

# A Compatibilist Theory of Legal Responsibility

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**Abstract** Philosophical compatibilism reconciles moral responsibility with determinism, and some neurolaw scholars think that it can also reconcile legal views about responsibility with scientific findings about the neurophysiological basis of human action. Although I too am a compatibilist, this paper argues that philosophical compatibilism cannot be transplanted “as-is” from philosophy into law. Rather, before compatibilism can be re-deployed, it must first be modified to take account of differences between legal and moral responsibility, and between a scientific and a deterministic world view, and to address a range of conceptual, normative, empirical and doctrinal problems that orbit its capacitarian core.

**Keywords** Neurolaw · Responsibility · Compatibilism · Capacitarianism · Character · Science · Determinism · Free will

## Background and Overview

Some people working in the field of *neurolaw* claim that the behavioural scientific view of humans as physical mechanisms whose behaviour is governed completely by laws of nature—this is the view that is sometimes thought to emerge from empirical work in the fields of behavioural genetics and cognitive neuroscience—undermines the very idea of responsibility (e.g. Greene and Cohen 2004; Dawkins 2006; Sapolsky 2004; Tancredi 2005). But others believe that philosophical compatibilism can help to bridge the gap between the law’s view of humans as responsible agents, and the picture of human agency

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