How Should Society Treat Sex Offenders: As Monsters or With Humanity?

A Review of

**Monstrous Crimes and the Failure of Forensic Psychiatry**

by John Douard and Pamela D. Schultz


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Families of victims, the media, an outraged public and legislatures have targeted sex offenders with severe crime control strategies that began in 1994, when the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act was passed requiring states to develop sex offender registries. Unlike with any other felons, the public's fear of recidivism by those convicted of sex offenses has led to the development of unprecedented postconviction restrictions. These restrictions, which also include the Sexually Violent Predator Act (SVPA) statutes, are the focus of *Monstrous Crimes and the Failure of Forensic Psychiatry*, by John Douard and Pamela Schultz.

Douard and Schultz concentrate on one overarching question: Why target sex offenders? What has made our society demonize this group to such a degree that we feel the need to continue to impose punishment (or treatment, or supervision) on this particular category of criminal, even after these individuals have served their sentence? The authors put forward the argument that society has demonized sex offenders, labeling them monsters, on the basis of misconceived notions of the etiology, prevalence, and recidivism of sexually violent crimes. Initially the focus was on crimes perpetrated against children but now progressively includes heinous sexual crimes against adults.

Although the question posed about how our society treats sex offenders and all criminals is an important one for the profession of psychology and one that society should be addressing, the authors get sidetracked by vilifying forensic psychiatry. They move back and forth from discussions on metaphors of “monsters” to questioning the scientific basis for diagnosis of psychopathy and other personality disorders, as well as briefly presenting Thomas Szasz’s infamous view questioning the existence of all mental disorders (Szasz, 1961). Although the authors speak with passion and poetry in discussing the impact of framing sex offenders as “monsters” or “predators,” the reader is inundated with philosophy and history lessons on the use of metaphors in society.

The authors could have better supported their arguments with much more about the psychological, cognitive, and social science research on social interactions, and about the interpretations of behavior that are based on the labels that society applies to individuals. Readers will also be left wanting when it comes to the psychological research bases for alternative social science models for causal contributing factors to sex offending, cognitive differences between those labeled *psychopathic* and those representing the normal, and specific reliability, validity, and error rates in the tests used during civil commitment assessments.

This book is part of Springer’s International Library of Ethics, Law, and the New Medicine series: Thus the intended audience includes those interested in medicine and psychology and the application of information from these fields to forensic settings. However, the omission of the empirical and the focus on the philosophical limit this book’s appeal. It is still valuable for those directly engaged in clinical assessment of sex offenders in reviewing the issues and attitudes of society toward, and the ethical issues of, assessing for civil commitment of sex offenders.

Civil Commitment of “Sex Offenders”
Douard and Schultz discuss how civil commitment laws for sex offenders have created an illogical situation: We are assessing a group of offenders for their future risk on the basis of the fallacy that somehow the very act of committing a sex offense makes people less in control of their actions and then using the “evidence” of their lack of control to justify punishing them through civil commitment for indefinite periods of time. Whereas it is assumed that a burglar can resist breaking into a jewelry store, sex offenders are treated as though they cannot show the same restraint with regard to their particular crimes.

This is an interesting conundrum. Our justice system is based on the idea that we hold culpable only those who are legally responsible for their actions. Recognition exists throughout the justice system (especially in those states that allow a true insanity defense) that individuals not in control of their actions cannot be held accountable for those actions.

The justice system has attempted to explain away the perceived incongruity. First, the commitment procedures are civil, not criminal; thus, the goal is not punishment but instead protection and supervision of these individuals (as outlined by the Supreme Court in *Kansas v. Hendricks*, 1996), and those working with SVPA-committed populations would add treatment to that list. Many individuals, the book authors included, do not accept these presuppositions and instead hold that the treatment of sex offenders, compared with other individuals convicted of crimes, is unfair and baseless. The authors argue that the movement toward dividing felons into two broad groups—sex offender versus non-sex offender—could not have occurred without the participation of forensic psychiatry and the “creation” of psychopathy (or sociopathy) as a viable personality distinction, a change from the normal toward the “monster.”

**Impact of Labeling: Monster**

Reviewing the history of the "moral panic" that overtook the nation in the late 1980s and early 1990s in response to the day care sex abuse scandals, the authors outline some of the higher profile cases. They demonstrate how society’s fear of pedophilia (combined, inexplicably, with a fear of Satan worship) led to a social contagion of abuse accusations against the people whom we most trusted to oversee our children. The authors explain that prior to this period, research had revealed that child sexual abuse is overwhelmingly committed by someone known, rather than by a stranger.

On the basis of such findings, feminism worked hard to move the conversation away from the fear of the stranger and toward discussions of how the patriarchal structure of society allows such abuse to occur, much in the same way as it allows the abuse of women. The feminist position emphasized that we should be looking closer to home for the source of the problem and not trying to attribute it to some sinister element in society or to those with some obvious mental debilitation. But these feminist-introduced notions became overshadowed with the moral panic fueled by the day care scandals, and this shift, according to Douard and Schultz, can be directly traced to the work of forensic psychiatry.

The authors mention that it is only 1 percent of sex offenders who are very dangerous, but they are driving society’s fear that has led to all sex offenders being labeled *monsters* and to all of them being inhumanely and unjustly treated not only through civil commitment but also by labeling and stigmatizing them for life. One chapter does focus on the small portion that may be identified as psychopaths, and the authors evaluate how they are (or are not) diagnosed with the *Diagnostic and Statistical Manual of Mental Disorders* (*DSM–IV–TR*; American Psychiatric Association, 2000) and assessed with Hare’s (1991) Psychopathy Checklist and neuroimaging.

Although the book conveyed to us a heightened sense of urgency, our sympathies for these “monsters” were not elicited. To have had a powerful impact on changing attitudes of the public and professionals toward the current treatment of sex offenders as monsters, the authors should have included perceptions and narratives from sex offenders about their civil commitment, registration, limitations on traveling when and where they want, and their children’s and families’ shame. In addition, the authors could have surveyed studies that show more of the impact of restrictive laws and stigma on offenders and their families (e.g., Brannon, Levenson, Fortney, & Baker, 2007).

**Forensic Psychiatrists: The “Monster” Perpetuators?**

Douard and Schultz appear to make some important assumptions in their attack on the field of forensic psychiatry. First, they focus solely on the medical model and thus on the importance of underlying biological etiology and how etiology can be truly “known.” They argue that without being able to pinpoint specific physical, visible causes to mental illness, identifiable through genetic testing or neuroimaging, one cannot predict future behavior from mental illness. Because the *DSM–IV–TR* (American Psychiatric Association, 2000) categories used to diagnose mental illness cannot be used to explain the causes of the diagnosed mental disorder or the amount of control an individual is able to exert over behaviors common to the disorder (as
the authors note that DSM–IV–TR readily cautions against), Douard and Schultz argue that this shortcoming necessitates that DSM–IV–TR should not be used in forensic hearings.

Second, following from the first assumption that biological etiology is the acme of “proof” essential to support predictions of future behavior, the authors seem to assume that the recent findings in neuroscience that specific areas of the brain may be less active in psychopaths than in nonpsychopaths will lead to neuroimaging being used as the only way to confirm the etiology of psychopathy. Even while discussing how neuroimaging is a “media fad” (p. 119), apparently acknowledging that the concept is more sexy in its possibilities than necessarily useful in its abilities, the authors predict that functional magnetic resonance images (fMRIs) will be used as the sole evidence in favor of civil commitment and warn against giving this science undue weight.

Undoubtedly, there is pressure on forensic experts to produce visible evidence to convince judges and juries of a “life sentence” of civil commitment. Contrary to the authors’ concerns, however, the use of fMRIs in civil commitment proceedings is basically nonexistent in the forensic field (Fabian, 2012); if it were to be used, one could be confident that it would simply be another tool added to the evaluator’s kit, in recognition of the multifaceted nature of any diagnosis or prediction of future risk (Dressing, Sartorius, & Meyer-Lindenberg, 2008).

What Is Recommended Instead?

Douard and Schultz suggest that the current strategies of shaming and blaming sex offenders that lead to isolation, alienation, and self-loathing may have the opposite of the desired effect as the policies drive offenders underground. Thus, restrictive laws eventually increase recidivism risk, all the while diverting resources from preventive efforts. Providing meager support for it, the authors advocate a preventive situational model that abandons the “hot” monster and predator stigma and considers the contributing social, economic, and political conditions.

The authors suggest that such a model is more likely to result in lowering recidivism. They suggest a “cold” approach to educate children to resist inappropriate advances by adults, as well as measures to protect potential victims, to therapeutically intervene in families, to provide dignity to offenders by encouraging them to take responsibility for their offenses, and to help their reentry into society to again be productive, contributing citizens.

Monstrous Crimes and the Failure of Forensic Psychiatry brings attention to how we treat sex offenders in our society. It ends with a vision for a different direction for society. Prisons for all criminals could be humane, preserving the inmates’ dignity and working with communities to facilitate offenders successfully returning to their neighborhoods and workplaces. If this book brings us a step closer to seriously considering these issues, it will have made an important contribution.

References


