

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. These acts are surely not evil, but it's puzzling whether we can treat them as wrong at all. 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 remarkable sense, and from actions which aren't even wrong, even though they look initially to violate some rule or another. Doing so in a useful and explanatory way is the more concrete task of this essay.

Distinguishing wrongdoing from evil has received a good amount of attention in the literature.³ Distinguishing ordinary wrongdoing from standard wrongdoing and from what's not even wrong has been neglected.⁴ One notable exception is Harman's recent (2016) discussion of morally permissible moral mistakes.

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

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

³Recent useful work includes Garrard (2002), Steiner (2002), de Wijze (2002), Russell (2007), and Liberto and Harrington (2016)

⁴A notable exception is Smith's (2007) discussion of the ethics of blame. 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.

However, she holds that many of these moral mistakes aren't morally wrong. So she's not quite characterizing the same phenomenon that I am (see below.)⁵

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 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 exactly because of everyone else's behavior. As we all know.

More seriously, some normative standards, such as those governing respect, seem partially constituted by conventional patterns of behavior. There's a moral standard to show respect to others, for instance, and our conventions determine what counts as respectful.⁶ 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, though, we typically don't treat it as notable or level criticism for violations. But how can standards we don't actively enforce or only enforce haphazardly be normative standards? How can they be normatively significant?

So, if divergence is common enough, and it certainly seems to be, then either our conventions governing things like respect are very different from what we think they are or respect isn't conventionally-inflected. Neither horn here 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).⁷ But conceding this worry conflicts 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, as with much ordinary wrongdoing, we can make sense of how some conventionally-inflected actions can be wrong even though we habitually engage in them, we can put this hackneyed worry to bed. Habitual violation and lack of enforcement is only a problem for conventionally-inflected standards 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.⁸ Since these come

⁵A more relevant discussion for my purposes is Schafer's (2016) discussion of Hume's account of the moral point of view. Again, and again, more below.

⁶There's also an 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 Redacted for discussion.

⁷This problem is related to Warnock's (1971) "attitudes over-generate rules" objection to Hart's social practice theory of law. See also Raz (1975, ch. 2). We can solve both more or less the same way. See also Todd's (2017) discussion of whether someone can be blameworthy at all in cases where everyone breaks the rules.

⁸It would also help with a related worry; if our attitude to conventionally-inflected norms

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.⁹ 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 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.¹⁰ 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.¹¹ Call actions that everybody performs *common actions*. Some common actions are worthy of criticism and some are not.¹² It's tempting, as a first pass, to identify ordinary wrongdoing with common actions which are wrong (so they're not excused by their commonness) but which have some other property which suggests that we shouldn't blame people for them.

The fact that we treat 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 and, importantly, whether or not it is really excused by this fact. For a heady example, consider violations of bodily autonomy which are common, but still fairly egregious. Patriarchal society gives us the nod to ignore these, but we often

is 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 at all. What's essential is that we recognize that they're norms when the question is called. Thanks to Red₁ for discussion.

⁹To 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 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.

¹⁰These vary from place to place, of course. I was raised Catholic.

¹¹See 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).

¹²I'll often use 'worthy 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)).

shouldn't do so. It's still legitimate and often appropriate¹³ for the wounded party to complain, for all we might not recognize it. Similarly with persistent misgendering.¹⁴

For a non-heady example, consider extremely minor breaches of contract. Legally, and I dare say morally, 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. Still, we seem to treat these cases as ones where the wrong is excused, even though it shouldn't be. Yet another task of this essay is to make plausible that we've often confused cases of exculpation with cases of non-exculpation of actions that are otherwise worth ignoring. Sometimes the fact that everyone does something simply isn't an excuse.

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 *worthy* 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 criticism would be appropriate or reasonable.¹⁵ 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 work 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

¹³And, of course, the point of this essay is exactly that I didn't just stutter.

¹⁴Thanks to Red₂ for useful discussion of this and related points.

¹⁵The distinction between evincing blame and treating someone as blameworthy is delicate. I don't address it here for reasons of space.

appropriateness—of leveling punishment. Many (though not all) legal systems recognize this fact and allow discretion for judges, magistrates, and other officials to not press charges even when they have an entitlement to do so.

Much moral criticism functions similarly. Breaking a promise which is difficult to keep *in the best possible way* makes one liable for criticism, but it doesn't yet follow that I'm morally worthy of criticism (Woods 2016). I may have done the best I reasonably could have. Or maybe I've just done enough to raise my promise breaking to an unremarkable level. 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.

In fact, such wrongs are non-trivial exactly because they're sufficient to underwrite liability to moral criticism. Yet, again, some such wrongs are such that others *morally should not* criticize us. This might suggest we can safely ignore such wrongs, but this would be a severe mistake. Safety balanced on the back of the rationality of others 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.

This is the solution to the problem sketched above for conventionally-inflected standards. 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 in so leveling. 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, asshole, or Karen they might be by so doing.

In my terms, we're liable for, but not worthy of, sanction for ordinary wrongdoing in many such cases. 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 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 go on to limn the category of ordinary wrongs by marking out the distinctions mentioned above, setting an upper and lower bound on ordinary wrongdoing. We'll then turn to non-triviality. I'll argue that sometimes some-

one has a right to criticize someone, even though on balance they shouldn't.¹⁶ This will undergird the non-triviality of ordinary wronging 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. After some discussion of Harman's (2016) view, I'll close by developing the application of this conceptual machinery to the question of conventional standards.

Before turning to ordinary wrongs, though, we will 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 do not get clear on how to understand blame talk here.¹⁷

Blame, Blameworthiness, and Blame liability

In her excellent 2007, Smith distinguishes between three notions of holding someone responsible for something. First, when we say we hold someone responsible for something, we sometimes mean that they are open to moral appraisal for their action. Second, we sometimes mean that we take them to be open to moral criticism or blame for their action. Third, we sometimes just flatly mean that we blame 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. So we usually require that someone be the source, in some way that's quite hard to pin down, and that they intended in some way to perform the target 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 to me here is the distinction between taking someone to be open to moral criticism and actually blaming them. And, as I'll suggest shortly, of something in-between these two.

When we hold someone responsible in the sense that we take 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 that appraisal to be that there's sufficiently important wrongdoing to justify

¹⁶The idea that having a right to blame or criticize someone comes apart from someone being worthy of criticism has been a theme of much of my recent work. See Woods (2016, 2018) and Maguire and Woods (forthcoming). See also Dorsey (forthcoming).

¹⁷As Smith (2007) notes, blame and blameworthiness are thoroughly muddled notions in philosophy to begin with. This makes it doubly important to not give the wrong idea.

us blaming them.¹⁸ 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, the one which includes both (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 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

¹⁸We might have reasons to avoid blaming the blameworthy on other grounds, of course. Like politeness or prudence.

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.)

When we judge that someone isn't deserving of blame because of features of them, not features of us, then I hold us to be judging them not worthy of blame or, rather, blameworthy.¹⁹ As Smith's discussion shows, this need not mean that they're not culpable (though sometimes they might not be). What it shows is that we have substantive reason to not exercise any standing we have 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 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. Which I will attempt to do below.

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.²⁰ 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.²¹ 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

¹⁹There'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.

²⁰Thanks to Red₃ for emphasizing that I need this fact as part of the case to avoid us making a judgment on his character.

²¹Note 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.

said that he shouldn't be criticized for his behavior (at least if the circumstances are known.) We need to be careful here 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.²² 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.²³

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. To see why, let's look at another case of ordinary wrongdoing.

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 though; he's used to Minu losing her temper after a hard day when he's absent minded. Of course, 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.²⁴ 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.

Our lives are full of such common and ordinary wrongs. We could multiply

²²We could weaken the condition—a putative wrong is excused if the agent would not have intended the wrong in conditions of control and fuller information. But this is so weak as to excuse lots of intuitively wrong action.

²³See 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.

²⁴I 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.

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 wronging and from cases which aren't even wrong? We turn to this question now.

Before we do so, though, a caveat. There will be much disagreement on the ground about what constitutes an ordinary wrong as opposed to something which isn't even wrong. I'm tempted to count extremely minor infidelities, petty theft from major corporations, minor cruelties, and an occasional broken promise among ordinary wrongs. Many will disagree. I don't have a worked out account of which or, even, if any of our views here would be right.²⁵ This is alright; all that's necessary for me is that there's a non-trivial category of ordinary wrongs, even if the borders are a bit indeterminate.

Explaining Away Common Wrongs

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. 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 was recently ticked the "I've read the above and agree" box while installing an application when she hadn't actually read the agreement. Beyond any legal culpability issues, it doesn't seem wrong for Angela to have done that. It's just too pedestrian and common.²⁶ Moreover, the pedestrian character of Angela's action seems to be at least partially explanatory of why it's wrong.²⁷

So we have here a pair of common actions, one of which is at least slightly wrong and the other of which isn't even. What's similar about the two cases?

²⁵In a more pugnacious mood, I'd suggest there won't be such an account since this distinction is heavily dependent on context and our particular views of right and wrong.

²⁶The reader might worry that it's the 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.

²⁷It'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.

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 against lying for minor personal gains (here, Angela's time.) Both are cases that happen frequently.²⁸ Both are cases which are motivated by the personal interests of the agent. And both are cases where many people wouldn't bother to criticize the agent for committing the wrong.

So what's different about the cases? Well, besides the fact that what Oğuz did was wrong and what Angela did was not, there are differences in how they can defend themselves.²⁹ 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.³⁰

I don't pretend to have an answer to why this is. 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.³¹

This difference distinguishes between common actions which are wrong and some of those which are not. Many common actions will not be wrong for other reasons, but there are those, like Angela's action, which violate a presumptive moral norm, yet which aren't wrong.³² 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 in-

²⁸Admittedly, the second is far more common than the first, but that doesn't seem that relevant. They're both very common.

²⁹See 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.

³⁰Note 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.

³¹Some 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 with my discussion since it would simply amount to a further explanation of why the commonness justifies in the one case but not the other.

³²Angela 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.

souciance with respect to agreements is a putative common wrong which is not even wrong and what explains that is, at least in the large, how common it is.³³ 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, 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.³⁴ 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 worthy* 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.³⁵ If this is right, we can carve a useful distinction between wrongs which worthy of exercising our entitlement to blame and those which are not.

It's crucial, though, to recognize that a wrong can fail to be worthy of blame without us losing our standing to blame them. If someone committed a wrong against us, then we have the right to blame and criticize them just in virtue of that fact.³⁶ That is, 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 a

³³Again, 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.

³⁴To be 'hangry' is to be angry by virtue of being hungry. I trust the reader is familiar.

³⁵As 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.

³⁶See (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.

good thing 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.³⁷ 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-worthy'—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.³⁸ 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.³⁹

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*.⁴⁰ When there's sufficient reason for someone to blame me, we'll say that I'm blameworthy. Neither of these conditions amounts to actually blaming me, of course. That's

³⁷This 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.

³⁸I've explored these cases in Redacted. See also Dorsey (forthcoming) for useful arguments that we can blame even when someone's violation of a norm isn't morally bad.

³⁹See also the discussion of chess and chess norms in Maguire and Woods (2020).

⁴⁰It may be that there's no actual person who can blame me. Perhaps this is because all actual people who would be in the position to blame me would be hypocritical to blame me (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.

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 worthy 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 unbelievably 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): putative wrongdoing that is actually wrong—commonness and pedestrian character doesn't undermine its wrongness—but which is not worthy of blame.

As I said above, the fact that an ordinary wrong is wrong means that the agent of the ordinary wrongdoing is still liable to blame. But, still, no one should exercise their right to blame them.

Let's return 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 they knew the circumstances of Joe and Minu, then it also seems like it would be petty for them to exercise this right. So these intuitive cases of ordinary wrongdoing fit our account.

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 certainly 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.

To finesse it, we'll replace our use of being blameworthy in our account with being blameworthy in the limit: there being sufficient reason to blame or criticize someone when all the relevant information is in. This avoids our problem with Joe and other cognate cases.

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

In actual practice, the facts are often so obvious that this refinement becomes unnecessary.⁴¹

So we have characterized ordinary wrongdoing and shown that it's non-trivial in the sense of containing interesting and common cases. It's also non-trivial in the sense that ordinary wrongs are still wrong and in light of that, the fact that we've wronged someone, even in an ordinary way, underwrites liability to blame.

Why is this important? After all, being liable, but not worthy, of blame means that people would be wrong in a sense to actually blame us. Yet as I've pointed out elsewhere Redacted, we often care not only about being worthy 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, after all.

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 more noteworthy wrong. At least when we commit an ordinary wrong we have some defense against being blamed. We do not have a defense that undermines the force of the blame, however, since we did actually violate a moral norm. 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

⁴¹An 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.

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*.⁴²

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.⁴³ 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 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

⁴²As 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

⁴³She 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.

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 category from the one 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 want to highlight is how reflection on the ordinariness of some wrongs helps with some standard objections to conventionally-inflected norms.

We can say that a set of norms is conventionally inflected when the fact that they're in force for us is largely due to the fact that we treat them as normative for us. Many if not most accounts of how conventionally inflected norms work requires that we treat violations of them as worthy 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 though that these aren't norms just because we break them all the time.

If our discussion above is right, this view of conventionally inflected norms cannot be 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 worthy 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. 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 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.⁴⁴

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

⁴⁴This easily, obviously, and importantly generalizes to non-moral social norms.

status. There's much more to be done, but this is a start at illuminating what I think 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.⁴⁵ 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.⁴⁶ 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 world⁴⁷ in which we treated people as worthy of blame for wrongs we all commit. Some sins are profoundly ordinary. And they should be treated accordingly.⁴⁸

⁴⁵Modulo some fiddling with whether or not we have standing to blame

⁴⁶Again, modulo some fiddling with whether or not we have standing to blame.

⁴⁷and a distant one!

⁴⁸This 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.