

# MORAL

ON THE IMPOSSIBLE DEMANDS OF MORALITY

# FAILURE



LISA TESSMAN

# *Moral Failure*



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*On the Impossible Demands  
of Morality*



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*For my mother*



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## *Introduction*

THIS BOOK BEGINS from a particular kind of moral experience: the experience of apprehending a situation as *requiring* a certain response, or, put differently, the experience of reaching an evaluative judgment that may be expressed, most simply, by the words “I *must*.” The shape that this experience takes is contingent and variable. I assume, additionally, that the very fact that there are binding moral requirements for us—and that we recognize their authority—is a contingent fact, and is dependent upon our having specific evaluative experiences, including experiences of requirement. Not only our moral experiences, but also the moral requirements that are constructed from them, vary in certain ways, and I investigate one way: moral requirements, I argue, vary in whether they are negotiable or non-negotiable.

What is distinctive about my approach in this book is that I focus on one of the more distressing shapes that the experience of moral requirement can take, by examining situations in which “I *must*” is conjoined with “I can’t”—that is, situations in which one apprehends a non-negotiable moral requirement that one cannot fulfill, and thus also faces one’s own inevitable failure to fulfill it. Much moral theory is built on the assumption that even if one can have the *experience* of being impossibly required, there is no such thing as a moral requirement that is impossible to fulfill—that is, much moral theory is built on the assumption that “ought implies can.” I argue instead that while negotiable moral requirements do indeed abide by the principle that “ought implies can,” non-negotiable moral requirements contravene this principle. My aim is to make sense of moral requirements that remain binding even when they become impossible to satisfy, and to uncover difficulties in our moral lives that result from some moral failures’ being inevitable. I also investigate several different contexts—ranging from scholarship on Holocaust

testimony to ideal and nonideal theory, from theories of supererogation to literature on moral demandingness and to feminist care ethics—in which impossible moral requirements are unacknowledged. In this range of contexts, the denial that there can be impossible moral requirements tends to obscure something about the contingent experience of a certain kind of deep valuing, namely, that it constitutively involves taking some acts to be unthinkable; valuing someone or something in this way can lead one into situations in which only the unthinkable—and thus the violation of a non-negotiable moral requirement—is possible.

I find that it is important to witness these sorts of situations, and to allow that witnessing to inform one's moral theory. When this does not happen, the result is moral theory that does not really suit the kinds of creatures that we are, creatures who value many different things and in many different ways, who are capable of valuing as deeply, and as passionately, as we are, and who become attached to irreplaceable others. I turn (gratefully) at various points in this book to several different philosophers whom I think *do* manage to capture a great deal of the complexity of a moral life in which there are impossible demands. For instance, I admire Bernard Williams as a philosopher precisely because he does *not* engage in many of the evasions typical of contemporary moral theorizing (especially in the analytic tradition). As Martha Nussbaum (whom I similarly admire) wrote in her beautiful eulogy of Williams:

Williams made a large demand on behalf of philosophy: that it come to terms with, and contain, the difficulty and complexity of human life. He believed that much philosophy of the past had represented a flight from reality, a rationalistic defense against complexity, emotion, and tragedy. Utilitarianism and Kantianism, particularly, had simplified the moral life in ways that he found egregious, failing to understand, or even actively denying, the heterogeneity of values, the sometimes tragic collisions between one thing we care for and another. They also underestimated the importance of personal attachments and projects in the ethical life and, in a related way, neglected the valuable role emotions play in good choice. Finally, they failed to come to grips with the many ways in which sheer luck affects not only happiness but the ethical life itself, shaping our very possibilities for choice. A lover of both literature and opera, Williams asked philosophy to come up to the higher standards of human insight these other forms of expression exemplified. What was the point in it, if it didn't? (Nussbaum 2003b)

Williams's challenge to philosophy is a tough challenge, and I am certain to fall short of it. I try, though, to get at some of the difficulty and complexity of moral life by paying attention to unavoidable moral failures. This focus on impossible moral requirements and the ensuing failures—a focus to which I find myself drawn for what are no doubt my own peculiar psychological reasons—can nevertheless be double-edged. Somewhat critical of Williams for his eventually becoming mired in an “elegant assertion of the hopelessness of things” that led him to withdraw from politics, Nussbaum posed a set of questions to Williams after his death. I, too, need to keep these questions in mind, given my affinity with Williams's outlook. Nussbaum asks: “Isn't it perhaps all right to try to engage one's philosophical energies so as to make things a little better in the world, and can't one do so without being duped by any teleology of progress? . . . Isn't it not boring but rather exciting to see what one might do under the aegis of anger and hope? . . . Is despair possibly a sin, as well as a psychological problem?” (Nussbaum 2003b).

If my main (or only) concern were preventable moral wrongdoing, or moral wrongdoing that while not preventable nevertheless was rectifiable, or even just offered a lesson for the future, it would be open to me—and heartening—to just answer these questions affirmatively. However, I do not want the affirmative answers to come too fast and to preclude understanding the experience of those unavoidable moral failures from which there can be no recovery and in which there is no redeeming value. And so additional questions persist for me: Given all that people care about that cannot be replaced, compensated, rectified, or repaired, shouldn't moral philosophy sometimes face this, and try to articulate the moral experience and the moral status of someone who fails to fulfill an impossible moral requirement to set things right? Must we always be rushing off instead, to issue prescriptions regarding what *can* be set right?

\*

The book is divided into three parts. Part I comprises three chapters that lay the groundwork for the rest of the book. In them, I establish the claim that moral failure can be unavoidable, give a descriptive account of how impossible moral requirements can be experienced, and then assess what kind of authority a judgment that one is bound by an impossible moral requirement can have. I hope that by the end of Part I, my expression of confidence in the authority of some impossible moral requirements will have become intelligible.

Chapter 1 introduces the concepts of impossible moral requirements and unavoidable moral failure by reviewing and rethinking the philosophical

debates about whether or not any moral conflicts are genuine moral dilemmas. When a moral conflict occurs and one chooses to fulfill one of the conflicting requirements, the other requirement thereby becomes impossible to fulfill. The question is, what happens to a moral requirement that becomes impossible in this way? I claim that some moral requirements, those that I call *negotiable*, can be negotiated away in the course of resolving a conflict, while other moral requirements, which are *non-negotiable*, remain binding no matter how the conflict is resolved for the purpose of deciding which action to perform. This means that non-negotiable moral requirements—which, I suggest, concern significant values for which there can be neither substitutions nor compensations—remain binding even if they become impossible to fulfill. Most of chapter 1 is spent drawing this distinction between negotiable and non-negotiable moral requirements, and identifying the characteristics of non-negotiable moral requirements that enable them to escape from the principle that “ought implies can.” I end the chapter by considering the limits of what can be morally required, even in the case of a moral requirement that is not limited by the possibility of its fulfillment.

In chapter 2, I outline how a dual-process theory of moral judgment can help fill in the empirical details of how moral judgments can conflict and create the experience of a dilemma. I also venture into the psychological sources of experiences of impossible moral requirements more generally, including those that are not due to dilemmas. There are some requirements that are typically possible to fulfill, but even in those circumstances in which they have become impossible, one may retain the intuitive judgment that they are still in effect. The *automatic* response to certain situations, such as situations in which a loved one is suffering, is to grasp that one is morally required to, say, care for one’s loved one; this feeling of requirement does not disappear or even diminish just because the requirement turns out on some occasion to be impossible to satisfy. Reasoning operates differently: if a typically possible moral requirement becomes impossible, it can be eliminated by the reasoning process, either (for consequentialists) through a cost-benefit analysis that admits only possible options for consideration, or (for deontologists) through a logical exercise with “ought implies can” as a premise. In contrast, when a situation triggers an automatic grasping of a moral requirement, “ought implies can” cannot insert itself into the automatic, intuitive process to cancel the requirement. Finally, I examine a particular type of intuition that is experienced as a potent feeling that certain values are sacred and that one must protect them; part of what they must be protected from is the threat of being sacrificed if they are found to lack justification; additionally, they

must be shielded from the inappropriate thought that they are commensurable with non-sacred values. Thus, values that have been sacralized can be betrayed through engaging in justificatory reasoning about them, with further insult when this reasoning takes the form of weighing costs and benefits. Because of this, the moral requirements concerning sacred values are a type of moral requirement that must be grasped intuitively, and that can give rise to moral failure not just when they are *outweighed*, but also when they are rationally weighed at all.

Chapter 3 examines the move from the *experience* of a non-negotiable moral requirement to the claim that a non-negotiable—and at times impossible—moral requirement “really” can be authoritative. I situate my discussion in this chapter in a framework of metaethical constructivism, first considering why constructivism as it is typically construed has trouble handling values that have been sacralized, and then proposing an alternate, more flexible process of construction that can yield authoritative, non-negotiable moral requirements. I argue that fully accepting the contingency of moral experience—the contingency not just of *what* people value but also of *how* they value—requires an expanded conception of the construction of value. Constructivists tend to turn to reflective equilibrium as a method for determining which of one’s initial normative judgments are correct and which are mistaken; this method emphasizes coherence as a criterion for correctness, and requires a reasoning process for reaching it. I find both the aim of coherence and the recommended process for attaining it to be problematic in the case of sacred values and associated moral requirements, precisely because in the course of this reasoning process one may be required to think the unthinkable. While the alternate route that I suggest cannot be said to lead to moral *truths*, it does still lead to the confident affirmation of some intuitive moral judgments; however, because it permits one to exempt some of one’s own moral judgments from reasoned scrutiny, it may allow one to imbue these judgments with what is in some sense too much moral authority. There is no full remedy for this, but I do point out that people can provide a “check” on each other’s moral judgments when the process of construction is a *social* process that relies heavily on affective interactions and on the automatic, intuitive judgments that these interactions prompt.

The two chapters in Part II presume that there are some impossible moral requirements and unavoidable moral failures, and explore their occurrence in two different settings. Chapter 4 looks at moral failure in the context of atrocity, and at the difficulty of witnessing or acknowledging it without retreat into action-oriented thinking. Chapter 5 is set in the context of oppression, and

suggests that the denial of inevitable failure that takes place in attempts at theorizing about oppression and resistance to oppression is due to a lack of attention to the distance between ideal and nonideal theory. In both chapters, I question the assumption that moral (or other normative) theory has no role other than to provide action-guidance, and implicate this problematic assumption in the evasions that I identify.

Chapter 4 depicts an environment, within Nazi concentration and extermination camps, in which the ordinary possibilities of satisfying moral requirements are replaced, for victims, with ubiquitous conflicts of what would normally be requirements, or with such a serious loss of agency that morality itself becomes inoperative. I begin the chapter by noting that audiences of Holocaust testimony tend to build stories of moral triumph out of what they hear, and in so doing avoid facing surviving victims' descriptions of their own failures of morality. Then I turn to these failures. I discuss two conditions under which morality can be said to fail. The first condition is one of dilemmatic morality, where a victim who still retains some agency is forced to choose between two unthinkable options, and, despite doing the best that is possible, still unavoidably fails to do anything sufficiently good. The second condition is one where some of the prerequisites for moral agency—a bit of control, and a bit of predictability regarding options—disappear, and there ceases to be anything that could be called a moral practice. While one cannot say in such circumstances that any moral *agent* fails, nevertheless when people who have lived through a loss of their agency later regain it, they may judge themselves as having failed—that is, as having failed at being an agent when there is a sense that, as a human being, one ought (sometimes impossibly) to be an agent. While I suggest that both kinds of failure are largely ignored, I also admit my own inclination to focus on dilemmatic morality rather than face the possibility of a complete absence of morality.

Chapter 5 considers how unavoidable moral failure becomes obscured in theorizing about oppression and resistance to oppression, and more specifically how this takes place through feminist and critical race theorists' rejection of ideal theory and embrace of nonideal theory. I agree in large part with the critiques of ideal theory, where an important part of these critiques is the claim that ideal theory cannot guide action in the nonideal, actual world. However, I maintain that the proposed alternative of nonideal theorizing is also troubling. Nonideal theorizing enables one to address oppression by first describing (nonideal) oppressive conditions, and then prescribing the best action that is possible or feasible given the conditions. I find exclusively action-guiding nonideal theory to be both

insufficiently *nonidealizing* (because it idealizes the moral agent by falsely characterizing the agent as always able to avoid moral wrongdoing) and meanwhile *too* strongly adapted to the nonideal (because normative expectations are lowered and detrimentally adapted to options that, while the best possible, are still unacceptable). I insist that feminists and other theorists of oppression should also develop normative theory that issues further, non-action-guiding evaluative claims, in order to communicate that the best that is possible under oppressive conditions is *not good enough*, and may constitute a moral failure.

Part III is a consideration of one of the major questions of normative ethics—how *much* is morally required?—and an investigation of how this question changes if one admits that moral requirements are not always possible to satisfy. While each of the theories that I analyze answers the question of moral demandingness quite differently, none of them portray moral life as *impossibly* demanding. Chapter 6 focuses on the minimalist answer to the question that is given by theories that emphasize the supererogatory. Chapter 7 looks briefly at theories that posit stringent moral requirements and that are hence charged with being unreasonably demanding, and then interrogates the impulse to defend more moderate theories, with special attention to what I take to be a moderate version of care ethics.

According to the supererogationist frameworks that are highlighted in chapter 6, there is a set of morally worthy actions that go beyond duty, such that one cannot be faulted for opting out of these actions. I trace how the stipulation that moral requirements arise from voluntary agreement functions to reduce the category of required acts to a minimum. The category of the supererogatory then absorbs all those actions that are morally valuable but that cannot be required. The concern that I express in this chapter is that supererogationist theories, because they regard (hypothetical or actual) consent as the *only* route to moral requirement, cannot account for the experience of apprehending requirement in the absence of consent. This is problematic because I take it that others' serious needs, vulnerability, or dependency can be sources of moral requirement, that one can come to be bound by this sort of requirement as a matter of luck, and that it is a common experience to find oneself facing this kind of moral requirement and understanding it as authoritative, even if one is unable to respond adequately. The moral phenomenology of encountering this kind of requirement stands in stark contrast to the experience that supererogationist theories center, namely, the experience of facing a choice about whether or not to perform a morally worthy but not obligatory action, and innocently choosing not to perform it.

While supererogationist theories minimize the demands of morality, other theories—such as maximizing act consequentialist theories—posit extreme moral demands. These extreme demands are always presumed to be impartial demands. In chapter 7, I look instead at the possibility of extremely demanding agent-relative requirements to care for particular, proximate, or intimate others. I discuss how, in a laudable but I think misguided effort to protect women from being coerced into or exploited through dependency work, care ethicists have portrayed some of the demands of morality as moderate; they have formulated what I call a feminist version of the “demandingness objection.” It is this attempt to argue that morality is moderate that I critique. However, my critique is not meant to support the stringent, action-guiding moral demands that impartialist, maximizing act consequentialism emphasizes, and that tend to be strikingly counterintuitive. The moral demands on which I focus are often grasped intuitively. They can also, I argue, be impossible to meet. Because moral requirements that are impossible must also be non-action-guiding, these moral requirements do not demand action; however, what they do demand is that one bear the weight of apprehending—through powerful intuitive judgments—that one has been called upon to respond, and that one has (necessarily) failed to do so adequately.

PART I

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*Are There Impossible Moral  
Requirements?*



# *Moral Dilemmas and Impossible Moral Requirements*

## *Introduction*

This chapter analyzes the philosophical concepts of moral dilemmas and impossible moral requirements; the next chapter will supplement these concepts with a psychological explanation of how moral dilemmas and other occasions for unavoidable moral failure arise and are experienced. In philosophy, the “moral dilemmas debate”<sup>1</sup> is primarily a debate over whether or not there can be such a thing as a genuine moral dilemma, and at the core of the debate is the question of whether or not a moral requirement can remain in effect if, in conflicting with another moral requirement and being overridden, it becomes impossible to fulfill. Dilemmas are the most obvious place to look for impossible moral requirements, and that is why I begin with them. My aim, in addition to presenting the conceptual issues that the moral dilemmas debate has exposed, is to identify the factors that enable some moral requirements to remain binding even when they are impossible to satisfy.

Much of the moral dilemmas debate as been conducted without either “anti-dilemma” or “pro-dilemma” philosophers relying on empirical work.<sup>2</sup>

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1. For an introduction to this debate, see Gowans (1987); Sinnott-Armstrong (1988); Mason (1996); and Statman (1995).

2. When I speak of people who participate(d) in the “moral dilemmas debate,” I refer to theorists who try to answer the question of whether or not there is such a thing as a genuine moral dilemma and/or who focus on the concept of unavoidable moral wrongdoing. I do not mean to refer to people who use the term “moral dilemma” interchangeably with the term “moral conflict,” primarily to label conflicts between deontological requirements and consequentialist prescriptions, such as the “moral dilemmas” that comprise the “trolley problem” (to be discussed in chapter 2). The debates about this kind of moral conflict *have* been informed by

Some anti-dilemma theorists believe that they have no need for empirical work because they take the denial of the possibility of dilemmas to be a matter of (deontic) logic. Other anti-dilemma theorists conceive all moral conflicts, including apparent moral dilemmas, to be resolvable through a rational process of calculation such as cost-benefit analysis, which determines conclusively which of the conflicting moral requirements counts as the real or all-things-considered moral requirement; for these theorists, any *experience* of a defeated moral requirement as still binding—for instance, a feeling of guilt about not performing an action that would satisfy it—is irrational, and hence irrelevant, or worse, misleading. Thus they, too, discount empirical reports on the experience of encountering a dilemma, for they take such experiences to be cases in which the moral agent mistakes an apparent dilemma for a genuine dilemma. In contrast, many of the pro-dilemma theorists *do* rely on experience and defend their appeal to experience, usually centering experiences of regret, guilt, remorse, distress, and so on, that can accompany the failure to perform a moral requirement that became impossible or impermissible to satisfy because of its conflict with another moral requirement.<sup>3</sup>

My sympathies lie with the pro-dilemma theorists, and like them, I take the experience of encountering a moral dilemma to be significant, even—or especially—when the encounter involves emotions that point in a different direction than the action-guiding deliberations used to choose which moral requirement to satisfy. More generally, I take moral experience to be relevant and important within a critical, naturalized approach to moral philosophy, and will be focusing throughout the book on different aspects of the experience of encountering an impossible moral requirement. However, even the pro-dilemma theorists who have taken an experiential or phenomenological position within the moral dilemmas debate have tended to limit themselves to experiences that are investigated from the armchair rather than through

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empirical research, but instead of asking about whether conflicts like those that comprise the trolley problem qualify as genuine moral dilemmas, some philosophers have used the empirical work to argue that the moral conflicts can and should be *resolved* consistently in favor of one of the conflicting principles (e.g., the consequentialist prescription to maximize overall good). Greene et al.'s (2001) empirical studies spurred this line of discussion in which both philosophers and psychologists are participating. In chapter 2, I will make use of the same empirical research, but apply it to the earlier debate (the “moral dilemmas debate”) in order to illuminate the idea of unavoidable moral failure rather than in order to try to show why one particular resolution of the moral conflicts is the correct one.

3. Because of these differences in how participants in the moral dilemmas debate regard the appeal to moral experience, Christopher Gowans (1996) characterizes the debate as a debate between the “rationalists” (who deny that there are genuine moral dilemmas) and the “experientialists” (who affirm that there are genuine moral dilemmas).

empirical studies. Theorizing from the armchair is standard practice in philosophy, or at least it was until the recent advent of what is known as “experimental philosophy.”<sup>4</sup> From the armchair, pro-dilemma theorists consult their own experiences of moral conflict, or refer to literary or other narrative portrayals of experience, and then count on these descriptive accounts resonating with their readers. While I do not want to dismiss this armchair phenomenological practice—and I rely on it myself—I think that phenomenological descriptions of experience can be strengthened and enriched by recent empirical work in moral psychology, to which I will turn in chapter 2.<sup>5</sup> The empirical work reveals some things about certain moral intuitions that one could probably not become aware of just by reflecting on one’s own moral intuitions.

In brief, according to some neuroscientists and social psychologists, the experience of a moral requirement can arise from either (or both) of two distinct brain processes—an automatic, intuitive process and a controlled reasoning process; because of this, different moral requirements may be experienced quite differently. Confronted with this data, some of the anti-dilemma theorists (consequentialists in particular) have to argue that we should disregard the experience of some kinds of (apparent) moral requirements—namely, those that are processed by our automatic, intuitive system, and which, even when they conflict with other moral requirements, do not seem to go away. I will contend that such disregard, if it could even be achieved, would be unwise. I will suggest that there are some moral requirements that we need to continue to experience—and “count”—as moral requirements, even when they become impossible to satisfy. These non-negotiably required values do not necessarily metamorphose into negotiably required values just because they become impossible to satisfy; rather, because they cannot be negotiated away, one’s only option when they are impossible to fulfill is to violate them. Neuroscientific studies illuminate why violating a non-negotiable moral requirement does not feel the same as negotiating away a negotiable moral requirement: the two experiences involve different sorts of brain processes.

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4. For an introduction, see Appiah (2008); and Knobe and Nichols (2008). Experimental philosophy comes with its own slew of problems. Experimental ethics has brought philosophers out of the armchair and into the (psychologist’s) lab, but not necessarily into the actual world that people experience in their day-to-day moral lives. For a feminist critique of experimental philosophy, see Schwartzman (2012).

5. See Kahane (2013) on the relationship between armchair intuitions and intuitions that have been empirically researched.

### *The Moral Dilemmas Debate*

What interests me about moral dilemmas is that they are situations of moral conflict that present *impossible moral requirements* and entail what I will call *unavoidable moral failure*. Both of these terms require explanation. I borrow and adapt the term “impossible moral requirements” from Michael Stocker’s “impossible oughts” (1990). Stocker refers to “impossible oughts” that arise, among other places, in moral dilemmas. A moral requirement (an “ought”) can be impossible in several senses, including that it can be morally impermissible.<sup>6</sup> I use the term “impossible *moral requirements*” rather than Stocker’s “impossible *oughts*” because I take the term “moral requirement” to apply neutrally across a variety of meanings and to refer to a plurality of kinds of (required) moral values (whereas “ought” suggests that one is speaking of a duty or obligation and not, say, a responsibility, or an action that is “called for”).

I use the phrase “unavoidable moral failure” in a way that is loosely based on Christopher Gowans’s reference to “inescapable moral wrongdoing” (1994); I diverge from Gowans in minor ways in my usage, while sharing with him the central focus on situations in which whatever one does, one violates a moral requirement. I use “unavoidable,” “inevitable,” and Gowans’s “inescapable” interchangeably. I substitute “moral failure” for “moral wrongdoing” because “failure” can refer to the violation of any of the plural kinds of a moral requirements, whereas “wrongdoing” might be taken to suggest something more specific (such as the violation of a duty).<sup>7</sup>

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6. “Oughts” that are impossible in the sense of being morally impermissible arise, for Stocker, in cases of moral conflict where one must either do act X or act Y, but they are each morally impermissible: one ought to do X because it is not possible, morally, to do Y (that is, Y is morally impermissible), and one ought to do Y because it is not possible, morally, to do X (that is, X is morally impermissible). Thus one ought to do X but X is not possible (morally), and one ought to do Y but Y is not possible (morally) (Stocker 1990, chapter 1). Impossible oughts can also arise, for Stocker, when the impossibility is physical or causal rather than a matter of moral impermissibility. For instance, if one has a “culpable inability” to do something, one can still say that one ought to do it; one might squander one’s money, thereby making oneself unable to repay one’s debts, but even after one’s money is gone, it is still the case that one ought to repay one’s debts (Stocker 1990, 96). Elsewhere, Stocker offers an example in which one promises to meet someone who is an hour’s drive away but makes oneself (physically) unable to do so by intentionally not getting in the car on time; even after the time has past when one could get to the meeting on time, it is still the case that one ought to be there (Stocker 1971, 314–315).

7. In most of the moral dilemma literature (and not only in Gowans’s work), “wrongdoing” is used instead of “failure.” “Moral failure” is the term used by Cheshire Calhoun in her article entitled “Moral Failure” (1999). While my usage of the term “moral failure” is not intended to follow Calhoun’s use of it, there is some overlap worth noting. Calhoun speaks of a specific kind of moral failure, and while her point is not (primarily) about its inevitability, under certain conditions it could indeed be inevitable. Calhoun notes that “there are two ideals

I define a *moral dilemma* as a situation of conflict in which there is a moral requirement to do A and a moral requirement to do B, where one cannot do both A and B, and where neither moral requirement ceases to be a moral requirement just because it conflicts with another moral requirement, even if for the purpose of action-guidance it is overridden. In a dilemma, whichever action one chooses to perform, one violates what has become, through one's choice, the impossible moral requirement to do the other action.<sup>8</sup> I take such a violation as a moral failure. Thus, dilemmas are situations in which moral failure is unavoidable. Some theorists have understood the question of whether or not there are moral dilemmas as a question of whether or not there are any moral conflicts that are irresolvable.<sup>9</sup> I am not concerned with this question, since I count moral conflicts that can be resolved for the purpose of action-guidance as dilemmas just in case they involve impossible moral requirements and unavoidable moral failure.<sup>10</sup>

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for moral lives" that cannot always be realized simultaneously: "the familiar ideal of getting it right" and "the ideal of participating in a shared scheme of social cooperation" (1999, 94). Even if we are individually in control of the first ideal, we are not individually in control of the second, so in cases where resisting dominant norms is the "right" thing to do, one does not control the fact that in doing the right thing one may make one's actions unintelligible within one's moral community, and thus fail in terms of the second ideal: "No matter how much one gets it morally right, one's life as a moral practitioner may end in failure because the practice of morality also aims at a common moral life together" (1999, 95); "when getting it right requires repudiating shared moral understandings, success on this dimension may *produce* failure on the other" (1999, 96). I agree with Calhoun on this point. While the unavoidable moral failures that I will be discussing are more encompassing than the specific kind of failure on which Calhoun focuses, they could include it. Thanks to Claudia Card for this point.

8. Technically, I should say that a moral dilemma is "a situation in which there is a moral requirement to do [or to refrain from] A and a moral requirement to do [or to refrain from] B, where one cannot both do [or refrain from] A and do [or refrain from] B, and where neither moral requirement ceases to be a moral requirement just because it conflicts with another moral requirement, even if for the purpose of action-guidance it is overridden. In a dilemma, whichever action one chooses to perform [or refrain from], one violates what has become, through one's choice, the impossible moral requirement to do [or refrain from] the other action." For the sake of simplicity, I leave out the bracketed words.

9. A difference in my terminology and Gowans's is that, as is evident in my definition of a moral dilemma, I call a *resolvable* conflict a dilemma just in case it involves unavoidable moral failure, whereas Gowans reserves the term "dilemma" for cases where no resolution of the question of what to *do* is possible without logical contradiction (this is an empty set, for, as Gowans argues, there are no such cases). Despite my terminological differences from Gowans, the important point on which I agree with him is that moral conflicts (whether or not we call them "dilemmas") can put a moral agent in a position in which it is impossible to escape from failing to satisfy a moral requirement.

10. There is variation in the way that the term "moral dilemma" is used in the "moral dilemmas debate." Furthermore, the various ways that the term "moral dilemma" is used in the "moral dilemmas debate" is different from the way it is used in discussions that refer to "moral dilemmas" involved in problems such as the "trolley problem," since these discussions are not concerned either with the question of resolvability or with the question of whether a moral

It should be noted that unavoidable moral failures are different from avoidable moral failures in ways that might bear on blameworthiness.<sup>11</sup> My focus, however, is not on blameworthiness—especially not from the perspective of an observer—but rather on the (first person) experience of encountering or apprehending an impossible moral requirement and on the (first person) experience of recognizing one’s (unavoidable) moral failure. Furthermore, my position is not that all moral conflicts are situations of unavoidable moral failure (i.e., dilemmas), but rather that some moral conflicts are and others are not, and that this depends upon the characteristics of the moral requirements that have come into conflict, and on whether or not the moral requirements are fully eliminated when overridden.

Theorists who have denied the possibility of moral dilemmas have done so from two main angles,<sup>12</sup> though common to both is some form of the assumption that “ought implies can” or that there can be no impossible moral requirements.<sup>13</sup> The first, typically Kantian or deontological, approach to the denial of the possibility of dilemmas explicitly accepts the principle that “ought implies can”—often referred to simply as the Kantian principle—as one of the axioms of deontic logic, and uses it to demonstrate that there is a logical contradiction that rules out dilemmas.<sup>14</sup> It does not propose a way

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requirement is fully eliminated when it is overridden; rather, in the “trolley problem” (and related problems) the term “moral dilemma” is used synonymously with “moral conflict,” in a way that presumes both resolvability and full elimination of the overridden requirement. However, as it turns out, I would consider the dilemmas that comprise the “trolley problem” to be genuine moral dilemmas, as I have defined them—that is, I take them to be situations of inevitable moral failure.

11. One might argue that unless a person is culpable for creating the situation of unavoidable moral failure that he/she is in (for instance, by making foreseeably conflicting promises), his/her unavoidable failure is not blameworthy. Or one might argue that while someone can *take responsibility* in what Claudia Card calls a “forward-looking” sense for his/her unavoidable moral failure, he/she should not be *blamed* in a “backward-looking” sense for it. See Card (1996, chapter 2), who draws this distinction in the context of a discussion of responsibility for moral luck.

12. See Gowans’s introduction in Gowans (1987), for more on the approaches from which to deny the possibility of genuine dilemmas.

13. This does not mean that all pro-dilemma theorists deny that “ought implies can”; Bernard Williams (1973b), for instance, explicitly holds on to “ought implies can.” For a discussion of the variety of ways in which the words “ought,” “implies,” and “can” can be understood in the doctrine that “ought implies can,” and for a partial rejection of the doctrine, see Stocker (1971). See also Sinnott-Armstrong (1984; 1988, chapter 4).

14. There are many passages in which Kant suggests that “ought implies can.” Robert Stern (2004, 53–55) lists the following as relevant passages (though he himself takes these passages to imply only a weak version of “ought implies can”):

*Critique of Pure Reason*, A807/B835.

to *resolve* moral conflicts because it denies that moral requirements can ever conflict.<sup>15</sup> The second approach—an approach typical of consequentialists but not limited to consequentialism—does offer a way to resolve moral conflicts completely, so that once the conflict is resolved, no impossible moral requirement can remain. After briefly explaining the first approach, I will set it aside and focus on the second approach—which I will refer to as the *conflict-resolution approach*—because my main concern is about what does or does not happen to a moral requirement that is rejected (for the purpose of guiding action) in the resolution of a conflict. Those who take the conflict-resolution approach deny exactly what I, along with others holding a pro-dilemma position, affirm: that even when a moral conflict is resolved in the sense that a (correct) decision about what to do is reached, the rejected and (subsequently) impossible moral requirement may remain in effect, making moral failure inevitable. However, I do not think that *all* moral requirements have the features that allow them to remain in effect when they are rightly decided against. I believe that consequentialists get

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*The Metaphysics of Morals*, 6:380.

*Religion within the Boundaries of Mere Reason*, 6:47. *Religion within the Boundaries of Mere Reason*, 6:50. *Critique of Practical Reason*, 5:143, footnote.

*Critique of Practical Reason*, 5:142.

‘On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice,’ 8:276–277.

‘On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice,’ 8: 278–279.

*Religion within the Boundaries of Mere Reason*, 6: 62.

*Religion within the Boundaries of Mere Reason*, 6: 64.

*Critique of Pure Reason*, A548/B576. This is the most commonly cited passage for Kant’s claim that “ought implies can,” so I will quote it: “The action to which the ‘ought’ applies must indeed be possible under natural conditions.”

15. Kant allows for conflicting “grounds of obligation” but not for conflicting obligations. In *The Metaphysics of Morals*, he writes:

A conflict of duties (*collisio officiorum s. obligationum*) would be a relation between them in which one of them would cancel the other (wholly or in part). – But since duty and obligation are concepts that express the objective practical *necessity* of certain actions and two rules opposed to each other cannot be necessary at the same time, if it is a duty to act in accordance with one rule, to act in accordance with the opposite rule is not a duty but even contrary to duty so a *collision of duties* and obligations is inconceivable (*obligations non colliduntur*). However, a subject may have, in a rule he prescribes to himself, two grounds of obligation (*rationes obligandi*) one or the other of which is not sufficient to put him under obligation (*rationes obligandi non obligantes*), so that one of them is not a duty. –When two such grounds conflict with each other, practical philosophy says, not that the stronger obligation takes precedence (*fortior obligatio vincit*) but that the stronger ground of obligation prevails (*fortior obligandi ratio vincit*).” (Kant 1996, 378–379 [*The Metaphysics of Morals* 6:224–225]). For interpretation and discussion of this passage, see Herman (1990).

one thing right: there are some moral requirements that are canceled when outweighed. Part of what needs investigation is the question of what distinction can be drawn between moral requirements that are and moral requirements that are not fully eliminated when they are decided against in the resolution of a moral conflict. Empirical findings, I believe, reveal that there are grounds for such a distinction in the sense that people do experience some moral requirements as eliminable when overridden and others as ineliminable when overridden. There are many different factors that can affect this experience and influence which side of the divide a moral requirement lands on; for instance, in the next chapter I will suggest that it can depend on whether a value has been sacralized under a particular construction of morality.<sup>16</sup>

### *The Denial of Moral Dilemmas*

The deontological denial of moral dilemmas explicitly relies on the principle that “ought implies can,” as well as another principle of deontic logic,<sup>17</sup> known as the *agglomeration principle*, which states that “if one ought to do A and one ought to do B, then one ought to do A and B.”<sup>18</sup> These two principles, together with the claim that there is a moral dilemma (defined as consisting of three premises—one ought to do A; one ought to do B; one cannot do both A and B) lead to a contradiction. Thus, if one assumes that “ought implies can” and assumes the agglomeration principle, it must be that there can be no such thing as a moral dilemma. The argument goes like this:

1. One ought to do A.
2. One ought to do B.
3. It is not the case that one can do (both) A and B.  
(Or more colloquially: One cannot do both A and B).
4. If one ought to do A and one ought to do B, then one ought to do (both) A and B.
5. One ought to do A and one ought to do B.

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16. On “sacred values” see Tetlock et al. (2000) and Tetlock (2003).

17. Modern deontic logic is introduced in von Wright (1951).

18. It is Bernard Williams (1973b, 180) who dubbed this principle the “agglomeration principle.”

6. One ought to do (both) A and B.
7. If one ought to do (both) A and B, then one can do (both) A and B.
8. One can do (both) A and B.<sup>19</sup>

Line 3 and line 8 contradict each other. If it is maintained that both premise 4 (the agglomeration principle) and premise 7 (the principle that “ought implies can”) are true, then premises 1, 2, and 3 cannot all be true; in other words, it cannot be true that there is a moral dilemma. One way to defend the possibility of moral dilemmas, then, is to question either the agglomeration principle or the principle that “ought implies can.” I will focus on “ought implies can.”

Deontic logic, and in particular the assumption that “ought implies can,” is built on the view that moral requirement (obligation) is analogous to logical necessity. In alethic modal logic, “A is necessary” implies that “A is possible.” The deontic principle of “ought implies can” is meant to parallel this: “A is required” implies that “A is possible.” However, critics argue that the parallel does not hold. Michael Stocker presents the point as follows:

There is . . . an obvious disanalogy between the concepts of necessity and obligation . . . It is fundamental to modal logic that necessity implies actuality and that actuality implies possibility. But in deontic logic, we cannot infer actuality from obligation: Obligations often go unfulfilled . . . In modal logic, if P is necessary and Q is necessary, then the conjunction of P and Q is necessary. From this it immediately follows that the conjunction of P and Q is actual and hence that it is possible. In the deontic case, on the other hand, even if we assume that if there is an obligation to do A and an obligation to do B, then there is

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19. For those who prefer symbolization:

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| 1. $O(A)$                               | first premise for the claim that there is a moral dilemma  |
| 2. $O(B)$                               | second premise for the claim that there is a moral dilemma |
| 3. $\sim C(A\&B)$                       | third premise for the claim that there is a moral dilemma  |
| 4. $[O(A) \& O(B)] \rightarrow O(A\&B)$ | principle of agglomeration                                 |
| 5. $O(A) \& O(B)$                       | from 1 and 2, conjunction                                  |
| 6. $O(A\&B)$                            | from 4 and 5, modus ponens                                 |
| 7. $O(A\&B) \rightarrow C(A\&B)$        | principle of “ought implies can”                           |
| 8. $C(A\&B)$                            | from 6 and 7, modus ponens                                 |

3 and 8 are contradictory.

Many theorists have rehearsed some form of this argument. See, for instance, McConnell (1976, 1978); Gowans’s introduction in Gowans (1987); and Brink (1994).