

The Phenomenology of Choice

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1 Introduction

1.1 Introduction

Throughout our lives we have to make choices. After college we choose where and what to study.¹ In a restaurant we choose what we want for dinner. When we plan our holidays we choose between different alternatives. In some cases we need to choose the morally right thing to do. In other cases we need to choose whether we favour our self-interest over the interests of others. While some choices – like choosing the starter of one's dinner in a restaurant – are unlikely to have a big impact on one's life, others – like what and where to study after college – have an immense one. Sometimes different choices can lead us through different paths to the same place, other choices can lead us to completely different places. Ultimately, the person we become depends on our choices.

Thus, it is not surprising that thinking about one's current and past choices plays an important role in our lives. In many situations we try to discover which alternative is the best one. At some times we have plenty of time to analyse the different options, at other times we have to take a quick decision. It is also not uncommon to wonder what would have happened if we had made a different choice at some point in our lives.

1 This and the following choices are just for illustrative purpose. The 'we' does not necessarily apply to the reader.

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A more academic question is whether we are free in our choices. While some defend the view that a person is free or acts out of her own free will when she has an alternative to act otherwise², others defend the view that acting out of free will consists in acting in accordance with one's will³. The question of free will is also an important topic because of its link to moral responsibility. A common view is to consider free will a necessary condition for moral responsibility. Only if an agent could have acted otherwise, she can be blamed or praised for her actions. But, as noted above, the definition of free will, as being able to act otherwise, is controversial. And the question whether being able to act otherwise really is a condition for moral responsibility is no less controversial⁴. For this reason, I have chosen to avoid using the notion of free will in this work and also to leave questions of moral responsibility aside. I focus solely on the topic of choice and alternatives. One of my goals in this work is to get a better understanding of what an alternative is and to make distinctions between different kinds of alternatives and different senses of 'can' which we attribute to agents. I argue that the difference between the kinds of alternatives and senses of 'can' are rooted in our phenomenal experience of choice.

A central goal of the present work is to tackle the compatibility question. Traditionally, the question is whether free will is compatible with the truth of the thesis of determinism. That is, the question is

2 E.g. Descartes (1641/1984) in Meditation IV: “the ability to do or not do something” as cited in O'Connor (2014).

3 E.g. Hobbes (1668/1997), p. 108: a person's freedom consists in finding “no stop, in doing what he has the will, desire, or inclination to doe [*sic*]” as cited in McKenna & Coates (2015).

4 Cf. Frankfurt (1969), Fischer (1994).

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whether we can have free will if determinism were true. Setting aside the notion of free will, I investigate whether the choices, as we experience them in our agentic phenomenology, are compatible with the truth of determinism. In order to do so, I raise the question of how the world has to be such that an agent really has the alternatives she experiences to have.

The present work is embedded in the current research on the phenomenology of agency which has gained in popularity in the last few years⁵. At the centre of this approach is the idea that in order to get a better understanding of human agency and the related concepts, we need to closely pay attention to our phenomenology. What this approach tries to discover are not some contingent traits of agentic phenomenology, but the essential traits commonly found in all rational human agents. Those traits are taken to be entrenched in the human nature.

In the present work, I argue that a deeply entrenched feature of agentic phenomenology of rational human agents is incompatible with the truth of determinism. That is, this experience would turn out to be systematically illusory if determinism were true. I take this result to provide a (partial) explanation of why libertarianism, i.e. the position that free will is incompatible with determinism and that we have free will, represents for many who encounter the free will debate for the first time the most intuitive position⁶, although libertarianism is

5 Most notably Wakefield & Dreyfus (1991), Horgan et al. (2003), Wegner (2002). An extensive overview of the different debates in the phenomenology of agency can be found in Bayne (2008).

6 This claim has been contended by philosophers who investigate this question by “testing folk intuitions” in so-called experimental philosophy,

metaphysically more demanding than compatibilism⁷. In other words, I suggest that libertarianism seems plausible to many who encounter the question of free will for the first time because the position is strongly linked to our phenomenology of agency.

1.2 Overview

I start by presenting my principal argument and proceed by clarifying and refining my account. After the introduction in the first chapter, I present my argument in the second chapter, which I call “my incompatibility argument”. The argument attempts to show that our experiences of choice would – under the assumption of nomological determinism – turn out to be systematically illusory. The argument relies on the analysis of the experience of alternatives as open and up to the agent – I call them OU alternatives. The third chapter addresses the question of how common experiences of OU alternatives are and continues with the question of how to count

see Nahmias et al. (2004). For a view with alternative experimental findings see Nichols (2004). In the present work, I do not address the findings and methodology of experimental philosophy.

- 7 Compatibilism, as the thesis that free will and determinism are compatible, does not require the truth or falsity of (the thesis of) determinism in order for an agent to have free will and is thus metaphysically less demanding. Some compatibilists do however not only argue that free will and compatibilism are compatible but they defend the position that free will requires the truth (of the thesis) of determinism, in that case the theory becomes similarly demanding.

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experienced alternatives. The chapter continues with a fundamental worry raised by Terence Horgan on the limits of introspection. Horgan defends the view that we are in fact tempted to answer the compatibility question negatively, but that we should resist this temptation because we are likely to commit several types of mistakes in our analysis. Following the discussion of Horgan's position, I address a challenge raised by Richard Holton on the distinction between local and global claims of compatibility. The chapter continues with the question whether the central phenomenon really is an experience of OU alternatives or whether we merely have beliefs about our alternatives being open and up to us. I then address the question whether the experience of OU alternatives is a perceptual experience. The chapter then continues with a fallback position for my incompatibility argument which does not rely on agentic experiences and ends with a sketch of an argument against compatibilism which relies solely on beliefs.

In the fourth chapter, I discuss four cases which allow me to clarify some important points about my analysis of OU alternatives. The fifth chapter discusses an argument presented by John Martin Fischer which he calls the basic version of the argument for incompatibilism. The discussion of Fischer's argument allows me to further elaborate my position on alternatives and can-claims. While Fischer identifies can-claims with what I call OU alternatives, I argue that we need to distinguish between two types of can-claims. The discussion of Fischer's argument continues in chapter six where the focus is placed on deliberation. I attempt to show that Fischer needs to accept some peculiarities which I can avoid thanks to the above distinction between can-claims. In the second half of the chapter, I address the question of compatibility between deliberation and the thesis of determinism. I discuss Derk Pereboom's deliberation-compatibilism

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and argue that it is not in conflict with my argument. I also reject an objection based on David J. Velleman's epistemic account of freedom.

The seventh chapter discusses Newcomb's problem. I present Fischer's solution and highlight the advantage of accepting my position. Further, the chapter discusses a variant of Newcomb's problem with an infallible predictor. This variant permits to formulate a challenge for Pereboom's epistemic account based on the combination of Peter Van Inwagen's Two Door scenario with Newcomb's infallible predictor. I finish the chapter by defending the view that a Newcomb's problem with an infallible predictor has no solution. In the final chapter, I present a recapitulation of the present work.

2 My incompatibility argument

2.1 Overview

In this chapter, I present my incompatibility argument in eight steps. The first step (1) is the description of the phenomenology of the experience of choice. I argue that in such an experience, at least two alternatives are presented as open and up to the agent. (2) is the premise that the experience has a content which can be assessed for its veridicality. The third premise (3) states that an alternative is open and up to the agent if there exists an extension in the future, of the actual situation the agent is in, in which the agent realizes the alternative. Based on premises (2) and (3) we obtain (4) the veridicality condition of an experience of choice. For every experienced OU alternative there must exist an extension of the current situation such that the alternative is realized in the extension. (5) is the premise that OU alternatives are mutually exclusive, that is, only one of them can be realized. (6) is the assumption of nomological determinism. Based on the definition of nomological determinism we obtain (7) that there exists only one extension in the future. Based on (1), (4), (5) and (7) we obtain the conclusion that under the assumption of nomological determinism all experiences of choice are systematically illusory.

2.2 The argument

(1) In an experience of choice, at least two open-and-up-to-the-agent alternatives (OU alternatives) are presented to the agent⁸ in her experience, i.e. two alternatives are presented to the agent in her experience to be open and up to her.

The motivation for this premise is phenomenological. I argue that in an experience of choice at least two alternatives seem to the agent to be such that they are open to her and it is up to her which of these alternatives she realizes. If only one alternative is experienced as open and up to the agent, then it is no longer experienced as a choice. If, for instance, I am tied to a chair such that I cannot move, I will not experience the situation to be a situation of choice because I experience the situation to be such that no alternative is open and up to me other than remaining seated.⁹ In a typical situation of choice, I am confronted with at least two alternatives which both seem to be such that I can choose to act so as to realize one of them. For instance, if while hiking I come to a crossroads, it will seem to me that

8 My claim is intended to describe the experience of choice of rational human agents. This does obviously not exclude the possibility that irrational or non-human agents have the same type of experience.

9 Note that while it seems as if I have no choice about whether to stand up or remain seated, it might still seem to me that I have a choice about my breathing speed, about whether to keep my eyes open or closed, etc.

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I can take either path.¹⁰ I seem to be in a situation such that both alternatives are actions I can realize next in the very situation I am in at the moment of choice.

Note that I am not hereby suggesting that agents experience counterfactual possibilities. For instance, while hiking, I might believe that I could have stayed at home. This possibility is likely to be true, as I could have decided not to go hiking in the morning but to remain at home and read a book instead. But I am not claiming that this type of possibility is the type of possibility phenomenally given in situations of choice. I claim that the possibilities given in a situation of choice are merely about possible actions I could do next in the very situation of choice I am in at that moment. Taking the right or left path are thus alternatives that I claim are given to the agent in her experience to be open and up to her, but I do not make any claims about whether the agent experiences the possibility of being at home instead of being on a hike.

My claim is not about an accidental feature of our experience, but about an essential feature. I claim that it is impossible to have an experience of choice without being given in experience at least two alternatives that seem to be open and up the agent. Neither should my claim be confused with the claim that one cannot choose without having an experience of choice. I am merely considering the cases

¹⁰ Other alternatives are given to me in this situation, too. For instance, stopping at the crossroads, walking back from where I was coming, or leaving the paths and walk off-path. In my argument, I focus on two out of these many alternatives, as my claim is that in a situation of choice at least two alternatives are given to the agent.

where an agent does have an experience of choice.

(2) An experience of choice is veridical if and only if all the presented alternatives are open and up to the agent. An experience is illusory if and only if one or more of the presented alternatives fail to be open and up to the agent.

I presuppose that experiences of choice have a content, i.e. the world seems to be a certain way. I further presuppose that the content can be assessed for accuracy.¹¹ If and only if the world is the way it seems to be, the experience is veridical. And if and only if the world is in conflict with the way the world is, the experience is illusory.¹²

If I am standing at a place which looks to be a crossroads and it seem to me that I can either take the left or the right path, then my experience is veridical if and only if I really stand at a crossroads and it is open and up to me to take either the left or the right path. However, if the situation is such that only one option is open to me, e.g. somebody has constructed an ingenious optical illusion such that it looks to me that I have two OU alternatives, but in fact there is merely a white wall on my right onto which a scenery has been projected such that it looks as if there was also a path on the right but

11 For a defence of this thesis see Horgan&Tienson (2002) and Siewert (1998).

12 The content of an experience is in conflict with the way the world is, if the proposition that is given to be true in the experience contradicts a true proposition about the state of the world, i.e. it is logically impossible for both propositions to be true.

there is in fact no such path, then the alternative of taking the right path fails to be open and up to me and my experience of choice turns out to be illusory. Similarly, if an evil neurosurgeon has implanted a device in my brain that prevents me from taking the right path then my experience of choice is illusory as the option of taking the right path is not open and up to me. These cases count as illusory experiences because one of the experienced OU alternatives fails to be open and up to the agent.¹³

This brings us to premise (3) in which I defend a necessary criterion that an alternative has to fulfil in order for it to be open and up to the agent.

(3) An alternative is an OU alternative (i.e. is open and up to the agent) only if there exists an extension of the situation of choice such that the agent realizes the alternative in that extension.

The premise is intended to capture the idea that it must be possible for the agent to realize the alternative in the situation she is in at the moment of choice. The agent needs to be able to do something in that very situation such that she realizes the OU alternative in question. It is not enough for the agent to have the general ability to

¹³ Note that this does not settle the question, whether the agent who decides to realize the one alternative which is open (and not the illusory one) has made a choice or not. One can argue, that the agent could have tried to realize the other alternative and in this sense another alternative was open and up to her. This, however, is not the focus of the present premise. Here, I am only concerned about the distinction between veridical and illusory experiences of OU alternatives.

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act in a certain way (e.g. she can swim), but the agent needs to have the specific ability to act in a certain way in the specific situation she is in at the moment of choice (e.g. she can swim and is in a swimming pool, etc.) in order to be able to realize the alternative. In other words, an agent has an OU alternative to swim only if (i) she has the ability to swim and (ii) she is at that moment in an appropriate situation for swimming. A situation is appropriate for swimming, if her ability to swim can manifest in that very situation. E.g. if the agent is in a swimming pool with water that has the right kind of temperature (e.g. is not frozen or boiling), has the right kind of dimensions (e.g. is deep and large enough), there is no external condition preventing her from swimming (e.g. being tied to a big stone), and there is nothing about her physical or psychological state at that moment preventing her from swimming, then she is in an appropriate situation for swimming. Whether the situation is appropriate must be evaluated on a case by case basis. If a situation is such that *normally* it would be appropriate to manifest the action (e.g. she is in a swimming pool), but for some special reason the agent cannot manifest her ability in that very situation (e.g. she has a cramp) then the agent is not in an appropriate situation to realize the alternative in question. Another way to explain what it means for a situation to be appropriate for swimming is that she is in a situation such that she has the opportunity to swim. She has an opportunity to swim, only if she is in a specific situation where her ability to swim can manifest. A third way to put this point is to argue that she does not only need to have the causal power to swim, but she needs to be able to exercise her causal power to swim in the situation she is in at that moment. I will not attempt to give a full-fledged definition of an agent being in an appropriate situation such that her ability can manifest / an agent having the opportunity to do something / an agent being in a situation

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such that she can exercise her causal power, but will only argue for a necessary condition that needs to be fulfilled: There must exist a possible continuation of the situation the agent is in at the moment of choice such that the agent realizes the alternative in that possible continuation. Possible continuations need to fulfil a set of criteria, which I present below. I call the possible continuations which fulfil this set of criteria extensions of a situation of choice. My claim is thus, that there must exist an extension of the situation of choice such that the agent realizes the OU alternative in that extension. Only if there exists such an extension, an agent can be in an appropriate situation for realizing that alternative / can have the opportunity to realize the alternative / is in a situation such that she can exercise her causal power to realize the alternative.

I use the term extension of a situation to express the fact that every situation has a past and a future.¹⁴ The past of that situation is nothing but the series of world-states before the world-state containing that situation. The future of that situation is nothing but the series of world-states that come after the world-state containing that situation. Let us apply this for a situation of choice. When an agent is in a situation of choice, the world is in a determinate world-state. This world-state has extensions in the past and in the future. All world-states that precede the world-state of the situation of choice are part of the extension in the past of the situation of choice. All world-states that come after the world-state of the situation of choice compose the extension in the future of the situation of choice.

Let us first look at the extension in the past. When an agent is in a

14 Unless the situation happens at the beginning or end of the world, if there is such a thing as a beginning or end of the world.

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situation of choice, she is in a determinate situation, i.e. the actual world is in a determinate world-state at that moment. I call the series of world-states in the actual world preceding the situation of choice 'the actual past'. The actual past consists of one determinate series of determinate world-states of the actual world which lead to the world-state at the moment of the decision. This claim is obviously not about our knowledge about the series of world-states which precede the current situation. It is a metaphysical claim about the actual world. I thus defend the view that the extension of a situation in the past is the actual past and that the actual past is fixed as it is a determinate series of determinate world-states.

Let us now turn to the extension of a situation of choice in the future.¹⁵ Intuitively, there is an asymmetry between the past and the future. While it seems intuitively obvious that the past is fixed, it seems less obvious that the future is fixed in the same way. There seems to be some sense in which the future is open or could be open. When we make a choice, it seems not yet fixed what we are going to do.¹⁶ I do not plan to tackle the question whether the future is in fact open or fixed, but want to make a proposal about what extensions (in the future) of situation of choices are which is

15 Note that when I talk of an extension of a situation of choice without specifying whether I refer to the extension in the past or in the future, I will be talking of the extension in the future.

16 Note that there are two senses in which the future can fail to be fixed. Either it is not yet fixed which series of events is going to be the actual future or nothing about the current situation one is in, including the laws of nature, fixes the future series of event, although there exists only one actual future. My suggested definition for extensions is intended to be as neutral as possible and to allow for both possibilities.

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compatible with both possibilities. My proposal is thus not to consider only whatever turns out to be the 'actual future' as the extension of the situation of choice, but all worlds in which the agent is in the same situation of choice as the situation of choice in the actual world. Given that we are interested in the extension of a specific situation, we are not interested in similar situations the agent could be in, but only in that determinate situation the agent is in at that moment. And as I have argued above, the situation the agent is in has a determinate extension in the past. So if we consider extensions of situations in which the agent is in the worlds considered they have the same extension in the past, i.e. these worlds have the same series of world-states in the past as the actual world.

The extensions (in the future) of a situation of choice are thus the series of world-states in these worlds which share the situation of choice and the (extension in the) past. This proposal is thus compatible with the possibility that it is open whether there is only one extension or whether there are several extensions of a specific situation.¹⁷

Note further that at this point I am only concerned about possible continuations of a determined situation of choice and not about other types of possibilities concerning the situation, e.g. the question whether such-and-such is/was possible simpliciter. In order to answer questions of possibilities simpliciter, it is plausible that one does not need to hold fixed the past and the world-state at the moment of

17 My proposal is intended to be neutral about whether the right metaphysics is presentist, eternalist, or whether the growing-block theorist is right. For an overview on the metaphysics of time see Markosian (2014).

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choice. I argue that an extension of the actual world at a given moment has the stronger requirement that the world containing the extension in question needs to contain the exact same series of world-states up to that very moment (including the world-state at that very moment).

This gives us the following necessary condition for an extension (in the future) of a situation of choice, where $w@$ refers to the actual world:

(E1) A series of world-states s is as an extension of a situation of choice at t in $w@$ only if there exists a world w in which s takes place after t and that is in the same world-state as $w@$ at t and that has the same series of world-states as $w@$ before t .¹⁸

Are cases where (after the situation of choice) people suddenly disappear or start to fly also extensions of the situation of choice? Clearly not! In order to be able to give this answer, I need to talk about the role of the laws of nature. The intuition that I want to defend

18 Note that I use the Lewisian possible world semantics, not because I want to commit myself to the Lewisian possible worlds metaphysics, but simply because I think it is a very useful (and widely shared) tool to make precise statements about possibilities.

Further, I do not address the question of crossworld-identity in this work. I presuppose that there is an intuitive sense in which a world-state (or a series of world-state) can be the same in two worlds. I presuppose that there is also an intuitive sense in which an agent is the same in different worlds. I also presuppose that we can use time indications which are valid for all the worlds considered.

here is the intuition that at the moment of the decision the world is governed by laws of nature that constrain what the agent is able to do. E.g. whether I can fly or disappear, does depend on the laws of nature “governing” the situation I am in. This position is in contrast with a reductionist position of laws of nature which states that the laws of nature supervene on the events of the actual world. In that case, what the laws of nature are depends on what I am going to do and not the other way round. In the present work, I will not tackle this debate¹⁹ and will assume a realist position on the laws of nature such that what counts as an extension of the world is determined by the laws of nature of the actual world.²⁰

This gives us the second necessary condition for an extension (in the future) of a situation of choice:

(E2) A series of world-states s is as an extension of a situation of choice at t in $w@$ only if there exists a world w which has the same laws of nature as $w@$.

Based on (E1) and (E2), I put forward the following definition for an extension (in the future) of a situation of choice:

(E) A series of world-states s is an extension of a situation of choice at t in $w@$ iff there exists a world w which has the same laws of

19 For an overview of the debate see Carroll (2012).

20 Note that while answering questions about possibilities simpliciter, it is again plausible that one has to look at possible worlds with slightly different laws of nature. But for extensions of decision situations, the requirement I am defending is stricter.

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nature as $w@$ in which s takes place after t and that is in the same world-state as $w@$ at t and that has the same series of world-states as $w@$ before t .

In order to understand (3), we also need a definition for an agent realizing an OU alternative in an extension of a situation of choice. I use the following definition:

(R) An agent realizes an OU alternative A in an extension E of a situation of choice, if the series of world-states of E contains the agent doing A .

These clarifications allow us to continue with (4).

(4) In order for an experience of choice to be veridical, there must, for every OU alternative A given in that experience, exist an extension of the actual situation of choice such that the OU alternative A is realized in that extension.

(4) follows directly from (2) and (3). (2) states that for an experience of choice to be veridical all OU alternatives given in that experience need to be open and up to the agent. (3) states that in order for an OU experience to be veridical there must exist an extension of the situation of choice in which the agent realizes the experienced OU alternative. From this we get that an experience of choice can be veridical only if there exists an extension for every experienced OU alternative such that the agent realizes the OU alternative in that extension.

(5) There is no single action an agent can do to realize more than one of the OU alternatives given in her experience, i.e. the realization of OU alternatives is mutually exclusive.

It would not be a real situation of choice if by realizing one alternative, one would thereby also realize the other alternative(s). It is thus a necessary condition for a situation of choice, that by choosing, one realizes one out of a set of alternatives and by realizing that alternative the other alternatives are not thereby realized too.

(6) Nomological determinism is true.

By nomological determinism I understand the following:

(ND) Nomological Determinism: At every instant there is only one nomologically possible future, i.e. holding fixed the laws of nature, there exists only one possible future.

Note that (ND) is a weaker assumption than Causal Determinism (CD). (CD) implies (ND) and adds the requirement, that there is only one nomologically possible future because of the causal laws. My argument thus does not target (CD) in particular, but every form of determinism that implies the truth of (ND).

(7) There exists only one extension (in the future) of a situation of choice.

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Follows directly from (6) and the application of definition (E) about extensions of situations. In order for there to be more than one extension of a situation of choice, more than one nomologically possible future of a given situation would need to exist. According to nomological determinism, this is not the case.

(8) Under the assumption of nomological determinism, experiences of choice cannot be veridical and are thus systematically illusory.

Follows from (1), (4), (5) and (7). (1) states that in an experience of choice at least two OU alternatives are experienced by the agent. (4) states that in order for the experience of choice to be veridical all experienced OU alternatives must be open and up to the agent and that this is only the case if there exists an extension of the situation for every experienced OU alternative such that the OU alternative is realized in that extension. (5) adds the condition that the realization of OU alternatives is mutually exclusive. Finally, (7) states that for a situation of choice there exists only one extension of the situation.

If there exists only one extension of the situation, then it follows that at most one alternative can be open and up to the agent. Only the alternative which is realized in the single existing extension of the situation is veridical. And given that alternatives are mutually exclusive at most one alternative can be realized in this extension. In other words, all but at most one OU alternative are illusory. We started from the premise that in order for the experience of choice to be veridical all experienced OU alternatives need to be open and up to the agent and that in experiences of choice at least two alternatives are experienced as open and up to the agent. Given that at most one

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of these alternatives can be veridical and all others have to be illusory, we obtain the conclusion that experiences of choice are systematically illusory.

In the following chapters, I address issues and points which allow me to motivate the premises and steps used in my incompatibility argument. The main focus lies on the correct description of the phenomenology of choice and especially the analysis of alternatives which are open and up to the agent. I also present issues which are related to the phenomena of choice in order to give a fuller picture and show how my analysis fits in this picture.

3 The experience of OU alternatives

3.1 Overview

In this chapter, I address different questions concerning the experience of OU alternatives. In section 3.2, I address the question of how often we experience OU alternatives. I present both a maximal and a minimal claim. According to the former we almost constantly experience OU alternatives and according to the latter we experience OU alternatives only in specific contexts of choice. Section 3.3 is on the topic of how to count experienced OU alternatives. In section 3.4, I discuss a prominent objection by Terence Horgan who argues that our introspective capacities are too limited to warrant incompatibilist claims about our experience and determinism. In section 3.5, I reply to an argument by Richard Holton which states that incompatibilists might erroneously take their claims to be global claims whereas they are only warranted to local claims of indeterminism. Section 3.6 addresses the question whether we really experience OU alternatives or whether we merely have beliefs about alternatives being open and up to us. Section 3.7 discusses the question whether agentive experiences of OU alternatives are perceptual experiences or whether they are a different kind of experience. In section 3.8, I present a fallback position for my incompatibility argument which does not rely on the existence of OU experiences, but merely requires the assumption of a certain type of doxastic state of the agent. In section 3.9, I sketch an argument for incompatibilism similar in structure to my incompatibility argument which only relies on beliefs

about OU alternatives.

3.2 *The ubiquity of OU alternatives*

In my incompatibility argument, I defend the view that in an experience of choice an agent experiences the situation she is in to be one in which she chooses between at least two different OU alternatives. But how common are such experiences of choice? Are all our actions such that we have an experience of choice? Or are such experiences extremely rare and occur maybe only a few times in a lifetime? Or do some people even never have such an experience? I present a minimal claim and a maximal claim.

The maximal claim is that we constantly experience OU alternatives and that every action is accompanied by an experience of choice. The minimal claim is that only in situations where the agent is prompted to make a choice she has an experience of choice. I defend the maximal claim (or something close to the maximum claim), but my argument does not depend on the acceptance of this maximal claim. My incompatibility thesis relies on the acceptance of the minimal claim. However, if the maximal claim or something close to the maximal claim turns out to be true, it makes my case considerably stronger. Assuming (nomological) determinism, we would, according to the maximal claim, constantly have illusory experiences.

The main motivation to defend the maximal claim is based on the way we experience our environment. We do not merely passively

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experience our environment as something we merely observe²¹, but we experience our environment as something we can interact with. Or put slightly differently, we experience many interaction-opportunities. If I sit at my desk, sitting in front of my computer, I experience the situation I am in to be such that there are many things I could do in that very situation at that moment. For instance, I could take a sip from my mug of coffee, I could open the window, I could click on the icon of my mail-programme to check my mail, I could open the drawer of my desk, I could start typing, etc.²² These alternatives are given to me even if I am not deliberating or thinking about what I can do right now. I do not need to ask myself what I can do right now, in order for these alternatives to be present in my experience. Obviously, not all alternatives which are open and up to me at that moment are given to me in my experience and some alternatives given to me can turn out to be illusory. Furthermore, some OU alternatives are more salient than others. Which alternatives are given to me and which are more or less salient in a situation might vary much from situation to situation. At times, many alternatives are given to me. For instance, when I am sitting at my desk considering what I could do next, many alternatives are likely to be present in my experience. At other times, only very few alternatives might be given to me, e.g. when I am focussed on a specific task like drawing a picture. In that case, what might be given to me are different ways of continuing executing my current task – in this case different ways to continue drawing the

21 Cf. the Weather Watchers in Strawson (1994).

22 A related topic is the theory of affordances developed by James J. Gibson. Roughly, affordances are action-possibilities of the environment which depend on the agent. Cf. Gibson (1966), Gibson (1979), Reed (1996), Withagen et al. (2012).

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picture. Alternatives like standing up or opening the drawer might be completely absent from my experience during the execution of this task.

If these descriptions about our phenomenology are right, they motivate my maximal claim about OU alternatives:

(MAX) Under normal conditions, at least two alternatives are given to an agent in her experience to be open and up to her.

In other words, whenever an agent is in normal conditions she has at least two alternatives present in her experience. But what are normal conditions? I will not try to give a definition in order to capture the exact set of conditions which need to be fulfilled in order to have normal conditions, but rely on a vague intuitive understanding. The motivation for this clause is to exclude potentially problematic cases such as being under drug-effects, meditating, day-dreaming, being close to being asleep, being extremely focussed, and maybe also doing routine actions in an almost automatic fashion or being under extreme stress. As mentioned above, this list is not intended to be complete, but merely to give an idea of the cases my claim is not intended to cover.²³ The cases I intend to cover by my claim are cases like an agent walking who has the experience of different paths being open and up to him, an agent standing in front of a plate filled with cookies who has the experience of being able to take either of

23 Note that I do not claim, that in those cases it is not possible that several OU alternatives are given to the agent. I simply acknowledge that there are special situations in which it is not the case that at least two alternatives are given to the agent as open and up to her.

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these cookies. An agent sitting at her desk experiencing the alternative to be able to stand up or remaining seated. In these cases the agent is not or at least does not have to be deliberating about these alternatives. The agent is probably not even paying attention to these alternatives. Yet they are present in her experience and every time the agent acts, she does realize one of these alternatives. This does not presuppose that the agent would characterize her experience as making a choice about which alternative to realize. But nevertheless, by realizing one of the alternatives she chooses an alternative among the ones given to her. This is admittedly a very weak sense of choice, but still a case of choice if by choice we understand 'realizing an alternative given to the agent as open and up to her rather than an other alternative which was given to the agent to be open and up to her, too'. If we accept the maximal claim about the experience of OU alternatives (MAX) we get the following maximal claim about experiences of choice:

(MAX-C) Under normal conditions, at least two alternatives are given to an agent in her experience to be open and up to her. Every time she realizes one of these alternatives (by acting, continuing to act or stopping to act²⁴, the agent has thereby an experience of choice.²⁵

24 This proposal thus also covers continuing or aborting actions with a longer duration (e.g. going home, cooking a meal, drinking a beer, etc.). During the performance of such actions, we normally experience it as open and up to us to stop or continue doing what we are doing. According to (MAX-C) these are all also cases of experience of choice.

25 This definition is not particularly intuitive, because an agent might be reluctant to characterize her experience as an experience of choice. However, I do not try to give an intuitive notion of experience of choice,

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If we accept the truth of (MAX-C) then it turns out – under the assumption of nomological determinism – that whenever an agent acts under normal conditions (in the sense described above), she has, according to my incompatibility argument, an illusory experience.²⁶

Whether we experience as many OU alternatives as claimed above is a controversial matter. Some people might flatly deny the maximal claim. For this reason, I want to provide a fallback position for my argument which accommodates a rejection of the maximal claim. This brings us to my minimal claim. The idea of the minimal claim is that whenever we are in a situation in which we are prompted to make a choice, we have at least two alternatives given to us in our experience which we experience as open and up to us. Cases of choice I have in mind here are: e.g. an agent deliberating about whether to take the left or the right path or an agent in front of the fridge deliberating about whether to take a beer or a juice, an agent deliberating about what to do after work, or an agent who is at the gelateria who has to choose the flavour of her ice-cream and is unsure about which flavour she fancies most right now. These are all

but I introduce it as a technical term.

26 Note that this claim is intended to cover only cases of action and not all cases of activity by the subject which also includes doings or so-called sub-intentional actions. The agent needs to have at least some kind of conscious control over her action. If an agent sitting in a train wiggles her foot unconsciously while reading a book, the wiggling does not count as an experience of choice. A defence of “sub-intentional actions” can be found in Steward (2009), a defence of “doings” in Nida-Rümelin (2007).

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situations in which the agent is actively considering the alternatives which are given to her. The agent is considering these alternatives because she experiences them as open and up to her. It seems to her, that she can act so as to realize one of these alternatives. This gives us my minimal claim about OU alternatives:

(MIN) Whenever an agent is in a situation in which she is prompted to make a choice at least two alternatives are given to her in her experience to be open and up to her.

On the basis of (MIN) we can directly formulate the minimal claim about experiences of choice:

(MIN-C) Whenever an agent is in a situation in which she is prompted to make a choice at least two alternatives are given to her in her experience to be open and up to her. Every time she realizes one of these alternatives (by acting), the agent has thereby an experience of choice.

While on the one hand, (MAX-C) might seem to be too strong a claim, (MIN-C) might on the other hand seem to be too weak. Obviously, it is possible to defend a claim which is between the two claims proposed here. Experiences of choice might not only happen during clear cases of choice, but they might accompany a broader category of actions. It is possible to defend such a view, without having to defend that all actions (under normal conditions) are experienced as experiences of choice in the technical sense described above.

Above, I have stated that experienced OU alternatives might be more or less salient to the agent. A related, but different point is that

experienced OU alternatives can have a more or less specific or precise content. In some cases, the experienced OU alternatives might be very specific. For instance, if I deliberate about whether to press the left or the right button, the two experienced OU alternatives are very specific and not vague at all. But experienced OU alternatives are not always this specific. Some experienced OU alternatives might be much more vague. The extreme case is to experience having the OU alternative of doing something else than what one is doing right now. This experience does not contain any specific content about the alternative which is experienced as open and up to the agent. I am inclined to think that specificity comes in degrees. I do not address whether saliency or specificity has an influence on the defence of my argument, but at first sight there seems to be no reason to believe so.

3.3 The difficulty of counting alternatives

I have been arguing that in an experience of choice an agent experiences at least two OU alternatives. But how should we count OU alternatives?²⁷ Does having the experience of being able to switch on the light (by flicking the switch) and the experience of being able to flick the switch count as two alternatives? Does having the experience of being able to flick the switch fast and having the experience of being able to flick the switch slowly count as two

27 This question is obviously related to the questions of how to count actions. Cf. Davidson (1971).

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different OU alternatives? It seems to me that the first answer should be answered negatively. Answering the second question is harder. Both a yes and a no could be acceptable answers. In favour of the latter option speaks the fact that there seems to be only a marginal difference between the two options. In favour of the former option speaks that there is a difference given to the agent in her experience. Before providing answers to these cases, I would like to look at my motivation for my claim that in an experience of choice we have at least two OU alternatives. In order for something to be experienced as an OU alternative, it must seem to the agent that there is something the agent can do in order to realize that alternative in the very situation the agent is in at that moment. Claiming that in an experience of choice at least two OU alternatives must be given in that experience amounts to claiming that it is false that one could have an experience of choice if only one OU alternative was given in that experience. In slightly other words, if it seems to an agent that there is nothing else she can do, but to realize a specific alternative, then she does not have an experience of choice. The question then remains the same, i.e. what are the identification criteria for OU alternatives.

I would like to make the following suggestion. It must seem to the agent that realizing one alternative rather than the other makes a difference about the future development of the world. Further, it must seem to the agent that it is up to her which alternative is going to be realized, in the sense that it must seem to her that she controls the future development of the situation she is in. This does not just amount to the trivial assumption that it seems to the agent that whatever happens is a consequence of her action. It requires that it seems to the agent that she has control over which of the alternatives is realized. On this basis, I would like to put forward the following

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definition:

(Id) Two OU alternatives C and D are distinct OU alternatives in a given situation S for an agent A iff

(Id1) it seems to the agent that she has control over whether she realizes C or D and

(Id2) from the agent's perspective the development of the situation S is different depending on whether she realizes C or D.

According to this definition, switching on the light (by flicking the switch) and flicking the switch will thus not count as two different alternatives. From the agent's perspective, choosing one alternative rather than the other makes no difference for the development of the situation the agent is in. There is however a difference in the agent's experience of flicking the switch fast or slowly. It seems to the agent that there is a difference between the two alternatives such that the development of the actual situation turns out to be different dependent on which alternative is realized. In other words, the agent seems to have two different alternatives open to her which seem to be two different developments of the situation she is in at that moment and it seems to her to be up to her which of the alternatives she realizes. She can choose whether she flicks the switch fast or slowly. Although the two alternatives are very similar, they nevertheless count as two different alternatives according to my proposal because both (Id1) and (Id2) are fulfilled. Further, in cases where alternatives C and D lead to the same result by a different path, C and D count as distinct if the development of the situation is a different one from the agent's perspective. For instance, if there are two switches that can be used to turn on the light, it makes a difference for the development of the situation whether the agent

flicks the first or the second switch (e.g. the agent will have moved to either the first or the second switch), although she will have turned on the light in both cases. What matters here is not the description of the alternative, but whether a difference between the two developments of the situation is given to the agent in her experience.

3.4 *The limits of introspection*

3.4.1 Overview

In this section, I discuss, based on the work of Terence Horgan, the worry whether we have sufficient introspective competence to be able to answer certain types of questions about one's agentive experience. For instance, one might wonder whether it is possible to simply "read off" the answer to the question whether our agentive experience can be veridical if determinism were true. Trying to answer such a technical question by simply reading off the answer from one's experience might indeed indicate an overestimation of one's competences. But even if one does not claim to be able to just read off the answer to the compatibility question, it still seems reasonable to wonder whether one has the necessary introspective competence to answer the question on the basis of careful phenomenological work.

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Horgan²⁸ defends the position that tackling the compatibility question is a cognitively extremely demanding task with many difficulties that might lead to wrong answers. The cognitive requirements are in fact so challenging that a normal human being cannot reliably answer the compatibility question by introspection alone, i.e. by merely focally attending to her phenomenology.

Horgan suggests that we have this kind of limitation by pointing to the fact that normal human conceptual competence mainly consists in applying concepts to concrete cases and not to general hypotheses. In order to answer general hypotheses like the compatibility question one also needs to take into account the agent's counterfactual phenomenal profile, i.e. what she would have experienced in a counterfactual scenario. Horgan argues that in order to answer the compatibility question it is not sufficient to take into account the phenomenological data, but one needs to take into consideration all information available to us. In the light of the total evidence available to us, we can then weigh the pros and cons in order to give an answer to the compatibility question by inference to the best explanation.

In the next subsections, I discuss Horgan's argument as presented in his 2007 paper "Agentive Phenomenal Intentionality and the Limits of Introspection".

28 Horgan (2007) and Horgan (2011) based on earlier collaborative work Horgan&Tienson (2002) and Horgan et al. (2003).

3.4.2 Horgan's argument on the limits of introspection

Horgan begins his argumentation with the following three claims:

“First, the phenomenal character of experience is *narrow*, in this sense: it is not constitutively dependent upon anything “outside the head” of the experiencing creature.” (Horgan 2007, p. 1)

“Second, virtually all aspects of the phenomenal character of experience are intentional: phenomenal character *represents* the world as being various ways.” (Horgan 2007, p. 2)

“Third, the most fundamental kind of mental intentionality is fully constituted by phenomenal character.” (Horgan 2007, p. 2)

He considers these three claims to be – *prima facie* – in tension with the following fourth claim:

“Fourth, for certain philosophically important questions about the phenomenally constituted intentional content of experience, introspection by itself does not reliably generate an answer.” (Horgan 2007, p. 3)

The goal of his argumentation is to show that these four claims can be reconciled. One of the philosophically important questions is the compatibility question between agential phenomenology and the truth of state-causal determinism.²⁹

Accepting that our (agential) phenomenology is narrow and intentional, we should be able to discover by introspection³⁰ whether agential phenomenology and determinism are compatible. But

29 In my incompatibility argument, my target is the broader concept of nomological determinism. For the present discussion of the point, not much should depend on this difference.

according to Horgan this is not possible. He provides three different explanations of why it is not possible to answer the compatibility question by introspection alone. He rejects the first two and endorses the third. Let us start with the first tentative explanation.

3.4.3 Horgan's first tentative explanation

According to the first tentative explanation³¹, we cannot give an answer to the compatibility question by introspection alone because there are parts of the experienced content which refer to objects or properties whose essence is not revealed in experience. Applying this to my argument, the explanation would be the following. While I can introspect that there is some feature F that makes it that the alternative A is open and up to me, I cannot introspect that the specific feature F* which makes it that the alternative is open and up to me is that my neuron's are arranged in a specific manner M. Whether the agentic phenomenology is compatible with determinism depends on this non-introspectable feature and thus the compatibility question cannot be answered by introspection alone.

Horgan rejects this proposal because intuitively the veridicality

30 Horgan distinguishes between a thin and a robust sense of introspection. The former consists in merely focally attending the qualitative character of one's experience. The latter requires additionally the forming of judgements based on what one is focally attending to. (Horgan (2007), p. 16f)

31 Horgan (2007), p. 12f.

conditions of the agentic phenomenology of my twin-earth-duplicate (TEP) who has the same agentic phenomenology as I have should correspond to the veridicality conditions of my agentic phenomenology. And thus, whether the phenomenal content is compatible with determinism is the same for both me and my TEP and should not be dependent on non-introspectable features which differ between me and my TEP.

3.4.4 Horgan's second tentative explanation

According to Horgan's second tentative explanation³², the reason why we cannot answer the compatibility question from introspection alone is that the presentational phenomenal content of the experience is dependent on the agent's counterfactual phenomenal profile – that is, what the agent's phenomenal content would look like under different counterfactual situations – and the related judgemental tendencies for the application of the concepts used in answering the compatibility question.³³ Given that it is not possible to have the complete counterfactual profile and the judgemental tendencies one has before one's mind in introspection it is not possible to answer the compatibility question by introspection alone.

Horgan rejects this proposal because it gets the relation between

32 Horgan (2007), p. 14ff.

33 Note that Horgan distinguishes between presentational content and judgemental content. The latter is dependent on the former and the application of sophisticated concepts. (Horgan 2007, p. 6f)

presentational content and the counterfactual phenomenal profile and the judgemental tendencies wrong. The counterfactual profile and the judgemental tendencies primarily depend on the already-determined presentational content to be appropriate (and not the other way round). And thus, one should reject the idea that the counterfactual phenomenal profile and the judgemental tendencies somehow constitute the presentational content.

3.4.5 Horgan's endorsed explanation

Let us now turn to Horgan's endorsed explanation of why the compatibility question is not answerable by introspection alone³⁴. This third explanation grants that the content of the experience is fully determined by the occurrent presentational content of the agentic experience. But the answering of the compatibility question which requires a lot of conceptual sophistication is too demanding to be done by introspection:

“[A]nswering such questions solely via robust introspection would require a degree of cognitive skill in the deployment of the pertinent concepts, and in the formation of beliefs about one’s phenomenology with the pertinent kind of judgmental content vis-à-vis that phenomenology, that far exceeds what is required for the conceptually competent use of these concepts. Indeed, it probably exceeds the cognitive capacities of humans altogether.” (Horgan 2007, p.17)

34 Horgan 2007, p. 16ff.

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On Horgan's view, there is an answer to the compatibility question which is fully determined by the phenomenal content, but we do not have the sufficient conceptual skills to find the answer by sole introspection. One of the reasons why answering this question is so demanding is that by trying to answer the compatibility question one needs to form sophisticated judgements about the compatibility between the presentational content and the assumption of determinism which themselves (the judgements) have judgemental content (about the presentational content). This raises the likelihood for different types of fallibilities in the application of the required concepts.

Our capacity of applying concepts is normally used in concrete situations. But answering a compatibility question by introspection requires a direct, intuitive judgement about a general hypothesis. This is, according to Horgan, much more a matter of abductive reasoning than of robust introspection. In order to answer the compatibility question the whole counterfactual phenomenal profile needs to be taken into consideration as well as other considerations that might be relevant to the question.

Horgan provides a possible explanation of why the answering of the compatibility question by introspection might lead to fallacious answers. Referring to the contextualist position concerning knowledge, Horgan suggest that the application of the concept of agency (and also freedom) might be subject to contextual effects, too.³⁵ Similarly, to the knowledge case, where according to the contextualist, the very posing of the knowledge question, raises the

35 Note that the contextual effect does not affect the presentational content itself, but only the judgemental level of the application of the concept.

requirements for the application of the concept, the consideration of the compatibility question might raise the requirements for the concept of action (and freedom) such that it is no longer compatible with determinism although in less demanding typical everyday settings the applications of the concept is compatible with determinism.

“That is, the very posing of the question one is introspectively trying to answer is apt to induce a shift in the implicit contextual parameters that govern the concepts *freedom* and *agency* away from their default values—and toward limit-case parameter settings, under which judgmental attributions of agency and freedom become incompatible with state-causal determinism (and with physical causal closure, and with the mental state-causation of behavior).” (Horgan 2007, p. 23)

Another challenge that might happen during the introspective process is failing to distinguish between not having an experience of A and having an experience of not A. More precisely, one might conflate not having the experience that one's choice is state-causally determined with the experience that one's choice is not state-causally determined. While the latter experience is incompatible with the truth of state-causal determinism, the compatibility question cannot be answered solely on the basis of the former experience. (Horgan 2007, p. 21)

3.4.6 Discussion of Horgan's argument

I concur with Horgan's analysis that we should resist the temptation of

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trying to directly “read off” the compatibility question in one immediate act of introspection. While the answer to the compatibility question might seem obvious to some, Horgan has convincingly made the case that there are many possible fallacies which need be taken into consideration while attempting to answer the compatibility question. The conflation between not experiencing one's choice to be state-causally determined with experiencing one's choice to not be state-causally determined might indeed play a role in some too quick replies to the compatibility question.

Horgan's case for the contextual effect would turn out to be an issue, if one were able to find concrete cases which show that contextual effects influence our use of the concept of agency (and/or freedom) in a problematic way. Until such examples have been presented, I see no sufficient reason to believe that such contextual effects influence our concept application in a way that hinders us from answering the compatibility question correctly. Being aware of a potential threat, I set this issue aside in the present work.

I agree with Horgan that there is a determinate answer to the compatibility question which depends solely on the presentational content of our agentive phenomenology and thus, I also agree with Horgan's rejection of the first two tentative explanations. Most importantly, I agree with Horgan's central point that a single act of introspection does not suffice to answer the compatibility question.

Nevertheless, I do think that we can give a reply to the compatibility question on the basis of introspection – which is what I do in my incompatibility argument. Although the most important steps of my incompatibility argument are motivated by introspective work, the argument relies on steps which are not done by introspection. In

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order to defend my argument, one needs to find by introspection a feature which is present in our experiences of choice. I argue that this feature is the open-and-up-to-me-ness of alternatives in experiences of choice. Once we have found this feature in our experience, we need to consider different concrete cases or scenarios and consult our intuitions on the application of the concept of open-and-up-to-me-ness in order to define the veridicality conditions of this feature. In other words, I agree with Horgan that our counterfactual phenomenal profile plays a central role in answering the compatibility question and that it relies on our presentational content (and not the other way round, as suggested in the rejected second explanation). On the basis of our application of the concept in different cases we can discover the veridicality conditions. My claim is thus clearly not that we can find out by one single act of introspection that an alternative is open and up to the agent only if there exists an extension of the actual situation in which she realizes that alternative. Rather, the claim is based on the analysis of different cases in order to establish the appropriateness of the proposed veridicality conditions. Once we have found the veridicality conditions of the experience of OU alternatives, we can turn to the non-introspective question of finding out whether these conditions are compatible with the truth of determinism.

Another point raised by Horgan I would like to discuss is his claim that in analysing whether the agential phenomenology is compatible with determinism we should keep in mind that an analysis which states that our experience is veridical should be preferred over an analysis which has as a consequence that our experience is systematically illusory. And given that we have good reasons to believe in the truth of state-causal determinism we have reason to argue for the

compatibilism of our experience.

“For, if in fact the satisfaction conditions of agentive experience require the falsity of determinism, physical causal closure, or the mental state-causation of behavior, then actual epistemic standards are far too lax—since (let’s face it) we not only lack good evidence *against* all three hypotheses, but we possess rather good evidence in favor of at least two of them (viz., physical causal closure and the mental state-causation of behavior). So, the fact that compatibilism fits with actual epistemic standards we employ in our beliefs and assumptions about the reality of agency, whereas incompatibilism does not, is itself powerful abductive evidence in favor of compatibilism.” (Horgan 2007, p. 21)

While I agree with Horgan that getting the result that we have a systematically illusory experience would be a challenging result, this point should nevertheless not substantially influence our analysis. It is unproblematic, if it motivates a philosopher to look for the reason why the experience is compatible with determinism. But avoiding the potentially challenging result does not in itself constitute a reason in favour of the compatibility between our agentive experiences and determinism – unless this merely means that if the question remains unanswered after careful analysis, we should favour the option that fits our currently accepted theories best.

In line with Horgan's point we also get the result that if the answer to the compatibility question is that our agentive experience is incompatible with the truth of determinism, we get a reason for rejecting the thesis of determinism (which obviously needs to be evaluated together with the other reasons in favour of or against the truth of determinism).

3.5 Local vs. global compatibility claims

In his book *Willing, Wanting, Waiting* (2009) Richard Holton defends the view – in his chapter on the phenomenology of free will – that people who argue that our experience of free will justifies claims of incompatibility with determinism are inclined to make a certain kind of mistake. In this section, I address this worry and show that my argument does not rely on this fallacy.

Holton argues that although we do have the experience of not being determined by our beliefs and desires while choosing, we do not have the experience of not being determined by the whole state of the world. We mistake our experience of local indetermination (the former one) with an experience of global indetermination (the latter one). In order to be justified to judge that our experience is incompatible with the truth of determinism, it is not enough to have an experience of local indetermination because this experience is compatible with our choice being determined by something additional to our beliefs and desires. In order to defend an incompatibility claim an experience of global indetermination is needed.

I agree with Holton, that we do not have an experience of the whole state of the world not determining our choice. I agree for two reasons. First, if by having an experience of the total state of the world we mean having all features of the total state of the world being presented in our experience then it is evident that we do not have and cannot have such an experience. Second, I think it is inappropriate to describe the content of an experience by using the technical vocabulary of being determined or not being determined. The use of

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technical vocabulary to describe the content of our agentic experience of choice requires too much philosophical sophistication to give an uncontroversial description of our experience, especially when the goal of the investigation is to determine whether the experience is compatible with determinism or not. In order to avoid the possible difficulties implied by applying technical vocabulary to describe the content of our experience of choice, I avoid claims about experiences of being determined or not being determined. In other words, not only do I not make the claim that my experience of choice is undetermined by the total state of the world, but I also avoid the use of the claims of local indetermination (which Holton considers to be correct).

Note that even if we avoid the talk of having an experience of being determined or of not being undetermined, Holton is right to point to the fact that we need to be careful to keep the distinction between global claims and local claims intact. For instance, if we could establish that the content of our experience of choice (described in non technical vocabulary) is not determined by our current beliefs and desires, this still allows for the possibility that the choice is determined by the total state of the world. In order to defend that our experience of choice is not compatible with the truth of determinism we need to find an experience which justifies a global claim. Given that – as we just have seen – we cannot experience the total state of the world (in the sense that not all features of the total state of the world can be presented in our experience), it seems that there is no way to establish that our experience is incompatible with the total state of the world determining our choice and so it is impossible to make a justified global incompatibility claim. Holton is thus right that if we were required to have an experience of the total state of the world

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being incompatible with our choice being determined by that total state, we would be in a very bad position to argue that our experience is incompatible with the truth of determinism (in the sense that our experience could not be veridical if determinism was true).

However, in my argument, I do not make any claims about experiencing compatibilities or incompatibilities between features of our current situation and OU alternatives. I do not claim that we experience the compatibility between the experienced OU alternatives and our beliefs and desires. What I do claim is simply, that we have, in situations of choice, at least two OU alternatives being presented to us. We do not have, on top of the experience of having OU alternative A and OU alternative B, the experience of OU alternative B, the experience of OU alternative A being compatible with OU alternative B or the experience of OU alternative A being compatible with my current beliefs and desires and OU alternative B being compatible with my current beliefs and desires or with all the features being presented to us in experience. I do not exclude that such claims can be defended, but given that I do not rely on such claims about the content of our agentive experience in my argument, I wish to remain neutral about the correctness of such claims. According to my argument, all we need is the claim that in experiences of choice we experience to have at least two OU alternatives. The incompatibility between experiencing these two OU alternatives and the truth of determinism is not something which is presented to us in our experience such that we are directly justified in making the claim that our experience of choice is incompatible with the truth of determinism, but something we can only find out after careful argumentation. The incompatibility can only be defended by finding out that for our experience of choice to be veridical there must exist for every OU alternative an extension

of the current situation with the agent realizing that alternative and that this is not possible under the assumption of nomological determinism.

An important assumption in my argument is what I call the “fixity of the situation”. Although the total state of the world is not presented in the experience, it is nevertheless fixed at the moment the experience is taking place. Whether the experience is veridical depends on how the world is at that very moment. And thus, if the veridicality of the two experienced OU alternatives depends on having two different extensions of the current situation, it does not matter whether there exist slightly different situations from the actual situation (with a slightly different past or slightly different laws of nature) which we cannot differentiate on the base of the experience which do have extensions such that the OU alternatives are realized.³⁶ All that matters for the veridicality of the experience are the extensions of the exact world-state the agent is in while having her experience of choice. On the basis of this assumption it is possible to make the global claim that the experience of choice cannot be veridical if (nomological) determinism was true.

3.6 *Experiences or beliefs?*

In my argument, I claim that we experience OU alternatives. But

36 The central point for my argument is that – under the assumption of nomological determinism – no single situation has two extensions of the situation such that both the experienced OU alternatives are realized in the respective extension.

could it not be the case that we merely have beliefs about having OU alternatives rather than experiencing OU alternatives? In this section, I explain my motivations for my claim that we do in fact experience OU alternatives. In section 3.7, I address the question whether experiences of OU alternatives are nothing but perceptual experiences. And in section 3.8 I present a fallback position for my incompatibility argument which does not presuppose the existence of experiences of OU alternatives.

A doubt whether we really experience OU alternatives could arise from the fact that we usually do have beliefs about alternatives being open and up to us. So why should we think that there is something additional to these beliefs? Why should we accept that the experiences of OU alternatives are something different than beliefs of having OU alternatives? In my incompatibility argument, I defend premise (1) by arguing that by carefully attending to our experiences of choice we notice that in these experiences it seems to us that it is open and up to us to choose one out of at least two OU alternatives. In order to defend the thesis that experiences of OU alternatives are something different from beliefs about OU alternatives I argue for the plausibility of a case in which our beliefs about what alternatives are open and up to us diverge from the alternatives we experience to be open and up to us. These are cases in which in spite of experiencing an alternative being open and up to us we nevertheless do not believe this alternative to be open and up to us. These cases are similar to Müller-Lyer cases, in which we do believe the lines to be of the same length although we do experience them to be of different length.

Let me suggest the following case where the contents of the agentic experiences and the contents of the belief about the OU alternatives

arguably fail to coincide. Note that in order to defend my claim it is enough to grant the possibility of a case similar to the following one. Suppose I am standing in front of a table with shortbread cookies and chocolate cookies placed on it. I experience the situation to be such that I can either take a shortbread cookie or a chocolate cookie, i.e. both alternatives are experienced as OU alternatives. A trustworthy source now tells me that the chocolate cookies are glued to the table. I do believe that this person tells me the truth and thus believe that it is not open and up to me to grab a chocolate cookie although there is no visual hint that the cookies are glued to the table. I claim that in such a case, I could have the experience that it is open and up to me to grab a chocolate cookie although I believe this experience to be illusory. In such a case it seems to me that it is open and up to me to grab the chocolate cookie, but I do not believe that it is in fact so. In this case my belief and my experience about the alternative of grabbing a chocolate cookie diverge. Although I have, in the light of new information changed my belief about what alternatives are open and up to me, the content of my experience has remained the same.³⁷

37 There are cases in which the experience might be influenced by the subject's beliefs. These are cases of so-called "cognitive penetration". For instance, Susanna Siegel (2012) presents the case of "Angry Looking Jack". Because Jill believes that Jack is angry with her, she then perceives him as being angry with her. Her belief has changed her perceptual experience. For my argument, I merely argue for the possibility that the agent in the cookie-choice-scenario might not be subject to cognitive penetration and continue to experience the cookie to be such that it is open and up to her to grab it even after acquiring the belief that it is not open and up to her to grab it.

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Let me say something more about how I conceive of the relation between our beliefs about OU alternatives and our experiences of OU alternatives. Normally, we base our beliefs about what alternatives are open and up to us on the way we experience our situation – more specifically on the experienced OU alternatives in a given situation. Unless we have reason to doubt that our experience is veridical, we form the belief that we do have the OU alternative we are experiencing. When we have information which conflicts with what we experience, we might question the veridicality of the experience, i.e. we might question whether what seems to be the case according to our experience really is the case. I take the case of experienced OU alternatives to be parallel to the case of visual experience. In one case we form our beliefs on the basis of our visual experiences, in the other case we form our belief on the basis of our agentic experience about OU alternatives.

Normally both the experiences and beliefs coincide and we might be led to believe that they are the same, but as we have seen there are cases where the two can diverge and thus we should refrain from identifying the two.

Before defending a fallback position for my incompatibility argument which does not presuppose the existence of experiences of OU alternatives, I address the question of the relation between agentic experiences of OU alternatives and perceptual experiences.

3.7 Are experiences of OU alternatives perceptual experiences?

Although the question of whether experiences of OU alternatives are nothing but perceptual experiences does not play any role in my argument, I nevertheless address this question in order to give a better picture of my view on the nature of experiences of OU alternatives. In what follows I examine the possibility of reducing agentive experiences about OU alternatives to perceptual experiences. Let me begin by focussing on visual experience. Surely, visual experiences play an important role in agentive experiences about OU alternatives. What alternatives I experience to have is obviously related to my visual experience of the situation I am in. Only by visually experiencing that I am standing at a crossroads, I can experience the OU alternatives of taking the left or the right path. But although our visual experience provides us with information about our situation, we do however not literally visually experience the alternatives. Visually experiencing an apple and having the experience that I can grab the apple are different kinds of experiences. It seems true that we cannot have the experience of being able to grab the apple without having a visual experience of the apple, but it would be too quick to want to reduce the experienced action-possibility of being able to grab the apple to the visual experience of perceiving the apple. I can have the visual experience of an apple without having the experience that it is open and up to me to grab the apple. For instance, the apple might be too far away from me. It is thus not enough to visually perceive an apple in order to have the experience of it being open and up to me to grab the apple. So the question is: what further element do I need to experience in

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order to have an experience of an OU alternative? The 'being grabbable' of the apple is the feature we are trying to single out. Could it be (contrary to my first explanation above) that this feature depends solely on my visual experience?

An interesting hypothesis is that whether the apple is visually perceived as being grabbable by me depends on the visually perceived arrangement of the situation. It is not enough to visually perceive the apple, but a specific arrangement of what is visually perceived might be enough. In our case, the arrangement is such that we visually perceive the apple to be close enough to be grabbed. In order to reject the hypothesis that experiencing the apple as being grabbable by me can be reduced to my visual experience, we need to find two situations which are visually identical for which the experienced OU alternatives are not identical. I would like to provide the following two situations. In both, I stand in front of an apple which is close enough for me to grab it. In one situation, my hands are tied behind my back and in the second situation I have my hands behind my back but they are not tied. In both situations, I am unable to see my hands. Although the two situations are visually indiscernible, I claim that in the first situation I do not experience the OU alternative of grabbing the apple because I experience my hands to be tied behind my back. In the second situation however, I do not experience my hands to be tied and I do experience it to be open and up to me to grab the apple in front of me. Thus, it seems not possible to reduce agentive experiences about OU alternatives to visual experiences.

If this case is not convincing, there is another case that should dissipate any remaining doubts about the rejection of the thesis that agentive experiences about OU alternatives can be reduced to visual experiences. Let us consider the case of an agent who closes her eyes. Does she, by closing her eyes, stop experiencing OU

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alternatives? This is clearly not the case. For instance, I experience the situation I am in when I close my eyes to be such that I could reopen my eyes. I also experience this situation to be such that it is open and up to me to lift my arm. In this case it not only seems misguided to try to reduce the agentic experience to a visual experience, but in this case the visual perception is not even needed to experience the OU alternative.

If agentic experiences are not identical with visual experiences maybe they are identical with combinations of different perceptual experiences (from different perceptual modes)? In the case where I have my eyes closed, proprioception is likely to play a central role about the alternatives given to me in that situation. Whether my arm is already up or still down is given to me by proprioception. In the case of the apple in front of me, the difference might be in terms of touch. In one case, I feel the rope on my skin, while I do not have such a feeling in the second case. And so, maybe by taking all our modes of perception into account we can come to the conclusion that agentic experiences about OU alternatives are nothing but perceptual experiences. The motivation for such a claim comes from the fact that our modes of perception, including proprioception, give us information about the situation we are in. But do they thereby also give us sufficient information about what alternatives are open and up to us?

In the above discussion, we have been neglecting an important feature of OU alternatives. We have only focussed on the external features of the situation the agent is in, but not on the features which are “internal” to the agent (i.e. psychological conditions). If the agent has a strong apple-phobia which prevents her from grabbing apples,

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she will not experience the alternative of grabbing the apple to be open and up to her. Whether an agent has such a hindering psychological condition is ordinarily experientially given to the agent. An arachnophobic who sees a spider does not need to find out whether she can touch the spider or not – it is present in the agent's experience. In order to reject that agentive experiences are reducible to perceptual experiences we would have to exclude that the agent's experience of her psychological condition is perceptual. I have to leave this question open and turn now to another aspect of the agentive experience to which we have not been paying attention yet either.

In order for an alternative to be open and up to the agent, the agent needs to have the corresponding ability (it must be in her power) to realize the alternative and the situation the agent is in must be such that she has the opportunity to exercise her ability (her power can manifest in this situation, i.e. she can exercise her power in this situation). Whether an agent has the ability in question and whether she is in a situation in which she has the opportunity to exercise this ability is something which is ordinarily given to an agent in a more or less reliable way. Surely there are cases, where it will not be obvious to an agent, whether she has the needed ability or whether the situation is such that she has the opportunity to exercise her ability. For instance, whether I have the ability to jump over an obstacle lying in front of me, might be something which is not obvious to me. Even assuming that I experience to have the ability to jump over the obstacle generally, it might nevertheless not be obvious, whether the specific situation I am in at that moment is such that I can successfully exercise my ability to do so (for instance, the soil is very slippery, I have muscle ache, etc.). There are cases however where it

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seems clear to the agent that she has the ability in question and that the situation is such that she has the opportunity to exercise her ability. For instance, it is clearly given to me, that I have the ability and that I can exercise the ability in the situation I am in to open the drawer of my desk, to stand up, to close my eyes, to use the keyboard, to move the mouse of my computer, etc. This is not something I need to discover, but it is directly given to me.

The question we need to address now, is whether having the relevant ability and having the opportunity to exercise this ability are given to me solely by perceptual experience. It seems doubtful, at least at first, that sight, hearing, taste, touch, smell, proprioception, thermoception, nociception and equilibrioception can provide me with this information. Obviously these modes can provide information about the situation I am in. But do they also provide information about the abilities that I have?

One proposal that they do is the following one. Our experience of our abilities is reducible to former perceptions of our actions in different past situations. Having perceived successes or failures of different past actions we have gained access to what abilities we have and to which situations we can exercise these abilities in. In this sense what abilities we have is given to us by perception. Obviously, the experience cannot be based solely on past perception, but is also based on the current perception of the situation. Combining both past and current perception we might have found the basis for the agentive experience of OU alternatives.

Given the reduction question of agentive experiences plays no direct role for my incompatibility argument I have to set this question aside for the remaining of this work.

3.8 Fallback position: A deeply entrenched doxastic state about OU alternatives

In this section, I provide a fallback position for my incompatibility argument which does not rely on the presupposition that we have experiences of the type described above. This proposal might appeal to philosophers who deny that experiences have contents which can be assessed for veridicality.³⁸ These philosophers might claim that in the case of a Müller-Lyer case we do not experience the lines to be of different length either. We merely have some sort of belief that they are of different length (which is based on the experience). It is a consequence of this position, that in a Müller-Lyer scenario an agent holds conflicting beliefs. On the one hand, the agent believes the lines to be of the same length and at the same time the agent believes the lines to be of different length. This is peculiar, especially if the agent also believes the first belief to be true and the second belief to be false. One way out of this difficulty, which does not necessitate the presupposition of experiential content, is to argue that the latter is not a normal belief but a different type of doxastic state very similar to beliefs. Let us call these states proto-beliefs or aliefs³⁹. What is characteristic of these doxastic states is that they are deeply entrenched in the agent's nature. Even in the light of convincing

38 For an overview on the question whether experiences have accuracy or veridicality conditions see Siegel (2015).

39 The notion of 'alief' has been introduced by Tamar Gendler to explain belief-discordant behaviour. Although an agent believes something to be true, she does not act accordingly. This can be explained by the agent's aliefs. Cf. Gendler (2008).

contrary evidence the agent does not stop being in this doxastic state. No matter how convincing the evidence that the two lines are of the same length, we continue to be in this doxastic state with the content that the lines are of different length.⁴⁰

It is possible to defend my incompatibility argument on the basis of such a doxastic account without having to presuppose the existence of experiences of OU alternatives. All that is needed are doxastic states (different from ordinary beliefs) – which are deeply entrenched in our nature – such that it seems to us that we do have (at least) two OU alternatives in situations of choice. As in the Müller-Lyer case where we cannot get rid of the doxastic state that the lines are of different length by believing that they are of the same length, we cannot get rid of the doxastic state that we have the two OU alternatives. Even if we believe determinism to be true, we nevertheless do not lose the doxastic state that we have the two OU alternatives. Under the assumption of determinism we are subject to a systematic illusion about what alternatives are open and up to us.

The argument based on these doxastic states parallel to my argument for experience of OU alternatives is thus the following:

(1D) In a situation of choice, the agent is in a doxastic state (deeply entrenched in the agent's nature) such that it seems to her that she has at least two OU alternatives.

40 Note that the Müller-Lyer illusion might be susceptible to the environment and culture a subject has grown up in. For a discussion of this topic see for instance McCauley & Henrich (2006).

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(2D) The doxastic state of having two OU alternatives is veridical (i.e. corresponds to the way the world is) if and only if the alternatives are open and up to the agent. The doxastic state of having two OU alternatives is illusory (i.e. is in conflict with the way the world is) if and only if one or more of the alternatives fails to be open and up to the agent.

(3D) An alternative is an OU alternative (i.e. is open and up to the agent) only if there exists an extension of the situation of choice such that the agent realizes the alternative in that extension.

(4D) In order for a doxastic state of choice to be veridical, there must, for every OU alternative A which is part of the doxastic state of the agent⁴¹, exist an extension of the actual situation of choice such that the OU alternative A is realized in that extension.

(5D) There is no single action an agent can do to realize more than one of the OU alternatives which is part of the doxastic state of the agent, i.e. the realization of OU alternatives is mutually exclusive.

(6D) Nomological determinism is true.

(7D) There exists only one extension (in the future) of a situation of choice.

(8D) Under the assumption of nomological determinism, doxastic

41 An OU alternative A is part of a doxastic state of an agent if and only if she is in a doxastic state such that it seems to her that she has the OU alternative A.

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states of choice cannot be veridical and are thus systematically illusory.

Note that my incompatibility argument about the experience of OU alternatives and this type of fallback position about doxastic states about OU alternatives allow to accommodate our experience or doxastic state with the belief about the truth of determinism. According to these arguments the belief in determinism is not in conflict with the experience or doxastic state of having two OU alternatives. All that needs to be accepted is that this experience or doxastic state is systematically illusory. Ideally, what needs to be added for such a position is an error theory explaining this systematic illusion.

One might be tempted to defend an argument similar to the one I defended above (which does however not presuppose a doxastic state different from belief) which argues for the falsity of determinism. It states that our beliefs about OU alternatives are in conflict with the truth of determinism. It then continues by arguing that our beliefs in OU alternatives are essential to our understanding of ourselves (or something along these lines) and that we should thus reject the thesis of determinism. Although I do not want to defend such an argument here, I provide a sketch for such an argument in the section below.

3.9 An argument based solely on beliefs about OU alternatives

In this section I sketch an argument with parallel structure to my incompatibility argument which defends that the belief in OU alternatives is in conflict with the belief in the truth of determinism and that we should thus give up the thesis of determinism.

(1B) When an agent believes to have a choice, she believes to have at least two OU alternatives, i.e. she believes to have two alternatives which are open and up to her.

(2B) The belief to have a choice is true if and only if all the alternatives the agent believes to have are open and up to the agent. The belief to have a choice is false if and only if one or more of the OU alternatives the agent believes to have fail to be open and up to the agent.

(3B) An alternative is open and up to the agent only if there exists an extension of the situation of choice such that the agent realizes the alternative in that extension.

(4B) In order for the belief of having a choice to be true, there must, for every OU alternative A the agent believes to have, exist an extension of the actual situation of choice such that the OU alternative A is realized in that extension.

(5B) There exists no single action an agent can do in order to realize more than one of the OU alternatives she believes to have, i.e. the

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realization of OU alternatives is mutually exclusive.

(6B) Nomological determinism is true.

(7B) There exists only one extension (in the future) of a situation of choice.

(8B) Under the assumption of (nomological) determinism, the belief of having a choice turns out to be systematically false.

At this stage it is possible to add a premise about the importance of the belief in OU alternatives. E.g. one could defend:

(9B) It is not possible for an agent to give up the belief that she has (at least) two OU alternatives because it constitutes an essential part of our understanding of our human nature to be able to choose between OU alternatives.

Which allows to then draw the conclusion that the thesis of determinism must be false.

(10B) The assumption of (nomological) determinism has to be given up.

Obviously, if somebody has strong theoretical reasons to believe in the truth of determinism, she might defend the following type of premise instead of (9B):

(9B') The truth of thesis of determinism is essential for our understanding of the world.

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And thus conclude:

(10B') Our beliefs about having OU alternatives are systematically false and should be rejected.

I consider it to be a strength of my incompatibility argument about experiences of OU alternatives (or doxastic states about OU alternatives) that it does not force us to take a definite stance between the thesis of determinism and the OU alternatives which are given to us.

On the one hand, it allows those who have strong reasons to defend the truth of determinism to acknowledge the deeply entrenched character of OU alternatives which turns out to be systematically illusory, but cannot be given up.

On the other hand, it can also accommodate the thesis that unless we have very strong reasons to believe in the truth of determinism, we should rather believe in its falsity in order to avoid having to attribute us a systematic illusion in our deeply entrenched experience of choice.

4 Discussing some cases

4.1 Introduction

The four cases presented in this chapter challenge my analysis of the experiences of OU alternatives and their veridicality conditions. The replies to these cases allow me to clarify my view and defend a distinction between different types of alternatives.

4.2 Motherly love

Let me start with a case which is intended to challenge the necessary requirement for the veridicality of experiences of OU alternatives I defend in my incompatibility argument. I argue that in order for an experience of an OU alternative to be veridical there must exist an extension of the situation the agent is in such that the agent realizes the alternative in that extension. If we find a case such that we judge that the agent has an OU alternative, but there is no extension of the situation such that she realizes that alternative, then we have found a counterexample to reject the defended necessary condition. One such potential counterexample is a case about a mother who is in the situation of being able to save her child without endangering herself or having to fear any other negative consequence. The mother is on a walk at the lake with her young child. Her child sees a duck swimming and starts running towards the duck. The child trips and falls into the

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lake. The water is deep and the child has never learned to swim. The mother, who is a good swimmer, immediately jumps into the lake and saves her child.

Such a case is a counterexample to my proposal, if (1) the case is such that the mother had the experience that not jumping into the lake in order to save the child was open and up to her, (2) this experience is veridical, i.e. the alternative was in fact open and up to her and yet (3) there exists no extension of the situation in which the mother does not jump into the lake to save her child and thus the condition I defend to be necessary is not necessary.

Why should we think that there exists no such extension? If we keep the situation and the laws of nature (thus also the mother-love, swimming-abilities and rationality of the agent) fixed, there exists no possible world (which fulfils the fixity of the situation and of the laws of nature) such that the mother does not jump into the lake to save her child. In order for the agent not to jump, she would need to become crazy (or another important change of the situation would need to be realized) and this is contrary to our requirement to hold the situation and laws of nature fixed. If this is correct, we have a case of an agent who has the veridical experience of an alternative of not saving the child being open and up to her, yet there exists no extension of the situation in which the agent does not save the child.

I would like to start by raising a doubt about the assumption that the mother has the experience of the OU alternative of not jumping into the lake. It is unlikely that when a mother sees her child drowning there is in any sense an alternative given to her that she could refrain from trying to save her child. However, for the sake of the argument, I will grant that the case is such that the agent does have the experience of such an OU alternative. But in order for this case to be

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a counterexample, the agent does not only need to have such an experience, but it also needs to be veridical, i.e. it must be open and up to the agent not to save her child. But as we have seen above, the mother would need to become crazy (or some other important change would need to be realized) in order for the agent not to save the child. How could somebody insist that it is open and up to the mother not to save her child if she had to become crazy in order to do so?

One reason why somebody could insist that it is open and up to her not to save the child, is that she has the general ability not to jump into the lake. And in this sense, it seems true that she could refrain from jumping into the lake. While I obviously grant that the agent has this general ability to refrain from jumping into the lake, I want to resist that she has the specific ability not to jump into the lake to save her child in the very situation she is in at that moment. Given her constitution (psychological and physical), it is impossible for her not to save her child in the situation she is in at that moment. We need to distinguish between two different senses about what an agent can do. On the one hand, an agent can do whatever she has the general ability to do. On the other hand, an agent can just do whatever she has the specific ability to do in the situation she is in at that moment. In the latter sense, the agent can only do whatever she has the opportunity to do in that very situation. And as I argued above, in order for an alternative to be open and up to the agent, the agent needs to have this kind of special ability or opportunity. I further argued above, that in order for the agent to have such a specific ability or opportunity, there must exist an extension of the situation such that the agent realizes that alternative in that extension. By using this distinction, we can grant that there is a sense in which the agent could not have saved the child, although it was not open and up to the mother not to save her child.

A similar way to formulate the above worry is in terms of the agent's causal powers. The claim would be that while there is no extension of the situation such that the agent does not jump into the lake, the agent nevertheless had the causal power to refrain from jumping into the lake. My reply to this kind of formulation is parallel to the reply above. I defend the claim that an alternative is open and up to the agent only if the situation is such that her causal power can manifest in that situation, i.e. only if she can exercise her causal power in that situation. Thus although the agent has the causal power of refraining of jumping into the lake, she is not in a situation in which she can exercise this causal power.

It is possible to use the locution of 'having a causal power' just to cover the cases where one has the opportunity to exercise the causal power. If somebody is not in a situation in which she can exercise her causal power, she does not have the causal power. However, this alternate use of 'causal powers' has no influence on my argument. A defender of such a position would have to grant that according to her definition the mother fails to have the causal power to refrain from jumping into the lake in the situation in which her child is drowning.

4.3 Criminal Threat

I argue above that it is unlikely that the mother actually has the experience of the OU alternative of not saving her child. But there is a case with many parallels to the case above where it is quite likely that the agent does have such a type of experience. Take the case of an agent who is threatened by a criminal with a gun. The criminal tells

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the agent what to do and threatens to kill the agent if she does not do what the criminal asks her to do. In such a case it is quite probable that the alternative of not doing what the criminal is asking is given to the agent in her experience as an OU alternative. It seems open and up to her to refrain from doing what the criminal is asking her to do. But is this case more problematic than the case above? Remember that for this case to be a counterexample, we need to judge that the agent's experience is veridical, i.e. it is open and up to the agent not to follow the criminal's orders and at the same time we must judge that there is no extension of the situation in which the agent does not follow the criminal's orders. In order to answer this challenge we need to add specifications to the case. And depending on the way we specify our scenario, I argue that either the experience is illusory and there is no extension of the situation such that the agent does not follow the criminal's orders or the experience is veridical and there is an extension of the situation such that the agent does not follow the criminal's orders. Whether the first or the second kind of scenario is realized depends on the specification of the situation and thus also on the constitution (physical and psychological) of the agent. For instance, if the criminal orders the agent to press a button which will result in the death of ten people, the agent might be psychologically constituted in such a way that, because of her urge of self-preservation, she could not refrain from pressing the button. Alternatively the agent could be such that it is both open and up to her to press or refrain from pressing the button. Or she might be such that she cannot press the button, because her psychological constitution is such that she cannot kill people. If we keep the ambiguity in mind about what an agent can do (which we already encountered in the motherly love case), then none of those possibilities turn out to be problematic for my claims. In every case,

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what is open and up to the agent depends on the existence of an extension of the agent's situation such that she realizes the alternative in that extension.

Note that this case also shows that we might have a very salient experience of an OU alternative which turns out to be illusory. It is quite probable that somebody being threatened still has the experience of the OU alternative of not following the criminal's order (e.g. give the criminal her money), although it is not open and up to her to refrain from following the criminal's order because she would need to become crazy, much more courageous, selfless, etc. then she actually is in order to refrain from following the criminal's order.⁴²

What can we conclude from the fact that there are cases where we have a prominent experience that turns out to be illusory? We should not be surprised. We are all familiar with cases of optical illusions. There is no *prima facie* reason to believe that this should be different in the case of agentic experiences. But most importantly, we should not confuse singular cases of illusions with systematic illusions. Even if we are prone to optic illusions we do not conclude that our visual perception is completely unreliable. There is no reason to react differently with cases of illusory agentic experiences.

42 Note that I am hereby not saying that somebody cannot become more courageous or selfless – whatever that exactly means – but that whether it is open and up to the agent to become more courageous or selfless depends on her actual constitution and the situation she is in.

4.4 The Gambling Mathematician

The next case I want to discuss, is the case of a gambling mathematician. She can either bet on black or red and has calculated that betting on black gives her a 60% winning chance while betting on red only gives her a 40% chance. We can safely assume that the mathematician will act according to her best judgement and will thus bet on black. At the same time, she has the experience that she has the OU alternative to bet on red. The situation also seems to be such that she has the opportunity and special ability to bet on red in the very situation she is in. Nothing seems to prevent her from exercising her causal power of betting on red. If this is correct, then this case turns out to be a counterexample if it is also true that there is no extension of her situation of choice such that she bets on red. There seem to be good reasons to believe that there is in fact no possible extension of her situation in which she bets on red. She has come to the conclusion, that betting on black is the better solution. She is not crazy and there is no reason to presume that it is open and up to her to act crazily. In other words, we should be able to safely assume that holding her situation and the laws of nature fixed, she will bet on black. However, whether this is the case depends on the further specification of the case. If on the one hand the mathematician is such that under no circumstances she could bet other than what she has calculated, then there is in fact no extension of the situation in which she does bet on red. And thus, if she has the experience of the OU alternative of betting on red, then her experience is illusory. If on the other hand her psychological condition does not prevent her from betting on red, but does allow her to do bet on red, for instance, simply because she sometimes “acts on a hunch”, i.e. she sometimes

acts on a feeling which is against her best mathematical judgement, then it turns out that there exists an extension where the mathematician bets on red and thus her experience that it is open and up to her to be on red is veridical.

Note that I am in no way implying that for our analysis we need to look at situations different from the one our agent is in. My proposal is not to look at a world in which we replace the agent's reasons and motivation by different reasons and motivations. My suggestion is that the current situation the agent is in (according to the second specification of the case) is such that it is open and up to her on which reasons (which are available to her in this very situation) she wants to act upon. Either she follows her mathematically best judgement or she acts on the hunch. There is nothing in the psychology of the mathematician in the second specification of the case that prevents her from doing the latter. It is not impossible for the mathematician to bet on red, because it is open and up to her to act on a reason other than her best mathematical judgement.

4.5 The Teaching Professor

This case is about a professor at breakfast deliberating about whether to give her lecture which will start soon after her breakfast. It seems to her that it is both open to her to go give her lecture or to stay at home. Further, it is clear to her that under the given circumstances she will give her lecture. She loves her job, loves teaching and she has no extraordinary reason not to give the lecture (e.g. somebody in her family just had a terrible accident). I grant that this is a case with

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no extension of the situation such that she does not give her lecture. At the same time, the professor might have the experience that it is open to her not to go give the lecture and we might consider this experience to be veridical. If this is correct, we have found a counterexample to my proposal. And if this case turns out to be a counterexample, we end up with a large list of counterexamples. All cases in which the psychology and situation of an agent is such that it is clear what she is going to do and the agent still has the experience (which we judge to be veridical) that doing something different is open and up to her would all turn out to be counterexamples to my argument. But is the treatment of these cases really correct?

I do not want to deny that there are cases like the present one for which there is no possible continuation of the situation such that the agent does something different than what she actually is going to do (as we have just seen in e.g. the motherly love case). In order for the agent to act differently something about these situations would have to be different – either an external condition or the psychological state of the agent. Further, I do not want to deny, that there is a sense in which the agent has the veridical experience of being able to act differently.

What I want to deny however is, that the professor's experience of not giving the lecture is an experience of an OU alternative. I claim that the agent does not experience the alternative as open and up to her given the situation she is in at that moment. In fact, it is clear to her that she will not realize that alternative. She even experiences the alternative of not giving the lecture to be incompatible with the situation (especially her psychological state) she is in at that moment. For the professor, it is clear that she will give her lecture. Not giving the lecture is not realizable by her in this situation because of her current psychological state (and the current situation in general) and

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this is given to the agent in her experience. In this sense she does not experience not giving the course as an OU alternative. So in what sense does she have a veridical experience that she could not give the course?

Again, we need to apply the distinction between having the ability to do something and being in a situation in which we can exercise that ability or having the opportunity to exercise that ability. The professor obviously has the ability not to give her lecture. But given the situation she is in, including her psychological state and the external conditions, it is impossible for her to exercise that ability in that situation. When the agent experiences that she could refrain from giving the lecture, she experiences that she has the ability not to give the lecture. In this sense, her experience is veridical. But this experience is not an experience of the OU alternative of not giving the lecture. She experiences her situation and especially her psychological state to be such that she will give the lecture unless the situation changes. Although both are experiences about what the agent can do, they are two different types of experiences.

A similar case to illustrate this distinction is the following one. Somebody hands me a gun, explains to me how to use it and asks me whether I experience it to be an open alternative to kill a friend with this weapon. We have here two possible interpretations of this question. Either the question is about whether I have the experience of having the ability to use the weapon or the question is about whether I experience the situation to be such that it is open and up to me to use the weapon in the situation I am in. While I do have the experience that I have the ability to use the gun it also is given to me that it is not open and up to me to do so in this situation. I experience it to be psychologically impossible for me to do so. If I experience an action to be psychologically impossible in a situation, then I do not

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have the experience of the OU alternative of doing that action.

Let us return to the professor case. What if the professor does not experience her psychological state to be such that it is impossible for her not to give the lecture and experiences the situation to be such that it is open and up to her not to give the lecture, but in fact her psychological state is such that it is impossible for her not to give the course? This would be a case of illusion. Although it seems open and up to her to not give the lecture it is in fact not open and up to her to give the lecture. There is no extension of the situation in which she realizes that alternative. As I have argued above, it is not a problem for my proposal to grant that there are cases where agents have illusory agentive experiences. These cases are no different from cases of perceptual illusion.

5 Can-claims and OU alternatives

5.1 Overview

In this chapter, I discuss an argument by John Martin Fischer which he calls the basic version of the argument for incompatibilism. My incompatibility argument is very similar to his argument, but there are some important differences which I highlight in order to clarify my own argument. Section 5.2 presents Fischer's basic version of the argument for incompatibilism and points to some peculiarities which this argument involves. Section 5.3 shows how my position is able to avoid the peculiarities which Fischer's argument needs to accept. The crucial difference is that I argue that there are actions which an agent can do although the alternative is not open and up to her. That is, I reject the premise which Fischer accepts for the basic version of the argument that an agent can do only what is an extension of her current situation. Section 5.4 discusses these can-claims without OU alternatives. The intuitive point which I attempt to capture is, that when only reasons prevent somebody from doing something, such that it is not open and up to them to act accordingly, it is nevertheless correct to make the corresponding can-claim. These cases are to be distinguished from cases where an agent cannot do something because of internal or external constraints which do not depend on the rational evaluation of the situation by the agent. But they also need to be distinguished from cases in which an agent has an OU

alternative.⁴³

5.2 Fischer's basic version of the argument for incompatibilism

In his seminal book *The Metaphysics of Free Will* (1994), John Martin Fischer presents an argument for incompatibilism which he calls the 'Basic Version of the Argument for Incompatibilism'. My incompatibilism argument has many similarities with Fischer's, yet there are some important differences which I discuss in the present chapter. The kernel of Fischer's argument is that an agent can only do what is an extension of the actual past: "[A]n agent can in world *w* do X only if his doing X can be an extension of the past in *w* holding the natural laws of *w* fixed." (Fischer 1994, p. 231)

Fischer presents the following argument: (1) Let us assume the truth of causal determinism. (2) Agent A mows the lawn at *t*₂. (3) Because of the truth of causal determinism, there is an earlier state of the world *s*₁ at *t*₁ before *t*₂ where *s*₁ together with the laws of nature entail that A mows the lawn at *t*₂. (4) Thus, the only extension of the actual past at *t*₁ is one in which A mows the lawn at *t*₂. (5) Supposing that an agent can only do something which is an extension of the actual past, the agent can thus not refrain from mowing the lawn at *t*₂, because A's refraining from mowing the lawn at *t*₂ is not an extension

43 According to my view, the set of OU alternatives is a subset of the actions an agent can do.

of the actual past. (6) Thus, A cannot refrain from mowing the lawn at t_2 .⁴⁴

Fischer continues his argumentation by suggesting that the incompatibilist defending this argument can also grant the truth of certain backtracking conditionals in order to accommodate the compatibilist intuition that something would have had to be different for the agent to have acted differently. The key-point in Fischer's argumentation to accommodate both the incompatibilist and compatibilist intuitions is to defend that the assessment of the can-claim and the backtracking conditional have to be done differently. On the one hand, the former must be evaluated by holding fixed the actual past, while on the other hand, the actual past needs not to be held fixed in order to evaluate the latter. "This shift in the conditions of assessment of the two claims renders them [i.e. the can-claim and the backtracking conditional] compatible" (Fischer 1994, p. 90). Let us look at Fischer's 'Salty Old Seadog' case:

"Consider the salty old seadog. Each morning at 9:00 a.m. (for the past forty years) he has called the weather service to ascertain the weather at noon. If the "weatherman" says at 9:00 that the weather will be fair at noon, the seadog always goes sailing at noon. And if the

44 Recently, a similar argument has been defended by Christopher Franklin (2011). Franklin defends the view that while determinism does not threaten our ability to do otherwise, it threatens our opportunity to do otherwise. Franklin uses the following definition of opportunity:

"(O*) S has the opportunity to ϕ at t in W iff there is a possible world W^* in which S ϕ s at t and, at the very least, everything except S's ϕ -ing, and the causal consequences of her ϕ -ing, is the same as in W ." (Franklin 2011, p. 697)

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weatherman says that the weather won't be fair at noon, the seadog *never* goes sailing at noon. The seadog has certain extremely regular patterns of behaviour and stable psychological dispositions – he is careful to find out the weather forecast, is not forgetful, confused, or psychologically erratic, and whereas he loves to go sailing in sunshine, he detests sailing in bad weather.

Further, let us not make any assumptions about God's existence. Also, assume that causal determinism does *not* obtain. That is, let us imagine that various factors (values, desires, beliefs, etc.) explain or rationalize the seadog's choices and actions, but do not *causally determine* them. (We may even assume that there is universal causation without its being deterministic causation.)

It is now noon, and at 9:00 this morning the seadog called the weather service and was told that the weather at noon (and after) would be horrible, that there would be torrential rains. The seadog is healthy and alert, and his sailboat ready to go. Bearing in mind the weather forecast, he decides at noon not to go sailing. But *can* he at noon go sailing this afternoon? Given that the seadog is not coerced, hypnotized, manipulated electronically, deceived, etc. (and causal determinism is false), it seems that the seadog certainly *can* go sailing at noon. He simply *doesn't* go sailing at noon: he makes a rational choice not to do something which he, nevertheless, has the *power* to do. He has the freedom, as it were, to be crazy (or at least to act crazily)." (Fischer 1994, p. 80f, original italics)

According to Fischer, the incompatibilist should not only argue for the claim that the seadog can go sailing at noon, but she should also grant that at least one of the two following corresponding

backtracking conditionals is true⁴⁵:

“(C1) If the seadog were to go sailing at noon, then the weatherman would have told him at 9:00 that the weather would be fair at noon.” (Fischer 1994, p. 81)

“(C2) If the seadog were to go sailing at noon, then *some* fact about some time prior to noon would not have been a fact.” (Fischer 1994, p. 81, original italics)

I agree with Fischer that these sentences are plausibly true. (C1) and (C2) are accurate descriptions of the seadog’s habits. At the same time, it would be puzzling to deny that the seadog cannot go sailing at noon.

Fischer argues that we should grant the truth of the backtracking conditionals (C1) and/or (C2) because the possible world where the seadog goes sailing at noon which is closest or most similar to the actual world (where the agent decides on the basis of the bad weather-forecast not to go sailing at noon) is one in which the weather is fair (or some other fact of the actual past does not obtain). This seems quite plausible. But when Fischer adds that the seadog can go sailing at noon in spite of the bad weather, he claims it on the basis of the assumption that there is an extension of the actual past (with the bad weather forecast) in which the seadog goes sailing at noon. This gives us the quite astonishing result that a world with facts

45 Note that Fischer does not consider the truth of the backtracking conditionals to be evident: “[I]t would be inappropriate to think that the backtrackers are *uncontroversially* true.” (Fischer 1994, p.82, original italics)

that differ from the facts of the actual world is more similar to the actual world than a world which is identical to the actual world up until the moment of the seadog's decision (which does not involve any breach of the actual laws of nature) to go sailing at noon in spite of the bad weather.⁴⁶

Fischer's solution involves accepting another peculiarity. When the seadog deliberates about what to do, it seems reasonable to claim that he believes that if he were to go sailing (now), he'd be sailing in bad weather conditions. Should somebody ask the seadog how the weather will be, if he were to go sailing now, he'd surely reply that he believes – on the basis of the weather-forecast – that the weather is going to be bad. This belief reflects the fact that given that his going sailing or not has no influence on whether the weather is good or bad, we should also accept that if he were to go sailing now, the weather

46 Fischer is aware of this point: "Of course, in order for them to be consistent, it must be the case that the possible world *w* posited by the analysis of the can-claim is *not* in the set of possible worlds in which the seadog goes sailing at noon which are *most similar* to the actual world." (Fischer 1994, p. 91, original italics) And grants in a footnote that he is not able to give a reason for this peculiarity: "I have not *argued* that in analyzing the "can" of freedom (as opposed to the subjunctive conditional) one looks at worlds that are merely suitably related to the actual world but not necessarily in the set of the most similar worlds. I am not sure how exactly to argue for this; it *does* seem to emerge from a consideration of examples and the possible-worlds framework for analyzing the examples that the worlds relevant to the can-claim need not be among the most similar possible worlds. I ask the reader to take it as a plausible supposition, and in part to test it by its fruitfulness in illuminating the cases to which I apply it." (Fischer 1994, p. 232, original italics)

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would be bad. But Fischer argues for the truth of the backtracking conditional that if he were to go sailing, the weather would be fair (or some other fact of the actual past would not obtain). This leads to a puzzling situation. On the one side, it seems that (D1) it is true that if he were to go sailing now, the weather would be bad. On the other side, (D2) it is true that if the seadog were to go sailing at noon, the weather would be fair (or some other fact of the actual past would not obtain). Note that (D1) and (D2) together do not yet result in a contradiction. Both (D1) and (D2) are implications with the same antecedent and conflicting consequences. But as long as the antecedent does not obtain we do not get a contradiction. It might be impossible for the antecedent to obtain. But given that Fischer argues that there is an extension of the actual situation in which the seadog goes sailing at noon, it becomes puzzling how to avoid the contradictory conclusion that the weather is both bad and fair (in this situation were the seadog goes sailing at noon).

However, Fischer never discusses the truth of (D1) in his argument. All Fischer says is that the can-claim is true, because there is an extension of the actual past such that the seadog goes sailing at noon. The reasoning that led me to accepting the truth of (D1) might thus be rejected by Fischer. He might argue that it is erroneous for the seadog to believe that if he were to go sailing now, the weather would be bad. Rather, he should believe that if he were to go sailing now, the weather would be fair (or some other fact of the actual past would not be a fact). To me it seems counterintuitive to think that the seadog does not believe (D1) to be true. He knows that he has no influence on the weather and thinks that he can go sailing at noon.

Another possibility to interpret Fischer's compatibility claim between the can-claim and the backtracking conditionals is to argue that depending on the interests of the evaluator of the sentences either

(D1) or (D2) turns out to be true and the other false, and vice versa. This fits Fischer's suggestion that in deliberation an agent should only take into consideration extensions of the actual past.⁴⁷

5.3 Accepting both can-claims and backtracking conditionals

In what follows, I do not attempt to prove that Fischer's proposal does not work, rather I want to suggest a solution which does not rely on Fischer's shift in the conditions of assessment. That is, I aim to explain how both the can-claim and the backtracking conditionals are true simpliciter (i.e. without any shift in the conditions of assessment). My solution is grounded in the ambiguity of can-claims. On the one side, a can-claim can be about the abilities of an agent, on the other side, a can-claim can be about an opportunity an agent has in a specific situation. Further, I consider the backtracking conditionals to be true because they accurately describe the seadog's character.

My solution to the Salty Old Seadog case consists in the claim that the can in 'the seadog can go sailing at noon' is a can of ability and not a can of opportunity. According to my terminology, we should thus grant that the seadog can go sailing at noon, but we should deny that the seadog has the OU alternative of going sailing at noon. In fact, we

47 That is, when the seadog is deliberating, (D1) turns out to be true and (D2) turns out to be false. In other contexts of assessment (D2) is true and (D1) is false. The topic of deliberation is treated in chapter 6.

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do have very good reasons to deny that the seadog has an OU alternative of going sailing at noon. His character is such that he hates sailing in bad weather. Something about him or the situation would need to be different for him to go sailing at noon. Thus, given the actual situation and its past, there is no extension of the actual situation such that he goes sailing at noon. And if there is no such extension, then he does not have the OU alternative of going sailing. Nevertheless, we should not conclude from this fact that the seadog cannot go sailing. In fact, the seadog does have the (general) ability to go sailing. The truth of this ability is grounded in situations which the seadog goes sailing at noon which are close enough to the actual situation. That is, situations where the weather forecast was good or in which he has a reason to go sailing in bad weather (e.g. rescuing somebody). In other words, I defend the position that the incompatibilist should accept the compatibilist intuition that the seadog can go sailing at noon and that the backtracker is true that if the seadog were to go sailing at noon, some fact of the actual past would not have been a fact. Further, I agree with the compatibilist that there is no extension of the actual situation in which the seadog goes sailing at noon.

On the basis of this discussion of the Salty Old Seadog case four important points about my view concerning OU alternatives can be highlighted. First, the incompatibilist intuition about OU alternatives I defend is not about an agent having OU alternatives to act crazily or out of character. All my argument tries to establish is that based on experiences of choice there are situations of choice where an agent has more than one OU alternative (if the experiences are veridical). Those OU alternatives do not require the agent to act out of character or crazily.

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Second, there are true can-claims about agents who do not have the corresponding OU-alternative.

Third, there are cases where agents suffer from illusions about which alternatives are open and up to them. Suppose that the seadog experiences to have the OU alternative of sailing at noon. (Note that it is quite unlikely that he has in fact such an experience, see below.) According to my suggested treatment of the case, his experience turns out to be illusory, because there is no extension of the situation in which he acts crazily or out of character.

This brings us to a fourth point: Agents have (at least at times) experiential access to the distinction between which actions are open and up to them and for which actions they merely have the general ability. Although the seadog experiences to have the general ability to go sailing he does not experience to have the OU alternative to go sailing right now. The seadog is likely to have access to his psychological state which is such that sailing in bad weather is in stark contrast with his preferences and thus he would not experience it as open and up to him to go sailing at noon.

5.4 Constrained by reasons: Refinement of can-claims about alternatives which are not open and up to the agent

5.4.1 Can-claims without OU alternatives

The fact that I argue that the seadog can go sailing at noon because he has the general ability of sailing at noon is likely to raise the following worry. One might wonder whether we should judge that the seadog can go sailing at noon even when somebody has kidnapped the seadog and tied him to a post in an abandoned shack. Following my above reasoning we should come to this conclusion. Even when he is tied to a post, it is plausible that he still has the general ability to sail. But it seems natural to deny that the seadog can go sailing in these circumstances. So the distinction between can-claims of ability and can-claims of OU alternatives needs improvement.

What exactly is the difference between the seadog who does not have the OU alternative of going sailing because of the way his character is (as in the original seadog case) and the seadog who cannot go sailing because he is tied to a post so that we judge that the former can go sailing at noon, while we judge that the latter cannot do so?

One tentative explanation is that we treat internal (i.e. psychological) constraints differently from external constraints. It might be more natural to deny that somebody can do something only when he is

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hindered by external constraints like being tied to a post. The external hindering factors are normally visible and so these cases are easier to assess. For cases with internal hindering constraints (i.e. psychological factors) the situation is much less obvious. What psychological state an agent is in is not something which can be observed directly. And so in the case of the seadog who is in a psychological state such that it is not open and up to him to go sailing we might come to the conclusion that he can go sailing at noon, because we do not observe anything preventing him from going sailing.

But this answer is not satisfactory either. In order to see this, let us consider the case of a phobic seadog. If the seadog has a “sea-phobia” (i.e. being irrationally afraid of the sea) and we know about this phobia, we do not judge that he can go sailing at noon, although we cannot directly observe his phobia. And so whether we judge that the seadog can go sailing at noon or not cannot only depend on whether the hindering factor is external or internal (respectively, whether it is observable or not).

I believe that part of the reason why we judge the phobic seadog differently from the original seadog is that the latter is considered psychologically sane. It is a result of his rational deliberation given his character that he comes to be in a psychological state which is such that it is not open and up to him to go sailing at noon. In other words, it is a result of his character and deliberative activity that it is not open and up to him to go sailing at noon. Admittedly, the deliberative activity is not a particularly interesting one in this case, because he simply decides not to go sailing on the basis of the bad weather-forecast. Nevertheless it is a rational decision which is based on his personal preferences and the facts (or rather what he takes to be facts) available to him. Would there have been good reasons for him

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to go sailing in spite of the bad weather (e.g. he could have rescued tourists from drowning), he might have taken a different decision. Or put slightly differently, would he have wanted to go sailing at noon, he would have done so.

Before reaching the conclusion not to go sailing (that is, before hearing the bad weather forecast), it was open and up to him to go sailing at noon.⁴⁸ Only when the compelling reason not to go sailing at noon was given to him, it was no longer open and up to the seadog to go sailing at noon. Without this compelling reason (e.g. if he had not believed that the weather was going to be bad) it would have been open and up to the seadog to go sailing at noon. In the case of a phobia, whether an action is open and up to the agent does not depend on the reasons available to her. What is characteristic of a phobia is exactly that certain actions are not open and up to the agent independently of the reasons available to her. The role of reasons in psychologically sane agents compared to agents with a psychological condition can be illustrated in a clearer manner with the case of the gambling mathematician (according to our first specification of the case). Before she has made her reasoning, it is both open and up to her to bet on red or on black. Prior to her rational deliberation, nothing about her character is such that betting on red or black is not an open option for her. If she has to immediately make her bet without having time to go through her probabilistic reasoning both betting on red and

48 This example is problematic for the reason that the case might be such that the seadog only goes sailing if he has heard the weather-forecast announcing the weather to be good. We have reason to believe that if he misses the weather-forecast it might not be open and up to him to go sailing at noon. That is, not hearing the weather forecast might be a compelling reason for him not to go sailing.

betting on black are OU alternatives. If she has time to go through her probabilistic reasoning she will normally reach the conclusion that betting on black is the only reasonable thing to do. And as a consequence of her character which is such that she always acts in the light of what she takes to be her best reasons it is no longer open and up to her to bet on red.⁴⁹ It would require her to act crazily or out of character to bet on red. But her character is not such that she makes such crazy choices. Nevertheless, we might be inclined to judge that she can bet on red, although it is not open and up to her to bet on red. We do not have the same inclination in the case of a phobic mathematician who we judge to be unable to bet on red (she cannot bet on red) because she is irrationally afraid of betting on red. The phobic mathematician cannot bet on red even if it was the mathematically right thing to do. In such a case, we judge that the mathematician cannot bet on red.

What distinguishes the psychologically sane agent from the agent with a psychological condition or external constraining factor is that the former is not hindered by anything outside of the realm of reasons. For the psychologically sane agent the OU alternatives available to her are dependent on the reasons available to her. For the agent with a psychological condition like a phobia or an agent with an external hindering factor like being tied to a post the OU alternatives she has do not depend on the reasons available to her. This crucial difference motivates my claim that the psychological sane

49 Note that by making a small calculation mistake she could reach the wrong conclusion that betting on red is the only mathematically correct action. In that case betting on black would no longer be open and up to her.

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agent can do A, even if it is not open and up to her to do A, because in the light of different reasons (respectively, in the light of a different evaluation of the reasons available to her⁵⁰), alternative A would be open and up to her. This is not the case for the agent with a psychological condition or with an external hindering factor.

We have seen different cases where an agent (arguably) can do A although she does not have the OU alternative of doing A. Let us look at a difference between two of these cases. In the motherly love case, the mother does not go through any kind of deliberation in order to decide to save her children. There is no doubt, neither for her nor for observers, about what she will do. In the gambling mathematician case, it takes a probabilistic reasoning in order for the mathematician to come to the conclusion that betting on black is the only reasonable thing to do. This reasoning takes some time and mistakes can happen. The difference between these two cases is mirrored in my intuitions on the truth of the can-claims for these two cases. My intuition that the mathematician can bet on red is much stronger than the intuition that the mother can refrain from saving her child. It seems to me that one can convincingly defend the position that the mother cannot refrain from saving her child. In the case of the gambling mathematician arguing that she cannot bet on red is a much more challenging task. I suspect that the difference lies in the departure from actuality⁵¹ that is needed for the agent to realize the

50 My use of 'reason' in this work is intended to be as metaphysically neutral as possible, given I cannot address the topic of the metaphysics of reasons in the present work.

51 That is, how different from the actual situation the situation would have to be.

respective alternative. In the mathematician case, she needs to decide to e.g. leave aside her best mathematical judgement and act on a hunch. This is something that would not require a big departure from actuality.⁵² For the mother not to decide to save her child, a much bigger departure from actuality is needed. She needs to act completely crazily.

5.4.2 Tentative definition for can-claims without OU-alternative

Let us set aside these differences between these cases and turn to the task of finding a definition that covers also all cases where an agent can do A although she does not have the OU alternative of doing A for cases where nothing but the agent's reasons (respectively what the agent takes to be the reasons available to her) prevent her from doing A. I suggest the following tentative definition which depends on the notion of OU alternative:

(can*) An agent S can* A in situation C, if and only if, (1) S has the OU alternative of doing A in C or (2) were S to come to the conclusion (in a rational deliberation or decision process) that doing A in C is

52 In fact, when I have treated the gambling mathematician case I have suggested two specifications of the case. On the first specification, it is not open and up to the mathematician to act on a hunch and bet on red. On the second, it is open and up to her to bet on red.

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attractive enough to be chosen, S would have the OU alternative of doing A in C.

An agent can consider an alternative attractive enough to be chosen only if the action is not considered (by the agent) to be too unattractive to be chosen. In the gambling mathematician case (according to the first specification where the mathematician is such that she would need to act crazily in order to act against her mathematical judgement), the alternative of betting on red is not open and up to the agent because it is too unattractive to be chosen (for the mathematician) given that her chance to win is higher if she bets on black. In order to see whether the gambling mathematician can* bet on red, we need to check whether it would be open and up to her to bet on red, if she had come to the conclusion that betting on red is attractive enough to be chosen. If she had evaluated that acting on a hunch (and thus against her best mathematical judgement) is attractive enough to be chosen, then it would have been open and up to her to bet on red. And thus the gambling mathematician fulfils (can*) and it is true that the mathematician can* bet on red.

Let us check whether we also get the right result in the case of the seadog who is tied to a post. If the tied seadog were to consider sailing at noon attractive enough to be chosen, then he still would not have the OU alternative of going sailing at noon, because he is tied to a post. And thus we also get the right result that the tied seadog cannot* go sailing at noon. This proposal also yields the right results for the phobic seadog and the phobic mathematician. Even if the phobic seadog finds going sailing attractive enough to be chosen, he does not have the OU alternative of going sailing because of his sea-phobia and so we get the correct answer that the phobic seadog

cannot go sailing. Accordingly, even if the phobic mathematician finds betting on red to be attractive enough to be chosen, she still does not have the OU alternative to bet on red because of her red-phobia and so we also get the correct answer that she cannot bet on red.

5.4.3 Difficulty for the suggested definition

A difficulty in analysing the counterfactual of what would be open and up to the agent if the agent were to come to the conclusion that an action is attractive enough to be chosen is to find out whether other changes of the situation are required. Depending on how we examine the counterfactuals, we get different results on what is open and up to the agent. For instance, if we assume (contrary to what I have done above) that the seadog who is tied to a post only can come to the conclusion that going sailing is attractive enough to be chosen if he is not tied to a post, then we get the wrong result, that he can* go sailing at noon, because it would (according to this treatment of the counterfactual) be open and up to him to go sailing at noon if he were to come to the conclusion that going sailing at noon is attractive enough to be chosen. We thus potentially end up with the very problem which we started with at the beginning of 5.4.1.

This difficulty can be avoided by arguing that these counterfactuals need to be evaluated according to the Lewisian evaluation. According to it, we get the result that the counterfactual situation is more similar to the actual situation if it implies no other change of the situation apart from the different conclusion by the agent (of what is attractive

enough to be chosen). That is, in the case of the seadog who is tied to a post, the world in which he arrives at the conclusion that going sailing is attractive enough to be chosen is one in which he is still tied to a post. And thus we get the desired result that he cannot go sailing.

To sum up, 'can*' allows us to make the intuitive distinction between the seadog in the original case who can* go sailing at noon and the seadog who is tied to a post who cannot go sailing at noon – although neither of them has the OU alternative of going sailing at noon.

5.4.4 An example to showcase the usefulness of the distinction

The following case of Jack Tar (another seaman) allows us to highlight the usefulness of the suggested distinction between can-claims. Contrary to the seadog, Jack Tar loves sailing independently of the weather conditions. On a fair day, he enjoys the calm of the sea, and on a stormy day, he enjoys the challenge of sailing in difficult weather conditions. Like the seadog, Jack Tar always listens to the weather forecast in the morning. But contrary to the seadog, his decision about whether to go sailing or not does not depend on the weather conditions. Sometimes he decides to go sailing in good or bad weather conditions and sometimes he decides not to go sailing in good or bad weather conditions and rather goes to the pub (he loves going to the pub).

Today, the weatherman has announced bad weather and Jack Tar is in good health conditions. Jack Tar decides not to go sailing today, but

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to spend his afternoon in the pub. Was it open and up to Jack Tar to go sailing at noon? If we take seriously that both going sailing and going to the pub are alternatives which are appealing to the Jack Tar and the reasons available to him are such that both options are attractive, then it seems that we do not have any reason to deny that it is open and up to him to go sailing at noon.

Comparing the old seadog case with Jack Tar's case we see the usefulness of the distinction between can*-claims and can-claims about OU alternatives. There is an important intuitive distinction between the seadog and Jack Tar. For the old seadog to go sailing at noon in bad weather condition he would need to act crazily or out of character. For Jack Tar going sailing at noon in bad weather condition is something that fits his character and usual habits. On the basis of the proposed distinction we can explain this intuitive distinction. While both the seadog and Jack Tar can* go sailing at noon, it is only open and up to Jack Tar to go sailing at noon.

6 Alternatives in Deliberation

6.1 Overview

This chapter is on the topic of deliberation. In the first half of the chapter, I discuss a proposal by John Martin Fischer who defends the position that an alternative in deliberation has to fulfil the criteria that it is an extension of the actual situation. In the second half of the chapter, I discuss whether deliberation is compatible with determinism and whether positions that argue that it is compatible imply some possible objection to my incompatibility argument.

Section 6.2 treats Fischer's discussion of a difficulty which arises by accepting both can-claims and backtracking conditionals. If the seadog can go fishing at noon (even when the weather is bad) and if it is true that if the seaman were to go fishing at noon, the weather would be fair then the seadog should go fishing at noon in order for the weather to be fair. Fischer's solution to this problem consists in defending that in deliberation only alternatives which are extensions of the situation should play a role. I accept Fischer's criteria, but show that Fischer nevertheless has to accept a peculiarity (analogous to the one in chapter 5) because he ties can-claims to extensions of the situations in which the agent acts accordingly. In section 6.3, I attempt to show how my position combined with Fischer's criteria for deliberation avoids this peculiarity. Section 6.4 discusses a possible objection to my suggestion. In section 6.5, I address a more substantial worry and suggest that it can be avoided by distinguishing between conditional sentences which express a causal connection

and conditional sentences which express a necessary condition.

In section 6.6, I sketch an argument for deliberation-incompatibilism – the position that deliberation requires the falsity of determinism – which is based on the structure of my incompatibility argument. Section 6.7 presents an argument by Derk Pereboom for deliberation-compatibilism – the position that deliberation does not require the falsity of determinism. In section 6.8, I then examine whether accepting Pereboom's argument leads to an objection for my incompatibility argument. Section 6.9 presents an epistemic account of openness by David J. Velleman which *prima facie* implies a potential objection to my incompatibility argument.

6.2 Fischer on deliberation

As we have seen in section 5.2, Fischer argues that a can-claim and its associated backtracker can both be true. In that section, I have pointed out some peculiarities that Fischer needs to accept and have provided a first proposal on how to reconcile the truth of both claims avoiding these peculiarities⁵³. However, there is another related issue that arises by accepting both claims which Fischer illustrates in his Icy Patch case:

“Sam saw a boy slip and fall on an icy patch on Sam’s sidewalk on Monday. The boy was seriously injured, and this disturbed Sam deeply. On Tuesday, Sam must decide whether to go ice-skating. Suppose that Sam’s character is such that if he were to decide to go

53 Cf. section 5.3.

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ice-skating at noon on Tuesday, then the boy would not have slipped and hurt himself on Monday.

The situation is puzzling. It seems that Sam is able to decide to go ice-skating on Tuesday. And it also appears plausible that if he were to decide to go skating on Tuesday, the terrible accident would not have occurred on Monday. So it appears that Sam *ought* to decide to go ice-skating on Tuesday. And yet, given that Sam knows that the accident did in fact take place on Monday, it also seems *irrational* for Sam to decide to go ice-skating on Tuesday on the basis of a reason flowing from the truth of the backtracker.” (Fischer 1994, p. 95, original italics)

Fischer argues that Sam can go ice-skating, because nothing prevents him from going ice-skating and so there exists an extension of the actual situation in which Sam goes ice-skating on Tuesday. Further, Fischer argues for the truth of the backtracker which accurately describes Sam’s character. By accepting both these claims it seems that one should conclude from them that Sam should go ice-skating, so that the boy does not get injured – which would be a crazy thing to do.

In order to show that this conclusion can be avoided, Fischer argues that in practical deliberation an agent should only take into account extensions of the actual situations:

“[I]t seems reasonable for an agent to restrict his attention in deliberating to the reasons present in such worlds (i.e., those possible worlds which share the past with the actual world.)” (Fischer 1994, p. 95f)

In order to motivate this claim Fischer describes the following climbing example:

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“Imagine that you and I are climbing a path upward toward a mountain peak (which is our goal). It is noon, and we started at seven in the morning. I begin to tell you about another path. That is, I begin to describe the lovely scenery along that path – the beautiful views of the valley below, the exquisite stream that runs alongside it, and so forth. But when you inquire further about it, I point out that we cannot get to that trail from where we are, because of a deep gorge which separates us from the other path. To get there we would have had to have started out on that different path at seven in the morning. Given this, it is obvious that the reasons for taking that other trail for the rest of the day are simply irrelevant to our current deliberations. They may be of great interest to us and help us pass the time as we walk, but you would be correct to tell me that these reasons – compelling as they may be – should not play any (straightforward) role in our deliberations about the rest of our day.” (Fischer 1994, p. 96f)

I consider Fischer’s reasoning to be convincing and his example nicely illustrates his point. Whatever action is not accessible from the situation an agent is in cannot represent an answer (or at least not a straightforward answer) to the question about what to do in that situation. If the climber believes that there is no extension of the actual situation with him taking the alternative path and enjoying the scenery from that path then considerations concerning that alternative should play no role in his deliberation about what to do in this situation. In the climbing case, it is evident to the agent that there is no extension of his actual situation with him taking the alternative path to enjoy the scenery. It is part of the agent’s beliefs that it is impossible in his current situation to take the other path or enjoy the view on the other path. And so there is no problem for the climber to consider ‘If we were on the other path, we would enjoy the view’ to be

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true and accepting that its truth plays no role in his deliberation about what to do at that moment.

For the Icy Patch case the situation is less straightforward. Fischer argues for the truth of the backtracker that if Sam were to go ice-skating on Tuesday, some fact of the actual past would not obtain (i.e. the accident would not have happened). Fischer's solution to avoid the conclusion that Sam should act so that the past would be different, consists in arguing that in deliberation about what to do an agent needs to restrict his attention to extensions of the current situation and that the backtracker thus should play no role in the agent's deliberation. Remember that in the climbing case the reason that the alternative plays no role in the practical deliberation is that it is impossible for the climber to choose the other path in the situation he is in at that time and the climber knows of this impossibility. However in Sam's case the situation is different. It is evident to Sam that he has no access to an alternative of making the accident from Monday not happen. Whether Sam goes ice-skating on Tuesday or not has no influence on the occurrence of the accident on Monday. However, Fischer also argues that there is an extension with Sam ice-skating on Tuesday and so that it is open and up to Sam to go ice-skating on Tuesday. If Sam believes that it is open and up to him to go ice-skating, it seems that he should also believe (at least during his deliberation) that were he to go ice-skating on Tuesday the accident would nevertheless have taken place on Monday. In the past of the extension of the current situation in which Sam goes ice-skating on Tuesday, the accident has happened on Monday and there is no reason to believe that the past would change. In other words, Sam should believe (at least during the deliberation about what to do) that the backtracker is false. If Sam believes the backtracker to be false, then this is clearly different from Fischer's proposal of believing

that the backtracker's truth should play no role in deliberation about what to do. The backtracker is not simply set aside but it needs to be considered to be false. In other words, applying Fischer's criteria for alternatives in deliberation (that only alternatives which are extensions of the actual situation should be taken into account during deliberation) leads to a peculiarity if one evaluates the cases as suggested by Fischer. In what follows, I investigate whether applying Fischer's criteria for alternatives solves the problem raised in the Icy Patch case when one evaluates the cases not as Fischer does, but as I have suggested above in section 5.3.

6.3 Combining Fischer's criteria with my proposal

In sections 5.3 and 5.4, I have suggested that the peculiarities resulting from accepting both the can-claim and the corresponding backtracker can be avoided if one does not understand the can-claim as expressing that the agent has an OU alternative, but evaluates it according to (can*). Note that it is not clear whether we should claim that Sam can* go ice-skating on Tuesday. Sam is deeply disturbed about the boy's accident. If this is a psychological condition that prevents Sam from going ice-skating on Tuesday, then it seems that we should judge that Sam cannot go ice-skating at Tuesday, just as an arachnophobic cannot touch a spider. But for the sake of the argument, let us assume that Sam is not in such a psychological condition and that he simply decides on the basis of a rational reasoning (based on what he has observed on Monday) that going ice-skating is too dangerous. In this case, we should indeed judge

that Sam can* go ice-skating on Tuesday. Further, we should accept that there is no extension of the actual situation in which Sam goes ice-skating on Tuesday, given his character and preferences (on which he bases his rational decision). It would require him to act crazily and disregard his rational reasoning that going ice-skating is too dangerous. But Sam is neither such that he acts crazily nor does he disregard his reasoning. If he were such that he disregards his rational reasoning or acts crazily, it would be false to claim that if he were to go ice-skating on Tuesday the accident would not have happened on Monday.

Following this proposal, we can now successfully apply Fischer's suggested criteria that in practical deliberation only extensions of the actual situation should play a role. There is no extension of the actual situation with Sam going ice-skating on Tuesday and so it plays no role in Sam's deliberation. Consequently, the problem that Sam should do something such that the past would be different does not arise. Note that the case of the seadog is similar to Sam's case. Although it is true that if the seadog were to go sailing at noon, the weather would be fair, we do not have to draw the conclusion that the seadog should go sailing at noon so that the weather would be fair, because there is no extension of the seadog going sailing at noon.

6.4 OU alternatives during deliberation

The proposed solution might lead to the following objection. One can concede that once the deliberative process has ended and the rational decision has been taken it is no longer open and up to the

agent to act in a certain way because it would require her to act crazily which we suppose she is not. However, before having reached the conclusion – that is while the agent is in the middle of the deliberative process – the action is at that moment still open and up to the agent. In other words, during the deliberative process there exists an extension of the actual situation in which the agent does the alternative action. Let me elucidate this point on the basis of the Icy Patch case. Once Sam has taken the decision that it is too dangerous to go ice-skating on Tuesday, it is no longer open and up to him to go ice-skating because it would require him to act against his reasoning and he is not such that he acts against his reasoning. In other words, at td_{end} (for the time when the deliberation has ended) it is no longer open and up to Sam to go ice-skating. But before having reached this conclusion the situation might be different. At the beginning of his deliberative reasoning or during that reasoning (at td_{proc} , for a time at the beginning or during the deliberation process) both going ice-skating and not going ice-skating are alternatives worth considering for Sam. It is the goal of his deliberation to find out what the right thing to do is in his situation. As long as he has not reached a conclusion, the reasons he has evaluated up to that moment do not (yet) indicate that going ice-skating or not going ice-skating is too unattractive to choose.⁵⁴ One might argue that if he had to decide whether to go ice-skating before he has finished evaluating the

54 Note that in Sam's case the decision might be very straightforward and might not require a deliberation process which takes time. However, for the sake of the argument, I assume that Sam does need to evaluate all the reasons available to him in a deliberation process which takes some time in order to form a decision about whether or not to go ice-skating on Tuesday.

reasons available to him both going ice-skating and not going ice-skating would be open and up to him at that moment.

If this suggestion is correct, then one might be inclined to judge that the solution proposed above to solve the tension between accepting both the can-claim and the backtracker in deliberation does not solve the issue highlighted by Fischer. If during Sam's deliberation about whether to go ice-skating or not it is open and up to Sam to go ice-skating (that is, there is an extension of Sam going ice-skating) and the backtracker that if Sam were to go ice-skating on Tuesday the accident on Monday would not have happened is true, then it seems that Sam should go ice-skating on Tuesday so that the accident would not have happened on Monday.

This objection should be resisted for the following reason. If it is open and up to Sam to go ice-skating before having come to the conclusion that going ice-skating is too dangerous, then the backtracker is obviously not true. Remember that the backtracker expresses that Sam's character is such that he goes ice-skating only if no accident has happened on Monday. For the case where he goes ice-skating in spite of the accident this turns out to be false. And so the problem does not arise.

6.5 *The ambiguity of conditional sentences*

The solution remains problematic. I argue that the problem does not arise because certain alternatives are not open and up to the agent. Further, I agree that the agent can* perform the respective

alternatives. The reason the alternative is not open and up to the agent is that the reasons available to the agent are such that the alternative is too unattractive to be chosen and it would require her to act crazily, which she is not. But if this is the only reason which prevents the agent from choosing this alternative, one should wonder whether believing in the truth of the corresponding backtracking conditional should not provide reason enough for this alternative to become attractive enough to be chosen. Let me clarify for the Icy Patch case. I argue that the reason why Sam should do something so that the past would be different does not arise is that it is not open and up to Sam to go ice-skating. The reason that it is not open and up to go ice-skating for Sam is that this alternative is not attractive enough to be chosen. And exactly at this point, one might wonder whether the belief in the truth of backtracker should not provide sufficient reason for the alternative of going ice-skating becoming attractive enough to be chosen. If Sam believes that if he were to go ice-skating the accident would not have happened on Monday, this seems to be a very compelling reason.

This reasoning should be resisted by pointing to an ambiguity for conditional sentences. On the one hand, one can understand a conditional sentence as expressing a causal connection, that is, that if a certain condition obtains, then as a consequence a certain other event takes place. On the other hand, a conditional sentence can be understood non-causally. It can for example express that a certain event can only take place in a situation in which a certain condition is fulfilled. Now the question is whether we need to understand the backtracker 'if Sam were to go ice-skating on Tuesday the accident on Monday would not have happened' causally or non-causally. On the first reading, the backtracker states that Sam going ice-skating on

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Tuesday would have as a consequence that the accident on Monday would not have taken place. Maybe in a world with backwards causation or time travel this might be something that one might want to express by using the conditional sentence, but in the actual world we normally do not believe in backwards causation or time travel. And so the conditional sentence should not be read as expressing a causal connection. On the non-causal reading suggested, the backtracker states that the closest situations to the actual situation in which the agent does something are situations in which a certain necessary condition obtains. Another way to express this reading is that an agent does said action only if a certain necessary condition obtains. If the necessary condition does not obtain the agent does not do said action. I suggest that we need to understand the backtrackers in question according to this second non-causal reading. If one takes this second reading seriously, it becomes clear how we should read Fischer's claim that in practical deliberation we should only take extensions of the actual situation into consideration and that the backtrackers do not fulfil this criteria. Given that the necessary condition is not fulfilled, there is no extension of the situation such that the agent chooses the alternative expressed in the backtrackers. And so the backtracker cannot play a role in the agent's deliberation about what to do.

In other words, I agree with Fischer that an agent deliberating should only take into considerations alternatives which are on an extension of her situation, but disagree with Fischer who argues that there is an extension of the actual situation such that the agent realizes the action expressed in the backtracker. I defend that there is no extension of the actual situation such that the agent realizes the alternative expressed in the backtracker given that the necessary condition is not fulfilled.

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What about Sam's experience and beliefs during his deliberation about what to do? Sam might experience that it is open and up to him to going skating on Tuesday or he might experience that while he can* go skating it is not open and up to him to go skating on Tuesday given his character and preferences. For the former case he has an illusory experience and based on it also a wrong belief about what is open and up to him. It seems to him that it is open and up to him to go skating on Tuesday although the accident has happened on Monday and so he also does not believe in the truth of the backtracker. He believes the backtracker that if he were to go skating on Tuesday, the accident would not have happened to be false.

In the latter case in which Sam experiences that while he can* go skating it is not open and up to him to go skating on Tuesday given his character and preferences, Sam has a veridical experience and true belief about what is open and up to him. He believes that it is actually not open and up to him to go skating. He believes that in order to go skating on Tuesday the accident would have had not to happen on Monday. That is, he truly believes the backtracker. He believes that the necessary condition for him to go skating on Tuesday is not fulfilled. The problematic conclusion that he should go skating on Tuesday in order for Monday's accident not to happen does not arise according to this reading of the backtracker.

6.6 Sketching an argument for deliberation-incompatibilism

Above, I concur with Fischer's thesis that an agent should take only extensions of her actual situation into consideration when deliberating about what to do. If one assumes that deliberation necessitates an agent having at least two OU alternatives, one might be inclined to conclude that deliberation requires the falsity of determinism. If the thesis of determinism is true, there exists, for every situation, only one extension of the situation. And if one assumes that deliberation requires multiple OU alternatives and thus multiple extensions of a situation, it turns out that the truth of determinism is incompatible with deliberation. As a consequence, if one believes to have different alternatives and believes that determinism is true, one has inconsistent beliefs⁵⁵. Let me sketch such an argument for deliberation-incompatibilism based on the structure of my incompatibility argument.

(1) When an agent deliberates about what to do, she believes to have (at least) two alternatives which are open and up to her.

(2) An alternative is open and up to the agent only if there exists an extension of the situation such that the agent realizes the alternative in that extension.

⁵⁵ Cf. Ginet (1966), Taylor (1966).

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(3) There exists no single action an agent can do to realize more than one of the OU alternatives she believes to have, i.e. the realization of OU alternatives is mutually exclusive.

(4) From (1), (2) and (3) we can infer that the agent's belief in deliberation of having at least two OU alternatives can be true only if there exists one extension of the situation for every OU alternatives the agent believes to have.

(5) Assumption that nomological determinism is true.

(6) From (5) follows that there exists only one extension of a situation.

(7) From (4) and (6) we can directly conclude that under the assumption of (nomological) determinism, the agent's belief in deliberation of having at least two OU alternatives cannot be true and is thus systematically false.

One possibility to resist such an argument is to defend the view that alternatives do not need to fulfil a metaphysical openness requirement (as expressed by premises (1) and (2) in the argument above) but merely an epistemic requirement. According to such views it is possible to truly deliberate even if determinism were true. In the next section I present an elaborate argument by Derk Pereboom who defends such a position.

6.7 Pereboom's argument for deliberation-compatibilism

In this section, I present an epistemic openness criteria defended in an argument for deliberation-compatibilism (i.e. an argument that attempts to show that rational deliberation does not require the falsity of determinism) by Derk Pereboom.⁵⁶

In his argument, Pereboom defends the claim that the openness required for deliberation is not to be understood as metaphysical, but merely as epistemic. He provides the following openness criteria:

“(S) In order to deliberate rationally among distinct actions $A_1...A_n$, for each A_i , S cannot be certain of the proposition that she will do A_i , nor of the proposition that she will not do A_i ; and either (a) the proposition that she will do A_i is consistent with every proposition that, in the present context, is settled for her, or (b) if it is inconsistent with some such proposition, she cannot believe that it is.” (Pereboom 2008, p. 294)

And here is Pereboom’s definition for a settled proposition:

“(Settled) A proposition is settled for an agent just in case she believes it and disregards any doubt she has it is true, e.g., for the purpose of deliberation.” (Pereboom 2008, p. 294)

Let us consider whether this proposal yields the right responses in the climbing case⁵⁷. Remember that Fischer has presented the climbing

56 Pereboom (2008). Pereboom presents his account as an amendment of a position by Tomis Kapitan (1986).

57 Cf. section 6.2.

case to motivate the criteria that deliberating agents should only take into consideration extensions of their actual situation. Does Pereboom's suggested criterion (S), together with (Settled), succeed in avoiding that the climbers should consider enjoying the view on the other path to be an alternative? It does for two possible reasons. Either the climbers are certain that they will not enjoy the view on the other path and so they cannot deliberate about whether to enjoy the view on the other path. Or enjoying the view on the other path is not consistent with what is settled for them, e.g. because what is settled for them is that they can climb just with a certain speed and that the other path is at a certain distance from them.⁵⁸

The suggested criteria seems promising, however, as Pereboom notes⁵⁹, there exists a famous challenge to deliberation-compatibilism that has been raised by Peter van Inwagen:

"... imagine that [an agent] is in a room with two doors and that he believes one of the doors to be unlocked and the other door to be locked and impassable, though he has no idea which is which; let him then attempt to imagine himself deliberating about which door to leave by." (Van Inwagen 1983, p. 154)⁶⁰

Both opening-the-first-door (A1) and opening-the-second-door (A2) fulfil the epistemic openness requirement (S), as they are both consistent with what is settled for the agent. Further, (A1) and (A2) are not such that the agent is certain that she will do A1 resp. do A2

58 In both cases, I believe that the reason the criteria is not fulfilled is that they believe that enjoying the view on the other path is not open and up to them.

59 Pereboom (2008), p. 296f.

60 As quoted in Pereboom (2008), p. 296.

or certain that she will not do A1 resp. do A2. In other words, both (A1) and (A2) fulfil the epistemic openness criteria. But it is evident that an agent who is in the two-door situation cannot deliberate about which door to open (although she can deliberate about which door she wants to try to open)⁶¹ and so the criteria on its own is not successful to capture alternatives for deliberation.

Pereboom thus suggests adding the following deliberation efficacy requirement:

“(DE) In order to rationally deliberate about whether to do A_1 or A_2 , where A_1 and A_2 are distinct actions, an agent must believe that if as a result of her deliberating about whether to do A_1 or A_2 she were to judge that it would be best to do A_1 , then, under normal conditions, she would also, on the basis of this deliberation, do A_1 ; and similarly for A_2 .” (Pereboom 2008, p. 299)

In order for this proposal to be successful, (DE) needs to be such, that an agent in a two-door case does not fulfil (DE) and an agent in a regular deterministic deliberation situation does fulfil (DE). It is evident that an agent in a two-door situation cannot fulfil (DE). If the first door is closed, the agent will not succeed to open it even if she decides to open it. However for a deterministic deliberation scenario there is no reason to doubt the truth of deliberative efficacy.⁶² And so if we follow

61 On this point see also Nelkin (2004) and Kapitan (1986).

62 One doubt whether (DE) is fulfilled in deterministic scenarios could come from the fallacy of confusing determinism with fatalism (cf. Holton (2009), p. 178ff). That is, if an agent is determined to do A2, and one wonders what would happen if she were to decide to A1, then one would falsely conclude that she would nevertheless do A2 because she is determined to do so. However, accepting determinism does evidently not consist in

Pereboom's proposal we have two necessary requirements for alternatives that do not require the falsity of determinism which together with other uncontroversial requirements constitute a sufficient condition for deliberation alternatives.

6.8 Consequences of Pereboom's argument for my incompatibility argument

Assuming Pereboom's argument is correct, one might wonder about the consequences for my incompatibility argument. I would like to remind the reader that my incompatibility argument is about alternatives we experience to have. On the basis of these experiences we then usually form the belief that we have this kind of alternatives which are open and up to us. That we normally have this kind of beliefs is something that also Pereboom agrees to:

“It does seem plausible that when we deliberate about what to do, we typically presuppose that we have more than one distinct option for which action to perform, each of which is available to us in the sense that we can or could perform each of these actions.” (Pereboom 2008, p. 289) ⁶³

accepting such a thesis.

63 Randolph Clarke has also defended in his *Libertarian Accounts of Free Will* (2003) that while it is possible to deliberate even if one believes in the truth of determinism, we normally do have beliefs about alternatives which are incompatible with the truth of determinism:

“One might on some occasion, deliberate about whether to A while believing no more about one's abilities with respect to A-ing than that if

Consequently, arguments for deliberation-compatibilism represent no direct objection to my incompatibility argument. My argument does not require that we take the experience to be veridical, all I am claiming is that the experience can be veridical only if determinism is false. If we have reason to believe that determinism is true, then one simply has to accept the consequence that the experience is illusory.⁶⁴ If one takes the experience to be illusory, one has a reason

one has better reason to A than to do anything else, then, by deliberating about whether to A, one can, in an acceptably efficient way, bring it about that one finds that reason, decides to A, and A-s (for that reason). Deliberating makes sense even if one believes no more than this (Clarke 1992a). One might, on occasion, by exercising careful self-discipline, deliberate while presuming no more than this if, for example, one is convinced that determinism is true and that its truth precludes our having any open alternatives to what we do and if, at the same time, one very much wants to avoid holding beliefs that contradict this conviction.

But this more cautious presumption is not our usual one. And I do not think that we are able always to practice such self-discipline. We do generally take it for granted that each of the alternatives we are considering is open. And even if we are capable, on occasion, of deliberating without believing this, the presumption is practically inescapable on a consistent basis. It is deeply a part of our nature, or our second nature, to presume this when we deliberate. Whatever we may think during our philosophical reflections about the openness of the future, and whatever we may manage, with careful self-discipline, to do on some occasions, it will generally be the case when we deliberate that we presume the indicated openness.” (Clarke (2003), p. 112f)

64 Cf. Clarke (2003), p. 114: “Thus, if determinism, is true, and if either variety of incompatibilism is correct, then at least when we deliberate, we presume that alternatives are open when they are not. We are, then,

to refrain from forming the beliefs about OU alternatives (based on the experience of the OU alternatives) which are inconsistent with the belief in the truth of determinism.

Before raising an objection to Pereboom's position in chapter 7, I discuss an argument by J. David Velleman who defends an epistemic account for alternatives.

6.9 Velleman's epistemic account

In the above two sections, we have seen that it might be possible to deliberate even if determinism were true by taking alternatives to be mere epistemic possibilities. While, as we have also seen above, this does not represent a direct objection to my argument, one can formulate a direct objection to my incompatibility argument by defending the view that we do not experience OU alternatives but merely epistemic alternatives. In his 1989 article "Epistemic Freedom", J. David Velleman argues that we mistake our experiences of freedom to be about causal or metaphysical freedom while they are in fact merely about epistemic freedom. This position thus assumes *prima facie* that our experience of choice is veridical if we have epistemic freedom rather than metaphysical freedom. But what does epistemic freedom consist in according to Velleman? Let me start with what it does not consist in according to him. Epistemic freedom does not presuppose any physical or psychological possibility. The relevant

subject to an illusion."

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alternatives need not be something the agent can actually do in the situation she is in. When one enjoys epistemic freedom one experiences the future to be open in the following sense: There are several, incompatible ways for the agent to describe the future which are correct descriptions of the future. Velleman thinks that decisions are self-fulfilling prophecies. According to his proposal, decisions are assertive states and one speaks the truth if one describes correctly what one is going to do. For the sake of the argument, I will assume – while discussing Velleman’s argument – that decisions are indeed self-fulfilling prophecies. When an agent is in a decision situation with several choices open to her, she has several ways to correctly describe the future, even if determinism is true and what is going to happen is fixed. Note that for an external observer there is only one correct description of what the agent is going to do, but this is not the case for the agent herself. The agent is epistemically free. Based on the evidence available to her, the agent is justified in believing that whatever she decides to do is what she is going to do. This is true for all alternatives which are given to her. There is no risk for her to make a wrong prediction by taking the wrong decision. Whatever decision she takes, she will have correctly predicted what she is going to do. The fact that she is predetermined to make a specific choice does not prevent her from having the epistemic freedom that were she to make a different choice she would thereby also have made the right prediction.

To give an example, let us assume that I am predetermined to choose A, and B is the other alternative given to me, then I am epistemically free about whether I will do A or B in the sense that at the moment of choice the two following sentences are correct predictions I can make of my future. Were I to decide to A, I would thereby correctly predict that I will A and were I to decide to B, I would thereby correctly predict

that I will B. And there is no present fact that makes one of the two predictions a wrong prediction, even if I am predetermined to decide to A.

Velleman's point is not that we ignore what we are going to do. He suggests that even if I know that I am determined to decide to A I still have the epistemic freedom to decide to B because if I were to decide to B I would thereby correctly predict that I will B. Obviously I will decide to A, otherwise it would not have been true that I am determined to decide to A.

But does Velleman's proposal represent an objection to my incompatibility argument? First, it is not clear whether we should identify what I label as experience of OU alternatives with what he labels as experiences of freedom. But even assuming that he is referring to the same experience, it is not at all evident whether we should consider his proposal as an objection to my account. When he develops his argument he states that we have the illusory experience of being metaphysically free:

"My thesis is that [...], the experience [of metaphysical freedom] is an understandable illusion. Our sense of an open future is occasioned by a genuine indeterminacy, I believe, but the indeterminacy that occasions it is not *the metaphysical indeterminacy that the experience represents to us*. Our future is undetermined, I shall argue, in a way that explains our feeling of freedom without conflicting with determinism." (Velleman 1989, p. 34, my italics)

In other words, Velleman position should be read as an error theory for our experience of metaphysical freedom under the assumption of determinism. Nothing of what Velleman says is in contradiction with my claim that a careful description of our experiential content in

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choice situation contains that we experience to have OU alternatives and that this experience is illusory if determinism were true.

7 Alternatives and Newcomb's problem

7.1 Overview

In this chapter, I tackle Newcomb's problem with the help of the findings of the earlier chapters. A second objective of this chapter is to challenge Pereboom's epistemic account which has been discussed in section 6.7.

Section 7.2 introduces Newcomb's problem. I present Fischer's strategy to resolve the problem and suggest that some peculiarities Fischer needs to accept can be avoided with my account. In section 7.3, I discuss a variant of Newcomb's problem with an infallible predictor. This variant is then combined in section 7.4 with van Inwagen's Two-Door scenario in order to challenge Pereboom's epistemic account. In sections 7.5 and 7.6, I suggest that it is not possible to reconcile the choice premise of Newcomb's problem with an infallible predictor. 7.5 presents a rejection of standard counterfactual accounts about alternative and 7.6 suggests that the two above-mentioned premises cannot be reconciled.

7.2 Newcomb's problem

The famous Newcomb's problem has been first published by Robert Nozick as follows:

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„Suppose a being in whose power to predict your choices you have enormous confidence. (One might tell a science-fiction story about a being from another planet, with an advanced technology and science, who you know to be friendly, etc.) You know that this being has often correctly predicted your choices in the past (and has never, so far as you know, made an incorrect prediction about your choices), and further more you know that this being has often correctly predicted the choices of other people, many of whom are similar to you, in the particular situation to be described below. One might tell a longer story, but all this leads you to believe that almost certainly this being's prediction about your choice in the situation to be discussed will be correct.

There are two boxes, (B1) and (B2). (B1) contains \$1000. (B2) contains either \$1,000,000 (\$M) or nothing. What the content of (B2) depends upon will be discussed in a moment.

[...] You have a choice between two actions:

- (1) taking what is in both boxes
- (2) taking only what is in the second box.

Furthermore, and you know this, the being knows that you know this, and so on:

- (I) If the being predicts that you will take what is in both boxes, he does not put the \$M in the second box.
- (II) If the being predicts you will take only what is in the second box, he does put the \$M in the second box.

The situation is as follows. First the being makes its prediction. Then it puts the \$M in the second box, or does not, depending upon what it has predicted. Then you make your choice. What do you do?“ (Nozick 1969, p. 114f)

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In his paper, Nozick asks the reader who is not yet familiar with the problem to put the article aside and think about the problem before continuing to read. This is surely a suggestion worth following. I continue here by explaining the reasoning I went through the first time I was confronted with Newcomb's problem. At first, it seemed evident to me that I should choose option (2), i.e. I should take only the second box. The reasoning behind this choice is that the predictor has always been right and I expect her to be right this time too. The being will have predicted that I will take only the second box and will thus have put \$M in it. Were I to choose to take both boxes, the predictor would have predicted it and put nothing in the second box and I would only get \$1000. And so the choice seemed obvious. But then, the following reasoning radically changed my view of the problem and I switched camp from the "one-boxers" to the "two-boxers". No matter what the predictor has predicted, the content of the boxes is fixed once the predictor has put the money in the boxes. Whatever I choose to do will not make any money appear or disappear from the boxes. If the predictor has put \$M in the second box, there is no reason not to take the first box, too. And if she has put no money in the second box, I cannot make money appear by only taking the second box and so I should take both boxes to get at least the \$1000 from the first box. For both cases, I am better off taking both boxes and so that's what I should do.

Nevertheless the problem remains utterly puzzling. If you think that two-boxing is the right option, you nevertheless expect the predictor to be right and thus expect to get only \$1000. Further, you also believe that if you were to act against your two-boxing strategy by taking only the second box, you'd get \$M. As a two-boxer the two-boxing strategy thus seems irrational. The situation is no better for the one-boxer. She will be confronted with the fact that she's leaving the

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money from the first box on the table, although she could just take it. Whatever money is in the boxes remains in the boxes, the content will not change and so it is irrational to leave the money of the first box on the table when one has the choice of taking the money from both boxes. As a one-boxer the one-boxing strategy seems irrational, too.

John Martin Fischer⁶⁵ has offered a solution based on his notion of accessibility⁶⁶. The kernel of his strategy is to grant the truth of the backtrackers "If I do X, the being will have predicted this"⁶⁷ which motivate a one-boxing strategy but to argue that these backtrackers should play no role in the participant's deliberation about what to choose because the participant should only consider reasons obtaining in extensions of her situation.⁶⁸ In a situation where there is no money in the second box, only worlds with no money in the second box are accessible. And for this case taking both boxes is better than taking only the empty second box. In a situation where there is \$M in the second box, only worlds which have \$M in the second box are accessible. Thus it is also better to take both boxes and get \$M+\$1000 rather than only the \$M from the second box. Thus, two-boxing is the right strategy in both cases and that's what the participant should choose to do.

While Fischer's strategy is elegant, one still has to accept the

65 Cf. Fischer (1994), pp. 98-110.

66 Cf. chapter 5.

67 The backtrackers are true according to Fischer because the closest worlds to the actual world in which the participant chooses differently than in the actual world, are worlds where the being has made the correct prediction.

68 Fischer (1994), p. 101.

peculiarity that in the context of deliberation not only should one not take into account the truth of the backtrackers⁶⁹, but one has to believe that they could be false. According to Fischer's proposal, worlds where the predictor is mistaken are accessible by the participant. What is accessible by the participant is limited by the content of the boxes and not by the predictions of the being. If the being has predicted that the participant will take only the second box, it is still accessible by the participant to take both boxes. That is, one has to believe that the being could have made a wrong prediction and that the backtrackers thus could be false.

At this stage, I use the same strategy as I use in chapters 5 and 6 and argue contra Fischer that we should either reject that the alternative which would make the predictor wrong is accessible by the participant or, if we accept that there is an extension of the situation such that the predictor is wrong, we should consequently also reject the truth of the backtrackers.

I start by examining the option of rejecting the truth of the backtrackers. In order to see the attractiveness of this option, I suggest an analysis of the backtrackers in question.

In section 6.5, I defended two possible readings for conditional sentences, a causal and a non-causal reading. On the causal reading, 'if A, then B' expresses that B happens as a causal consequence of A. On the non-causal reading, one expresses by 'if A, then B' that B is a necessary condition for A. Further, I argued that for

69 According to Fischer's analysis, the worlds which make the backtrackers true are not accessible by the participant in the choice situation because they require the past to be different (i.e. different prediction by the being) than it actually is.

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the backtrackers that we were interested in for the Icy Patch and Salty Old Seadog cases, we should read the backtrackers according to the suggested non-causal reading. That is, B is not to be understood as a consequence of A, but as a necessary condition for A.

What can we say about the backtrackers in the Newcomb problem? First, we should note that the backtrackers we have encountered in the other cases were descriptions of the agent's character. They were expressing, according to my proposal, that an agent only does something if a certain necessary condition obtains. The backtrackers in the Newcomb case do not describe the participant's character. They say something about a situation with a being who is highly skilled in predicting the participants' choices. Let us put this difference aside and continue with the question of whether or not the backtracker 'if the participant were to do A, then the being would have predicted that the participant would do A' expresses that it is a causal consequence of the participant doing A that the being has made the prediction she has made. I take it to be common ground that the agent's action cannot modify the prediction or the content of the boxes which was already in the boxes before the agent's choice (as we normally do not believe in backwards causation) and that thus, the prediction cannot be a causal consequence of the participant's choice. But does the backtracker express that it is a necessary condition for the participant to choose A that the being has predicted so? The way the case is described, this is not the case. The description contains that the participant has two choices, she can either take both boxes or only the second box. The participant's choice is not specified as restricted by the prediction. If this is right, then we either need a further alternative non-causal reading of the backtracker or we should reject the truth of the backtracker by

replacing it by a similar but more appropriate claim. My proposal is that the claim that we should accept is the following: If I choose to A, then I have reason to expect that the being has predicted this and acted accordingly.⁷⁰ This claim is not a claim about a causal consequence or necessary condition of my choice. All that is claimed is that I have reason to expect a correlation between my choice and the prediction. No causal link is thereby claimed to exist and it does not say either that the prediction is a necessary condition for my choice.

Let us compare Newcomb's problem with the following example by Alan Gibbard about the correlation between smoking and lung-

70 Note that under the assumption that the predictor is infallible, the backtrackers are true whenever the suggested claim holds. This is so because under this assumption the correlation between the participant's choice and the prediction holds in all worlds closest to the actual world. However, if the predictor is merely inerrant (i.e. she is not infallible, but has nevertheless never made a mistake in the actual world), then there are worlds most similar to the actual world (which are identical with the actual world up to the participant's choice) in which the choice of the participant and the prediction do not match. If the predictor is inerrant, the backtracker does not hold, but merely the proposed weaker claim. The proposed claim allows for the possibility of wrong predictions by the agent (they are unexpected, but not impossible), the backtracker permits no such possibility. Note that Fischer disagrees with this evaluation of similarity or closeness between worlds. He argues that worlds in which the predictor is right (i.e. with a different past than the actual past) are closer to the actual world than worlds which are identical with the actual world up to the moment of choice in which the predictor has made a wrong prediction. (cf. Fischer (1994), p. 101)

cancer:

“It is discovered that the reason for the correlation between smoking and lung cancer is not that smoking tends to cause lung cancer. Rather, the cause of lung cancer is a certain genetic factor, and a person gets lung cancer if and only if he has that factor. The reason for the correlation of lung cancer with smoking is that the same genetic factor predisposes people to smoke.

A smoker who knows these facts is trying to decide whether to give up smoking....He likes to smoke, but wants much more to avoid cancer than to continue to smoke.”⁷¹

Whether the smoker continues to smoke or gives up smoking cannot change his genetic structure. If he has the genetic factor that causes lung cancer, his stopping to smoke cannot change this fact. The underlying structure of the Gibbard-smoker-case is a causal fork. Both the smoking-habit and the lung-cancer are causal consequences of a common cause: the genetic factor. But there is no causal link between the smoking-habit and the lung-cancer and thus giving up smoking cannot prevent lung-cancer.

One way to understand the underlying structure for the Newcomb case is a causal fork, too. There is a factor (e.g. the participant's character and preferences) which influences both the participant's choice and the being's prediction. If this suggestion is appropriate, we have an explanation for the correlation between the participant's choices and the being's predictions. And it becomes clear that the

71 Gibbard, Alan “Decision Matrices and Instrumental Expected Utility”, unpublished paper presented to a conference at the University of Pittsburgh, as quoted in Horgan (1981), p. 352f. Quoted in Fischer (1994), p. 103.

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participant should not decide on the basis of the expected correlation between her choice and the prediction. The being has based her prediction solely on the factor which influences the participant's choice, respectively what the participant is inclined to choose. It is not influenced by the later choice of the participant. Thus, it becomes clear that the participant should choose the strategy which is best depending on the extensions of the actual situation. And for that purpose the best strategy is one which is best for both the case where the being has predicted on the basis of a factor indicating that the participant will only take the second box and also for the case that the being has predicted on the basis of a factor indicating that the participant will take both boxes. The strategy satisfying this requirement is, as we have seen, the strategy of taking both boxes.

Note that although the participant should not base her decision on the expectation that the being will have made the right prediction, it is nevertheless rational to expect the predictor to be right this time, too. But the participant in her situation cannot do any better. She can only hope that the factor the being has based her prediction upon was indicating that she was going to take only the second box. If it indicated that she was going to take both boxes, then the being is going to be right. But would the participant in this situation only take the second box, she would end up with nothing. So she is doing the right thing by taking both boxes. There is no better option available to the participant given the being's prediction (on which the participant has no influence at the moment of choice).

Let us return to the comparison with Gibbard's smoker case. Given that the person is a smoker, she expects to get lung cancer, because being a smoker is a good indicator for lung cancer. But when it comes

to the decision whether to continue or stop smoking, it is clear that this decision has no influence on whether she will get lung cancer given that the cause for lung cancer does not depend on whether she continues to smoke or not. Thus the expectation (which is rational for the smoker to have) that he will get lung cancer, because she is a smoker, should play no role in her decision about what to do now.

7.3 Infallible predictor

The solution above presupposes that the being is not infallible, but merely inerrant. The predictor has always been right and never made a wrong prediction (presumably, the influencing factor is a very reliable indicator). Nevertheless, when the participant has to choose, both choices are open and up to her. That is, there exists also an extension of the situation where the predictor is wrong. And thus although the predictor has never been mistaken she is not infallible.

Let us consider a Newcomb scenario with an infallible predictor. This case is realized, for example, if the factor on which the being bases her prediction fully determines both the being's prediction and the participant's choice. In such a case the backwards conditionals hold, as the predictor is always right and the participant never makes a choice that the being has not predicted. The consequence is that the alternatives of taking either only the second box or both boxes cannot both be open and up to the agent. For every situation, there exists only the extension of the situation in which the predictor is right. What should the agent do in this case?

I want to defend the view that a Newcomb situation with an infallible predictor has inconsistent premises.⁷² The truth of the infallibility of the predictor premise requires the participant to have only one OU alternative, while the choice premise requires the participant to have both the OU alternative of taking both boxes as well as the OU alternative of taking only the second box. If this is correct, then a Newcomb case with an infallible predictor cannot be realized and thus we no longer have to answer the question of what the agent should do.

This solution (or rather dissolution of the problem) presupposes that having a choice requires having two OU alternatives. This solution is in line with Fischer's strategy for the inerrant predictor case – only extensions of the situation should be considered in deliberation, i.e. only OU alternatives. However, as we have seen in section 6.7, Derk Pereboom defends the view that deliberation alternatives merely need to fulfil epistemic requirements. They need to fulfil both the openness requirement (S) and the deliberation efficacy requirement (DE). In a Newcomb case with an infallible predictor, the alternatives of taking both boxes and taking only the second box both fulfil the two requirements. The participant's alternatives fulfil the openness criteria because for each alternative the participant is not certain of the proposition that she will do X, nor of the proposition that she will not do X. Further, the proposition that she will do X is consistent with every proposition that, in the present context, is settled for her. The participant's alternatives also fulfil the deliberation efficacy

72 This solution for the infallible predictor has also been suggested by Fischer: “[I]t seems that, if the predictor is genuinely infallible, the puzzle conditions are not coherent: it cannot be blithely assumed that I can either take one box or two.” (Fischer 1994, p. 106)

requirement because in her situation the participant believes of each alternative that if as a result of her deliberation about whether to take both boxes or only the second box she were to judge it best to do X, then, under normal conditions, she would also, on the basis of this deliberation, do X.

Below, I raise a doubt about whether a participant with two alternatives fulfilling Pereboom's epistemic criteria really has a choice. In order to do so, I propose to return to the Two Door scenario⁷³. Van Inwagen introduced this scenario to suggest that an agent in a situation with an unlocked and a locked door cannot choose which door to open. While this argument is convincing for the two doors case, we have seen that Pereboom defends the view that the argument cannot be applied to deterministic scenarios in general. In order for an action to be an alternative, according to Pereboom's account, it has to fulfil both the openness and the deliberation efficacy requirement. The Two Door scenario cannot fulfil the deliberation efficacy requirement, because the agent has no reason to believe that if she were to judge it to be best to open the door that happens to be locked she would succeed. This is not so for deterministic choice situations in general. For each alternative the agent believes to have, she also believes that if she were to judge it best to choose it, she would succeed. In what follows, I challenge Pereboom's account by introducing a two door scenario with an infallible predictor.

73 Cf. section 6.7.

7.4 The Two Door Scenario with an Infallible Predictor

Suppose you are in a situation with two doors, one unlocked and one locked. Further, there is an infallible being who has predicted which door you are going to try to open. The being who is the only one able to lock or unlock these doors, unlocked the door she predicts you are going to try to open and locked the other. Now it is your turn. You do not have any indication about which door is locked and which one is unlocked. Can you choose which door to open?

Both alternatives fulfil the openness and deliberate efficacy requirement. The openness criteria is fulfilled because for each alternative you are not certain of the proposition that you will do X, nor of the proposition that you will not do X. Further, the proposition that you will do X is consistent with every proposition that, in the present context, is settled for you (or if it is inconsistent with some such proposition, you cannot believe that it is). The deliberation efficacy requirement is also fulfilled because in your situation you believe of each alternative that if as a result of your deliberation about which door to open you were to judge it best to do X, then, under normal conditions, you would also, on the basis of this deliberation, do X.⁷⁴ Further, you believe the predictor to be infallible and hence you have no reason to doubt that the door you will try to open will indeed be unlocked. Thus, according to the epistemic account, you can deliberate about which door to open. But can you really choose

74 Note that the requirement is conditional. If you have no reason to judge one alternative to be better than the other, you still can fulfil the requirement.

which door to open?

I defend the view that an agent in this situation has no choice about which door to open by appealing to the following intuition. Given that one door is locked and the participant cannot unlock the door, she cannot choose whether or not to open the locked door and thus she has no choice about which door to open.

If this is correct, Pereboom's epistemic alternatives account gives us the wrong answer and should be rejected. Although the agent has no choice about whether to open the locked door, the epistemic alternatives account erroneously yields that the agent does have a choice. And thus having epistemic alternatives is not sufficient in order to have a choice.

Let us return to the Newcomb problem with an infallible predictor. I have argued that the problem can be solved (or rather dissolved) by pointing out that the choice premise and the infallible predictor premise are incompatible. This solution presupposes that alternatives need to be open and up to the agent. This requirement is challenged by Pereboom's epistemic account which defends an epistemic criterion for alternatives. If Pereboom was right, we could no longer simply dissolve Newcomb's problem by arguing for the inconsistency between the premises. By introducing a Two Door case with an infallible predictor I suggest to reject Pereboom's epistemic account. The rejection of this account represents an important step in the defense of my proposed solution that the premises of the Newcomb problem with infallible predictor are inconsistent. In order to further motivate this solution, the next section suggests rejecting counterfactual accounts for alternatives.

7.5 Rejecting the standard counterfactual accounts for alternatives

One way to avoid the conflict between the premise that the predictor is infallible and the premise that the agent has both the choice to take only the second box or both boxes is to defend a counterfactual account for alternatives. We need to distinguish between two types of counterfactual accounts. The first counterfactual account of alternatives argues that if the agent were to choose the alternative which the being has not predicted, a small miracle would happen and the participant would realize the alternative that makes the infallible predictor mistaken. This is not in conflict with the infallibility of the predictor and does not require an actual miracle, because the participant will not choose this option. Let us call this the “miracle account”.⁷⁵ The second counterfactual account of alternatives defends a different resolution of the counterfactual. Let us call it the “backtracking account”. It argues that if the participant were to choose the alternative the being has not predicted, then the predictor would have made a different prediction. That is, the past would have been different than it actually is. This does not require any kind of backwards causation because the participant does not choose the alternative which requires a different past.⁷⁶

75 Famously, David Lewis has defended such an account in Lewis (1981).

76 David Lewis has defended in Lewis (1979) the possibility of such backtracking resolution for unusual contexts:

“Some special contexts favor a different resolution of vagueness, one under which the past depends counterfactually on the present” (Lewis (1979), p 456f as quoted in Horgan (1981), p. 334.)

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I reject both these counterfactual accounts for alternatives. Let me start with the reason for my rejection of the backtracking account. In order to motivate my rejection, let us return to the Two Door case with an infallible predictor. As we have seen, an appropriate notion of alternative should yield the result that an agent in such a situation has no choice about which door to open. One door is locked and there is nothing the participant can do to open the closed door. Definitions of alternative that yield that the participant has a choice in this situation should thus be rejected. One account with such a result is the backtracking account. It yields that if the participant were to try to open the locked door, she would succeed. The infallible being would have predicted this attempt and unlocked the door and thus the participant does have the choice about which door to open. Consequently, I reject the backtracking account of alternatives and turn to the miracle account.

According to the miracle account, the participant who would choose to try to open the door which is locked would not succeed. A small miracle would allow the participant to try to open the door, but the door would remain locked⁷⁷ and the participant would fail to open the door. We thus get the correct result that the agent in this situation does not have a choice about which door to open. And so we might have an account of alternatives which allows us to consistently defend all the premises for a Newcomb case with infallible predictor.

There is however a famous objection to counterfactual accounts by

Horgan (1981) defends that the Newcomb case is such special context for which the backtracking resolution is appropriate. A defence of the backtracking resolution can be found in Bennett (1984).

⁷⁷ If the door would open this would represent a bigger miracle.

Roderick Chisholm. In his paper "Human freedom and the self"⁷⁸ Chisholm argues that counterfactual analyses of claims about the ability to do otherwise are bound to fail. He argues that the claim that (a) 'he could have done otherwise' means no more than (b) 'if he had chosen/tried/set out/decided/undertaken/willed to do otherwise, then he would have done otherwise' is false for the simple reason that (b) can turn out to be true for cases where (a) is false. The example proposed by Chisholm is the following. (i) There is a murderer that fires a shot. (ii) It is true that he could not have chosen otherwise than he did. Chisholm does not provide a specific reason (given it is irrelevant – it is enough to accept that there is one), but let us assume that he was psychologically incapable of choosing not to fire a shot. (iii) If he could not have chosen otherwise than he did, then he could not have refrained from firing the shot. From (ii) and (iii) we get (iv) he could not have refrained from firing a shot. Further, it is true (v) that he is a man such that had he chosen not to fire a shot, he would not have fired a shot. According to the counterfactual analysis we get from (v) that he could have refrained from firing the shot. But this is in direct contradiction with (iv). And thus, the counterfactual analysis is mistaken. And so, we get the result that none of the standard counterfactual accounts for alternatives is satisfactory and they should be rejected.⁷⁹

78 Chisholm (1964/1982).

79 Chisholm's objection is still accepted by contemporary defenders of counterfactual accounts about alternatives, as can be seen in Garrett Pendercraft's defense of local miracle compatibilism:

"[L]ocal miracle compatibilists must acknowledge that there are some cases in which the relevant counterlegal [i.e. local miracle counterfactual] is true, and yet the corresponding can-claim is false (for example, cases in which the can-claim involves an action that the agent obviously cannot

Obviously, having argued that neither Pereboom's epistemic account nor standard counterfactual accounts are satisfactory accounts for alternatives does not show that it is impossible to defend a notion of choice which is consistent with the infallibility of the predictor. Having rejected standard counterfactual accounts of choice, I now sketch a reductio based on Newcomb's infallible predictor case to argue that a (non-counterfactual) notion of choice which is consistent with the infallibility of the predictor cannot be defended.

7.6 Turning the argument on its head

What are the consequences of accepting both the choice premise and the infallibility premise? Let us look at a situation in which the being has predicted that the participant will take both boxes and has thus put nothing in the second box. According to the choice premise, the participant has, in this situation, the choice of taking both boxes or

do.)" Pendercraft (2010), p. 250.

He suggests that the local miracle compatibilist should not claim that the conditional analysis is both the sufficient and necessary condition for can-claims. Rather, it is only a necessary condition which needs to be combined with a second condition. He suggests the following analysis:

"(CA') S can do A just in case

(1) if S were to choose to do A, then she would do A, and

(2) there is no barrier to S's choosing to do A." (Pendercraft (2010), p. 257)

However, as Pendercraft also acknowledges, the notion of barrier (arguably) begs the question against a position which states that "some action's being entailed by the past and the laws is a "barrier" to an agent's being able to refrain from that action." (Pendercraft (2010), p. 257)

only the second box. That she has the alternative of taking both boxes is unproblematic. If she takes both boxes, there is nothing in the second box and the predictor has made a correct prediction. But what about the alternative of taking only the second box? The predictor has predicted that she will take both boxes and put nothing in the second box. If she takes the second box, either the content of the box does not correspond to the actual content of the box or the being has made a mistake. The first possibility states that the content would be different than it actually is. The second possibility states that the predictor would be wrong which contradicts the premise that she is infallible. In other words, we have to conclude that the assumption that the participant has both the alternatives of taking the two boxes or only the second box in this situation together with the assumption that the being is infallible leads to a contradiction.⁸⁰

Note that we do not have the same problem in the case of the weaker inerrant predictor premise. The inerrant predictor premise only states that the predictor has always been right, but allows for the possibility that she could be mistaken. There is a contradiction in stating that an infallible being could be mistaken, but there is no contradiction in stating that an inerrant being could be mistaken.

80 As we have seen above, counterfactual accounts provide the means to avoid this contradiction. According to the Lewisian account, the predictor would indeed be mistaken, but this is not problematic because the participant will not make this choice. And according to the backtracking account, there is no contradiction, because although the past would need to be different than it actually is, the participant will not make this choice. We have however seen reasons to reject these counterfactual accounts.

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Based on the reflections in the above sections, I come to the conclusion that a Newcomb problem with infallible predictor has inconsistent premises and that the question of what the participant should do in such a situation can thus not be answered.

8 Conclusion

8.1 Recapitulation

The present work defends the view that rational human agents experience some alternatives to be open and up to them. These experiences can be veridical only if determinism were false. If determinism were true, these experiences turn out to be systematically illusory.

The experience of an OU alternative has to be distinguished from the experience an agent has in a situation where it seems to her that she could act differently although it is evident to her how she is going to act. I argue that both types of experiences warrant can-claims. The latter experience warrants the claim that she could act crazily although it is evident to her that she will not do so. The reasons given to her are such that she will not choose that alternative (and she believes this to be so). The former experience, the experience of OU alternatives, is not about having crazy alternatives, but only about alternatives which are in accordance with the agent's character, preferences, and reasons given to her.⁸¹

I argue that rational human agents are capable of distinguishing between these two types of alternatives on the basis of their experience (and beliefs about themselves). The experience of OU

81 Robert Kane has famously defended that this is the type of alternative worth wanting. Cf. Kane (1996), chapter 7 'Plurality and Indeterminism'.

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alternatives grounds incompatibilist intuitions while the experience of alternatives without OU alternatives explains compatibilist intuitions. The latter experience is tied to the belief that something would have had to be different in order for the agent to act differently.

I consider it a strength of my view that it provides means to (at least partially) explain these compatibilist and incompatibilist intuitions on the basis of our agentic experience. While I attempt to show that the compatibilist intuition is warranted, I argue that it only applies to certain cases of alternatives. Most notably it does not apply to so-called “close-call” decisions where both alternatives seem similarly attractive given the reasons available to the agent. But neither does it apply to many everyday situations where several alternatives are given to us in experience as open and up to us.

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