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## The Truth in Compatibilism and the Truth of Libertarianism

In this paper, I want to attempt to provide a partial outline of a libertarian response to what I take to be the most powerful, widely promulgated and important line of anti-libertarian reasoning – a line of reasoning which I shall refer to as the Challenge from Chance. Though the Challenge has been formulated, over the years, in many different ways, the core idea is easy enough to characterise. The basic suggestion is that it is impossible to see how indeterminism could possibly provide us with anything that we might want in the way of freedom, anything that could really amount to control, as opposed merely to an openness in the flow of reality that would constitute merely the injection of chance, or randomness, into the unfolding of the processes which underlie our activity. Even those who are initially persuaded by incompatibilist arguments are often eventually convinced that compatibilism just somehow *has* to be made to work, because they are so compelled by the obstacle to libertarianism that the Challenge from Chance seems to represent. In some ways, then, I conceive of it as the libertarian's main task to provide a response to the Challenge – to show how the truth of indeterminism can possibly remain consistent with control being in the hands of the agent.

A full response to the Challenge from Chance is a large undertaking, with many parts and I cannot hope to provide that here. But I want in this paper to offer at least some reasons for supposing that a number of extant libertarian responses are not satisfactory, and an introduction to the way in which I would like to begin my own reply. In particular, I want to explain why it seems to me that the best initial move for the libertarian in the face of the Challenge is, ironically, one of concession to the compatibilist. The concession needs to incorporate both the admission that certain sorts of alternative possibilities are neither truly available to real, worldly agents, nor required in order that those agents should act freely; and the admission also that it is the compatibilist who tends to give the most plausible sorts of analyses of many of the 'can' and 'could have' statements which seem to need to be assertible of those agents we regard as free. However, I shall insist that this concession by no means brings compatibilism itself in its wake. The basis of my argument will be the observation that a free agent must, *a fortiori*, be an *agent*. And a proper understanding of the nature of agency, it can be argued – one which properly respects the sense in which it is genuinely *up to the agent* what occurs when she acts (even when she acts in ways which are *unfree* by the standards generally presupposed by the free will literature) – reveals agency to be inconsistent with determinism. There will not be space here to defend this view of agency against all-comers – what I shall argue for instead is at least the *prima facie* possibility of taking up a position which has the shape that I shall outline; and for its superiority over the more traditional libertarian view when it comes to responding to the Challenge from Chance.

### (i) *The Challenge from Chance*

Let me take a relatively recent formulation of the Challenge from Chance as my starting point. Alfred Mele formulates what he calls “a problem about luck for libertarians” as follows.<sup>1</sup> He notes that the typical libertarian believes that a free decision to A, made by a given agent, at a particular time *t*, could, at that very moment, have gone the other way. In the actual world, this agent – following Mele, I

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<sup>1</sup> Mele (2006), p.6.

shall call him Joe – decides at  $t$  to A. But in another world *with the very same laws of nature and the very same past*, the libertarian believes, Joe decides at  $t$  not to A. The world, as it were, must afford both possibilities, according to this libertarian; it must be genuinely open, at the moment immediately preceding  $t$  that either eventuality should happen. But in that case, Mele argues, the libertarian faces the following difficulty:

If there is nothing about Joe's powers, capacities, states of mind, moral character, and the like in either world that accounts for this difference, then the difference seems to be just a matter of luck. And given that neither world diverges from the other in any respect before  $t$ , there is no difference at all in Joe in these two worlds to account for the difference in his decisions.<sup>2</sup>

And if the difference in his decisions in these two possible worlds is just a matter of luck, Mele goes on to ask, how can it have been in any sense *up to Joe* which decision was made? How can it have been up to him which possible world became actual? And unless we can see that which decision was made was up to Joe, unless which possible world became actual was up to him, how on earth does the indeterminacy which has been posited by the libertarian contribute to his freedom and moral responsibility?

Let us begin by trying to put some flesh on the abstract bones of Joe's situation as it is imagined by Mele. Let us suppose, first, that Joe is attempting to decide whether or not to move in with his girlfriend. And let us imagine that what he decides at  $t$  is that he will move in. And let us begin by supposing, further (because to make this supposition presents the Challenge from Chance in what I believe is a usefully stark form) that the case is what I shall call a *clear* case, i.e. that it is completely obvious to Joe, having briefly deliberated, what he ought to do. We can imagine, for example, that Joe loves his girlfriend very much and enjoys spending time with her; she has a lovely flat, much nicer than his own mean bedsit which he has always loathed, and which is also much handier for Joe's work; he dislikes his own company and solitude makes him depressed; it would be much cheaper to move in with her than to continue to pay a separate rental, separate gas and electricity bills, etc. Let us suppose, in addition, that on reflection immediately prior to  $t$  he realises that he cannot, at the moment, think of any good reason *not* to move in with his girlfriend. And let us suppose, finally (and prescinding, for present purposes, from the delicate question of what it might mean to say this) that Joe makes his decision *on the basis* of this rational assessment. One thing we can surely say is that in such circumstances as these, it is definitely *not* a matter of luck that Joe decides as he does – at least, not in any way that might be thought to impugn such things as his agency, freedom, control or responsibility. His reasons are overwhelmingly good, and he chose rationally, on the basis of those reasons - and that means, surely, that no luck of any kind we need to be concerned about had anything to do with it.

This need not be to say, though, that luck does not enter the picture here at all. A first stab at saying what it is for something to be a 'matter of luck', I think, might go something like this: luck figures in our explanations when (i) events which are of some interest or significance to some individual (or individuals) unfold in a certain way, even though they might not have done, and when (ii) their unfolding in that way depends to some extent on eventualities or circumstances which it is not in the power

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<sup>2</sup> Mele (2006), p.9.

of that individual (or individuals) to control.<sup>3</sup> But if that is at least roughly correct, then there is a sense in which it might be argued that we are always *partly* at the mercy of luck whenever we act or decide to do anything at all. For instance, it is not entirely within my control whether or not my brain and body will continue to function properly from one moment to the next – and so it might be argued (provided one thinks that any given moment is a moment at which things *might* have gone wrong with one's brain and body in the relevant sense of 'might') that it is a matter of luck that I ever decide anything or do any of the things I intend to do. But we do not normally think that this shows that when things proceed in the expected way, there is any kind of problem about my freedom or agency. We must be circumspect, then, about the inference Mele makes from the claim that it is a 'matter of luck' that Joe decides as he does, given the libertarian view, to the conclusion that it is therefore not 'up to Joe' what gets decided. For it appears that it is a matter of luck in *some* sense that we ever manage to decide things, but this luck does not appear to prevent those decisions we do manage to make from having been truly up to us. And this means that we must be cautious, in turn, about the demands we impose on the libertarian. In particular, we must not insist that the libertarian story entail that luck be entirely *absent* from the arena of action – that is too much for anyone, libertarian or not, to hope for. The sensible demand seems rather to be this: that the requirements insisted upon by the libertarian ought not, at any rate, to be such as to *diminish* or *usurp* the control agents have over the movements and changes that occur in the world, imperfect though that control must be conceded, inevitably, to be. Luck may be allowed to have a place in the story of action – indeed, it is hard to see how it could be prevented from having such a place – but the libertarian ought not, by insisting upon the availability of certain sorts of alternate possibilities, to make things worse for the agent's capacity to control the course of events than they would otherwise have been.

Bearing this in mind, let us now ask why exactly Mele thinks that luck does indeed enter the story of action in a problematic way, given the libertarian's picture of what happens when an agent such as Joe makes his decision. The difficulty, presumably, is that as Mele conceives of it, the libertarian is committed to the view that Joe *could* have decided at *t* *not* to move in with his girlfriend. Moreover, on Mele's view, the libertarian is committed to *eschewing* the various rather sensible-looking ways which are available of making sense of this claim which might recommend themselves to a compatibilist. For example, on the version of libertarianism being taken for granted by Mele, the libertarian is committed to denying that all we mean when we say that Joe could have decided not to move in is that he could have made this decision *if he'd wanted to*, or *if he had seen any good reason to do so*; or that he had both the general ability and the opportunity to make the opposed decision; or that he made the decision in a perfectly ordinary way without e.g. having been subjected to hypnotic suggestion, high-pressure persuasion, blackmail, etc. All these are interpretations of what it is for Joe to have been able to do otherwise that the compatibilist can happily accept; but Mele's libertarian is understood to presuppose an interpretation of the claim that Joe could, at *t*, have decided not to move in with his girlfriend, which achieves a purer focus than any of these interpretations on the moment of actual decision and the possibilities then and there afforded by the total condition of reality. It has to be genuinely possible, according to Mele's libertarian, for the world to unfold from the moment just prior to

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<sup>3</sup> Unlike the concept of chance, it seems to me that the concept of luck has its real home in the discussion of human affairs – it is *we* who are subject to good and bad luck, and for whom things may turn out to be lucky or unlucky.

the moment of decision,  $t$ , in such a way that instead of deciding to move in, as he actually did, Joe might instead have decided not to do so. And yet no alterations in Joe's reasons, or in the train of thought immediately prior to his decision, which might account for this difference in the outcome, are permitted to be envisaged – for by hypothesis, this alternative possible world is to have exactly the same past as does the actual world, right up until time  $t$ . But if this is the case, then it does indeed look as though it is bound to be a matter of luck, at least to some extent, if the world in fact unfolds in such a way that Joe chooses the reason-favoured option. The reason for this, note, is not simply (as Mele's line of reasoning rather appears to suggest) that there is nothing *about* Joe which could explain why he chooses this option rather than the other, given that either is possible at the crucial moment. To make this inference would require the premise that if there is nothing *about* an agent which could explain why he  $\phi$ s rather than  $\psi$ s, it cannot be within the power of the agent to control whether he will  $\phi$  rather than  $\psi$ , and that is a tendentious premise which the libertarian might well reject.<sup>4</sup> The reason why luck appears to be involved is that the alternative future in which Joe chooses not to move in with his girlfriend seems impossible to envisage as anything other than the occurrence of a sudden and inexplicable chance event, unrelated in any intelligible way to Joe's desires, reasons or deliberations. The libertarian requirement that we must make space for this alternative future, therefore, appears to amount to an insistence upon the possibility that the decision be taken right out of Joe's hands at the crucial moment. Because (by hypothesis) this chance event (had it occurred) would have borne no relations of any intelligible sort to Joe's motivations and desires, to his prior train of deliberative thought, to his emotional responses to the alternatives he is imagining, etc., we find it very hard to envisage a narrative according to which we can think of such a decision as genuinely an intervention in the world on the part of *Joe*. We can only make sense of it (if we can make sense of it at all) as the product of some alien sub-personal system interfering darkly with the choices Joe himself might really wish to have made – and therefore, if such interference does not occur, we find it natural to suppose that it must have been lucky for Joe if it did not, since if it *had* done so, that would not have been up to him. And it is unintelligible why anyone should want to insist that the possibility of this sort of subversion should be a condition of freedom.

Indeed, it might very well be argued that the libertarian who insists that it must be genuinely possible at  $t$  that Joe should have made the decision not to move in with his girlfriend, faces more serious problems even than the Challenge from Chance. For it is not obvious that what it appears must be his view of the situation is even coherent. The libertarian whose views we are considering insists that it must be possible at  $t$  for the world to go forward in such a way that Joe decides (inexplicably) at that moment not to move in with his girlfriend. But could a sudden and irrational chance event of the sort it appears he is insisting must be possible, bearing *no* rational relations whatever to any of Joe's reasons, desires or prior deliberations even *be* a choice? I doubt it. It is true, of course, that we make many choices which may be accounted irrational – because, for example, they do not accord with our best reasons, or with our needs, or with the account we are inclined to give ourselves of what we ought to do. But it is hard to imagine something which counts as a genuine choice of which *no* pro-attitude-involving account at all can be given – even of the 'I just suddenly felt like doing it' kind. And we know that even this minimal rationality would have been lacking had Joe decided not to move in with his girlfriend, since we

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<sup>4</sup> Indeed, the account of actions I shall present in section 3 rejects this principle.

are sure that Joe did *not* suddenly ‘feel like doing it’ – that he did not do so is part of what has to be kept constant in the history of the decision. If it is right to think that a genuine choice has to be something with intelligible roots in such things as an agent’s reasons, desires, emotions and deliberative thinking, then, the position of Mele’s libertarian not only saddles us with the Challenge from Chance; it looks to be actually *incoherent* (if the insistence is that it has to have been possible at the time of the actual choice that the agent should have made the opposite choice from the one he in fact made, even in an utterly clear case where he has no reason or desire of any kind to make it).

What, then, is the libertarian to say at this point? I want next to explore two common sorts of extant libertarian reply to the Challenge from Chance and to explain why I find them ultimately unsatisfactory as they stand.

(ii) *Matters of Luck and Contrastive Explanations*

The first response I want to consider questions what appears to be the Challenger’s inference from the claim that it is *possible* that Joe might have decided at *t* not to move in with his girlfriend to the conclusion that it must be a matter of luck if he in fact decided at *t* to do so. For this sort of inference, it might be argued, can be shown to be invalid in general by reflection on certain sorts of case in which there are only probabilistic relationships between *explanans* and *explanandum*. Consider, for example, the following case, due originally to Paul Humphreys.<sup>5</sup> The bubonic plague bacillus will cause death in 50% to 90% of cases if left to develop without intervention in a human being. However, it is treatable with tetracycline, which reduces the risk to between 5% and 10%. Suppose now that we want to explain why Alice, who is infected with the bacillus, survived rather than not. Could we not say that it was because she had been treated with tetracycline, even though treatment with tetracycline does not reduce the risk of death to zero? Surely we could do so. And if this seems plausible, could we not apply it equally to the case of Joe? That is, even if it is not absolutely *ruled out* that he might decide not to move in with his girlfriend, we might still judge that such a decision is terrifically *unlikely*, given that Joe is a reasonable person in possession of facts which seem to add up to an overwhelmingly powerful case – and not in possession of any on the basis of which a case for deciding not to do so might be mounted. And given its unlikelihood, can we not insist that we are in possession here of a contrastive explanation of why Joe decided to move in with his girlfriend, rather than deciding not to move in with her, *notwithstanding* the possibility which remains open that he might nevertheless have made the opposite decision? But if we have a contrastive explanation, do we not thereby also have the means to rebut the suggestion that his having decided to move in with his girlfriend, rather than deciding not to do so, was a mere ‘matter of luck’? For it might be argued that where we have a contrastive explanation of why *p* rather than *q*, it cannot be a matter of luck *that p* rather than *q*.

Does this constitute an acceptable response to the Challenge from Chance? It is important, I think, to accept that the bubonic plague example shows that that the contrastive explanation of undetermined events is perfectly possible, and so that no acceptable version of the Challenge can proceed on the mere premise that an

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<sup>5</sup> From Humphreys (1989), p.100; discussed in Clarke (1996) from whose discussion I have borrowed the present description of the case.

undetermined result can never be contrastively explained. Nevertheless, it does not seem to me that the response is fully adequate to the particular case at hand. For as currently formulated, the principle on the basis of which I suggested the libertarian might hope to make her case – the principle that if it is possible to give an acceptable explanation of why  $p$  rather than  $q$ , it cannot be a ‘matter of luck’ that  $p$  rather than  $q$  – seems too strong. It is very tempting to continue to think that if the factors cited in the explanation of why  $p$  rather than  $q$  are not factors which strictly *rule out*  $q$ , and if we are unable to supplement those factors with additional others which, in conjunction with those originally cited *do* rule out  $q$ , that it might still remain at least *partly* a matter of luck that  $p$  rather than  $q$ . If Alice takes tetracycline and survives rather than dies, for instance, then it seems to be at least *partly* a matter of luck that she does so, at any rate unless we can give a further explanation of why *she* has survived, given that some who take tetracycline do not. And the same, it might seem, could be said of Joe – that it is at least *partly* a matter of luck if the world unfolds in such a way that he manages at  $t$  to make the sensible decision that he sees every reason to make, provided it remains possible for the contrary decision (if indeed it can be called a ‘decision’) to result. And once again, this does not seem to be the sort of luck about which we could simply afford to remain sanguine. For the luck here seems merely to create unnecessary obstacles to Joe’s exercising his powers in the way he sees fit; it rather looks as though it would be better for him and for his powers of agency if it was simply not there. The availability of a contrastive, probabilistically-based explanation of why Joe decided as he did does nothing to allay the concern that the transition which is made from one world-state to the next when Joe makes his decision could have been subverted by an event over which Joe himself appears to have no control.

This first response to the Challenge from Chance, then, I judge unsuccessful. The existence of a probabilistic explanation of an outcome is not enough to avert the worry that which outcome actually occurs remains at least partly a matter of luck – and even if the probabilities involved are such as to make the desirable outcome overwhelmingly likely, it remains inexplicable why anyone would want to insist on the situation’s being such as to allow the possibility that the agent’s will might be subverted at the last minute by something we can only really think of as an alien force, because of its lack of any connection to such things as the agent’s desires, beliefs, emotions, imaginings and deliberations.

### (iii) *Unfreedom in the Clear Case*

A second kind of response to the Challenge from Chance seeks to make progress by insisting that a distinction must be drawn between cases where one’s reasons make it clear what to do, and cases where they do not. This second sort of libertarian *concedes* to the compatibilist that in cases such as that imagined above, where one’s reasons for a certain course of action are overwhelmingly strong and it is obvious what to do, no alternative possibilities of a libertarian variety are available, and so that one does not act freely. On this view, it is accepted that Joe could *not* have decided not to move in with his girlfriend, his beliefs and desires being what they were, and that he was therefore *not* free (except in a sense perfectly available also to the compatibilist) to make the alternative decision. Nevertheless, it is insisted, there are many cases which are not at all like this – e.g., where the reasons for and against the relevant alternative courses of action do not clearly favour one course of action over another, or where a certain kind of incommensurability exists in the nature of

one's reasons – and in these cases, at least, the libertarian alleges, it is true that the agent could have done otherwise. Van Inwagen, for example, makes a case of this sort when he argues that we have “precious little free will”, on the grounds that free will is exercised only in a sharply delimited class of cases in which moral duty or prudential considerations conflict with desire, or in which our preferences for two or more competing courses of action are fairly evenly balanced.<sup>6</sup> Where there is simply no need to fight temptation or to settle the outcome of a ‘Buridan’s Ass’ type case, he suggests, though, there is no need to postulate the exercise of free will. And Laura Ekstrom appears to endorse a somewhat similar position, when she suggests that “Perhaps the *most* free acts derive from preferences whose probability of occurring was raised by the occurrence of previous considerations to values within a range of, say, 0.2-0.8, whereas the act would be less free when resulting from a preference at either end of the spectrum, that is, in cases where the considerations made the probability of the preference’s occurrence near 0.9 or 0.1”.<sup>7</sup>

It seems to me, however, that positions such as these are bizarre in the extreme. Surely no freedom or responsibility of any type worth wanting could be lacking to me just in virtue of the fact that I can instantly see clearly what is to be done and do not have to agonise about whether or not I should do it! Some libertarians have denied this and have toyed with the idea that although it may not be *better* not to be able to see clearly what ought to be done and to do it, one might nevertheless be *freer* under such circumstances. Ekstrom, for example, argues that “Being pushed into deciding in a certain way by anything – whether one’s grandmother, one’s genetic blueprint, or overwhelmingly powerful considerations – is antithetical to free agency.”<sup>8</sup> But “powerful considerations” are just not the sorts of things that can “push” me into deciding in a way that is antithetical to freedom because they can do nothing independently of my appreciation of them and my acceptance of them as reasons for me to act in a certain way. Reasons are just not the *sorts of thing* that (under normal circumstances) ought to be thought of as pushing me about – for my doing things intentionally is frequently just constituted by my acting upon them. It just seems terribly confused to suppose that just because it is highly likely that I shall perform some type of action,  $\phi$ , that this *in and of itself* reduces my freedom. Everything surely depends on *why* it is highly likely that I shall  $\phi$ . And if the reason is just that, having reflected, I can see utterly clearly that  $\phi$ -ing is the best thing for me to do in the circumstances, that surely has not the least tendency to suggest that I am unfree when I  $\phi$ , or that I could not have done otherwise in any sense that undermines any sort of freedom I should care about.

The sorts of claims I have just made are typically thought of as compatibilist property. It must be a *good* thing, the compatibilist thought goes, for my best reasons to determine what I do – how could any freedom worth wanting reside in the capacity simply inexplicably to ignore what I can see to be overwhelmingly good reasons to do some particular thing? It is a powerful point, and it is one that I should hereby like to concede. There is, I agree, no value in the world’s affording the possibility that a person might do something utterly independently of *any* reasons, pro-attitudes or other motivations she might have, however quirky, idiosyncratic or whimsical they might be – and so even if we are inclined to suppose that there is perhaps *some* possibility that Joe might have made the inexplicable, so-called ‘decision’ at *t* not to move in with his girlfriend (because, perhaps, there is some chance that a rationally

<sup>6</sup> Van Inwagen (1989), pp.399-422.

<sup>7</sup> Ekstrom (2000), p.125.

<sup>8</sup> Ekstrom (2000), p.129.



inexplicable event of this sort might have occurred at  $t$ ) that cannot be the sort of alternative possibility upon which the libertarian should insist. And if we are inclined to think it remains correct to say that Joe could at  $t$  have decided not to move in with his girlfriend, in a sense which *does* bear on Joe's responsibility for this decision, I suggest, the right account of what it means to say so must be of the sort that is generally offered by the compatibilist. We must mean that Joe could have decided not to move in with his girlfriend *if he'd wanted to*, for instance; or that he had both the ability and the opportunity to decide not to do so; or that nothing peculiar was constraining him or compelling him to decide to do so; or perhaps we mean some quite complicated combination of all these things.<sup>9</sup> The compatibilist has always been quite correct in her insistence that there is no intelligible value in the possibility of making lunatic 'choices' which bear no relation whatever to one's reasons and desires, and that such a possibility cannot be the basis of any freedom we might conceivably care about.

What I next want to argue, though, is that it does not follow from any of this that compatibilism is correct.

#### (iv) *Meeting the Challenge from Chance*

As I see it, the difficulty with the form of libertarianism attacked by Mele is that the alternative possibilities on which it insists are not the ones which form the most promising basis for a plausible version of the libertarian position. The form of libertarianism in question insists that the world must afford open possibilities corresponding to the 'could have done otherwise' claims we are often inclined to endorse when agents act freely – for example, that if I am inclined to suppose that Joe could have decided not to move in with his girlfriend, that that must imply that the world might have moved forward from the crucial moment of decision in this way rather than the way it in fact moved forward. But it is often most implausible, it seems to me, that the world really does afford such possibilities, particularly in cases of the sort I have described, which are clear – and even if it does, as I have tried to argue, it often remains hard to see why it would matter to the agent's freedom (except, conceivably, negatively) *whether* it does. Let me be clear that I do not doubt that there *are* cases in which it is possible for the world to unfold both in an S-decides-at- $t$ -to- $\phi$  sort of way and also in an S-decides-at- $t$ -not-to- $\phi$  sort of way – where the agent's actual decision just represents a last-minute plumping for one course of action or the other, which simply has no antecedents of a sort which might not equally have preceded the other decision. But even though I am sure there are such cases, it seems to me that the best hope for the libertarian lies in firmly denying that she believes *in general* that when an agent makes a decision, at a given time  $t$ , to  $\phi$ , that it is always possible that the agent should have decided, at that very same time  $t$ , not to  $\phi$  – that a future in which an agent decides at  $t$  not to  $\phi$  could *always* have evolved out of a past exactly identical to the one which *in fact* evolved into the opposite decision. The compatibilist, it seems to me, is simply right to remark that this amounts, in many types of case – those I have been calling *clear* cases – merely to the freedom to go mad – and that no such alternative possibility as this could possibly be the basis of a sensible libertarianism. We do not need, and should not want to have, a general

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<sup>9</sup> I do not here attempt to make progress with the development of precisely what the right compatibilist account here should be. I merely wish to concede for the sake of argument that it seems very likely that some acceptable compatibilist account can be given.

openness in the flow of reality which consists in the possibility of the world unfolding instantaneously so as to permit us to make decisions for which we can imagine no conceivable rationale – so we do not need the (incompatibilistically construed) power, in respect of each decision made, to have made the *opposite* decision at the very moment of choice.

It does not follow, though, that there is nowhere else to turn for those who feel that the prospect that determinism might be true presents a vision of reality which is inimical to freedom. This point indeed, has often been made by others in recent years; modern incompatibilists are often persuaded by Frankfurt-style examples that the capacity to do otherwise is not a necessary condition of moral responsibility, and have sought to rest their incompatibilism, therefore, on a different sort of footing, citing, for instance, the impossibility, under determinism, of an agent's being truly the ultimate creator and sustainer of her own ends or purposes, or the existence of a capacity for self-determination. These libertarians have moved upwards, as it were, in the scale of powers and abilities, in order to locate the capacities which the truth of determinism might appear to rule out – though the bare power to do otherwise may be granted consistent with determinism, they concede, there are other powers distinctive perhaps of *truly free* or *fully rational* or *wholly autonomous* or *genuinely moral* agents, which are not thus compatible. But I would like here to offer an alternative suggestion. I want to argue that it might be more promising to rest the case for incompatibilism on a range of rather more lowly powers than these – powers to effect movements and changes in the world which we share with many other animals. I want to claim that insofar as a genuine moment-to-moment openness is required to exist in the flow of reality if we are to be free agents, a kind of moment-to-moment openness that looks, *prima facie* difficult to square with determinism, this is because of conditions which attach to *agency* itself, not because of conditions which attach specifically to the particularly impressive forms of human agency which have tended to attract the honorific appellation 'free'.

Why might one think this? The crucial line of thought begins from a certain conception of agency. To be an agent, on this conception, is to possess a distinctive type of power – the power to settle, through the special bringings about of bodily movement and change we call *actions*, and, crucially, at the *time* of those actions, how certain things will be. In order genuinely to *settle* a matter, that is, to bring it about that one in particular of a range of genuinely possible alternatives obtains, rather than any of the others which might also have obtained instead, one requires *two-way* powers – the power *to  $\phi$  or not to  $\phi$*  in respect of at least some  $\phi$ . A mere one-way power simply to  $\phi$ , in the absence of the power also not to  $\phi$ , is insufficient for genuine settling – since that one will  $\phi$  at *t* will itself already be settled, if one lacks the power not to  $\phi$  at *t*. A one-way power can be the power to *cause* a certain outcome, but cannot constitute the power to *settle* whether that outcome or some other, obtains, because the causing of that very outcome will be *already* settled by the time the power is exercised, unless the power not to  $\phi$  is also simultaneously possessed. It is natural, I think, to suppose that we humans are settlers of certain things – but no less natural, I would maintain, to suppose that many other animals are, too – the controlled trajectories through the world which constitute their voluntary movements are settled, as are ours, at the time of action, and not before – and they are settled *by* the animals in question, *through* their actions, *as* they act. At minimum, an agent can settle various matters pertaining to the disposition in space, and the movement through it, of its own body – but it is essential for a creature's survival that other things also be settleable by that creature *through* its powers over its own body –

for example, by being able to move my jaw in a particular way, I may be able to bring it about that some food is broken down into digestible form rather than not. Even mental actions, I think, can be incorporated into this account of agency as involving the settling of matters concerning one's own body – for we might say that a mental action is a settling of how matters will be in respect of some part or property of the brain – though mental actions differ considerably from bodily ones in that we may, of course, have little or no insight into the physical character of the changes we in fact effect in the material substance of the brain when we do such things as choosing or deciding or voluntarily imagining or attending.

Now, what makes determinism ultimately so preposterous-seeming as an account of our world, one might think, is that nothing seems to be left, if determinism is true, for anyone to settle. All powers under determinism are mere one-way powers; their exercise, in the circumstances in which they are exercised, is always inevitable, given those circumstances together with the laws of nature. Everything is *already* settled under determinism, which leaves us with no way, one might argue, to respect the *distinctive* character of agency – everything becomes a mere part of the playing out of a pre-determined score, what James referred to as the “dull rattling off of a chain that was forged innumerable ages ago”.<sup>10</sup> For if everything is already settled, there simply cannot be any events occurring now which are the settlings of matters, and neither can there exist creatures or systems which have the power to settle them. That would mean, on this view of agency as settling, that there could not be actions, and there could not be agents, if determinism were true – which means, of course, that we have here the basic ingredients for a different sort of libertarianism from the traditional version that Mele considers – one which is rooted not merely in the idea that *free* agency is incompatible with determinism – but in the more radical suggestion that agency *itself* essentially involves the exercise of powers which could not exist in a deterministic universe – a claim I shall call Agency Incompatibilism.

It should be said that the case for Agency Incompatibilism is most naturally made in connection with the *bodily* powers we exercise over the movements and changes we effect in our own bodies as we lead our lives. The idea is that as we forge our route through the world, we animals are constantly settling matters that need not have been settled in those ways, thereby bringing to our universe a powerful source of *ongoing* unpredictability and variation. It is natural for the Agency Incompatibilist to have recourse to an ontology of *process* rather than of punctate *event* for the expression of her views; and a conception of human beings which has a very thoroughgoing respect for the embodiment which is a necessary condition of any animal nature will also have to be part of the picture. The focus of recent incompatibilists on phenomena which are both punctate and paradigmatically mental – such things as decisions and choices, for example – is a by-product of the causal theory of agency – a theory which tends to regard actions themselves as mere bodily movements produced by prior mental choosings or decidings – and which, if accepted as a metaphysical given by an incompatibilist, forces a search for the ‘point’ in the relevant causal chain at which the existence of a two-way possibility might be of some value to an agent – whereupon the point of choice or decision is frequently chosen. But the view of agency I should like to champion rejects the causal theory, together with its ultimately still dualistic conception of agency on which mental precursors are the causes of bodily movements. For the Agency Incompatibilist, an action is not a mere bodily movement, but rather the bringing about of such a

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<sup>10</sup> James (1890) *The Principles of Psychology*, Vol 1 (New York: Dover Publications, 1890), p.453.

movement (or more usually, a complex set of such movements) by the agent whose movement it is.<sup>11</sup> And alternate possibilities are present, according to the Agency Incompatibilist, not just at some crucial moment *before* the action proper is unleashed on the world, but rather *throughout* the activity which constitutes the action—the relevant alternate possibilities are *constantly* there. For as an agent acts, she is always exercising powers which are two-way powers; it is always within her power to desist from, or alter in various respects, the bodily movements and changes by means of which she organises her route through the world – though of course it may not be within her power to desist from or alter the *general nature* of that route. Instinct, desire, or even reason, may make it inevitable that an action of a certain particular sort will take place within a given time-frame unless some unexpected external intervention occurs – or even, in certain instances, that it will take place at a given moment. So it will not be true for just *any*  $\phi$  such that the agent  $\phi$ s and her  $\phi$ -ing is an action, that she could have done other than  $\phi$  (except perhaps on a compatibilist reading of ‘could have’). But the crucial point for the Agency Incompatibilist is that there will always be *some* description, ‘D’, of any  $\phi$ -ing which is an action, such that the agent could have done other than perform an action of the D-kind – for any action will inevitably be constituted by individual movements and changes which the agent need not have brought about. All actions, the Agency Incompatibilist believes, resolve ultimately into sub-actional components which are the exercises of two-way powers. And this is inconsistent with the truth of determinism.

What, though, is the Agency Incompatibilist to say about such punctate mental actions as decisions and choices? Here there do not seem to be any sub-actional components, or, rather, if there are, we do not know anything much about them, so we do not have available the same rich sense of the range of *different* ways in which one might have enacted the same act-type, as we do when considering an action which is, or involves, the bringing about of a bodily movement. But there may nevertheless be such differences – each decision-making event may in fact be the bringing about of some neural flow, say, which the agent need not have brought about. Moreover, it will generally be true that the *time* of decision is something settled by the agent as she decides. For usually when one decides at  $t$  to  $\phi$ , one is able, at the same time, not to decide at  $t$  to  $\phi$  – even if it is made more or less inevitable by one’s motivations that one will decide to  $\phi$  within a certain time-frame. In the case of our agent Joe, then, the mistake made by the traditional libertarian was to insist that the world must afford the open metaphysical possibility of his making the *opposite* decision at the very time at which he made the rational one he in fact made – a possibility that it seems very likely it did not in fact afford and which we cannot in any case understand as being a necessary condition of Joe’s freedom. Whereas what Joe really needs, according to the Agency Incompatibilist, is the two-way power which is implied by *all* exercises of agency – that is to say, as well as the power to make the (token) decision he in fact made, the power *not* to have made it. Mele’s negation, in other words, is in the wrong place. It is not necessary that it have been possible for Joe to decide at  $t$  *not to*  $\phi$ ; that is the silly demand rightly ridiculed by the compatibilist. What needs to have been possible is merely that Joe *not* decide at  $t$  to  $\phi$ . He needs this power in order that his actual decision should count as an exercise of agency, and hence as a real decision, at all.

Doesn’t the Challenge from Chance simply rear its head all over again, though, it might be asked? Can’t it now be said that it must be a matter of luck

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<sup>11</sup> For a defence of this view of actions see e.g. Hornsby (1980), Pietroski (2000) Steward (2000).

whether Joe decides at  $t$  to move in with his girlfriend or does not decide at  $t$  to do so – and that this is inconsistent with its being up to him what happens at  $t$ ? But I think the answer to this question is ‘no’. It is not a matter of luck because whether or not Joe decides to move in with his girlfriend at  $t$  depends entirely on him – in particular, on whether he exercises his two-way power of decision-making then – something he may, but need not do. The original case was different – for it appeared that in order to make space for the alternative possibility on which the traditional libertarian was insisting, we had to be able to imagine Joe’s making a positive decision to do something he has no imaginable reason or desire to do – not even a momentary or whimsical one. These are conditions which entirely sever the so-called ‘decision’ from the explanatory apparatus in terms of which we normally make sense of such occurrences, and this severance leaves us unable to understand what makes the decision an intervention in the world on the part of *Joe*. We can only think of the so-called ‘decision’ in this case as the irruption of an alien influence into Joe’s normal decision-making processes. But this is not so in the current case. Joe’s not deciding to move in with his girlfriend at  $t$  in a circumstance in which he *could* have thus decided would not have been a fluke event – indeed, it would not have been a positive event at all – it would have been a state of affairs that Joe had, through inaction, simply permitted to occur, when he need not have permitted it to occur. And we do not generally need positive reasons and desires to explain why, at a given particular moment, we did not act, rather than acting at that moment. We do not usually *have* reasons for doing things at the very times at which we do them in the first place, so there is nothing about the situation we are asked to envisage – a situation in which, perhaps, Joe simply left the decision a bit longer – that causes us to worry about whether the question whether action or inaction would occur at  $t$  was up to Joe. Moreover, even in the rare cases in which we *do* have such reasons – for example, cases in which a crucial chance will be lost if we do not seize the day – there is nothing extraordinary about the supposition that a given agent might dither too long and fail to make a given decision in time, thereby missing a golden opportunity. Though I suppose it does constitute a variety of irrationality, this is a perfectly normal human experience. Decisiveness is an executive virtue we do not all possess – so vacillation – even vacillation that is ultimately fatal to treasured aims – does not constitute the sort of behaviour we cannot make sense of at all. The crucial point which enables us to make sense of it, is that all actions, including decisions, *are* executive. We need to execute them. The default position with respect to each act-type we *might* choose to execute is *inaction* – inaction being what happens when we do not execute and which is therefore always in our power when the action is. Inaction at a given moment may be possible for an agent, even where it is inconceivable (owing, say, to powerful motives) that that same agent will not act in a certain way *within a certain time-frame*. The crucial thing is that the *details* of action are up to us – in this case the ‘when’, but more generally also the ‘how’ and sometimes the ‘where’ – even when the ‘whether’ is beyond our control. That this is so is part of what it is for us to be the agents of the eventual executions.

I want to maintain, then, that it was possible, at a moment very slightly before  $t$  that Joe not have decided, at  $t$ , to move in with his girlfriend – that it is perfectly possible that Joe might, for instance, have gone on deliberating a little longer, or begun to think about something else, or decided to postpone the decision until he had had the opportunity to discuss the matter with one of his friends. He did not *have* to decide at  $t$  to move in with his girlfriend – nothing made it inevitable that he would do so – even if it was inevitable, given his desires, that a decision of this general *kind*

would ultimately be the outcome of his deliberations. And I want to maintain also that it is necessary in order that we can regard the decision as genuinely *that* - a decision – that these possibilities be open – for only in such circumstances are we able to regard the decision as an exercise of a two-way power, something it must be if it is to be an action at all. But determinism, of course, is inconsistent with these possibilities, for determinism implies that conditions immediately preceding *t* made it inevitable that Joe would decide at *t* to move in with his girlfriend. And this looks to be incompatible with the idea that he need *not* have made this decision at that time.

What I would like to suggest, then, is that the best first move for the libertarian wishing to respond to the Challenge from Chance is to break free of one of the commitments with which she is frequently saddled – the commitment to the view that a free agent must always have the ability, at the time of any given actual decision between two options, to decide for either option – or at any rate, if such a capacity really is essential to free agency, a compatibilistic understanding of what it involves will typically be all that is required. It is not necessary that it genuinely have been possible for either type of future to emerge instantly from the conditions pertaining immediately prior to the time of decision, *t*. But it does not follow from this that there are no incompatibilist alternative possibilities requirements on action at all. If Joe could not have *refrained*, at *t*, from the particular piece of decision-making activity in which he in fact engaged at that time, I maintain – if no futures are available to him in which he does not make this token decision at *t* – then his so-called ‘decision’ is revealed not really to have been one, for it is revealed thereby that he was not an agent, not a settler of matters in respect of its occurrence. The alternative possibilities on which the libertarian ought to focus are not the powers to act in either of the ways proposed by any arbitrary imagined moral or practical dilemma. They are instead the lower-level two-way powers to  $\phi$  or not to  $\phi$  in whose exercise action, properly understood, should always be thought of as consisting.

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