

Moral Responsibility, Alternative Possibilities, and Frankfurt Examples

Derk Pereboom

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Penultimate Draft

The intuition that moral responsibility for an action requires that the agent could have done otherwise is natural and powerful. If an agent is to be blameworthy for an action it seems crucial that she could have acted so as to avoid being blameworthy. But in an article published in 1969, Harry Frankfurt, using an intriguing type of example, argued that an agent's moral responsibility for an action does not require that she could have done otherwise. Since then, there has been a heated and voluminous debate about this issue.

The intuition that moral responsibility requires that the agent could have done otherwise is aptly expressed in what David Widerker has called the *W-Defense*. About Jones, who breaks a promise and is allegedly blameworthy but could not have done otherwise, he writes:

[S]ince you, Frankfurt, wish to hold [Jones] blameworthy for his decision to break his promise, tell me *what, in your opinion, should he have done instead?* Now, you cannot claim that he should not have decided to break the promise, since this was something that was not in his power to do. Hence, I do not see how you can hold Jones blameworthy for his decision to break the promise. (Widerker 2000: 191)

As Carlos Moya puts it, to be blameworthy for an action an agent must have had an *exempting* alternative possibility, one that, should she have availed herself of it, would have exempted her from legitimate blame (Moya 2006: 67; cf. Otsuka 1998; Pereboom 2001). To be praiseworthy for an action, it must be that the agent could have done something less admirable – although this is more controversial. Susan Wolf (1980, 1990) and Dana Nelkin (2008, 2011) accept the alternative-possibilities requirement for blameworthiness but not for praiseworthiness. On Wolf's view, if an agent does the right thing for the right reasons, and because she is so committed to doing what's right she could not have acted less admirably, she is manifestly still praiseworthy.

Traditionally, participants in the free will debate have generally affirmed the *principle of alternative possibilities*:

(PAP) An action is free in the sense required for moral responsibility only if the agent could have done otherwise than she actually did.

Frankfurt's challenge to PAP features an example in which an agent considers performing some action, but someone else, a neuroscientist, say, is concerned that he will not perform the action after all. So if the agent were to manifest an indication that he will not or might not perform the action, the neuroscientist would intervene and induce him to perform that action. But as things actually go, the neuroscientist remains idle, because the agent performs the

action on her own. Here is Carolina Sartorio's version of Frankfurt's original example (Sartorio 2016):

A neuroscientist, Black, wants Jones to perform a certain action. Black is prepared to go to considerable lengths to get his way, but he prefers to avoid showing his hand unnecessarily. So he waits until Jones is about to make up his mind what to do, and he does nothing unless it is clear to him (Black is an excellent judge of such things) that Jones is going to decide to do something other than what he wants him to do. If it were to become clear that Jones is going to decide to do something else, Black would take effective steps to ensure that Jones decides to do what he wants him to do, by directly manipulating the relevant processes in Jones's brain. As it turns out, Black never has to show his hand because Jones, for reasons of his own, decides to perform the very action Black wants him to perform.

The idea is that even though Jones could not have avoided acting as he did, it's intuitive that he is morally responsible, blameworthy in particular, for the action: he did it on his own and Black never intervened.

On Frankfurt's diagnosis, such examples show that we need to distinguish between the factors that cause or causally explain an action and factors that contribute to making the action inevitable even though they do not cause or causally explain it (Frankfurt 1969; Fischer 1982, 1994). Black's conditional intention to intervene renders Jones's action inevitable, but this intention does not cause or causally explain the action; it is causally idle. The factors that cause and causally explain the action are instead the agent's reasons and deliberation, as they are in an ordinary case in which an agent is morally responsible. Frankfurt contends that in the sort of example he introduced it is these causal factors, and not the factor that makes the action inevitable, that are relevant to the agent's moral responsibility.

Frankfurt examples yield two putative lessons about the nature of moral responsibility (McKenna and Pereboom 2016). The first is that because it's intuitive that Jones is morally responsible, and the availability to him of alternative possibilities is ruled out, availability of alternative possibilities is not a necessary condition for moral responsibility. Second, what does account for moral responsibility are facts about the actual causal history of the action, in particular the deliberative process by which agents discern and weigh reasons for action and the sensitivity to reasons that this process involves (Frankfurt 1969; cf., Fischer 1982, 1994; McKenna 2005, 2008; Sartorio 2016). Michael McKenna formulates a response to the W-Defense on the basis of Frankfurt's conception, which he calls the L-Reply (2005, 2008): "A person's moral responsibility concerns what she does do and her basis for doing it, not what else she could have done." (McKenna 2008: 785).

In response to the challenge from Frankfurt examples, defenders of the alternative-possibilities requirement have advanced a number of strategies, and which they deploy is sensitive to the specific nature of the example (McKenna and Pereboom 2016). A first is to contend that despite initial impressions, the example does feature a relevant alternative possibility after all; this has been called "the flicker of freedom strategy" (Fischer 1982, 1994). A second is to argue that despite initial impressions, the example requires causal determinism in

the actual causal history of the action to secure the absence of alternatives, and this counts against the intuition that the agent is morally responsible (Kane 1995, Widerker 1995). A third response is to press the claim that the factors that make an action inevitable rule out moral responsibility even if they are not causally efficacious (Ginet 1996). In what follows, we will see how such strategies play out in the more specific types of objections that defenders of the alternative-possibilities requirement have raised.

1. *Compatibilist and Incompatibilist Source Views*

In an important contribution to this debate, John Fischer (1982, 1994) has pointed out that Frankfurt examples do not challenge the incompatibilist claim that an agent's moral responsibility for an action requires that it have an indeterministic causal history. Rather, it leaves it open that her moral responsibility requires that the action not result from a deterministic causal process that traces back to factors beyond her control – back to causal factors that the agent could not have produced, altered, or prevented (Pereboom 2001, 2014; Sartorio 2016, 201n). Notice that the Frankfurt example above does not specify that Jones's action is causally determined in this way. If it did specify that his action is deterministically produced by factors beyond his control, then at least for some the intuition that he is morally responsible would vanish.

This reflection suggests a different requirement for the sort of free will required for moral responsibility:

(Source) An action is free in the sense required for moral responsibility only if its causal history, and in particular its causal source, is of an appropriate sort.

Frankfurt's own compatibilist version of a source account is one on which the agent's will to perform the action is endorsed by the agent's second-order desires: she must not only will the action, but she must want to will it (Frankfurt 1971). In this view, if the action has this sort of causal history, it will have its source in the agent in the way that moral responsibility requires. But the agent need not have access to alternative possibilities.

Incompatibilists affirm that for an agent to be morally responsible for an action, its causal history must be indeterministic. However, incompatibilists who defend PAP typically endorse this requirement only because they maintain that such an indeterministic causal history required to secure access to alternative possibilities (Ginet 1997, 2007; Palmer 2011; Franklin 2011). Source incompatibilists, by contrast, contend that the role an indeterministic causal history has in explaining why an agent is responsible is independent of alternative possibilities. Rather, an indeterministic history – of the right sort – allows the agent to be the source of her action in a way that secures the absence of causal determination by factors beyond her control (Stump 1990, 1996, Zagzebski 1991, 2000, Pereboom 1995, 2001, 2014; Hunt 2000, 2005; Shabo 2010). Source incompatibilists may in addition allow that alternative possibilities for action -- not necessarily of the robust sort -- are entailed by the actual causal history having these features (Della Rocca 1998; Pereboom 2001). Still, on any source incompatibilist view, the aspect of the action that has the important role in explaining why an

agent is morally responsible is the nature of the actual causal history of the action, and not the alternative possibilities.

Against source incompatibilism Fischer once argued that "there is simply no good reason to suppose that causal determinism in itself (and apart from considerations pertaining to alternative possibilities) vitiates our moral responsibility" (1994: 159). True, one widespread incompatibilist intuition is that if due to causal determination we could never have done otherwise, and therefore could never have refrained from any action we performed, we would not be morally responsible for them. But another widespread intuition is that if all of our actions were "in the cards" before we existed, in the sense that things happened before we were born that, due to a deterministic causal process, inevitably resulted in our actions, we would not be morally responsible for them. If all of our actions had this type of causal history, we would lack the kind of control over our actions moral responsibility requires.

2. The Flicker of Freedom Defense

Defenders of the alternative possibilities requirement have argued in various ways that it can withstand the argument from Frankfurt examples. We'll address two prominent objections to this argument: the Flicker of Freedom Defense and the Dilemma Defense. A third important objection, the Timing Defense (Ginet 1996, 2002, Palmer 2011, Franklin 2011) we'll set aside. It's intricate, as are the responses to it (Hunt and Shabo 2013; Pereboom 2014; Capes 2016; McKenna 2018).

The Flicker of Freedom Defense concedes the intuition that the agent in a Frankfurt example is morally responsible, but then claims that the example features an alternative possibility that explains the intuition. The core idea is this: any Frankfurt example must feature some event that the neuroscientist, or her device, is set up to detect that could have but does not actually occur, such as the agent's intending to do otherwise (e.g., van Inwagen 1983: 166-80; Fischer 1994: 134-47; and Naylor, 1984). This factor -- a "flicker of freedom," to use Fischer's term -- can then serve as the alternative possibility required for moral responsibility. It's not implausible that the agent's intending to do otherwise should count as the relevant sort of alternative possibility, and thus account for the agent's moral responsibility.

Fischer replies that one can construct Frankfurt examples in which what neuroscientist's device detects cannot plausibly have this explanatory role. One might, for instance, imagine that Jones will decide to kill Smith only if Jones blushes beforehand, and that Black's device will activate only if Jones does not blush by a certain time (Fischer 1982, 1994). Jones's failure to blush by a certain time might be the alternative possibility that would trigger the intervention that causes him to kill Smith. Supposing that Jones acts without intervention, we might well have the intuition that he is blameworthy. The alternative possibility he has is that he could have failed to blush, but Fischer argues that this possibility is too "flimsy and exiguous" and is 'insufficiently robust' to have a role in grounding moral responsibility.

What is it for an alternative possibility to be robust, and why would the robustness of an alternative possibility be crucial? The intuition underlying the alternative-possibilities requirement is that if an agent is to be blameworthy for an action, he must have voluntary

access to an exempting alternative. That is, as a result of voluntarily accessing that alternative possibility instead, he would thereby have avoided the blameworthiness he actually has for the action (Mele 1996; McKenna 1997; Wyma 1997; Otsuka 1998; Pereboom 2001). Accordingly, in the example above Jones's failing to blush is not robust, since by failing to blush Jones would not have avoided responsibility for killing Smith.

Robustness also has an epistemic dimension. Imagine that Joe decides to take an illegal deduction on his tax form, and that he is in fact blameworthy for so deciding. Suppose that just before beginning to work on his taxes the day he makes the decision, Joe went to the coffee shop next door with a friend and ordered a cup of coffee, and then a second. Unbeknownst to him, the barrista, having overheard Joe discuss his plans for the day and making dismissive remarks about taxation, laces the second cup with a drug that induces compliance with the tax code for twenty-four hours (cf., Pereboom 2000, 2001; 2104; Moya 2006: 64).¹ As it happens, Joe does not take a sip from the second cup, and leaves it at the coffee shop before returning home to work on his taxes. In this situation, Joe could have behaved voluntarily so as to preclude his decision to take the illegal deduction, as a result of which he would not have been blameworthy for making that decision. But in these circumstances whether he could have voluntarily taken the sip from the second cup is irrelevant to explaining why or whether he is blameworthy for his decision, and this is because Joe does not understand, nor could he reasonably be expected to have understood, that taking the sip would have rendered him blameless. Thus if an agent is blameworthy because he has an alternative possibility, it must be that he understood, at least at some level, that or how it was available to him.

Here is a substantial necessary condition that accommodates these reflections;

Robustness: For an agent to have a robust alternative to her immoral action A, that is, an alternative relevant per se to explaining why she is blameworthy for performing A, it must be that

(i) she instead could have voluntarily acted or refrained from acting as a result of which she would be blameless, and

(ii) for at least one such exempting acting or refraining, she understood, at some level, that she could so voluntarily act or refrain, and that if she voluntarily so acted or refrained she would then be, or would likely be, blameless. (Pereboom 2014: 13)

In accord with this criterion, the response to the flicker defense is that Frankfurt examples can be constructed which, although they feature an alternative possibility, that alternative possibility is not robust, and thus cannot serve to explain the agent's moral responsibility for her action. The resulting source view opposes, specifically, the following version of PAP:

(PAP-Robust) An action is free in the sense required for moral responsibility only if the agent has access to a robust alternative to that action.

3. The Dilemma Defense

¹ The need for the timing provision in the coffee-cup example is occasioned by Justin Capes's (2016) criticism of Pereboom's earlier (2001, 2014) version.

The Dilemma Defense was initially suggested by Robert Kane and then developed in detail by David Widerker (Kane 1985: 51; 1996, 142-4, 191-2; Widerker 1995: 247-61; cf., Ginet 1996). It's an objection to Frankfurt cases raised specifically from the perspective of the libertarian. Here is how Widerker sets out the dilemma. For any Frankfurt example, if causal determinism is assumed to hold in the actual sequence that issues in the action, then a libertarian cannot be expected to have the intuition that the agent is morally responsible. Libertarians are, after all, incompatibilists about moral responsibility and causal determination. That's the first horn of the dilemma. The second horn is that if indeterminism in the actual sequence is assumed, the scenario will not serve the Frankfurt-defender's purpose, for any such case will fall to a further dilemma. In Frankfurt examples the actual situation will feature a prior sign, such as Jones's blush, that signals the fact that the intervention is not required. If the prior sign causally determined the action, or if it were associated with some factor that did, the intervener's (or his device's) predictive ability could be explained. However, then the libertarian, given her incompatibilism, should not be expected to have the intuition that the agent is morally responsible. But if the relation between the prior sign and the action is not causally deterministic, then it's open that the agent could have done otherwise despite the occurrence of the prior sign. Then it's also open that the intuition that the agent is morally responsible can be explained by access to an alternative possibility. Either way, PAP (or PAP-Robust) emerges unscathed.

3.1 The Mele-Robb example and Hunt's blockage strategy

In response, a number of critics have proposed Frankfurt examples designed to evade this objection, including Eleonore Stump (1990, 1996); Al Mele and David Robb (1998); David Hunt (2000, 2005); Derk Pereboom (2000, 2001, 2014); Michael McKenna (2003); David Widerker (2006); and John Fischer (2010). In one kind of case, first proposed by David Hunt (2000) there are no prior signs to guide intervention, not even non-robust flickers of freedom. One such example is set out by Mele and Robb (1998). It features Bob, who inhabits a world in which determinism is false, but in which some processes are deterministic:

At t_1 , Black initiates a certain deterministic process P in Bob's brain with the intention of thereby causing Bob to decide at t_2 (an hour later, say) to steal Ann's car. The process, which is screened off from Bob's consciousness, will deterministically culminate in Bob's deciding at t_2 to steal Ann's car unless he decides on his own to steal it or is incapable at t_2 of making a decision (because, e.g., he is dead at t_2).... The process is in no way sensitive to any "sign" of what Bob will decide. As it happens, at t_2 Bob decides on his own to steal the car, on the basis of his own indeterministic deliberation about whether to steal it, and his decision has no deterministic cause. But if he had not just then decided on his own to steal it, P would have deterministically issued, at t_2 , in his deciding to steal it. Rest assured that P in no way influences the indeterministic decision-making process that actually issues in Bob's decision.

Mele and Robb contend that Bob is morally responsible for his decision, and thus, given that Bob lacks a robust alternative, their case provides a successful response to the dilemma defense.

One concern for this case is that it involves *trumping preemption* (Schaffer, 2000), and that this notion is incoherent. As the example is described, Bob's deciding on his own to steal Ann's car trumps and preempts the deterministic process Black initiates. What might the details of such a process be? Jonathan Schaffer proposes the following example of trumping preemption. Imagine that a group of soldiers is trained to obey a general rather than a major when these two officers issue orders at the same time (2000). Suppose that the general and the major shout: "March!" simultaneously. Here only the general's order is causally efficacious, since it trumps and preempts the major's order. But note that in this case the trumping preemption has a detailed explanation, so perhaps Mele and Robb owe us an explanation of how trumping preemption might work in their example (Pereboom 2000, 124-28; 2001, 14-180..

Mele and Robb discuss a number of possible concerns for their case, one of which is whether we can make sense of what would happen at t_2 if the deterministic process P and Bob's indeterministic deliberative process were to diverge at t_2 , in particular if Bob's deliberative process resulted in his deciding not to steal, while P, as the set-up specifies, resulted in his deciding to steal. Here is how they describe the concern:

The issue may be pictured, fancifully, as follows. Two different "decision nodes" in Bob's brain are directly relevant. The "lighting up" of node N1 represents his deciding to steal the car, and the "lighting up" of node N2 represents his deciding *not* to steal the car. Under normal circumstances and in the absence of preemption, a process's "hitting" a decision node in Bob "lights up" that node. If it were to be the case both that P hits N1 at t_2 and that x does not hit N1 at t_2 , then P would light up N1. If both processes were to hit N1 at t_2 , Bob's indeterministic deliberative process, x, would light up N1 and P would not. The present question is this. What would happen if, at t_2 , P were to hit N1 and x were to hit N2? That is, what would happen if the two processes were to "diverge" in this way? And why?

And here is the answer they provide:

We extend Bob's story as follows. Although if both processes were to hit N1 at t_2 , Bob's indeterministic deliberative process, x, would preempt P and light up N1, it is also the case that if, at t_2 , P were to hit N1 and x were to hit N2, P would prevail. In the latter case, P would light up N1 and the indeterministic process would not light up N2. Of course, readers would like a story about why it is that although x would preempt P in the former situation, P would prevail over x in the latter. Here is one story. By t_2 , P has "neutralized" N2 (but without affecting what goes on in x). That is why, if x were to hit N2 at t_2 , N2 would not light up. More fully, by t_2 P has neutralized all of the nodes in Bob for decisions that are contrary to a decision at t_2 to steal Ann's car (e.g., a decision at t_2 not to steal anyone's car and a decision at t_2 never to steal anything). In convenient shorthand, by t_2 P has neutralized N2 and all its "cognate decision nodes."

Bear in mind that all we need is a conceptually possible scenario, and this certainly looks like one. (1996: 104-5)

The aspect of this story that might raise a concern is the provision that P neutralizes, by t_2 , N2 and all its cognate decision nodes. A libertarian might contend that P's neutralizing procedure is equivalent to P's causal determining Bob's decision to steal the car; after all, the neutralization would seem to be a causal process that renders inevitable x's hitting N1 instead. However, Mele and Robb do specify that P's neutralizing activity does not affect what goes on in Bob's indeterministic decision making process, and if so, it would seem that P would not causally determine the decision. Who is right, the libertarian or Mele and Robb?

Let's examine a strategy that initially invokes the neutralization idea, an approach known as "blockage," proposed by David Hunt (2000). Consider two situations (Pereboom 2000, 125-28; 2001: 15-18):

Situation A: Scarlet deliberately chooses to kill Mustard at t_1 , and there are no factors beyond her control that deterministically produce her choice. When Scarlet chooses to kill Mustard, she could have chosen not to kill him. There are no causal factors, such as intervention devices, that would prevent her from not making the choice to kill Mustard.

Here the libertarian defender of the alternative-possibilities requirement would agree that Scarlet can be morally responsible for her choice. But against that requirement we can employ the following variant:

Situation B: Scarlet's choice to kill Mustard has precisely the same actual causal history as in A. But before she even started to think about killing Mustard, a neuroscientist had blocked all the neural pathways not used in Situation A, so that no neural pathway other than the one employed in that situation could be used. Let's suppose that it is causally determined that she remain a living agent, and if she remains a living agent, some neural pathway has to be used. Thus every alternative for Scarlet is blocked except the one that realizes her choice to kill Mustard. But the blockage does not affect the actual causal history of Scarlet's choice, because the blocked pathways would have remained dormant.

Should we also have the intuition that Scarlet is morally responsible for her choice in Scenario B, since it does not seem to feature any relevant divergence from Scenario A? This might be challenged upon more careful reflection on how Scarlet's action is caused in Scenario B. An crucial question about a blockage case is one that Fischer asks: "Could neural events bump up against, so to speak, the blockage?" (Fischer 1999: 119). If so, there might be alternative possibilities in Scenario B. However, if neural events can't bump up against the blockage, then, as Kane suggests, there is a serious threat that the neural events are causally determined, that we now have "determinism pure and simple" (Kane 2000: 162).

In response, the advocate of blockage cases might point out that in more standard Frankfurt examples the action is also inevitable, while the intuition that the agent is morally responsible for it is explained by the fact that it does not have an actual causal history by which it is made inevitable. What makes the action inevitable is instead some provision of the case

that makes no difference to the action's actual causal history. So it's open that in standard Frankfurt cases the action's being inevitable is compatible with its not being causally determined. How then is a blockage case different from the standard Frankfurt-style cases? The blockage wouldn't seem to be a feature of the actual causal history of the action either.

Nevertheless, perhaps Kane's charge of determinism can be defended. It might be that two-situation cases such as the one just set out are misleading just because it is natural to assume that the actual causal history of the action is essentially the same in each. The sole difference between them is a feature that would seem not to alter the actual causal history of the action. But now consider a simple two-situation case modeled on a reflection of Hunt's (Fischer 1999: 119-20). Imagine a universe correctly described by Epicurean physics (Pereboom 2001: 17). At the fundamental level this universe features only atoms and the frictionless void. The atoms fall in a determinate downward direction, except when they undergo uncaused swerves.

Situation C: A spherical atom is falling downward through space, with a certain velocity and acceleration. Its actual causal history is indeterministic because at any time the atom can be subject to an uncaused swerve. Suppose that the atom can swerve in any direction other than upwards. In actual fact, from t_1 to t_2 it does not swerve.

The following counterfactual situation diverges from C only because it features a device that eliminates alternative possibilities and all differences thereby entailed:

Situation D: This case is the identical to C, except that the atom is falling downward through a straight and vertically oriented tube whose interior surface is made of frictionless material, and whose interior is precisely wide enough to accommodate the atom. The atom would not have swerved during this time interval, and the trajectory, velocity, and acceleration of the atom from t_1 to t_2 are precisely what they are in C.

We might at first have the intuition that the causal history of the atom from t_1 to t_2 in these two situations is exactly the same. But this intuition is challenged by the fact that the restrictions present in D but not in C may change the causal history from one that is indeterministic to one that is deterministic. The tube prevents any alternative motion, and it would seem to rule out any indeterminism in the atom's causal history between t_1 to t_2 . If in this way the tube rules out indeterminism, it would appear to render the actual causal history deterministic.

This difficulty may make it hard to assess moral responsibility in blockage cases with confidence. Returning to Mele's and Robb's example, it's a crucial feature of the case that if Black's deterministic process P and Bob's indeterministic deliberative process x were to diverge at t_2 , P would neutralize N2 and all its cognate decision nodes. In this respect it is blockage scenario, and Mele and Robb's example inherits the challenge to these types of cases.

3.2 Pereboom's Tax Evasion Case

I've proposed a Frankfurt example, *Tax Evasion*, designed to respond to the Dilemma Defense (Pereboom 2000; 2001: 18-22, 2003, 2009, 2012, and 2014, 14-29). The distinguishing features of the case are these: the trigger for the intervention of the neuroscientist's device is a

necessary condition for the agent's accessing any robust alternative possibility (without the intervener's device in place), while the cue is not a robust alternative possibility, and the non-occurrence at any specific time of the cue for intervention in no sense causally determines the action the agent performs. Here is a version of the case (Pereboom 2014, 15):

Tax Evasion (2): Joe is considering claiming a tax deduction for the registration fee that he paid when he bought a house. He knows that claiming this deduction is illegal, but that he probably won't be caught, and that if he were, he could convincingly plead ignorance. Suppose he has a strong but not always overriding desire to advance his self-interest regardless of its cost to others and even if it involves illegal activity. In addition, the only way that in this situation he could fail to choose to evade taxes is for moral reasons, of which he is aware. He could not, for example, fail to choose to evade taxes for no reason or simply on a whim. Moreover, it is causally necessary for his failing to choose to evade taxes in this situation that he attain a certain level of attentiveness to moral reasons. Joe can secure this level of attentiveness voluntarily. However, his attaining this level of attentiveness is not causally sufficient for his failing to choose to evade taxes. If he were to attain this level of attentiveness, he could, exercising his libertarian free will, either choose to evade taxes or refrain from so choosing (without the intervener's device in place). However, to ensure that he will choose to evade taxes, a neuroscientist has, unbeknownst to Joe, implanted a device in his brain, which, were it to sense the requisite level of attentiveness, would electronically stimulate the right neural centers so as to inevitably result in his making this choice. As it happens, Joe does not attain this level of attentiveness to his moral reasons, and he chooses to evade taxes on his own, while the device remains idle. (Pereboom 2000, 2001, 2003, 2009; David Hunt suggested such a strategy (2000), and later develops a similar example (2005); and Seth Shabo (2010) proposes valuable refinements).

Joe is intuitively blameworthy for deciding to evade taxes, even though he does not have access to a robust alternative possibility.

Notice that cases proposed before the dilemma defense was formulated, such as Fischer's blush example, also feature a necessary condition for doing otherwise. In Fischer's case, that necessary condition is the blush not ever occurring. So the distinctive characteristic of *Tax Evasion* is not the presence of a necessary condition for doing otherwise, but a necessary condition for doing otherwise the absence of which at any specific time does not causally determine the agent to perform the action. This feature of the case ensures that at no specific time is the agent in the example causally determined to perform the action, and this facilitates the satisfaction of a requirement for moral responsibility the libertarian will not relinquish. In *Tax Evasion*, the necessary condition for Joe's not deciding to evade taxes, i.e. his having the specified level of attentiveness to the moral reasons, is the right sort, since its absence at any one particular time does not causally determine his deciding to evade taxes. At any one time at which the level of attentiveness is absent, Joe could still make it occur at a later time, and as a result he is not causally determined to decide to evade taxes by its absence at the previous time. (Although if there is a deadline, one needs to consider what happens if he waits to decide

until then (Pereboom 2014, 26-7). Note that Fischer (2010) develops an argument that features a Frankfurt example similar to *Tax Evasion* but set in a deterministic context. If Fischer's argument is persuasive, determinism in the actual sequence is not the obstacle to a successful Frankfurt example that the Dilemma Defense specifies it to be.

Tax Evasion does feature alternative possibilities accessible to the agent – Joe's attaining higher levels of attentiveness to moral reasons. This fact about the case prompts the objection that by voluntarily attaining the specified higher level of attentiveness, Joe would have voluntarily done something as a result of which he would have been avoided the blameworthiness he actually incurs. Had he voluntarily attained the requisite level of attentiveness, the intervention would have occurred, whereupon Joe would have decided to evade taxes, but not in such a way that he would have been blameworthy for that decision. I respond by arguing that this alternative possibility is not robust. Joe has no understanding of the fact that by voluntarily attaining the requisite level of attentiveness he would not be (or would likely not be) blameworthy, and we would not reasonably expect him to have this understanding. Rather, he believes that attaining this level of attentiveness is compatible with his freely deciding to evade taxes (which would be true without the intervener's device in place), and he has no reason to think otherwise. It can even be specified that Joe believes that if he did attain this level of attentiveness, he would still be highly likely to decide to evade taxes. But despite his lacking a robust alternative, Joe is intuitively blameworthy for his actual decision (Pereboom 2000, 2001, 2014).

Against this Carlos Moya (2011) objects that in an ordinary situation the alternative Joe has would not be robust; but this is a Frankfurt case, not an ordinary situation, and accessing the alternative he has, being more attentive to moral reasons, is the best he can do. My reply is that alternative still is not exempting, and Moya's reason for changing the standard for robustness is suspect, since it is in effect motivated by PAP (Pereboom 2009, 2014, 17). Justin Capes (2016; cf., McKenna 2018) points out that whether Joe is attentive to moral reasons is not irrelevant to whether he is responsible for deciding to evade taxes. But even if Joe's having this alternative is relevant to accounting for his blameworthiness, without the device in place this alternative is not exempting at all, and with the device in place it is not an exempting alternative that meets the epistemic condition on robustness, since Joe has no inkling that it's exempting.

One significant challenge to *Tax Evasion* is the claim that Joe's responsibility for his decision is merely derivative of his responsibility for his earlier voluntary refraining from becoming more attentive to moral reasons, for which he does have a robust alternative (Widerker 2006; for the response recounted here, see Pereboom 2009, 2014). The example does allow that Joe has access to the alternative possibility of becoming more attentive to moral reasons – indeed, this is the cue for intervention.

A reply to this challenge begins by delineating what derivative moral responsibility amounts to. For a paradigm case, Biff decides to get drunk, understanding that when he is intoxicated he will no longer be able to avoid being abusive to his companions, and then after he becomes drunk he punches one of them. Here Biff satisfies generally accepted conditions on

moral responsibility at the time he decides to get drunk, but not after he becomes drunk. If Biff is blameworthy for punching his companion, it is only derivatively so – derivative on his being non-derivatively morally responsible for deciding to get drunk, and his foreseeing that when he is drunk he is likely to become violent (Ginet 2000).

Widerker (2006) proposes this challenge to *Tax Evasion*, contending that non-derivative moral responsibility is governed by the alternative-possibilities requirement, while derivative responsibility need not be:

[A] problem with Pereboom's example is that, in it, the agent is *derivatively* blameworthy for the decision he made, because he has not done his reasonable best (or has not made a reasonable effort) to avoid making it. He should have been more attentive to the moral reasons than he in fact was – something he could have done. And in that case, he would not be blameworthy for deciding to evade taxes, as then he would be forced by the neuroscientist so to decide. If this is correct, then Pereboom's example is a case of derivative culpability, and hence is irrelevant to PAP, which... concerns itself only with direct or nonderivative culpability. (Widerker 2006: 173; Ginet anticipates this objection in Ginet 1996)

I respond by arguing that there is a sense in which Widerker's challenge is an unsatisfying response, since it explicitly cites PAP in support of its verdict about Joe's responsibility. Widerker's thought appears to be that Joe is non-derivatively morally responsible only for not deciding to be more attentive to the moral reasons because only relative to this decision does he have a robust alternative, and hence any responsibility he has for deciding to evade taxes must be derivative of this decision. One might more generally apply the following alternative-possibilities schema to any case of this sort: an agent is non-derivatively morally responsible for acting or refraining at a particular time only if a robust alternative possibility relative to so acting or refraining is accessible to her then, and all other moral responsibility is derivative of such non-derivative responsibility. However, an objection to this schema is that it will miss the force of any potential counterexample, and will thus risk failing to engage an important objection. It is in a sense question-begging (Pereboom 2009, 2014).

In judging whether the schema does have this defect, the drawbacks for imposing it on situations like Joe's need to be assessed. One might at first suppose that there won't be any such drawbacks because intuitions about whether agents are morally responsible do not distinguish between non-derivative and derivative responsibility. It may be intuitive that Joe is morally responsible for his decision, and not intuitive that he is non-derivatively by contrast with merely derivatively morally responsible. But in reply, a paradigm for derivative responsibility is the drunkenness example cited earlier. In this case, when Biff is drunk, he does not satisfy some of the uncontroversial general conditions on non-derivative moral responsibility, yet they are all satisfied at the time at which he decides to get drunk. However, Biff's circumstances are relevantly different from Joe's. Biff has knowingly put himself in a position in which some of the uncontroversial general conditions for non-derivative moral responsibility will not be satisfied at relevant later times. This not the case for Joe. One might object that if an agent can't attain sufficient attentiveness to moral reasons, one such

uncontroversial condition is not satisfied. However, at any time when Joe is not sufficiently attentive to moral reasons, he understands that it is open to him to become sufficiently more attentive at a later time. Thus Joe's situation differs in a crucial respect from the paradigm example of derivative responsibility. In my view, this shows that the application of the alternative-possibilities schema to Joe in the way proposed in Widerker's objection is inappropriate (Pereboom 2009, 2014).

McKenna (2018) replies by arguing that this sort of Frankfurt example is a mixed case. Joe understands, or is at least cognitively sensitive to the fact that he must be attentive to moral reasons in order to avoid deciding to evade taxes. So part of his blameworthiness is grounded in the failure to decide to be attentive, for which he has a robust alternative. One might respond that for any decision D that we make, there is a significant background of previous decisions that bear on our moral responsibility for D, so it's usually the case that our responsibility for a decision is explained partly by our responsibility for earlier decisions. The key point is that the plausibility of PAP-robust is grounded in the intuition that decisions for which we're blameworthy require access to exempting alternatives, and Joe's responsibility for his failure to be attentive is not exempting relative his responsibility for deciding to evade taxes, and it's the notion of an exempting alternative that grounds PAP and PAP-robust.

McKenna (2018) proposes an amendment to example that responds to the problem he raises: Set up the example so that whether Joe achieves the specified attentiveness to moral reasons is not determined, but is also not voluntary. So whether the attentiveness occurs is due to an indeterministic process breaking a certain way, and in actual fact it does not. Thus in the actual situation, Joe does not become aware, but he might have due to an indeterministic process that does not involve a choice he has between alternatives. McKenna does raise the objection that libertarians might not think that Joe is sufficiently free given this set-up. My sense is that some may find the original case more persuasive, while others the one that features McKenna's suggested revision, and that it's a good to have both versions in the Frankfurt defender's toolkit. (In fact, in the earliest versions of *Tax Cut*, the trigger for intervention is a moral reason occurring to Joe with a certain force, and I say that "A moral reason can occur to him with that force either involuntarily or as a result of his voluntary activity" (Pereboom 2000, 128; 2001; 19).

4. Is a general ability to do otherwise enough?

Virtually everyone, compatibilists and incompatibilists, would agree that an agent's causal determination is compatible with having the ability to do otherwise given some characterization, i.e., one that does not involve holding the laws or the past fixed. For example, you and I are in Rome, you're from the USA but speak Italian well, but you order a Negroni in English. Even you're causally determined by the past and the laws so to act, there is a sense in which it's true to say that you could have ordered in Italian. If the past and the laws are held fixed, then your ordering in Italian is ruled out, but not if we loosen what's held fixed so as to accommodate the truth of "you could have ordered in Italian." There is a reason not to hold the past and the laws fixed in

fixing the truth conditions of this sentence. Intuitively, in this situation you retain the general ability to speak and order in Italian, despite being causally determined by factors to act.

Susan Wolf (1990) proposes that what is crucially necessary for being a general power to act and to have acted differently. A number of compatibilists have pointed out that an agent is in an appropriately constructed Frankfurt example retain a general ability or power to refrain from performing the action at issue (Wolf 1990; McKenna 1997; Vihvelin 2004; Fara 2008; Nelkin 2011: 66-76). In Tax Evasion, Joe retains the general ability to refrain from deciding as he does. On Wolf's more specific proposal, which Nelkin develops and endorses, Joe retains what Nelkin calls an *interference-free ability* to refrain from performing the action. That is, the agent possesses the skills' talents, and so on, required for refraining, and nothing *actually* interferes with or prevents the exercise of this power to refrain (Wolf 1990: 110; Nelkin 2011: 66-68).

The libertarian defender of an alternative-possibilities condition is apt to raise the following objection to this proposal. Due to the intervention set-up, it is not to be up to Joe to successfully exercise his interference-free ability to do otherwise at the time of his actual decision to evade taxes. Moral responsibility requires more than just the general ability to do otherwise: one's circumstances must also permit the exercise of the capacity. Whether this is required for moral responsibility is what's at issue between the defender of an alternative possibilities condition and her opponents (McKenna 1998; Kane 2002; Clarke 2009; Whittle 2010; Fischer 2018). The counterclaim can be stated as follows. Despite possessing an interference-free ability to refrain from making this decision, Joe nevertheless lacks access to an exempting alternative. If when he decides to evade taxes it's not up to him to successfully exercise his interference-free ability to refrain from so deciding, it's not up to him to avoid the blameworthiness he actually incurs.

5. Frankfurt cases for omissions

Some of those who have been convinced by Frankfurt examples to reject the Principle of Alternative Possibilities for actions nevertheless contend that one can be directly responsible an omission only if one has access to an alternative. The control condition on moral responsibility would then feature an asymmetry: direct responsibility for an action does not require an ability not to perform that action, whereas direct responsibility for not performing a certain action requires an ability to perform that action. This is a complicated debate, especially because, as Randolph Clarke (2021) notes, some, such as Clarke himself (1994, 2011) reject certain asymmetries and accept others.² Against Fischer and Ravizza (1998, 254-55) Carolina Sartorio argues for one asymmetry, indicated by the following pair of Frankfurt examples indicate an

² Fischer (1985-86) and Fischer and Ravizza (1991) argued for the asymmetry but that they (1998) subsequently rejected it, as have Byrd (2007), Clarke (1994; 2011), Frankfurt (1994), and McIntyre (1994). Fischer (2017) and Sartorio (2005) each argue for a different asymmetry (from the one characterized in the text here) between responsibility for actions and responsibility for omissions (as does Clarke [1994; 2011]). Note, further, that other writers (e.g., Ginet [2003], Widerker [1995]) reject the asymmetry because they reject the first half.

asymmetry for moral responsibility for the outcomes of actions and moral responsibility for the outcomes of omissions: (2005, 2017)

Active Frank: A child is swimming in a pond. Frank wants him to die, so he jumps in and pushes the child's head under water until he drowns. An evil neuroscientist, who also wanted the child to die, had been monitoring Frank's brain activity. Had Frank wavered in his decision to kill the child, the neuroscientist would have intervened by manipulating Frank's brain in such a way that he would have made exactly the same decision.

Omissive Frank: Frank notices that the child is starting to drown. Since he wants the child to drown, he decides not to jump in. This time there were no sharks in the water, but there was a neuroscientist in the background. Had Frank wavered in his decision not to jump in, the neuroscientist would have manipulated Frank's brain in such a way that he would have made the same decision.

Here is what Sartorio (2017) says about those who reject the asymmetry:

The philosophers who reject the asymmetry between responsibility for/by actions and responsibility for/by omissions would suggest that Omissive Frank is just as responsible as Active Frank: he is responsible for his decision not to save the child, for his failure to save the child, and for the child's death. This is so even though he couldn't have made a different decision and thus he couldn't have saved the child. Hence, they would suggest, Frankfurt-style omission cases show that responsibility for/by omissions doesn't require the ability to do otherwise in the same way that Frankfurt-style action cases show that responsibility for/by actions doesn't require that ability.

Sartorio defends the asymmetry by arguing that although Omissive Frank is responsible for his decision not to save the child, a positive mental action, he is not blameworthy for his omission to save the child or for the child's death. Frank's moral responsibility for his decisions doesn't carry over to his not saving the child, or to the child's death, because it doesn't bear the right kind of relation to those things. In Sartorio's view "the child doesn't die as a result of what Frank in fact decided to do, but as a result of what he didn't decide to do (i.e. because he didn't decide to jump into the water to save him)." Moreover "it's not at all clear that he is responsible for not having made the relevant decision (an omission, or an absence); all that's reasonably clear is that he is responsible for having made certain decisions" (Sartorio 2005, 2017; cf. Clarke 2014: 138-143) and Swenson (2015)).

Omissive Frank, as well as the cases that Fischer and Ravizza (1998) adduce, all concern moral responsibility for consequences of decision not to act. Responsibility for consequences is a complex matter. In addition, decisions not to act are not themselves omissions; rather they are basic actions. At this point we ask whether there is a successful Frankfurt case in which it's intuitive that the agent is directly responsible for the omission of a basic action, such as a decision, by contrast with responsibility for consequences of basic action. Clarke (1994) has proposed a Frankfurt case for an omission in which the omission at issue is forgetting a promise:

Sam promises to babysit little Freddy. But Sam forgets. No one makes Sam forget; it just slips his mind. Consequently, he fails to show up to babysit little Freddy. Unbeknownst to Sam, a mad scientist is monitoring his thoughts. Had Sam been going to remember his promise, the scientist would have intervened and prevented him from remembering it. The scientist would not have intervened in any other way. As it happened, the scientist did not intervene at all; there was no need to.

Clarke (1994) affirms the intuition of responsibility for such a case, but later (Clarke 2011) he suggests that it might be that it is merely derivative: "Perhaps the way to go is to require that the agent be responsible for some action(s) that caused, in some unproblematic way, his thinking of what he was in fact thinking of at the pertinent time."

One concern for this example is that direct responsibility for forgetting (supposing this is possible, by contrast with responsibility for forgetting always being derivative) isn't a clear example of direct responsibility for omitting to decide or omitting to intend. Clarke (2011) frames a forgetting case as an instance of direct responsibility for ceasing to intend, which does involve omitting to continue intend, but not omitting to decide or to intend. Clarke's case also involves the flicker "going to remember his promise" which, without further specification, threatens to be robust.

I've proposed an example in which the agent would be directly responsible for omitting to decide (Pereboom 2015). Note first that in Sartorio's *Omissive Frank* it may be that the only way Frank can omit to make the decision to rescue the child is by making the decision not to rescue the child. Arguably this is only because of the gravity of this decision. It seems psychologically impossible to be aware of the danger the child is in and not make a decision either way about saving it. However, in circumstances in which the harm at issue is not severe, an agent might omit to make a decision to help without making a decision not to help. So consider:

Stranded Motorist: Frank is driving along a lightly-traveled highway thinking about Frankfurt cases. He notices a motorist struggling to replace a flat tire. After momentarily being distracted by the thought that the motorist would benefit from his help, Frank resumes thinking about Frankfurt cases without ever deciding not to stop to help. He just stops thinking about the motorist's plight and resumes thinking about Frankfurt cases. The motorist continues to struggle with the flat tire.

It's intuitive that Frank is directly morally responsible for not making the decision to stop to help. We can now produce a Frankfurt example by adding in the neuroscientist:

A neuroscientist is monitoring Frank's psychological states. In Frank's case, deciding to stop to help requires seriously considering doing so in advance, and suppose he can in fact do this. But had Frank seriously considered deciding to stop to help, the neuroscientist would have intervened and caused him not to decide either way. Frank does not seriously consider doing so, and so the neuroscientist does not intervene. (Pereboom 2015)

The flicker of freedom in this case is not a robust alternative, since Frank might seriously consider stopping to help and still not actually decide to stop to help. The available alternative

would thus not be exempting. This is arguably also not an instance of derivative responsibility. By contrast with Biff in the drunkenness paradigm, Frank hasn't knowingly put himself in a position in which he will fail to satisfy some uncontroversial condition on responsibility at the relevant subsequent time. If all of this is correct, then there would be no general asymmetry for an alternative-possibilities requirement regarding basic actions and omissions of basic actions.

6. Final words

Frankfurt's challenge has had a massive and continuing influence on the free will debate. Many participants in the debate, both compatibilist and incompatibilist, are convinced by his argument. But a significant and vocal minority disagrees, and for these theorists the intuition that blameworthiness requires access to an exempting alternative remains strong.

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