



## Responsibility: The Epistemic Condition

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# When is Failure to Realize Something Exculpatory?

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## Abstract and Keywords

Sometimes one has sufficient evidence for *p*, but one simply does not realize that *p* is true. In some of these cases, the failure to realize is exculpatory. In other cases, it is not. In general, failures to realize the moral truth are not exculpatory. This chapter argues that the principle that gives the correct explanation of blameworthiness in certain moral ignorance cases cannot account for the blamelessness of agents who know their actions have features that suffice to make the actions wrong but who do not realize this. Though the author not think this puzzle should make us question the claims about blameworthiness that motivate it, the chapter argues that the view that moral ignorance is not exculpatory faces this important puzzle and that more work is needed to solve it.

*Keywords:* moral ignorance, blameworthiness, knowledge, caring about morality de re, exculpation

## 1. Introduction

In this chapter, I will argue that a puzzle arises for those who hold a certain view regarding moral ignorance and blameworthiness. Those who hold (as I do) that moral ignorance is never exculpatory face a puzzle about when failure to realize something is exculpatory. I will argue that there is a real puzzle here: I'll propose some ways that one might try to solve the puzzle and argue that they do not succeed.

To identify those who face the puzzle, let's first consider the following question: Can moral ignorance exculpate? Consider the following two agents. Sam the slaveholder keeps slaves; Sam believes that slaveholding is not morally wrong.

Bob advocates against the legalization of gay marriage; Bob believes he is doing something morally good. Let's stipulate that Sam and Bob both know all the non-moral facts that are relevant to whether their behavior is morally wrong. In fact, each agent acts morally wrongly, but he does not know that. Some people hold that if Sam and Bob have thought hard about morality, if they are trying to act as they are morally required to act, and if it would be difficult for them to realize the moral truth then their moral ignorance renders them blameless for their morally wrong behavior. Others hold that moral ignorance cannot render a person blameless; this is my view.<sup>1</sup> I will not be addressing this debate in this chapter. Rather, I will raise a puzzle that is faced by those who, like me, hold that moral ignorance cannot exculpate.

**(p.118)** 2. The First Part of the Puzzle

Those of us who believe that moral ignorance cannot exculpate hold that Sam the slaveholder is blameworthy for his slaveholding. What would we say to explain his blameworthiness? We would say something like this: Sam knows what he is doing. More specifically, we might say: There is a feature *f* such that: Sam knows that what he is doing has feature *f*; and in fact, having feature *f* is sufficient to make a behavior morally wrong. Sam knows, in particular, that what he is doing is *slaveholding*. This is a non-moral feature of his action that he knows his action has; what he does not know is that slaveholding is morally wrong; but nevertheless, it is true that if some behavior has this feature (if it is slaveholding), then it is morally wrong.

Now, let's consider the following case:

Emily is an engineer who has been called in to deal with a disaster situation. An earthquake has destroyed part of a building, and several people are trapped inside. Sophisticated infrared scanning has enabled Emily's assistants to create a computer model showing the exact state of the partially collapsed building. Emily knows the relevant physical facts about the locations of all the parts of the building and the people. She also knows the relevant laws of physics that explain what will happen if they do various kinds of excavation to try to save the people. In fact, there is a possible plan—let's call it Plan B—which would involve removing a specific part of a certain wall, and which would save all ten people who are trapped. It involves some tricky reasoning to realize that Plan B is a viable option. That reasoning is available to Emily given what she knows, but it would be hard for her to realize that Plan B is a viable option. It is easy to see that another plan—let's call it Plan A—is a good option. This involves removing the entirety of a different wall. Emily sees that Plan A is an option, and that it would save nine of the ten people, but that it would involve allowing one person to die. Emily thinks about what to do very carefully, and then reaches a point at which further deliberation would cause all ten to die because of limited oxygen. Plan A is the best plan she

has formulated, and to her knowledge it is the best option available to her. She proceeds with Plan A.

As things actually are, Emily's action lets one person die unnecessarily. She could have put Plan B into effect, saving all ten lives; but Emily doesn't know that. It is wrong to let a person die unnecessarily in this kind of rescue situation. Nevertheless, it is clear that Emily is blameless for letting one person die unnecessarily.

Emily's case raises a puzzle for us. To see the puzzle, consider the following hypothetical conversation. Suppose that someone had asked Emily to explain everything pertinent that she knows about the rescue situation, and that Emily had given a speech in response. She would have described the locations of the trapped people and the walls of the building; and she would have explained the relevant physical laws. This speech would describe a complicated feature of Emily's action: *it is a removing of this wall...in a circumstance in which the people and walls are arranged like so...when the relevant laws of physics are...* Let's call the feature that this speech attributes to Emily's action: feature  $\alpha$ . The following things are true of Emily's action of putting Plan A into effect:

**(p.119)**

- (1) Emily does something morally wrong: she allows a person to die unnecessarily.
- (2) Emily knows that her action has feature  $\alpha$ .
- (3) Having feature  $\alpha$  is sufficient to make an action morally wrong.

Claim (3) is true because if an action has feature  $\alpha$ , that is sufficient for it to be unnecessarily letting someone die, and that makes the action morally wrong. Emily doesn't know that having feature  $\alpha$  is sufficient for it to be unnecessarily letting someone die, and thus, even though she knows that her action has feature  $\alpha$ , she doesn't know that her action unnecessarily lets someone die.

But now we face a puzzle about Emily. That is, those of us who think that moral ignorance is not exculpatory face a puzzle. We said that Sam the slaveholder was blameworthy because he knew what he was doing. More particularly, we said that he was blameworthy because he satisfied this condition:

- (\*) There is a feature  $f$  such that: the agent knows that what they are doing has feature  $f$ ; and in fact, having feature  $f$  is sufficient to make a behavior morally wrong.<sup>2</sup>

But we now see that Emily also satisfies condition (\*). She knows that her action has feature  $\alpha$ , and feature  $\alpha$  is sufficient to make her action morally wrong.

Here is the first part of the puzzle that will concern us in this chapter.

### The First Part of the Puzzle:

How can it be true that Sam the slaveholder is blameworthy and Emily the engineer is not blameworthy? What explanation can we give of Sam's blameworthiness that does not imply that Emily is also blameworthy?

This is a puzzle because Sam's satisfying condition (\*) seems to explain his blameworthiness. But Emily also satisfies condition (\*).

(Note that those who believe that moral ignorance is exculpatory do not face a puzzle. They can explain Emily's blamelessness by appealing to the fact that she does not know she is doing anything morally wrong.<sup>3</sup> And they do not desire an explanation of Sam's blameworthiness because (depending on the details) they may well hold that Sam is blameless.<sup>4</sup>)

In light of this puzzle, it is natural for us to conclude that (\*) does not give the correct explanation of Sam the slaveholder's blameworthiness. If Emily satisfies (\*), then satisfying (\*) cannot be what explains Sam's blameworthiness.

**(p.120)** We might attempt to solve the puzzle by offering a slightly different explanation of Sam's blameworthiness.

### Attempted Solution to the First Part of the Puzzle:

Agents who are morally ignorant, but know the non-moral features of their actions, who are nevertheless blameworthy for their wrongful actions, are blameworthy because they meet the following condition:

(\*\*) There is a feature  $f$  such that the agent knows that they are doing something with feature  $f$ , and their action's having feature  $f$  is what makes it morally wrong.

Furthermore:

The fact that his action is slaveholding is what makes Sam the slaveholder's action morally wrong.

The fact that it would be unnecessarily allowing one person to die is what makes Emily's action morally wrong.

The fact that Emily's action has feature  $\alpha$ , while it is sufficient for Emily's action to be wrong, is not what makes Emily's action morally wrong.

The Attempted Solution holds that Sam the slaveholder and Emily the engineer differ in an important respect. While Sam knows that his action has a certain feature, and that feature is what makes his action morally wrong, the same is not true of Emily. Sam satisfies (\*\*) while Emily does not.

The Attempted Solution is committed to a nuanced view of what it takes for a fact about an action to be *what makes the action morally wrong*. According to this nuanced view, sometimes one fact A about an action makes it the case that another fact B holds, and while B is what makes the action morally wrong, A is not what makes the action morally wrong. There is something intuitively plausible about this. If we ask, “What makes Emily’s action morally wrong?” we would answer by saying that her action lets someone die unnecessarily. We would not answer by reciting the long and complicated fact that her action is a removing of this particular wall when the people and walls were in these positions...and when the physical laws were are follows...That is, we would not answer by offering the fact that what Emily did had feature  $\alpha$ .

### 3. The Full Puzzle

So far, we have seen the first part of the puzzle, and we’ve seen an Attempted Solution to the First Part of the Puzzle. In this section, I will offer another case for us to consider. Consideration of this case will show that the Attempted Solution to the First Part of the Puzzle will not work. We will then be in a position to see the full puzzle.

Consider this case:

Harry sexually harasses his subordinate Tess at work. He knows all the non-moral facts in virtue of which what he is doing constitutes sexual harassment. In particular, he knows that he **(p.121)** is repeatedly making romantic and sexual advances toward a subordinate who has rebuffed these advances on each occasion. But he doesn’t know that what he is doing is sexual harassment, or that what he is doing is morally wrong.<sup>5</sup>

I claim that as the story has been told, we have no reason to think that Harry is blameless. His failure to know that what he is doing is sexual harassment does not get him off the hook.

We can imagine two variants of Harry. One is working at a time before the notion of sexual harassment is articulated and popularized. Another is familiar with the notion of sexual harassment, but has an overly narrow conception of it: Harry believes that sexual harassment only occurs when a boss offers a subordinate an explicit quid-pro-quo deal to sleep with him. Either variant of Harry will work for our purposes here.

Now, let’s ask: Does Harry meet the following condition?

(\*\*) There is a feature  $f$  such that the agent knows that they are doing something with feature  $f$ , and their action’s having feature  $f$  is what makes it morally wrong.

Whether Harry meets that condition depends on a further question. Harry knows that he is repeatedly making romantic and sexual advances toward a subordinate who has rebuffed these advances on each occasion; let's call this feature of his behavior feature  $\beta$ . Harry knows that his behavior has feature  $\beta$ , but he doesn't know that his behavior is sexual harassment. Are the following claims true?

- (a) Harry's behavior's being sexual harassment is what makes it morally wrong.
- (b) Harry's behavior's having feature  $\beta$  is what makes it morally wrong.

It is clearly true that Harry's behavior is wrong because it is sexual harassment. The locution "is what makes it morally wrong" makes it sound like there is only one answer to "what makes it morally wrong?" As (a) and (b) are worded, it seems that at most one of them can be true. Because (a) seems to be clearly true, (b) seems to be false.

But if (b) is false, then Harry does not meet condition (\*\*). Harry does not know his behavior is sexual harassment. Harry does know that his behavior has feature  $\beta$ , but if (b) is false, then this knowledge does not lead Harry to meet condition (\*\*).

Nevertheless, intuitively, just as we were inclined to say the slaveholder is blameworthy because *he knew what he was doing*, it seems right to say the same thing about Harry. It seems that something like condition (\*\*) must apply to Harry, and must explain his blameworthiness.

Consider the following claims, which are slight variants of claims (a) and (b):

- (c) Harry's behavior's being sexual harassment makes it morally wrong.
- (d) Harry's behavior's having feature  $\beta$  makes it morally wrong.

**(p.122)** These claims abandon the "is what makes it morally wrong" locution in favor of the simpler "makes it morally wrong" locution. The new locution does not carry the implication that there is only one answer to the question "what makes it morally wrong?" Claims (c) and (d) can both be true, in principle. And indeed, both do seem to be true. And the truth of claim (d) seems like it should play a crucial role in explaining Harry's blameworthiness.

All of this suggests that we should revise the condition that explains Sam's blameworthiness, so that it can also explain Harry's blameworthiness:

- (\*\*\*) There is a feature  $f$  such that the agent knows that they are doing something with feature  $f$ , and their action's having feature  $f$  makes it morally wrong.

This revision also abandons the locution “is what makes it morally wrong,” replacing it with “makes it morally wrong.” Both Sam the slaveholder and Harry the harasser meet condition (\*\*\*), and this seems to explain their blameworthiness.

But we now face a puzzle when we turn back to considering Emily the engineer. Remember that the Attempted Solution to the First Part of the Puzzle involves considering the following two claims, and holding that (e) is true while (f) is false:

(e) The fact that it would be unnecessarily allowing one person to die is what makes Emily’s action morally wrong.

(f) The fact that Emily’s action has feature  $\alpha$  (which is sufficient for Emily’s action to be wrong) is what makes Emily’s action morally wrong.

As claims (e) and (f) are written, it seems like at most one of them can be true. And given the need to choose between them, claim (e) seems true while claim (f) seems false. But discussion of Harry the harasser has led us to see that using locutions like “is what makes it morally wrong” is misguided; sometimes more than one fact about an action can truly be said to make that action morally wrong. We should use the locution “makes it morally wrong” instead. Thus, we should consider the following two claims:

(g) The fact that it would be unnecessarily allowing one person to die makes Emily’s action morally wrong.

(h) The fact that Emily’s action has feature  $\alpha$  (which is sufficient for Emily’s action to be wrong) makes Emily’s action morally wrong.

Claim (g) is clearly true. The truth of claim (g) does not rule out the truth of claim (h). It is hard to see why claim (h) would not also be true. But if claim (h) is true, then Emily satisfies condition (\*\*\*) .

We can now state the full puzzle.

The Full Puzzle:

How can it be true that Sam the slaveholder and Harry the harasser are blameworthy while Emily the engineer is not blameworthy? What explanation can we give of Sam’s and Harry’s blameworthiness that does not imply that Emily is also blameworthy?

**(p.123)** The puzzle arises because the fact that Sam and Harry both satisfy condition (\*\*\*) seems to give the correct explanation of their blameworthiness, but it seems that Emily also satisfies condition (\*\*\*) .<sup>6</sup>

#### 4. Trying to Solve the Puzzle

We might try to solve the puzzle by pointing out that the fact that Sam satisfies condition (\*\*\*) does not give a *full and complete* explanation of his blameworthiness. Sam's knowledge that he is slaveholding explains his blameworthiness because, given that he knows he is slaveholding, it seems that he does not care enough about slaveholding to avoid it. Sam is blameworthy because he does not care enough about the features of his action that matter morally.

Indeed, it is a central feature of views that deny that moral ignorance can exculpate that such views distinguish two ways that one can care about morality—one can care about morality *de dicto* (caring *to be moral*) or one can care about morality *de re* (caring *to avoid hurting others, to help others, to keep one's promises, etc.*)—and such views hold that it is caring about morality *de re* that is relevant to blameworthiness. A person who acts wrongly, even believing that she is acting morally rightly, nevertheless typically fails to care adequately about the aspects of her action that really do matter morally, and that is why she is blameworthy.<sup>7</sup>

A more complete explanation of Sam's blameworthiness would point out that he satisfies the following condition:

(\*\*\*\*) There is a feature *f* such that the agent knows that they are doing something with feature *f*; their action's having feature *f* makes it morally wrong; and they go ahead and act despite their knowledge *because they care inadequately to avoid doing things with feature f*.

Knowledge is important for blameworthiness because if a person *knows* that her action has a certain feature, and this feature in fact makes her action morally wrong, then if she goes ahead with the action anyway, this is probably because she cares **(p.124)** inadequately to avoid performing actions that have this feature. Usually, what we care about controls how we act.

Of course, knowledge is not always sufficient for blameworthiness, or for full blameworthiness. A person who is severely depressed may experience a disconnect between how much she really cares about things and how moved she is to act; her depression may lessen her blameworthiness for a wrongful action because her action is less expressive of her true patterns of caring, even though she knows what she is doing. A person whose brain is being manipulated by a device implanted by a neurosurgeon may act in ways completely disconnected from her true patterns of care, and thus would be completely blameless for her wrong actions, even though she knows what she is doing. (The cases we are considering in this chapter do not involve psychological ailments such as depression or manipulation by brain surgeons.)



Sam meets condition (\*\*\*\*). Sam does not care at all to avoid slaveholding. Similarly, Harry meets condition (\*\*\*\*); he does not care to avoid repeatedly making romantic and sexual advances toward a subordinate who has rebuffed these advances on each occasion.

Does Emily meet condition (\*\*\*\*)? We might try to argue that she does not. If Emily does not meet condition (\*\*\*\*), then we have a solution to the puzzle: Sam and Harry are blameworthy because they meet condition (\*\*\*\*); Emily does not meet condition (\*\*\*\*), so we have no challenge to her blamelessness.

There are two ways that we might argue that Emily does not meet condition (\*\*\*\*). First, as we've already discussed, we might deny that claim (h) is true:

(h) The fact that Emily's action has feature  $\alpha$  (which is sufficient for Emily's action to be wrong) makes Emily's action morally wrong.

This way of solving the puzzle does not seem promising to me, as it is hard for me to see how one could support the claim that (h) is false. In particular, the fact that Emily's action has feature  $\alpha$  clearly makes it the case that Emily's action is unnecessarily letting someone die. And the fact that Emily's action is unnecessarily letting someone die clearly makes Emily's action morally wrong. So, to hold that claim (h) is false we would have to hold that the relation of one fact's making another fact true is not transitive; but surely this relation is transitive.<sup>8</sup>

Second, we might claim the following. While Emily knows that her behavior has feature  $\alpha$ , and while feature  $\alpha$  in fact makes her action morally wrong, the following is not true:

**(p.125)**

(i) Emily behaves as she does because she cares inadequately to avoid doing things with feature  $\alpha$ .

To argue that (i) is false, we might say that Emily does not fully understand feature  $\alpha$ , and so her willingness to perform an action with feature  $\alpha$  does not show that she has a morally problematic level of care regarding feature  $\alpha$ .

In developing this second route to a solution, we might support the claim that Emily does not fully understand feature  $\alpha$  by pointing out that she does not realize what having  $\alpha$  implies: she does not realize that because her action has feature  $\alpha$  her action unnecessarily lets someone die. But this way of developing the solution faces a serious objection. It may seem that Harry also does not fully understand the wrong-making feature of his action that he knows about: Harry knows that his action has feature  $\beta$ , but he does not know that having feature  $\beta$  implies that his action is sexual harassment. A proponent of this second solution would have to develop a story about why Emily's understanding of feature  $\alpha$

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counts as not fully understanding feature  $\alpha$ , and it must be a story that does not imply that Harry lacks full understanding of  $\beta$ . It is unclear whether this way of explaining Emily's blamelessness can go forward without leading to the mistaken conclusion that Harry is similarly blameless.

### 5. Conclusion

I've argued that a puzzle is faced by those who deny that moral ignorance is exculpatory. We want to explain the blameworthiness of the morally ignorant by pointing out that they *knew what they were doing*. But this leads us into a puzzle regarding agents like Emily the engineer, who knows a complicated fact about her action which implies a further fact. Emily does something morally wrong, and there is a sense in which Emily also *knows what she is doing*; yet she is blameless. I have argued that there is a puzzle about how to explain Sam the slaveholder's and Harry the harasser's blameworthiness while accounting for Emily the engineer's blamelessness. I myself do not think this puzzle should make us doubt the claims about blame I have made about these three cases; but others may see this puzzle as a reason to reject the view that moral ignorance is not exculpatory. In any case, I have argued that the view that moral ignorance is not exculpatory faces this puzzle; and that more work is needed to solve it.

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Notes:

(<sup>1</sup>) In my (2011; 2015) and "Ethics is Hard! What Follows?," I argue that moral ignorance does not exculpate. The claim that moral ignorance exculpates is made or suggested in Wolf (1982), Buss (1997), Zimmerman (1997, 2008), and Rosen (2003, 2004). Challenges to the exculpatory power of moral ignorance appear in Moody-Adams (1994), Guerrero (2007), and FitzPatrick (2008).

(<sup>2</sup>) Note that I am using singular "they" here and in other starred claims.

(<sup>3</sup>) Of course, they allow that sometimes a morally ignorant agent is blameworthy. For example, they may hold that an agent who is morally ignorant is blameworthy for acting wrongly if she is blameworthy *for her moral ignorance*. In this case, it is clear that Emily is not blameworthy for her moral ignorance.

(<sup>4</sup>) In versions of the case in which they hold that Sam is blameworthy, they will give a very different explanation of his blameworthiness than given by (\*), so we have seen no reason to think they would have any trouble holding that Sam is blameworthy though Emily is blameless.

(<sup>5</sup>) Note that while in the case of Harry, his advances are rebuffed, I do not mean to suggest that sexual harassment cannot be occurring unless advances are rebuffed.

(<sup>6</sup>) At this point, we're able to see an additional reason (besides the reason given by the first part of the puzzle) for moving from an explanation of Sam's blameworthiness that relies on his satisfying (\*) to an explanation that relies on his satisfying something like (\*\*) or (\*\*\*): arguably, a fact might *make it the case* that an action is morally wrong without being *sufficient* for the action to be morally wrong. For example, Joe might punch Kyle, and it might be that this is

made morally wrong by the fact that *Joe thereby hurts Kyle*. But there are cases in which it is morally permissible to hurt another person by punching him. We may not want to say that strictly speaking the only fact that can make it morally wrong for Joe to punch Kyle is the following: Joe thereby hurts Kyle and also Joe was not acting in self-defense, no tragedy was averted, Joe and Kyle were not engaged in an organized boxing match...That is, we may not want to say that strictly speaking the only fact that makes Kyle's action wrong is a fact that includes a long conjunction of negations of all the possible justifying conditions for punching someone. Instead, when those justifying conditions in fact do not hold, it's true that Kyle's action is made wrong by the fact that he hurts Joe.

(<sup>7</sup>) See my (2011), my "Ethics is Hard! What Follows?," Arpaly (2003), and Markovits (2010).

(<sup>8</sup>) Gease's *A Theory of Blame and Blameworthiness* (2016) offers a view along the lines of this first way of solving the puzzle. Gease's view implies that the fact that she would be unnecessarily letting someone die is a moral reason for Emily not to act as she does, but that the fact that her action has feature  $\alpha$  is merely evidence for a moral reason without itself being a moral reason. On this view, one fact can make another fact true, the second fact can be a moral reason, and yet the first fact is not a moral reason; I am not convinced that this is possible.

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