

Responsibility, Law, and Moral Practice: A Constraint-Scaled Account

A Companion Paper to Informational Ontology (Rev 5)

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Abstract

This paper develops a constraint-scaled account of moral and legal responsibility grounded in the structural conditions under which action occurs. Responsibility is not treated as a metaphysical property, a standing moral status, or a direct function of outcomes. Instead, responsibility is attributed in proportion to the freedom structurally available within an action space at the moment of transition. Free will, where it appears, is not a faculty or substance, but a condition of underdetermination under constraint.

The account distinguishes three regimes of action—constraint-saturated, constraint-biased, and underdetermined—which map directly to exculpation, mitigation, and maximal responsibility respectively. Salience is treated as a pre-interpretive mechanism that can collapse an action space without replacing or bypassing agency. The framework explicitly excludes libertarian free will, hard determinist illusionism, retributive desert as a metaphysical property, and pure consequentialism as a complete justification of moral or legal response.

By enforcing clean boundaries between causal explanation, responsibility attribution, and policy justification, the account preserves accountability without metaphysical excess and mitigation without nihilism. Moral and legal practices are shown to already track constraint-sensitive features of action, and to become more coherent when responsibility is treated as structurally scaled rather than metaphysically absolute.

Scope Clarification

This paper does not claim that responsibility is illusory, optional, or reducible to causal explanation. It does not claim that agents must possess libertarian free will in order to be accountable, nor that freedom requires indeterminism, randomness, or metaphysical authorship. It does not ground responsibility in character essence, inner endorsement, or reflective self-control.

The paper does not offer a general theory of law, a comprehensive moral framework, or a psychological model of decision-making. It does not deny the relevance of mental states in legal or moral practice, but treats them as evidentiary indicators of structural constraint rather than as executive causes. It does not justify punishment by appeal to intrinsic desert, nor does it reduce moral practice to outcome optimization.

Finally, the paper does not revise, defend, or extend the Informational Ontology or its companion accounts of agency, salience, and degeneracy. Those frameworks are assumed as authoritative background. The present work is a downstream application concerned solely with responsibility attribution and its role in moral and legal practice.

1. Introduction: Responsibility Without Desert or Faculties

Debates about responsibility are commonly structured around metaphysical disputes that moral and legal practice neither require nor reliably survive. On one side, responsibility is grounded in libertarian free will: a supposed faculty of choice insulated from causal determination. On the other, responsibility is dismissed as a convenient fiction once behavior is causally explained. Both positions mislocate the explanatory burden. The former over-attributes metaphysical power to agents; the latter treats causal explanation as corrosive of normative practice.

This paper advances a different claim: responsibility, as used here, scales with the freedom structurally available at the moment of action, not with outcomes, character essence, or metaphysical desert. Free will is not treated as a standing capacity possessed by agents, but as a structural condition that sometimes obtains in action. When that condition is absent, responsibility is not overridden or replaced—it is diminished or absent because the relevant freedom was not present to begin with.

Three background commitments are assumed and not defended here. First, the Informational Ontology specifies a sequence of organizational regimes— $\Delta \rightarrow R \rightarrow I \rightarrow A \rightarrow V \rightarrow M \rightarrow P$ —within which agency-relevant structure can arise. Second, free will is treated as a condition

of underdetermination under constraint, not as a faculty, substance, or executive self. Third, underdetermined action spaces can resolve without selectors, homunculi, or randomness. These commitments are presupposed throughout.

Within this framework, actions fall into three structurally distinct regimes: constraint-saturated, constraint-biased, and underdetermined. These regimes are local to actions, not global properties of persons. Where constraint saturates the space of possible action, free will is absent and culpability does not arise. Where constraint biases but does not close the space, responsibility is mitigated. Where the space remains underdetermined, free will is present and responsibility is maximal.

A central role is played by salience, which can collapse an action space **before reflective access to alternatives** without replacing or bypassing agency. Salience shapes what becomes available to guide action; it does not act as a competing chooser. Recognizing this avoids both voluntarist exaggeration and determinist deflation.

2. Structural Preliminaries: Constraint, Openness, and Action Spaces

Responsibility attribution presupposes a structured space of possible action. A **constraint** is any structural restriction on which transitions remain reachable for a system at a given moment. Constraint does not eliminate agency by its mere presence; it shapes the space within which agency may or may not occur.

An action space is the set of transitions that remain structurally reachable, given operative constraints, at a given moment. This space is not psychological or deliberative. It is a structural feature of a system situated within awareness, value, and meaning.

Openness refers to the degree to which an action space is **underdetermined by constraint**, rather than uniquely specified. Openness is not the absence of constraint, but the absence of closure. A fully unconstrained system does not maximize openness; it dissolves differentiated alternatives altogether.

Constraint differentiates futures, renders them non-equivalent, and enables persistence across ordering. Without these functions, the notion of action becomes vacuous. Responsibility therefore tracks not whether an action was constrained, but **how constraint operated** at the moment of transition.

3. Free Will as a Conditional Regime, Not a Capacity

Free will is treated here as a **conditional regime**, not a faculty or metaphysical endowment. It is instantiated only under **underdetermination**, when the total configuration of constraints fails to uniquely specify a single transition.

This account rejects libertarian free will and hard-determinist illusionism alike.

Underdetermination does not imply causal gaps or randomness. Resolution under openness does not require selectors or executive control. A system can continue along a single trajectory without being uniquely specified in advance.

Free will is therefore local, episodic, and condition-dependent. An agent may act freely in one context and not in another without any change in identity or character. What changes is the structure of the action space.

4. The Three Regimes of Action

With respect to responsibility-relevant action spaces, three regimes exhaust the possibilities:

- **Constraint-saturated**: only one transition is structurally reachable.
- **Constraint-biased**: multiple transitions remain reachable, but strong asymmetries favor one.
- **Underdetermined**: multiple meaningful futures remain available without closure.

These regimes are mutually exclusive and local to actions. They classify action spaces, not persons or inner experiences. Responsibility attribution must therefore track the regime governing the action itself.

5. Responsibility as Constraint-Scaled Attribution

Responsibility is treated as a graded attribution that scales with the freedom actually available within the action space. It is not grounded in metaphysical desert, authorship, or outcome evaluation.

In constraint-saturated regimes, responsibility does not arise. In constraint-biased regimes, responsibility is mitigated. In underdetermined regimes, responsibility is maximal. Responsibility tracks what the agent **could have done, in the sense of structurally reachable alternatives**, given the constraints that actually obtained.

Responsibility attribution is distinct from causal explanation and from policy response. Explaining why an action occurred does not determine how much freedom was present, and attributing responsibility does not dictate how institutions should respond.

6. Salience and the Collapse of Action Spaces

Salience modulates which distinctions enter the action-guiding field at all. By shaping availability, salience can collapse an action space before reflective access to alternatives occurs.

Salience does not introduce new constraints; it reorganizes how existing value and meaning structures are expressed under conditions such as urgency or threat. When salience closes the space, the action is constraint-saturated. When it strongly favors one transition without closure, the action is constraint-biased.

Salience does not replace agency. It alters the structure within which agency may or may not be instantiated.

7. Moral Responsibility Without Retributive Desert

Desert, understood here as an intrinsic metaphysical property by virtue of which agents deserve blame or punishment independently of structural conditions, is rejected. Moral responsibility consists in accountability relative to freedom, not in metaphysical fittingness.

Moral blame retains expressive and regulatory function where freedom was present. Where freedom was diminished or absent, moral response is correspondingly constrained. This preserves moral practice without metaphysical excess.

8. Legal Responsibility: Mens Rea, Coercion, and Capacity

Legal responsibility tracks structural freedom through doctrines such as mens rea, coercion, duress, addiction, and incapacity. Legal mental states function as public indices of constraint structure, not as inner executive causes.

Constraint saturation maps to exculpation. Constraint bias maps to mitigation. These distinctions reflect structural features of action spaces rather than psychological depth.

9. Punishment, Rehabilitation, and Deterrence as Structural Responses

Punishment is justified, where it is justified at all, by its role in modulating future action spaces rather than by appeal to desert. It is not grounded in desert. In constraint-saturated cases, punitive blame is misplaced. In constraint-biased cases, calibrated rehabilitation and deterrence are appropriate. In underdetermined cases, censure and deterrence can operate coherently.

Consequences matter, but are constrained by responsibility. This avoids collapse into pure consequentialism.

10. Clean Boundaries: Explanation, Attribution, and Policy

Causal explanation explains how actions occur. Responsibility attribution concerns **only** the structure of the action space. Policy justification concerns how institutions respond. Confusing these layers invites illusionism and retributivism alike.

11. Objections and Stress-Test Scenarios

Common objections—"it's all causation," "this is compatibilism," "underdetermination is randomness," "this excuses too much"—fail once responsibility is anchored to structural freedom rather than metaphysical authorship.

12. Conclusion: Responsibility After Metaphysics

Responsibility after metaphysics is neither diminished nor inflated; it is structurally constrained. By treating responsibility as constraint-scaled, this account preserves accountability, mitigation, and institutional restraint without metaphysical excess.

Appendix A

Illustrative Clarifications and Boundary Cases (Non-Load-Bearing)

A.1 Why Causal Explanation Does Not Eliminate Responsibility

A recurring source of confusion in debates about responsibility arises from the assumption that once an action is causally explained, responsibility must evaporate. This assumption treats responsibility as a placeholder for ignorance, to be discarded once explanation succeeds. The constraint-scaled framework rejects this picture.

Causal explanation characterizes how an action occurred given prior structure, constraints, and conditions. Responsibility attribution characterizes how much freedom was present within the action space at the moment of transition. These questions are orthogonal. An action may be fully explained and still have occurred under underdetermination, just as an action may be poorly explained and still have occurred under constraint saturation.

The error lies in treating explanation as erosion. Explaining how a constraint closed an action space shows why responsibility does not apply; explaining how constraints failed to close an action space shows why responsibility remains. In neither case does explanation itself do the normative work.

A.2 Why Underdetermination Is Not Randomness

Underdetermination, as used in this framework, does not denote indeterminism, chance, or probabilistic selection. It denotes a failure of constraint closure: the total set of operative constraints does not uniquely specify a single transition.

This distinction matters because randomness cannot ground responsibility. Random outcomes do not preserve informational continuity, identity, or agency. By contrast, underdetermined transitions can resolve without invoking chance, selectors, or executive control. A single trajectory can emerge while remaining consistent with the system's identity and structure.

Treating underdetermination as randomness collapses the framework into a false dilemma between libertarian indeterminism and hard determinism. The constraint-based account avoids both by locating freedom in non-closure rather than in causal gaps.

A.3 Why Salience Does Not Replace Agency

Salience is often misinterpreted as a fast or unconscious decision-making process that competes with deliberation. This interpretation is explicitly rejected. Salience does not choose between alternatives; it shapes which distinctions become available to guide action at all.

When salience collapses an action space, alternatives are not weighed and rejected; they are never structurally available. In such cases, the absence of freedom does not reflect weakness of will or failure of control, but closure of the space in which control could operate.

Conversely, the presence of influence, pressure, or emotional intensity does not by itself eliminate freedom. Only when salience decisively closes or heavily biases the action space does responsibility diminish. This explains why some impulsive actions remain fully responsible, while others warrant mitigation.

A.4 Responsibility Without Metaphysical Desert

The rejection of retributive desert is sometimes mistaken for a rejection of moral authority or accountability. This is a mistake. Desert, as rejected here, refers to an intrinsic metaphysical property by virtue of which agents deserve blame or punishment independently of structural conditions.

Moral responsibility does not require such a property. Accountability can be grounded in freedom-relative expectations: when an agent acts under conditions where alternatives were genuinely available, moral criticism is appropriate as a response to that freedom. Where freedom was absent or diminished, moral response is constrained accordingly.

This preserves the normative force of moral practices while avoiding the excesses of retributivism. Blame becomes bounded rather than absolute, and mitigation becomes principled rather than ad hoc.

A.5 Legal Illustration: Mitigation vs. Exculpation

Legal systems routinely distinguish between exculpation and mitigation without explicit reference to metaphysics. This appendix clarifies the structural basis of that distinction.

Exculpation corresponds to constraint saturation: the action space was closed, leaving no viable alternative. Mitigation corresponds to constraint bias: alternatives existed but were heavily disfavored. Treating these as distinct avoids both over-punishment and indiscriminate excuse.

The constraint-scaled framework does not require courts to resolve the full causal history of actions. It requires only coarse-grained classification of action spaces based on publicly accessible evidence. This aligns with existing legal practice rather than revising it.

