

Ordinary Wrongdoing

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Everyone¹ cheats on their taxes, or so I'm often told. Everyone misses "real" deadlines, breaks the occasional promise, and bends the rules of games. This shouldn't surprise anyone with two feet in reality; presumptive normative standards are habitually and unthinkingly violated in entirely unremarkable ways. Such acts are surely not evil, but it's puzzling whether we can treat them as wrong at all. For how can it be wrong to do something that's so commonplace, so venial, that criticizing someone for doing it *itself* feels wrong?² The task of this essay is to attempt to answer this question.

We can call such actions, actions which are common, unremarkable, venial, and often banal, yet still wrong, *ordinary wrongs*. Ordinary wrongdoing, if it exists (and it does), needs to be distinguished cleanly both from what we might call *substantive wrongdoing*, actions which are wrong in the more usual and remarkable³ sense, and from actions which aren't even wrong, even though they look initially to violate some norm or another. So distinguishing in an explanatory way is the more concrete task of this essay.

Cleaving wrongdoing from evil has received a good amount of attention in the literature.⁴ Distinguishing ordinary wrongdoing from remarkable wrongdoing and from what's not even wrong has been neglected.⁵ One notable exception

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¹Interpret 'everyone' and cognates in the intended *generic* fashion throughout.

²Wrong in a thick sense, obviously. There's a certain benighted "commonwealth" reluctance to criticize people for wrongdoing on grounds of politeness. That's an entirely different, thoroughly remarkable, phenomenon.

³I mean "remarkable" quite literally here. Don't be confused by the vulgar usage.

⁴Recent useful work includes Garrard (2002), Steiner (2002), de Wijze (2002), Russell (2007), and Liberto and Harrington (2016)

⁵Smith's (2007) discussion of the ethics of blame indirectly cuts some way towards an

is Harman’s recent (2016) discussion of morally permissible moral mistakes.⁶ Harman, however, holds that many of these moral mistakes aren’t morally wrong at all. So the phenomenon she’s attempting to delineate isn’t quite the same as the one I’m describing.

Characterizing ordinary wrongdoing shouldn’t be neglected. A proper grasp of it is essential to a number of things, not least of which is freeing us from an unthinking commitment to the old parental saw “if everyone jumped off a bridge, would you?” Sometimes, but only sometimes, the answer to that is ‘yes’ and yes because of everyone else’s behavior. As we all know.⁷

More seriously, some normative standards, such as those governing respect, seem partially constituted by conventional patterns of behavior.⁸ Consider morality. There’s a moral standard to show respect to others and our actual conventions determine what counts as respectful.⁹ This much seems obvious. Call such standards *conventionally-inflected* to highlight their seeming indebtedness to local conventions.

Now when divergence from a standard is common, we typically don’t treat it as notable or level criticism for violations. But how can *conventionally-inflected* standards we don’t actively enforce or only enforce haphazardly play their appropriate role as normative standards? How can they be normatively significant in the way we expect?¹⁰ That is, how can it be that there’s a moral norm to be respectful, and that respect is largely constituted by what we think it is, all the while acknowledging that we quite often let violations of respect slide by

account of this distinction. As she points out, sometimes our moral track records seem to undermine our standing to blame others. Hypocrisy is one such example (though not an uncontentious one). She also points out that some wrongs are minor and common enough that it’s generally inappropriate to blame folks for them, even if we technically have standing to do so. Yet these are still very much wrongs (400). It’s exactly this latter thought I aim to develop here. See below for more discussion of standing to blame.

⁶On this topic, see also Schafer’s (2016) discussion of Hume’s account of a morally permissive moral point of view.

⁷It might be, at least in some cases, everyone doing it explains why it’s okay do it because of some other underlying morally relevant fact. See Husak (1996) for a nuanced and compelling exploration of different such properties. But this there being some deeper explanation of why the “everyone does it” defense works is no objection to the account I develop below. All I need is an explanatory link between everyone doing something and its permissibility. And this is true regardless of whether there’s more explanation to be given. Thanks to Steve Finlay for discussion.

⁸See Husak (1996) for for useful defense of this point. Though it should be obvious enough!

⁹There’s also a independent normative standard governing respect, just as there’s a moral obligation to keep promises as well as a directly promissory one. I won’t dwell on this here, though see my (2016) for discussion.

¹⁰See Todd’s (2017) discussion of whether someone can be blameworthy at all in cases where everyone breaks the rules.

without comment.¹¹

So, if divergence is common enough, and we often don't criticize for such divergence, then either our conventions governing standards like the respect norm are very different from what we think they are or the respect norm isn't conventionally-inflected. Neither horn is especially attractive. This worry is especially pertinent given that standard theories of conventionality require that violations of conventional norms are noteworthy (Lewis 1969, in particular).¹² Conceding this worry conflicts straightforwardly with the sense that "norms" that are habitually violated are nevertheless still in force and that commonly committed wrongs are still wrong albeit humdrum.

If we can make sense of how violating conventionally-inflected norms can be wrong even though we do so all the time, we can put this worry to bed. Habitual violation and lack of enforcement is only a problem for conventionally-inflected norms if our tendency to criticize someone for violation and our treating and viewing what they did as wrong (at least when it's salient) coincided.¹³ Since these come apart, as the case of ordinary wrongdoing shows, the fact that we typically don't blame someone for committing a putative ordinary wrong is no threat to it actually being wrong. So the correct analysis of ordinary wrongdoing deals with a long-standing worry for conventionally-inflected normative standards.

Distinguishing ordinary wrongdoing from just plain wrongdoing is a tricky business.¹⁴ If our distinction carves too shallowly, we run the risk of identifying merely a class of mild wrongs which might be substantive. If our distinction

¹¹This is not to deny that the normativity of the respect norm is objective and non-conventional. Perhaps it is. Still, that *particular* moral norm is conventionally inflected since we decide what counts as respectful.

¹²This problem is related to Warnock's (1971) "attitudes over-generate rules" objection to Hart's social practice theory of law. Warnock worried that there are cases of conventionalized behaviors φ which fall short of rules, but where we typically φ , we believe we ought to φ and we chastise others for not φ -ing. His example is players coming towards the batsman with a slow bowler. But it's easy to see how to generate many similar examples. The solution I propose below solves this problem neatly. See also Raz (1975, ch. 2) for discussion.

¹³It would also help with a related worry; if our attitude to conventionally-inflected norms is so cavalier, how could they count as norms at all? But if we often don't enforce them, then it's not surprising that it isn't foremost in our minds that they're norms. What's essential is that we recognize that they're norms when the question is called. Thanks to Gerald Lang for discussion.

¹⁴To put off a worry, ordinary wrongdoing isn't the same as minor wrongdoing, though many ordinary wrongs are minor. There are minor wrongdoings which aren't common—easy exercise for the reader. There are also banal evils like pornography depicting people being non-consensually abused. That's why for our question about ordinary wrongdoing, pedestrianism is a more important part of our analysis than the seriousness of the wrong. Seriousness isn't neglected, though, as evils are not the sort of thing that we generally excuse.

carves too deeply, we'll end up identifying ordinary wrongdoing with things which are more properly thought of as not even wrong. There are many putative wrongs (things we were taught were wrong) which are simply not wrong at all, like swearing or masturbation. So another task of this essay is to demonstrate that there's a substantive category of ordinary wrongs and that this category deserves serious philosophical attention.

One rough and ready distinction is between cases where the fact that everyone does something counts as a valid excuse against some putative wrongdoing and cases where it does not.¹⁵ Call actions that everybody performs *common actions*. Some common actions are deserving of criticism and some are not.¹⁶ It's tempting, as a first pass, to identify ordinary wrongdoing with common actions which are wrong—they're not excused by their commonness—but for which we shouldn't blame (for some other reason.)

Consider extremely minor breaches of contract. We tend to simply ignore or excuse these when they don't cut against our interests. But it's very plausible that other parties to the contract have an entitlement to complain about the breach of contract, no matter how banal it is. What they were guaranteed was not delivered. We often ignore these cases since it isn't worth the effort of complaining. Yet we sometimes treat these cases as ones where the wrong is excused (in the particular sense of excused spelled out below), even though it isn't. Yet another task of this essay is to make plausible that we often confuse cases of exculpation by commonness with cases of non-exculpation of actions that are otherwise worth ignoring. Sometimes the fact that everyone does something simply isn't an excuse.

To emphasize this, note that treating the commonness or pedestrian character of a wrong as exculpatory does not mean that it actually is exculpatory. There are important normative issues wrapped up in whether or not we treat something as excused (for whatever reason) and whether or not it really is excused by this fact. Consider violations of bodily autonomy which are common, but still fairly egregious. Patriarchal society suggests we ignore these, but we shouldn't do so. It's still legitimate and often appropriate¹⁷ for the wounded

¹⁵See Wallace (1994, chs. 5-6) for relevant discussion of excuses and blame. He focuses on cases involving responsibility, but much of it adapts. See also Todd (2017).

¹⁶I'll often use 'deserving of criticism or blame' instead of 'blameworthy' so as to avoid a persistent tendency in the literature to conflate blameworthiness with the weaker property of being liable to blame (see, for example, Bell (2013)). Thanks to Steve Finlay for discussion here and convincing me to use 'deserving of blame', which emphasizes the agent, instead of 'worthy of blame' which emphasizes the blamer.

¹⁷And, of course, the point of this essay is exactly that I didn't just stutter.

party to complain, for all we might not recognize it. Similarly with persistent misgendering and other issues of increasingly current concern.¹⁸

Let's suppose for now that there's ordinary wrongdoing in my intended sense. Again, this need not mean that there's anything interesting about this category. We need to show that ordinary wrongdoing is a non-trivial category of wrongs. I'll do so both directly, by means of examples, and indirectly, drawing on a distinction I've made elsewhere between being *deserving* of criticism and being *liable* for criticism. The latter records an entitlement to levy criticism at someone for violating a standard. The former means that leveling criticism¹⁹ would be appropriate or reasonable. These are manifestly not the same; one can have an entitlement to blame without there being sufficient reason to actually exercise that entitlement.

For conventional standards this distinction is often clear. Scrabble has a punishment—losing a turn—which is applicable when someone has played something which is not an acceptable word. But the fact that we *can* take away a turn from our opponent for playing a non-word doesn't make it the case that we *should* do so. We can have many reasons—avoidance of pedantry in a social context, playing a good word off their non-word, etc.—to not challenge them. Similarly, in legal contexts, we can draw this distinction clearly. A law might be outdated (think vagrancy), the violation without malice (think minor drug crimes), or the criminal harmless (think Willie Nelson). Worthiness of punishment requires a more general appropriateness—perhaps even moral appropriateness—of leveling punishment. Many (though not all) legal systems recognize this fact and allow discretion for judges, magistrates, and other officials to refrain from pressing charges even when they've entitlement to do so.

At least some moral criticism functions similarly. Breaking a promise makes one liable for criticism, even when the promise was difficult to keep. It doesn't yet follow that I'm morally deserving of criticism (Woods 2016). I may have done the best I reasonably could have. Similarly with minor blow-ups of passion, small relationship unkindnesses, and the like. These kinds of actions can all be analyzed as cases where criticism *can*—in the sense of entitlement—be leveled, but shouldn't be.

Ordinary wrongs are non-trivial exactly because they underwrite liability

¹⁸Thanks to Erum Naqvi, Gen Eickers, and Jessica Isserow for useful discussion of this and related points.

¹⁹The distinction between evincing blame and treating someone as blameworthy is delicate. I don't address it here for reasons of space.

to moral criticism. Yet, again, often others *morally should not* criticize us for ordinary wrongdoing. This might suggest we can safely ignore these wrongs, but this would be a severe mistake. Safety balanced on the back of what others *should* do is severely fraught. You might as well try to convince someone to break the law because the judge, if they thought correctly, would realize that the law *shouldn't* be applied to the fullest extent possible. Presumably this is small consolation from your cell.

We can solve the problem for conventional standards raised above once we've got this distinction firmly in mind. Common and flagrant violation of a norm doesn't undermine its normativity since the relevant conventional behavior isn't the leveling of sanctions or the reasonableness of so leveling. Rather, the relevant conventional behavior is recognition that we have an entitlement to sanction. It's the recognition that if someone were to sanction, they'd be within their rights to do so, no matter what manner of pedant or asshole they might be by so doing.

In particular, in not leveling the sanction we're often acting just as we all things considered ought to do. This captures the normativity of ordinary wrongs without abandoning their status as unremarkable. In fact, recognition of the category of ordinary wrongdoing itself motivates the idea that actions are wrong just in case the perpetrator of the action is liable to blame for what they've done.

The plan of the essay is as follows. I'll give some examples of ordinary wrongdoing. I'll then limn the category of ordinary wrongs by describing upper and lower bounds on the category. This gives us a concept, but doesn't yet show it's interesting. I then explicitly argue that we can have a right to criticize someone, even when we shouldn't.²⁰ Since it's a non-trivial matter to be liable to criticism, just as it's a non-trivial matter to be liable to prosecution, ordinary wrongdoing is non-trivial. After brief discussion of Harman's (2016) view, I close by applying this conceptual machinery to problems for conventional standards.

Before turning to ordinary wrongs, though, we need to first digress a bit on blame and blameworthiness. These notions play such an important role in what follows that we risk serious confusion if we're not clear on how to understand blame talk. As Smith (2007) notes, blame and blameworthiness are thoroughly muddled notions in philosophy to begin with. This makes it doubly important for me to not give the wrong idea.

²⁰The idea that having a right to blame or criticize someone comes apart from someone being deserving of criticism has been a theme of much of my recent work. See Woods (2016, 2018) and Maguire and Woods (2020). See also Dorsey (forthcoming).

Blame, Blameworthiness, and Blame Liability

We'll start, in fact, with Smith's excellent discussion of blame and responsibility (2007). She distinguishes between three notions of holding someone responsible for something. Sometimes when we say we hold someone responsible for something, we sometimes mean that they are open to moral appraisal for their action. Sometimes we mean that we take them to be open to moral criticism or blame for their action. And sometimes we're just blaming them for what they've done.

The first can be seen as a way of taking someone's action to be an apt target for moral evaluation. We don't generally blame people when they're brainwashed or when their action is involuntary. We require that someone be the source, in some way that's quite hard to pin down, of the blamed action. The first sense of holding someone responsible for their action amounts to holding that they fulfill whatever conditions of responsibility and intention are necessary to enter into the moral game at all. Though this sense is important, we'll mostly put it aside. Of more interest here is the distinction between taking someone to be open to moral criticism and actually blaming them. And, as I'll show shortly, of something in-between these two.

When we hold someone responsible in the sense of taking them to be open to moral criticism, we take them (a) to fulfill whatever conditions of responsibility and intentionality necessary to enter into the moral game at all and (b) for there to be sufficient wrongdoing to legitimate us blaming them.²¹ As Smith notes, this implies holding someone responsible in the first sense, but it does not imply actually blaming them. After all, blame might be counterproductive to them or to us. This notion of holding someone responsible, comprising (a) and (b), is what I called *liability to criticism* above—blame being the typical form of moral criticism—and which I will call blame- or criticism-liability in the rest of this essay.

Note, though, that the fact that someone is liable to blame does not mean that it's reasonable or appropriate to blame them. As Smith nicely sums up:

...the question of whether to “hold” a person responsible [blame them] is usually a question about what attitudes and/or actions it is appropriate to take toward a person already deemed responsible and culpable [deemed blame-liable] in the relevant sense. This is an

²¹We might have reasons to avoid blaming the blameworthy on other grounds, of course. Like politeness or prudence.

important question of substantive morality, which deserves philosophical attention in its own right. (2007, 484)

That is, once someone is deemed to be liable to blame, we also need to ask whether it is appropriate to actually blame them. And the verdict very well come back that it is not. I'll give many examples below, but let's look at one of Smith's briefly.

If a good friend of mine is under a lot of stress, for example, I may not "hold" her responsible, in the sense of actively blaming her, for some insensitive comments she makes to me. I can judge both that she is responsible for her comments, and that she is open to legitimate moral criticism for them (because they are hurtful). But given the circumstances, I may decide that it would be uncharitable for me to take up attitudes of anger and resentment, or to explicitly reproach her in any way. In making such a judgment, however, and in renouncing these attitudes and responses, I need not think that my friend is not really responsible, or not really at fault, for her behavior. (2007, 470)

Now notice that the sort of considerations Smith is pointing towards have mostly to do with the person who is in a position to level blame. But (as she is aware) other considerations that keep us from actually blaming them might have to do with the agent themselves. For instance, even though we think someone is responsible and at fault for their behavior, we might recognize that they did the best they could in the circumstances—as is often the case with conflicting promises (Woods 2016)—or that their action is an understandable wrong (see below.)

Suppose we judge that someone isn't deserving of blame for their actions. Suppose more that this isn't because of features of us, such as our own sins, but rather due to fact about them and the action itself. I then say that we're judging them not deserving of blame or, rather, not blameworthy.²² As Smith's discussion shows, though, this need not mean that they're not culpable. What it shows is that we have substantive reason to not exercise any entitlement to blame or criticize them. Collapsing what blame is (a kind of sanction of someone which is typically, though not always, constituted by a judgment of

²²There's a persistent trend of collapsing the distinction between blameworthiness (in my sense) and blame-liability in the literature. Hopefully by now it's become clear why this is a mistake.

them as doing something wrong) with conditions under which it is reasonable to blame has obscured valuable work which can be done in the space between blame-liability and blameworthiness. Now for some ordinary wrongs.

Some Ordinary Wrongs

Joe has had a hard day. He woke up late, didn't get a chance to eat, and his train was late. His coffee spilled on his fancy new suit—he had a job interview today—and people bumped into him all morning commute. Ordinarily very calm and collected, Joe has been put through the wringer and it's all added up.²³ When he got to his interview, someone in front of him slammed the door in his face, though not maliciously, and he cracked, swearing at them viciously.

Did Joe do something wrong? Sure. No one deserves to be sworn at for something relatively innocent and, had they responded to Joe about his rudeness, they'd have been *within* their rights to do so.²⁴ On the other hand, who hasn't been Joe a time or two? If Joe's victim, all things being equal, had realized what a tough morning they'd had, then it would have been better for them to refrain from exercising their right to comment on his behavior. Perhaps Joe just needs a minute.

It's tempting to say that Joe is *excused* from his behavior because of the circumstances. There's a sense in which this is plausible—after all, we've already said that he shouldn't be criticized for his behavior (at least if the circumstances are known.) We need to be careful though. Some theories of excuse require that the agent of the putative wrong not *intend* to commit a wrong, but it's not at all clear that applies to Joe. He seemingly intended to tell off the person slamming the door.²⁵ Some other theories of excuse require that, on balance, what the agent did wasn't really wrong (though it may have seemed wrong at the time.) But that doesn't seem true of Joe either; what he did was wrong, even though he seems to be excused in a sense from being criticized for it.²⁶

²³Thanks to Anastasia Kozhevnikova for emphasizing that I need this fact as part of the case to avoid us making a judgment on his character.

²⁴Note the qualifier 'within' here. I'm not saying they'd have been right to do so. That's another thing entirely, as I'll shortly explain.

²⁵We could weaken the condition—a putative wrong is excused if the agent would not have intended the wrong in conditions of control and fullish information. But this is so weak as to excuse lots of intuitively wrong action.

²⁶See Wallace (1998, chs. 5-6) for useful discussion of both kinds of views. The law waffles a bit more about excuses, sometimes claiming that excused wrongs are still wrongs, sometimes claiming that they're not. See Goldberg (2015) for useful discussion. Goldberg also claims that some excused legal wrongs are still legal wrongs, though perhaps wrongs deserving some kind of leniency. These are perhaps the closest analogue of what I'm calling ordinary wrongdoing.

Both types of theories just mentioned exempt people from their putative wrongs by declaring them to not be responsible for what they've done. Fair enough; perhaps some cases that look like ordinary wrongs can be theorized away this way. But this doesn't exhaust all cases of ordinary wrongs. There seem to be cases where something is intentionally done and still, on balance, wrong, even if trivial. Consider, for example, the following case.

Minu hasn't had a particularly hard day. She's had a totally ordinary day, in her totally ordinary life, full of totally ordinary irritations. And, as usual, she loses her temper with Reza when he forgets his keys and needs her to stop what she's doing to let him in. Reza can't really help it, he's just a bit absentminded. Which Minu knows (all too well.) Reza doesn't mind so much; he's used to Minu losing her temper after a hard day when he's absent minded. He realizes he could complain about it, but he also realizes that it's a way for Minu to blow off steam and she'd feel rather bad being criticized. So he refrains, even though he takes himself to have a right to complain.

It would be better for Minu to be a bit more sanguine. It would also be good for Reza to be less absentminded, but we are who we are. What I want to claim is that Minu's wrong is an *ordinary wrong*. It would be grossly implausible to suggest that Minu is in any way not responsible for her actions—she surely intends, in the relevant sense of 'intends', to blow up at Reza.²⁷ And what she did is pretty clearly wrong, even though it's the sort of thing Reza shouldn't bother criticizing, even though he plausibly has the right to do so.

Is Minu excused by her circumstances? Not in the sense discussed above. She's clearly responsible for her actions and Reza has an entitlement to complain. If there's a lingering sense of excuse where these are both true, then I have no objection to saying that Minu has an excuse for her actions. But all that means, now, is that it would be a mistake for Reza to pull her up on her actions. And it's exactly this sense that I've been trying to isolate here. If the reader likes this way of proceeding, they can adjust the discussion below to accommodate it without any serious loss.

Our lives are full of such common and ordinary wrongs. We could multiply the examples just given, adding in cases of acting from hanger, understandable frustrations, minor but really funny cruelty, crimes of passion and dispassion, and the like. But what separates these kinds of wrongs such from more noteworthy cases of wrongdoing and from cases which aren't even wrong? We turn to

²⁷I don't mean that she deliberately set out to blow up at Reza. Clearly not. Rather, what I mean is that she has sufficient control over her behavior to be morally appraised for it.

this question now.

Before we do so, though, a caveat. There will be disagreement about what constitutes an ordinary wrong as opposed to something which isn't even wrong. Personally, I'm tempted to count extremely minor infidelities, petty theft from major corporations, minor cruelties, and an occasional broken promise among ordinary wrongs. Some might disagree. I don't have a worked out account of which or any of our views here is right.²⁸ That's alright; all that I need is for there's to be a non-trivial category of ordinary wrongs, even if the borders are a bit indeterminate. And I take our two example above to establish that this category isn't empty.

Explaining Away Common Wrongs

Now suppose Oğuz is offered a job and an interview at the same time. The interview was for a job that would be better than the job already on offer. Oğuz can't pursue both the interview and the job; the only way to play it safe is to take both the job and the interview (reneging on the first job if the interview is successful)—and the first job itself won't be put out in any significant way if Oğuz declines it. They'd be fine. Everyone—and I mean everyone—tells Oğuz that this is just commonplace (true story). Everyone does it, so why shouldn't Oğuz do so as well? Except, well, it still seems wrong, even if everyone does it.

But now consider Angela who is in a strongly monogamous relationship and flirted hard with someone in line at the supermarket. Even though strictly speaking, Angela isn't acting as she should, it doesn't seem like Angela did anything that rises to the level of wrongness. It's just too pedestrian, too common, and too unremarkable.²⁹ The pedestrian character of Angela's action seems to be at least partially explanatory of why it's not wrong. After all, we *all* do this from time to time.³⁰

Cases like Angela's are tricky. Many actions which potentially have the right profile are contentious. Consider "eating meat", "shoplifting from Walmart", and "fudging your tips for tax purposes." Swathes of people do each of these,

²⁸In a more pugnacious mood, I'd suggest none really are since our distinction is heavily dependent on context and our particular views of right and wrong.

²⁹The reader might worry that it's relative lack of harm in this example that's doing the work. But notice that there's no significant wrong in *either* case just given. It's also easy to get the same intuitive distinction when we balance minor harms on both sides.

³⁰Again, it's also possible that the frequency of some putative wrong is not itself the explanation, but it's evidence that there is a deeper fact about the putative wrong that explains why it isn't wrong. For the point I'm making here, this kind of detail doesn't matter. Thanks again to Steve Finlay for discussion.

but it's easy to see that we can differ on how acceptable each is. But it doesn't matter where we come down on these issues. What matters is that in at least one of them, here represented by the Angela case, we recognize that "everyone does it" is sufficient defense against any thought of wrongdoing, but that the action is otherwise a violation of a standard moral norm (avoiding harm, not stealing, not lying.) So just pick your favorite case and read the following accordingly.

What we have is a pair of common actions, one of which is slightly wrong and the other of which isn't even. What's similar about the two cases? Both are cases of violating a rule that we generally accept. In the first case, a sort of weak promissory norm attaching to voluntary contracts. In the second case, a prohibition taking advantage for mild persona gains. Both are cases that happen frequently.³¹ Both are cases which are motivated by the personal interests of the agent. And both are cases where many, in fact most, people wouldn't bother to criticize the agent for committing the wrong.

So what's different about the cases? Well, besides the intuitive fact that what Oğuz did was wrong and what Angela did was not, there are differences in how they can defend themselves.³² Angela can invoke the classic "everyone does it" defense. But if Oğuz did so, it would seem rather pathetic. It's simply not a justification in his case like it is in hers.³³

I don't pretend to have an answer to why this is (though again, see Husak (1996).) Perhaps we're just willing in her case to accept it and not in his. But it does seem intuitively plausible that this difference exists. There just seem to be cases where the defense works and cases where it doesn't. So, in particular, we can explain why what Angela did wasn't wrong in terms of the commonness of the wrong and we cannot explain away what Oğuz did in the same way.³⁴

This difference distinguishes common actions which are wrong from some which are not. Angela's action, which violates a presumptive moral norm, still

³¹Admittedly, the second is far more common than the first, but that doesn't seem that relevant. They're both very common.

³²See Smith 2007 for an independent argument that pedestrianianess can make it inappropriate to exercise our standing to blame. I agree that it can sometimes do this. But I think it does so because often the action simply ceases being wrong, unlike ordinary wrongs. My cases below illustrate this difference.

³³Note that this kind of point shows once crucial difference between my account and Smith's 2007 discussion. Angela's defense is a defense of her action, not a defense against her being blamed.

³⁴Some theorists might balk at the fact that the explanans here is the same, even though one explanation works and the other does not. If so, note that these explanations might be partial in the sense that there needs to be other facts as part of the full explanation of why what they did is or is not wrong. This is consistent since it simply amounts to a further explanation of why the commonness justifies in the one case but not the other.

isn't wrong, since it can be justified.³⁵ So we have one useful distinction involving common actions which are putatively wrong. To put it clearly, Oğuz's interview shenanigans is a putative common wrong which is still wrong. It is *not* excused by the pedestrian character of his action. Whereas Angela's flirtatious behavior is only a potential common wrong since is not even wrong on inspection. What explains this is, at least in the large, how common it is.³⁶ Now for another distinction.

Blameworthy Wrongs

Suppose I make a scathing remark about a friend's fledgling art exhibition (and they're no mere hobbyist.) It's vicious, and unnecessary. Just like their art. Apt or not, I seem morally criticizable for my remark. It was unkind, unworthy, and I should be pulled up about it. I am, that is, deserving of blame or, rather, blameworthy for my action.

But now suppose I haven't eaten all day (and that wasn't my fault!) My remark was driven entirely by my hunger.³⁷ Given *why* I've made the nasty remark, it seems unkind to criticize me or treat me as deserving such. Instead, you should give me a banana. Perhaps (but just perhaps) criticism of me would be *legitimate* in the sense that the target of my hunger is entitled to complain about it. But I'm surely not *morally deserving* of criticism.

So we have another distinction here. Criticism and blame are appropriate as responses to morally notable wrongs. But sometimes it's inappropriate to criticize or blame, even though you're entitled to. It's the height of banality to upbraid someone for something that's done by nearly everyone without thinking. And it's unkind to blame someone for a wrong driven by quirks we all suffer from.³⁸ If this is right, we can carve a useful distinction between wrongs which deserving of blame and those which are not.

It's crucial, though, to recognize that a wrong can fail to be deserving of blame without us losing our standing to blame them . If someone committed

³⁵ Angela is still completely responsible for her action, of course. What's happened is that the commonness of the action gives not only some kind of weak excuse, but rather a justification of her doing it, even though it violates a presumptive moral norm. See again Wallace (1998, ch. 5) for more detailed discussion of justifications and excuses.

³⁶ Again, there are cases where the common and pedestrian character of a wrong seems to excuse when it really does not. See the remark about about patriarchal norms.

³⁷ To be 'hangry' is to be angry by virtue of being hungry. I trust the reader is familiar.

³⁸ As Schafer (2016) points out, in relation to Hume's account of morality, it's often the case that the moral point of view says "don't be so damn slavish about morality". That doesn't mean that these aren't really wrongs; it means they're wrongs we shouldn't get so fussed about.

a wrong against us, then we have the right to blame and criticize them just in virtue of that fact.³⁹ Citing the fact that they committed that wrong is sufficient to justify our criticism of them. At least on the presumption that the criticizer has standing to criticize us. Yet, again, *having* a right is one thing, it being good to exercise that right quite another. Entitlement is simply weaker than worthiness.

It's helpful here to consider *prosecutability*. For someone to be prosecutable is for the state to have a presumptive right to prosecute them. It might, though, be the sort of right a judge ought to ignore. After all, it's often counterproductive for the state to prosecute someone, even though they have the right to.⁴⁰ So there's a clear difference between someone's action being 'prosecutable'—there being a presumptive right of the state to prosecute them for that action—and an action being 'prosecution-deserving'—it being reasonable or appropriate for the state to prosecute them for their action.

This difference is mirrored in the case of more "formal" norms like etiquette and the rules of games.⁴¹ We can have the right to criticize someone for being rude without having sufficient reason to exercise that right. Maybe they had good reason to be rude. We can have the right to punish someone by taking their points in cribbage because they've counted incorrectly without having good reason to do so. Perhaps they're a first time player and we're already going to win by a comfortable margin. Lacking sufficient reason to exercise a right doesn't destroy the right.

Which kind of countervailing reasons are these? All kinds. Sometimes they are prudential reasons, sometimes moral reasons, etc. There's prudential, moral, and politeness reasons to not run up the score in sports, for instance. But sometimes it's actually the standards of the game itself that weigh in on whether or not we should exercise a right. Compare Scrabble. I have the presumptive right to challenge a word placement at any time, but the goal of winning Scrabble gives rise to a set of reasons which direct me to avoid doing so unless I'm likely to obtain advantage by the move.⁴²

³⁹See (Graham 2014) for a useful defense of this idea—that violation of a requirement suffices, given standing, for someone to be liable to blame. His discussion, unfortunately, uses 'blameworthiness' where 'blame liability' would be better and his final analysis is much more restrictive. But his arguments work, *mutatis mutandis*, when these adjustments are made.

⁴⁰This suggests that the structure of legal reasons is tied to the explicit aim of the law: being a formal mechanism for ensuring and enforcing productive social tranquility. But the issue gets rather complicated rather quickly, so I'll put it aside here.

⁴¹I've explored these cases in my (2018). See also Dorsey (forthcoming) for useful arguments that we can blame even when someone's violation of a norm isn't morally bad.

⁴²See also the discussion of chess and chess norms in Maguire and Woods (2020).

Again, when someone has the presumptive right to blame me for something I've done, we can say that I'm *liable* to blame or *blame-liable*.⁴³ When there's sufficient reason for someone to blame me, we'll say that I'm blameworthy or deserving of blame. Neither of these conditions amounts to actually blaming me, of course. That's a further matter entirely.

We could complicate matters quite a bit here. Just a taste: there are lots of normative domains governing our lives. Morality, etiquette, prudence, justice, honor, perhaps even omerta. And each of these has a viewpoint about when we're deserving of blame. There can be sufficient moral reason to blame someone for a moral transgression without being sufficient moral+prudential reason to blame them. And so on, up to all things considered sufficient reason to blame. Our focus here is on being morally blameworthy, or not, for a moral transgression, but it's notable that we could get a range of interesting normative categories by considering other kinds of blameworthiness.

I don't pretend to have a particular explanation of what sufficient reason comes to. I'm happy to let others fight about that. But the distinction I'm pointing to clearly exists in the case of the law and formal norms and it would be surprising, given our actual lives, if it didn't exist for moral norms as well.

Characterizing Ordinary Wronging

I can now introduce my account of ordinary wrongdoing.

Ordinary Wrongdoing (first pass): common putative wrongdoing that is actually wrong—its commonness and pedestrian character doesn't undermine its wrongness—but which is not deserving of blame.

This means that an ordinary wrong is wrong and the agent is still liable to blame. But, still, no one should exercise their right to blame them.

Let's test this account by returning to Joe and Minu. Their outbursts don't seem like the kind of thing that is made permissible by their circumstances—. And it *does* seem like their victims are within their rights to criticize them for losing their cool. Yet if their victims knew the circumstances of Joe and Minu, then it also seems like it would be petty for them to exercise their right to criticize. So these intuitive cases of ordinary wrongdoing fit our account.

⁴³It may be that there's no actual person who can blame me. Perhaps this is because all actual people who would otherwise be in the position to blame me would be hypocritical for so blaming (see Todd 2017). In such cases, it seems sufficient that a hypothetical person would have the right to blame me. But we'll put such esoteric considerations aside here.

We need to address a slight complication. Consider how Joe’s victim sees Joe. They doesn’t know what a terrible day Joe had. They have *standing* to blame him, information or no. But it also seems like it *would* be appropriate for them to blame him since they don’t know all the relevant facts about why he did what he did. This is a general feature of blame—sometimes blame can be or seem reasonable because of a lack of information. It would be too complicated here to get involved in discussions about whether we can have reasons when we’re missing information or whether reasons are more independent of our individual epistemic positions, so we’ll finesse the issue by making use of “being blameworthy in the limit”: there being sufficient reason to blame or criticize someone when all the relevant information is in.

Ordinary Wrongdoing (second pass): common putative wrongdoing that is actually wrong—its commonness and pedestrian character doesn’t undermine its wrongness—but which is not deserving of blame when all relevant information concerning the wrongdoing is known.

This avoids our problem with Joe and other cognate cases. In actual practice, of course, the facts are so obvious that this refinement is unnecessary.⁴⁴

So we have characterized ordinary wrongdoing and shown that it’s non-trivial in the sense of containing interesting and common cases. The fact that we’ve wronged someone, even in an ordinary way, underwrites liability to blame. So ordinary wrongdoing is also non-trivial in the sense that ordinary wrongs have normative consequences.

Why is this important? After all, being liable, but not deserving of, blame means that people would be wrong to actually blame us. Yet as I’ve pointed out elsewhere (2016, 2018), it’s more than reasonable to care not only about being deserving of blame, but also about whether we’re liable to blame at all. It’s uncomfortable knowing that others *are within their rights* to criticize us, even if they shouldn’t. People don’t always act as they should.

So it’s a non-trivial normative status to be liable to blame and, consequently, committing an ordinary wrong is a non-trivial thing. Of course, it’s obviously better than committing a notable wrong. When we commit an ordinary wrong we have some defense against being blamed. We do not have a defense that

⁴⁴An even more nuanced account would take into account cases where lack of information about the case itself is itself culpable, analogously to the sorts of cases discussed by Rosen (2004). Again, this sort of complication does more harm than good for the point being made here.

undermines the force of the blame, though, since we did violate a moral norm. And we care about this quite a bit.

This might suggest a kind of moral fetishism. Why care if—on balance—we’re not blameworthy. Yet a bit of fetishism is sometimes good. Caring about doing good *de dicto* can keep us on the straight and narrow in a way that it would be difficult to do if we only cared about morality *de re*.⁴⁵

Are Ordinary Wrongs Morally Permissible Moral Mistakes?

In her 2016, Harman introduces the category of morally permissible moral mistakes and argues that some morally permissible moral mistakes aren’t wrong. Her characterization of moral mistakes is rough and ready, but the general idea is that a moral mistake is something we shouldn’t do where the reasons that “win out” in determining that we shouldn’t do it are moral reasons. Her claim is that there are things we are morally permitted to do which are, hand to god, moral mistakes, but they’re not morally wrong.

This might seem rather close to what I’m claiming. After all, being a moral mistake seems a putatively non-trivial normative category and these seem less wrong than what I’ve called above noteworthy or non-ordinary wrongs. Yet there are significant differences that are worth highlighting.

Her discussion is enmeshed in a number of contentious issues, such as the existence of morally super- and subrogatory actions, the objective/subjective reasons distinction, and so on, whereas my account takes no stand on any of these issues—in fact, my account is designed to support any number of stances one might take on them. A related and more important difference is that Harman’s discussion skirts issues of blame and criticizability.⁴⁶ Whereas blameworthiness (and liability) plays a constitutive role in our explanation of ordinary wrongdoing.

Our definition of blameworthiness is in terms of whether there’s sufficient reason to blame someone for their action. But the normative status of an action

⁴⁵As rule consequentialists have long suggested. See also Johnson King (forthcoming) for arguments that praiseworthiness for *de re* moral motivation implies praiseworthiness for *de dicto* moral motivation. Similar considerations hold for blameworthiness and caring about being blame liable

⁴⁶She briefly distinguishes these, claiming that some moral mistakes are morally criticizable but not morally blameworthy. I confess I have trouble with this distinction since (moral) blame simply is the appropriate form of criticism for moral transgressions. The best sense I can make of it is exactly my distinction between the entitlement to blame someone and that blame being appropriate or reasonable. See Cohen (2006) for a noble, albeit ultimately unconvincing, attempt to distinguish blame and moral criticism.

is distinct from whether or not there's sufficient reason to blame someone for it. This isn't true for blame-liability; if someone is liable for blame, they must have triggered that liability somehow by violating a moral requirement.

Since we've separated the normative status of wrongs from whether or not they're ordinary, the resulting view is independent of many views about the normative status of the action itself. All that's required is that we preserve the connection between someone having an entitlement to blame and an action being wrong *in any sense*. This is part of what's implicitly denied in Harman's account; for her, some actions are moral mistakes where blame isn't legitimate at all. This strikes me as a step too far. Once we abandon the connection between entitlements to blame and wrongness, it becomes increasingly murky how to identify what's wrong at all.

So ordinary wrongs aren't morally permissible moral mistakes in Harman's sense. This isn't to deny that there are morally permissible moral mistakes, but if there are, it's a separate thing from what we're exploring here.

Conventionally-Inflected Norms and Ordinary Wrongs

Now that we've developed our account of ordinary wrongdoing, we can put it to use. The main use I'll highlight is how reflection on the ordinariness of some wrongs helps with some standard objections to conventionally-inflected norms, such as the objection by Warnock mentioned above.

As above, we'll say that a set of norms is conventionally inflected when the fact that they're in force for us is substantially due to the fact that we treat them as normative for us or that some concept figuring in their content has its extension fixed in a directly conventional way (as with respect). Many if not most accounts of how conventionally-inflected norms work requires that we treat violations of them as deserving of criticism. For instance, in his seminal discussion, Lewis suggests that conventions become norms when we have a tendency to form negative opinions of someone, up to and including criticizing them, for failures of compliance (Lewis 1969, pp 97–100).

If Lewis is right, then many of the presumptive norms that we habitually violate wouldn't actually be norms. After all, we really don't form negative opinions of someone when they break norms in a banal way; that's largely obvious and well illustrated above by the cases discussed. It's very implausible that these aren't norms just because we break them all the time.

If our discussion above is right, the Lewis'ian view of conventionally-inflected

norms (and close cousins) cannot be strictly correct. Ordinary wrongs are *exactly* cases of wrongs where we tend *not* to blame or criticize the perpetrator. But our characterization of ordinary wrongs also suggests what's right about the claim that theorists like Hart, Lewis, and the like are making. They've simply confused being liable for blame with being deserving of blame.

To make this vivid, let's consider another account of conventional norms. Hart's account of conventional norms can be glossed like so:

A normative principle P is a norm within a group G if and only if:

- (i) A significant proportion of the members of G have P-corresponding normative attitudes; and
- (ii) A significant proportion of the members of G know that a significant proportion of the members of G have P-corresponding normative attitudes.

(Brennan et al 2013)

The objection we've been discussing to conventionally-inflected norms can then be made precise. It's the claim that the relevant P-corresponding normative attitudes are a disposition to blame and criticize violators of P combined with the fact that we often don't have these attitudes towards things which are intuitively wrong. Or, in the Warnock version, that we can have these attitudes without there being a corresponding rule. This forces us into a situation of either revolutionary revision of our normative intuitions or abandoning the rather plausible Hartian analysis of norms.

However, if we take the relevant P-corresponding normative attitude to be the recognition of the entitlement to blame or criticize a violator of P, then we're in the clear. Those cases where something is not even wrong, like cases where the common and pedestrian character of the wrong undermines its wrongness, are cases where condition (i) fails. But that's what we want; these aren't wrongs. And if someone pulled us up on our behavior, even if we generally recognized that I ought to have done otherwise, we can rightly reject their complaint.

Cases of ordinary wrongness are cases where (i) holds. We recognize the wrongness of ordinary wrongs, in terms of entitlement to blame, and we expect (ii) that others in our group largely do so as well. So the example of ordinary wronging shows us what's wrong with the standard analysis of conventionally-inflected norms and how to fix it.⁴⁷

⁴⁷This easily, obviously, and importantly generalizes to non-moral social norms.

Conclusion

Our lives are filled with wrongs. Just plain wrongs and evils are frustratingly common, but less remarkable wrongs are even commoner still. Yet normative ethics has paid scant attention to the mild and banal wrongs that fill up our days. I've attempted to start rectifying that gap here, giving an analysis of ordinary wrongs which draws on our reasons to blame, the notion of being liable to blame, and when the pedestrian nature of a putative wrong undermines its normative status. There's much more to be done, but I've started illuminating what I believe is a centrally important normative category.

Many have accepted, implicitly or explicitly, the claim that an action is morally wrong just in case it's blameworthy.⁴⁸ This claim is what leads Harman, for instance, to introduce the tenuous category of moral mistakes as a lesser form of moral wrongdoing. But the claim is mistaken. What's true, rather, is that an action is morally wrong just in case the perpetrator of the action is liable to blame.⁴⁹ Recognition of this not only salvages a useful account of conventionally-inflected norms, it gives a more nuanced and realistic account of the moral contours of our lives.

To return to our initial motivations, we now have a response to our parents. It would be a worse world⁵⁰ in which we treated people as deserving of blame for wrongs we all commit. Some sins are profoundly ordinary. And they should be treated accordingly.⁵¹

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⁴⁸Modulo some fiddling with whether or not we have standing to blame

⁴⁹Again, modulo some fiddling with whether or not we have standing to blame.

⁵⁰and a distant one!

⁵¹This points to a more linguistically oriented feature of ordinary wrongdoing; it's often pragmatically infelicitous to point out someone's wrongdoing when it's profoundly ordinary. This is because pointing out wrongdoing functions pragmatically as type of sanction—since we generally care quite deeply about morality and presume such of others. This fact, though no part of the analysis, is nicely predicted by it and functions as further confirmation of the non-triviality of ordinary wrongdoing.

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