

Into the Frying Pan: The Nature of Excuses

1. Introduction

Excuses are commonplace. They are part and parcel of our ordinary practice of holding each other morally responsible. But excuses are also curious. They have normative force. Whether someone has an excuse for something they have done matters for how it is rational to respond to their action. For example, an excuse can make it rational to forgo blame, to revise judgments of blameworthiness, and to feel compassion and pity instead of anger and resentment.

The considerations we appeal to when making excuses are a motley bunch: tiredness, stress, various distractions (a looming work deadline, a wailing infant), poverty, duress, ignorance. What unifies these various considerations as a class? In virtue of what can they all excuse? This paper aims to answer these questions: what the normative power of excuses consists in, what explains it, and how far it extends.

Moral philosophers have been largely reticent on the nature of excuses. Excuses have been, for the most part, relegated to quick remarks and footnotes in the pursuit of necessary and sufficient conditions for when an agent is to blame.¹ But given their central place in our moral practice, excuses are worth examining in their own right. In particular, an account of excuses should tell us how and why excuses differ from related normative phenomena that inhibit blame, those of justifications and exemptions. Finally, a better understanding of the nature and function of excuses may well give us another vantage point from which to examine the nature and function of blame.

The paper divides in three parts. Sections 2-3 examine an influential and promising account of excuses, put forward by Wallace. I will sketch the account and the motivations for it before arguing that it is limited in several

¹ Notable exceptions are Austin [1957], Wallace [1994], Baron [2007], Kelly [2013].

ways. Section 4 develops and defends an alternative: the Moral Intention Account. Sections 5-6 take up the relationship between excuses and moral responsibility.

A few clarifications before we start. To excuse can refer to an action: we excuse and ask to be excused. But we also say that someone has an excuse, that they are looking for an excuse, that they are offering an excuse, that something is (or isn't) an excuse. Used in this way, excuses refer to facts or considerations. My focus here will be on excuses in this latter sense because I take it to be more basic. We ask to be excused by offering consideration that we take to constitute an excuse. We excuse someone insofar as we accept that the offered considerations constitute an excuse.

The second clarification is this. We often talk dismissively about people "making excuses" when we want to say that they are offering bad excuses. In what follows I will assume that a consideration is an excuse only if it in fact excuses. Thus, to make a "bad excuse" is to offer something as an excuse that is not a genuine excuse.

Third, a caveat. We make excuses for a broken promise but also for breaches of etiquette, for criminal offenses, for violations of professional norms. More recently, epistemologists have become interested in epistemic excuses – excuses for coming to have false beliefs.² In this paper, I focus squarely on excuses in our moral practice, leaving the question whether we can extend the account to other domains to future work.

2. The Obligation Account of Excuses

I will begin with an influential account of what excuses are and how they work. In general, we are to blame when our actions have violated a moral norm or obligation. According to a popular line of thought, excuses can render blame inappropriate in virtue of showing that we have not in fact

² See [removed for anonymous review].

violated the moral norm in question – contrary to how things may seem. I will call this account the Obligation Account.

The Obligation Account has been most fully articulated and defended by Wallace.³ Wallace argues:

...excuses function by showing that the agent did not really violate the moral obligations we accept after all. [...] To hold s morally responsible for x, when an excusing condition obtains, would involve the false belief that s's x-ing violated a moral obligation we accept; this gives us a reason for not holding people to blame when the excusing conditions are present.⁴

Why do excuses show that the moral obligation in question was not violated? Considerations that serve as excuses often appeal to the accused wrongdoer's mental states at the time of action: to what she intended, believed, attended to, noticed, etc. How could these mental states bear on whether the agent violated a given moral obligation or not?

Wallace accepts an account of moral obligation on which our obligations govern first and foremost our choices. Moral norms do not tell us what to do but rather what to choose. The agent's mental state at the time of action bear on which particular choice the agent took. As Wallace argues:

...it is only through the mediation of our choices that the reasons expressed in moral principle may influence either our emotions or feelings, or the bodily movements we make. This means that one can be said to have complied with a moral obligation only

³ Wallace [1994]. Hieronymi suggests a similar picture of excuses. Hieronymi argues that blame involves three judgments: (1) that the action is wrong, (2) that the wrongdoer is a member of the moral community, and (3) that You, the one who has been wronged, ought not to be wronged. Like Wallace, Hieronymi, too, regards a denial of (1) as an excuse. Unlike Wallace, she also classes the denials of (2) and (3) as excuses. See her [2001], p. 530.

⁴ Wallace [1994], p. 133-34.

when there is present a relevant quality of choice. [...] Similarly, one cannot be said to have *violated* a moral obligation in the absence of a relevant choice.⁵

Insofar as our moral obligations concern actions, they concern intentional actions: actions that were done as a result of a choice. Again, Wallace says:

More formally, one may say that moral obligations generally rule out doing actions of kind *x*, as a result of the choice to do something of kind *x*.⁶

The Obligation Account is simple and elegant. One of its virtues is a compelling explanation for why excuses shield an agent from blame. If blame responds to violations of moral norms and an excuse shows that the norm wasn't violated, then blame is undeserved. To continue to blame someone, while accepting their excuse, would be irrational.

Furthermore, it can seemingly accommodate the wide range of consideration to which we appeal when we make excuses. Different considerations bear on the nature of the choice taken by the agent. In particular, we can distinguish two types of excuses: first, there are those considerations that show that the agent has simply not made any choice at all. And since she did not make a choice, she could not have made a choice that runs afoul of a moral obligation. These considerations show that there is

⁵ Wallace [1994], p. 132, highlight in original.

⁶ *ibid*, p. 144. This view is shared amongst others, by Herman. In her [1993], p. 169, she argues:

The necessity that comes with an obligatory end constrains not action but the will. The obligatory end of mutual aid requires that I attend to need. I am to acknowledge its claim on my actions and resources and accept a deliberative constraint or presumption on my maxims where there is a valid claim of need.

a sense in which the agent has not really acted: for example, she didn't step on your foot – she had stumbled or was pushed. As Wallace argues:

...if one does x as the result of being pushed, or because of a muscular twitch or spasm, then one hasn't really acted at all...

The second type of excuses are considerations that concede that the agent made a choice but not the choice she stands accused of making. Her actual choice is compatible with her moral obligations. Wallace continues:

...if one does x inadvertently, or by accident, then – though one may have acted – one didn't do x intentionally; and if one does x as a result of coercion or duress, then – though one may have done x intentionally – one hasn't merely done x intentionally, one has done x-rather-than-y.⁷

Yet another virtue of the Obligation Account is that it can explain why so many of our excuses appeal to one's having done an action unintentionally. After all, the paradigm of an excuse takes the form of "I didn't mean to...", "I didn't realize...", "It wasn't my intention..." Again, this is unsurprising, given that there is a close connection between what we do intentionally and the choices our actions express. To dispute that an act was intentional is to dispute that the morally illegitimate choice was made. And so, it is to dispute that a moral obligation was violated:

...the importance of intention lies in determining whether agent s has really done x, a morally impermissible act, in the first place. If the moral expectations we place on other people are primarily expectations concerning their attitudes toward us and others, as manifested in action, then what will be prohibited and required of people will not be types of bodily movement per se, but rather the attitudes expressed in bodily movements.⁸

⁷ Wallace [1994], p. 121.

⁸ Wallace [1994], p. 126.

The Obligation Account looks appealing: it vindicates that the considerations that can comprise excuses are a diverse bunch. At the same time it identifies an underlying unity: they are all excuses in virtue of showing that the agent did not violate her moral obligations. The resulting picture – that excuses deny that there has been an action that violates a moral norm – resonates even with those who may not share the Kantian allegiances that inform it.⁹

3. Problems with the Obligation Account

The Obligation Account has some appealing features. But I will argue that it is ultimately unsuccessful. Its central thought is that excuses negate *wrongdoing*: their function is to show that an agent has not violated her moral obligations. In what follows, I raise three challenges to this account. My aim is to motivate the search for an alternative account of excuses as well as bringing out some important features of excuses that it needs to accommodate.

The first challenge for the Obligation Account is how to make sense of the idea that excuses come in different strengths. Someone can have a better or worse excuse for a particular action. The Obligation Account runs into trouble here because whether you have violated an obligation or not is a simple yes-or-no affair.

The Obligation Account can accommodate the idea that excuses are partial. Partial excuses work not by showing that you violated a different obligation from the one you stood accused of. If you did not believe that the sugar bowl contained poison, you are not to blame for murdering Smith because you did not intentionally poison him. But you may still be blameworthy for something else: your reckless decision to store poison in

⁹ See, for example, Rosen [2008], p. 609.

the kitchen cupboard, despite knowing the risks involved. If so, you only have a partial excuse.

But we can ask how good someone's excuse is, even when we hold fixed which obligation was violated. You can offer different excuses for why you told a lie – you were under huge pressure and couldn't face telling the truth, you were caught in a moral dilemma, you didn't realize how important the matter was. Some of these excuses strike us as stronger than others. I am inclined to be less resentful if you were facing a moral dilemma, than when you simply didn't quite realize how consequential the lie would be.

The Obligation Account could insist that weak excuses are ultimately partial excuses; we have to individuate obligations very, very finely: we have an obligation not to lie when clear-headed and well-informed, an obligation not to lie in moral dilemmas, an obligation not to lie when stressed, an obligation not to tell lies we believe to be inconsequential...

There is an obvious cost to this strategy. It is odd to think that obligations are fragmented in this way. Second, to be a partial excuse, a consideration must show that in violating a different obligation, the agent committed a *lesser wrong*. But is lying when stressed really *less wrong* than when one is clear-headed?

The Obligation Account faces a second challenge: to distinguish excuses from consideration that forestall the need for excuses. Recall that according to Wallace you can have an excuse in virtue of not having really acted, and so not having made any choice. But the fact that a consideration shows that an agent has not acted does not make it an excuse. Suppose in an attempt to commit a perfect crime, you drug me unconscious, wrap my fingers around a gun, and pull the trigger, killing the victim. Since I was unconscious, I did not exercise my capacity for choice. I didn't act in any way. But it would be very odd to suggest that this gives me an excuse for the

killing. Since I didn't act, I didn't kill. And so I don't need an excuse. It's the murderer who needs one.

The third challenge is to give a principled distinction between excuses and justifications. Recall the second type of excusing considerations: those that show that the agent's underlying choice did not violate a moral obligation. Wallace suggests that this is how appeals to duress work:

[Excuses appealing to duress work by] showing that agent's doing x actually expressed a different kind of motive: not merely a choice to do x, but a choice to do x-rather-than-y, or x-in-order-to-avoid-y. [...] Whether an explanation of this form will serve as an excuse will then depend on the content of our moral obligations-in particular, whether they prohibit intentionally doing x-rather-than- y.¹⁰

When your choosing to do x-rather-than-y (or x-in-order-to-avoid-y) is permissible, you have an excuse.

But this does not seem right. If, given your circumstances, it was genuinely permissible to take the choice you did, we do not invoke duress. Rather, we say that your action was justified. Thus, suppose a villain puts a gun to my head, threatening to kill me unless I compliment his sweater. The sweater is hideous, yet I oblige: I tell a lie. Given the circumstances this is not merely a regrettable yet understandable choice on my part; rather it's permissible. The fact that my course of action is justified, however, forestalls the need for excuses. What is justified need not an excuse.

Because the Obligation Account collapses the distinction between excuses and justifications it has trouble accounting for the fact that agents can have an excuse even when they clearly acted impermissibly. Consider someone who, subject to police intimidation, gives false testimony in court – testimony which leads to the conviction of an innocent person. We can fill in

¹⁰ Wallace [1994], p. 144.

the details to make it plausible that the action was impermissible: the interrogation is distressing but not physically abusive, the threats made by the police are serious and would make life difficult but not as difficult as spending years and years behind bars. The agent ought not to have given in to the police intimidation; in doing so, she acted wrongly. Nevertheless, we can still see the fact that the false testimony was given in the context of a problematic interrogation is an excusing factor.¹¹

Let us take stock. I have argued that the Obligation Account is inadequate in several ways. It cannot account for the structure of excuses: the fact that they come in different strengths. It fails to distinguish excuses from justifications. And the Obligation Account has difficulties accommodating excuses such as tiredness, stress, or other emotional turmoil, which plausibly do not bear on what moral obligations the agent has, nor prevent the agent from making choices and acting intentionally.

Can we diagnose why the Obligation Account runs into these difficulties? I think the Obligation Account is correct in honing in on the nature of the agent's choice at the moment of action as what grounds excuses. Where it goes wrong is in its explanation of why the nature of choice matters: namely, because it bears on whether the agent has really violated her moral obligation. Recall that what is doing the work here is Wallace's assumption that our moral obligations concern first and foremost our choices. Actions are impermissible derivatively, in virtue of manifesting impermissible choices. I have conceded this assumption for the sake of argument. It's time to give it a closer look.

Accounts of moral obligations on which these concern choices, not actions, face a general challenge in finding conceptual room for a notion of excuses that's distinct from justifications. This is because the notion of

¹¹ Rosen [2014] discusses cases of duress, where there is no question that the agent acts wrongly but is nevertheless excused.

excuses require the possibility of moral failure that does not reflect badly on us qua moral agents. We need excuses because, as creatures with limited resources, we are not always in a position to comply with what we are required to do. In other words, excuses require that there is a gap between what I ought to do and what, in a given situation, I can do.

But a key motivation for views of moral obligation on which obligations concern choices is precisely to close this gap between the “ought” and the “can”. We may not, for example, be always be in a position to do what we have promised to do, but we are always in a position to choose. This makes it difficult to see how we could have failure to comply with moral obligations that does not necessarily reflect badly on me as an agent.

I will assume that our moral obligations govern first and foremost actions, not choices. I believe this is well-motivated, independently of the project at hand. An account of moral obligations needs to mesh with those moral practices that give rise and modify them: promising, giving consent, etc. By promising you to do something, I am placing myself under a moral obligation to do it. When I consent to your doing something, I waive your moral obligation to refrain from it. In light of this, it is reasonable to expect that the content of our moral obligations will mirror the content of what we promise and consent to.

But what we promise and consent to are actions, not choices. We consent to being operated on or hugged. We promise to buy milk on the way home, to pick up the child from nursery, to visit soon. We would be rightly suspicious if our partner or friend phrased their promise in terms of choice rather than action: “Fair enough, you promise to choose to pick up the child. But do you also promise to pick up the child?”

With this on the table, let me turn to the task of developing an alternative account of excuses.

4. The Moral Intention Account

I have argued that excuses come in play when the agent has acted wrongly: when she has violated some moral norm or obligation. If excuses do not negate the charge of wrongdoing, they must negate some other moral criticism that can be inherent in blame. I suggest that excuses are considerations that acknowledge that wrongdoing has occurred but deny that it resulted from a specific motivational failing: namely, the lack of moral intention. Call this the Moral Intention Account.

Let me first unpack the account, starting with intentions. Following Bratman, Harman, Holton and others, I take intentions to be mental states characterized by their distinct functional role in action and planning.¹² One of their marks is their *stability*: unless they are reconsidered and revised, intentions, once formed, tend to persist. A second is their close connection to action. Intentions, Bratman argues, are *controlling*: unless revised, they will directly lead the agent to action.

What is distinctive about *moral* intentions? Moral intentions are distinguished by their content: to abide by one's moral obligations – to avoid wrongdoing. We abide by our moral obligations by keeping our promises, respecting other people's consent, not being a jerk. Thus, we can have moral intentions in virtue of having intentions to keep our promises, to avoid violating consent, to not act like a jerk. To have such moral intentions, the agent needs to be able to employ moral concepts: she needs to have a grip on what promises are, on what it is to be fair, just, kind, cruel, jerk, as well as the thin terms "right" and "wrong". This is not to say that she needs to be perfectly reliable, but she does need basic competence. In particular, she

¹² See Bratman [1984], Holton [2009], Harman [1986]. One ongoing debate is whether intentions can ultimately be reduced to beliefs and desires. I will not enter into this debate here but refer the interested reader to Bratman's work for a sustained argument why we should posit intentions as distinct states.

cannot be systematically in error about their extension. Someone who is across the board profoundly misguided about what is good, fair, just or wrong is not in a position to have the relevant moral intention.¹³

Intentions can be both future- or present-directed. Future-directed intentions concern our future plans for action. They commit us to a particular plan of action, closing off further deliberation about whether to engage in it. In this way, they facilitate planning, both inter- and intra-personal. Present-directed intentions concern what to do *right now*; they guide action in the moment.¹⁴

The relevant kind of moral intention for excuses is a present-directed moral intention. This is because when it comes to excuses, we do not care about what the agent's general or future-directed intentions are, we care about her motivation at the very moment of her action. If you have lied to me about some important matter, it is of little consequence whether you are

¹³ Here I depart, from the line taken, amongst others, by Arpaly & Schroeder [2014], p. 184-85. According to Arpaly & Schroeder we can attribute to you the intention to do the right thing even if your conception of rightness has it be a matter of "maximizing the beauty of ducks". I disagree. It's true that such an agent may well mistakenly self-ascribe an intention to do the right thing. But the content of her desire is not settled by her idiosyncratic use of language: what she actually intends is to maximize the beauty of ducks. Similarly, someone who takes "chocolate ice cream" to refer to a medium rare steak, may well say that they desire a chocolate ice cream. But what they actually desire is a medium rare steak. When it comes to the content of an agent's desire or intention, self-ascription is not authoritative.

¹⁴ See Bratman [1984], Holton [2009], pp. 12-14 for discussion of present-directed intentions.

generally committed to being truthful.¹⁵ What I am interested in is what was going on when you decided to tell this particular lie.

How do we acquire present-directed intentions? One way is by engaging in conscious deliberation about what to do at the moment of action. But we can also acquire them simply in virtue of having the relevant standing, future-directed intention. As Holton notes:

...if intentions are thought of as enduring states, then, for almost all intentions, there will come a point at which they are to be implemented. In that sense, then, they will be intentions to perform an action now. A future-directed intention will simply turn into a present-directed intention with the passage of time.¹⁶

This, I hope, gives us an initial grip on the basic ingredients of the Moral Intention Account says. It suggests that excuses are considerations that show that, while the agent has violated a moral norm or obligation, the violation is not to be explained by a lack of a present-directed intention to abide by her moral obligations. The agent acted wrongly despite such an intention.

The next step is to put it to work. I argue that it gives us a unified account of excuses, that it allows for excuses to differ in strength, and that it distinguishes justifications from excuses. In doing so, my aim is both to expound the virtues of the Moral Intention Account and to fill in its details.

¹⁵ The reasons here are parallel to those for which character-based accounts of excuses are generally taken to be inadequate. The view that good character excuses is attributed to Hume. See David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford: Oxford University Press, 1960), book II, part III, sec. II; and David Hume, *An Inquiry Concerning Human Understanding*, ed. Charles W. Hendel (Indianapolis, Ind.: Bobbs-Merrill, 1955), sec. VIII, part II. For a detailed criticism of this proposal, see Sher [2006], particularly Chapter 2.

¹⁶ Holton [2009], p. 13.

Unifying Excuses

The Moral Intention Account gives us a unified account of excuses. Consider one of the central ways of making an excuse: “I’m so sorry, I didn’t mean to offend,” or “I didn’t intend to give away a secret – I thought this was common knowledge,” or “I was just trying to...”. They take the form of an appeal: yes, I did act wrongly – I broke the promise, gave away the secret, caused the offense – but my doing so was unintentional.

On the Moral Intention Account, it’s no mystery why one’s wrongdoing being unintentional constitutes an excuse. This is because to say that our wrongdoing was unintentional is to say that it is compatible with the agent’s having been guided by a present-directed intention to avoid wrongdoing.

To see this, consider Jones who stirs a heaping spoonful of poison into Smith’s tea. Take first the case, where he does so intentionally and in full knowledge that it’s wrong. Perhaps, he owes Smith some money he does not want to pay back. It’s clear that, in these circumstances, Smith’s action manifests a lack of present-directed intention to avoid wrongdoing. After all, a mark of intentions is that they are controlling. Thus, given that his knowledge of the wrongness of what he is about to do, such an intention would have prevented him from pursuing the morally impermissible course of action.

But now consider that Jones’ wrongdoing is unintentional. Perhaps, he knows that poisoning anyone, Smith included, would be wrong but he does not know that he is poisoning Smith; he has every reason to believe that white powder is sugar. In this case, Jones’ action, whilst wrong, is compatible with his acting on a present-directed moral intention. His intention to avoid wrongdoing remained ineffective because of a straightforward factual error about the content of the sugar bowl. His wrongdoing resulted from a mistaken belief, not from a lack of present-directed moral intention.

Jones' wrongdoing could be unintentional in a second way. Suppose Jones knows he is poisoning Smith but mistakenly takes himself to be acting permissibly. Perhaps, Smith has been threatening Jones and Jones, seeing no way out, resorts to desperate measures. He takes himself to be acting in self-defense but he has misjudged the proportionate response. In this case, too, the Moral Intention Account allows that Jones' false belief may constitute an excuse. Given his mistake, his action is compatible with his intending to avoid wrongdoing at the relevant moment.

The Moral Intention Account thus allows that "pure" moral ignorance – moral ignorance that does not derive from ignorance about the underlying non-moral facts – can constitute an excuse. This is a controversial claim.¹⁷ To defend it would lead us too far away from the topic at hand, so I have to leave this for another paper.¹⁸ So let me here just note two things. First, there are alternative ways of developing the Moral Intention Account that will not imply that "pure" moral ignorance can excuse.¹⁹ Second, while, on the Moral Intention Account, some instances of "pure" moral ignorance will excuse, the account is by no means committed to all such instances constituting an excuse. This is because such ignorance may itself be the result of a lack of a present-directed moral intention. Its lack may explain why you have not thought through the issue more carefully, why you haven't sought out moral advice, or looked for more evidence.

The Moral Intention Account thus explains why we so often make excuses by saying "I didn't realize", "It wasn't intentional", etc. These excuses

¹⁷ See e.g. Rosen [2004] and [2008], Harman [2011] and [2015], Weatherson [2014], Buss [1997], Zimmerman [1988] and [1997], Moody-Adams [1994], Arpaly & Schroeder [2014].

¹⁸ See my [ms].

¹⁹ On this way, the relevant present-directed intention does not have moral content but rather refers to right-making considerations *de re*. On this way, the relevant intentions are to avoid inflicting pain, to avoid harming, etc.

seek to respond to the accusation of intentional wrongdoing. To accuse someone of intentional wrongdoing is to accuse them of having acted wrongly as a result of their lack of a present-directed moral intention.²⁰ This is exactly the charge that an excuse denies.

The Moral Intention Account also explains why an agent's being caught in a moral dilemma constitutes an excuse. Such an agent is forced to choose between two equally morally impermissible choices: she will violate a moral norm or obligation whatever she decides on. On the Moral Intention Account, it's not surprising that we regard such an agent as having an excuse. If the situation was one in which she would have violated a moral requirement or obligation no matter what choice she makes, her wrongdoing is not a consequence of a lack of present-directed moral intention. Rather, it's a consequence of her crummy options.

A third important kind of excuse, is duress. Recall the agent who gives in to police interrogation and falsely testifies against an innocent person. Or emotional turmoil: the agent who snaps at a colleague because they are dealing with some very stressful and upsetting news of her own. Of course, it's possible that a stressful police interrogation or an upsetting personal situation might erode one's ability to judge what the right or reasonable thing to do is, and thus make one's wrongdoing unintentional. But even if the agent gives in to the interrogation, knowing that she shouldn't, and the colleague snaps, knowing it was an unkind thing to do, the circumstances of their action may still give rise to an excuse.²¹

The Moral Intention Account can accommodate this. A stressful situation, emotional turmoil, or indeed tiredness can excuse because they may temporarily erode the agent's self-control. Self-control is the ability to put one's intentions into action, in the face of contrary inclinations. With

²⁰ See Holton [2010], pp. 419-20.

²¹ See also Rosen [2014].

one's self-control undermined, an agent cannot hold these contrary inclinations in check. Hence, the colleague snaps in annoyance, or the subject of the interrogation gives in to the police's demand.²²

Losing self-control is not the same thing as losing one's present-directed intention to avoid wrongdoing. Indeed, it's a mark of loss of self-control that one's intentions remain intact; what goes missing is one's ability to act on them. Losing one's self-control is also not the same thing as losing one's ability to act intentionally. The agent who loses self-control – who snaps at her colleague or gives in to the interrogation – is acting intentionally. It's just that, with her self-control undermined, her course of action is guided by her momentary desires and inclinations.

While duress and provocation can excuse, mere temptation does not. The Moral Intention Account has the resources to explain this. The agent who gives in to temptation does not lose self-control, she is merely weak-willed. A weak-willed agent is irresolute; she gives up on her intentions too easily in the face of conflicting desires. As Holton writes:

...a person exhibits weakness of will when they revise an intention in circumstances in which they should not have revised it.²³

While both the agent who has lost self-control and the agent who is weak-willed may act as they should not, the explanation for how their wrongdoing came about is importantly different. The weak-willed agent

²² See Holton [2009], chapter 6 for a detailed discussion of strength of will. See Holton & Shute [2007] for a more detailed discussion of the provocation defense in law and its connection to self-control and will power. Holton's account of the will takes it to be a distinct faculty. Alternative accounts take strength of will to be a matter of attention. See Mann & Ward [2007]. While I draw on Holton to develop the Moral Intention Account, it is compatible with either approach.

²³ Holton [2009], p. 73.

does not act on the relevant present-directed intention to avoid wrongdoing because she reconsiders, and as a result, gives up on this very intention. The agent who loses self-control retains her present-directed intention but does not succeed to act on it. The Moral Intention Account thus correctly implies that loss of self-control but not weakness of will excuses.

One virtue of the Moral Intention Account is that it captures why in many cases of duress, provocation, fear, tiredness it can be difficult to tell whether the wrongdoer genuinely has an excuse: it can be hard to discriminate loss of self-control from ordinary weakness of will. Suppose Smith and Jones get into an argument. Smith taunts Jones with a well-placed insult. Jones gets angry and throws a punch at Smith. Did Jones' anger undermine his self-control, so that Jones "lost it"? Or did Jones merely give in to the temptation to respond to Smith's insult, giving up on his intention to the contrary along the way? Many situations that give rise to loss of self-control are also the kinds of situations that can give rise to weakness of will. Without more detail about the situation and background about Jones it's difficult to tell.

Of course, we could ask Jones whether he lost self-control or merely gave in to temptation. But such first-hand testimony can carry only limited epistemic weight. Given the stakes at hand, Jones has an obvious incentive to not be truthful. And even setting this aside, Jones himself may not be in any privileged position to tell between the two himself.²⁴

This allows the Moral Intention Account to capture why evidence about the agent's character plays an important role in our practice of excuses. Knowing that Jones is a peaceful guy gives us some reason to credit him with a general commitment to non-aggression. This makes it more plausible

²⁴ Thus, Schwitzgebel [2010] argues that we can be mistaken about our own motivations, Schwitzgebel [2008] that we can be mistaken about our own conscious experience, Williamson [2000] that we may be mistaken about what we know.

that he did intend to refrain from hitting in the moment and his violent action was the result of a loss of control.

It also explains why we often fall back on considerations of what the “reasonable person” would have done in a given situation. Imagining how a reasonable person would have been likely to react in the circumstances at hand can serve as a useful guide to what was going on in the actual agent’s mind – often, a considerably better guide than that person’s own testimony about it.²⁵

The Moral Intention Account thus both accommodates and explains why considerations like duress, emotional turmoil or tiredness constitute excuse: they excuse, in virtue of undermining the agent’s self-control and rendering her present-directed intention to do what’s right inert.

You might object that the Moral Intention Account’s explanation here is not fully adequate. Surely, what matters to whether an agent has an excuse is not just whether the agent lost self-control but whether, given the circumstances, it was *permissible* for her to do so. The explanation cannot be

²⁵ The difficulties in distinguishing weakness of will from loss of self-control may not merely be of epistemic nature. The boundary between loss of self-control and weakness of will – between when one gives up on a moral intention and when one is merely unable to act on it – may well not be sharp. In such cases, it may be genuinely indeterminate whether the agent has an excuse. The Moral Intentions Account predicts – plausibly – that in those cases, we may be on the fence or have conflicting intuitions about whether the agent has an excuse.

purely psychological; it needs to explicitly refer to normative considerations.²⁶

This objection fails. First, it's simply not the case that we grant that an agent has an excuse only when their loss of self-control was permissible. Take a sleep deprived parent, who loses her temper and shouts at her uncooperative toddler. Her tiredness constitutes an excuse. But it seems very strange to think that her tiredness makes it *permissible* for her to lose her temper.

This brings out a more general problem. Perhaps it can sometimes be permissible to lose self-control. I may need to make a credible threat in order to find a ticking bomb but for this, I need to lose my temper. Here, my loss of self-control is permissible because it is a pre-requisite to my doing what morality requires of me. But the situations in which we invoke excuses are decidedly not like that. Those are cases in which loss of self-control will precipitate wrongdoing. It is very difficult to see how loss of self-control could be permissible in such circumstances. To return to the parent: we think the parent has an excuse not because we think what she did was – on some level – permissible but because we recognize that losing one's temper is the kind of thing that can happen, once you are sleep-deprived.

The Moral Intention Account then successfully unifies the very wide range of considerations that we recognize as excuses, accommodating

²⁶ There are several attempts in the literature to spell out an alternative account of excuses based on this thought. Thus, Rosen [2014] suggests that duress may excuse because in cases of duress it is permissible for an agent to be in a motivational state that will give rise to impermissible action. Similarly, Kelly [2013], p. 257. suggests that those who have an excuse...

...are persons whose commitment to morality is too much to require—obstacles to success are too devastating. Moral expectations would be strangely inhuman.

considerations that show our wrongdoing to be unintentional, moral dilemmas, bodily conditions like tiredness, as well as duress, stress, and other emotional turmoil.

Degrees of Excuses

A second virtue of the Moral Intention Account is that it captures that excuses come in degrees. In particular, it allows that excuses can vary along two different dimensions. Excuses can be more or less partial. But, in addition, excuses can have different strengths.

We have already seen, in our discussion of the Moral Obligation Account, that excuses can be partial in excusing some but not all of the wrong you have done. If you did not believe that the sugar bowl contained poison, you are not to blame for murdering Smith because you did not intentionally poison him. But you may still be blameworthy for your reckless decision to store poison in the kitchen cupboard, despite knowing the risks involved. If so, your excuse is partial. You didn't violate the obligation you were originally accused of, only some other obligation.

The Moral Intention Account accommodates this. But in addition, it allows that excuses can vary along a further dimension: holding fixed the wrong you committed, you can have a better or worse excuse for *it*. The excuse is stronger the more it mitigates your blame. At its strongest, an excuse can make it altogether inappropriate to blame you for it, while a weak excuse only very slightly reduces your blame.

Thus, to return to the example above, you can offer different excuses for why you told me a lie – you were under huge pressure and couldn't face telling the truth, you were caught in a moral dilemma, you didn't realize how important the matter was. While a lot depends on the details of the case here, in general, I will be less resentful if you were facing a moral dilemma,

than when you simply didn't quite realize how consequential the lie would be.

The Moral Intention Account can allow for this because intentions are the kinds of things that admit of different strength themselves. I suggest that the strength of an excuse depends on the strength of the agent's present-directed intention with which it shows her wrongdoing to be compatible. This captures the fact that a moral dilemma generally constitutes an iron-clad excuse, since in a moral dilemma you were forced to violate a moral norm, no matter how strong your moral intention.

Excuses versus Justifications

A third virtue of the Moral Intention Account is that it draws a clear distinction between justifications and excuses. What's distinctive about excuses, on the Moral Intention Account, is not that they negate blame but rather *how* they do it. Excuses deny that the accused party has acted wrongly from a lack of moral intention. In contrast, justifications deny that the accused party has acted wrongly. As J.L. Austin notes, when we offer a justification, we...

...admit flatly that...[we], X, did do that very thing, A, but...argue that it was a good thing, or the right or sensible thing, or a permissible thing to do, either in general or at least in the special circumstances of the occasion. To take this line is to justify the action, to give reasons for doing it: not to say, to brazen it out, to glory in it, or the like.²⁷

According to the Moral Intention Account, excuses and justifications concern different subject matters. Justifications are about what is

²⁷ Austin [1957], p. 2. To be justified in acting, the agent's action must thus be in fact permissible – it's not enough that the agent reasonably but mistakenly takes it to be permissible. For an opposing view, see Baron [2005] and [2007].

permissible; they bear on the moral status of the action. Excuses, in contrast, are about what motivated the agent – her state of mind: what she believed, what she felt, what state she was in.

The thought that justifications and excuses concern different subject matters goes against an influential view on which the structure of excuses is derivative to that of justifications.²⁸ Thus, John Gardner has argued that while justifications are reasons why a given action is permissible, excuses are justified but false beliefs about those reasons. He argues:

[Excuses] are what the person acting upon them takes to be valid reasons, *and justifiably so*. Thus the structure of excuse derives from the structure of justification. To excuse an action is not, of course, to justify that reaction. Rather, one justifies one's belief that the action is justified.²⁹

And:

Thus the most basic or rudimentary case of non-technical excuse remains that of unjustified action upon justified belief.³⁰

But there are good reasons to be skeptical of such a tight connection between excuses and justifications. Consider again the tired parent. If severely sleep deprived, I lose my temper and shout at my uncooperative toddler, my sleep deprivation constitutes an excuse. But sleep-deprivation is not the kind of thing that can be justified or unjustified itself. And I can be excused for shouting even if I do not believe that my tiredness justifies it.

Moreover, many considerations excuse in virtue of interfering with the agent's reasoning, putting a justified belief beyond the agent's reach. Suppose you put me under enormous stress as I am making a decision with

²⁸ Gardner [2007], p. 109. "The structure of excuses derives...from the structure of justification."

²⁹ Gardner [2007], p. 110.

³⁰ *ibid.*

important moral implications. I mess up my deliberation and get it wrong. The fact that I am severely stressed might excuse my subsequent wrong action but not because it justifies my belief about what I should do. Rather, I am excused because, given your interference, I was not in a position to come to a justified belief.

Unlike Gardner, the Moral Intention Account traces the structure of excuses to the structure of our moral agency, rather than that of moral reasons. Consider an agent who is committed to doing what's right and who has a present-directed intention to do what's right right now. When things are going well, she comes to know what doing the right thing requires and, together with this knowledge, her present-directed intention will guide her action. She will do the right thing.

Alas, things do not always go well. Keeping the agent's present-directed moral intention fixed, there are two potential sources of error. First, the agent may make a cognitive mistake in figuring out what the right thing to do is. Second, things may go wrong in putting her moral intention into action. Both mistakes derive from the fact that we are limited creatures. We have limited attention spans, time, evidence, and reasoning skills. We also have limited self-control. Excuses show that our wrongdoing was compatible with a present-directed intention to do what's right by tracing our wrongdoing to these two sources of error.

In contrast, justifications show that, all things considered, the balance of moral reasons supported the course of action that the agent actually took.

Let us pause to take stock. This section put forward and developed the Moral Intention Account, on which considerations excuse in virtue of showing that the agent's wrongdoing is compatible with her having acted on a present-directed intention to do what's right. I have argued that this account of excuses has several virtues: it unifies a wide range of considerations that we recognize as excusing, it allows for excuses to come in

different strengths, and it has the resources to distinguish between excuses and justifications.

With the Moral Intention Account on the table, we have an understanding of what excuses are – in virtue of what considerations excuse – and what sets them apart from justifications. The question I want to turn to now is what excuses do.

5. Excuses and Moral Responsibility: The Argument from Moral Residue

According to the literature, the power of excuses is to negate moral responsibility for an action: this is one crucial feature that sets excuses apart from justifications. A justified action is one that the agent remains responsible for – she is just not to blame for it. In contrast, an excused action is one for which the agent is neither to blame *nor* responsible. Thus, take Austin:

In the one defence [i.e. justification], briefly, we accept responsibility but deny that it was bad: in the other [excuse], we admit that it was bad but don't accept full, or even any, responsibility.³¹

Murphy writes:

To excuse is to say this: What was done was morally wrong; but, because of certain factors about the agent (e.g. insanity), it would be unfair to hold the wrongdoer responsible or blame him for the wrong action.³²

Wallace argues:

Excuses [...] aim precisely to challenge the claim (or suspicion) that S was morally responsible for x; they adduce conditions that make it unfair to hold S morally responsible for x. Now to hold a

³¹ Austin [1957], p. 2.

³² Murphy [1982], p. 508.

person responsible for a particular action x that is morally wrong is to regard the person as having done something blameworthy; so excuses [...] may be considered “blameworthiness inhibitors”.³³

Excuses, on this view, are powerful indeed; they demarcate the boundaries of moral responsibility.

I believe that this view is mistaken. I agree that excuses can negate blame. However, excuses do not negate moral responsibility. To have an excuse for an action is compatible with being morally responsible for it. This is what sets excuses from a distinct type of normative phenomenon, namely exemptions.

The view that the excused agent is absolved from moral responsibility founders when we think about what it is appropriate to feel, think, and do for an agent in the wake of their excused wrongdoing. I argue that excuses leave moral residue; they leave something for the agent to regret, to apologize, to make amends for. Such moral residue is the mark of moral responsibility. And so, excuses cannot negate moral responsibility.

Let me start with the claim that lack of moral responsibility entails absence of moral residue. The thought is that if you bear no moral responsibility for bringing about a certain, unfortunate outcome, then this makes a large swath of attitudes on your part inappropriate, including both remorse and agent-regret. You may, of course, regret *that* the outcome obtains, just as you can regret that it's rainy. But you cannot regret anything that *you have done*, for there is nothing that you have done that links you, morally, to the undesired outcome.

This is clearest in the case where you are not responsible because it wasn't you who acted wrongly. Thus, suppose that your house mate accuses

³³ Wallace [1994], p.121 Other examples: Allais [2008], p. 34-35. Rosen [2008], p. 609, Baron [2007], p. 27, Hieronymi [2001], p. 530.

you of having broken her favorite tea mug – one she was feeling particularly sentimental about – and then having simply thrown it in the bin, without telling her about it. Your conscience is clear: someone else was the culprit. In light of this fact, you are clearly neither blameworthy nor morally responsible for neither breakage nor cowardice. Guilt and remorse are uncalled for. You may, of course regret the sorry state of affairs: the mug's tragic demise, your housemate's upset. But you owe your friend neither an apology nor a new tea mug.

But what about when it is *you* who has acted wrongly albeit excusably so? According to Murphy, the case is equivalent. There is nothing to resent, nothing to be forgiven, and hence presumably nothing to apologize for:

Because we may forgive only that which it is initially proper to resent; and, if a person has done nothing wrong or was not responsible for what he did, there is nothing to resent (though perhaps much to be sad about). Resentment- and thus forgiveness- is directed toward responsible wrongdoing; and thus, if resentment and forgiveness are to have an arena, it must be where such wrongdoing remains intact-i.e., neither excused nor justified.³⁴

This, however, does not chime with our moral practice. Imagine that a good friend of yours betrays your confidence, giving away a secret with which you have entrusted her. You confront her about it. She admits she made the wrong call and gives you a detailed explanation of how she came to act in this way. As both of you recognize, it does not justify her course of action but it does constitute an excellent excuse. So far, so good. Still, you would expect an apology. If the excuse is all your friend offers, you would be disappointed, and rightly so. It would certainly not do for her to say: "You

³⁴ Murphy [1982], p. 506.

just yourself acknowledged that I have an excellent excuse. What is there for me to apologize for?”

It's obvious both that there is something for her to apologize for and what it is: she should apologize for betraying your trust, even if her doing so was unintentional. Even a good excuse leaves us with unfinished moral business: the requirement to apologize, to acknowledge the harm done, perhaps even to compensate.³⁵

Why does having an excuse fail to absolve your friend from an apology? It's true that your friend did not betray you from a lack of moral intention. But she still fell short. For your friend's obligation was not merely to attempt to keep your secret, to intend to keep it, or not to betray your trust intentionally. Her obligation was to not betray it *period*.

Second, even though your friend's wrongdoing might be excused, it can still have very real and significant impact on your life. Even if your friend merely slipped up, you may still be left humiliated. It is only right for your friend to acknowledge the harm to you and to seek to make amends.³⁶

You may object that this case merely shows that whatever your friend's excuse was, must have merely been *partial*. It does not rule out that full excuses may fully negate moral responsibility. What would be examples of such full excuses? The candidates that come to mind are: psychosis, sleep walking, hypnosis, an epileptic seizure. All of these plausibly negate both blame and moral responsibility.

I agree that hypnosis, psychosis, or being asleep absolve the agent from both blame and moral responsibility. But I think that it is a mistake to identify these considerations as *excuses*. There are principled reasons for why

³⁵ See Owens [2012], p. 42-43 for a similar observation: “...an excuse need not disarm *guilt* nor render otiose the expressions and consequences of guilt such as apology and reparation.” (highlight in the original)

³⁶ See Radzik [2004], p. 143.

these considerations fall under a distinct normative phenomenon: that of exemptions.

Excuses, as we saw, acknowledge that you have committed a wrong but mitigate your blame. But the fact that you have spilled the orange juice as a result of an epileptic seizures, hurt someone in the grip of a psychotic delusion, or stepped on someone's foot while sleep walking do not show that you have acted wrongly but are not to blame for it. Rather, they undercut the charge that you have *acted wrongly* in the first place.

They do so because to act wrongly you must violate a moral obligation that applies to you. But epilepsy, sleep walking, or a psychotic episode show that the moral obligation do not apply to the agent in question at the relevant time. We simply do not expect a psychotic agent to keep a secret, nor do we expect a sleep-walker to watch where they are stepping. For this reason, a psychotic agent may harm you in giving away your secret but this harm does not constitute a wrong. Similarly, an agent undergoing an epileptic seizure may harm you by crashing into you but she does not wrong you in doing so.

In contrast, moral obligations do bind the fatigued, the stressed, and the distracted. To say that their circumstances excuse is not to cease holding them up to the relevant norms and expectations; it's just to recognize that their failure to act accordingly is compatible with their having had a present-directed intention to do the right thing.

Excuses and exemptions are distinct normative phenomena. Exemptions bear on whether the agent is one to whom moral obligations and norms apply in the first place – either in general or at the time of

action.³⁷ An exempted agent cannot commit wrongdoing and so, once the exemption is established, excuses are a moot point. The question of excuses arises only after we have already established that the agent has acted wrongly: that is, that she is not subject to an exemption.³⁸

6. Excuses as Responsibility-Modifiers

The previous section tells us what excuses do not do: they do not negate moral responsibility. I want to end this paper by saying more about what they do do. I suggest that excuses function as *responsibility-modifiers*. This is to say, they bear on both how we should respond to their wrongdoing and how the wrongdoer herself should respond to it. Unlike exemptions, they do not change the fact that some response is warranted.

To spell this out, I need to say more about the picture of moral responsibility that I rely on here. As the remarks by Murphy, Austin, Baron, and many others in the previous section make clear, it is very common to think of being morally responsible for a wrong as just a matter of being blameworthy for it. I have argued that this cannot be right: being blameworthy for a wrong and being morally responsible for it can come apart, since excuses can negate the former without denying the latter. This means that we need an alternative conception of moral responsibility.

The alternative, I suggest, is to think of moral responsibility as a genus with many species. As Smith argues:

³⁷ While the way in which I draw the distinction between exemptions and excuses echoes Strawson's discussion in his [1962]. But I depart from Strawson in a crucial respect. According to Strawson, exemptions "invite us to view the agent himself in a different light from the light in which we should normally view one who has acted as he has acted." While I agree that exemptions show the agent in a different light, they also show the *action* itself in a different light: they show her action to not be an instance of *wrongdoing*.

³⁸ While excuses and exemptions are distinct normative phenomena, some considerations can, depending on context, can function as either, for example "being just a child".

A morally responsible agent is one who can intelligibly be asked to 'answer for' her attitudes and conduct, and this is the key to opening the door to the further moral responses that may (depending upon the details of the case) appropriately follow upon the answer she gives.³⁹

When it comes to wrongdoing, blame is only one reactive attitude amongst many. Others include disappointment, sadness, disillusion, frustration, pity. The nature and circumstances of the wrongdoing determine which of these reactive attitudes it is appropriate to take to the wrongdoer. These factors also bear on which response the wrongdoer owes: regret, remorse, an apology (public or private), admission of guilt, acknowledgement of harm, restitution, compensation. On this view, to blame someone is one way – but far from the only way – to hold someone morally responsible.

Such a view of moral responsibility is independently attractive; it fits naturally with how we think of moral responsibility for right actions. After all, it's implausible to think that there is some one specific reactive attitude in virtue of which agents are morally responsible for doing the right thing. Strawson particularly highlights gratitude as a reactive attitude that responds to right actions.⁴⁰ Being grateful for someone's kind action is certainly a way of giving them credit for it. But it's clear that gratitude does not have a monopoly here: it is *a* way of giving someone moral credit but not the only way. Besides gratitude there is approval, there is admiration, there is respect, there is awe. A morally good act can inspire all of those. But they need not go together. It can sometimes be appropriate for me to be grateful to you for helping me out with a tedious task, even if it may not be appropriate to admire you for it – it just wasn't that big a deal. And I may

³⁹ Smith [2014], p. 103.

⁴⁰ Strawson [1962].

admire you for an action that I do not feel gratitude for: I recognize it was the right thing to do but it benefitted my adversary. Nevertheless, by taking *either* attitude to be appropriate, we give the agent credit for her good deed. We see them as morally responsible for it – as morally responsible in a positive way.

As far as right actions are concerned then, there is no one unique reactive attitude that is decisive. Rather, there are a number of ways in which we can give someone moral credit for having acted rightly, depending on the exact nature and circumstances of their right action. The suggestion that moral responsibility for wrongdoing is similarly diverse merely extends this natural thought.

This view of moral responsibility allows us to characterize the normative power of excuses more precisely: excuses are *responsibility-modifiers*. Excuses do not negate moral responsibility but rather modify the way in which someone is morally responsible for what they have done. Exactly how they will modify this, will depend greatly on the details of the case: the wrong in question, its circumstances, the nature of the relationship between the two parties. I am skeptical that we can codify these in a set of universal principles. But we can give some examples. At its simplest, the fact that the culprit has an excuse may make it the case that we should blame her less. Or it may mean that we should not blame them at all but rather adopt some other reactive attitude: disappointment, perhaps.⁴¹ It may make it the case that while the wrongdoer herself may still owe us an apology, she need not be consumed with remorse.⁴²

⁴¹ See Fricker [2010] for a persuasive case for the importance of disappointment to our practices of moral responsibility.

⁴² The category of responsibility-modifiers includes more than merely excuses and justifications; it also includes considerations that modify whether and how the agent is to praise for doing the right thing.

7. Conclusion

The aim of this paper was to begin to answer two questions. The first asks what excuses are – what makes a given consideration an excuse? In response, I have argued that excuses are considerations that acknowledge that the agent acted wrongly but deny that the wrongdoing resulted from a lack of moral intention – a present-directed intention to avoid wrongdoing. I have argued that this account of excuses, the Moral Intention Account, has a number of virtues: it captures the wide range of excuses that we recognize in our moral practice in a unified framework, it distinguishes excuses from related normative phenomena, and it allows that excuses can differ in strength.

The second question is: what do excuses do? Contrary to received wisdom, I have argued that excuses do not negate moral responsibility. Rather, they function as responsibility-modifiers, bearing on which response to the wrongdoing is appropriate. To have an excuse then is not to be off the moral hook. This is in keeping with Austin's observations:

...the average excuse, in a poor situation, gets us only out of the fire into the frying pan -- but still, of course, any frying pan in a fire.⁴³

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⁴³ Austin [1957], p. 3.

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