Agent-regret, accidents, and respect

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Abstract: I explore how agent-regret and its object—faultlessly harming someone—can call for various responses. I look at two sorts of responses. Firstly, I explore responses that respect the agent's role as an agent. This revolves around a feature of "it was just an accident"—a common response to agent-regret—that has largely gone ignored in the literature: that it can downplay one's role as an agent. I argue that we need to take seriously the fact that those who have caused harms are genuine agents, to ignore this fails to allow these agents to move on. Secondly, following Sussman and MacKenzie, I explore responses that benefit the victim. I argue that we should strive to understand how to configure these responses in a way that does not *blame* the agent. To do this I look at the role of actions in our self-understanding, as people who have done particular things. I end by briefly considering the ways in which tort law and restorative justice might help us to understand how to appropriately respond to accidentally harming someone. I urge that we need to take this as a starting point to find a better way to respond to the agents of faultless harms.

Key Words: Agent-Regret, Agency, Blame, Williams, Social Practice, Self-Understanding

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Sometimes we do harmful things through no fault of our own, like in the famous case of Bernard Williams's lorry driver who accidentally kills a child (Williams 1981, 28). Such actions call for an emotional response: not guilt, which attaches to faulty or wrongful behaviour, but agent-regret, which involves regretting what I have done whilst recognising that I was *not* at fault. This paper is motivated by the idea that we need to better understand how to respond to these harmful, but not wrongful, actions.[1] Sometimes we harm others through no fault of our own, and sometimes we regret this. My question is: How should we respond—*what should we do*—in such situations?

I explore how harming another whilst not being at fault can call for various responses that respond both to the victim of the harm and respect the agent who caused the harm. I argue that this must not involve treating the agent as a "bad guy" or *blaming* her. We need to come to see why faultlessly causing harms *matters*, and how this matters in ways different to the way in which recklessly, negligently, or maliciously causing harms matters. Yet thinking about "bad guys," blame, and our responses to wrongdoing will be instructive and will help us to shape a picture of the significance of these harms and develop our understanding how to respond to these non-wrongful harms.

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[1] Further, they are not *culpable*. One could be a non-culpable wrongdoer (for instance, if one is excused). The cases I have in mind are not just non-culpable wrongdoers, rather there is no wrong at all. You do not wrong me if you maim me by driving perfectly safely, though you may harm me.

1. Agent-Regret

Sometimes, we harm others through no fault of our own. When someone harms another in such a way, I will call them an "agent of faultless harms" or a "faultless harmer". When someone harms others through no fault of their own, I mean that the agent behaved permissibly, they do not need to justify their actions, their actions conveyed no disrespect, they did not fail to recognise the value of other people's lives.[2] One way of seeing this is by noting that there is nothing in the way that the lorry driver conducted himself that can be criticised: he drove in a safe manner, even though the child died. He did not, like the drunk or reckless driver, place his enjoyment or his speedy arrival at the destination above the safety of pedestrians.

It is worth briefly setting out what agent-regret is. When I feel agent-regret, I care that I caused this harm and regard it as a bad thing. Agent-regret is distinct from regret insofar as my agent-regret is directed not at your being harmed but at *my harming you* (Williams 1981, 27). When I feel agent-regret, I regret that I harmed you.[3] The lorry driver regrets not just that the child died, but that he killed him. But this is distinct from guilt, and that is because guilt attaches to our *wrongful* actions. The driver did nothing wrong, he was not at fault; guilt is not appropriate. Yet still, he *killed the child* (Williams 1981, 28). Agent-regret responds to this.

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[2] Compare the disrespectful actions discussed in (Hampton 1991)

[3] See [redacted]

Harms can still arise when we conduct ourselves impeccably (Gardner 2001), and agent-regret responds to this harmful-but-faultless conduct. My aim is to illuminate this emotion and the importance of this conduct. I will thus focus on cases where one not only causes harm, but where one also feels agent-regret: not only is he a faultless harmer, but he regrets that he caused this harm.[4] After all, it is possible to harm someone and not regret it. Focussing on cases where an agent regrets causing that harm will help to deepen our understanding of agent-regret and the actions that it might motivate.[5]

Before getting on to the main argument, it is important to note that agent-regret can be *mundane*. Although we can be responsible for magnitudinous harms through no fault of our own, and agent-regret can arise in extreme and traumatic cases like that of the lorry driver, it can arise in everyday ways, too. I will focus mostly on cases that involve a death, but one might bump into someone on the street, spill a pint in the pub, or smash a vase, and all of these incidents might arouse agent-regret. One should not be misled by the below into thinking that agent-regret occurs only in extreme, nasty cases. It is something we all might experience regularly, and I hope that what I say below sheds light also on these more common incidents of agent-regret.

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[4] Perhaps one might do something wrongful *and* feel agent-regret: for instance, you might behave negligently and feel guilt over one's negligence and agent-regret over some unexpected result. I will not explore such cases, nor will I explore dilemmas, though my analysis should extend to them.

[5] This will particularly help us to understand the "expression" of agent-regret (Williams 1981, 27) I.e. how agents will be driven to express their regret.

2. Motivations to respond

In section 2, I will explore some responses that might be appropriate in cases where we cause harms even when we cause them without doing anything wrong, as well as some responses that I argue are not appropriate. In 2.1, I consider the perspective of the agent and show that our responses need to respect the *agency* of the agents of faultless harms; in 2.2, I consider the perspective of victims and show that we need to respect how both the agent and the victim need to move on from the harm. Along the way, we will see that there are some incentives to *blame* or *punish* the agent, to treat her as if she did something wrongful or was at fault. It should be clear here and throughout that I do not *endorse* the idea that we should blame these agents; this is because I think that blame is appropriate only in cases where an agent is somehow at fault, and that being at fault is of special significance. In section 3, I offer some suggestions on how we can respond to faultless harms in ways that respect the agent's agency and help participants move on *without* blaming the agent.

2.1 Agent-directed considerations

I now want to introduce a character who will inform much of this article: a real (pseudonymous) case, featured in Alice Gregory's fascinating *New Yorker* piece on accidental killers.[6] Patricia was driving along when the sun glared in her eyes and temporarily blinded her. She hit a motorcyclist and he died. In the days that followed, Patricia spent time in the suicide unit at the hospital. She now lives an agoraphobic life, leaving her house only for court dates (the motorcyclist's family brought a case against her) and doctors' appointments.

Thinking about Patricia's case is instructive because she brings depth and realism to the realistic, but quite shallow, picture of the lorry driver that Williams painted. Still, the actual details of the case are somewhat irrelevant, and I will use some authorial licence. Firstly, Patricia is a real person and these cases are undoubtedly complicated, so I do not pretend to speak for Patricia. Secondly, in the quote below she "blames" herself, and we have seen that she is sued by the family; these two features might suggest she was to blame and did something wrong. What matters is that we can imagine the case as one of a faultless agent, where "blame" is an infelicity and the court case is unfounded. So I will continue discussing this case, but with the stipulation that the ambiguities should be read as if she were not at fault (because there could well be a case where she was not at fault, and it strikes me that being blinded by the sunlight does not make one's action wrongful nor does it mean one was at fault).

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[6] This story is recounted in (Gregory 2017) The development of this story, and the quotes below, are also from this article.

I will focus on two facets of Patricia's tragic story:

> *She went to "umpteen" different counsellors, but none were helpful. She sent a letter to the state's attorney asking him to please put her away. "I spent my whole life volunteering—for animal shelters, for Make-A-Wish," she told me. "This just negates everything good I've ever done."*

Patricia sees this accident as ruining all the good she has ever done, and she wants to go to prison for it. This is important. Why would going to prison—which is a clear form of punishment, an ultimate expression of social blame that is reserved for *wrongdoers*—be something she would *desire*?

One intriguing explanation lies in the other facet of her story that I want to explore:

> *After her release, friends visited—to cook dinner, to clean the house—but she couldn't stand how they kept telling her it was "just an accident."…Though she wept while talking to me, she became impatient when recounting the loving reactions of friends and family. "Yes, it was an accident, and in a certain sense we were*

> *both to blame, but, at the end of the day, I hit him, I took his life," she said. "No matter how much you want to dismiss it as an accident, I still feel responsible for it, and I am." She cried, "I hit him! Why does nobody understand this?"*

What are we to make of Patricia's anger?

We might find something puzzling about this. Those who do something awful through no fault of their own might remind others, remind themselves, or be reminded by others, that it was not their *fault* or that it was an *accident*.[7] This can bring a deal of comfort, and rightly so. Reckless or malicious behaviour and the guilt that should accompany it is of a different kind (and often a worse kind) than harming without fault and feeling agent-regret (we will discuss this further below). In guilt their *conduct* was skewed, in agent-regret it was not. If a friend reminds you that you were in an accident, it can help to stop you from descending into mistaken self-attributions of fault and can demonstrate that no one thinks badly of your conduct. This can be a vital relief from the strains of agent-regret.

So why would Patricia want to be punished (or blamed)? And why would she be annoyed by her friends telling her that it was just an accident? My suggestion is that the answer to this latter question comes out more clearly when we look at “Moral Luck”—not Williams’s, but Nagel’s. Nagel’s “Moral Luck” is motivated by two powerful, but contrary, thoughts: on the one hand, that we are responsible agents and, on the other, that we are mere things in the world pushed this way and that by its causal forces (Nagel 1979). The worry is that when we see something as just an accident we can remove all traces of agency from it: we reduce the agent to a mere thing in the world. Rather than seeing the motorcyclist’s death as the product of Patricia’s agency, when we say it was just an accident we see her agency as “swallowed up by the order of mere events” (Nagel 1979, 36). We see it merely as something that has happened to, or at most through, her.[8]

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[7] This comes out in discussion of some of the other characters in Gregory's article.

If we do this, we make a grave error. Surely Patricia and the lorry driver are agents. They do not do anything as robust as express their deep selves, nor do they manifest their intentions in the world, but the things that happen arise because of what they *do*. When we choose to launch ourselves upon the world, sometimes unintended outcomes arise. But it strikes me as wrongheaded to see the cause of these unintended outcomes as swallowed up by the order of mere events: rather, they arise because of our agency.[9] Take the case where Archie carries the vase and, through no fault of his own, slips, drops it, and smashes it. Surely when Archie tries to carry the vase and he drops it, this does not just result from the world going about its causal practices while somehow operating through Archie; rather, it results from Archie deciding to pick up the vase and then picking it up. *Archie* has intervened in the world, just not in the way he wanted. Likewise, Patricia was an agent who killed the motorcyclist and the lorry driver killed the child by *driving*. We might not properly capture what happened if we dismiss this as "*just* an accident," because we, in saying this, might fail to recognise that Patricia was genuinely an agent.

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[8] See (Wallace 2013, 41; Beever 2008, 490) Williams objects to the “happened to” talk, at least insofar as it is supposed to contrast with the idea that he did it: “What has happened to him, in fact, is that he has brought it about.” (Williams 2008, 70)

[9] This thought is influenced by the following: (Raz 2011, chap. 12; Perry 1991) See also [redacted]

A failure to recognise that Patricia was an agent is problematic on two fronts. Firstly, Patricia clearly does see herself as an agent. This is not peculiar to Patricia. Take the following, from Jonathan Izard, discussing the man he killed (Michael Rawson), and others who have killed people in road accidents (Maryann Gray and Jonathan Bartley):

> *"Michael, like all of those whose lives ended in a road traffic accident, didn't choose to die and I and Maryann and Jonathan didn't choose to be the instrument that ended those lives; but we are. We try to find daily a way to go on living knowing that, being that person, being this person. I haven't found that way yet and I don't know if I ever will, but I hope I will..." ("Meeting the Man I Killed - BBC Radio 4" 2018, 35:45).*

When people tell Patricia that it was just an accident, they might have good intentions, and they might be doing something useful in reminding her that she was not at fault and that nobody judges *her*. But if they convey, inadvertently or not, that it was not really down to her, that she was not really an agent, then they do not really understand her predicament: that she regrets not just that something awful happened, but that *she did it*. These friends and well-wishers are incapable of helping accidental killers do what Izard recognises they need to do: to find a way to go on living with the fact that they were an instrument of death, that they were *agents* who *killed*. This inability to help is because these well-wishers fail to understand these agents *as* agents, so they cannot help them to move on with their lives.

Secondly, this raises issues of respect. Being an agent is vitally important to us.[10] To see someone as incapable of agency, or as limited in their agential powers, is to see them as somehow lesser. To fail to see an agent as responsible for the harm, to fail to treat them as such, is akin—at least, in the most extreme cases—to denying that a person really is an agent who can appropriately be said to make an impact on the world (Raz 2011, 245, 268; Gardner 2007).

Punishment and blame are directed to agents for what they have done. It is one thing to lock someone up in prison for public safety but is another to do so in response to their action and as a response to the fact that they are a responsible agent. Only the latter *punishes*.[11] By punishing or blaming someone, we show that we do understand that they have done something as an agent, and we show that we respect them as an agent. We can understand Patricia's plea to be punished in this light. Although Patricia asked for criminal punishment, other punishments or forms of blame might do the same thing: were others to shun her or condemn her, were the victim's family to drive her out of town, they would at least recognise that she was an *agent*.

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[10] For one, this seems to be a central part of being a *person*. See: (Honoré 1999)

Had the state's attorney punished Patricia, she might have welcomed this *even if* she had recognised that she was not at fault. The (undeserved) punishment paints her as a wrongdoer, yet this might be a cross worth bearing for Patricia because it paints her as a wrong*doer*. We can imagine Patricia saying "I know I was not at fault, but at least this punishment gives me what I need: a recognition that I was an agent who killed someone. At least some people take seriously that I *killed* someone."[12] In seeking to make sense of her life, in trying to move on and develop from this accident, that might be what she needs.

Yet the trouble with punishing Patricia is already clear from this discussion. Punishment or blame implies something more, something which is false: that she did something *wrong*. Our responses to agents like Patricia should, if they can, avoid painting her as a wrongdoer. This brings us on to how Patricia should understand herself. We have already seen that she (rightly) understands herself as an agent, but how else does this accident change her self-conception?

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[11] See also (Strawson 1982)

[12] Another enlightening suggestion, that XXX pointed out to me, is that she might want to be treated with *participant* reactive attitudes, rather than *objective* attitudes: see (Strawson 1982)

My first point, in exploring how we should understand ourselves when we faultlessly harm others, comes not from what we say about the agent if we wrongly group her in with the wrongdoer, rather it comes from the importance of wrongdoing and how treating the faultless harmer just like a wrongdoer dilutes our assessment of the genuine wrongdoer. It is important to capture the ways in which the wrongdoing that arouses guilt and blame matters *in contrast to* the ways in which the accidental effects of our agency matter. In short: wrongdoing is important and we should treat it as such.

Take a case that contrasts with figures like Patricia or the lorry driver; we will call him the *careless driver*: in this case, the driver was slightly drunk, not wearing his glasses, and not paying attention, which is why he hit the child.[13] His actions show us something: that he thinks his third beer is more important than driving safely, he thinks it's not worth the time to put his glasses on, he thinks that he can jam along to whatever is on the radio rather than pay attention to the road. Being careless, thoughtless, reckless, disrespectful, or selfish, and the guilt (or shame) that attaches to our actions that instantiate these flaws, is significant.

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[13] Jordan MacKenzie introduced this case, and we will come to her discussion in much more depth below. (MacKenzie 2017, 109)

Patricia shows none of these flaws. Were we to see treat her like the careless driver, we would not respect the significance of *wrongdoing*. We would signal that we accord accidents the *same* kind of significance that we attach to wrongdoing—and this not only paints Patricia in the wrong way, it also detracts from the distinct significance of wrongdoing.

Before moving on to positive suggestion for just how we should think about Patricia, I want to explore another aspect of agent-regret: the way in which it affects others. To do this, I want to look at an account put forward by both Jordan MacKenzie and David Sussman. Their accounts bring out that we also need to take account of the victims of an accidental harm. But they, too, run too closely to painting the agent as a wrongdoer. In section 3, I will draw on what we have learnt in considering both the perspective of the agent and the perspective of the victim in order to put forward some suggestions for how we should structure our responses—as agents, bystanders, friends, and victims—to accidental harms in ways that are distinct from blame.

2.2 Other-directed considerations

We now need to consider responses that primarily concern the perspective of the victim. By "victim" I include the immediate victim (the owner of the vase that smashed, the injured party) and those who are afflicted by, say, the injury or death of a loved one.

The considerations I explore only apply to victims who are alive and able to interact with others.

Jordan MacKenzie and David Sussman each offer an intriguing line of argument as to why we should treat someone who harms another as very much like a wrongdoer, why we should treat someone who feels agent-regret as very much like someone who feels guilt. Sussman and MacKenzie's accounts differ in subtle ways, but the core of their arguments is similar: the driver must grin and bear it for the good of those harmed by his actions.[14] What is the "it" the agent must bear? The agent must grin and bear any resentment, and potential ill-treatment, from the victim. The agent thus may be treated in a way very similar to the way she would be treated were she *blameworthy*. Clearly, I think that we need to make sure that our responses are not too close to the responses we have to the blameworthy, but it is worth exploring why Sussman and MacKenzie think that the blameworthy agent is a useful parallel.

Think again about the careless driver (the driver who was drunk or not paying proper attention). MacKenzie thinks the careless driver should clearly feel guilty and should clearly try to make amends. More interestingly, he "gives the child's parents a clear target at which to direct their grief and rage. They have someone that they can, without a shred of moral conflict, despise. And later on… they have someone whom they can forgive"(MacKenzie

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[14] For one disagreement between them, see (Sussman 2018, 800 note 18)

2017, 109). This careless driver is, as MacKenzie puts it, “a ‘bad guy’”(MacKenzie 2017, 109). What she means by this is not that he (necessarily) has a wretched character, but that he is the person the victims can blame, the person they can pin it on. And he is not just a scapegoat, a figure who we might pin things on despite not causing the harm; rather, we pin it on him *because* he caused the harm and was at fault (see Williams 2008, 56–57). Thus, the bad guy.

MacKenzie thinks it is valuable to have a bad guy in such cases. Rather than rallying against the cosmic unfairness of the world, it is easier to “move through these tragedies by assigning roles to its participants” (MacKenzie 2017, 109). I think that MacKenzie is clearly on to something. Even if it won’t always be the case, it true that to pin a harm on an agent, and to direct our rage at the agent, often makes a tragedy far easier to deal with than to simply recognise it as bad luck; and it is easier to forgive such an agent—granted they take certain reparative steps—than it is to come to terms with the cosmic unfairness of the world. After all, blaming and forgiving is a part of everyday life that we all encounter often enough. We know how to deal with this. But coming to grips with the cosmic unfairness of the universe, of the capricious sweeps of luck, can be far harder and far more alien to our everyday lives.

MacKenzie’s suggestion is that in the *standard* (i.e. not careless) lorry driver case, where he was not at fault—or in Patricia’s case—we can see the driver *in the role of* the bad guy, someone who the child's mother can resent and forgive (MacKenzie 2017, 110).[15] This benefits the victim insofar as she can more easily move through the loss of her child by seeing the driver as a bad guy, rather than railing against the unfairness of the world. But the driver also benefits from this; by casting himself as the bad guy, he can see a way to move forwards from how this accident has affected him: he can offer an apology or try to make amends in some way (MacKenzie 2017, 110). The agent who feels agent-regret is willing to take up the role of the bad guy, despite the unpleasantness this entails. Yet the agent can remember that he was not at fault and he did not do something bad willingly or recklessly (like the drunk driver) (MacKenzie 2017, 110–11). And others can comfort him, telling him that he was not at fault, and is not a bad guy (MacKenzie 2017, 112).

Like MacKenzie, Sussman appeals to how the victims might benefit from the driver being a target for them: "By offering himself up to the parents as someone to blame, the careful driver eases the awful impotence of grief, which, unlike other emotions, does not direct us to deal with the world in some way, but must instead be passively endured" (Sussman 2018, 800).[16] Although he was not blameworthy, he "has good moral reason to take the blame, to expose himself to the reproach of others without protest in a way that largely mimics the position of the [wrongdoer]" (Sussman 2018, 801). He has good reason because in taking the blame he makes things much easier for the parents of the slain child—and perhaps they matter more than he does, at least in the immediate aftermath of the accident.

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[15] She adds that the child's loved ones can "justifiably feel anger and contempt" (MacKenzie 2017, 114) So this is *justified* resentment. And it is justified because the social practice of taking on the role of bad guy is itself justified, see (MacKenzie 2017, 115). MacKenzie's position on moral luck and agent-regret is developed in an interesting social practice account, which I do not discuss.

[16] Sussman many not actually endorse this picture, and he thinks it rests upon some rational flaws in humans—though this is compatible with thinking it is a good explanation of agent-regret given that humans are not fully rational, see (Sussman 2018, 802). He goes on to offer a picture that concerns *conflict*. I will not explore the conflict-based picture here.

On this line of thought, the driver *takes on* the role of bad guy, or it is foisted upon him, despite the fact that this role is paradigmatically occupied by the *wrongdoer*. But blame is only appropriately directed at *wrongful* behaviour. If this is the case, we need a way of distinguishing the "bad guy" (like the careful driver, who would help everybody move on if he accepts the faux-blame directed his way) from the "*real* bad guy" (a malicious or reckless driver, a wrongdoer, who deserves *actual* blame). And if that is the case, we need to hear more about what distinguishes the wrongdoer from the faultless-harmer, what distinguishes faux-blame from real blame.

My worry is that, as it is, the "bad guy" line of thought offered by MacKenzie and Sussman leads in one of two directions. Either, it leads to treating harms like wrongs and faultless behaviour like blameworthy behaviour, where it is not clear what point is served by the supposedly-therapeutic fact the agent can tell herself she was not at fault, and where we inappropriately blame (or pseudo-blame) a faultless agent. *Or*, it raises an important point: victims of both faultless agents and wrongdoers may need to move on, and the agents may need to help them; but it leaves open *how* the faultless agent and the wrongdoer are similar, and we need to flesh out how exactly the faultless agent should respond to their victims.

Before moving on, I want to offer a few considerations for why we should not treat the faultless agent as a wrongdoer. These do not rely merely on the fact that blame is rightly directed only at wrongdoers. Firstly, treating the faultless agent as a bad guy—as a wrongdoer—can get in the way of moving on. As we saw above, wrongdoing occupies a significant role in our lives. To forgive someone for wrongdoing requires the agent to repent, to show that they recognise the wrongful nature of, say, their malicious intention. But this introduces further issues: the faultless harmers did nothing wrong. To forgive thus requires that the agent either *pretends* that he did something wrong (or to pretend that he is exactly like a wrongdoer, just that he can add that he is not at fault) or *mistakenly* comes to believe that he did. It is to force him to repent for perfectly acceptable behaviour. And an agent might rightly baulk at this, deciding that his integrity stands above the need to move on (von Hirsch and Narayan 1996, 83–84).

Secondly, rather than being constructive, treating the agent like a wrongdoer can be destructive; it runs the risk of victims (and also perhaps the agent) thinking of the agent not as an unwitting agent, but as someone who is malicious, vicious, or just careless—and all of these faults are important and are, as we have seen, deserving of a certain sort of response. This can encourage a downward spiral of increasing hate and vitriol. No doubt someone who has killed somebody that you love will arouse in you overwhelming negative emotions. But it is important that we get these emotions right: we want to be angry in the appropriate way.

The same applies to Patricia's desire for punishment. I have said already that being seen as a wrongdoer might be a price worth paying for Patricia: it might be worth it for her to have her agency validated, even if this falsely tars her as a wrongdoer. Yet this is far from optimal. She wants to be recognised and understood for what she is: an agent. If we were only able to do this by seeing her as a wrongdoer, we would be operating with a severely impoverished view of agency. We need to recognise that she was indeed an agent without imputing to her the flaws that would rightly arouse guilt.

So, we should drop the talk of bad guys. There is something instructive in seeing how the faultless agent and the wrongdoer are alike: they leave a victim who often feels (something like) resentment and who needs to move on. But that should just be the starting point, and we need to sketch more clearly the contours of the role occupied by the agent who faultlessly causes the harm. We need to understand *why* being a faultless agent of harm matters, and we need to understand the role being such an agent plays in our lives. What's more, as MacKenzie and Sussman bring out, we need to also understand how accidents and agency affect those around us and our relationships with those people affected by our agency.

3. Developing a Response

One potentially fertile way of thinking about this is in terms of our roles or identities and the importance that these actions play in who we are (Honoré 1999; Dan-Cohen 1991; 2008). Both the lorry driver and Patricia are *killers*.[17] Yet neither is a murderer. We need a proper understanding of what it means to be a killer—and an accidental one, at that—rather than a murderer.

In the passage I quoted in §2.1, Jonathan Izard said he needs to find a way to live with being a killer; this applies to victims, too: they need to find a way to understand what has happened to them, and also the role that the agent has played. The victim—like the agent—needs to see how this killer plays a role in *their* life.[18] The lorry driver has affected the lives of the child's parents by taking their son away. But when the parents think about the lorry driver, they should also recognise two other factors. Firstly, they need to recognise—even if this can be difficult—that there is more to him than a killer: he has a life of his own, but he has also, we hope (and will discuss below), attempted to make amends, apologised, and tried to treat the family respectfully. Secondly, there is less to him as an agent than there is to a bad guy: he has not taken risks, been careless, or failed to treat them as equally worthy human agents—he was just unlucky.

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[17] See (Raz 2011, 234–35) See also: "You are my wife's killer!"… can be taken quite literally as an attribution of a certain identity or characteristic… that of being a killer." (Dan-Cohen 1991, 984) Although Dan-Cohen's example is of an intentional shooting, it applies just as well to our unfortunate lorry driver. See also the titles of (Gregory 2017; Izard 2018)

[18] John Gardner and Tony Honoré both vividly illuminate this area. I do not go into their work in depth in this paper, but see (Gardner 2018; Honoré 1999)

We—agents, victims, and third-parties—also need to accord this role of "killer" with the right level of significance. Much as we need to be wary of underplaying an agent's role as an agent, we must guard against the risk that being a killer looms over all other aspects of an agent's life.[19] We need to make sure that we do not lose a grip on the fact that there is more to these agents' lives than that they are killers; people live complicated lives, and to *reduce* Patricia to a killer is clearly a mistake. When Patricia says, as in the quoted passage in §2.1, that the accident negates all the good she has ever done, she makes this mistake. *That* is the tightrope Patricia's friends need to tread: to show that they recognise her as an agent, but also that they recognise that she is so much more than just a killer. And they need to show that they can distinguish being a killer from being a murderer or manslaughterer.

If we recognise this, we might have a better hope of both the agent and the victims coming to a proper understanding of the role of this accident in their lives and the ways their lives now interconnect. I do not hope to have offered a fully explicated account of how we are to understand the impact of these harms in our lives—namely, the impact these harms have on the roles of agents who cause them—but hope that this seems like a plausible starting point for future exploration.

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[19] Though this is true of being a wrongdoer, too. Wrongdoers are not merely wrongdoers, they are parents, lovers, children, friends.

It is also worth noticing that for agents and victims to come to a proper understanding of matters, and for an agent to accord the right sort of weight to the role that, say, being a killer plays in her life, she (and perhaps also the victims) might need to *do* something to crystallise the role that this accident plays in her life and to stop it from looming too large (or shrinking too small). I want to offer some suggestions concerning which practices we might need to have in place in order to enable this understanding, practices which might also help agents and victims move on.

There are many familiar practices that might apply to these faultless harms. From buying a stranger a beer after spilling their pint, to helping someone up after you accidentally knock them over, we already exhibit an understanding of how to respond. The agent might apologise, or the agent might just explain to the victim what happened, clarifying their role and reinforcing that they recognised the victim's humanity all along and it was just an accident.[20] We need not see this as the same as apologising for wrongdoing, nor need we see it as *justifying* her behaviour, in the sense that wrongdoers need to justify their behaviour. Explanation can be important even if there is no wrong to negate—it can be important because we humans need to make sense of our world and those around us.

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[20] Tony Honoré mentions both apology and explanation at (Honoré 1999, 78) See also (Radzik 2014, 237)

Agents might also want to make amends in some tangible way, and this may help them to achieve some expiation or catharsis and thus offer some progress in moving on.[21] One way of getting some insight into how agents might achieve this, as well as how they might help the victim to move on, is by considering tort law. Several philosophers have drawn connections between agent-regret and tort law (Gardner 2018; Perry 1991; 2001, 93n27). It is especially useful in seeing how the agent might take constructive steps to *make amends*, and this can fulfil both other-directed considerations and agent-directed considerations. But before exploring tort law in a little more depth, we first need to be clear that tort law tends to address the harm caused and wrongdoing is incidental in one important respect: the response aims at repairing the *harm* not the *wrong* (Duff 2003, 190). Thus there are potentially fruitful connections to our study of faultless harms. Yet tort law deals with harms that arise *out of* wrongs: it does not concern itself with *merely* unfortunate accidents, but, for example, with negligence.[22] So, many of the cases of agent-regret that we encounter might find themselves outside of the realm of tort law; we cannot *simply* appeal to tort law as a practice that applies to faultless harms, we must rather use it as a source of illumination.

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[21] For a related discussion, see (de Wijze 2013, 890–92)

[22] Strict liability cases are perhaps an exception.

Still, the way in which tort law focusses on remedying the harmful effects of the wrong, rather than remedying the wrong, provides a useful starting point in understanding how we might respond to faultless harms. For instance, some compelling corrective justice approaches to tort law say something like the following: if you accidentally break my fishing rod you can make it up to me by fixing it, or by taking me hiking if the purpose of having the rod was just that I could enjoy the outdoors; in doing so, you try to repair what you damaged (Raz 2004; Gardner 2011; Slavny 2014). These accounts give a plausible account of what might help the victim: something related to what they have lost or what has been damaged. Of course, this will leave plenty of tough cases, such as in the lorry driver's case, where it is not clear *what* could possibly help. Still, these corrective accounts give us a useful starting point in working out how to help the victim move on. It should also be clear that helping the victim might provide some form of catharsis for the agent and might help the agent to achieve something like forgiveness. Further, and related to what we have discussed above, corrective accounts recognise that the reason this response is appropriate is that *the agent did something*, namely, they caused a harm. Such accounts thus respect the agent's role *as an agent*, and they allow the agent to react to her role (such as her role as a killer) and allow this role to influence her future actions in a way that responds to this role and helps to integrate it into a rounded life that is influenced but not overwhelmed by that role.

Although such approaches both respect the agent's role as an agent and help the victim move on, the moving on is engineered through repairing the *harm* to the victim; these approaches tend not to account for the ways in which the victim and agent might both need to come to *understand* the role this harm has had in both of their lives. As we have seen, understanding that *somebody* caused this harm can be important to the victim (and also the agent) moving forward; but the victim must not see the agent as a blameworthy wrongdoer. These corrective approaches do not really help the victim or agent to understand what has happened.

Other approaches to tort law make the relationship between the victim and the agent central and encourage some form of *reconciliation* (Hershovitz 2012; Encarnacion 2014; Radzik 2014).[23] These approaches also tend to consider *wrongful* action, where the agent (morally) disrespects the victim. This is not present in the cases of agent-regret we have considered, yet it importantly affects the picture of tort remedies offered by these accounts: for instance, remedies often involve restoring the victim's moral status. Relatedly, another sort of approach, restorative justice approaches to punishment, aims to rehabilitate *relationships* between wrongdoers and the victims, such as through victim-wrongdoer conferences that aim to show the agent the worth of the victim and encourage the agent to come to respect this.[24]

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[23] See also (Hampton 1991) for a broader take on the law

It should be clear that, though it can be broadly understood, restorative justice is paradigmatically a form of punishment that is directed at wrongdoing (Duff 2003, 187–88). Still, it has an important feature that may be useful in moving on from faultless harms: the agent and victim may need to better *understand* what has happened in order to move on. Victim-agent conferences, for example, directed not at making the agent appreciate the wrong, but at making both victim and agent appreciate and properly understand the gravity of the harm and the role it plays in their lives, as well as forms of reparation that help the agent make up for the harm, are practices that might help the victim and agent come to a better understanding of the role of that harm in their lives. The victim can thus, hopefully, better come to terms with the harm suffered by seeing the agent *as an agent* yet without *blaming* the agent. Further exploration of restorative justice seems like a good starting point, alongside considering corrective approaches to tort law, in coming to develop practices that allow us to constructively respond to an agent who faultlessly harms another.

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[24] For excellent overviews of restorative approaches see (Walker 2006; Bennett 2006)

In her *New Yorker* piece, Gregory makes clear that, despite the number of people who accidentally harm or kill others, there are hardly any resources to help these agents cope:

> *There are self-help books written for seemingly every aberration of human experience: for alcoholics and opiate abusers; for widows, rape victims, gambling addicts, and anorexics; for the parents of children with disabilities; for sufferers of acne and shopping compulsions; for cancer survivors, asexuals, and people who just aren't that happy and don't know why. But there are no self-help books for anyone who has accidentally killed another person. An exhaustive search yielded no research on such people, and nothing in the way of therapeutic protocols, publicly listed support groups, or therapists who specialize in their treatment... Cops, social workers, and hospital personnel receive no special training in how to respond to people who have accidentally caused fatalities, and neither the American Counseling Association nor the American Psychological Association nor the American Automobile Association could, when I asked, name any experts in the field."*

The law often has no place in interfering when our actions are not wrongful. But thinking about tort law and restorative justice might help us in thinking about the need for *institutions* to facilitate our response to faultless harms; perhaps we need charities, perhaps we need the state to get involved. But it can also help us think about how we—as agents, victims, bystanders, friends, or fellow citizens—can respond in these situations.

Conclusion

Although there is a growing literature on agent-regret, there has not been much exploration of how the agent who caused the harm should react, nor of how victims should respond to the agent. I have argued that we need to think in much greater depth about how to deal with these faultless harms, and how to help both the victims and the agents of those harms. The supposedly-comforting words of "it was just an accident" might not cut it because they fail to appreciate that the person who caused the harm was an agent. Nor should we treat the person who caused the harm as a "bad guy". Although such an approach has been suggested in the literature, I have argued that this approach can block the victim from moving on, can lead to undue resentment, and is unfair to the agent. Instead, I have suggested that we need to look at how causing a harm affects the agent's identity, and we should look to tort law as a starting place for future attempts at understanding how to deal with faultless harms.

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