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WAITING FOR DETERMINISM TO HAPPEN

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I. Introduction: determinist anxieties

Determinism is famously thought to be the most threatening challenge to ordinary moral and legal notions of responsibility. If it is true, roughly, that all events in the universe, including human behavior, are fully caused and explained by the conjunction of prior events and the covering physical laws of the universe, then it may seem that human beings are simply passive spectators of the events that are their lives, rather than active agents whose actions determine the shape of those lives. I do not know if any of the various theses called determinism is true. No one does, for it is impossible to know with certainty unless someone were somehow able to step outside the universe and to look in. I suspect that it is true, however. The universe appears to be such a lawful, regular place that we must assume that determinism or a near approximation is an accurate metaphysical view, at least at levels above the subatomic. Consequently, our physical and interpersonal lives are properly predicated on the deep, rarely consciously-acknowledged assumptions that matter doesn't re-arrange itself at random and that our social and interpersonal lives depend on an enormous amount of implicit and explicit understanding of the regularities of human conduct.

Suppose that you believe that the universe is deterministic. What should you do next? If your unsentimental, tough-minded clarity about the metaphysical nature of reality entails that what you will do was necessitated at the birth of the cosmos, that you are just a puppet of deterministic operations, perhaps you should simply wait for determinism to happen. But this is impossible. If we know anything, we know that even if determinism is true, human beings are conscious, self-conscious and intentional creatures whose actions can affect the world around them in large and small ways. We are apparently determined not to wait for determinism to happen. Nature has made us into the type of creatures that will inevitably deliberate and act according to our beliefs. Those beliefs might be wondrously diverse across time and locales and within a culture, but all human beings have them and act on them, including those who have beliefs about the problem of determinism and responsibility.

In one form or another, people have wondered for millennia how responsibility is possible if the universe operates mechanistically or deterministically. If our reasons for action and mental states such as intentions can ultimately be reducible

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There are no footnotes or citations in the text. I apologize in advance to those authors whose arguments I have relied on. They are listed in the bibliography, however, and I owe them all an immense intellectual debt.

to biophysical firings in the brain and nervous system, how can it be fair to say that anyone deserves praise and blame, reward and punishment? Such thoughts exert a powerful hold and can undermine our confidence that we act justly when we give people what we think are their just deserts. Justice is crucially important to us and thus we deliberate about the problem. In particular, how can we justify the awesome power of the state to inflict criminal blame and punishment?

There are three standard responses to deterministic worries. First, determinism is true and responsibility is impossible (so-called hard determinism, a form of incompatibilism); second, if determinism were true, responsibility would be impossible, but it is not true, at least for human adults, and responsibility is possible (so-called libertarianism, also a form of incompatibilism); third, determinism is true and responsibility is possible (so-called soft determinism or compatibilism). This article will examine each in turn. Anxieties about determinism will not and should not vanish, but nonetheless I conclude that the compatibilist view is internally consistent and coherent and holds out the best hope for grounding responsibility in both morality and law.

II. Hard determinism

This incompatibilist viewpoint generates an external, rather than an internal critique of responsibility. That is, hard determinism does not try either to explain or to justify our responsibility concepts and practices. It simply assumes that they are metaphysically unjustified, even if they are internally coherent and justifiable according to some equally unjustifiable moral or political concepts. To see why determinism can not explain our responsibility attributions, remember that determinism “goes all the way down.” It applies to all people, all events. Thus, if determinism is true and is genuinely inconsistent with responsibility, then no one can ever be really responsible for anything and responsibility cannot provide a justification for further action. But western theories of morality and the law do hold some people responsible and excuse others, and when we do excuse, it is not because there has been a little local determinism at work. For example, we do not hold small children fully responsible because they are not fully rational, not because they are determined creatures but adults are not. Determinism does not loosen its grip on us as we age.

Determinism also does not tell us how we should act or what justice demands. Understanding the lawful regularities of human behavior might reveal what is possible for human beings and what is not, but it cannot dictate what morals, politics and laws to adopt. As we know from history and ordinary observation, people are capable of adopting and acting on extraordinarily diverse moral, political and legal schemes, which can make immense differences in the material and moral conditions of peoples’ lives. It is difficult to imagine what the metaphysical truth of determinism could tell us about how we should live. To what metaphysical facts should morality and law have to answer? Even if there are right answers, without placing ourselves outside the universe, anyway an impossibility, how would we ever know that we got it right?

“As if” responsibility is a classic hard determinist response to determinism’s inability to explain our concepts and practices or to justify alternatives. “As if” admits that no one is really responsible, no one really deserves anything as a matter of justice, but argues that responsibility is justified because we appear so

committed to it and because responsibility practices seem to have the consequential virtues of encouraging good behavior and discouraging bad. As a practical matter, then, we should simply continue responsibility practices, including criminal blame and punishment. There are two problems with this. First, it will not work if people generally understand that no one is really responsible. People appear to need a real notion of responsibility to support the morality of giving people what they deserve. Few can be entirely cold calculators. In criminal law, for example, how could we ever justify punishing anyone, no matter how heinous the deed, if we thought the overall consequences of doing so would be negative? Moreover, why wouldn't we punish the innocent if the overall consequences would be positive? No "as if" construct should hold us back from maximizing the good. These are familiar deontological objections to any purely consequential morality, but they have practical bite. Unless there is an extraordinary shift in our consciousness and attitudes, it will be difficult for us self-consciously to believe that we are acting fairly if attributions of responsibility are supported only by a mythical foundation.

Some determinists might try to avoid "as if" and ground "real" responsibility by pointing to the ubiquitous nature of moral codes and responsibility practices of some sort in all past and present societies. This suggests that responsibility is "natural," "hard-wired." Even if true, however, it is simply a bit of (admittedly important) anthropology or sociology. Once again, such facts cannot tell us how we should live or necessarily what it is rational to do. At most, they can indicate that it might be difficult to discard some notion of responsibility, but they cannot dictate whether it would be rational or irrational to do so, assuming that we could, or what particular view of responsibility we should adopt.

Even if we believe that hard determinism is theoretically right, we might be incapable of abandoning responsibility because we are also incapable of genuinely believing that is a myth. In other words, relax: hard determinism is just a theory. But, if we wish to live in truth, the more logical, clear-eyed response would be self-consciously to jettison responsibility. What might our moral arrangements look like then? I am fond of telling this story in terms of good and bad bacteria. Some bacteria that inhabit our gastrointestinal system, our gut, are crucial to the smooth operation of the system. They are the good bacteria. We try to enhance their survival and do nothing to inhibit their growth. On occasion, alas, our guts are invaded by bacteria that interfere with the proper operation of the system, causing various unseemly ailments, and in extreme cases, death. These are the bad bacteria. We spend a fair amount of effort trying to prevent these offensive critters from entering our gut in sufficient numbers to overwhelm the body's natural defenses, and if the natural defenses fail, we try with various techniques, such as antibiotics, to kill them. Now, despite the potential of various bacteria to confer benefits and harms, as the case may be, and despite our consequential, substantial efforts to deal with these bacteria, no one holds either kind of bacteria responsible for smooth or rocky gastrointestinal functioning and we wouldn't dream of non-metaphorically praising or blaming bacteria, rewarding or punishing them. We treat bacteria purely as objects, and never as subjects, as agents.

We could, by analogy, simply treat each other like bacteria, as potentially beneficial or harmful objects, and act accordingly. This conception of people would support a purely predictive and preventive scheme of social organization in

which the emotional and societal response to human organisms could be entirely independent of the moral goodness or badness of the conduct. We don't at present have the emotional repertoire or the predictive and therapeutic technology to institute this vision precisely or effectively, but this is a technoquibble. In principle, it is a possible form of social organization. Indeed, in some senses we might all be "safer" and, to some, social life might appear more rational if the show ran along these lines. But this is a show that I think virtually all of us would happily miss, precisely because we are importantly different from bacteria. They are not moral creatures. As I will suggest in more detail in section IV. below, to adopt the good/bad bacteria story would be to abandon some of our most cherished conceptions of ourselves that enrich our lives. To do so simply because we believe in the theoretical truth of metaphysical determinism would be unjustified. We need a much richer account than that theoretical truth can provide about why the good/bad bacteria world would be preferable.

In sum, hard determinism cannot explain the concepts and practices about responsibility that we now have, it cannot provide normative answers to how we should live, and the apparently logical consequences of it are entirely unappealing. As section IV. will discuss, we need not accept these consequences.

III. Libertarianism

Libertarianism has both an unsophisticated and a sophisticated version. The former suggests that determinism is false, that the world is suffused with randomness, including our brains and nervous systems, and that randomness underwrites responsibility. The latter argues that people are so-called "prime movers unmoved," originators who have contra-causal freedom or some such. I believe that both versions are bewildering. The unsophisticated version simply seems analytically unsound. The sophisticated version depends on a metaphysics that I, like Sir Peter Strawson, find "panicky." Therefore, this section will be brief.

If our brain states and the world in general are truly random, then it is difficult to imagine how responsibility could be possible. Such randomness is deeply implausible, however. We could not explain the regularity of physical events and human interactions, nor could we explain the dependable relation between intentions and actions, unless there was a cosmic coincidence of astounding proportion that accounted for the regularity. More important, brains would be akin to random number generators and our behavior would be equivalent to random numbers. This is scarcely a secure foundation for responsibility or for any form of moral evaluation. In a sense, nothing would be "up to us." There would be essentially no relation between our intentions, our actions, and their outcomes. Moreover, if our brain states and the world in general are random, we should not believe that our lives will go any better for us. Unless the matter in our brains and bodies rearranges itself, we won't be any different from the way we are and a random world would be impossible to manipulate successfully. In any case, there is no reason to believe that a random world with random outcomes will be more benign than the world we inhabit. Responsibility is impossible in a random universe.

Many people believe that "real" responsibility is possible only if people genuinely are prime movers unmoved. Only then would responsibility be secure because all our intentions and actions would be entirely "up to us." Such powers

would indeed be a secure foundation for responsibility, but it seems wildly implausible that humans possess them. It is simply unimaginable that intentions and actions are not caused by the various genetic and environmental influences that have shaped people's lives. What would one have to believe, metaphysically, also to believe that those causes somehow apply to everything but human intentions and actions? Furthermore, it makes little sense to suggest that causal processes shape behavior, but with less force or less fully than the causal processes that shape physical events. If this is a causal universe, it is causal all the way down. We would like to be prime movers unmoved, but we are not. And as the next section argues, we need not have this god-like power to justify responsibility.

IV. Soft determinism: responsibility in a deterministic universe

Attribution of responsibility and related practices are fundamentally moral enterprises. As such, they must be justified primarily by an internal, normative argument. It is hard to imagine what metaphysical facts one could appeal to outside morality itself and our best understanding of human nature. Nonetheless, anxieties about determinism and other apparent threats motivate many to seek a secure, external foundation to ground concepts as important as responsibility. Most notable among the seekers are theologians and secular metaphysicians, who try to justify responsibility with speculations and arguments about the divine or about ultimate reason. I am unconvinced by these accounts, however, and believe that no ultimate, uncontroversial justification can be found. There is simply no way to know about the existence of God or the genuine ontology of the universe. What is more disquieting, if we were convinced that God or metaphysical moral reality existed, such a conclusion would not lead to uncontroversial concrete answers to the specific questions of morals, politics and law that vex human life in general and the criminal justice system in particular. For example, even if we agree that in principle there are ontologically correct answers to every moral question, does this tell us clearly whether, say, the death penalty is ever justified? On epistemological grounds alone, then, if foundations exist, we will never know that we have reached rock bottom.

Even if it is a deterministic world, even if our actions are determined, they make a difference. Individual and collective actions can cause pleasure or pain, can create wealth or poverty, can be kind or cruel. We discuss, argue, fight, and even kill about morals and politics precisely because the moral and political regime in which we live makes an enormous difference to our well-being and flourishing. And it is unimaginable that conscious, social creatures such as ourselves could live in a world without moral and nonmoral norms, without some moral and political regime.

Even if determinism is true, we cannot wait for it to happen. We must determine what determinism dictates.

The most we can do is try to justify our concepts and practices by using the best moral and political theories available, recognizing that none will *ever* cause determinist anxieties to disappear or provide universally satisfying, uncontroversially persuasive answers to the hardest problems. Because I believe that determinism or something just like it is true, the most I can do is to offer an internal account of responsibility that is not inconsistent with the truth of determinism or principles of fairness that we endorse. Indeed, I believe and will try

to show in what follows that a coherent, internal account of responsibility can be given that depends on few controversial assumptions about human beings, that explains our current practices, and that satisfies our most deeply-held principles of fairness.

The first assumption supporting our current concepts and practices of responsibility is that human beings have general capacities. In brief and at the risk of some oversimplification, a general capacity is an underlying ability to engage in certain behavior. For example, English speakers have the general capacity to speak English, even when they are silent or speaking another language. Of course, a general capacity has limits. I have the general capacity to lift objects over my head within a certain weight range; beyond that range, it will be impossible, no matter how much effort I may exert. Now, a determinist might argue that there is no such thing as a general capacity, that the only "capacity" we ever have is the momentary capacity to do what we do. Perhaps this is right, but no one knows. What is more, to adopt this view would do violence to a fundamental, common sense understanding of human behavior that guides interpersonal interaction and that is crucial to moral evaluation.

A second crucial assumption is that most people have the full, general capacity to grasp and to be guided by good reasons when they reach the "age of reason." This does not mean that all of us behave rationally all, or even most, of the time. We often behave non-rationally, irrationally, foolishly and the like. But like the silent English speaker, we retain the capacity to be guided by reason, even if we are not exercising that capacity.

Neither the concept of a general capacity nor the specific general capacity to be guided by reason is inconsistent with the truth of determinism. Indeed, such capacities are surely themselves the product of determined events, including evolutionary biological processes. Furthermore, the truth of determinism does not mean that human beings are puppets or otherwise non-intentional creatures. Puppets and people both exist as the result of deterministic processes, but they are crucially different from one another. We may be secure in our assumption that human beings are intentional creatures with a general capacity to be guided by reason.

My central claim about responsibility, which employs Jay Wallace's formulation, is that the general capacity to grasp and to be guided by good reason is the primary criterion that explains our responsibility concepts and practices. We do not require god-like contra-causal powers. In general, we hold agents responsible and respond accordingly with praise and blame, reward and punishment, if their intentional actions either meet or breach a normative expectation we accept and if they were capable of rational conduct at the time. In contrast, we excuse people from responsibility either because they did not act or because they were incapable of rationality at the time. Reflexes and other involuntary bodily movements are prime examples of no action. Even if such bodily movements cause good or evil consequences, we might be delighted or dismayed, but we would not hold the agent responsible. Infancy and mental disorder are examples of conditions that in appropriate cases block responsibility attributions because they indicate that the agent lacks the general capacity for rationality. Although agents who are immature or suffer from severe mental disorders might act intentionally, if their reasons for action suggest that they lack

the capacity for reason in the context in which they acted, we will not hold them responsible. We do not excuse them because such agents are somehow more determined than adults without mental disabilities.

In addition to the capacity to be guided by reason, responsibility also requires that the agent acted without coercion or compulsion. In cases of coercion, there is nothing “wrong” with the agent, who may be fully rational and act intentionally. The reason we excuse is that the agent is wrongfully placed in a hard choice situation—“Do it or else”—and we think that it would be unfair to hold the agent responsible for acceding to the threat. A classic example is a desperado who threatens to kill you unless you kill another innocent. The balance of evils is negative because all lives are equal and thus your killing is not justified. But a sufficient threat does create a ground for excuse.

Although lack of coercion is also a criterion for responsibility, it is much less important than the capacity to be guided by reason. First, all human action is potentially guided by practical reasoning and the potential for rationality is omnipresent in all normal people who have reached the age of reason. In principle, our social arrangements might be organized so that virtually all conduct was compelled, but this is fanciful. Almost always we act in the absence of a wrongfully-imposed hard choice. Second, in many cases in which we might think that the agent was compelled, lack of the general capacity for rationality will provide a more convincing explanation for why a moral or legal excuse is appropriate. For example, people suffering from addictions or other “compulsions” are often thought to be compelled to yield to their cravings or desires. Notice, however, that action taken to satisfy a craving or to reduce dysphoria is intentional; these are not cases of no action or automatism. Moreover, it is difficult to make good sense of what it means to say that such action is compelled. One can think of the craving or desire like a gun at the head, but this is a misleading metaphor. The better way to think of such cases, I claim, is that in some cases the craving or desire becomes so insistent that it prevents access to the good reasons not to yield, rendering rational assessment exceedingly difficult or even impossible. It may be troublesome to identify such cases, but perhaps desires can sometimes disable the general capacity for reason.

I have suggested that lack of the capacity to be guided by reason and coercion explain the excuses we have. These are both normative criteria. For example, does the capacity to be guided by reason require understanding a rule’s behavioral command and the consequences for violating it, or does it also require that the agent understand the reason behind the rule? How much lack of capacity is required to excuse an agent in a particular context? There is no obviously correct answer to such normative questions and, consequently, the precise definition of irrationality and coercion and how much of either is required for excuse will change as social, moral and political attitudes shift. For example, the definition and application of the test for the defense of legal insanity—a classic irrationality excuse—has over time been harsher or more forgiving in response to the public’s perception of the fairness and utility of the defense. But however they are defined and applied, the general capacity for rationality and absence of coercion are the foundational criteria for responsibility.

Because I claim that the general capacity for rationality is the touchstone for responsibility, the concept of rationality must do a great deal of work in the

account presented. One might therefore desire a precise, uncontroversial definition of rationality, but such a desire would be unreasonable. The implicit, common sense notion—the ability to perceive accurately, to reason instrumentally, including according to a minimally coherent preference-ordering, and the like—is grounded in our ordinary, everyday understanding of practical reasoning and its critical role in human interaction, including moral evaluation and practices. Our understanding of rationality is always open to normative revision. But we all use a common sense understanding to evaluate the nonmoral and moral conduct of ourselves and others. If one wishes to abandon rationality as the core condition of responsibility, the burden is then on the agent rejecting this condition to provide and to justify a more compelling and precise alternative condition.

The account I have given of responsibility accords with our most firmly-held, most persuasive theories of fairness. Morality and law are both best understood as action-guiding and thus are addressed only to creatures capable of practical reasoning. It is coherent to hold people responsible only if agents act and are capable of practical reasoning that properly uses morality and law as guides. We believe that it is fair to praise and blame, to reward and punish, precisely when intentional actions that cause good and evil have been performed by agents capable of rationality. If an agent does not act, the person's bodily movement cannot be attributed to him as an agent and thus it would be bootless to hold the agent morally responsible. Only actions can be guided by reason. (I leave aside the complicated question of omissions, but they, too, can be accommodated within the theory presented.) Moreover, if an agent is incapable of rationality (or compelled to act), once again it would be unfair to ascribe responsibility because the agent can not be guided by good reason or faces an unfairly hard choice. Although a consequentialist might be willing to reward or punish in cases in which action is lacking, the agent lacks the general capacity for rationality, or the agent faces an unfair choice, such a forward-looking scheme both fails to explain irreducibly deontological aspects of current morality and it famously entails further consequences—such as the potential consciously to punish the innocent—that few would accept.

Our most deeply-held principles of fairness hold that it is neither gratuitous to praise and reward appropriately for intentionally satisfying moral and legal expectations we accept nor cruel to blame and punish appropriately for intentionally breaching such obligations. Furthermore, in contrast to the principle of fairness based on the capacity for rational action, we adhere to no principle of fairness that is related to the truth or falsity of determinism. Some might wish to adopt such a new principle, but doing so would be based on an external critique of current morality.

Even if an internally coherent and apparently fair account of responsibility that is consistent with determinism is possible, perhaps it is all just an illusion. Perhaps it is true that our fates are sealed by the causal laws of the universe, that we don't really deliberate, that our intentions and actions don't really affect the world. Such conclusions would erroneously confuse determinism with fatalism, which, roughly, is the doctrine that our intentions and actions don't make a difference. As Hilary Bok wisely concludes, our fate is not a separate entity that buffets us about; our intentions and actions *are* our fate. Determinism and mechanism don't deliberate for us. We do have the general capacity to reason, often exercise that capacity, and

what we decide to do does affect the world. For those with the most incompatibilist, hard deterministic intuitions, this answer will seem insufficient. They will deny that the “real responsibility” is possible if determinism or mechanism is true. Again, however, responsibility attribution and related practices are moral enterprises and it is difficult to imagine what metaphysical facts external to our normative world morality should answer to. I contend that responsibility based on our general capacity to reason and to act in accord with reason is the best explanation of current practices and is sufficiently “real” morally to justify the practices based on it.

Even if such an account is *internally* coherent, is it desirable? One could argue either that another account of responsibility is preferable or that we should dispense with responsibility altogether. I have suggested that the account offered best explains our practices and is consistent with profound and widely-held moral principles of fairness. I shall leave to others the task of suggesting why a different account would better explain current practices or would be more desirable, but I do believe that some regime of responsibility is worth maintaining.

What makes us distinctively human is our capacity for reason, which in turn makes us capable of genuine normative evaluation and appropriate objects of such evaluation. Evaluative moral responsibility is crucial to our sense of ourselves as persons, as agents, as objects of dignity and respect, and it coheres with other moral notions of supreme importance, such as desert, justice and fairness. Other sentient creatures can suffer and deserve to be treated without unnecessary pain, but we are the only creatures capable of leading fully moral lives. Responsibility is central to such a life and contributes to a meaningful life of dignity and worth. Responsibility enriches our lives; abandoning it would diminish personhood.

Responsibility is desirable also because it contributes to the creation and maintenance of moral communities. Agency, responsibility and desert are all moral notions, inextricably intertwined in our moral and nonmoral lives and interactions. When we attribute responsibility and appropriately express those attributions through practices of praise and blame, reward and punishment, we affirm and deepen our commitment to common moral obligations that bind us together. To diminish or abandon a robust notion of responsibility would be to weaken those ties and the communities that nurture us.

The reasons that I have given for maintaining a system of responsibility are potentially persuasive only if responsibility is not a myth. The compatibilist has no greater warrant to adopt “as if” responsibility than the hard determinist. As this section has argued, however, responsibility based on the capacity for reason should be sufficiently real to satisfy all except those who believe that in a thoroughly causal world there is no genuine morality that matters. Nonetheless, I recognize that the hardest of the hard determinists will not be convinced and that the libertarians will insistently claim that they really do have contra-causal freedom.

V. Conclusion

Whether or not taking moral responsibility seriously is a given of interpersonal life and even if determinism is true, responsibility practices accord with notions of fairness and enriches both personhood and moral community. These consequences are so important that if they are as dependent on responsibility as I claim, then it is

difficult if not impossible to imagine abandoning responsibility. Responsibility and associated practices are cultural creations. We are the creators as well as the objects of responsibility. There will never be uncontroversial agreement about what responsibility is or requires. All we can do is to give each other the best reasons why we should live together one way rather than another, why we should prefer one set of norms, rules and institutions to another. What reasons addressed to rational creatures would possibly be sufficient to believe that responsibility is impossible or should be abandoned?

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