

CLASS 1: HOW WE DO DAMAGE: HARMS, WRONGS, AND THEIR CONSEQUENCES

Introduction

Consider the following scenarios:

- On a trip to a shopping mall, an able-bodied individual parks his car in a space clearly designated for individuals with a disability. While he is shopping, no individual with a handicapped parking permit enters the mall's parking lot.
- At sea during a dangerous storm, a sailor takes his boat to a marina where he does not rent a space. He ties the boat up hurriedly, and dashes for shelter. During the storm, his poorly-tethered boat batters the dock, causing \$5,000 worth of damage.
- A husband gets drunk at an office party, as does a female co-worker to whom he has been secretly attracted. They engage in a frenzied tryst, after which the husband vows to never be unfaithful again.
- Enraged when she learns of her husband's infidelity, his wife aims a gun at him and pulls the trigger. Untrained in shooting, she misses badly. She immediately drops the gun and breaks down sobbing. The husband confiscates the gun, and no physical injuries result.
- Desperate with hunger, an insecurely-housed individual, one who suffers from untreated schizophrenia, shoplifts about \$25 of food from a grocery store.
- A man, after much planning, enters a bank. He hands the teller a note, in which he both explains that he is carrying a gun and demands that she fill a bag with all of the cash to which she has access. Frightened and trembling, the teller accedes to his demand.
- An African-American woman, tired of decades of race-based injustices in her native Alabama, decides to sit at the front of a public bus, despite a law that is meant to confine her to the rear of the vehicle.

In each of these scenarios, an individual may be said to have done wrong. They have arguably violated a moral rule or a law, or both.

But what does it mean to do wrong? Is there a distinction between doing wrong and committing a harm? If so, why might that distinction matter? When a wrong or harm occurs, who can be said to be the victim? Is the victim a single individual or is it a collective? If it is a collective, then how do we understand that collective? Is it something we call "society"? Or might it better be called a "moral community"?

Harms, Wrongs and Making Amends

We are interested in the process of making amends. To make amends is to repair the damage that each of us inevitably causes in our interactions with others. Because none of us is infallible, we unavoidably commit harms and wrongs. In so doing, we can hurt others.

If we fail to address the hurts that result from our actions, we will likely threaten the future of our relationships. To maintain healthy connections with others, we must be prepared to make amends. We all commit wrongs, and thus we all must learn to atone.

Our goal in this course is to understand just why making amends is necessary and just how we might go about it. To do this, however, requires us to first understand what we might do that requires us to make amends. What is the nature of the acts that we commit that require us to atone?

To provide some clarity to these matters, philosophers often make a distinction between a **harm** and a **wrong**. Our task now is to try to understand that distinction and why it arguably matters. We also want to try to understand just *who* or *what* it is that we harm or wrong. This is an important question to raise, because it clarifies how we might go about making amends. It helps us understand just what it means to be held responsible, and to whom our efforts at repair should be directed.

Let's start this discussion by trying to understand how philosophers distinguish between harms and wrongs.

Harms vs. Wrongs

In general terms, **harms** refer to actions that cause overt damage to an individual. Usually, such a harm can be reasonably well-specified. For instance, a person sustains a bruise during an assault. Or someone loses \$50,000 in a fraud scheme.

The philosopher Jean Hampton (1992, p. 1662) summarizes it this way:

“A harm is a disruption of or interference in a person’s well-being, including damage to that person’s body, psychological state, capacities to function, life plans, or resources over which we take this person to have an entitlement.”

When a harm is involved, we can typically identify a specific victim and a specific damaging action. Some harms, of course, are codified in law as either a potential criminal offense or a potential civil tort. But harms need not be designated in law to damage a victim.

A **wrong** is usually less well-specified than a harm. It refers to some violation of the moral understandings that undergird social life. A wrong thus references the often-unstated but still very powerful moral codes that structure our relationships to each other.

So, to understand the nature of a wrong requires us to understand our moral connections to each other. The philosopher Ronald Duff (2011, p. 72) tries to explain these connections this way:

“An essential part of what makes a society a political community (rather than a mere collection of unassociated strangers) is some shared understanding of the values that define their civic life. Central to those values will be a conception of how people should behave toward each other, of the (perhaps fairly minimal) constraints that they should observe in their dealings with each other.”

Duff refers to the often-unstated rules that determine, in his words, “how people should behave toward each other.” For many philosophers, these rules are based in certain moral conceptions of who we are as people, and the types of obligations we have to each other.

In this view, each of us as humans has moral worth. This means that we should be treated with a basic degree of respect and dignity. It also means that we should have the capacity to realize our goals on terms we significantly define for ourselves, and that we should be able to proceed through life with minimal threats to our basic security.

These goals – to become the best version of ourselves, to be free of want and fear, to feel secure in our daily pursuits -- can be threatened by the fact that we necessarily live in relations with others. Humans are social animals, after all. So, even if we try to live on our own terms, we must negotiate our actions in the presence of others. Some of these others can do damage to our bodies, our resources, and our aspirations. Sometimes this damage results from deliberate action, but it often occurs without any such intent.

Regardless of our intent, however, each of us is arguably obligated to minimize actions that might harm others. Such obligations structure social life; they are a key means by which we create a form of collective order that maximizes everyone’s well-being. They together form a moral code that each of us is expected to uphold.

So, whether we like it or not, we exist in relations to other people -- we live in a moral community. If that community is to work well, then all its members must follow a code that seeks to protect everyone’s security and dignity.

To commit a wrong, then, is to violate the moral code that structures a community. Again, the nature of this moral wrong, unlike most harms, can be hard to specify. But the damage of a wrong can be considerable. Because of this, when we commit a wrong, we are often expected to make amends.

Of course, some acts are both harms and wrongs. Indeed, those actions that we legally define as crimes are almost always understood as both harms and wrongs. So, in some sense, the distinction is perhaps not always that meaningful.

However, one way that the distinction can matter emerges when we consider just how we should atone for our wrongdoing. That’s our next topic.

Just Who or What is the Victim?

Who can be said to be the victim of any acts that are arguably harmful or wrong? In other words, if we feel compelled to atone, to whom or to what do we direct our efforts?

With harms, both the inflicted damage and the victim are usually obvious. So the target of an atonement effort is pretty clear: to atone will almost always include some attempt to address the specific victim and the specific harm.

With wrongs, the question is a bit harder. Remember, a wrong is not only about the specific harm we have caused to an individual. It is also about the damage we have done to

the moral fabric of our community. Just how best to understand this damage is a subject of some debate among philosophers.

Some philosophers choose to focus primarily, even exclusively, on the wrong that is done to the victim. Here, the victim is said to be wronged when in some fashion another person gains some advantage at the victim's expense. Let's say person A robs person B of \$500. Obviously, the harm is the loss of the \$500. In terms of the wrong, in a case like this, one could argue that person A has implicitly made a statement about their superiority over person B.

Yet this statement of alleged superiority cannot be morally sustained. Because each human is of equal worth, none of us can usually justify acting in a way that suggests that we are so much better than others that we can take advantage of them.

In essence, the robber causes a wrong by diminishing the victim's moral worth. Here's Jean Hampton (1992, p. 1670) again:

"I shall argue that a person is morally injured when she is the target of behavior whose meaning, appropriately understood by members of the cultural community in which the behavior occurs, represents her value as less than the value she should be accorded."

For Hampton, it logically follows that the appropriate response to a wrong is for the balance to be reset in a way that challenges the wrongdoer's assertion of superiority. To atone means that person must do something (or have something done to them) to reset that balance, and thereby to restore the moral worth of the victim.

Importantly, this restoration needs to go some distance to enabling the victim to again feel whole and secure as they go about their daily lives. Here's Gwynn Davis (1992, p. 12) on this point:

"Reparation cannot be solely material; if it is to be adequate, it must include some attempt to make amends for the victim's loss of the presumption of security. The offence has undermined the victim's belief in the existence of moral standards held in common. This means that it has threatened his or her moral relationship with the offender by providing grounds for review of mutual obligations based on trust. The presumption of security and of common values can only be restored by some effort to reassure the victim that his or her rights are now restored by some effort to reassure the victim that his or her rights are now respected."

So, one train of thought suggests that atonement efforts be directed toward the victim. However, some philosophers take a slightly different tack. These thinkers do recognize that wrongs impact specific victims, but also focus much attention on how those wrongs damage the moral fabric that holds a community together. When a wrong occurs, it is thus necessary both to restore the value of the victim, and to repair the damage to the collective's moral fabric. The person who has done wrong, it can be said, has not only damaged the specific victim, but has caused insecurity for everyone – they have violated the rules that we all rely upon for basic levels of trust and security.

From this perspective, to atone requires us to consider how our actions have threatened the group, not just the specific victim. Because our moral codes bind and protect all of us, we all arguably suffer when those codes are violated.

Importantly, this approach never loses sight of the moral worth of the person who committed the violation. Indeed, a request to atone can be understood precisely as a statement of that individual's moral worth. To alleviate someone who has erred of the need to atone would necessarily exclude them of the responsibilities that any respected member of the community must uphold.

The expectation to atone is thus a statement of respect. The community is saying that the violator is a person of moral worth equal to everyone else, and must act that way. To not hold that individual responsible is to treat them poorly. As the philosopher Christopher Bennett (2008, 19) puts it, to ask someone to atone “shows [them] due respect as a responsible moral agent.”

For philosophers who endorse restorative justice, this recognition of the moral worth of a wrongdoer is very important. The act of atonement is not just a means of rebalancing the scales after damage is done. To ask someone who has transgressed the moral code to atone is to communicate to them that they belong to the community, and that their acts of repair can be critical to their reintegration back into the community.

To atone thus requires the violator to recognize their moral obligations. They need to understand their place in the moral community and to see the ever-present possibility that they – *like all of us* – can damage the moral ties that bind us together. An act of atonement is a recognition of our need to live up to the expectations that we place on each other to live in reasonable harmony.

When a wrong occurs, the moral community arguably must recognize this. This way, the community can act to restore the moral bonds that unite us. Here's Ronald Duff again (2011, p. 72), explaining why he thinks atonement is required when wrongs occur:

“We owe this, we might say, to victims of such wrongs: as fellow citizens, we owe it to them to notice and to care about what they have suffered—and what they have suffered includes the wrong. We owe it, we might also say, to ourselves collectively, as members of a polity that defines itself by a shared commitment to certain values, including those at stake in this affair: for to be committed to a value is to be committed to taking note of its violation.”

Conclusion and Exercise

To be human means to possess the capacity to do harm and to commit wrongs. None of us ever escapes this capacity, and so all of us must make amends. To learn to atone is thus a key component of being a responsible member of a moral community. This is an obligation that each of us possesses.

Just what it means to atone is something we will discuss in later classes. Our goal to this point has been to understand the nature of the damage that we unavoidably cause others,

and to understand how we should imagine the targets of our efforts to atone for that damage. We have sought to do this by describing the differences between harms and wrongs, and by beginning to consider to whom or what we must atone.

For now, it might be useful to review the above discussion by completing an exercise. Please return to each of the scenarios that were outlined in the introduction. With each of these scenarios, ask the following questions:

- Does this scenario describe a harm, a wrong, or both? Why?
- What is the nature of the injury that the action has caused?
- Can or should the action be defined as either a criminal offense or a civil tort? In other words, should the law be invoked? Why or why not?
- Who is best understood as the injured party in each of these scenarios? Why?

Additional questions, of course, arise when we try to imagine just what it might mean for someone to make amends in each of these situations. *But that is a discussion for another day!*

Please be prepared to discuss your assessments of these cases at our class session on Jan. 14. I look forward to the conversation!

Works Cited

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Antony Duff, 2011, "Responsibility, Restoration, and Retribution," in Michael Tonry, ed., *Retributivism Has a Past: Has it a Future?* Oxford: Oxford University Press, pp. 63-85.

Jean Hampton, 1992, "Correcting Harms versus Righting Wrongs: The Goal of Retribution", *UCLA Law Review*, 39: 1659-1702.