

### Abstract

Can moral ignorance excuse? I argue that philosophical debate of this question has been based on a mistaken assumption: namely that excuses are all-or-nothing affairs; to have an excuse is to be blameless. I argue that we should reject this assumption. Excuses are not binary but gradable: they can be weaker or stronger, mitigating blame to greater or lesser extent. I explore the notions of strength of excuses, blame mitigation and the relationship between excuses and moral responsibility. These ideas open up some principled middle-ground between the two positions staked out in the literature. Moral ignorance may well excuse but it does not exculpate.

### Keywords

blame, moral responsibility, excuse, moral ignorance, moral luck

### 1. Introduction

As epistemically limited agents, we are prone to mistakes. Sometimes these mistakes are about what we are morally required or permitted to do. Such mistakes about moral matters can come about in two ways. They can result from ignorance about nonmoral features of the world – features on which the moral status of our action supervenes. I may be oblivious that the cake I am offering you contains poison and that's why I believe it's permissible for me to pass you a slice.

But even knowing all relevant nonmoral facts does not eliminate the possibility of error. Many moral questions are hard and rife with opportunities for error. We may fail to recognize facts *as* morally relevant, misjudge their significance, fail to reason properly about how various competing morally relevant factors weigh up, or be guided in our deliberations by false moral principles.

Let's reserve the term moral ignorance to refer to this second kind of moral error – moral error that does not derive from ignorance about nonmoral facts. I am construing ignorance and error broadly, to cover both false belief and absence of true belief, though my focus will be on the former.

It's uncontroversial that nonmoral ignorance can function as an excuse. When accused of poisoning my friend, I can appeal to the fact that I didn't know that the cake contained poison to defend myself. And insofar as I really did not know and my ignorance reflects neither recklessness nor negligence on my part, that defense is a good one.

But what if my wrongdoing resulted from *moral* ignorance – I knew that the cake contained poison but thought it permissible to feed it to you regardless? This question invites considerable disagreement. According to Gideon Rosen and Michael Zimmerman, cases of moral and nonmoral ignorance are exactly analogous.<sup>1</sup> If my failing to know that the cake contained poison can function as an excuse, so can, in principle, my failing to know that it's wrong to poison.

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<sup>1</sup> See Rosen [2003], [2004], [2008], Zimmerman [1997].

According to others, there is a deep asymmetry between nonmoral and moral ignorance – only the former can ever function as an excuse.<sup>2</sup>

In this paper, I want to home in on an important assumption that frames the current debate: that excuses are all-or-nothing affairs; to have an excuse is to be blameless. I argue that we should reject this assumption. Excuses are not binary but gradable: they can be weaker or stronger, mitigating blame to greater or lesser extent. I explore the notions of strength of excuses, blame mitigation and the relationship between excuses and moral responsibility. These ideas open up some principled middle-ground between the two positions staked out in the literature. Moral ignorance may well excuse but it does not exculpate.

## **2. The Limits of Our Intuitions about Cases**

Let me start by charting the terrain of the present debate. One camp maintains that the morally ignorant wrongdoer is blameless, as long as the ignorance itself is non-culpable – that is, the result of neither negligence nor recklessness. Rosen appeals to our intuitions about various cases to support this conclusion. He invites us to consider a slaveholder in ancient times who harbors no illusions about the fact that slaves are humans just like him. He also believes it's really bad luck to be a slave. Nevertheless he believes that it is permissible to own slaves. We can imagine filling in the details so that in reaching his belief, he has been neither negligent nor reckless. Slavery is, in his circles, not a controversial practice. It may be possible to arrive at the conclusion that it is morally abhorrent but doing so would take extraordinary moral vision. We expect each other to be morally competent, not to be moral visionaries. According to Rosen, once we grant and attend to the fact that the slaveholder's moral ignorance is non-culpable, we will also regard him as blameless for owning slaves. Rosen argues:

...insofar as [the biblical slaveholder] acts from blameless ignorance, it would be a mistake for us to blame the slaveholder-to feel anger or indignation directed at him for his action. If the historical situation is as we have supposed, then the appropriate attitude is rather a version of what Strawson calls the 'objective' attitude.<sup>3</sup>

Rosen also considers the case of a ruthless capitalist who, like everyone around him in the enclave of the very rich, has been groomed to believe that it is right to exploit the poor. Again, he suggests that once we are clear in our minds that the ruthless capitalist is non-culpable for his moral-epistemic predicament and his resulting moral ignorance, we will not regard him as blameworthy for his wrongful exploitation of the poor, either:

I contend that if you are careful to bear in mind the stipulation that in reaching his conclusion our capitalist has not been reckless or negligent in the management of his moral opinion, you will find it plausible that his moral ignorance is not his fault. I further contend that if you bear this

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<sup>2</sup> See, for example, Harman [2011] and [2015], Arpaly & Schroeder [2014], FitzPatrick [2008].

<sup>3</sup> Rosen [2003], p. 66.

thought fully in mind, you will find it equally compelling that it would be a mistake to blame him for the wrong he does.<sup>4</sup>

The second camp – Elizabeth Harman, Nomy Arpaly & Timothy Schroeder, William FitzPatrick – deny that moral ignorance can constitute an excuse. Arpaly & Schroeder consider the case of an ancient Roman who goes to the circus, arguing that his false moral beliefs do nothing to excuse his participation in and enjoyment of the grisly spectacle. His moral ignorance fails to excuse, even when it is non-culpable:

Consider the ancient Roman who goes to the circus because he heartily enjoys watching people thrown to the lions. We think this person is blameworthy for going to the circus. Enjoying other people's suffering in this manner speaks ill of the agent's will even if the enjoyment in question is encouraged by a corrupt and corrupting society, and even if there is no moral theory available that disagrees.<sup>5</sup>

Elizabeth Harman points to structurally similar cases involving mob and gang members:

Max works for a Mafia "family" and believes he has a moral obligation of loyalty to the family that requires him to kill innocents when it is necessary to protect the financial interests of the family. This is his genuine moral conviction, of which he is deeply convinced. If Max failed to "take care of his own" he would think of himself as disloyal and he would be ashamed. Gail is a gang member who believes that she has a moral obligation to kill a member of a neighboring gang as revenge after a member of her own gang is killed, although her victim was not responsible for the killing. This is her genuine moral conviction, of which she is deeply convinced. If Gail failed to "take care of her own" she would think of herself as disloyal and she would be ashamed.

She suggests that we do not consider agents like Max and Gail to be blameless for their actions:

I claim that Max and Gail are paradigm cases of agents blameworthy for their wrongful actions. They know that they are killing innocent people; this is sufficient for the agents to be blameworthy.<sup>6</sup>

Harman concludes that moral ignorance can *never* be non-culpable.

Hence, not only does it not constitute an excuse but it functions as an aggravating factor. Why? According to Harman, an agent is morally blameworthy if her action manifests a lack of responsiveness to right-making reasons. There are two ways of being responsive to right-making reasons: motivationally and cognitively. The wrongdoer who knowingly commits a wrong is cognitively responsive to right-making reasons – she recognizes them as evidence on which to base her moral

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<sup>4</sup> Rosen [2004], p. 305.

<sup>5</sup> Arpaly & Schroeder [2014], p. 182-83.

<sup>6</sup> Harman [2015], p. 65. FitzPatrick [2008] cites a similar example, involving a ruthless business man who believes there is nothing wrong with exploiting the poor.

beliefs – yet fails to be responsive to them in her motivations. The morally ignorant wrongdoer, on the other hand, is insensitive to right-making reasons twice over. Not only is she not moved by them, she also fails to believe the moral truth on the basis of them.

So much for the dispute. What are we to make of it? It is difficult to see a path forward. The cases both camps appeal to are structurally identical – the ancient slaveholder and the Roman who enjoys going to the circus, the ruthless capitalist and the gang member. Yet the two camps report opposite intuitions about them. We have arrived at an impasse.

How do we proceed? I suggest that we home in on a hitherto unexamined assumption that frames the debate: that to ask whether moral ignorance constitutes an excuse is to ask whether the agent is *blameless* for whatever she has done; she is absolved from blame and moral responsibility.

### 3. An Unexamined Assumption about Excuses

Let's think about this for a moment. Why think that if moral ignorance excuses, it renders the wrongdoer *blameless*? Behind this assumption lies a general view about the nature of excuses that is not confined to this particular debate. This view conceives of excuse as a binary notion. Excuses are considerations that switch off blame; they are blame-negators.

Rosen is explicit about the fact that this is the conception of excuses he is working with; he tells us that an excuse is a “consideration that defeats the standing presumption of blameworthiness”.<sup>7</sup> But Rosen is hardly alone – indeed, this view of excuses is close to orthodoxy in moral philosophy. For an illustration, consider:

Calhoun:

A good excuse gets one off the evaluative hook. To be excused is to have no reason to think badly of oneself or for others to think badly of oneself.<sup>8</sup>

Owen:

...to recognize that someone has an excuse [...] is to recognize that blame is inapt already.<sup>9</sup>

Murphy:

...if resentment and forgiveness are to have an arena, it must be where such wrongdoing remains intact – i.e., neither excused nor justified.<sup>10</sup>

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<sup>7</sup> Rosen [2004], p. 298.

<sup>8</sup> Calhoun [2016], p. 28-29.

<sup>9</sup> Owens [2012], p.? (footnote 25)

<sup>10</sup> Murphy [1982], p. 506.

Baron:

...to excuse is to say that what the agent did was wrong, or at least untoward, but that it would be unfair to blame him for the action.<sup>11</sup>

Wallace:

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 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”.<sup>12</sup>

All these authors subscribe to the view that if an agent has an excuse, she is not to blame for the wrong she committed. The idea that excuses are all-or-nothing affairs is thus very common.

This rare moment of philosophical consensus should strike us as puzzling. For, on the face of it, it is very natural to think of excuses as admitting of different strengths.

After all, we typically think of *blame* as coming in different amounts. We can deserve more or less of it, we can be more or less to blame for whatever it is we have done. It makes sense to wonder how much someone is to blame for some bad outcome or consequence. It also makes sense to ask comparative questions: whether Max or Sam is more to blame for the sad demise of their friendship, for example. Plausibly, thus, blame admits of a measure – not a cardinal but an ordinal one. And insofar as blame admits of different amounts, we would naturally expect that excuses come in different strengths – the stronger the excuse, the less the agent is to blame.

Second, when we think of the various considerations that constitute excuses, these typically come in degrees: emotional upset, such as stress or fear, physical discomfort, such as nausea, pain, or tiredness can all vary in their intensity. Coercion can plausibly vary in strength, depending on what is at stake for the coerced party. Given that the considerations which constitute excuses come in varying intensities, it seems natural to think that excuses themselves will admit of degrees. Again ordinary experience lends support to this idea: if you are to miss your friend’s birthday party, a debilitating migraine makes for a stronger excuse than a slight headache.

This suggests an alternative conception of excuses, on which excuses are considerations that mitigate rather than negate blame. On this conception, excuses *lessen* how much an agent is to blame for a given wrong. They come in different *strengths*: some excuses excuse more than others.

Let’s be clear on what exactly negating and mitigating accounts of excuses

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<sup>11</sup> Baron [2007], p. 22-23

<sup>12</sup> Wallace [1994], p.121 Other examples: Allais [2008], p. 34-35. Rosen [2008], p. 609, Baron [2007], p. 27, Hieronymi [2001], p. 530.

agree and disagree on. Both accounts allow that excuses can be *partial*. An excuse is partial when it excuses *some of the wrong* that someone has done without excusing all of it. Sometimes our actions violate several moral norms at once. Jones' remark may have been both racist and sexist. He may have an excuse for its being sexist – perhaps he was speaking in a foreign language and wasn't sensitive to the sexist overtones of his words – without having an excuse for its being racist – that it was racist was plain enough, even to him.

What mitigators and negators disagree about is whether *given a particular wrong W* – say Jones' broken promise to Smith that he will come to his birthday party – some excuses have greater excusing power than others.

Another way of putting the disagreement is this: negators say that excuses vary along one dimension only: in *which wrongs* they excuse. Mitigators, in contrast, maintain that excuses can vary along a further, independent dimension: in *how strongly* they excuse any particular wrong.

#### 4. A Defense of Blame-Negation?

You might object that I am mischaracterizing what the negators are up to. When they say that excuses negate blame and moral responsibility, they do not mean to rule out that there can be considerations that only lessen blame, without negating it all the way. They are simply making a terminological choice to not refer to such considerations as excuses.<sup>13</sup> Thus, negators are not making a substantive claim about our ordinary notion of excuses; rather they are stipulating that the term “excuse” will be reserved for those considerations that lessen blame maximally: namely, by negating it.

But even if we grant that negators are stipulating, rather than advancing a substantive claim about excuses – and I am not sure that all of them are charitably interpreted as merely stipulating – there are two responses to make. First, this concession does not affect the substance of my argument in this paper. For it remains true that the discussion of moral ignorance has centered solely on whether moral ignorance negates blame. The question whether it may mitigate it remains open and unexplored, as do questions about how to make sense of blame mitigation.

Second, stipulations are not immune to criticism. Poorly chosen, they can distort theoretical inquiry. When they concern concepts that are deeply embedded in our everyday practice, stipulations need to be responsive to how those terms function in this practice. In particular, they need to preserve the central features of those concepts. Otherwise, stipulative choices risk obscuring theoretical options and distorting the phenomena under investigation.

Negators have taken a concept that functions as gradable in our moral practice and offer a stipulation that is binary. This goes beyond mere philosophical sharpening. It obscures a central feature of excuses, namely that they lie on a spectrum from weak to strong. It distorts inquiry by presenting excuse and blame mitigation as two distinct normative phenomena, to be theorized separately, rather

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<sup>13</sup> Rosen is the only writer who is explicit about the fact that he is stipulating. See his [2004], p. 298.

than in one unified framework. And, in the case of moral ignorance, it has obscured the possibility that moral ignorance may mitigate blame, without negating it.

Can the negator respond to this charge? She may argue that her stipulation is grounded in our moral practice after all. In particular, she may point to the conceptual connections between blame, excuses, and forgiveness. Given these connections, she may argue, it does seem plausible that excuse functions as a binary term. What is excused is not to be forgiven, what is to be forgiven cannot be excused. Forgiveness renders blame inapt. Excuses preempt forgiveness. The most natural explanation for this is that excuses negate blame, so that forgiveness is rendered moot.

Thus, recall Murphy's quote from above:

...if resentment and forgiveness are to have an arena, it must be where such wrongdoing remains intact-i.e., neither excused nor justified.<sup>14</sup>

Murphy goes on to suggest that there's a bit of a conceptual muddle going on in the New Testament; Jesus on the cross ought to have chosen his words more carefully:

Father forgive them for they know not what they do" would go better as "Father *excuse* them for they know not what they do."<sup>15</sup>

Similarly, Owens argues:

To think it appropriate to forgive an offence is not to think that blame for that offence is inapt already. Rather it is to think that you ought to render blame for that offence inapt. By contrast, to recognize that someone has an excuse (or that time has passed or that they have already been forgiven, etc.) is to recognize that blame is inapt already.<sup>16</sup>

Hieronymi suggests that making excuses is incompatible with asking for forgiveness:

To ask you to understand things from my point of view is to hope for an excuse, not to ask for forgiveness.<sup>17</sup>

I find this line of defense underwhelming. It does not ring true that our moral practice treats the relationship between excuse and forgiveness as a strict either/or. For there is nothing unusual or jarring about offering an excuse and asking to be forgiven at the same time: "I have been really anxious about something at home. I'm really sorry I snapped at you." Or: "I'm so sorry. I didn't stand you up intentionally – the appointment completely slipped my mind. Please forgive me."

The fact that there is nothing at all jarring or unusual about such requests

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<sup>14</sup> Murphy [1982], p. 506.

<sup>15</sup> Murphy [1982], p. 506.

<sup>16</sup> Owens [2012], footnote 25.

<sup>17</sup> Hieronimi [2001], p. 554. See also Allais [2008], who stresses that the core notion of forgiveness comes into play only where wrongdoing is "unexcused and unjustified".

presents the negator with a dilemma. She can deny that in those cases, the agent is really offering an *excuse*. But that's implausible: the fact that an action was unintentional, done from anxiety or stress or from nonmoral ignorance are typical examples of excuses and they change our moral assessment of the wrong. A second possibility is to deny that in such cases we are really asking for forgiveness. But absent further explanation, this, too, seems unattractive.

In contrast, the mitigator has a straightforward way of accommodating the combination of excuse and plea for forgiveness: excuses, she says, mitigate blame. Thus, having an excuse does not mean that there is nothing left for forgiveness to do. At the same time, however, the presence of the excuse makes it easier to forgive the wrongdoer. Forgiveness is a matter of forswearing blame; that gets easier the less blame there is to forswear. Pairing excuses with apology thus makes good sense.

The conceptual connections between forgiveness, blame, and excuses thus do little to bolster the negator's claim (or motivate her stipulation) that excuses are binary. On the contrary, our moral practice lends support to a mitigating account.

That leaves us with the task of working out its details. Since on the mitigating account excuses bear on *how much* an agent is to blame for a given wrong, we need to spell out how to make sense of this more and less. How do we put a measure on being to blame?

## 5. Normative Footprints and Amounts of Blame

Let me give you a sketch of the central idea first. Wrongdoing leaves *normative footprints*: it changes the normative landscape in characteristic and systematic ways by creating new claim-rights, obligations, and permissions. Depending on the nature and gravity of the wrong in question, these normative changes can be more or less extensive. How much an agent is to blame for a wrong correspond to the size of the wrong's normative footprint; that is, to the extent to which the wrong has modified the normative landscape.

We can now unpack the central elements of this idea. We engage in wrongdoing when we perform actions that violate our moral obligations and/or infringe on someone's moral rights. By engaging in wrongdoing, we place ourselves under new obligations and we give others new rights against us. Thus, if I renege on my promise to bake you a cake, I may thereby acquire a duty to acknowledge that I have let you down, to explain myself, to apologize, and to make it up to you in some way.

Wrongdoing alters the normative landscape in three characteristic ways. First, it creates *reparative rights and duties*. These include the duty to acknowledge the wrong one has done, the duty to listen to complaints about one's actions, the duty to explain one's actions and motivations, the duty to apologize, the duty to compensate or otherwise make amends. Reparative duties are often directed duties, they are owed to the wronged party, who holds the correlate set of claim



rights.<sup>18</sup> Thus, you owe an apology or compensation *to* someone, namely the person you have wronged. But there can also be undirected reparative duties, which are not owed to anyone in particular. Suppose there's an undirected duty to protect the environment. If you violate this duty, you commit a wrong but without wronging anyone. And you may thereby acquire a further, undirected duty to make up for it. Thus, if you litter, you can be required to clean up after you.

Second, wrongdoing changes *feeling rights and duties*.<sup>19</sup> Like our actions, our emotional lives are constrained by a matrix of permissions, rights, and obligations. Social context, personal relationships, past actions – both yours and mine – affect what I may, should, or must not feel towards you.<sup>20</sup> Wrongdoing alters these norms. It can entitle the wronged party to feel anger, resentment, frustration, sadness, or disappointment. If, as a good friend, I reveal a secret you confided in me, you are entitled to be mad at me. To say that you are entitled is not to say that you must – you may be too exhausted or distracted by other things or decide it's more prudent to remain call. Still, you have a right to be angry even if you do not exercise it. The right came into existence because I have wronged you. And there are limits on just what kind of emotional response you are entitled to: unless the betrayal was very grave indeed, you are not entitled to murderous rage. If it was a minor indiscretion, you may be entitled to some annoyance but not to weeks and weeks of seething fury.

Wrongdoing changes feeling norms for the wronged party but also for the wrongdoer. If I have knowingly betrayed your trust, I should feel ashamed and remorseful for what I have done.<sup>21</sup> If I have unintentionally harmed you, I should feel regret and sorrow. For the wrongdoer these feelings are generally not merely optional; they are required. Wrongdoing thus creates characteristic feeling-rights, feeling-duties, and feeling-permissions.

Third, wrongdoing changes *relationship norms*: for example, the right to

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<sup>18</sup> See Thomson [1990], p. 84-98. Thomson argues that violating someone's right leads to "moral residue". Similarly, Kramer [2015] offers a detailed defense of the "Remedy Principle": "If and only if Y owes X a moral duty not to Q, Y's Q-ing will place Y under a moral obligation to X to remedy the resultant situation in some way." (p. 313) My proposal is in the same spirit but goes further: the normative changes induced by one's wrongdoing extend beyond remedial obligations.

<sup>19</sup> Thus, I agree with Strawson [1962] that blame is related to reactive attitudes, such as resentment. But unlike Strawson and others, I do not think that this is the only or most central element of blame.

<sup>20</sup> See Hochschild [1975], particularly pp. 288-292.

<sup>21</sup> Philosophers tend to think of emotions as governed by norms of appropriateness or fittingness, rather than by deontic norms. But the idea that there are things we can be obligated, permitted, or prohibited from feeling and that we regulate our emotions in light of these norms – is widespread in sociology, where it has been championed by Hochschild [1975], [1979], [2015].

someone's trust, time, help, support.<sup>22</sup> The fact that, as a friend, I betrayed your secret makes it permissible for you to withdraw your trust, to stop checking in with me, to leave me off invitations for future birthday parties. The fact that your new colleague treated you badly may mean that she loses the right to your help and support – the kind of help and support that, as a more junior colleague, she would otherwise be entitled to.

Let's call the way in which a given instance of wrongdoing modifies the reparative rights and duties, feeling norms, and relationship norms its *normative footprint*. The normative footprint of a wrong can vary in size. Thus, not all instances of wrongdoing will modify relationship norms. Whether and how a wrong bears on relationship rights depends on its nature and gravity, and the context and relationship in which it has been committed. A minor wrong in the context of a close relationship – a late arrival to an afterwork drink, an ill-considered remark, a forgotten chore – will typically not have any repercussions for the relationship norms. Such isolated, minor wrongs do not normally license one to withdraw one's trust, to "cool off" the friendship or to break it up altogether. But all instances of wrongdoing will generally induce normative changes of the first two kinds. Even a minor wrong entitles the wronged party to a bit of annoyance and a quick apology.<sup>23</sup>

I suggest that to ask how much someone is to blame for a wrong is to ask about the size of her wrongdoing's normative footprint. Of course, this assumes that we can make good sense of the size of a normative footprint. Are changes in the normative landscape something we can put a measure on?

I think we can. Setting aside wrongdoing, we can often make comparative judgments about the extent of our rights and duties. The following statements seem all true:

We owe our children more than we owe our friends.

You have more obligations towards a friend than towards a stranger.

This is not to say that these judgments are terribly exact or that we can put a precise number on the set of rights and obligations in question. The measure on sets of rights and obligations will be a cardinal one, not an ordinal one. But if we can make such comparative judgments about rights and duties in general, there is no reason why we should not be able to make them about the rights and duties created by instances of wrongdoing.

This chimes with our moral practice. When it comes to a particular wrong that was jointly committed by several wrongdoers, we can make comparative judgments about which culprit is more to blame than the other. We can also make comparative judgments about whether, given the presence or absence of particular factors, the culprit is more or less to blame for the wrong in question. We can ask

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<sup>22</sup> This echoes Scanlon's suggestion [2008], who argued that blame is connected to our relationships with others. To regard someone as to blame for an action is "to claim that the action shows something about the agent's attitudes toward others that impairs the relations that others can have with him or her." (p. 128) Unlike Scanlon, however, I don't think we can give an account of blame wholly in terms of impairments of relationships.

<sup>23</sup> I discuss the issue of moral luck at the end of this chapter.

whether Jan or Marie is more to blame for their acrimonious divorce. We can ask whether, in Jan's case, the fact that his father was dying of cancer at the time makes a difference for how much he's to blame for it. But many other comparisons do not seem terribly sensible: is Jan more to blame for the acrimonious divorce than Marie is to blame for her mishandling of a work project? Is the NRA more to blame for the rise in school shootings than Jill for her traffic accident? It's hard to see how there could be a fact of the matter here.

I have argued that the idea of a normative footprint helps us to spell out what it is to be more or less to blame for a wrong. Let us now see how excuses fit into the picture.

## **6. Excuses as Blame Mitigators**

An excuse is a consideration that diminishes the normative footprint of a wrong. Excuses are thus normative difference-makers: they make a difference to the reparative duties, feeling rights, duties and permissions, and relationship norms that ensue as a result of one's wrongdoing.

Excuses may make a difference to the feelings you are entitled to – annoyance or frustration, instead of anger. They may also bear on what kind of apology the wrongdoer owes: a quick, simple “I'm sorry” or a large, public gesture. If I broke my promise to bake you a cake because I had to look after an ill toddler, I may only owe you a sincere apology but not also an additional pan of brownies. You may perhaps be disappointed but not furious with me, nor are you entitled to permanently cut me off. We can measure the strength of an excuse by its impact on the normative footprint of a wrong. The stronger the excuse for a wrong, the smaller its normative footprint.

How do excuses differ from justifications? Justifications, too, bear on the normative footprint of a wrong. But unlike excuses they do so by disputing the wrongness of the act in question. A justification shows the action to have been permissible, after all.<sup>24</sup> If your action is justified, no excuse is needed.

In contrast, excuses are considerations that bear on the size of the normative footprint of the wrong without bearing on its moral status. That the secret slipped your tongue while you were severely sleep-deprived does not make the indiscretion any less wrong. Still, it bears on the scope of your reparative duties, on how you should feel about what you have done, on its implications for your relationship with the person who entrusted you with the secret.<sup>25</sup>

Since excuses mitigate blame, they can make it easier to forgive a wrong. We can think of forgiveness as removing the normative footprints created by a

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<sup>24</sup> As Austin [1957], p. 2 argues: “You dropped the tea-tray: Certainly, but an emotional storm was about to break out: or, Yes, but there was a wasp. In each case the defence, very soundly, insists on a fuller description of the event in its context; but the first is a justification, the second an excuse.”

<sup>25</sup> It is a further question which considerations constitute excuses and why excuses bear on the normative footprint in this way. Answering those is the task for a theory of excuses. This lies beyond the scope of this present paper but I present and defend such a theory in Sliwa [2019].

wrong. Forgiveness releases the wrongdoer from their outstanding reparative obligations, relinquish the feeling rights acquired by the wrongdoing in question, and/or reverses changes to relationship norms. On this view, forgiveness is a normative power.<sup>26</sup>

## 6. The Contrastive Method

With an account of excuses as blame-mitigators on the table, let us now return to moral ignorance. Is moral ignorance an excuse? This is now a question about whether moral ignorance *makes a difference* to the normative footprint of a wrong.

Posing the question in this way naturally suggests a contrastive method. We compare two cases of wrongdoing, keeping the nature of the wrong constant but altering the agent's moral-epistemic situation. We judge whether the normative consequences in one are more extensive than in the other.

What test cases should we use? I want to steer clear of the biblical slave owners, mafia members, and Roman circus-goers that have dominated the literature. Relying on these cases raises serious methodological worries. This is because they all involve stipulating that the wrongdoer lacks "easy" moral knowledge, i.e. knowledge of moral truths that we regard as completely obvious: that slavery is wrong, that it is reprehensible to watch religious minorities being chased and eaten by lions, that killing innocents to protect one's criminal profits is impermissible.

The fact that such stipulated moral ignorance strikes us as beyond the pale raises worries about "epistemic egocentrism". This is a family of cognitive biases that reflects limitations in our ability to take each other's epistemic perspective. Small children's failure to pass the false belief test is a familiar example of an epistemic egocentrist bias. It is less appreciated that the underlying tendency to impose our own epistemic perspective on others persists into adulthood. In particular, we systematically fail to set aside knowledge we know to be privileged – knowledge that we know the other party lacks – for the purposes of predicting their actions: this bias is evocatively named "the curse of knowledge".<sup>27</sup> Its influence is not accessible by introspection, nor is it under conscious control. Individuals are not aware when they are influenced by it, nor can they avoid it by being made aware of its potential influence on their judgments. But insofar as we have great difficulties to set aside privileged knowledge about, for example, the value of a product, for the purposes of predicting someone's buying behavior, it would be surprising indeed if we did not have difficulties to set aside privileged moral knowledge for the purposes of morally evaluating their actions.

This presents a challenge to Harman's and Arpaly & Schroeder's

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<sup>26</sup> Forgiveness can thus be partial. The idea that forgiveness is a normative power has also been suggested by Warmke [2016] and Nelkin [2013].

<sup>27</sup> See Royzman, Cassidy, Baron [2003] for an excellent overview, including some discussion of how egocentric bias may bear on other discussions in ethics that appeal to intuitions, in particular, Nozick's experience machine experiment. While, to my knowledge, there have been no systematic studies of egocentric bias involving moral knowledge, it would be surprising if the empirical findings did not carry over. `

argumentative strategy. If we share their intuitive judgment that the gang member and slave owner are blameworthy for their killings and enslavings, we now have to contend with two competing explanations for these intuitions. The explanation that Harman and Arpaly & Schroeder favor is that our attributions of blame are independent of our attributions of moral knowledge – that is, we think the gang member and slave owner are blameworthy regardless of whether they know that killing and enslaving is wrong.

But an equally plausible alternative is that we simply resist the stipulation that the gang member and slave owner are morally ignorant; we think they are blameworthy partly *because* we take them to knowingly act wrongly. Since we succumb to epistemic egocentrism unwillingly and unwittingly, these two rival explanations are impossible to tell apart “from the inside”.<sup>28</sup>

We can sidestep these methodological complications by focussing on cases of moral ignorance that are closer to home – cases, where the agent’s moral mistake is neither crude nor blatant.

### *Against Harman*

Consider the following two scenarios:

Tom and Sara are planning a wedding and both of their families have offered to contribute money towards it. Sara’s family, who are less wealthy than Tom’s, offered a certain sum, which will cover less than half of the expenses. The couple is now wondering whether it would be permissible for them to ask Tom’s family for a greater contribution. They worry that it wouldn’t be fair of them to ask one set of parents for more. They decide to ask a friend whose judgment they trust.

Anna is a journalist who is preparing to go on a reporting trip to a dangerous and conflict-ridden area. She has to tell her family that she will be away but she really doesn’t know how much to tell them. If she tells them where exactly she’s going and why, they will be extremely worried. On the other hand, she worries that by evading the questions she would be lying and that that would be wrong. She goes back and forth but cannot decide what the right thing to do is and eventually decides to ask a friend whose judgment she trusts.<sup>29</sup>

First, imagine that Sara and Tom’s chosen advisor tells them that it is entirely permissible to ask Tom’s family for a higher contribution to their wedding. Unfortunately, the advisor gets it wrong: doing so would be unfair. Sara and Tom believe their advisor; they have no reason to doubt her judgment. They ask Tom’s family for a greater contribution to their wedding. They make a moral mistake but unwittingly so.

Similarly, Anna’s generally reliable advisor has an off day and leads her

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<sup>28</sup> Royzman et al [2003], p. 60.

<sup>29</sup> Both cases are taken from Sliwa [2012], pp. 177-78.

astray. She tells her it's permissible for Anna to be so evasive as to deceive her family about her whereabouts. Anna trusts her advisor and goes along with her advice. In doing so, she makes a moral mistake.

Is their moral ignorance non-culpable? I think it is. Tom and Sara, and Anna are initially uncertain about what the right thing to do is, not because they lack some crucial bit of nonmoral information, but because the questions they are facing are tricky, with competing considerations at stake. They are simply not sure how to strike the right balance between them. In such cases, it's very reasonable to outsource one's moral belief to someone one trusts and believes to be reliable. Relying on trustworthy moral advice will decrease one's chance of error – but, if the advisor is human, it will not altogether eliminate it. That's the limitation that Tom, Sara, and Anna come up against. Tom and Sara, and Anna have done everything to discharge their epistemic obligations: they were genuinely conflicted, sought out a friend they had every reason to trust, and were nevertheless misled.

Compare these cases to the following: Tom and Sara's advisor tells them correctly that expecting Tom's parents to contribute more would be unfair. They do not have any reason to doubt their advisor's judgment and they form the relevant belief. But then they decide to ask for a greater contribution anyway. They knowingly act wrongly. Similarly, Anna's advisor tells her – correctly – that being evasive would be lying; she should tell her family the truth. Anna believes her advisor but nevertheless proceeds to deceive her family. She acts wrongly, and deliberately so.<sup>30</sup>

There are many reasons for which Tom and Sara, and Anna may have chosen not to act in line with their moral knowledge: selfishness, a mere whim, a desire to be contrarian. But no matter how we spell out the details – as long, of course, as we do not build in considerations such as duress, coercion, hypnosis, which themselves are excusing – we judge the agents who knowingly act wrongly more harshly than their merely mistaken counterparts. We think that in the case of deliberate wrongdoing, Tom's parents are entitled to take greater offence for being treated unfairly, that they are entitled to feel more upset (as well as, perhaps, disappointed, taken advantage of, etc). We are more inclined to think that Tom and Sara themselves should feel worse about what they have done – they should be ashamed of themselves – in the case where their unfair treatment is deliberate. Similarly, we judge Anna more harshly for being deceitful despite her knowledge that she should tell the truth than when she is merely acting on mistaken advice. Her family is entitled to greater disappointment and sense of betrayal, she owes them a more serious and heartfelt apology, there may be a real rapture of trust that she will have to repair.

These judgments go against those who think that moral ignorance is *no* excuse. Arpaly and Arpaly & Schroeder, think that how much an agent is to blame is only determined by the nature and content of their desires. This makes it impossible to differentiate the merely mistaken agent from the deliberate

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<sup>30</sup> I am assuming here that to knowingly act wrongly is sufficient for deliberately or intentionally acting wrongly. See Holton [2010].

wrongdoer in any principled way. Both ultimately fail to be motivated by things they should be motivated by – e.g. the features of the situation which make it unfair to ask Tom’s family for a greater contribution. Indeed, the desires motivating the agent – Sara and Tom’s desire to have a lovely wedding, Anna’s desire to have peace from her anxious family – may be exactly the same when they make a moral mistake and when they knowingly act wrongly. The only difference is that in the former the agents believe their actions to be permissible, when in the latter they know their actions to be wrong.

The intuitive judgments elicited by the contrastive method also decisively tell against Harman, who thinks that moral ignorance always constitutes an *aggravating* factor rather than an excuse. On Harman’s view, agents who act on misguided moral advice are *more* to blame than those who go against the advice. That’s because the mistaken agent fails to be both motivationally and cognitively sensitive to the right-making reasons. They fail twice where the wrongdoer who knowingly acts wrongly fails only once.

Arpaly & Schroeder and Harman are committed to the claim that moral ignorance never excuses. But the contrastive method suggests otherwise. Cases like Sara and Tom, and Anna show that, at least sometimes, knowingly committing a wrong has a greater impact on the normative landscape than committing the same wrong by mistake. It follows that moral ignorance can diminish the normative footprint of a wrong.

### *Against Rosen*

The contrastive method also spells trouble for Rosen’s claim that moral ignorance negates blame altogether. Rosen invites us to think of wrongdoing that arises from non-culpable moral ignorance as a “mere event” rather than a genuine instance of *wrongdoing*.<sup>31</sup> Recall, Rosen tells us that the appropriate attitude to take towards the wrongdoer acting from moral ignorance is the Strawsonian objective stance:

...insofar as [the biblical slaveholder] acts from blameless ignorance, it would be a mistake for us to blame the slaveholder-to feel anger or indignation directed at him for his action. If the historical situation is as we have supposed, then the appropriate attitude is rather a version of what Strawson calls the 'objective' attitude.<sup>32</sup>

This gives moral ignorance the same normative standing as consideration such as psychosis, an epileptic seizure, being drugged, being under the influence of hypnosis, etc. Moral ignorance negates both blame and moral responsibility.

Let’s see if this is borne out by the contrastive method. We compare the case in which Anna acts on mistaken moral advice – just as in our discussion above – to a variant in which her moral-epistemic faculties are momentarily gravely compromised. Thus, imagine that as Anna grapples with her moral uncertainty, she is slipped a drug that induces a psychotic episode in her. She

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<sup>31</sup> Rosen [2008], p. 609.

<sup>32</sup> Rosen [2003], p. 66.

begins to hear voices commanding her to deceive her family. In the grip of this psychotic episode, she deceives her family about her plans.

If Rosen is correct, the cases of morally ignorant Anna and of momentarily gravely impaired Anna should strike us as morally equivalent. But I don't think they do. When Anna acts from moral ignorance and comes to realize her mistake, it remains apt for her to apologize and ask for forgiveness for lying to her family. And it is appropriate for her family to expect such contrition: an acknowledgement on Anna's part that she has fallen short of the relevant moral expectation, that she resolves to make up for it, and to do better in the future.

This is not true of the case where Anna is acting in the grip of a psychotic episode. Once the circumstances of her behavior have been explained, it would be inappropriate for her family to insist on an apology or expressions of contrition. In this case, something like the objective stance seems clearly warranted: once it is understood that Anna was "out of her mind", that's that. It's the culprit who slipped her the drug that induced her temporary psychosis that has something to answer for.

Now, Rosen concedes that it would be "unseemly" for the morally ignorant wrongdoer to "do anything but 'accept' responsibility for his behavior".<sup>33</sup> But he insists that the fact that the wrongdoer *should* "accept responsibility" does not show that he is *to blame* for his wrongdoing:

To accept responsibility for one's behaviour is to acknowledge that it was wrong and that one is therefore under some obligation to apologize and make amends. This sort of responsibility does not entail moral responsibility in our sense-i.e., blameworthiness.<sup>34</sup>

This position strikes me as puzzling. For what could be the source of the morally ignorant wrongdoer's obligations "to apologize and make amends" *unless* she is to blame for the wrong? More importantly, this concession does not address the asymmetry revealed by the contrastive method. In the case where Anna lies to her family on the basis of mistaken moral advice, we do not just think that it would be impolite of her to refuse to apologize – we think she is under moral pressure to do so. But there is no such moral pressure in the case of psychosis. Indeed, once Anna's family understands that she was psychotic, it would be "unseemly" for *them* to insist that she should apologize and make amends.

The contrastive method thus does not bear out Rosen's assimilation of moral ignorance to hypnosis, psychosis, and other conditions that give rise to profound agential impairment. For our intuitive judgments about the latter differ from our judgments about cases involving moral ignorance. Profound agential impairment negates blame whereas moral ignorance merely mitigates it.

Could Rosen respond by saying that he is happy for his conclusion to have revisionary implications for our ordinary practices of blaming: namely that insofar as we do blame the morally ignorant agent more than the gravely impaired one, we are making a mistake? No, for the contrastive method's criticism is not that the conclusion is revisionary but that the argument for it does not work. This

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<sup>33</sup> Rosen [2003], p. 68.

<sup>34</sup> *ibid.*



argument is based on the claim that, once we are clear-eyed about an wrongdoer's non-culpable moral ignorance, we will intuitively judge her as blameless and the wrongdoing as a "mere event". It's this intuitive premise that the contrastive method casts doubt on.<sup>35</sup>

Let's take stock. On a mitigating account of excuses, excuses make a normative difference to how much an agent is to blame for a wrong. I suggested that we can test for normative difference-making by using a contrastive method. The results of this method spell trouble for both sides of the dispute as it has been playing out in the literature. Contra Arpaly and others, moral ignorance can make a difference: it can diminish the normative footprint of a wrong. Contra Rosen, wrongs committed from moral ignorance are not morally on a par with harmful behavior under grave impairments of agential capacities.

## **8. Moral versus Nonmoral Ignorance**

I want to end by addressing some questions about the scope and limitations of the argument.

*How far-reaching is its conclusion?*

The argument establishes that moral ignorance, when it is non-culpable, can mitigate blame without negating it. This is compatible with moral ignorance sometimes making a negligible difference or even no difference at all. The conclusion defended here is thus quite modest. The argument presented here does not aim to give a formula for how much moral ignorance bears on a wrong's normative footprint. This will plausibly vary from case to case. It will depend on the nature and seriousness of the wrong, on the harm that was done, as well as the extent and subject matter of the moral ignorance. This lack of formula should not trouble us – in general, there is no straightforward way of telling for each feature of a wrong, how exactly that feature contributes to how much an agent is to blame for it.

*What does the argument tell us about agents who act from profound moral ignorance?*

As noted above, philosophical inquiry into the relevance of moral ignorance has focussed on cases of profound moral ignorance: the slave owner, the ruthless business man, the mafia boss, the gang member, the Roman circus-enthusiast. I suggested that to answer the general question whether moral ignorance can excuse while avoiding the "curse of knowledge", we set those aside. Still, we might hope for some guidance on cases where moral ignorance is more profound. The present argument helps with those cases in two ways. It suggests that agents who are profoundly morally ignorant *are* to blame for the wrongs they commit to some extent. And, it helps us sharpen what is at stake in trying to determine the extent to which they are to blame. The question is what these agents owe – or would owe, were they still alive – in terms of reparative duties, how their wrongdoing has changed the feeling rules in play, whether they are (would be) deserving of trust. Their moral ignorance will have to be balanced

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<sup>35</sup> I thank an anonymous reviewer for suggesting this response on behalf of Rosen.

against other morally relevant considerations, such as the precise nature of the wrongdoing and its consequences. That will have to be settled by substantial moral inquiry.

*How does moral ignorance as an excuse compare to nonmoral ignorance?*

There is widespread agreement that non-culpable *nonmoral* ignorance negates blame. The question about moral ignorance is then often framed as one about symmetry. Rosen argues that the cases of moral and nonmoral ignorance are symmetrical – both negate blame. Harman and others argue for asymmetry – they think only nonmoral ignorance negates blame.

I suggest that there is broad symmetry between moral and nonmoral ignorance.<sup>36</sup> Nonmoral ignorance, too, merely mitigates blame; it does not extinguish it. Normative footprints remain. And just as in the case of moral ignorance, how much a difference nonmoral ignorance makes depends very much on the circumstances – the nature of the wrong, the harm done, the consequences unfolding.

This view is at odds with the received wisdom – that nonmoral ignorance exculpates – and so, it requires defense. I won't be able to do full justice to it. Let me start by looking at one of the cases discussed by Rosen at length:

Goldberg has been charged with investigating financial impropriety at Acme Corp. The evidence so far points to Himmelfarb as the guilty party, and it is predictable that things will go badly for him if he is named. Goldberg conducts a scrupulous inquiry, which ultimately sustains the case against Himmelfarb. At this point, Goldberg has done everything a responsible investigator ought to do, and his evidence amply supports the conclusion that Himmelfarb is a crook. In response to this evidence, he forms a belief to this effect and accuses Himmelfarb of embezzlement. In fact, Himmelfarb has been framed by a malicious colleague. This means that in filing his report, Goldberg accuses an innocent person of a crime, and that is wrong. *But if there is nothing more to the story, this is a straightforward case of blameless wrongdoing from excusable ignorance.*<sup>37</sup>

Since Goldberg's false belief is epistemically justified, his wrongdoing is blameless, Rosen claims.

I think this overstates the case. If Goldberg abided by his procedural epistemic obligations, his ignorance furnishes him with an excuse. But it does not follow that this excuse absolves him from all blame. That's because his ignorance does not altogether eliminate the normative footprint of his wrongdoing.

To see this, suppose that, based on Goldberg's report, Himmelfarb is convicted and sentenced to many years in prison. After a while, his malicious colleague's evildoing comes to light. Himmelfarb remains in jail, mounting a costly and uncertain appeal process.

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<sup>36</sup> The whole story is likely to be more complicated. The broad symmetry is compatible with differences in detail: moral ignorance may well generally be a weaker excuse than nonmoral ignorance. See Sliwa [2019], pp. 14-18.

<sup>37</sup> Rosen [2008], p. 601 (highlight mine).

In light of these facts, it is appropriate for all of us to be moved by Himmelfarb's fate. Any decent human being should feel sorry for him and outraged at his malicious colleague. But how should Goldberg feel about his role in Himmelfarb's injustice?

Goldberg is not merely a witness or bystander. He played a central role in getting Himmelfarb to where he is now, namely behind bars. This contribution, gives rise to special moral obligations: he ought to feel deep sorrow and regret for accusing an innocent man, he ought to reflect on whether he had overlooked anything, and he owes Himmelfarb whatever support he can provide in Himmelfarb's quest for exoneration. It would not be out of line for him to contact Himmelfarb to apologize for his role in the wrongful conviction.

Of course, the fact that Goldberg had, at the time, acted in light of his (misleading) evidence makes a huge normative difference to what Goldberg owes, compared to a scenario in which his accusation of innocent Himmelfarb had been negligent, reckless, or worse yet, intentional. He need not be ashamed of himself. He does not deserve our nor Himmelfarb's disdain and indignation. He owes it to Himmelfarb to set the record straight and do what he can to get him out of jail, but he does not owe him compensation on top of that.

Goldberg's nonmoral ignorance thus excuses – it bears on the normative footprint of his accusation of an innocent man – but it does not *exculpate* him. The wrong he has done saddles him with normative demands and obligations towards Himmelfarb that go well beyond those of mere bystanders. These special obligations are a mark of moral responsibility: he has them because he is (partly) to blame for Himmelfarb's fate.<sup>38</sup>

There is tragedy in Goldberg's situation. What led him to ruin the life of an innocent man was bad epistemic luck. For this reason he deserves our pity. He is fully entitled to resent the one who placed him in this situation: the actual criminal, Himmelfarb's malicious colleague. But the fact that Goldberg is to blame for accusing an innocent man remains.<sup>39</sup> As Bernard Williams poignantly writes in his analysis of Oedipus:

“Someone may simply have ruined his life... If that has happened, then it is something that has happened to him, but at the same time it may be something that he has brought about. *What has happened to him, in fact, is that he has brought it about.* That is the point of Oedipus's words at Colonus. The terrible thing that happened to him, through no fault of his own, was that he did those things.”<sup>40</sup>

The tragedy of Oedipus – and Goldberg – lies precisely in that he is both unlucky and yet to blame.

Just like moral ignorance then, nonmoral ignorance, excuses without

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<sup>38</sup> For a much more detailed defense of this claim, see Sliwa [2019], pp. 27-35.

<sup>39</sup> Kramer [2005] puts forward a similar argument directed against Hart's “ought-implies-can”-principle.

<sup>40</sup> Williams [2008], p. 70. Williams's argument further develops the line he put forward in his [1981] article on moral luck.

exculpating. Sometimes we leave normative footprints through bad moral or epistemic luck. That they are left through bad luck can make them smaller. But it does not make them any less ours.

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