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The Significance of Free Will by Robert Kane

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I have considerable admiration for this book. It is, quite simply, the best presentation of the “positive” aspect of libertarianism I have ever read. (I distinguish the positive component of libertarianism from the critique of compatibilism, which might be dubbed the “negative” aspect of libertarianism.) Kane goes farther than anyone else in developing a detailed account of libertarian agency. Further, he usefully shows how libertarianism need not be saddled with mysterious, extravagant, or anti-scientific metaphysical views (associated, say, with various “agent-causation” models or with a belief in a Kantian “noumenal realm,” interpreted along the “two-worlds” line.) Kane shows a comprehensive mastery of the historical and contemporary literature on free will. He is careful, fairminded, and even generous to his adversaries (a trait lamentably rare in debates about free will). Having said the above, I now proceed to spend most of this piece focusing on places of disagreement. This follows a common practice in contemporary philosophy, which, I confess, I have lamented as an author! (But here I am not the author...)

I. *Ultimate Responsibility: Alternative Possibilities.* I shall focus my critical comments on Kane’s crucial notion of “ultimate responsibility”—and his condition “UR.” Kane insightfully distinguishes between two separate necessary conditions for moral responsibility. First, many philosophers have contended that moral responsibility requires alternative possibilities (of some relevant sort at some appropriate time). Of course, a commitment to this condition is one of the most salient reasons why it has been thought that causal determinism rules out moral responsibility. Insofar as causal determinism appears to expunge alternative possibilities of the relevant sort, and alternative possibilities are required for moral responsibility, causal determinism seems to be inconsistent with moral responsibility. Traditionally, much debate has centered on the question of whether causal determinism does in fact eliminate the pertinent sort of alternative possibilities. But in recent years, there has been a spirited debate about whether moral responsibility does indeed require alternative possibilities.

Kane points out that there is another necessary condition for moral responsibility, and thus a different reason to worry about the relationship between causal determinism and moral responsibility. This second condition is the condition of “ultimate responsibility.” It seeks to capture the strong intuitive idea that an agent must be the *ultimate source* of the behavior in question, in order for him to be morally responsible for it. If someone were to ask why we should worry about the relationship between causal determinism and moral responsibility, apart from the question of whether causal determinism rules out alternative possibilities, the intuitive idea behind UR appears to provide an answer. Even if moral responsibility did not in fact require alternative possibilities, it seems that if causal determinism is true, an agent would not be the ultimate source of his behavior—and thus not morally responsible for it. Put in a slightly different way, even if the alternative-possibilities condition for moral responsibility is abandoned, the ultimate-responsibility condition gives a reason to believe that causal determinism rules out moral responsibility. It gives a reason why I would want it to be the case that my behavior is not the product of a deterministic causal chain which began before my birth.

Now I believe that it is not clear that one can go from the inchoate intuitive idea that I want to be the ultimate source (in some sense) of my behavior to the conclusion that I want it to be the case that my behavior is not causally determined. But the point that this intuitive idea provides a separate reason to worry about causal determinism—quite apart from considerations of alternative possibilities—is a deep and important one. I am confused, then, as to why Kane formulates his condition UR in such a way as to import considerations of alternative possibilities:

(UR) An agent is *ultimately responsible* for some (event or state) E’s occurring only if (R) the agent is personally responsible for E’s occurring in a sense which entails that something the agent voluntarily (or willingly) did or omitted, and for which the agent could have voluntarily done otherwise, either was, or causally contributed to, E’s occurrence and made a difference to whether or not E occurred; and (U) for every X and Y (where X and Y represent occurrences of events and/or states) if the agent is personally responsible for X, and if Y is an *arche* (or sufficient ground or cause or explanation) for X, then the agent must also be personally responsible for Y. (p. 35) [endnotes omitted]

(UR) expresses a central idea of Kane’s book. He spends a great deal of time explaining its components. I must confess that I sometimes yearned for a rather more elegant formulation. Also, I simply do not see why (R) contains the requirement that the agent “could have voluntarily done otherwise.” This seems to conflate the ultimate-responsibility condition with the alternative-possibilities condition, or at least to make their demarcation significantly less clean. (In an endnote associated with [R], Kane says that the “could” need not be interpreted incompatibilistically; but quite apart from

whether one interprets it incompatibilistically or compatibilistically, I do not see why it is here at all, given that [UR] is evidently seeking to capture an intuitive idea of ultimacy that is supposed to be separate from the idea of alternative possibilities.)

In motivating his condition (UR), Kane says, “Klein calls the condition in question the ‘Ultimacy-condition’ and defines it as follows: ‘Agents should be ultimately responsible for their morally relevant decisions or choices—*ultimately* in the sense that nothing for which they are not responsible should be the source [or cause] of their decisions or choices.’” The intuition behind the quotation from Klein could certainly incline one to want it to be the case that one’s behavior is not causally determined; but I do not see that it would similarly incline one toward accepting the “could have voluntarily done otherwise” clause in Kane’s (R).

Consider, for example, the “Frankfurt-type” cases in which an individual intentionally and voluntarily chooses and behaves as he does, and yet in which some fail-safe mechanism exists and is such that it renders the individual unable to choose or do otherwise. (I shall return to such cases, and Kane’s treatment of them, below.) It seems irresistible to say that the individual himself is the source of his behavior; given that the fail-safe device does not actually intervene (and is thus a merely *counterfactual* intervener). He is the source of his behavior, but he could not voluntarily have chosen and done otherwise. Now someone might worry that the individual in a Frankfurt-type case would *not* be the “ultimate” source of his behavior, in the relevant sense of ultimacy, if it turned out that causal determinism obtains in the examples. I grant that this is a legitimate issue. But *this* worry should *not* issue in the addition of the “could have voluntarily done otherwise” clause to (R); if anything, it should issue a non-determination requirement.

Later in the book, Kane says, “... we feel that if a Frankfurt controller never actually intervened throughout an agent’s entire lifetime, so that the agent always acted on his or her own, then the *mere presence* of this controller would not make any difference to the agent’s ultimate responsibility. This intuition can and should, I think, be retained.” (p. 143) But I do not see how this intuition can easily be maintained, given Kane’s “could have voluntarily done otherwise” addition to (R).

Kane seeks to explain this addition to (R) by arguing that if an individual genuinely acts freely and is thus morally responsible, even in a world in which there is a Frankfurt-type counterfactual intervener associated with him *for his entire life*, then it must be the case that the individual at least sometimes has alternative possibilities. I shall briefly lay out what I take to be Kane’s reasons for this important claim, and I shall explain why I disagree. If one does *not* believe that an agent who acts intentionally and freely must indeed have alternative possibilities, this is even more reason to delete the “could have voluntarily done otherwise” clause from (R). This deletion is in

any case more natural and conceptually crisp; it preserves the sharp distinction between the “alternative possibilities” and “ultimate responsibility” conditions, which I believe is more analytically perspicuous.

Kane’s argument is roughly as follows. (pp. 142–43) Let’s say that Jones is deliberating about whether to do A or B. If Jones freely chooses to do A (and freely does A), this choice and action must not be the result of a causally deterministic process. (I shall grant Kane this, for the sake of discussion here; the relevant issue here is not about determinism, but whether alternative possibilities are present, even in a Frankfurt-type world.) Prior to Jones’s making his choice, there can be no sign of his future choice which would indicate *with certainty* that Jones is about to choose (say) A; if there were such a sign, it would follow that the choice and action were the result of a causally deterministic sequence. But given that there can be no such sign, Black, the counterfactual intervener, has the following dilemma. If he actually intervenes to ensure that Jones chooses A and does A, then Jones would not be choosing and acting freely—and thus Jones would not be morally responsible for his choice and action. And if Black were to refrain from intervening just prior to the choice, then Jones would seem to have freedom to choose otherwise. (After all, the prior sign does not guarantee that Jones will choose A.) Thus, if causal determinism is hypothesized to be false, and Jones is acting freely, then he must have at least some alternative possibilities.

This is a powerful and challenging argument.¹ I do not think that it is straightforward that it can be defeated, and so I think that my earlier confidence that Frankfurt-type examples can exist in causally indeterministic worlds was perhaps the result of youthful optimism.² But even though I do not still think that it is obvious and straightforward that there can be Frankfurt-type cases in causally indeterministic worlds, I am still strongly inclined to this view.³

Recall that the original “Frankfurt-type” case was presented by John Locke in *An Essay Concerning Human Understanding*. Locke’s example is a case in

¹ For similar arguments, see David Widerker, “Libertarianism and Frankfurt’s Attack on the Principle of Alternative Possibilities,” *Philosophical Review* 104 (April 1995), pp. 247–61; and “Libertarian Freedom and the Avoidability of Decisions,” *Faith and Philosophy* 12 (January 1995), pp. 113–18. Also, see John Martin Fischer, “Libertarianism and Avoidability: A Reply to Widerker,” *Faith and Philosophy* 12 (January 1995), pp. 119–25; David Widerker and Charlotte Katzoff, “Avoidability and Libertarianism: A Response to Fischer,” *Faith and Philosophy* 13 (July 1996), pp. 415–21; and David P. Hunt, “Frankfurt Counterexamples: Some Comments on the Widerker-Fischer Debate,” *Faith and Philosophy* 13 (July 1996), pp. 395–401.

² John Martin Fischer, “Responsibility and Control,” *Journal of Philosophy* 79 (January 1982), pp. 24–40.

³ I have learned much from the following: David P. Hunt, “Moral Responsibility and Unavoidable Action,” forthcoming in *Philosophical Studies*; and Alfred Mele and David Robb, “Rescuing Frankfurt-Style Cases,” *Philosophical Review* 107 (January 1998), pp. 97–112.

which “a man be carried whilst fast asleep into a room where is a person he longs to see and speak with, and be there locked fast in, beyond his power to get out; he awakes and is glad to find himself in so desirable company, which he stays willingly in ...”⁴ In Locke’s example, the man stays in the room voluntarily, and it seems that he does so freely and can be morally responsible for doing so, although he could not have left the room. Of course, the man *does* have various alternative possibilities (apart from special assumptions): he can choose and try to leave the room, for example.

Enter Frankfurt. Frankfurt seeks to construct examples in which even these sorts of alternative possibilities have been eliminated. To do this, Frankfurt employs the apparatus of a counterfactual intervener who can monitor the brain and intervene in it, should the agent be about to choose to do otherwise. In order to flesh out these examples, it is useful to posit a “prior sign” that can be read by the counterfactual intervener and guide him in his activity.⁵ If the sign indicates that the agent is about to choose to do what the counterfactual intervener wants him to choose, the intervener does not intervene. If, contrary to fact, the agent were about to choose differently, the prior sign would inform the counterfactual intervener (and he would intervene).

This sort of set-up works nicely (to show that moral responsibility need not require alternative possibilities) in a causally deterministic world. But, as Kane points out, it does not appear to do the trick in an indeterministic world. This is because (as explained above) the prior sign that indicates that the agent is about to choose what the counterfactual intervener wishes him to choose does *not* guarantee that the agent will so choose; thus, just prior to the relevant time, the agent still has the power not to choose the act in question (even though he has exhibited the prior sign indicating that he will choose this act).

Call a Frankfurt-type case which works as above, a “prior-sign” case. It is important to see that there can be *another* sort of Frankfurt-type case, which takes its cue more closely from Locke’s example; I shall refer to such a case as a “blockage case.”⁶ Note that in Locke’s example the door to the room is actually locked (no matter whether the man is inclined to choose to stay in the room or not). Imagine, then, that although the actual neural processes in one’s brain (I am here supposing that the mind supervenes on the brain) take place indeterministically, *all other neural pathways are blocked*.⁷ This is a

⁴ Book II, Chapter XI, Sec. 10.

⁵ David Blumenfeld, “The Principle of Alternate Possibilities,” *Journal of Philosophy* 68 (June 1971), pp. 339–45.

⁶ I owe this point to David Hunt, “Moral Responsibility and Unavoidable Action.”

⁷ I borrow this example from David Hunt, “Moral Responsibility and Unavoidable Action.” He develops this—and related—examples further in, “Freedom, Foreknowledge, and Frankfurt,” unpublished manuscript. There may be problems with the issue of the term-

way of bringing the locked door—the blockage—into the head. This, then, is an alternative way of solving precisely the problem Frankfurt sought to solve. And, importantly, it does *not* introduce alternative possibilities of any sort. One might commend Frankfurt for addressing the salient problem with Locke's original example, but suggest that Frankfurt made the mistake of not sticking closely enough to the basic structure of Locke's example. If the blockage cases (suitably filled in and developed) are coherent, then Kane's argument that there must be alternative possibilities in an indeterministic context in which the agent acts freely fails. Given this, I do not see any justification for the "could have voluntarily done otherwise" clause in (R): it seems to be an entirely gratuitous accretion.

II. *Ultimate Responsibility: Causal Indeterminism.* Thus far, my critical reflections have centered on Kane's argument that, if an agent is morally responsible, he must have alternative possibilities. I now turn to a key element of Kane's argument that ultimate responsibility—and thus moral responsibility—requires that an agent's behavior not be causally determined. Kane here tells a story that goes as follows. Classical compatibilists, who accepted something like the "conditional" analysis of the relevant sort of freedom or "can," could adequately explain why agents lack freedom when faced with external barriers; but they could not deal appropriately with internal barriers—barriers, say, to choice itself. A compatibilist such as Frankfurt, who employs a "hierarchical apparatus of motivation," can more adequately address problems posed by internal obstacles. So, for example, an agent who cannot choose the act she wants to choose is not free (in the relevant sense), according to the more sophisticated, hierarchical compatibilist.

But even this more sophisticated approach founders on what Kane calls "CNC" control—covert, nonconstraining control. Another agent—say, a mad scientist or my favorite sort of "nefarious neurosurgeon"—can electronically manipulate one's brain to implant the total constellation of mental states (first-order and higher-order). Or an evil totalitarian dictator can create conditions which produce such constellations in its citizens (say, by brainwashing, hypnosis, powerful conditioning, or drugs). The hierarchical conditions for freedom and moral responsibility may be satisfied in these cases, and nevertheless the agent is not, intuitively, free and morally responsible.

Kane now proposes that a compatibilist can take one of two tacks. A compatibilist, which Kane calls a "hard compatibilist," may simply bite the bullet and say that CNC control by another agent is perfectly compatible with any sort of free will that is reasonable to want. Kane adds:

nation of the actual sequence of mental events; for an example which seeks to solve this problem, see Alfred Mele and David Robb, "Rescuing Frankfurt-Style Cases."

But if hard compatibilism will not do, then compatibilists must take a softer line on CNC control. It is pretty obvious what they must do. They must emphasize the distinction between CNC *control* by other purposeful agents and *mere determination* by natural causes (without purposeful control by other agents)... The problem is to locate the relevant difference between the two that makes one of them (CNC control) objectionable and the other (mere determination) not. (p. 68)

He goes on to point out, plausibly, that as long as the sort of causation is the same, whether there is another agent at the end of the causal chain or not should make absolutely *no difference* to our ascriptions of freedom and moral responsibility. Kane concludes that in order to capture our deepest intuitions about freedom and moral responsibility, we must abandon compatibilism and require that our behavior be produced indeterministically.

But I believe that Kane's dichotomy is false. He leaves out a crucial possibility for the compatibilist. I do not believe that the compatibilist should distinguish between problematic causation by another agent and the same sort of causation by nature—this has no future. But the compatibilist should distinguish between *different kinds of causation*. In the CNC cases, the brain is being manipulated in certain problematic ways. But it is not at all obvious that all sorts of causal chains are relevantly similar. A plausible, promising compatibilist tack would be to distinguish the sort of causation in the CNC cases from the sort of causation involved in "normal" cases, given causal determinism.

This is the sort of approach I favor. I believe that the way to distinguish the two sorts of causation is in terms of the "responsiveness" of the two sorts of sequences. When a covert neurologist is manipulating your brain, the mechanism that issues in your choice and action is not suitably "reasons-responsive"; if the same sort of causation were to occur, but with no agent "initiating" it, the mechanism issuing in your choice and action would still not be reasons-responsive. In contrast, mere causal determination is entirely consistent with a reasons-responsiveness sufficient to warrant ascriptions of moral responsibility.⁸

III. *Conclusion*. I have, then, taken issue with the two main components of Kane's notion of ultimate responsibility (UR). I have contended that moral responsibility requires neither alternative possibilities nor the absence of causal determinism. Despite my disagreements with many of Kane's conclusions, I found this book highly instructive and engaging. It will help to

⁸ John Martin Fischer, *The Metaphysics of Free Will: An Essay on Control* (Oxford: Blackwell Publishers, 1994); and John Martin Fischer and Mark Ravizza, *Responsibility and Control: A Theory of Moral Responsibility* (Cambridge: Cambridge University Press, 1998). In the latter, we develop the additional idea that the mechanism must be the agent's own, in order for him to be morally responsible. This is necessary for a proper treatment of certain manipulation scenarios.

shape the course of research—especially on libertarianism—for years to come. It is a significant achievement.