

# A THEORY OF THE NORMATIVE FORCE OF PLEAS

Christopher Evan Franklin

~ Penultimate draft ~

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A familiar feature of our moral responsibility practices are pleas: considerations, such as “That was an accident”, or “I didn’t know what else to do”, that attempt to get agents accused of wrongdoing off the hook. But why do these pleas have the normative force they do in fact have? Why does physical constraint excuse one from responsibility, while forgetfulness or laziness does not? I begin by laying out R. Jay Wallace’s (1994) theory of the normative force of excuses and exemptions. For each category of plea, Wallace offers a single governing moral principle that explains their normative force. The principle he identifies as governing excuses is the Principle of No Blameworthiness without Fault: an agent is blameworthy only if he has done something wrong. The principle he identifies as governing exemptions is the Principle of Reasonableness: an agent is a morally accountable agent only if he is normatively competent. I argue that Wallace’s theory of exemptions is sound, but that his account of the normative force of excuses is problematic, in that it fails to explain the full range of excuses we offer in our practices, especially the excuses of addiction and extreme stress. I then develop a novel account of the normative force of excuses that can explain the full range of excuses we offer and that is deeply unified with Wallace’s theory of the normative force of exemptions. An important implication of the theory I develop is that free will is required for moral responsibility.

Moral responsibility—free will—blame—excuse—addiction—ability

## 1. Introduction

Imagine that someone accuses you of doing something wrong, say failing to fulfill your promise to pick him up from the airport. How might you defend yourself—how might you show that you are not to blame?<sup>1</sup> Notice first that the accusation makes two presumptions: the presumption of wrongdoing and the presumption of responsibility. That is, the accusation assumes that your action

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<sup>1</sup> By ‘blame’, I mean ‘blame in the reactive attitude sense.’ To blame someone on this account is to be subject to, or to judge that it would be appropriate to be subject to, a moral emotion, such as resentment, indignation, and guilt, where these attitudes in turn dispose one to rebuke, censure, and apologize (among other things). Strawson (1993) is the contemporary fount of this view and Wallace (1994) is one of its most sophisticated defenders. But there are other well established senses of blame, such as those offered by Scanlon (2008) and Sher (2006). As I am seeking to address the conditions under which it is appropriate to blame someone, it is crucial that we keep the sense of blame I am after firmly before our mind—for different species of blame may well give rise to different conditions of appropriateness. It would be a mistake to view the accounts of appropriateness offered by Scanlon and Sher as, strictly speaking, contrary to my own as they are operating with different notions of blame. It is for this reason that I do not here interact with their very interesting work.

was wrong and that you were responsible for the action's occurrence. These two presumptions give rise to two different ways of defending yourself: you can justify your action and thus defeat the presumption of wrongdoing, or you can excuse yourself and thus defeat the presumption of responsibility. Let us first consider the plea of justification. Suppose you respond to the accusation by informing your friend that on the way to the airport you witnessed a horrendous car accident and, being the first on the scene and medically trained, you felt obligated to stop and help the victims. This plea is a justification and gets you off the hook by defeating the presumption of wrongdoing: despite initial appearances, your action (failing to pick up the friend) was not wrong. Alternatively, you could get yourself off the hook by defeating the presumption of responsibility. Suppose you respond by informing your friend (somewhat fantastically) that you were kidnapped and tied-up with no chance of escape. This plea is an excuse and gets you off the hook by defeating the presumption of responsibility: despite initial appearances you are not responsible for your action (or omission). Excuses come in two types: exculpatory and mitigating. An exculpatory excuse completely gets one off the hook—the kidnapping case would be an example of this kind of excuse. Suppose instead that you offer the following excuse: the traffic was unexpectedly horrific. This excuse mitigates responsibility or blameworthiness, but perhaps it does not exculpate blame, assuming that you should have taken proper precautions to prepare for the possibility of traffic. Other examples of excuses are accident, mistake, ignorance, and unintentional bodily movement.

In addition to justifications and excuses there is a third kind of plea: exemption.<sup>2</sup>

Exemptions like excuses defeat the presumption of responsibility, but they do so in a manner so different from excuses that they warrant their own category. Excuses merely call into question a person's responsibility for a *particular* action. Although kidnapped, you remain a morally responsible

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<sup>2</sup> Austin (1961) contains an early discussion of justifications and excuses. 'Exemptions' is, to my knowledge, first used in Watson (2004b) to pick out Strawson's second group of considerations that inhibit the making of the basic demand (Strawson 1993, p. 51-52). Wallace (1994, chapter 5) offers a similar taxonomy of pleas that I present here.

agent. Exemptions, however, function by showing that you are not a morally responsible agent: you are not a person of whom we can make legitimate moral demands. Exemptions, like excuses, come in two types: complete and partial. A complete exemption shows that one is not a fit subject for the entire range of moral demands. A partial exemption shows that an agent is not a fit subject for some subset of the entire range of demands. Both complete and partial exemptions get one entirely off the hook for the action in question. Returning to the airport case, a third party might argue that you are *exempt* from responsibility for failing to fulfill the promise because you are mentally ill. Frequently mentioned examples of exempt agents include the insane, extremely stressed, extremely young, addicts, and psychopaths.<sup>3</sup>

Justifications get you off the hook because it is appropriate to blame you only if you have done something wrong. It is less clear, however, why excuses and exemptions have the normative force to get one off the hook. Why does physical constraint excuse one from responsibility, while forgetfulness or laziness does not? Why does insanity exempt one from responsibility, while foolishness does not? These questions are not intended to raise skepticism about whether these pleas have the force they do in fact have: surely being insane exempts one from responsibility. Our question concerns why these pleas have the normative force they clearly do have.

My aim in this paper is to lay out a theory of pleas that furnishes us with moral principles that explain the normative force of each of the three categories of pleas: justifications, excuses, and exemptions. An important question that motivates this project concerns whether or not an agent must have free will in order to be morally responsible.<sup>4</sup> Part of the interest in this question stems

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<sup>3</sup> These examples are contentious. Below I will argue that addiction and extreme stress are in fact excuses, not exemptions. Over the past thirty years there has developed a robust literature on the issue of the moral and criminal responsibility of psychopaths. For an argument that psychopathy does not get one off the hook see Scanlon (1998).

<sup>4</sup> I am using 'free will' somewhat stipulatively: free will includes the freedom to do otherwise. This use of 'free will' has wide contemporary and historical precedence. See Brahmhall (1999), Reid (1969), van Inwagen (1983), Vihvelin (2000, 2004). 'Free will' is, alternatively, defined as the control condition for moral responsibility (whatever that might be). See, e.g., Fischer, Kane, Pereboom, and Vargas (2007). This definition leaves it as an open question whether free will requires the freedom to do otherwise.

from queries about the compatibility of determinism and responsibility. In the past forty years many (semi-)compatibilists have attempted to defend the compatibility of determinism and moral responsibility by arguing that free will is not necessary for moral responsibility (Fischer and Ravizza 1998; Wallace 1994).<sup>5</sup> An important consequence of my theory is that free will is indeed required for moral responsibility. This paper, however, is neutral on the compatibility of free will and determinism, and hence so far as this consequence is concerned, both compatibilists and incompatibilists can (in principle) endorse it.

I begin by laying out R. Jay Wallace's (1994) theory of the normative force of excuses and exemptions. I believe that Wallace's theory of exemptions is sound, but that his account of the normative force of excuses is problematic in that it fails to explain the full range of excuses we offer in our practices. I will develop a novel account of the normative force of excuses that can explain the full range of excuses we offer and that is deeply unified with Wallace's theory of the normative force of exemptions. It will become clear through this discussion that a consequence of my theory is that free will is required for moral responsibility.

## **2. Wallace's Theory of Pleas**

Wallace's theory of pleas is motivated by trying to safeguard responsibility from the threat of determinism. He grants that if free will is required for moral responsibility, then it is very likely that

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<sup>5</sup> There are two broad lines of strategy for defending the semi-compatibilist's contention that moral responsibility does not require free will. The most well-known is developed by John Fischer (and Mark Ravizza) in a series of books (Fischer 1994; Fischer and Ravizza 1998; and Fischer 2006). This strategy appeals to Frankfurt-style cases (Frankfurt (1969)), which purportedly describe scenarios in which an agent is morally responsible but lacks the freedom to do otherwise. The second strategy developed by R. Jay Wallace (1994)—but which goes back at least to Strawson (1993)—has received less attention in the literature, but is, I believe no less important. According to Strawson and Wallace, we can explain our practices of excusing and exempting agents without having to make any appeal to free will, and thus there is no reason to think that free will is necessary for moral responsibility. In this paper I restrict my attention to Wallace's case for divorcing moral responsibility from free will, showing that his arguments fail and that we have evidence, from the nature of pleas, for believing that moral responsibility requires free will. However, a full defense of free will's being required for moral responsibility must incorporate a response to Frankfurt-style cases. The most important response to these cases has been developed by Ginet (1996), Kane (1996), and Widerker (1995).

responsibility is incompatible with determinism (Wallace 1994, p. 86). The aspect of free will that brings it into tension with the existence of determinism is that freedom requires that one be able or have the opportunity to do otherwise. According to the Principle of Alternative Possibilities (PAP), an agent is morally responsible only if he could have done otherwise.<sup>6</sup> Thus, Wallace's theory of the normative force of pleas is intended to explain not just why pleas have the normative force they have, but also how we can explain their normative force without any appeal to PAP.

Before diving into Wallace's theory, we need to bring out two contentious assumptions he makes, and that I will accept for the sake of argument: namely that responsibility is limited to the sphere of the deontic and that our moral obligations are directed at an agent's quality of will. According to the first assumption, if we are blameworthy for  $\phi$ , then we were morally obligated not to  $\phi$ . We are never blameworthy for performing an action that is bad, unless that action also violated a moral obligation. According to the second assumption, our moral obligations, when fully stated, concern an agent's quality of will as expressed in action. For example, my obligation not to harm others is, when properly stated, an obligation not to harm others as *a result of a choice* I make.<sup>7</sup> An important implication of this last assumption is that an agent does something wrong only if his action expresses a choice that violates a moral obligation. And according to the first assumption, if there is not a violation of moral obligation, then there is no blameworthiness.

Turning to Wallace's theory, his strategy is one of divide and conquer: for each category of plea (excuse and exemption) Wallace identifies a single governing moral principle that explains the normative force of the relevant considerations, and argues that these principles are superior to PAP-

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<sup>6</sup> The name and formulation of this principle comes from Frankfurt (1969). However, there have been a host of modifications to this principle. For helpful discussion of many of the different formulations of PAP-like principles see Mele (2006, pp. 82-87).

<sup>7</sup> It is unclear exactly what Wallace has in mind here. He claims that an agent's quality of will is the "primary" target of moral assessment (Wallace 1994, p.128). This would seem to suggest that we can also be responsible for actions and consequences that follow from our qualities of will, even though these actions and consequences would be secondary targets of moral assessment. But what is the sense of primary and secondary here?

like principles. The principle in play for excuses is the Principle of No Blameworthiness without Fault: an agent is blameworthy only if he has done something wrong (Wallace 1994, p. 135). Wallace argues that excuses, in effect, show that the agent's action, which seemed to violate a moral obligation, did no such thing. Consider unintentional bodily movement for example, such as my being pushed and as a result knocking you over. While at first it may seem that I have violated my obligation of non-maleficence, once you realize that my bodily movement did not express an objectionable quality of will, such as a choice to knock you over, you will realize that blaming or rebuking me is inappropriate. This, again, is because our obligations do not concern mere bodily movement, but the agent's quality of will as *expressed in action*: "the obligation of non-maleficence... is an obligation not to act in ways that express the *choice* to harm other people, in the ordinary pursuit of one's own ends", rather than simply the obligation not to harm (Wallace 1994, p. 128; emphasis mine).<sup>8</sup> The normative force of other excuses, such as accident, mistake, inadvertence, ignorance, and physical constraint are explained in the same way: in such cases our behavior or omission does not express an objectionable quality of will (namely choice) and therefore our behavior does not violate a moral obligation.<sup>9</sup>

Wallace proceeds to argue that his principle is superior to alternative principles, such as PAP. In cases of accident and inadvertence, often the agent will possess the ability to do otherwise. Suppose I inadvertently step on your hand while walking to the kitchen. I could have not stepped on your hand by deciding not walk to the kitchen. Nevertheless, if I did not see your hand, and am not culpable for this lack of awareness, then I am excused from responsibility. PAP is incapable of

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<sup>8</sup> An important worry for Wallace concerns how to account for cases of negligence, where agents seem responsible for a failure to act. Does this omission express a choice? If not, then Wallace's account fails. Wallace, in fact, argues that such omissions do express earlier choices the agent made. As my objections to his account do not turn on these issues, I will suppose that Wallace can handle cases of negligence.

<sup>9</sup> Wallace also lists duress, coercion, and necessity as examples of excuses. His account of these putative excuses strikes me as contrived, forcing us to distinguish the choice to  $\phi$  from the choice to  $\phi$ -rather-than- $\psi$  (Wallace 1994, p. 144). Wallace's account would be better served by construing considerations such as duress, coercion, and necessity as justifications, thus allowing him to avoid the peculiarities raised by his treatment of them under the rubric of excuse.

explaining this, whereas Wallace's principle applies in a straightforward manner: your stepping on my hand does not express an objectionable choice to step on my hand and so you are not blameworthy. So not only is PAP not needed to explain the full range of excuses we offer, it in fact cannot do so.<sup>10</sup>

Turning to exemptions, Wallace argues that exemptions, unlike excuses, call a person's morally responsible agential capacities into question. Consequently, a principle that explains the normative force of exemptions will help to identify the capacities necessary for morally responsible agency. He offers the following principle, which I will call the Principle of Reasonableness, as the normative principle governing exemptions: it is unreasonable to hold an agent responsible unless she has the *general* ability to comply with the obligation and thereby avoid the sanction (such as expressed in blame) attached to a violation of the obligation. A couple of comments about this principle are in order.

First, Wallace refers to the ability implicated in this principle as *normative competence*: "the ability to grasp and apply moral reasons, and to govern one's behavior by the light of such reasons" (Wallace 1994, p. 1). Normative competence is composed of cognitive and affective elements. As for the cognitive element, it requires the possession of the moral concepts at play in moral responsibility, such as wrongness, obligation, and blame, as well as the ability to bring these concepts to bear in a wide range of situations in which they apply—being able to anticipate demands and adjust one's behavior in light of other moral principles.<sup>11</sup> With respect to the affective or volitional

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<sup>10</sup> A defender of PAP might naturally reply that PAP does not need to explain the *full* range of excuses in order to be true. Wallace concedes this point. His argument against PAP is two-fold: first, PAP is not needed to explain *any* excuses and, second, there are more powerful principles. Wallace contends that once we realize that PAP is not required to explain the normative force of excuses, our inclination to accept it wanes (1994, p. 151). I have doubts about this last claim, but I believe there are more pressing problems with Wallace's account and so I will not dispute this point.

<sup>11</sup> Fischer and Ravizza (1998) and Wallace (1994) are of the same mind on this condition: the cognitive condition requires sensitivity to *moral* reasons. Scanlon (1998) has argued, however, that mere sensitivity to reasons (moral or otherwise) is sufficient to "get one in the game." It is for this very reason that their accounts treat psychopaths differently—for it is often thought that psychopaths possess practical reasoning skills, at least to some degree, and yet lack the capacity to recognize and appreciate distinctively moral reasons. I am inclined to think Fischer and Ravizza and

element, the agent also must have the ability to control and regulate his behavior in light of these reasons. In other words, the agent must have a will: the ability to step back and critically evaluate his motivations in light of moral reasons, and to be able to control his behavior in light of his rational evaluations.<sup>12</sup> Let us note at this point that a consequence of Wallace's theory is that possessing a will is required for moral responsibility, although it is not required that the will be *free*.

Second, the abilities implicated in this condition are only general abilities or capacities.<sup>13</sup> The proof of this claim is, so to speak, in the pudding. To the degree that normative competence, understood as only requiring general abilities, can account for the full range of exemptions, then there is no reason to require the specific ability.<sup>14</sup> Wallace never offers analyses of these distinct senses of ability, but they can be illustrated by the following example. Suppose Smith is tied tightly to a chair. In such a case, Smith retains the general ability to stand up, even though he loses the specific ability. In slightly different circumstances, if Smith tried to stand, he would stand up; and this is sufficient to establish that he has the general ability to stand up. Hence, although the rope functions as an obstacle to Smith's standing up, he still retains his general ability or capacity to stand up. The notion of general ability is weak enough that it is possible to possess a general ability that one *cannot* exercise. The notion of specific ability is stronger: Smith lacks the specific ability to stand up since the only circumstances in which he stands up are ones in which salient features of his actual circumstances are modified—for example, the rope is looser. Thus, the sense in which Smith

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Wallace are correct, but this point of contention has little bearing on my present arguments. Watson (2001) raises important worries about Scanlon's rejection of moral understanding as a necessary condition for morally responsible agency.

<sup>12</sup> Locke (1975, I,xxi) contains an important discussion of the first aspect of this conception of a will: the capacity to "suspend" one's activity in order to critically reflect on one's motivations. The second aspect figures into many accounts of the will.

<sup>13</sup> Wallace uses 'power', 'ability' and 'general capacity' interchangeably (Wallace 1994, p. 159). These notions are slippery and used equivocally in the literature on free will and moral responsibility. However, it is clear that by 'power' and 'ability' Wallace means 'general capacity', which, as we will see, is a very weak kind of power.

<sup>14</sup> As with Wallace's treatment of excuses, one might question his claim about the relation between explanatory power and truth: the fact that specific abilities are not needed to explain the normative force of exemptions does not show that it is false that such abilities are required for moral responsibility. I have much sympathy for such a reply, but will instead focus on responding to Wallace on his own grounds, arguing that his normative principles do not in fact explain the full range of excuses and exemptions we offer.

cannot exercise his general ability is that he lacks the specific ability to exercise his general ability. I will have more to say below about the nature of this distinction, but this intuitive characterization should suffice for now.

Wallace, as with the category of excuse, argues that his Principle of Reasonableness explains the full range of exemptions that we offer in our ordinary practices of responsibility (e.g. young age, extreme stress, addiction, psychopathy, and insanity), whereas PAP-like principles lack this explanatory power. We should keep in mind that Wallace is offering explanations of why these exemptions have the force they do, *given* the accuracy of our folk understanding of the surrounding issues. In this way, Wallace is not making any empirical claims about childhood, extreme stress, addiction, insanity, or psychopathy. Instead, he is trying to explain why, given a certain understanding of these conditions, we judge such persons to be exempt from responsibility.

Very young children, the insane, and psychopaths are all exempted because they lack the cognitive abilities requisite for normative competence. They cannot grasp and/or apply moral reasons and therefore are exempt from responsibility. PAP-like principles cannot explain these exemptions: for even if these persons possessed the ability to do otherwise they would still not be morally responsible. Addicts and the extremely stressed, however, are exempted on the basis of lack of will: the addictive desires and stressful situation they face are too strong for them to control and, consequently, the person is unable to govern his behavior in light of his rational evaluations. While such agents may correctly assess how they should act, and in this way demonstrate cognitive competence, they cannot translate their judgments into action.

The Principle of Reasonableness not only explains the full range of exemptions we offer, it is also immensely plausible. Wallace claims that “any competent moral judge would endorse” this principle, as it “expresses an abstract moral conviction in which we have the utmost confidence” (1994, p. 161). Therefore, as with the case of excuses, PAP-like principles are not required to

explain the normative force of exemptions and in fact such principles cannot explain the full range of exemptions that we offer.

### **3. Excuses and the Principle of Reasonable Opportunity**

Wallace's defense of his theory of pleas has two parts. First, he offers principles that purportedly explain the normative force of the pleas we ordinarily offer in our moral responsibility practices. Second, he argues that PAP cannot explain the full range of pleas we offer. In this way he argues that his theory is both explanatory adequate and superior to its major rival. My objection to Wallace's theory will also come in two parts. First, I will offer a new principle, similar but distinct from PAP, and show that it, unlike PAP, can explain the full range of excuses we offer. This will defeat Wallace's argument that his theory alone possesses the explanatory resources to explain the full range excuses. Second, I will argue that neither of Wallace's principles can explain the normative forces of the pleas of extreme stress and addiction, whereas my principle can straightforwardly accommodate each plea. I take this to show that we ought to prefer my theory to Wallace's. I will conclude by showing that my theory of pleas not only entails that possessing a will is necessary for moral responsibility, but that this will must be free.

I suggest that the following principle governs the domain of excuses:

The Principle of Reasonable Opportunity (PRO): An agent is morally responsible for  $\phi$  (where ' $\phi$ ' ranges over actions and omissions) only if the agent had a reasonable opportunity to avoid  $\phi$ .

Opportunities are distinct from abilities: if you are tied down to a chair, you have the ability to stand, but lack the opportunity.<sup>15</sup> Opportunities are determined (primarily) by situational factors. So while Kobe Bryant is presently able to shoot a free throw, he lacks the opportunity since he is (let us

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<sup>15</sup> I intend this claim to be somewhat stipulative. There are various senses of abilities and opportunities. My aim in this paragraph is to distinguish the sense of ability and opportunity that I am interested in.

suppose) on a plane traveling to his next game. However, “internal” factors can also affect one’s opportunity: if Bryant is knocked unconscious, then he lacks the opportunity to make a free throw. My distinction between ability and opportunity tracks the distinction Wallace makes between general and specific ability.<sup>16</sup> I prefer to carve up this distinction in terms of abilities and opportunities because it can be misleading to suggest that the distinction here is between two species of the same genus.<sup>17</sup> From now on I will use ‘opportunity’ to pick out the category of ‘specific ability’ and simply ‘ability’ to pick of the category of ‘general ability.’

PRO concerns not simply opportunities, but *reasonable* opportunities. There are three general ways in which one lacks a reasonable opportunity. First, if one lacks the opportunity to  $\phi$ , then one lacks a reasonable opportunity to  $\phi$ . Second, if one is non-culpably ignorant of the availability of the opportunity, then the opportunity is not reasonable. For example, suppose that you, as currently situated, have the opportunity to find a cure for cancer. As you are not aware that the taking of this opportunity would lead to such a cure, the opportunity is not reasonable. The final way in which an opportunity is unreasonable concerns the relative difficulty in availing oneself of it. One might have the opportunity to resist interrogation, but given the extreme pain of the torture it is not reasonable to expect one to take this opportunity.<sup>18</sup>

PRO, unlike PAP, can explain the full range of excuses we offer. Consider a case in which you and your family are snuggled in around the TV for a Saturday night movie. As your son runs to

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<sup>16</sup> Wallace (1994, pp. 182-183) also suggests the terminology of ability and opportunity.

<sup>17</sup> I defend in this approach more thoroughly in Franklin (forthcoming).

<sup>18</sup> All of these cases raise issues about tracing: suppose your not knowing that you have the opportunity to set about curing cancer is due to your own negligence. Did you have a reasonable opportunity to cure cancer? Assuming that you had a reasonable opportunity to become aware of your opportunity to cure cancer, then it seems that you indeed did have a reasonable opportunity to cure cancer. Similar remarks apply to lacking any opportunity or lacking a reasonable opportunity due to difficulty. If one is responsible for such absences (either the opportunity or the requisite strength to take up the opportunity), then we might judge that one did have a reasonable opportunity despite its current unavailability or difficulty: the idea being that you had this opportunity at an earlier time. Consequently, a more precise version of PRO requires reference to specific times (times concerning both the having of the opportunity and the time of action), and judgments about the reasonableness of opportunities requires considerations of possible culpability for the absence of the opportunities. Nevertheless, we can safely ignore these complexities in the present context. It is more important to understand the role and plausibility of this principle before hammering out all the details.

the kitchen to make some popcorn, he accidentally steps on your daughter's hand. She quickly withdraws her hand and with mild agitation cries, "Watch where you're going!" To which your son replies, "I am sorry I didn't see your hand." Is this a mitigating excuse or an exculpatory excuse? That depends on further details of the case. In general, inadvertence functions as a mitigating excuse, since often one's lack of awareness of a fact is itself culpable. If your son should have known that his sister's hand was there, then this excuse, at best, mitigates responsibility. But suppose that his sister was under a blanket and that from the visible outline of her posture there was no way he could have known that her hand was where he stepped. Indeed, all the evidence suggests that her hand was not there. In such a case, it is reasonable to judge inadvertence to function as an exculpatory excuse. Let's assume that this is correct. In this case, PAP cannot explain why inadvertence exculpates your son from blame since he presumably satisfies PAP: he could have done otherwise. For example, he could have asked you to make the popcorn, thus resulting in his not going to the kitchen and his not stepping on his sister's hand. But surely it is not reasonable to have expected him to take this opportunity (there was no apparent risk in his undertaking the journey to the kitchen), even though it was available. Moreover, given that he was non-culpably ignorant of the location of his sister's hand, we would also not have expected him to step somewhere else on his way to the kitchen. Indeed, given what he knew, his stepping where his sister's hand happened to be might have been the best place for him to step. Unlike PAP, PRO can explain this: he lacked a reasonable opportunity to avoid stepping on his sister's hand and for this reason he is not blameworthy.

PRO also straightforwardly accounts for cases of physical constraint, mistake, accident, and unintentional bodily movement. It is in virtue of PRO's requiring not just an opportunity to comply with the obligation in question, but a reasonable opportunity that it can handle these cases. It is important to keep in mind that none of these excuses are always exculpatory. Often, in accidentally or

mistakenly  $\phi$ -ing, one should have been more careful. PRO can explain why you remain blameworthy (why these excuses do not exculpate): in such cases you had a reasonable opportunity to have been more careful, and had you been more careful, then you would not have  $\phi$ -ed. PRO, nonetheless, can also explain why these excuses do mitigate: the degree of reasonableness of the opportunity in such cases is less than ideal and this leads us to judge that the agent is less blameworthy than he otherwise would have been (cf. Hart 2008b, p. 15). The person who knocks over your vase because he tripped over a toy had a reasonable opportunity to avoid breaking your vase: he could have paid more attention to where he was going. But the opportunity to avoid breaking the vase in this case is less reasonable than in a case in which he deliberately breaks the vase.

In this way PRO can explain the normative force of mitigating excuses. However, it might seem that this principle cannot explain the full range of mitigating excuses. Consider someone who after knocking over the vase, points out that he did not intend to break the vase: it was an accident. In so doing he might be calling one's attention to the reasonableness of his opportunity to avoid breaking the vase; however, he might instead be trying to show that this was not a malicious act. The blameworthy agent here attempts to "mitigate" his blameworthiness by noting that he did not intend to break the vase, as one might have originally assumed, and thus, although blameworthy, deserves less blame than we might have originally thought. This suggests that quality of will is relevant to degree of blameworthiness.

I believe this is correct: but quality of will is not a mitigating excuse. Degree of blameworthiness varies along two different dimensions: reasonableness of opportunity to avoid responsibility and degree of wrongness.<sup>19</sup> Opportunities are relevant to an agent's responsibility for wrongdoing; quality of will is relevant to the degree of wrongness of the blameworthy action. It is

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<sup>19</sup> My sense is that it also varies along the lines of degree of normative competence.

possible that two agents perform the same action-type and yet, since the first agent bears more responsibility for this action, he is more blameworthy. For example, of two different agents who have broken one of your vases, one agent will be more blameworthy than the other if he had a more reasonable opportunity to avoid breaking the vase. In contrast, two agents might bear the same responsibility for their actions and yet, since the action the first agent performs is worse, he is more blameworthy. Someone who intends to break the vase performs an action that is more wrong than someone who carelessly breaks the vase. Quality of will is relevant to blameworthiness because it is relevant to degree of wrongness. For this reason appeals to quality of will should not be grouped together with excuses.

That quality of will is relevant to degree of wrongdoing and not responsibility is suggested by Wallace's own account of excuses. Indeed, I believe that Wallace's analysis of quality of will and his principle of No Blameworthiness without Fault are relevant to the plea of justification. Justifications show that it is inappropriate to blame because the agent is not at fault. And, according to Wallace's identified principle, it is inappropriate to blame someone who is not at fault. If one assumes with Wallace that our demands always concern the quality of will expressed in action, it follows that justifications function by showing that the appearance of an objectionable quality of will was illusory and hence the agent did not do anything wrong. As with excuses and exemptions, we might envision justifications coming in two varieties. Complete justifications show that the action performed was not wrong at all and hence blame is wholly inappropriate. Partial justifications are offered to show that the action was not as wrong as it may have first appeared and hence the degree of blame that is appropriate is less than we might have originally thought.

Thus, I envision PRO as governing the domain of excuses, while Wallace's Principle of No Blameworthiness without Fault governs the domain of justifications. Wallace may well have been misled by the fact that certain phrases, such as "That was an accident," can have very different

import: they might be trying to justify the agent or they might be trying to excuse the agent.

Wallace's mistake lies in not clearly distinguishing justifications from excuses.

The process of determining blameworthiness is a two-staged process. The first stage is the responsibility stage, at which we determine whether the agent is blameworthy for  $\phi$ -ing. Pleas that are relevant here are complete justifications, exculpatory excuses, and complete and partial exemptions. The notion of a reasonable opportunity functions as a threshold concept at this stage: either an agent had a reasonable opportunity to avoid the action or he didn't. If any of these considerations are valid, then the agent is completely off the hook. But assuming that none of these considerations are valid, we move to the second stage, the degree of blameworthiness stage, at which we determine the degree of the agent's blameworthiness. PRO is again relevant here, but in this case the notion of a reasonable opportunity functions as a graded concept: how reasonable was the agent's opportunity to avoid  $\phi$ ? The agent's degree of blameworthiness will vary with degree of reasonableness of opportunity. However, partial justifications are also relevant, particularly the agent's quality of will. Did the agent  $\phi$  accidentally, (merely) intentionally, or with mal-intent? An agent who  $\phi$ s with mal-intent acts worse than an agent who  $\phi$ s accidentally, even if both agents act wrongly. In this way we can incorporate Wallace's insight about the relevance of quality of will for affixing blame, without running the risk of collapsing the distinction between justifications and excuses.

PRO has considerable plausibility. First, it can explain the normative force of the full range of exculpatory excuses. Second, it can explain the force of the full range of mitigating excuses—this is clear once we properly categorize appeals to quality of will as having relevance to the degree of wrongness and not the degree of responsibility. And lastly, the principle has great intuitive plausibility. As with Wallace's Principle of Reasonableness, I submit that this is a principle that we are inclined to accept upon critical moral reflection. Just as we would find it absurd to blame

someone for failing to speak English if he lacked the general ability to speak English, we would also find it absurd to blame him if he had the general ability but lacked the opportunity to exercise the ability, because, for example, he was gagged.

PRO, then, is a serious rival to Wallace's theory of excuses. In the next section I will attempt to tip the scale in favor of PRO by arguing against Wallace's treatment of exemptions. My objection is not that he fails to account for the normative force of exemptions. Indeed, I completely agree with his account. Our disagreement arises over how best to categorize the cases of addiction and extreme stress. In the end we will see that addiction and extreme stress are excuses, not exemptions. These pleas will provide additional support for PRO since it can straightforwardly explain their normative force, while Wallace's Principle of No Blameworthiness without Fault fails on this score.

#### **4. Addiction and Extreme Stress**

Wallace's theory of pleas entails that it is impossible for a morally accountable agent *not* to be blameworthy for expressing ill will. If an agent expresses ill will, then Wallace's Principle of No Blameworthiness without Fault cannot be offered to excuse him. If the agent is also morally accountable, then Wallace's Principle of Reasonableness cannot be offered to exempt him. And since an agent is off the hook for some choice or action only if one of these principles applies, it follows that such an agent must be blameworthy. Consequently, if an agent expresses ill will and yet is not blameworthy, Wallace is committed to showing that he is not (fully) morally accountable. This is indeed exactly what Wallace attempts to do in the cases of addiction and extreme stress. There is little question that those suffering from addiction and extreme stress can behave in ways that express objectionable qualities of will, and yet in many such cases we believe that these agents

are not blameworthy.<sup>20</sup> To accommodate this Wallace treats addiction and extreme stress as complete or partial exemptions. I will now argue that neither addiction nor extreme stress can be accommodated by Wallace's Principle of Reasonableness

Let us begin with a few remarks about the category of exemptions. Exemptions function by showing that the person who is accused of performing some wrong action  $\phi$  is not one of whom we can demand that he not  $\phi$ . Excuses and exemptions, I maintain, are distinguished by the features of the agent they focus on. Excuses focus on the agent's opportunities, such as his relation to his surroundings (what he is aware of, how the circumstances are impinging on him, and so forth), while exemptions focus on the agent's abilities (i.e. general capacities). By cutting up the terrain in this manner, we are able to explain why excuses apply locally and exemptions globally. On the one hand, the scope of an excuse is narrow, usually applying to a single act during a short interval of time (e.g. stepping on someone's foot, being late for a meeting, etc.). Exemptions, on the other hand, have a more global import—normally you are not exempt today and responsible tomorrow. If an exemption applies to a person, it will usually apply to him for a significant interval of time.<sup>21</sup> What accounts for this is the relative stability over time of our abilities and capacities relevant to morally accountable agency, in contrast to our ever changing opportunities. Our opportunities change with a change in our environment, but abilities are usually left unaffected by such changes. And as an exemption's applicability is dependent on one's abilities, the exemption inherits this temporal

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<sup>20</sup> As with Wallace, I make no claims about the true nature of addiction and extreme stress. What we are interested in is how best to explain why, *given* our folk understanding, these conditions get agents off the hook.

<sup>21</sup> Of course, we can cook up examples in which this generality does not hold. But that is consistent with my claim that *usually* agents aren't accountable one minute and not accountable the next. To illustrate this consider Alzheimer's patients. Presumably a person in the late stages of Alzheimer's is not an accountable agent. Yet there are strong reasons for thinking that persons in the early stages of Alzheimer's are accountable. The transition from early to late stage is a slow, gradual process, and results in a radical deterioration of the brain. Because of this there will be large segments of time in which it will be difficult to judge whether the person is morally accountable; indeed, perhaps it is genuinely indeterminate. But it certainly won't be the case that the patient is accountable on Monday and not accountable on Tuesday.

stability. In contrast, excuses depend on our opportunities and so, generally, apply in specific contexts over short spans of time.

This construal of exemptions fits nicely with Wallace's own account. He argues that a person is a morally responsible agent if and only if he is normatively competent. Normative competence, in turn, is the ability to grasp and apply moral reasons and to control and regulate one's behavior in light of them (Wallace 1994, p. 157). On this account, persons can be exempt as a result of a cognitive defect or as a result of a volitional defect (or both). And, Wallace argues, normative competence only requires that agents have general abilities.

I agree with Wallace's claim: normative competence, construed as a condition for morally responsible agency, only requires that one possess certain abilities. Blaming a person who is not morally accountable is akin to a category mistake. It is not just that in the present circumstances there is something inappropriate about the blaming, but rather it is a mistake to think that this is even the kind of person of whom blame could be appropriate. So while the person tied down is excused from, say, making an important phone call he promised to make, he is not exempt: he is still a fit subject of demands. However, to blame one's infant for wetting the bed is a gross mistake—it betrays a failure to realize that the infant is not one of whom we can make demands in the first place, let alone blame when he violates one. This strongly suggests that moral accountability is constituted by an agent's abilities, not his surroundings and circumstances, and consequently that normative competence is a matter of ability, not opportunity.

With these clarifications in mind, let us turn to the following question: does addiction completely or partially exempt an agent? I will follow Wallace in construing addiction along our folk conception as generating irresistible desires.<sup>22</sup> Under this conception of addiction, it is doubtful that

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<sup>22</sup> There are however serious questions about the accuracy of this description. For doubts see Wallace (1999) and Watson (2004c and 2004d). I cannot stress enough that I am only concerned with addiction understood *merely* as a source of irresistible impulses.

an addict is completely exempt: for addicts are not always in the grip of their addictive desires and even when they are, there are often many routes to the desire's fulfillment—thus allowing them to do a better or worse job in fulfilling their other obligations. Consider an addict, David, who is presently in the grip of an addictive desire, which, according to our above assumption is irresistible. David cannot resist its force and so begins to deliberate about how to satisfy it; he decides to call his dealer and arranges a score. David, however, has promised his friend to return some borrowed DVDs that evening. Fortunately for David, his friend's house is right on the way to his score and he has plenty of time to drop off the DVDs. His dealer cannot meet him until later, so stopping by the friend's house will not cause any delay in procuring his drugs. But David decides to ignore the promise and head straight for the deal.

Is David completely exempt from responsibility? If so, then not only is it unreasonable to blame him for purchasing an illegal substance, but it is also unreasonable to blame him for failing to keep his promise. But this seems like the wrong verdict. The drug's presence does not make it physically impossible for him to keep his promise. Perhaps it exerted some pressure to go straight to the deal, but as stopping by his friend's house would not have resulted in his obtaining the drugs any later, it seems David is blameworthy for flouting his obligation to his friend. If this is correct, then David is not completely exempt from responsibility. Again this is because complete exemptions are an all or nothing matter. If a complete exemption applies to a person at time  $t$ , or for a duration of time  $t_n-t_m$ , then there are no legitimate demands or expectations on this person during this time.

Addictions do not narrow the scope of possible actions to one, but rather leave open a range of options—how to acquire the drugs, when to take them, the manner of taking them, and so on. Consequently, if addiction is an exemption, it must be a partial exemption. Yet I believe that there is good reason to reject addiction as even a partial exemption—for the mere presence of desire is not

relevant to the possession of an ability. If addiction functions by exempting agents from responsibility, then it must eliminate, or at least diminish, an agent's abilities.<sup>23</sup> Consider the abilities required for David to fulfill his obligation to his friend. His nervous system and muscles would have to be in good working so that he possesses the capacity to stand and move his arms and legs in the required ways for walking and driving; he would need to remember how to get to his friend's house; etc. Does the mere presence of an addictive desire rob him of these properties? It seems implausible to suggest that it does. Of course, after years of suffering from an addiction, one's psychological composition may have been so altered that one really does lack such abilities. But this is not David: he very often does come to correct conclusions about what he is obligated to do, and he often complies with such obligations. So David's addiction has not eradicated such capacities. Our question is whether the onslaught of the addictive desire is correlated with the temporary erosion of his general capacities of normative competence. Wallace is committed to maintaining that as soon as David is in the grip of his addictive desire, his abilities for reflective self-control are eliminated or diminished to such a low degree that we cannot make certain moral demands of David; but when this desire is gone David immediately again becomes a fully morally accountable agent. This is implausible. Abilities, understood as general capacities, are not subject to such wild fluctuations. Ironically, Wallace himself agrees:

A feat that is clearly outside the range of an agent's general powers at one moment, however, cannot be a feat that the agent actually goes on to perform at the next moment. We could make sense of this suggestion only on the supposition that the agent's general powers are constantly subject to wild fluctuation from moment to moment. To make this supposition, however, would simply be to abandon the familiar notion of a general power or ability....  
(1994, p. 218)

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<sup>23</sup> It must be remembered that the notion of 'ability' here is 'general capacity.'

Abilities are features of agents that are modified only by significant events that befall the agent. Being in a severe car accident can immediately remove abilities for movement. However, these capacities will not be regained any time soon (and perhaps not at all). But in the case of irresistible desires, the abilities they purportedly impair are immediately repaired the moment the desire ceases. And as Wallace rightly notes, this is implausible. I believe that the plausibility of the claim that addictive desires affect our abilities turns on equivocating on the notion of ability. I will argue below that addictive desires do affect our specific abilities (or in my terminology, our opportunities). But when the notion of ability at stake is mere general capacity, it is implausible to maintain that such impulses impair our abilities.

Recall that an agent can possess an ability that he *cannot* exercise (in such a case the agent lacks the opportunity to exercise his ability). As with the case of being tied down that we considered above, we saw that you retained the ability to stand up, since had you not been tied down and chosen to stand up, you would have stood up. The truth of this counterfactual is sufficient for the truth of ability-attribution. Analogously, in a situation in which David is not suffering from an addictive desire, had he chosen to comply with his obligations, he would have complied with his obligations. Why not also think that the truth of this counterfactual is sufficient for his being normatively competent? Wallace owes us an argument for why we should treat these cases disanalogously. But the only reason one could give for treating the truth of the associated counterfactuals differently is to maintain that desires (but not the presence or absence of ropes) are among the grounds of our abilities. If desires were among the grounds of our abilities, then we would have an explanation of why we should treat the above cases differently. In the case of standing up, we are allowed to consider worlds in which you are not tied down, since ropes and their absence are not among the grounds of abilities. But in the case of David, worlds in which he is not suffering from an addictive desire are inadmissible since desires are among the grounds of abilities.

But this is implausible: by making abilities dependent on desires we render them subject to wild fluctuations. I don't lose the general capacity to shoot a basketball when I lack the desire to shoot; nor do I lose this capacity when I have the desire not to shoot. At best, desires affect one's opportunities. But if abilities are not constituted by or grounded in desires, then the strength of the desire is also irrelevant to the possession of the ability: if the very existence of a desire is irrelevant to the possession/lacking of an ability, so also is the strength of such a desire (cf. Fara 2008; Duggan and Gert 1967; Kaufman 1963; Locke 1973/1974; van Inwagen 1983; Vihvelin 2004).<sup>24</sup>

David consequently retains his ability to grasp and apply moral reasons and to regulate his behavior in light of them. There are good reasons to think that addiction affects, in some intuitive sense, both our "ability" to reason clearly and to translate our decisions and judgments into action (cf. Wallace 1999; Watson 2004c and 2004d). But when the sense of ability at stake is mere general ability, it is clear that addictive desire leaves such abilities wholly unaffected. Rather, addictive desires affect one's opportunity (or specific ability) to exercise one's (general) ability. Consequently, David is normatively competent and so Wallace's Principle of Reasonableness cannot explain why he is not blameworthy for taking the drugs.

Wallace might object and maintain that addiction does not eliminate any of the agent's abilities, but it does diminish them (cf. Wallace 1994, p. 171). But what exactly does this claim amount to? First, there is an ambiguity in the notion of diminution: is it the agent's (general) ability that is being diminished or the agent's opportunity that is being diminished? It is clear that abilities can be better or more reliable. It is not just that Kobe Bryant has more opportunities to exercise his ability to make free-throws (although this is true), but his ability to make free throws is better than mine in that he is a more reliable free-throw shooter (take my word for it). The suggestion, then,

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<sup>24</sup> Again, this is only a claim about general abilities. Many philosophers distinguish among various kinds or species of ability and it may well be that desire is among the grounds of some of these kinds or species. What is clear, however, is that desire is not among the grounds of general abilities, or simply abilities as I am currently employing the term.

can be understood as the claim that addicts are not as good at grasping and applying moral reasons and regulating their lives in light of them. This claim is plausible, but I doubt very much that what explains it is that the addict's abilities are diminished. An agent's abilities can only be diminished by a feature that affects the grounds of the ability. I argued above that the mere presence of addictive desires do not affect the properties of the agent that ground his abilities, and so the presence of the addictive desire cannot explain why the addict's abilities of normative competence are diminished.<sup>25</sup>

A more plausible explanation of the sense in which an addict's ability of normative competence is diminished is that his opportunities to exercise his abilities are diminished. Indeed, it seems that this is the only way to explain how addictive desires adversely affect an agent's reason and will. If ropes and chains do not affect one's abilities, neither will desires, even irresistible ones. But we seem hard-pressed to admit that addictive desires do not adversely affect an agent's chances to comply with moral obligations in any way. Thus we are led to explain the addictive agent's impairment in terms of his reasonable opportunities to exercise his abilities. Therefore, addicts' (general) abilities for normative competence are neither eliminated nor diminished.

I believe that the import of this argument is not that Wallace's proposed governing principle for exemptions needs to be replaced or supplemented, but that Wallace was mistaken in his categorization of addiction: addiction is an excuse, not an exemption. I offer two considerations in favor of my classification. First, it seems that addiction functions in a highly localized way, making blame inappropriate for only a handful of actions during short intervals of time—and this is the mark of an excuse. There is little to no reason for judging it inappropriate to blame an addict whose actions are unaffected by his addictive desire, as many of his actions will be. Second, the mere presence of addictive desires leaves one's abilities untouched, yet do, plausibly, affect one's opportunities. These two reasons suggest that the problems I have raised for Wallace undermine his

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<sup>25</sup> Of course, a *consequence* of consuming banned substances could be impaired abilities. What I am denying is that the mere presence of addictive desires impairs one's abilities.

classification of addiction, not his proffered principle for explaining the normative force of exemptions.

It might, therefore, seem that Wallace can remedy this deficiency by re-classifying addiction as an excuse, thus revealing my objections to be shallow. However, I believe the present point cuts deeper than this: for while it is plausible to think that Wallace' Principle of Reasonableness fails to explain the normative force of addiction, it is obvious that his principle governing excuses fails. Recall that for Wallace, when one does wrong, one performs an action that manifests an objectionable quality of will. Consequently, if the accused agent has manifested an objectionable quality of will, then he cannot be excused—given that the Principle of No Blameworthiness without Fault is the *only* moral principle governing excuses on Wallace's account. Consider a case in which a single father fails to provide for his three children as a result of his addiction. As he becomes more and more obsessed with drugs, he becomes less and less attentive and efficient at work. What began as a weekend kick turns into a daily habit. His work performance drops and he is finally fired. In a broken economy he cannot find new work, and he and his family lose their house, ending up on the street. Finally, let us assume (somewhat implausibly) that the father is not responsible for acquiring the addiction.

The father has violated an obligation—he has failed to fulfill certain parental duties. Moreover, the father manifests an objectionable quality of will. He fails to show proper regard for those to whom he has duties. It is plausible to interpret this as a case of recklessness: in failing to take seriously the nature and consequences of his respective actions, he manifests a cavalier attitude toward his duties. However, as the addictive desire on which he acted was irresistible, we excuse him from responsibility. How, then, can we account for the normative force of this excuse?

Since the father does manifest an objectionable quality of will, Wallace's principle is irrelevant. PRO, on the other hand, is tailor made for this case: the agent is excused because he

lacked a reasonable opportunity to do otherwise. Addiction is the mental analogue of physical constraint: it brings the constraint within, so to speak. I argued above that it is implausible to construe addiction as robbing agents of their (general) abilities, but it is uncontroversial that it does affect them in some important way. PRO envisages addictive desires as impediments to the exercise of one's abilities, and because of this one is excused from responsibility (again assuming that one is not responsible for the addiction in the first place). In the case of irresistible desires, one lacks a reasonable opportunity because one lacks *any* opportunity to comply with one's obligations. The force of the desire is so great that one simply cannot appreciate one's moral obligations or regulate one's actions in light of these obligations.

The explanatory power of PRO, however, does not end there. Anyone familiar with the literature on addiction will recognize that our assumption concerning the supposed irresistibility of addictive desire is controversial. Moreover, and perhaps in light of this very controversy, there is disagreement about whether addiction really excuses an agent from blameworthiness. An additional wrinkle is that many addictions arise from voluntary behavior: few addicts can plead innocence with respect to the inception of their addiction. These complexities make it difficult to discern the force of this plea. For many, these facts militate against the idea that addiction is an exculpatory excuse. However, we might still think that it mitigates blameworthiness, and insofar as one is inclined to this position, PRO can account for it. Even on the assumption that addiction does not eliminate one's opportunity to comply with one's obligations, surely it makes it more difficult. Addiction can affect the agent's opportunity to focus his mind on the morally salient considerations and come to a correct estimation of the situation, and, even assuming he comes to a correct assessment of the situation, the addictive desire can weaken his opportunity to translate his judgment into action. These features of addiction are best understood as making the agent's available opportunities less

than ideally reasonable. Perhaps the remaining opportunities are reasonable enough to render blame appropriate, but less than ideally reasonable so that the agent's blameworthiness is mitigated.

In this way PRO can explain the normative force of the plea of addiction both according to a popular conception and even when we consider the many complexities surrounding the nature of addictive desire. Let us now turn to the plea of extreme stress. Consider Smith, who has just plodded the loathsome path of the philosophical job market. After months of preparing applications, waiting by the phone, and traveling, it is clear that he is going to come up empty handed. Suppose that during a dinner with the some friends a few nights subsequent to this realization, he flies off the handle at the waiter, lambasting her for the poor service and food. While Smith bears blame for his rude behavior, his blameworthiness (plausibly) is mitigated due to the extreme stress he is under. According to Wallace, this is because his powers of reflective self-control are diminished. Wallace maintains that while extreme stress does not completely deprive one of normative competence, and hence Smith is still under some demands, Smith's abilities of reflective self-control are diminished in a way that "mitigates" his responsibility for fairly minor infractions, such as rudeness (Wallace 1994, pp. 179-180).

It is unclear to me how Wallace thinks his account of exemptions can handle this case. Wallace rightly notes that extreme stress does not totally get one off the hook, although it does mitigate one's blameworthiness. His explanation of this is that the extremely stressed agent's abilities of reflective self-control are impaired. Our discussion of addiction above, especially the nature of (general) ability, should make this contention highly questionable. Isn't it more plausible to think that the extreme stress presents an obstacle to Smith's exercising his abilities, rather than removing or diminishing them? Does his being under stress actually impair his capacities to know his actions were wrong and to comply with such a judgment? I will set aside this objection since there are even more troubling problems. How can Wallace's Principle of Reasonableness explain

why extreme stress *mitigates* responsibility? The Principle of Reasonableness is a principle concerning agents on whom we can legitimately place moral demands. Wallace thinks that an agent is blameworthy only if the agent has violated a moral demand. And yet Wallace maintains that even though the extremely stressed agent is (in some sense) exempt he is still blameworthy for expressing an objectionable quality of will in action. But this cannot be: Wallace has stumbled into a contradiction. The extremely stressed agent is (even if only mildly) blameworthy. Therefore, by Wallace's own account, he must be under a legitimate moral demand not to be, for example, rude. But then he cannot be exempt from this moral demand.

Wallace and I agree that Smith bears some degree of blameworthiness for expressing ill will in his rude behavior. Wallace claims (and I have granted for the sake of argument) that an agent is blameworthy for an action only if he was morally obligated not to perform that action. Finally, both Wallace and I agree that exemptions function by showing that the accused agent is not under the obligation that he is accused of violating. It is precisely because exemptions function by showing that the agent is not under the demand that he is accused of violating that they cannot explain Smith's mitigated blameworthiness—for in this case we do demand that Smith not act rudely. Extreme stress functions not by showing that Smith is not under this demand, but that Smith bears less blameworthiness than he otherwise would have for violating the demand he *is* actually under. Therefore, since Smith is neither completely nor partially exempted, Wallace's Principle of Reasonableness cannot explain the normative force of the plea of extreme stress.

As with addiction, I believe we should conclude not that Wallace's Principle of Reasonableness is deficient, but that Wallace has mistakenly categorized extreme stress. This plea is an excuse, not an exemption. Extreme stress certainly makes it harder to comply with one's obligations, but since it does not make it impossible, we still hold the agent responsible (to some degree) for his objectionable behavior. Can Wallace's Principle of No Blameworthiness without

Fault explain this plea's normative force? It should be clear that it cannot. The actions of Smith express ill will and thus there is fault. Therefore, this principle is also otiose. In contrast, PRO is perfectly suited to explain both why this excuse does not exculpate and also why it does mitigate Smith's blameworthiness. Smith is not exculpated from blame because he possessed a reasonable opportunity to do otherwise than act rudely. However, given the stress he was under, his opportunity was less than ideally reasonable, and for this reason his blameworthiness is mitigated. The plea of extreme stress, therefore, like the plea of addiction, furnishes us with additional reason to prefer PRO to Wallace's theory of excuses.

The fundamental problem with Wallace's theory of pleas is that it entails the impossibility of a morally accountable agent expressing an objectionable quality of will and yet not being blameworthy. My criticism of Wallace exploits this commitment and shows that addicts are morally accountable agents, that they do (or can) express an objectionable quality of will, and yet are not blameworthy. This commitment also prevents Wallace from being able to explain why those suffering from extreme stress bear only a mitigated blameworthiness for their wrong actions. Wallace's theory appears to account for the full range of excuses we offer only because he mistakenly categorizes addiction and extreme stress as exemptions. Once these pleas are properly categorized as excuses, it becomes clear that Wallace's theory is deficient. I argued that these objections only raise problems for Wallace's theory of excuses, leaving untouched his insightful analysis of exemptions.

PRO, therefore, is a superior normative principle to Wallace's No Blameworthiness without Fault: PRO can account for the entire range of excuses offered in our ordinary practices of moral responsibility. PRO also is very plausible—it is a principle in which we have much confidence. We judge that it is unfair to blame a friend for failing to fulfill his promise when he is tied tightly to a chair. Not only does the principle strike us as plausible after critical moral reflection, it also gains

plausibility from its ability to explain the full range of excuses we offer, the legitimacy of which we have the utmost confidence.

Our practices of moral responsibility, therefore, are fundamentally governed by three moral principles: the Principle of No Blameworthiness without Fault (in the domain of justifications), the Principle of Reasonable Opportunity (in the domain of excuses), and the Principle of Reasonableness (in the domain of exemptions). We can think of the process of assigning blame as a two-staged process. The first stage is the responsibility stage at which we determine whether the agent is indeed responsible for doing something wrong. At this stage the relevant pleas are full justifications, exculpatory excuses, and partial and complete exemptions. If any of these pleas are valid, then the agent is completely off the hook. However, if none of these pleas are valid, then the agent is blameworthy. The next stage concerns the degree of blameworthiness, and the relevant pleas here include partial justifications and mitigating excuses. Partial justifications purport to show that the act was not as bad as it might have originally appeared, whereas mitigating excuses purport to show that the agent bore less responsibility for the action than we might have originally thought.

By reflecting on these pleas (especially excuses and exemptions) we are able to derive the conditions of responsibility: a morally accountable agent is one who possesses the abilities for reflective self-control: he is able to grasp and apply moral reasons and regulate his life in light of them. But being blameworthy requires more than these mere abilities: one must also have had the opportunity to exercise them in a way that conforms to one's obligations. Blameworthiness, therefore, requires normative competence plus opportunity.

## **5. Free Will Is Necessary for Moral Responsibility**

As we noted when discussing Wallace's theory of exemptions, it follows from the Principle of Reasonableness that an agent must have a *will* in order to be a morally responsible agent. A person

is subject to moral demands only if he has a will: the ability to translate his judgments into choices and his choices into action. Wallace and I are in agreement concerning this. However, I argued that an agent is responsible for a particular action only if he had the opportunity to avoid responsibility for the action. The notion of opportunity is closely tied to the notion of freedom. To have freedom over one's will is to have the opportunity to exercise one's will in more than one way (cf. Franklin (forthcoming)). PRO, our normative principle governing excuses, therefore, entails that we must have freedom over our will in order to be morally responsible for some specific action (or omission). Therefore, while morally responsible agency does not require free will, an agent's being responsible *for* an action (or omission) does require free will.

This result has broad implications for the problem of free will, as it undermines the possibility of defending the compatibility of determinism and moral responsibility by arguing that free will is not required for moral responsibility. There have always been powerful (even if ultimately unsound) arguments that free will is incompatible with determinism.<sup>26</sup> It is for this reason that many have tried to divorce freedom from responsibility—for in so doing one renders the arguments for the incompatibility of free will and determinism irrelevant. But this attempt at avoidance cannot work. Responsibility requires freedom: an agent who lacks freedom over his will is excused from responsibility. Therefore, compatibilists must defend the compatibility of freedom with determinism if they are to successfully defend the compatibility of determinism with moral responsibility.<sup>27</sup>

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<sup>26</sup> See Fischer (1994) and van Inwagen (1983). Concerning specifically issues of the compatibility of the opportunity to do otherwise and determinism see Vihvelin (2000) for a defense of compatibilism and Franklin (forthcoming) for a defense of incompatibilism.

<sup>27</sup> As mentioned in n. 4 above, this conclusion needs to be qualified since it presupposes the failure of Frankfurt-style cases. These influential cases pose a threat to my defense of PRO as they purport to describe scenarios in which an agent is responsible and yet lacks any opportunity to do otherwise. These cases have received much defense and criticism in the literature, but, given this paper's aim, it is beyond its scope to comment on them. My goal, instead, has been to criticize the other main defense of semi-compatibilism that Wallace develops, and thus disarm one of the main attacks on PAP-like principles. Moreover, my criticism of Wallace has allowed me to develop a general theory of the

## 6. Conclusion

I have attempted to explain the moral principles that govern our practices of holding responsible, so as to clarify the conditions and capacities necessary for being morally responsible. I followed closely Wallace's account of exemptions, endorsing his Principle of Reasonableness: an agent is morally accountable if and only if he is normatively competent. I argued, however, that Wallace's account of excuses is wanting. His principle of No Blameworthiness without Fault fails to explain the full range of excuses we offer, especially extreme stress and addiction, and I suggested that this principle instead governs justifications. In its place, I offered the Principle of Reasonable Opportunity and argued that it can explain the full range of excuses. An important upshot of this discussion is that an agent who is blameworthy for an action  $\phi$  is an agent who possessed the powers of reflective-self control and had the opportunity to exercise them in more than one way. Finally, I explained that this implication just amounts to moral responsibility requiring free will. While this final implication falls short of establishing incompatibilism about determinism and moral responsibility, it does place pressure on those wishing to defend compatibilism about moral responsibility and determinism, as Wallace himself admits, insofar as there are strong arguments for the incompatibility of free will and determinism.<sup>28</sup>

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normative force of pleas, which, given its plausibility and simplicity, places pressure on the defenders of Frankfurt-style cases: the greater the plausibility of the principle the more convincing the counterexamples will have to be.

<sup>28</sup> Earlier drafts of this paper were presented at the University of California, Riverside and the University of Tennessee. I am grateful to the audiences for their helpful comments, especially E.J. Coffman, Agnieszka Jaworska, Coleen Macnamara, Annette Mendola, Michael Nelson, and David Reidy. The ideas that eventually found their way into this paper greatly benefitted from, and were shaped by, my outstanding fellow graduate students at UC, Riverside: Justin Coates, Ben Mitchell-Yellin, Garrett Pendergraft, Philip Swenson, Patrick Todd, and Neal Tognazzini. Finally, I owe a deep debt of gratitude to my assiduous and thoughtful dissertation committee, whose critical feedback significantly helped to mold this paper into its present form: John Fischer, Michael Nelson, Manuel Vargas, and Gary Watson.

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