

COMMENTARIES

INSTITUTIONAL BEHAVIOR MODIFICATION AS A FRAUD AND SHAM

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I commend Dr. Ayllon for disassociating himself from the abuses which are all too common in institutional applications of behavior modification.¹ We agree that the rights of patients should not be infringed. At this point, however, he and I part company. I would like to direct my comments to three more basic issues. First, institutional behavior modification programs probably do not effect permanent behavior changes. These programs, however, may help the keepers of institutions to maintain their dominance over the caged. Second, therefore, behavior modification in institutions is very often a fraud and a sham. This deception is furthered by the obfuscatory and esoteric jargon that is part and parcel of behavior therapy. Finally, although Ayllon and I both deplore abuses of behavior modification, I argue that serious abuses of behavior modification in total institutions are inevitable. I cannot share Ayllon's faith that mere guidelines can restrain the basic nature of a total institution. That basic nature requires that all available technologies be turned to destructive purposes.

Effectiveness of Behavior Modification

The literature of corrections and rehabilitation is littered with the remains of treatments invented, proclaimed, promoted, adopted,

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1. See Ayllon, *Behavior Modification in Institutional Settings*, 17 ARIZ. L. REV. 3 (1975).

discredited, and—usually long afterwards—discarded. In the 19th century the panaceas of solitary confinement, perpetual silence, and hard labor were promoted as enthusiastically as behavior modification is today.² The 20th century has witnessed its own progression of cures for criminality. For the most part, they have been milder in form than those of the previous century,³ but all, arguably excepting behavior modification, have been equally ineffective.⁴ All of these cures allegedly worked. All were actively promoted and widely adopted.

Social histories of medicine⁵ suggest that medicine, including psychological medicine, is subject to the same forces which produce recurrent fashions in other important areas of human endeavor.⁶ Perhaps institutional behavior modification is destined to be the exception to the long, dismal history of discredited “cures.” History, however, suggests skepticism. Indeed, one can find much to be skeptical about in the literature on institutional applications of behavior modification.⁷ At least two important warning signals are evident, even at a superficial glance.

2. G. BEAUMONT & A. DE TOCQUEVILLE, *ON THE PENITENTIARY SYSTEM IN THE UNITED STATES AND ITS APPLICATION IN FRANCE* 80-91 (1964).

3. Two exceptions to the 20th century trend towards mildness should be noted: lobotomy and sterilization. Sterilization was sold to institutional administrators by considerable promotional efforts, including the lavish use of scientific papers filled with statistical proofs. The intent of sterilization was to be beneficial to the prisoner and to be therapeutic. Popenoe, *Sterilization and Criminality*, in *COLLECTED PAPERS ON GENETIC STERILIZATION IN CALIFORNIA: A CRITICAL STUDY OF RESULTS IN 6000 CASES* 575-76 (1930). Lobotomy, the subject of a promotional drive two decades after the main wave of sterilization had passed, was said to cure almost everything from alcoholism to schizophrenia. Its main use, however, was to subdue troublesome inmates of institutions.

The history of psychiatric therapeutics has seen, at least until quite recent years, an endless succession of remedies based upon the purge theory: to purge unpleasant behavior, give unpleasant medicine. Administration of arsenic, S. WORCESTER, *INSANITY AND ITS TREATMENT* (1882), ice-cold baths and showers, see H. WEISS & H. KEMBLE, *THE GREAT AMERICAN WATER-CURE CRAZE: A HISTORY OF HYDROPATHY IN THE UNITED STATES* (1967), mercury, and bleeding were favorite 19th century treatments. The wonder drug opium was succeeded, briefly, by the wonder drugs heroin and cocaine. In the 20th century, psychiatric treatment in institutions has included large-scale extraction of teeth and other organs, removal of substantial portions of the brain, and temporary deactivation of parts of the brain by sedation using such drugs as bromides, chloral hydrate, barbituates, and modern tranquilizers, chemical asphyxiation, and epileptic seizures artificially induced by electric shock or drugs such as metrazol.

4. See Martinson, *What Works?—Questions and Answers About Prison Reform*, *PUBLIC INTEREST*, Spring 1974, at 22, 25.

5. E.g., A. COMFORT, *THE ANXIETY MAKERS: SOME CURIOUS PREOCCUPATIONS OF THE MEDICAL PROFESSION* (1967); P. LEE & M. SILVERMAN, *PILLS, PROFITS, AND POLITICS* (1974); E. TURNER, *CALL THE DOCTOR: A SOCIAL HISTORY OF MEDICAL MEN* (1959); E. TURNER, *TAKING THE CURE* (1967); cf. *THREE HUNDRED YEARS OF PSYCHIATRY 1535-1860* (R. Hunter & I. MacAlpine eds. 1963).

6. Cf. Meyersohn & Katz, *Notes on a Natural History of Fads*, 62 *AM. J. SOCIOLOGY* 594 (1957).

7. For a number of additional serious criticisms of the scientific claims of behavior modification, see Breger & McGaugh, *Critique and Reformulation of “Learning-Theory” Approaches to Psychotherapy and Neurosis*, 63 *PSYCHOLOGICAL BULL.* 338, 339-54 (1965).

First, most writing on behavior modification in institutions ignores the improvement which typically occurs whenever concentrated attention is paid to people who have been isolated and ignored. To be locked away is to be deprived of human company and attention. The effect of concentrated effort and attention would naturally be especially strong in patients and prisoners brought out of isolation—the subjects of most institutional behavior modification experiments. Some scholars in the field are aware of this problem, or at least of the fact that *post hoc, ergo propter hoc* is a logical fallacy.⁸ Unfortunately, the great majority of reports on the success of institutional behavior modification programs have no control group, that is, no comparison group which received equally vigorous investment of staff energies and attention, but without application of behavioral techniques. The results of experiments without scientific controls are of very doubtful value.

Second, most institutional behavior modification studies do not claim to produce changes in real-world behavior. When one looks closely at the success claimed for institutional behavior modification, it appears that the vast majority of claims are based on observations solely within the institution. Since people behave very differently in different situations, as behaviorists know better than anyone else, conformity to institutional rules produced by rewards and punishments which are manipulated by the staff will not necessarily carry over to the world outside. There, the contingencies of reinforcement are quite different.

In a sense, applied behavioral analysis is an optimistic philosophy. The "crazy" patient or "bad" prisoner need not stand condemned to a life of repeating his or her self-destructive behaviors. This therapeutic optimism is no small contribution to the otherwise pessimistic institutional scene. But in another sense, the behavior modifier's philosophy is profoundly pessimistic. If behavior is molded by the rewards and punishments in one's immediate environment, failure can be expected of the discharged patient or prisoner. It is very seldom that inmates can be discharged into a more supportive world than that from which they came. Ironically, in the real world the reward contingencies of the hospital or prison are, from the behaviorist point of view, ancient history. Enthusiasts of behavior modification are not entirely unaware of this problem, but there is inherently not much they can do about it. One thing they can do is narrow their focus, and that, by and large, is what they have done.

8. A. YATES, BEHAVIOR THERAPY 371 (1970).

Ayllon's emphasis on structuring the token economy to simulate the real world as much as possible is therefore correctly placed.⁹ Whatever benefits a token economy achieves, however, are countered by its setting in a total institution.

Behavior Modification in Total Institutions—A Fraud and Sham

A total institution is, by definition, a society in which the equilibrium of power has been severely disrupted: virtually all power to the keepers, virtually none to the kept. To attain and maintain this unbalanced distribution of power requires a continuous struggle, a struggle for power common to all total institutions.¹⁰ Total institutions run counter to human desires for autonomy and dignity. The central fact of such institutions is that power over important and even trivial aspects of institutional life flows from above and never from below. This is hopelessly at odds with the ideas of freedom and dignity, the felt natural rights of members of society.

Although institutional behavior modification programs may be ineffective in changing real-world behavior, the more extreme forms effectively produce institutional docility. Herein lies the real reason programs such as token economies are used. Behavior modification in total institutions is largely a sham, a verbal facade which conceals maneuvering in the ceaseless struggle for power between keepers and caged. The most important weapon available to administrators of total institutions is the power to mete out rewards and punishments. By rewarding conformity with privileges and punishing self-assertion with progressively more severe deprivations of human contact, the outnumbered men who run total institutions are able to maintain power over the inmates. Ayllon has ignored this point.

Though the means are available for operating total institutions, their operation in the United States is especially difficult because of an inescapable clash of ideologies. On the one hand, a smooth-running total institution requires the totalitarian methods of unfettered and arbitrary reward and punishment.¹¹ On the other hand, American ideals require freedom and dignity of the individual. This clash has forced Americans to engage in a good deal of mental dodging

9. Ayllon, *supra* note 1, at 14-16.

10. Cf. E. GOFFMAN, *ASYLUMS: ESSAYS ON THE SOCIAL SITUATION OF MENTAL PATIENTS AND OTHER INMATES* 1-24 (1961). See generally K. KESEY, *ONE FLEW OVER THE CUCKOO'S NEST* (1962).

11. *Hearings on Corrections, Part II: Prisons, Prison Reform, and Prisoners' Rights: California, Before Subcomm. No. 3 of the House Comm. on the Judiciary*, 92d Cong., 1st Sess. 152 (1971) (paper by P. Zimbardo on the psychological power and pathology of imprisonment).

and ducking. We have relied primarily on two maneuvers. First, we have closed our eyes, minds, and hearts to events in institutions. Prisons and mental hospitals have long operated beyond the law.¹² The courts have, until quite recently, refused to take cognizance of even extreme punishments within prisons, particularly when those punishments were connected with institutional power struggles, as has almost always been the case.¹³ Second, the institutional power struggle has been dressed in the moral costume of therapy. The language of medicine has been appropriated to cover the nakedness of power and punishment for more than 500 years.¹⁴ For example, the perpetual solitary confinement of the first American prison was rationalized as therapeutic,¹⁵ and the medical metaphor has been constantly used ever since, rechristening the "hole" as the "adjustment center," the prison as the "correctional institution," and the jail as the "rehabilitation center."

Recent years have witnessed increasing use of the medical metaphor.¹⁶ The language of behavior modification is ideally suited to this defensive operation, for it is abstract enough to include, yet disguise, any exertion of institutional power through reward and punishment. Best of all, the language of behavior modification exorcises entirely the troublesome concept of punishment. There is no punishment in behavior modification, only negative reinforcement. There is no problem of power in behavior modification, only the planning of behavioral contingencies. The language is useful for distracting the public, the legislature, the judiciary, and, perhaps occasionally, the inmates. But most of all, the language of behavior modification is marvelously suited to soothe the consciences of institutional administrators.

12. For discussion of prisons, see Goldiamond, *Toward a Constructional Approach to Social Problems: Ethical and Constitutional Issues Raised by Applied Behavior Analysis*, 2 BEHAVIORISM 1, 1 n.3 (1974); Greenberg & Stender, *The Prison as a Lawless Agency*, 21 BUFFALO L. REV. 799-838 (1972).

13. Note, *Recent Applications of the Ban on Cruel and Unusual Punishments: Judicially Enforced Reform of Nonfederal Penal Institutions*, 23 HASTINGS L.J. 1111 (1972).

The Eighth Amendment to the United States Constitution forbids the infliction of cruel and unusual punishment. Astonishing as it may seem, not a single kind of physical punishment [except capital punishment under statutes making it optional, *Furman v. Georgia*, 408 U.S. 238, 239-40 (1972)] has ever been condemned by the Supreme Court of the United States, nor does any kind of punishment stand condemned.

Rubin, *The Burger Court and the Penal System*, 8 CRIM. L. BULL. 31, 33 (1972).

14. N. KRTTRIE, *THE RIGHT TO BE DIFFERENT: DEVIANCE AND ENFORCED THERAPY* (1971). See generally Opton, *Psychiatric Violence Against Prisoners: When Therapy Is Punishment*, 45 MISS. L.J. 605, 610-22 (1974).

15. W. NAGEL, *THE NEW RED BARN: A CRITICAL LOOK AT THE MODERN AMERICAN PRISON* (1973).

16. See Opton, *supra* note 14, at 643-44.

Behavioral language serves yet another purpose. A principal modus operandi of institutional behavior modification is mystification—disguising basically simple ideas in esoteric jargon. The primary tactic by which the institutional behavior modification movement seeks to grasp power and to insulate itself from the checks and balances of a democratic society is through a bogus wrapping of itself in the ceremonial robes of science in general and medicine in particular. To believe oneself privy to putative mysteries, to keep those mysteries within one's fraternity, and to convince others that there is a secret is the essence of wizardry and the key to its prerogatives and powers.¹⁷

Exercises in convolution of expression and near-solipsistic jargon serve to set their users apart from laymen. Everyone else who works in an institution works within limits on the use of punishment for control. Decency and the eighth amendment, not to mention laws and regulations, limit the weapons which may be used in exerting power over inmates. Institution rulebooks are filled with specifications of the proper match between infractions and punishments. But these limitations do not apply to the weapons within the armamentarium of psychological medicine. The doctor does not punish; he treats. No one outside the professional fraternity may question what harm the doctor does, for if he inflicts pain, it is for the patient's own good. Laymen are unqualified to balance certain pain against possible cure when the science is one whose very language they cannot comprehend.

It may be objected that the vast majority of behavior modification practitioners are ethical persons of good intentions. So they are. This writer knows no reason to think that the incidence of bad faith, sadistic impulses, or self-deception is any higher among practitioners of behavior modification than among practitioners of any other vocation. But it is the nature of institutions—the behavioral contingencies of the institutional environment, if you will—that determines the uses to which technology and language will be put inside their walls.

17. For example, an achievement of one of the best known institutional behavior modification programs has been described as follows:

That the contingency structure was highly influential in regulating the behavior of the group is further shown by the fact that all but one of the patients changed their work assignments immediately when reinforcement was shifted, from preferred to non-preferred jobs. . . .

A. BANDURA, PRINCIPLES OF BEHAVIOR MODIFICATION 263 (1969), citing T. Ayllon & N. Azrin, *The Measurement and Reinforcement of Behavior of Psychotics*, 8 J. EXPERIMENTAL ANALYSIS OF BEHAVIOR 357 (1965). So stated, the effect sounds impressive—until one realizes that, translated into plain English, the sentence says only that the inmates were unwilling to work at one menial hospital job for nothing when they were offered pay for doing another. Crazy they may have been, but not that crazy.

Abuses of Behavior Modification

Ayllon and I both condemn the abuses of behavior modification. We agree that extreme methods will result in profoundly counterproductive collateral effects. One could cite innumerable examples of the use of electric shock,¹⁸ the use of torture by sublethal injections of chemical poisons,¹⁹ and most importantly, the development of draconic forms of the "hole," such as the START Program.²⁰ This has all been done in the name of behavior modification.²¹

The question is how to distinguish such abusive behavior modification techniques from more benign therapies. Unfortunately, there is little in the theory of behavior modification to help us distinguish between benign and destructive programs. The conceptual structure of behavior modification theory is ethically neutral and strictly utilitarian. The job of the behavior modifier is to control the behavior of other people, and of each proposed means to that end, the sole question the theory asks is, "Does it work?" For example, in the spirit of empiricism, a therapist induced grand mal convulsions by passing electric shocks through the heads of the patients under his care. When that reinforcement did not work he tried withholding food, which, he said, did work.²² Considered solely from within the

18. See, e.g., Cotter, *Operant Conditioning in a Vietnamese Mental Hospital*, 124 *AM. J. PSYCHIATRY* 23, 24-25 (1967); Ludwig, Marx, Hill & Browning, *The Control of Violent Behavior Through Faradic Shock*, 148 *J. NERVOUS & MENTAL DISEASE* 624 (1969); Ramey, *Use of Electric Shock in the Classroom: The Remediation of Self-Abusive Behavior of a Retarded Child*, 1 *BEHAVIORAL ENGINEERING*, Fall-Winter 1973-74, at 4. In Ramey, *supra*, an estimated 200 volts of electric shock was used to discourage self-destructive behavior in a retarded child. In Ludwig, *supra*, an electric cattle prod was used in lieu of lobotomy to control an allegedly homicidal, chronic paranoid schizophrenic. The treatment was administered against the will of the patient. Cotter, *supra*, used both electroconvulsive treatment and total withholding of food. While it would have been hoped that these institutional behavior modification programs were not designed by professionals and that the abuses were perpetrated by untrained amateurs, all of the more egregious examples cited here were designed and supervised by professionals.

19. See, e.g., Knecht v. Gillman, 488 F.2d 1136, 1137 (8th Cir. 1973); Mackey v. Procuunier, 477 F.2d 877 (9th Cir. 1973); Reimringer, Morgan & Bramwell, *Succinylcholine as a Modifier of Acting-Out Behavior*, 77 *CLINICAL MEDICINE*, July 1970, at 28. For additional examples, see Opton, *supra* note 14, at 605 n.1.

20. See Clonce v. Richardson, 379 F. Supp. 338 (W.D. Mo. 1974). This opinion is reprinted together with other materials on the START Project in *Hearings on Individual Rights and the Federal Role in Behavior Modification Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 93d Cong., 2d Sess. (1974). For further discussion of START, see Friedman, *Legal Regulation of Applied Behavioral Analysis in Mental Institutions and Prisons*, 17 *ARIZ. L. REV.* 39, 92-94 (1975).

Less well-known than the START Program, but even more formidable, was the Prescription Correctional and Control Program at New York State's Clinton Correctional Facility. See N.Y. STATE SELECT COMM. ON CORRECTIONAL INSTITUTIONS AND PROGRAMS, *INTERIM MONITORING REPORT* No. 4, 11 (Sept. 1972) (Jones Commission Report).

21. Examples of abuse of behavior modification language can be provided many times over. Perhaps the worst occur when whole institutions contend that major aspects of their programs are beyond judicial scrutiny since the program is a medical therapy, that is, behavior modification rather than punishment.

22. See Cotter, *supra* note 18, at 25.

theory of behavior modification, one cannot seriously fault these methods.

Proponents of institutional behavior modification, such as Aylion, have dismissed the sorts of abuses discussed here as distortions of behavior modification ideas. They see "genuine" and benign behavior modification programs, such as token economies, as different in principle from those which are "perverted." For example, Aylion notes that the sensory and social deprivations involved in the START program were "not standard practices in behavior modification."²³ One distinguished behavioral psychologist has written, however, that: "These inhumanities illustrate how readily methods of treatment can be perverted into methods of punishment in involuntary settings when people have coercive power over others and safeguards of due process are lacking."²⁴ There is no barrier to these perversions within the theory of behavior modifications. If they work, nothing precludes their inclusion in the utilitarian framework of behavior modification. Perversions they may be, but only in a moral sense.

Aylion and other behavior modifiers are to be commended insofar as they disassociate themselves from the practices which are much too common in institutional applications of behavior modification. But attempts to read certain practices out of a therapeutic approach will not work if the theoretical underpinning of that approach is one into which those practices fit with perfect logic. The problem with attempting to curb the abuses of behavior modification by better scientific training is that the "uses" and the "abuses" are equally valid relative to the theory. Like other scientific methods, behavior theory is ethically neutral.

Conclusion

At this point, it may well be asked whether there is anything to be said for behavior modification. In fact, there is a great deal to be said in favor of behavior modification, at least as applied to individuals in the free world who seek help to master their fears, compulsions, and other personal problems. It is not behavior modification which this Commentary challenges, but the uses to which total institutions put it. To respond to a request for help from a person who asks for it is a matter entirely different from imposing "help" on a group of people who may or may not want it and who may

23. Aylion, *supra* note 1, at 14.

24. A. Bandura, *The Ethics and Social Purposes of Behavior Modification* 1974 (unpublished manuscript), on file in the *Arizona Law Review* office.

perceive—correctly—that it is not they, but their adversary, the institution, which will benefit.²⁵

These harsh judgments of behavior modification programs apply only to the kinds of programs often found in institutions and only to the worst of these. Such programs may be a minority, but they are effective in that they have the potential for producing docility within the institution. Because they fulfill institutional needs they will proliferate, while less potent programs will either wither on the vine or be pruned back. Codes of ethics, guidelines, and the "musts," and "shoulds," upon which Aylon relies, count for little against the imperatives of institutional convenience.

It is in the nature of total institutions to degrade inmates and to bend whatever technology is at hand to that purpose. Total institutions must degrade to survive. The choice of accepting or rejecting institutional behavior modification is not a choice between freedom and coercion. Since total institutions are by definition coercive, the choice is only between traditional, limited abuses and the new technologies of coercion, which are more amenable to concealment of abuses.

I would argue that the traditional coercions are preferable, but that does not mean we should embrace them. To choose the lesser of two evils is a Hobson's Choice. We should try most of all to limit to an irreducible minimum the existence of total institutions, the root of the evil.

25. See the eloquent statement of this theme by C.S. Lewis, *quoted in* Opton, *supra* note 14, at 644.