

Moreau on Discrimination and Wrong: Comments on Faces of Inequality: A Theory of Wrongful Discrimination

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I. Preliminaries

Discrimination is often understood, especially in non-academic discourse, as a wrong committed by individuals. But, as Moreau emphasizes in her thoughtful book,¹ much discrimination has a systemic or structural nature and this raises hard questions about what kind of wrong it is—roughly, who commits it. Many go so far as to say that there can be wrongs of injustice—“structural injustice”—that are irrespective of any individually wrong conduct.² For example, while one paradigmatic kind of racism is discrimination against Black people by individual agents, it is widely held that there is a different wrong of racism that is wholly “structural” or “institutional” or “systemic.” In a similar vein, Moreau’s book, as the title indicates, is centrally about “wrongful discrimination,” but she argues that this is not limited to cases of anyone doing anything wrong.

I don’t believe it has been satisfactorily explained in the literature what moral wrongness means where it is irrespective of any conduct or attitudes that are wrong,³ and that is the kind of concern that I want to raise with respect to Moreau’s theory of wrongful discrimination. She argues that in some cases of wrongful discrimination a duty of restitution is generated by violation of an obligation. This violation wrongs people, even if, as is sometimes the case, that conduct is not wrong. The idea of that explaining element, a wronging that need not

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¹ SOPHIA REIBETANZ MOREAU, *FACES OF INEQUALITY: A THEORY OF WRONGFUL DISCRIMINATION* (Oxford University Press 2020).

² For examples, Sally Haslanger, *Oppressions*, in *RACISM IN MIND* (M. Levine & T. Pataki ed. 2004), lightly revised as Sally Anne Haslanger, *Oppressions: Racial and Other*, in *RESISTING REALITY: SOCIAL CONSTRUCTION AND SOCIAL CRITIQUE* (2012); IRIS MARION YOUNG, *RESPONSIBILITY FOR JUSTICE* (Oxford University Press 2011).

³ I’ll leave attitudes aside in the remainder because nothing here makes reference to them, but that is the fuller description of the position I mean to question, and Moreau’s view counts.

be morally wrong but which is available to explain the duty of restitution, is puzzling on its face. I'll argue that it is also puzzling deep down.

Some preliminaries: First, I will not (unless I explicitly say so) use the ideas of right, wrong, permitted, justified, etc., in the legal sense of those term, but only in the moral sense. Second, "culpability" risks a certain vagueness about wrongness vs blameworthiness. I will do without "culpable" and its forms for that reason. I assume, with many but not all others, that conduct can be either wrong or blameworthy without the other, though they often come together. What is it for conduct to be morally wrong if it is not blameworthy? A partial answer that should suffice for my purposes is that sometimes conduct is such that it *would be* blameworthy if not for the presence of *excusing* conditions.⁴ Call such conduct "wrong." A familiar list of excusing conditions would include various kinds of difficulty or costliness, and some cases of non-culpable ignorance. I will assume that questions about whether some conduct is morally permissible, justified, obligatory, or required, are all about wrongness and not about blameworthiness, which is a further question. "Culprits," herein, are agents who behave wrongly, questions of blameworthiness (and so "culpability" in that sense) aside. I am asking how, according to Moreau, there can be moral wrongings without any wrong conduct—how people can be wronged, but without there being any culprits. I'll call this *the culprit question*.

II. Wrongings

Preliminaries out of the way, let's start with some of Moreau's clear formulations of the idea of wrongings that may not be wrong. Moreau argues that some cases of discrimination that are not wrong nevertheless wrong some people—she calls these "personal wrongs." As a verbal matter, since a wrong committed by an agent could also be called a personal wrong, I'll use the perhaps more mnemonic terms "agentive wrong" (some agents' conduct is morally wrong) and "subjection wrong" (someone is subjected to being morally wronged). Subjection wrongs are sometimes, she says, "not wrong" because they aren't a matter of any agent doing anything wrong. So, to keep track of this we need to split the culprit question in two⁵:

Is *anything morally wrong* irrespective of any agentive wrong?

Is *anyone wronged* irrespective of any agentive wrong?

Moreau answers "no" to the first, but "yes" to the second. She writes,

⁴ "It is a conceptual truth that if an act is wrong (violates moral obligation), then it is an act of a kind that would be blameworthy were it done without excuse." Stephen Darwall, "Normativity in Contemporary (and the History of) Ethics" (2020) (unpublished manuscript) (on file with author). He defends this view in, STEPHEN L. DARWALL, *THE SECOND-PERSON STANDPOINT: MORALITY, RESPECT, AND ACCOUNTABILITY* (Harvard University Press 2006).

⁵ Note that the idea of a subjection wrong is not limited to non-agentive wrongs (if any). Some agentive wrongs wrong others and some, arguably, do not, such as violations of imperfect duties.

Even when the state or an individual is justified in continuing to engage in wrongful discrimination, however, it is important to note that although the discrimination is *no longer wrong*, it is still true, on my view, that it wrongs someone. That is, it can wrong someone, even when *it is not wrong*, all things considered.⁶

There is a kind of awkwardness here that I do not think is any defect. This appears to say that one and the same thing, some discrimination, is “wrongful” but “not wrong.” The way this avoids contradiction must be that by “wrongful” Moreau means specifically that it wrongs someone, a subjection wrong. That might be a term of art for her purposes, but that is fair enough. Something’s being “wrong,” (rather than “wrongful”) then, seems to mean agentive wrong—immoral conduct of an agent—whether or not it is also a subjection wrong. When some discrimination wrongs someone it might yet be “justified,” by which she means morally permitted—not wrong. So, it is possible for someone to be wronged morally even in a case where the wronging conduct is morally permissible. Despite the whiff of contradiction that may accompany “non-wrong but wrongful” action, there is no contradiction. So, there is a substantive view here we can consider more closely.

III. Justified Wrongs

Next, consider Moreau’s thesis that it is not always wrong to violate a moral obligation. It’s common, as I have said, to hold that some wrongs are not blameworthy, because they are excused. But those are not her cases, and what she means is not that common view. Those are still wrongs by individual agents but where certain obstacles (roughly speaking) mitigate the agent’s responsibility. In Moreau’s examples, the agent is not partly or wholly excused due to some interfering condition, but is, as she says, wholly justified in acting as she did. Blameless wrongdoing is not the same as wrongings that are not wrong.

There is now another whiff of contradiction, and again it can be dispelled. Let’s use the term “moral requirement” to mean something that Moreau surely makes room for, namely, a case where not doing something is morally wrong. That is all I will mean by something being morally required. If moral obligation, as she understands it, were the same as a requirement of morality, then to violate a moral obligation would be to violate morality. It would be nonsense to say that violating morality needn’t violate morality, and, of course, that’s not what she means. But what, then, is a moral “obligation” on her view, if not a moral requirement? Here is an interpretive conjecture: This all fits together if having an obligation not to do something is nothing but its counting as a subjection wrong—it would wrong someone. As we know, that can sometimes be morally permissible on Moreau’s view. Then it would be consistent to say as she does

⁶ MOREAU, *supra* note 1 at 247, emphasis added.

that violating an obligation is sometimes morally not wrong (but “justified,” or permissible).

So far, still, so good; no contradiction. But there is still this question: what does it mean to say that someone is “wronged,” if no one has committed any wrong? I don’t mean this rhetorically as if it’s obvious that there is no possible answer. If the idea is problematic, it is not *obviously* so. Rather, I want to consider how the view must go. To partly explain it, Moreau says that she is making a distinction similar to that in some legal systems. It is a certain idea of legal rights.⁷ On this model, she says, “even when a particular constitutional right has been violated, this rights violation can be justified if certain special tests are met. . . [W]e still recognize that certain people have suffered a legal wrong” (p. 12). She argues that the rights laid out as in the *Canadian Charter of Rights and Freedoms*⁸ are properly understood in this way.

In that case, those rights are exceptionless, for if the “justified” cases were, instead, exceptions, then the legal right would not be violated and there would be no legal wrong. So, here are two interpretations of the charter, first Moreau’s:

Justified Wrongs: The rights that the charter guarantees are exceptionless, and when they are violated, while there remains a legal wrong this violation might nevertheless be justified in certain cases.

This interpretation embraces the idea of a legally justified legal wrong, parallel to Moreau’s idea of morally justified moral wrongs. On a second interpretation of the charter, this is avoided:

Exceptions: The rights as initially formulated are subject to exceptions. The guaranteed right’s content is given by the general formulation minus the exceptions. When an exception is found to apply, there is no violation of the right the Charter guarantees.

The distinction between Exceptions and Justified Wrongs is important for evaluating Moreau’s view, whatever the proper understanding of the charter is. That’s because her argument is that when a moral obligation is violated by participating in discrimination, a moral wrong remains even if its justified. That apparently cannot be maintained unless the moral obligation must be understood as having no such exception. Only that way can it be thereby violated. What I hope to show is that the Justified Wrongs understanding of legal and moral rights is far from obvious, perhaps even implausible, and the Exceptions view is at least as plausible.

⁷ On some accounts of rights, essential reference is made to enforcement, punishment, or protection. That is no part of rights as I use the idea here, and I follow Leif Wenar: “Rights are entitlements (not) to perform certain actions, or (not) to be in certain states; or entitlements that others (not) perform certain actions or (not) be in certain states.” See, Wenar, Leif, “Rights,” *THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY* (Edward N. Zalta ed., Spring 2021), <https://plato.stanford.edu/archives/spr2021/entries/rights/>.

⁸ *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982, c 11 (U.K.).

In principle, a constitution could take either of these forms. Is either of these a better form for it to take? Insofar as the idea of legally justified legal wrongs remains obscure, the Exceptions view would seem to be superior. It's not clear to me what disadvantage the latter has that would favor the Justified Wrongs form, as I will go on to explain.

There is also the question of which form the charter actually takes. As Moreau suggests, if we find it to take that form than close thought about the charter's handling of this issue might be a guide to the moral case. As it happens, in the very first section of the charter, before any rights are even laid out, the charter arguably comes right out and tells us which form it takes. It provides a general characterization of *exceptions* which are to be applied as cases arise. Section 1 in its entirety reads:

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified⁹ in a free and democratic society.¹⁰

This tells us that cases that are outside those "limits" are not within the scope of what the charter "guarantees." The Exceptions view, the one that is different from Moreau's, can take either of two forms, each indicating a possible reading of Section 1. One is that the scope of the rights is given not by the unavoidably general formulations, but those combined with the "limits" which are neither known in detail nor possible fully to specify in the charter's text.¹¹ Call this the case of *original exceptions*. Second, and at least as plausible a reading of the language, I think, is that the rights are, at first, exactly as stated, but they are not "guaranteed" in that form, since they can be "limited" by law at a later time. Until such time as they are limited by a legal act, they are as stated combined with any previous limitations. Call this the case of *enacted exceptions*.¹² Either way, the charter would not *permit violations* of the rights, but rather the rights would have limits to their initially formulated content, either from the start (original), or else they become limited over time (enacted).

The difference between Justified Wrongs and Exceptions is relatively subtle and, whichever is the right reading of Section 1, it wouldn't be surprising if discourse around the charter sometimes referred to the rights entirely as formulated, leaving open how far they can permissibly (constitutionally speaking) be

⁹ Syntactically, it is the limits that are thus "justified," not some law or conduct.

¹⁰ *Canadian Charter*, *supra* note 8, Section 1.

¹¹ I don't know how palatable it is to distinguish between the rights one has under the Charter from what is "guaranteed" by those rights. Could they, in principle, not be guaranteed at all?

¹² If a court later enacts a limit, technically it should find there to have been a violation of the right prior to the limitation. That would not seem to legally justify the violating act, but only to render similar acts justified going forward. Treating the ostensible violation as, instead, not having been really a violation after all would mean that the limit was ostensibly found rather than thereby enacted. We shouldn't be surprised to find some discourse around the charter suggesting original limits, and some suggesting enacted limits. Since the difference between those bears on whether courts are empowered to change rather than interpret the law, a philosophical issue that doesn't matter for Section 1's purposes, we could also read it as not choosing between them. More on that philosophical issue just below.

“violated” or “overridden.”¹³ Often, law requires an explicit formulation and there won’t always be any explicit notice of what shall count as exceptions. In those cases (unlike the charter, I’ve argued), discourse around the relevant legal rights will be more or less forced to refer to the exceptionless formulations. Even then, however, this might best be seen as unavoidably loose talk. For example, the U.S. Constitution, in its Bill of Rights, says, “Congress shall make no law abridging the freedom of speech, or of the press.”¹⁴ If that gave the content of the right, then laws against criminal conspiracy would violate the right, even if permissibly so constitutionally speaking. Alternatively, and much more commonly, it is assumed that the content of the right is not exactly as stated there, but is shaped by that formulation minus exceptions, most of which get worked out (found or enacted) over time, but some of which are taken to be obvious. On either Exceptions view, passing a law against criminal conspiracy does not (by now, at least) plausibly violate the speech clause of the First Amendment. In the case of the charter, similar considerations would give some support for understanding the rights as having exceptions, even if this fact weren’t directly stated (as I think it is in Section 1).

Even if this is all correct, while the charter may not be similar to Moreau’s treatment of justified wrongs as she suggests, this admittedly doesn’t present any philosophical objection to the Justified Wrongs form that the charter could have taken instead. The charter’s having an Exceptions form (if it does) doesn’t show it to be a superior form. I suppose the relevance is only this: the charter cannot be appealed to as an illustration of the “Justified Wrongs” approach, something that might have helped in clarifying Moreau’s view.

Here’s an example to see these two different approaches in the context of moral rights: If you promised me you would pick me up at the airport after my 1am arrival, we might say I have a right whose content is, “you pick me up at the airport,” period—no exceptions. Then, when you must choose between doing that and staying home and tending to your ill child’s needs, (suppose you can’t reach me, so there’s no way for me to release you from the promise) even though my not getting picked up will be quite a hardship for me, you are obviously permitted to stay home, and on the Justified Wrongs view by staying home you violate my right, albeit permissibly. You haven’t picked me up, as you promised. On that understanding my right to your picking me up is exceptionless. That forces us to say, strangely it seems to me, that I have a right that you pick me up even if this means leaving your sick child home alone, and even if doing so is morally permissible.

That’s a possible content for a right, I suppose, but I don’t see any strong reason to think that is the content of my right in that case. Some think the fact that you owe me an apology or some favor in compensation (or some such thing), is

¹³ Indeed, it’s hard to think of any convenient way of speaking that displays the Exceptions interpretation unambiguously, even if it is the correct interpretation.

¹⁴ U.S. Const. amend. I.

evidence that you have violated my (persisting) right. But that doesn't show much, I think, since we are evidently morally required to say things like "Excuse me" and "I'm sorry" in many cases where we clearly have nothing to be excused or sorry for. Indeed, if you were to apologize to me for not picking me up, explaining about your ill child, maybe you are required to offer an apology but I would and should say, "Don't be ridiculous. I understand, of course." That is, it's said to be ridiculous for you to think I had a right to your attending in those circumstances and that you have wronged me. It's to say that, instead, there is nothing to apologize for in the first place, and nothing to forgive—only something to understand.¹⁵

Now, it's true that the requirements of morality are often too complicated to cover in a single understandable sentence because of the great number of exceptions and the impossibility of anticipating them all, and so we will often have more manageable formulations that we use to guide us: "Don't steal," "Don't lie," etc. But morality has no need for its true content to allow canonical explicit formulations of the rules, even if law does. We do need moral rules of thumb as rough but fallible guides, but they don't have any standing when, in the end, they are not accurate about what is morally permitted. In law, we may have "rule of law" reasons, at least in many cases, for generally formulated rules whose plain meanings determine the law's content. Many would not want to allow that the laws are only rules of thumb, only rough clues to what the law is—that might seem to put individuals in unreasonable jeopardy. This is famously disputed, especially in the jurisprudence of Ronald Dworkin.¹⁶ He considers the fact that difficult cases will often arise that escape the bounds of the explicit formulation of an apparent "rule" in the law, as in Hart's famous example, "Vehicles are prohibited in the park," when there is a monument that involves a retired military truck. Either the explicit formulation is indeed the content of the law but the judge must make new law (perhaps by enacting new, more sensible limits) or the judge may decline to enforce the law (narrowly understood), or, as Dworkin argues, the new case must be seen as indicating an original exception. If it's an exception, it does not violate the law even if it escapes the rule-like formulation.

Whatever the merit of that point in the case of law, it must be only stronger in the case of morality and it amounts to a case for the Exceptions view rather than the Justified Wrongs view. Some reasons for the Justified Wrongs understanding have no application in the case of morality rather than law. Ostensible moral rules don't even have the authority of any legislator to contend with, and there

¹⁵ I hasten to add that this turn of phrase, "Don't be ridiculous," is used colloquially in such cases *not* to express that the other person's position is literally ridiculous, but instead in a good natured exaggeration to signal that the speaker has no doubt about it and that the other should harbor no such worry. Moreau's Justified Wrongs view is an ingenious way to try to account for wrongful discrimination without culprits. It would be literally ridiculous for me to think that is "ridiculous," and I mean nothing of the sort.

¹⁶ Dworkin developed his approach over many years, but an important early source is RONALD DWORIN, *TAKING RIGHTS SERIOUSLY* (Duckworth 1977). For a thorough overview of his position and critical literature, see, Nicos Stavropoulos, *Legal Interpretivism*, *THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY* (Edward N. Zalta ed., Spring 2021), <https://plato.stanford.edu/archives/spr2021/entries/law-interpretivist/>.

aren't evidently any "rule of law"-like reasons for codified requirements. On the Exceptions interpretation, then, finitely formulable rules of morality simply are, at least often, not the content of morality. Rather, they are necessarily imprecise, and they will normally include unspecified exceptions since it's impossible in practice to fully formulate the full, extremely complicated, and ultimately unexceptionable requirement in advance of long experience. When one acts against a supposed codified moral rule, normally that's not, as such, a moral violation of any kind (neither agentive wrong nor subjection wrong). It still depends, because the rule is necessarily incomplete.¹⁷

I now turn to three ideas that might be relied upon, unsuccessfully I think, to make the "Justified Wrongs" view less puzzling:

A. Duty of restitution

We might try to find a solution to what's puzzling about a Justified Wrongs approach in Moreau's linking subjection wrongs to the subjected person having a moral claim to "some form of restitution." I take it that what is meant is a claim right, meaning simply that someone (the person whom it is a right against) is morally required to pay that person restitution. On this reading, in the case of (at least some) subjection wrongs the subjected person is owed restitution by certain agents, as a moral requirement and this requirement is, as she says, "generated" by their having an obligation. On that view there are these two things:

- (i) *A grounding obligation* whose violation generates,
- (ii) *An ensuing requirement* to pay restitution.

If the obligation not to do something were *nothing but* the requirement of restitution if you do it, then there would be only one thing, not two things, one generating the other.¹⁸ So it is fair, still, to ask, granting that we understand the idea of a requirement to pay restitution, what is that additional grounding obligation whose violation grounds it? The link to restitution leaves the puzzle in place.

B. One or two normative systems

Now, it's clear how the same conduct might be proscribed in one normative system and permitted in another. For example, what violates law might not violate morality (as in strict criminal liability), and what violates morality might not

¹⁷ Garrett Cullity develops a view of morality according to which its very foundations are "exception-hedged" rather than exceptionless principles. When the exception is triggered the things that "presumptively" call for certain responses do not call for them after all. Such principles cannot be violated in those exception-triggered cases, and so (though Cullity does not discuss this point) no such violation is present to explain any ensuing obligation to give restitution, or anything else. GARRETT CULLITY, *CONCERN, RESPECT, & COOPERATION* (Oxford University Press 2018) See especially pp. 39–43 where the idea is introduced.

¹⁸ One might try the idea that obligations are requirements with exceptions. That doesn't help, because acting on the exception is not violating anything, unlike Moreau's subjection wrongs.

violate law. But, in Moreau's statements that violation of moral obligations is sometimes morally permitted, there is only one normative system referred to: morality. If there is no violation of morality, but also no reference to a second normative system in which there is a violation, what is meant by its being a violation? The idea of violation itself is available on Moreau's conception, since an ostensible obligation is said to be violated. But even then, violations of those obligations are not violations of morality since morality *permits* those violations of the "obligations." And it is not the violation of some positive social rule or law; those are beside the point here. When we ask what is violated and the answer is "the obligation," I don't think we know yet what that is referring to if its violation is sometimes morally permissible.

C. *Pro tanto* reasons

The obligation in question, the one whose violation grounds a duty of restitution, might be said to be a moral reason that is sometimes outweighed by other reasons. So, some of what Moreau says for the Justified Wrongs view may suggest an idea of these obligations as *pro tanto* moral requirements. That phrase is mine not hers, but it would answer to the structure of her view: requirements counting in favor, but which can be outweighed and, when they are, they still remain, and with normative implications. But I think that phrase, "*pro tanto* requirements," does not name a kind of requirement at all, and for reasons that may be problematic for Moreau's view.

Reasons can be *pro tanto*, but requirements cannot. And there can be *prima facie* (apparent) reasons or requirements, but those are not *kinds* of reasons or requirements, but considerations that *would* be reasons or requirements only under certain conditions. When *pro tanto* reasons are outweighed, they have not been rendered illusory reasons—just outweighed. But in that case they are not requirements.¹⁹ One reason to blow your trumpet is that it would be a celebration, satisfying to your sister, of her team's win. But a reason against it is that it is 3 am in your quiet house, and doing so would wake and upset the rest of your family. The latter outweighs the former, but the celebration reason is still a genuine—not merely illusory—reason to do it—a consideration counting in favor—just not sufficient in the context.

¹⁹ W. D. Ross, who introduced the term "*prima facie* duty" noted himself that the phrase which means "at first glance" is not ideal, since, a) it misleadingly suggests that it is a kind of duty, and b) he meant to refer to real, not illusory, moral facts. The term "*pro tanto*" has gained currency, meaning "to such an extent." Ross was evidently speaking of *pro tanto* considerations in that sense—still not *pro tanto* duties, for reasons I explain in the text, but considerations that "would be" (as he says himself) duties in certain conditions. I think the best formulation is that he was speaking of a subset of *pro tanto* moral reasons which are such that when they are not outweighed they are moral requirements. (Not all moral reasons are like that, such as those of supererogation.) They were genuine—not only apparent or *prima facie*—reasons of some weight, not only apparent reasons. But they were obligations *prima facie*, at first glance, and often not in reality. See W. D. Ross, *What Makes Right Acts Right?*, in *THE RIGHT AND THE GOOD* (Philip Stratton-Lake ed. 2002.)

However, it is in no respect a requirement. Since a *pro tanto* reason is not illusory even when it is outweighed, perhaps it is tempting to say that it can be permissibly violated. But since it is not a requirement at all it is not a requirement that can be violated. Indeed, the idea of a “*pro tanto* requirement” may be a sort malapropism. To suppose that a *pro tanto* moral requirement is a certain kind of moral requirement would be like thinking that an aspiring rock star is one kind of rock star, rather than only a would-be rock star. Likewise, a “*pro tanto* requirement,” if we want to allow the phrase (I think it is better to drop it), is at most a would-be or *prima facie* requirement. When the reason in question is outweighed, it never rises to the level of requirement at all, but survives only as a moral reason with some weight. When we act contrary to a certain reason, we don’t “violate” that reason (nor necessarily any reason). And since the concept of obligation for Moreau is, sensibly, something that can be violated, whatever an obligation is on her view, it is not a *pro tanto* and outweighed moral requirement. It could yet be a *prima facie* requirement, something that naturally seems to be a requirement but turns out not to be. *Pro tanto* reasons are sometimes usefully seen in their aspect as *prima facie* requirements. But *prima facie* and *pro tanto* requirements aren’t *kinds* of requirements at all, any more than an aspiring rock star is a kind of rock star. If something looks like a requirement or would often be a requirement in similar conditions, but turns out not to be a requirement because it is either debunked (*prima facie* requirement) or the reason is outweighed (*pro tanto* reason), then the idea of violating it is a category mistake.²⁰

IV. Alternatives

What hangs on this for Moreau? What in her account requires her to rely on the Justified Wrongs view? Is anything lost if she were to accede and drop the term “obligation,” simply arguing that in certain cases of participation in a practice that disproportionately disadvantages certain groups, the participant is morally required to pay restitution or something similar? There is indeed something that goes missing, but which might be supplied in some other way. If, because there are pertinent exceptions, there is no obligation whose violation grounds a requirement to pay restitution, then we need some other basis for that requirement—some basis other than an obligation having been violated or a person having been wronged, things we haven’t been able to find any clear meaning for.

Is the law a guide here? On the doctrine of strict liability, in certain areas of law, a person can be required to pay restitution even if there is no legal requirement that they have violated and (here is what is “strict” about it) even apart from anything that reflects poorly on the agent legally or morally, such as *mens rea* or negligence. The basis for strict civil liability is sometimes understood to

²⁰ And it might not always be a *pro tanto* reason when it is a *prima facie* reason or requirement since appearances can be misleading.