

[Transcript] Dorothee Horstkötter - “My journey led me out of the office and into a prison”

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Katherine 00:02:11

00:02:11 Dr. Dorothee Horstkötter is an assistant professor in neuroethics and practical philosophy at the Department of Health, Ethics, and Society at Maastricht University. She's previously co edited a 00:02:30 Springer series, titled "International Library of Ethics, Law, and the New Medicine 69. And with the specific volume, titled "Parenthood Responsibility in the Context of Neuroscience and Genetics. She is particularly interested in the ethics behind mental health, neuromodulation, childhood, and forensic psychology.

On another note, recently, Dorothee and I have worked together on a very interesting neuroethics topic and 00:03:00 project concerning human brains in a dish-which we will definitely cover on one of the next episodes of the Neuroethics Police. Now I Katherine Bassil your host and very pleased and honored to be interviewing her today about the neuroethics of forensic psychology and psychiatry, and to touch upon the implications of emerging technologies and forensic psychology, and psychiatry.

Dorothee, thank you for accepting this invitation. As you know, through this podcast, I am trying to raise awareness 00:03:30 on the importance of neuroethics and neuroscience research and practices. And with your help today, I am very sure that we can make this happen. So Dr. Dorothee, can you begin by describing your academic trajectory, followed by your research area briefly?

Dorothee 00:03:45

Yes, thank you very much for this invitation. My trajectory in doing research in neuroethics, bioethics of neuroscience, actually started in a very philosophical topic on the 00:04:00 question on human agency and human self regulation or self- control, and I both interest in what does this concept even mean to us? And what does it mean to be able to, to act rather than having your behavior somehow happened to you and being determined by whatever complex factors that might influence you as well? So that has been my first topic when I was digging really as a 00:04:30 philosophical researcher into the details. And I was extensively about to question what is self control?

And I then I wanted to show or argue that self control is not mean only an issue of controlling your behavior at this is typically understood so in social psychology, but I was interested in what does it make to be self controlled behavior and what is the role of a self or a 00:05:00 person in your behavior, and how does my self control behavior differ from you self control?

Katherine 00:05:07

And what was your drive in studying and pursuing a career in practical philosophy and bioethics?

Dorothee 00:05:13

But you know, practical philosophy is actually for most people very theoretical type of work .Any practical philosophy your dealing with practical questions but in a very theoretical way.00:05:30 So also my work on so on self control and the understanding of self control was completely desk based and completely based on thinking through certain

ideas on what concepts mean. When I finished that work, I thought well that's interesting. That's nice for theory. It's nice to have a better understanding, but I wanted to like have more contact with the real world, contact was with people, and contact with questions. 00:06:00 Not just theoretical philosophical question, which I think is really important, but not the end of the story.

Katherine 00:06:07

So really going out there taking what what what we know as philosophy as all the literature about that, and really applying it.

Dorothee 00:06:15

Yeah .So I went out there. And the first place which ??? brought me in my journey out of my office was into a prison, a juvenile prison. So it was huge. It was a big step because it was a huge difference. Yeah. 00:06:30 And the kind of work that I pursued for man where I act aware also try to understand the more applied ethical applications of wanting to understand criminal delinquent or antisocial behavior, former genomics or new science perspective. What does that mean? That was my my first step in in my thinking about the ethical implications 00:07:00 of neuroscience.

Katherine 00:07:02

And why the focus on neuroethics it is I mean, neuroethics falls within the general theme and the general field of bioethics. I mean, was it a fascination with the brain ,behavior and neuroscience? Was it maybe coincidental or even inspired by some personal experience? What what really got you into going into and delving into neuroethics

Dorothee 00:07:26

When I when I started with the topic of forensics, and when I was 00:07:30 asked, and that was a question that was asked to as postdoc back then to involve and questions with juvenile delinquency. Actually, my question was, there is some genetics research and we're interested in genetics and genomics of antisocial behavior. And I looked a little bit into the literature and I really really soon said, if I may not also dig into a neuroscience and neurobiology and why the aspects we can forget about this project. If you want me and it 00:08:00 was the Center for back then called Society and Genetics, they were mainly interested in genetics implications. I said we can't do this on this project. This is about behavior. And behavior genetics is an interesting topic.

But if you focus on genetics only, you're so limited that you can't say anything sensible. We have to broaden this project into neuroscience, neurobiology, 00:08:30 okay, neurophysiology, if you end in a more life science, biomedical way. And it was ireally accepted .

Katherine 00:08:38

Interesting. Now before we begin our conversation to discuss the neuroethics of forensic psychology and psychiatry, I would like to ask you about your relationship with neuroethics. When was the first time you encountered the term neuroethics.

Dorothee 00:08:55

I think right when I started with my postdoc, which was about 10 years ago. Okay, yeah, but also because 00:09:00 before that I wasn't so working into the field of applied ethics, more in to ethical and practical philosophy. Yeah.

Katherine 00:09:11

Okay. And do you consider yourself a neuroethicist?

Dorothee 00:09:15

No, nope.

Katherine 00:09:17

Even though you are considered...I mean, I said a question..do you consider yourself maybe a person working in the field of neuroethics but not necessarily a neuroethicist?

Dorothee 00:09:28

I'm an ethicist and philosopher 00:09:30 interested in in questions rising from neuroscience, but I feel a little bit opposed to put the pronoun neuro in front of all kinds of other words. Because I, I have experienced that as soon as someone puts neuro in front of whatever, it gets really important.

Katherine 00:09:48

Yeah.

Dorothee 00:9:50

I oppose this general tendency.

Katherine 00:9:55

Okay.Fair enough. So how can you describe your role as a 00:10:00 person working in the field of neuroethics.

Dorothee 00:10:07

My role is that of a person who wants to have people working in the field as a non philosopher and non ethicist to think through what they are doing. To ask questions that they would never come up with. That is not quite part of their scientific work. 00:10:30 You know, that's, that's a good reason for them not to, to see these questions. And I think the most important task for philosopher and ethicist is to ask questions, to ask different kinds of questions, and to request people to think things which are not necessarily measurable, which is not in their line of thought, but which are directly important for the field that they are working in.

Katherine 00:10:53

Does that include the do's and don'ts and neuroscience, what you can do, what you should do, what you should not do? 00:11:00

Dorothee 00:11:01

It does include it but that's a start, it's not the end.

Katherine 00:11:04

Okay? And and a few words directed to our audience, why do you believe neuroethics is relevant at all?

Dorothee 00:11:12

The ethics of neuroscience is relevant because neuroscience is relevant. And neuroscience is going to influence our society more and more. So ethical questions in the context are very important, because they help us to shape society in a way that we 00:11:30 continue to consider it desirable. The end, we want to live in a society in a good society. And therefore we need an idea of what do we think that good is? What does it

mean? What is a good application of whatever neuroscience finding, and that is not within neuroscience itself to define what does good mean?

Katherine 00:11:50

Yeah, maybe define the limits of how far we could go...

Dorothee 00:11:54

...To find the limit. But also therefore to define the limits you have to know which kind of area you want to be. 00:12:00 Yeah, that is that is that is a task of ethicists and philosophers

Katherine 00:12:05

Yeah. Okay. So moving on to forensic psychology and psychiatry. So just as a short introduction, forensic psychology and psychiatry is described as the intersection between psychology or psychiatry and the justice system. It's involves the understanding of the basic legal principles, specially in respect to expert witness testimony, and its related aspects 00:12:30 in order for forensic psychologists and psychiatrists to better interact with judges, attorneys, and other legal professionals.

Now, one of the most important aspects of this field is the ability to testify in court as an expert witness, for example, by making use of psychological findings, neuroscientific findings and translating them into legal terms that can be used in the courtroom. In some occasions, a forensic psychologist is frequently appointed 00:13:00 by the court to assess defendants competent to stand trial, or assess the state of mind of the defendant at the time of the offense, among other assessments, including assessments of responsibility, assessments of dangerousness, etc. Now, they are sometimes also involved in providing advice and even recommendations on sentencing treatment if needed, and any other relevant information necessary for the judge to make a ruling.

Dorothee, is it of your opinion that 00:13:30 nowadays most crimes committed, have a certain psychological or psychiatric explanation or some kind of causal relationship between the two?

Dorothee 00:13:43

Yes, but not necessarily nowadays. If it holds for crimes committed today to those who hold for crimes committed whenever in time. I think there are features in people's lives that might provide for one explanation of why 00:14:00 people do what what they do and why they divert from our common norms that describe somehow what is what deviates from these norms and is considered or should be considered a crime. And this this could be psychological. This could be explanations also in the field of people's behaviors, people's feelings, 00:14:30 how they experience the world, particularly if they experience the world in a significantly different way than the majority does.

Katherine 00:14:42

Okay. The involvement of psychology and the justice system is not a new practice. In the very first days of psychology, philosophers and scientists have been trying to understand the motivations behind aggression, crime, and antisocial behaviors. However, nowadays, forensic psychology is a field of its own with its own professionals, 00:15:00 its own trajectory. How has forensic psychology really shaped the justice system? And what has it offered to the justice system that was previously lacking?

Dorothee 00:15:12

If you think about it, opposition between the psychology and the justice system, we should first maybe have to say that the justice system is mainly interested in transgressions, and has a moral task of punishing those who commit crimes.00:15:30 Not necessarily with thinking through any reasons for a persons behavior, but that I think, is also not really correct because also judicial system we have different kinds of crime which take these features into account. Forensic psychology actually has two tasks by which it is linked to the judicial system.

On the one hand, it has a therapeutic task for those who are considered to have committed a crime, which is 00:16:00 somehow correlated, maybe not close, but at least correlated to some psychological psychiatric problems that these people have. And then it's a task of specifically forensic psychologist also to provide help to offenders to a therapeutic help. And also to, to make their lives better and also to prevent recidivism.

A different tasks of forensic 00:16:30 psychologist is to provide the kind of evidence before a person is sentenced. Yeah. And to give advice on whether there was some psychological disorders that might have influence at least on the crime committed and whether that should impact on the sentence at the person receives.

Katherine 00:16:57

Can you maybe draw on some personal experience that you've 00:17:00 had with juveniles that were sentenced? How did forensic psychology or psychiatry come into play when it came to the sentencing of juveniles?

Dorothee 00:17:12

So some of the juveniles had been... had a measure on top of the sentence which in the Netherlands we call a placement in an institution for juveniles, which is a court ordered placement and also served with...obliged to get...

Katherine 00:17:30

00:17:30 Like rehabilitation center...

Dorothee 00:17:33

So with proceeding to that's all had been observed by a psychiatrist in to make up to draw a picture on their psychiatric situation. And they acquired a certain kind of cooperation by by those who are suspected of a crime, because otherwise00:18:00 it is quite impossible to observe behavior in a way that would be meaningful to a psychologist or psychiatrist. But my experience with these juveniles- and some of them not, but what some of them had gone through this procedure. Some declared to have provided forms that in in the long run and when looking back00:18:30 to the past years of their life, but others were also quite opposed.

Katherine 00:18:36

Okay, how so?

Dorothee 00:18:38

Feel offended because a very concrete consequence if you cooperate in such an observation in forensic psychiatry, like a decision making about you, is that juveniles who will receive a pie measure, they have to stay inside the institution for much much longer then 00:19:00 those who do not, who only sentence according to the judicial system

Katherine 00:19:06

Oh wow.

Dorothee 00:19:06

So it is the end they experienced this as a much longer sentences than if they would have received.. if they would not have cooperated. And given that a stay inside the same building at the same institution, just in different departments is actually not really different kind of living situations. I think this feeling is justified.

Katherine 00:19:29

Just Just maybe it's 00:19:30 kind of related to the next topic we will discuss, but should to bring a forensic psychologist or psychiatrist into court is the person in question. Does do they need to give consent to be...

Dorothee 00:19:47

In the Netherlands-yes.

Katherine 00:19:48

Okay. So they could also say we do not want to be profiled, and they just get a judicial ruling. Okay, interesting. So with every practice we can talk of 00:20:00 malpractices. Now forensic psychology offers a variety of advantages to the justice system, just as we discussed right now, that was previously lacking in back in the days. Now, do you believe it also offers some disadvantages? What are some forensic psychology malpractices that you can think of or that you have may be encountered and practice?

Dorothee 00:20:26

What forensic psychology does in the in 00:20:30 the time before before a sentence or not in the therapeutic context, but in the realm of observation, and giving advice to courts is that they have the task to observe those who are suspected of a crime, and this is quite confusing role that they do have, at least for their observance, their clients...00:21:00 aspect of a crime because they... that's time and is that period we do have a completely different world because they only observe. There's not really an interaction between the suspect and the psychiatrist. I mean they have talks, but this is not this is a different sort of therapeutic took relationship, because psychologists or psychiatrists have a task to report to court so there's 00:21:30 no confidentiality and yet relationship and suspects are treated as it mainly only as the object- they do not speak also as a moral subject in in in this in these observations.

And I think that must be extremely confusing, if not even hard to understand and to follow if you are in the role of of a suspect, and many of these people have had encounters with psychologists and 00:22:00 other social workers or a whole range of people supposed to have helped them. And now they're in a situation where it is not the task any longer of the person they're talking to, to help them. It's a task to report to court but to realize that all the time I'm observed and objects- I have not had...they are not here to help me . That I think in in a daily proceeding is really hard 00:22:30 if not impossible to do as a suspect.

Katherine 00:22:36

So do you think in other words, this could maybe cause some kind of psychological harm to the to the to the suspect of the crime?

Dorothee 00:22:45

It would be interesting to figure out how much people afterwards feel betrayed.

Katherine 00:22:51

Betrayed by...

Dorothee 00:22:52

..by psychiatrists, of course, formerly they all told okay, this is here to observe and to report... but 00:23:00 But to really understand the implications of what that means and how that is different from all the previous experience where it's alive with the range of psychologists and people whose task was to help them, I think that is psychologically impossible. And also people, other people would have serious difficulties to really realize what that means. And the other hand, those really don't consent.

Katherine 00:23:26

Yeah. So the trust is broken, 00:23:30 there is there is a broken trust between Yeah, maybe in the future, that person is going to be a patient again, and the trust is broken between that patient and the psychologist or psychiatrist. And that really will influence how the treatment and how the rehabilitation of that person will go on what happened. So there is definitely...

Dorothee 00:23:53

I can imagine that- I I haven't researched them... but yes, you see a psychologist who's not there to help you with that support . And then you see another psychologist, even if you divide roles and 00:24:00 one person does this role and the other person that role, but but if you want to have this experience, how to again trust the person whose then appointed to help you in a forensic therapeutic situation. I think thats... really yeah, really difficult. So but I'm not sure you asked me about malpractice. So that is a practice of 00:24:30 forensic psychologist who do report to court that is their task.

Katherine 00:24:35

That's exactly... I think we would go into that a bit because there's a lot of criticism about the role of a forensic psychologist and how it could be difficult to differentiate between their role in the clinic as a psychologist in the clinic, but then when they start working with court, it becomes it becomes something different they have to really meta morphos and transform all what they have learned and all their 00:25:00 practice in the clinic, it then becomes really just like business. It gets down to just making business and making sure they are working at advising court and they are not there to make sure that the patient comes first.

So we will talk about that a bit in more detail later. But just about what you this this issue that you just raised, have you personally had any conversation maybe with a juvenile or with the convict that you believed-Yeah, they 00:25:30 raised any concerns when it came to forensic psychology profiling? Have you personally had any encounter with with with someone that raised those issues?

Dorothee 00:25:38

Encounters I only had with juvenile delinquents who were placed in judicial use care center how we're supposed to call these centers in the Netherlands. So there were there were juveniles who feel-felt , betrayed by these procedures and who, who regretted to have 00:26:00 participated because now they have to stay inside much longer.

And also, I think one feature which characterized almost all the juveniles that I talked to, when talking about about why did you do what you did and nobody denied that it was correct. So- that they committed the crime. That that's was for nobody that was an issue.

But I had quite serious difficulties with accepting people saying you did that because of this or that this disorder, because you have a narcissitic 00:26:30 disorder, or you had been under the influence of alcohol or yet you had a psychotic disorder...

Katherine 00:26:39

I mean that's difficult for juveniles because they because then they will be stigmatized.

Dorothee 00:26:43

Yes. A if they are stigmatized and also what I said, well, then you have a choice. So for them, it was very important to to emphasize that they made a choice in committing their crime

Katherine 00:26:56

And it's not due to the disorder..

Dorothee 00:26:57

This is not due... don't have a disorder. They are just- just they are normal, normal people who made and some acknowledged- we made wrong decisions, but these were our decisions. 00:27:00 So don't see us as crazy people we did something wrong. So they actually claimed a moral understanding of their behavior rather than one which would have been determined by whatever features of their lives be that neuro biological, psychological, or environment

Katherine 00:27:29

Can court not go 00:27:30 back on certain decisions after a committed like sentenced juvenile says - Okay, wait a minute that I did that I did it. I do not feel mentally ill I feel that I was completely responsible. Does the justice system not go back on their decisions and try to change the ruling depending on those on those acknowledgments from the committed juveniles

Dorothee 00: 27:58

I know, do well as I could and the cases that I interviewed as I did not, that was 00:28:00 not an issue.

Katherine 00:28:03

Okay. Now, before going in depth on the malpractices that we briefly mentioned reported in the literature, we must acknowledge that some ethical misconduct is intentional and some unintentional and when we talk about misconduct here we are talking about misconduct coming from forensic psychologists and psychiatrists. One of the reported misconduct of forensic psychologists is bias.00:28:30 Now, what is bias- bias is the inclination or prejudice for or against one person or group, especially in a way that is really considered to be unfair.

Bias in this context can be understood as being strongly inclined towards a certain perspective or school of thoughts regarding a certain case or condition being considered. Now why do I say that because as we know, there are several school of thoughts or theories within psychology that can in certain instances, refute each other 00:29:00and sometimes they could have completely opposite arguments.

Now, Dorothee, can you mention a few examples of similar bias in the courtroom? Maybe based on personal experience, if any?

Dorothee 00:29:14

I'm not sure about this because I haven't done research in the courtroom setting, itself - what I know so, by colleagues who work with suspects of work this aspect I, 00:29:30 what they try to do by also including neurobiological knowledge into observations of forensics aspects, is that they try to reduce by assessing as high as possible by gathering different kinds of information, different kinds of observations and then getting to more complex as as complex and complete picture of suspect as possible. 00:30:00 So I think that is the intent to reduce possibly biases.

Yeah, and I think that also explains a certain openness to neurobiological findings as as a first addition to that, say what what we know already or what we do already in what is traditionally done in in the more psychological observational setting in 00:30:30 order to corroborate insights, interpretations and give further dimension to the interpretations as we do today,

Katherine 00:30:44

Okay. Now, so I'm sure I'm it's really good to hear that there is an effort to try to reduce this bias, but we have to acknowledge that this could be still existing in court decisions in the presence of some forensic 00:31:00 psychologists or psychiatrists that are really highly opinionated. Now, how can this sometimes let's say unintentional misconduct, influence a court's decision and accusing someone as being guilty or innocent?

Dorothee 00:31:17

And I'm not sure whether this is so the most important question- in US context the question guilty or innocent is a very decisive one, I think that is less pressing in the 00:31:30 Dutch or European context. What I think is, and I was not sure whether it is up to forensic psychologist or psychiatrist to influences a bias. I think that public opinion and media particularly in in high profile cases, is much more influence... has the danger of being much more influential.

So we're in the Netherlands we have quite keen about some prominent criminals. Yeah. We have some crimes, which are 00:32:00 high in the media and when they come to court, I think the the, the influence on, of the public or the, or how the public tries to influence court proceedings is, is would be more problematic than and what's forensic psychologists would?. I don't see a really specific problem in there. I'm not sure about it. Okay, let's tend to say no.

Katherine 00:32:29

Okay. 00:32:30 Another misconduct that I would also like to shed the light on is maybe more intentional than not and involves financial incentive. We can agree that financial incentive or increased monetary benefits can in some ways contribute to ethical misconduct, which in one way or another will influence probably a court's decision, not always to the best and not always providing benefits such as those we have previously discussed.

A psychologist working in a 00:33:00 clinical setting in general earns less than a forensic psychologist. Therefore, motives may be different. The nature of the practice will also differ. And bias, as we already mentioned, is probably bound to resurface again. What are your thoughts on that?

Dorothee 00:33:20

I'm not sure whether this is the case that for different psychiatrists earn so much less or more than than others.00:33:30 Psychologists appointed to court are also paid by the state and this is not a private thing. But I'm not sure because I haven't been involved in monetary issues, but I haven't..in that context, I never heard about the arguments of different people earn differently, and that that could somehow biases...the work. So I don't think that this is a huge problem in the least not in the Netherlands, and I don't how it is elsewhere? 00:34:00

Katherine 00:34:01

Okay, so, okay, so moving on then to the not last section, now things can get tricky in the courtroom. And we kind of touched upon that initially, it is important to make a distinction between a clinical psychiatrist and a forensic psychiatrist. Could you please please explain what are the main differences between these two professions?

Dorothee 00:34:27

Well I think as I said before clinical psychiatrists their00:34:30 main task is to be there for their patients. And the main task of a forensic psychiatrist in the advisory role is to be there for the court and the public and not necessarily for the patient.

Katherine 00:34:44

Okay, that's a very clear distinction. So they have really different roles, different aims and different goals. One of the main reasons things can get tricky in the courtroom is due to this fact that the patient psychiatrists relationship is now different. In the courtroom the 00:35:00 forensic psychiatrist no longer has the duty to put the patient first. His /her duties belong to the court and to the justice system. The patient is no longer a patient but a subject of an evaluation and issues of patient -psychiatrist confidentiality are no longer existent in the courtroom. So this relationship is really much more complicated than in the clinic. This can prove to be difficult for forensic psychiatrists, just like we mentioned, 00:35:30 that are practicing their profession during which they have vowed to always put the patient first.

What are your thoughts on that? So I think we already discussed it, but maybe if you have any more input or more insight on

Dorothee 00:35:43

So it's not only about for forensic psychologists, for whom it is that difficult task to switch perspective, but this holds likewise for the suspect or the person to be observed by the forensic psychologist and I think I would 00:36:00 like to really give a brief change of the way that you to describe the situation. Actually, I think I don't think that the patient or the client is the subject of the evaluation because then he would have the possibility to talk back. But he's the object is only observed and there's no interaction...

In a therapeutic relationship there is a you seen as a subject you've seen as a person and that is no longer the case. 00:36:30 And that is how it is hard to realize from from the suspects perspectives is harder to realize to not be seen as a person at all, not to have to forget about yourself being being a person I think, that that makes such a situation unfair almost by definition, because a psychologist is a person and is there as a subject despite all the instruments and measurements and questionnaires or whatever means the instruments he has to work with, he is there as a subject, as a person- 00:37:00 but the other ones not. That is a main ethical challenge in these kind of situations.

Katherine 00:37:05

But don't you think that some might argue, okay, that person committed the crime? The the they have they have, yeah, committed the crime, let's say kill someone or harmed someone else. They have no say. Let's say what how would you respond to someone who comes up with such an argument?

Dorothee 00:37:22

And you could argue that but then you should also accept that you lead somehow proceeding in a 00:37:30 purely judicial one, and that you do not and that you're very clear about that. Yeah. And that gets blurred in a forensic psychological setting. Now, it's a blurring of perspective. I don't think that it would be better to to say what he did something wrong. So he, he just deserves to be treated as an object. But I don't think that would be a good thing to treat people who 00:38:00 committed crimes as such. But if you were to make use of such an argument, you should forget about forensic psychology at all. And then you would also lose something because you would also lose the therapeutic part of forensic psychology.

Katherine 00:38:15

Do you think there's a means, a way of solving this of kind of reestablishing this trust between, let's say this subject of an 00:38:30 evaluation in court, and a forensic psychologist and psychiatrist-is there a way that we could re establish this fairness?

Dorothee 00:38:41

To contribute to fairness, I think also forensic psychologist should accept that people they observe they are also a subject and not just as an object, that they should be understanding that way. And that does not entail as we should... 00:39:00 would would use their moral responsibility or that we would say or it's less worse, that that is not the implication at all. We can take that as serious as it is. But if you want to introduce a therapeutic element in a court proceeding, as things are good reasons to do that, you should do that in a fair way, meaning that the suspect... 00:39:30as a person committed a convicted force of crime is treated and seen as, as as a person as well, and not only as the criminal who did something wrong. Because then you as long as you do that you have as you create a social situation of the US against the other.

Katherine 00:39:53

And I think that's how probably this person is feeling right feeling being attacked by the justice system. 00:40:00 These psychologists and psychiatrists, probably the public, so they really feel alienated and isolated from society

Dorothee 00:40:09

they feel they think it seems as a reason for them to feel alienated. But if it is, if it was a purely judicial system, yeah, it would at least be clear- there that it is me. And the psychological forensics tries to bring in an in between layer, where we take their 00:40:30 disturbances seriously, but they also do it in an actual judicial way and not in a therapeutic way. And this this is the blurring of this found with has its pros, because it could people have to develop in a in a better way. But it also has extremely confusing, confusing way of treating people.

Katherine 00:40:54

Yeah. Do you agree that this will also I mean, we already said that, but do we really think that also already at that 00:41:00 stage after the person has committed a crime, they are being trialed during that time where the forensic psychologist or psychiatrist comes into the picture. Do you think that's where rehabilitation starts and where this might influence the

rehabilitation of that person? So by having this blurred line, this deception, feeling of deception- being deceived, does this it can that influence?

Can we say that rehabilitation 00:41:30 should start in court before the person is sentenced?

Dorothee 00:41:35

You can have a try to start it earlier and to talk but that you have to take is the person that you want to rehabilitate seriously. And you have to be very sure is that a person also who is who is in need of rehabilitation, who also wants to be rehabilitated? How far is the crime committed for him or her an act of disobedience not and more 00:42:00 a disagreement and that is something disagreement is something else then would be would say an offense against something that actually is accepted. So all of these differences which should be made up by then as well.

What I also encountered when talking to the juveniles who experienced treatments, they also thought that some of the feature set we are now get therapy for is also features in us which we need that are important. They do have a have certain 00:42:30 kind of value for for my normal life. So you're taking something away because you make me into a person that you want me to be but I am somebody else and I wanted to be somebody else. And you can disagree that but that's different- that's a different story.

Katherine 00:42:46

It's kind of there is a push towards Yeah. What's normative what society would like it to look like, to behave like to be like. I mean, of course, committing a crime is extreme, but by by going into this, this this path of 00:43:00 Okay, you need to be institutionalized because you committed a crime. Exactly. We are changing the way to the fundamentals of a person, we are changing who the person would like to be, just like you, you mentioned, very, very interesting topics that emerged and really, those were completely not expected when when I was trying to think of some neuroethical issues in forensic psychiatry and psychology, but it's very 00:43:30 interesting to hear those perspectives and see what we may not see from the outside because I am here trying to say- oh what what kind of inequalities and misconduct can a forensic psychologist do, but we also see that the system as a whole also carries some, some faults and some weaknesses that really puts also the subject of the evaluation really in a very critical and an unfair and an 00:44:00 unfair situation.

Now, we're going to move a bit into the future. Dr. Dorothee, you have invested a lot of time throughout your career studying forensic psychology but also being a practicing it during your interviews and discussions with a convicted juveniles. I would like to get your input on the following technology which is really consuming or even better said, exhausting over thoughts nowadays. 00:44:30 Now with my fictional Time Machine, I have transported us to the future. This is 2030 and now AI or artificial intelligence is being used in every profession you could think of, including forensic psychology and psychiatry. Algorithms have been designed to make accurate assessments of responsibility, dangerousness, risk, etc. in courts.

Artificial intelligence systems are now the forensic psychologists and psychiatrists to 00:45:00 together from this scenario, can you identify advantages but also disadvantages of such a practice?

Dorothee 00:45:10

No- and the reason why is that I think that this is not and will not be a question of a smart algorithm, it's not a question of algorithm and therefore, it's not a question for artificial intelligence. It is a question of values. It is a question of our normal outlook of what do we 00:45:30 think is important? What do we think is worthwhile? And what do we want to pursue in our lives with our society? What do we think is a good society and thereby also, what do we think is a bad society or what should members of our society avoid to do? Typically what we call a crime or an offense? But that is not a question of an algorithm.

So it's also not a question of an algorithm to define what makes someone divide from, deviate from our 00:46:00 common understanding of what a good society would be, because he might have particularly in the cases of disobedience, he might have another understanding of what is important and worthwhile to him. That's not a question of proper correlation.

Katherine 00:46:14

But could this not solve for example, the problem of bias that we briefly discussed in that that could be being practiced by forensic psychologists and psychiatrists can AI not really overcome this 00:46:30 issue?

Dorothee 00:46:32

That it also depends you first need an understanding of what do you think a bias is? What is unfair bias? What is it justified bias? These questions cannot be taken away by algorithms because you need something to feed your algorithm with. And these are the questions which are actually really important.

Katherine 00:46:54

I mean, but an algorithm can have yeah, ample of information or 00:47:00 psychological and psychiatric theories, and then they would put them into place during a certain case, and they would make use of all of that while a psychologist might refer to their best of knowledge. So, you do not see that AI could overcome such barriers.

Dorothee 00:47:21

I mean, no, I don't think so because somebody has to tell the algorithm what is important and you could feed an algorithm also with biased ideas... 00:47:32 if you feed the algorithm information that all men should get twice a sentence as women. Oh, he's going to do that really selectly

Katherine 00:47:42

Good point. Yeah.

Dorothee 00:47:43

So no.

Katherine 00:47:45

Good point. I am glad we went far into that. Coming back to this room, this moment, we are still in 2019. What are some actions we can take to avoid some of the 00:48:00 disadvantages or unfairness and unwanted consequences that are currently taking place in forensic psychology and psychiatry practices.

Dorothee 00:48:11

I think there is a great need for continuous ability to work -be really critical about one's own doing. So not to criticize in a negative way, but to be always open and prepared to think

through the possibilities that it could be different than one assumes as 00:48:30 a matter of fact. So that said, also what one thinks is self-evidence is not necessarily self-evident. And the best way to do to avoid disadvantages, and unfairnesses is to be critical about yourself and be open to the possibility that everything could be completely different from what you think it is, and that you might encounter a person who can tell you why the opposite is true as well and might have good reasons for that and an openness 00:49:00 and ability to think about this possibility-I think that is of great importance for all professions.

Katherine 00:49:08

Yep, well said, we will conclude our talk just by this last pop up question that I would like to cover with you. Now crimes can be backed up by motive or not. Criminals might or might not have a mental illness prior or during 00:49:30 committing a crime. Some critics say that forensic psychiatrists act as a band aid, they do not necessarily solve the issue at hand, but in simple terms, they cover it up. Instead of getting the death penalty, a criminal is sentenced to lifetime instead of going to jail. The criminal may be sent to a psychiatric facility, are we quote unquote "forgiving the wrong people?". 00:50:00 And by that doing so really fooling the justice system, and by we I mean, forensic psychologists, psychiatrists, which could eventually jeopardize public safety.

Dorothee 00:50:18

And you have to look also in the situation, the country that you're talking about -in the Netherlands we don't have death penalty. We don't have it anyway...

Katherine 00:50:26

..I mean, it's an exaggeration just to say that... 00:50:30 So in other words, it's really forensic psychologists and psychiatrists being used to alleviate sentences that are an other, I mean, that deserve for if someone deserves sentence x. And then forensic psychology comes into the picture, and forensic sentence x is alleviated?

Dorothee 00:50:55

Actually, it's an empirical question how judges deal with 00:51:00 psychological or neuroscience information about a suspect. And I think it could go all kinds of directions. There's no pre-given idea of that it would alleviate or harshen punishment because some evidence psychiatric, environmental, social and neurobiological shows that this person is really, really important so really should we see if we have a very long term sentence or whether he should therefore, because of suffering 00:51:30 from kinds of psychological disorders or whatever, be excused? I think there's no default on how to deal with this information. Actually. It's It's It's a dual use dilemma which we could encounter Yeah, there's no straight answer on that.

Katherine 00:51:51

Okay. Thank you, Dorothee. It has been a pleasure to discuss with you some of the most interesting but also pressing questions of our time. 00:52:00 Thank you for joining me. And thank you all for tuning in. We hope you have enjoyed this conversation. We may have answered some of your questions or maybe even raised many more. You can always send me your comments and suggestions to me but also to Dr. Dorothee for a chance to be featured on the next episode of the Neuroethics Police. Stay curious, stay critical, and till next time. Thank you. 00:52:30

Dorothee 00:52:32

You're welcome.

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