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Frankfurt Cases and Alternate Deontic Categories

In Frankfurt's seminal "Alternate Possibilities and Moral Responsibility," he advances an argument against the Principle of Alternate Possibilities:

PAP If an agent is responsible for performing some action, then she was able to do otherwise.¹

Frankfurt's argument against the PAP is built around a thought experiment involving a counterfactual intervener. A counterfactual intervener is an agent who does not get involved in the actual sequence of events, only in counterfactual sequences. Such thought experiments are now called Frankfurt cases. According to Frankfurt, if the PAP is false, then the chief support for incompatibilism, the thesis that responsibility and determinism are incompatible, is undercut.²

The literature generated in the wake of Frankfurt's paper is so massive that it can be divided into three distinct waves: (1) discussions of the relevance of the PAP to incompatibilism; (2) discussions of whether the agents in Frankfurt cases are able to do otherwise; and (3) discussions of whether the agents in Frankfurt cases are responsible for their actions.³

However, almost all of the Frankfurt cases in this literature involve impermissible actions.⁴ In this paper, I argue that the failure to consider other deontic categories exposes a deep problem, one that threatens either to upend much current moral theorizing or to upend the relevance of Frankfurt cases.

The paper is divided into four sections. In the first, I set out in more detail Frankfurt's argument, as well as the main moves that are made against it. In the second, I begin to argue for my thesis, focusing, in particular, on the category of the merely permissible. In the third and fourth, I advance and then reply to objections.

I. Introduction: Frankfurt's Argument and the Main Moves Against it

Frankfurt's attack on the PAP is a modern version of an attack made by Locke in *An Essay Concerning Human Understanding*. Locke contends that someone who is (unwittingly) locked in a room might stay there voluntarily if she is engaged in pleasant conversation.⁵ On the basis of this, Locke distinguishes between whether an action is done voluntarily and whether an action is done freely: the latter requires the ability to do otherwise but the former does not, and responsibility tracks the former:

...suppose a Man be carried, whilst fast asleep, into a Room where is a Person he longs to see and speak with; and be there locked fast in, beyond his Power to get out: he awakes, and is glad to find himself in so desirable Company, which he stays willingly in, i.e. prefers his stay to going

¹ (Frankfurt, 1969).

² In subsequent analyses, Frankfurt elaborates the theory that the agent is held responsible for her actions because they flow from the agent's own volition (Frankfurt, 1971).

³ (Kahn, 2019, part 2).

⁴ That Frankfurt cases almost uniformly involve agents engaging in impermissible actions, like murder, is somewhat surprising given their provenance (namely, Locke's locked room thought experiment, reproduced in section one of this paper).

⁵ The fact that the agent's options are blocked without the agent's knowledge is important: it is conceded on all sides that having no choice can be exculpatory if the agent knows as much.

away. I ask, Is not this stay voluntary? I think no Body will doubt it: and yet, being locked fast in, 'tis evident he is not at liberty not to stay, he has not freedom to be gone.⁶

In Frankfurt's example, Locke's door is replaced by an agent, Black.⁷ Black wants Jones to perform some action, A, and Black "is prepared to go to considerable lengths to get his way, but he prefers to avoid showing his hand unnecessarily."⁸ Thus, Black waits to see whether Jones is going to A on his own, prepared to intervene if, but only if, not. When Jones performs A of his own volition, Frankfurt concludes that, because Black did not actually intervene, Jones is responsible for A despite his inability to do otherwise.

As noted above, some respondents to Frankfurt have conceded this attack on the PAP but contested Frankfurt's attempt to use it to motivate compatibilism.⁹ Many who do so have proposed alternative principles that are not subject to Frankfurt cases but that preserve the connection between responsibility and the ability to do otherwise. For example, Inwagen proposes three alternate principles having to do with omission and event responsibility; Lamb proposes a weak version of the PAP; Wyma proposes a principle about passing the buck; and Otsuka proposes a principle about avoiding blame.¹⁰

Others maintain that agents in Frankfurt cases are able to do otherwise (*pace* Frankfurt). Probably the best known version of this is called the dilemma defense, articulated independently by Ginet, Heinaman, Kane, and Widerker.¹¹ For present purposes, the part of this defense that is relevant is that, if indeterminism holds in Frankfurt cases, then the agents will have morally relevant alternate possibilities.¹² This has led to an arms race of ever more sophisticated Frankfurt cases and responses.¹³

A third approach, popular more recently, is to attack the idea that the agents in Frankfurt cases are morally responsible for their actions. For example, some have pointed to a connection between the PAP and principles frequently appealed to in moral theorizing, like "ought implies can" (OIC); others have argued for an analogy between knowledge and moral responsibility, creating mashups of Gettier cases with Frankfurt style counterfactual interveners.¹⁴ This has led to denials of the connection between the PAP and OIC, denials of OIC directly, and more.¹⁵

⁶ (Locke, 1975, 2.21.10, 238.22-29).

⁷ There is some debate about whether this difference is relevant given that both Locke's locked door and Frankfurt's counterfactual intervener are causally inefficacious in the actual sequence of events.

⁸ (Frankfurt, 1969, 835).

⁹ These include one of Frankfurt's earliest respondents, (Blumenfeld, 1971).

¹⁰ (Inwagen, 1978); (Lamb, 1993); (Wyma 1997); (Otsuka, 1998). However, many contend that these authors' arguments misfire "exactly at the point where they give up [the] PAP" (Kahn, 2019, 136; see also Fischer, 1999, 170 and Pereboom, 2005, 232).

¹¹ (Kane, 1985, esp. 512-5); (Heinaman, 1986, 276); (Widerker, 1995); (Ginet, 1996).

¹² Spelled out in full (as a dilemma), the idea behind the dilemma defense is as follows: (1) either determinism holds in Frankfurt cases or it does not; (2) if it does, then an incompatibilist will say that determinism rules out responsibility; so (3) if determinism holds, the case against the PAP fails against the incompatibilist; but (4) if determinism does not hold, then the agent is able to do otherwise; (5) if the agent is able to do otherwise, then the case against the PAP fails (*sans phrase*); therefore, (6) Frankfurt's attack on the PAP fails against the incompatibilist.

¹³ This arms race is canvassed in chapter 6 of (Kahn, 2019).

¹⁴ For the first strategy, see (Copp, 1997); for the second, see (Levy, 2014).

¹⁵ For the first strategy, see (Allen, 1999, 366); for the second, see (Fischer, 1999, 244).

In the next section of this paper, I am going to begin a novel kind of attack. I propose to look at Frankfurt cases involving merely permissible actions. I argue that mere permissibility entails the ability to do otherwise and, thus, that there cannot be a successful Frankfurt case in which an agent is responsible for performing a merely permissible action notwithstanding her inability to do otherwise. I then argue that this exposes a deep problem for Frankfurters and their attempt to ground (super)compatibilism by disengaging moral responsibility from the ability to do otherwise.¹⁶

II. My Argument: Mere Permissibility and the Ability to do Otherwise

Let me define an mp-Frankfurt case as a thought experiment involving a counterfactual intervener waiting in the wings to ensure that an agent performs an action that is merely permissible. The counterfactual intervener in an mp-Frankfurt case is, as in a normal Frankfurt case, only counterfactual: she does not get involved in the actual sequence of events; in the actual sequence of events, the agent performs the action of her own volition. The point of defining this as a special category is that it deals with a merely permissible action rather than an impermissible one.¹⁷

For example, suppose that J goes out to dinner and is trying to decide what to get. We may stipulate, so as to ensure that there are no confounding moral factors in the case, that the restaurant serves only gluten-free, vegan food sourced from local, organic farms that pay their workers a living wage; that the restaurant employs a diverse staff and pays them all a living wage; that the restaurant is not part of a chain or conglomerate; that the restaurant does not have prices that make it out of reach for any but the ultrarich (or even the somewhat rich); and so on. Sadly, it might be difficult to imagine such a restaurant. But I do not think that anybody would say that this is so on account of the logical, nomological, physical, metaphysical, social, or even economic impossibility of such an establishment.¹⁸ Now back to J. J is vacillating between the gnocchi and the tagliatelle (both made in house).¹⁹ After a few minutes of deliberation, J decides on the former.

The setup of this thought experiment is exasperatingly deliberate for such a trivial decision. But that is the point: the decision *is* trivial. That is, it is morally indifferent which pasta dish J chooses. Choosing what to have for dinner is mundane, and most of us, when we take ourselves to have live options, take our choices to be morally indifferent in the sense that anything we select would be permissible. J's choices are constrained (hopefully sufficiently) so as to avoid any objection on this front.

The example could have been rigged up to make J's decision morally loaded. The gnocchi might have been served with freshly butchered baby legs, browned and then drizzled with a cream sauce made from their mothers' milk. Think Procne or Tantalus, only worse. But the point is that the example has not been rigged up in this way. The restaurant is unusual; it is not macabre or mythic.

Importantly for present purposes, moral responsibility for an action is not in general precluded by virtue of the fact that the action is merely permissible. Indeed, in this particular thought experiment, at least as I am envisioning it, J is morally responsible for choosing the gnocchi. To see this, suppose that the waiter brings out the dish and places it in front of J. J stares at it in such a way that the waiter is prompted to ask whether something is wrong, whereupon J begins to berate the waiter for bringing out the gnocchi rather than the tagliatelle. J demands to speak to the manager and refuses to pay if the tagliatelle is not brought out at once and without delay. The waiter

¹⁶ To be clear: I do not take myself to be arguing against compatibilism. I am arguing against the Frankfurter motivation for compatibilism.

¹⁷ As such, it is compatible with add-ons and modifications, like buffer zones, that have been developed for Frankfurt cases more broadly (see note 13 above and the paragraph to which it is appended).

¹⁸ Those with a darker sense of humor might derive some amusement from the fact that I did not stipulate that the food at the restaurant tastes good.

¹⁹ Some might doubt whether gluten-free tagliatelle and gluten-free gnocchi are a thing. They are. But see note 18 above.

apologizes for the mistake and fetches the manager. The manager thereupon apologizes: the meal will be on the house, of course; the waiter must have mixed up the orders. But then J says, "no, I ordered the gnocchi. There was no mistake. The point is that I *want* the tagliatelle." I think the absurdity of this situation is on the surface: it is J who is at fault, not the waiter or the restaurant. Although J's decision to order the gnocchi rather than the tagliatelle is merely permissible, J's behavior in this extended sequence is not, and the reason why begins from J's responsibility for the original order.

So far, this thought experiment has two components that are crucial to an mp-Frankfurt case: the agent is responsible for an action, and that action is merely permissible. But nothing has been said yet about J's ability to do otherwise; that is the third ingredient that needs to be added in order to complete the recipe. So now suppose that, at a nearby table, but unbeknownst to J, B was watching and monitoring from the moment that J sat down. B very much wants J to order the gnocchi, not the tagliatelle. Moreover, B would prefer that J order the gnocchi without having to intervene. But B is prepared to intervene, if necessary, using a small, handheld neuroscope.

Why does B want J to order the gnocchi without intervention? Maybe B wants the manager to remove the tagliatelle from the menu because B thinks that tagliatelle is an abomination, and so B does not want anybody to order the tagliatelle (B monitors all the customers, not just J). And maybe intervention in J's decision-making process would be costly (neuroscopes run on diamonds (or baby legs), and B needs to keep this up for a month or so if the manager is going to take the hint). Or maybe B would feel validated if J's unvarnished preferences coincided with B's own. The details are unimportant.

What is important is that B would have intervened if J had been about to order the tagliatelle. But that turned out to be unnecessary. J ordered the gnocchi of her own volition.

Now at this point in the story, the question is usually: does the addition of B to the thought experiment (the third ingredient) flip the intuition about J's responsibility for performing a merely permissible action? Or perhaps: would B's presence in any way mitigate J's bad behavior when she begins complaining to the waiter?

A Frankfurter would answer both of these questions in the negative and thence infer that the PAP is false. But that is not the route that I want to take. To illuminate the route I want to take, I want to put this thought experiment down for a moment. I want to argue, instead, for the following thesis:

MP-Thesis If an agent's action is merely permissible, then she is able to do otherwise.

The relevance of the MP-Thesis is, I hope, clear: if it is correct, then there are no successful mp-Frankfurt cases. I am going to make a preliminary argument for this thesis here and then explain what I think we should say, in light of this thesis, about J.

The argument I want to make for the MP-thesis is based on the following three premises:

- A. If an action is merely permissible, it is not obligatory.
- B. An action is obligatory if and only if, if an agent omits the action, she is behaving impermissibly.
- C. If A and B, then MP-thesis.

Premise A says that no action is both merely permissible and obligatory. I think that premise A is easy to motivate. I think that premise A may be motivated by appeal to the meaning of the modifier 'mere'. Some obligatory actions might be permissible and, if there are moral dilemmas, some obligatory actions might be impermissible. But, no *merely* permissible action is anything more than permissible: no merely permissible action is meritorious, owed, impermissible, or anything else. Premise A, on my account, is an analytic truth. There is support for this in the *Oxford English Dictionary*, which defines "obligatory" as "compulsory and *not merely permissive*."²⁰

Premise B says that it is impermissible to omit an obligatory action and, conversely, that the omission of obligatory actions is impermissible. In other words, it says that positive obligations (actions that agents have an obligation to perform) can be accounted for (without residue) in terms of omission and impermissibility.

²⁰ (OED online, 2020, definition 2a for "obligatory," my emphasis).

Some might argue for premise B on the grounds that (i) an action is obligatory if and only if its omission would be blameworthy, and (ii) the omission of an action would be blameworthy if and only if this omission would be impermissible. But this kind of argument would be blocked by those who assert that justifications and excuses are distinct and that there are excuses: if there are excuses that are not justifications, then, although the omission of some obligatory actions is blameworthy, some omissions of obligatory actions are not blameworthy.

That is, an excuse, in this context, is an exculpatory condition that does not change the deontic status of an action.²¹ So, if an agent has an excuse for performing an impermissible action, then she is not blameworthy for performing that impermissible action. Similarly, if an agent has an excuse for omitting an obligatory action, then she is not blameworthy for that omission. For this reason, I do not want to ground premise B using the argument in the previous paragraph: I do not want to take a stand on excuses here.²²

However, I think that premise B can be grounded without appeal to the concept of blame. I think that premise B is, like premise A, analytic. One piece of evidence for this can be found in standard deontic logics. For example, according to the *Stanford Encyclopedia of Philosophy* entry for Deontic Logic, the "Traditional Definitional Scheme" includes the following two biconditionals: " p is impermissible if and only if (not- p) is obligatory" and " p is omissible if and only if it is not the case that p is obligatory."²³ Similarly suggestive is the fact that the *Oxford English Dictionary* defines "obligation" in terms of liability for omission.²⁴

Some might point out that premise B is incomplete. In particular, premise B makes no provision for negative obligations. Premise B thus needs to be supplemented with the following: the omission of an action is obligatory if and only if, if an agent performs the action, she is behaving impermissibly.

But I do not think that premise B is incomplete. The supplement just suggested would be important if my end goal here was to engage in an analysis of deontic categories. But that is not my end goal: my end goal is to ground the MP-thesis, and I can do that without this supplement. It suffices to deal with positive obligations because Frankfurt cases, like the mp-Frankfurt case above, traditionally involve action performances rather than omissions.

Premise C is the glue that connects premises A and B with the MP-thesis. To see why premise C is true, suppose that premises A and B are true but that the MP-thesis is false. If the MP-thesis is false, then there is an agent whose action is merely permissible but who is unable to do otherwise. But from the fact that the agent's action is merely permissible conjoined with premise A, it follows that the agent's action is not obligatory; and from the fact that the agent is unable to do otherwise conjoined with premise B, it follows that the agent's action is

²¹ For example, consider: "Sometimes we do things that are indeed morally bad or impermissible, but for which we are not morally blameworthy. In such cases, so-called excusing conditions render an otherwise blameworthy agent *not* blameworthy" (Hughes and Warmke, 2017, section 2.2). A justification, by way of contrast, makes an otherwise impermissible action permissible: "When conduct is justified, this implies that the conduct was not morally wrong" (Hughes and Warmke, 2017, section 2.1).

²² Nonetheless, this does suggest an alternative argument for premise B. One might argue that (i) an action is obligatory if and only if its omission would be blameworthy in the absence of an excuse, and (ii) the omission of an action would be blameworthy in the absence of an excuse if and only if it would be impermissible. Such an argument could be accepted by those who deny the reality of excuses; for them, it merely would be an unnecessarily complicated way of articulating the argument from the previous paragraph. However, this argument might not be accepted by proponents of so-called "forward-looking" accounts of blame: proponents of such accounts maintain that the appropriateness of blame depends primarily on its effects (e.g., on the agent's character development and/or on the wider society) rather than on the deontic status of the action.

²³ (McNamara, 2019, section 1.2). McNamara says of the definitions that are included in this scheme that, "[a]lthough not uncontested, they are natural, and this scheme is still widely employed" (McNamara, 2019, section 1.2).

²⁴ (OED online, 2020, definitions 1 and 7 for "obligation").

obligatory. So, the agent's action is not obligatory and the agent's action is obligatory. This is a contradiction. Thus, premise C is true.²⁵

Some might object to the way in which I have used premise B in this argument. But further support both for the analyticity of premise B and for the way in which I deploy it here is that this kind of move seems to be baked into many discussions in normative ethics, even when these discussions are from philosophers from entirely distinct camps and with entirely distinct purposes. For example, in a discussion of Kantian moral worth and acting from duty, Baron makes the following remark in passing:

Something other than the fact that the act I am about to perform is morally permissible or recommended must have attracted me to it (unless it is the only permissible or recommended action open to me; but in that case the action is morally required).²⁶

For current purposes, what is important about this passage is the inference contained in the parenthetical remark: if there is only one permissible action open to an agent, then the action is morally required. In other words, if a permissible action cannot be omitted, then it is morally required. Similarly, in Lyons' now classic discussion of utilitarianism, he remarks that utilitarian principles about the rightness of an action should contain the following condition: "unless there is no alternative the consequences of which (or consequences of the general performance of which) would be less undesirable (or: more desirable) than those of the act (or: of the kind of act) in question."²⁷

This concludes my preliminary argument for the MP-thesis.²⁸ I shall continue this argument in the next two sections of this paper when I consider objections to it. For now, however, I want to return to the thought experiment with which I opened this section. Above, I asked two questions concerning J's responsibility: does the addition of B to the thought experiment (the third ingredient) flip the intuition about J's responsibility for performing a merely permissible action? And: would B's presence in any way mitigate J's bad behavior when he begins complaining to the waiter? I shall answer these questions in turn.

²⁵ Here is another way to see how this works: suppose, for the sake of argument, that B is true. For the sake of concreteness, let us talk of an agent Q and an action P. Then, from B, we have: P is obligatory if and only if, if Q omits P, then Q is behaving impermissibly. Now, suppose that Q is unable to omit P. Let us begin with the claim on the right side of the biconditional: if Q omits P, then Q is behaving impermissibly. If (as per our supposition) Q is unable to omit P, then it is trivially true that Q does not omit P. That is, it is trivially true that the antecedent in this conditional is false. But, if the antecedent of a conditional is false, then the conditional is true. Thus, if (as per our supposition) Q is unable to omit P, then the conditional on the right side of the biconditional in B is true. But, we have supposed (for the sake of argument) that B is true. So, if the right side of B is true, then the proposition on the left side of the biconditional must be true. So, P is obligatory. Now, we use premise A, and it follows immediately that P is not merely permissible. So, to summarize: if premises A and B are true, then the following conditional is true: if an agent is unable to do otherwise than P, P is not merely permissible. But, the conditional in the previous sentence is the contrapositive of the MP-thesis, whence it may be seen that the previous sentence is equivalent to premise C. See also note 33 below and the paragraph to which it is appended.

²⁶ (Baron, 1995, 129-130).

²⁷ (Lyons, 1965, 24).

²⁸ An alternate argument for the MP-thesis is as follows:

- A'. If an action is merely permissible, then it is permissible
- B. An action is obligatory if and only if, if an agent omits the action, she is behaving impermissibly.
- C'. An action is permissible if and only if it is not impermissible.
- D. If A', B, and C', then MP-thesis.

I think that premise A', like premise A, is analytic. Premise C' is also analytic: the affix 'im' means "not." Premise D can be established using a proof by contradiction much like the one used to establish premise C.

I think it should be clear by now that I want to answer the first question in the affirmative. But some care must be taken in explaining *why* I think the first question should be answered in the affirmative.

I think that the MP-thesis shows that there are no successful mp-Frankfurt cases, and in the particular case at hand, I think that premise A reveals that the addition of a counterfactual intervener to the thought experiment changes the deontic status of J's action: with the addition of a counterfactual intervener, if the intervener really can block J from doing otherwise, J's action is no longer merely permissible. If J's ordering the gnocchi is still an action (an issue I shall not explore in this paper), then the action is, from premise B, obligatory.

The reason why I think this order of operations is important in answering the first question above is that it enables me to offer an explanation for why some might think (in disagreement with me) that the first question should be answered in the negative. In particular, those who think that Frankfurt cases are generally successful might say that the addition of a counterfactual intervener flips the deontic status of J's action but not J's responsibility for this action: they might concede that J's action no longer is merely permissible but nonetheless maintain that J is responsible for ordering the gnocchi. In other words, a Frankfurter might concede that there are no successful mp-Frankfurt cases but nonetheless maintain that this is only because the addition of a counterfactual intervener transforms the thought experiment into a *successful* Frankfurt case involving an obligatory action.²⁹

Further explanation for the temptation to answer the first question in the negative might come from the second question I asked about J (the question about J's complaining to the waiter). So I want to try to tackle that question now.

It seems to me that the second question, unlike the first, should be answered in the negative: the presence of a counterfactual intervener does not, in itself, mitigate J's bad behavior when J begins complaining to the waiter. This, as just pointed out, might pull some toward saying that J is responsible for J's initial action of ordering the gnocchi even in the presence of the counterfactual intervener. But it should not pull anyone in that direction. To see why not, rewind the thought experiment to the point just before the counterfactual intervener was added and construct an alternate state of affairs. Suppose that J has an identical twin (think *Twelfth Night* or *The Comedy of Errors*). Suppose, further, that, unbeknownst to the two of them, they happen to be dining out that night in restaurants that are immediately adjacent and that are identical in every way, even employing identical twins in identical positions. Immediately after ordering, J and twin get phone calls. They step out of their respective twin-restaurants; and, while on their twin phones, they inadvertently walk past one another and then enter into the *other* restaurant thinking that it is their own. They sit down at their twin-tables and wait for their twin-orders to be brought by their twin-waiters, whereupon the twin-complaining begins. In this modified case, neither twin ordered the food they are complaining about, but both of them think that they did, and their blameworthiness for the complaining is not, to my mind, mitigated. If this is correct, then the two questions I asked about J *can* be

²⁹ Some might take this as a concession that there can be successful Frankfurt cases involving obligatory actions. I want to emphasize, however, that it is not. The explanation is offered on behalf of those who accept Frankfurt cases in general, and I think it can be subsumed under a broader explanation of why any Frankfurt cases are taken to be successful: I think that Frankfurters' intuitions might spring from a conflation of first-personal and third-personal viewpoints. That is, J does not know that the counterfactual intervener is there or that it would be impossible to order the tagliatelle; from J's perspective, the tagliatelle is a live option. It is only from our wider, third-personal, god's-eye perspective, a perspective that we never have in real life, that we are able to stipulate and thus know with absolute certainty that J cannot do otherwise. But this third-personal perspective does not comport with common sense: J's perspective is the common sense perspective, and confusing these two perspectives is very easy—easy enough, I think, to underwrite the presence (and even prevalence) of the Frankfurter intuition even while showing why that intuition is in error.

unhitched: J might not be responsible for ordering the gnocchi but nonetheless be blameworthy for complaining about the order.³⁰

At this point an error theory might be demanded to explain why these two questions *seem* to be coupled even though actually they are not. Perhaps the following will do: J's blameworthiness for the complaining rests on J's understanding of the situation, and in the twin thought experiment, that understanding includes false (but nonetheless justified) beliefs about past actions, including having ordered the gnocchi now in front of him. In the normal course of life, these beliefs will be true, justified in run-of-the-mill ways by what actually took place. But in Gettier- (and Shakespeare-) inspired fake barn and twin country, things go a bit haywire.

I am not sure whether the idea in the previous paragraph will withstand critical scrutiny. But I do not want to get distracted by it: my main focus is to put forth a novel argument about Frankfurt cases, not to put forth a full-blown theory about responsibility. So I turn now to some objections that might be raised to the MP-thesis.

III. Objection 1: Moral Ability and Metaphysical Ability

Some might reject the MP-thesis, the thesis that if an agent's action is merely permissible, then she is able to do otherwise. I suspect that most who would reject the MP-thesis would do so by rejecting premise B, the premise which states that an action is obligatory if and only if it would be impermissible to omit the action. In particular, some might argue that the counterfactual analysis of obligation found in premise B can be used to undermine Frankfurt cases in the absence of the other machinery deployed in section two of this paper, and it might be urged on these grounds that premise B (and, thus, the MP-thesis) is, as such, question-begging in this context.

The idea behind this objection is something like the following. As noted above, standard Frankfurt cases involve impermissible actions. But if such cases are successful, then the agents in them are unable to do otherwise. Premise B then implies that such impermissible actions are obligatory. It is absurd for an action to be both impermissible and obligatory. Therefore, premise B suffices to undermine standard Frankfurt cases on its own. As such, no Frankfurter should accept premise B, and my argument for the MP-thesis comes tumbling down.³¹

I would like to say three things about this.

First, those who affirm moral dilemmas will not accept the claim that it is absurd for an action to be both impermissible and obligatory. That is, in moral dilemmas, all options are both obligatory and impermissible. So, if

³⁰ Alternatively, suppose you want to test your significant other's faithfulness. Hollywood-style, you create a fake social media account with which to woo them, and you do so. Things go smoothly, and you set up a place and time to meet. You go, in disguise, to a poorly lit hotel bar and, after a few drinks, the two of you retreat to an even more poorly lit hotel room. Unlike Hollywood, there is no grand reveal; you sneak off under the cover(s) of darkness. The point is that, although your significant other did not actually engage in emotional or physical intimacy with someone other than you, they certainly tried (and took themselves to have been successful). If you are in an exclusive relationship, you probably (and justifiably, I think) would feel that something had been violated.

³¹ An alternate line of objection against premise B is based on determinism. The idea is that, in a deterministic world, no agent is able to do otherwise than what she actually does, and so, if premise B is accepted, then every murder, rape, assault, genocide, etc. is morally obligatory in a deterministic world. This, of course, is absurd, and so premise B must be rejected.

I would like to say three things in response to this objection.

First, suppose that soft determinism is true. If soft determinism is true, then agents are able to do otherwise than what they actually do even in a deterministic world. So, if soft determinism is true, then premise B does not entail that every murder, rape, assault, genocide etc. is morally obligatory in a deterministic world.

Second, suppose that hard determinism is true. If hard determinism is true, then not only premise B, but all deontic categories must be rejected. Thus, if hard determinism is true, then not only my premise B, but Frankfurt's entire project must be rejected (as, indeed, early Frankfurt commentators, like Blumenfeld, 1971, point out).

Third, even the hard determinist rejection of premise B, pyrrhic as it would be for the Frankfurter, can be obviated with a slight modification, the same one I suggest in the main text above (see the paragraph to which note 33 below is appended).

So, this alternate line of objection to my argument is not a promising one.

there are moral dilemmas, some actions are obligatory and impermissible, whence it follows that <obligatory> is not a subcategory of <permissible>, and the *reductio* in the previous paragraph does not work.³² Thus, premise B does not suffice, on its own, to undermine Frankfurt cases. Indeed, one advantage of the argumentative strategy employed in the previous section of this paper, then, is that it does not require me to take a stand on the (vexed) question of whether there are genuine moral dilemmas involving conflicting (*ultima facie*) obligations (or whether in such cases there are merely conflicting grounds of obligation).

Second, even for those who reject moral dilemmas and who think that it would be absurd for an action to be both impermissible and obligatory, premise B would not be question-begging in the context of a dialogue with a Frankfurter. Obvious cases of question-begging assertions involve the mere repetition of a claim as a defense against an attack on that same claim. But if appealing to a premise that implies that an interlocutor's position is misguided is question-begging, then all philosophical dispute is fallacious (including, of course, the attempt to undermine mine). It is not a problem for me if there is an independent argument against Frankfurt cases more broadly that can be motivated using, in part, some of the premises I have appealed to in section two of this paper. Again: I do not want to take a stand here on the reality of moral dilemmas. The point I want to make is merely that it would be a strange thing if additional arguments for one's conclusion were taken as countermanding that conclusion.

Third and finally, there is an easy modification of premise B that simultaneously (i) highlights the importance of my focus in this paper on merely permissible actions and (ii) neutralizes this line of objection completely. Consider:

B'. If an action is permissible, then it is obligatory if and only if, if an agent omits it, she is behaving impermissibly.

B' differs from B in that B' limits the scope of B to permissible actions. Because the MP-thesis is only about merely permissible actions, B' still can play the same argumentative role as B. That is, the conjunction of premise B' with premises A and C still entails the MP-thesis.³³ Furthermore, B' neutralizes the Frankfurter's objection precisely because Frankfurters concentrate on impermissible actions (i.e., actions to which B', unlike B, does not apply), thereby making perspicuous why it is so important that we consider also the category of the merely permissible in this context.

IV. Objection 2: Asymmetry in Deontic Categories

³² Consider: "The crucial features of a moral dilemma are these: the agent is required to do each of two (or more) actions; the agent can do each of the actions; but the agent cannot do both (or all) of the actions. The agent thus seems condemned to moral failure; no matter what she does, she will do something wrong (or fail to do something that she ought to do)" (Terrance, 2018, section 2). My remarks above about Frankfurt cases suggest a revision of this account of moral dilemmas. In particular, it might be argued that a moral dilemma should be defined (more simply) as a situation in which an action is both obligatory and impermissible. If this revision is accepted and counterfactual interveners are able to block an agent's ability to do otherwise, then Frankfurt cases involving impermissible actions would be (nonstandard) moral dilemmas.

³³ To see this, suppose for the sake of argument that premises A and B' are true, and suppose (toward generating a contradiction) that the MP-thesis is false. From the falsity of the MP-thesis, it follows that, for some agent Q and action P, Q is unable to do otherwise than P even though P is merely permissible. Then, from premise A it follows that P is not obligatory. But, from the fact that P is merely permissible, it follows that P is permissible, and this, conjoined with premise B' and the fact that P is not obligatory, entails that it is not the case that, if Q omits P, Q is behaving impermissibly. But, Q is unable to omit P. So, it is trivially true that, if Q omits P, Q is behaving impermissibly. We have reached our contradiction, whence it may be concluded that, if A and B' are true, then so is the MP-thesis, which is what was to be shown.

Some might accept the MP-thesis but argue that it is irrelevant. Some might point out that, if we accept the analysis leading to the MP-thesis, then (i) mere permissibility entails the ability to do otherwise; but (ii) the ability to do otherwise is obviously relevant in this context because it can ground an asymmetry between mp-Frankfurt cases and other kinds of Frankfurt cases; so (iii) there is a relevant difference between mp-Frankfurt cases and other kinds of Frankfurt cases; whence it may be concluded that (iv) the MP-thesis does not impugn Frankfurt's reasoning. Further support for this objection can be garnered from early Frankfurt literature that argues for an asymmetry between impermissible and meritorious actions.³⁴ This calls into question the relevance of whether there is a special category of Frankfurt cases, those involving merely permissible actions, that cannot be made to work: if my analysis leaves untouched Frankfurt cases involving impermissible actions, and if the majority of the discussion to date has been about such cases, then who cares whether the MP-thesis is true?

To understand why the MP-thesis *is* relevant, recall the first wave of response to Frankfurt described in the introduction above. The first wave granted Frankfurt's attack on the PAP but contested the connection between the PAP and compatibilism. I am not granting Frankfurt's attack on the PAP in general. But, if the MP-thesis is true, then there is a version of the PAP for merely permissible actions:

mp-PAP	If an agent is responsible for performing a merely permissible action, then she was able to do otherwise.
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If the Frankfurter grants that there are no successful mp-Frankfurt cases and, thus, the mp-PAP, that is sufficient to block Frankfurt's move to compatibilism (and his followers' move to what they call supercompatibilism), especially when one considers that most of everyday life concerns the merely permissible. So, any victory on the part of the Frankfurter that is based on an alleged asymmetry in deontic categories would be pyrrhic: this is not a good route for the Frankfurter to take.

Conclusion

In this paper, I have argued that there are no successful mp-Frankfurt cases because the deontic category <merely permissible> entails the ability to do otherwise. If this is correct, then there is a version of the PAP for merely permissible actions that serves to undermine any attempt to move from successful Frankfurt cases involving actions of other deontic categories to compatibilism, especially when considered in light of the fact that most of us take most of our actions to fall in the domain of the merely permissible.

³⁴ (Wolf, 1980).

Bibliography

Allen, Robert (1999). "Re-examining Frankfurt Cases." *The Southern Journal of Philosophy*. Vol. 37, Issue 3: 363-376.

Baron, Marcia (1995). *Kantian Ethics Almost without Apology*. Cornell University Press.

Blumenfeld, David (1971). "The Principle of Alternate Possibilities," *The Journal of Philosophy*. Vol. 68, No. 11: 339-345.

Copp, David (1997). "Defending the Principle of Alternate Possibilities." *Noûs*. Vol. 31, No. 4: 441-456.

Fischer, John (1999). "Recent Work on Moral Responsibility." *Ethics*. Vol. 110, No. 1: 93-139.

Frankfurt, Harry (1969). "Alternate possibilities and moral responsibility." *The Journal of Philosophy*. Vol. 66, No. 23: 829-839.

Frankfurt, Harry (1971). "Freedom of the Will and the Concept of a Person." *The Journal of Philosophy*. Vol. 68, No. 1: 5-20.

Ginet, Carl (1996). "In Defense of the Principle of Alternative Possibilities." *Philosophical Perspectives*. Vol. 10, Metaphysics: 403-417.

Heinaman, Robert (1986). "Incompatibilism without the Principle of Alternative Possibilities." *Australasian Journal of Philosophy*. Vol. 64, No. 3: 266-276.

Hughes, Paul M. and Warmke, Brandon (2017). "Forgiveness." *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/sum2017/entries/forgiveness/>>. Accessed 2020.09.19.

Inwagen, Peter (1978). "Ability and Responsibility." *The Philosophical Review*. Vol. 87, No. 2: 201-224.

Kahn, Samuel (2019). *Kant, Ought Implies Can, the Principle of Alternate Possibilities, and Happiness*. Lexington Press.

Kane, Robert (1985). *Free will and values*. SUNY press.

Lamb, James (1993). "Evaluative Compatibilism and the Principle of Alternate Possibilities." *The Journal of Philosophy*. Vol. 90 No. 10: 517-527.

Levy, Neil (2014). "Frankfurt in Fake Barn Country." *Metaphilosophy*. Vol. 45, Nos. 4-5: 529-542.

Locke, John (1975). *An Essay concerning Human Understanding*. Oxford University Press.

Lyons, David (1965). *Forms and Limits of Utilitarianism*. Oxford University Press.

McNamara, Paul (2019). "Deontic Logic." *The Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/sum2019/entries/logic-deontic/>>. Accessed 2020.09.19.

OED Online (2020). "obligation, n." *Oxford University Press* (September 2020). URL = <<https://www-oed-com.proxy.ulib.uits.iu.edu/view/Entry/129694?redirectedFrom=obligatory>>. Accessed 2020.09.19.

OED Online (2020). "obligatory, adj." *Oxford University Press* (September 2020). URL = <<https://www-oed-com.proxy.ulib.uits.iu.edu/view/Entry/129688?redirectedFrom=obligation>>. Accessed 2020.09.19.

Otsuka, Michael (1998). "Incompatibilism and the Avoidability of Blame." *Ethics*. Vol. 108, No. 4: 685-701.

Pereboom, Derk (2005). "Defending hard incompatibilism." *Midwest Studies in Philosophy*. Vol. 29, Issue 1: 228-247.

McConnell, Terrance (2018). "Moral Dilemmas." *The Stanford Encyclopedia of Philosophy* (Fall 2018 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/fall2018/entries/moral-dilemmas/>>. Accessed 2020.09.19.

Widerker, David (1995). "Libertarianism and Frankfurt's Attack on the Principle of Alternative Possibilities." *The Philosophical Review*. Vol. 104, No. 2: 247-261.

Wolf, Susan (1980). "Asymmetrical Freedom." *The Journal of Philosophy*. Vol. 77: 151-166.

Wyma, Keith (1997). "Moral responsibility and leeway for action." *American Philosophical Quarterly*. Vol. 34, No. 1: 57-70.