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A new solution to the problem of luck

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Abstract

The issue of whether and how we have the control necessary for freedom and moral responsibility is central to all control accounts of freedom and moral responsibility. The problem of luck for libertarians aims to show that indeterministic agents are ill-equipped with the control required for freedom and moral responsibility. In view of this, we must either endorse scepticism about the possibility of free and morally responsible agents, or make some form of, possibly revisionary, compatibilism work. In this paper, I shall offer a new solution to the problem of luck for libertarians. After outlining the problem of luck, I shall argue that, given a particular approach to mental causation, indeterminism can be viewed as an essential requirement of free and morally responsible action. After this, I shall distinguish between different types of inability and show how this provides us with a solution to the problem of luck. Finally, I shall consider some advantages and objections to the proposed solution.

In this paper, a new solution to the problem of luck for libertarians will be presented. After outlining the problem, I argue that, given a particular approach to mental causation, indeterminism can be viewed as an essential requirement of free and responsible action.¹ Then I distinguish between different types of inability and show how this can be employed in a solution to the problem of luck. Finally, I consider some advantages and objections to the proposed solution.

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1 | §1

Central to the problem of luck is the claim that indeterminism is antithetical to control.² Since indeterministic events are random, whatever outcome is indeterministically caused is not controlled by what preceded it. Consequently, adding indeterminism to our analysis of freedom will not secure any further control for the libertarian, it simply adds an element of unacceptable, freedom-undermining luck into the mix.

To illustrate, consider Jo who is deliberating about whether or not she should steal. According to libertarians, if Jo acts freely, then her act is not entailed by the past and the laws of nature. So, at t , the moment at which she stole, given the past and the laws are held fixed, there is a possible world where she refrains from stealing instead. But if this is the case, then it seems that there is nothing that could account for the fact that Jo steals rather than refrains from stealing. If, as Mele writes, 'there is nothing about Joe's powers, capacities, states of mind, moral character, and the like ... that accounts for this difference, then the difference seems to be just a matter of luck.' (2006, p.9)

To drive this point home, contrast Jo with her doppelganger, Jo*. Not only is Jo* qualitatively identical to Jo in every way, she is also placed in precisely the same set of circumstances at t and every moment prior to t :

- 1) In the actual world, w , that Jo steals at t is undetermined by the past and the laws.
- 2) Given 1), there is a possible world, w^* , where a counterpart of Jo, Jo*, refrains from stealing at t , which is identical to w up until the time of t .
- 3) There is nothing that can account for the difference between Jo and Jo* in virtue of which w and w^* are different at t .
- 4) If nothing accounts for the difference between w and w^* at t , then that Jo steals at w and Jo* refrains from stealing at w^* is a matter of luck.
- 5) If this difference is a matter of luck, then that Jo steals at w is subject to freedom-undermining luck.
- 6) So Jo's action at t is not free.

One might object that this argument rests on an ambiguity. If we just consider the intrinsic features of the mental events in Jo and the circumstances leading up to t , then intrinsically they are identical to those in Jo* and w^* , and so the two cannot be distinguished. However, if we consider the causal history leading up to Jo's action at t , then there are factors that differentiate it from Jo's* causal history, since it is highly unlikely that the mental events that cause Jo's action will also cause Jo's* inaction. For example, Jo*'s worrying about how broke she is will not, at least arguably, figure in a causal explanation of why she doesn't steal, since it lowers the probability of her not stealing. But such an event will likely figure in an account of why Jo stole. Consequently, we can ground the difference between Jo and Jo* in the events that are the causes of Jo or Jo*'s action or inaction at t .

Although controversial, it seems reasonable to maintain that we can explain Jo's action by looking at those factors that caused that action and noting that different factors would have been implicated had Jo refrained from stealing. But still the question arises: why is it that these psychological states became part of the causal chain leading up to her action, rather than an alternative set, when there is nothing that differentiates between them? If there is nothing in virtue of which it is that subset of psychological states (PS) that causes Jo to steal, rather than some alternative

subset of psychological states (PS*) causing her to refrain from stealing, then what Jo does still seems to be a matter of luck.

Why does Jo's action seem lucky? Let's suppose that the fact that PS caused Jo to steal at t was highly unlikely. Then we can say, in support of the luck hypothesis, that given the probability reading of luck, it was unlucky since that Jo stole was highly improbable.³ Similarly, given a modally fragile analysis, we can argue that Jo's stealing was unlucky since there is an extremely nearby possible world, w^* , which is qualitatively identical in every way to w , where PS* causes her to refrain from stealing instead.⁴ And, most crucially, given a reading of luck which links it to agential control, where something is lucky for a person if that person had little or no control over whether it obtained, it seems that Jo's control did not extend to her either stealing or not stealing, because all the facts that might have constituted Jo's control of the fact that she steals rather than not had been exerted prior to t , and they had left the outcome undetermined.⁵ So, at best, Jo simply determined the probability of her either stealing or not stealing.

Why does this luck undermine freedom? If we endorse a control theory of freedom and moral responsibility, then responsible actions are ones which we are in control of. Consequently, this luck is freedom undermining since if our actions are the result of luck, they are not under our control. Even if this approach is rejected, however, in favour of an attributionist view of moral responsibility, where responsible actions are those which express our attitudes, such luck still seems troubling since if Jo's stealing was a matter of luck, the act has the potential to mislead us about Jo's moral worth. Suppose, for instance, that given Jo's overall character, it is highly unlikely that she will steal at t . If she then steals, her action is not expressive of the majority of her attitudes, just a very small fraction of them. Consequently, her stealing at t provides a very skewed reflection of her character at t .

There is, then, reason to think that indeterminism results in freedom undermining luck, and this creates a problem for anyone who wants to maintain that freedom is compatible with indeterminism. But the problem is particularly troublesome for libertarians since, typically, they claim that indeterminism is required for freedom, as it affords us more control than that offered by determinism. In what follows, I explain how it is that indeterminism could *enhance* our control.⁶ But, first, I should stress a limitation of this paper: its aim is only to show that libertarianism has a response to the conceptual problem of luck, not to argue that this solution is empirically plausible. As a result, the solution will appeal to many unsubstantiated philosophical and empirical claims that will not be defended here.

2 | §2

The argument for the indispensability of indeterminism begins with, what Menzies and List call, the causal source thesis:

Someone's action is free only if it is caused by the agent, particularly by the agent's mental states, as distinct from the physical states of the agent's brain and body. (2017, p.270)

We can amend this thesis slightly to accommodate those who want to endorse an agent causal view. So instead of 'particularly by the agent's mental states', we could say instead, 'in virtue of the agent's mental states'. This allows us to say that it is the agent herself who is doing the causing in virtue of her mental states, rather than being caused to do so by her mental states.⁷ In either

its original or amended form, I suspect that the causal source thesis will be acceptable to many event and agent causal libertarians and compatibilists. The guiding thought being that it is not enough that our mental states cause our actions in virtue of being identical with physical states. Our mental states, in particular, our reasons, must cause our actions *qua* our reasons.

The next step of the argument claims that if determinism is true at the neurophysiological level, then the causal source thesis is false. Reductive physicalism fails to preserve the causal source thesis, since mental and physical states are one and the same thing, mental states do not have any distinct causal efficacy from physical states. The laws that govern the causal interactions are deterministic physical laws, which make no mention of distinctively mental features, such as the mental states' intentionality. So the agent's mental states *qua* intentional states become dispensable, epiphenomenal features of the deterministic, physical causal interactions.⁸

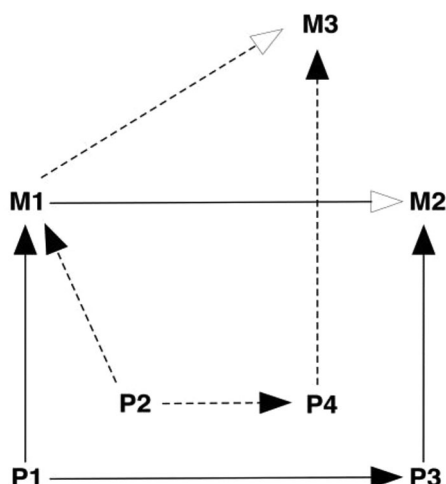
Let's assume, then, that some form of non-reductive physicalism is true, so every instance of a mental state is identical to an instance of a physical state. This popular view is then sometimes combined with an account of how it is that the mental *qua* mental gets to be a cause. Suppose, for instance, that we follow List and Menzies' account of what it is for one thing to be a cause of another,

The presence of F makes a difference to the presence of G in the actual situation just in case (i) if any relevantly similar possible situation instantiates F, it instantiates G; and (ii) if any relevantly similar possible situation instantiates not-F, it instantiates not-G. (2009, p.482)

This difference-making principle is closely related to Yablo's proportionality principle (1992, p.277), the claim that causes should be proportional to their effects. They should be complex enough to be everything that the effect requires, but not so complex that it incorporates unnecessary, extraneous detail.

List and Menzies, like Yablo and other non-reductive physicalists, then use their difference-making principle to argue that mental states are not rendered causally redundant by the physical states that realize them.⁹ They argue that the mental states exclude their underlying realizer states because the mental states have the requisite amount of detail. If the agent's intention to make tea had been absent, for instance, then the agent would not have switched on the kettle. In contrast, if that same intention had been realized by a different physical state, P_2 rather than P_1 say, then the agent would still have switched on the kettle. Consequently, P_1 incorporates too much extraneous detail. It is the mental states that are the causes because they are what make the difference to the effect.

But now let's suppose, in accordance with non-reductive physicalism, that M_1 is multiply realized by a number of different neurophysiological states. List (2014) argues that this has significant ramifications. Since these differing physical realizer states can cause a wide variety of physical states, this diversity of realizing physical states can then realize differing agential states:



According to List, because both P_1 and P_2 are possible realizers of M_1 (P_1 being the actual realizer, whereas P_2 is the possible, non-actualized realizer), and these can result in differing agential states, M_2 and M_3 , both of these outcomes are agentially possible. Moreover, this is consistent with determinism at the physical level, as the physical history has only one possible physical continuation.

Why does this matter? On List's view, given that the agent is in mental state M_1 at t_1 , it is agentially possible for an agent to be in state M_2 or M_3 at t_2 . This agential possibility is consistent with it also being the case that, at t_1 , the physical realizer P_1 would have caused M_2 to occur at t_2 , by causing P_3 which realizes M_2 . So, applying List's difference-making principle: P_1 is the difference maker of M_2 as there are relevantly similar possible situations where the agent instantiates M_1 but does not instantiate M_2 . In contrast, there are no relevantly similar situations where the agent instantiates P_1 at t_1 but does not instantiate M_2 at t_2 , since P_1 nomologically determines P_3 at t_2 which realizes M_2 .

The problem arises because List claims that there are relevantly similar worlds where an agent is in M_1 but not in M_2 . Since we are interested in the agent's mental life and its causal upshots, the relevantly similar worlds include those where the agent is in identical mental states. And, given List's assumption, it is agentially possible that our mental states result in a number of different outcomes. So it is the physical state P_1 that is the cause, as this is what makes the difference to the effect. It is more proportional to the effect because it is required. The potentially competing cause, M_1 , does not guarantee the effect.

This problem, although particularly stark for List given his commitment to agential possibilities, is not unique to him. If we allow that mental states are multiply realized by a number of different neurophysiological states, the multiple realization of the mental states leaves what happens undetermined, so a number of different physical options are likely to be left open. However, if we pay attention to the actual physical realizer, given that we are assuming that there are deterministic laws, which outcome that physical state would result in is determined. This physical state can then be argued to be the cause of the outcome, because the physical state, unlike the rival mental one, would be required for that outcome. After all, given the complex configuration within A at time t , it is determined that physical realizer P_1 will result. Consequently, for the outcome to be different, we can't just replace P_1 with P_2 , given that we hold the laws fixed, without also chang-

ing other factors to allow for P_2 rather than P_1 . And given these changed factors, it is very unclear what outcome would occur.

The non-reductivist might object that determinism poses no problem since, given the standard analysis of counterfactuals (see Lewis, 1973), we allow for a small violation of the laws so that the agent instantiates P_2 and then consider what outcome would result given P_2 and the intention M_1 . But the point still holds that, after the small law violation replacing P_1 with P_2 , everything else is supposed to remain the same, and given the *actual* configuration of the agent and the circumstances plus *our* laws, it is unclear what effect P_2 will have in conditions that are nomologically inconsistent with P_2 . Perhaps P_2 will result in bodily movement B_2 and B_2 could be viewed as an act of switching on the kettle. But, equally, P_2 might be a different bodily movement, that of missing the switch, or scratching one's hand.

There is, then, reason to think that, following List, since the mental is multiply-realized, many different outcomes could have resulted given the mental state and so the physical realizer will be required for the effect. Now admittedly nothing I have said establishes this claim, it is still possible that everything will work out just as the non-reductivist hopes. But the libertarian can plausibly claim that, given determinism, the causal source thesis is (probably) false and so, as that is required for freedom, there is no freedom if determinism is true.

Let's suppose now, however, that we change our assumptions a little, in line with libertarian commitments, substituting determinism for indeterminism. So the neurophysiological states and the physical laws do not determine what the agent does at t . Given P_1 , it could be the case that the agent performs action₁ or action₂. However, let's assume that, in at least some situations, given the agent's mental state M_1 , it is determined that they will perform action₁. Then we get the inverse effect: M_1 becomes the cause of the agent's action because it is more proportional to it. It is required to determine what the agent is going to do. So although M_1 might be implemented by underlying neurophysiological states, P_1 , P_2 , etc., M_1 would not be excluded by them. Indeed the reverse would be true. The agent's mental state would determine their course of action and so causally exclude the efficacy of P_1 . M_1 , unlike P_1 , is what is required for the effect, since P_1 leaves it open whether action₁ or action₂ is performed.

To clarify, suppose that the action is that of deciding to raise one's hand or not, and that this is preceded with certain mental and neurophysiological states. You have reasons to raise one's hand, M_1 , and these reasons in this instance are realised by P_1 . The thought is that, given the indeterministic laws and the circumstances at that time, P_1 could result in either P_2 or P_3 , which would then realise M_2 (the decision to raise your hand) or M_3 (the decision not to raise your hand). But given M_1 , M_2 is determined. In the next section, I shall elucidate the notion of 'determined' being appealed to here. But for now, note that the idea isn't that different physical realisers of M_1 can lead to different actions (as List's analysis proposes), as I am assuming that, at a time, there is a fact about what the actual realiser of M_1 is. It is rather that, given the indeterministic laws and P_1 at t_1 , it is not nomologically determined whether P_2 or P_3 will occur at t_2 . In contrast, given M_1 at t_1 , it is determined that M_2 (the decision to raise your hand) will occur at t_2 , where M_2 , we can suppose in those circumstances, is realised by P_2 . Unlike P_1 then, M_1 fixes it that M_2 will occur at t_2 and, because of this, M_1 is more proportional to the effect than P_1 .

In summary, here are the steps of the argument:

- 1) The causal source thesis is true.
- 2) Reductive physicalism cannot preserve the causal source thesis, so some form of non-reductive physicalism should be adopted.

- 3) Non-reductive physicalists often endorse a difference-making or proportionality principle which explains how mental states can be causes.
- 4) If we endorse determinism at the neurophysiological level, since there is a fact about what the physical realizer of the agent's mental state is, that fact (plus facts about the circumstances and laws) entails a particular outcome.
- 5) Given the multiply-realizability of the mental states, the fact that the agent instantiates M_1 (plus facts about the circumstances and the laws) does not entail a particular outcome.
- 6) Therefore, the physical realizer is required for its effect, and so is more proportional to its cause if determinism is true.
- 7) Consequently, if determinism is true, the causal source thesis is (probably) false.
- 8) If indeterminism is true at the physical level, it could be the case that P_1 , plus facts about the circumstances and the laws, do not entail a particular outcome.
- 9) Conversely, it could be the case that the agent's mental states, or the agent in virtue of their mental states, do determine a particular outcome.
- 10) So granted indeterminism, mental states could be more proportional to their effects than the physical states that realize them.
- 11) Given 7), indeterminism, not determinism, is (probably) required for the causal source thesis to be true.
- 12) Therefore, indeterminism is (probably) required for freedom.

This gives libertarians part of what they need, since it opens up the theoretical possibility that indeterminism doesn't just enhance our control, it is required to have that control. If determinism is true at the physical level, then there is reason to think that we will not be the causal source of our seemingly free actions.¹⁰ If indeterminism is true, however, this allows us to postulate that our mental states could be more proportional to their effects than their physical realizing states, since given those mental states, the agent couldn't have acted otherwise. This alone isn't enough to solve the problem of luck, more still needs to be added (see §4). But first I shall elaborate on premise 9), since this is key to the argument that mental states could be more proportional to their effects than their physical realizers.

3 | §3

We sometimes talk about different kinds of necessity, about how matters must be. Consider, for instance,

- 1) Conceptual necessity: 'Barry the bachelor must be unmarried.'
- 2) Nomological necessity: 'Tanishi has to travel slower than the speed of light.'
- 3) Epistemic necessity: 'Tanishi must be in Paris.'
- 4) Deontic necessity: 'You must not murder.'
- 5) Agential necessity: 'Sylvia has to open that locked door as only she has the key.'

Each kind of necessity seems to have a different grade of 'modal force', to borrow Kment's phrase (2006, p.258). Although 3) is uttered truly, for instance, I could still bump into Tanishi in Manchester. If 4) is true, in contrast, I will not bump into Tanishi in Manchester if that would require her to travel faster than the speed of light from her current location.

These different necessities bring in their wake a corresponding variety of inabilities. The deontic sense in which I am unable to murder someone differs from the agential sense in which I am unable to murder someone. Similarly, the fact that it is nomologically impossible for anything to travel faster than the speed of light, does not mean that we are unable to create conceptually coherent stories where such miraculous feats occur. This coheres nicely with the orthodox view in linguistics, possible world semantics (see Kratzer, 1977). On this view, “Must φ ” is true iff φ is true in every (relevant) possible world, where the conversational background determines the relevant domain of possible worlds. Since different domains of possible worlds will count as relevant depending upon which facts are held fixed given the particular context of utterance, different features of our world will make these claims true.

Practical necessity, I want to suggest, is just another brand of necessity. Different ideas might come along with this label, so I shall just stipulate what I have in mind:

Practical Necessity: An agent S acts out of practical necessity iff their act A is determined by S’s reasons (or, in agent causal terms, determined by the agent in virtue of their reasons). So, given S and her reasons, S must A.

This can be understood as asserting that in the relevant set of possible worlds, all of which are worlds where S’s reasons are held fixed (and, in addition, further conversationally relevant facts about the agent and their environment), S As.

Dennett’s case of Luther offers a memorable illustration of practical necessity. Luther’s deep-seated principles, we are asked to suppose, left him with no other option but to affirm his criticisms of Catholicism.

‘Here I stand’ Luther said. ‘I can do no other.’ Luther claimed that he could do no other, that his conscience made it *impossible* for him to recant. (1984, p.133)

Luther’s inability here, I want to suggest, is that engendered by practical necessity. Given his principles, reasons and interests, which Luther whole-heartedly endorses, he cannot do otherwise. Moreover, although we can say, in these circumstances, that his options have been seriously curtailed, his moral responsibility for his refusal seems left intact.

The claim that Dennett-style cases (DSCs) motivate, then, is that, sometimes, not having an ability to do otherwise is supportive of our responsibility. Given that Luther’s rational faculties, moral and emotional sensibilities dictated that recanting was not a practically possible action open to him, he would have to have been unhinged to ignore this conclusion. Since we can suppose he was not unhinged, he could not recant, but this is intuitively consistent with his being responsible for not recanting. So DSCs arguably show that practical necessity, and the inability to do otherwise it generates, is not freedom undermining.¹¹

This still leaves the question: why doesn’t determination in virtue of our reasons, in contrast to nomological determination, undermine our freedom? Although only suggestive, I suspect that part of the reason stems from the fact that we see the inability created by rational determination as one of our own making. The principles that we act by are critically evaluable by us. They are subject to change *if* we find them wanting and even if we are not able to reject them, given the reasons and circumstances at hand, we can nevertheless make them our own by willingly endorsing them. Via this process of critical evaluation, reasons are seen as the right sources of our actions and any inabilities that are created by this process of rational deliberation are seen as authored by us.

Nomological principles, on the other hand, appear a very different beast. The kind of necessity arising out of the laws seems, as Kment writes, ‘particularly secure and inexorable... their negations run up against the metaphysical or natural order of the world’ (2006, p.258). They are open

to our critical evaluations only insofar as we can assess whether or not they are true theoretical posits. We couldn't change the laws if we had reason to, and thus they seem to fall outside the bounds of our agency. The idea that determination by the laws results in inabilities which are freedom undermining, then, has some plausibility. Consequently, libertarians can accommodate a kind of inability which is consistent with freedom, while still maintaining that nomological determinism is problematic.

4 | §4

How do these considerations help solve the problem of luck? Key to all variations of the argument is some version of premise 2), the claim that there is a possible world, w^* , where a counterpart of Jo, Jo^* , refrains from stealing at t , which is identical to w up until the time of t . This is supposed to automatically follow from premise 1), since if Jo's stealing is undetermined by the past and the laws, then it seems that everything could be just the same and yet events pan out differently. But 2) does not automatically follow from 1). It might be that given all the facts about the laws (by which I mean the laws of the natural sciences, widely construed, see §5) plus all the facts about some point in the far distant past, it is not the case that they entail that Jo steals or refrains from stealing at t . So whether Jo steals is undetermined by the laws and the past. However, there are further forms of determination, and of course I have in mind practical necessity, which determine that Jo does steal at t . So if we hold fixed all the facts about her reasons, within that set of circumstances, they do entail that she steals at t .

The point that we need a more careful reading of 'determination' when considering the problem of luck has been made before. Steward (2012, §6.4.2) argues that the notion of determination often gets muddled between two distinct notions: that of nomological necessity and that of self-determination. The first is obviously inconsistent with libertarianism, whereas the second is just what libertarians want. What I want to suggest, however, is that there is a univocal notion of 'determined' in play here, where this means that one set of facts entails another set of facts. So we are right to refer to what happens in a DSC as a form of determination. Libertarianism is inconsistent with facts about the past and the laws entailing what Jo does at t . But libertarianism need not be interpreted as inconsistent with other forms of determination, in particular, with practical necessity.¹²

In this way, we can reject the assumption which has been unnecessarily foisted upon libertarians, namely that everything could be precisely the same with regard to an agent and her circumstances and yet different outcomes result. Just because Jo is not nomologically determined to A, does not mean we must accept this assumption. This is not to say that it is never true. As well as Buridan's Ass cases, where we see nothing in favour of one option over the other; we face torn cases, ones where we are undecided about what should be done. All I wish to stress here is that we have a response to the luck argument: both Jo and Jo^* might be determined, in virtue of their reasons, to steal at t , and so neither agent could do otherwise than steal at t . Consequently, at least in such cases, what Jo does at t is not subject to freedom undermining luck.

It should be noted that this response to the problem of luck requires us to reject the framework that libertarians have traditionally insisted upon. Indeterminism, on this alternative proposal, isn't required so that we have the last moment ability to decide one way or another. Although we might have this ability, manifestations of it that do not reflect our overall weightings of reasons may, I argue in §5, be lucky. Moreover DSCs, rather than being niche cases which need explaining away, are viewed as paradigmatic instances of free action. In DSCs we do, it seems, determine our

actions by our reasons, and so the resulting actions are both well controlled and true reflections of our character at that time. Saying this doesn't mean that there is no place for abilities to do otherwise in this framework, only that we should recognise that there are different senses of 'could have done otherwise', only some of which are detrimental to our freedom. On this view, an ability to do otherwise given the laws is still required to preserve the causal source thesis, even if our reasons need not leave it undetermined what we do.

Due to the constraints of space, I am unable to argue that such a radical departure from traditional libertarianism is necessary to solve the problem of luck.¹³ But I shall say a little about why this new framework provides a promising response. First, the agent will often have, in Kane's terminology, 'antecedent determining control' (1996, p.144) of their actions. The agent controls what she does before she does it by determining her action in virtue of her reasons. In the case of Jo, for instance, by considering her reasons and deciding on a course of action, she can control that she will steal at t , prior to t . Moreover, in nearby possible worlds where Jo's* reasons and deliberations are the same, she will also steal at t . Luck has thereby been taken out of the equation. Given Jo's reasons, it is no longer highly improbable or modally fragile that she steals at t . There is often a complete, contrastive explanation (an explanation of the form: why P rather than Q?) of why the agent chooses one option over another in terms of their reasons and motives. And insofar as this is lacking, the libertarian can say that an element of luck has crept into the action.

Second, the solution provides a clear rationale for indeterminism. On this view, it is not that determinism gives us enough control and the libertarian's job is to explain why indeterminism doesn't render our actions lucky. This gives the game away to the compatibilists. Libertarians can argue that indeterminism doesn't merely enhance our control—as this suggests we already have it—it is required to ever have that control. Without it, the causal source thesis is false and so the agent's input, in virtue of her reasons, will be excluded by their underlying physical states.

This also explains, in response to a challenge raised by Franklin (2016), why agent causal theorists need indeterminism. Agent causal theorists can concur with Franklin when he argues that the agent's causal power to determine one's actions is consistent with it being the case that, to use Franklin's example, Jones' motives determine him to choose Yale over Harvard. Given his reasons, the probability that Jones chooses Yale could well be 1 (2016, p.13). Nevertheless, agent causal libertarians can argue that for Jones to act in virtue of his reasons, it must also be the case that, at the physical level, his action is undetermined. Otherwise, Jones wouldn't be acting in light of his reasons.

5 | §5

Objection one: The proposal isn't a form of libertarianism since the agent can be free even though they may be determined to do what they do. It doesn't matter if free agents aren't determined by micro-physical facts, what matters is just that they are determined. Since a person's reasons are part of the past, if they are determined by their reasons, this still renders their acts unfree.

In response, we should agree that the agent, S, in virtue of her reasons at t , might determine that S A's, and so the past can determine that A because the past includes facts about S and her reasons, but we should insist that this is not enough to commit us to determinism. Critical to libertarianism is the claim that if our actions are determined by the *laws*, in other words, are nomologically determined, then they are not free. Now consider one standard definition of determinism,

The World $W \in \mathcal{W}$ [the set of physically possible worlds] is Laplacian deterministic just in case for any W and W' , if W and W' agree at any time, then they agree for all times. (Earman, 1986, p.13)

Take t to be a time just after the Big Bang, when there are no agents and no reasons. According to the proposal, if agents are causes in virtue of their reasons, then given all the facts at t plus the natural laws, more than one outcome must be nomologically possible. So given the physical configuration of S at t , P_1 , there is a nomologically possible world where A_1 occurs and another nomologically possible world where A_2 occurs, hence there are two physically possible worlds, W and W' , which fail to agree, in accordance with the definition of indeterminism. But this, I have argued, does not exclude the possibility of other forms of determination. So given S 's reasons, R_1 , it might be that only one possible world is practically possible for S , as A_1 occurs in all worlds where S has R_1 . So the agent, in virtue of R_1 , practically determines A_1 .

Does this mean that our mental states fail to supervene upon our physical states? No, since different physical states could still realize our mental states, so there could be no change in our mental states without some change in our underlying physical states. What is required isn't a denial of supervenience, but rather different principles of organisation. S , in virtue of R_1 , determines that it is A_1 rather than A_2 , since only this, not P_1 and the laws, guarantees the effect. Consequently, determinism will fail to hold since the laws will not determine A_1 , this will be determined by another form of necessity, practical necessity. From the point of view of the laws then, A_1 will look random, but not given the reasons that the agent endorses.

But why can't determination by reasons, so the principles of organisation that govern R_1 , be incorporated into the laws, most obviously the laws of psychology? In which case, the solution would be committed to compatibilism, since given the laws, which include the laws of psychology, the outcome would be determined.

It is a moot point whether incompatibilism excludes determinism by psychological laws.¹⁴ But if the psychological laws are to pose a threat to freedom then, following van Inwagen, they must not merely be descriptions of regularities concerning what agents voluntarily do, since then they will not constrain us as it seems the laws of physics do. To be problematic, the laws of psychology must share the commonly assumed characteristics of the laws of physics, roughly, those explicated by a realist view of laws, where 'their negations run up against the metaphysical or natural order of the world' (Kment, 2006, p. 25). If a realist construal is offered of psychological laws which likens them to the laws of physics, then there is reason to think that they pose a threat:

- 1) Psychological laws cannot be changed even if we have reason to.
- 2) If there are psychological laws, then there might be one whose outcome we have good reason to change.
- 3) If we have reason to change something but cannot, this is a limitation of our freedom.
- 4) Therefore, given 1), psychological laws might limit our freedom.

Given this construal of the psychological laws, however, the constraints of rationality should not be incorporated into the laws of psychology, since these constraints are precisely sensitive to our reasons and thus embody a different form of necessity from that arising from a realist view of psychological laws.

If, however, the psychological laws are not viewed in this realist light, then nothing said would exclude the constraints of rationality as possibly forming part of those laws. But then the

suggested argument for the claim that psychological laws might restrict our freedom would not hold. So libertarians would need to offer some other reason for the view that determination by psychological laws is problematic. More needs to be said about the nature of laws, and psychological laws in particular, to clarify the thesis of determinism and with it the positions of compatibilism and incompatibilism. But I think that enough has been said to justify the claim that the proposed solution can be considered a form of libertarianism.

Objection two: The proposal does not resolve the problem of luck, since that problem can be re-raised. Suppose that our agent Jo refrains from stealing but does not practically determine what she will do, which might well be the case in the majority of cases. Given Jo's reasons just before t , the objective probabilities line up 0.9/0.1 in favour of her not stealing. So although Jo acts in accordance with the 0.9, in a qualitatively identical nearby possible world, her doppelganger Jo* steals. Given this, the fact that Jo steals in the actual world is still lucky, since there is a nearby possible world where everything is the same and Jo's doppelganger does not steal.

In response, I think we should accept that an element of luck has crept into the proceedings, but that it is reasonable to maintain that Jo exerts enough control for her to be morally responsible for her action. Granted that Jo is acting for reasons, and partially determining her own action in light of those reasons, she gets to control her action.

But what of Jo*, does she act freely in w^* ? In line, I think, with common-sense, through the process of deliberating, we view the agent as (partially) determining the 'weight' of her reasons, and so arguably their associated probabilities.¹⁵ So it is not the case that there is a fixed objective probability of the event occurring, rather the probabilities of the event are constantly changing and emerging in light of the agent's deliberations. Given an agent's reasons sometime prior to her acting, the probability of her acting in that way may be low. But through the course of her deliberating, standardly we would expect the probabilities to change and end up favouring the course of action the agent takes. By deliberating and influencing one's decision through one's reasons (and thereby changing the probabilities of the respective actions), the agent gets to control their decision.

In the case of Jo*, however, given that the probability of her stealing remains at 0.1, we have to say that her action did not reflect her reasons. Jo*'s deliberations inclined her strongly to the opposite conclusion, and in most qualitatively identical occasions, her doppelgangers did not steal. As a result, what Jo* did does seem largely a matter of luck. Jo*, in virtue of her reasons, failed to significantly increase the probability in favour of her stealing. So Jo* lacked antecedent control over what she did. Moreover, Jo*'s stealing was less expressive of her character than Jo's refraining from stealing.

Agent causal theorists are likely to object that Jo* still controls her action, since Jo* agent causes her stealing and standing in the relation of agent causation amounts to her being in control of it. This, however, fails to resolve the problem of luck since we can still ask: what grounds the difference between Jo's exerting her agent causal power to refrain from stealing at t and Jo*'s exerting her agent causal power to steal at t ? If there is nothing in virtue of which Jo* exerts her agent causal power to steal rather than to refrain, then however she exercises it still seems a matter of luck for Jo*.

In support, compare Jo* with a similar agent, Mo. All of Mo's reasons, inclinations, etc. count against her stealing and she has no reasons, inclinations etc. that count for her stealing, but, inexplicably, she decides to steal. In this case, it seems doubtful that we would view this as a free action, more likely that we would think that there has been some unlucky glitch in Mo's agency. Similarly in the case of Jo*, although Jo* does think that there is something to be said in favour of her stealing, nevertheless, her decision fails to reflect her overall assessment of the situation.

There are numerous identical worlds where she doesn't steal which better express the outcome of her deliberations and so, given standard analyses of luck (see §1), Jo* is unlucky.

Does this mean that we have to let Jo* off the hook entirely? Not necessarily, we can still maintain that some form of censure is appropriate for Jo*. After all, Jo* is morally responsible for considering stealing to be an option for her. Furthermore, insofar as Jo* *could have* determined her action in light of her reasons (by thinking harder about the situation, etc.), we can argue that she could have acted with sufficient control. Our attributions of blame in cases of negligence arguably indicate that we blame agents not only for what they were in control of, but also for what they could have been in control of. We might, for instance, say that although the person didn't see the red light, they could have and so are blameworthy in this respect.¹⁶ Consequently, depending upon the details of the correct account of moral responsibility, Jo* could still be morally responsible for failing to determine her action in light of her reasons.

6 | §6

Reason without control is toothless, control without reason is pointless. Both elements seem required to assuage the concern that what the agent does is simply a matter of luck. What we find in DSCs is control exerted for some reason. By distinguishing between different kinds of inability which are freedom-undermining (arguably, those generated by nomological determinism), from those which are not (arguably, those inabilities arising from our reasons), the agent gets to control her actions for a reason. Luck is thereby taken out of the equation at the agential level. From the perspective of a complete physical description of the agent's neurological states—what occurs is lucky—since the physical level must allow the agent different options. But this luck disappears at the agential level, since the agent gets to determine her lower-level states in one way or another, in light of her reasons.¹⁷

ENDNOTES

¹In what follows, 'freedom' shall refer to the control required for moral responsibility.

²There are various formulations of the problem of luck. My presentation is based on Mele's influential statement of the problem (see, for instance, 2006, Ch. 1, §1).

³See Rescher (1995).

⁴See, for instance, Pritchard (2005). The idea is that if a small deviation from the actual course of events would have resulted in a different outcome in a large number of nearby possible worlds, then that action is lucky. In this case, not even a small qualitative deviation is required, so the outcome is lucky as it is so modally fragile.

⁵See, for instance, Mele (2006). Often philosophers appeal to a combination of these factors in their analyses of luck, see for instance, Levy (2011).

⁶Franklin refers to this as 'the problem of enhanced control' (2011) and distinguishes it from the problem of luck. Some philosophers, for instance Kane (1999) and Mele (2006), arguably have a solution to the problem of luck, but not one for that of enhanced control.

⁷For more on how this proposal is supposed to work, see Whittle (2016).

⁸See, for instance, Horgan (1989) for a discussion of this problem.

⁹This is a common move for non-reductive physicalists, see, for instance, Lepore and Loewer (1987) and Mills (1996).

¹⁰There is a substantial question concerning what would be undermined. Some might argue that the subject's agency is undermined, since their reasons would be excluded by the underlying neurological states. As I do not wish to engage in issues regarding the correct analysis of action here, I shall limit the claim to that of free actions.

¹¹There are, of course, many responses to Dennett's proposed counterexamples to the principle that moral responsibility requires alternate possibilities. For further discussion, see Whittle (2021, Ch.7).

- ¹²I think that, although the details would differ significantly, the bare bones of the proposal could be developed within either an event or agent causal libertarian framework.
- ¹³In fact, I think that traditional libertarians can successfully argue that control and indeterminism can coexist, but not that indeterminism can enhance our control. It is this latter claim which, I think, requires a new framework.
- ¹⁴In van Inwagen's paper, he explicitly excludes psychological laws from the laws which can do the determining (1975, p.187). Clarke, however, suggests otherwise (2003, p.4).
- ¹⁵Talk of 'weight' is borrowed from Nozick (1981, p.296). The addition of 'partially' is to allow that, if there are objective values, by recognising what normative reasons there are, reasons could have weight independent of an agent's deliberations.
- ¹⁶For a classic statement of this position, see Hart (1968).
- ¹⁷Many thanks to Michael McKenna, Carolina Sartorio and Joel Smith for their very helpful comments.

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