

All Too Human

Consider the following case.

F, standing at the end of the pier, notices that a child is struggling in the ocean. No one else is around. F cannot swim but sees a nearby rope. She throws one end of the rope at the child, but the currents carry it out of the child's reach. She cries out, "Of course, the currents!" and then throws the rope again, now to the right of the child. Just before the rope floats within reach, the child drowns.

It seems plausible to think that F has some sort of obligation when she first comes across the child, and even after her first unsuccessful throw of the rope. Does she have an obligation to help or simply an obligation to try to help?¹ Suppose she has an obligation to help and not simply to try to help. Since the child drowned, it seems plausible to say that she has not satisfied her obligation. Has she violated it? That seems too strong. After all, F didn't ignore the child's needs, nor did she throw the rope carelessly. F simply did not pick up on the relevance of the currents until it is too late. But it's not clear that this lapse is negligent,² and so sufficient for F's violating her obligation to help the child.

¹ I describe the purported obligation as helping, rather than saving, since it is a contingent fact that in this case saving is the only way for F to help. Also, I want to compare this case to others in which helping, but not saving, is at issue.

² If F's lapse were negligent, as I'm using the term, then not only should F have picked up on the relevance of the currents but also F would be to blame for not having done so. As will become clear in section two, I believe an agent

Perhaps, then, F merely has an obligation to try to help, and since she did try, it follows that she satisfies her obligation. But this response is awkward. Why does F only have an obligation to try when she could have succeeded in helping had she remembered to take the currents into account when she first threw the rope? Moreover, it seems that F has reason not simply to regret the death of the child, which any bystander would have reason to feel (had there been one). F also has reason to think, knowing everything we too know about her, her action, and her situation, that she failed the child. If F's obligation is merely to try to help, then F satisfies her obligation, and so it is hard to see how one can account for the thought that she failed the child.

One thing these various responses share is a commitment to a dichotomy of the basic categories of evaluation: satisfaction and violation exhaust the possibilities for evaluating completed actions with respect to an obligation. I will argue in this paper that this dichotomy leads to a host of unwelcome results, some of which I have already noted. My own view is that we should add "mere failures" to the basic categories of act-evaluation. An agent merely fails when she neither satisfies nor violates her obligation.³ Accepting this additional evaluative category has several benefits: one can plausibly maintain that F has an obligation to help, and not merely an obligation to try to help, thereby providing resources for explaining why F is justified in thinking she failed the child. Moreover, since F merely fails to satisfy her obligation to help, one can avoid the implausible implications of claiming that F violated her obligation. One further upshot of recognizing the category of mere failure is the insight it affords regarding the necessary conditions for satisfying and violating of an obligation to help: as I'll show, neither

can fail to know what she should without thereby incurring blame, in which case the failure is not negligent. Please see pages 11-13 and note 19 for a more detailed discussion of this issue.

³ I am suggesting that the conceptual landscape looks like this: when one has an obligation to x in circumstances C, one's action either satisfies an obligation or it is a failure. There are at least two types of failures: mere failures and violations of an obligation.

those who look only to the agent's intentions nor those who look only to the results of an action offer a proper account of the conditions of satisfaction and violation of an obligation to help.

In the first section of the paper I clarify F's situation and respond to a doubt one might have regarding my claim that F has an obligation to help. I show that F's lapse in recalling the relevance of the currents is not sufficient to undermine the claim that she has an obligation to help. F's lapse in this case is not subject to any further explanation and so is "brute." I will then argue that brute lapses don't count against a claim of obligation. To explain this, I do not appeal to any particular normative theory, but rely instead on various examples both to support the fact that sometimes agents are subject to brute lapses as well as to show that brute lapses do not rebut the claim of an obligation to help. If we ever have clear intuitions, moreover the kind of intuitions that guide theory, it will be in response to such cases. My hope is that the main claims of this paper will contain lessons for a wider, rather than narrower, range of normative theories.

In the second section I consider in greater detail strategies for maintaining the dichotomy of the basic categories of evaluation, and thus for resisting my claim that F's action is a mere failure. I will focus first on the idea that F has an obligation to help and the claim that F violates this obligation. I'll consider whether F's lapse in recalling the relevance of the currents is a source of blame or excuse. Second, I focus on the idea that F has an obligation to try to help, rather than to help, and the claim that F satisfies this obligation.

What emerges from my response to these two sources of resistance is a clearer picture of the conditions of violating and satisfying an obligation to help, which I elaborate in the third and final section of the paper. Much of the literature has focused on whether and in what sense the ability to do otherwise is a necessary condition for violating an obligation.⁴ However, I bring to

⁴ I have in mind discussions found in the moral responsibility and free will literature. See, for example, *Moral Responsibility*, ed. John Fischer (Ithica, N.Y: Cornell Press, 1986) and *Free Will*, ed. Gary Watson (Oxford, New

light an additional necessary condition for violating an obligation to help: failing to help due to a fault of one's own. In the case of satisfaction, I note that both acting with the intention to help and succeeding in helping are necessary conditions for satisfying an obligation to help. And so one should reject the "either or" form of the question, "Is it the results or the agent's intention that matters to the satisfaction of an obligation?"

Section One: Defending the claim that F has an obligation to help.

Before I discuss the status of F's lack of success in helping the child, I want to first clarify details about F's case. First, notice that there is a course of action that F is physically capable of executing and that will result in the child's being helped, namely throwing the rope within a certain range to the right of the child on the first attempt. Second, there is nothing else that F should be doing rather than helping the child. She is not a doctor on her way to the emergency room in the wake of an earthquake. In fact, other actions—walking away, staring with despair at the drowning child, or throwing the rope carelessly—strike me as not simply less optimal, or less good, but wrong. F rightly thinks there is a possibility of helping by throwing the rope and that no other course of action is even remotely likely to have this outcome (e.g. there is no one else around who can jump in and save the child, and were she to call, it would take too

York: Oxford University Press, 2003) and more recently "Out of Control" by George Sher in *Ethics* (volume 116, no2, January 2006). A noteworthy exception is P. F. Strawson's article "Freedom and Resentment" in *Free Will*. He describes resentment, and so blame, as a reaction to the display of another's ill will. Moreover, implicit in resentment is a demand to be shown good will. Strawson does not, however, make clear whether there are demands (obligations) beyond those of expressing good will to one another. In this paper I argue that obligations to help are not merely obligations to express good will to those in need of help. Moreover, in the last section of the paper I raise some doubts as to whether manifesting ill will is sufficient for violating an obligation to help.

long for help to arrive).⁵ In addition, what F must do to help is neither burdensome nor dangerous.

Nevertheless, one might doubt that F has an obligation to help. I have already made it clear that there was a physical course of action available to F that would have resulted in the child's being helped. But it is reasonable to wonder whether there was a good course of reasoning available to F that would have led her to do what is helpful, namely throw the rope to the right of the child on the first attempt. F did not panic and is not slow-thinking. Nevertheless, the relevance of the currents did not occur to her until after the first throw. This lapse in recalling the currents blocked off the relevant line of reasoning. She could not reason to the conclusion to throw the rope to the right of the child, given her lapse; her deliberations are missing the crucial proposition that throwing the rope to the right will counteract the force of the currents. And if she could not have come to this conclusion (to do what is helpful), then, it might seem, we cannot saddle her with an obligation to help whose discharge relies on her being able to come to this conclusion.

I do not think we should accept that the unavailability of a good line of reasoning at the time of action is sufficient to rebut the claim of an obligation to help.⁶ It matters why that line of reasoning was unavailable at the time of action and not merely that it was unavailable. Consider the following pairs of cases.

⁵ For almost all the cases I consider in this paper, there is only one course of action that will help the person in need. I leave aside cases in which there are multiple ways to help or in which some courses of action are more likely to help than others. Since there is only one way for F to help, by throwing the rope, and since helping is obligatory, it follows that throwing rope is obligatory.

⁶ I prefer to speak of a *claim* of obligation, rather than an obligation, being rebutted. In any given situation there may be conditional, prima facie, or pro tanto obligations, any of which give rise to a claim of obligation. But there can be at most only one all things considered or unqualified obligation in a given situation. I believe that Barbara Herman successfully defends this view in "Obligation and Performance" in *The Practice of Moral Judgment* (Cambridge, Mass.: Harvard University Press, 1993). Also, as I use the term "obligation" in this paper, it is interchangeable with the terms "requirement," "ought," and "should." An alternative way of thinking about obligation and its relation to such terms as "duty," "requirement," and "ought" is presented in the first chapter of John Simmons book *Moral Principles and Political Obligations* (Princeton, N.J.: Princeton University Press, 1979).

Zoo visitor. A zoo visitor, who has never been around animals, notices a gun on a nearby table as she enters the zoo. An employee mentions that it is a tranquilizer gun, which works just like any another gun—just aim and pull the trigger. As the visitor turns the corner she suddenly sees an escaped angry lion attacking a child. She is very afraid. She yells to distract the lion but the lion ignores her and kills the child.

Zookeeper. A zookeeper keeps a tranquilizer gun on a nearby table since many animals have escaped over the past years. As the zookeeper turns the corner she suddenly sees an escaped angry lion attacking a child. She is very afraid. She yells to distract the lion but the lion ignores her and kills the child.

In both cases the line of reasoning that would lead the agents to use the tranquilizer gun to help the child is unavailable at the time when the child needs help. Fear prevents the agents from bringing their knowledge about the tranquilizer gun to bear as they reason, and so a crucial proposition (the tranquilizer gun will incapacitate the lion) is unavailable, thereby making it impossible for the agents to reason to the conclusion to do what is helpful (fire the tranquilizer gun at the lion). However, I think that the zookeeper nevertheless has an obligation to help the child, while the zoo visitor does not.⁷ Zookeepers ought to be able to deal with their fears. Part of the training that zookeepers receive is directly aimed at providing them with specialized fear-

⁷ This does not mean that the zoo visitor has no obligations whatsoever. More than likely she has an obligation to try to help. How best to describe what her obligations are in this case, the grounds of her obligation, and the conditions for successfully discharging her obligation require a discussion in their own right.

management skills.⁸ And so it is reasonable to require the zookeeper to bring her knowledge of the tranquilizer gun to bear on her deliberations about what to do. That is, the zookeeper, and not the zoo visitor, has an epistemic obligation, that is, an obligation to know certain facts about the gun and to bring those facts to bear in the right way in her reasoning.⁹ This explains why the zookeeper's obligation is not rebutted by her lapse.¹⁰

Another way of describing what is at issue is this. Many philosophers, as do I, accept the slogan "ought implies can" and so if someone ought to help, then it follows they can help. But how should we interpret the word "can"? As I noted in the case of F, she can, at the time when she is faced with the drowning child, help the child, so we needn't worry whether and what sort of physical ability she must have—a question to which the lion share of the literature has devoted itself. What I am bringing to our attention is the view that rational abilities and not only physical abilities are relevant to what one's obligations are. What the zookeeper example shows is that we should reject this claim: if the zookeeper ought to help the child, then the decision to do what is helpful is rationally accessible to her at the time when the child needs help. Instead I suggest we accept the following claim: if one is obligated to help, then it is reasonable to require the agent, at the time of action, to reach the decision to what is helpful. As the zookeeper example shows, it can be reasonable to require an agent reach the decision to do what is helpful when the child needs help even when she cannot, at that time, reach that decision.¹¹

⁸ Other examples of professions that are held to high standards of fear management are soldiers, lifeguards, and firefighters. It is also the case that the average adult is held to higher standards than children. So, for example, had a soldier come to the zoo, and all the details of the case above were the same, her obligation to help the child would not have been rebutted.

⁹ The source of the epistemic obligations in this paper is ends and activities that are typically considered moral (e.g. helping, keeping a promise, contractual obligations, and so on). But nonmoral ends and activities, such as scientific or mathematical reasoning, can also be sources of epistemic obligations.

¹⁰ And so there are two obligations at issue in Zookeeper: an obligation to bring her knowledge of the gun to bear in her deliberations and an obligation to help.

¹¹ If an agent cannot reach a decision, due to a phobia or overwhelming fear reaction, is it reasonable to require her to reach that decision? I think the zookeeper example shows that in some cases the answer is yes. In "Emotional

To recap, if an agent is obligated to act, then it is reasonable to require the agent to reason to the conclusion to perform that act. This in turn implies that it is reasonable to require the agent to bring the relevant knowledge to bear as she reasons. Because it is not reasonable to require the zoo visitor to bring the knowledge of the tranquilizer to bear on her deliberations about what to do, the claim of obligation to help is rebutted. However, it is reasonable to require this of the zookeeper, which is why the claim of obligation to help is not rebutted.

Is it unreasonable to require F to bring her knowledge of the currents to bear on her deliberations about what to do, just as it is unreasonable to require the zoo visitor to bring her knowledge about the tranquilizer gun to bear on her deliberations about what to do? F's situation is one that normally cues an agent who is familiar with currents, to the relevance of the currents. Why didn't F pick up on the cues? In the case as I am imagining it, she is neither panicked nor slow-thinking. She is not overwhelmed by the emergency circumstances. She does not realize that the child has already been struggling for some time and is now close to drowning. She sees that the child is struggling in the water and is confident that she can help. She is not the sort who takes a long time to pull together the relevant bits of knowledge to solve a problem and she is familiar with currents and how to counteract their force. It simply does not occur to her to take the currents into account until after the first throw. Her failure to pick on the cues is brute. That is, there is no further relevant explanation of why this did not occur to her.¹² For example, she is

Expressions of Moral Value" I argue that what an agent cannot physical or rationally do *through no fault of her own* rebuts a claim of obligation. The zookeeper cannot help due to a fault of her own, which is why her obligation to help is not rebutted, whereas the zoo visitor cannot help, due to *no* fault of her own, which is why her obligation to help is rebutted.

¹² "Brute lapse" is a metaphysical label denoting a lapse that has no further causal explanation that will make a difference to our moral evaluation of that lapse. For further examples of such lapses, see Michael Smith's "Rational Capacities" in *Ethics and the A Priori* (New York: Cambridge University Press, 2004). Not only can lapses be brute but so too can mistakes. See J.L. Austin's discussion of mistaking the hot for the cold water tap in "A Plea for Excuses" in *Philosophical Papers* (New York: Oxford University Press, 1979), p. 200, note 1. As for how we should morally evaluate such lapses, I argue in section two that brute lapses neither ground blame nor serve as an excuse from blame.

not overwhelmed, confused or overly absorbed in some other project. And she has no desire, conscious or unconscious, to avoid helping. It is not that she can't bring her knowledge to bear on the situation, but rather that she didn't.

F's situation is like that of an agent who promises to pick her friend up at the airport at 6PM but then forgets to avoid a route under long term construction. She arrives hours late and the friend has now left in a cab. It is reasonable to require the agent to remember that the route is under construction and so her lapse does not rebut the claim of an obligation to pick her friend up at 6PM. It is not that she could not have remembered, but rather that she didn't. She usually remembers which freeways are under construction. She has never forgotten before. And perhaps she won't forget ever again. Moreover, there is no explanation, such as distraction, which explains why she forgot. She simply forgot.

Most of us have, on some occasion, forgotten, not recalled, or not picked up on a cue. When the lapses are rare, backup plans—the note on the fridge, the string around the finger, and so on—are not required. For a person with a full schedule, or if someone is forgetful, lapses are a matter of course, which is why some form of backup plan is the norm. But even if one thought that we are always required to form a backup plan so to remember, notice that backup plans too can be foiled by brute lapses, such as when an agent notes in her daily planner to avoid the route under construction, but then forgets to check her planner.

In cases where a lapse is not brute, whether it rebuts a claim of obligation depends on the nature of the explanation for the lapse. If an agent fails to remember that the route is under construction because she is preoccupied with her garden project, the agent is nevertheless obligated to pick her friend up on time. Or if the agent is a forgetful person and did not take any steps to guard against this (such as noting it in a visible place), she is nevertheless obligated to

pick her friend up. On the other hand, if a doctor fails to remember a crucial fact, such as the appropriate drug dosage, due to a sudden, unusual, and severe headache, she does not have an obligation to give the appropriate dosage.¹³ It is not reasonable to expect an agent to overcome this sort of pain and function as a normal adult.¹⁴

Were F's lapse in picking up on the relevant cues in her context due to panic, then perhaps F would not have had an obligation to help the child (she would only have an obligation to try to help). F is not a lifeguard nor does she have any training in how to deal with panic in such situations. Of course, in some cases we do demand that people overcome their panic or anxiety. But we needn't decide whether panic would rebut the claim of an obligation to help the child, since it is not panic that explains why F does not take the currents into account before the first throw. As I explained above, F's lapse is brute and brute lapses do not rebut the claim of an obligation to help the child.

Section Two: Resistance to the claim that F merely failed to satisfy her obligation to help.

In the previous section I indicated why I think F has an obligation to help the child as well as why she did not help the child. Even if one agrees that F has an obligation to help, it may still be difficult to accept that F does not violate this obligation but rather has merely failed with respect to this obligation. In part A of this section I argue that we should resist the temptation to think that F violated her obligation. In part B I consider the suggestion that F does not have an

¹³ In some cases a biological event, like a severe headache, leaves an agent physically capable of helping but not mentally capable of reaching the conclusion to do what will be helpful.

¹⁴ It is an interesting question why brute forgetting does not rebut a claim of obligation while a migraine or amnesia do. In both cases, it might seem, there are events in the brain and it is unclear what sort of control we have over these events in the brain. In this paper I am relying on the fact that we do judge these sorts of cases differently (we judge in cases of brute forgetting, but in the case of migraine, that the person could have remembered) and I am not offering a justification for this practice.

obligation to help, but rather an obligation to try to help. And since F does try to help, then F satisfies her obligation. I outline various costs associated with thinking of F's obligation as an obligation to try to help—costs that I believe can be avoided by accepting that F has an obligation to help that she merely fails to satisfy.

Section 2, Part A: Did F violate her obligation to help the child?

I will consider, and reject, two arguments that conclude F violated her obligation to help the child. According to the first argument F is at fault for not bringing her knowledge of the currents to bear in her deliberations about what to do, and so she violates her obligation to help. There are two ways of understanding “fault” and I'll argue that on either interpretation the argument fails. According to the second argument, obligations to help should be taken at face value, which means the agent must help, and certain results are necessary for performing such an action. Since the child is not helped as a result of F's efforts, F did not help, and so violates her obligation to help. F escapes blame for her violation, one might think, due to her lapse. That is, her lapse is an excuse from blame for her wrongdoing. However, as I'll explain, F's lapse cannot serve as an excuse and so it's best to think of F's action as a mere failure rather than a violation.

Here is the first argument for the claim that F violated her obligation to help the child.

- (1) F does not satisfy her obligation to help the child because she does not bring her knowledge of the currents to bear in her deliberations about what to do.
- (2) F is at fault for not bringing her knowledge of the currents to bear in her deliberations about what to do.

(3) If one does not satisfy an obligation to act due to a fault of one's own, then one violates that obligation to act.

(4) So, F violates her obligation to help.

There are two ways to understand "fault." According to the first interpretation, the phrase indicates blame. Given this interpretation, I think the third premise is extremely plausible.¹⁵ Take, for example, a lifeguard who does not succeed in helping a drowning child because she reacted too slowly, and she reacted too slowly because she elected to drink on duty. She is to blame for her slow reaction time and this does seem to explain why we evaluate her action as a violation of her obligation to help the child.

However, given this sense of "fault," is the second premise true? That is, is F to blame for her lapse in bringing her knowledge of the currents to bear on her deliberations about what to do? I agree that F had an obligation to bring her knowledge of the currents to bear on what to do and that she did not do what she should have done. While she does not satisfy this epistemic obligation¹⁶, I do not believe she violates it

I'd like to make a case for the claim that F's lapse is not blameworthy. I'll do so by describing some lapses that strike me as clearly blameworthy in order to contrast them with F's lapse, which I do not think is blameworthy. Imagine a greedy day trader who is so focused on making her next thousand that she fails to notice her office mate having a heart attack. Or consider an agent who is in a hurry to get to her movie on time and so carelessly throws a rope to a child drowning in the water. In each of these cases the agents have an obligation to help and they fail to do so through a fault of their own. Although the explanation for the lapses in these

¹⁵ Thomson endorses a similar claim in "Morality and Bad Luck," *Metaphilosophy* 20 (1989): 203-221.

¹⁶ I use "epistemic obligation" simply as shorthand for an obligation to know certain facts and to bring that knowledge to bear in the right way in one's reasoning.

cases varies, at bottom each lapse reflects an inappropriate orientation or disregard, either temporary or of a more permanent nature, for those in need of help. The agents care more for themselves or their projects relative to others than they should.

However, F's epistemic lapse manifests no such inappropriate orientation towards the drowning child.¹⁷ F is not a forgetful person who does not bother to take precautions against this defect. Moreover, F's actions and desires are wholly aimed at trying to help the child, not on some other project.

F's lapse also manifests no other blameworthy condition or aspect, such as overconfidence. Imagine an agent who is over confident about her memory abilities. She is driving in the car when a friend calls and asks her to mail some information, but not to use USPS since it takes too long given the remote area where she lives. The driver has sufficient reason to think that her memory is deficient and she should ask the friend to call back and leave a message with these details. But instead the agent believes, mistakenly and unjustifiably, that she'll remember. She doesn't remember and mails the items using USPS. The items do not arrive on time. Such an epistemic mistake is blameworthy.¹⁸ The trouble is not that she has an inappropriate orientation towards her friend but rather an inappropriate conception of herself as a result of, or which is a manifestation of, her character fault of overconfidence.

Since F's lapse neither resulted from nor manifested such faults, I do not think F is at fault, in the sense of to blame, for her epistemic lapse. And so even though F should have known about the currents and should have brought this knowledge to bear in her reasoning, her failure to

¹⁷ And so F's epistemic lapse does not reflect an objectionable evaluative judgment or commitment. For a discussion of epistemic lapses that do reflect objectionable evaluative judgments or commitments see Angela Smith's "Responsibility for Attitudes: Activity and Passivity in Mental Life," *Ethics*, 115 (2005): 236-271.

¹⁸ Or consider an agent who is over confident about her rope throwing abilities. Rather than throwing the rope to the child she decides to lasso the child. Actually she's terrible at lassoing, and has sufficient evidence of this from her terrible performance at the past few rodeos. But she nevertheless believes she can succeed in lassoing. Such an epistemic mistake is blameworthy.

do so is not negligent. That is, her lapse does not meet a necessary condition for negligence, namely being blameworthy for not knowing what she should know.¹⁹

There is another way to interpret the word “fault” in the argument above, namely as indicating a defect—a defect attributable to her, as opposed to a defect in the rope (its coming unwound, for example)? It is true that F’s recall is defective. She should have recalled the relevance of the currents but she did not. An aspect of her cognitive faculties is not functioning properly, and this malfunction accounts for why she does not succeed in helping the child.

Given this new interpretation of “fault,” the third premise loses plausibility. Malfunction is insufficient grounds for the violation of an obligation. In fact, in some cases, malfunction rebuts the claim of an obligation. When a lifeguard does not help a drowning person due to a sudden migraine or a blood clot, she has not violated her obligation to help but rather has no such obligation. The fact that her cognitive and/or physical faculties malfunctioned does not ground the claim that she violated her obligation to help. And so those who wish to claim that F violated her obligation to help the child must turn their sights elsewhere, such as to the argument I consider next.

Here is the second argument for claiming that F violated her obligation to the child.

- (1) If one’s action does not result in someone’s being helped, then one has not helped.
- (2) If one has not helped the person one is obligated to help, then one has violated this obligation.²⁰

¹⁹ F’s case gives us reason to reject the claim that not doing what one should is sufficient for being blameworthy, contrary to what Norman Dahl, for example, maintains in “‘Ought’ and Blameworthiness,” *Journal of Philosophy* 64 (1967): 418-428.

Moreover, insofar as negligence is a matter of not doing what one should out of ignorance *and* being blameworthy, F’s lapse is not an example of negligence, since F is not blameworthy. Morally, and legally, people have assumed that if one does not do what one should out of ignorance, that one is to blame for that failure. However, F’s case challenges this presumption. Moreover, it shows that that a *moral* notion of negligence involves at least two components: not doing what one should out of ignorance and being blameworthy for those failures.

(3) F's action does not result in the child's being helped and F has an obligation to help the child.

(4) So, F has not helped the person she is obligated to help.

(5) So, F has violated her obligation to help.

One motivation for the second premise, the center piece of the argument, is the desire to take seriously the results of actions. The results of an action surely do matter. Here are at least two ways in which they matter. First, the results make a difference to what action one has performed.²¹ Whether one's action is a helping or merely an attempted helping depends, at least partly, on whether the person in need is helped. Second, the results of an action make a difference to the evaluative distinctions we draw among actions. We would much rather be an agent who tried to help and succeeded than an agent like F who tried to help but failed. Successful helpings are preferable precisely because of the nature of their results—someone got helped.

I agree that one should accept that the results of an action are important to determining which action the agent performed and so also to the evaluation of that action. However, this does not entail that a failure to help is sufficient for the violation of an obligation to help. One can capture the motivation behind this sufficiency claim by embracing instead, for instance, that success in helping is a necessary condition for satisfying an obligation to help.

²⁰ Many Utilitarians would accept such a claim. And some Deontologists hold a modified version of this claim. For example, in "Self-Defense" (*Philosophy and Public Affairs* 20 (1991): 283-310) Judith Jarvis Thomson accepts this view: if an agent has an obligation to help and this obligation is not overridden, canceled or otherwise neutralized, then not helping violates this obligation.

²¹ What action one has performed also depends on the intention with which it is done. For a helpful discussion of this point see G.E.M. Anscombe's "The Two Kinds of Error in Action" in *Ethics, Religion, and Politics* (Minneapolis: University of Minnesota Press, 1981).

Not only need one not accept failures to help as a sufficient condition for the violation of an obligation to help, one should resist this claim, since it prevents us from drawing an important distinction between F's action and V's action in the following case.

V notices that a child is drowning. V doesn't want to miss the previews before her movie and so she leaves the child to drown and continues walking to the theatre.

The results of V and F's actions are the same—the child drowns. However V's action (walking away) is quite different from F's action (attempting to help the child). V clearly violates her obligation to help. Moreover, it is appropriate to blame V for not helping the child but inappropriate, I think, to blame F for not helping the child. I think the best explanation for why F is not to blame is that she did not violate her obligation.

[Perhaps this is a good place to reveal my naming scheme. V is so-called because she violates her obligation, whereas F merely fails with respect to her obligation. S, who I will discuss later, is so-called because she satisfies her obligation.]

Is there an alternative explanation for why we do not blame F for not helping the child? One might think that we judge F's action as blameless because F has an excuse from blame for her wrongdoing (violating of the obligation to help).²² If two agents both act wrongly, but the action of one is fully excused, then she is not to blame for her act. So, for example, even though both V and F violate their obligation to help, only F has an excuse, namely due to her lapse, and

²² Or one might loosen the connection between the evaluation of an act and the evaluation of the agent who did the act. That is, one might claim that F is not to blame, since blame-judgments are a matter of an agent's character, while F's action is wrong, since such judgments are about the nature of the action. Thomson adopts a view like this in "Self-Defense" as does W. D. Ross in *Foundations of Ethics* (Oxford: Clarendon Press, 1939). However, I do not think this strategy will be of much help since one should judge not only V and F differently, but also one should judge their actions differently.

so F is not to blame for her violation. Given this way of looking at things, one can account for a difference between V and F while still maintaining the second premise (namely, that not helping is a sufficient condition for violating an obligation to help).

However, is F's lapse in recalling the currents an excuse? More importantly, is F's lapse the sort that excuses her entirely from blame? As I see it, F is not just less to blame than V, but not to blame at all, and so if F violated her obligation, then her excuse for doing so must fully excuse her from blame for her violation. That is, if F's action is wrong, then it is also an example of blameless wrongdoing. But is that the right way to think about F's action?

It might help to compare F's situation with a clear case of blameless wrongdoing, but it is not easy to find such a case. Consider this example.

Light Switch. An agent comes home at night and flips the light switch in the usual way. But on this night the flipping of the switch creates an electrical charge that flows next door and electrocutes her neighbor. There is no reason the agent should have suspected that her switch was faulty.²³

The agent has an obligation not to harm or kill: had she come home and stabbed her neighbor to death, she would have acted wrongly. Since the agent killed her neighbor by flipping the switch, it might at first glance seem that she violated this obligation, though in this case she is not to blame for doing so; her faultless ignorance about the dangerous light switch excuses her from any blame for her violation of the obligation.

²³ This is a version of Thomson's example in *The Realm of Rights* (Cambridge, Mass.: Harvard University Press, 1990), p.229.

I think we should reject the characterization of this agent's action as one of blameless wrongdoing, since the agent does no wrong. That is, she does not violate her obligation. As I argued earlier, if an agent is obligated to act, then it is reasonable to require the agent to reason to the conclusion to perform that act. This in turn implies that it is reasonable to require an agent to know the relevant facts necessary for arriving at that conclusion. If one applies this lesson to the obligation of not harming, then the harms one is obligated to avoid are limited to those it is reasonable to require an agent to know about and so reach a conclusion to avoid. I do not think it is reasonable to demand that the agent know that flipping the switch will kill her neighbor and so the harm she inflicts is not the harm that she has an obligation to avoid.²⁴

The Light Switch example should give one pause when thinking about what exactly we are required to do in the face of an obligation not to kill or harm (or any obligation to act). It is not as obvious as it might seem. One should *not* take the claim at face value. Instead, the claim "one should not harm others" is, I believe, shorthand. The full unpacking of the claim requires a discussion that I cannot take up here. However, examples like the Light Switch do shed light on the fact that the harms we have an obligation to avoid are, at the very least, those it is reasonable to require us to reach a conclusion to avoid.

I believe that many of the traditional examples of blameless wrongdoing are not in fact examples in which the agent violates her obligation. Take for example an agent who, after drugs have been forced upon him, intends and then succeeds in killing another. Or consider an agent

²⁴ For similar reasons I think we should reject describing the agent in Light Switch as acting objectively wrong but subjectively right. On such a view agents will sometimes be blamelessly unable to avoid doing what is wrong. If "wrongdoing" implies a kind of criticism, then such a view places overly burdensome demands on agents. If "wrongdoing" is divorced conceptually from criticism, and is often blamelessly unavoidable, then it is unclear why the notion is of interest to moral agents.

who is thrown off a cliff and kills the person he lands on.²⁵ In both cases the agents do not inflict a harm they have an obligation to avoid. It is not reasonable to require the drugged agent to reason to the conclusion to refrain from killing and it is not reasonable to require the agent thrown from the cliff to land somewhere other than where he does.²⁶

Notice that F's action is quite different from these purported examples of blameless wrongdoing. It is not reasonable to require the agent in Light Switch, for example, to reason to reach the conclusion to refrain from flipping the switch. However, in the case of F it is reasonable to require her to bring her knowledge of the currents to bear on what to do, to reach the conclusion to throw the rope to the right, and to then execute that action. And so F's situation is not comparable to this, or other the other purported cases of blameless wrongdoing.

Is F a better example of blameless wrongdoing than the purported examples? I would urge caution in accepting the notion of blameless wrongdoing. First the notion suggests that there is only a contingent connection between blame and wrongdoing. But I think that to call an action wrong involves a kind of criticism that is presumptively associated with blame. Relatedly, the term "wrongdoing" is not properly used simply to mark actions with bad results. Many actions have bad results that are not wrong. For these (admittedly briefly sketched) reasons I find the notion of blameless wrongdoing suspect. I suggest instead that we accept that F is not to blame because her action is not wrong (not a violation of an obligation to help the child).

²⁵ Both examples are from Thomson's "Self-Defense." It is unclear whether the agents act in either case, and so, I believe, it is unclear whether they violate their obligation. Thomson, however, claims that "agency is no more required for violating a right than fault is" ("Self-Defense," p.302).

²⁶ Consider one last purported example of blameless wrongdoing. Suppose a person kills her lover in a fit of jealous rage. Is this an example of blameless wrongdoing? It strikes me that either the agent acted wrongly and is to blame to some degree, or she is blameless because she did not act wrongly. Although I cannot fully defend this interpretation of the case here, I will give a brief sketch. Either it is reasonable to require the agent to refrain from killing her lover, or it is not. Suppose it is not. Then her act has the same status as the agent who kills due to a drug, namely she inflicts a harm she does not have an obligation to avoid. And so once again her act is unlike F's action. But suppose it is reasonable to require the agent to refrain from killing her lover. Suppose, for example, that the rage is resistible, albeit difficult to resist, but she nevertheless acts out of rage (and so displays ill will). Then she does violate her obligation. She is less to blame than someone whom could have easily resisted but did not, but she is nevertheless still to blame to some degree.

Section 2, Part B: Did F satisfy her obligation to the child?

When faced with a case like F's, and even cases like that of Light Switch, it is natural to feel pulled by the view that we should not expect too much of one another. We are only human. We are physically and rationally limited and we should not be saddled with obligations that are beyond our capacities. And so one might conclude that all we can really demand of one another is that we try our best; that is, we should do our part, by acting with the appropriate intentions and effort, and the rest is out of our hands (and perhaps in God's hands, or up to the world).²⁷ On such a view, obligations to help are not to be taken at face value, that is, as requiring that one help. Instead the obligation to help is typically reinterpreted in one of the following ways.

An obligation to help is really an obligation to adopt the end of helping.²⁸

An obligation to help is really an obligation to act with the intention of helping.

An obligation to help is really an obligation to try to help.

²⁷ The Stoics, Kant, and Kantians are often interpreted as holding such a view. One can also see this view reflected in Philippa Foot's statement that "it is not, of course, necessary that charitable actions should *succeed* in helping others" ("Morality as a System of Hypothetical Imperatives" in *Virtues and Vices*. [Berkeley: University of California Press, 1978], p. 169, note 12), H.A. Prichard's claim that "an obligation must be an obligation, not to *do* something, but to perform an activity of a totally different kind, that of setting or exerting ourselves to do something" ("Duty and Ignorance of Fact" in *Moral Obligation* [Oxford: Clarendon Press, 1949], p.35), and in Rabbi Tarfon's claim, "It is not your duty to complete the task, but you are not free to desist from it" (*Ethics of the Fathers*, transl. Hyman Goldin [New York: Hebrew Pub. Co., 1962], 2:21.).

²⁸ In what follows I assume that adopting and pursuing the end of helping is appropriate. It may be that one must also intend to do one's duty, or to act well, while seeing helping as instrumental to, an instantiation of, or constitutive of doing one's duty or acting well. The arguments in this paper do not hang on the resolution of this issue.

Also, when I say that an agent acted with the intention of helping, I mean this to be different from, and inconsistent with, for example, acting with the intention of helping so as to later inflict harm (e.g. reviving someone in order to then torture him).

Each interpretation makes transparent the satisfaction conditions of an obligation to help in the content of the obligation. While these interpretations share a similar motivation, they are not obviously equally demanding. For example, one can adopt the end of helping (and so satisfy one's obligation to help according to the first interpretation) without ever acting with the intention of helping (and so without satisfying one's obligation to help according to the second interpretation). An agent who adopts the end of helping will, if rational and if the appropriate opportunity arises, act with the intention of helping. However, weak willed agents are not rational, and so can adopt the end of helping without acting on it. Such agents do satisfy their obligation to help as spelled out according to the first interpretation.²⁹

We want an agent in F's situation not only to adopt the end of helping but also to pursue that end, that is, to act with the intention of helping, making a sincere effort, as F does. Requiring that F act with the intention of helping is more demanding than requiring that F merely adopt the end of helping, but it is not as demanding as requiring that F help. One cannot perform just any action with the intention of helping. Most people are familiar with the various causal and psychological effects of their actions. Barring some special story,³⁰ no one intending to help could believe that walking away from or shooting at someone who is drowning is helpful. And so certain actions, such as weak willed actions and badly willed actions clearly run afoul of the obligation to act with the appropriate intentions (which in this case is the intention to help). However, since acting with the intention of helping allows for some mistakes with respect to what will be of help or how to be of help, one can succeed in acting with the intention of helping without succeeding in helping. A doctor who has good reason to think a patient requires an

²⁹ One might think that there is a kind of transitivity of obligation: to fail to take the means to an end we are obligated to adopt is to fail not only rationally but also morally. On such a view, the first and second interpretations of an obligation to help are equally demanding.

³⁰ Relief from unbearable and incapacitating pain might be an element in such a special story.

antibiotic and so gives the injection can succeed in acting with the intention of helping even if it turns out she has prolonged the patient's misery due to the patient's hitherto unknown allergy. And an agent, such as F, who throws a rope in order to help a drowning child, acts with the intention of helping even if it turns out that only throwing the rope to the right will be of help. These agents' blameless epistemic mistakes do not prevent them from satisfying their obligation as understood on the second interpretation.

While there may be subtle differences between acting with an intention of helping and trying to help, these differences will not affect the discussion in this paper, and so I will treat the second and third interpretations as equivalent and alternate between them.³¹ I'll assume that when an agent tries to help, she sets herself the end of helping and pursues this end, that is, she acts with the intention of helping.

In spite of the attractions of interpreting an obligation to help as an obligation to try to help (with the appropriate effort), there are some serious costs to doing so. First, treating *every* obligation to help as an obligation to try to help has the unfortunate result of not only making what should be a special case into the ordinary case, but also of eliminating the ordinary case altogether. Ordinarily, if someone is struggling to open a door that it is permissible for them to open, and which one can easily open, one is obligated to help, not to try to help. It is only in special circumstances that one has the scaled back obligation to try or to intend to help. For example, if someone is struggling with a door that is in fact impossible to open, and I am justifiably ignorant of this fact, then I have an obligation merely to try to help. The obligation to

³¹ In fact I do not think the expressions "trying to help" and "acting with the intention of helping" are synonymous. The description "trying to help" necessarily implies that the describer, who may or may not be the agent herself, believes success is to some relevant degree uncertain. However, the description "acting with the intention of helping" does not necessarily have this implication. Also, perhaps less effort is needed to succeed in trying (imagine a child who just dips his toe into the cold water and says, "I tried.") than is needed to succeed in acting with an intention. I note additional differences as the discussion proceeds.

try to help is scaled back compared to the obligation to help, since much less is required to satisfy the first obligation (namely, trying) as opposed to the second (success in opening the door). In this case my obligation is scaled back to trying to help in part because (i) through no fault of my own, success in opening the door is impossible and (ii) I would be morally criticizable if I (falsely and yet reasonably) believed I could easily help and yet watched the person struggle with the door.

Suppose we accept that it is only in special circumstances, not in every circumstance, that one is obligated to try to help.³² Is F's situation special? I don't think so. At the point when F first comes across the child, it is possible for her to save the child.³³ Moreover, it is reasonable to require F to know that the child would best be helped by throwing the rope to the right, rather than at, the child. The claim that F has an obligation to help the child does not place an unreasonable or impossible burden on F. For these reasons I think F has an obligation to help and not merely to try to help.

Still, one might resist the claim that F has an obligation to help. Perhaps this resistance is motivated by the thought that F is not blameworthy for failing to help. But if one accepts that violation, not mere failure, is a necessary condition for blame, then one can hold both that (a) F merely failed to satisfy her obligation to help the child and (b) F is not to blame for this failure.

Another source of the resistance might derive from the tradition of distinguishing perfect and imperfect duties or obligations.³⁴ The obligation to help is traditionally thought to be an

³² Does one always have an obligation to try and sometimes also have an obligation to help? I think not, just as it is not always the case that one seems to see and sometimes also the case that one sees. However, nothing in this paper hangs on the truth or falsity of this claim.

³³ In this paper, my main focus is on whether, when F first encounters the child, F has an obligation to help or merely an obligation to try to help. It may be that after the first attempt, F only has an obligation to try to help (given that it is impossible for her to succeed and that she does not know this).

³⁴ See, for example, Kant's discussion of perfect and imperfect duties in section two of *The Groundwork for a Metaphysics of Morals* and throughout *The Metaphysics of Morals* in *Practical Philosophy* [New York: Cambridge University Press, 1996].

imperfect obligation, which means one only has an obligation to adopt (and pursue) the end of helping. I have already offered one reason for thinking that the obligation to help is not always an imperfect obligation. In what follows I outline additional costs for maintaining the view that F has only an imperfect obligation to help. Moreover, at the end of the paper I show that the phenomenon of mere failures arises not only with respect to imperfect obligations, such as the obligation to help, but also in the case of perfect obligations, such as the obligation not to harm.

Notice that the view that F has an obligation to try to help, rather than to help, lacks the resources to distinguish between the actions of F and S in the following case.

S notices that a child is drowning. Taking the currents into account, she throws the rope and the currents carry the rope within reach of the child. Once the child grabs the rope, S pulls the child to safety.

Both F and S try to help the child, but S, unlike F, takes into account the currents and so succeeds in saving the child. Since both act with the appropriate intention, the view must treat both as having satisfied their obligations. But I would certainly prefer to be S rather than F, and one main difference between the two agents is that they perform different actions. S actually does help the child whereas F does not help the child. The question is whether the results of their actions are to be treated as irrelevant to the satisfaction of their obligation. I do not think it is right to think of the child's getting help as simply a bonus.

This view also has trouble making sense of the phenomenon of apologies. The expression "I'm sorry" has a wide array of uses. Sometimes it is used to offer sympathy, such as when one hears of the death of a friend's loved one. In other cases it is used to indicate that the

circumstances or results of an action are unfortunate (even when the action itself is justified), such as when someone goes without medicine due to scarcity. But the expression is also used to apologize. In apologizing the agent acknowledges that she has failed the other person. In some cases the person apologizing also intends thereby to make it up to the other person.³⁵ For example one might apologize for being greedy and taking someone else's slice of pie. In such a case, one has acted with an inappropriate intention.

But apologies also make sense in some contexts where one has acted with an appropriate intention, that is, where the agent tried to achieve the end that she was obligated to try to achieve. Earlier I discussed an agent who promises to pick her friend up at the airport at 6PM but then forgets to avoid a route under long term construction. This is a case of brute forgetting (for example, distraction is not the explanation of her forgetting). She arrives hours late and the friend has now left in a cab. I think it is appropriate for the driver to apologize, but the view I am criticizing cannot explain why this is appropriate.³⁶ What, on this view, is the driver apologizing for? The driver, on this view, is only obligated to try to keep her promise and she does try to keep her promise. Of course she might be frustrated that she did not succeed in keeping her promise, but that is no reason to apologize to her friend, since that was not owed to the friend. She satisfied her obligation with respect to her friend: she succeeded in trying to keep her promise to her friend. And yet I think it clear that the driver owes her friend an apology. She did

³⁵ It is another question whether the apology itself can or should be enough to make up for what one has done. Accepting apologies as a way of making up for less than successful activity does not commit one to a "balance sheet" view of activity; one cannot do wrong with the intention of apologizing, as if this would make everything come out "even."

³⁶ In "What Happens to the Consequences" (p.97-98) Herman suggests that agents motivated by duty will adopt maxims of response in such a situation, but it is unclear why doing so is a form of restitution if the agent has previously acted on well-formed maxims and if acting on such maxims is sufficient for satisfying one's obligation.

not make it to the airport at the time she promised and it was reasonable to expect to her to do so.³⁷

Similarly, F did not help the child, and, as I already argued, it was reasonable to expect her to do so. It is not clear to whom, if anyone, F should apologize. After all, F's obligation is to the child, not, for example, to the child's parents.³⁸ Nevertheless, there are related thoughts and feelings it is appropriate for F to experience. She will feel bad for failing the child, and not merely bad that she did not achieve her end or that the child died—the latter a feeling any bystander could have, had there been one. Such a feeling cannot be justified if we think of F as having satisfied her obligation to help the child.

Consider a different, more controversial case.

Borrower. An agent borrows some money and promises to return it in a week. She has a good memory but she writes herself a note in her date book just to be sure. The day arrives to return the money but she does not remember to do so and she does not remember to look in her date book. This is a case of brute forgetting (for example, she does not forget because she wants to keep the money for herself or because she is distracted). She believes she has met all her outstanding promises and so decides to read a book.

In one sense the agent knows that this afternoon is her last opportunity for fulfilling her promise, but this knowledge is not operative in the afternoon as she reasons about what to do. If someone

³⁷ Yet another case to consider: when a doctor adopts the end of helping but forgets the patient's allergy to a certain antibiotic, and so makes the patient ill by giving it to him, she has reason to apologize in spite of the fact that she acted with the intention of helping.

³⁸ Expressing sorrow for the parent's loss and F's acknowledgment of her role in that loss does seem appropriate.

were to see her reading her book and enquire whether this afternoon was her last chance for repaying her debt, she would immediately agree (and perhaps slap her forehead and exclaim, “I can’t believe I forgot! I’ll do it now”). In this case the agent acts with an appropriate intention, she does not merely lack an inappropriate intention. She reads her book on the condition that and with the (false) belief that she has no outstanding promises. Given the beliefs operative in her reasoning about what to do, which do not include the belief that this afternoon is the last chance to repay the debt, but do include the belief that all her outstanding promises have been met and that it is her day off, it is perfectly appropriate for her to intend to enjoy herself by reading a book. The next day when the agent looks in her date book and realizes she forgot to pay back her loan, I think it is appropriate for her not only to return the money but also to apologize. But the view I am criticizing cannot explain why acting with the intention of making restitution is appropriate. Such an intention is a response to the fact that the agent did not keep her promise. But the view cannot explain why her unkept promise is relevant to determining whether she should apologize, since keeping her promise is not what she is obligated to do. Moreover, the view cannot explain what the agent is apologizing for. The agent cannot be apologizing for failing to act with the appropriate intention. She blamelessly has a false belief that all her promises have been kept. I think it makes most sense to say that the agent is apologizing for failing the lender: She did not get the money back into the hands of the lender by the specified deadline.³⁹

One might think that while the intentions that the driver and borrower do have are appropriate, they are missing an intention they should have, and this explains why they should

³⁹ There is an interesting difference between the borrower and F. F forgets something that is instrumental to fulfilling her obligation whereas the borrower forgets something constitutive of fulfilling her obligation. While this is an important difference, and perhaps makes the borrower’s failure worse than F’s failure, both are nevertheless failures.

apologize. The driver should not only adopt and pursue the end of picking up her friend, but she should also adopt and pursue the mediate end of taking the freeway not under construction. And similarly, the borrower should not only adopt and pursue the end of keeping her promises, but she should also adopt and pursue returning the money.

If the appropriateness of an agent's mediate ends is judged relative to what it is reasonable to require an agent to believe, rather than relative to what an agent does believe, then the driver and borrower do not act with the appropriate intentions. That is, they do not try to do what they should try to do. It is reasonable to expect the driver to remember which freeway is under construction and given this information the appropriate intention on which to act is taking the freeway not under construction. Similarly, the borrower should remember that this afternoon is her last chance to repay the loan and given this information the appropriate intention on which to act is to return the money and not read a book. And so the driver and borrower do have something to apologize for, namely, not acting on these intentions.

One can make sense of the driver and borrower's apology by adopting this modified view of what makes an intention appropriate. However, it has the unfortunate implication that F too does not act with the appropriate intention. It is reasonable to expect F to remember the currents, and given this information the intention with which it is appropriate to act is throwing the rope to the right of, not at, the child. But F does not act with this intention.⁴⁰ And so F does not satisfy her obligation. But remember, one motivation for embracing this view of the obligation to help is to *defend* the claim that F satisfies her obligation to help the child.

Here then is the bind for someone who accepts that all we are obligated to do is act with the appropriate intentions. If one accepts a view of appropriateness on which F did act with the

⁴⁰ F intends to help in this situation, which is appropriate, but she also intends to throw the rope *at* the child, which is inappropriate.

appropriate intention, then one can neither properly distinguish the actions of F and S nor make sense of the phenomenon of apologies. However, if the criterion of appropriateness of intentions is modified in order to accommodate these concerns, then one can no longer claim that F satisfied her obligation.

I have argued thus far that there are several costs to maintaining the view that F only has an obligation to act with the appropriate intentions, that is, to try to help. I would like to bring out one further cost for this view. But first I will need to make one preliminary point: it should be both possible and permissible for an agent to adopt and pursue the end of satisfying her obligations in the particular circumstances she faces. We often encourage and expect people to consider what their obligations are. We expect, or at least accept, that they can adopt not only a general end of satisfying their obligations but also the specific end of satisfying their obligations in their present circumstances. To do so, an agent must form some view of what her obligations require of her, that is, what activity is sufficient for the satisfaction of her obligations. On the view we are considering, trying to help is the activity sufficient for satisfying an obligation to help.

Let's suppose that F does what it is both permissible and possible to do: she adopts the end of satisfying her obligations in her present circumstances. And let's suppose also that she believes that she is obligated to try to help. For such an agent, she will have the end of trying to help. Of course if an agent has the (final) end of trying to help she will achieve this end only if she adopts the (mediate) end of helping and pursues this mediate end (that is, she acts with the intention of helping).⁴¹ So long as the agent believes she can help, and has the end of trying to

⁴¹ Oddly, on this view helping is the mediate end and trying to help is the final end. And so one can achieve the final end without achieving the mediate end. Normally, this is not the case.

In addition, it is not clear that the agent really will be able to (rationally) adopt and pursue the end of helping. Recognition that one has a reason to intend to help (because so intending is obligatory) but no independent

help, she will stay engaged with the situation and throw the rope again with the intention of helping.⁴²

However, if F's final end is trying to help, F will have the wrong conception of her own activity. When the child is still drowning after the first throw, F will nevertheless view her first action as successful with respect to her obligation, since she achieved her final end of trying to help.⁴³ Since her first action is viewed as successful, her subsequent action (the second throw) cannot be conceived of as an attempt to succeed where the first attempt failed. That is, she cannot conceive of her subsequent action as "trying again" at satisfying her obligation. Not only is F's subsequent action not an attempt to succeed where the first failed, but even the first action cannot be thought of as an attempt to achieve her final end, since she did achieve her final end. The fact that the rope floated away from the child, and the fact that the child is still drowning, gives her new information on which to base her subsequent actions. But this is the same sort of information the agent could get from watching someone else throw the rope without taking the currents into account. Her connection to the situation upon the second throw is, in this sense, fresh. Rather than conceive of herself as in the middle of something, that is, in the process of satisfying her obligation, she will conceive of herself as taking up something for the first time—namely, satisfying her obligation (to try to help) in this present moment. Thus, this view of obligations cannot make sense of the phenomenon of "trying again" to satisfy one's obligation.⁴⁴

reason to help may make it impossible to intend to help for that reason. See Gregory Kavka's illuminating article "The Toxin Puzzle," *Analysis* 43, 1983: 33-36.

⁴² Herman rightly argues that the Kantian agent motivated by duty alone will remain responsive to the situation in "Integrity and Impartiality" p.28-29 and "What Happens to the Consequences?" p. 98 in *The Practice of Moral Judgment*.

⁴³ But what of her mediate end, namely helping? She adopts the mediate end because it is necessary for achieving her final end of trying to help. As soon as one achieves the final end, which she does with the first throw, there is no longer a reason to continue having the mediate end. So she drops that mediate end. But the child is still drowning. So she adopts *anew* the end of trying to help, and so *anew* the mediate end of helping, and so throws the rope again.

⁴⁴ This point holds regardless of whether one thinks of the obligation to help as an obligation to act with the intention of helping or an obligation to try to help.

We very often speak of trying to satisfy our obligations. But if an obligation to help really is an obligation to try to help, then one cannot try to satisfy one's obligation to help. What would it mean to try to try to help? An agent cannot both have an obligation to try to help and try to satisfy this obligation so understood.⁴⁵

In the next section I show that one can avoid the costs associated with this view of obligation by accepting that F has an obligation to help, and not merely an obligation to try to help. Moreover, I outline the advantages to accepting that F merely fails (neither satisfies nor violates) her obligation to help.

Section Three: An outline of some necessary conditions for satisfying and violating an obligation to help.

In the light of earlier examples, as well as some new ones, I want to discuss some implications and benefits of accepting the claims that (a) F has an obligation to help and (b) she neither violates nor satisfies this obligation; instead, she merely fails with respect to her obligation.

The first implication is that a necessary condition for violating an obligation to help is failing to help due to a fault of one's own. It is natural to focus on the fact that an agent did not help and whether she could have helped as the necessary conditions of the violation of an obligation to help. But rather than elaborate or defend these conditions, I want to highlight instead a less familiar, but, nevertheless, interesting necessary condition of violating an obligation to help, namely failing to help due to a fault of one's own. Often the fault manifests an

⁴⁵ This point exposes, perhaps, an important difference between acting with an intention to help and trying to help. One can try to act with the intention to help.

inappropriate orientation by the agent towards the person in need. To fully explain and defend what it is to be inappropriately oriented or concerned with another person (or oneself) requires a paper in itself. For purposes of this paper I will simply suggest that when one is appropriately concerned with another, one is concerned with, among other things, the well-being of this person and so also how one's actions affect the well-being of this person.

An inappropriate orientation towards another can have a variety of manifestations as well as causes. I'll mention a few. The first, and perhaps most obvious, manifestation occurs when an agent acts out of ill will, as the jealous lover described earlier does. Another clear manifestation occurs when an agent is aware that she could, for instance, help, but grossly misjudges the importance of helping. V is a good example of this. She judges seeing the movie previews, which will give her great pleasure, to be more important than helping the child, even though she recognizes the child will die without her help. In some cases the inappropriate orientation is more permanent, in other cases temporary, such as when the agents in Milgram experiments judged it better to obey the order of the scientist.⁴⁶ This by no means covers the full range of explanation for such misjudgments.

An inappropriate orientation towards others can also lead an agent to be unaware that someone is in need. I discussed earlier a day trader whose greed leads her to focus exclusively on making her next thousand, and so she does not notice her office mate having a heart attack. An inappropriate orientation can also undercut an agent's imaginative abilities necessary to determine how to help, and so the agent will be led to misjudge that she cannot help. For instance, an employee might notice that her co-worker is down but because she is not sufficiently concerned with her co-worker, she fails to think of how she might cheer her co-worker up, such

⁴⁶ Some agents in Milgram's experiment acted against their better judgment, where this judgment was the correct judgment that they should not follow the orders they were given.

as by inviting her to lunch, dropping off a card, or even simply inquiring as to how she is doing. She too easily jumps to the conclusion that there is nothing that can be done to help.

Thus far I have been discussing violating an obligation to help due to a fault of one's own, where that fault manifests an inappropriate orientation towards the person in need. However, as I noted earlier in section 2, part A, in some cases the fault is due to some other blameworthy condition of the agent apart from an inappropriate orientation towards others. For example, being overconfident is a fault that can lead to misjudgments, which in turn lead agent's to fail to help.

Not just any mistake in judgment or failure to notice critical facts exhibits an inappropriate orientation. Consider a soldier who comes across a seriously wounded comrade. She will not be able to carry her comrade to safety and by the time she finds others to help, the enemy will overtake the area. She knows that the enemy will torture her comrade and then kill him. Suppose, after much contemplation the soldier decides to kill her comrade by shooting him in the head. In her deliberations she focuses on the fact that death is a good for her comrade and that dying sooner rather than later is good for her comrade (let's suppose she is correct). However, she does not consider what her comrade would prefer. In fact, her comrade would prefer to live longer even if this means dying by torture later. The soldier has never been exposed to the view that the agent's wishes are relevant to determining the permissibility of euthanasia, just as many doctors, and some philosophers, had not considered the point prior to the emphasis on patient autonomy in the bioethics literature. Even though the soldier kills when, in my opinion, she should not, the soldier's killing of her comrade is consistent with her being appropriately concerned with the well-being of her comrade and is not a result of any other fault.

Because she does not do what she ought, but not due to a fault of her own, she merely fails rather than violates her obligation.⁴⁷

F also does not fail to help due to being inappropriately orientated towards the drowning child or to any other fault, and so she does not meet this necessary condition for wrongdoing.⁴⁸ F is aware of and takes seriously the child's need. She is not overconfident or distracted. Instead, she fails due to a blameless lapse.

The examples of the soldier, F, the driver and the borrower, illustrate that one can be appropriately concerned with helping and avoiding harm to others while still making blameless mistakes about how best to help or avoid harm, as well as blameless mistakes about whom to help and avoid harming. Sincere and thoughtful attempts to determine what is helpful do not always guarantee that what one does will actually be helpful. One can be sincere and thoughtful and yet be unaware of, overlook, or not recall a fact or claim that one is reasonably required to know, and which would have allowed one to reason to a conclusion to perform an action that is

⁴⁷ She fails since her comrade has not waived his right not to be killed. See Phillipa Foot's discussion in "Euthanasia" in *Virtues and Vices*. The point of the example is merely to illustrate the claim that an agent can make some moral mistakes without thereby violating her obligations. The importance of consent has not always been appreciated, and so one might understandably have overlooked it. Moreover, it can be difficult to know how much weight to put on a person's refusal since a refusal might indicate a lack of rational capacity.

⁴⁸ Is failing to help due to a fault of one's a sufficient condition for violating an obligation to help? Consider this case:

Jet Skier. An agent is jet skiing when she sees a child drowning nearby. There is no one else nearby to help the child. The agent is practicing for an upcoming competition and doesn't like anything to interfere with her routine. So, she skies away from the child. However, in doing so, she unknowingly creates a wave which carries the child safely to shore.

I think it is clear that this agent violates an obligation, but not so clear she violates her obligation *to help*. It is interesting that the jet skier would have violated her obligation to help if she simply left the child to drown and someone else then came to the child's rescue.

In "Self-Defense" (p.293) Thomson describes Alfred who gives his wife something to hasten her death but which in fact cures her of her ailment. Suppose that he is after her inheritance. Surely he acts in a way that manifests an inappropriate orientation towards his wife, and while he no doubt violates some obligation, it does not seem that he violates his obligation not to kill her.

Alfred also does not satisfy his obligation not to kill his wife, since he does not act with the appropriate intention. Is Alfred's act a failure? And if we think that the jet skier neither satisfies nor violates her obligation, is her act a failure? Perhaps. F's action is very different from the jet skier's and Alfred's action. If all three are failures, then there is work to be done in distinguishing different kinds of failures.

in fact helpful. In such cases, I believe, the action falls in the category I've labeled "mere failures."

Of course one may have good reason for drawing moral distinctions within the category of mere failures. Just as we distinguish negligent killing from unjustified intentional killing, though both are examples of wrongdoing, similarly, one might rightly distinguish F's failure from that of the soldier's failure, though both are examples of mere failures.

A second implication one can draw from the cases I have offered thus far is that acting with the intention to help and succeeding in helping are both necessary conditions for the satisfaction of an obligation to help. The jet skier's action makes it clear that merely doing that which helps is insufficient to satisfy an obligation to help, while F's action makes it clear that merely acting with the intention of helping is insufficient to satisfy an obligation to help.⁴⁹

There are several benefits to accepting that success in helping is a necessary condition of satisfying one's obligation to help. First, when agents adopt the end of satisfying their obligation, they will have the appropriate conception of their activity. When the child is not helped after the first throw, F will see this as a lack of success in satisfying her obligation and so will conceive of

⁴⁹ Is acting with the intention to help and succeeding in helping a sufficient condition for satisfying an obligation to help? Consider whether the following agents satisfy their obligation to help.

An agent intends to help and succeeds in helping but she mistakenly thinks that helping is merely optional and not obligatory.

An agent intends to help her friend and succeeds in doing so, but mistakenly believes that it is obligatory to help all and only her friends.

Upon hearing that Echinacea will cure her daughter (which is not true), the mother picks some from her garden and gives it to her daughter. Had she bought Echinacea from the market, the daughter would still be ill. However, due to unknown features of the soil in her backyard, the herb she picked does cure the daughter.

I am inclined to think that the agents have not satisfied their obligation to help in these cases and so further conditions are necessary for satisfying an obligation to help.

her second throw as another attempt to achieve what the first did not. Moreover, she will conceive of her first throw as an attempt, and not as a success.

Another benefit to accepting success in helping as a necessary condition for the satisfaction of the obligation to help is that it provides the resources for explaining the intuitive difference between F and S's action. F does not meet this condition while S does. In addition it provides the resources for explaining why apologies make sense in the case of later driver and tardy borrower. They are apologizing for their failure to satisfy their obligation to others. What makes their actions less than successful are the results: the driver did not make it to the airport on time and the money did not make it back into the hands of the lender by the specified deadline.

One last important benefit of this account is its usefulness in explaining certain emotional phenomena. I think F is justified in feeling bad for failing to help the child even though blame, by herself or others, is inappropriate. Her feeling bad is not merely regret, which is something that anyone is justified in feeling. Nor is it clear that this feeling is best described as agent-regret. Agent-regret is appropriate even when it is unreasonable to require the agent to have known to act otherwise.⁵⁰ In F's case it is reasonable to require her to bring her knowledge of the currents to bear on what to do, to reach the conclusion to throw the rope to the right, and to then execute that action. And so something more than agent-regret, but less severe than self-blame, is called for.

If we focus on the fact that F's action is a mere failure, I believe we can make headway in properly describing how F should feel about what she has done. Since she merely fails, and does not violate her obligation, blame, by herself or others, is not appropriate. But since she also did not satisfy her obligation to the child, she has good reason to feel bad—she failed the child.

⁵⁰ For a discussion of agent-regret, see Bernard Williams' article "Moral Luck" in *Moral Luck* (New York: Cambridge University Press, 1981) and Susan Wolf's article "The Moral of Moral Luck," *Philosophical Exchange* 31 (2000-2001): 5-19.

One need not worry that requiring an agent to succeed in helping is overly burdensome. It is *only if* agents have an obligation to help that they must succeed in helping. Whether agents have an obligation will depend on, among other things, what their other commitments are, as well as their physical and rational capacities and their reasonable exercise.⁵¹ This accommodates the fact that humans are physically and rationally limited beings. One need not accommodate these limitations by replacing all obligations to act with obligations to try.⁵²

In some cases it will be hard to know what sort of situation we find ourselves in. That is, it may be difficult to determine whether there really is an obligation to help. Consider again the doctor who has good reason to think a patient requires an antibiotic, when in fact the patient is untreatable. The doctor has no obligation to help this patient, although she discovers this only in hindsight.⁵³ Unfortunately, hindsight does not always clarify the matter. In some cases we may never discover or settle to our satisfaction whether we unreasonably overlooked some crucial fact. In F's case, however, it is clear that had she thrown the rope in the right place on the first throw, which it is reasonable to expect her to know, she would have helped the child.

⁵¹ Whether an agent has an obligation also depends on whether the facts that give rise to an obligation to help remain in place. Had sharks devoured the child while F was pulling him to safety, F would not have failed her obligation. In such a case the obligation to help dissolves. Likewise, if someone had jumped in the water and saved the child before F had a chance to throw the rope, F's obligation to help the child would have dissolved.

⁵² In fact, insofar as one is concerned to put obligations within the reach of human beings given their limitations, I do not see that replacing obligations to act with obligations to act with an appropriate intention will be of any help. Human beings are no more in a position to guarantee that they act on appropriate intentions than they are to guarantee the results of their actions. Both require that self-knowledge, discipline, will power as well as lack certain vices of character. Nagel discusses some of these issues in "Moral Luck" in *Mortal Questions* (New York: Cambridge University Press, 1979).

⁵³ This does not mean that the doctor has no obligations whatsoever. She most likely has an obligation to try.

Conclusion

I want to conclude by indicating the range of actions that I believe belong to the category of mere failures.

Thus far I have mainly focused on mere failures to help that result from the agent's forgetting or not recalling a fact necessary for, but not constitutive of, helping. For example, F does not recall the relevance of the currents, and the driver forgets to avoid a route under construction. In both cases I think the agents merely fail rather than violate their obligation. Their lapse is not due to a fault of their own.

Some mere failures result not from a lack of recall of a fact (which if recalled would be taken to be relevant), but rather from a lack of appreciation of the relevance of such facts (of which the agent is aware). Consider the example offered earlier of the soldier who comes across a seriously wounded comrade. She rightly considers whether she can somehow help her comrade, if death is a good for her comrade, and other such important facts. However, she does not appreciate that her comrades consent and preferences are also relevant. Although she does what she should not do, her action is a mere failure rather than a violation, since she fails due to no fault of her own.

There are yet other kinds of lapses in thought that can lead an agent to merely fail. Consider the agent in Borrower. She forgets to do the very thing she has promised, namely return the borrowed money on the promised day. Returning the money is not merely instrumental to satisfying her obligation but constitutive of the very act she is obligated to do. The borrower's situation is similar to someone who forgets to pick her friend up at the airport (rather than one who just forgets which route is under construction). As I am thinking of these cases, the lapses in

thought are brute. The agent's are not distracted by other projects or uncaring. That is, the lapse is *not* due to an inappropriate orientation towards others. In addition, the actions they do engage in (reading a book, for example) are chosen only because the agents considered and (falsely) believed that they had no obligations requiring their attention. These sorts of failures may be more serious than F's failure, but they strike me nonetheless as mere failures and not violations. I suspect their acts are failures because the agents do not act out of an inappropriate orientation towards others.

Although I have focused on failures that are due to a lapse in thought,⁵⁴ one could apply the concept of brute lapses to the realm of execution. For example, imagine that F had remembered the currents but then bungled the throw. She has the ability to throw it at the child, and she intends to throw it at the child, but she simply botches the execution of this rather ordinary physical maneuver. Suppose she is not clumsy or inattentive. Her lapse is brute. Brute lapses in execution are not uncommon even among world class athletes. A tennis player can be focused and determined but nonetheless make an unforced error. Sometimes a football receiver simply drops the ball. Had F bungled her throw in this way, her second throw would arrive too late. In such a case she would have failed to satisfy her obligation to help the child.⁵⁵

Brute lapses in execution are, in one sense, inevitable. Not even the greatest tennis player in the world will hit an ace with every serve. Likewise, not even the greatest lifeguard will always successfully throw the rope to those who are drowning. But the mere fact that human beings are finite in this respect, that is, that we are subject to such brute lapses, does not itself

⁵⁴ I have not by any means discussed the full range of lapses in thought that can lead a person to fail to satisfy her obligation. For example, I have not discussed errors in reasoning that lead an agent to undertake an unsuccessful course of action. Consider, for example, an engineer who makes a brute multiplication error while calculating the force necessary to stop a runaway passenger train. As a result he advised an inappropriate use of force that leads to more deaths than would have otherwise occurred.

⁵⁵ Or consider an agent who borrows a watch. When she attempts to return it, she trips and breaks the watch. Such an agent fails to satisfy her obligation to return what she borrowed.

rebut the claim that one has an obligation to help in a particular situation. Of crucial importance is whether it is reasonable to require an agent to do what will be helpful in circumstances she faces. I think it can be reasonable to make such demands on agents even in the face of brute lapses in execution.

Not only do failures arise with respect to obligations to help, but also for the obligation not to harm.⁵⁶ Here are two cases in which I think it is clear that there is an obligation not to harm, but the agent neither satisfies nor violates this obligation.

A parent is holding his child as he walks into a restaurant. He notices that the floor is wet and takes care to step where it is dry, so as to avoid slipping and dropping his child. However, he does not notice a low hanging lamp, and so bangs the child's head into the lamp as he moves forward.

A doctor prescribes a medication but forgets that it interacts badly with a medicine the patient is already taking. The patient hemorrhages as a result. It is not that the doctor is careless or cruel. She simply forgets to bring to bear a piece of knowledge she obtained years ago from a medical journal.

In both these cases I think it is natural to say that the agents' actions are mere failures. That is, they neither satisfy nor violate their obligation to avoid harm to others. Moreover, the necessary conditions I have outlined support this judgment. The agents do not fail to avoid harm due to a fault of their own, and so do not violate this obligation, but they also do not succeed in avoiding

⁵⁶ And so failures are not specific to imperfect duties, such as the obligation to help, but also occur in the case of some perfect duties, such as the obligation not to harm.

harm, and so do not satisfy this obligation. It is reasonable to require them to know that their actions will inflict harm and to reason to a conclusion to avoid the harms they inflict.

These failures illustrate that good intentions, care, and effort are not sufficient for satisfying an obligation.⁵⁷ It is possible to adopt the proper end, sincerely pursue it, take care while doing so, and yet fail to satisfy the obligation. I think this is one of the unsettling, but perhaps distinctive features of the human condition: we can be put in a position where effort, care, and good intentions are insufficient to compensate for our human limitations.⁵⁸

⁵⁷ And so, I do not agree with Herman's claim that "good intentions plus adequate care are enough (whatever the outcome, the agent has done what she ought)" ("What Happens to the Consequences," p. 98).

⁵⁸ I want to thank Meir Dan-Cohen, Steve Finlay, Dan Guevara, Matt Hanser, Agnieszka Jaworska, Arnon Keren, Gavin Lawrence, Joe Millum, Philip Nickel, Tamar Schapiro, Jay Shapiro, Sam Scheffler, and especially Barbara Herman for their helpful feedback. I also want to thank the Institute of Humanities at the University of California, Santa Cruz for fellowship support while I worked on this paper.