

What is Mercy?

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Despite a resurgence of philosophers’ attention to virtues, vices, and moral character more generally, *mercy* has received much less attention.¹ Yet it deserves more, being linked with many central topics in ethics and social/political philosophy: the nature of justice; the morality of punishment; our obligations to the poor, the oppressed, and the otherwise marginalized; mass incarceration and criminal justice reform; and the rise of public-shaming culture² (if this list of topics surprises you, all will become clear once my account of mercy is on the table). And finally, for those committed to living out an Abrahamic or Buddhist religious tradition’s ethical principles, the subject of mercy should be a significant topic of investigation and reflection; after all, the quality of mercy is held up as a prime attribute of divinity (or the Buddha and various *bodhisattvas*), and is moreover taken to be a regulative moral ideal.

Mercy, therefore, is a topic worthy of sustained investigation. A natural place to start is by considering what mercy *is*—such is my aim in this es-

¹Though some notions in the neighborhood like compassion, empathy, and forgiveness have received attention. Nonetheless, mercy is, arguably, sufficiently distinct from these to warrant its own treatment. I will have more to say in defense of this below, in §2.5. On the subject of the decline in attention to mercy, it is instructive to view a Google n-gram chart of “mercy”. From the early 19th century through the early 21st century, there has been an order of magnitude decrease in the use of “mercy” in books indexed in Google Books. If one goes back to the 17th-century, the decline is even more steep; however, the decline since the 17th century should be taken *cum grano salis*, since it’s possible that Google doesn’t have access to as many books from that era. For a discussion of why the concept of mercy seems to have disappeared from the moral landscape since the Enlightenment, see Tuckness and Parrish (2014). However, there may be a resurgence of popular interest in mercy—see, e.g., Anne Lamott’s book *Hallelujah Anyway: Rediscovering Mercy*.

²For a popular treatment of public-shaming culture, see Ronson (2015). For an unfortunately quite plausible diagnosis and criticism of this culture’s corollary, the phenomenon of “moral grandstanding”, see Warmke and Tosi (forthcoming).

say. My main focus is on mercy as a potential character trait³—“personal mercy” in short—though, as shall become evident in my procedure below, the natural route to an account of personal mercy is through reflection on instances of merciful *action* and *policy*, and extrapolation from that reflection back onto the question of what personal mercy is. Along the way, I will have some things to say about these other kinds of mercy.

In §1, I criticize the dominant conception assumed, implicitly and explicitly, in much of the philosophical literature on mercy, a conception I call the *juridical conception of mercy*. It conceives of mercy exclusively in terms of its bearing on situations where one party seeks to impose punishment or damages on another party who has wronged someone—whether the person harmed is the person seeking to impose punishment or damages, or is some third party on whose behalf the first party acts. In §2 I describe my method for arriving at an account of personal mercy, and then use it to devise one. Along the way I will also discuss mercy as a property of actions and policies. Since the account of personal mercy is conceptually dense—the meaning of several notions appearing in the account is not obvious—I must take some space to explain its components. I then briefly consider the relationship mercy has to some associated notions, focusing on empathy, pity, forgiveness, sympathy, and compassion.

1 Against the Juridical Conception of Mercy

The juridical conception of mercy conceives of mercy exclusively in terms of its relevance in situations where one party seeks to coercively impose punishment or compensatory action (in the form of damages) on a wrongdoer who has been found criminally or civilly liable. In some cases, the party seeking to impose punishment or damages is someone whom the wrongdoer has wronged, but the usual scenario involves a courtroom wherein a judge (distinct from the wronged party) is deliberating on the sentence to be imposed

³I am fully aware of the challenges to the utility of the ideas of character traits and virtues arising from situationism, the philosophical *loci classici* being Doris (1998), Harman (1999), and Doris (2002). I am inclined to think that situationists overestimate the force of their case, and that the ideas of character traits and virtues are still useful; and so I assume (without argument) that this is the case. For a response to situationist criticisms of character psychology, see, e.g. Murphy (2009). I address the question of whether mercy is a virtue in a companion article.

on the wrongdoer. Many adherents to the juridical conception *define* mercy as a judicial policy of withholding (or mitigating) punishment, or refusing to impose (or mitigating) damages. Implicit in the juridical conception is the assumption that the only people eligible for being shown mercy—the objects of mercy—must be wrongdoers (or taken to be wrongdoers).

Since thinkers gripped by a juridical conception of mercy end up focusing primarily on understanding mercy as a property of *actions* or as a property of judicial *policies*, and not as a character trait, one has to backwards engineer a conception of personal mercy from the juridical conception; this has the consequence that personal mercy is a character trait that only people who play the legal role of deciding when to impose punishment or damages on wrongdoers—mostly judges, prosecutors, or peace officers—might cultivate. Personal mercy, if the juridical conception were correct, wouldn't be relevant for anyone else.

I claim that the juridical conception is mistaken.⁴ Once we recognize this, we are free to discard many of the theses that trail in the juridical conception's wake: we may reject the narrow focus on courtroom scenarios; we may reject the restriction of the objects of mercy to wrongdoers (or perceived wrongdoers)—to those who *deserve* suffering;⁵ we may reject definitions of mercy as withholding punishment or imposition of damages; and we may reject the implicit restriction of personal mercy to people who decide on punishment or damages in a legal system.

Before I give reasons in favor of rejecting the juridical conception of mercy, I first provide evidence of the popularity of the juridical conception among philosophers (§1.1). I then give three types of case that give us reason to reject the juridical conception (§1.2). I conclude with a brief argument based on the fact that the history of moral thought about mercy, and the role it plays in important systems of morality, reveals a conception much broader than the juridical conception allows (§1.3).

⁴I am not the first. John Kleinig (1969) argued against the juridical conception in response to Smart (1968), the article that started the contemporary philosophical discussion of mercy. He says that “Smart has been misled by the fact that questions of mercy often arise within the context of wrongdoing and punishment into thinking that this is the only context in which they arise” (341).

⁵See also Rainbolt (1997, 228-229): “No analysis which defines mercy in terms of the relief of *deserved* suffering can account for all cases of the virtue.” Rainbolt gives his own example of such a case; I give three different examples below.

1.1 The Popularity of the Juridical Conception

Surveying the philosophical literature on mercy reveals that many⁶ explicitly or implicitly conceive of mercy in terms of situations where one party seeks retribution or recompense from another for a wrong suffered—in short, many philosophers assume a juridical conception of mercy. Sometimes this assumption manifests itself in the derivation of accounts of mercy from a range of cases involving only legal or quasi-legal circumstances where punishment or imposition of damages is being considered. Other times, it manifests itself when philosophers explicitly define mercy in legal or quasi-legal terms, e.g., the withholding of punishment or damages when warranted by law or social morality.

Here are some quotations exhibiting the widespread grip of the juridical conception of mercy on philosophers:

“A theory of punishment should give some account of mercy and yet it is true to say that very little has been said about it at all... We condemn as hard and unbending the judge who never shows mercy and the suggestion is that the poor unfortunates whose lot it is to be judged by him are poor unfortunates indeed.” (Smart, 1968, 345)

“For in being merciful, we reduce or withhold a penalty which was initially thought to be justified at least in part on the basis of the offender’s desert for having committed an offense. The primary question, then, which interests both of us, is how this initial justification can be outweighed by factors that make mercy appropriate, without leading to injustice.” (Card, 1972, 183)⁷

⁶Though not all, see, e.g., Statman (1994, 335-336, 339), Rainbolt (1997, 228-229), Floyd (2009, 449-450), and Markosian (2013). (Rainbolt’s first article on mercy (1990), however, does seem implicitly constrained by a juridical conception—see his remark (p. 169) about mercy “tempering justice”.) I say more about these non-juridical accounts in a companion piece.

⁷The juridical conception seems to have an especially strong grip on Card’s thought—consider her remark that “Smart has argued convincingly that mercy, considered as a response to an offender, makes good sense only on a retributive, or partially retributive, theory of punishment” (1972, 183). However, there is some wiggle room—the participial qualification “considered as a response to an offender”—to interpret Card’s conception of mercy as being compatible with a non-juridical conception

“Mercy, however, involves the supererogatory [sic] tempering of deserved suffering.” (Hestevold, 1985, 281)

“...mercy is the suspension or mitigation of a punishment that would otherwise be deserved as retribution, and which is granted out of pity and compassion for the wrongdoer.” (Murphy and Hampton, 1988, 158)⁸

“Mercy is defined as the inclination of the judgment toward leniency in selecting penalties: the merciful judge will often choose a penalty milder than the one appointed in law for the offense.” (Nussbaum, 2001, 365)⁹

“...we may characterize mercy as the putative ethical value that justifies leniency in the infliction of punishment that is due in accordance with justice.” (Tasioulas, 2003, 101-102)

Some thinkers deny that one’s focus in providing an account of mercy should be on the sentencing phase of a *criminal* trial, but nonetheless derive their account of mercy from reflection on *civil* courtroom scenarios where some kind of recompense is sought.

“Mrs. Smart was not altogether mistaken in going to court to understand mercy, but I suggest she has gone to the wrong court. Not the criminal court, but the *civil* court, is where we will find an adequate model for mercy. The model I propose takes as its centre-piece a plaintiff having a right over a defendant. The exercise of mercy consists in the plaintiff waiving his right over the defendant and thus releasing him from his ‘bond.’” (Twambley, 1976, 85)

“Suppose that your twin borrowed twenty dollars from me agreeing to repay the loan at the end of the month. He further agreed

⁸Given the way in which Murphy and Hampton (1988) is written—as serial essays separately written by Jeffrie Murphy and Jean Hampton—I should mention that this quotation is from one of Hampton’s essays and therefore represents her view.

⁹The context of this quotation is Nussbaum’s exposition of the Stoic account of *clementia*, which gets translated as “mercy”; but one shouldn’t infer that Nussbaum necessarily endorses the Stoic account as correct.

to pay an additional five-dollar late fee should the payment not be made on time. Several days after the due date, your twin willingly offers to repay his loan and the late fee, but informs me that payment of the late fee will cause him mild hardship because of unexpected medical expenditures. Knowing that our loan agreement justly permits me to require your twin to pay the additional fee, I choose to waive his penalty altogether. By failing to exact the late penalty, there is a sense in which I have failed to act in accord with the agreement.” (Hestevold, 1983, 357)

“Thus far we have been operating with what might be called the ”criminal law paradigm” of mercy - thinking of mercy as a virtue that most typically would be manifested by a sentencing judge in a criminal case [...] But there is another paradigm, as represented in *The Merchant of Venice*, that I will call the ‘private law paradigm.’” (Murphy and Hampton, 1988, 175)¹⁰

These quotations evidence the popularity of the juridical conception of mercy. I now turn to the defending the claim that this conception is mistaken. Briefly, those who assume the juridical conception of mercy have worked with a biased sample of cases, and have not considered a fuller array of possible cases of mercy, some of which fail to be counted as cases of mercy by the juridical conception.¹¹ To defend this claim, the next section describes a few such types of cases of mercy where retribution or recompense is not at issue, and so cases which the juridical conception fails to cover.

1.2 Three Types of Counterexample

There are at least three types of such case.

The first is *despotic* mercy.¹² Suppose you are a member of a tribe of nomadic herdsmen roaming the Central Asian steppe in the 14th century.

¹⁰This remark comes from one of Murphy’s essays, and therefore represents his view, which is distinct from Hampton’s view quoted above.

¹¹There is potentially another, complementary explanation of the juridical conception’s popularity, which is that it results from the tendency of all philosophers who have published on mercy to focus on the relationship between justice and mercy. More on this in §4 below.

¹²I owe this phrase to Andrew Pinsent.

You have heard stories about the fearsome Tamerlane, and the mountains of human skulls his conquests leave behind. One day, you hear the thunderous roar of horses' hooves beating across the grasslands toward your tribe's small encampment. An armored horde sweeps through, killing your tribespeople indiscriminately, and setting their yurts ablaze. You beg the man in charge of the horde to have mercy on you and spare your life. The man in charge looks at you strangely, and then raises his hand. The butchery stops. The man in charge—you realize it's Tamerlane himself—stares at you, shakes his head, and then shouts an order. Tamerlane and his horde wheel around and depart, sparing you and your yurt. In this case, let's stipulate that neither you nor your tribe have wronged Tamerlane—so it would be incorrect to think that he is imposing punishment or damages on you or your tribe. Even with this stipulation, it seems that Tamerlane has heeded your plea for mercy.¹³

The second is *sporting* mercy. You are the manager for the Syracuse Sluggers Little League team, and thanks to your excellent coaching and recruiting efforts, the Sluggers thoroughly outclass every other team in the Mid-Atlantic Region. Your team is playing the Buffalo Blue Sox, a team that has ended league play at the bottom of the standings 10 years straight. It's the middle of the 4th inning and your Sluggers have already taken a 10-0 lead. You notice that the umpire is preparing to call the players back out for the bottom of the 4th inning. Moved by a concern for the emotional well-being for the Blue Sox players, who appear dejected and disengaged (you know that constantly being blown out in games can make Little Leaguers disillusioned with baseball), you approach the head umpire and ask, "Shouldn't we invoke the mercy rule?"¹⁴ The umpire, who had forgotten about the mercy rule entirely and was going to let the game continue, agrees; he calls the game for the Sluggers. Your asking that the umpire call the game seems an act of mercy, though neither punishment nor imposition of damages is at issue.

The third is *charitable* mercy. You're walking down Powell Street by Union Square in San Francisco, and you see a homeless woman crouched uncomfortably on the sidewalk. She asks you whether you would buy her a cup of coffee—it's a bit chilly outside, and she could use the warmup. You feel

¹³Rainbolt's Nazi doctor case Rainbolt (1990), and his dueling case Rainbolt (1997) are instances of despotic mercy as well.

¹⁴Little League Rule 4.10(e): "If one team has a lead of 10 runs or more after the game becomes a regulation game, the game is over."

compassion for her plight as a homeless person; wanting to do something to alleviate her situation, you head into the nearby Starbucks and buy her a cup of coffee—two sugars, no cream. This is an act of mercy, and yet punishment or imposition of damages is nowhere in the picture.¹⁵

That these are cases of mercy provides strong reason to reject the juridical conception of mercy, and consequently, to reject accounts of mercy deriving from that conception. These cases also show that the concept of mercy has a much broader content than most recent philosophical discussions account for, and so our investigation of mercy should be freed from the constraints of the juridical conception.

One might object against this line of reasoning that the three types of cases I have adduced above are not, in fact, cases of mercy at all. But why think so? The only apparent reason to think so is that the objector takes the conceptual connection between mercy and punishment or imposition of damages as analytic: it's part of the *meaning* of "mercy" that it is to be defined in terms of withholding deserved punishment, or declining to impose deserved payment of damages on someone. This understanding of the objection, however, is not much more sophisticated a response than stomping one's foot or pounding the table. It also appears that this objection has the consequence that the disagreement that exists among those who adhere to the juridical approach—between those who define it as withholding punishment, and those who define it as withholding imposition of damages—is a result of simple conceptual confusion by at least one of the disagreeing parties. But this is not at all plausible as a diagnosis of their disagreement. This objection therefore has no probative force.

Alternatively, one might argue that these cases all involve the application of the concept of mercy in some extended, loose sense. The strict, philosophical sense of mercy is given by the juridical conception. One might even suggest that the application of "mercy" to the three types of case above is an insidious instance of "concept creep" (Haslam, 2016).¹⁶

In the face of this Butleresque objection¹⁷ we can further strengthen the

¹⁵See also Rainbolt's discussion (1997, 229) of the parable of the Good Samaritan in Luke 10:30-36.

¹⁶Haslam does not say that all concept creep is insidious. One needs further argument to say that the alleged concept creep my description of the three types of case discussed above is insidious.

¹⁷Cf. Bishop Butler's distinction in "Of Personal Identity" between strict and philosophical senses of a term, and loose and popular senses of a term.

judgment that the three types of examples adduced above are cases where mercy has been shown by considering what the right judgment would be if the actor who shows mercy has instead acted very differently. Suppose that Tamerlane had instead ordered you slain, and your yurt set ablaze; suppose that you, in your role as Little League baseball coach, had instead failed to apprise the umpire of the mercy rule and let your team run up the score; or suppose that you had simply ignored the homeless woman and gone on your way. In each case, it is entirely natural to judge that Tamerlane (in the first example) and you (in the second and third example) acted *mercilessly*, perhaps even *cruelly*.¹⁸ If this is correct, then the judgment that the three types of case described above are cases of merciful action is strengthened.

1.3 The Historical Conception of Mercy

There is another line of reasoning in defense of the claim that what I have called cases of charitable mercy are, in fact, instances of mercy; it also rebuts the charge of “concept creep” mentioned above. The concept of mercy’s history of application is wider than the juridical conception allows: it counts acts such as providing a homeless person a cup of coffee on a cold day as merciful.¹⁹ This is especially the case for the way in which various religions conceive of mercy. For example, the Catechism of the Catholic Church in paragraph 2447 provides us with an especially broad characterization of mercy that counts as merciful those acts that are helpful to—in a quite broad sense—one’s fellow human beings:

“The works of mercy are charitable actions by which we come to the aid of our neighbor in his spiritual and bodily necessities. Instructing, advising, consoling, comforting are spiritual works of mercy, as are forgiving and bearing wrongs patiently. The corporal works of mercy consist especially in feeding the hungry, sheltering the homeless, clothing the naked, visiting the sick and imprisoned, and burying the dead. Among all these, giving alms

¹⁸Granted, Tamerlane, if he had cut you down, would have acted especially cruelly. In the other two cases, one’s cruelty does not rise to the level of Tamerlane’s, but it seems plausible to me that cruelty is still present to some degree or other.

¹⁹This line of reasoning is worthy of much more development, but for reasons of space, I simply treat its broad outlines. A fuller treatment will appear in a companion article.

to the poor is one of the chief witnesses to fraternal charity: it is also a work of justice pleasing to God.”²⁰

And the Roman Catholic conception of mercy is not unrepresentative; there are other religions that still count charitable acts as merciful. For example, in his discussion of ancient Jewish religion’s views on charity, Gary Anderson (2013, 33-34) says “...the word *charity* can also have a more general sense of any act of mercy shown to the helpless...” And in their discussion of mercy in Buddhist thought, Tuckness and Parrish (2014, 30) claim that:

“Buddhism strongly emphasizes mercy if mercy is used in a way that is interchangeable with kindness, pity, or compassion, but it does not emphasize mercy in the more strict sense of imposing less than justice demands.”

Let me summarize the results of §1. I have argued that the juridical conception mercy is mistaken because it fails to account for a wider range of cases that many systems of moral thought—and many everyday moral judgments—count as instances of mercy. People interested in better understanding mercy should therefore set the juridical conception aside and consider an account of mercy that isn’t encumbered by it. I give such an account in the next section.

2 An Account of Mercy

Now that we are free to think about mercy beyond the strictures imposed by the juridical conception, I will now lay out my account of mercy. I begin by describing the method by which I have arrived at my account of mercy (§2.1). As noted in the introduction, the bulk of the account is focused on mercy as a quality of persons—personal mercy. But in §2.2 I first make good on my promise, in the introduction, to comment on mercy as a property of actions and policies. Beginning in §2.3 I provide a brief description of my main target, personal mercy, and then explicate its three distinguishable components (§§2.4-2.6). §2.7 discusses the relationship of “mercy” to correlative notions like “empathy”, “pity”, “forgiveness”, “sympathy”, and “compassion”.

²⁰This way of thinking isn’t confined to Roman Catholicism among Christian systems of moral thought. See also, e.g., John Wesley’s sermon, “On Visiting the Sick”.

2.1 Methodological Excursus

The method followed in arriving at my account of personal mercy is to consider a wide array of cases of merciful action (an array of cases that includes those motivating the juridical conception as well as the problem cases for that conception) and uncover the psychological profile—a complex of mental dispositions and states—behind the merciful action. One then infers that the stable aggregate of dispositions to exhibit that psychological profile in the right circumstances for an extended period of time constitutes the trait of personal mercy.²¹

Reflection and abstraction on all the cases so far presented—the courtroom scenarios and the three types of problem cases for the juridical conception—reveals the following elements of the sought-for psychological profile behind merciful action:

- noticing a *perceived deficiency* in the object of mercy;
 - in courtroom scenarios, that someone is guilty of a crime or civil offense in courtroom;
 - in cases of despotic mercy, that someone has been so oppressed or persecuted that they have lost something of great value;
 - in cases of sporting mercy, that a team or individual competitor has been thoroughly vanquished;
 - in cases of charitable mercy, that an individual or group of individuals lack something important for their welfare.
- undergoing some affective response we might label as compassion;
- the formation of intentions (and possibly desires) that lead (normally) to behaviors that alleviate the perceived deficiency to some degree or other, where intentions formed are minimally constrained and informed by considerations of what conduces to the object of mercy's flourishing.

I will have much more to say about all these things in expositing my account of personal mercy, so take the above as providing an initial sketch.

²¹I therefore assume a reductionist account of character traits, similar to that given by Miller (2013, 10-11).

2.2 Merciful Action, Merciful Policies, and Acts Done Out of Mercy

It is a small step from the above observations to a definition of merciful actions in terms of the above psychological profile. An action is merciful by virtue of being explained by the actor's exhibiting the above psychological profile. If the reader would permit me an indulgence in analytic-philosophical perspicuity:

S's action ϕ is merciful toward an object of mercy *O* if and only (a) *S* is motivated to ϕ by an intention *I* to alleviate some perceived deficiency of *O*, an intention suitably constrained and informed by *S*'s considerations of what conduces to *O*'s flourishing, and (b) the explanation of *I*'s formation includes (i) *S*'s noticing some perceived deficiency of *O*, and (ii) *S*'s feeling some compassion for *O*.

Note that I have been careful to distinguish merciful action from personal mercy—mercy as a property of *actions* from mercy as a personality trait of *agents*. In fact, there are actually several distinctions in play here:

- a *merciful action* occurs when a particular action is merciful;
- a *merciful person* is someone who possesses personal mercy (for which an account is given in the next section);
- a person's merciful action is done *out of mercy* when that merciful action is explained by the person's possession of personal mercy;
- a *policy or set of policies* may be merciful when their implementation by agents, who may or may not be merciful (in the sense of personal mercy) themselves, results in merciful action, of a sort (I will explain the qualification below).

This panoply of distinctions helps us grasp the cases given in §1 of mercy more crisply by helping us identify (with additional stipulations given for some cases) what sort of mercy is at issue.

In most cases of despotic mercy, we should not expect that the person showing mercy (the “despot”, in loose terms) possesses personal mercy. But, for whatever reason—perhaps some semblance of sympathetic humanity has

broken through the darkness—in such cases, the despot performs a merciful action.

The given case of sporting mercy exhibits a person—the winning team’s manager—who possesses personal mercy, and whose action of asking the umpire to invoke the Little League “mercy rule” is done *out of* this personal mercy. But cases of sporting mercy can also illustrate mercy as a property of policies; the Little League “mercy rule” is a policy whose implementation results in merciful action, of a sort. I say merciful action *of a sort* because the agent implementing the policy may not exhibit the psychological profile characteristic of merciful action, though in a derivative sense, the action should still be evaluated as merciful.

To illustrate this, suppose we adjust the case of sporting mercy given in §1.2 a bit. Let’s stipulate that the umpire is rather “old-school”; he believes that the youth of today are far too emotionally delicate (not everyone deserves a trophy!), and that they could stand to endure some humiliation in sporting competition at some point in their lives. However, let’s further suppose that in the middle of the 4th inning, the umpire realizes that the conditions for the mercy rule to be invoked have been met, and—being a stickler for rules—calls an end to the game without the intervention of the winning team’s manager. The umpire’s calling the game isn’t a merciful action in the strict sense as defined in §2.1: he was not moved by compassion in any interesting sense, and his intention to call the game was not informed or constrained by any consideration of the wellbeing or flourishing of the losing team’s members (in fact, he might think his action is *detrimental* to their flourishing by simply encouraging further emotional softness—but settling this matter would take some empirical investigation). He was simply following Little League policy.

But it’s not too farfetched to think of his action as merciful in a derivative sense, as being motivated by adherence to a merciful policy, namely, the Little League mercy rule. Presumably (though I admit I have been unable to find any definitive history on the matter), the Little League mercy rule has been adopted out of compassionate concern for the emotional wellbeing and flourishing of competitors who have had to suffer humiliating defeats at the hands of superior opponents. We can therefore define a merciful policy as one adopted by an individual or institution out of compassionate concern for the wellbeing or flourishing of those whose perceived deficiencies as sporting competitors make them worse off in those competitions, and perhaps in their overall emotional state. Merciful policies are useful for institutions—

and perhaps even individuals—to adopt because they provide an additional motivation for their otherwise psychologically diverse agents (some of whom may lack a reliable capacity to feel compassion) to act in certain ways.

The more usual cases considered in discussions of mercy, where imposition of punishment or damages is being considered, could exemplify mercy in all of the senses sketched above. Consider a judge who withholds punishment, or imposes a significantly reduced sentence, on a duly convicted defendant. There are many reasons why the judge might do this. One possibility is because the judge himself is merciful—he possesses the character trait of personal mercy—and is acting out of mercy. Another possibility is that the judge himself isn’t merciful, but, for some reason or other, acts mercifully—this would be similar in many (though not all) respects to a case of despotic mercy. Yet another possibility is that the judge is acting in accordance with merciful policy. Consider a case where our hypothetical judge is considering a sentence for a defendant convicted of a capital crime. In justifying its decision to rule that certain aspects of North Carolina’s death-penalty sentencing process were unconstitutional, the US Supreme Court’s majority opinion in *Woodson v. North Carolina* says that:

“[a] process that accords no significance to relevant facets of the character and record of the individual offender or the circumstances of the particular offense excludes from consideration in fixing the ultimate punishment of death the possibility of compassionate or *mitigating factors stemming from the diverse frailties of humankind*” (emphasis added).

Suppose our hypothetical judge follows the precedent of *Woodson v. North Carolina*, though not because he feels compassion for the defendant, or is responding to perceived deficiencies in the defendant. Nonetheless, our judge is still following a merciful *policy*. This is because the policy, based in precedent, has been motivated by the idea that in deciding whether to impose death on someone convicted of a capital crime, “the diverse frailties of humankind” (in other words, the possibility of deficiencies of the convicted) are relevant features to consider.

The case of charitable mercy given in §1.2, with suitable amendments, provides a paradigm of merciful action, personal mercy, and an act done out of mercy. Let us assume that the agent in the case (you) do possess the trait of personal mercy (to be discussed shortly). Let us further assume that

in buying the homeless woman a cup of coffee, you manifest this trait of personal mercy. If these conditions hold, then your buying the homeless woman a cup of coffee is an act done *out of mercy*—the act “flows from”, in the appropriate way, the trait of personal mercy. It is to an account of that trait that I now turn.

2.3 Personal Mercy

Here is my account of personal mercy, in brief:

S is merciful by virtue of being (i) sensitive to, and consequently attentive to, deficiencies suffered by a person *O*—the object of mercy—such that (ii) when *S* attends to *O*, *S* is moved to feel compassion for *O*, and such that (iii) *S* is strongly disposed to form an intention to alleviate *O*’s perceived deficiency in a manner *S* takes to be conducive to the object of mercy’s flourishing.

This account of personal mercy has three parts, which I have distinguished above with lower-case Roman numerals. We can label them the (i) *cognitive*, the (ii) *affective*, and the (iii) *action-oriented*, each deserving some comment and explication.²²

But before I comment on the account’s three parts, I note that while they are distinguishable from one another, there is also a great degree of interconnectedness between them. Consequently, my comments on one of them will sometimes refer to the others.

2.4 The Cognitive Component of Personal Mercy

The cognitive component of mercy is constituted by a person’s sensitivity to, and her disposition to attend to, perceived deficiencies in the object of mercy.²³ I promised earlier that I would explain what is meant by “perceived deficiency”, and so here I begin to fulfill my promise.

²²Items (ii) and (iii) manifest an affinity of my account of mercy with Richard Lazarus’s (1991, 287-292) account of compassion, considered as an emotion. I will comment on this affinity shortly.

²³I am not the first to think this. Thomas Aquinas in *Summa Theologica*, IIa-IIæ, Q. 30, Art. 1 says that evil [*malum*] “is the motive of mercy”. Given the popular mediaeval assumption (following Augustine) of a privative account of evil—that every evil is a lack or a deficiency of being—what Aquinas says is of a piece with what I say.

“Deficiency” should be taken quite broadly—in fact, it almost serves as a term of art in my account of mercy, though the core idea is that of a property whose possession makes a person *worse off*.²⁴ There are at least three types of property I have in mind when I speak of “perceived deficiencies”.

First, there are what I call *non-moral* deficiencies, for example, *being on the brink of starvation*, or *being unloved and unwanted by everyone* (Ray Price fans, eat your heart out). When people suffer from non-moral deficiencies, their lives are, in some important-but-hard-to-characterize sense, worse off as a result. In the older way of thinking about mercy, one less encumbered by the juridical conception and more in line with my proposal, it is not unusual to think of mercy in the context of a person’s response to non-moral deficiencies as manifested in the plight of the poor and the sick—this is precisely the point brought out by cases of charitable mercy. Consider, for example the innumerable hospitals with “mercy” in their name, e.g., Mercy Hospital Philadelphia, UPMC Mercy in Pittsburgh, Mercy Medical in New York, and so on.²⁵ There are even rescue and adoption agencies for pets such as Mercy Rescue and Adoption whose names evince a conception of mercy aligned with my proposal, but whose names are difficult to understand given the juridical approach. The poor, the hungry, and the sick are deficient (in my stipulated sense, however impolitic it might be to say that in most contexts), and those who are systematically sensitive to their deficiencies—whether poverty, or hunger, or illness—and disposed to attend to them when their plight is salient, satisfy one condition on being merciful.

Second, there are *moral* deficiencies, for example, *having committed some enormity*; this is the type of case on which discussions of mercy usually focus, and which partly results in the popularity of the juridical conception. In what sense is *having committed some enormity* a deficiency? It is controversial to say this, but I take it that even the most unrepentant, unfeeling, sociopathic of criminal offenders is worse off by virtue of being such in some important-but-hard-to-characterize sense, even if they aren’t suffering physically or mentally as a consequence of their wrongdoing. If this is at all plausible, it is sensible to speak of moral deficiencies, and it is sensible to speak of the merciful person

²⁴Perhaps “weakness” is a better term in some contexts for what I mean by “deficiency.” See also Kleinig (1969, 341): “...we can see that [mercy]’s core idea is that of treating with benevolence those who are need, in distress, debt, or under threat of some sort...”

²⁵Perhaps these hospitals’ religious—and in most cases, Roman Catholic—heritage is responsible.

as being sensitive to such things.

Some readers may be wondering why a few paragraphs ago when I introduced my stipulated sense of “deficiency” I qualified it with “perceived”. I can now explain myself: it is to handle a third class of deficiencies that we might call *socially dependent* deficiencies. That a property constitutes a deficiency in my stipulated sense may sometimes hold in virtue of a set of beliefs, attitudes, social practices, or institutions. For example, the property of *being Jewish* was a perceived deficiency in Germany during the Third Reich, though in no ways is it a *real* deficiency, in some important sense of “real.”²⁶ Arguably, many physical disabilities fall into the class of socially dependent deficiencies (Barnes, 2016).²⁷

In each case—the pauper, the criminal, the Jew in Nazi Germany—the object of mercy exhibits some perceived deficiency to which the cognitive component of mercy renders a merciful person sensitive.

There is one further point to make concerning how “sensitivity” is to be understood in the account. In the case of an ideally merciful person, her sensitivity to perceived deficiencies is *active*, not passive. An analogy might be helpful on this score. Consider the distinction between two kinds of sonar. Passive sonar’s operation is constituted by the intake and interpretation of a vessel’s sonic environment by the sonar technician. In contrast, active sonar’s operation involves sending out a sonic pulse (a “ping”), whose reflection is then received and analyzed by a sonar technician.

While the ideally merciful person does not emit sonic pulses (*qua merciful* person, fanciful cases aside), she does cultivate a habit of seeking out people who suffer from various deficiencies. She does not simply happen upon

²⁶Interestingly, some children bully other children for getting good grades (Richard, 1992), which is manifestly not a *real* deficiency in any interesting sense. Getting good grades is a “deficiency” only given the peculiar and rather twisted social norms of some adolescent social groups.

²⁷There are deep waters beneath the surface of my seemingly simple stipulation. One might reasonably ask, how many of what we would intuitively classify as non-moral deficiencies are also socially dependent? (Notice nowhere have I committed myself to the three types of deficiency being mutually exclusive—I hereby declare my agnosticism on this matter.) If one is unloved and unwanted, then one seems to suffer a deficiency that is socially dependent. However, if one is on the brink of starvation, then one seems to suffer a deficiency that isn’t socially dependent, at least not in the same way that someone who suffers from being unloved and unwanted suffers from a socially dependent deficiency. I do not (yet) have a theory about what separates these things, but I don’t need one to articulate my account of mercy.

people who suffer from various deficiencies, and respond in the way characteristic of mercy. Instead, she has oriented her life around activities that bring her into close contact with such people—we might say she *lives a life of mercy*. Many of the great saints, religious and otherwise, exemplify this kind of active sensitivity to people’s deficiencies.

While the active kind of sensitivity characterizes the ideally merciful person, we should admit that it is possible for someone to be merciful, alike in every mercy-relevant respect to the ideally merciful person, except lacking the active sensitivity described above. She has not oriented her life around activities that bring her into close contact with suffering; however, when faced with such people, she is still notices their deficiency, and attends to it appropriately. This person isn’t *ideally* merciful, but she is still merciful in an important sense.

The attentiveness that merciful people manifest toward people who suffer from deficiencies involves at least three things. First, attentiveness of a merciful person to an object of mercy is the manifestation of their sensitivity to *deficiencies* in the object of mercy; it isn’t the manifestation of a sensitivity to other properties in the object of mercy. This rules out cases where someone is attentive to an object of mercy only because of properties other than those pertaining to its deficiencies. For example, someone who attends to a suffering person only because the sufferer is wearing a hot pink t-shirt is not manifesting a sensitivity to deficiencies in the sufferer; she is manifesting a sensitivity to brightly colored objects instead. Likewise, someone who attends to a suffering person only because the suffering person is an attractive member of a dominant social group is not manifesting the right kind of sensitivity.

Second, the object of mercy’s presence is especially salient in the merciful person’s awareness. This is a matter of degree, of course: the more merciful a person is, the more salient the object of mercy appears—the object of mercy dominates the merciful person’s awareness.

Third, the attentiveness toward the object of mercy involves what Wayne Wu (2014, chap. 3) calls *selection of an item for action*.²⁸ Wu defends the claim that selection of an item for action is essential to attentiveness; I don’t commit myself to this here. However, I *am* committed to the claim that the kind of attentiveness partially constitutive of mercy’s manifestation involves selection

²⁸Wu’s account of what selection of an item for action amounts to is quite dense and rich; for my purposes, however, whatever intuitive characterization comes to mind will suffice.

of an item—in this case, the object of mercy—for a particular kind of action. The attentiveness component of mercy helps illuminate the third, action-oriented component of mercy, which I discuss further below.

2.5 The Affective Component of Personal Mercy

The affective component of mercy is constituted by a tendency to feel compassion upon attending to people who suffer from perceived deficiencies. There is no consensus on what compassion is, but I hope that my account of mercy can remain neutral with respect to competing accounts.²⁹

Cognitivist accounts of compassion, e.g., Nussbaum (2001), take judgments to be essential to feeling compassion, the contents of such judgments varying with the account. They include judgments such as “This ought not to be” or “This is horrible—what a poor thing” or “Someone should do something to remedy this situation.” Let us call these sorts of judgments *bad-thing judgments*. They need not, *pace* Nussbaum (2001, 306)—who follows Aristotle on this point—include judgments such as “This person doesn’t deserve this”. True compassion can be felt even for the most wicked criminal, whom we might take to be deserving of harsh treatment our compassion notwithstanding.

On the other side, philosophers who favor a non-cognitivist account, e.g., Crisp (2008), take compassion to involve a feeling of distress toward the pain of others. I think this should be generalized: compassion can also involve a feeling of distress toward the *deficiencies* (in the stipulated sense given in §2.4) of others.

For my purposes it is important to get mercy’s psychodynamics right. In paradigm cases, both bad-thing judgments and feeling distress at the deficiencies of another are important to mercy’s psychodynamics. Therefore, when my account of mercy speaks of compassion, it will have a hybrid view in mind that requires the presence of bad-things judgments, and the presence of a feeling of distress at the suffering of another. Thus, in the paradigm cases of mercy, when a merciful person attends to the object of mercy, she will form bad-thing judgments, and she will feel distress at the object of mercy exhibiting those deficiencies.

If one insists that a cognitivist account of compassion is correct and that a

²⁹More generally, I hope it not required of me to resolve larger debates about the nature of emotion in order to say something constructive about mercy.

feeling of distress at the deficiency of another is no part of compassion, then my account of mercy would be modified to include as a separate condition the presence of a feeling of distress at the relevant deficiencies of the object of mercy. If one insists that a non-cognitivist account of compassion is correct and that bad-thing judgments are no part of compassion, then my account of mercy would be modified to include as a separate condition the presence of bad-things judgments. In this way, my account of mercy is orthogonal to the question of whether compassion is cognitive or non-cognitive in nature.

2.6 The Action-Oriented Component of Personal Mercy

In contrasting compassion with empathy, Richard Lazarus says:

“In *compassion* [emphasis in original] the emotion is felt and shaped in the person feeling it not by whatever the other person is believed to be feeling, but by the feeling of personal distress at the suffering of another and wanting to ameliorate it. The *core relational theme for compassion, therefore, is being moved by another’s suffering and wanting to help* [emphasis in original].” (1991, 289)

What Lazarus says about compassion—construed as an emotion—overlaps with much of what non-cognitivists about compassion wish to say. But it also overlaps with my account of mercy’s action-oriented component, namely that mercy disposes a person to form a desire whose content is somewhere in the neighborhood of “to help the object of mercy”.

However, the overlap is not total. Being disposed to *want* or *desire* to help the object of mercy is one thing; being disposed, consequent on wanting or desiring to help, to form an *intention* to help is another thing. While the gap between desiring and intention might be quite small, there is still a gap between them. That compassion as Lazarus describes it stops at wanting to help, while mercy as I have described it goes beyond to include forming an intention (or at least a disposition to form an intention) to help is enough to distinguish his account of compassion from my account of mercy.

The basic thrust here is that personal mercy as I understand it is “meatier” in its psychodynamics than compassion is. Mercy, in addition to involving what compassion does, also involves, at the very least, a disposition to form an intention to help alleviate a perceived deficiency in the object of mercy. This disposition to intend to help alleviate a perceived deficiency in the object of mercy illuminates a remark I made in §2.4 about how the attentiveness

constitutive of mercy involves selection of an item for action: the disposition to help the object of mercy is (partially) constitutive of the selection of the object of mercy for action.³⁰

This is a good start toward understanding the action-oriented component of personal mercy, but there is a lot more to be said. On my account, the intention the merciful person is disposed to form is to alleviate the object of mercy's perceived deficiency—at least to a first approximation. This certainly qualifies as an intention to help. But one pressing question is whether *any* kind of behavior characterizable as “helping” is appropriate for a merciful person to perform. To illustrate, consider a mundane case where issues about what constitutes appropriate help—help that alleviates the perceived deficiency—arise. A professor has finished grading a student's paper, and has strong reason to suspect that he has plagiarized some of its content. Being a merciful person, the professor is also aware that the student suffers from some kind of deficiency—let's stipulate that in this case, the student is non-culpably ignorant of what constitutes plagiarism. Here is one way the professor could “help” the student: by letting this instance of plagiarism slide, grading his paper as if the plagiarized content were original to him, and doing nothing else.

I grant that in one sense of “help”—the professor is preventing immediate harm from befalling the student—if the professor followed this course of action, the student would be helped in this sense. Help of this kind might be labeled *indulgent*—it may end up harming the student in the long run. In another, perhaps more normatively important, sense of “help”—a kind of help that would make the student a better person—the professor is not helping her student at all; the student in fact may be harmed by letting him persist in his ignorance of what constitutes plagiarism. If this latter kind of help is to be offered, the professor's intentions with respect to the student must be constrained by knowledge about what would conduce to the student's flourishing. Let's call this latter kind of help *eudaimonistic* help.

Now we can pose the present question more sharply: in what does true mercy consist in this case? Providing the indulgent kind of help to the student? Or providing the eudaimonistic kind of help to the student? More generally, we might ask, is mercy consistent with being disposed to intend

³⁰Some might object that Lazarus's account of compassion should be modified to include the formation of a disposition to help. In that case, compassion and mercy would amount to the same thing. This is not a result that bothers me much. More on this in §2.7.

the the kind of help that might harm the object of mercy, or does mercy require the kind of help aimed at the object of mercy's flourishing?

I am inclined to believe that mercy requires a disposition to form intentions to provide help of the eudaimonistic kind. The motivation for thinking this is that the merciful person forms an intention to help of a specific kind: an intention to alleviate the perceived deficiency in the object of mercy, where the intention to so alleviate is shaped and constrained by the merciful person's knowledge of what course of action would conduce toward the object of mercy's flourishing.

But I admit that others might see things differently. For example, consider a case where the professor non-culpably—and perhaps even justifiably and reasonably—but falsely believes that letting the plagiarism slide, in some way, alleviates the perceived deficiency in the object of mercy by mitigating the consequences of that deficiency; in this way, the professor might tell herself that this course of action will conduce to the student's flourishing.³¹ I can get into a frame of mind where I see the attraction of the judgment that, if the professor is merciful, then letting the plagiarism slide would be an act done out of mercy.

Perhaps drawing a distinction between ideal and non-ideal kinds of personal mercy (much as I did in §2.4) helps us move forward. The ideal kind of personal mercy is allied with knowledge—maybe “wisdom” (Grimm, 2015) is more apt here—of what conduces toward an object of mercy's flourishing; therefore, ideal personal mercy requires the formation of intentions to provide eudaimonistic help. In contrast, non-ideal personal mercy may be allied with mere justified, but false, belief, and so is consistent with forming an intention to provide help that appears eudaimonistic, but in reality isn't.

What about a case where an individual believes that some course of action would conduce to an object of mercy's flourishing, and so forms an intention to act in that way, but her belief is unreasonable? Here I think we should judge that the individual is not manifesting personal mercy in any sense, ideal or non-ideal. Consequently, if someone is merciful, she must have some reasonable idea of the bearing her actions would have on the flourishing of potential objects of mercy.

Let me summarize my remarks on the action-oriented component of per-

³¹If we had a taste for the baroque, we could concoct a case where the professor was Gettiered about the fact that letting the plagiarism slide would conduce to the student's flourishing. But I have more spartan tastes, so I will not concoct such a case.

sonal mercy. It is distinguished from compassion (at least as Lazarus described compassion) by requiring not just a disposition to desire to help the object of mercy, but also a disposition to form an intention to help the object of mercy. In the ideal case, the disposition to form an intention to help the object of mercy by alleviating some deficiency is constrained and informed by knowledge about what kind of help would actually conduce to the flourishing of the object of mercy. In the non-ideal case, the disposition to form an intention to help by alleviating some deficiency is constrained and informed by justified (and possibly false) beliefs about what would conduce to the flourishing of the object of mercy.

2.7 Distinguishing Mercy from Associated Notions

The concept of mercy is located among a cluster of associated notions, chief among them empathy, pity, forgiveness, sympathy, and compassion. Since there are uses of “mercy” that in some contexts are synonymous with “empathy”, “pity”, “forgiveness”, “sympathy”, and, “compassion”, it is important to tease apart what, in the strict and philosophical sense (as Bishop Butler might put it) distinguishes mercy from some notions associated with it. Even if one balks at the idea that there is such a thing as the strict and philosophical sense of these concepts, one should still be clear about what one means in using them in various contexts. In this section, my aim is to clarify just how mercy as I conceive of it differs from its correlatives as they might be plausibly conceived. However, if it turns out that, on some equally plausible conceptions of some of its associates, mercy is not distinguishable from them, I would not count that as an unwelcome result.

In the case of compassion, it might be that “compassion” and “mercy” are synonymous in so many contexts that there is little to be gained in distinguishing them *in re*. One interesting piece of evidence on this issue is to consider the wide variety of ways correlative words from other languages get translated as “mercy” and “compassion”. The clearest examples come from the sacred texts of the Abrahamic religions. The Hebrew *hesed* is translated as “lovingkindness”, “mercy”, and “compassion”. The Koine Greek *ελεος*, its cognates, *οικτιρμος*, and its cognates are translated as “compassion” and “mercy”. And two of the Islamic names of God, *ar-rahmaan* and *ar-raheem* (which appear together in the Islamic *basmalah* invocation) are sometimes translated “The Merciful” or “The Compassionate” interchangeably.

Another piece of evidence for the near-total overlap between is that “compassion” and its cognates (like “compassionate”) are used to express or refer to character traits, properties of action, and properties of policies. In fact, it might be true that for any instance of “merciful”, the word “compassionate” may be substituted with no loss, and that for any instance of “mercy”, compassion may be substituted without loss.

Given that my account has the feeling of compassion as a necessary component of mercy’s psychodynamics, the close association of “mercy” and “compassion” in a wide variety of languages is not surprising. In §2.6, I tried to tease out what may be one difference between mercy and compassion—namely, that mercy involves a disposition to form intentions of a certain sort, whereas compassion does not. However, if one insisted that “mercy” and “compassion” are synonymous, then I wouldn’t wish to quibble over words. It may very well turn out that “mercy” and “compassion” are synonymous in English, and that terms in other languages that get translated as “mercy” and “compassion” are similarly synonymous. What matters more to my project is whether my description of personal mercy captures an interesting ethical feature, not whether we use “mercy” or “compassion” to refer to it in English.

Mercy is easily distinguished from how empathy is standardly conceived in philosophy and psychology. Paul Bloom (2014) describes the standard view as follows:

“The word ‘empathy’ is used in many ways, but here I am adopting its most common meaning, which corresponds to what eighteenth-century philosophers such as Adam Smith called ‘sympathy.’ It refers to the process of experiencing the world as others do, or at least as you think they do. To empathize with someone is to put yourself in her shoes, to feel her pain. Some researchers also use the term to encompass the more coldblooded process of assessing what other people are thinking, their motivations, their plans, what they believe. This is sometimes called ‘cognitive,’ as opposed to ‘emotional,’ empathy. I will follow this convention here, but we should keep in mind that the two are distinct—they emerge from different brain processes; you can have a lot of one and a little of the other—and that most of the discussion of the moral implications of empathy focuses on its emotional side.”

The standard view of empathy does two things: first, it collapses empathy

and sympathy into one concept; second, it distinguishes cognitive empathy from emotional empathy. Let's follow the standard view and treat "empathy" and "sympathy" as expressing the same concept; this allows us to shorten our discussion of "mercy" and its correlatives.

Cognitive empathy just amounts to an ability to know what other people's mental states are. Possession of this ability is certainly not sufficient for being merciful. One may be able to know what other people's mental states are while nonetheless being indifferent to them, or even cruel toward them. Emotional empathy is also not sufficient for being merciful. One may be really good at simulating the experiences of other people, but nonetheless indifferent or cruel toward other people. Mercy and empathy are therefore not the same thing, and possibly bear no necessary relation to one another, though as a matter of normal human psychology, empathy probably provides some mental scaffolding on which personal mercy relies for its operation.

Mercy and forgiveness seem closely associated to one another, especially in theological contexts where human sinfulness is taken to be atoned for by some action of divinity. But they should nonetheless be distinguished from one another. First, personal mercy is a quality of persons; to speak of "forgiveness" is to characterize action (broadly construed to include mental actions like forswearing resentment). Second, an action counts as forgiving only in a context where someone has done something wrong. But in rejecting the juridical conception of mercy, we also rejected the claim that personal mercy is a trait operable only in contexts where someone has done something wrong.

However, my account of personal mercy should explain at least somewhat the association between mercy and forgiveness. And it does. The basic idea is that a person who is merciful is, in virtue of being merciful, quite disposed to forgive wrongs committed against her. For many (if not all) wrongs committed against her are done out of some deficiency in the wrongdoer. Recognition of deficiencies that lead to the wrongdoer to his misbehavior leads the merciful person to feel compassion for the wrongdoer. Compassion leads the merciful person to form intentions to alleviate those deficiencies of the wrongdoer that lead to his wrongdoing. In many cases, it is plausible to think that granting forgiveness is a necessary step in alleviating those deficiencies. Thus, it turns out that personal mercy is behind many acts of forgiveness—a plausible result.

Finally, let me discuss what might distinguish mercy from pity. First there

surely is some connection between personal mercy and pity. If one conceives of pity as an emotion similar to compassion, then the connection is quite tight: pity is an emotion that merciful person is disposed to feel when confronted with deficiency. But pity is merely a part (in an extended sense of “part”) of personal mercy. Furthermore, as I have characterized it, mercy is a personality or character trait. Pity, on the other hand, is an emotion. These are different kinds of things, one a long-standing disposition of a person, the other a state of a person that comes and goes.

However, there are other ways of understanding pity. According to Hestevold (2004, 343), “[t]o pity someone, then, is to regret, for that person’s sake, that the person suffers or lives a life that could have been better.” Regret strikes me as a “weaker” emotion than what is involved in feeling compassion. If Hestevold’s account of pity is viable, then the association between pity and personal mercy is still explicable: in some cases where personal mercy manifests itself in a person, that person will feel pity for the object of mercy. But mercy and pity are still to be distinguished. On Hestevold’s account, one may pity a person without feeling compassion for him. For example, I may regret, for my friend’s sake, that he suffers from the consequences of his gambling habit without feeling much distress at his condition, or without judging that someone should do something about these consequences.³² So feeling pity isn’t sufficient for personal mercy. Arguably, feeling pity isn’t necessary either: I might feel compassion for my friend on account of his gambling habit, and so feel distress at his suffering, and judge that things ought to be different, that I ought to help; but it might a feeling of regret may never arise. This seems psychologically possible to me, at least.

My aim in this section has been to carve out a place for personal mercy amidst a host of associated notions. In the case of compassion, I admit that personal mercy and compassion (conceived as a personality or character trait) may amount to the same thing. However, I have argued that empathy, forgiveness, and pity should all be distinguished from personal mercy.

³²The basic distinction between pity and compassion seems to be that, on Hestevold’s account, the former is a “low-arousal” state, while compassion is a “high-arousal” state. Admittedly, I don’t have any empirical evidence for this claim beyond this: when I feel compassion for someone, it feels high-arousal, but when I feel regret for someone, it doesn’t.

3 Conclusion

My aim in this article has been to criticize juridical accounts of mercy, and provide an account that is not encumbered by the juridical conception. In particular, I have focused on providing a rich description of mercy conceived of as a personality or character trait—this is personal mercy. Along the way, I have provided analyses of mercy as a property of actions, and mercy as a property of policies.

In work in progress, I hope to take my account of mercy and apply it to a host of issues in theology and normative ethics. Some ideas:

1. In the paper's introduction, I mentioned the widespread practice of public shaming. To a first approximation, people are publicly shamed when they are aggressively criticized for some moral failing of theirs that has come to the public's attention; in many cases, members of the public will use social media or other internet-connected platforms to broadcast their criticism, and marshal the criticism of others.
2. Moral disagreement, especially of the radical kind, has been, and is still, quite common. One hypothesis I have is that if personal mercy really involves responding to deficiency in other people in particular sorts of ways, then the cultivation of personal mercy might be a key toward mitigating some of the negative effects of radical moral disagreement.
3. Jesus exhorts his audience in the Sermon on the Plain to "be merciful, as your Father in heaven is merciful." Jesus's statement involves a straightforward attribution of personal mercy to God. In a parallel text in the Sermon on the Mount, Jesus exhorts his audience to "be perfect, as your Father is perfect." Interestingly, from the context of this statement in Matthew, Jesus seems to have something like mercy in mind: "for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust." On the rather plausible supposition that God is merciful, what light might my account of personal mercy shed on God's moral character?
4. Some of Jesus's teachings about mercy seem to involve claims about either (a) the reasons there are act mercifully and to cultivate personal mercy in oneself, or else (b) the ways in which personal mercy might

be better cultivated. The former claims are normative in nature, inasmuch as they purport to lay bare why one *ought* to be merciful in character and conduct. The latter claims are empirical in nature, inasmuch as they propose techniques or mechanisms that may or may not lead to merciful action and character. Further articulation, and perhaps even empirical investigation of some of Jesus's teachings on these matters is warranted.

5. Suppose that a Christian wished to obey Jesus's command to be merciful as the Father is. What are some concrete ways in which a Christian might cultivate mercy in action and in character? And what are some concrete, timely issues facing Christians in which the cultivation of mercy is of central importance?

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