being stuck in between without any decision. For example, legalists believe that the proper functioning of the brain is essential for rational actions. Though all the causes are undecipherable, as discussed above, it is imperative to reach a decision rather than being indecisive. So, from the deontological viewpoint, the very action made sense in the legal domain even if it was done without any spurious motive, so here, muddling with the cause will not undo the act. Since acts cannot be undone, the responsibility remains with the person despite the neurological deficit or injury. Morse (2004) pointed toward the brain overclaim syndrome that neuroscientists make and to be reductive with the brain in hand will not solve the problem of society where people are acting on their social world and some of their acts may not be conducive to the general social norms. The individual acts in the environment despite being bombarded with environmental stimuli. So, cause only matters after the action is observed. In the legal world, causes of behaviour are many and uncontrollable, which may nurture different acts; however, its metatheory is both for retributivists and consequentialists, that is, to

move towards precedents and keep check through many regulatory channels. Overall, it is the person's will to deter acts not appropriated by the cultural and moral codes.

Everything is not determinism: Is agency and responsibility cultural?

Till now, cultural determinism has been difficult to structure precisely so that we may objectively predict its influence. However, it is also clear that cultural context is inseparably a regulatory system, and individuals are not part of it. The human agency is a cultural agency as the person's body is buffered automatically from the cultural lens. We do not see the person as a body but as laden with some cultural ingredients that develop our self and understanding of the other self. A person inflicting injury on the other body consciously is a culturally laden act, and the guilt after those acts is part of that system. In this process of culturally moving and acting, the person's consciousness is universal and local at the same time. If the law cares about justice, it does not separate itself from the culture. Thus, the individual is not simply a body, and all the acts are not a simple mechanism. This critical understanding of the mechanism was heavily studied, and many opinions were marked based on these almost concertized assumptions that society matters and it is not completely the individual who was conceived as somebody.

Thus, if an individual wishes to change the conventional law, he/she will face resistance from the society which created the convention and simultaneously stimulate the individual to resist the imposed rules of society. This reciprocity of resistance between the individual and the society is paradoxically connected, though the individual's self contributes to the individual's freedom to resist. Law is systematic, limited, and predictive compared to individuals' minds' unpredictability, indeterminacy, and uncontrollability. As stated above, it is very difficult to outline all the cultural systems as it is since culture cannot be static, and it moves with the individuals' connection to the physical, social, and psychological objects in the empirical world. Though law derives its assumption from societal moral standards, its disciplinary nature does not allow the intricacies in full to breach its boundary, as those complexities of stimuli are not limited; it has remarkable mathematical combinations that are difficult to model manually and digitally. Though there is a movement to manage this rising data in the form of data management systems, it is still logically clear that this is an unending process to account for all the probable combinations and to give a certain picture of the human world across the culture and in varieties of situations. It does not mean that the law is not ready to picture those events since it tries to capture those events and causes through different disciplinary dialogues. At the pragmatic level, its boundary,

especially in the grave cases of crime, is limited by intuition and precedence. The law determines whether any act is wilfully done or not. This kind of legal boundary results from the resolution of various debates on the meaning of free will, determinism, compatibility between the two, or semi-compatibility and revisionism (see [36]). Though these debates are continuous, the protagonists of these stands of the determined cause will also shift in their argument. They do so either to prove their past stands or in search of truth through some methodology; the law changes the perception of cause and assigns meaning to the ways of seeing society.

As compatibilists in different domains such as law, neuroscience, religion, natural science, psychology, and sociology tried to establish a link between determinism and free will, they often limited themselves by some established consensus. For example, in theology, God was assumed to influence individuals, where an individual is not apart from the world created by God, and even after the body perishes, the soul persists and moves. Theology sometimes resolves Paradoxes about the immovability of the absolute and movability of the perishable in the Cartesian sense. What is immovable and permanent can have an unending effect on the body. It requires a non-perishable existence, which is empirically not seen, as the world is perishable. Since the human/animal perishing body is an inevitable sign of change, how can something immovable have an effect? From the theological standpoint, the soul's creation seems to be for this purpose only: God is seamlessly connected to the soul, and this relationship is permanent.

In the legal domain, this dominant view of the religious society is not admissible, and neither does its logic have any substantiation. So, the free will and the deterministic stand get limited in the empirical world, and law draws the line to which humans are not apart. Neuroscience is one of the most substantiated fields of science that relates to the law and changes the meaning of unlimited free will and determinism. Most views about the methodological sophistication to understand what free will is and how much it makes the person free in his/her action depend upon the exploratory perspective adopted to understand the action and responsibility of any individual or group member. The shaping of the mind, environmental inputs through group affiliations, and a general understanding of the world situate the mind into something structured. The methodological inquiries, such as qualitative understanding of the individual stories and activities, are suitable exploratory moves. However, it is also necessary to make sense of the structure that emerges from these inquiries and give a concrete picture of the community or groups on which they are done.

Conclusion

Getting the structure of free will and responsibility marks the essential feature of an individual. Going beyond passivity through identifying the saturating point or point of exhaustion that we are what we are surrounded with. This makes us homogenous, where all is pre-decided, prescriptive, and determined. This may create a vantage point on which the impression about any community or kind of individual may be anchored. Free will is not as pure and undiluted as it seems since culture impinges on the individual sense-making and actions, which construct the notion of free will and responsibility as an embedded process, either in the language of the individual affiliated with any group or in the action directed towards the cultural artefacts. Free will is embedded in something, and identification of the cause of free will may be misleading. As per Wittgenstein, free will is described by looking at the various cases in the legal domain through the different testimonies, self-accounts, and memories. In those descriptions, the cause was identified and based on which judgment was made[6]. The abandonment of free will in the garb of deterministic brain events or some quantum spurt of activities leading the brain to become un-deterministically active, which seems to lead to human action, does not give an easy solution to the proponents who believe in the illusion of free will. The intelligibility of the compatibilists to situate free will and determinism to whatever extent seems to stand on two basic principles. First, despite all the human and environmental factors being the same, how does the individual make choices, veto, and make sense of alternatives? Second, to what extent are the events that the individual does not create and neither their occurrence nor movements in the conscious control of the individual accepted as part of everyday activities and discourses? The will is not the same as ability or disability, as free will can reject what one can do in favourable conditions, for example, imparting mercy despite having the power to grant a death sentence.

The criminal justice system in the past and present is not operating equivalently on similar criteria of inferring how much the person was responsible and acted freely and consciously[37][38][39]. The notion of free will did not appear at the same level in similar criminal acts. In the past, the societal construction of free will and morality was seen naturally embodied by the individuals, and it was the judges′ intuitive[7] ability. The imagination about the cause of any action had the context in that spirit of the time as it happens now. The rise of various tools and techniques in modern times and the locking of imagination by something not considered metaphysical and subjective has overtaken our sensibilities in the current society. The free will of the past continued to the present, where the past was seeing the person as

deterministically responsible as compared to the present, which is considering the person as responsibly deterministic. The thin line between the two ways of seeing the person's action is the discursive turns within the society about the taken-for-granted trust in the computerized techniques to know the brain. This is never to say that free will is diluted or taken as an illusion, as we see through many examples that punishment for any criminal act is as rooted in the legal and social conscience as it was in the past. The differences are in the metatheory that various societal institutions adopt and the kind of dialogues and debates that have come mainly to the public space. So, the present imagination about the cause, will, and responsibility seems more closed and confined than in the past. But still, it is an imagination; when practically considered, it looks more pedantic and messed up with the variety of possible evidence, which may slow legal decision-making. However, establishing a fast-track court that looks upon the evidence rapidly and closely, as it seems, does not deny the possibilities of stereotypical filtering of evidence in the favour or disfavour of the defendant, as per the social and political demands. When something mysteriously regulating our behaviour becomes obvious, it becomes part of our social selves and seems controllable. The view about free will is laden in the worldviews of obviousness and materialism in the current time.

Footnotes

[1] Baxi, U. (2007). The rule of law in India. Sur, 3, São Paulo. http://socialsciences.scielo.org/scielo.php?script=sci_arttext&pid=S1806-64452007000100001

[2] Rene Descartes, discourse on the method and the mediations 26 (John Veitch trans Cosimo, 2008)

[3] Here, Russell appreciated and noted the definition of cause in Baldwin dictionary as Cause and Effect are correlative terms denoting any two distinguishable things, phases, or aspects of reality, which are so related to each other that whenever the first ceases to exist, the second comes into existence immediately after. Whenever the second comes into existence the first has ceased to exist immediately before. (P. 172)

[4] Russell (1918)[32]

[5] Russell (1918)[32]

[6] Ludwig Wittgenstein (1953). Philosophical Investigation. Blackwell Publishing.

[7] The intuitive ability used here as an accumulation of past experiences and memories constructs a rational picture of one's actions in a social context

Statements and Declarations

Funding

None to declare.

Conflicts of Interest

This article has no conflict of interest.

Ethical Approval

Not Applicable.

Availability of data and materials

Not Applicable.

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Declarations

Funding: No specific funding was received for this work.

Potential competing interests: No potential competing interests to declare.