7
Recklessness

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As I have noted in previous chapters, the *Model Penal Code* distinguishes between four kinds of culpability, having to do with whether someone commits an offense purposely, knowingly, recklessly, or negligently, and it holds that, *ceteris paribus*, degree of culpability diminishes as one moves down the list from one kind to the next.[1] Once again, it is of course with legal culpability that the *Code* is concerned, but its position reflects, indeed is presumably based on, a corresponding commonly-held view about levels of moral culpability. I argued in the last chapter that there is good reason to doubt this commonly-held view as far as culpability for negligence is concerned. In this chapter I take up the other categories of culpability addressed by the *Code*.

In §7.1 I discuss and endorse the view that the chief distinction between negligence and recklessness is that, whereas the former involves risky behavior to whose riskiness one does not advert,[2] the latter involves risky behavior of whose riskiness one is conscious. I note, however, that one can be conscious of taking a risk without being conscious of wrongly doing so, and one can risk doing harm without risking doing wrong. Failure to take note of these distinctions undermines much recent discussion of moral responsibility for reckless behavior. I also briefly address the distinction between acting recklessly and acting knowingly, and I comment on the issue of blameworthiness for purposely doing wrong.

In §7.2 I investigate the issue of moral responsibility for behavior that exhibits willful ignorance and other forms of motivated ignorance. Much of the discussion of this issue in the literature is hampered by a failure to distinguish motivated ignorance of some non-moral fact from motivated moral ignorance. I argue that, if this distinction is kept clearly in mind, there is no need to treat moral responsibility for motivated moral ignorance differently from moral responsibility for moral ignorance in general.

7.1 Conscious wrongdoing

The definition of recklessness given in the *Model Penal Code* goes as follows:

[1] American Law Institute (1985), §2.02(2). See ch. 2, n. 27 for qualification.
[2] Or, more generally, wrongful behavior to whose wrongness one does not advert. See §6.1.

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> A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation.[3]

Comparison of this definition with that cited at the beginning of §6.1 shows that, according to the *Code*, recklessness differs from negligence in three ways. First, the risk that a reckless agent runs is one of which he or she is conscious, whereas that is not the case with respect to the risk run by a negligent agent. Second, the standard from which the reckless agent deviates is a standard of conduct, whereas in the case of a negligent agent it is a standard of care. Third, the standard relevant to recklessness is one that a law-abiding person would observe, whereas that which is relevant to negligence is one that a reasonable person would observe.

I won't dwell on the second and third differences. As to the third: when it comes to moral, rather than legal, culpability, invoking a standard that is independent of the agent's actual capacities is as misguided in the case of reckless as in the case of negligent behavior, since, as I noted in §5.1.3 and §6.1, the agent may blamelessly fall short of it. As to the second difference: this is somewhat illusory, since in the case of negligence, too, the *Code* is concerned with the unjustifiability of the agent's conduct; it's just that it is also concerned with the substandard nature of the agent's inadvertence to the risk that he or she is running, an issue that of course does not arise in the case of recklessness, since the agent is *not* inadvertent to this risk.

It is this first difference, the difference between advertence and inadvertence to the risk that is being run, that is especially important and on which I will concentrate. It is, however, a difference that has been disputed. Some writers hold that one can act negligently even though one adverts to the relevant risk, and some hold that one can act recklessly even though one does not advert to the relevant risk.

7.1.1 Conscious negligence and inadvertent recklessness

Perhaps some people use the term "conscious negligence" simply to refer to recklessness, but others use it to refer to a category of wrongful behavior that

[3] American Law Institute (1985), §2.02(2)(c).

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they take to be distinct from recklessness (and also, of course, from inadvertent negligence). James Brady discusses three possible grounds for doing so.[4]

On one approach, the distinction between recklessness and conscious negligence is marked in terms of the probability of the outcome that is risked. Recklessness involves a relatively high probability, whereas conscious negligence involves only a relatively low probability. As Brady notes, this approach seems flawed, since, in some cases in which someone consciously runs a low-probability risk, a charge of recklessness would seem clearly appropriate.[5] Imagine playing Russian roulette on someone sitting in front of you on the bus. Isn't that plainly reckless? Someone might say in reply that a 1-in-6 probability of death isn't sufficiently low to warrant the lesser charge of conscious negligence, but that simply raises the question, "How low is low enough?" To this question there is, I submit, no good answer. In many circumstances, risking a very grave outcome (a nuclear holocaust, say) will warrant a charge of recklessness, even if the probability of that outcome is very low indeed.

A second approach marks the distinction between (conscious) recklessness and conscious negligence in terms of the seriousness of the risk that is run, where this is understood to be a function of both the probability and the gravity of the outcome that is risked. (Given the gravity of a nuclear holocaust, risking such an outcome is very serious, even if the probability of its occurring is very low.) Michael Moore and Heidi Hurd, for example, express "considerable sympathy" for the idea that advertent risk-taking that is unreasonable, but not especially so (since the risk is not especially serious), should be classified as negligent rather than reckless, in virtue of which the agent is to be deemed culpable only to a relatively minor degree.[6] But this is once again problematic. As Brady notes, there are cases of (inadvertent) negligence that would normally be taken to confer greater culpability on the agent than cases of recklessness.[7] By way of illustration, consider two cases discussed in the last chapter. Compare Ian's inadvertently leaving Emma in the hot car to Clarke's behavior in the following twist on the original scenario: he didn't forget to pick up milk, but he did forget whether his wife had asked him to get 2 per cent or 1 per cent milk; rather than call her to find out what she wanted, he simply flipped a coin, hoping for the best. Of course, Moore and Hurd might respond that Clarke's behavior in this case, being only slightly unreasonable, didn't rise to the level of recklessness and counts only as an instance of conscious negligence. But then I think we need only raise the stakes to whatever level Moore and Hurd take to be required for the behavior to count as reckless. It would be surprising if this level warranted ascribing a degree of culpability to Clarke as high as that which would customarily (though, as I argued in the last chapter, mistakenly) be leveled at Ian. And if Ian's *inadvertent*

[4] Brady (1996). [5] Brady (1996), p. 327. [6] Moore and Hurd (2011), p. 149.
[7] Brady (1996), p. 332. Cf. Simons (2011), p. 111.

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negligence involved a degree of culpability higher than Clarke's recklessness, it's hard to see why the charge of *conscious* negligence should be restricted to cases that involve only a lower degree of culpability.

A third approach marks the distinction between recklessness and conscious negligence in terms of the attitude one has to the risk that one consciously runs. If one is indifferent to the risk, not caring whether the outcome that is risked occurs or not, then one acts recklessly (provided that one satisfies the other conditions necessary for recklessness), whereas, if one is not indifferent to the risk, one acts negligently. (In this context, "not caring" is to be construed in terms of lacking concern for those potentially affected by one's behavior, rather than in terms of failing to pay attention to the potential consequences of one's behavior. See §6.1.) As Brady once again notes, however, this approach seems flawed too, since, in some cases in which someone is not strictly indifferent to the risk that is run, a charge of recklessness would still seem appropriate.[8] Imagine speeding down a busy high street in order to get home in time to watch that day's episode of *As the World Turns*. Isn't that plainly reckless, even if you would prefer not to hit anyone en route? In response, it might be said that your behavior betrays the fact that you are "practically indifferent," even if not strictly indifferent, to whether or not you run into, or over, someone. But what might this mean? One suggestion is that, although you prefer getting home in time for the show without hitting someone (T&~H) to getting home in time with hitting someone (T&H), you don't prefer getting home late without hitting someone (~T&~H) to getting home in time with hitting someone (T&H).[9] But that still seems too demanding. It would seem perfectly appropriate to charge you with recklessness even if you don't rise (or sink) to that level of callousness.

Notice that, if the difference between recklessness and negligence were to turn simply on whether one is practically indifferent to the risk that one runs, it would be possible not only to be consciously negligent but also to be inadvertently reckless.[10] But, just as a charge of recklessness would seem appropriate in certain cases in which the agent doesn't manifest such indifference, so, too, a charge of negligence, if ever appropriate (which I doubt—see the last chapter), would seem appropriate in certain cases in which the agent does manifest it. Suppose that, in the original scenario in which he forgot all about picking up milk, Clarke didn't care at all about whether he picked it up as promised—that that, indeed, was *why* he forgot to pick it up. If he is to be blamed at all for failing to pick it up, the natural charge would still be that he had behaved negligently. A charge of recklessness would seem quite out of place.

In the end, I think it matters little how we use the labels "negligence" and "recklessness." What does matter is that we take note of and attend closely to the

[8] Brady (1996), p. 328. [9] Cf. Duff (2019), p. 652.
[10] Cf. Brady (1996), p. 332; Duff (2019), p. 659.

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relevance of (in)advertence to culpability. Like the *Model Penal Code*, and in keeping with what I take to be usual, even if not universal, practice, I will continue to use the terms "negligence" and "recklessness" to help mark this distinction. And here I should add another note about terminology. Since occurrent belief requires advertence, if one inadvertently takes a risk, then one doesn't occurrently believe that one is taking it. So, too, if one inadvertently commits a wrong, then one doesn't occurrently believe that one is committing it. However, since advertence doesn't require belief, one can advert to risk-taking or wrongdoing that one doesn't occurrently believe one is committing. In order to refer to risk-taking or wrongdoing that one *does* occurrently believe one is committing, I will therefore talk in terms, not simply of advertent, but of *conscious* risk-taking and wrongdoing. (See §3.2.3.)

7.1.2 Acting recklessly *vs*. acting knowingly

The *Model Penal Code*'s definition of committing an offense knowingly[11] goes as follows:

> A person acts knowingly with respect to a material element of an offense when:
>
> (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
>
> (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.[12]

Unsurprisingly, in this definition, as in its definition of recklessness (and in contrast to its definition of negligence), the *Code* focuses on an attitude that the agent has (rather than lacks) toward a material element of some offense. In the case of recklessness, the attitude is said to consist in awareness of a substantial risk that some such element exists or will result, whereas, in the case of committing an offense knowingly, the attitude is said to consist in either awareness of, or awareness of the practical certainty of, some such element.

I find the *Code*'s procedure here rather odd. In distinguishing (as it should) between knowing, or being aware, that some material element of an offense obtains and knowing, or being aware, that there is a "practical certainty" that

[11] I use the phrase "committing an offense knowingly" rather than what might seem to be the more natural phrase "knowingly committing an offense" in order to suppress the suggestion that the offender knows that he or she is committing an offense, rather than simply knowing, with respect to what is in fact an element of an offense, that this element obtains. To appreciate the distinction, consider someone who knowingly kills another but doesn't know that killing another constitutes an offense.

[12] American Law Institute (1985), §2.02(2)(b).

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some such element obtains, the *Code* seems to concede that the latter *doesn't* suffice for the former. This concession is quite correct, I think. The distinction between the latter and the former rests, at least in part, on the distinction between credence and outright belief (regarding which see §3.2.4). But then it seems inconsistent to say, with respect to the material elements of an offense, that one's being aware that it is (merely) practically certain that some result will occur *does* suffice for acting knowingly with respect to that result, an inconsistency that the *Code* appears to embrace explicitly when it goes on to say:

> When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence, unless he actually believes that it does not exist.[13]

The inconsistency may seem innocuous, amounting to no more than a stipulation that, for purposes of the law, the term "know" and its cognates are to be construed expansively. As I will explain in §7.2.2, however, I think the matter is not so straightforward. Be that as it may, for present purposes it seems reasonable simply to interpret the *Code* as holding that, insofar as the agent's attitude is concerned, committing an offense knowingly is a species—more particularly, a limiting case[14]—of committing an offense recklessly. In general, recklessness involves a credence in the proposition that some material element of an offense obtains or will obtain; in the case of "knowingly" committing an offense, the credence is especially high. Such an interpretation fits well with the view that, *ceteris paribus*, committing an offense knowingly confers greater culpability on the agent than committing an offense (merely) recklessly does: the higher one's credence, the greater one's culpability.

Another odd feature of the *Code*'s procedure is that, whereas it makes explicit reference in its definition of committing an offense recklessly to the unjustifiability of the agent's conduct, it makes no such reference in its definition of committing an offense knowingly. Whatever the *Code*'s rationale for this omission may be, I will not follow suit. My concern in this chapter is not just with being aware that one is taking a risk but, more fundamentally, with being aware that one is doing wrong. This is a distinction that is frequently overlooked, but it is of first importance.

7.1.3 Conscious risk-taking *vs*. conscious wrongdoing

All conduct is risky. You might choke on your cereal; the chair you're sitting in might collapse; you might have a heart attack while driving. Nonetheless, eating,

[13] American Law Institute (1985), §2.02(7).

[14] Cf. Alexander et al. (2009), p. 32.

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sitting, and driving are, typically, perfectly morally justified. Some risks are more serious than others, of course, depending not only on how grave the outcome that is risked would be, were it to occur, but also on how likely it is to occur. But even very serious risks might be worth running. No doubt, the more serious the risk, the more difficult it is to justify running it, but, in the end, whether it is justifiable to run it will depend, as always, not only on the risk itself but also on what one's alternatives are. In general, whether it is morally justifiable to run a risk is a question of whether doing so constitutes, as I put it in §6.1, one's best bet, morally speaking, given one's epistemic circumstances and the options one faces. (This claim requires qualification in cases in which no alternative is a better bet than all others. In such cases, one's obligation is to choose some option to which there is no alternative that is a better bet.)

Suppose that Sandra runs a red light, and that doing so is *not* her best bet, morally speaking (that is, it's morally wrong), since the risk of harm that she poses, to herself as well as to others, is not warranted under the circumstances (there is no emergency, for example). There are two possibilities: either Sandra adverts to the risk that she's running, or she doesn't. If she doesn't advert to it, then she also doesn't advert to the fact that running it is morally wrong. Under these circumstances, Sandra will satisfy the first two conditions in the definition of negligence that I gave in §6.1. But, for reasons discussed in the last chapter, whether she satisfies the final condition (that is, whether her inadvertence to the wrongness of her behavior is morally substandard) is not a straightforward matter, let alone whether, if she does, she is to blame for her behavior.

But suppose that Sandra *does* advert to and is, moreover, conscious of the risk that she's running. Is she then acting recklessly? The answer depends on just how recklessness is to be defined. Consider this definition: one behaves recklessly just in case, in behaving as one does, one wrongly runs a risk of which one is conscious.[15] This seems a reasonable definition. (It departs in some ways from the definition provided in the *Model Penal Code*—it makes no reference to the material element of an offense, it doesn't require that the wrongness be substantial or gross, and it makes no reference to what a law-abiding person would do—but, as with the definition of negligence that I gave, there are good reasons for these discrepancies, given that our concern is with moral rather than legal responsibility for wrongful behavior.) On this definition, the answer is clear: Yes, Sandra is acting recklessly.

Even though Sandra is conscious of the risk that she's running, she might not advert to, and thus be aware of, the fact that running it is morally wrong. There are several ways this could happen. She might underestimate the probability of the harm that she risks. (To say that she is conscious of the risk is not to say that she

[15] As in the case of negligence, the wrongness at issue is *overall moral* wrongness.

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assesses it accurately.) For example, she might expect the light to stay yellow longer than it actually does. Or she might underestimate the gravity of the harm that she risks. For example, she might mistakenly think that, at worst, she's risking only a fender-bender. Or she might misconstrue the nature of her other options. For example, although there is no emergency, she might think that there is, and so think that her other options are far less attractive than they really are. Or, of course, some combination of these possibilities might obtain. In any case, if Sandra isn't aware that it's wrong to run the risk she's running, the latest draft (Draft 7) of the Argument from Ignorance will apply, and its verdict, once again, will be that she is to blame for her behavior only if she is to blame for her failure to occurrently believe that it is wrong (unless her engaging in it isn't to be attributed to this failure).

It's important to note that, if Sandra doesn't advert to the wrongness of her behavior, then, according to the definitions that I have offered, she may be acting not only recklessly but also negligently. (Whether she is acting negligently will depend on whether her inadvertence is morally substandard.) Is this a problem? The *Code* implicitly denies that it is possible for someone to act both recklessly and negligently (with respect to the same offense on the same occasion), and this might seem a reasonable view. Once the distinction between conscious risk-taking and conscious wrongdoing has been recognized, however, it seems to me even more reasonable *not* to follow the *Code*'s lead in this respect, at least as far as *moral* responsibility for wrongful behavior is concerned. And so I see no need to amend my definition of recklessness on this score.

Another observation does point to the need for revision, however. Consciousness need not be veridical. One can be mistaken about the risks that one takes oneself to be running, and one can be mistaken about the wrongness of running them. Suppose that Mark makes a mistake of the latter kind: he believes that he is wrongly running a risk when in fact he is not. (This might be because he's not running a risk at all, or because he's running a risk that it's not wrong of him to run.) I am inclined to think that we should say that Mark is acting recklessly.[16] No doubt this inclination is due in part to the fact that I accept the possibility of accuses (regarding which see §3.4.1), and so I think it's possible for Mark to be blameworthy for his behavior even though he's not behaving wrongly; but the claim that he's acting recklessly is strictly independent of this view. In any case, I suggest that, in light of cases such as Mark's, we move to the following definition of recklessness: one behaves recklessly just in case, in behaving as one does, *either* one wrongly runs a risk of which one is conscious *or* one is conscious of wrongly running a risk.

[16] Cf. Alexander et al. (2009), p. 28.

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7.1.4 Risking harm *vs.* risking wrong

Although the definition that I have just proposed differs in some respects from the one provided in the *Model Penal Code*, it seems to accord well with a common view that presumably underlies the *Code*'s definition and to which Alan Donagan gives expression in the following passage:

> Wrongs done through recklessness approximate to wrongs done in ignorance but not because of ignorance. A man who does a wrong through recklessness, who may well not know that he is doing it, is aware that what he does may involve wrongdoing, but does not reck it. It is true that there is a difference in culpability between doing something you know is wrong and doing something you think probably or possibly wrong; but it is not a great one. You voluntarily take the risk.[17]

What Donagan says here may seem sensible and straightforward, but in fact it conceals a conundrum that is rarely acknowledged.

The problem has to do with the distinction between risking harm (or some other kind of undesirable outcome—but let's stick with harm for the sake of illustration) and risking wrong. Consider these two questions, which should give you a glimpse into the issue that concerns me. I have said that much recklessness involves wrongdoing while perhaps some does not, but mightn't some behavior warrant being called reckless simply because it involves the *risk* of wrongdoing? I have also said that, when behaving recklessly, one may or may not be conscious of the wrongness of one's behavior (by which I mean, as I indicated in §7.1.1, that one may or may not occurrently believe that one is behaving wrongly), but mightn't some behavior warrant being called reckless simply in virtue of involving the *suspicion*, rather than the outright belief, that one is behaving wrongly?

In order to get a better grip on this problem, consider a couple of characters introduced by Douglas Husak.[18] The first is Juan, who routinely turns on the light in his office when he arrives at work in the morning. One day a terrorist rewires the mechanism so that a bomb will explode when the switch is flipped, leaving no evidence that he has done so. The next time Juan flips the switch, he detonates the bomb, thereby killing many innocent people. Husak claims that Juan is not at all to blame for causing their deaths. This verdict is surely plausible. Juan didn't know that, by flipping the switch, he would kill anyone and, in light of the lack of evidence that the switch had been rigged, he is presumably not to blame for his ignorance.

[17] Donagan (1977), pp. 129 f.

[18] Husak (2016), pp. 151 ff.

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Husak contrasts Juan with another character whom he calls Juan*. The latter is aware that there are terrorists in the vicinity who have rigged a number of devices in order to trick people into unintentionally killing others. He attaches a 10 per cent probability to (by which I take Husak to mean that he has a credence of 0.1 in) the proposition that the switch has been rewired and will cause an explosion when it is flipped; he doesn't believe this proposition outright, but he suspects that it may be true. Despite his suspicion, Juan* goes ahead and flips the switch, thereby once again killing many innocent people. Husak claims that Juan* has acted recklessly and is to blame for causing the deaths, but not as much to blame as he would be if he had flipped the switch knowing that it had been rewired. This verdict echoes Donagan's claim about culpability, and it may seem reasonable, too, but there is reason to question it.

We should ask: Has either Juan or Juan* done anything morally wrong? Husak's answer is clear: They both have. What wrong? The wrong of killing innocent people.[19] Husak takes this to be the answer yielded by an objective account of moral obligation and wrongdoing, one to which he subscribes and according to which a certain form of conduct is wrongful just in case the moral reasons against it are stronger than the moral reasons in favor of it, such reasons being such that what they are and how they are balanced does not depend on the agent's beliefs.[20] As I have acknowledged (see §2.1.2 and §6.1), this is a common view about the nature of moral obligation and wrongdoing, but it is problematic. It doesn't capture what we would naturally want to say about agents such as Juan*—and by "we," I mean to include Husak and others who toe the objective line. Consider Juan** (not one of Husak's characters). He is in exactly the same situation as Juan* except that, as luck would have it, terrorists have *not* rigged the switch in his office. Thus, when he flips the switch, no bomb explodes and no one is killed. Isn't his behavior equally as reckless as Juan*'s? But, on the objective approach, what wrong has he done?

On the approach that I have advocated (which some call subjective but which, for reasons that I will shortly give, I would not), it's clear that Juan* and Juan** have run the same risk and thereby acted equally wrongly. In so saying, I am of course assuming that both Juan* and Juan** had a *better bet*, morally speaking, than to flip the switch. Note, however, that, this approach also implies that Juan, lacking any evidence that there were terrorists in the vicinity, did *not* do anything wrong; for, even though he killed many innocent people by flipping the switch in his office, we may assume that flipping it was, given his epistemic circumstances, not unduly risky and thus *not* such that some other option that he had was a better bet. This may be a rather disconcerting result, one that you would prefer to avoid.

[19] Husak (2016), p. 153. [20] Husak (2016), p. 148.

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One way to try to avoid it is to combine the two approaches in question and say both that, because he *in fact* caused the deaths of innocent people, despite lacking any evidence that he was at risk of doing so, Juan did indeed act wrongly, and that, because they *risked* causing the deaths of innocent people, Juan* and Juan** also acted wrongly. But this is problematic, for at least two reasons. First, it would appear that on this approach Juan* did a double wrong—the same wrong as that committed by Juan and also the same wrong as that committed by Juan**—even though there would seem to be strong pressure to say that he did no more wrong than Juan**. Second, the combined approach threatens to be incoherent. Consider the plight of Juan*** (also not one of Husak's characters), who is operating with the same evidence as Juan* and Juan** but whose switch has in fact been rigged in such a way that if he *doesn't* flip it when he enters his office a bomb will explode. On the combined approach, Juan*** is in an "impossible" situation, morally speaking; that is, there is no possibility of his avoiding wrongdoing. If he flips the switch, he wrongly runs the risk of the deaths of innocents; if he doesn't flip it, he wrongly fails to prevent deaths that he could easily have prevented. Such a situation is what is often called a moral dilemma. There are good reasons to think that moral dilemmas, so understood, cannot occur—that it cannot ever happen that one is in a situation in which one cannot avoid overall moral wrongdoing—but, whatever side we should take on this issue, surely we shouldn't say that, simply because his evidence is diametrically opposed to the facts, Juan*** cannot avoid wrongdoing.

Advocates of the combined approach might respond by saying that the problems I have noted arise only if we fail to distinguish between *kinds* of overall moral wrongdoing. One kind is objective, the other is not. We should say that Juan commits an objective wrong but not a non-objective wrong; that Juan** commits a non-objective wrong but not an objective wrong; that Juan* commits both kinds of wrong; and that Juan*** will commit one or the other kind, but not both, depending on what choice he makes. Perhaps so. Indeed, drawing such a distinction is very common, but doing so only invites the further question: Which of these two kinds of wrongdoing is pertinent to assessments of culpability? And here I think the answer is clear: Only the non-objective kind. Objective wrongdoing has no direct relevance.

In support of this claim, consider first what we should say about non-objective wrongdoing. If one (satisfies the control condition of moral responsibility and) does what one knows not to be one's best bet, morally speaking, one will be to blame for one's behavior, whereas, if one ignorantly does what is not one's best bet, one will not be to blame, unless one is to blame for one's ignorance (or one acts *merely* in ignorance). This observation yields the correct verdict in the cases we have considered. Given his epistemic circumstances, Juan's flipping the switch was not unduly risky, a fact of which we may assume he was aware, and so he is not to blame for flipping it. By contrast, if we assume that Juan* and Juan** were

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not only conscious of the risk they were running but also conscious of the fact that it was *unduly* risky, i.e., that running it was not their best bet, then they are to blame for flipping their switches. So, too, for Juan***, if he flips his switch.

Now consider what we should say about objective wrongdoing. If one (satisfies the control condition of moral responsibility and) does what one knows to be objectively wrong, one may nonetheless be entirely blameless for one's behavior, whereas, if one ignorantly does what is objectively wrong, one may be to blame for one's behavior, even if one is not to blame for one's ignorance. In support of this claim, consider a case of a kind that has recently been much discussed.[21] Jill has three drugs, *A*, *B*, and *C*, with which she can treat her patient, John. She knows that either *A* or *C* would cure John completely of his ailment and also that either *A* or *C* would kill him, but she doesn't know which would do which. She also knows that *B* would be slightly less effective than the best drug, whereas not giving John any drug at all would leave him considerably worse off. Under these circumstances, Jill's best bet is clearly to give John drug *B*—a fact of which, let me hereby stipulate, she is fully aware—and, if she does this, she certainly won't be to blame, even though she knows that doing so is objectively wrong, since either *A* or *C* would produce better results. (It might be countered that she doesn't know this, since in fact giving John drug *B* is *not* objectively wrong, given that producing the best results is not all that objective right and wrong turn on. Perhaps so, but the general point remains, since a case with the same structure can always be drawn up, no matter what account of objective wrongness is presupposed.) Suppose, however, that Jill gives John drug *C*, and this turns out to be the killer drug. Since she had no more confidence in the proposition that *C* would kill John than in the proposition that *A* would do so, she didn't believe outright that giving him drug *C* was objectively wrong, and we may assume that she's not to blame for failing to believe this. Yet she is certainly to blame for giving him this drug, given that she knew that doing so was not her best bet.

It is very important to note that, on the approach that I am advocating, it is perfectly possible for one to be mistaken about what one ought to do. I have stipulated that Jill knew that she ought to give John drug *B*, but in other cases ignorance about what one ought to do can easily arise. I am claiming that what one ought to do is what it is one's best bet to do. This is something that is determined by one's evidence, and one's beliefs may not comport with one's evidence. In such a case, one may well end up doing the wrong thing and yet have an excuse for doing it. In light of this fact, I am reluctant to describe my view as a subjective view, since it is often said that, if one does what is subjectively wrong, one is to blame for one's behavior.[22] I prefer to describe my view as a "prospective" view.[23]

[21] The original is given in Jackson (1991), pp. 462 f.

[22] See, e.g., Mason (2019), ch. 2.

[23] See Zimmerman (2014) for an extended discussion of the prospective approach.

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Return to Juan and Juan*. Husak says that Juan* acted recklessly, whereas Juan did not. I quite agree, but I take this to be true because, in the relevant, prospective sense, Juan* acted wrongly, whereas Juan did not. Juan* took an *undue* risk, thereby failing to do what was his best bet. He risked harm that he ought not to have risked, thereby not merely risking wrong but actually doing wrong. Is Juan* to blame for what he did? On the assumption that he was in control of his behavior, my answer is that he is to blame for it if, and only if, he was aware that the risk he ran was an undue risk (or is to blame for not being aware of this). If he is to blame, how much is he to blame? I think this depends on how *seriously* wrong he took his behavior to be. If, as is reasonable, he believed his behavior to be wrong but not as seriously wrong as it would have been had the risk of causing deaths been higher, then he is to blame to a certain degree (I won't venture to specify what degree) but not as great a degree as he would have been had he believed the risk of causing deaths to be higher. Notice, though, that he might have mis-assessed the risk, or mis-assessed how seriously wrong it was to run it, or both. Husak describes Juan* as attaching a probability of 10 per cent to the proposition that the switch had been rewired and would cause an explosion when it was flipped. It could be that this was precisely what his evidence indicated, but it could also be that it constituted an over- or underestimation of the relevant probability. Of more immediate relevance is the degree of seriousness of wrong-doing that Juan* attached to the risk that he took himself to be running. If he underestimated this degree of seriousness, then his culpability is diminished (unless he is to blame for the underestimation). If he overestimated it, then, I would say (in consonance with my endorsement of the possibility of accuses), his culpability is augmented.

You might be inclined to agree with what I have just said but still think that something important is missing. In keeping with Husak's presentation of the case, I have described Juan* as having had a credence of 0.1 in the (non-moral) proposition that flipping the switch would cause an explosion, a credence that was clearly much too weak to support an outright belief in this proposition, but I have also described him as having been either aware or unaware of the (moral) fact that flipping the switch was wrong. Could it not be, though, that he had a credence in *this* fact that was *also* too weak to support his believing it outright, in which case it is misleading simply to describe him as having been either aware or unaware of it, since to do so is to overlook the fact that he *suspected* that it was or might be the case? And wouldn't such a suspicion suffice under the circumstances for his being to blame for reckless behavior?

This is a tricky question, far trickier than it may at first seem. Note the following.

First, merely having a suspicion that one is acting wrongly surely does not suffice (even in conjunction with satisfaction of the control condition for moral responsibility) for one's being to blame for one's behavior. If one has a credence of

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0.1 that one is behaving wrongly, and one is rational, then one will have a credence of 0.9 that one is *not* acting wrongly. That hardly seems grounds for blame.

But, you might say, what if one's options are such that regarding one of them—call it *A*—one has a credence of 0.1, grounded firmly in one's evidence, that choosing it would be wrong, whereas, regarding each of the remaining options, one has an even lower well-founded credence that choosing *it* would be wrong? If one chooses *A* under *such* circumstances, wouldn't that be grounds for blame?[24]

Initially, it seems perfectly reasonable to think that such a situation could arise and that, moreover, the judgment that one would be to blame for one's choice is correct. And yet—and this is the tricky part—there is also good reason to think that the case has been misdescribed. Let me explain.

Suppose that you are inclined to the view, which many appear to hold, that in general one's best bet is to maximize expected value and thus that it is morally wrong to choose an option that does not maximize such value. This view is well suited to cases like that of Jill and John, for example. We don't need to assign precise numbers to the probabilities of the possible outcomes or to the values of these outcomes in order to be assured that Jill would fail to maximize expected value if she chose to do anything other than to give John drug *B*, a fact of which she herself is fully aware. But few cases are so straightforward. Suppose that you find yourself in a situation like that just described: you have a well-founded low credence that, in choosing *A*, you would fail to maximize expected value and, for each of your other options, an even lower credence that, in choosing it, you would fail to do so, but your evidence yields no definitive answer regarding which options would or wouldn't maximize expected value. You would like to improve your epistemic situation, but the time has come for you to choose. I think it's clear that, under the circumstances, choosing *A* would *not* be your best bet—from a moral point of view, it would *not* be reasonable for you to choose it—even though your evidence clearly doesn't warrant your believing that *A* would fail to maximize expected value. This means that the view to which you, and many others, are inclined is false. Although in some cases the right (or wrong) thing to do is to choose that option that would (or would not) maximize expected value, this is not, and cannot be, the case *in general*; and the reason that it cannot be the case in general is simply that on some occasions one's evidence is so paltry that it warrants no definitive judgments regarding what would, or would not, maximize expected value. Moreover—and this is crucial—this is a fact that we can assume that you yourself recognize, despite your inclination to accept the view in question. For you yourself will appreciate that, under the circumstances, choosing *A* is not your best bet. In other words, it's *not* the case after all that you have a credence

[24] Cf. Harman (2011), p. 449, and (2015), p. 63.

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of 0.1 that choosing *A* would be wrong. On the contrary, you believe outright that it would be.

The lesson I draw from this observation is this. It is surprisingly difficult to find a case in which one has some degree of credence in the proposition that one is acting wrongly and yet lacks a belief outright either that one is doing so or that one is not doing so. Any case, such as the one just described, that initially appears to fit this description is one that, on further inspection, may well fail to do so. This is due to the fact that what does or does not constitute one's best bet—what it is, or is not, most reasonable for one to do, from the moral point of view—is a "moving target"; there is no fixed formula (such as that one's best bet is on every occasion to maximize expected value) that captures its protean nature, and this is a fact on which we would appear typically to rely, even if only unthinkingly, in our decision-making. Consider the plight of the conscientious person—you, let's say. You don't rest content simply with doing what *seems* to you *might* be your best bet; no, you make it your habit to try to figure out what *is* your best bet. However, if on a particular occasion the time to make a decision has come and you still haven't managed, to your own satisfaction at least, to figure out which option is your best bet, what choice will you make? Unless every option seems equally reasonable to you, you will shun some options in favor of one or more others. In so doing, you will have implicitly come to the conclusion that *under the circumstances*, circumstances in which you can no longer delay making a decision, the options that you shun are not merely possibly or probably the wrong thing to do but actually the wrong thing to do ("No, I won't—I mustn't—do that"), whereas the option or options that remain are not merely possibly or probably but actually permissible.

Or so it seems to me. Even if I'm right about this, however, it is of course true that what is typically the case may not always be the case. So let us now imagine that, for each of your options, you have some degree of credence in the proposition that choosing it would be morally wrong, but that for *none* of your options do you believe outright that choosing it would be morally wrong. Thus, whatever you do, you won't believe that you are acting wrongly. Is it nonetheless possible for you to be to blame for your behavior?

Perhaps so. Presumably a credence of 0.1 that you are acting wrongly won't suffice (along with your satisfying the control condition for moral responsibility) for your being to blame, but suppose that you have a much higher credence—say, a credence of 0.7—in this proposition. Would that suffice? It seems plausible to say that it would. Call any credence greater than 0.5 "substantial."[25] It seems plausible to say that a substantial credence that one is acting wrongly is sufficient

[25] Given the possibility of imprecise credences, it might be better to say that any credence within a range whose lowermost limit is greater than 0.5 is a substantial credence, but I'll put this subtlety to one side. See §3.2.4 for discussion.

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(along with satisfaction of the control condition) for one's being to blame for one's behavior (given that one also has a substantial credence regarding some other option that choosing it would not have been wrong). It also seems plausible to say that, all else being equal, the higher the degree of credence, the more one is to blame for one's behavior (unless, perhaps, one also believes outright that one is acting wrongly). If this is correct, does it require that I revise any of the statements I have made?

One statement that might once again need revision is the definition of recklessness that I have offered. Instead of the definition that I gave at the end of §7.1.3, perhaps this is what we should say: one behaves recklessly just in case, in behaving as one does, *either* one wrongly runs a risk of which one is conscious *or* one is conscious of wrongly running a risk *or* one has a substantial occurrent credence that one is wrongly running a risk. This would allow for a diagnosis of recklessness in a case in which you have a credence of 0.7, but no outright belief, that you are wrongly running a risk.

But that is a minor matter. Of far greater importance, it may seem, is the need once again to revise the Argument from Ignorance and, along with it, the Origination Thesis, since, in their two most recent versions (Drafts 6 and 7), they concern only the belief (i.e., the belief outright) that one is acting wrongly and say nothing about having a substantial credence in this proposition without believing it. In fact, though, and perhaps surprisingly, *no* revision is called for on this score. This is because Drafts 6 and 7 of the Argument and Thesis are explicitly concerned with acting *from*, and not merely in, the failure to believe outright that one is acting wrongly. If one is behaving wrongly and has a substantial credence that one is doing so, then one is willingly doing wrong, regardless of whether one believes this proposition outright; one's wrongdoing is not to be *attributed* to one's failure of belief. Hence the possibility of having such a credence in the absence of an outright belief (a possibility whose coherence I question, given the protean nature of what constitutes one's best bet), leaves the Argument and the Thesis entirely unaffected.[26]

7.1.5 Purposely doing wrong

I have already addressed the issue of what degree of blameworthiness attaches to purposely doing wrong in §2.5.4. Here I will add just a few remarks.

[26] Compare risking harm with risking wrong. If one has a substantial credence, but no outright belief, that one is causing some harm—something that I concede is perfectly coherent—and one is indeed causing that harm, then one is willingly causing it; one's harm-causing is not to be *attributed* to one's failure of belief. This is true even if one would refrain from causing the harm if one believed outright that one was causing it. Hence the counterfactual account given in the first paragraph of §3.3 regarding what it is to do something from ignorance is indeed rough.

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The definition of committing an offense purposely that is given in the *Model Penal Code* goes as follows:

> A person acts purposely with respect to a material element of an offense when:
>
> (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
>
> (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.[27]

This definition appears to presuppose, very plausibly, that committing an offense purposely requires either believing outright or, at least, having some degree of credence that one will succeed in doing so. Once again, though, this does *not* require in turn either believing outright or having some degree of credence that one will thereby be doing *moral wrong*, and that is of course my present concern.

Recall the distinction from §2.5.4 between purposely doing something, something that is in fact wrong, and purposely doing wrong. In the former case the wrongdoing may be wholly unwitting, in which case the Argument from Ignorance will apply. In the latter case the wrongdoing cannot be wholly unwitting.

Recall, too, the distinction between purposely doing wrong for the sake of doing wrong, which I characterized as satanic, and purposely doing wrong for the sake of achieving some further goal. The latter is to be contrasted with "merely" knowingly doing wrong (or believing outright or having some degree of credence that one is doing so) in the pursuit of some goal. This distinction is thought by some to be of great moral significance—consider, for example, the role it plays in the Doctrine of Double Effect—but it's not easy to see why we should agree. As I noted in §2.5.4, what does seem to be of great significance is the fact that, whether one purposely or merely knowingly does wrong in the pursuit of some goal, one certainly lacks the purpose of *not* doing wrong.

Suppose, however, that it is nonetheless true that purposely doing wrong in the pursuit of some goal does, *ceteris paribus*, confer greater culpability on the agent than merely knowingly doing so does. Even so, there is reason to doubt the *Code*'s approach to this issue. It apparently holds that committing an offense purposely always confers greater culpability on the offender than committing it merely knowingly does,[28] but this fits uneasily with the view that, the further a credence

[27] American Law Institute (1985), §2.02(2)(a).

[28] This is how I interpret §2.02(5) of the *Code*, which states that "[w]hen acting knowingly suffices to establish an element, such element is established if a person acts purposely" but conspicuously omits to state the converse.

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that some material element of an offense obtains falls short of knowledge (or practical certainty) that it obtains, the lower one's degree of culpability; for one can do something purposely even when one is far from being practically certain that one will succeed. Consider Juan* again. He has a credence of 0.1 that flipping the switch will cause the deaths of many innocent people, in virtue of which, let us suppose, he attaches a certain degree of seriousness to the wrongness of flipping it. We can imagine that, if he had a credence of, say, 0.99 that the flipping would cause the deaths, he would attach a far higher degree of seriousness to the wrongness of the flipping. In either scenario, if he nonetheless goes ahead and flips the switch, then (given that he satisfies the control condition for moral responsibility) he will be to blame for doing so, but to a much greater degree in the latter scenario, in which he has a credence of 0.99, than in the former scenario, in which he has a credence of 0.1. Suppose now that we add to the former scenario, but *not* to the latter, that Juan*'s purpose in flipping the switch is to cause the deaths in question. Should we infer that, simply in virtue of this fact, his degree of culpability soars so high that it surpasses his degree of culpability in the latter scenario? That seems dubious to me. It might be retorted that, given how low his credence is in the first scenario, Juan* cannot have it as his purpose, but can only have it as his hope, that the flipping will cause the deaths, and hence that, even if, given this hope, his degree of culpability in the first scenario does not surpass his degree of culpability in the second, this fact does not impugn the *Code*'s approach. Perhaps so. I will leave the question open.

7.2 Motivated ignorance

True story: In search of what they imagined would be a "good time," Charles Demore Jewell and a friend rented a car and drove it from Los Angeles to Mexico. They were in a bar in Tijuana (it's not clear whether the good time had yet begun) when they were approached by a stranger who identified himself only as "Ray." Ray asked them whether they wanted to buy some marijuana. They declined to do so. Ray then asked them whether they would be willing to drive a car north across the border in exchange for $100. Jewell's friend declined this offer, too, but Jewell himself accepted it. While Jewell's friend drove the rented car back to Los Angeles, Jewell drove Ray's car. At the border crossing, a U.S. Customs agent discovered, hidden between the rear seat and the trunk of Ray's car, a compartment that contained 110 pounds of marijuana. (By then, the good time was definitely over.) Jewell was arrested and charged with knowingly importing a controlled substance. In his defense, Jewell testified that, although he thought that the car might contain contraband, he didn't know that it did. Indeed, he indicated that he had deliberately refrained from inspecting the car too closely precisely in order to remain ignorant about whether it contained contraband.

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> The Court was not impressed. It rejected Jewell's defense on the grounds that
>
> . . . [t]he Government can complete their burden of proof by proving, beyond a reasonable doubt, that if the defendant was not actually aware that there was marijuana in the vehicle he was driving when he entered the United States his ignorance was solely and entirely a result of his having made a conscious purpose to disregard the nature of that which was in the vehicle, with a conscious purpose to avoid learning the truth.[29]

In support of this finding, the Court quoted the following passage from Glanville Williams:

> The rule that wilful blindness is equivalent to knowledge is essential, and is found throughout the criminal law . . . A court can properly find wilful blindness only where it can almost be said that the defendant actually knew. He suspected the fact; he realised its probability; but he refrained from obtaining the final confirmation because he wanted in the event to be able to deny knowledge. This, and this alone, is wilful blindness. It requires in effect a finding that the defendant intended to cheat the administration of justice.[30]

And the Court continued:

> The substantive justification for the rule is that deliberate ignorance and positive knowledge are equally culpable. The textual justification is that in common understanding one "knows" facts of which he is less than absolutely certain. To act "knowingly," therefore, is not necessarily to act only with positive knowledge, but also to act with an awareness of the high probability of the existence of the fact in question. When such awareness is present, "positive" knowledge is not required.

Did the Court provide good reason to find Jewell guilty as charged?

7.2.1 Varieties of motivated ignorance

To answer this question, let's start by exposing the underlying structure of Jewell's case.

If we take Jewell at his word, he didn't know that Ray's car contained contraband. Call this proposition p_1. Jewell didn't know p_1 at least in part because, although he suspected that it was true, he didn't believe it outright. Another

[29] *United States v. Jewell* 532 F.2nd 697 (9th Cir. 1976).

[30] G. Williams (1961), p. 159.

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crucial feature of the case is that Jewell's continued ignorance of p_1 was contrived, in that he knew (or at least believed) that he could improve his epistemic situation but declined to avail himself of the means to do so; he could have inspected the car but chose not to. Although, being ignorant of p_1, Jewell of course didn't know that, by inspecting the car, he would come to know *that* p_1 was true, he did know (or at least believed) that he would (or would probably) come to know *whether* p_1 was true. (See §3.1 on the distinction between knowing-that and knowing-whether.) He thus took himself to be in control—indirect control (see §4.6.2)—of his doxastic state, and he chose to exercise this control by refraining from inspecting the car, his purpose being to remain ignorant of whether p_1 was true. In light of this fact, it is reasonable to adopt the Court's terminology and characterize Jewell's continued ignorance of whether p_1 was true as "willful." A word of caution, though. "Willful" typically carries a negative connotation—we readily talk, for example, of someone's "willful disregard" for some rule, whereas talk of "willful regard" sounds decidedly odd[31]—but we should guard against any such prejudgment, for fear of building culpability into the very idea of willful ignorance and thereby committing ourselves to the verdict that Jewell is to blame for his behavior. This verdict is precisely what is in question. It might be safer, then, to talk simply in terms of "deliberate" ignorance, a term that applies equally to all cases in which someone intentionally forgoes the opportunity to become better informed, whether for reasons that are morally suspect (as in Jewell's case) or not (as when a couple deliberately remain ignorant about the sex of their forthcoming child or a patient deliberately puts off learning the results of a recent biopsy).

Consider, now, this variation on Jewell's case—call it Variation 1. In this version of the case, Ray is not a stranger but a close friend. He doesn't offer to sell Jewell any marijuana. Instead he simply tells him that a mutual friend of theirs in the U.S. needs his car. He says that he is unfortunately tied up at the moment, and so he asks Jewell whether he would be willing to do him a favor and deliver the car on his behalf. He offers Jewell some money to pay for gas, but nothing beyond that. Jewell readily agrees. It occurs to him that there could be something fishy about Ray's request, but he regards Ray as a good friend and fully trustworthy and so dismisses this suspicion. Although he has a low credence in p_1, he doesn't believe it; indeed, he *dis*believes it, that is, he believes outright that it is *false*. As a consequence, although he is aware that he could check whether p_1 is true, he sees no need to do so; indeed, he thinks that there is a need *not* to do so, since

[31] This observation puts me in mind of a memorable plaque to be found on the grounds of Rugby School. The plaque reads:

> This stone/commemorates the exploit of/William Webb Ellis/who with a fine disregard for the rules of football/as played in his time/first took the ball in his arms and ran with it/thus originating the distinctive feature of/the rugby game./A. D. 1823.

The delicious irony of this plaque is not lost on those schoolboys and -girls who daily pass it by, keenly aware that it is exceedingly unlikely that, if they were ever to show a similarly fine disregard for some school rule, their exploit would be celebrated in such grand fashion.

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inspecting the car would show disloyalty to Ray. Unfortunately, Ray is not as good a friend as Jewell takes him to be. His car contains contraband.

In Variation 1, as in the original case, Jewell is ignorant of whether p_1 is true. But, as is not true in the original case, Jewell doesn't take himself to be ignorant of this, and so his declining to inspect the car doesn't constitute a deliberate attempt on his part to remain ignorant of it. It would therefore be quite misleading to call his continued ignorance *willful*. Still, his refraining from inspecting the car is deliberate, and he anticipates, and perhaps also has as part of his purpose, continuing to disbelieve p_1. Under these circumstances it seems appropriate to describe his continued ignorance as *motivated*. This description also applies to the original case. In that case, Jewell's continued ignorance was motivated by self-interest. In Variation 1 it is motivated by loyalty to Ray.

In both versions of the case considered so far, Jewell's doxastic state doesn't change, and as a result his epistemic situation also remains the same. In the original case, his initial doxastic state was that of suspecting but not believing p_1 (Sp_1&$\sim Bp_1$), and he deliberately maintained this state.[32] In Variation 1, his initial state is that of suspecting but nonetheless disbelieving p_1 (Sp_1&$B\sim p_1$), and he deliberately acts in such a manner that he anticipates, and perhaps even intends, that this state will be maintained. In these versions, whatever it is that motivates his failure to inspect the car, the lack of change in his doxastic state and in his epistemic situation is explained by that failure. But it is easy to imagine other versions of the case in which Jewell's doxastic state changes, as a result of which his epistemic situation deteriorates, and in these versions his failure to inspect the car cannot suffice as an explanation of where it is that he ends up either doxastically or epistemically. For example, he might initially suspect but not believe p_1 (Sp_1&$\sim Bp_1$) and end up disbelieving it ($B\sim p_1$), or he might even believe p_1 (Bp_1) initially but end up merely suspecting it (Sp_1&$\sim Bp_1$) or positively disbelieving it ($B\sim p_1$)—call these Variations 2, 3, and 4, respectively. In principle, there could be any number of reasons for such a shift in Jewell's attitude (hypnosis, a knock on the head, divine intervention, and so on), but, if we hold constant the feature that his failure to inspect the car is deliberate, the explanation for the shift will likely make reference to wishful thinking, self-deception, or the like, prompted once again by self-interest, loyalty, or some such motive.

7.2.2 The law on willful ignorance

Return to the original case of *United States v. Jewell*. There are several reasons to question what the Court had to say.

[32] Here I am using "suspect" to mean the same as "have a (or some) suspicion." See ch. 3, n. 57.

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One glaring problem is this. The Court accuses Jewell of deliberate ignorance and yet holds that he satisfies the requisite *mens rea* of knowledge. This is untenable. If Jewell's being aware of the high probability that the car contained contraband suffices for what the law is content to recognize as knowledge, then the claim that he was ignorant of this fact must be withdrawn. If, however, Jewell was indeed ignorant of this fact (as surely he was), then the claim that he knew it must be withdrawn. "Almost" knowing something doesn't suffice for knowing it.

Despite the inconsistency in the Court's reasoning, you might nonetheless sympathize with its verdict. As the Court candidly admits, this verdict is based on the judgment that those who, like Jewell, deliberately avoid confirming some incriminating fact when engaged in what would otherwise be criminal behavior don't escape the culpability that those who need no such confirmation incur. It's clear that there are two ways in which the Court's verdict might be reached consistently. Either it can be stipulated that the term "know" and its cognates are to be construed in such a way that, for the purposes of the law, agents such as Jewell are to be deemed as indeed knowing the facts in question—in which case they cannot also be declared ignorant of these facts. Or it can be acknowledged that agents such as Jewell do not know the facts in question—in which case a new set of laws must be drafted in order to capture the particular *mens rea* that these agents supposedly exhibit.

I do not recommend taking the first option. Understanding the requirement of "knowledge" to be satisfied by an awareness of the high probability of some fact—a strategy apparently endorsed by the Court (and also, as I noted in §7.1.2, by the *Model Penal Code*)—won't do the job that's needed. As Douglas Husak points out, a modified *Jewell*-like case in which a stranger asks two tourists to transport one suitcase each across the border, assuring them that one of the suitcases is empty but declining to identify which suitcase that is, would not be a case in which either tourist assigns a high probability to the fact that he is importing a controlled substance, and yet both tourists would seem to exhibit the kind of willful ignorance that the Court is concerned to condemn.[33] Claiming that each of the tourists nonetheless "knows," as far as the law is concerned, that he is importing a controlled substance seems clearly to stretch the term too far. Moreover, one can of course imagine further iterations of the idea: three tourists with three suitcases, two of which are empty; four tourists with four suitcases, three of which are empty; and so on.[34]

The second option thus seems preferable: draft new statutes which purport to identify precisely the kind of *mens rea* that constitutes willful ignorance and which prohibit engaging with such ignorance in forms of behavior that are already prohibited when engaged in knowingly.[35] But whether even this option is

[33] Husak (2016), p. 219. Cf. Husak and Callender (1994), pp. 37 f.
[34] Cf. Alexander et al. (2009), p. 34.
[35] Cf. Husak and Callender (1994), pp. 68 f.

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advisable depends on whether willfully ignorant agents are indeed culpable for the behavior in which they engage. The Court in *Jewell* maintains not only that they *are* culpable but also that they and their knowing counterparts are *equally* culpable. This claim clearly commits the Court to holding that willfully ignorant agents and their knowing counterparts are liable to equal punishment, but I think it's also clear that the Court intends more than just this. For liability to punishment can be based on a variety of grounds, and the Court appears to be especially concerned with one ground in particular: *mens rea*. At one point it quotes with approval the following passage written by J. Ll. J. Edwards:

> For well-nigh a hundred years, it has been clear from the authorities that a person who deliberately shuts his eyes to an obvious means of knowledge has sufficient *mens rea* for an offence based on such words as . . . 'knowingly.'[36]

I therefore understand the Court to be claiming that willfully ignorant agents and their knowing counterparts are liable to equal punishment in virtue of manifesting equally depraved *mentes reae*.[37] Call this the Equal Culpability Thesis.[38] Should we accept this thesis?

7.2.3 The duty to inquire

Once it is acknowledged that willfully ignorant agents do not know what their knowing counterparts know, the Equal Culpability Thesis faces an immediate problem. Although it is no doubt true that, in typical cases, willfully ignorant agents act recklessly,[39] nonetheless, as I have repeatedly noted, the law holds that, *ceteris paribus*, reckless agents are *less* culpable than their knowing counterparts. Call this the Unequal Culpability Thesis. The only way to reconcile the two theses is to show that (to put the point ungrammatically), when recklessness takes the particular form of willful ignorance, *ceteris* is not *paribus*.

One way to try to show this is to invoke the view, mentioned in §7.1.2, that the law treats committing an offense knowingly as a limiting case of committing an offense recklessly. If the recklessness of willfully ignorant agents places them at this limit, then the Equal Culpability Thesis and the Unequal Culpability Thesis do not conflict. But this is surely a mistake. In general, the degree of credence that willfully ignorant agents have in the relevant proposition is *not* as high as that of

[36] J. Ll. J. Edwards (1954), p. 298.
[37] In adopting this interpretation, I join company with several other commentators. Cf. Husak and Callender (1994); Luban (1999); Sarch (2014) and (2016); Husak (2016); Yaffe (2018).
[38] I borrow this term from Husak and Callender (1994).
[39] Cf. Husak and Callender (1994), p. 42; Alexander et al. (2009), p. 34; Sarch (2014), pp. 1079 ff., and (2016), p. 281 n. 8 and pp. 302 ff.; Husak (2016), p. 221.

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their knowing counterparts. Even if Jewell's degree of credence in p_1 was high, he recognized that he could (probably) raise it still further by inspecting the car. And certainly the degree of credence to be attributed to the tourists that their suitcase contained contraband was far below that of rationally supporting the belief outright that it did.

Another way to try to reconcile the two theses is to ascribe to willfully ignorant agents some reprehensible purpose that would elevate their degree of culpability to that of their knowing counterparts. But what purpose? Surely not the purpose of committing the offense in question. It was not Jewell's purpose to import a controlled substance. Nor, *pace* Williams, does it seem accurate to say that it is the purpose of willfully ignorant agents to "cheat the administration of justice."[40] After all, Jewell apparently believed that, if he managed to preserve his ignorance regarding the contents of Ray's car, he would have a genuine defense against the charge of knowingly importing a controlled substance and thus would *not* be breaking the law (or, at least, not that law) by driving the car across the border. Under these circumstances, the charge that he attempted to cheat the administration of justice seems to miss the mark. (Compare the strenuous efforts people often make to find legally permissible ways to avoid paying taxes.)

A third way to try to reconcile the Equal Culpability Thesis and the Unequal Culpability Thesis is to attribute an extra piece of wrongdoing to willfully ignorant agents, the culpability for which, when combined with their culpability for the offense that is also committed by their knowing counterparts, results in the two parties being equally culpable. Many commentators claim that, in typical cases at least, agents who exhibit willful ignorance in the commission of an offense have violated a prior duty to inquire into whether what they suspect to be the case is indeed the case.[41] Others hold that, even if some willfully ignorant agents don't have a positive duty to gather pertinent information, they at least have a negative duty not to screen themselves off from such information.[42] Let's apply this idea to Jewell's case. Suppose that, in light of the fact that he crossed the border while suspecting that he was importing a controlled substance, Jewell is culpable to degree m for this piece of reckless wrongdoing, whereas someone who crossed the border knowing that he was importing a controlled substance would have been culpable to a greater degree, n. Since $m < n$, Jewell is not as culpable as his knowing counterpart in light of this piece of wrongdoing *alone*. But there is also his prior failure to inspect the car to be taken into consideration. Suppose that this is a

[40] Cf. Husak and Callender (1994), p. 40, and Husak (2016), pp. 220 f., on the "motivational condition" that willfully ignorant agents allegedly satisfy.

[41] Cf. Husak and Callender (1994), p. 40; Hellman (2009), pp. 312 ff.; Sarch (2014), pp. 1078 ff., and (2016), pp. 297 ff.; Husak (2016), pp. 220 f.; Wieland (2017a), pp. 4480 ff. Also cf. on epistemic obligations generally, whether in legal or non-legal contexts, Clifford (1877), §1; Feldman (2000), pp. 688 ff.; Rosen (2004), pp. 301 ff., and (2008), pp. 601 ff.; FitzPatrick (2008), p. 604; Vanderheiden (2016), p. 305; and Peels (2017), ch. 3.

[42] Cf. Luban (1999), pp. 969 f.; Sarch (2016), p. 301.

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separate wrongdoing for which he is culpable to degree *l*. Then (to engage in some spurious algebra) it seems in principle possible that $l+m = n$, in which case Jewell and his knowing counterpart will be equally culpable for their respective *courses* of action. (Notice that, in the case of the counterpart, there is no prior failure to inspect that we would need to concern ourselves with. Since he knew that the car contained contraband, he had no duty to inquire into whether it did.)

That it is possible for a willfully ignorant wrongdoer to be as culpable as his knowing counterpart in virtue of such a fact as that $l+m = n$ has been defended by Alexander Sarch.[43] Sarch does not insist that in all cases of this sort $l+m = n$, but only that this may sometimes be the case. (Indeed, on his approach, it would seem typically *not* to be the case. Sarch takes there to be many factors—having to do with ease of inquiry and the like—that can affect one's degree of culpability for violating a duty to inquire, and so it would be quite a coincidence if, nonetheless, $l+m$ were precisely equal to n.[44]) Even so, appealing to the duty of ignorant agents in situations such as Jewell's to seek (or, at least, not to screen themselves off from) information regarding whether their suspicions are accurate might seem sufficient to show that the Unequal Culpability Thesis is at least consistent with a qualified version of the Equal Culpability Thesis, according to which, *ceteris paribus*, willfully ignorant agents and their knowing counterparts are equally culpable.

I take such an approach to assessing the culpability of willfully ignorant agents such as Jewell to be highly suspect, however. For, contrary to what appears to be common opinion, it seems to me plain that such agents do *not* in general have an obligation to inquire into whether the facts are as they suspect them to be. They don't even have an obligation not to screen themselves off from information about these facts. Consider Jewell. Clearly, Jewell would have done nothing wrong if he had flat-out refused to drive the car. But notice that, had he chosen *this* option, there would have been no reason for him to inspect it at all! And so, I think, he indeed had no obligation to inspect it. What he *did* have an obligation to do was to inspect it *if* he was going to drive it. To bring this point out clearly, let "*O*" stand for "obligated," "*d*" for "drive," and "*i*" for "inspect." What I am asserting is this: $O(d \rightarrow i)$; that is, $O(\sim d \vee i)$; that is, $O\sim(d \& \sim i)$. What I am *denying* is this: Oi. And if Jewell had no free-standing obligation to inspect the car, then his failure to do so was not an extra piece of wrongdoing that involved an extra incurrence of culpability.[45]

[43] Sarch (2014), pp. 1088 ff., (2016), pp. 309 f., and (2019), pp. 168 ff.

[44] Sarch (2014), pp. 1086 f.

[45] I am also willing to assert this: $O\sim d$. What I mean by this is that, under the circumstances of the case (circumstances which included his not having inspected the car), Jewell ought not to have driven the car. If the circumstances had been different—in particular, if Jewell had inspected the car sufficiently thoroughly (I will leave open what "sufficiently" comes to in this context) and found no contraband—would it *then* have been the case that he ought not to have driven the car across the border? Maybe, maybe not. The answer depends on further details of the case.

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You might agree with me that Jewell had the conditional obligation consisting in $O(d \rightarrow i)$ but still wish to claim that he *also* had the unconditional obligation consisting in Oi. But what would be the *basis* of this claim? Perhaps you would appeal to the fact that the condition, d, of the conditional obligation was satisfied—and of course it was: Jewell did indeed drive the car across the border. But, as is generally recognized, satisfaction of the condition of a conditional obligation does *not* necessarily engender the detachment of the corresponding unconditional obligation. Consider Martin. He likes to mistreat animals, and he's just managed to capture a stray cat. Among his options are these: he can refrain from torturing the cat; he can torture it briefly; he can torture it for an extended period of time. Surely, if Martin is going to torture the cat at all, he ought to torture it briefly rather than for an extended period of time. Suppose that, as is his wont, he is indeed going to torture it. Does it follow that he ought to torture it briefly? Certainly not! He ought not to torture it at all.

Sometimes, of course, an unconditional obligation *does* emerge via detachment from a conditional obligation. One kind of case in which this is so is one in which the agent *cannot avoid* the condition's being satisfied, and one way in which this can happen is this: the condition has *already been* satisfied. Consider Sonya. Like everyone, she has an (unconditional) obligation not to sin but also, let us assume, a (conditional) obligation to repent *if* she sins. Suppose that she has committed some sin. Prior to the commission of the sin, she had no obligation to repent; but, since the past cannot be undone, she does indeed now have an obligation to repent. In this way, the passage of time can account, in part, for the transformation of a conditional obligation into an unconditional obligation. But notice that this kind of account *cannot* be applied to Jewell's case, since in his case whether the condition, d, of his conditional obligation, $O(d \rightarrow i)$, was satisfied *was still up to him* at the time at which he was faced with the decision whether or not to inspect the car. Hence the detachment of an unconditional obligation to inspect it was not occasioned for the kind of reason presently under consideration, and I can think of no other reason that might be applicable, either.[46]

The kind of strategy employed by Sarch is one that requires identifying two independent instances of wrongdoing, one that occurs at the time of non-inspection, the other that occurs at the time of driving. Being independent, these two instances supposedly combine to render Jewell's total wrongdoing more serious than it would have been had just one of these episodes occurred, and this in turn is supposed to be what accounts for his overall culpability being computable along the lines of the formula $l+m = n$. But it's not easy to find a

[46] Similar remarks would apply to the detachment of an unconditional obligation for Jewell to inspect the car from the (alleged) conditional obligation for him to inspect it if he *intended* to drive it.

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rationale that supports this strategy.[47] Certainly the attempt to account for his having an unconditional obligation to inspect the car by appealing to his having a conditional obligation to inspect it seems unpromising. Might some other approach work?

Well, consider this suggestion. Suppose that Jewell was the sort of person who, though quite willing to *risk* importing a controlled substance, would not have been willing to import it *knowingly* and so would not have driven the car across the border had he inspected it and discovered its contents. Then, in refraining from inspecting the car, he was forgoing the opportunity to reduce the likelihood of later wrongdoing on his part, and to forgo such an opportunity *itself* constituted a separate piece of wrongdoing in virtue of which he incurred increased culpability. What should we make of this?

I understand the suggestion to be that the reason that Jewell had an unconditional obligation to inspect the car was that he had not yet settled whether he was going to drive it. This suggestion is compatible with the fact that, as I pointed out earlier, Jewell's flat-out refusing to drive the car would have rendered inspecting it pointless, and it is also compatible with the fact that his being willing to drive it no matter what an inspection revealed would also have rendered inspecting it pointless. Thus it is compatible with the denial that, *in general*, agents in his sort of situation have a duty to inquire into whether the facts are as they suspect them to be. Moreover, the suggestion is in keeping with the view that *ceteris* is not *paribus* when it comes to comparing willfully ignorant agents with their knowing counterparts. Those agents who have deliberately forgone the opportunity to inquire into whether the facts are as they suspect them to be fall into two groups. In the first group are those who would have balked at committing the pertinent offense knowingly. Insofar as this is the case, they may be less culpable for committing the offense than their knowing counterparts, but the present suggestion purports to explain how this gap in culpability is narrowed, or possibly closed, in virtue of their having violated the prior duty to reduce the likelihood of their own later wrongdoing. In the second group are those willfully ignorant agents who had already settled on committing the pertinent offense and thus had no duty, and so violated no duty, to undertake an inquiry. The gap in culpability between them

[47] Notice that, even on my account, Jewell committed two wrongs: the wrong of not fulfilling the obligation consisting in $O{\sim}d$ (see n. 45 above) and the wrong of not fulfilling the obligation consisting in $O{\sim}(d\&{\sim}i)$. But, although these are two wrongs, they are not two *independent* instances of wrongdoing. After all, it seems very plausible to hold that, for any p and q, $O{\sim}p$ implies $O{\sim}(p\&q)$. (This principle implies that, whenever one does wrong, one commits an *infinite* number of wrongs! It doesn't follow that, whenever one does wrong, one's wrongdoing is infinitely serious. How *much* wrong one does is not dictated by how *many* wrongs one commits.) If so, then, even if Jewell hadn't had the opportunity to inspect the car, it would *still* have been the case that he had not only the obligation consisting in $O{\sim}d$ but also the obligation consisting in $O{\sim}(d\&{\sim}i)$, and so, even under these circumstances, he would still have committed the same two wrongs. Thus there is no reason, on this basis at least, to ascribe to Jewell under the actual circumstances of his case a greater degree of culpability than that which he would have incurred, had the opportunity to inspect the car not been available to him.

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and their knowing counterparts is of course not closed in virtue of this non-violation, but, it may be claimed, there was in fact no gap to begin with, precisely because they were just as willing as their knowing counterparts to commit the offense.

For all that I have said, this suggestion might work. Note, though, two difficulties that it faces. First, it is surely not in general true that one is morally obligated to reduce the likelihood of later wrongdoing on one's part. If this were the case, we would all be morally required to commit suicide forthwith. Perhaps, though, some suitably qualified obligation to forestall later wrongdoing obtains in cases such as Jewell's. Second, even if such an obligation does obtain in such cases, there is certainly no guarantee that its violation raises the willfully ignorant agent's culpability to the same level as that of his knowing counterpart. He might have an excuse for violating it—perhaps an excuse grounded in *ignorance*![48] After all, who among us is aware of having this alleged, rather *recherché* duty?

7.2.4 Motivated non-moral ignorance

I have focused on *United States v. Jewell* in part because it is so well known, but primarily because it provides such a useful example of willfully ignorant behavior. It is important to remember, however, that the issue of responsibility for willfully ignorant behavior, and indeed for behavior that exhibits other forms of motivated ignorance, does not arise only in legal contexts. Although it is for the most part legal theorists who have addressed the issue up to this point, it has also recently captured the attention of moral philosophers who see motivated ignorance operating in a variety of non-legal contexts. Consider, for example, cases in which a politician, or military commander, or CEO deliberately contrives to maintain "plausible deniability" regarding the misdeeds of some subordinate. Or, in case you are tempted to think of motivated ignorance as someone else's problem, consider how often we turn a blind eye to the conditions in which animals are raised for eventual slaughter and consumption, how frequently we overlook the conditions in which factory workers in low-income countries labor to produce the cheap goods we buy, and so on. Indeed, when the issue is, as it is here, *moral* responsibility for behavior that exhibits motivated ignorance, there is a danger in focusing on legal cases, since the question that is typically of immediate concern in those cases is whether the accused is *legally* responsible for his or her behavior. I asked earlier whether the Court had provided good reason to find Jewell guilty as charged, but in truth that is not the question that I am really concerned with, since

[48] Cf. Rosen (2004), pp. 309 f., and (2008), p. 605, Husak (2016), pp. 179 ff., and Miller (2017), p. 1572, on the possibility of having an excuse for violating a duty to inquire in virtue of being ignorant of the fact that one has this duty.

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in that context guilt is most naturally understood as a legal concept having essentially to do with liability to punishment by the state; and, as I noted earlier, such liability can be based on a variety of grounds, including moral culpability but also including considerations having to do with deterrence, incapacitation, and the like.[49]

So let me now turn directly to the question of moral responsibility for behavior that exhibits motivated ignorance. The first thing to note is that the Equal Culpability Thesis clearly does not hold in general. Whatever reason there may be to hold Jewell equally as culpable, morally, as his knowing counterpart, there would seem to be good reason to reach a verdict of *unequal* culpability between willfully ignorant agents and their knowing counterparts in other cases. Consider, for example, Husak's case of the tourists and the suitcases and the various iterations of this case. All else being equal, the greater the number of suitcases, the less reckless it would be to carry one of them across the border, until the point is reached at which, the number of suitcases being so large, carrying one across the border can no longer be properly called reckless at all. Thus, if (as is certainly possible, but is by no means necessary) degree of culpability tracks degree of recklessness in these iterations of the case, then the greater the number of suitcases, the lower the degree of culpability incurred for carrying one across the border, until at some point no culpability is incurred at all.

How, then, are we to judge degree of culpability in any particular case in which someone's behavior exhibits willful ignorance (or motivated ignorance more generally)? Well, here I would remind you of two crucial distinctions that are unfortunately all too often overlooked in discussions of this issue. The first is that between objective wrongdoing and what I have called prospective wrongdoing (see §7.1.4). The second is that between conscious risk-taking and conscious wrongdoing (see §7.1.3).

Philosophers who are sympathetic to the idea that ignorance of wrongdoing provides an excuse for wrongdoing often think that they must treat willful ignorance (and motivated ignorance more generally) as an exception.[50] This is because they subscribe, whether explicitly or implicitly, to an objective account of moral obligation and wrongdoing. Consider the original case of *Jewell*. Jewell suspected that Ray's car contained contraband, but he didn't believe outright that it did; hence he was ignorant of this proposition, which earlier I called p_1. Since he

[49] It is notable that, even though, in focusing on *mens rea*, the Court in *Jewell* appears to have been primarily concerned with moral culpability, it clearly also had deterrence in mind when it stated:

> Appellant's narrow interpretation of "knowingly" is inconsistent with the Drug Control Act's general purpose to deal more effectively "with the growing menace of drug abuse in the United States." . . . Holding that this term introduces a requirement of positive knowledge would make deliberate ignorance a defense. It cannot be doubted that those who traffic in drugs would make the most of it.

[50] See, e.g., Husak (2016), pp. 222 f., and Wieland (2019), pp. 1410 ff.

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refrained from inspecting Ray's car, he remained ignorant of p_1 and, as a result, was also ignorant, at the time he drove the car, of the fact that he was importing a controlled substance—call this proposition p_2.[51] But, if his importing a controlled substance constituted wrongful behavior on his part, then he was also ignorant of the fact that he was wrongly importing a controlled substance—call this proposition p_3. Yet, these philosophers want to say, since his ignorance was willful, Jewell's ignorance of p_3 does *not* provide him with an excuse for his wrongful behavior. Thus willful ignorance constitutes an exception to the general rule that ignorance of wrongdoing excuses one's wrongdoing, one that these philosophers must now scramble to explain.

I think this is a mistake. No special explanation is necessary, for cases such as Jewell's are not an exception to the rule. Propositions p_1 and p_2 have no direct relevance to the issue at hand.

Even though Jewell was ignorant of the fact that he was importing a controlled substance, he was fully aware of the fact that he was *risking* importing a controlled substance—call this proposition p_4—and it is *this* that, on the prospective approach to moral obligation and wrongdoing, constituted wrongdoing on his part. And so the crucial question is this: Was Jewell aware that he was *wrongly* risking importing a controlled substance (call this proposition p_5)? It seems very reasonable to assume that he *was*. If so, no excuse is forthcoming on this basis. His willful ignorance doesn't excuse him, because it wasn't ignorance of the fact *that he was doing wrong*. Rather, it was ignorance of the *non*-moral fact that he was importing a controlled substance. So, too, for other cases of the kind mentioned earlier, in which one contrives to remain ignorant about the conditions in which the cheap products that one purchases were produced, or about the activities of one's subordinates, and so on. Ignorance about such facts in and of itself affords *no excuse whatsoever* for any wrongdoing in which one might engage.

Though improbable, it is of course possible that, despite being aware that he was risking importing a controlled substance, Jewell was not aware that he was wrongly doing so. (Similarly, and less improbably, it can happen that one is aware that, in buying certain goods, one is risking promoting perpetuation of the squalid working conditions in which they are produced and yet not believe that doing so is wrong—perhaps because one believes that to refrain from buying these goods would only result in the workers being shifted from low income to no income.)

[51] It might seem more accurate to say that Jewell, having been stopped at the border, didn't in fact import a controlled substance but merely attempted to do so. One problem with this description, though, is that it's not clear that one can be properly said to be attempting to do something that one hopes one is not doing. In any case, since the Court convicted Jewell of knowingly importing a controlled substance, I will assume that for present purposes it is correct to describe him as having imported such a substance, even though I take it to be incorrect to describe him as having knowingly done so.

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If Jewell was not aware that his behavior was wrong, then he *does* have an excuse for his conduct after all—unless he is to blame for his ignorance or didn't act *from* this ignorance.

7.2.5 Motivated moral ignorance

Even though Jewell's case and other such cases that have been the focus of much of the discussion of motivated ignorance in the literature are not cases of motivated *moral* ignorance, such cases can nonetheless occur. Do *they* require special treatment?

They do not. Consider this artificially simple case. Fiona knows that a certain drug has two notable properties. First, it produces a temporary euphoria that is so intense that, second, it renders one wholly oblivious to the consequences of one's behavior. Aiming for ecstasy, she takes the drug and, high as a kite, shoves Charlie off his chair, breaking his arm. Since this is my case, I am free to stipulate—and I do stipulate—that the drug didn't somehow render Fiona unable to resist the urge to push Charlie; it simply rendered her blind to the fact that doing so risked causing him harm and thus blind to the fact that doing so was morally wrong. I submit that it is clear that Fiona is not *directly* culpable for her decision to push Charlie. (If you doubt this, consider a case in which Philippa is force-fed the drug in question, as a result of which she engages in behavior just like Fiona's.) Even so, Fiona may well be *indirectly* culpable for this decision, by way of being directly culpable for her decision to take the drug. Thus the case exactly fits the mold of a benighting act resulting in an unwitting wrongful act (regarding which see §5.1.5).

Fiona's ignorance of the fact that, in pushing Charlie, she was behaving wrongly is, of course, an instance of *moral* ignorance. It is, moreover, an instance of *motivated* moral ignorance; in acting as she did, she was motivated by her desire for euphoria. It would be a mistake to call it an instance of *willful* moral ignorance, though. Even though she was aware that the drug would render her oblivious to the consequences of her behavior, she wasn't *aiming* at such obliviousness, let alone aiming at being oblivious to the fact that, in light of these consequences, her behavior would be morally wrong. Still, we can imagine variations on the case in which Fiona *was* aiming at such moral obliviousness in addition to, or even instead of, the euphoria she anticipated.

As described, Fiona's case is a case of motivated *incidental* moral ignorance, not of motivated *fundamental* moral ignorance. (See Chapter 1 on this distinction.) But we can easily imagine a variation on the case that involves the latter. Simply suppose that the drug doesn't render one oblivious to the consequences of one's behavior but does render one oblivious to the moral rightness or wrongness of producing these consequences. Or, more dramatically, suppose that the drug

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distorts one's moral outlook in such a way that one takes it to be morally right, rather than morally wrong, to risk causing harm to others.

Fiona's case, though informative, is far-fetched. For a more routine kind of case, consider those variations on Jewell's case in which Jewell ended up positively believing that Ray's car did *not* contain contraband, even though initially he either suspected (Variation 2) or believed (Variation 4) that it did. On the supposition in each case that his initial state comported with his evidence, we may assume that, if, in either of these variations, Jewell had had to decide immediately whether to drive Ray's car across the border, he would have recognized the wrongness of doing so and thus have had no excuse for his behavior. This verdict matches the verdict that presumably holds in the original case. However, in contrast to the original case, in these variations we may assume that, in light of the change in his doxastic state that in fact took place, although Jewell wasn't ignorant, at the time he drove Ray's car, of the fact that he was risking importing a controlled substance, he *was* ignorant of the fact that he was *wrongly* doing so. How could this happen, if there was no change in his evidence? All too easily. We can imagine that, prompted by his loyalty to Ray, some form of rationalization, or wishful thinking, or self-deception enabled Jewell to suppress his suspicion (Variation 2) or his belief (Variation 4) that the car contained contraband and thereby to convince himself that what he wanted to be the case—namely, that the car did not contain contraband, so that in driving it he would be doing nothing wrong—was indeed the case. Given that Jewell acted *from* his ignorance of the fact that he was wrongly risking importing a controlled substance, he is not *directly* blameworthy for his wrongful behavior.

It remains possible, of course, that in these variations Jewell is nonetheless *indirectly* blameworthy for his wrongful behavior. The obvious occasion of his being so would be his being to blame for the means by which his ignorance regarding its wrongness was induced. Some philosophers appear to think that it is either definitely[52] or probably[53] the case that ignorance of wrongdoing that is produced via such a motivationally biased mechanism is ignorance for which one is to blame. I venture to say, on the contrary, that this is seldom the case. Given the Argument from Ignorance, one's being to blame in this way for one's ignorance and for the behavior that one performs from this ignorance requires that one be to blame for the operation of the mechanism, which in turn requires that one be in control of its operation. Moreover, one must be *aware of the wrongness* of causing or allowing the mechanism to operate, if one is to be directly to blame for its operation. That this could happen certainly seems psychologically possible, especially since awareness comes in degrees;[54] it is not difficult to imagine one's being

[52] See, e.g., Clifford (1877), §1. [53] See, e.g., M. Baron (2017), pp. 64 ff.
[54] Cf. Husak (2016), pp. 214 f., and Lynch (2016), p. 521.

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uneasily, if only dimly, aware that one is wrongly manipulating one's own doxastic states.[55] Nonetheless, I suspect that such manipulation is in fact quite rare,[56] and that it is even more rare that one should be aware of wrongly engaging in it. But I am content to leave it to others better informed than I am to diagnose when it is that this actually occurs. The point that I want to stress here is simply that, if blameworthiness for behavior that exhibits motivated ignorance of wrongdoing ever does arise in this way, its doing so is wholly in keeping with the Argument from Ignorance and the Origination Thesis.

[55] Does one's being only dimly aware that one is doing wrong render one less culpable than one would be if one were fully cognizant of this fact? I leave the question open.

[56] Cf. Johnston (1995) and Mele (2001).

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