

Have Compatibilists Solved the Luck Problem for Libertarians?*

Stephen Kearns and Alfred R. Mele

Abstract: A pair of compatibilists, John Fischer (2012: ch. 6; n.d.) and Manuel Vargas (2012) have responded to a problem about luck that Alfred Mele (2005, 2006) posed for incompatibilist believers in free will and moral responsibility. They offer assistance to libertarians – at least on this front. In this paper, we assess their responses and explain why what they offer is inadequate for libertarian purposes.

Keywords: ethics, moral responsibility, luck problem, compatibilism.

1. *The Problem of Present Luck*

The present section provides some background on the problem about luck at issue. We start by responding to some confusion about the problem Mele poses.

Daniel Speak (2011: 30) refers to Mele’s “recent *contrast argument*” and reports that he has followed “[Randolph] Clarke’s reconstruction of Mele’s argument rather than Mele’s own because some unnecessary details of Mele’s presentation (having to do with a certain goddess named ‘Diana’) are conveniently elided” (31, n. 4). Speak refers here to pages 7-9 of Mele 2006. As it turns out, there was a much better reason for Speak not to present Mele’s own contrast argument. Mele did not offer a contrast argument; nor did he offer any argument for the falsity of libertarianism. Instead, he developed an apparent problem for libertarians (2005, 2006), encouraged readers to find a solution (2005, 2006), and developed a solution of his own (2006: ch. 5).¹ Regarding what he calls “the problem of present luck” (2006: 66), Mele wrote: “my aim in developing this chapter’s central problem for agent causationists and other conventional libertarians is to present it sufficiently forcefully to motivate them

¹ Speak may point to Clarke’s remark that “an argument from luck” of the kind Clarke presented “has been presented by Alfred Mele (2005)” (Clarke 2005: 413). For other versions of the argument against libertarianism that Mele supposedly offers, see Coffman 2010: 158 and Franklin 2011: 220.

to work out solutions to it – proposed solutions that I and others can then assess” (2006: 70; see Mele 2005: 414).

Mele devotes a lot of ink to making the problem of present luck salient (2005, 2006: 5-9, ch. 3, ch. 5) – too much to permit a thorough recap here. Here is a concise, useful statement of a version of the problem by John Fischer:

In his work on the luck problem, Mele emphasizes the challenge posed by cross-world differences in decisions and behavior that are not accompanied by differences in antecedent conditions. Precisely these sorts of cross-world differences will be present under the assumption of causal indeterminism, even given the further assumption that in a particular case Kane’s conditions for plural voluntary control are met. I will call the problem Mele highlights the “Problem of Bare Transworld Differences”: transworld differences in behavior unaccompanied by differences in antecedent conditions. (n.d.)

Some philosophers have objected to the use of the word “luck” in this connection (Levy 2011: 179; Speak 2011: 39-40); and even in his earliest presentations of the problem, Mele makes it clear that he is not wedded to describing the problem in terms of luck (2005: 412; 2006: 70). So, to avoid unnecessary distraction, we are happy to use Fischer’s name for the problem.

Whatever the supposed problem is called, what is Mele worried about? Attention to the following story from Mele (2006: 73-74) will help us answer this question. Bob lives in a town in which people make many strange bets, including bets on whether the opening coin toss for football games will occur on time. After Bob agreed to toss a coin at noon to start a highschool football game, Carl, a notorious gambler, offered him \$50 to wait until 12:02 to toss it. Bob was uncertain about what to do, and he was still struggling with his dilemma as noon approached. Although he was tempted by the \$50, he also had moral qualms about helping Carl cheat people out of their money. He judged it best on the whole to do what he agreed to do. Even so, at noon, he decided to toss the coin at 12:02 and to pretend to be searching for it in his pockets in the meantime.

According to typical libertarian views (setting aside indirectly free actions and actions for which an agent is indirectly morally responsible), Bob freely makes his decision and is morally responsible for making it only if there is another possible world with the same past up to noon and the same laws of nature in which, at noon, Bob does not decide to toss the coin at 12:02 and does something else instead. In some such worlds, Bob decides at noon to toss the coin straightaway. In others, he is still thinking at noon about what to do. There are lots of other candidates for apparent possibilities: at noon, Bob decides to hold on to the coin and to begin singing “America the Beautiful” straightaway; at noon, Bob decides to start dancing a jig straightaway while holding on to the coin; and so on. The “candidates for apparent pos-

sibilities” are genuine possibilities provided that Bob’s doing these things at noon is compatible with the actual world’s past up to t and its laws of nature. The genuine possibilities are, as Mele puts it in a recent paper (where he avoids putting things in terms of luck), different possible *continuations* of a (normally very long) world segment (2013).

In the same paper (Mele 2013), Mele invites his readers to imagine an indeterministic number generator. At five-minute intervals, consistently with the past up to the pertinent time and the laws of nature, it can generate any one of many numbers or no number at all. Its generating the number 17 at t is one possible continuation of things, and the same is true of many other numbers. At noon today, the machine generated the number 31. After you verify that, you might find yourself with the following belief: the machine’s generating the number 31 was a possible continuation of the past up to noon, and that continuation actually happened at noon.

If you were somehow to verify that, at noon, Bob decided to toss the coin at 12:02 and to pretend to be searching for it in his pockets in the meantime (decided to C , for short), you might find yourself with a parallel belief: Bob’s deciding to C was a possible continuation of the past up to noon, and that continuation actually happened at noon. Typical libertarians contend that Bob’s being directly morally responsible for deciding to C and his directly freely deciding to C require that at least one other continuation was possible at noon, a continuation in which Bob does something else at noon.² Suppose that another possible continuation was Bob’s deciding at noon to toss the coin straightaway; in another possible world with the same past as the actual world up to t and the same laws of nature, that is what happens.

This supposition may be seen by some as a double-edged sword. A philosopher may believe that having *control over whether* one A -s or does something else instead is required for directly freely A -ing and for being directly morally responsible for A -ing and believe that having such control requires that A -ing at t and doing something else instead at t are possible continuations of the past up to t for the agent. But the same philosopher may worry that these possible continuations are similar enough to possible continuations for the indeterministic number generator that whatever control the agent may have over whether he A -s or does something else instead falls short of what is required for directly free A -ing and for direct moral responsibility for A -ing.

Consider a fuller version of Bob’s story in which although Bob does his very best to talk himself into doing the right thing and to bring it about that

² Bob’s story is not a Frankfurt-style story. On a version of the continuation problem for fans of Frankfurt-style stories, see Mele 2013, sec. 4.

he does not succumb to temptation, he decides at noon to *C*. Imagine as well that in another possible world with the same past up to noon and the same laws of nature, Bob's best was good enough: he decides at noon to toss the coin straightaway. That things can turn out so differently at *t* (morally or evaluatively speaking) despite the fact that the worlds share the same past up to *t* and the same laws of nature will suggest to some readers that Bob lacks sufficient control over whether he makes the bad decision or does something else instead to make that decision freely and to be morally responsible for the decision he actually makes (again, it is the direct versions of free action and moral responsibility that are at issue). After all, in doing his best, Bob did the best he could do to maximize the probability (before *t*) that he would decide to do the right thing, and, even so, he decided to cheat. One may worry that what Bob decides is not sufficiently "up to him" for Bob to be directly morally responsible for making the decision he makes and for it to be a directly free decision.

Given the details of Bob's story, how can Bob have enough control over whether he decides to *C* or does something else instead at noon for his decision to be directly free and for him to be directly morally responsible for it? This is an instance of the central question posed by what Mele called "the problem of present luck" (2005: 411; 2006: 66), what he more recently called "the continuation problem" (2013), and what Fischer calls "the Problem of Bare Transworld Differences" (n.d.).³ Mele regards his central question as an analogue of a request for a theodicy in response to the problem of evil – an explanation of why a perfect God would allow all the pain and suffering that exists in the world (2013: 241-42). If he had wanted to prompt an analogue of a defense against an argument from evil for the nonexistence of God, he would have offered an argument from luck for the falsity of libertarianism and encouraged rebuttals.

2. *Fischer on the Problem of Bare Transworld Differences*

John Fischer presents a reply to Peter van Inwagen's (2000) "Rollback Argument" and then applies the reply to the Problem of Bare Transworld Differences (n.d.) – or "bare TWDs", for short. The reply features a five-part thought experiment (n.d.).

(1) "Imagine a causally deterministic world *W*₁ in which everything goes as it is supposed to in the sequence issuing in a given human choice and action". For example, John chooses (for his "own reasons, in the 'ordinary way'") at *T*₂ to raise his hand at *T*₃, and he acts accordingly.

³ Actually, in Mele 2013 the continuation problem is framed in terms of moral responsibility and not free action, but it can be applied to free action as well.

(2) Imagine that “whatever is required for the responsibility-grounding relationship between [John’s] prior states at T1 and [his] choice at T2 to raise [his] hand at T3 is present”. Fischer calls this “the *requisite glue*” and supposes that “in W1 it – whatever it is – obtains in the case of [John’s] choice at T2 to raise [his] hand at T3” (he reports that the glue’s presence does not suffice for John’s freely choosing to raise his hand, but, he adds, “at least we cannot say in W1 that [John does] not freely choose at T2 to raise [his] hand at T3 because the glue is absent”).

(3) Imagine an indeterministic “world W2 in which everything is the same as W1 in respect of [...] the causal sequence that actually leads to [John’s] choice at T2 to raise [his] hand at T3 (everything, that is, apart from causal determination)”. In W2, John chooses for his own reasons and in “the ‘normal way’”, as he does in W1; and in both worlds he raises his hand at T3. Fischer writes: “In general, whatever exactly it is that makes it the case that the responsibility-grounding relationship is present in the actual sequence flowing through [John] to [his] choice at T2 (and action at T3) – everything, that is, apart from causal determination – is also present in the sequence that takes place in W2”.

(4) “Add [...] a genuinely random machine in W2, but not in W1”. At T1 John starts deliberating about whether to raise his hand; his “last moment of deliberation is t1.9”, and he makes his choice at T2. The “machine ‘operates’ in W2 between times T1 and T2”. That is, it “goes through a series of internal states culminating in either M1 or some other state at t1.9”. Fischer focuses on state M1. “If the machine is in state M1 at t1.9, there are two possibilities, each with a fifty percent objective probability attached to it”. One is that “the machine does nothing – it ‘goes to sleep’ [...] and does not trigger any causal interaction with the world” (including John). “The second possibility is that it will initiate a causal sequence that would *preempt* [John’s] choice at T2 to raise [his] hand at T3. That is, [...] the machine would trigger a causal sequence that would terminate in (say) a direct electronic stimulation of [John’s] brain sufficient to ensure that [he chooses] at T2 to *refrain* from raising [his] hand at T3”.

(5) “As things actually go in W2, the machine’s state at t1.9 is indeed M1, and, further, the machine simply ‘goes to sleep’ and never triggers any causal interference in the sequence flowing through [John] to [his] choice at T2 to raise [his] hand at T3”.

That is the thought experiment. What is the moral? Fischer writes: “the key point is that intuitively it is obvious [...] that the mere existence and operation of the machine in W2 cannot in itself show that the requisite glue is not present in W2 – it cannot show that whatever underwrites the responsibility-grounding relationship is missing” (n.d.). He adds:

Whatever underlies the responsibility-grounding relationship – whatever constitutes the relevant glue that binds together the prior states of the agent with his choice – is a matter that is *intrinsic* (in some sense) to the relevant causal sequence. It is a matter of *the way the prior states of the agent lead to the choice in question*, and this cannot be affected by the mere presence of something (such as the random machine in W2) that *plays no role in the causal sequence flowing through the agent* (n.d.).

How does this apply to the problem of bare TWDs? Fischer writes:

In W2 (but not W1) Mele could run his argument from cross-world differences. But, as we have seen above, the responsibility-underwriting glue is present in W2, just as much as in W1. I thus conclude that the mere fact that the relevant cross-world difference[s] are purely a matter of luck does not in itself show that the agent's behavior results from luck in a sense that would rule out his moral responsibility (n.d.).

Later, Fischer calls attention to another world, W2*. "As we know, in W2 the state of the machine at t1.9 is M1 and the machine 'goes to sleep'" (n.d.). In W2* the machine is in M1 at t1.9 "and it swings into action (the other possible result of being in M1)" (n.d.). He adds:

Nothing else is different about W2 and W2* (up to t1.9). Thus, Mele's argument applies: if it is sound, one could conclude that the difference between W2 and W2* is just a matter of luck. But (as above) if the responsibility-underwriting glue is present in W1, it is present in W2. So, although Mele's argument applies to W2, the glue is nevertheless present in W2. Mele's argument thus cannot in itself show that there is an insuperable problem (pertaining to luck) with causal indeterminism (n.d.).

Fischer concludes that "the Random Machine Example helps to show that, even if the Rollback Argument and the Bare Transworld Differences Problem applied in a given indeterministic context, it would not *thereby* follow that the responsibility-grounding relationship fails to hold. Thus it would not *thereby* follow that the relevant agent does not possess the kind of control required for moral responsibility" (n.d.).

We will make several points about Fischer's discussion of his thought experiment. The first should go without saying by now, but we say it anyway. Although Fischer refers to Mele's "argument from cross-world differences", Mele did not present any such argument.

A second point is more noteworthy. Mele's problem of present luck is supposed to arise in stories in which there is no cross-world difference before T2 (Fischer's label for the pertinent time). But in Fischer's story, when the machine does get involved, it "trigger[s] a causal sequence that [...] terminate[s] in (say) a direct electronic stimulation of [John's] brain sufficient to ensure that [he chooses] at T2 to *refrain* from raising [his] hand at T3"(n.d.). That takes time.

If in $W2^*$ the machine gets involved in the way Fischer describes and causes a choice, there is a difference in the pertinent worlds *before* $T2$. The force of Mele's problem is supposed to derive partly from the fact that there is no pre-choice difference between the pertinent worlds.

In $W2^*$, the machine "swings into action" at $t1.9$. Suppose $t1.9$ is $T2$ minus 10 milliseconds and that the machine cannot do its choice-preempting and choice-causing work in less than 10 milliseconds. After $t1.9$, it is too late for the machine to do this work. So is it supposed to be determined in $W2$ after $t1.9$ that John will choose at $T2$ to raise his hand or is this supposed to be undetermined even after $t1.9$? If this is supposed to be determined, then the typical libertarian will say that John does not (directly) freely choose to raise his hand. The standard libertarian claim is that at no time prior to a (directly) free choice is it determined that the agent will make the choice he makes. And this claim lies at the heart of Mele's problem of present luck (and his continuation problem). Furthermore, what Fischer calls the Problem of Bare Transworld Differences, as he himself describes it, is "posed by cross-world differences in decisions and behavior *that are not accompanied by differences in antecedent conditions*" (Fischer n.d., emphasis added).

Are we to suppose then that in $W2$, after $t1.9$, it still is not determined that John will choose at $T2$ to raise his hand at $T3$? Are we to suppose that there is a possible world with the same laws as $W2$ and the same past all the way up to $T2$ in which John does not at $T2$ choose to raise his hand at $T3$? If so, Fischer's story about the machine does not help solve Mele's problem. Fischer says that "it should be intuitively obvious that the mere existence and operation of the machine in $W2$ is *irrelevant* to whatever it is that makes it the case that the responsibility-grounding relationship obtains in the sequence flowing through [John]" (n.d.). Maybe so. But what about its still being undetermined after $t1.9$ whether at $T2$ John will choose to raise his hand at $T3$ or instead will choose not to raise it at $T3$? Mele's problem, again, is about scenarios of this kind and, more precisely, scenarios in which it is open all the way up to $T2$ what the agent will do at $T2$. He is asking how it can be that in scenarios of *this* kind agents have enough control over what they do at $T2$ to do it freely and to be directly morally responsible for doing it. After $t1.9$, the existence and operation of the machine is irrelevant to what John does or fails to do in $W2$ at $T2$. So not only does the machine do no causal work in $W2$, it also does no philosophical work in $W2$ after $t1.9$. Fischer's thought experiment misses the boat on Mele's problem of present luck. It leaves the problem unanswered.

We turn to another issue. In part 2 of Fischer's thought experiment, readers are invited to imagine that "whatever is required for the responsibility-grounding relationship between [John's] prior states [...] and [his] choice

[...] is present” in a deterministic world. Incompatibilists who hold that the falsity of determinism is required for the responsibility-grounding relationship at issue are going to get off the bus right here. They insist that a “kind of control required for moral responsibility” (Fischer n.d.) is absent in all deterministic worlds. And as Fischer acknowledges, his thought experiment will not move a theorist who holds that “the glue” cannot be present “in a causally deterministic context” (n.d.: n. 19).

This is not a reason for us to get off the bus. But a related limitation of Fischer’s thought experiment merits attention. Fischer says that Robert Kane’s own libertarian reply to the problem of present luck is faced with some challenges and that he “will suggest a way of meeting these challenges so as to provide a compelling reply to the luck problem” (n.d.). As Fischer observes (n.d.), on Kane’s view, an agent is not morally responsible for anything unless, at some time, he had “plural voluntary control”; and he quotes Kane’s claim that “To have such control over a set of options at a given time is to be able to *bring about* any of the options (to go more-than-one-way) *at will* or *voluntarily* at the time” (1996: 111). But does John have plural voluntary control in Fischer’s thought experiment?

In an earlier article in which Fischer uses the thought experiment at issue, he says that his “Random Machine argument does not provide a model in which there is dual control” (2012: 104 n. 34). In Fischer n.d., he reports that because “it is not clear that the mere satisfaction of the conditions for plural voluntary control is sufficient for the freedom required for moral responsibility”, he will “supplement the resources provided by Kane in an attempt to address the worries presented by the Rollback Argument and the Problem of Bare [TWDs]”. Perhaps the idea is that there is an additional move Kane can make, even if the new move – the Random Machine argument – features a thought experiment that does not include dual control.

The new move, it is fair to say, is a move some compatibilists might make if it were claimed that a story like the one we sketched about Bob is a counterexample to particular compatibilist views about sufficient conditions for an agent’s being morally responsible for an action. Consider, in this connection, Fischer’s semicompatibilism. Fischer and Mark Ravizza argue that “an agent is morally responsible for an action insofar as it issues from his own, moderately reasons-responsive mechanism” (1998: 86). An agent makes a mechanism “his own” by “taking responsibility” for it (241). “Moderate reasons-responsiveness consists in regular reasons-receptivity, and at least weak reasons-reactivity, of the actual-sequence mechanism that leads to the action” (89). They write:

A mechanism of kind *K* is moderately responsive to reason to the extent that, holding fixed the operation of a *K*-type mechanism, the agent would *recognize* reasons (some of which are moral) in such a way as to give rise to an understandable pattern (from the viewpoint of a third party who understands the agent's values and beliefs), and would *react* to at least one sufficient reason to do otherwise (in some possible scenario). That is, a mechanism is moderately responsive to reason insofar as it is "regularly" receptive to reasons (some of which are moral), and at least weakly reactive to reasons (243-244).

Fischer's story about John and the random machine can certainly be told in such a way as to make it explicit that the "mechanism" that "operates" in the production of John's decision – ordinary deliberation, say – satisfies the conditions stated in the passage quoted last and is John's own. A version of Fischer's story in which John has "dual control" (Fischer 2012: 104 n. 34) can also be spun. Just imagine that John is a Kane-style agent with dual potential choice-producing processes up and running and the machine is tossed in as well. John is trying to decide to raise his right hand while also trying to decide to raise his left hand (on such dual efforts, see Kane 1999). All the way up to T2 either effort may succeed. Given that either effort may succeed all the way up to T2, the machine did not "swing in to action" at t1.9. It is asleep, as it is in Fischer's story about W2. Again, the machine does no philosophical work after t1.9. People who were worried about whether John has enough control over what he chooses in a story of the kind we have just spun that leaves the machine out should be just as worried about John's control in our machine-involving story.

We will suppose that, in the story we have sketched so far, John decides on his own at T2 to raise his left hand. The machine is asleep. And there are possible worlds in which everything is the same right up to T2 in which other things happen, including a world in which John decides on his own at T2 to raise his right hand. Because we are focusing on Fischer's effort to "supplement the resources provided by Kane in an attempt to address the worries presented by the Rollback Argument and the Problem of Bare [TWDs]" (n.d.), and because neither Kane nor Fischer appeals to agent causation, there is no agent causation in our story. And, of course, the story can be told in such a way that John's decision "issues from his own, moderately reasons-responsive mechanism" (Fischer and Ravizza 1998: 86) – that is, in such a way that Fischer is committed to holding that John is morally responsible for his decision.

How should this commitment be viewed? Some incompatibilists may claim that given that compatibilists set a low bar for moral responsibility anyway, it is no surprise that Fischer would count John as morally responsible. Some such incompatibilists may go on to claim that only an agent with the power of agent causation can be morally responsible for decisions he makes and that agent

causation provides the key to the solution of the problem of present luck or the problem of bare TWDs (O'Connor 2000).

These claims about agent causation are revealing. Fischer's main point, simply put, is that if a process is of the right sort to produce a decision for which the agent is directly morally responsible and it produces a decision to *A*, then the fact that there was a chance that it would not produce a decision to *A* is not an obstacle to the agent's being directly morally responsible for deciding to *A*. But what is it to be a process of the right sort? Can causal processes that leave it open all the way up to T2 whether John chooses at T2 to raise his left hand at T3 or instead chooses at T2 to raise his right hand at T3 actually be of the right sort to produce a decision for which the agent is directly morally responsible? The problem of present luck raises this very question. It will not do simply to suppose that the answer is yes and then base an answer to the problem on that supposition.

Why did we open the preceding paragraph as we did? Because some theorists have argued that no process that does not involve agent causation is of the right sort to produce a decision for which the agent is directly morally responsible. Derk Pereboom, an incompatibilist, contends that "event-causal libertarianism lacks any significant advantage over compatibilism in securing moral responsibility" (2001: 55; also see Clarke 1997: 45-46, Clarke 2003: 133, and Watson 1987: 165). On event-causal libertarian views, Pereboom argues, alleged free choices are "partially random" events (54) in the sense that "factors beyond the agent's control [nondeterministically] contribute to their production [...] and] there is nothing that supplements the contribution of these factors to produce the events" (48). Similarly, Timothy O'Connor refers to "a chancy element to choice that cannot be attributed to the person" in a representative event-causal libertarian view, and he deems "the kind of control that is exercised [...] too weak to ground [the agent's] responsibility for which of the causal possibilities is realized" (2000: 40). Both Pereboom and O'Connor look to agent causation for a solution to the problem they have in mind. Our point now is that some philosophers do feel the pull of the problem of present luck, at least in the case of non-agent-causal libertarian views, and they look for a solution. They certainly do not start by supposing that there is some non-agent-causal process of the right sort to produce decisions for which agents are directly morally responsible and then move on from there to solve the problem.

Might some compatibilists reasonably worry about whether agents can be directly morally responsible for decisions made in present luck scenarios? Fischer remarks that, in his view, "our status as free and morally responsible agents should not hang on a thread – should not depend on whether *or not* causal determinism obtains" (n.d.). And he finds it implausible that we would

have to stop viewing ourselves “as free and morally responsible agents [...] if we were to become convinced that causal indeterminism obtains” (n.d.). But the issue now is not about indeterminism in general, of course; it is about an indeterministic causal connection between the proximal causes of a decision and the decision. A compatibilist might say that if all we have here is a tiny chance of things going haywire, there is nothing serious to worry about. But suppose the indeterministic connection is the sort of thing an event-causal libertarian like Kane favors: In typical cases of decisions that are allegedly directly free, it is at no time determined what the agent will decide and, right up to t , there is a significant chance that he will decide at t to A and a significant chance that he will decide at t to B . A compatibilist who worries that decisions made under these circumstances are not produced in the right way for the agent to be directly morally responsible for them need not seriously entertain the idea that the truth of determinism is necessary for direct moral responsibility. The truth of the proposition that many of our decisions are not made in circumstances of the kind at issue does not depend on the truth of determinism. A compatibilist who has the worry at issue can make a case for direct moral responsibility outside the sphere targeted by the problem of present luck and do so without claiming that such responsibility is possible only in deterministic worlds.

Our primary goal in this section has been to show that Fischer’s Random Machine Example does not benefit libertarians who worry about the problem of present luck. In the next section we turn to another compatibilist’s response to the problem.

3. *Vargas’s Dilemma*

Manuel Vargas presents compatibilists with the following dilemma concerning “the Luck Problem”: “either The Luck Problem objection should be regarded as an objection for even contemporary compatibilist accounts or we should regard contemporary compatibilist accounts as proof that luck is no problem for libertarians” (2012, p. 422).⁴ The upshot of this dilemma is that

⁴ Vargas’s presentation of the Luck Problem is relatively standard. He says: “Consider an agent – let us call him Al – with the ordinary set of capacities we associate with typical, adult human agents [...] Al, through some indeterministic process at the moment of decision elects to perform action A, and subsequently performs it (imagine that Al satisfies whatever version of libertarianism you find least objectionable). Now, however, consider what happens in the non-actualized worlds that shared the relevant history up until Al settled on doing A. In one of those worlds, Al (or, if you like, Al^{*}) does action B. [...] [B]oth actions A & B were undertaken intentionally, the outcomes anticipated and non-accidental, and each choice was rational and viewed as such by the agent. But [...] action B is blameworthy and [...] A is not (perhaps A is morally neutral or perhaps it is praiseworthy). Here, it

compatibilists should not appeal to the Luck Problem as an objection to libertarianism. Either both libertarian and compatibilist accounts of free will are susceptible to the problem or neither kind of account is.

Vargas's dilemma rests on the following conditional: if luck is a problem for libertarianism, it is a problem for (contemporary) compatibilism. Proponents of the first horn of the dilemma accept the antecedent of this conditional and conclude that compatibilist accounts of free will also succumb to the Luck Problem. Proponents of the second horn accept the negation of the consequent of the conditional and conclude that libertarians have no problem with luck. Vargas thinks compatibilists face this dilemma because he accepts the conditional.

Is the conditional true? There are two reasons one might think it is. First, as Vargas puts the idea, "if The Luck Problem objection shows us that indeterminism is genuinely a problem for indeterministic agents, and if we suppose that we are indeterministic agents as libertarians insist (and that most compatibilists will allow that, for all we know, we could be), then the difficulty generated by indeterminism will be a problem whether or not compatibilism is true" (2012: 422). The idea is simple. If libertarians face the Luck Problem, it is because indeterministic agents of the kind it targets lack certain types or amounts of control, or something of the sort. But if that is true and if it is an open question whether human beings are indeterministic agents of the pertinent kind, then everyone faces the Luck Problem – compatibilists included. Regarding our reference to a *kind* of indeterministic agent here, readers should recall that the Luck Problem (as posed by Mele, in any case) is not raised by indeterminism in general nor by indeterministic agency in general. Instead, it is raised by the supposition that the connection between a directly free decision (or a decision for which the agent is directly morally responsible) and its proximal causes is indeterministic.

Second, Vargas points out that contemporary compatibilists are invariably what he calls "supercompatibilists". Such supercompatibilists believe that both determinism and indeterminism are compatible with moral responsibility. This is because the conditions for freedom and responsibility that such compatibilists insist on can be met in indeterministic universes. An agent who functions in a relevantly non-deterministic manner can still be reasons responsive, reflec-

seems to be a matter of luck that Al is not rightly subject to blame but that Al* is [...] There is nothing in the example to explain why Al* ended up doing B rather than A, and why Al ended up doing A rather than B. What makes such luck problematic is that even though there is nothing to explain why Al and Al* did what they did and not some other thing, Al and Al* are subject to very different reactions and moral evaluations. This difference in outcome, a difference for which there is no explanation, makes our assessments of responsibility in the indeterministic case seem capricious or arbitrary" (2012: 419-20).

tive, free from coercion, sane, informed, self-controlled, etc. She can still do what she wants to do, and what she wants to want to do, and what she truly values and identifies with. It strikes most compatibilists that such conditions suffice for her being free and responsible.

According to the line of thinking at issue, virtually every contemporary compatibilist thinks that even the type of indeterministic agency that libertarians demand of free agents is compatible with moral responsibility. As such, they are committed to there being a solution to the Luck Problem. Indeed, it may be claimed that insofar as compatibilist accounts of free will are attractive, they provide independent evidence that indeterministic agents can indeed be morally responsible. According to Vargas, (certain types of) libertarians can appeal to whatever solution compatibilists give to the Luck Problem. Thus if compatibilists can solve the Luck Problem, so can they. Vargas puts the argument like this:

- (A) compatibilists have good reason to think that their accounts are not vulnerable to luck because such accounts provide an independent account of the grounds of freedom, responsibility, and/or control (FRAC);
- (B) such accounts of FRAC are, at least in the ordinary case, compatible with either determinism or indeterminism;
- (C) such accounts thereby constitute an explanation for why indeterminism does not necessarily generate FRAC undermining luck: so long as the relevant agential features obtain, the presence or absence of indeterminism is immaterial to whether FRAC obtains;
- (D) piggy-backing libertarians need not reject the substantive details of compatibilist accounts of FRAC. (2012: 424-25)

What are piggy-backing libertarians? Vargas says:

It is a familiar thought that many contemporary libertarian accounts are content to accept standard compatibilist conditions on moral responsibility, with the proviso that indeterminism of some or another sort is required for a more-than-superficial notion of free will and/or moral responsibility. Call such libertarians “piggy-backers”. If one is a piggy-backer, then the piggy-backer libertarian can deploy whatever compatibilist resources are sufficient for blocking The Luck Problem objection. (424)

The idea, then, is this. If compatibilist solutions to the Luck Problem succeed, certain libertarians can accept such solutions.

We have been given two reasons, then, to accept the conditional that underwrites Vargas’s dilemma. First, the Luck Problem has force independently of the compatibility question, and thus applies equally to libertarians and (super)

compatibilists. Second, any compatibilist solution to the Luck Problem can be accepted by certain types of libertarians.

Vargas believes that the second horn of the dilemma should be taken: Compatibilists do indeed have the resources to solve the Luck Problem, and thus so do libertarians. In embracing this horn, Vargas sketches his own solution to the Luck Problem. Before we explore this solution, we explore ways to resist Vargas's dilemma.

4. *Rejecting Vargas's Dilemma*

There are at least four ways in which a (super)compatibilist might reject Vargas's dilemma. First, she might claim that the compatibilist's solution to the Luck Problem also *entails* compatibilism and thus the libertarian cannot appeal to it. Second, she might claim that her preferred solution to the Luck Problem can be altered in such a way as to produce an equally strong argument for compatibilism. Third, she might claim that her solution to the Luck Problem does not help the libertarian because the libertarian demands more of responsibility than she does. Such a compatibilist might claim that the Luck Problem shows that indeterminism *does no more* than determinism to allow for responsibility (even if indeterminism does not undermine responsibility). Fourth, the compatibilist might accept (some of) the force of the Luck Problem against even her own position and claim that indeterminism *mitigates* responsibility, without removing it entirely. Clearly, libertarians cannot appeal to this idea. We discuss each of these options in turn.

4.1 Solutions to the Luck Problem that entail compatibilism.

Although Vargas sets up the Luck Problem with an example in which an agent's deciding at t to A is compared with what he does in "the non-actualized worlds that shared the relevant history up until" t (2012: 420), he often writes as though the Luck Problem is raised simply by indeterminism itself (obviously, there is a difference between the thought that the falsity of determinism precludes directly free action and direct moral responsibility and the thought that a decision's being indeterministically caused by its proximal causes precludes its being directly free and its being something for which the agent is directly morally responsible). We assume for now that the Luck Problem currently under investigation is much more general than Mele's problem of present luck.

Here's a schematic compatibilist answer to the Luck Problem. Consider an arbitrary (super)compatibilist account of moral responsibility, C . According to C , there is a sufficient condition of moral responsibility, S , that can be met

in both deterministic and indeterministic worlds. A proponent of C can then argue as follows:

- (1) C is true.
- (2) If C is true, S suffices for moral responsibility in deterministic and indeterministic agents.
- (3) Therefore, moral responsibility is compatible with indeterministic agency.

Given that (3) is true, the “Luck Problem objection” cannot successfully show that indeterministic agency is *incompatible* with responsibility. Thus a sound instance of the above argument stands as a solution to the Luck Problem. Any compatibilist defending this solution will defend premise (1) on the independent merits of C (e.g., it captures many intuitions about responsibility; it is simple and elegant; it is not held hostage to scientific discovery; it best explains our practice of moral responsibility; etc.). Premise (2) simply follows from the fact that C is a (super)compatibilist theory of free will and responsibility.

There are as many ways to fill in the above schematic argument as there are (super)compatibilist accounts of responsibility. Some may appeal to reasons-responsiveness (Fischer and Ravizza 1998, McKenna 2012), others to higher-order desires (Frankfurt 1988), and so on. The operative point is that any such argument entails compatibilism. C is, after all, a compatibilist theory of responsibility, and C’s truth plays a crucial role in the soundness of the above argument. Libertarians, then, clearly cannot appeal to the above kind of solution to the Luck Problem, as it entails the falsity of their own theory.

The obvious rejoinder to this point is that libertarians might appeal to a *modified version* of C in their solution to the Luck Problem. This seems to be Vargas’s idea when he invokes premise D (quoted above), and relatedly says: “Piggy-backing libertarians can allow that compatibilist construals of FRAC identify agential powers whose presence is sufficient to “wall off” or inoculate against luck worries, without necessarily allowing that such accounts identify features of agency sufficient for responsibility” (2012: 425). Thus we might imagine a (piggybacking) libertarian modifying C to include some suitably indeterministic elements. The resulting theory, L, denies that S is sufficient for moral responsibility or free action, but claims that S plus some suitably indeterministic elements is sufficient for free will and moral responsibility (let’s call this proposed sufficient condition S+). The libertarian may then argue as follows:

- (1) L is true.
- (2) If L is true, S+ suffices for moral responsibility in indeterministic agents.

- (3) Therefore, moral responsibility is compatible with indeterministic agency.

Perhaps this way of modifying the above style of compatibilist argument captures what Vargas means by claiming that some libertarians are piggybackers and can simply borrow whatever solution to the Luck Problem compatibilists conjure up.

Such a position is deeply problematic, for two main reasons. First, the compatibilist's argument stands or falls based on the independent evidence she has for C. One should not assume that such an independent case for C will simply carry over and provide support for L. As we mentioned, C may be supported by considerations of elegance, simplicity, accord with intuition, explanatory power, and its making responsibility resilient to scientific disproof. For all that has been said, L cannot be supported in any of these ways. For instance, many of the intuitions to which proponents of C might appeal (e.g., that agents in Frankfurt-style cases [Frankfurt 1969] are morally responsible), might not be ones to which some supporters of L can appeal. Furthermore, L, unlike C, renders the idea that people are often morally responsible open to a certain kind of scientific disproof (imagine physicists discover tomorrow that determinism is true – this discovery, together with a belief in L entails that no one is morally responsible). L is less simple than C. It also may lack the explanatory power of C (imagine C is supported by the fact that it explains well Strawsonian considerations about the unavoidability and rationality of our practices of responsibility [Strawson 1962]: L presumably cannot explain such considerations – at least, not in the same way).

Second, a proponent of L is committed to the claim that S is *not*, but S+ *is*, a sufficient condition of responsibility. The plausibility of this claim rests on the plausibility of the idea that the introduction of some suitable indeterminism can make a difference as to whether or not an agent is morally responsible. But, of course, this idea is part of what the Luck Problem is designed to test: How, if at all, does indeterministic agency improve on deterministic agency? An incompatibilist may have compelling reasons to reject the compatibility of responsibility and determinism, but it does not follow that she has compelling reasons to accept the compatibility of responsibility and *ind*determinism. To fully defend L, of which S+ is an important part, she needs to support the claim that indeterministic agency contributes something vital to responsibility. If she does not do this, she has failed to answer the Luck Problem. If she does, she goes far beyond the strategy Vargas suggests of simply borrowing the compatibilist's solution (this problem is related to that discussed in section 4.3. See that section for more detailed discussion). We conclude, then, that libertarians cannot unproblematically co-opt plausible compatibilist solutions to the Luck Problem.

4.2 Solutions to the Luck Problem that can be altered to support compatibilism

A second way in which compatibilists but not libertarians can resist the Luck Problem can also be put schematically. We might formulate a solution, A, to the Luck Problem that, with suitable alteration, works as an argument, B, for compatibilism. If the latter argument for compatibilism is (at least roughly) as good as the original solution to the Luck Problem, then libertarians cannot appeal to this solution. If B's premises are just as plausible as A's and the form of argument is the same, then in being committed to the soundness of A, we should also be committed to the soundness of B. Libertarians should not be committed to B (if they want to remain libertarians), and thus cannot rationally appeal to A.

Again, there are many ways to fill out the above schematic idea. Indeed, we suggest below that Vargas's own solution falls exactly into this trap. That is, Vargas's solution to the Luck Problem can be modified into an argument for compatibilism and thus cannot be utilized by libertarians. We explore this idea in section 6.1.

For now, we can illustrate this idea with another type of solution to the Luck Problem. Consequentialists might give the following kind of response to the problem. The practices of moral responsibility (expressing gratitude and resentment, meting out punishment and reward, etc.) are justified by their consequences. Overall, it maximizes value to have such practices and abide by them. Agents' being morally responsible amounts to their being appropriately involved in such justified practices. Even in cases in which agents' choices are undetermined and thus at least partly a matter of luck, these agents are still appropriately involved in such justified practices, and thus morally responsible. In essence, if the practice of moral responsibility is justified on purely consequentialist grounds, and such a justified practice is sufficient for the existence of moral responsibility, then indeterministic agency is compatible with moral responsibility.

To be sure, not many philosophers today would be happy buying this solution to the Luck Problem. However, the example is merely illustrative. The point is that the argument can be modified to argue for compatibilism. We can alter the above passage (in very minor ways) to do just this:

The practices of moral responsibility (expressing gratitude and resentment, meting out punishment and reward, etc.) are justified by their consequences. Overall, it maximizes value to have such practices and abide by them. Agents' being morally responsible amounts to their being appropriately involved in such justified practices. Even in cases in which agents' choices are determined, these agents are still appropriately involved in such justified practices, and thus morally responsible. In essence,

if the practice of moral responsibility is justified on purely consequentialist grounds, and such a justified practice is sufficient for the existence of moral responsibility, then deterministic agency is compatible with moral responsibility.

This style of argument resembles that of compatibilists of yore, such as Schlick (1966) and Smart (1961). If compatibilists offer to solve the Luck Problem in the suggested way, libertarians cannot take them up on the offer.

4.3 Using the Luck Problem to argue that indeterminism doesn't help

There is a third way to resist Vargas's dilemma. Libertarians, like other incompatibilists, reject compatibilism because they think determinism is incompatible with something that is necessary for responsibility. They might claim, for instance, that determinism rules out regulative control (i.e., a kind of control that requires an indeterministic ability to do otherwise), or that it precludes the possibility of agents originating their actions, or that deterministic agency provides for a merely superficial type of (pseudo)responsibility. In this sense, then, libertarians are more demanding than (super)compatibilists. Such compatibilists are happy to assign moral responsibility to agents that do not have regulative control, or powers of origination, or ultimate responsibility, as libertarians conceive of them.

Because of this, libertarians may feel the sting of the Luck Problem more greatly than compatibilists. That is, luck might undermine just those things that libertarians demand of responsibility and compatibilists do not demand. Here's another way of putting the point. We may distinguish two types of Luck Problem – Strong and Weak. The Strong Luck Problem aims to show that indeterministic agency of a certain sort is incompatible with moral responsibility. This is a problem that potentially faces everyone and that compatibilists should say something about (compatibilists may here appeal to their own independently motivated accounts of free will). The Weak Luck Problem aims to show that the kind of indeterministic agency at issue brings with it *no more* responsibility than deterministic agents can have. Compatibilists may happily accept this conclusion. Indeed, most compatibilists would positively endorse it. Libertarians, on the other hand, cannot. After all, in their view, deterministic agents are not morally responsible for anything. There is, then, at least one version of the Luck Problem that besets libertarians but not compatibilists.

Indeed, this is, we suspect, how many compatibilists have been thinking of the Luck Problem all along, at least when using it as a challenge to libertarianism. Their contention is that considerations of luck bring out nicely that indeterminism simply *doesn't help*.

We can be more specific. Consider the libertarian who accepts the bulk

of some compatibilist account of free will and responsibility, C, but wants to supplement it with the idea that responsible agents must have regulative control (understood in such a way as to be incompatible with determinism). She adds this condition to C, which results in her incompatibilist account, L. Indeterministic agency is compatible with L only if indeterministic agency provides agents with regulative control. It may be argued, however, that considerations of luck show that indeterministic agency does *not* provide or even allow for regulative control, any more than does deterministic agency.

Regulative control requires an indeterministic ability to do otherwise freely (Fischer and Ravizza 1998: 31). It may be claimed that the actions of an agent who enjoys such control are genuinely up to her. Determinism is alleged to preclude such agency because it strips agents of the ability to do otherwise. Indeterministic agency may allow agents to be able to act otherwise than they do, but it is far from clear that it gives agents freedom-level control over *which* alternative they take. Consideration of undetermined choices in scenarios such as that of Bob in section 1 may suggest that what agents do in such cases is not under their control to any greater extent than had their choices been determined. Though such agents may have more alternatives than determined agents, the Luck Problem raises the question how much control they have over which alternative they take. The cross-world difference between the world in which Bob decides at noon to flip the coin at 12:02 and the world in which he decides otherwise at noon is purely a matter of luck. Whichever decision Bob makes, then, is partly a matter of luck, and, to that extent, somewhat out of his control. This suggests that what Bob decides is not entirely *up to him*.

What some (super)compatibilists wonder is not whether Bob is morally responsible, but whether such indeterminism really provides anything vital to responsibility. These cases (and Vargas's own) certainly suggest that indeterminism does not provide agents with complete control over which decision they make. Is the decision Bob makes to flip the coin at 12:02 really up to him in the way libertarians insist upon? Whatever a libertarian's response to this question is, it will go beyond anything compatibilists have offered. There is no compatibilist account of a free decision's being up to an agent in the way libertarians claim it is.

Similar considerations apply to origination. If libertarians claim that determinism rules out an agent's capacity to originate actions, and that (the exercise of) this capacity is necessary for responsibility, it behooves them to say why an indeterministic connection between a decision and its antecedents of the sort featured in Mele's problem of present luck *is* hospitable to such a capacity to originate actions (specifically, Mele's problem of present luck raises a series of questions that need answering. Doesn't the fact that an undetermined decision

was partly a matter of present luck detract from the idea that the agent was the true author of this decision? Furthermore, isn't the agent the author of the decision only to the extent that she exercises at least *some* causal influence on the decision? And isn't this causal influence increased the closer the agent comes to simply deterministically causing the decision? Lastly, doesn't this suggest that agents no more originate undetermined choices than they do determined choices?). The compatibilist is under no such obligation to explain the compatibility of origination and indeterminism because she has made no commitment to the necessity of origination for responsibility.

The same thought applies to the idea, touted by Vargas, that libertarians are striving for a less superficial, altogether *deeper* type of responsibility than the compatibilist. How exactly does indeterminism provide this? Libertarians may (and may not) be right that any type of responsibility, freedom or control compatible with determinism is in some way shallow or not all that we hoped for. But they cannot conclude from this that there are more profound types of responsibility, freedom and control that are compatible with *indeterminism*. If libertarians invoke the shallowness of compatibilism as a way to motivate libertarianism, the onus is on them to explain how indeterminism promotes this more profound responsibility, freedom, or control. It is here they run again into the problem of present luck, if they require for directly free actions and actions for which agents are directly morally responsible the indeterministic condition that the problem targets. When we consider Bob, it is very difficult to see what about him makes him a more deserving target of blame, resentment and punishment than a determined agent. And this is precisely because what he does is partly a matter of present luck. The question the libertarian faces, and the compatibilist does not, is how indeterminism provides us with a deeper type of responsibility, freedom, and control, given that decisions like Bob's are partly matters of luck. The libertarian cannot simply borrow a compatibilist one-size-fits-all solution to the Luck Problem.

4.4 Conceding some ground to the Luck Problem

The Strong Luck Problem has some force even against the compatibilist. It really does seem that Bob's undetermined decision is partly a matter of luck. This raises a natural question for everyone: does Bob exercise sufficient control of his decision to be morally responsible for it? The hard compatibilist (i.e., the compatibilist who thinks deterministic agency is necessary for responsibility [see Hobart 1934]) answers the question in the negative: Indeterminism does preclude responsibility. As Vargas points out, contemporary compatibilists are not hard compatibilists, and contemporary compatibilists are Vargas's audience – the philosophers to whom he thinks his dilemma applies.

Even the contemporary supercompatibilist might learn a lesson from the hard compatibilist. While the latter contends that moral responsibility requires determinism, the former might simply claim that determinism *enhances* our moral responsibility (a suggestion more fully explored in Kearns n.d.). That is, a supercompatibilist might accept that indeterministic agency is compatible with moral responsibility, while claiming that, to be fully responsible, one's decisions need to be determined. Whatever the merits of this proposal (one such merit being that it is one of the few proposals outside of hard compatibilism and free will skepticism that concedes that there is something genuinely problematic about indeterministic agency), it is clearly one to which some supercompatibilists *can* and libertarians *cannot* appeal.⁵

4.5 Summing up

Why does Vargas fail to make his case that either libertarianism *and* compatibilism succumb to the Luck Problem or neither does? Recall Vargas's reasons for accepting this disjunction: first, the Luck Problem highlights something problematic about indeterministic agency, independently of whether responsibility is compatible with determinism, and second, compatibilist solutions to the Luck Problem might be co-opted by (piggybacking) libertarians.

It should be clear by now where Vargas goes wrong. First, even if some versions of the Luck Problem highlight a universal worry about indeterministic agency, other versions raise particular questions regarding the positive role indeterministic agency is supposed to play in libertarian accounts of free will. Second, even if the Strong Luck Problem must be faced by libertarians and compatibilists alike, compatibilists have access to potential solutions unavailable to libertarians (which is not to suggest, of course, that such potential solutions are guaranteed to succeed). For example, they may appeal to explicitly compatibilist accounts of responsibility that have independent merit and argue that, according to such accounts, indeterministic agency of the sort targeted by, for instance, the problem of present luck is compatible with responsibility. Alternatively, they might allow that indeterministic agency of this kind does increase luck and thus decrease moral responsibility – perhaps all the way to zero and perhaps not.

In what follows we see another tactic the compatibilist might use: she may try to show that an appealing solution to the Luck Problem can be modified into

⁵ Suppose libertarians tried to appeal to this solution. They would then be committed to the following three claims: (a) indeterministic agency is necessary for responsibility, (b) responsibility is compatible with indeterministic agency, and (c) deterministic agents are more responsible than indeterministic agents. It follows from the first claim that deterministic agents cannot be at all responsible. It follows from this and the third claim that indeterministic agents cannot be at all responsible. This last claim is inconsistent with the second claim. *Reductio*.

an argument for compatibilism. In particular, we will argue that Vargas's own solution to the Luck Problem provides us with an equally compelling argument for compatibilism. We will also point out problems with Vargas's solution.

5. *Vargas's Solution to the Luck Problem*

In this section we set out Vargas's own solution to the Luck Problem. Vargas sees his solution as a compatibilist one because it does not appeal to distinctively libertarian resources. That is, nothing in Vargas's solution commits him to incompatibilism.

Vargas introduces his solution by way of an analogy. He imagines a society that is trying to decide "how it will arrange various benefits, roles, and duties for its members in accord with their preferences and some or another fair and accepted decision procedure" (2012:426-27). The society whittles down the options to three, each of which is justified to the same extent by the society's preferences and other reasons. One individual, Themis, will be in very different social positions depending on which option is taken and will enjoy (or suffer) different treatment as a result. The society uses an indeterministic process to decide which scheme to enact. Whichever arrangement is selected, Themis is in no position to complain about it because, *ex hypothesi*, each scheme is justified. Vargas concludes from this that even though which scheme is chosen is a matter of luck, "such indeterministically generated luck would not undermine the legitimacy of reactions and interactions involving Themis so long as it was produced in a normatively satisfactory fashion" (which, indeed, it was) (2012: 427-28).

Vargas takes the case of free and responsible action to be analogous to Themis's society. He suggests that a system of responsibility consists of a series of "quality of will norms" the adoption of which helps agents "recognize and appropriately respond to moral considerations" (2012: 428). The system itself is justified teleologically (it is good to develop such moral agents) but individual responsibility judgments are justified from within the system: "At the level of the norms of the practice, agents are responsible because they violate quality of will norms, which are typically backward looking" (428).⁶ Given a view of responsibility like this, Vargas claims that the practice of moral responsibility and the reactions, attitudes and behavior to which it gives rise are justified even if the decisions of agents subject to this practice are undetermined.

To illustrate this point, Vargas considers AI, faced with an indeterministic decision between A and B (see note 4). He says:

⁶ We assume here that Vargas means only that *blameworthy* actions violate quality of the will norms, while praiseworthy actions comply with them.

We can grant that it is a matter of luck whether Al ends up doing A or B. However, we can also maintain that whichever action results does nothing to undermine Al's responsibility, just so long as there is an adequate justification for the norms, statuses, and reactions to which Al is subsequently subjected. Recall that what makes Themis ill-positioned to complain, even in the face of the real existence of cross-worlds luck about her position, is that the norms governing her status are justified, regardless of the particular outcome in a constrained set of possibilities. What would make Al ill-positioned to complain are similarly well-justified norms and duties governing reactions to his undertaking whatever action he undertakes. So long as we have that – a luck-tolerant social scheme where the available statuses are justified, whatever they turn out to be – we need not worry that cross-worlds luck undermines the integrity of responsibility ascriptions. (2012: 429)

If our practices of moral responsibility are justified teleologically in the way Vargas suggests, it may indeed be reasonable to suppose that Al's decision's being undermined does not undermine the general justification of these practices and their applicability to Al's case. If this is right, Vargas's compatibilist solution to the Luck Problem is successful.

After Vargas sets this solution out, he claims that piggybacking libertarians can borrow it to immunize themselves against luck. The truth of indeterminism (and the ubiquity of indeterministic agency) does not undermine moral responsibility. In his view, this is something supercompatibilist and libertarian alike should accept.

6. *Problems with Vargas's Solution*

There are at least three problems for Vargas's supposedly libertarian-friendly solution to the Luck Problem. First, if it is successful, there seems to be an equally good related argument for compatibilism (and thus it is not so libertarian-friendly after all). Second, Vargas's argument ignores the role of control in moral responsibility. Third, many (if not all) incompatibilists will reject the idea that the practice of moral responsibility has the kind of justification that Vargas suggests for it. We discuss each problem in turn.

6.1 An argument for compatibilism

Vargas's solution to the Luck Problem can be altered slightly to produce an argument for compatibilism. In this section, we present this case, as put forward by an imaginary philosopher named "Schmargas" in his fictional paper "Why Incompatibilism Isn't".

Schmargas introduces his argument for compatibilism by way of an analogy.

Imagine a society that is trying to decide how it will “arrange various benefits, roles, and duties for its members in accord with their preferences and some or another fair and accepted decision procedure” (Vargas 2012: 426-427). The society whittles down the options to three, each of which is justified to the same extent by the society’s preferences and other reasons. One individual, Beavis, will be in very different social positions depending on which option is taken – and will enjoy (or suffer) different treatment as a result. The society uses a pseudo-random deterministic process to decide which scheme to enact (determinism is true and thus the society cannot use an indeterministic process). Whichever arrangement is selected, Beavis is in no position to complain about it because, *ex hypothesi*, each scheme is justified in the same way. Schmargas concludes from this that even though which scheme is chosen is determined, such a deterministically generated result would not undermine the legitimacy of reactions and interactions involving Beavis so long as it was produced in a normatively satisfactory fashion (which it was).

Schmargas takes the case of free and responsible action to be analogous to Beavis’s society. He, like Vargas, suggests that a system of responsibility consists of a series of “quality of will norms” the adoption of which helps agents “recognize and appropriately respond to moral considerations”. The system itself is justified teleologically (it is good to develop such moral agents), but individual responsibility judgments are justified from within the system: “At the level of the norms of the practice, agents are responsible because they violate quality of will norms, which are typically backward looking” (Vargas 2012: 428).⁷ Given a view of responsibility like this, Schmargas claims that the practice of moral responsibility, and the reactions, attitudes and behavior to which it gives rise, are justified even if decisions are determined.

To illustrate this point, Schmargas considers a deterministic agent, Mal, faced with a decision between A and B. He says:

We can grant that it is determined that Mal ends up doing A rather than B. However, we can also maintain that this does nothing to undermine Mal’s responsibility, just so long as there is an adequate justification for the norms, statuses, and reactions to which Mal is subsequently subjected. Recall that what makes Beavis ill-positioned to complain, even in the face of her social position’s being determined, is that the norms governing her status are justified, regardless of the particular outcome of the deterministic process. What would make Mal ill-positioned to complain are similarly well-justified norms and duties governing reactions to his undertaking whatever action he undertakes. So long as we have that – a determinism-tolerant social scheme where

⁷ We assume here that Schmargas means only that *blameworthy* actions violate quality of the will norms, while praiseworthy actions comply with them.

the available statuses are justified, whatever they turn out to be – we need not worry that determinism undermines the integrity of responsibility ascriptions.

If our practices of moral responsibility are justified teleologically in the way Schmargas suggests, it may indeed be reasonable to suppose that Mal's decision's being determined does not undermine the general justification of these practices, and their applicability to Mal's case. If this is right, Schmargas's argument for compatibilism is successful.

The above argument no doubt sounds very familiar. Schmargas is Vargas with a different hat on. The important point is that Schmargas's argument for compatibilism is almost exactly the same as Vargas's response to the Luck Problem. Furthermore, the arguments seem to stand or fall together. At the very least, Vargas needs to make far clearer how his solution succeeds while Schmargas's fails.

6.2 Control

An agent is directly morally responsible for an action only if she exercises sufficient control regarding it. While some normative systems (of distributive justice, perhaps, or of our treatment of animals) are not primarily concerned with the types or degrees of control that the objects of these systems exercise, the practice of moral responsibility is so involved. This practice can be seen precisely as that which tells us how to react to agents' exercising relatively high degrees and sophisticated types of control. While *other* practices need pay no attention to control, responsibility must.

The problem of present luck (or of Bare TWDs) is designed to highlight that indeterministic agents of the kind it targets might not exercise a type or amount of control necessary for responsibility. Vargas's solution fails to address this aspect of the problem.

Suppose that the practice of responsibility arises based on people's (perhaps well-supported) impression that agents exercise certain high degrees or relatively sophisticated types of control. Given that this impression is accurate, it is relatively easy to see how reactive attitudes (gratitude, resentment), and certain behaviors (reward, punishment) are justified. How much (and what kinds) of control agents exercise makes a difference to what kinds of reactions to these agents are warranted. To this extent, then, moral responsibility is one of a family of practices concerning people's reactions to other agents. Behavior over which an agent exercises little control, but which is disruptive, morally wrong, and dangerous, warrants certain kinds of reaction that do *not* amount to holding the agent responsible. Behavior over which agents exercise greater degrees of control can come to warrant reactions closer and closer to those

paradigmatic of holding agents responsible. Eventually, those agents who exercise control to a sufficient degree, and of the right type, are fully fledged responsible agents. The practice of moral responsibility concerns only the last type of agents, and only when they act with a certain degree of control.

Based on the above, it seems that Vargas's solution to the Luck Problem is too insensitive to considerations of control. If Vargas agrees that moral responsibility does involve control in the way suggested above, then he will have to claim that his solution shows that indeterministic agents of the sort targeted by the problem of present luck do exercise high degrees and sophisticated types of control. But it is far from obvious that he has the resources to do this. Vargas's solution is purely *normative* – the considerations he brings to bear cannot possibly tell us how much or what kind of control indeterministic agents exercise. And if they cannot do this, then they cannot tell us that such agents are morally responsible. Someone who regards the problem of present luck as insurmountable is likely to contend that the belief on which the practice of moral responsibility is based – that agents do exercise high degrees of sophisticated types of control – is false in cases of present luck. Vargas's proposed solution leaves this contention unanswered.⁸

Of course, Vargas might *disagree* that responsibility involves such control. But if responsibility does not involve such control, then (1) it is unclear why determinism threatens responsibility (if determinism allows full control, why does it rule out responsibility?) and (2) it is unclear that Vargas is saving the phenomenon that libertarians were interested in in the first place.

6.3 Desert

Finally, and briefly, we wonder how many incompatibilists will be willing to accept Vargas's teleological story concerning moral responsibility. It is, to be sure, far more sophisticated than earlier consequentialist accounts, and we do not (here) deny that it may be largely right. However, incompatibilists about responsibility are far more likely to think of responsibility as involving basic, non-teleologically-justified, desert. If blaming agents for actions determined by forces beyond their control is undeserved, or unjust, as incompatibilists suggest, our practice of responsibility requires more than mere teleological justification. Incompatibilists who take this line cannot avail themselves of Vargas's solution to the Luck Problem.⁹

⁸ Vargas 2013 may be able to provide the needed resources to counter the worry that indeterministic agency is too lucky to be free (see, e.g., 213-214, which sets out, among other things, Vargas's account of the kind of volitional control necessary for responsibility). But then these resources, rather than merely supplementing Vargas's suggested solution to the Luck Problem in his 2012, may replace it.

⁹ Vargas 2013 (chapter 8) explicitly rejects (and argues against) the idea of basic desert. Still,

Vargas might point out that such incompatibilists are not piggybacking libertarians. But if this is right, then we're no longer sure how many libertarians count as piggybacking. Just because event-causal libertarians such as Kane do not invoke strange powers of agent causation does not mean they have a teleological view of responsibility. Many incompatibilists think it simply is not *fair* to blame and punish those whose actions are determined by events beyond their control, irrespective of the consequentialist value of doing so, or of having a system that permits it. Vargas's gift to the libertarian, as with Fischer's, is most likely unwelcome.¹⁰

References

- Clarke, Randolph, 2005, "Agent Causation and the Problem of Luck", in *Pacific Philosophical Quarterly*, 86, 3: 408-421.
- Clarke, Randolph, 2003, *Libertarian Accounts of Free Will*, Oxford University Press, Oxford.
- Clarke, Randolph, 1997, "On the Possibility of Rational Free Action", in *Philosophical Studies*, 88, 1: 37-57.
- Coffman, E.J., 2010, "How (Not) to Attack the Luck Argument", in *Philosophical Explorations*, 13, 2: 157-166.
- Fischer, John Martin, n.d, "Toward a Solution to the Luck Problem", in David Palmer, ed. *Libertarian Free Will*, Oxford University Press, New York.
- Fischer, John Martin, 2012, *Deep Control*, Oxford University Press, New York.
- Fischer, John Martin, Mark Ravizza, 1998, *Responsibility and Control: An Essay on Moral Responsibility*, Cambridge University Press, Cambridge.
- Frankfurt, Harry, 1988, *The Importance of What We Care About*, Cambridge University Press, Cambridge.
- Frankfurt, Harry, 1969, "Alternate Possibilities and Moral Responsibility", in *Journal of Philosophy*, 66, 23: 829-839.
- Franklin, Christopher, 2011, "Farewell to the Luck (and *Mind*) Argument", in *Philosophical Studies*, 156, 2: 199-230.

we're not sure how many libertarians will follow him on this path. As he says in that very chapter, "A critic could think my account gives the wrong reason for the basis of desert, if he or she thought that the desert basis had to be tied to something like libertarian free will or some impossible notion of agency. If so, we can simply reject the requirement that we capture that notion of desert, perhaps doing so on familiar revisionist grounds" (261). While this last suggestion is open to revisionists and other compatibilists, it is not obviously open to many libertarians (and other incompatibilists).

¹⁰ For comments on a draft of this paper, we are grateful to John Fischer, Mirja Pérez de Calleja, and Manuel Vargas. This article was made possible through the support of a grant to Mele from the John Templeton Foundation. The opinions expressed in this article are our own and do not necessarily reflect the views of the John Templeton Foundation.

- Hobart, R.E., 1934, "Free Will as Involving Determinism and Inconceivable Without It", in *Mind*, 43, 169: 1-27.
- Kane, Robert, 1999, "Responsibility, Luck and Chance: Reflections on Free Will and Indeterminism", in *Journal of Philosophy*, 96, 5: 217-240.
- Kane, Robert, 1996, *The Significance of Free Will*, Oxford University Press, New York.
- Kearns, Stephen, n.d. "Compatibilism by Degrees".
- Levy, Neil, 2011, "Luck and Free Will", in Jesús Aguilar, Andrei Buckareff, Keith Frankish, eds. *New Waves in Philosophy of Action*, Palgrave Macmillan, New York: 173-188.
- McKenna, Michael, 2012, *Conversation and Responsibility*, Oxford University Press, New York.
- Mele, Alfred, 2013, "Moral Responsibility and the Continuation Problem", in *Philosophical Studies*, 162, 2: 237-255.
- Mele, Alfred, 2006, *Free Will and Luck*, Oxford University Press, New York.
- Mele, Alfred, 2005, "Libertarianism, Luck, and Control", in *Pacific Philosophical Quarterly*, 86, 3: 381-407.
- O'Connor, Timothy, 2000, *Persons and Causes*, Oxford University Press, New York.
- Pereboom, Derk, 2001, *Living without Free Will*, Cambridge University Press, Cambridge.
- Schlick, Moritz, 1966, "When is a Man Responsible?", in Bernard Berofsky, ed. *Free Will and Determinism*, Harper & Row, New York: 54-63.
- Smart, John, 1961, "Free-Will, Praise and Blame", in *Mind*, 70, 279: 291-306.
- Speak, Daniel, 2011, "Libertarianism, Luck, and Gift", in *The Modern Schoolman*, 88, 1/2: 29-49.
- Strawson, Peter, 1962, "Freedom and Resentment", in *Proceedings of the British Academy*, 48:1-25.
- van Inwagen, Peter, 2000, "Free Will Remains a Mystery", in *Philosophical Perspectives*, 14: 1-19.
- Vargas, Manuel, 2013, *Building Better Beings*, Oxford University Press, Oxford.
- Vargas, Manuel, 2012, "Why the Luck Problem Isn't", in *Philosophical Issues*, 22, 1: 419-436.
- Watson, Gary, 1987, "Free Action and Free Will", in *Mind*, 96, 382: 145-172.

Stephen Kearns
skearns@fsu.edu

and Alfred R. Mele
amele@fsu.edu

Department of Philosophy
Florida State University