

Law and Neuroscience

Current Legal Issues 2010

VOLUME 13

Edited by
MICHAEL FREEMAN F.B.A.
Professor of English Law
University College London

OXFORD
UNIVERSITY PRESS

Contents

<i>List of Contributors</i>	xi
1. Introduction: Law and the Brain <i>Michael Freeman</i>	1
2. What Neuroscience Can (and Cannot) Tell Us about Criminal Responsibility <i>Walter Glannon</i>	13
3. <i>Mens Rea</i> , Logic, and the Brain <i>Gert-Jan Lokhorst</i>	29
4. Indeterminism and Control: An Approach to the Problem of Luck <i>John Martin Fischer</i>	41
5. Neuroscience and Criminal Responsibility: Proving ‘Can’t Help Himself’ as a Narrow Bar to Criminal Liability <i>Henry T. Greely</i>	61
6. Madness, Badness, and Neuroimaging-Based Responsibility Assessments <i>Nicole A. Vincent</i>	79
7. Brain Images as Evidence in the Criminal Law <i>Adina L. Roskies and Walter Sinnott-Armstrong</i>	97
8. The Neural Correlates of Third-Party Punishment <i>Joshua W. Buckholz, Christopher L. Asplund, Paul E. Dux, David H. Zald, John C. Gore, Owen D. Jones, and René Marois</i>	115
9. Law, Neuroscience, and Criminal Culpability <i>Lisa Claydon</i>	141
10. How (Some) Criminals Are Made <i>Theodore Y. Blumoff</i>	171
11. Neuroscience and Penal Law: Ineffectiveness of the Penal Systems and Flawed Perception of the Under-Evaluation of Behaviour Constituting Crime. The Particular Case of Crimes Regarding Intangible Goods <i>David Terracina</i>	193
12. Neuroscience and Emotional Harm in Tort Law: Rethinking the American Approach to Free-Standing Emotional Distress Claims <i>Betsy J. Grey</i>	203

13. Neuroscience and Ideology: Why Science Can Never Supply a Complete Answer for Adolescent Immaturity <i>June Carbone</i>	231
14. Adolescent Brain Science and Juvenile Justice <i>Terry A. Maroney</i>	255
15. The Neuroscience of Cruelty as Brain Damage: Legal Framings of Capacity and Ethical Issues in the Neurorehabilitation of Motor Neurone Disease and Behavioural Variant Frontotemporal Dementia <i>Robin Mackenzie and Mohamed Sakel</i>	283
16. The Carmentis Machine: Legal and Ethical Issues in the Use of Neuroimaging to Guide Treatment Withdrawal in Newborn Infants <i>Dominic Wilkinson and Charles Foster</i>	309
17. The Right to Silence Protects Mental Control <i>Dov Fox</i>	335
18. Minds Apart: Severe Brain Injury, Citizenship, and Civil Rights <i>Joseph J. Fins</i>	367
19. Reciprocity and Neuroscience in Public Health Law <i>A. M. Viens</i>	385
20. Pathways to Persuasion: How Neuroscience Can Inform the Study and Practice of Law <i>Cheryl Boudreau, Seana Coulson, and Mathew D. McCubbins</i>	395
21. The Juridical Role of Emotions in the Decisional Process of Popular Juries <i>Laura Capraro</i>	407
22. Possible Legal Implications of Neural Mechanisms Underlying Ethical Behaviour <i>Donald Pfaff and Sandra Sherman</i>	419
23. What Hobbes Left Out: The Neuroscience of Compassion and its Implications for a New Common-wealth <i>James D. Duffy</i>	433
24. Neuroscience and the Free Exercise of Religion <i>Steven Goldberg</i>	449
25. Steps toward a Constructivist and Coherentist Theory of Judicial Reasoning in Civil Law Tradition <i>Enrique Caceres</i>	459
26. Evolutionary Jurisprudence: The End of the Naturalistic Fallacy and the Beginning of Natural Reform? <i>Morris B. Hoffman</i>	483

27. The History of Scientific and Clinical Images in Mid-to-Late Nineteenth-Century American Legal Culture: Implications for Contemporary Law and Neuroscience <i>Daniel S. Goldberg</i>	505
28. Lost in Translation? An Essay on Law and Neuroscience <i>Stephen J. Morse</i>	529
<i>Index</i>	563