

CONDITIONS OF MORAL RESPONSIBILITY

“What about the dignity and integrity of the individual? Where does that come in? . . . And what about personal freedom? And responsibility?” So far as I was concerned, questions of that sort were valuable mainly because they kept the metaphysicians out of more important fields.

B.F. Skinner, from *Walden Two*

Introduction

To be morally responsible is to do something that is good or bad, or right or wrong, and to have had the right kind and amount of control over one’s actions or the outcome of one’s action. The former capacity is primarily a normative notion and the latter is primarily a metaphysical notion. Thus both metaphysical issues and normative concerns are relevant for moral responsibility, and these are extensively intertwined. Although an initial approach to moral responsibility requires a consideration of the moral evaluations (especially praise or blame) assessed by individuals or communities, further work must be done in order to get at what underlies moral assessments— the ontological facts of the matter. The significance of metaphysics in the exploration of moral responsibility is expressed extremely well by Robert Kane, although our concerns are more narrow than his.

Aristotle held that metaphysics . . . was the study of the ultimate sources and explanations (*archai kai aitia*) of things. The free will issue is metaphysical in just this sense. It is about the ultimate sources and explanations— *archai kai aitia*— of some special things in the universe, namely responsible human actions. We should therefore expect debates about the significance of free will [and responsibility] to delve rather deeply into the metaphysical depths. . . . The concern is not merely with desert from this or that point of view, but desert “in the nature of things”: not merely responsibility with respect to this or that set of norms, but “ultimate” responsibility in the nature of things.¹

¹Robert Kane, *The Significance of Free Will*, New York: Oxford University Press, 1996, pp. 91-92.

Whether a person legitimately deserves praise or blame does not depend wholly on the evaluative efforts of a community or individuals who are doling out the praise or blame. Instead it depends on the facts of the matter: whether someone really is responsible for her actions or the consequences of her actions.

A morally responsible person is an agent who has the capacity to cause something that has moral significance and actualizes that capacity occasionally. Ideally, we should describe the necessary and sufficient conditions for moral responsibility. Though it is probably not possible to describe these conditions in detail, I suggest the following general principle, Conditions of Moral Responsibility (CMR):

For any event *e* occurring at time *t*, such that *e* has moral significance, a human agent is morally responsible for event *e*, if and only if he has the capacity to act rationally and autonomously in relation to event *e* prior to *t*, or at *t*.

I shall not fully defend this principle here, but I address a particularly significant challenge that has been raised against it. Elsewhere, I develop the ideas of rationality and autonomy that are involved in moral responsibility; here I merely provide a brief statement of rationality. Rational autonomy may be limited by a person's environment and may malfunction in various ways, but the two most obvious and significant ways that it may be limited are by ignorance and force.² In context of moral responsibility, rationality involves moral sensibility—an awareness of right and wrong and/or of good and bad, and of the gravity of one's actions. The importance of this type of rationality is reflected in our legal system by the M'Naghten Rules and the related insanity defense guidelines. This limited conception of rationality is assumed to be present in the discussion of autonomy below.

I defend an implication of CMR: the claim that the ability to do otherwise is a necessary

²See Aristotle, *Nicomachean Ethics*, Book III, Chapter 1 (1110a1-1111b3).

condition for moral responsibility. This position is consistent with the fact that quite often, individual agents claim that an inability to do otherwise exonerates them. For example, if an art curator breaks an expensive vase out of malice toward her employer, her boss blames her for the damage. But if the same curator suffers an unexpected seizure and drops a vase, she may claim that she could not have done otherwise but drop the vase, and consequently her boss does not blame her for the broken vase. This seems to show that having genuine alternatives (having the ability to do otherwise) is necessary for moral responsibility. Considerations about moral responsibility, however, are heavily influenced by Frankfurt-style examples, or FSEs—stories intended to show that one may be morally responsible yet lack the ability to do otherwise. Developing the intuition that genuine alternatives are important for moral responsibility, I argue that when a theorist carefully specifies the events for which agents are morally responsible, he finds that FSEs and other examples fail to show that alternative possible actions are not required for moral responsibility.

In this paper, I provide an evolutionary account of four generations of FSEs. I then present a brief argument for the claim that when we carefully specify for what agents are morally responsible, we find that in all four generations of FSEs, subtle alternatives remain. John Martin Fischer is the primary objector to this so-called “flicker of freedom” approach. My final task is to defend my particular response to FSEs from the general objections that Fischer and others have raised against flicker of freedom responses.

Section 1 The Evolution of Frankfurt-Style Examples

The first generation FSEs, including Frankfurt’s original case and numerous subsequent revisions, involve a potential yet inactive intervener. Frankfurt describes a situation in which it seems obvious that an individual (Jones) is morally responsible for a murder, yet he apparently

could not have done otherwise. Jones acts on his own initiative, yet there were no genuine alternatives to his behavior due to an external force that *would have* intervened had Jones planned not to commit the murder. Other first generation FSEs involve omissions. For example, suppose Dave forgets Julie's birthday. He failed to write down the date and though there were no extenuating circumstances, when Julie's birthday arrived, he failed to remember it. Yet, had he begun to remember the birthday, a neurosurgeon who earlier implanted an electronic device in Dave's brain would have acted to prevent the memory from being recalled, and Dave would have forgotten the birthday. The neurosurgeon does not act, and plays no active role in the events that transpire. Julie still holds Dave responsible for failing to remember her birthday, although Dave apparently could not have done otherwise.³ In the situation described, it seems plausible for Julie to hold Dave morally accountable for failing to remember her birthday, but it also seems that Dave could not have done otherwise because the neurosurgeon was waiting in the wings as a potential intervener. We might conclude that moral responsibility does not require the ability to do otherwise.⁴

The second generation of FSEs involves overdetermination of some form, either by natural forces or by a personal agent. For example, Betty is a spy who received orders to set off an explosive device at T_1 in order to cause an avalanche that will destroy an enemy village below

³See Randolph Clarke, "Ability and Responsibility for Omissions," *Philosophical Studies*, vol. 73 (1974), pp. 195-208, and Mark Ravizza, "Semi-Compatibilism and the Transfer of Non-Responsibility," *Philosophical Studies*, vol. 75, pp. 61-93, and Fischer and Ravizza, *Responsibility and Control*, Cambridge University Press, 1998, pp. 29-30ff.

⁴First and Second generation FSEs are variations on John Locke's illustration involving a person carried into a room while sleeping, and then the room is locked. If the person is glad to awaken in the room, and chooses to stay, he seems to be responsible for that action, yet he could not have left the room. *Essay Concerning Human Understanding*, Book II, Chapter 21.

at T_3 .⁵ Due to erosion and melting, at a place between Betty and the village, natural forces are arranged such that a (naturally caused) avalanche will occur at T_2 , at precisely the time and place to destroy the village at T_3 . No other person except Betty has the capacity to affect the avalanche and its immediate consequences due to natural limitations such as distance, time, resources, and knowledge. Betty sets off the device at T_1 , and the village is destroyed by an avalanche at T_3 . It seems as if Betty is responsible for destroying the village at T_3 , yet there was no alternative to the village being destroyed at T_3 .

A third generation FSE was originally suggested by John Martin Fischer and was later developed by Alfred Mele.⁶ Third generation FSEs incorporate the strengths of the previous generations and are global and cover an entire lifetime of an individual. Instead of just one instance of allegedly being morally responsible for something x , but having no alternatives to x , suppose that Bob goes through an entire life making significant decisions, but due to a potential intervener, he could not have done otherwise. Because of the presence of a *mal genie*, Bob could not have made any morally significant decision otherwise or acted differently in any significant way. The malevolent demon plays no actual causal role in Bob's behavior throughout his entire lifetime, but is present and ready to act if Bob plans to stray from the demon's plans. Had the potential but inactive intervener not been there, Bob would have performed the same actions, resulting in the same consequences. The example is intended to show that someone may be morally responsible, yet *never* have the ability to do otherwise. One could also develop a third

⁵This FSE is adapted from examples in Mark Ravizza, "Semi-Compatibilism and the Transfer of Non-Responsibility," and John Martin Fischer and Mark Ravizza, *Responsibility and Control*, pp. 29-30ff.

⁶John Martin Fischer, *The Metaphysics of Free Will: An Essay on Control*, Cambridge, Mass.: Blackwell Press, 1994, p. 214, and Alfred Mele, *Autonomous Agents*, New York: Oxford University Press, 1995, p. 141.

generation FSE involving the second generation characteristic of overdetermination.

Finally, Mele and David Robb along with Eleonore Stump, have presented fourth generation FSEs.⁷ The strengths (or should I say dangers?) of all three previous generations of FSEs are combined into one, and the more highly evolved fourth generation FSE is more complex and more powerful than ever. Mele and Robb consider Bob, who acts in an indeterministic world in which some events are deterministically caused. Bob acts on his own and through an indeterministic process, but if he had not so acted, a simultaneous deterministic process would have overridden the indeterministic process operating and brought about the action in question.⁸ Bob is acting on a decision mechanism in which priority is given to the indeterministic process unless it conflicts with a deterministic process acting simultaneously. If both processes “agree” about what action to take, it is the indeterministic process that is causally effective. If the processes “disagree,” the deterministic process overrides the indeterministic one. As luck would have it, the processes always agree. Thus, Bob always lacks the ability to do otherwise, even though he often acts from his own indeterministic mechanism. Eleonore Stump has developed FSEs similar to that of Mele and Robb, with plausible details added.⁹ Stump takes seriously the role of the brain in any mental act, and describes how a fourth generation FSE may be developed more specifically, emphasizing mental acts presumed to be

⁷Alfred Mele and David Robb, “Rescuing Frankfurt-Style Cases,” *Philosophical Review*, Vol.107 (1998), pp. 97-112.

⁸Such a situation initially sounded incoherent to me. But after following Mele and Robb’s explanation of the possibility of such a situation, I am convinced that it is both coherent and possible. I treat the example with the assumption that it is coherent, and if it is shown to be incoherent, then my ultimate position on FSEs is only strengthened.

⁹Eleonore Stump, “Dust Determinism, and Frankfurt: A Reply to Goetz,” *Faith and Philosophy*, 16 (1999) pp. 413-422, and “Alternative Possibilities and Moral Responsibility: The Flicker of Freedom,” *Journal of Ethics*, 3 (1999), pp. 299-324.

indeterministic. She assumes that mental acts are intimately related to physiological processes and have stages that allow for occurrences similar to what Mele and Robb describe generally.

Section 2 The Alternative: A Flicker of Freedom

Fischer, a fan of FSEs, has suggested various responses to FSEs so that the situations that seemingly involve no alternatives actually include a very small flicker of freedom. The agent in question has an extremely minute alternative available, and this warms the heart of those of us who defend the claim that alternatives are necessary for moral responsibility. But Fischer is a fickle flicker giver. He claims that the alternative possibilities that he suggests are “not sufficiently *robust* enough to ground the relevant attributions of moral responsibility.”¹⁰ He claims that it is odd to think that it is in virtue of the possibility of bringing about a similar but minutely different event that moral responsibility would be grounded.

Before I go on to describe and respond to Fischer’s criticisms of the flicker of freedom approach, it would be helpful to have a clearer picture of how the flicker strategy might be developed. I follow an early response to FSEs proposed by Peter van Inwagen and claim that events are individuated by their causal origin; same event only if same causal origin.¹¹ The causal origin of an event is especially important when we are concerned about moral responsibility, and provides the means to give an adequate response to FSEs.

If we are properly fine grained about events, then we can respond to FSEs by agreeing that the individual in question is morally responsible, but add that alternatives exist. In every

¹⁰Fischer, *The Metaphysics of Free Will: An Essay on Control*, pp. 140-141.

¹¹See van Inwagen, “Ability and Responsibility,” *Philosophical Review*, vol. 87, pp. 201-224, and Donald Davidson, “Individuation of Events,” in *Essays on Actions and Events*, Oxford University Press, 1980. Van Inwagen does not believe that this approach is effective as a general strategy in responding to FSEs, and most “flicker of freedom” strategies have not explicitly appealed to the causal origin of events to support the approach.

Frankfurt example, if the person in question is morally responsible for something, then when we specify for what he is morally responsible in a manner that considers causal origin, we see that there is an alternative available to the agent. Those proposing Frankfurt-style cases claim that one could not have done otherwise. I claim that FSEs include the following types of alternatives: in first generation situations, either event x occurs as a result of agent p doing action A without process z's influence, or event y occurs as a result of z causing p to do A, and in second generation situations, event x occurs as a result of p doing A and also as a result of z occurring, or event y occurs as a result of z occurring, but not as a result of p doing A, and it is not the case that $(x = y)$ (where "y occurs as a result of z" means that z was a causal factor in the occurrence of y). FSEs do not take this distinction of events into account, and in every FSE, there are genuine alternatives available.

This response to FSEs is given in terms of events, but some FSEs involve actions, others involve states of affairs, and others pertain to omissions. Still, what I say about events will provide an adequate basis for responding to the multiple varieties of FSEs. Consider a first generation FSE developed in relation to an action.¹² Jones considers shooting the mayor, and Smith, a skilled neurosurgeon, will intervene to assure that Jones will shoot the mayor, but intervenes only if Jones will decide not to shoot the mayor. Jones acts on his own and shoots the mayor, but allegedly could not do otherwise. But an alternative action (event) was present: Jones shoots the mayor due to a decision he made or Jones shoots the mayor due to some electronic stimulus that has a causal origin in Smith's neurological mechanisms implanted in Jones' brain (or to trace it further, an origin in Smith himself). Consider the second generation

¹²Frankfurt claims that his original example is about responsibility for an action. See "What We Are Morally Responsible For," *How Many Questions?: Essays in Honor of Sidney Morgenbesser*, Hackett Publishing Company, 1983.

case of the avalanche. Had Betty not set off the explosion, the village would have been destroyed, and the resulting state of affairs would have been indistinguishable (if no history were considered) from the state of affairs that would have resulted if Betty had set off the explosion. But the actual causal origin of the village's destruction is different from what it would have been had Betty not acted as she did. In one case, Betty is a part of the causal origin of the avalanche, and in the other she is not. Such a distinction means that Betty had alternatives: have the village destroyed by an avalanche caused by erosion alone (one event), or have the village destroyed by an avalanche overdetermined by erosion and an explosion (a different event). The potential avalanches are genuine alternatives for Betty. The same may be said for an FSE developed for states of affairs, *mutatis mutandis*.

Omissions, especially nonintentional omissions, call for a more thorough assessment. Consider a first generation FSE in relation to a nonintentional omission as described above. Dave failed to record the date of Julie's birthday and consequently failed to remember the birthday. Yet, had he begun to remember the birthday, a highly skilled but nefarious neurosurgeon would have prevented the memory from being recalled, and Dave still would have forgotten the birthday. The neurosurgeon does not act, and plays no active role in the events that transpire. We assess that Dave is morally responsible for failing to remember Julie's birthday. We might think that no alternatives were present at the time of Dave's neglect. That may be true; suppose that it is. An historical approach is helpful here, and we can trace the event of Dave's forgetting the birthday to a decision that he made not to record the birthday in his planner. The calendar remains blank and Dave forgets the birthday due to a decision that he made, and he is morally responsible for *that* decision, and also had alternatives to making that decision.

Intentional omissions are essentially the same as actions, and may be handled in the same way.

If events (states of affairs, actions, omissions) are distinguished by causal origin, then responses to the fourth generation of Frankfurt-style cases are obvious. Just as in any previous generation example, if at the point of decision or action, the possible events are distinguished, we see that there are numerous alternatives for the agent: she could act as she in fact did, bringing about the same events by an indeterministic process, or she could bring about alternative events, those in which the deterministic process plays a causal role.

Section 3 The Robustness of the Flicker

The response that I suggest above is similar to one suggested by Michael McKenna, who recommends distinguishing particular act-tokens of agents when assessing FSEs. He gives an initial defense of his strategy, and I believe that he is on the right track. He argues that the alternatives in an FSE are “either doing what one does of one’s own intention, or being coerced into performing the same kind of action against one’s will.” These alternatives “. . . mean all the difference between one’s doing something of one’s own will, and one’s not doing that kind of thing of one’s own will . . . ”¹³ My response appeals to similar motivations, and includes a more general description of the underlying metaphysics of this type of response. Despite these very plausible descriptions of flicker of freedom approaches, they have not been received with open arms, and continue to be challenged by the proponents of FSEs, including Stump and most notably, Fischer.¹⁴

¹³Michael McKenna, “Alternative Possibilities and the Failure of the Counterexample Strategy,” *Journal of Social Psychology*, vol. 28 (1997), p.75.

¹⁴See her “Alternative Possibilities and Moral Responsibility: The Flicker of Freedom.”

Fischer argues that the alternatives described in a flicker of freedom approach are not robust enough to ground moral responsibility. He argues that it is “puzzling and unnatural” to suppose that alternative pathways that are not taken would provide grounds for moral responsibility.¹⁵ He challenges the proponent of the flicker approach to show that “these alternatives [alternatives similar to what I have described] *ground* our attributions of moral responsibility.”¹⁶

There are two aspects to this objection: the grounding aspect and the robustness aspect. It is unclear what Fischer means by ‘ground,’ in his objections. If he understands ‘ground’ as providing the sufficient conditions for moral responsibility, then I certainly agree that the distinctive alternatives that I suggest do not ground moral responsibility. But we should not expect the mere presence of alternatives to do any such grounding, for many other components are necessary for moral responsibility. Besides alternative possibilities, an agent must have a certain level of rationality and moral sensibility in order to be morally responsible. Immature children, psychopaths, or even chipmunks may have alternatives open to them, but those alternatives alone do not ground moral responsibility. Neither should we expect alternatives alone to be sufficient for moral responsibility for a healthy adult human.

Fischer may intend ‘ground’ to have a different meaning, such as providing a necessary condition for moral responsibility. But I do not agree that the alternatives that I described do not provide a necessary condition for moral responsibility. In FSEs, the agent in question has a minimal option: do what she in fact did, or refrain from doing what she did. That is choice

¹⁵Daniel James Speak echoes Fischer’s concerns in “Fischer and Avoidability: A Reply to Widerker and Katzoff”, *Faith and Philosophy*, vol. 16 (1999), pp. 239-247.

¹⁶Fischer, *The Metaphysics of Free Will*, p. 140 (italics are his).

enough to provide a necessary condition for moral responsibility.

Elsewhere, Fischer goes on to argue that if we took away the limited alternatives such as what I describe in FSEs, and there were absolutely no alternatives (and according to me, no moral responsibility), then it is hard to see how merely adding back an extremely sparse alternative would then create a situation sufficient for moral responsibility.¹⁷ But the addition of the alternative implies the possibility that the person refrain from causing what she caused. And that possibility is relevant for moral responsibility. We want to know whether a person had the option of refraining from doing what was in fact done. We want to know whether the person had the option of being the most significant causal agent for the death, destruction of the village, or whatever consequence is in question, or refraining from being an initiating causal agent for those things. If the person could have refrained from causing what she did, then a significant alternative was available.

Some may argue that the alternative is not morally significant since it involves a non-voluntary omission; it is not something that may be chosen or intentionally willed. Any alternative that cannot be intentionally willed is not a robust alternative and could not provide a necessary condition for moral responsibility.¹⁸ Stump raises a criticism along these lines, claiming that the alternative is not an action that the agent is able to perform.¹⁹

This argument cannot rely on the assumption that we are never responsible for events or actions that are not intentionally willed, for such an assumption is false. Common cases of

¹⁷Fischer, "Responsibility and Self Expression," *The Journal of Ethics*, Volume 3, Number 4, (1999), p. 280.

¹⁸Fischer has suggested this in conversation.

¹⁹Stump, "Alternative Possibilities and Moral Responsibility: The Flicker of Freedom."

negligence show that we can be morally responsible for consequences that were not intended. If successful, the argument must be based on a different reason for thinking that the alternative is not morally significant.

There are reasons to think that the alternatives I describe are morally significant. Even if one alternative is not properly conceived as an action (as Stump argues), it may be an omission that the agent is morally responsible for.²⁰ Consider an assassin who has developed an elaborate plan to shoot the President as he drives by in a motorcade. He has a limited time to act, and then the motorcade will be out of range. As the motorcade approaches, he begins to have doubts about his plan. He hesitates, and although he never consciously decides *not* to shoot, he simply refrains momentarily. (Surprisingly, in this case there are no counterfactual interveners ready to assure that the assassination takes place!) As he refrains, the window of opportunity is gone. The alternatives available were very morally significant— one resulting in the loss of a President, the other with much less significant consequences. It is to the assassin's moral credit that he hesitated. The hesitation revealed some moral sensitivity that is a positive characteristic of the assassin, and in this case was a causal factor in the outcome. The two alternatives: shoot or refrain, are both morally significant, and some factors related to the assassin's moral character were relevant to each alternative.²¹ FSEs describe situations analogous to the would-be assassin in respect of the degree of significance of the alternatives available, and in respect of the degree

²⁰Causation by omission is not an unusual occurrence, and there is reason to think that moral responsibility can be dependent on causation by omission. If a groom has agreed to be at the church on time for the wedding scheduled at 2:00pm, and he fails to show up, because he falls asleep at noon, his omission causes many things, including the wrath of a bride left waiting at the altar, and he is morally responsible for much of what is caused by his omission.

²¹The potential assassin is morally responsible for many things, formulating a plan and intending to assassinate the president among them. But of course he is not morally responsible for assassinating the President, for the assassination did not happen.

of control over the alternatives available. In the case of the potential assassin, the actual events that occur parallel the alternative events in FSEs. Both involve non-intentional omissions that are morally significant alternatives.

There are other objections besides Fischer's that may be raised against my response. The most formidable are likely related to the finely grained notion of events that is essential for my approach, but I believe that these objections can also be met. To defend that claim, however, would require another paper.²²

A claim of CMR— that an ability to do otherwise is necessary for moral responsibility— is brought into question by the extreme FSEs. But if we distinguish events by causal origins, then upon close inspection, in every FSE there is an alternative present. There is reason to believe that the presence of this alternative contributes to (and is necessary for) the moral responsibility of the agent. Therefore, the position that the ability to do otherwise is necessary for moral responsibility should not be rejected on the basis of FSEs.

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(This paper is a work in progress. Comments are welcome. Please do not cite the paper without the author's permission.)

²²David Lewis argues that factors that greatly increase event fragility, such as the essentiality of time or causal origin makes events too fragile in his "Events," *Philosophical Papers*, vol ii, Oxford University Press, 1986, p. 250. But more recently, Lewis has softened his stance on the fragility of events, and speaks of fragile "alterations of events" such that a differing time or causal origin implies an alteration of an event. He then leaves it open whether we should consider these various alterations as distinct events, and claims that an alteration may be one of several very fragile versions of a single event or a very fragile alternative event. "Causation as Influence," *The Journal of Philosophy*, Vol. 97 (2000) pp. 182-197.