Do Psychotherapists Harm?

Abstract:

Perhaps the salient peculiarity of the American Psychological Association's Code of Conduct is its virtually complete lack of prescriptive language—its aversion to binding terms and moral obligation. The code is very reluctant to tell psychologists what to do, though not reluctant to idealize what they already do. It plays right into the hands of the well-intentioned therapist who has no conception of him- or herself as a person capable of doing harm. Only in a utopia do people behave as they are supposed to, but without being subject to obligation or prohibition.

Ever since the theory arose during the Enlightenment that crime could spring from remediable causes such as idleness and drink, and that wrongdoers should therefore not be punished but reformed or cured, therapeutic and moral categories have been in potential conflict.[1] Over time a wedge has been driven between them. The therapeutic imperative that came into existence in the Enlightenment now lays claim to the prestige of being enlightened. Speaking in the name of both rationality and compassion, advocates of therapy sometimes attach a hateful, Old Testament sound to the word "morality," as if it stood for cruelty, archaism, and superstition.

Universally in works of pop psychology—a genre whose influence should not be underestimated, and some of whose practitioners are academically trained psychologists themselves—the word "morality" is a bugbear. Everything the self-help movement dislikes is summed up in that one word, now understood as a hostile judgment on the self that is only too likely to be internalized: the nemesis of

human wellbeing. The entire genre stands with the self-help author who exhorts us to liberate ourselves from "the folly of shoulds, musts, and oughts."[2] Because of the secrecy surrounding proceedings in the therapist's office it is hard to know to what degree this sort of utopianism creeps into psychotherapy, but to be non-judgmental is certainly accounted a virtue in a therapist. In the United States the psychology profession itself is so wary of the language of prohibition or duty that its code of ethics—the one locus where shoulds, musts, and oughts might be supposed inevitable—shuns prescriptive phrasing throughout. That avoidance and what it may signify are my topic here.

Perhaps the salient peculiarity of the American Psychological Association's Code of Conduct is its lack of prescription. Thus, although "the bedrock ethical duty required of psychologists . . . is nonmaleficence, captured most felicitously in the adage, *Primum non nocere*—Above all, do no harm,"[3] the APA code does not enjoin psychologists not to harm. Instead, it lays down as a General Principle that "Psychologists strive to benefit those with whom they work and take care to do no harm"—evidently meaning that they *try* not to harm—though even this comes with the disclaimer that General Principles "do not represent obligations." The General Principle of avoiding harm, far from towering "above all," stipulates only that "when conflicts occur among psychologists' obligations or concerns, they attempt to resolve these conflicts in a responsible fashion that avoids or minimizes harm." The Ethical Standard on avoiding harm, buried deep in a code encompassing dozens of clauses, similarly states, "Psychologists take reasonable steps to avoid harming

their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable." Compared with the categorical "Do no harm," and in view of the use of the qualifier "reasonable" throughout the code to distinguish it from "a set of rigid rules,"[4] the requirement that psychologists take reasonable steps not to harm (or to mitigate harm if harm they must) lacks rhetorical or any other kind or other force. It is a rope tied to nothing at either end.

Note too that even the dilute requirement to attempt to avoid harm is not phrased as a requirement but as a description of what psychologists already do. "Psychologists take reasonable steps to avoid harming their clients/patients . . ." It is as if an admonition like "Do not harm" had been deemed so harsh that its negativity had to be expurgated. Arguably, though, such an admonition would be more appropriate, more in keeping with a code of conduct, than the statement that psychologists take reasonable care not to do harm. Nevertheless, the authors of this carefully-considered document insist on the use of the descriptive throughout, exactly where we would expect, and where the text itself would seem to require, prescription. Thus:

> When psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to

that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code.

Or:

Psychologists do not fabricate data.

Or:

Psychologists do not engage in sexual intimacies with current therapy clients/patients.

On one occasion admonitory language is used in the APA code only to be abandoned immediately:

If this Ethics Code establishes a higher standard of conduct than is required by law, psychologists must meet the higher ethical standard. If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known this commitment to this Ethics Code and take steps to resolve the conflict in a responsible manner.

In a few short words we pass from definite obligation ("psychologists must meet the higher ethical standard") to verbal red tape. In this paper I take such stylistic matters seriously. To those who might counter that the APA code's avoidance of obligating language is just a polite way of imposing obligations (so that "Psychologists take steps . . ." just means "Psychologists should or must take steps"), I would reply, Why write a document in euphemisms?[5] Besides, it is not clear that, or to what extent, the code's provisions are really meant to be prescriptive. For decades the APA has prided itself on not prescribing ethics to its membership, instead polling psychologists to determine what "dilemmas" they encounter in practice and fashioning a code around them. The absence of prescriptive language in the 2002 code follows directly from this longstanding preference for a code "based upon the day-to-day decisions made by psychologists in the practice of their profession, rather than prescribed by a committee" (as a commentator wrote in 1969).[6] Trading rhetorically on our dislike of the Ivory Tower, top-down approaches, and much else, the arguments against ethical principles "prescribed by a committee" do not quite claim that the profession need not be told what ethical behavior is because it is already doing the best it can—but that implication remains in play.

I have quoted from the 2002 APA Code of Conduct.[7] The codes of 1992 and 1981 use the same style, although interestingly the original code, adopted in 1952, does not. Though the original code was drafted at a time when the profession of psychology was eager to establish itself *as* a profession in the eyes of the world—

eager to promote "acceptance of psychologists as a group with professional status," as the code's mover wrote[8]—so that it might have made advertising sense to portray psychologists as the living definition of high standards of conduct, the code nevertheless uses admonitory language. Thus:

> The psychologist should refuse to suggest, support, or condone unwarranted assumptions, invalid applications, or unjustified conclusions in the use of psychological instruments or techniques.

Or:

> It is unethical for a psychologist to offer services outside his area of training and experience or beyond his level of competence.

Sensitive to moral distinctions, the authors of the 1953 code consciously employed a scale of obligating phrases descending from those like "the psychologist must" or "it is unethical to . . ."; to the less strong "the psychologist is expected to" or "the psychologist should in general"; to the definitely weak "professional courtesy suggests."[9] Recent versions of the code simply abandon the language of obligation. "We are suspicious of the very idea of morality," wrote a prominent historian in 1994.[10] The disappearance of prescriptive language from the APA code over the decades since its inception tells the same tale.

An increase of lawsuits against psychologists in the 1980s led to a revision of the APA Code of Conduct in 1992 that separated "enforceable standards" from more general statements of principle,[11] and some might say the omission of binding language like "must" reflects a fear of lawsuits and an intent to give legal actions against psychologists as little purchase in the code as possible (that is, to make "enforceable standards" as little enforceable as possible). The Introduction to the 2002 code does state, "The Ethics Code is not intended to be a basis of civil liability. Whether a psychologist has violated the Ethics Code standards does not by itself determine whether the psychologist is legally liable in a court action. . . ." Nevertheless, this disclaimer itself has little legal force,[12] and in any case a wariness of lawsuits does not by itself account for the code's nonbinding style. Surely medical doctors are no less wary of lawsuits than psychologists, and yet the American Medical Association's Code of Medical Ethics displays none of APA code's aversion to binding terms and moral obligation. The absence of obligating language from the APA code in recent incarnations is all the more striking next to the wording of this analogous document.

Where the APA statement does not use the psychologically troubling word "moral," the AMA counterpart states point blank, "The practice of medicine, and its embodiment in the clinical encounter between a patient and a physician, is fundamentally a moral activity that arises from the imperative to care for patients and to alleviate suffering." While the Code of Medical Ethics by and large steers clear of issuing prohibitions (though a physician "should not be a participant in a

legally authorized execution"), this only means that it phrases duties in the positive, stating what the physician is professionally bound to do. The AMA is not shy about shoulds, musts, and oughts.[13] Thus:

> A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.

Or:

> The physician's obligation is to present the medical facts accurately to the patient or to the individual responsible for the patient's care and to make recommendations for management in accordance with good medical practice. The physician has an ethical obligation to help the patient make choices from among the therapeutic alternatives consistent with good medical practice. Informed consent is a basic policy in both ethics and law that physicians must honor.

If the AMA code were written in APA style, it would say,

> The physician presents medical facts accurately to the patient . . . and makes recommendations . . . in accordance with good medical practice. The physician helps the patient makes choices from among the therapeutic

alternatives consistent with good medical practice. Informed consent is a basic policy in both ethics and law that physicians honor—

which has a Dick-and-Jane sound, as if the physician were not grown-up enough to confront the difficulty of obligation.

Sometimes indeed we try to coax children into good behavior by telling them, in APA style, the way things are done.

Big boys use a fork.

Or:

Bert and Ernie finish their peas.

As Locke advised three centuries ago, it is best "to keep [children] to the practice, of what you would have grow into a Habit in them, by kind Words, and gentle Admonitions, rather as minding them of what they forgot, than by harsh Rebukes and Chiding, as if they were wilfully guilty."[14] In their concern to avoid prescriptive language as if it were backward and offensive, the authors of the APA Code of Conduct fall into a sort of pediatric tone themselves, even if the implied audience consists in this case of highly trained adults. This false note in the APA code is more

than a stylistic flaw, however. An ethics code so wary of prescriptive language, so reluctant to tell professionals what it behooves them to do or not do, is an anomaly.

The medical maxim "Do no harm" is cast as an imperative.[15] The statement "doctors do no harm" sounds like something out of Pravda, contradicted as it is by the known fact that medical errors are responsible for the death of many thousands of patients annually in American hospitals: a reality that in turn gives urgency and point to the injunction against doing harm. That the stakes are less high in psychology does not mean they are not real.

Suppose then that a patient with a therapist's help digs up memories of sexual abuse extending, supposedly, for years on end and considers taking legal action against her victimizer; but then, realizing how wildly improbable her own "recollections" have become, turns the tables and sues the psychologist for suggesting and ultimately implanting false memories, with devastating consequences for herself and others. The case goes to court, where the counsel for the defense boldly cites the wording of the APA Code of Conduct: "Psychologists strive to benefit those with whom they work and take care to do no harm." That the defendant is a licensed psychologist is not in dispute (says the defense attorney), and therefore it follows that she sought to avoid doing harm, just as the code says in clear terms. But of course this scenario is a soap bubble, because a provision of the Code of Conduct establishes nothing about what the defendant in fact did or did not do, and citing it as if it did prove such a thing amounts to a flippant exercise in question-begging. But while one could never make the argument "I am a

psychologist; therefore I acted responsibly" in open court, this is the sort of sophism we might well use in the privacy of our minds to rationalize actions or clear ourselves of an accusation of misconduct. When critics charged psychologists who professed to uncover buried memories with fabricating evidence, brainwashing clients, and destroying families, how many of the accused must have said to themselves,

> How could I possibly be guilty of such terrible things? I am a psychologist, licensed and in good standing, a caring professional, meaning that I do not fabricate evidence, any more than I would commit plagiarism or claim a professional degree I do not possess. A psychologist respects the dignity of the client, and I am a practicing psychologist, so how on earth could I have abused this person by *brainwashing* her? Psychologists strive to benefit those with whom they work and take care to do no harm, and am I not just that—a psychologist? I did no harm. It is my accusers who do harm—by impugning the suffering of victims and trying to discredit those like me who help them and give them the courage to come forward.[16]

The language of the APA code—a document not only "larded with the lawyerly language of 'reasonableness'"[17] but devoid of prescription—maps right on to the logic of self-exoneration. Our hypothetical therapist simply exploits the ambiguity of a code reluctant to tell psychologists what to do but not reluctant to idealize what

they already do. Critics of the 1992 code within the APA itself pointed out that it was so vitiated by qualifying terms that it could hardly be used to enforce anything, and that it played into the hands of psychologists who might want to rationalize their misconduct.[18]

"Problems occur when well intentioned therapists conclude from their clients' symptoms alone that they were victims of abuse."[19] A person can harm without meaning ill, if only because the very absence of malice convinces the person that he or she can't possibly be as bad as all that. Such a one is Stiva, the philandering husband and the heroine's brother in *Anna Karenina*: "an evil character who intends nobody any harm [and] stands as one of Tolstoy's boldest and most original creations, all the more so because Stiva's psychology is entirely convincing."[20] The good-natured Stiva does that much more harm because he has no conception of himself as being harmful. Our therapist does not think of herself as doing harm because she credits the statement "Psychologists . . . take care to do no harm" as a statement of fact and identifies herself as a caring psychologist.

An extreme example of harming with the best of intentions is the suffocation of ten-year-old Candace Newmaker in 2000 in the course of a "rebirthing" conducted by two psychotherapists. Stuffed into a flannel sheet with the ends twisted and sat on by adults with a combined weight of more than 600 pounds in a simulation of birth contractions, the child cried out that she could not breathe, but was ignored. According to the Colorado Court of Appeals, the videotaped rebirthing session

> lasted for over an hour. During that time, the child repeatedly said that she could not breathe, that she needed air, that she was going to throw up, and that she was being squashed. . . . Believing that the child was being manipulative, however, defendant and her associates ignored the pleas and continued with the procedure.
>
> The child eventually stopped moving or speaking. Defendant and her associates thought that she was asleep.

Even with the child dying beneath them, the therapists could not get it through their heads that they were doing harm. (Indeed, even after the child's death one continued to insist that "her therapy for children with attachment disorder was effective"; it was on these grounds that she appealed her conviction for reckless child abuse resulting in death.) In order to guard against doing harm one has to be aware, first, of one's capacity for harm. This principle applies to more mainstream practitioners as well, including those who may feel, "Fringe therapists who harm their clients are not bona fide psychologists. Bona fide psychologists do not harm." In part because harms resulting from conventional psychotherapy are less dramatic and newsworthy and more deniable than in cases at the fringe, the built-in iatrogenic potential of such therapy is rarely acknowledged.

It was with fringe therapies in mind that a psychologist pointed out in 2007 that despite the evidence of therapies that harm,

> the field of clinical psychology has until fairly recently shown little concern with the problem of harmful treatments. For example, Bergin and Garfield's authoritative and remarkably comprehensive *Handbook of Psychotherapy and Behavior Therapy*, which psychologists have ranked as the premier book on psychotherapy, contains approximately 2.5 pages (out of a total of 821 pages of text) on the topic of adverse effects of therapy. The recent APA paper on evidence-based practice does not even mention explicitly the problem of potentially harmful psychotherapies.[21]

(According to the same investigator, "it is likely that the overwhelming majority of practitioners who administer [harmful treatments] do so with the best of intentions.")[22] In the chapter of the influential *Ethics in Psychology and the Mental Health Professions* devoted to the "Ethical Obligations of Psychotherapists," the duty not to harm figures but is largely subordinated to the duty to show "special sensitivity to issues of diversity, particularly race and social class issues."[23] At that, almost none of the cases illustrate the actual commission of harm. Therapists say things that are politically stupid or ask about a patient's sex life when he is seeking treatment for high blood pressure or high-five a black client to show how enlightened they are or prolong therapy unduly; in a few cases they may add to the

distress of a patient already in a bad way; but rarely are therapists shown as doers of harm, and never as acting out a reckless obsession at the patient's expense as in the case of the actual rebirther or the hypothetical retriever of repressed memories.[24] As a lot they seem more blundering than harmful, like the therapist who unconsciously bites his lip and bloodies himself during a client's rages, which the client interprets as the act of a vampire—an episode that occasions a warning from the authors about patients' susceptibility to harm. "The therapist should always consider the client vulnerable to harm and avoid using the power position inherent in the therapist role to the client's detriment."[25] If biting one's lip in front of a patient is the sort of injurious act psychotherapists need to be careful of, they do not have much to worry about. They need not be admonished not to harm because they are innocuous enough already.

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Given the virtual exclusion of prescriptive language from APA Code of Conduct, it is notable that the chair of the committee tasked with drafting the code interprets its provisions prescriptively in perhaps every instance. "The language of the enforceable standards in the 2002 Ethics Code was crafted to describe *the behaviors that are required and those that are proscribed* in a manner that would reasonably be understood by readers."[26] Thus, the section on reporting "ethical violations" that reads in part,

> If an apparent ethical violation has substantially harmed or is likely to substantially harm a person or organization . . . psychologists take further action appropriate to the situation,

is interpreted to *require* psychologists to take action.[27] The standard on Deception in Research, again phrased descriptively, is interpreted as providing "more specific guidance on when the use of deceptive research methods is ethically *prohibited* and add[ing] a new *requirement* that participants in deception studies *must* be permitted to withdraw their data following dehoaxing."[28] The standard on Terminating Therapy states that

> Psychologists terminate therapy when it becomes reasonably clear that the client/patient no longer needs the service, is not likely to benefit, or is being harmed by continued service,

interpreted as meaning that "psychologists must . . . terminate therapy when the client is not likely to benefit," etc. But if the provisions of the code are intended as having the force of obligations or prohibitions, why was it not written accordingly? Why do the authors shun words like "must" and "must not" as if on principle? Would such language not be "reasonably understood"? Why can the authors not

bring themselves to use prescriptive terms? Evidently because they are uneasy with the very concept of prescription.

The authors' reluctance to legislate and discomfort with the idea of prescribed standards manifest themselves in a reliance on the convenience word "reasonable," defined in the code itself as referring to "the prevailing professional judgment of psychologists engaged in similar activities in similar circumstances . . ." Practically speaking, the appropriateness of what Psychologist Jones does is to be judged in many cases by what those like Psychologist Jones do. In a code that does not contain the word "moral" there are 29 occurrences of the word "reasonable" (including the critical provision that "Psychologists take reasonable steps to avoid harming their clients/patients . . .") plus 13 of "reasonably," and it is fair to ask whether such heavy recourse to a tautological standard is itself reasonable.[29] The code tends to collapse what psychologists should or should not do into what they do or do not do, or suppose themselves to do or not do. Caught between their belief that a code of ethics must lay out "the behaviors that are required and those that are proscribed" and their all but insurmountable antipathy to the language of requirement and proscription, the authors seem to hope that practicing psychologists will behave as required, but without actually being required.

Of only one venue, I believe, can it be said that people do exactly as they are supposed to without the necessity of prohibitions and without the possibility of their doing otherwise. That venue is utopia. Arguably, it is in fact the essence of utopia

that citizens do as their way of life bids them to do as if it were a prompting of their own nature, without being admonished, commanded, or argued into it. For the inhabitants of a utopian society, and only for them, would it be possible to write a code of conduct that simply records what they already do.

Part satire, part philosophical novel, part learned jest, the wellspring of the modern utopian tradition, More's Utopia is founded on the abolition of the private property responsible for the division of European society into rich and poor. However, to abolish wealth without also doing away with the desire for wealth would be to cut the stem while leaving the root, and this the Utopians have no intention of doing. So completely, in fact, do they eliminate greed that they seem not to have laws or punishments for theft.[30] They do not have them because they do not require them. The Utopians do not need to be commanded not to steal because by virtue of living in their republic with its community of property they are strangers to the love of wealth. If, as some interpreters maintain, the Utopians live an essentially easygoing life, hemmed in by few laws and left by and large to their innocent pleasures, the absence of laws against theft epitomizes this happy condition.

However, greed does not automatically disappear from Utopia as a result of the sufficiency of good things in that fortunate commonwealth. It is systematically rooted out of the young as part of the conditioning regimen to which all Utopians are subjected in preparation for citizenship. The one example of Utopian education provided by More concerns the eradication of greed, evidently because the Utopian

way of life hinges on it, though the point to be noted for our purposes is that even when dealing with children, and with their way of life at stake, the Utopians do not use shoulds, musts, and oughts.

The jewels that are objects of such mad pride and greed in Europe are there for the finding in Utopia, says More, though the Utopians

> never go out of set purpose to look for them. If they happen to find some, they polish them, and give them to their children who, when they are small, feel proud and pleased with such gaudy decorations. But after, when they grow a bit older, and notice that only babies like such toys, they lay them aside. Their parents don't have to say anything, they [the children] simply put these trifles away out of a shamefaced sense that they're no longer suitable, just as our children when they grow up put away their rattles, marbles, and dolls.[31]

"Their parents don't have to say anything." No lectures, sermons or prohibitions are necessary to extinguish a child's love of jewels. Utopian children don't have to be admonished not to covet because they are being inducted all the while into a society where no one craves wealth, because outshining one's neighbor (as the rich to do in Europe) contradicts and destroys fellowship itself. Growing up means becoming a citizen, which means abandoning any puerile desire to awe one's fellow

citizens. Where Europeans have to be enjoined not to covet but covet anyway, the Utopians simply do not covet at all. Utopia is "a society of do's, not do not's."[32]

So too in other utopian societies: people do as they are supposed to do without any feeling of submitting to an edict imposed from without. The narrator in William Morris's *News from Nowhere* (1890) wakes up in a pleasant property-less England "where there is no punishment to evade, no law to triumph over."[33] If children grow into the society of More's Utopia, in Nowhere humanity itself has come into its own, and to live well citizens need only follow their own nature. Prohibitions and imperatives seem to have lost their point and withered away. A spokeswoman for the commonwealth of women in Charlotte Perkins Gilman's *Herland* (1915), asked whether they have punishments, replies, "Do you punish a person's broken leg or a fever? We have preventive measures, and cures; sometimes we have to 'send the patient to bed,' as it were; but that's not a punishment—it's only part of the treatment."[34] (Similarly in Morris's Nowhere: "you will not find anyone to play the part of torturer or jailer, though many to act as nurse or doctor.")[35] Such wrongdoers as exist receive treatment, not punishment, because they forgot themselves and need only return to themselves, mend. Moral prohibitions yield to therapeutic concerns. If some of today's advocates of therapy impute an archaic, Old Testament connotation to the word "morality," the male narrator of *Herland* questions "that God of Battles of ours, that Jealous God, that Vengeance-is-Mine God"[36] at the very moment he learns that offenders are treated, not punished in the land of women. No doubt the therapists of Herland have no

code prescribing what to do and not do. Strangers to conflict and error, they automatically take the right action, to the point that if they had a code of conduct it would simply list what already do spontaneously.

But in the world we inhabit people do know conflict and error and do not take the right course simply by heeding their nature. For our therapists a code of conduct is not a redundant exercise, and therefore it should not be written as if for a community that had outgrown the need for prohibitions, as in More's Utopia and its offshoots. Only of such an ideal commonwealth as these could it be stated as a matter of fact, "Psychologists strive to benefit those with whom they work and take care to do no harm." Why is this point worth making? First, because psychotherapists sometimes do cause harm in many forms, including "symptom worsening, the appearance of new symptoms, heightened concern regarding extant symptoms, excessive dependency on therapists, reluctance to seek future treatment, and even physical harm," as well as harm to relatives and friends of the client.[37] Among treatments known or strongly suspected to be injurious are two I have cited—rebirthing and recovery of repressed memories—along with a number of others including grief counseling for "normal bereavement" and "critical incident stress debriefing" (CISD), in which victims of recent trauma are encouraged to discuss and process their emotions. As to the first of these, one investigator has found "that 38% of clients who received grief therapy would have achieved superior end-state functioning had they been assigned to the no-treatment control condition, suggesting the distinct possibility of iatrogenic effects among a sizeable

subset of individuals exposed to grief counseling"; as to the second, it appears that "some practitioners may erroneously attribute the negative effects of CISD . . . to the effects of trauma rather than to the intervention itself."[38] But the harms of psychotherapy are not confined to a few outlying practices. The most philosophically rigorous study of psychotherapy yet written finds certain therapies extensively contaminated by an epistemological license that authorizes fictitious theories, dubious interpretations, and spurious insights, the worse because the object of this pseudo-knowledge is our very selves, and because the theories (etc.) are credited as if they were not epistemologically compromised at all. Nor are the issues at stake academic.

> There is an . . . ethical dimension to the idea that truth matters. False, bogus, or fictional psychodynamic interpretations and insights can be as psychologically harmful as false memories. Like false memories, they can lead to the break-up of families, the dissolution of marriages or partnerships, the radical alteration of life plans, the erosion of religious faith, or the morally self-serving rewriting of the past. What looks like *bona fide* insight, or self-knowledge, or a genuine realization, or a new and more empowering way of looking at oneself, may in fact be ethically calamitous.[39]

To say of the therapists responsible for these calamities that they "strive to benefit those with whom they work and take care to do no harm" simply covers one fiction with another.

Only in the provision that "Psychologists terminate therapy when it becomes reasonably clear that the client/patient . . . is being harmed by the continued service" does the APA code recognize harm that may flow from therapy itself. Clearly this is envisioned as an unusual circumstance. No notice is taken of the harm that results from recommending specious insights to suggestible patients—so suggestible that some have been known to have "artifactual" dreams, that is, the dreams called for by their treatment. As David Jopling contends in his investigation of psychodynamic therapies (though his analysis applies much more widely), simply to be led to false insights about oneself is to become a "victim of epistemic suggestion."[40]

> If clients believe and have been informed that psychodynamic insights and interpretations are authentic and true, when in fact they are explanatory fictions that operate by means of the placebo effect, then they are victims of psychotherapist-induced intentional ignorance, the strongest version of which is deception,[41]

whether or not they go on to leave a job or dissolve a marriage. The placebo effect has the uncanny ability to make any treatment, including any psychological

treatment, seem valid and beneficial—and to convince its wielders of the soundness of their methods.

Cold deception is a rare case. Therapists are far more likely to believe their own placebic interpretations, which simultaneously enhances the suggestiveness of these constructs and precludes the possibility of the therapist recognizing suggestion for what it is.[42] This is to say that therapists can play on susceptibility to false explanations and confuse patients' understanding of themselves, possibly with "calamitous" results, without being aware of doing so and without intending harm, instead taking their benevolence as the guarantor of good practice and assuring themselves, in effect, "I am a psychologist; psychologists do not abuse clients by exploiting their weaknesses; therefore I do no such thing." Recall "the power . . . inherent in the therapist's role." The assumption that a therapist will employ this unique unchecked power, in a setting ideal for suggestion, and in the face of an object of understanding as ambiguous as the self (and as suspect as the "authentic self"), to render nothing but "truth-tracking" judgments—such an assumption is utopian in itself.

The harm that can follow when good intentions meet human weakness comes out in a passing comment in Frank and Frank's well-known study of *Persuasion and Healing*. First laying down the principle that "to be effective, interpretations, the primary means of transmitting the therapist's conceptual framework, need not be correct, only plausible" (which comes close to conceding

them to be fictitious), the authors show how the psychotherapist can play on suggestion to good effect by building up the patient's confidence.

> Performances that patients attribute to their own efforts enhance self-esteem more strongly than do those they attribute to such external factors as medication or outside help. Recognizing this, psychotherapists of all schools seek to persuade patients that their progress results from their own efforts.

But the strategy can backfire.

> Unfortunately, however, humans are not all-powerful. All of us must face problems we cannot solve and endure sources of distress that no amount of effort can alleviate. In these circumstances, trying to convince patients to take responsibility for their troubles may be counterproductive or even disastrous.[43]

The authors do not calculate how much of psychotherapy is left standing after this deduction is made for the limitations of being human. We can be pretty sure, though, that the therapists responsible for the disasters tell themselves that they meant well and took all reasonable care to avoid the outcome they brought about.

Like a therapist without awareness of the deficiencies of his or her theories and the risks of therapy itself, the APA code makes no mention of suggestion (despite its omnipresence in psychotherapy), the mishandling of evidence, or the harm these can cause. Every abuse in the name of therapy cited by Jopling, from culpable naiveté to "narrow theoretical dogmatism" to "imprudent salesmanship" to simple "epistemic irresponsibility," can be safely practiced within the confines of the APA Code of Conduct.[44] If psychologists take, or are to take, reasonable steps to avoid harm, with reasonableness measured by "the prevailing judgment of psychologists" themselves as the code explicitly states, then all such abuses are excused precisely because they are as prevalent as Jopling alleges them to be. So too, if the standard governing Bases for Scientific and Professional Judgments—"Psychologists' work is based upon established scientific and professional knowledge of the discipline"—prohibits only the application of "idiosyncratic ideas and techniques,"[45] a psychotherapist can ethically commit the common abuses because they are common. Nor will a document as reflective of existing practice as the current code warn against a confidence-building technique used by "psychotherapists of all schools" despite the harm it may cause in the case of patients who are "not all-powerful." The fact is that the APA Code of Conduct has grown both less prescriptive and more lawyerly as psychotherapy has established itself in the American marketplace (to the point where it has been estimated that 20% of the population has seen a therapist).[46] What is lost by the code's refusal of prescription—for example, its statement that therapists do not harm or that they

take reasonable steps not to harm, as opposed to a prohibition of harm? Consider one researcher's admonition to those who suspect a patient may have been abused as a child:

> Don't infer a history of abuse where none is stated, don't offer leading suggestions to a client in hypnosis about what and how to remember, don't assume a "root cause" for every problem, do know the workings of human memory, do know the limits of hypothesis, do know that memories can be detailed and emotional and still be wrong, and be clear about the distinction between supporting versus validating your client's memories.[47]

How salutary an imperative can be.

An APA code framed in appropriately moral language would by its very wording argue against the fallacy that such language is a kind of inflammatory archaism, "at best an intellectual embarrassment, at worst evidence of an illiberal and repressive disposition."[48] This would be a gain, for the concept of morality, along with its adjuncts blame and self-blame, has become so loaded that it poses an invitation to interpretive excess. Among some therapists who purportedly uncovered repressed memories it was a doctrine that the victim of abuse tends to blame herself, which metastasizes all too readily into the theory that a sense of blame is a presumptive symptom of abuse. Pop psychologists for their part, whether or not they concern themselves with repressed memories, tend to portray

any prohibition or obligation as a tyranny exercised over the self by hostile others.[49] While any code of conduct can be ignored, an appropriately prescriptive APA code would make the point that prohibition and obligation are not signs of tyranny or relics of a violent past and that a patient's sense of obligation or blame is not a presumptive marker of abuse or anything else, and should not open the door to an "ethically calamitous" interpretive license.

In that patients must be truthful in order for psychotherapy to work, and in order for them to be truthful the therapist must suspend moral judgment—especially censure—the practice of therapy rests on the suspension of judgment. This hardly means that the conduct of the therapist himself or herself is exempt from judgment. By doing away with morally freighted words like "must" or "ought" and defining appropriate conduct very often as the way psychologists tend to conduct themselves, the APA code ambiguously offers such an exemption. Amid all of this aversion to moral language as if it were an offense to enlightenment, it is a pleasure to read the words of Isaiah Berlin: "It seems to me that we should be unwise to underestimate the effect of robbing praise, blame, a good many counterfactual propositions, and the entire network of concepts concerned with freedom, choice, responsibility, of much of their present function and meaning."[50] Berlin believed, however, that if such a purge of language took place it would be as a result of some advance of positive knowledge that rendered human beings transparent and predictable—a prospect that remains as distant now as it was when he wrote. He did not foresee a less philosophical, but no less potent and

certainly closer-to-hand influence on our common speech: the therapeutic idiom with its pronounced animus against the language of responsibility.

Stewart Justman
2015

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[1] Bentham sometimes used moral and therapeutic phrasing indifferently, as when he advertised his Panopticon both as a device for "grinding rogues honest" and as a means of curing "persons of unsound mind. The prisoner was both an unfortunate and a scoundrel—a victim, but mainly the victim of his own habits. Janey Semple, *Bentham's Prison: A Study of the Panopticon Penitentiary* (Oxford: Clarendon Press, 1993), pp. 153-54. The Panopticon was never built.

[2] Wayne Dyer, *Your Erroneous Zones* (New York: Funk & Wagnalls, 1976), p. 148. Cf. e.g. Phillip McGraw, Ph.D., *Self Matters: Creating Your Own Life from the Inside Out* (New York: Free Press, 2001), p. 237: "Somewhere along the way, she had adopted the shoulds and musts of those [prescribed] beliefs and learned the lines of her lifelong script." Cf. the soixante-huitard slogan, "Il est interdit d'interdire."

[3] Donald Bersoff and Peter Koeppl, "The Relation Between Ethical Codes and Moral Principles," *Ethics & Behavior* 3 (1993), p. 347.

[4] See the gloss on the word "reasonable" in the Introduction to the 2002 Code.

[5] Additionally, "should" does not have the force of "must."

[6] Stuart Golann, "Emerging Areas of Ethical Concern," *American Psychologist* 24 (1969), p. 454. On the APA tradition of not imposing ethics from above, see Kenneth Pope and Valerie Vetter, "Ethical Dilemmas Encountered by Members of the American Psychological Association: A National Survey," *American Psychologist* 47 (1992), pp. 397-411. The authors note "the extreme lengths to which most psychologists are willing to go to ensure the welfare of their patients." It should be said that the APA practice of doing ethics from the ground up originates in the 1952 Ethics Code, which was by no means shy about prescriptive language.

[7] The 2002 Code was unanimously approved by the APA's Council of Representatives in August of that year. See Celia Fisher, *Decoding the Ethics Code: A Practical Guide for Psychologists* (Los Angeles: Sage, 2009), p. xxvii. The Canadian Code of Ethics for Psychologists is even less forcefully worded than the

APA Code, stating that in conformity with certain overarching principles, psychologists "would" [not "should," not "must"] take certain actions. The Code of Ethics of the British Psychological Society uses "should" in the analogous places. On the difference between "You should not" statements and "You should" statements, see Ronnie Janoff-Bulman, Sana Sheikh, and Sebastian Hepp, "Proscriptive Versus Prescriptive Morality: Two Faces of Moral Regulation," *Journal of Personality and Social Psychology* 96 (2009), pp. 521-37. However, the APA Code eschews "should" altogether.

[8] Nicholas Hobbs, "The Development of a Code of Ethical Standards for Psychology," *American Psychologist* 3 (1948), p. 81.

[9] Donald Bersoff, "A Short History of the Development of APA's Ethics Codes" in *Ethical Conflicts in Psychology*, ed. Donald Bersoff (Washington, DC: American Psychological Association, 2008), pp. 10-11.

[10] Gertrude Himmelfarb, *The De-Moralization of Society: From Victorian Virtues to Modern Values* (New York: Vintage, 1994), p. 240.

[11] Fisher, *Decoding the Ethics Code*, p. 5. On the 1992 code, see Donald Bersoff, "Explicit Ambiguity: The 1992 Ethics Code as an Oxymoron," *Professional Psychology: Research and Practice* 25 (1994), pp. 382-87.

[12] Fisher, *Decoding the Ethics Code*, p. 27.

[13] The Canadian Code of Ethics for Psychologists has been deemed "less authoritarian" and "more empowering to the decision-maker" than its Canadian medical equivalent. See David Malloy, Thomas Hadjistavropoulos, Patrick Douaud, and William Smythe, "The Code of Ethics of the Canadian Psychological Association and the Canadian Medical Association: Ethical Orientation and Functional Grammar Analysis," *Canadian Psychology* 43 (2002), p. 244. The Canadian Code "was designed to incorporate the wisdom of Canadian psychologists" (p. 244).

[14] John Locke, *Some Thoughts Concerning Education* (Oxford: Clarendon, 1989), pp. 121-22.

[15] "First [above all] do no harm" is not a provision of the AMA Code of Medical Ethics, though a section of the Code is entitled "Ethical Responsibility to Study and Prevent Error and Harm." The maxim seems to have been dropped from the oath administered in American medical schools, though it continues to be cited from time to time in medical literature as a warning against overzealousness and a reminder of the caution that ought to be the guiding principle of clinical practice.

[16] As a last recourse, our rationalizer could admit that the destruction of a family constitutes harm but clear herself under the clause of the APA Code (3.04) that allows for unavoidable harms.

[17] Bersoff and Koeppl, "The Relation Between Ethical Codes and Moral Principles," p. 352. The words "reasonable" and "reasonably" appear no less frequently in the 2002 Code.

[18] Bersoff, "Explicit Ambiguity."

[19] James Colangelo, "Recovered Memory Debate Revisited: Practice Implications for Mental Health Counselors," *Journal of Mental Health Counseling* 29 (2007), p. 108. The author cites a responsibility to do no harm: p. 112. On the fallacious presumption that certain symptoms prove child sexual abuse, see also Fisher, *Decoding the Ethics Code*, p. 81.

[20] Gary Saul Morson, *"Anna Karenina" in Our Time: Seeing More Wisely* (New Haven: Yale University Press, 2007), p. 50.

[21] Scott Lilienfeld, "Psychological Treatments That Cause Harm," *Perspectives on Psychological Science* 2 (2007), p. 53.

[22] Lilienfeld, "Psychological Treatments That Cause Harm," p. 64.

[23] Gerald Koocher and Patricia Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions: Standards and Cases* (Oxford: Oxford University Press, 2008), p. 123.

[24] Koocher and Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions: Standards and Cases*, ch. 5. Some of the fictitious therapists represent easy targets, like the pastoral counselor in the next chapter who tries to browbeat a patient into renouncing homosexuality, in the process "overlook[ing] the need to first 'do not harm'" (p. 137). In the same chapter group therapy is revealed as a risky venture precisely because it may slip from a therapist's control. "The group therapist has much less control over the content and direction of the session than does an individual therapist. As a result, a greater potential exists for individuals in the group to have unfavorable or adverse experiences. . . . In many ways, then, the risk of harm to individual clients is greater in group than in individual therapies" (p. 131).

[25] Koocher and Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions: Standards and Cases*, p. 119.

[26] Fisher, *Decoding the Ethics Code*, p. 21. My emphasis.

[27] Fisher, *Decoding the Ethics Code*, p. 10.

[28] Fisher, *Decoding the Ethics Code*, p. 14. My emphasis.

[29] I refer to the 2002 Code. Although many seem to believe that APA ethics are higher than the law, and there is reportedly a consensus "that an illegal act such as civil disobedience should not automatically subject the APA member to sanctions" (Randolph Pipes, Jaymee Holstein, and Maria Aguirre, "Examining the Personal-Professional Distinction: Ethics Codes and the Difficulty of Drawing a Boundary" in Bersoff, *Ethical Conflicts in Psychology*, p. 31n.), the APA Code in fact appeals to the same standard of reasonableness typically used by the courts. In both cases "reasonable" care is measured by the care shown by other practitioners.

[30] Frank Manuel and Fritzie Manuel, *Utopia in the Western World* (Cambridge: Harvard University Press, 1979), p. 126.

[31] *Utopia*, tr. Robert M. Adams (New York: Norton, 1975), p. 51.

[32] Manuel and Manuel, *Utopia in the Western World*, p. 134.

[33] William Morris, *News from Nowhere* (London: Routledge & Kegan Paul, 1970), p. 70.

[34] Charlotte Perkins Gilman, *Herland* (New York: Pantheon, 1979), p. 112.

[35] Morris, *News from Nowhere*, p. 71.

[36] Gilman, *Herland*, p. 112.

[37] Lilienfeld, "Psychological Treatments That Cause Harm," p. 56.

[38] Lilienfeld, "Psychological Treatments That Cause Harm," pp. 61, 64.

[39] David Jopling, *Talking Cures and Placebo Effects* (Oxford: Oxford University Press, 2008), p. 16. On the more subtle dangers of false knowledge, see p. 259. In contrast to Jopling's thoughtful analysis is the breezy, "So what?" discussion of the placebo effect in psychotherapy in Koocher and Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions*, p. 102.

[40] Jopling, *Talking Cures and Placebo Effects*, p. 152. That psychological discourse tracks ideological fashions and imperatives (as in Koocher and Keith-Spiegel's elevation of "special attention to issues of diversity" to the status of a high principle) makes such discourse at once more persuasive and less scientific.

[41] Jopling, *Talking Cures and Placebo Effects*, p. 25.

[42] See Jopling, *Talking Cures and Placebo Effects*, p. 152: "Epistemic suggestibility often goes unrecognized in psychodynamic psychotherapy." Cf. p. 257: ". . . One of the central themes common to many psychodynamic psychotherapies is that the insights acquired in psychodynamic psychotherapy are authentic and true. [The author finds] little awareness among psychodynamic theorists of the epistemic complexities of psychodynamic insights and interpretations, coupled with high levels of epistemic confidence and theoretical self-assurance about their authority."

[43] Jerome Frank and Julia Frank, *Persuasion and Healing: A Comparative Study of Psychotherapy* (Baltimore: Johns Hopkins University Press, 1991), p. 48.

[44] Jopling, *Talking Cures and Placebo Effects*, p. 258.

[45] Fisher, *Decoding the Ethics Code*, p. 81. Not distinguished from "appropriate innovation" (Koocher and Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions*, p. 146). If "proof of efficacy" is what differentiates a crackpot therapy from a valid therapy (p. 151), it is well known that the "efficacy" of psychotherapy falls far short of the standards of, say, evidence-based medicine.

[46] On the figure of 20%, see Koocher and Keith-Spiegel, *Ethics in Psychology and the Mental Health Professions*, p. 102.

[47] Michael Yapko, *Trancework: An Introduction to the Practice of Clinical Hypnosis* (New York: Brunner-Routledge, 2003), p. 546.

[48] Himmelfarb, *The De-Moralization of Society*, p. 240.

[49] The original APA code contains a censure of pop psychology: "Psychologists who interpret the science of psychology or the services of psychologists to the public have an obligation to report fairly and accurately. Exaggeration, sensationalism, superficiality, and other kinds of misrepresentations must be avoided, since these may mislead the public and discredit the profession." Analogous provisions in the current APA code are somewhat muted. Gerald Rosen, "Self-Help Books and the Commercialization of Psychotherapy," *American Psychologist* 42 (1987), pp. 46-51, argues that how-to books marketed by psychologists, or at least the claims for these put out by publishers, violate the APA code. On the exaggerations, sensationalism, superficiality, misrepresentations, and utopianism at work in the self-help genre, as well as the genre's animus against morality, see my *Fool's Paradise: The Unreal World of Pop Psychology* (Chicago: Ivan R. Dee, 2005).

[50] Isaiah Berlin, *Concepts and Categories: Philosophical Essays* (New York: Penguin, 1978), p. 189.