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Cogs in a Cosmic Machine: A Defense of Free Will Skepticism and its Ethical Implications

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Cogs in a Cosmic Machine: A Defense of Free Will Skepticism and its Ethical Implications

by

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A dissertation submitted in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
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Parenting

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DEDICATION

I dedicate this dissertation to my mom for her love and support, to my dad for painstakingly proofreading every page, to Brogan Sullivan for being my life-long friend and editor-of-many-things, and to my aunt Lin for making graduate school possible.

ACKNOWLEDGMENTS

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I embarked on my academic quest to dispel belief in free will when, in my first year of graduate school, I read about an opportunity to study the subject during a two-week workshop in Budapest. Having never read anything concerning the free will debate, I turned to my friend and classmate Jeffrey Hinzman for recommendations on where to begin my research. It is because of Jeff, and the stack of books and articles he delivered to my office, that I first became interested in the topic, and formed my position on the matter. Thank you Jeff, without your help, my life would have been a less-interesting counterfactual.

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ABSTRACT

Free will skepticism denies that humans possess the type of freedom required for moral responsibility (FMR). While not the most popular position in scientific, philosophical, or mainstream communities, I contend that this lack of acceptance is due not to flaws inherent in the position, but to misconceptions concerning its ethical and practical implications. In my dissertation, I endorse free will skepticism, beginning with a refutation of contrary positions, followed by a response to objections, and ending with a defense of social reforms necessitated by the denial of free will. Ultimately, I support Derk Pereboom's optimism that a global acceptance of free will skepticism would result in societies that are more moral, beneficial, and just than those which perpetuate the illusion of free will.

Because of flaws in the alternative positions, I argue that free will skepticism is the most feasible view to hold regarding free will. Libertarianism, which denies causal determinism and purports that humans possess FMR, is not compatible with our current scientific understanding of the universe. On the other hand, while compatibilism accepts causal determinism, it retains free will only by relaxing the requirements for it. I explain why accepting a position contrary to science, or accepting weakened definitions of freedom, is both untenable and unnecessary.

Some object to free will skepticism not because they found something inherently wrong with the logic of the position but because of practical concerns. Their arguments against free will skepticism assert that if such a view is accepted, society will unravel, interpersonal relationships will become compromised, personal identity will be undermined, and life would lose all

meaning. However, largely inspired by Derk Pereboom's book "Living without Free Will," I will show why such misgivings are unfounded. Pereboom offers good reasons to believe that not only would society, relationships, identity, and meaning remain intact, but also that society would enjoy practical advantages by accepting free will skepticism. Furthermore, a society based on the belief in free will perpetrates grave injustices on its citizens, and beliefs in desert and blame fuel destructive reactive attitudes inimical to flourishing interpersonal relationships.

The social advantages of accepting free will skepticism involve sweeping reforms necessitated by its acceptance. I discuss two such reforms pertaining to the institutions of punishment and parenthood. If those who commit immoral or illegal acts are not to blame for their transgressions, then our current system of punishment is unfair and unjust. There are alternative ways to cultivate a safe society without subjecting wrongdoers to desert-based penalties. Using an alternative model of justice, one that tailors a punitive response to the specific risks and needs of each perpetrator, would be far more effective than mere incarceration. Furthermore, since the root cause of criminality can, in many cases, be traced to childhood abuse or neglect, I argue that society should do more to ensure that incompetent parents are not raising children. Therefore, I advocate a licensing program for parents for the benefit of both future children, and for the safety of society.

Building on the arguments of notable free will skeptics, I conclude that free will skepticism is the most scientifically defensible position, that the objections to it are unfounded, and that the benefits of accepting it surpass those of alternative positions. While a discussion of all ethical and practical implications would surpass the space allowed here, I hope that my limited discussion inspires more research and challenges the many misconceptions surrounding free will skepticism.

INTRODUCTION

Humans are not free in the sense required for moral responsibility. Yet, people *feel* like they possess free will because of misconceptions about the nature of their experiences. Such misconceptions include, but are not limited to: a misunderstanding about the type of causation agents exert, a misunderstanding about the type of control agents possess, short-sightedness concerning historical and contextual causal influences, and a disbelief in the inevitability of outcomes. The reasons people *want* to possess free will (the reasons people are averse to free will skepticism) are based on a deeply ingrained sense of entitlement to reward and punishment based on merit, a desire to see wrongdoers “pay,” and a misunderstanding of the ethical and interpersonal implications of free will skepticism. I will challenge support for free will by refuting contrary positions, by defending free will skepticism against objections, and by extolling both the personal and social advantages of accepting free will skepticism over competing views.

I devote the first three chapters to showing why free will skepticism is more feasible than contrary positions. In the first chapter, I refute libertarianism, which denies causal determinism and accepts free will. In chapter two, I argue against compatibilism, which accepts the truth of both causal determinism and free will. In chapter three, I address popular objections to free will skepticism, and I show how free will skepticism can account for morality, moral education, and phenomenological experiences, despite the lack of moral responsibility. Finally, in chapter four, I argue that accepting free will skepticism would demand major reforms in the social institutions of punishment and parenthood.

Why the Debate Matters

The free will debate has serious repercussions for social, moral, and political theory. For example, Immanuel Kant bases his moral theory on the presupposition that humans possess free will; he asserts, “since morality serves as a law for us only insofar as we are *rational beings*, it must be equally valid for all rational beings; and since it must be derived solely from the property of freedom, we need to prove that freedom too is a property of the will of all rational beings” (2002, 247). Most people accept Kant’s claim that morality requires free will, and they fear that should we abandon belief in free will, we would also have to abandon morality.

Others argue that forsaking free will would undermine justifications for punishment or that skepticism-inspired reforms to the justice system would result in a rise in crime and immoral behavior. For example, Saul Smilanski claims,

If implemented [hard determinism] would generate more rather than less crime, more criminals would be caught up in the system and incarcerated apart from society...and public sentiment would hardly move towards an offender-sympathetic stance, once crime blossoms...A backlash against hard determinist reforms would be inevitable. (2011, 361)

Since the concepts of blame and guilt require free will, or at least moral responsibility, and since such concepts form the foundation for systems of reward and punishment, many fear that the social and practical implications of free will skepticism are too costly, even if such skepticism is scientifically and theoretically justified.

The above fears reflect a deeply entrenched association between free will and social and political stability. Thus, challenges to free will are often met with hostility or apprehension. On the other hand, proponents of free will skepticism argue that should belief in free will continue, then so will grave injustices perpetrated on its behalf. Derk Pereboom, a contemporary advocate of hard incompatibilism (a type of free will skepticism) argues, “If it is significantly probable that one’s justification for harming another is unsound, then *prima facie* that behavior is

seriously wrong, and one must refrain from engaging in it” (2013b, 62). Since our society justifies punishment based on a belief system that is false, then our society is perpetrating a serious injustice on many of its citizens. This is especially true since there are alternative ways to handle criminal and immoral behavior that both benefit society and are compatible with free will skepticism.

Since belief in free will is the prevailing ideology in Western societies, the burden of proof in the free will debate seems to rest on the shoulders of the skeptics. In what follows, I will champion the arguments of leading free will skeptics and reply to common and contemporary objections. I echo Pereboom’s optimism that free will skepticism is not only the most scientifically feasible position to hold, but that it will have the most just, practical, social, and moral implications, if accepted on both a personal and societal level. Much is at stake in the debate, and with enough support, I hope that the tides of public opinion and political action will shift in favor of free will skepticism.

Chapter 1: A Refutation of Libertarianism

Before tackling libertarianism, I briefly discuss agent causation, distinguishing between first or “ultimate” causes, intermediate causes, and immediate or “proximate” causes. This distinction is important to the debate because free will skeptics, and most incompatibilists, demand that for agents to possess free will, they must be the “ultimate,” or first cause, of at least some actions. Compatibilists on the other hand, are satisfied with the agent being only the intermediate or immediate cause. I defend the necessity of ultimate agent causation for ascriptions of freedom and moral responsibility.

Libertarians, like free will skeptics, generally accept the necessity of agent causation; however, unlike free will skeptics, they believe we possess the ability to originate thoughts and

actions. There are two types of libertarians: event-causal (EC) and agent-causal (AC). EC libertarians argue that indeterminacy in the causal flow provides for free will, while AC libertarians argue that human actions originate within the agent, and therefore constitute free actions.

According to event-causal libertarians such as Robert Kane, indeterminacy in the causal stream leading to an agent's action allows an agent to act freely. According to Kane, when an agent is caught between two competing desires, then the resulting decision originates within the agent and becomes a "self-forming action" (2011, 387). He argues that such decisions are character forming and affect choices made in the future, thus making agents free in the sense requisite for moral responsibility. Drawing upon Derk Pereboom and Gregg Caruso, I will argue that indeterminacy does not provide libertarians with a convincing argument for free will, and that truly self-formed or self-willed actions do not seem to exist given our current knowledge of the mind and brain.

Agent-causal libertarianism, on the other hand, posits that agents are the sole originators of their actions and decisions. Pereboom argues against this type of libertarianism from a scientific point of view, claiming that our "scientific understanding of the world" precludes both agent-causal power and the type of free decisions required for moral responsibility (2001, 69). Pereboom argues that because the natural world is subject to the laws of physics and to causal processes that trace to factors beyond our control, and because humans are physical animals that cannot deviate from such processes, we do not possess free will. I will explain and expand on Pereboom's arguments against specific agent-causal libertarians.

Gregg Caruso charges agent-causal libertarianism with being inconsistent at best, incoherent at worst. Caruso explains that AC libertarians often deploy one of two defense

strategies: either they appeal to mind-body dualism, or they define the mind as an emergent property, capable of independently instigating original causal chains (2012, 22-23). I will support Caruso's and other's arguments against dualism in this section, and I will address the problem of emergence in chapter three.

Since agent causation is intricately linked to notions of personhood and mind theory, I finish my refutation of libertarianism with a discussion of personhood and extended mind theory. I argue that libertarians are limited to an internalist view of the mind, which posits that cognition is contained within the mind. Against internalist positions, I defend diffused moral responsibility, based on the concept of a diffused self, using extended mind theory as my main justification. I will appeal to theorists including, Andy Clark, Mason Cash, David Chalmers, Shaun Gallagher, and Anthony Crisafi to support my position that extended mind theory supports free will skepticism over libertarianism. I reference Clark, Chalmers, Derk Pereboom, Fred Keijzer and Maurice Schouten to defend externalism against internalist objections from Jaegwon Kim, Fred Adams and Ken Aizawa.

Chapter 2: Refutation of Compatibilism

Compatibilism tries to have it both ways: it claims that one can have free will and be morally responsible given causal determinism. Most compatibilists attempt to reconcile free will and determinism by redefining what it means to be free. I will address the varying renditions of compatibilism, showing the inadequacy of their definitions of the type of freedom required for attributions of moral responsibility (FMR). Classic compatibilism as argued by John Locke defines freedom merely as the capacity to act upon one's desires. I begin chapter two by challenging Locke's definition and re-asserting the necessity of agent origination in the definition of FMR.

For my refutation of contemporary compatibilism, I focus mainly on Harry Frankfurt's and John Martin Fischer's respective renditions. According to Frankfurt, FMR requires only the conformity between an agent's first and second order desires (i.e., if an agent endorses her desire to eat cake, then her choice to eat the cake is freely willed). I support Fischer's rejection of Frankfurt's version arguing that second order desires could be manipulated, coerced or otherwise influenced depriving the agent of free will; therefore, conformity between hierarchical desires is not sufficient for FMR (Fischer, 2006, 79).

Fischer's alternative compatibilist account grounds moral responsibility in an agent's ability to exert a certain type of control, namely "guidance control." He argues that if an agent is able to effectively respond to good reasons for not performing an action, then she possesses guidance control and is therefore morally responsible for the ensuing action (2006, 39). He attempts to procure agent origination by appealing to "mechanism ownership," defined as the endorsement of reasons for acting after subjecting such reasons to critical evaluation (2011, 199). The main problem with reasons-based compatibilist positions, such as Fischer's account, is their acceptance of intermediate or immediate causation as sufficient for free will, whereas I argue that only ultimate causation will suffice for FMR attributions.

Another strategy I use for challenging compatibilism is to appeal to Peter van Inwagen's consequence argument. The two conditions traditionally deemed necessary for FMR are: 1) alternate possibilities and 2) agent origination. While Locke and Frankfurt offer convincing examples to support their view that alternate possibilities are not necessary for FMR, Van Inwagen's consequent argument challenges both the alternate possibilities and the agent origination requirements (Locke, 1975, 238 and Frankfurt, 1969, 144). The consequence argument assumes physical determinism and asserts that if I have no control over the past and the

laws of physics, then I have no control over whatever the past and physical laws entail. Thus, according to the consequent argument, we lack both alternate possibilities and the type of control over actions necessary for FMR. I then appeal to the consequent argument and distinguish between varying senses of the word “can,” to refute Daniel Dennett’s and Heidegger’s respective compatibilist defenses of free will.

Although free will seems intuitively to be incompatible with causal determinism, compatibilism remains a popular position. Therefore, I finish the chapter with Baron Paul D’Holbach’s explanation of why the belief in free will persists despite the overwhelming evidence against it. According to D’Holbach, The tenacity with which people believe in free will can be attributed to misunderstandings concerning the nature of mind, the subtle and sometimes imperceptible nature of causal influences, and the inability to see how one’s actions fit into a historical context. I attend to the above misunderstandings and misgivings in my responses to objections in chapter three.

Chapter 3: Responses to Common Objections

While I cannot respond to every objection against free will skepticism in the space provided, I include what I perceive to be the most persistent and serious misgivings about accepting the position. For example, the first objection I address is the concern that should society accept free will skepticism, anyone performing, or wishing to perform, immoral or illegal acts would have a universal excuse. The fear is that should free will skepticism become a dominant ideology, society would suffer from rampant crime, an increase in unscrupulous behavior, and would have no justification for dealing with the ensuing chaos. I allay these fears by explaining how alternative forms of punitive responses to immoral behavior could still be retained, given free will skepticism.

The second objection I address posits that free will skepticism precludes “ought” statements. For example, Saul Smilanski argues, “We cannot tell people that they must behave in a certain way, that it is morally crucial that they do so, but then, if they do not, turn and say that this is (in every case) excusable, given whatever hereditary and environmental influences have operated in their formation” (2002, 434). I defend Derk Pereboom’s response that, since we cannot predict every individual’s moral determination, it makes sense to clarify and disseminate the moral rules individuals are expected to follow through moral education. Statements such as “you should not have done that” would not imply that the individual had an actual choice in the matter; rather, they would signify that the action was wrong and should not be repeated. Since we do not know beforehand what agents can or cannot do, “ought” statements retain their importance and viability.

The third objection claims free will skepticism does not recognize that those with diminished rational capacities or those who are under duress should be held to a lower degree of culpability than those with who are in full possession of their faculties of reason at the time of the action. According to the objection, as argued by Fisher, Ravizza, Ayer, Strawson, Wallace, and Arpaly, we need to maintain a “scale of responsibility,” recognizing that some agents are more worthy of punishment, or worthy of harsher punishments, than others. To do otherwise, they claim, would be unfair and unjust. Those who believe in free will skepticism would agree that responses to those with diminished capacities would be different than responses to those without impediments to reason. However, one does not need to ground such differences in beliefs in free will or moral responsibility. Free will skeptics shift the distinction from between levels of liability to between types of treatment. We can treat a kleptomaniac differently than we treat a common thief without relying on responsibility ascriptions.

I turn next to the “reactive attitudes” objection, as argued by P.F. Strawson. In *Freedom and Resentment*, he argues that, regardless of whether or not hard determinism (a type of free will skepticism) is true, not only are reactive attitudes so engrained in our social constitution as to make abandoning them unfeasible, but also were we able to somehow overcome them, our personal relationships would be seriously undermined as a result (1963, 129). In response to Strawson, Derk Pereboom claims that we can retain a stance toward others that preserves or embodies the positive attitudes, such as love, gratitude, and forgiveness (2013, 439). Pereboom also argues that tempering negative attitudes may actually benefit, rather than threaten, personal relationships. I argue that the feasibility of overcoming reactive attitudes is already apparent in the way we respond to non-human animals, such as pets. We recognize the inappropriateness of violently reacting to recalcitrant puppies precisely because we recognize that they are not morally responsible for whatever offenses they commit. Since we already temper our reactive attitudes when we realize the actor is not morally responsible for an offense, the reactive attitude objection loses ground.

The “phenomenology of free will” objection attributes the persistence of the belief in free will to the *feeling* of freedom people experience when thinking and acting. However, recent studies in neuroscience, such as Benjamin Libet’s experiments, show that our brains register choices and intentions before we are conscious of them (In Waller; 2011, 82-83). If such is the case, then the feeling of freedom is illusory, since it is preceded by actions in the brain that occur without an agent’s acknowledgment or endorsement. Baron D’Holbach claims that such feelings are the result of misconceptions, since we cannot track all of the historical causal influences of our actions. Thus, the mere feeling of freedom does not entail actual freedom.

Some object to free will skepticism because they think they will lose their identity. According to many continental philosophers such as Sartre and Heidegger, we are self-creating, experiential beings who depend not only on the calculations of reason, but also on meaning-giving activities that make our lives significant to us. I will give a brief overview of some of the positions maintained by existential philosophers, most notably Sartre, then defend my claim that meaning, identity, and phenomenological experiences are not threatened, undermined, or diminished, given free will skepticism.

The final objection I address comes from those who appeal to emergence theories in defense of free will. This objection describes the mind as an emergent property, meaning it is not reducible to the brain, and may therefore possess attributes, such as free will, that cannot be traced to the mere physicality of the brain. This dualistic argument, as defended by Nancey Murphy and Warren Brown, receives criticism from reductionists such as Jaegwon Kim. I will argue further, that the concepts they use to defend emergent free will, such as downward causation, actually support free will skepticism.

Chapter 4: Punishment and Parenthood

In chapter four, I argue that since criminal behavior is rooted in an agent's causal history, and since many criminals became such as a result of abuse or neglect, the institutions of punishment and parenthood need to be reformed. I defend the reforms against objections, and I argue that changing the way we punish and parent not only accommodates free will skepticism, but also aligns with justice, fairness and morality in a way that our current institutions do not.

Discussing punishment, I favor rehabilitation and Pereboom's argument for "quarantine" over retribution and punishment. While deterrence and utilitarian justifications for punishment are compatible with both free will skepticism and our current system of justice, using those

justifications to maintain our current punishment practices would be immoral. If society could enjoy lower rates of crime using an alternative and more humane response to criminal behavior, then society should employ those methods; as Pereboom states, “all other things being equal, if two methods achieve the same goal for an agent, but one harms him while the other does not, the one that does not harm the agent should be preferred” (2001, 164). If criminals are not blameworthy for their criminal actions, then they are due the same respect and humane treatment as those who are sick; thus, treatment or quarantine, rather than mere incarceration, are warranted.

The alternative I defend is the “risk-need-receptivity” (RNR) model of punishment, as advocated by D.A. Andrews and James Bonta. Rather than tailoring the punishment to fit the crime, this model prescribes tailoring punitive responses to the needs of the inmate. Studies at Kentucky’s Department of Correction have shown that employing the RNR model has reduced recidivism rates, and supplemental programs, such as therapy and meditation, have also proven helpful in rehabilitation efforts (Brooks et al., 2012, 432, Perelman, 177 and Byron, 20).

Since free will skepticism acknowledges that childhood circumstances are integral to an agent’s causal determination, and since there is such a strong correlation between criminality and childhood abuse and neglect, I argue that society should do more to ensure that incompetent would-be parents, those who would abuse or neglect, are not raising children. I support Hugh LaFollette’s argument that parenthood should require licensing for the same reasons many professions do: to protect a vulnerable population from people who are in a position to inflict considerable damage to them (2010, 329). While there are practical and weighty objections to immediately instituting a licensing program for parents, the risk of harm to children justifies giving such a program serious consideration.

Conclusion

I conclude my dissertation with a brief discussion of why accepting free will skepticism would be the “safest bet” among competing theories. As I stated in the beginning, much is at stake in the debate: perpetuating the belief in free will comes as the cost of perpetrating grave injustices, while accepting free will skepticism would demand reforms for the benefit of all. The repercussions extend beyond that for criminals and children; everyone benefits from living in a society that enjoys less crime and less child abuse and neglect. Our society has much to gain, and little to lose by merely changing its perspective on free will. In the final analysis, regardless of where one stands in the free will debate, there are good reasons, both theoretical and practical, why one should accept free will skepticism as the dominant ideology.

CHAPTER 1

A REFUTATION OF LIBERTARIANISM

Two broad disagreements dominate the free will debate: the first between incompatibilists and compatibilists; i.e., those who believe that free will is not compatible with physical determinism and those who believe that it is. The second occurs within the incompatibilism camp between those who believe we have free will (libertarians) and those who claim we do not (free will skeptics).¹ The debate between incompatibilists and compatibilists focuses mainly on which definition of freedom warrants ascriptions of moral responsibility. However, libertarians and free will skeptics have generally agreed on which conditions are sufficient for free will, and instead focus on whether or not those conditions obtain. This disagreement revolves around conflicting views concerning causation and agent origination. Libertarians assert that agents can originate at least some actions, while free will skeptics claim that agents are always embedded within a causal stream over which they do not have the type of control required for moral responsibility.²

Since all physical objects and events are subject to the laws of physics, including processes of cause and effect, libertarians must explain how agents can cause actions without those actions also being caused by antecedent events or external influences. To do this, libertarian theorists have employed three types of doctrines: a dualistic theory of mind; a

¹ I will use the term “free will skeptic” to include anyone who does not believe humans possess the type of freedom relevant to moral responsibility ascriptions including hard determinists and hard incompatibilists.

² I will use the term “agent” broadly as a person who has the rational capacity to intend and perform an action based on reasons and who can decide between conflicting motivations.

defense of agent-causation, in virtue of the causal efficacy of acting on reasons; and an appeal to causal indeterminacy prior to the action or choice. Those who adopt either of the first two stances are called agent-causal libertarians, while those in the latter camp are called event-causal libertarians. I will first explain the causal distinctions relevant to the discussion of free will; then, I will turn to reasons for rejecting both types of libertarianism. Finally, I will employ extended mind theory as an argument against libertarianism.

Causal Distinctions

As stated above, the debate between libertarians and free will skeptics revolves around the question of whether or not an agent can initiate an action or decision in a way that entails agent causation. The libertarian argument generally claims that if an agent caused an action in the sense relevant to FMR, then she is morally responsible for it. The challenges are to distinguish which type of causation counts as “the relevant sense” and to determine whether or not an agent can be such a cause. Because “cause” has myriad meanings, and because various theorists use different terms to describe the same kind of causation, I will first explain which terms and definitions I will adopt for my arguments.

The literature on causation is vast and varied. Theorists discuss agent causation, mental causation, necessary and sufficient causation, and so on. For the purposes of relating causation to moral responsibility, I am interested primarily in temporal causal distinctions. More specifically, I support the position that if an agent is not the *first* or *original* cause (or, using Robert Kane’s term, the *ultimate* cause), then that agent cannot be held morally responsible for the action. Thus, I contrast ultimate cause with intermediary (efficient) causes and immediate causes.³ I will then discuss why ultimate causation is necessary for moral responsibility.

³ My use of “immediate” could be replaced with “proximate.”

Something is the immediate cause of an action if it is the action that is closest in time to the effect. For example, when an agent throws a glass against the wall and it breaks, the event of the glass hitting the wall is the most immediate cause of the glass breaking (combined with the fragility of the glass and the hardness of the wall). An intermediary or efficient cause is merely some event (apart from the ultimate and immediate causes) that is contributory to the effect, such as the act of the agent throwing the glass toward the wall. We can (at least in principle) track the intermediary causes back until all the factors contributing to the glass breaking are accounted for; the one cause that begins the process is the first, or ultimate cause.

Incompatibilists generally agree that to be morally responsible for an action an agent must be the ultimate cause of that action; ultimate causation entails causal origination, and causal origination requires a certain type of control. We ultimately seek to determine whether or not an agent exerted the type of control requisite for attributions of FMR. If an action did not originate within an agent, if the ultimate cause of an action can be traced to events external to or prior to an agent (such as coercive manipulation), then, at that time, an agent lacks the type of control required for moral responsibility. We take this lack of control to be evident in situations involving addiction or mental illness, but free will skeptics argue that *all* situations involve ultimate-control-inhibiting factors.

According to causal determinism, every physical event has a physical cause such that the antecedent cause makes the effect inevitable and theoretically predictable. According to hard determinism (a type of free will skepticism), humans are purely physical beings and determinism is true, so humans can never by themselves be the ultimate cause of an action. Libertarians argue that causal determinism is not true, which inspired Mark Balaguer to conclude that whether or not we possess FMR is “a wide open empirical question” (2009, 20). In order to refute

libertarianism, free will skeptics who claim humans lack free will regardless of whether or not determinism obtains, need only show that humans are not and cannot be ultimate causes. This is the position I will defend for the rest of the chapter.

Agent Causation

Non-coerced human action usually falls within three broad categories: involuntary, automatic/habitual, and intentional. Free will theorists are most interested in intentional action. A common, superficial understanding of intentional agent causation asks only whether an agent meant to perform an action. If not (i.e., if an action was involuntary or out of an agent's control), then an agent is relieved of causal responsibility. This common understanding of agent causation works as an explanatory tool, but I will argue that it is not a freedom-granting type of causation (at least with respect to the kind of freedom at issue here).

Richard Swinburne defines agent causation as: "Intentional causation, being causation by a substance (an agent) in virtue of its causal powers with some intention...and...in the light of a belief about how that intention can be achieved" (2013, 140). This definition reflects the superficial understanding of agent causation described above. In cases involving simple actions, Swinburne's definition of causation suffices to explain why the action took place, but that explanation is merely descriptive. My taking a drink of water from my water bottle resulted from both my desire to quench my thirst and my belief that the water in my bottle would satisfy that desire. My intention to drink can be explained by those two conditions obtaining. My desire, belief, and subsequent intention together directly resulted in my drinking the water. Simple cases such as this describe non-reflective actions and are generally morally insignificant.

Simple cases also involve habitual actions that are unreflectively voluntary. Someone who absentmindedly flicks her cigarette filter on the ground is littering; while the action has

moral import, it can hardly be considered a moral choice until someone calls attention to the habitual behavior by explaining the moral implications of the action. Certain menial decisions also carry no moral import. For example, deciding between buying a blue squeaky bunny toy or a red squeaky squirrel toy at the pet store is a simple aesthetic decision made trivial by the fact that my toothy puppies will destroy either toy within hours. To say I “freely” chose the squeaky bunny, or that I am responsible for not choosing the squeaky squirrel merely describes an event in which I was not coerced to choose one over the other. Non-coercion, however, does not by itself entail FMR.

To determine the cause of an action, one must first determine the reason(s) why an agent performed an action. I lifted my arm to get a drink of water because I was thirsty. Thirst is a physiological condition over which I have no control. If I were not thirsty, then I would not have lifted my arm. If water were not available (environmental determinant) I would not have lifted my arm. I was only the immediate cause of my lifting my arm. I was a cause, but only trivially so, not in an FMR-granting manner. If I were determined to get a drink of water and discovered the only water available was contaminated, my refraining from drinking the water despite my thirst is also not a free action (D’Holbach, 1868/1970, 90). In that case, the cause of my refraining can be attributed to my prudential character. Humans are generally self-preserving, and self-preservation is either an evolutionary or a social determinant. Thus, if I efficiently caused myself to refrain from drinking the water, I would not, in that case, be the ultimate cause of the decision or intention to refrain.

More complicated cases usually involve competing desires within an agent, or conflicts between desire and morality. For example, say Sally is deciding between going wakeboarding and working on her dissertation, and no one is forcing her or trying to convince her to choose

one option over the other. If she decides to forsake her academic responsibility for the joys of wakeboarding, she feels responsible for that decision. This is especially true in cases involving deliberation, when an agent can explain the myriad reasons for the choice. Sally may cite such reasons as having worked for hours the previous day, that the weather is inviting, and that her eyes are burning from staring at the computer for too long. As a direct result of her deliberation, her decision to go wakeboarding seems to have originated within her. She feels as though she is the sole and ultimate cause of that decision. However, the perception of being such a cause is not the same as *actually* being such a cause. I will discuss this further in the third chapter, where I respond to objections concerning the phenomenological experience of freedom.

A free will skeptic could theoretically give a causal history that eventually leads to Sally's decision to go wakeboarding. This history could involve her learning to wakeboard and developing an affinity for it, the development of the type of character that would choose to go wakeboarding instead of working, and the weather on that particular day. These contributing causal factors mitigate her responsibility for that decision. Since we can trace the explanatory causal history of all human decisions and actions back to antecedent events, it seems that the only cause that suffices as "ultimate" is the "big bang." All other causes are either merely immediate or efficient.

I maintain that Sally's decision to go wakeboarding on that particular day did not originate within Sally independently of antecedent causal influences; however, Murphy and Brown argue that even if Sally is not the sole cause of the action, she is still the primary cause and thus bears responsibility. I will address this argument in my discussion of emergence in chapter three (2007, 290). Fischer and Ravizza argue that even if Sally is not the original cause, she still exerted a type of control sufficient for moral responsibility. Since this objection is

compatibilistic, I will address it in the next chapter. For now, all I need to show, for the purposes of challenging libertarianism, is that for all circumstances, an agent is neither the sufficient nor the ultimate cause of any action or decision and therefore does not possess FMR.

Swinburne discusses two types of causation: inanimate causation (one billiard ball causing another to move) and intentional causation (the billiard player causing the balls to move). But if free will skepticism is correct, then even intentional causation is merely descriptive and carries no additional moral weight. Swinburne states that the two types are merely two species of the same genus. He endorses an “SPL” (substances, powers, and liabilities) account of agent causation that states,

It is substances – planets, or billiard balls or gunpowder – which exert causal influence, and they do so in virtue of their powers; if they exert enough causal influence, they often cause effects. Exactly the same holds for intentional causation; substances (in this case, animals or humans) exercise causal influence in virtue of their powers, and if they exert enough of it they often cause effects. The only difference is that in inanimate causation substances have a liability to exercise their powers under various circumstances, whereas in intentional causation substances intentionally exercise their powers. (2013, 138)

To illustrate, he offers the example, “When I do throw the ball, this latter succession is a part of the stream of causation which I initiate by throwing the ball” (2013, 138-139). As a free will skeptic, I concede that agents often intentionally perform actions thereby voluntarily causing those actions to occur. Taken out of context⁴, agents may even initiate streams of causation. But they are always and already embedded within a broader causal stream. As a matter of verbal practicality (for explanatory or descriptive purposes), we could talk about agents intentionally *causing* or *initiating* actions, but when discussing free will and moral responsibility, it is important to clarify that while an agent initiated an isolated sequence of events, that sequence cannot be morally evaluated independent of the entire prior causal history.

⁴ By “context” I mean a linear temporal causal stream tracing back to the “big bang.”

The causal distinctions will become especially salient when evaluating arguments that attribute free will on the basis of the capacity to act according to reason. Such arguments place the point of origin of the causal stream relevant to an action at the point when an agent either decides to perform or not perform an action based on reasons, or when an agent decides based on a prioritization of conflicting reasons. Donald Davidson calls such rationalization “a species of ordinary causal explanation” (1963, 685). I will attend to such arguments after the following discussion of dualism.

Against Agent-Causal Libertarianism

Appealing to mind-body dualism is one strategy by which libertarians attempt to position agents as causal originators. Dualists such as Swinburne and René Descartes generally claim that the mind is not the same as the brain, and as such, may not be subject to the same physical laws as those governing physical substances. Thomas Nagel also challenges physicalism and the identity theory by showing how the mind has at least one property not shared by the brain. Philosophy of mind theorists refer to this property as “qualia,” or the subjective character of experience. Using dualism to explain agent causation, Swinburne states, “It is...we humans, not events which happen in us, who cause our brain events; we cause a brain event by forming the intention to cause some effect of that brain event” (2013, 124). By describing causation as such, Swinburne attempts to extricate agents from the physical causal stream that affects, influences and determines physical entities.

Gregg Caruso offers three objections to dualism in general, all of which challenge Swinburne’s dualism in particular. Caruso’s first objection is the oft-cited problem of interaction (2012, 35). Mental states cause physical actions (e.g., feeling sad physically manifests as crying) and physical phenomena cause mental states (e.g., drinking a substantial amount of alcohol

causes a subsequent reduction of one's rational capacities). According to non-dualists, dualists have yet to adequately explain how an immaterial substance can have an effect on a material entity and vice versa.

Derk Pereboom challenges dualist defenses of libertarian arguments by appealing to physical laws. According to him, our "scientific understanding of the world" precludes both agent-causal power and the type of free decisions required for moral responsibility (2001, 69). Pereboom argues that the natural world is subject to the laws of physics and to causal processes that trace back to factors beyond our control. Agent-causal libertarians such as Kant assert that humans have the capacity to render decisions and cause actions that are independent of such laws because they possess what Kant calls *transcendental freedom* (in Pereboom; 2001, 79). However, the results of these decisions are actions that manifest in the natural world, and are thus subject to determined causation. Pereboom argues that the chance of non-physical, non-deterministic mental events coinciding with their causal, deterministic, physical manifestations implies coincidences that are "too wild to believe" (2001, 81; 2013, 434). A better explanation is that we are physical substances subject to physical laws.

Caruso's second and third objections stem from his advocacy of physical causal closure, which he claims is the "best explanation" for the description of our universe (2012, 36). Physical causal closure theory states that physical events have only physical causes and physical effects. Even if quantum indeterminacy makes the relation between cause and effect probabilistic rather than deterministic, the relation would still be contained within a purely physical universe. Thus, Caruso's second objection to dualism is that the mind is merely another physical thing subject to physical laws.

Given physical causal closure, Caruso's third objection echoes Leibniz's (and others') claim that dualism "violates the law of the conservation of energy" (2012, 37). This objection is based on the following scientific principle: Energy can neither be created nor destroyed; it is merely displaced from one physical object to another. If the mind is a non-physical entity, then by causing a physical object to move, it must create the energy required to do so. By initiating physical events, a non-physical mind would have to create new energy in the physical world, which is a violation of a physical law and does not conform to physical causal closure.

The latter two objections ignore the problem of the apparent irreducibility of mind to brain given that the mind has an aspect the brain does not, namely, qualia. Jaegwon Kim, in his defense of physicalism, calls qualia "mental residue," and argues that it does not pose a challenge to mental causation because "the mental residue encompasses only qualitative states of consciousness, and does not touch the intentional/cognitive domain" (2005, 170). He claims that subjective experiences are not physical, but merely epiphenomenal since they play no causal role in intentional actions. Thus, my subjective experience of pain is merely a byproduct to the c-fibers firing in my brain, and such an experience merely accompanies any ensuing actions, but plays no causal role in those actions.

Non-Dualist Agent-Causal Libertarianism

Other libertarians such as Randolph Clarke and Timothy O'Connor avoid the problems of dualism by either appealing to the causal efficacy of acting based on reasons (Clarke) or by attributing to an agent the power to directly cause actions by freely forming an intention motivated by reasons (O'Connor). O'Connor does not credit the reasons themselves with causal power because the possession of reasons is an event and he wants to attribute causation to agents as substances. He argues, "the obtaining of the reason appropriately affects (in the typical case,

by increasing) an *objective propensity of the agent* to cause the intention...reasons *causally structure* the agent-causal capacity” (2009, 234-235, italics in original). The agent-causal capacity to which O’Connor refers is the capacity to freely form intentions motivated by reasons. Thus, for O’Connor, because agents cause the intentions that cause the actions, such actions originate within the agent, satisfying a necessary condition for FMR.

Pereboom’s “coincidence” objection to Kant’s libertarian argument can be applied to O’Connor’s rendition as well. Any libertarian theory that endows an agent with a special power to originate action must reconcile that power with known physical laws (whether deterministic or probabilistic). O’Connor argues that reasons as events (which are governed by physical laws) are not by themselves causally sufficient, and since agent-causal power is different from event-causal power, it is not subject to the same deterministic or probabilistic laws. Pereboom argues that if one set of laws governs events and a different set of laws governs substances, then we should expect these laws to (at least in some instances) diverge. Otherwise,

If we nevertheless found conformity, we would have very good reason to believe that the agent-causal power was not of a different sort from the causal powers of the events...or else, this conformity would be a wild coincidence, not to be expected and without explanation (2005, 246).

We must either accept that the same set of laws governs both powers or tolerate the highly implausible possibility that the outcomes of agent-causal power just happens to coincide with event-causal expectations.

Clarke offers what he calls a reconciliationist account of agent-causal free will. He attempts to reconcile agent-causal and event-causal libertarianism, not free will and determinism:

For suppose that all events...are caused by earlier events, but that event causation is ‘chancy’ or probabilistic rather than deterministic...Whatever happens now, past events cause it; but since they do not causally necessitate it, something else might have happened instead, in which case past events would have caused that something else. (1993, 217)

This satisfies the condition of alternate possibilities. According to Clarke, agent-causation obtains because an agent decides which particular action to perform. He claims that agents are uncaused causes because outcomes of decisions are probabilistic giving an agent the freedom to choose among actual possibilities, and the act of choosing gives an agent the control requisite for free will.

At first glance, Clarke's view seems to involve causal overdetermination of actions because actions are caused by agents *and* by earlier events. However, according to this view, while the antecedent events influence character and the reasons for choosing one option over another, an agent as the ultimate arbiter is the one responsible for making the final decision. The ability of agents to prioritize reasons is the key to FMR, according to Clarke:

There are other sorts of cases in which it is rationally indeterminate not only *for* which reasons an agent will act, but also how the reasons an agent *has* to act will be ordered. In making a decision, an agent will sometimes change the order in which she ranks considerations as reasons for action, and sometimes it may be as rational for her to change an ordering as it is for her to maintain it. (1993, 220 italics in original)

Simply stated, Clarke's argument is that an agent has FMR if she rationally chooses between alternatives according to reasons. He offers the example of an agent, Pam, deciding between attending a lecture and going to the movies (1993, 219). He cites reasons for both alternatives: she knows the lecturer and is interested in the lecture topic, but she is also interested in accompanying a friend to the movie. Clarke states that because she prioritizes her reasons for attending the lecture, that decision is both rational and an exercise of free will.

Many libertarians like Clarke argue that what makes a decision free is that it was made according to reasons. The reasons do not cause an agent to act; rather, it is the capacity of an agent to choose among competing reasons that warrants ascriptions of free will and moral responsibility. However, citing this capacity of an agent as the causal point of origin for action is

shortsighted; a causal explanation could be given for why she considered only certain reasons, and why she prioritized the reasons for going to the lecture. A free will skeptic would argue that the way she orders her reasons, and the reasons that become salient to her, are determined by past events including experience, influences, conditioning, and education. Reasons are merely intermediary, or efficient, causes, and the way in which an agent grants priority to her reasons either has an explanatory and causal history or is the result of responsibility obstructing indeterminacy. Either way, the capacity itself is not the ultimate cause of the action.

Benjamin Libet has argued against free will citing evidence that the brain signals an intention before an agent is consciously aware of forming the intention (Caruso, 189-201). If he is right, then the temporal ordering of action transpires as follows: neural event → intention → action. Libertarians explain agent causation as follows: intention → neural event → action. If Libet is right, he offers a convincing argument for why reasons do not cause actions, but are instead caused by physical neural events. While there is a debate as to whether Libet provides convincing reasons to doubt free will, I argue that even if Libet is wrong, even if an agent's intentions cause neural events that cause actions, because those intentions are merely efficient causes and not ultimate causes of the action, agents do not possess FMR.

Against Event-Causal Libertarianism

As an event-causal libertarian, Robert Kane argues that his view overcomes the common objections to agent-causal libertarianism. He claims that the first condition for free will—that there are alternate possibilities—is not sufficient for free will since we can be ultimately responsible for our actions even if we could not have done otherwise (2007, 14). The requirement of alternate possibilities for FMR has come under scrutiny since the popularization of counterexamples involving agents who will be covertly manipulated to perform an action,

even if they choose to do otherwise. I will discuss the alternate-possibility requirement more thoroughly in the next chapter.

Kane and many other incompatibilists in the free will debate focus mainly on the second condition for FMR, agent origination, or as Kane calls it, “ultimate responsibility” (UR). Such incompatibilists are commonly called “source incompatibilists.” Kane defines UR as:

To be ultimately responsible for an action, an agent must be responsible for anything that is a sufficient reason (condition, cause, or motive) for the action’s occurring. If, for example, a choice issues from, and can be sufficiently explained by, an agent’s character and motives (together with background conditions), then to be ultimately responsible for the choice, the agent must be at least in part responsible by virtue of choices or actions voluntarily performed in the past for having the character and motives he or she now has. (2011, 383)

Kane stipulates that the causal chain that led up to any action can be traced to “self-forming acts” (SFAs) whereby alternatives existed (2011, 383). According to Kane, such decisions are character-forming and affect future choices. However, when an agent is presented with a choice between competing interests, the resulting choice, if not determined by anything outside an agent herself, seems to be arbitrary or random. Even if she engages in rational deliberation, the way in which she deliberates depends on the factors she considers pertinent. How she prioritizes such considerations depends on, among other things, her temperament, upbringing, education, social conditioning, and life experience. Thus, truly self-formed or self-willed actions do not seem to exist given our current knowledge of the mind and brain.

To explain how persons have the type of agency required for free will, Kane argues that during a torn decision or moral dilemma, there is indeterminacy in the causal chain that leads to an action. According to Kane, in this moment of indecision, enough indeterminacy occurs in the brain to make either option viable:

At such times, there is tension and uncertainty in our minds about what to do, I suggest, that is reflected in appropriate regions of our brains by movement away from thermodynamic equilibrium – in short, a kind of stirring up of chaos in the brain that makes it sensitive to micro-indeterminacies at the neuronal level (2011, 387).

Kane asserts that even if quantum indeterminacy makes the result of a torn decision random, since the agent wills both events, she is responsible for the decision; the decision is under her control in a free will-granting way.

However, there is another reason for saying that agents do not have control over their actions, and it has to do with UR. Certainly, in a torn decision involving competing desires, regardless of which action an agent decides to take, she will have consciously and voluntarily willed the successful action and will have reasons for doing so. However, once again, Kane's causal explanation stops at an agent's having acted for reasons and fails to explain the causal history giving rise to an agent having the reasons upon which she acts. Arguments such as Kane's create an isolated causal microcosm that appears to exist independently of a causal history.

Kane argues that in resolving torn decisions, an agent acts freely and responsibly. An agent desires and wills both actions, so she endorses whichever action indeterministically results from the decision, and he argues that such resolutions constitute "self-forming" actions. They become part of the character of the person and will influence further actions. If at the point of the decision, indeterminacy in the brain did indeed cause one action over the other, then an agent did not voluntarily intend that choice to become part of her character. That one option—say, an altruistic one—predominated over the other—say, a self-interested one—was a matter of chance. If an agent becomes a more altruistic person in general as a result, that character trait can be traced to a factor that was beyond her control—the indeterminacy that led to the self-forming decision. While she did indeed will the action that succeeded, the fact that that action succeeded

rather than another was beyond her control. Random events are not willed events, even if an agent endorses the effects of those events.

Kane's position faces the following problems: 1) The fact that an agent limited her choices to only two is beyond her ultimate control, 2) The reasons she has for willing either option is beyond her ultimate control, and 3) If the choice is the result of indeterminacy, then that too is beyond her ultimate control. Thus, it seems that an agent lacks free will, even if she could have done otherwise, if the choice between alternate possibilities was resolved due to indeterminacy in the brain.

Kane responds to the latter challenge by suggesting a "transformation of perspective." He writes, "think...of the indeterminism involved in free choice as an *ingredient* in larger goal-directed or *teleological* processes or activities, in which the indeterminism functions as a *hindrance* or *obstacle* to the attainment of the goal"(2011, 393 Italics in original). He describes indeterminacy in torn decisions acting as a hindrance, just as a vaccine hinders the probability of contracting a disease. He argues that indeterminacy causes the resulting action no more than a vaccine causes a disease despite "its role to hinder that effect;" the agent's desires caused the action (2011, 394). But the agent did not cause those desires; rather, she developed them as a result of antecedent events (such as, social conditioning, education, genetics, parenting and so on). Thus, Kane's view does not satisfy the causal sufficiency condition for FMR.

Laura Ekstrom offers a defense of event-causal libertarianism similar to Kane's. Her view appeals to an agent's ability to act upon reasons based on preferences, which she defines as, "those desires that have been formed by way of or have withstood a process of critical evaluation with regard to the agent's conception of the good" (2011, 371). Thus, according to Ekstrom, freedom and autonomy are grounded in our rational capacities. While Kane argues that we are

responsible for our own character through self-forming acts in situations involving torn-decisions, Ekstrom argues that we choose our character, or self, by non-coercively endorsing our preferences in all intentional actions, not merely those involving conflicting desires. According to her “coherence theory of autonomy,” all that is required for FMR is that we make decisions based on “authorized” preferences, which conform to our already established character.

What makes her position an event-causal libertarian theory is her view that, first, indeterminism may viably allow for “causal openness,” and second, that the fact that the agent “authorizes” whichever outcome obtains makes that decision ultimately her own. She defends her view by stating,

What we want in conceiving of ourselves as free agents is to be able to decide on our character-defining attitudes on our own. We want our preferences to be up to us in the sense that they follow our deliberations (i.e., they are caused and justified by our reasons), but also such that we could have formed different ones instead (2011, 373).

While her theory as rendered above would satisfy both of the incompatibilist conditions for FMR (agent origination and alternate possibilities) her view is vulnerable to the same objections as those rendered against other event-causal libertarian theories.

First, according to Ekstrom, the type of freedom we want requires agent origination through self-construction; however, she does not show how preferences originate within an agent. She states only that they must follow from deliberation, be endorsed by an agent, and cohere with “one’s other preferences and conviction” (2011, 372). These requirements place preferences firmly within the “efficient cause” category. I will further defend the non-agent-origination of reason-based capacities in the next section.

Second, Ekstrom argues that FMR requires that our preferences are not causally determined (i.e., we could have formed different preferences than the set we did form). Asserting that decisions are indeterministic opens event-causal libertarian arguments to Nagel’s “luck”

objection. If the choice is not determined, then the outcome is a matter of luck or chance, and not under the control of the agent. Ekstrom responds to this objection by stating that the luck objection does not threaten an agent's self-determination as long as the agent endorses whichever outcome obtains; she states, "one may decide what to prefer for reasons that cause and justify, without necessitating, the decision outcome" (2011, 376). Thus, according to Ekstrom, indeterminism satisfies the alternate possibility condition without undermining the agent origination condition. However, if the agent origination condition is undermined for other reasons, as I have argued it is, and since indeterminism is not by itself an FMR-granting condition, then Ekstrom's account fares no better than Kane's at explaining libertarian freedom.

Extended Mind and Personhood

My final challenge to libertarianism concerns personhood. Describing agents as an ultimate cause or generator of action assumes that the locus of agency is contained within the agent. It makes no sense to attribute moral responsibility to an agent if the self is diffused and the boundary between that agent and her environment is blurred. Large corporations, for example, take advantage of the concept of "diffused responsibility" when avoiding prosecution for illegal activities (e.g., pollution). Corporate executives are members of a system; as such, any single executive is not held morally or legally responsible for the actions of the whole, just as any one member of a mob is not accountable for the actions of the whole mob. In *Did My Neurons Make Me do it?* Nancey Murphy and Warren Brown consistently refer to the fact that agents are members of a dynamic, interactive system. At any given time, an agent is operating (i.e., thinking, deliberating, acting, deciding) within that dynamic structure. There is never a point in an agent's life where she is truly extricated from her environment and the causal influences therein. If her identity is diffused throughout that environment, similar to the way corporate

identity is diffused among its members, then an agent can no more be held morally responsible for her actions than can a corporation.

Extended mind theory gives good reason for believing that the self is indeed diffused. According to Andy Clark, the mind “just ain’t in the head”; rather, it extends into the environment through the use of external devices and aids (2010, 27). While free will skepticism focuses on the origin of actions, extended mind theories focus on the source and location of cognition. According to Mason Cash, the Hypothesis of Extended Cognition (HEC) “entails that some of the intelligent control of action—indeed some of the intentional states that are the reasons for action—are best seen as distributed across a system of which an individual person is only a part” (2010, 2). Causal determinism situates individuals within a causal continuum wherein agency is stretched along the continuum rather than residing solely within the individual. Similarly, extended mind theories diffuse agency within a contextual environment. While causal determinism focuses on a linear, temporal continuum (i.e., present events are the effect of prior events and the cause of future events), extended mind theories turn their focus outward (i.e., cognition is distributed across the individual and her environment). If moral responsibility requires agent causation, and if agent causation requires autonomous, independent cognition, then extended mind theories seem to support free will skepticism, depending on the extent of the cognitive extension.

Andy Clark and David Chalmers defend HEC through their parity principle, which states, “if, as we confront some task, a part of the world functions as a process which, were it to go on in the head, we would have no hesitation in accepting as part of the cognitive process, then that part of the world is (for that time) part of the cognitive process” (2010, 44). The example they give to illustrate this point involves an Alzheimer patient named Otto who uses a notebook to

remember information. According to Clark and Chalmers, the notebook operates as part of Otto's mind. They offer a list of requirements in order for external objects to be considered as part of the cognitive processes, which include: reliability, portability and accessibility (2010, 46). If part of the world contributes directly to the causal processes that result in some action, then the agent cannot, in that instance, be described as the sole cause of that action. However, in order to lack FMR, it is not enough that the agent is not the *sole* cause; she must also not be the *original* cause. Thus, it seems that Cash is correct in thinking that the parity principle does not, by itself, support free will skepticism.

For example, Otto's notebook or a math student's calculator may function as part of their respective cognitive systems, but we would not attribute responsibility for decisions or calculations to those devices. If a math student comes to a wrong answer because she put the wrong information into her calculator, we do not mitigate responsibility because her answer depended upon the output of the calculator; rather we charge that the fault lies at the point of input. However, the problem may not reside in cognitive extension per se, but rather with the limited parameters described by Clark and Chalmers and taken up by Cash.

Cash criticizes the extended mind theory as described by Clark and Chalmers for retaining the individual as the locus for cognition, and limiting cognitive extension in such a way as to ignore the role institutions, history and environment play in mental processes. Cash references Shaun Gallagher and Anthony Crisafi, who have a similar complaint against Clark and Chalmers' depiction of extended mind. While Clark ascribes strict guidelines via the parity principle for which external devices could count as being part of the mind, in *Mental Institutions*, Gallagher and Crisafi argue that such constraints are unnecessary. According to Gallagher and Crisafi, as long as the external environment is appropriately cognitively coupled to the

individual, then the external entity, whether it is a portable device or an entire institution, need not satisfy the parity principle conditions (2008, 47). For them, cognitive extension is merely a matter of degree, and limiting it to the parity principle conditions is arbitrary and unnecessary.

Gallagher and Crisafi maintain, “cognitive effort may be distributed across a number of heads” (2008, 47). History and institutions also play an active role in an individual’s cognitive functioning, further diffusing agency and responsibility. One of their examples posits that the legal system performs cognitive functions: “it is a cognitive practice that in principle could not happen just in the head; indeed, it extends cognition through environments that are large and various” (2008, 48). Along with the legal institution, they offer museums, the education system, and even conversations as examples of mental institutions. Gallagher and Crisafi (and Cash) stipulate that humans both constitute and are constituted by external institutions in that we communally create the social order and norms that in turn influence and contribute to our individual cognitive practices. The more extended our cognition becomes, the more dispersed our agency becomes.

Gallagher and Crisafi question “whether thinking itself, as a human enterprise, and as an individual practice, has changed” (2008, 51) I question whether thinking *is* an individual practice. The dialogical view of the self holds that when thinking, agents are constantly engaged in internal conversations with prior influences (Guignon, 2004, 122). Therefore, there is not one “I,” but rather a multitude of “I’s” that represent antecedent contributors to our thoughts and consequent actions. For example, there’s the “I” that exists in response to my mother’s prescription to “not sweat the small stuff.” That “I” is calm, gracious, patient and forgiving when provoked. While waiting in line behind someone scouring a cavernous purse looking for exact

change, my mother's voice echoes in my thoughts when I think that I should not be irritated at such a person, even when I am in a rush.

Certainly there are visual physical parameters that demarcate me as a physical individual, different and separate from other physical individuals. However, extended mind theory gives good reason to believe that mental activity is not constrained by those physical parameters. External influences, or voices, if you will, reverberate from the past not only affecting, but actually constituting an agent's thoughts such that thinking cannot be viewed as an independent practice. If responsibility-granting capacities are generated from mental activities that are extended and diffused through time and space, then responsibility should also be extended and diffused through time and space.

Richard Campbell and Mark Bickhard stress the importance of the environment in identity creation arguing, "it is not just that ontologically open systems are *dependent* on interactions with their environments, they are *constituted* by, realized in those interactive processes" (2010, 32). They state that this characteristic, of being a part of a process, gives an organism its causal powers. However, what they mean by causal powers is not necessarily what Murphy and Brown mean when they argue for FMR-granting causal powers. The ability to act according to our will or intentions is a causal power in the trivial sense that such actions cause events in the world. However, those actions are not spontaneously generated as a new causal stream from the mind of the agent. Rather, actions are merely one part of a causal system.

The main problem with asserting that "I" created a causal chain or that the action belongs to "me" in a robust way that entails FMR, is that there is no real "I" or robust sense of "me" independent of my causal history or environment. To say that I caused an action is to merely recognize that I took part in a causal structure over which I had no control. When I say "I," I am

referring to the biological entity that is recognized as me as opposed to you. I am merely differentiating one human from another; however, I am not referring to a causally autonomous self that is capable of initiating a causal stream. Rather, we are like the middle runners in a cosmic relay race. Our actions only make sense in the larger context. What we voluntarily decide to do (e.g. take a baton and run with it) crucially depends on what came before (e.g., someone showing up with a baton), our genetic predispositions (e.g., a physical capacity to run), and the present environment (e.g., weather, a clear path on which to run). Our future, and that of others, depends on our present actions, so, in a trivial sense, we do in fact generate a causal stream; we are just not the originators of that stream.

Externalism vs. Internalism

Extended mind theories offer an alternative to reductionist theories that reduce mental events to physical events. If internalists are correct in their belief that cognition is bound within the brain and operates independently of external entities, then a compelling argument for agent causation could be fashioned based on our inability to track all causal influences on neural activity – i.e. despite what we know about correlations between brain function and external stimuli, we cannot (yet) track all of the factors that contribute to beliefs, desires, decisions and behavior.⁵ Thus, libertarians could support agent causation without having to point to the neural origin of “free” actions. However, if cognitive extension obtains, then there is a compelling reason to support causal determinism and free will skepticism against agent causation.

One of the main proponents of an internalist description of cognition is Jaegwon Kim. Kim attempts to defend reductive physicalism by showing how nonreductive accounts of cognition, such as supervenience, fail to offer satisfying explanations of causal action.

⁵ This is not to say that internalists think that the environment never influences an agent’s mental processes, just that no external entities could function as part of the cognitive process.

According to him, “if supervenience is accepted, then there will inevitably be a problem with the causal efficacy of supervenient properties” (2007, 111). He argues that mental and neural processes are on “the same level” and are a part of the same physical object. Contra Kim, Fred Keijzer and Maurice Schouten (K&S) defend what they call “process externalism.” According to process externalism, “mental processes are not only constituted by processes within our nervous system, but *also* incorporate bodily and environmental processes” (2007, 110). Cognitive extension is one instantiation of process externalism. According to K&S, neural properties are physical entities that reside in the brain, but mental properties may extend beyond the brain and body and operate at “a different level of organization” than physical entities (2007, 112). If the mental and the neural belonged to the same object, then all phenomenological experiences could be explained through descriptions of neural activity and all neural activity could be explained in psychological terms. Such is not the case, as K&S state, “some of my neurons are sensitive to serotonin, but I am not” (2007, 113).

Another objection to externalism comes from Frederick Adams and Kenneth Aizawa (A&A). They charge proponents of extension theories, mainly Clark and Chalmers (C&C), with committing two errors. The first is what they call a “coupling-constitution fallacy” (2010 p. 67). According to A&A, supporters of cognitive extension conflate coupling with constitution; just because I use, or am dependent on an external object to aid in my cognitive processes, does not entail that the object *constitutes* my cognitive processes. K&S illustrate A&A’s objection by pointing out that just because the body is dependent on oxygen to function does not mean that oxygen constitutes the body. Clark responds to this objection stating that A&A “either ignore or fail to properly appreciate the importance of ‘the mark of the cognitive,’ that is—the importance of an account of ‘what makes something a cognitive agent’” (2010, 81). Clark argues that

external objects by themselves are obviously not cognitive. However, when coupled with agents, objects may become a part of a “cognitive system.” For example, a notebook, by itself, is an inanimate object. However, if Otto transcribes important information into the notebook with the intention of retrieving that information later, then the notebook functions as part of Otto’s memory. When Otto uses the notebook as a reference, the notebook effectively becomes a part of Otto’s cognitive processes.

K&S argue that a refutation of internalist conceptions of cognition only requires one example of extended cognition. They offer visual perception as an example of how a cognitive process “is realized by the ongoing interactions between brain, body and external visual scene” (2007, 116). They illustrate their point through a discussion of change blindness. Rather than taking a static mental picture of our surroundings when we visually perceive an environment, we are in a dynamic relationship with that environment. Change blindness is the condition wherein distracted individuals will not notice dramatic changes in their environment. This is because “visual perception has to be interpreted as an ongoing process where the visual scene is scanned according to need, and at no particular moment is there a full internal representation of the external scene present inside the brain” (2007, 116). K&S take this example to be solid evidence for at least one cognitive process that does not occur solely in the brain thus refuting Kim’s purely internal conception of cognition.

K&S liken their position to Derk Pereboom’s “robust nonreductive materialism.” In *Living without Free Will*, Pereboom launches an argument against agent-causal libertarianism through his defense of nonreductive materialism. He states that, “according to nonreductive materialism generally construed, causal powers in the purview of sciences such as biology and psychology arise solely as a result of the organization of their material constituents, while they

do not reduce to microphysical causal powers”(2001, 69). In this view, the causal explanation for microphysical events will not be identical to the causal explanation of mental events. Thus, contra Kim, the mental and neural do not belong to the same object. Kim’s main objection to nonreductive materialism is expressed in his “causal exclusion principle” which states that if the mental does not reduce to the physical, then only one property, the mental or the physical, can be a sufficient cause of an action. Thus, either the action is overdetermined, or one causal explanation is excluded from, or irrelevant to, that action.

Pereboom’s response to Kim involves a distinction between identity and constitution. Kim claims that mental causation is reducible to and therefore identical with neural causation. Pereboom, on the other hand, makes the weaker claim that mental causation is constituted by neural causation (2002, 504). According to Pereboom, this amendment avoids Kim’s causal exclusion principle because “if the token of a higher-level causal power is currently wholly constituted by a complex of microphysical causal powers, there are two sets of causal powers at work which are constituted from precisely the same stuff...and in this sense we might say that they *coincide constitutionally*”(2002, 505). Pereboom’s and K&S’s argument against Kim retains physicalism yet leaves room for both free will skepticism and an external conception of cognition. Free will skepticism is supported by the argument that if microphysical causal powers constitute higher level mental causal powers, then the latter is subject to the same deterministic physical laws as the former. Extended cognition is supported by the argument that if mental causation is constituted by physical causation, but not identical to it, then mental processes can extend into the environment while neural processes remain in the head.

Moral Responsibility and Extended Cognition

One advantage to internalist conceptions of cognition is that moral responsibility ascriptions are unproblematic. If cognitive processes that originate within an agent directly and solely cause an agent's actions, then the agent is morally responsible for those actions. On the other hand, if an agent's actions are caused by a cognitive system of which the agent is only a part, then ascriptions of responsibility become difficult, if not impossible. Thus, agency dispersion as described by extended mind theories causes a problem for moral responsibility ascriptions. This problem is explicitly evident in social groups and collectives. For example, responsibility for the 2010 oil spill in the Gulf of Mexico may be attributed to any number of collective agents including BP, Transocean Ltd., and Halliburton. In this situation, assigning guilt to select individuals may be impossible.

However, Cash discusses ways in which groups and collectives may be morally responsible for their actions. He offers various examples of social and corporate collectives including corporations, rioters, nations, and institutions such as a university (2010, 654). The ascription problem arises because when individuals group together and collectively perform an immoral action, it seems that no single person can be held accountable for that action. Cash responds to this argument, via Pettit, by claiming that collective agents satisfy the conditions for moral agency:

Collective agents can be responsible, if the group is autonomous, faces a significant choice between morally valenced options, has the understanding and access to evidence required for judging the relative value of options, and has the control required to make such judgments and put them into action. (2010, 656)

However, there seems to be no morally relevant difference between actions performed by groups of individuals and actions performed by cognitively extended individuals. In both cases, duties are dispersed among various agents and institutions. In cases of cognitively extended individuals,

the influences are implicit, while in groups, cognitive divisions are obvious and salient. If individuals are not blameworthy for cases involving cognitive extension, then they should not be blameworthy in cases involving collective actions. This is not to say there should be no repercussions for immoral acts committed by collective entities. British Petroleum has rightfully compensated at least some of the victims of the oil spill, but it did so *as a corporation*.

According to Cash, ascriptions of responsibility depend “on the relationship between the individuals involved and the wider extended entities that HEC might encourage us to see (also) as the responsible agent” (2010, 649). If an agent has sufficient control over the extended contributions to the action, then Cash would argue that the agent is responsible for that action. For example, if Clark and Chalmers’s Otto wrote important information in his notebook, such as directions and appointment dates, then he would be responsible for all actions that depended on such information. If Otto wrote down a wrong appointment date and missed an important meeting, it seems that he, rather than the notebook, would be culpable for missing that meeting. Free will skepticism offers no such conditions for responsibility. According to free will skepticism, an agent never has such control because humans are always in a state of “radically wide” agency. Because an agent can never extricate herself from her historical, social, genetic, causal context, mental processes (e.g. decisions, beliefs, intentions, and desires) are merely the amalgamations of all the causal influences that precede them.

To illustrate the historical underpinnings of certain cognitive attitudes, Cash offers the example of study participants subconsciously primed to be rude or polite. (2010, 648) The participants acted on their own intentions, desires, and beliefs without realizing that their mental attitudes had been influenced by the conditions of the experiment. Free will skepticism argues that we are *always* subconsciously primed. However, Cash does not want to commit to the idea

that individuals, even those whose actions and intentions may be attributed to external factors, are blameless. He offers a “hybrid integrationist alternative account of moral agency and responsibility” that reflects his belief that “cognitive science should shift to focus on the operations of hybrid ensembles of neural, bodily, and environmental resources and processes” (2010, 659).

To support responsibility ascriptions, Cash appeals to various feminist accounts of intentionality and agency, which give context and environment a larger causal role in individual action. Similar to HEC, feminist accounts of agency describe an individual’s mental processes as part of a social system rather than fully situated within the skull. He describes how feminist scholars “highlight the way our selves, our capacities for action, our values, and our attitudes are developed in social relationships and are scaffolded and supported (but also constrained and undermined) by the teaching, guidance, advice, examples, and normative practices of our communities” (2010, 659). Thus, we are merely socially constituted individuals who reflect our cultural milieu. Cash argues that moral responsibility can still be retained, given our capacity for self-reflection and our ability to accept or reject certain social influences. We can, according to Cash, become “authentic,” autonomous individuals through such reflection. However, if we are socially constituted and subject to causal processes that trace to factors beyond our control, then how we reflect on our environment and which influences we accept or reject are just as determined and beyond our control as any other cognitive process. If we are truly social constructions, then social determination permeates every aspect of our being, including our capacities for self-reflection. Cash would have to explain what extra property we possess that is immune to social, historical, genetic and environmental determination that would grant us the robust sense of freedom required for moral responsibility.

Based on Gallagher and Crisafi's arguments for extended extension, it seems that any boundary one places on cognition would be arbitrary. Therefore, it is a short leap from an argument for mental institutions to an argument for complete agency dispersion. If no boundary exists, then agency completely dissipates and we can be described as purely social, genetic, and historical constructions. Cash denies this possibility. Even though he gives a convincing argument for decentralized cognition, identity, and responsibility, he maintains that autonomy and moral responsibility can be retained. He uses a typical compatibilist argument in favor of FMR, despite his belief that "there is no objective fact about whether an action is *really* mine" (2010, 665).

Cash argues that if an individual can give an appropriate reason for her action, then she is morally responsible for that action (2010, 665). However, in his earlier example, where participants were subconsciously primed to be rude or pleasant in a subsequent situation, the participants would probably be able to give appropriate reasons for their attitude. Those who were rude might say, "I was in a hurry" or "they were taking too long." The pleasant participants could probably come up with similar explanations, "I didn't want to intrude" or "I wasn't in a hurry." These participants were mentally coerced into experiencing certain attitudes without their knowledge; any reason they gave for such attitudes would not belie the fact that the attitudes were not their own in a morally relevant sense.

The fact that someone could explain or justify their actions does not, by itself, justify ascriptions of moral responsibility. Reason, like every other cognitive function, does not operate independently of external influences. Rather, reason is the culmination of cognitive habits developed over time. It is a composite of all past decisions, experiences, education, and intelligence. Thus, it is limited and biased by our perspective. Unless there is an objective

mathematical calculus or an objective moral standard by which to evaluate choices, how one reasons is going to depend on a variety of factors, such as whether one is a Kantian, Utilitarian, Egoist, Christian, logician, or politician. Reason is neither impartial nor self-determining; rather, it, like all cognitive processes, is determined by genetics, environment (both social and historical), context, and past experiences.

Responsibility for judgments and decisions based on context-dependent information, the origin of which is external to the agent, cannot be attributed to the agent who acted on it. Nor can it be attributed to the institution or system from which the information came. An argument for cognitive extension that includes historical, social, and environmental institutions in the cognitive system must be considered causally deterministic. Thus, any argument that attempts to retain moral agency and responsibility is subject to the same objections that are rendered against compatibilist accounts of free will, which I address in the next chapter.

CHAPTER 2

A REFUTATION OF COMPATIBILISM

Compatibilism claims that one can have free will and be morally responsible within a causally determined universe. Since the two concepts seem irreconcilable, compatibilism seems incoherent. The way compatibilists attempt to make their theories intelligible is by attempting to show that their definition of freedom is compatible with both causal determinism and moral responsibility. According to compatibilists, the requirements for FMR vary, depending on which compatibilist you ask. Some of the most common compatibilist requirements for FMR include variations of at least one of the following:

1. The ability to act upon one's desires without constraint.
2. The ability to respond to reasons for acting or not acting.
3. The "mesh" of certain desires and volitions within the agent.

For most compatibilists, if the action was voluntary, the result of a deliberative process, and endorsed by the agent, then the agent was free in the sense required for moral responsibility. In this chapter, I will discuss and object to the three main types of compatibilism: classic, mesh, and reasons-based, as defended by John Locke, Harry Frankfurt, and John Martin Fischer respectively. My objection to libertarianism was that none of the theories offered adequate evidence of agent origination. Since compatibilists do not even require agent origination for moral responsibility, I will show why their alternatives do not suffice for moral responsibility attributions.

John Locke's Classic Compatibilism

John Locke's argument for free will is an example of what is now called Classic Compatibilism. Arguments have since become more sophisticated, but they have their roots in the main gist of Locke's claim: to have FMR means to have the freedom to do what one wants. A free act is one that an agent performs because she wants to do it. In explaining Locke's version of free will, I will show how merely doing what one wants to do is not enough to warrant ascriptions of moral responsibility. First, I will demonstrate how Locke's compatibilism does not account for agent causation, then, later in the chapter, I will defend the necessity of agent causation for FMR.

Locke pointedly states that we do not have a free will; yet this fact does not perturb his belief that we are free agents. Attempting to defend metaphysical freedom (as opposed to political freedom), he reframes the terms of the debate by defining freedom as the power to act according to one's volition (i.e., acting without physical or mental constraint). While there is a debate over whether Locke is a libertarian or compatibilist, I assert that his argument for freedom resembles that of compatibilists.

Similar to compatibilists, Locke attempts to grant agents freedom by limiting its definition. For Locke, freedom means merely that which is without constraint. Early in his chapter on power in the *Essay Concerning Human Understanding*, Locke repeatedly insists that freedom consists solely of our ability to act in accordance with our volition (II, xxi, §27). He offers the example of a man choosing to jump off a cliff. According to Locke, the man is free because he may decide, and consequently act on that decision, either to jump or not to jump. According to free will skepticism, the man's decision is not free because whether or not he jumps is not up to him in the sense Locke intends. Rather, the decision is based on factors such

as his personality and context, neither of which is under the agent's control. An agent's personality is an amalgam of characteristics acquired through genetics and shaped by experience. Character traits do not spontaneously arise without cause or reason.⁶ Thus, the ultimate cause of the man's action can be attributed to external and antecedent factors over which he has no control.

In explicating his view that agents are free despite their possession of a determined will, Locke makes three claims; first, he states that the will is not free because it is a power or faculty of the mind and as such cannot be free. Since it would be strange to say that a faculty is a power of another faculty, Locke maintains that the traditional vocabulary used in the free will debate is fundamentally misguided; freedom resides in the agent rather than in a capacity of the agent (II, xxi, §14). This distinction is irrelevant to the present argument, since free will skeptics argue that neither type of freedom exists.

Second, he states that whether or not we will an action is not within our control, or, more precisely, he believes that we will an action necessarily (II, xxi, §23). Vere Chappell, via Leibniz, claims that there is a flaw in Locke's defense of this assertion, because one may be interrupted during her consideration of an action, and thus the non-existence of an action does not depend on an agent willing it to not exist as Locke implies (1994, 106). However, even if the argument were sound, the conclusion, again, is irrelevant to the challenge of causal determinism. If the will is determined by factors outside the agent, then Locke loses agent causation. If other faculties of the agent determine the will, then a free will skeptic needs to show how those other faculties are determined by factors outside the agent. Thus, regardless of whether Locke's

⁶ This view may be challenged by proponents of indeterminism; yet even if it can be shown that quantum indeterminacies can affect actions on the macro level, as stated earlier, random events are not willed events; thus, agents are still not free, given indeterminism.

argument in support of a determined will holds, all a free will skeptic need show is that he fails to effectively ground causation within the agent.

Third, he argues that our preference of one course of action over the other is also necessary (determined) (II, xxi, §23). Free will skeptics accept this claim and argue that one does not have control over her preferences, since such inclinations are merely products of genetics, education, social conditioning, and environment. Thus, even though we may intentionally and voluntarily will an action (i.e. we are not constrained to do or not do x and we do x of our own volition), that act is not free (in the FMR sense) because all of the action's constitutive causal factors, including the agent's will, volition, preferences, and desires, are not of the agent's own choosing. While Locke's argument is consistent with the free will skeptic's assertion that our will and preferences are not only determined, but also determined by external factors, he still wants to grant humans autonomous agency.

Locke claims that the will is determined by the mind (II, xxi, §29). This claim seems to support agent causation. However, what moves the mind is its reaction to external stimuli. He states that the motive for sustaining an action is pleasure, and the cause for changing an action is uneasiness; but while both sensations are experienced within the agent, they depend on factors beyond the agent's control (II, xxi, §29). Locke could claim that the mind moves the will independently of external factors, but that would assume that the mind can independently and spontaneously generate reactions to external stimuli. As argued in the last chapter, this would violate physical causal closure. Moreover, free will skeptics argue that reactions are merely conditioned responses to the phenomenal world that can be overcome only through reconditioning or some other change in one's external environment. For example, Locke is correct in assuming that my attendance at a Star Trek convention is motivated by the pleasure I

derived from the series and a desire to socialize with other fans of the show. However, that pleasure is rooted in such external influences as my exposure to Star Trek as a child and the positive attitude I have toward science fiction that such exposure has engendered. I am no more the creator of my mind than I am of my will.

Locke continues his argument against a free will by explaining how “uneasiness” or desire determines the will; he states, “This *Uneasiness* we may call, as it is, *Desire*; which is an *uneasiness* of the Mind for want of some absent good” (II, xxi, §31; italics in original). Thus, according to Locke, our motivation to act is caused by a lacking of some sort. Locke uses the example of our need for nourishment motivating our desire for sustenance. Without desire, we are inert. Yet the fact that biological needs motivate us to satisfy them provides stronger evidence for causal determinism and free will skepticism than for freedom. Even our partiality for one type of food over another depends on what is available and on the preferences that we have cultivated as a result of habit, environmental influences, and biological limitations.

Locke develops his line of reasoning by asserting that the “greater good, determines the will,” but only if and when we desire it (II, xxi, §35). Describing agents who recognize the greater good but still indulge in contrary pleasures, he provides the example of a drunkard who may realize and acknowledge that his habit is causing him suffering, but due to “uneasiness,” he finds himself desiring alcohol, “and the present uneasiness determines the will to the accustomed action; which thereby gets stronger footing to prevail against the next occasion” (II, xxi, §35). With its account of compulsion to do something due to an overpowering desire, and reinforcing that action through repetition, the example seems, again, to be a stronger argument for free will skepticism than for freedom. Locke has provided an adequate argument for how desire

determines the will, but since desire is caused by factors external to the agent, Locke does not achieve the type of freedom that is required for moral responsibility.

Locke further argues that desire is motivated by happiness, defined as pleasure and the absence of pain (II, xxi, §41). According to Locke, this pleasure and pain “are produced in us, by the operation of certain Objects, either on our Minds or our Bodies” (II, xxi, §42). These objects that operate on the mind, while not necessarily external, are also not self-generated. Thus, here again, we are not free. As I stated before, we do not choose our preferences. Marketers make a career out of telling us what makes (or should make) us happy. They provide a need or desire where before there was none. We do not choose what makes us happy or what causes us pleasure; we merely pursue that which does.

Locke’s strongest evidence for freedom is the claim that an agent has the power to reflect upon her desires, and that capacity affords her the freedom to act or to not act according to the results of her deliberation (II, xxi, §47). Anticipating future renditions of compatibilism, Locke asserts here that liberty no longer resides merely in an agent’s ability to act according to volition. While in sections 29 – 46 Locke repeatedly insists that it is uneasiness (sometimes equated with desire) alone that determines the will, in §47 he asserts that freedom comes from our ability to reflect on our choices and, more importantly, to “suspend” our desires based on deliberation. He later defines judgment as “what ultimately determines the Man, who could not be *free* if his *will* were determin’d by any thing, but his own *desire* guided by his own *judgment*” (II, xxi, §71). Thus, it now seems he has evaded the charge of placing the ultimate cause of an agent’s choices and actions outside of the agent.

Locke believes that this interpretation of freedom allows for moral responsibility. His argument throughout *chapter xxi* may be organized as follows:

1. Liberty is the power of an agent to act or refrain from acting according to her volition. (§5, 8, 12-18, 21, 27)
 2. Volition is a necessary exercise of the will. (§23-25)
 3. An agent's will is determined by her mind. (§29)
 4. The willing of the mind is determined by uneasiness defined as desire for "an absent good." (§29, 31-46, 57)
 5. Desire is determined by happiness defined as pleasure and lack of pain. (§41-43)
 6. An agent can suspend her desire until she determines whether it accords with a greater good. (§47, 52)
 7. The result of deliberation is judgment, which guides desire. (§48, 50)
 8. Deliberation and judgment originate within the agent. (§48)⁷
-
9. Therefore, "a Man may justly incur punishment."(II, xxi, §56)

Vere Chappell claims that Locke completely ignores the concept of moral responsibility in Book II of *Essay* (2007, 144). However, I think a close reading of Locke's argument defending freedom in *Chapter xxi* reveals that he does broach the subject, albeit obliquely. The phrase concerning punishment in the conclusion of the above construction of his argument seems to imply that because we can deliberate and act upon subsequent judgments, we are indeed morally responsible for our actions. It would be odd if Locke thought we deserved punishment if he did not think we were morally responsible.⁸

Chappell claims that Locke's argument suffers from internal incoherence; this claim frustrates Locke's amendment concerning desire suspension, in that premises two and six seem to be contradictory (1994, 106). In premise two, volition is a necessary act and therefore not controlled by the agent, whereas in premise six, an agent can suspend desire and thus prohibit her volition through deliberation and judgment. Free actions, according to Locke, are those that are in accordance to the will. The will is determined by uneasiness. The act of suspending one's desire is the result of an agent's will. The will in that case seems to be determined by the agent

⁷ I inferred this premise from his claim that, "every Man is put under a necessity by his constitution, as an intelligent Being, to be determined in willing by his own Thought and Judgment, what is best for him to do; else he would be under the determination of some other than himself, which is want of Liberty." (II, xxi, §48))

⁸ Chappell finds a similar reference to punishment in Book IV but I think Locke's reference in Book II suffices as evidence of his belief in moral responsibility.

herself rather than by uneasiness. While, if true, a self-determined will would be a boon for libertarians, it seems to undermine Locke's earlier assertions concerning determined volitions.

Chappell thinks that this apparent contradiction may be resolvable. First, he states that the volition to suspend one's desires need not be free, and is thus compatible with Locke's belief in determined volitions (2000, 244-245). This works if you accept that a determined volition can be thwarted by another determined volition. Thus, while the volition to suspend desire may be determined according to Locke's argument, the volition that results from deliberation would be determined by that deliberation rather than by uneasiness, which Locke asserts is the sole cause of willed actions.

Second, Chappell states, "Locke's view of freedom limits free actions to those that an agent wills, and whose forbearance she could will directly" (2000, 116). According to Chappell, an agent does not will the restraint on volitions directly; rather, she wills the suspension of desire, of which the thwarted volition is merely a consequence. Thus, since the volition is not the immediate object of the willing, it does not meet Locke's condition for a free action. If the volition or the prohibition of the volition is not freely willed in the act of suspending desire, then there is no conflict between determined volitions and desire suspension. Chappell remains skeptical about whether this truly solves the problem, and he states that even Locke may have abandoned his commitment to desire suspension later in life (2000, 116-117).

Regardless of whether one accepts Chappell's solution to the possible inconsistencies in Locke's argument, a free will skeptic can still claim that, even if there were no discrepancy between voluntary suspension of desire and determined volitions, Locke does not achieve agent causation. A free will skeptic can undermine Locke's latest formulation of freedom by contesting his apparent assumption that our reason is unbiased. Locke holds that when we are not in the

emotional throes of “Love, Anger, or any other violent Passion” our examination of possible actions will lead unerringly to the greater good (II, xxi, §53). According to Locke, if our judgment is flawed, it is our own fault for not listening to the dictates of reason; we are thus to be held responsible for our moral failings. However, reason, like every other function of our brain, does not operate independently of external influences. As I stated in the last chapter, reason is merely the culmination of cognitive habits developed over time. Thus, it is both limited and biased by our perspective. Reason is neither impartial nor self-determining; rather, it is determined by genetics, context, and past experiences.

Locke seems to anticipate this problem when he advises us to “take pains to suit the relish of our Minds to the true intrinsic good or ill, that is in things” as if through training, the mind can achieve impartiality (II, xxi, §53). However, he almost immediately admits that rational humans are apt to be in disagreement over what has intrinsic worth; happiness, pleasure, human dignity, morality, *eudaimonia*, compassion, and aesthetics all vie for a privileged place in the human hierarchy of value. Furthermore, Locke assumes we can foster the ability to change what our mind desires; he states, “The relish of the mind may be alter’d; and ‘tis a mistake to think that Men cannot change the displeasingness, or indifferency, that is in actions, into pleasure and desire, if they will do but what is in their power” (II, xxi, §69). In one sense, he is correct; our mind, habits, inclinations and perceptions of the external world are malleable. However, the extent to which we can change or mitigate a desire is dependent on our character, which is developed by factors out of our control. A practicing Buddhist may be more successful at resisting desire than one who is raised in a capitalist society, which espouses material consumption and greed as virtues; however, the Buddhist is no more ultimately responsible for that capacity than the capitalist is responsible for the lack of such a capacity.

Thus, Locke's argument, for metaphysical freedom (representative of classic compatibilism) never achieves agent origination. According to him, freedom involves being able to act without constraint, in response to deliberation and according to one's will. Will is dependent on the mind, which is governed by desire, which is determined by happiness, which is produced by reactions to external objects and circumstances. The problem with Locke's freedom lies with his definition. While the freedom Locke offers is indeed compatible with determinism, it is a mitigated conception of freedom that ignores agent origination and thus deprives agents of moral responsibility.

Harry Frankfurt's Hierarchical Account

Harry Frankfurt also argues that classic compatibilism is an incomplete picture of agential freedom. According to him, free will requires more than merely acting upon or according to one's desires; rather, it requires a "mesh" of first- and second-order desires. In other words, according to Frankfurt, an agent has free will if her first-order desires (e.g., wanting a piece of cake) conform to second-order volitions (wanting to want a piece of cake). He begins his article, "Freedom of the Will and the Concept of a Person," with a discussion of what distinguishes a person from a non-person, and he concludes that the relevant characteristic is the capacity to form second-order volitions defined as an agent's wish to have a certain desire be her will (1971, 257).

He distinguishes between freedom of action (freedom to do what one wants) and freedom of the will (freedom to want what one wants), and states that if a person "enjoys both freedom of action and freedom of the will...he has, in that case, all the freedom it is possible to desire or to conceive...there is nothing in the way of freedom that he lacks" (1971, 263). According to Frankfurt, this type of freedom, is compatible with determinism, and does not require alternate

possibilities. As for agent origination, Frankfurt dismisses the requirement as irrelevant to the type of freedom that is worth having. In response to Roderick Chisholm's view that "in order to be free an agent needs to be a prime mover unmoved," Frankfurt argues that "Chisholm offers no reason for believing that there is a discernible difference between the experience of a man who miraculously initiates a series of causes when he moves his hand and a man who moves his hand without any such breach of the normal causal sequence" (1971, 263).

I agree with Frankfurt that the difference between the two events may not be discernible, but that by itself does not render the difference irrelevant. The relevant difference between an action that spontaneously originates within an agent and one that does not is the ownership of the causal stream that issues from that action. If an action does not originate within an agent, if she is not an uncaused cause, then the action is not hers in any robust sense of ownership. Agents are like puppets controlled by the strings of antecedent causal factors and environmental, and social influences. If the strings of a puppet move the puppet's arm and cause it to punch another puppet, no one blames the puppet; they blame whoever is controlling the strings. In the case of human action, the strings may be indiscernible, but that does not mean humans are not manipulated, controlled, or coercively influenced by factors over which they have no control. Thus, without agent origination, agents lack the type of control that would make their actions theirs in the robust sense that would justify moral responsibility ascriptions.

John Martin Fischer objects to Frankfurt's rendition of compatibilism arguing that it is not "sufficiently historical" (2011, 21). According to Fischer, "The problem with such hierarchical "mesh" theories, no matter how they are refined, is that the selected mesh can be produced via responsibility-undermining mechanism" (2006, 79). By "responsibility-undermining mechanisms," Fischer means that covert manipulation could cause conformity

between volitions and desires depriving the agent of the type of freedom relevant to moral responsibility. While I agree with Fischer's assessment of Frankfurt's argument, I argue further that Fischer's historical requirement does not reach far enough into the historical root of an agent's action.

Free will skeptics contend that because all desires, including second-order desires, are causally determined by factors beyond an agent's control. If the second-order desire did not spontaneously originate within an agent, and if she has no ultimate control over what that desire is, then merely endorsing that desire and making that desire one's effective will is not enough to grant FMR to that agent. What Frankfurt's account lacks is an adequate, FMR-granting account of the origination of second-order volitions. If an agent has no control over which mental capacities, habits, and preferences are inculcated throughout her life, then second-order (and third-, forth-, fifth-... order) volitions are as much a causal result of factors beyond her control as first-order desires. The fact that they conform (or do not conform) is irrelevant to attributions of moral responsibility.

John Martin Fischer's Reasons-Based Position

Fischer's alternative to Frankfurt's hierarchical theory is a reasons-based compatibilistic defense of moral responsibility. He labels his position "semicompatibilism," because he argues that we could be morally responsible without free will and, like Frankfurt, he rejects alternate possibilities as a requirement for moral responsibility. Instead, Fischer devises a position based on guidance control, moderate reasons-responsiveness, and mechanism ownership. Fischer emphatically contends that agent origination, as defined in the last chapter, is too strict a requirement for moral responsibility, calling it "metaphysical megalomania" (2011, 20). Fischer aligns himself with the typical compatibilist agenda to redefine the requirements for moral

responsibility. He understands that we lack “ultimate” or “total” control, so he defines FMR in such a way as to accommodate that fact. Since my response to Fischer could also be used as a response to any reasons-based approach, I will limit my discussion to his theory.

Guidance Control

Fischer distinguishes between two types of control: regulative and guidance. Regulative control requires access to alternate possibilities (i.e., at the time of the choice, the agent could have chosen differently). However, since Fischer takes Frankfurt-style cases to be convincing evidence that alternate possibilities are not necessary for moral responsibility, the only type of control Fischer claims is required (and sufficient) for FMR is what he calls “guidance control.” He uses the example of an agent driving a car to illustrate the difference between the two types of control:

Let us suppose that I am driving my car. It is functioning well, and I wish to make a right turn. As a result of my intention to turn right, I signal, turn the steering wheel, and carefully guide the car to the right. Further, I here assume that I was able to form the intention not to turn the car to the right but to turn the car to the left instead. Also, I assume that had I formed such an intention, I would have turned the steering wheel to the left and the car would have gone to the left. In this ordinary case, I guide the car to the right, but I could have guided it to the left. I control the car, and also I have a certain control *over* the car’s movements. Insofar as I actually guide the car in a certain way, I shall say I have “guidance control.” Further, insofar as I have the power to guide the car in a different way, I shall say I have “regulative control.” (2006, 39)

According to Fischer, in order to have guidance control, one must be moderately reasons-responsive and the “mechanism,” or process, resulting in the action must be “the agent’s own.”

Mechanism Ownership

“Mechanism ownership” seems to be Fischer’s attenuated version of sourcehood. It means that an agent has control over the mechanism, which results in a behavior. He explains mechanism ownership stating, “[an agent] makes his mechanism his own by taking responsibility for acting from that kind of mechanism. In a sense, then one acquires control by *taking control*.”

When I act on *my own* suitably reasons-responsive mechanism, I do it *my way*” (2011, 11 italics in original). According to Fischer, in order for a mechanism to be an agent’s own, she must not be under the influence of covert manipulation by, say, a nefarious neurosurgeon or hypnotist.

Another attribute of mechanism ownership is the ability to subject reasons for acting to critical evaluation. He states,

As practical reasoners and normative agents, we identify and weigh (or ‘process’) reasons in certain distinctive ways. Different physical parts might physically implement this way of identifying and weighing reasons in the brain in various different ways and; even so, it would still be the same unimpaired human mechanism of practical reasoning. This mechanism of practical reasoning involves the reasonable and fair opportunity to subject to critical scrutiny any emergent or newly presenting desire, or any tendency to identify or weigh reasons in a certain way. (2011, 199)

This requirement for mechanism ownership resembles other compatibilist accounts such as Laura Ekstrom’s and John MacIntyre’s condition for free will, in that it requires the ability to critically evaluate potential actions and decisions based on one’s values, and the ability to either endorse or reject such actions and decisions. Such proponents of compatibilism attempt to reconcile physical determinism with FMR by arguing that as long as an agent has complete control over certain faculties of the mind, such as reason, then the agent should be held morally responsible for her actions. For example, Immanuel Kant states, “Reason must regard itself as the author of its own principles” (2002, 148). Reason may indeed author its own principles, and it may do so independently of desires and inclinations, but it may not do so independently of external influences.

A compatibilist may attempt to reconcile causal determinism with autonomous reason by stating that during any instance of deliberation, moral or otherwise, one’s reason at the time of the action or decision is *bracketed* from the past and external world and remains as a free-standing composite of past actions and influences. However, if reason were completely separable

from the external world there would be no grounding for cognitive habits. For example, if I will that it be a universal law that it is always good to help an elderly, blind person cross a busy street, eventually I will no longer have to deliberate each time I see an elderly, blind person trying to cross a busy street; I will need only to recognize the situation as one requiring such action. In novel situations, even if I reason independently of my character, desire, or inclination, my deliberation on what to do will require access to my upbringing, education and other social influences. Thus, while critical reflection indeed causally contributes to an action, the ownership of the mechanism or process does not belong solely or ultimately to an agent.

Reasons-responsiveness

Along with mechanism ownership, Fischer argues that an agent must also be moderately reasons-responsive in order to possess guidance control. Fischer distinguishes between weak, strong, and moderate reasons-responsiveness. Strong reasons-responsiveness means that if an agent had *any* sufficient reason to not perform an action, then the agent would refrain from performing that action. Fischer argues that this type of reasons-responsiveness is inadequate because it would absolve weak-willed individuals from moral responsibility (2012, 125). For example, imagine I want to go wakeboarding on a sunny Sunday afternoon, knowing that I have to submit a currently unfinished paper proposal early the next day. Imagine in this scenario that I am weak-willed, and the impending deadline would not be enough to distract me from my plan to wakeboard. According to Fischer, because I do not respond to a sufficient reason for not wakeboarding, strong reasons-responsiveness would absolve me of moral responsibility, should I miss the deadline.

Weak reasons-responsiveness means that as long as an agent could and would respond to at least one sufficient reason, such as an impending deadline, for not performing an action, such

as wakeboarding, then the agent is morally responsible. According to Fischer, this is not strong enough, because it grants moral responsibility even to those who would recognize only “weird” or “bizarre” reasons for not performing an action (2012, 125). In this example, imagine I actually go wakeboarding on Sunday afternoon; however, had I suffered from schizophrenia, and had voices in my head told me that I must never wakeboard again under pain of death, I would have recognized that as a good and sufficient reason to not wakeboard. In this case, Fischer would argue that my response to this reason should not warrant responsibility ascriptions since I would have been under the influence of a psychological disorder.

Moderate reasons-responsiveness refers to an agent who performed an action, but would have refrained from performing that action if she had had at least one *good* (a reason recognized as good by any rational person) and sufficient reason to not perform that action. Fischer claims that requiring an agent to be moderately reasons-responsive grants moral responsibility to those who are weak-willed, but not to those whose actions result from a compulsion or a faulty or irrational reasoning process. In the final example, I go wakeboarding on Sunday afternoon; however, had it begun to rain torrentially on the way to my car, I would have recognized that to be a good and sufficient reason to refrain from going wakeboarding. In the last case, should I still endeavor to go wakeboarding despite the good reason to not do so, if I literally could not stop myself from going wakeboarding even as lightning threatened overhead, then I would fail to meet the moderate reasons-responsiveness requirement. In that case, Fischer would agree that I was acting under a compulsion and not morally responsible for that decision.

Fischer responds to his skeptics

Fischer defends his position against incompatibilists (both libertarians and free will skeptics) who require stricter conditions for moral responsibility. For example, Galen Strawson

argues that moral responsibility requires that we be something impossible: self-creators (in Fischer 2011, 167). In response to Strawson, Fischer references Feinberg, “if one is presented with an ‘inflated’ notion of self-creation or autonomy, one ought to jettison it in favor of something more reasonable” (2011, 168). Fischer defends his “more-reasonable” theory by illustrating that there are an almost infinite number of factors that have a causal influence over our actions (such as the fact that if the sun were to wink-out, we would not exist, as agents or otherwise) over which we have no control, and demanding such control over such factors is too great a demand for moral responsibility.

I agree that requiring agents to have absolute and total control over *every* causal factor or external influence involved in their choices and actions would indeed be too demanding, but that is not what free will skeptics necessarily require for moral responsibility. The free will skeptic’s argument is not that we need ultimate control over *every* factor contributing to our action; our argument is that we do not have ultimate control over *any* factor contributing to our action. I do not need to elucidate exactly which or how many causal factors must be within our control in order to have moral responsibility, I need merely show that none of the causal events leading to my choice or behavior were ultimately under my control (in the sense relevant to moral responsibility).

For example, returning to my decision to go wakeboarding on a warm, sunny Sunday afternoon. An infinite number of factors causally contribute to that decision, such as the fact that it was not raining, the fact that the cable at the park did not break that morning, the fact that a meteorite did not destroy the earth the previous evening. Fischer seems to claim that free will skeptics⁹ argue that we must have control not only over every causal factor that actually

⁹ Since Fischer’s theory demands only that causal determinism be compatible with moral responsibility, rather than with free will, I will clarify that free will skepticism as I defend it includes moral responsibility skepticism.

contributes to our choices and action, but also over every non-occurring counterfactual that also contributes to our choices and actions. I do not, indeed I cannot, have control over such things, but I *at least* need to have ultimate control over my decision to go wakeboarding on that Sunday afternoon. That decision needs to have spontaneously originated within me for me to be morally responsible for it. If I, or perhaps LaPlace's demon, could analyze that decision and account for all the factors causally contributing to that decision (Fischer's hypothetical counterfactual interventions aside), I would find that I have no evidence of any of those factors spontaneously originating within me. My affinity for the sport, my fitness and health, and the value I give to reasons both for and against wakeboarding on that particular day at that particular time, all have their ultimate sources in external and historical factors.

Saul Smilanski also argues for the requirement of total control for moral responsibility. Smilanski agrees with libertarians and free will skeptics that the truth of causal determinism would preclude moral responsibility, because "causal determinism would entail that 'people cannot ultimately create themselves, and their choices, including their choices to change themselves, and anything they do, can only follow from factors ultimately beyond their control'" (Smilanski in Fischer, 2011, 174). Fischer's response to Smilanski uses the same line he gives to both libertarians and free will skeptics, and it comes in the form of a strategic concession. He agrees that, "luck is thoroughly pervasive. And it manifests itself, not just in a range of alternative scenarios or non-actual possible worlds, but in the actual world" (2011, 176). However, Fischer argues that neither luck nor causal determination deprive a person of moral responsibility, since neither luck nor causal determinism affect guidance control.

Furthermore, Fischer argues that one of the benefits of his theory is that through guidance control and mechanism ownership, an agent can indeed be the creative author of her life in a

robust, meaningful, and responsibility-granting way, regardless of the truth of causal determinism. Fischer states, “acting freely—exhibiting the signature freedom-relevant control, guidance control—makes us the authors of our narratives. As such, we are artists, and I contend that the value of acting freely is thus the value of artistic self-expression” (2012, 127). Thus, according to Fischer, his theory grants us something that we value: creative self-expression.

I agree that the features Fischer uses to commend his own theory—its emphasis on the history of an action and creative authorship—are indeed important to attributions of moral responsibility. In fact, according to free will skepticism, as I defend it, the history of the action is the *only* factor relevant to responsibility attributions. However, as I will explain in the next section, compatibilists, including Fischer, do not trace the history of an action far enough. Guidance control is not enough. As for the second feature, free will skepticism does not deprive an agent of creative self-expression; it merely states that an agent is not the origin of that expression. Regardless of the truth of causal determinism (or indeterminism), agents exist within a unique narrative within which they can express themselves as they would like. The fact that they did not author their own narrative should not, by itself, deprive someone of the value they attribute to that narrative. I discuss and defend this point more thoroughly in the next chapter.

Pereboom’s Four Cases

As a response to the compatibilist accounts described above, Derk Pereboom offers four cases wherein “Mr. Plum kills Mr. White.” These cases range from an obvious but whimsical case of external manipulation to a case involving the type of causal determination we experience in the real world. Together, these cases illustrate and support his claim that not only are we not the ultimate cause of our action, but also that any account of freedom that lacks agent causation also deprives one of moral responsibility.

The first case stipulates that, “Professor Plum was created by neuroscientists, who can manipulate him directly through the use of radio-like technology” (2001, 112). In all other aspects he resembles ordinary humans. Plum is able to perform all the deliberative functions required by the Locke, Frankfurt, and Fischer, in that he can deliberate, respond to reasons, and act with intention according to second-order volition. These functions, however, are manipulated by the neuroscientists, so that when Plum undertakes the reasoning process, he does so in accordance with rational egoism. The neuroscientists only intervene when Plum begins to deliberate. If the dictates of egoism demanded that he not kill White, then Plum would have refrained from doing so; but in this case, egoistic reasons favor murder.

The second case is much like the first, except that rather than being created by neuroscientists, Plum is the product of an ordinary birth. However, soon after he is born, neuroscientists program him, as before, to reason “often but not exclusively” as a rational egoist (2001, 113-114). In his present situation, egoistic reasoning again leads him to murder White. In the third case, the neuroscientists are replaced by “the rigorous training practices of his home and community” (2001, 114). Plum is once again conditioned at a young, impressionable age to be a rational egoist. As in the first two cases, and as a result of his childhood manipulation, egoistic reasoning outweighs the alternatives, and he murders poor Mr. White.

In the final case, Pereboom asserts that causal determinism is true and that Professor Plum was born and raised under normal circumstances. As a rational egoist, Plum reasons accordingly and chooses to murder White. Pereboom’s contention is that if one absolves Plum of responsibility in the first three cases, which involve obvious manipulation, then one should absolve him of responsibility in the fourth case as well:

The best explanation for the intuition that Plum is not morally responsible in the first three cases is that he lacks the control required for moral responsibility due to

his actions resulting from a deterministic causal process that traces back to factors beyond his control. Because Plum is also causally determined in this way in Case 4, we should conclude that here too Plum is not morally responsible for the same reason. (2007, 97)

The main point illustrated by Pereboom's examples is that if we did not ultimately cause our actions, then we should not be held morally responsible for them. If Ms. Peacock held a gun to Professor Plum's head and ordered him to shoot Mr. White or die, most, if not all, juries would judge Plum to have a good enough excuse to be exonerated, despite the fact that Plum intentionally pulled the trigger. Pereboom argues that there is no morally relevant difference between the excusing conditions apparent in a bank robbery scenario, where a teller would not be found morally responsible for giving a robber the bank's money, and the so-called "normal" condition of causally determined individuals. We do not cause our mental states, so we do not *ultimately* cause the actions that issue from those mental states. If we excuse those who are obviously manipulated by external factors, we should also excuse those who are manipulated by external factors that are not obvious, which is everyone.

The Consequent Argument and Definitions of "Can"

One of the main reasons I personally am not convinced by compatibilist arguments is that compatibilists have yet to provide an adequate answer to Peter van Inwagen's Consequence Argument, which states,

If determinism is true, then our acts are the consequences of the laws of nature and events in the remote past. But it is not up to us what went on before we were born, and neither is it up to us what the laws of nature are. Therefore, the consequences of these things (including our present acts) are not up to us. (Van Inwagen in Russell, 2013, 117)

The consequence argument may be interpreted to mean both that we lack the ability to otherwise and that we lack ultimate control. If the phrase "up to us" is interpreted to mean ultimate control then, if I do not have ultimate control over the causal events of which the action

is a consequence then I do not have ultimate control over the action. The consequence argument poses no threat to guidance control, or to the ability to act on endorsed preferences, but if the consequence argument is true, and if ultimate control is required for moral responsibility, then compatibilist arguments for FMR ultimately fail.

The other interpretation of the consequence argument claims that it refutes the ability to do otherwise, for example, Peter van Inwagen states,

It seems to be generally agreed that the concept of free will should be understood in terms of the *power* or *ability* of agents to act otherwise than they in fact do. To deny that men have free will is to assert that what man does do and what he *can* do coincide. And almost all philosophers agree that a necessary condition for holding an agent responsible for an act is believing that that agent *could have* refrained from performing that act. (1975, 188)

This interpretation of the consequence argument implies not only that humans are not free agents, but we lack freedom precisely because we could not do other than what we do. To have freedom, we would need the capacity to either change, or operate independently of the dictates of, the past and the laws of nature, i.e., we would need the ability to do other than what those conditions entail. Moral evaluations and judgments presuppose that an agent could have done otherwise, i.e., belief in alternate possibilities underlies ascriptions of blame and praise. We believe that an agent genuinely had a choice in the matter, and because they chose one action over another, we hold them accountable for the choice they actually made. The consequence argument challenges these moral intuitions implying that if we lack the ability to do otherwise, we would have to re-evaluate our practice of holding people responsible for their actions because they could no longer be seen as free agents.

One strategy compatibilists use in response to this interpretation of the consequence argument is the application of varying senses of the word “can” as it relates to freedom and the ability to do otherwise. One sense of “can” (or ability, or power) is the mundane, or trivial, sense,

which refers to either a physical or epistemic ability. A physical ability denotes what I am able to do by virtue of being a member of my species: I can walk, talk, and deliberate, but, in the immortal words of the character Scotty, in the original Star Trek series, “I cannot change the laws of physics.” An epistemic ability refers to what I know how to do as an individual. I can knit, read, and write pedantic philosophy papers, but I cannot speak Swahili. While the physical and epistemic senses of “can” are a necessary component of freedom and of an ability to do otherwise, they are far from sufficient for FMR; mere physical ability and knowledge of how to perform an action, as well as knowledge of what options are available, do not entail that one will be able to act on that knowledge.

The second sense of “can” concerns whether or not I can perform an action in accordance with my will or desire to do so, and is described by Berofsky in terms of “opportunity” (2002, 184). Under this definition, “can” implies that I act freely when I act in accordance with my will and I am not constrained in doing so. This is the sense of “can” that Locke employs in his defense of free will. For example, I may desire to knit a scarf on a plane, but if safety restrictions do not allow knitting needles on planes, I cannot knit a scarf on a plane despite my epistemic and physical ability to do so. As argued earlier, one problem with this sense of “can” is that it allows for too much freedom. If a robust sense of freedom consists of merely being able to perform an action without being constrained, then a dog or a rat may be said to have free will so long as they are unfettered in their ability to act on their desire to eat steak or cheese (Frankfurt, 1971, 260). Despite a non-human animal’s ability to desire, and in some cases, deliberate, compatibilists typically do not want to extend free will to species that do not possess the mental capacities enjoyed by rational humans. Compatibilists have responded by retaining this “opportunity” sense of “can,” but rather than defining it as the ability to act according to desire, theorists such as

Frankfurt and Fischer define it in terms of features of the will that are not shared with other species, such as second-order volitions, powers of reflection, character, and the ability to respond to reasons.

The final sense of “can” is the metaphysical sense. To say that I can do otherwise in this sense does not refer to an epistemic ability (I could have knitted a scarf rather than going to class because I know how to knit), nor does it correspond to my doing it according to my desire (I could have knitted a scarf rather than going to class if I had so desired). Rather, the metaphysical sense of “can” as it relates to alternate possibilities implies that I have contra-causal freedom, i.e., my actions are not merely the products of natural laws and causal processes that trace to factors beyond my control. Free will skeptics assert that this is the kind of ability required for FMR, and that it never actually obtains. For every choice, according to free will skeptics, only one option is *actually* available to an individual; thus, while a person has the theoretical ability to do what she knows how to do, and a person theoretically has the power to act on her desires, a person does not have the ability or power to act contrary to the dictates of past events and natural laws.

When applying the different senses of “can” to the phrase, “could have done otherwise,” the first sense suggests that I knew of other options, but it does not imply that I could have actually acted on them. The second sense claims that I have the ability to act otherwise according to reasons, desires, inclinations and character, but this sense proves to be problematic because it amounts to the claiming that, had I the power to change my desires and intentions, or were I a different person at the time of the action, I would have acted differently. The last sense, given free will skepticism, does not reside within the realm of possibilities.

Most compatibilist arguments capitalize on the opportunity sense of the word “can.” One such argument is the conditional analysis of freedom and ability. Berofsky cites a hypothetical conditional offered by G.E. Moore: “we exercised free will in doing A rather than B...in virtue of the conditional fact that we would have done B had we chosen to do so” (2002, 181) This version of the compatibilist argument embodies the intuition that we could have done otherwise, and the choice *not* to is “up to us.” Objections to conditional arguments take many forms. One type refers back to van Inwagen’s consequence argument, pointing out that in order for someone to have chosen differently she would have to have control over the prior events resulting in her choice; since she has no such control, she could not have chosen differently even if she had wanted to (2002, 183). Another objection comes from J.L. Austin, who describes a golfer missing a putt (in Dennett, 1984, 146-147). The golfer has the physical and epistemic ability to putt the ball into the hole, but after trying, fails. It makes no sense, in this example, to say he could have done otherwise if he had so desired because he did desire to the make the hole, and failed. Chisholm argues that “could have done otherwise” is not equivalent to the hypothetical conditional “could have done otherwise if she had so chosen,” since the latter could be true while the former is false: “our man might be such that, if he had chosen to do otherwise, then he would have done otherwise, and yet *also* such that he could not have done otherwise” (1991, 191).

There are many nuanced instantiations of the different renditions of “can” that challenge the simplicity of the three analyses detailed above. For example, Daniel Dennett cites Martin Luther’s famous declamation, “Here I stand; I can do no other” (1984, 133 and Arpaly, 42). Luther does not mean that he had no other epistemic options, but rather, because his character is of a certain sort, he is compelled to act in a certain way. Yet despite being compelled, he seems to imply that he takes full responsibility for his actions. This type of justification for actions

defines freedom in terms of acting according to one's character and fits into the second sense of the word "can." If Luther's character had been different (for example, had he desired to stay home on the day in question) then according to the "opportunity" sense of "can" and the conditional analysis of freedom, he would have.

Daniel Dennett and Martin Heidegger

Dennett believes that focusing on the metaphysical sense of the word "can" is unnecessary. Since we obviously cannot change the past, Dennett thinks we should shift our emphasis from the fixed past to the "open future". He defines an "open" future as one "in which our deliberation is effective: a future in which if I decide to do A then I will do A, and if I decide to do B then I will do B; a future in which—since only one future is possible—the only possible thing that can happen is the thing I decide in the end to do" (1984, 139). Thus, according to Dennett, when someone commits a regrettable act, like slapping a coworker, the question should not be, "could she have done otherwise?" but rather, "can she do otherwise in the future?" The sense of "can" employed in the second question seems to be the trivial sense: is it within her power as a certain type of being to alter her character in such a way that she avoids the past mistake? Or perhaps she slapped her coworker due to Tourette's syndrome; in which case, she physically could not have restrained her motion. If the action stemmed from her character, and she succeeds in reforming it, perhaps aided by anger management classes, then her ability graduates from the mundane sense of "can" to the opportunity sense, i.e., she can, according to her reformed character, refrain from slapping her coworker (if she so desires). Thus, according to Dennett, asking, "could I have done otherwise?" is only meaningful when it serves as a tool for evaluating an individual's future potential.

Heidegger attempts to disqualify the metaphysical sense of “can” by appealing to our phenomenological sense of alternate possibilities. He offers an alternate description of human agency by claiming that the fact that we can re-interpret the past and change its meaning signifies that present actions are not necessarily determined by the past as it happened. As such, “humans are beings who can envision a range of possibilities as defined by the cultural context in which they act, and so always make choices against a backdrop of alternative ways of acting. This ‘standing out into a range of possibilities’ is not something that can be grasped by physicalist causal statements” (2002, 333). A free will skeptic can grant that epistemically we have a “range of possibilities” (i.e., we can recognize or know about all the options available in the world), but metaphysically, we have only one option actually available to us. We can *perceive* all of the options as open to us because we do not yet know which option we will choose. This is why deliberation and choice are not undermined given determinism or free will skepticism, even though they are not free actions. Also, the meaning we give to the past is determined by our present context and thus does not lie outside of causal influences.

Dennett and Heidegger seem to be missing something vital by demoting the import of the metaphysical sense of “can.” While being able to assess our epistemic options is important to deliberation, and asking questions about future possibilities is important for moral education and improvement (and may factor into one’s determination), questions concerning an agent’s actual choices are important for moral responsibility ascriptions. This is what is expressed by the position that free will requires alternate possibilities, and this is what we lack, according to the consequence argument.

Why Alternate Possibilities are not Required for FMR

Many free will theorists reject the requirement of alternate possibilities for FMR because of examples or cases that illustrate how an agent may be free (at least in a mitigated sense), despite the inability to do otherwise. In one such counterexample, John Locke describes a situation wherein a sleeping man is brought into a locked room. The man awakes to find himself in such desirable company that, even if the door were unlocked, he would “willingly” remain in the room (1975, 238). According to Locke, because the man *wants* to be in the room with his company, the fact that the door is locked, the fact that he could not leave the room if he so desired, does not mitigate his responsibility for remaining in the room. Thus, Locke’s rendition of agential freedom (of the type required for moral responsibility) requires only that the agent acted according to her desires.

Harry Frankfurt provides examples that mirror Locke’s, in that they also illustrate situations in which the desire of the agent supersedes the ability to do otherwise in responsibility ascriptions. In the example Frankfurt uses in *Alternate Possibilities and Moral Responsibility*, Black wants Jones to perform an action that Jones is already contemplating doing (1969, 144). If Jones decides to not perform the action, Black will know, and he will manipulate Jones into performing the action using whatever means necessary. The means Black employs would constitute, according to Frankfurt, causal sufficiency for Jones’ performing the action. In the example, Jones decides to perform the action without any interference from Black. Frankfurt concludes that Jones is morally responsible for the action despite his inability to do otherwise. Since the publication of Frankfurt’s article, many (but not all) free will theorists have abandoned alternate possibilities as a necessary condition for FMR.

Fischer and Ravizza dispute van Inwagen's consequence argument by offering counterexamples involving overdetermined actions. These examples challenge the intuition that if I have no responsibility for one event (the past), and that event causes another event (the present), then I have no responsibility for the latter event. (1998, 154) One such example involves a double agent, Betty, who wishes to bury an enemy camp in an avalanche of snow at T_3 by exploding a bomb at the top of a mountain at T_1 . However, due to erosion, a natural avalanche would have started at T_2 crushing the camp at T_3 regardless of whether or not Betty detonated the bomb (1998, 157). Thus, even though Betty had no control over the fact that the enemy camp was going to be destroyed at T_3 as a direct consequence of an avalanche, the intuition is that Betty is still morally responsible for its destruction. Overdetermination examples, like Frankfurt-style examples, undermine the necessity of alternate possibilities for freedom; together, these two types of counterexamples provide a credible reason to discard the notion that freedom requires the ability to do otherwise.

Other compatibilist definitions of freedom also do not depend on alternate possibilities. R. Jay Wallace combines elements of Kant's and Strawson's accounts of free will, arguing that one can be held morally responsible if she has "the power to grasp and apply moral reasons, and the power to control one's behavior by the light of such reasons" (1994, 7). Nomy Arpaly's view of freedom focuses on the actual reasons upon which an agent acts and ascribes blame along a continuum of desert based on an agent's quality of will (2006, 17-18). While it is not possible to provide an exhaustive list in this chapter, the fact that so many examples exist illustrates a growing abandonment of alternate possibilities as a requisite for FMR.

Free will skeptics object that merely abandoning the requirement of alternate possibilities for FMR is not enough to grant FMR. While compatibilists describe a *type* of freedom, it is not

the type required for moral responsibility ascriptions. Because the above compatibilist positions employ the opportunity sense of “can” rather than the metaphysical sense, such arguments do not satisfy free will skeptics. Since none of the above compatibilist renditions of “can” or freedom account for the sort of agency that free will skeptics contend is required for moral responsibility, the contention that alternate possibilities is not necessary for freedom provides no consolation to those seeking a justification of, or argument for, FMR.

Baron Paul D’Holbach’s Argument against Free Will

One of my main arguments against compatibilism is that tracing an action to one’s intentions or desires does not go back far enough. Compatibilists do not account for the determination of mental capacities and attitudes such as intentions, desires, preferences and beliefs. If my mental capacities and attitudes are caused by external and historical factors beyond my control, then the actions resulting from such attitudes are also beyond my control. I disagree that demanding such total or ultimate control for moral responsibility is a sign of “metaphysical megalomania.” Rather, in the spirit of fairness and justice, it is the necessary, sufficient and minimal kind of control requisite for FMR.

Baron Paul D’Holbach explains why agents are not, indeed cannot, be the ultimate creators of their thoughts and actions in his *System of Nature*:

Man’s life is a line that nature commands him to describe upon the surface of the earth, without his ever being able to swerve from it, even for an instant. He is born without his own consent; his organization does in nowise depend upon himself; his ideas come to him involuntarily; his habits are in the power of those who cause him to contract them; he is unceasingly modified by causes, wither visible or concealed, over which he has no control, which necessarily regulate his mode of existence, give the hue to his way of thinking, and determine his manner of acting. (1970, 88)

D’Holbach’s argument perfectly illustrates the consequence argument. If actions are the result of one’s will (or proattitudes such as volitions, desires, preferences and intentions), and if one’s will

is determined by past events and physical laws over which we have no control, then one's actions are also determined in a way that deprives an agent of FMR. According to D'Holbach, if someone is able to refrain from acting upon certain volitions, then "it is because a new cause, new motive, new idea, modifies his brain giving him a new impulse and determines his will another way" (1970, 90). The example D'Holbach uses is that of a thirsty person refraining from drinking poisonous water. Compatibilists would argue that the ability of the agent to refrain from ingesting the poisoned water is a responsibility-conferring ability. Since the agent is acting on her desire to not drink poison, Locke would call the action a free one. Since the agent's volition is in alignment with her desire (i.e., she endorses her decision to not drink the poison), Frankfurt would also agree that the agent is engaged in a free action. Fischer would claim that the agent possesses guidance control, since she was able to respond to a good reason to not drink the water, and because the action was chosen in accordance with the agent's value preferences—valuing life over the desire to quench one's thirst.

However, D'Holbach argues that the agent, in her refraining, is neither free (in the relevant sense) nor morally responsible, just as the person who would drink the poison out of a compulsion or blatant disregard for her life is neither free nor responsible: "the actions of fools are as necessary as those of the most prudent individuals" (1970, 90). The reason for this equity is D'Holbach's position that the ability to choose is not the same as exercising free will. According to D'Holbach, in order to have FMR, a person "should be able to will or choose without motive, or [be able to] prevent motives coercing his will" (1970, 92). Acting without motive, intention or reason would extricate the action from its historical or environmental entrenchment, but our current understanding of agential action indicates that it cannot be extricated in this way, as Hume argued, "if an action is uncaused, it will not have sufficient

connection with the agent for her to be morally responsible for it” (in Pereboom, 2013, 55) As for preventing motives or choosing which motives affect one’s will, D’Holbach has explained why such abilities do not originate within the agent. When an agent decides not to act upon a certain motive, there is a historically- or environmentally-based reason she did so. Either way, the action did not originate within the agent.

Conclusion

The ability to act voluntarily upon intentions, the possession of guidance control, and conformity between levels of volitions and desires are not enough to grant moral responsibility if such abilities, capacities and volitions are not ultimately of the agent’s making. Many of our mental attributes form in our youth without our knowledge or awareness, much less our consent and endorsement. Compatibilists dismiss an agent’s lack of control over which mental attitudes she possesses, while free will skeptics argue that it is that type “ultimate” control which makes her morally responsible for the actions stemming from those attitudes. Without the capacity to control the formation of the mental capacities causally responsible for the choices and actions, we are merely the puppets of circumstance, environment, biology, and history. We truly are, as Shakespeare wrote, “merely players” acting out our parts, with no ultimate control over the script.

The reasons people feel like they possess FMR are based on a misunderstanding about the type of causation agents exert, shortsightedness concerning historical and contextual causal influences, and a disbelief in the inevitability of outcomes. The reasons people want to possess FMR and the reasons people are averse to free will skepticism, are based on a deeply ingrained sense of entitlement to reward and punishment based on merit, a desire to see wrongdoers “pay,” and a misunderstanding or pessimistic view of the ethical implications of free will skepticism. I

will focus the next chapter on dispelling such misunderstandings, and, in the final chapter, I will present my arguments for why free will skepticism is the best practical option for a flourishing society.

CHAPTER 3

RESPONSES TO COMMON OBJECTIONS TO FREE WILL SKEPTICISM

A hard determinist order would be nightmarish, even for hard determinism, if correctly implemented. – Saul Smilanski

Despite the problems with libertarian and compatibilist defenses of free will, some philosophers maintain that accepting free will skepticism would have such dire consequences for society and interpersonal relationships that *assuming* the truth of free will is better than the alternative; for example, Mason Cash’s main argument against mitigation of responsibility is that “there are...very good moral, pragmatic and social reasons” to hold individuals responsible, even in situations where external influences directly and obviously affect an individual’s actions and intentions (2010, 651). Because of pragmatic concerns, Saul Smilanski calls free will a “necessary illusion” (2002, 493-494). However, in responding to objections, I will show why free will is an *unnecessary* illusion: illusory because the positions defending free will are untenable, given our current scientific understanding of the universe, unnecessary because adopting free will skepticism would have moral, personal and social advantages that outweigh the benefits of perpetuating the illusion of free will.

The “Universal Excuse” Objection

Many of the objections to free will skepticism involve those who commit immoral or criminal acts. One concern is that those prone to akrasia or criminal behavior may feel more inclined to engage in immoral or criminal acts, given free will skepticism, because they would

have a universal excuse: “I could not have done otherwise.” The same type of argument has been rendered against atheism by paraphrasing Dostoevsky: “without god, everything is permitted.” One can imagine that if we were deprived of moral responsibility, everything would indeed have to be permitted. This sentiment is reflected in a quote by Dennis Overbye, “According to those who believe that free will and determinism are incompatible...it would mean that people are no more responsible for their actions than asteroids or planets. Anything would go” (In Nadelhoffer and Tocchetto, 2013, 122). Pereboom concedes, “the hard incompatibilist must admit that the agent’s lack of free will provides a legitimate excuse” (2001, 155). The fear is that with such an excuse readily available, criminal and immoral behavior would increase destabilizing both personal relationships and society in general.

The main problem with the “universal excuse” objection is that it assumes there would be no repercussions for immoral or criminal behavior, or that those using the excuse could not respond to or be deterred by such repercussions. However, Pereboom argues that it may very well be a part of a person’s determination to learn to *avoid* acting immorally or criminally (2001, 156). Also, there are many blame-free ways to hold people accountable for their actions. The key is finding an appropriate response that is compatible with a person’s inability to do otherwise. For example, if Sally discovers her partner Pat has been having an illicit affair, she could not blame Pat or hold her morally responsible for the betrayal, but Sally can still respond to the action by leaving the relationship. Sally’s justification would merely be explained in different terms: instead of leaving Pat because Pat is blameworthy of the infidelity, Sally would leave simply because she does not want to be in a relationship with someone who cheats. Cheating would merely be a point of incompatibility between the two.

Thus, when someone commits an immoral act, I need not appeal to blame in my response to that person's actions. When someone explains her behavior by appealing to causal determinism, a free will skeptic could reasonably accept that answer while imposing the appropriate, non-desert-based censure or response. I will deal more thoroughly with societal responses to violent criminal behavior in the next chapter.

The “Ought Implies Can” Objection

Another common objection to free will skepticism is the claim that if we cannot control our actions in a way that justifies moral responsibility, then it does not make sense to say that people *should* behave in a certain way. Put another way, if one *cannot* do otherwise, then it does not make sense to say that one *should have* done otherwise. If people's choices are determined by factors beyond their control, then it seems as though moral prescriptions lack the efficacy that justifies them. However, Walter Sinnott-Armstrong, Derk Pereboom, and B.F. Skinner argue that, in cases relevant to moral responsibility and free will, “ought” does not *necessarily* imply “can.”

Sinnott-Armstrong argues that there are three ways to interpret the phrase “ought implies can.” The first interpretation is that of semantic entailment, the second is that of semantic presupposition, and the third is that of conversational implication (1984, 249). He distinguishes between the implications of each interpretation stating,

If ‘ought’ entails ‘can’, and an agent cannot do an act, then it is *false* that the agent ought to do the act. If ‘ought’ presupposes ‘can’, and the agent cannot do the act, then it is *neither true or [sic] false* that the agent ought to do the act. If ‘ought’ conversationally implies ‘can’, and the agent cannot do the act, then it might be *true* that the agent ought to do the act. (1984, 249-250; *Italics in original*)

Thus, if the interpretation of “ought implies can” is conversational, then there no reason to assume that “ought” statements are futile without free will.

Sinnott-Armstrong defends the conversational interpretation by first arguing against the entailment and presupposition interpretations. He employs a counterexample against ought/can entailment and presupposition: Suppose Adams promises to meet Brown at 6:00, but decides to go to a movie at 5:00. He cannot go to the movie and fulfill his promise even though he still ought to attend the meeting (1984, 252-253). This example indeed shows that an “ought” neither entails nor presupposes at least one sense of “can,” but it is a weak sense that would not appease those who believe in free will. It is not actually the case that Adams metaphysically cannot fulfill his promise; he could leave the movie early. Since the movie does not physically restrain Adams from fulfilling his obligation, then, according to libertarians and compatibilists, Adams could still be held morally responsible for missing the meeting. Even free will skeptics could allow that Adams’ actions warrant an appropriate response (not blame).

While the specific counterexample above does not provide compelling evidence that would sway free will believers, Sinnott-Armstrong still offers reasons for believing in a flexible relationship between “ought” and “can” by describing an alternative interpretation of that relationship: conversational implication. Briefly, conversational implication means that p conversationally implies q if a rational person can reasonably assume that q was intended by the person who uttered “ p ” (1984, 255). This interpretation leaves open the possibility for the speaker to clarify that q was *not* implied by p . Thus “ought implies can” is a contingent relationship; it depends on the intention of the speaker and the purpose of the particular “ought” statement. When a free will skeptic declares that Sally ought to fulfill a promise or that Sally ought not to hit her brother, the skeptic is not assuming that Sally’s determination is such that

Sally metaphysically can abide by such dictates.¹⁰ Rather, the skeptic would merely be invoking the “opportunity” or “physical ability” sense of the word “can,” detailed in chapter two.

By stating that Sally “ought to x,” the free will skeptic is informing Sally of her moral duty. The purpose of the ought statement in this case is that of “advising” and it in no way implies that Sally can metaphysically fulfill that moral duty (1984, 257). Free will skeptics argue that agents *metaphysically* cannot do other than what they do. This sense of “can” (or “cannot”) applies to agents regardless of physical ability or physical restraints. Sinnott-Armstrong acknowledges that “‘cannot’ is sometimes a reason for denying ‘ought,’” such as when a person misses a meeting because of a physical inability such as sickness (1984, 252). Free will skeptics can agree that in certain circumstances involving physical restraint or lack of consciousness, ought statements are rendered meaningless. However, when the restraint is merely metaphysical, rather than physical, ought statements can still serve a vital, practical purpose.

Derk Pereboom expands upon Sinnott-Armstrong’s argument by stating that actions are still right or wrong regardless of one’s ability to conform to the moral rule, and telling agents what they should or should not do acts as guiding principles (2001, 143,147). Telling an agent she ought to do a certain action informs that agent that such actions will have beneficial effects and telling an agent she ought not have done something merely informs the agent that her action had deleterious effects. Distinguishing between good or moral behavior and behavior which is not serves as a foundation for a moral education that may help shape and change an agent’s character and behavior (if it is within that agent’s causal determination to be affected by such an education). Thus, the practice of telling someone they should perform moral actions and should

¹⁰ The skeptic may hope that is within the realm of possibility that Sally can metaphysically abide by moral rules. Otherwise, advisory “ought” statements would be a futile waste of time. But that does not mean that the skeptic knows for sure that abiding by moral duty is within Sally’s metaphysical realm of possibilities.

not perform immoral actions serves the function of moral education and could be retained regardless of a person's inability to do otherwise.

If free will skepticism is true, we can still retain “ought” statements even when we realize that an individual could not have done otherwise, did not have the relevant control over her actions, and was not the ultimate cause of her actions. Derk Pereboom argues that moral education and reinforcement may serve the purpose of punishment in a way that addresses the effect of moral transgressions upon individuals and society without resorting to ascriptions of blame. According to Pereboom, since we cannot predict who can and who cannot abide by moral rules, it makes sense to clarify and disseminate the moral rules individuals are expected to follow and hope they have the metaphysical ability to abide by them. Pereboom states, “one clear role that moral ‘ought’ judgments have is to guide actions. We tell people that they ought not to steal to keep them from stealing” (2001, 147). Even if they could not, metaphysically, have done otherwise, we can limit their epistemic options (options that they *consider* viable) through moral “ought” statements. Besides, there are still repercussions for those who break the law or act immorally, even if we recognize that they could not have done otherwise and their actions are not “up to them.” I discuss this more thoroughly in the next chapter.

Skinner defends the efficacy of “ought” statements as merely explanatory tools. He describes both moral and amoral uses of such statements expressed as hypothetical imperatives (1971, pp106-107). For example, amoral uses of “ought” include advice statements such as, “If you want to pass the exam, you should study” and “You should read *Lord of the Rings*.” There is no moral force to such statements, they are merely prescribing a course of action should one desire a certain end. In Skinnerian terms, such ends are reinforcing, so if a person desires such reinforcement, then they should perform certain actions.

Skinner describes moral ought statements in the same terms. For example, telling a child she should tell the truth, according to Skinner, is akin to saying, “‘If you are reinforced by the approval of your fellow men, you will be reinforced when you tell the truth.’ The value is to be found in the social contingencies maintained for the purposes of control” (1971, 107). Thus, if you want to avoid or encourage certain reactions, then you ought to act within prescribed limits. Humans make associations between actions and consequences and develop preferences for some consequences over others. Like Pereboom, Skinner argues that ought statements serve as prescriptive tools to educate people, children and adults alike, about which kinds of consequences can be expected from their actions. Even if someone is causally determined to choose only one action, such prescriptions can limit which options are salient to her and may (or may not) become a determining factor in her deliberation process.

In the next chapter, I describe certain social changes that should or ought to take place, given free will skepticism. If we are all determined by external factors beyond our control, then such prescriptions may at first glance seem futile. After all, if we are causally determined to be a certain way, if we could not be otherwise, then it could be that we could not have any other kind of society than we do. However, just as prescriptions for change at the individual level could become incorporated into the determination of an individual, prescriptions for change at the societal level could become incorporated into the determination of a society. The civil rights movement, the women’s liberation movements, and the marriage equality movement all arose as the result of a unity of individuals committed to change. Indeed, if it is causally determined that society will ignore or resist certain calls for reform, so be it. However, since we cannot predict the future, since we cannot track the determining factors of all people in a given culture to see if

such prescriptions would be efficacious, calls for reform in the name of justice and fairness are worth the effort.

The Scale of Responsibility Objection

This objection focuses on the common belief that responsibility exists on a scale, with one side of the scale consisting of responsible agents and the other side consisting of agents excused from moral responsibility ascriptions due to mitigating circumstances. Individuals who have diminished autonomy due to coercion, duress, mental disabilities or psychological disorders are usually excused or exempted from ascriptions of blame due to the concept of fairness. The argument states that it would not be fair to hold individuals who are not capable of making rational, moral decisions to the same standards of morality to which we hold individuals who are in full possession of their faculties of reason at the time of action. Courts of law in the United States frequently refer to *mens rea* when exculpating or reducing the sentences of the defendant in cases involving mitigating circumstances (e.g. insanity, coercion, duress, mental deficiency). This is because it is deemed that the person in question was not in control of her actions or she lacked criminal intent in the manner requisite for moral responsibility.

Fischer and Ravizza defend the practice of making such allowances by stating,

Evidently, the causal history of an action matters to us in making moral responsibility attributions. When persons are manipulated in certain ways, they are like marionettes and are not appropriate candidates for praise or blame. These factors issuing in behavior are intuitively, responsibility-undermining factors. (1998, 36)

However, according to free will skepticism, *no one* is in control of her actions in the manner requisite for moral responsibility; we are *all* like marionettes manipulated by external influences and causal processes that trace back to conditions beyond our control (Pereboom, 2001, 127). What seems poorly founded in making allowances for those with diminished capacities is that

such cases are seen as exceptions when, if free will skepticism is true, the rule upon which the exceptions are based should be discarded.

In *Free Will, Fundamental Dualism, and the Centrality of Illusion*, Saul Smilanski takes for granted that a distinction concerning desert should be made based on the mental capacities of the individual; he claims that, “the kleptomaniac and the alcoholic differ from the common thief and common drinker in the deficiency of their capacity for local reflective control over their actions” (2011a, 429). Compatibilists often argue that the degree of control required for ascriptions of moral responsibility obtains even within a deterministic framework; thus, according to them, free will skepticism does not threaten or undermine the distinctions we make between moral agents and those who cannot be considered agents at the time of an action due to mitigating circumstances. Smilanski contends that, should we attempt to disqualify all individuals from moral responsibility by pointing to determinism (or indeterminism), we would be committing an egregious moral wrong. He defends this by claiming,

Working according to compatibilist distinctions might be just...because they correspond to a sense of being up to us, which exists in many normal situations, but not in cases such as kleptomania or addiction. It would be unjust to treat these different cases in the same way. To *fail* to create a Community of Responsibility is also in one sense to fail to create a feasible nonarbitrary moral order, hence to fail to show the proper respect for persons. (2011a, 431)

Two responses to this objection are: first, free will skepticism denies that actions performed by individuals are “up to them,” in the sense required for moral responsibility. Second, we would not be treating the common thief and the kleptomaniac the same given free will skepticism: the kleptomaniac would require a level of psychological care that the common thief would not. Even though, according to free will skepticism, the common thief, like the kleptomaniac, was not in control of her actions in the sense required for moral responsibility, her actions still would need to be negatively reinforced either through payment of reparations, or, depending on the severity

of the theft, through another means of corrective behavior modification. For example, if a car thief was motivated to steal out of a desire for excitement, then she needs help finding an alternative, legal outlet for her thrill-seeking disposition. If her motivation were financial, then job counseling would be a more appropriate solution. While our attitudes concerning *fault* would not vary between the common thief and the kleptomaniac, we would administer varying *treatments* depending on the rational capacities and motivations possessed by an individual at the moment she committed the crime.

Fischer and Ravizza offer another control-based argument favoring the distinction between moral agents and those with diminished capacities. As discussed in the last chapter, the kind of control they deem both necessary for moral responsibility and compatible with determinism is guidance control, which refers to the control an individual has over certain physical actions. Compulsive kleptomaniacs lack guidance control (they cannot control the irresistible urge to steal, and thus cannot physically keep their hand from taking an object); therefore, they also lack regulative control. On the other hand, common thieves lack only regulative control because while they can control their physical movements, if free will skepticism is true, they still lack the metaphysical ability to refrain from stealing. The influences of the kleptomaniac and alcoholic's disorders over their actions are obvious and salient. The influence of causal factors on the common thief and casual drinker are less apparent, but the latter have no more regulative control over their actions than the former individuals. Free will skeptics claim that to qualify for moral ascriptions, guidance control is not enough. Rather, to be morally responsible, an agent needs to be the ultimate cause of her actions. Since free will skeptics deny this possibility, they also deny that an agent is ever morally responsible.

A.J. Ayer insists that, despite causal determinism, there is a relevant difference between the kleptomaniac and the common thief due to the different level of constraint imposed on the individuals. As a compatibilist, Ayer defines freedom as a lack of constraint, and he believes that this emphasis allows agents to be free despite the truth of causal determinism (1954, 115). He admits that causal determinism can be viewed as a type of constraint, but it is not the type that is relevant to ascriptions of moral responsibility. Unlike Fischer and Ravizza, who would absolve the kleptomaniac of moral responsibility due to her lack of relevant control, Ayer's position treats the kleptomaniac differently because of her diminished capacity for reflection on her actions. The common thief is morally responsible according to Ayer because, had he desired to act differently, he would have. Ayer recognizes that the conditional hypothesis may not convince "die-hard determinists," so he labors to show how causal explanations differ from constraint in a morally relevant manner, stating, "from the fact that my behavior is capable of being explained, in the sense that it can be subsumed under some natural law, it does not follow that I am acting under constraint" (1954, 117). A strong sense of constraint implies that there are internal or external forces acting upon the agent at the time of the choice; on the other hand, according to Ayer, causal determinism merely serves as an explanation, not a justification, and does not disqualify the agent from responsibility.

P.F. Strawson offers yet another defense of the scale of responsibility through his discussion of who should be considered an appropriate recipient of reactive attitudes. He explains that it is appropriate to take an objective stance toward those with diminished capacities, because the reactive attitudes, such as anger and indignation, would not be a fitting response to those who are incapable of making moral distinctions at the time of their

actions. According to Strawson, our reactive attitudes are only fitting when directed at rational agents who act with intention (1963, 125). He stresses that the conditions under which we make allowances are “abnormal,” and he argues against the possibility that determinism could excuse everyone, stating, “it cannot be a consequence of any thesis which is not itself self-contradictory that abnormality is the universal condition” (1963, 128).

R. Jay Wallace further defends this strategy by categorizing two types of circumstances that make agents eligible for mitigated responsibility ascriptions. He calls the first type “excuses,” which refer to specific actions performed by otherwise capable agents during a time of constraint, such as duress or coercion (1994, 118). He offers the example of a bank teller who, at the point of a gun, gives money to a thief. Wallace contends that the bank teller did not actually do anything wrong; she did not violate any moral obligation, due to the excuse that her life was at stake. Couching responsibility in terms of the will of an agent, Wallace claims that, “all of the excuses indicate the absence of a culpable quality of will; hence the principle of no blameworthiness without fault offers a unified treatment of the moral force of the full range of excusing conditions” (1994, 151). However, according to Wallace, an agent who violates a moral obligation without such an excuse should be held morally responsible. He claims that determinism does not count as an overarching, generalized excuse that relieves individuals of moral responsibility, since agents can regularly meet or violate moral obligations according to their will in a determined world.

Wallace refers to the second type of mitigating condition as “exemptions”; here, the individual does not deserve to be regarded as an agent due to mental deficiencies (severe psychological disorders, infancy) or overriding compulsions (addiction) (1994, 118). Agents who do not have an excuse and who are not exempt possess “powers of reflective self-

control” which Wallace defines as “the general ability to grasp and apply moral reasons and to regulate their behavior by the light of such reasons. Possession of these powers is thus a basic condition of the fairness of holding people accountable” (1994, 155). He then argues that those who should be exempt from moral responsibility lack these powers. While excuses show that the agent did not intend to perform an immoral or otherwise wrong act in a particular situation, those who are exempt may have acted with intention, but because of their diminished mental capacity, their condition renders them an unfair target for blame ascriptions. Like Strawson, he argues that causal determinism would not exempt all humans from blame, because individuals are capable of reflective self-control given free will skepticism.

Nomy Arpaly’s view, based on the quality of will of an individual, also accounts for mitigating circumstances in moral value ascriptions. She offers the example of the murderer Robert Harris. Although he murdered his victims with intent and an ill will, she contends that, “his ill will appears not to be of his own making. Harris is thus a case of bad constitutive moral luck” (2006, 34). However, it seems arbitrary to assert that Harris’ will is attributable to “luck” while the will of others is of their own making. I agree that the abuse and neglect he experienced in childhood makes the external factors that influenced his will more apparent, but making a distinction between his will and that of others seems to imply that there are aspects of a “normal” person such that they have a ‘special quality’ that makes them immune to the causal processes that resulted in their will.

A Skeptical Response to the Scale of Responsibility Objection

According to free will skepticism, if all actions are merely links in a chain of long causal processes over which an individual has no control, then moral responsibility has no justification

in any case of wrongdoing, not just in cases of “abnormality,” as described by the above objections. Free will skeptics assert that all acts are either random or can be explained through causal determinism. The murderer with guidance control who responds to reasons, and concludes based on those reasons that murder is the right/best course of action to take is comparable, in terms of moral responsibility, to the murderer with schizophrenia who responds to the voices in her head. The difference should be in the treatment rather than in the ascription of fault. The former may be quarantined and re-educated, while the latter may require a battery of pharmaceuticals and intensive psychotherapy. Instead of everyone being described as “abnormal,” as Strawson suggests, everyone from the corrupt CEO, to the deviant child, to the psychopath are “normal”; they are merely suffering from varying (sometimes extreme) degrees of unfortunate determining circumstances.

While descriptions of control, reflection, will, and intent provide an intuitive reason to distinguish between moral agents and those with diminished capacities, Derk Pereboom insists that excuses and exemptions can indeed be generalized, given free will skepticism (or, as he calls it, hard incompatibilism); if he is right, then making allowances for some individuals and not others would be patently unfair. He prefaces his argument with the commonly held principle of fairness: “If no relevant moral difference can be found between two agents in distinct situations, it is a feature of the practice of holding people morally responsible that if one agent is legitimately exempted from moral responsibility, so is the other” (2001, 99). Pereboom argues that capacities such as guidance control, ability to respond to reasons, ability for reflection, and will are not sufficient bases by which to judge moral responsibility. Rather, according to free will skepticism, in order to possess the kind of freedom required for moral responsibility, an individual must be the ultimate (as opposed to proximate or immediate) cause of her actions. If

no agent has such a capacity, then the practice of making allowances solely in extreme cases of deficiency is ill-founded and unfair.

One reason many support the scale of responsibility argument is that they do not see themselves or others as being forced by past events and their life circumstances to make certain choices and perform certain actions. However, this may be due to the difficulty, if not impossibility, of discerning all external antecedent factors that causally contribute to any one decision (D'Holbach, 1970, 399). The self—one's identity—is a construction over time caught in a constant feedback loop with its environment. The human brain simply cannot process and remember all of the external and historical factors that play a causal role in any one decision or action. Making allowances for agents whose external causal factors are immediately apparent while not making allowances for those whose causal influences are invisible, inaccessible, or merely forgotten is unfair. The level of an individual's mental capacities at the time of an action dictates what kind of *treatment* is appropriate, but no ascription should be made in terms of responsibility.

The “Reactive Attitudes” Objection

In *Freedom and Resentment*, P.F. Strawson popularized the argument that relinquishing the belief in free will would have dire consequences for social relations. He discusses the affective “participant” attitudes we have for others, as opposed to an “objective” attitude (1963, 126). He argues that to deny that others have moral responsibility would be to ask that we adopt an objective attitude toward them that

...cannot include the range of reactive feelings and attitudes which belong to involvement or participation with others in inter-personal human relationships; it cannot include resentment, gratitude, forgiveness, anger, or the sort of love which two adults can sometimes be said to feel reciprocally, for each other. (1963, 127)

He concedes that we do indeed take this attitude toward some others (e.g., children, and the mentally deficient or incapacitated) or toward all others some of the time (e.g., in the case where an injury or benefit was performed out of ignorance), but our default position is the participant attitude. He argues that, regardless of whether or not causal determinism is true, not only are reactive attitudes so ingrained in our social constitution as to make abandoning them unfeasible, but were we able to somehow adopt the objective attitude, our personal relationships would be seriously undermined as a result (1963, 129).

Pereboom's response is twofold. First, he claims that we can retain a stance toward others that retains or embodies the positive attitudes such as love, gratitude and forgiveness. Then he argues that tempering negative attitudes may actually benefit, rather than threaten, personal relationships. Regarding love, he mentions that there is a host of instances where we love others without thinking they "deserve" that love because of their moral responsibility or free will. For example, parents love their children irrespective of their level of moral development. We also love others for aspects of their personhood over which they have no control; these attributes include a person's character, behavior, intelligence, appearance, style, and resemblance to others. (In Fischer et al., 2007, 121) Certain qualities that people have are loveable and attractive regardless of whether or not a person freely chose to have them. Pereboom states, "Love of another involves, fundamentally, wishing for the other's good, taking on her aims and desires, and a desire to be together with her, and none of this is endangered by hard incompatibilism" (ibid, 122). Thus, meaning and fulfillment in personal loving relationships can be retained given free will skepticism.

Concerning forgiveness and gratitude, Pereboom argues that these can be accounted for through encouragement and appreciation. When someone sincerely apologizes for an offense,

this shows that the person recognizes the wrong that was committed and shows her intention to amend the behavior in the future. Forgiveness is merely the acceptance of the apology and “the willingness to cease to regard past immoral behavior as a reason to dissolve or weaken a relationship” (ibid, 120). Conversely, gratitude involves letting a benefactor know that you acknowledge and appreciate a kind act, not because you hold them responsible for it, but because such behavior is intrinsically worth encouraging. Thus, we can express joy and thanks without assuming the person acted on their own free will.

Along with fostering positive reactions to behavior, forsaking or at least mitigating the negative attitudes such as anger, resentment, and guilt may enhance personal relationships. Guilt may seem integral to an agent’s cultivation of a proper response toward her own immoral or criminal acts. However, as was discussed earlier, one can recognize the wrongness in an act without feeling morally responsible for it. Pereboom argues that sadness and regret over past actions are still preserved in free will skepticism, and they can help a person resolve to improve such behavior in the future (ibid, 120).

Anger, resentment, and indignation are the most difficult reactive attitudes to account for given free will skepticism. The wrongs committed against individuals, groups, and societies seem to rightfully engender outrage. Without anger as a motivating force, it seems one would be resigned to or complacent toward the ubiquitous instances of moral offenses committed against others. Pereboom argues that other emotions, analogues, can serve the same function in relating the wrongness of certain acts; “[t]hese emotions include feeling hurt or shocked about what the other has done, and moral sadness or concern for the other. These attitudes are not aggressive in the way that indignation can be, and all by themselves they do not typically have indignation’s intimidating effect” (2001, 200). Anger in itself is a toxic emotion that goes beyond the mere

communication that an individual has committed an offense. Anger can be the motivating force behind the perpetuation of violence. Personal and societal relationships would benefit from tempering such aggressive emotions, and free will skepticism provides strong reasons for doing so.

Ought Implies Can (revisited)

Even given the best reasons for refraining from reactive attitudes, some might doubt that we can ever overcome them entirely. Indeed, saying we “ought not” engage in destructive emotions, given free will skepticism, would be futile if such emotions were an integral and inextricable part of human construction. We seem prone to emotional responses, even in situations where we intellectually recognize them to be inappropriate or irrational. The idea that rational humans are morally responsible is deeply embedded in our social and mental worldview, and to recondition such a mindset seems a daunting, if not impossible, task. However, accepting free will skepticism into our ontological framework would require a shift in perspective toward others, making the practice of temperance viable. For example, animal trainers operate under the knowledge that non-human animals are not morally responsible. When a non-human animal acts in ways that are contrary to our wishes or expectations (e.g., relieving themselves on a favored oriental rug) we would be irrational to punish them in abusive ways. Rather, experienced animal trainers prefer and employ operant conditioning as an effective method of training. If a dog ruins a prized possession, for instance, by chewing on an expensive pair of shoes, we recognize that it is in the dog’s nature to chew. We can feel sad for the loss of the material object, but to hold the dog morally responsible for the action would be absurd.

Anyone who has refrained from throwing their dog out of a high window despite returning home to a grave-yard of chewed-up or peed-on cherished possessions knows that it is

possible to temper reactive attitudes solely because the “guilty” party is not morally responsible. That we can exercise emotional restraint in the face of destructive behavior, despite our emotional attachment to an object ruined by a non-human animal, is evidence that reactive attitudes are not inherently necessary and ineluctable components of human composition. Thus, at least in some circumstances, we already recognize the ability, and moral obligation, to moderate reactive attitudes. The problem, then, is not whether it is possible for humans to overcome, minimize, or eradicate reactive attitudes, but rather whether humans can accept and internalize free will skepticism to the point where we view and treat wayward humans with the same moral consideration we (should) view and treat wayward pets.

Baruch Spinoza argues that we can overcome reactive attitudes merely by accepting free will skepticism. He devotes Part Five of the *Ethics* to explaining how the use of reason, or the intellect, “leads to freedom” (Part 5, Preface). However, unlike compatibilists, he does not mean to imply that the ability to act according to reason entails the ability to act independently from the dictates of causal determinism. What he means by “freedom” in this section is merely the contingent ability to control or temper the emotions through the use of reason. He employs this weaker definition of “freedom” to argue that we do not have to be passive slaves to our emotions (unless, of course, we are causally determined to be as such). In other words, we have a *hypothetical* ability (weak definition of freedom) to learn to overcome irrational emotions, but only if we have the *metaphysical* ability to do so. Furthermore, he states, “In so far as the mind understands all things as necessary, so far it has a greater power over the emotions, or, it suffers less from them” (Part 5, Proposition 6). Thus, according to Spinoza, not only do we not have free will, recognition of this fact will help us overcome or restrain the reactive attitudes by helping us recognize or accept that events could not have been otherwise.

A Mindful Approach to the Reactive Attitudes

A strong objection to P.F. Strawson's view that reactive attitudes are inevitable or preferable comes from those who practice and advocate meditation and mindfulness. Traditional Buddhist traditions generally do not accept free will skepticism, yet they argue that reactive attitudes can (and should) be overcome. Mindfulness practices and meditation techniques are designed for just this purpose and contemporary research in psychology has pushed such practices into mainstream consciousness. In "Mindfulness: Theoretical Foundations and Evidence for its Salutary Effects," Kirk Brown, Richard Ryan, and J. David Creswell argue that mindfulness techniques drawn from Buddhist traditions can be used to modify behavior and improve relationships.

Brown, et al. define mindfulness as "*a receptive attention to and awareness of present events and experience*" (2007, 212 italics in original). The evidence they cite from a wealth of clinical trials suggests that practicing the art of focusing awareness and attention to the present moment, and practicing non-judgment and non-attachment to thoughts disrupts habitual cognitive attitudes ameliorating reactive and emotional responses. For example, they state that "[mindfulness] has been associated with lower levels of emotional disturbance (e.g., depressive symptoms, anxiety, and stress)" (2007, 219). If agents were more adept at regulating their moods, they could respond to potentially upsetting situations in a more rational, dispassionate manner. It is merely a matter of creating new cognitive habits.

Reactive attitudes occur frequently in interpersonal relationships; thus, merely being able to regulate one's mood would not be sufficient. However, Brown, et al. argue,

Specifically, the receptive attentiveness that characterizes mindfulness may promote a greater ability or willingness to take interest in the partner's thoughts, emotions, and welfare; it may also enhance an ability to attend to the content of a partner's communication while also being aware of the partner's (sometimes subtle) affective tone

and nonverbal behavior (Golman, 2006). At the same time, such a person may be more aware of their own cognitive, emotional, and verbal responses to the communication. Boorstein (1996) has argued that mindfulness promotes an ability to witness thought and emotion so as not to react impulsively and destructively to them. (2007, 225)

Thus, P.F. Strawson's position that interpersonal relationships would suffer without reactive attitudes is weakened by evidence suggesting that such relationships would actually benefit from overcoming such attitudes. Pereboom showed that the positive attitudes of forgiveness and gratitude could be retained through analogues, and mindfulness studies have shown that destructive attitudes like anger could be ameliorated. Many mindfulness and meditation programs have been started in prisons with varying degrees of success. I'll discuss meditation in prisons more thoroughly in the next chapter.

The Phenomenology of Freedom Objection

Even if people accept intellectual reasons for challenging free will skepticism, humans have a personal experience of feeling free that free will skepticism needs to address. Many libertarian and compatibilist theorists (including, but not limited to, Kane, Ekstrom, and Fischer) emphasize the personal experience of being morally responsible in their assessment of whether or not an agent is actually morally responsible. Thus, an argument for free will skepticism as a metaphysical explanation would be rendered vacuous if it could not account for our phenomenological experiences.

Baruch Spinoza argues that the feeling of being free in the sense required for moral responsibility can be attributed to ignorance of the external and prior causal events influencing an agent at the time of any given action:

Men are deceived in that they think themselves free, an opinion which consists simply in the fact that they are conscious of their actions and ignorant of the causes by which those actions are determined. This, therefore, is their idea of liberty: that they know no cause of their actions. For when they assert that human actions

depend on the will, these are just words, of which they have no idea. (Part 2, Proposition 35, Scholium)

Spinoza uses the perceived proximity of the sun as an example of how our imagination can be deceived by the perception of phenomena. We may know that the sun is far away, but because we *feel* its closeness, we perceive it to be closer than it actually is (Part 4, Proposition 1, Scholium). Likewise, because we perceive only the immediate cause of an action, and because we experience ourselves as that immediate cause, we make the mistake of regarding ourselves as the ultimate or sole cause of an action, when the actual ultimate cause long precedes our existence.

Similar to Spinoza, D'Holbach argues that people feel free, not because they actually are free, but because humans are complicated, there is great variety in their actions, there is a multiplicity of causes that move them, and the multiple causes for any given action or decision are “too remote from their effects” (1970, 400). As discussed previously, the self—one’s identity—is a construction over time caught in a constant feedback loop with its environment. The human brain simply cannot process and remember all of the external and historical factors that play a causal role in any one decision or action. D'Holbach claims,

The errors of philosophers on the free agency of man, have arisen from their regarding his will as the *primum mobile*, the original motive of his actions; for want of recurring back, they have not perceived the multiplied, the complicated causes which, independently of him, give motion to the will itself; or which dispose and modify his brain, whilst he himself is purely passive in the motion he receives (1970, 94).

B.F. Skinner similarly states, “Man is a machine in the sense that he is a complex system behaving in lawful ways, but the complexity is extraordinary” (1971, 193). Our inability to recognize our passivity in our constructions and decisions, and to justify or explain decisions

made subconsciously has been evidenced by Benjamin Libet's (and subsequent) experiments and research.¹¹

One of Libet's experiments involved participants recording the exact time they became conscious of deciding to flick their wrists. By observing their brain activity during the decision process, Libet and his colleagues discovered that "The electrical readings showed that a 'readiness potential' (RP) occurred in the brain approximately 550 milliseconds prior to the onset of muscle movement, but the conscious awareness of an urge/intention to flex did not occur until 200 milliseconds prior to muscle movement" (In Waller; 2011, 82-83). Many philosophers since Libet interpret the gap in time between non-conscious brain activity and conscious choice to mean that the brain makes certain decisions before the agent is consciously aware of those decisions. If true, then there is scientific evidence showing that, at least in some circumstances, the phenomenology of freedom is an unsubstantiated fiction.

Waller and Caruso respond to myriad objections to the argument that Libet's and Libet-style experiments threaten free will.¹² Tim O'Connor's objects that the flicking of a wrist is not the kind of decision relevant to free will ascriptions (2011, 85). According to him, trivial actions such as flicking a wrist are different in kind than weightier actions such as moral deliberations. Therefore, he contends that Libet's experiments are not sufficient to threaten agent-causal accounts of freely caused actions and events. Waller counters, "If the 'inner experience' is false in small things, that casts significant doubt on its veracity in large things" (2011, 85). The mechanism for making decisions is the same regardless of the scale or seriousness of the choice. Libet's experiments show that at least some seemingly spontaneous, voluntary decisions actually

¹¹ For a list of references of Libet-style experiments see Caruso (2012, 189, 192).

¹² For a more thorough discussion of objections and responses see Caruso (2012, 189-196) and Waller (2011, 83-86).

originate in the preconscious mind rather than in the conscious mind; the nature or content of the decision is irrelevant.

Alfred Mele charges Libet's experiment with conflating urge and intention: the brain activity signifies a mere "urge," while the actual intention does not occur until it is consciously registered by the agent (In Waller, 2011, 85 and in Caruso, 2012, 194-195). Caruso responds,

What Libet's findings show, and what Mele does not deny, is that the *ultimate source* of voluntary action is *not* the conscious self but unconscious brain activity. Hence, even on Mele's interpretation, the causal process that ultimately results in spontaneous voluntary action is unconsciously *initiated*. (2012, 196)

The upshot of Libet's and Libet-inspired experiments is that the phenomenology of freedom rests on an illusion. While such experiments do not threaten the *feeling* of being free, they lend credence to the free will skeptic's argument that a mere feeling does not substantiate belief.

Like d'Holbach, B.F. Skinner argues that the feeling of freedom merely reflects social reinforcers and that "casual observation alone will seldom reveal the contingencies" (1971, 141). By "contingencies," he means the external factors that causally influence our actions and undermines our autonomy. In a controlled environment or experiment, he argues, specific contingencies can be accounted for and manipulated in order to manipulate behavior. This idea plays out in countless psychological experiments, most notably those conducted by John A. Bargh, wherein subjects were "primed" to exhibit certain social behaviors such as rudeness or politeness. (1996, 233-236) Since then, similar studies have corroborated their conclusion that not only are our behaviors, attitudes and perceptions receptive to priming, but that subjects were unaware of being externally manipulated, and thus felt that the primed behaviors and attitudes they exhibited or experienced spontaneously originated within them (Bargh et.al., 2012). What these and Libet's experiments show is that the feeling of freedom does not by itself guarantee actual freedom.

The Threat to Deliberation Objection

Even if one accepts the above challenges to the phenomenology of freedom, she may still resist such objections thinking that a commitment to free will skepticism will undermine the deliberative process. However, accepting free will skepticism would not diminish the feeling one has during deliberation that multiple options actually exist in the world, nor would it affect the *feeling* of consciously choosing between those options. I may intellectually recognize that when I am deciding between wakeboarding or grading papers that only one option is metaphysically available to me, and that whichever option I select was guaranteed (or completely random if indeterminism is true and operative on the level of brain-functions during that decision). However, such knowledge does not undermine my need to make a decision. The illusory *feeling* of freedom to choose between two seemingly viable options does not change the fact that only one option was actually viable, and that the resulting choice was not up to me in any way relevant to free will and moral responsibility.

In response to objections that belief in causal determinism is inconsistent with belief in the rationality of deliberation, Pereboom argues for “deliberation compatibilism” defined as “S’s deliberating and being rational is compatible with S’s believing that her actions are causally determined” (2014, 106). He argues that the unpredictability of the results of the deliberative process makes that process both viable and rational. When I need to decide between wakeboarding and grading papers, I will not know which action I will choose until I rationally consider the consequences of each action and endorse one action over the other. Belief that only one action is metaphysically possible for me does not preclude the fact that both options are epistemically available to me (i.e., I am aware that both options exist as possibilities). I will only

become aware of which option is the metaphysically open option when I find myself actually performing that action.

The Loss of Identity Objection

According to D'Holbach, "If people had the time and inclination to examine their own peculiar actions and search out their true motives to discover their concatenation, they would remain convinced that the sentiment they have of their own natural free agency, is a chimera that must speedily be destroyed by experience" (1970, 400). D'Holbach thought that through reflection upon experience, agents would recognize the determination and contingency of their existence. I agree, but humans, especially those in Western countries, are stubborn when it comes to freedom. Freedom and independence are part of many people's cultural identity, and humans seem to have a deeply personal and emotional investment in their experiences of the self or identity that seems threatened by free will skepticism.

Continental philosophers perpetuate this perception when they claim that we are self-creating, experiential beings who depend not only on the calculations of reason, but also on meaning-giving activities that make our lives significant to us. Jean-Paul Sartre, an agent-causal libertarian, believes not only that we are free, but that we are "condemned to be free" in the sense that we must take full ownership of and responsibility for our lives and the choices we make (1956, 567). Taking responsibility for our lives makes the choices we make meaningful to us. However, I contend that such meaning and value can be retained, given free will skepticism.

In *Being and Nothingness* Sartre argues for a radical notion of freedom, where humans are viewed as the ultimate creators of themselves and their lives. In discussing his "no excuses" approach to adversity, he argues that we create the situations to which we are subjected; "[i]t is therefore senseless to think of complaining since nothing foreign has decided what we feel, what

we live, or what we are” (1956, 708). In this way we own our selves and lives and must accept with full responsibility whatever situation we find ourselves in, even war. According to Sartre, as human beings endowed with a rational nature and consciousness, we have the ability to step back and reflect on the context into which we are thrown (our thrownness). This ability to mentally remove ourselves from the phenomenal world creates a gap, a nothingness, from which is disclosed an open realm of possibilities; he states, “human reality is free to the exact extent that it has to be its own nothingness” (1956, 583).

It is through explicating nothingness that Sartre fashions his argument against free will skepticism. He argues that it is our ability to withdraw from our phenomenal surroundings and to contemplate our selves, our lives, our past, others, and our place in the world that extricates us from the conditions of a linear causal order. He asserts that the mere facts in the world cannot motivate us to act; rather, it is only when we remove ourselves, stand apart from and reflect on those facts can we recognize a lack that provokes action (1956, 562-563). When we retreat from the “in-itself” we are able to imbue our circumstances with meaning; we can re-interpret the past and project into the future by setting ends.

According to Sartre, ends rather than prior events or facts in the world are the motivating force or cause of our actions (1956, 564). The desire for a certain state of being that we are presently lacking incites dissatisfaction and anticipation. In our anticipation we act toward that which we care about. He claims that free will skepticism confines us to a state of being-in-itself in which we can only recognize and accept what is, rather than comprehend what is not: “The ultimate meaning of determinism is to establish within us an unbroken continuity of existence in itself” (1956, 567). This seems to be true, given his account, but the nothingness which is integral to his concept of freedom may be understood as just another aspect of our determined

being. If we look at Sartre's description of our experience of a lack as merely a description of how things appear to us, rather than conceding that that is how things really are, we can include that perception within the free will skeptic's outlook.

Humans have the ability to approach a situation from a variety of different angles; we can accept what we think is an objective approach and review our lives accordingly, but we can never step fully outside our subjective perspective and see things as how they really are. That the future is unpredictable, and therefore unknowable requires us to reflect fully on our choices so that they bring about the ends we desire. This kind of removed analysis is not closed to free will skeptics. That we cannot predict where circumstances and choices will throw us next, despite our most meticulous planning, is testament to the possibility of anticipation of ends and of the apprehension that the path to those ends might be obstructed; this is as inherent to free will skepticism as it is to libertarianism.

If free will skepticism is true, then rather than *endowing* the world with meaning, we *discover* it. As much as we invent the world around us, we are inventions of it. What shows up for us as meaningful is not a spontaneous manifestation of cogitation but rather is dependent on our perspective as it has been shaped by external factors, as B.F. Skinner states,

Man has 'controlled his own destiny,' if that expression means anything at all. The man that man has made is the product of the culture man has devised. He has emerged from two quite different processes of evolution: the biological evolution responsible for the human species, and the cultural evolution carried out by that species. (1971, 198)

We are engaged in a constant interplay with the world, where the events and people around us affect us in myriad ways. Depending on our mood and personality, what shows up for us, and the meaning we impart on it, are highly contingent phenomena, since our perspective is relative to our past and our causally determined psychological constitution.

Our ability to make choices, stand back, reflect, re-interpret, and impart meaning to our lives is as much a part of the path of discovery as it is the path of creation. Even if, when faced with a choice, we only have one option actually available to us, the fact that a multitude of options exists in the world and is at our disposal like a menu awaiting our selection, renders as essential the practice of deliberation and reflection. We have the ability as rational beings to stand back at any given time, reflect on who we are and whom we want to be in the future and act accordingly. If we want to change our situation, if we are unsatisfied and want to become someone else, it is within our means to do so, given the requisite disposition and causal determination to actualize such a project. Free will skepticism does not entail a fixed character; it does not mean we have to become stagnant or complacent, as Skinner states, “In shifting control from autonomous man to the observable environment we do not leave an empty organism” (1971, 186). We have our entire past and future set out behind and before us so that we can reflect and project at will (just not free will). According to free will skepticism, how we do so is determined by our character, and that character, our responsive personality, is either transformed, modified, or reinforced with every choice and with every external stimulus that we confront on our path.

We can own our life with as much enthusiasm given free will skepticism as in Sartre’s radical libertarianism. My actions, even if they are causally determined, are still done by me. I must own up to my constitution and accept that it is mine, even if it could not have been otherwise. I am unique in my circumstances, because the exact causal processes and influences that have shaped my character are unique to me. Skinner illustrates this idea when he states,

“the individual is at best a locus in which many lines of development come together in a unique set. His individuality is unquestioned. Every cell in his body is a unique genetic product, as unique as that classic mark of individuality, the fingerprint. And even within the most regimented culture every personal history is unique. No intentional culture can

destroy that uniqueness...But the individual nevertheless remains merely a stage in a process which began long before he came into existence and will long outlast him” (1971, 200).

While some agents’ paths and ideas converge with others, the courses leading to that junction are varied and inimitable. The fact that I am the product of my environment does not make my perception of it any less my own. The world has conspired to make me who I am, yet I alone experience the outcome. I alone have access to my mindset and I alone make use of my deliberative mechanisms to effect change in my life and that of others. If my life has gone badly, if I have made disadvantageous choices, I could not have done otherwise, so there would be no shame or guilt; there would only be the wisdom that comes with learning from my mistakes. Our missteps are part of our education, and they become part of the exclusive milieu from which we draw when making future decisions. I own my mistakes and my accomplishments, not because they are my fault, but because they are now a part of me, a part of my identity.

If life is a matter of discovery rather than creation, none of the excitement is lost, only the pride or guilt, only the self-satisfaction or shame of being defined in terms of one’s accomplishments and failures. Because the idea of freedom is so entrenched in our mindset, we place our esteem into our endeavors, and we emotionally rise and fall with our successes and disappointments. If free will skepticism were the accepted ontology, if we defined our being not by what we created but rather by how we are created by the given world, then what would be lost is not meaning, but rather and merely our psychological attachment to the consequences of our actions. We would be “free” of the absolute responsibility to which Sartre condemns us, but we would still be answerable for our actions and endeavors.

While we can never operate independently of our thrownness, what we can do is operate within the given world and navigate through it with a sense of wonder rather than of resignation.

If free will skepticism is true, it is merely a metaphysical explanation of the way things are. Phenomenological descriptions explain how things seem. By accepting free will skepticism we need not renounce or abandon such a description entirely. If we lack free will, then we have always lacked free will, in which case the thought that deliberation, reflection, interpretation, and meaning-giving would suddenly disappear or be rendered irrelevant if one were to accept free will skepticism is inappropriate. Because there are seemingly infinite variables that make up a life or even a moment in time, reflection, interpretation and deliberation are just as necessary and meaningful given free will skepticism as they are given libertarianism. Combined with our inability to foretell the future, free will skepticism posits only that we are destined to be who we are at every given moment given the state of the world as it is and has been. Given free will skepticism, societal cohesion would not unravel, personal relationships would not be threatened, and meaning-giving activities would not be undermined.

An Emerging Objection

Recently, both libertarian and compatibilist theorists have appealed to emergence theories to defend free will. They argue that, if mental activity is emergent (a quality I will define below), and downward causation obtains, then actions resulting from such mental processes would not be subject to the same determinative causal processes that affect lower-level properties. While emergence theories seem to provide libertarians and compatibilists with an argument for the existence of free will, I will argue against free will by appealing to the same notions that they use to defend it. Thus, I will argue that even if mental processes are emergent, free will still does not exist. Given the myriad kinds and definitions of emergence present in the literature, I will first explicate which definition I think is relevant to the free will debate. I will then present arguments

for emergent mental causation. Finally, I will argue that such arguments fail to provide a plausible account of free will.

Definition and Types of Emergence

To explain emergence, Robert Van Gulick states, “while the emergent features of a whole are not completely independent of those of its parts since they ‘emerge from’ those parts, the notion of emergence nonetheless implies that in some significant and novel way they *go beyond* the features of those parts” (2007, 60; italics in original). While emergent properties are comprised of physical constituents, they are defined as more than the mere sum of those physical parts. As such, emergentist theorists posit that emergent properties have characteristics that their physical parts do not possess. Terrence Deacon offers the analogy of the relation between a sentence and its constituent words: “although the meaning of a sentence is dependent on the meanings of its words, obviously the arrangement of the words is also critically important (as is context). For this reason the meaning of a sentence can’t typically be deduced from just knowing the meanings of the words being used” (2007, p.89). In philosophy of mind, emergentist theorists posit that the relation of and interaction between constituent parts are what give emergent properties their novel characteristics.

Van Gulick asserts that one reason emergent theories can be problematic is that there are different types of emergence, and theorists may conflate the meanings, causing confusion and controversy. He presents and explains two types of emergent relations: metaphysical and epistemic. I will focus on only metaphysical emergence since that is the type relevant to the current discussion. Van Gulick defines metaphysical emergence as a relation “holding among real-world items such as properties” (2007, 60). Within this type, Van Gulick distinguishes between emergent properties and emergent causal powers or forces (2007, 61). Within each of

these two classes he posits three categories, ranging from the specific-value, wherein emergent properties or powers are similar to their base properties, to modest-kind, wherein the properties are less similar, and finally to radical-kind, wherein the emergent properties or powers are “different in kind,” and more importantly, “of a kind whose nature and existence is not necessitated by the features of its parts, their mode of combination and the law-like regularities governing the features of its parts” (2007, 62). The latter is the kind that is relevant to the free will debate, since consciousness, identity, and mental states fall under this category.

Emergence, Supervenience, and Downward Causation

One challenge to emergentist theories is the charge of dualism. If mental activities are emergent properties that possess novel causal characteristics that in turn are radically different from their constituents, then emergentists need to explain the manner in which the mind is “connected” to the physical body and how mental events cause bodily behavior. Nancey Murphy and Warren Brown (M&B) draw upon the notion of supervenience to explain the causal interaction. However, Jaegwon Kim, a reductionist, argues that supervenience supports *his* theory rather than emergence.

Kim’s argument against emergence begins with a definition of supervenience that places causal efficacy at the base level, such that any change in the parts causes a change in the whole. He argues against emergence by positing that supervenience entails reduction. According to Kim, if mental properties supervene on physical properties, then any change in the physical properties entails a change in the mental properties (2007, 21). For this reason, he argues for bottom-up causation, wherein higher-level properties are completely determined by their base properties; thus, there is no room for emergence as defined by Van Gulick, and mental states are reducible to brain states.

M&B reply to this argument by stating, “we propose...that supervenient mental states be understood to be co-determined by subvenient neural events *along with* social, environmental, and historical *context*” (2007, 21; italics in original). According to M&B, emergent mental properties are not constituted only by physical constituents in the agent; by drawing upon embedded mind theories, they assert that mind also extends into the environment. If such is the case, then there is causal interaction, not only between the lower-level parts and the mind, but also between the mind and the larger environment. Therefore, according to M&B, supervenience entails neither reduction nor bottom-up causation.

To further illustrate the causal relation between mind, environment and human action, Van Gulick explains the notion of downward causation (DWC):

If wholes or systems could have causal powers that were radically emergent from the powers of their parts in the sense that those system-level powers were not determined by the laws governing the powers of their parts, then that would seem to imply the existence of powers that could override or violate the laws governing the powers of the parts; that is, genuine cases of what is called ‘downward causation’ in which the macro-powers of the whole ‘reach down’ and alter the course of events at the micro-level from what they would be if determined entirely by the properties and laws at the lower level. (2007, 63)

While supervenience describes the relationship between one’s environment, mental events, and basal properties, DWC seems to liberate mental events from the causal constraints of physical reductionism. If emergent powers are free from the deterministic laws governing their physical constituents, then they should be able to begin causal chains independently of physical laws. M&B appeal to emergence and DWC when arguing for their theory of free will against biological determinism.

Typical arguments against free will posit that since humans are comprised of purely physical parts, and since those parts are subject to (determined by) the laws of physics and causal influences, the entire human is also subject to those same determinative constraints. DWC seems

to turn those arguments on their head. Due to DWC, Campbell and Bickhard (C&B) argue that emergence entails causal origination, stating,

It is critically important that if there are ‘emergent’ properties and powers, they should have their own distinctive causal powers, irreducible to the causal powers of their base properties...this implies that emergent properties not only bring about changes in other emergent phenomena on the same level, but such changes are also accompanied by changes in the relevant base-level properties. (2010, 1)

If my choices influence the structure of my brain and the formation of neural pathways, then any argument positing reductionism or biological determinism is radically undermined. While emergent theories offer a compelling argument against biological or physical determinism, biological determinism is only one kind of causal determinism, and emergence by itself does not provide a convincing argument against causal determinism in general. Later, I will show how emergent theories and DWC actually provide a stronger argument for causal determinism than for free will.

From Particles to Processes

Targeting physical reductionists, emergentists argue against a Newtonian, mechanistic ontology, the assumption of which “is at the heart of causal reductionism, the view that the behavior of the parts of an entity (or the laws governing the behavior of the parts) determines the behavior of the whole unilaterally” (2007, 10). C&B argue that physicalists mistakenly base their theories on this antiquated presupposition, rather than on a process-based metaphysics, according to which “there are no basic particulars, only fields of process” (2010, 15). They argue that this shift to a process-based metaphysics requires a radical change in how we view and define what it is to be a human organism. According to C&B, “biological systems—including humans—are *not* aggregations of cells (smaller things), which in turn (after a few more reductions) are aggregations of elementary particles...such creatures are open, organized action systems in

essential interactions with their environments, such that we cannot say what they *are* without taking those interactive processes into account” (2010, 28; italics in original). Thus, in this view, humans are defined in terms of relations and context rather than in terms of individual, isolated substances.

M&B offer a similar argument in which they conceive mental events as contextualized brain events, wherein the mental is “co-constituted by the context in which the mental/neural event occurs” (2007, 20). This shift from particles to processes to explain human existence and action provides another convincing argument against biological and merely physical determinism. However, radical-kind emergence is not necessarily limited to biological organisms. Societies, nations, cultures, and similar human groupings all fit the definition of radical-kind emergent causal powers. As such, through downward causation, they have the ability to shape and influence their members and significantly influence—and in part constitute—their members’ emergent causal powers. Thus, humans are caught in, and are a part of, an open, dynamic, causal system. How much of a causal part (if any) they play in this system is the focus of the rest of this section.

Free Will?

Traditionally, arguments for causal determinism have relied on physical theories, and espouse bottom-up causation. Murphy argues that if DWC obtains, then there is now room for “investigation of how humans’ neural and social complexity gives them (a degree of) control over their own bodies and behavior” (2010, 254). M&B agree with causal determinists that humans are causally affected and influenced by external factors beyond their control. However, they claim that in order to have FMR, an actor does not need to be the sole, or even the original cause of her behavior; she need only be “primarily” responsible. They assert a causal continuum

wherein responsibility is ascribed in proportion to an agent's causal role in the action. They maintain that "some decisions and actions are to be attributed more to the agent than to the triggering cause together with structuring causes put in place by biology and the environment" (2007, 290). While their argument for what constitutes "primary" responsibility is vague, they mention the fact that mitigating circumstances are often considered when sentencing a guilty criminal.

Indeed, as mentioned above, courts of law in the United States consider mitigating circumstances (e.g. insanity, coercion, duress, mental deficiency) when sentencing criminals found guilty in trials. However, while M&B can account for mitigated responsibility, they still need an account of what it means to be *primarily* responsible. Where is the line drawn between primary responsibility, lesser responsibility, and total absolution? The free will debate usually arises between those who believe actors are *wholly* responsible and those who argue against *any* responsibility. Trying to find a position between the extremes is problematic, and M&B's version is incomplete at best.

Another assumption M&B take issue with is that of a linear causal sequence of events. The traditional free will debate rests on the assumption that humans exist within a linear causal chain that stretches back through history and forward into the future. They argue that this is a misconception (2007, 288). Instead, according to them, we operate in a dynamic causal system wherein we interact with the environment through a feedback loop. In this scenario, FMR emerges through the processes of taking in information, evaluating it, and responding in light of our evaluation.

This rendition of FMR relies heavily upon a MacIntyrean notion of responsibility. According to Alasdair MacIntyre, free will is "the ability evaluate that which moves one to act in

light of a concept of the good” (in M&B, 2007, 243). Leaving aside the problem of how one develops a notion of the “good,” MacIntyre’s position is problematic in other ways. First, appealing to meta-evaluations as the basis of freedom has regress issues; i.e., evaluating reasons for actions and responding accordingly can either lead to an infinite regress or, at least, to a regress that ultimately ends with factors that operate beyond the agent’s control. M&B provide an example from G. Simon Harak, of a man, Harak, who, because of his martial arts training, reacts to what he perceives as an aggressive stranger (2007, 256). Meanwhile, Harak’s friend John, who does not have such training, fails to register any aggression in the stranger. Upon contemplation, Harak recognizes how past influences caused him to react as he did, and he decides to become a pacifist. Harak changes his behavior based on his realization that it was caused by environmental factors. Every change he makes is caused by factors that did not originate with him. M&B explain that Harak’s “evaluation happened as a result of the contrast between his and John’s responses,” so the act of contemplating his actions was externally caused (2007, 257). If he embarked on a mission to evaluate his reasons for evaluating his reasons, he would enter an infinite regression from which he might never surface.

A second issue with MacIntyre’s account is that it seems that what he requires for moral responsibility is precisely that which explains why we are not morally responsible. Being able to perceive what moves us to action means that *there is something that moves us to action*. What moves us to action can be any number of motivations including desires, preferences, obligations, and aversions. Yet, contemplating the origin of those motivations will eventually lead to factors beyond our control. Our actions fit into a causal narrative, and that narrative begins before we are born and continues after we die. Motivations for action are merely one story in a narrative that was not written by us. Each of us leaves a legacy of causal processes in which we play a part, but

MacIntyre does not provide an argument that shows how that legacy could originate within us. The mere act of recognizing the causal process does not, by itself, help us transcend it; rather, it merely becomes another part of the process.

Thus, the non-linear, dynamic, evaluative, interactive process upon which MacIntyre, Murphy, and Brown base their notion of FMR does not support their conclusion. How I evaluate my reactions is a result of past and external influences. For example, imagine that Jack and Jill, driving separate cars, each get cut off in traffic. They both react with anger. Jack, having just come back from a Buddhist retreat where he learned mindfulness techniques, realizes he is angry and comes to the conclusion that the aggressive emotion is unwarranted in this circumstance. He takes a few deep breaths and chants a quick mantra, thus changing his mood, allowing himself to focus on other, more important issues. Jill, on the other hand, is often angered by instances of injustice, and has never learned to control her sudden outbursts. When people comment on her anger, she replies with the cliché “if you’re not pissed off, then you’re not paying attention.” She recognizes that she is angry at being cut off, and comes to the conclusion that her indignation is completely justified. She yells an obscenity at the driver and spends the next hour blaming the stranger for all that is wrong with the world. Jack is no more “free” and autonomous than Jill. Both evaluated the situation and acted in light of what they perceived to be the “good.” The fact that Jack could change his behavior as a result of his contemplation is a direct result of his previous experience (along with genetics). The fact that Jill perpetuated her customary pattern of behavior is also a direct result of previous experience (along with genetics).

According to M&B, the choice to continue or discontinue a behavior is a free choice, because at that moment, all the mental work seems to be done only by the agent. M&B assume that since reason, deliberation, and evaluation are emergent powers, any action resulting from

them is self-caused. However, such is not the case. All mental activity, including how one reasons, is the product of an ongoing process, one that is itself acted upon by external factors such as experience and genetic programming. From the moment we spring from the womb, we are born into a context that informs our perception of the world. Our neural pathways form in response to external stimuli; we learn and form mental habits. The particular habits we form depend upon which actions and choices get reinforced, which in turn depend on experience and interactions with our environment.

M&B admit that our environment plays a large part in our character development:

We agree that humans are never entirely responsible for their own characters. We come into the world with some degree of initial biological (genetic) predetermination...we try out various actions and modify our behavioral tendencies based on feedback...This action-feedback process involves increasing susceptibility to social influences. However, the childhood task is not only social adaptation, but also the development of autonomy. (2007, 286)

As in other compatibilist accounts of freedom, their argument hinges on their definition of autonomy. M&B define it as involving “capacities for intentionally directed action” (2007, 286). According to this definition, my dog could be described as autonomous every time she intentionally chases a squirrel. If an individual’s character is partly determined by genetics, environment, education, experience, and context, there does not seem to be any part of an agent’s character that is self-caused. Even if character is an emergent property, it is the linear result of past experience, it is upwardly influenced by genetics, and it is downwardly caused by social context. An argument for FMR would need to show that the individual spontaneously generates some part of that character and demonstrate that that part is enough to warrant responsibility ascriptions.

Thus, if a rational agent voluntarily plans and executes a murder according to her will, even if she recognizes the causal process that led to her decision to murder her intended victim,

that causal process leading to her action still acts as an excusing condition in the same manner as a situation where an agent is coerced, e.g., has a gun to her head at the time. This is because both agents lack the control requisite for moral responsibility. If an agent has no control over her mental states, i.e., if those mental states are not caused by her, but rather are merely the latest manifestations of a causal process that reaches back to a time before her birth, then it would be unfair to hold her responsible for actions caused by those states.

Even if emergentism and downward causation obtain, they do not provide free will theorists with a foundation for free will. I do not solely, ultimately, or even primarily cause my actions or the effects of those actions. Myriad causal factors make me who I am and cause me to think the way I do. When I deliberate, decide, and act, I do so not as a single, original, or independent entity, but as a conglomeration of all my past and present experiences, combined with my genetic predispositions, social context and immediate environment. I deliberate, decide, and act as part of a dynamic, interactive system. I am always and already an integrated member of an institution(s), and as such, I cannot be solely, ultimately or primarily morally responsible for my actions.

Conclusion

The self is a fiction. Individuals are interdependent, extended beings caught in the middle of an historical and environmental causal stream. We cannot be other than we are, we can neither think nor act other than we do, and we are not the original creators of our thoughts and actions. To some, these circumstances may seem tragic; however, I contend that with social and political reforms, we can (if we are determined [causally and otherwise] to do so) use the knowledge of free will skepticism to our best advantage. We are simultaneously the products *and* creators of our society. Granted, we have no ultimate control over who we are or what we create, but as

stated before, that does not mean that our respective characters and our society are doomed to meaninglessness and stagnation. Humans are resilient and responsive. With new information comes new epistemic possibilities, and I firmly believe that if free will skepticism permeated the ideologies of this culture, we could create a more just and fair society. In the next chapter, I discuss a couple of those possibilities.

CHAPTER 4

PUNISHMENT AND PARENTHOOD

In addition to praising and sanctioning individuals, we might have a moral obligation to also encourage good behavior by explicitly manipulating environments in ways that induce individuals to behave well. We also perhaps ought to identify and modify the kinds of environments that tend to produce bad behavior. The educational initiatives, socialization efforts, ethical theorizing, and moral norms in our societies should be seen as part of the system that produces morally valenced behavior. (Mason Cash, 2010, 653)

The previous chapters of my dissertation focus on the theoretical and metaphysical aspects of the free will debate. I turn now to the practical and ethical implications of accepting free skepticism as they relate to punishment and parenthood. Skinner states, “We shall not solve the problems of alcoholism and juvenile delinquency by increasing a sense of responsibility. It is the environment which is “responsible” for the objectionable behavior, and it is the environment, not some attribute of the individual, which must be changed” (1971, p. 70). Since society plays a large causal role in creating its citizens, then we need to shift our focus from holding individuals responsible for their actions, to creating social environments and institutions that reinforce legal and moral behavior. If agents are merely the causal products of their history and environment and if moral responsibility for an agent’s actions (criminal and otherwise) is diffused, then our current system of punishing criminals is unjust. If the way children are raised causally determines to a great extent the kind of people they will become, and if moral responsibility for

their upbringing is diffused, then the society in which they are raised should¹³ ensure that each child is not mistreated. Thus, given free will skepticism, we as a society should dramatically reform the social institutions of punishment and parenthood. Such reforms would be beneficial whether or not free will skepticism is true, and they would create a society that conforms to the principles of fairness, justice, and morality in a way that our current society does not.

Punishment

An often-discussed consequence of free will skepticism concerns the implications for the way society punishes wrongdoers. Our culture bases its ethical and judicial system on the idea that people are free individuals, legally and morally culpable for their actions. However, if our actions are either causally determined by forces beyond our control, or caused by random quantum events, then we need to radically alter our perception and treatment of those who commit immoral and criminal acts by shifting the focus of moral judgments from people to actions. We need to divert our attention from the agent to the causal factors leading to an agent's immoral or illegal actions. If an agent commits an immoral or illegal act, then it is unfortunate, and the society should do everything possible to ensure that the agent does not commit further wrongs, but the response should not be predicated on guilt or blame. Skinner states, "No one knows the *best* way of raising children, paying workers, maintaining law and order, teaching, or making people creative, but it is possible to propose better ways than we now have and to support them by predicting and eventually demonstrating more reinforcing results" (1971, 131; italics in original). In what follows, I will defend what I consider to be alternative solutions to current punitive practices and will argue that our policy of vilifying those who commit theft,

¹³ The term "should" in the context of this paragraph is meant to imply a hypothetical rather than a categorical imperative. *If* we want to live in a society with reduced crime, then we should reform the institutions of punishment and parenthood.

murder, rape and even genocide should be eliminated, and that the retributivist justification for punishment should be replaced.

Justifications for our Current System of Punishment

Our culture's current justifications for punishment include retribution, deterrence and rehabilitation. Retribution relies on notions of desert that are not relevant, given free will skepticism. According to retributive justifications, we punish criminals because they deserve it because of their past criminal behavior. Free will skepticism may concede that certain *actions* warrant certain responses, even censure in some circumstances, but it is not because the criminal *deserves* it or is blameworthy. Thus, punishment based on retribution would not be available in a society that accepts free will skepticism.

While deterrence-based justifications for punishment are compatible with free will skepticism, using such justifications is morally problematic. First, Pereboom cautions that such justifications would “justify punishments that are intuitively too severe” (2013b, 69). If chopping off one's hand were the price to pay for stealing, then indeed, perhaps less people would steal, and the entire society would benefit as a result. However, the practice of enacting punishments more severe than the crime conflicts with the rule against “cruel and unusual” punishment in the United States' constitution.

Another objection against deterrence justifications for punishment is that crime statistics show that criminal behavior in the United States continues to occur at alarming rates despite well-known consequences. In 2012, “about 6,937,600 offenders were under the supervision of adult correctional systems at year end,” and 920 people out of every 100,000 were in prison or jail (Bureau of Justice Statistics). There were 6,842,590 victims of violent crimes in 2012 (Bureau of Justice Statistics). While the threat of punishment may deter some people from

committing some crimes, these statistics provide compelling evidence that deterrence is not an effective means of prevention, and, by itself, fails as an adequate justification for punishment.

Of course, we do not know how many would-be criminals are deterred from criminal actions due to the fear of punishment, but even if deterrence were effective, Pereboom argues that using it as a justification goes against Kant's second formulation of the categorical imperative: people should never be used as a mere means to an end (Pereboom, 2001, 168). However, society does just that when it subjects criminals to severe punishments for the sake of deterring others from committing the same crime, or that criminal from committing another crime. Underlining this point, Pereboom states, "A general problem for utilitarianism is that it allows people to be harmed severely, without their consent, in order to benefit others, and this is often intuitively wrong" (2001, 168). Few would condone subjecting patients with a contagious disease to a prison or death sentence merely because they pose a threat to others. Regardless of how deadly, painful, or virulent the disease, the afflicted patients would be treated humanely precisely because society recognizes that they have no control over and are not morally responsible for the effects of the disease. This is the analogy Pereboom offers in his alternative to our current system of punishment.

Rehabilitation as an Alternative to Retribution and Deterrence

In *Living Without Free Will*, Pereboom rejects retributivism in favor of rehabilitation wherein a criminal is "quarantined" and her behavior modified according to the severity of the crime and her psychological needs. Drawing from Ferdinand Schoeman, Pereboom suggests we treat criminals as we would carriers of infectious diseases, by removing them from society until they are no longer deemed a threat (2001, 174). The more serious crimes would warrant more extensive rehabilitation through behavior reconditioning. Agents would be subjected to operant

conditioning through encouragement and admonition rather than praise and blame. Since human nature is not static (i.e., we are susceptible to social conditioning), containment and rehabilitation in many cases would be both efficacious and compatible with free will skepticism.

The “Funishment” objection

At first glance, changing our view of those who commit heinous crimes seems like the least satisfying consequence of accepting free will skepticism. To some, subjecting murderers and rapists to a “quarantine” sounds like a soft response to hard crimes. Saul Smilanski suggests such a sentiment in his practical objection to hard determinism.¹⁴ He argues that hard determinism commits a society to what he calls “funishment” instead of punishment:

Funishment would resemble punishment in that criminals would be incarcerated apart from lawful society; and institutions of funishment would also need to be as secure as current prisons, to prevent criminals from escaping. But here the similarity ends. For institutions of funishment would also need to be delightful as possible. They would need to resemble five-star hotels, where the residents are given every opportunity to enjoy life. (2011, 355)

Indeed, if agents were not morally responsible for criminal behavior, then it would be unjust to sentence them to lengthy stays in violent prisons. Smilanski argues that the only other alternative is to place criminals in facilities resembling vacation resorts; however, incarceration is not the only option. If the response to criminal behavior takes into account the motivation of the person and the causal history leading to the crime, then incarceration would by no means be the most common, much less the only, solution. If it were determined that the criminal committed the crime due to a psychological disorder, then psychiatric treatment would be the just and most effective response. If it were determined that a criminal committed a crime due to certain social conditions (poverty, joblessness, lack of education, gang membership), then the response would reflect that: education, job training, and perhaps relocation. This, of course, requires money. But

¹⁴ When discussing Smilanski, I will use “hard determinism” as he uses it in his article with the understanding that his arguments also hold against free will skepticism.

if such a policy were instituted, much of the money spent on maintaining and staffing prisons could be redirected to social programs helping criminals readjust to a life free of crime. For example, if the death penalty were to be abolished, given free will skepticism, public expenditures toward the appeal process could be reallocated to cover the cost of rehabilitation.

Smilanski objects to Pereboom's "incapacitation," or "quarantine" account, claiming that some violent criminals may be beyond rehabilitation or operant conditioning. He argues that Pereboom's quarantine analogy is "of only limited help," because medical quarantines are not usually meant as long-term solutions (2011, 357). If we must isolate dangerous individuals who, through no fault of their own, pose a threat to society, then, according to Smilanski, we would have to make the accommodations as pleasant as possible. However, after reading Smilanski, one might think that free will skeptics would have the likes of Charles Manson, Hitler, and Jeffrey Dahmer playing golf before taking in a massage and feasting on steaks (or Tofurkey for Hitler). If such were the case, argues Smilanski, funishment would provide an incentive toward, rather than a deterrent to, crime. Furthermore, having violent criminals enjoy accommodations more luxurious than that of their victims or victim's families would be an insult to justice and morality.

Indeed, even if the prison system were not luxurious, reforming the justice system to make prisons more humane and hospitable would seem to provide the poor and unfortunate with an incentive to commit a crime just to enjoy decent accommodations. However, there is something seriously wrong with a society that creates citizens whose circumstances are so dire that they resort to committing a crime just to get a meal. Also, if an agent commits a heinous crime such as murder (as opposed to minor vandalism or theft), just to get a meal, then there is

something seriously wrong with that person, and she needs psychiatric help regardless of her reason for committing the crime.

The main problem with Smilanski's funishment objection is that he offers a false dichotomy: either uphold the current justice system or send violent criminals to a heavily guarded luxury spa. His alternatives overlook the fact that there can be facilities of intermediate quality. Pereboom's point is that we should treat criminals as though they were afflicted with a dangerous disease or ailment, requiring isolation and treatment, rather than as though they were untouchable outcasts, deserving exile, or malevolent demons, fit for execution. Patients suffering from chronic diseases are not sent to a spa-like hospital; they are sent to facilities best suited to address their medical needs. Likewise, even criminals who require life-long isolation need not be afforded luxurious accommodations at taxpayer expense. All that is required, given free-will skepticism, is that wrongdoers be treated as humanely as possible, since they did not have the control requisite for moral responsibility.

Corrado's Alternative

Michael Corrado offers another objection to Pereboom's use of a sickness analogy: "it will treat all as sick, and deny to those who are competent the special respect we believe they are due as autonomous agents" (2013, 80). Corrado calls this the "awful outcome" because it does not recognize a difference between "those who act autonomously and those who do not" (2013, 81). In chapter three, I discussed how free will skepticism could address such distinctions in under the "scale of responsibility" objection. Here, I want to focus on Corrado's alternative.

Corrado calls his alternative "a *decent* system of criminal justice." While being compatible with free will skepticism, it retains the distinction between "madness and malice," and between "those who were competent to conform their behavior to the law and those who

were not” (2013, 89). He invokes a slippery slope argument to support his objection to Pereboom’s quarantine solution:

The undesirability of such a system has nothing to do with the question of responsibility and has everything to do with the quality of life. Under that system, those who are in control of their behavior and are caught in the web of criminal justice are treated just like those who are not in control. Those who are not yet caught in that web must be preoccupied by the fact that at any time they might be found to be dangerous, and that there is nothing that they can do to avoid that finding. Those who might have committed a minor offense cannot know that they will be subjected to the limited sanctions of a prison term; they might be detained indefinitely. Civil disobedience would become too costly to consider. (2013, 91-92)

Corrado’s alternative assumes deterrence and correction as the main justifications for punishment. The main problems with his view are: 1) our current punishment system does not deter crime and 2) Corrado is offering no recommendations for change of our current system; he is merely offering a different theoretical justification for the status quo. Whether you call it retribution, a means to an end, or, using Corrado’s term, “correction,” the fact remains that criminals are being treated harshly for actions over which they had no (ultimate) control.

Corrado uses utilitarianism to defend his position by explaining how both society and criminals will benefit from a correction-based form of punishment. Society will benefit through protection, and criminals will benefit because “harsh treatment is a way, certainly not the only way, but a way nevertheless, to teach the significance of rules” (2013, 94). He supports the first claim with an appeal to deterrence. According to Corrado, if the punishment is sufficiently harsh (but not so harsh that it defies fairness and reason), rational people will have the proper incentive to conform to the rules. Those who cannot conform to such rules, despite such incentives (failing to meet Fischer’s reasons-responsiveness criteria for FMR), fall on the scale of responsibility, and the justice system may mitigate their punishment.

However, Corrado's theory of punishment reads like compatibilism, window-dressed to appease free will skeptics. He states:

On the other hand, controlling crime through the threat of correction allows the greatest possible freedom consistent with some reasonable level of security. For this reason, it is important that the guidelines set down by the threat of correction be able to be processed by the citizen, and that correction itself be capable of having an effect on the citizen. The good life (as I understand it here) requires understanding, the ability to reason counterfactually from what we understand, and the ability to control behavior in conformity with our reasoned conclusions. We may refer to these capacities, taken together, as the capability of converting one's better judgment into action. *This capability enables the citizen to grasp the threat of correction, to foresee the consequences of compliance and noncompliance, and to conform her behavior to the law.* (2013, 96, italics added)

However, according to free will skepticism, whether or not agents have the capability to conform their actions to the law, and the degree to which they have this capability, are matters that are beyond their ultimate control. Those who can be deterred from crime by the threat of "correction" are merely fortunate to have had the causal history that enabled them to do so. Those who do not have the capability are merely unfortunate. Those who possess the capability and commit a crime anyway are likewise unfortunate, and those who do not possess the capability, yet coincidentally happen to never break the law, are merely fortunate. In no instance are the agents blameworthy, because in no instance can the agents act other than they do, and in no instance are the agents capable of wanting to act other than they want.

Vilhauer's Rawlsian-based justification for punishment

Benjamin Vilhauer argues that free will skeptics can retain punishment while avoiding the morally suspect implications of utilitarian justifications. He supports a Rawlsian-based justification that retains Kantian considerations such as treating people and criminals, "as they would rationally consent to be treated" (2011, 145). To defend his claim, he distinguishes between action- and personhood-based desert claims.

According to Vilhauer, an action-based desert claim assumes that the agent deserves punishment based on her past actions. Such claims assume moral responsibility and are therefore not available to the free will skeptic. On the other hand, personhood-based desert claims are “based on the mere fact of being a person” regardless of moral responsibility (2011, 149). For example, Kant’s decree that all people deserve to be treated with respect and dignity by virtue of their rational capacities is a personhood-desert claim. Vilhauer’s examples mostly involve legal rights such as the right to a fair trial and equal treatment. According to Vilhauer, “there is nothing one could conceivably do to make it the case that one did not deserve these things” (2011, 151). The shift from action-based desert to personhood-based desert demands a shift from retributivist-justified punishment to an alternative justification.

Vilhauer’s alternative preserves key aspects of Rawls’ economic model, based on the “veil of ignorance,” or original position. If we were to design a justice and penal system without knowing whether or not we would become victims or perpetrators of crime, we would want a system that would be fair to all parties. As Vilhauer states, “a principle is fair to competing parties if I would choose it under the assumption that I was just as likely to be harmed by it as I was to benefit. So the principles of punishment are fair if I would choose them under the assumption that I am just as likely to be the person punished as I am to be a potential victim” (2011, 156). The intuition that Vilhauer attempts to capture, and one with which I agree, is that if it were possible to assess our justice system from behind a veil of ignorance, most would enthusiastically advocate for radical reform. Free will skepticism provides both the incentive and justification for such reforms. Alternatives to our current model of punishment already exist and are being implemented on a limited scale; I discuss and defend these models in the following sections.

*The Risk-Need-Receptivity Model*¹⁵

Given free will skepticism, once an agent is convicted and enters the prison system, the main goals should be to: 1) determine the causal factors that contributed to the agent's criminal actions; 2) assess whether that agent can eventually become reintegrated into society; and 3) provide a strategy for successful integration that minimizes the probability of recidivism. The current rates of recidivism show that the United States is failing to satisfy those goals: According to the Bureau of Justice Statistics, in 2005, "(67.8%) of released prisoners were arrested for a new crime within 3 years, and three quarters (76.6%) were arrested within 5 years" (Bureau of Justice Statistics, 2010). To address this problem, D.A. Andrews and James Bonta devised a method for treating criminals called "risk-need-responsivity" (RNR). This model aligns nicely with the practical and moral implications of free will skepticism.

The RNR model is based on three sets of principles: overarching principles, core RNR principles, and organizational principles (2010, pp. 46-47). The overarching principles emphasize:

Respect for the person, including respect for personal autonomy, being humane, ethical, just, legal, decent and being otherwise normative. Some norms may vary with the agencies or the particular settings within which services are delivered. For example, agencies working with young offenders may be expected to show exceptional attention to education issues and to child protection. Mental health agencies may attend to issues of personal well-being. Some agencies working with female offenders may place a premium on attending to trauma and/or to parenting concerns. (2010, 46)

Such ideals are compatible with desert-based forms of punishment as well. Even the perpetrators of the most heinous crimes currently have certain rights afforded them by the U.S. Constitution, such as the right to freedom from cruel and unusual punishments. However, in practice, our penal system does not measure up to those ideals. According to the Bureau of Justice, "Correctional administrators reported 8,763 allegations of sexual victimization in prisons, jails,

¹⁵ For a complete description of the RNR model, see Andrews and Bonta (2010, 45-78).

and other adult correctional facilities in 2011” (BJS, 2014). The report claims that only 10% of the allegations were substantiated, but that percentage does not account for unreported instances of rape. The most startling fact, though, is that staff members were the perpetrators in 48% of the reported instances (BJS, 2014). These statistics persist, despite the apparently impotent Prison Rape Elimination Act, which passed in 2003.

If rape were as common in hospitals as it is in prisons, there would be national outrage. The public would cite the vulnerability of the patients; they would berate the cruelty of the staff; and they would champion calls for drastic reforms in the medical care industry. Prisoners, on the other hand, do not elicit such sympathetic pleas for their health and well-being. I contend that the lack of national attention and concern for the safety of inmates is due to our perspective of criminals as blameworthy. When we look at the heinous nature of a crime, it is easy to deny the humanity of the criminal. However, if we see the criminal as a sufferer of a heinous disease, and the crime as a symptom, then perhaps there would be more motivation to uphold the ideals described in the overarching principles of the RNR model of prisoner treatment.

The core RNR principles eschew sanctions and mere punishment as a means for reducing crime and recidivism, since “the typical legal and judicial principles of deterrence, restoration, just desert, and due process have little to do with the major risk/need factors. It is through human, clinical, and social services that the major causes of crime may be addressed” (2010, 46, 47). The RNR model recognizes the importance of tailoring treatment to the specific needs of a criminal. As recidivism rates show, the punishment-fits-the-crime principle we currently employ does not work. It is like treating all patients with a particular ailment with the same dose of medicine without looking at their medical history. Rather, the treatment should fit the criminal based on their “criminogenic needs.” The criminogenic needs principle recognizes that certain

social, economic, and psychological factors make criminal behavior more likely. Andrews and Bonta describe “criminogenic needs” as “dynamic risk factors that, when changed, are associated with changes in the probability of recidivism” (2010, 49). Determining the risks and needs of each criminal would be a far more effective means of constructing an effective rehabilitation program, one designed for their eventual successful integration (when possible) into society.

The general specific responsivity principle of the RNR “refers to delivering treatment programs in a style and mode that is consistent with the ability and learning style of the offender” (2010, 49). This principle rests on the understanding that:

Offenders are human beings, and the most powerful influence strategies available are cognitive-behavioral and cognitive social learning strategies...Hence, one should use social learning and cognitive behavioral styles of service to bring about change. These powerful influence strategies include modeling, reinforcement, role playing, skill building, modification of thoughts and emotions through cognitive restructuring, and practicing new, low-risk alternative behaviors over and over again in a variety of high-risk situations until one gets very good at it (2010, 49-50).

This principle echoes the Aristotelian-based exercise of developing virtuous habits. Through practice and repetition, one can be re-conditioned to think and behave in ways novel to the individual. Not every criminal would be responsive to the same degree; thus, the model advocates the need to tailor strategies to the specific abilities of the person. The specific responsivity principle recommends adapting “the style and mode of service according to the setting of service and to relevant characteristics of individual offenders, such as their strengths, motivations, preferences, personality, age, gender, ethnicity, cultural identifications, and other factors” (2010, 46). Personalizing treatment and rehabilitation respects the humanity of the criminals while benefiting society by reducing recidivism rates. Such a model, if successfully implemented, would not only be compatible with free will skepticism, but it would be more effective, and thus more beneficial, to society than our current system.

Studies of the RNR model in action have shown that its employment in prisons “resulted in lower recidivism rates than alternative criminal sanctions or treatment” (Brooks et al., 2012, 432). One example of its use is in Kentucky’s Department of Corrections (DOC). Wanting to address the increase in prison populations and recidivism rates, the DOC instituted the Level of Service/Case Management Inventory (LS/CMI), which “is a validated risk and needs assessment tool that identifies criminal risk factors through a comprehensive interview and investigation process. Once criminal risk factors are identified, LS/CMI enables the DOC to provide services to mitigate the risks” (Thompson, 2013, 47). The responsivity aspect of the RNR model assesses the prisoner’s ability to respond to certain treatments and evaluates which treatments are most likely to reduce risks for recidivism. For example,

Placing an individual with limited English proficiency in a fathering program that is not in his native language would be an example of responsivity not being considered. Responsivity factors allow corrections professionals to match the intervention to the learning style, motivation and demographics of the offender in order to be most effective. (Thompson, 2013, 47)

Thompson argued that despite all of the resources previously available to the DOC, “none of these tools allowed the DOC to identify the offender’s overall needs and risks for recidivism in order to provide an appropriate level of programming, LS/CMI was used to fill this gap” (2013, 47).

Applying the specific responsivity principle, correctional treatments are tailored to each inmate’s specific recidivism risk level:

A low-risk offender may need assistance in determining how to conduct an appropriate job search or how to read a bus schedule. An offender who is high risk needs to be placed in an evidence-based program. A high-risk offender needs to have structured programming—meaning a curriculum-based program monitored by a trained facilitator...Completing evidence-based programs are shown to reduce recidivism, which in turn reduces that individual’s propensity to commit additional crimes, and therefore increases public safety. (Thompson, 2013, 48)

As described in the model, risk levels are based on an inmate's criminogenic needs—characteristics or circumstances that make criminal behavior likely. Thompson argues that attending to the specific needs and challenges of the inmate is necessary for effective rehabilitation, since “an offender can complete a vocational degree and gain stable employment, but if his anti-social cognition and anti-social companions have not been addressed, he will not maintain employment and will likely return to criminal behavior” (Thompson, 48). Thus, the RNR model as employed by the Kentucky DOC provides evidence for the efficacy of using criminal treatment and rehabilitation methods rather than mere desert-based punishments.

Meditation in Prisons

Other types of alternative treatments, such as mindfulness meditation techniques, are also being employed in a limited number of prisons. In the last chapter, I discussed the effectiveness of mindfulness techniques and meditation as a way to overcome, mitigate, or prevent unjustified reactive attitudes within interpersonal relationships. Here, I will discuss studies that show how such techniques have been applied with beneficial effects in prison populations. Meditation has been shown to effectively reduce violent tendencies in prisoners, and to reduce recidivism rates among those who practiced it.

Abigayl M. Perelman, et al. studied the effects of Vipassana, a type of mindfulness-based meditation, on a group of prisoners in Alabama.¹⁶ The authors were concerned with the effects of prison overcrowding: “these environments directly contribute to criminogenic factors...that both create and maintain antisocial, hostile, and aggressive behaviors. It is hardly surprising that many offenders return to the community not only lacking in the skills needed for reintegration, but are often more criminalized” (2012, 177). They support this claim with recent recidivism statistics: “the Pew Center on the States (2011) and the Association of State Administrators showed that

¹⁶ The meditation program in Alabama was the subject of a documentary entitled “Dhamma Brothers.”

the 3-year return-to-prison rate for inmates released in 1999 was 45.4% and 43.4% for those released in 2004” (2012, 177). Their goal was to see if integrating meditation into the rehabilitation regime would reduce such rates.

The authors recognize that “The focus for treatment should be on securing positive/good lives for the offender during and after incarceration while reducing negative risks. This newer and less conventional theory notes the concept of ‘good lives’ should be individually tailored to each offender” (2012, 177-178). Mindfulness meditation as treatment teaches prisoners who are amenable to the practice how to distance themselves from reactive responses, thereby gaining more (immediate) control over their emotions and impulses. The prison provided an ideal, albeit unfortunate, place to test whether agents can overcome or mitigate negative, and often destructive, reactive attitudes. Perelman, et al. state that “Incarcerated offenders often present with many risk factors associated with criminal behavior, including personal distress, aggression/hostility, criminal thinking, negative peer associations, rule/law infractions, and substance abuse (Hawkins, 2003 in Perelman et al., 2012, 181). Vipassana meditation, with its emphasis on alleviating psychological distress and ameliorating destructive emotions through detachment and inward observation seemed like an ideal therapy to offer prisoners.

Perelman et al.’s longitudinal study took place in the Alabama Department of Corrections (ADOC) after the prison instituted quarterly, 10-day Vipassana meditation (VM) retreats in 2007. At the date of publication, “430 inmates [had] participated in at least one VM retreat” (2012, 182). Researchers used a battery of “self-report measures,” including surveys to measure mental awareness, anger, mood states, and emotional intelligence (2012, pp. 186-187). Their findings showed that,

In comparison to their baseline ratings, VM students showed enhanced levels of mindfulness (during the first posttest period) and emotional intelligence (1 year after the

retreat), whereas the comparison group showed no such improvement. VM students' exposure to reflective attention skills during the retreat may be associated with their improved ability to recognize emotion, which was not observed in the comparison group. In addition, the support of peer engagement in similar practices experienced during the retreat may have assisted in VM students' agentic adoption of an alternative, mindful framework of conceptualizing and managing emotion. (2012, 192)

This was a study of one 10-day retreat, and not all participants were able to report post retreat for various reasons. However, the preliminary findings of Perelman's study show the promise of using alternative and supplemental treatments to reduce crime and rehabilitate prisoners.

Therapy in Prisons

Therapy provides a more conventional approach to treating the causal factors leading to crime. According to the Bureau of Justice Statistics, "At midyear 2005 more than half of all prison and jail inmates had a mental health problem, including 705,600 inmates in State prisons, 78,800 in Federal prisons, and 479,900 in local jails. These estimates represented 56% of State prisoners, 45% of Federal prisoners, and 64% of jail inmates" (BJS, 2006). Using the risk-needs-receptivity model, the most effective treatment for such inmates is therapy rather than mere incarceration. According to Robert Byron,

Forensic hospitals...which hold and treat offenders found not guilty by reason of insanity, have a very high success rate in preventing disordered individuals from returning to crime. In an analysis of data from California, New York, and Oregon, Victoria Harris, a forensic psychiatrist at the University of Washington, reported in 2000 that people at these institutions reoffended at a 'much lower' rate than untreated mentally ill offenders. Psychiatrist Jeremy Coid and his colleagues at St Bartholomew's Hospital in London found in 2007 that forensic patients in the U.K. were 60 percent less likely to reoffend than released inmates and 80 percent less likely to turn to violence. (2014, 20)

Byron states, "Most of these mentally ill inmates are not treated for their conditions in prison" and "more than 350,000 disordered offenders return untreated to society" (2014, 21). Our current backward-looking, desert-based, retributivist model of punishment offers no challenge to this

status quo, wherein psychologically disordered criminals do not receive the therapy they need, to the detriment of society.

In our current system, only those who receive a verdict of “not-guilty by reason of insanity” receive intensive psychiatric therapy. Yet despite the vast number of prisoners with psychological disorders, “a small fraction of 1 percent of all criminal defendants are acquitted by reason of insanity” (Byron, 21). To make an insanity plea, “the legal defense must demonstrate that the offender had no control over his or her actions or did not comprehend the present reality of the deed done” (Byron, 21). Given free will skepticism, no criminal had the control requisite for moral responsibility over her actions, but the level of comprehension and the degree to which a mental disorder caused the criminal action varies. Thus, an alternative way to handle criminals is to first assess whether or not each one has a mental disorder, establish the degree to which the disorder impairs reasoning, and treat according to the findings. This alternative model would allow a far greater number of criminals to receive help in mental health facilities better equipped to handle the specific needs of individual criminals. Again, tailoring the treatment to the criminal is better for everyone involved.

The strongest objection to using therapy rather than incarceration is the financial cost. Byron concedes that, “the cost to society of treating mentally ill criminals is hard for some people to swallow. If offenders, disordered or not, are morally responsible for their offenses, why not just keep them in prisons? It is so much cheaper” (2014, 22-23). While not explicitly a free will skeptic, Byron argues that we must change our perspective of mentally ill prisoners to account for the fact that “circumstances and experiences, rather than innate character flaws, give rise to symptoms” (2014, 23). Again, using Pereboom’s sickness analogy, if we viewed criminals

with mental disorders as sick rather than as guilty, the cost would be morally justified. Also, factoring in the financial benefit of reducing recidivism, the cost is justified as well.

Mindfulness meditation and therapy are merely two examples of treatment alternatives compatible with free will skepticism, and the researchers recognize that not all prisoners will benefit or respond favorably to either one of the options. As discussed in RNR model, the treatment must fit the needs, capabilities, and character of the criminal, and “interventions must be delivered in ways that match offenders’ receptivity and skill level” (2012, 194). The above studies show that there are viable ways to treat prisoners by addressing certain causal factors leading to crimes (e.g., emotional instability or psychological disorders), and that these methods are compatible with justice, morality, and free will skepticism.

If effective rehabilitative methods exist, then society has a moral obligation to incorporate them into the justice system. Morality dictates that we treat people fairly according to what they are due. If people do not have the type of control over their actions requisite for moral responsibility, then to treat them as though they do is unjust and unfair. Thus, accepting free will skepticism implies that we have a moral obligation to address the causal factors leading to crime and immoral behavior. The rehabilitative methods and risk assessment techniques discussed above focus on such factors; our current system of justice and punishment does not. If we could encourage a substantial number of criminals to become law-abiding, socially integrated members of society merely by changing our perspective and treatment of them, then it would have a profoundly beneficial effect on humanity on both a societal and an individual level.

Licensing Parents

As discussed in the previous section, crime is not a symptom of broken individuals, but rather of broken institutions. While biological and psychological factors may also contribute to

criminal behavior, one social institution stands out as the most direct causal determinant of the future health and well-being of children: parenthood. I have argued that criminals are not morally responsible for their crimes due to the causal determinacy of their history and environment, and parenting, more specifically, incompetent parenting, plays a fundamental and crucial role in creating both the history and environment leading to criminal behavior. Thus, if we want to prevent crime, we need to pay serious attention to who is raising our society's children.

The effects of incompetent parenting are well documented. Jack Westman underscores the primacy of parenting as a causal determinant, stating:

Competent parenting can override the adverse effects of brain damage, birth trauma, malnutrition, and poverty. Conversely, the incompetent parenting of vulnerable and even well-endowed children can produce adults who are ill-equipped for success in our society and who are prone to antisocial behavior and to dependency on others to restrain or to care for them. (1994, 50)

The link between crime and social instability is easily identifiable. In their respective books, Westman and Michael McFall provide evidence for a strong link between child maltreatment and crime. McFall states,

It is within the small subset of children who are maltreated that the greatest threat to political stability exists. For example, over 80 percent of incarcerated criminals were abused by their parents when they were children, 66 percent of institutionalized delinquents had child neglect and abuse histories, and one-half of maltreated children died at an early age, became alcoholic or mentally ill, or have been convicted of a serious crime. (2009, 51)

Only through the enforcement of standards of parental competence and the cultivation of a culture of intolerance for incompetent parenting, can society recognize and take responsibility for the causal role parenting plays in the future character and behavior of children and in the stability of society. Therefore, in the context of free will skepticism, I support Jack Westman, Hugh LaFollette, and Michael McFall's defense of parental licensing.

According to the U.S. Department of Health and Human Services, in 2012, “there were a nationally estimated 686,000 victims of abuse and neglect, resulting in a rate of 9.2 victims per 1,000 children in the population” (Child Maltreatment 2012, 19). These statistics reflect only those cases that were reported, investigated, and confirmed. While parental incompetency exists on a subjective scale, those who abuse and neglect their children are obvious examples of cases where government intervention is warranted. However, proponents of parental licensing argue that intervention after the fact is not enough; we should, if possible, institute a program of prevention to make sure incompetent adults, those who would abuse and neglect children, do not become parents in the first place.

Of course, some abused or neglected children grow up to be virtuous and productive adults. Success stories of so-called “invulnerable” children appear to challenge both free will skepticism and Westman’s argument about the primacy of parenting as a causal determinant of crime. The fact that certain individuals are able to overcome dire and abusive childhood circumstances seems to suggest that some people are able to act outside the stream of causal determination thereby justifying blaming the individual. Westman responds by explaining that:

The invulnerable children who weather child abuse, poverty, and family crises have had constitutional adaptability and competent parent figures. The idealized images of these invulnerable children who surmount adversity and fulfill the American Dream and the fact that children are remarkably adaptable should not distract us from facing the generally devastating effects of incompetent parenting. (1994, 54-55)

A free will skeptic could echo Westman’s reply that children who are able to prevail over childhood adversity are able to do so because of either countervailing external influences or internal constitution, neither of which is under their control. The sad fact is, too many abused and neglected children do not overcome damaging causal influences, and even those who do should not have had to face that devastating challenge in the first place.

Arguments for Parental Licensing

According to Peter Singer's "greater moral evil"¹⁷ principle: "if it is in our power to prevent something very bad from happening, without thereby sacrificing anything morally significant, we ought, morally, to do it" (Singer, 614). If we, as a society, could prevent many of the crimes that take place in the United States, we should. If many of the crimes that take place in the United States are efficiently caused by incompetent parenting, and if we could do something that would eliminate, or at least minimize, the number of incompetent parents, then we should. Potential parents who were deemed incompetent and denied licenses would argue that they had to sacrifice something morally significant—being a parent—therefore, they would say, the program is not morally justified. However, the harm to children and to society as a result of child abuse and neglect far outweighs the harm to potential parents who are denied licenses due to incompetence. Likewise, the harm to such children outweighs the benefits of allowing incompetent potential parents to raise children. Furthermore, the benefits to children and to society as a result of denying parenting licenses to incompetent potential parents outweigh both the benefits of allowing incompetent potential parents to raise children and the harms to potential parents who are denied licenses due to incompetence. Incompetent parents would be sacrificing the opportunity to abuse and neglect children. That is indeed morally significant, but not in the favor of incompetent parents.

Westman's defense of parental licensing is based on four reasons:

The first reason is the human rights principle that all individuals, including children, should be free from abuse and oppression... The second reason is the civil-rights principle that all individuals should have access to opportunities to develop their potentials in life... The third reason is the common good principle in which society has a right to regulate activities that are potentially harmful to others and to society... The fourth reason is the humanistic principle that the future success of children as citizens and as

¹⁷ I am borrowing the name of Singer's principle from John Arthur, who used it in his article, "Famine Relief and the Ideal Moral Code" (2007, 624).

parents depends upon forming affectionate attachment bonds with their own parents. (1994, 245-246).

These reasons are complemented by the belief that society has a duty to protect its citizens from harm, and the understanding that society has a right to interfere with the liberty of citizens who perpetrate harm on others. According to Westman, society has the right to intervene on behalf of children through the doctrine of *parens patriae*, which “justifies state intervention on parental authority. Under this doctrine the state can assume the ultimate power of terminating parental rights” (1994, 153). *Parens patriae* gives the state the right to intervene in the family and, if necessary, remove children from abusive or negligent situations. Unfortunately, in many cases, by the time the state intervenes, the child has already suffered irrevocable damage. Westman reasons that if the state has the authority and power to ensure the safety and welfare of children, then it would be better to exercise that authority *before* the child has been damaged, and that “most importantly, expecting parental competence is far less costly than public interventions after children have been damaged by incompetent parenting” (1994, 222).

Westman argues that along with prohibiting incompetent parents from raising children, such a program “would provide an opportunity to inform parents of available parenting resources. In addition, becoming licensed parents would provide a basis for eligibility for governmental financial aid and supportive services to insure that public funding supports competent and not incompetent parenting” (1994, 219). Thus, a licensing program for parents would do more than merely deprive incompetent parents from raising children: it would provide future parents with financial, educational, and social resources to help with the challenges inherent in parenthood.

Like Westman, Michael McFall also focuses on incompetent parenting as a significant cause of crime reporting:

It is within the small subset of children who are maltreated that the greatest threat to political stability exists. For example, over 80 percent of incarcerated criminals were abused by their parents when they were children, 66 percent of institutionalized delinquents had child neglect and abuse histories, and one-half of maltreated children died at an early age, became alcoholic or mentally ill, or have been convicted of a serious crime (2009, 51)

McFall defends parental licensing within the context of the ideal of producing a “stable, well-ordered society,” defined as a society of just people. Supporting a Rawlsian theory of justice, McFall argues that to achieve an ideal society, we must have a society full of “individuals with a sense of justice” (ISJs) (2009, 3). According to McFall, to have ISJs, children need to be taught appreciation and respect for the inherent worth of others. He echoes the Kantian view that all human beings, even murderers, are worthy of respect by virtue of their inherent worth (2009, 23). He argues that unconditional parental love is essential to children developing an enduring self-respect. Self-respect in turn is essential to becoming an ISJ, and ISJ’s are essential to creating a stable, well-ordered society. Therefore, according to McFall, unconditional parental love is essential to creating his ideal society (2009, 28, 32).

While necessary, love by itself is not sufficient for creating ISJs; an incompetent parent may love her children, but still not be able to refrain from abusing or neglecting her children for other reasons (e.g., substance abuse, psychological disorder). Therefore, McFall claims that the “key” for raising children to be ISJs is proper nurturance, for “maltreatment often precludes children from developing the self-respect and trust requisite for social cooperation, and it increases the chances that children will eventually threaten political stability” (2009, 41). A parental licensing program would, ideally, ensure that all (or most) children born in that society would enjoy the kind of loving and nurturing familial environment essential to becoming socially competent adults.

Hugh LaFollette gives three theoretical reasons for licensing parents based on the reasons justifying professional licensing programs: 1) parenting is an activity that can be significantly harmful; 2) parenting can only be practiced safely by competent people; and 3) the benefits of parental licensing outweigh the objections to it (2010, 328). He defends the first condition by appealing to the “special relationship” between parent and child and to the vulnerability of the child to the parent (2010, 329). He points to the fact that we require doctors to be licensed precisely because of the special relationship they have to their patients and because of the vulnerability patients have to their doctors. Unqualified and incompetent doctors could inflict immeasurable harm on trusting patients; therefore, a licensing system for physicians is justified and is generally supported by the public. Parents may also harm their children precisely because of their special relationship to the child and the child’s vulnerability. Therefore, it seems that a licensing program is also justified for the institution of parenthood.

LaFollette’s second condition emphasizes the need for competence in both the professions and in parenthood. Discussing professionals, he states, “These professionals can perform their tasks efficiently and safely only if they have the relevant knowledge, abilities, judgment, and dispositions” (2010, 329). Since each profession has a specific skill set and requires a specific disposition and character, licensing ensures that those in practice are qualified and competent to perform the duties specific to that profession. Likewise, a parent must know the basic requirements (e.g., diet needs) for raising healthy children. They must also be able to meet the physical demands of raising children (or be able to provide for such demands if the parent is handicapped or otherwise unable to do so). Parents should have the rational capacity to exercise sound judgment when making decisions on a child’s behalf, and they must have a

disposition amenable to handling the challenges inherent in raising children (e.g., the mental fortitude to refrain from viciously beating unruly or obstinate children).

Most professionals must go through extensive training to gain competency in their field, and they are tested on their capacity to perform their duties. LaFollette argues that such training and testing is not only limited to professionals; for example, potential drivers in the U.S. must prove their competency by passing a basic exam before being granted a driver's license. A parental licensing procedure would include a similar exam to gauge the level of the competence of potential parents. Similar to driver's education, parental education classes could be offered to prepare potential parents for the challenges they could expect as parents. McFall advocates for additional licensing requirements, including background checks, psychological tests, observed interactions with children (if the applicant already has children), and a minimum age requirement of 18 (2009, 121). LaFollette concedes that any licensing program "will not guarantee that [a professional] never harms her clients. It would, however, make it less likely" (2010, 330). LaFollette cautions that just as some licensed professionals sometimes fail to uphold the standards of their profession, some licensed parents might still harm their children; however, with a licensing program, the number of cases of abuse would still be far fewer than the number that now obtains without such a program.

Objections to Parental Licensing¹⁸

LaFollette's final justification for a parental licensing program is that the benefits of such a program must outweigh the objections to it. The first practical concern involves testing for incompetence (Archard, 2009, 187). The worry is that establishing objective criteria for competent parenting seems impossible. McFall responds to this objection stating, "Licensing

¹⁸ I cover only what I perceive to be the strongest objections to parental licensing. For more thorough coverage, see Westman, (1994, 251-273) and McFall, (2009, Chapters 7 and 8).

parents seeks only to forbid the very worst potential parents from parenting; it does not require that parents be prospectively good or excellent. Most prospective parents will be permitted to parent, as most prospective drivers are permitted to drive” (2009, 111). Again, the focus would be on incompetence only, on depriving of a license only to those who would abuse or neglect their children. He cites two tests already in existence that serve as reliable predictors of whether or not a person will mistreat her or his children: the Child Abuse Potential (CAP) Inventory and the Family Stress Checklist. McFall states that in studies, the Family Stress Checklist was 85% accurate in predicting who would abuse and neglect their children and 89% accurate in predicting who would not abuse or neglect their children (2009, 119).

However, David Archard questions the reliability and predictive accuracy of such tests since:

Research into child abuse has failed to yield a single, uniform cause, and has certainly not managed to produce a clear and distinct psychological picture of the abusing parent. There are factors, other than individual psychopathology, which are thought to play some role in the incidence of child abuse. Importantly these include circumstances, such as social and economic conditions, which cannot be guaranteed to remain as they were at the time of the licensing review. Someone who is not now a likely abuser may become one later in worsened conditions. (2004, 188)

McFall concedes that the tests are not perfect. Since they are self-reporting questionnaires, they are vulnerable to the risk of dishonesty, false negatives, and false positives. LaFollette responds to this concern stating, “All licensing programs cost money, have false positives and false negatives, and limit people’s options. However, this does not stop us from licensing physicians, lawyers, or engineers; we think the benefits of these programs outweigh their costs” (2010, 333). While false negatives would indeed be damaging, child service institutions now in existence could be used as a back-up measure to aid children in abusive situations. Furthermore, if a predictive test had an accuracy rating of over 80%, then the number of children being raised by

incompetent parents would decrease significantly despite the risk of error. The benefits are still weighty enough to warrant the risk of a false negative or false positive, especially since no such standard currently exists to prevent *any* incompetent parents from raising children.

On the political front, Archard is worried: “Concentration on individual psychology may lead to neglect of the social preconditions of abuse. A society may be so keen to identify and debar individual bad parents as to fail to remedy the economic and social causes of child abuse. An emphasis on licensing would be the expense of improvements in housing, education, health and childcare” (2010, 188). Indeed, as argued above, the punishment of criminals addresses only the symptoms of a complex system of problems. Likewise, it seems that parental licensing alone would not address the myriad social and economic causes of abusive behavior, since childrearing, like crime, exists within the context of a system of interrelated institutions. If we address only one institution, little will be resolved in the long run. However, this does not mean that parental licensing is inherently a bad idea; it merely means that *along with* a licensing program, other measures should be taken to safeguard children (e.g., free or affordable childcare, tax subsidies, child monitors, advocates for at-risk children, paid parental leave).

Many people eschew the idea of parental licensing, due to its invasive nature and infringement upon personal liberty. According to some, people have an inherent “right” to bear and raise their biological offspring. McFall lists a number of court cases that ruled in favor of protecting the privacy and the right of parents to bear and raise children (2009, 160-161).

However, McFall notes that:

[the cases] do not attack my parental licensing plan. For example, I concede that parental rights are more precious than property rights, the family (not the state or federal government) should care for and nurture children, and personal choice in family matters is extremely important and deserves respect. Likewise, individuals have a right to be free from *unwarranted* governmental intrusion; I simply believe that the intrusion of licensing parents is *warranted*. Individuals should have a *reasonable* opportunity to develop close

relationships with their children, but I believe that some opportunities are *unreasonable*...Finally, *Parham v. J.R.* only attacks an uncharitable caricature of licensing parents because licensing parents does not require governmental power to supersede parental authority in all cases because some parents abuse and neglect children. Only an extremely few people will be permanently precluded from parenting, and those who are permitted to parent will have as much liberty to parent as parents currently have. (2009, 161; italics in original)

Critics of any governmental interference in family affairs seem to view parenting as an inherent and categorical right. However, our society already operates under the recognition that the right to parent can be forfeited in certain dire circumstances—namely, in cases where abuse and neglect have been confirmed. Once it is conceded that parenting is a *prima facie*, or conditional, right, the theoretical objection to licensing based on rights loses traction.

Even if critics agree that the right to parent is contingent, some argue that the state would be justified in intervening only after abuse had occurred; penalizing someone because of what she *might* do in the future seems unfair, and in most cases it would be. McFall recognizes that “the foremost legal objection is that licensing parents employs prior restraint...it prohibits some actions from taking place due to highly probabilistic harm” (2009, 173). However, McFall counters that, “licensing parents does not charge people as criminals or punish them. To the contrary, it is for the benefit of a certain set of citizens, children, who are completely vulnerable, and no less invasive system yields an outcome that help children akin to how licensing parents helps them” (2009, 173). He argues further that we employ prior restraint when we require professionals and adoptive parents to get licensed to protect vulnerable populations. To emphasize this point, McFall modifies a bridge example used by John Stuart Mill, involving a man wishing to cross a bridge that “has a 90 percent chance of collapsing and killing those who walk on it” (2009, 174). If the man were by himself, any restraint would be paternalistic; however, if the man wished to bring his two young children across the bridge with him, restraint

seems reasonably justified. Even though the risk is probabilistic rather than certain, McFall argues that “*Certainty* no longer matters; the *potential* for danger gains importance” (2009, 174). If a test could predict who would or would not most likely abuse or neglect their children with close to 90% accuracy, then prior restraint based on the results also seems reasonably justified.

LaFollette answers a challenge to using professional licensing as an analogy. The argument goes that the general public has a vested interest in the competence of professionals such as doctors, lawyers, and engineers, whereas parenting is a “private matter” (LaFollette, 2010, 333). LaFollette’s answer is that whatever dissimilarities exist between the two are irrelevant to parental licensing (2010, 333). For example, LaFollette argues that the number of patients a physician cares for is irrelevant to whether or not she needs a license. Even if a doctor had only one patient, she would still need a license in order to legally practice medicine due to the quality of potential harm she could commit and the vulnerability of the patient (2010, 333).

Westman further supports LaFollette’s analogy, arguing that those who take the contrary view “do not realize how important [children] are to the health, welfare, and security of their communities and to the society in which we all live...in order to become contributing citizens, children need dependable relationships with adults who model competent living” (1994, 42).¹⁹ Children who grow up to be criminals as a result of abuse and neglect pose a serious and dangerous threat to individuals, families, and society. Also, not only do criminals not contribute to society, they are a drain on society’s resources. By reducing the number of criminals, we obviously reduce the number of crime-related tragedies in our nation, but we would also increase the number of productive, contributing members of society. Therefore, all citizens have a direct

¹⁹ Westman provides a more thorough discussion of the relationship between parenting and public welfare in Chapters 3 and 4 of *Licensing Parents*.

interest in how children are being raised; competent parenting is a public interest, thereby making it a public institution worthy of public regulation.

Daniel Engster has further misgivings about a licensing program for parents, stating, “These plans would create special burdens on women, expose many children to harm, and potentially undermine basic liberal freedoms” (2010, 235). He also raises a concern about the timing of licensing. According to Engster, requiring licenses before pregnancy is unrealistic since many pregnancies are unplanned. Requiring licenses upon pregnancy is also a problem, because if a woman fails to meet the criteria for licensing, she may not take the necessary measures to ensure proper fetal development (2010, 246, 248). Furthermore, Engster argues that women who do take care of the growing fetus may experience emotional trauma when the baby is taken away upon delivery. Engster cautions that women who suspect they will fail licensing tests may hide their pregnancies and not seek medical attention, thereby putting both the woman and the fetus at risk (2010, 246).

Michael McFall advocates for a possible solution to the timing problem: reversible sterilization. Engster concedes, “This solution would avoid the timing difficulties described above, lessen the differential impact of parental licensing on women and virtually eliminate the possibility that unfit parents might bear children” (2010, 250). However, Engster resorts to a slippery slope objection to reversible sterilization, stating that some may be denied licenses due to religious, racial, and ethnic biases (2010, 250). He mentions biases in adoption processes as evidence that such an objection is not far-fetched. The obvious reply to this objection is that the potential for bias and discrimination in the administration of a policy does not mean that the policy itself is inherently flawed. There are biases and instances of discrimination in almost every bureaucratic system within education, business, and judicial sectors. If unfair practices

exist in the administration of a policy, then we should focus on ways to remedy those practices rather than jettisoning the policy. Also, the possibility for injustice in our institutions is the basis for a system of appeals.

Engster objects to using adoptive parent licensing programs to justify licensing programs for all parents, based on what he perceives to be relevant differences between the two. He cites David Archard's point that adopted children may have been abused and neglected by their biological parents, and may thus require "a higher standard" when looking for adoptive parents (2010, 253). Also, he argues that such children become wards of the state when they are removed from the homes of their biological parents, so the state has a "special responsibility" to ensure that each child up for adoption is placed in a home with adequate and competent caretakers (2010, 253). However, the main justification for adoption licenses is the provision of a safe and loving environment. Every parent should be held to the same high standard of competence, regardless of their biological relation to their children. Also, every child presents their parents with challenges and difficulties to varying degrees. Licensing would ensure that those all who become parents are up to the task of meeting those demands.

Since the responsibility for bearing children falls solely on women, Engster argues that women would be unequally burdened by licensing obligations (2010, 248). While Engster focuses solely on the problems of licensing after pregnancy, those who favor reversible sterilization are subject to this objection as well. Engster's main objection to reversible sterilization is that such plans "coercively intervene into innocent people's bodies in order to suppress this capability, and make reproduction wholly dependent upon state authorization...These programs thus represent a violation of individuals' bodily integrity and self-ownership rights, and violate the most basic liberal freedoms" (2010, 252). As of now, the

only reversible sterilization process for men is a vasectomy, and reversal is neither easy nor guaranteed. Reversible sterilization would therefore fall only on women, and, as Engster argues, that could be morally problematic.

Birth control might offer an alternative to sterilization; however, enforcing its use, given our current methods, would also be problematic. The most reliable, long-lasting birth control is an intrauterine device (IUD), since its effectiveness does not depend on a woman's daily or weekly administration. However, because an IUD needs to be inserted inside a woman, forcing it on those who object would be cruelly invasive, especially at the age required for the effective prevention of pregnancy – before or around puberty. Also, all IUDs come with the risk, however rare, of adverse side effects. Until our society develops a safe and effective reversible sterilization process for both men and women, a practical means of preventing pregnancy until potential parents are licensed is not available. However, if society made parental licensing a priority, perhaps more research and funding would be directing to developing such a method.

Alternatives to Licensing Parents

As an alternative to licensing, Engster advocates a “public parenting model,” wherein the cost of parenting is to be distributed among the citizens of society. His model includes affordable prenatal care, year-long paid parenting leaves, home care visits from medical and child care specialists during the child's first year, affordable child care for children under five, public subsidies or tax breaks for parents, and flexible scheduling in the labor market (pp. 255-256). Home care visits by health- and child-care workers would provide the monitoring of parents and advice for how to deal with the challenges of parenthood.

Some object to Engster's economic focus on solving parental incompetence. For example, Westman argues that views on the correlation between poverty and abuse are misguided, and that child abuse and neglect cross class lines:

Alcohol and drug abuse, preventable accidents, child abuse and neglect, and a host of health problems as well as educational deficiencies are plentiful in middle-class and privileged populations as well as among the disadvantaged. Many affluent parents provide their children with material things but neglect their character development. (1994, 8)

Engster understands that abuse and neglect are not caused solely by financial distress, but he cites a UNICEF report, which shows that "poverty and stress are, in fact, two factors that most closely and consistently correlate with child abuse and neglect across Western countries" (pp. 256-257). While correlation does not necessarily imply causation, easing the financial burden on low-income families could be one, but should not be the only, strategy for making sure children are raised with the resources and opportunities they need.

Engster claims that his alternative would decrease instances of abuse and neglect and increase gender equality (with paid parental leave for both parents), while not infringing on the personal liberty of parents as much as a licensing program would. He justifies the cost to society by explaining that the entire society, including its child-free citizens, would benefit from the competent rearing of children. However, since Engster's solution focuses on only economic risk factors correlated with incompetent parenting, Westman warns, "Attributing criminality solely to economic disadvantage and to disorderly neighborhoods demeans the poor by implying that they are inherently irresponsible people. It invites society to see the poor as morally different, socially distorted human beings" (1994, 60-61). McFall also argues against focusing solely on economic solutions:

I wish to argue that problems with money and other resources would not be as traumatic as they are if more ISJs existed. To transition towards a completely well-ordered society,

we should not focus on goods and resources; we should focus on promoting good parenting and preventing bad parenting. Goods and resources do not make good parents; rather, having a sense of justice is a foundation of good parenting. (2009, 54)

According to McFall, although poverty is a problem, it is not *the* problem; competent parents would not abuse or neglect their children even if faced with economic challenges. Furthermore, Engster's plan would not mitigate the abuse and neglect that are caused by non-economic factors, such as psychological disorders and substance abuse problems. Finally, Engster's assurance that health care and social welfare monitors could ensure the safety of children is optimistic at best, naïve at worst.

LaFollette offers a more modest alternative to Engster's: "I propose a limited licensing scheme. Try it out and see if it works. Depending on what we find, we can jettison it, sustain it, or expand it" (2010, 338). He proposes that instead of punishing those who do not qualify or who are unlicensed, we begin with a program that rewards those who are licensed through tax incentives (2010, 338-339). Basically, LaFollette offers a voluntary, reward-based licensing program for parents. Unfortunately, those who are most at risk for abusing and neglecting their children, and those who know they would fail the licensing procedure, would most likely not apply for the program voluntarily, thus rendering this alternative far less effective than a mandatory program. However, given our current sterilization technology, a voluntary program could serve as preliminary means of licensing parents, while research and resources are being directed at a more effective solution to abuse and neglect.

Conclusion

Westman argues, "If we are ever to solve our nation's critical social problems, we need a new way of thinking about children" (1994, 199). Indeed, we do. Free will skepticism provides a sufficient shift in perspective that justifies the social reforms described above. Society as it

operates now, with the predominate belief in free will and moral responsibility, fails to meet the basic criteria for a moral society. A society that accepts free will skepticism would be motivated to produce the best consequences for all citizens, since the social reforms that it would require would result in less abuse, neglect, and consequently, less crime. Since such a society would demand just and moral treatment for all humans and respect for all citizens regardless of age, it would abide by the moral dictates of Kantian deontology. Finally, such a society would emphasize and facilitate the development of virtuous characters for all citizens (children and criminals alike). Given the practical benefits and moral superiority of a society operating under the ideology of free will skepticism, there seems to be no justification for resistance to our adopting free will skepticism as the prevailing ideology.

CONCLUSION

My primary goal in this dissertation was to show why everyone should be a free will skeptic. To that end, I challenged opposing positions, defended my position against objections, and argued that the ethical implications of free will skepticism are both practical and advantageous. Blaise Pascal argued that there are pragmatic reasons for believing in God that render certainty in the truth of the belief irrelevant. According to Pascal, we stand to gain more and lose less by betting that God exists than by betting he does not. While I do not endorse Pascal's strategy as a reason to believe in a divine, personal creator, I contend that similar reasoning holds true for belief in free will skepticism: it's the better bet. While Smilanski and P.F. Strawson offered pragmatic justifications for the belief in free will, I contend that not only are their justifications unfounded, but practical considerations actually favor belief in free will skepticism.

In defense of shifting our attitudes towards human nature, Skinner argues that in accepting the causal role of environmental influences,

What is being abolished is autonomous man...his abolition is long overdue. Autonomous man is a device used to explain what we cannot explain in any other way. He has been constructed from our ignorance, and as our understanding increases, the very stuff of which he is composed vanishes. Science does not dehumanize man, it de-homunculizes him, and it must do so if it is to prevent the abolition of the human species. To man *qua* man we readily say good riddance. Only by dispossessing him can we turn to the real causes of human behavior. Only then can we turn from the inferred to the observed, from the miraculous to the natural, from the inaccessible to the manipulable. (1971, 191)

There is little controversy surrounding the idea that all humans are affected and influenced by external factors. The free will debate concerns only the degree to which external factors play a

causal role in agential actions and to what degree control over those actions is compromised. I propose that even if we did have a modicum of control, enough to grant FMR, the reforms advocated by free will skepticism would still be a good idea; i.e., even if free will skepticism were false, we would benefit as a society more if we acted as if it were true. In such a scenario, the reforms would be pragmatically, rather than theoretically, justified. Thus, even if free will skepticism were false, I contend that belief in free will skepticism, rather than belief in free will, would be a necessary illusion.

Of course, I do not believe that free will skepticism is false. The arguments for the contrary positions fall prey to serious challenges that undermine their tenability, and objections to free will skepticism can be answered and overcome. All that remains is the task of convincing the public and those in positions of influence of the viability and importance of changing a long and deeply held conviction. Free will skepticism needs a marketing campaign. This is no small feat since free will is taken for granted by many, and abstruse theoretical justifications for free will skepticism are not accessible to many non-philosophers.

Therefore, I suggest a shift in focus for the future of the debate. More can be said about the ethical implications and social advantages of accepting free will skepticism. For example, in chapter four, I discussed only two social reforms, but if free will skepticism were to be taken seriously, more than punishment and parenthood would be affected. Education, for example, should take into consideration the specific needs and learning styles of each child to maximize each child's potential. This would necessitate the end to "standardized" testing which ignores the varying academic strengths and needs of students. Relinquishing free will and moral responsibility need not inspire apprehension and fear; rather, I join the optimistic skeptics, such

as Pereboom, in their belief that free will skepticism is the most feasible, practical, and moral of all the positions in the debate.

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