Review of: "Beyond the Luck Problem: Addressing Discrimination in Event-Causal Libertarianism"

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Comments on "Beyond the Luck Problem: Addressing Discrimination in Event-Causal Libertarianism"

This is an interesting and well-written paper that I think deserves attention from anyone who takes ECL seriously.

The paper purports to identify a new problem that events ECL theories of free will and moral responsibility – the discrimination problem. This problem results from the fact that proponents of ECL are compelled to treat people differently when their only difference is at the level of their neural activity.   Imagine two people who perform a heroic act, but one of them (Carol) has a neural history that is entirely deterministic, while the other (Linda) has in her neural history some undetermined act that played some small role in shaping her current character.   It seems that Kane, a proponent of HM (History Matters), will have to say that Linda is at least slightly more morally responsible (actually ultimately responsible) for her heroic act than Carol is – despite the fact that Carol and Linda have lived essentially identical lives to date, as far as their overt behavior and introspective experience are involved. Another version of the thought experiment is provided that targets Balaguer's version of ECL.

Imagine now that society develops a new technology, PNS, that is affixed to everyone's wrist at birth – and PNS records the number of genuinely undetermined acts the agent performs over their lifetime.   Suppose it turns out that the population contains two types of people: C-people (whose histories contain no undetermined acts) and L-people (whose histories contain enough undetermined acts to make their adult character the product of their actional histories).

If ECL is true, L-people are morally responsible for their adult actions, but C-people are not – thus justice would require that these people be treated differently in terms of punishment and rewards.   But this would seem outrageous from the standpoint of the people themselves – an L-person would be held blameworthy for committing a crime while a C-person would not. This seems intuitively unjust, particularly in light of the fact that the C-people and L-people do not differ in any other way – the L-person who is morally responsible for committing a crime could cry out that it is unjust to punish them and not the C-person for something over which neither of them had any control (since neither controlled the causal structure of their neural states).

Admittedly, this argument has some punch.

I suggest the author consider the following objections:

1. Even if ECL is true, it's unclear what the consequences of this are for social practices of punishment and reward.

Even hard determinists are supportive of punishing people who commit crimes for reasons of deterrence, so no one would be prepared to punish an L-person for a crime while letting the C-person go scot-free. Kane himself concedes that agents who exhibit only compatibilist control are certainly responsible in 'some sense' for what they do, just not to the same degree as those displaying ultimate responsibility. The paper should acknowledge this and formulate the likely method of discrimination more carefully – perhaps a just system of punishment would punish L-criminals more severely than C-criminals (and reward L-heroes more than C-heroes), and this might be outrageous enough to sustain the importance of the discrimination problem.

2. It seems to me that we often punish some people and not others because of matters that are beyond the control of either. Some people have great upbringings and others have lousy upbringings, and this difference often leads to the former having successes (and avoiding crimes) while the converse holds true of the latter. So the mere fact that the differences in neural functioning are not under the agents' control can't justify the claim that it is unjust to treat the two populations differently (hard determinists to the contrary, of course). It is admittedly important that in the author's case the unchosen differences lead to precisely the same actions, performed in precisely the same mental state, but why is this terribly important?

3. It is feasible that the implementation of the ECL discrimination policy will lead to some kind of public uprising – given the predictable indignation that it will produce. But a proponent of ECL might find it reasonable to regard the general population as simply ignorant of philosophical truth – and thus as having no good reason to reject the policy. This could lead to a general educational program designed to teach the population about moral responsibility (Kane is required reading in high schools?) or even a repudiation of the discrimination policy as a matter of law, given its destabilizing effects on the population. But this wouldn't require the ECL proponent to surrender their position.