

well. (2) The diagnosis of the disease, the knowledge of its trajectory, and the experience of some of its symptoms can make life better for some people. Again, I agree. Although I'm not one of them, surely some people have lived better for experiencing the disease, just as people have managed to find value in experiencing all sorts of other harms and evils. (3) Barnes suggests that Parkinson's disease is a "mere difference." It is here that I jump ship. Life with Parkinson's disease is harder, not merely different, than life without it. Although it is wonderful to make a good life out of misfortune, this possibility is not a reason to maintain that the health problems that constitute disabilities are not misfortunes.

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Brink, David O. *Fair Opportunity and Responsibility*.  
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Responsibility is a core concept in both moral philosophy and criminal jurisprudence. Yet work in these two domains often proceeds in parallel without much interaction. Philosophers working on free will and responsibility have tended to focus on the general question of whether either is compatible with determinism, whereas criminal law theorists typically presuppose that we are responsible for our actions in standard cases and seek instead to establish which specific types of impairment or interference suffice for excuse. *Fair Opportunity and Responsibility* is born of the conviction that these two perspectives on responsibility nevertheless "stand to benefit from mutual engagement" (14). On the one hand, moral philosophers would do well to attend to settled criminal law principles, insofar as they embody common assumptions about responsibility refined over time through application to real-world cases; on the other hand, criminal law theorists would do well to attend to philosophical work on ability, reasons-responsiveness, causation, and other concepts relevant to responsibility, in order to properly understand the implications of criminal law doctrines and the opportunities for reforming them. As a major contributor to debates in both disciplines over many years, David Brink is well-placed to pursue such a project, and the result is an impressively clear and comprehensive study of responsibility and the role it plays in our practices of blame and punishment.

The central thesis of the book is what Brink calls the "fair opportunity conception of responsibility" (51), summed up by H. L. A. Hart as the view that "those whom we punish should have had, when they acted, the normal capacities, physical and mental, for abstaining from what [the law] forbids, and a fair opportunity to exercise these capacities" (H. L. A. Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* [Oxford: Oxford University Press, 1968], 152). Though it has become something of an article of faith among criminal law theorists, Brink deserves credit for giving the view its most careful articulation to date. He begins by defending a realist interpretation of P. F. Strawson's thesis, according to which one is a fitting target of blame and punishment if and only if—and in that case

because—one is responsible for one’s misconduct (rather than the other way around) (chap. 2). Since responsibility is the inverse of excuse, we can study one by attending to the other. According to Brink, both the criminal law and commonsense morality recognize two main kinds of excuse: those that involve significant impairment of an agent’s cognitive or volitional capacities, as reflected in cases of insanity or immaturity, and those in which another person wrongfully compromises our opportunities to exercise these capacities, as reflected in cases of manipulation or duress. This suggests that responsibility for one’s conduct requires both *normative competence*—itself composed of (i) the capacity to recognize reasons for or against one’s conduct (cognitive competence) and (ii) the capacity to conform one’s will to this normative understanding (volitional competence)—and *situational control*, that is, the opportunity to exercise the above capacities free from wrongful interference by others (chap. 3).

Brink goes on to apply this theory of responsibility to a large range of questions in criminal law jurisprudence, including what justifies punishment (chap. 6); whether we should allow strict liability crimes (chap. 7); whether duress, necessity, provocation, and self-defense are justifications or excuses (chap. 8); to what extent the permissibility of state punishment is compromised by the existence of structural injustice (chap. 9) or the alleged fact that our behavior is influenced as much by situational factors as by our characters (chap. 10); and whether and to what extent we should excuse psychopaths (chap. 11), minors (chap. 12), addicts (chap. 13), and battered persons (chap. 14) for their wrongdoing. Perhaps inevitably with a book of this scope, I found myself hoping for more detail at various points. In particular, I would have liked to know more about the conditions on responsibility for the *consequences* of one’s wrongdoing, especially given the role this plays in Brink’s criticisms of historical accounts of responsibility in chapter 5. I would also have liked to hear Brink’s thoughts on the connections between responsibility and liability, as well as the nonretributivist justifications of punishment which exploit that connection. Finally, I would have liked to see more by way of motivation for the view that one is only excused when one’s opportunities are compromised owing to wrongful interference—as opposed to nonwrongful interference or natural causes—which struck me as at least in tension with Brink’s view that responsibility depends constitutively “only on synchronic facts about the capacities and opportunities of agents at the time of action” (116).

There is one point on which we do wholeheartedly agree, however, which is that the criminal law would be much improved through greater recognition of the fact that responsibility can come in degrees, and moreover that one’s degree of responsibility can vary independently of the severity of one’s wrongdoing. This idea features prominently throughout the book; indeed, we learn in the prolegomena that Brink was first motivated to think about criminal responsibility by the case of Tony Hicks, who was tried as an adult for murder and sentenced to twenty-five years in prison, despite only being fourteen at the time of the crime. I agree with Brink that this trend of “transferring” minors accused of serious crimes from juvenile to adult courts was “fundamentally misguided and unjust insofar as it held juveniles accountable solely on the basis of their wrongdoing, ignoring their reduced culpability on account of their immaturity” (20). But it also highlights a more general problem with the criminal law—its inflexibility

in dealing with people who are partially, but not fully, responsible for their wrongdoing. While diminished responsibility can sometimes be accommodated at the sentencing stage, Brink argues convincingly that this is insufficient, since (i) many crimes carry mandatory minimum sentences; (ii) even when discretion in sentencing exists, it is nonetheless discretionary, rather than mandatory; and (iii) the question of whether to partially excuse is morally continuous with the question of whether to fully excuse, and so they should be considered at the same time—during the guilt phase of a criminal trial. Brink discusses several possible ways of implementing this, ranging from a trivalent system, which adds to the existing affirmative defenses a generic “partial excuse” defense, to a fully proportionate system, where a defendant who was  $x$  percent responsible for their wrongdoing receives  $x$  percent of the sentence given to a fully responsible wrongdoer. But this raises the prior question of how to make sense of the idea that an agent is  $x$  percent responsible for their wrongdoing. And it is here that Brink and I part ways.

In chapter 15, Brink identifies degrees of responsibility with degrees of difficulty of avoiding wrongdoing. Moreover, he appears to think of difficulty as a modal notion: an action’s degree of difficulty is inversely proportional to the fraction of relevant possibilities in which the agent succeeds in performing it. Both elements of this view are questionable, however. As Dana Kay Nelkin points out, talk of “degrees of difficulty” is ambiguous—something can be more difficult in the sense of requiring more effort, or in the sense of requiring a greater sacrifice of one’s interests (Dana Kay Nelkin, “Difficulty and Degrees of Moral Praiseworthiness and Blameworthiness,” *Noûs* 50 [2016]: 356–78). These two measures can come apart—jumping on a grenade is easy in the first sense and difficult in the second, for example, and running up a steep incline is difficult in the first sense but easy in the second. But as Nelkin also points out, neither of these measures of difficulty adequately captures the sense in which some people have diminished control over their actions. The soldier who jumps on a grenade, or the runner who tackles a steep incline, may have had perfect control over their actions, for example. And conversely, one may lack control even in cases where neither significant effort nor significant sacrifice is required (think, e.g., of someone who uncontrollably talks in their sleep). Perhaps all three of these measures—difficulty, in both senses, of avoiding wrongdoing, and control—matter for one’s degree of blameworthiness. But they are importantly different concepts, and Brink’s analysis unhelpfully conflates them.

Let us therefore set aside talk of degrees of difficulty and consider directly the view that one’s degree of responsibility for wrongdoing is equal to the fraction of nearby possibilities in which one recognizes and responds to the relevant norms. One immediate difficulty with this view is that no one is ever 100 percent responsible for wrongdoing, since by assumption they do not conform to the relevant norms in the actual world. This is in fact a manifestation of a broader problem for Brink’s view, and indeed for modal accounts of degrees of responsibility more generally. Consider the following classic example. Suppose Abe steals a chocolate bar. Let us stipulate that Abe has a high degree of responsibility for his wrongdoing—one can fill in the details however one likes. Now suppose that a neuroscientist was monitoring Abe’s brain activity. Had she detected signs of Abe deciding not to steal the chocolate, she would have intervened (by stimulating

the relevant neurons) to ensure that he did so regardless; as it happens, though, Abe showed no such signs, and so the neuroscientist did nothing. Intuitively, adding the neuroscientist to the story makes no difference at all to Abe's degree of responsibility for his action, given that her presence is irrelevant to why Abe actually chose and acted as he did. Yet it dramatically changes the fraction of nearby worlds in which Abe successfully responds to the relevant norms. Brink's view thus gets the wrong results.

One might try to solve this problem by insisting that only possible worlds in which the mechanism that actually produced one's action was operative are relevant to one's actual degree of responsibility (see John M. Fischer and Mark Ravizza, *Responsibility and Control* [Cambridge: Cambridge University Press, 1998]). Brink himself is not a fan of this move (67–69), but in any case it doesn't solve the problem, since the "backup" device can be built into the actual mechanism itself. Suppose Betty suffers from a disorder that manifests in a strong compulsive desire to steal. Through therapy, she has developed strategies for resisting these urges, which are robustly successful as long as she gets advanced warning that one is about to arise. Very occasionally, though, a desire comes on without warning, and when this happens, she always succumbs to it. (I owe this example to Victor Tadros.) Suppose that Betty is in the supermarket and, without warning, experiences a strong compulsive desire to steal a chocolate bar, which she is unable to resist. Intuitively Betty should be excused for stealing the chocolate bar, despite the fact that in most nearby worlds in which her actual action-producing mechanism was operative she gets advanced warning of the urge and hence successfully resists it. Brink's view again gets the wrong result.

Readers may recognize these cases as examples of "Frankfurt-style cases," first introduced in Harry Frankfurt's seminal article (Harry G. Frankfurt, "Alternate Possibilities and Moral Responsibility," *Journal of Philosophy* 66 [1969]: 829–39). Frankfurt's insight was that an agent who, given some set of circumstances, couldn't have acted otherwise is nevertheless responsible for their action if it was not because of those circumstances that they acted. Something which played no causal role in producing an agent's wrongdoing is irrelevant to their degree of responsibility, even if it made it impossible, or unlikely, or difficult for the agent to have acted otherwise. The broader lesson is that an agent's degree of responsibility for their action seems to have much more to do with what actually produced their action than with what they could or would have done had things been different.

Brink does discuss Frankfurt-style cases briefly in chapter 4, but in a slightly odd dialectical context. He begins by noting that if (i) responsibility requires the possibility of acting otherwise and (ii) determinism is incompatible with the possibility of acting otherwise, then (iii) responsibility is incompatible with determinism. Frankfurt's argument is then presented as a way of avoiding (iii) by denying (i). But, Brink argues, there are good reasons to reject (ii), properly interpreted, so we don't need to reject (i). Brink then goes on to discuss Frankfurt's own positive view about what free will consists in, and he gives some plausible arguments against it. But none of this, it seems to me, really engages with the substance of Frankfurt's critique of the "principle of alternate possibilities." Frankfurt's point was that pairs of cases which are identical in terms of what caused the agent's action but differ in terms of what happens in nearby possible worlds (say, because

of the addition of causally inert “backup” mechanisms) do not differ in terms of how responsible the agent is and, conversely, that pairs of cases which are identical in terms of what happens in nearby possible worlds but differ in what caused the agent’s action do differ in terms of how responsible the agent is. This point is entirely orthogonal to the challenge from determinism. But it’s not something Brink’s view is able to explain.

If we are to take seriously Frankfurt’s insight, we need to provide a theory on which an agent’s degree of responsibility for their action is fully grounded in the action’s causal history. Some so-called “actual-sequence compatibilists,” myself among them, have taken up that challenge (see Carolina Sartorio, *Causation and Free Will* [Oxford: Oxford University Press, 2016]; Alex Kaiserman, “Reasons-Sensitivity and Degrees of Free Will,” *Philosophy and Phenomenological Research* 103 [2020]: 687–709). If we are to succeed, we will need to match what Brink has achieved here—which is to say, a comprehensive philosophical account of responsibility which can explain the role it plays in settled criminal law principles, while at the same time giving theoretical motivation for practically urgent criminal law reforms. *Fair Opportunity and Responsibility* sets the bar high.

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“May you have to live on your salary” (old Soviet curse)

Corruption is a ubiquitous problem. As Gillian Brock notes early on, it exists to one degree or another in all societies, no matter their stage of development, and is regularly identified by the public as one of the top problems in the world (2–3). Despite its importance and frequency, it hasn’t been a central topic for philosophers working on normative moral and political theory. This isn’t to say that it has been ignored, but it has mostly been seen as a specialty topic in areas such as business ethics, criminal law theory focusing on white-collar crime, or certain sub-areas in democratic theory. However, as Brock points out, corruption has particular importance for questions of global justice, given that “corruption plays an enormous role in sustaining global injustice and hinders efforts aimed at remedying global deprivations” (17). This comes not only from the sort of large-scale corruption by government officials that starves developing countries of funds needed to provide necessary services but also from more day-to-day corruption in the provision of water, leaving many people without access to clean drinking water; in construction, where people must make do with substandard and unsafe buildings; in the provision of education and medical services; and so on. Despite the massive size of the global justice literature, Brock’s book is one of the first—perhaps the first—to focus specifically on corruption in relation to global justice. It would be an important work for this reason alone, but it also has many other virtues which should make it the touchstone of the topic going forward.