**Remaindered culpability: Comment on *Fundamentals of Criminal Law***

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Andrew Simester’s *Fundamentals of Criminal Law: Responsibility, Culpability, and Wrongdoing* presents an intricate and sophisticated series of arguments on everything from criminalization to defences. Along the way, it deals with complex moral problems including voluntariness and moral luck. Moreover, the arguments it makes are intertwined in ways that make discussing only one part of the book a significant challenge. What follows is an attempt to follow the thread of (moral) responsibility in the argument so as to understand better its relation to (legal) culpability. The argument, in part, is that the relationship is not straightforward and that some of the messiness is defrayed to sentencing in ways that we should at least pause to consider.

The paper proceeds by first offering brief summaries of Simester’s accounts of moral responsibility and culpability, and then of how the two fit together. These sections are intended to be merely expository and in reducing Simester’s arguments to a series of propositions, they leave a great deal out. Nevertheless, I think they accurately capture the essential elements of the account. In the final section, I consider some questions that arise from, and to a lesser degree for, Simester’s theory.

**I. Moral responsibility**

For Simester, moral responsibility is

a form of *moral-agent-capacity* responsibility. Its existence depends upon various more specific capacities on the part of the agent. An agent must have:

* 1. *physical* capacity in respect of an event, a requirement that depends on whether the event’s occurrence lies within the agent’s physical control.
  2. *deliberative* capacity in respect of an event; a requirement that is satisfied when the event’s occurrence is within an agent’s deliberative control: deliberative capacity thus imports, and implies, physical capacity.
  3. Finally, the agent must also be a *moral* agent in respect of the event, in the sense that she is capable of recognizing and acting for salient moral reasons.[[2]](#footnote-2)

In short, “D is morally responsible for her φing if she has the capacity to recognize, evaluate, and, ultimately, respond to reasons for and against φing.”[[3]](#footnote-3)

Crucially, Simester conceives of moral responsibility as a *threshold* condition. It:

designates an agent’s *eligibility* for evaluations of moral praise- or blame-worthiness in respect of some event. The extent to which D is praise- or blame-worthy for an event is a question we don’t get to explore unless, first, D is morally responsible for it. On this view, finding moral responsibility is no more than a gateway on the road to finding culpability. It is a condition of blaming judgements in the criminal law because it is a condition of (correct) blaming judgements *simpliciter*. More than that: it is strictly a precondition. Once moral responsibility is established, its existence is neutral about whether D is in fact blameworthy, praiseworthy, or neither.[[4]](#footnote-4)

Threshold conditions can work in one of two ways. First, the threshold can be reached and then itself do no further work. This is suggested by Simester’s use of the term “gateway”. Once one has passed through a gateway, one has passed through it and that is that. For example, until it was declared discriminatory, it was a requirement in England that to be eligible to be a policeman one had to be five foot eight inches (173 centimetres) tall. Of course, plenty of those who applied were much taller than the required height, and many people of that height or taller were not interested in being policemen. Once one had “passed”, so to speak, and been measured as five foot eight or taller, then that element of what it is to be a policeman disappeared from relevance.

Second, a threshold can set a standard and then remain relevant. Think, for example, of a medal competition in an amateur gold club. To be eligible to enter such a competition, the club may require a handicap of, say, six or under. In this case, excellent golfers who play off scratch will be eligible as will less good players who play off six. These differences remain relevant in the competition as handicaps are an integral part of how the scoring will subsequently work.

A different way to explain the difference between the two accounts of how a threshold might work is that in both cases – height and golf handicaps – people possess the relevant quality to different degrees on a spectrum. However, in the first case the threshold works in a binary way – either a man is or is not at least five foot eight inches tall – whereas in the second case the degree to which the person possesses the quality matters even if within a range that is more limited than that found in the wider population. We will return to this issue throughout the paper, but first consider Simester’s account of culpability.

**II. Culpability**

Simester’s account of culpability combines elements of both act and character theories. For Simester, the criminal law is engaged when someone does something wrong. In an important move, Simester holds that such a wrong can be grounded “*either* in her choice to do or risk that wrong *or* in her failure to take adequate care not to do it”,[[5]](#footnote-5) but that need not detain us here. Rather, what matters is that we properly (criminally) blame someone – paradigmatically, a person – *for* the wrong they have done. The question then is how to connect the two elements: the person and the wrong. The answer lies in what the wrongdoing reveals about the agent’s engagement with the reasons to, or not, commit the wrong.

As Simester puts it:

Suppose that D φs, and that her φing is an unjustified wrong. The gist of the argument… is that D’s culpability for φing does not arise directly from the wrongness of her φing. Rather, it derives from D’s *engagement* with the reasons why she should not φ. D is culpable when her engagement with those reasons is defective in a manner that reflects a moral vice on D’s part.[[6]](#footnote-6)

Clearly, the notion of “a moral vice” does important work here. For Simester, these “are concerned with an agent’s dispositions, attitudes, and the like, and they are vices in as much as those dispositions reflect certain shortcomings in the agent’s own values: shortcomings, principally, in her concern for the interests of others.” These can be contrasted with facts about the agent that might properly be called “shortcomings”, but are not moral vices. The example Simester gives and to which he returns in the book is “being of low intelligence”.[[7]](#footnote-7)

**III. Putting moral responsibility and culpability together**

Consider a core case. D, motivated by jealousy of V’s beauty, intentionally throws acid in the face of V. We first need to ask the question of whether D meets the threshold condition for moral responsibility. That is, does D possess the necessary physical and deliberative capacities and is she generally capable of “recognizing and acting for salient moral reasons”? Assuming the answer is yes, we can consider D’s culpability and, let us assume, we can properly conclude that her engagement with the reasons not to throw the acid was defective in a way reflects a serious moral vice on her part (she failed, in particular, to consider the interests of V).

Note, on this account, moral responsibility works as a threshold in the first sense. It merely gets D into the realm of blameworthiness. In this sense, the account calls on a distinction that is common even if the language used to mark it is not. For example, Peter Strawson distinguishes between persons who are properly subject to “reactive attitudes” and non-participants in the moral community towards which an “objective attitude” is appropriate.[[8]](#footnote-8) And Tim Scanlon similarly distinguishes “attributive” and “substantive” responsibility.[[9]](#footnote-9) In both cases, a person (or thing) that lacks the necessary attributes is not a candidate for blame, but rather, as Strawson puts it, “an object of social policy” or something “to be managed or handled or cured or trained”.[[10]](#footnote-10)

Beyond this core case, consider a further set of examples Simester deploys when discussing his pluralistic theory of culpability. Since the examples play a significant role in what follows, it is worth quoting at length:

Suppose that, at the beach, P has been left in charge of a child who then swims too far out to sea and is drowned. Consider three kinds of explanation for P’s failure to prevent this disaster:

(1) P fails to rescue the child because he has been paralysed after being attacked suddenly by a swarm of bees.

(2) Owing to P’s very low intelligence, he does not realize the risk.

(3) P does not pay attention to the child because his attention is absorbed entirely by a radio broadcast of England’s winning a cricket match. (*Mirabile dictu*!)[[11]](#footnote-11)

Let us call these P1, P2, and P3, respectively.

P1 fails the test of moral responsibility. In respect of this event (the child drowning), the event’s occurrence does not lie within the agent’s physical control and he lacks the capacity to act on the salient moral reasons. That case is clear.

The difference between P2,and P3, according to Simester, is to do with whether their conduct instantiates a moral vice. In the case of P3, his “failure rests in a moral vice.” That is, “he falls short of what we expect from a reasonable person, a person who exhibits appropriate – decent – levels of care and concern for those around him.”[[12]](#footnote-12)

What of P2? We can assume that P2 meets the threshold condition of moral responsibility (otherwise it would not be appropriate to compare him with P3 with respect to blameworthiness). However, because low intelligence is not a moral vice, “our evaluation of [P2’s] failure to perceive the risk should be relativized to [his] intellectual capacities”. Thus, whilst both P2 and P3 failed to consider reasons that they should have considered, P3 did so because he is uncaring and inappropriately attentive to the interests of others, whilst P2 did so because his stupidity meant that he did not recognize the (degree of) risk, and so recognize a salient moral reason to check on his child; and stupidity is not a moral vice.

So much then for the elements of the account for how they fit together. The aim of the final section of the paper is to note some comments and questions that arise from, and to some degree for, Simester’s theory.

**IV. Some questions**

Note that the difference between P2 and P3 is *not* that the former is somehow responsible for his personality whereas the former is not responsible for his low intelligence. So, it does not matter how P3 came to be the kind of person who ‘gets lost in’ the cricket. He need not have chosen to be inattentive or to have spent his time carefully cultivating a distracted personality. P3’s moral viciousness lies in his inattentiveness to the needs of others however that inattentiveness arose. One might think of this as the compatibilist element of the account and, like all compatibilist theories, it prompts a number of concerns about fairness.[[13]](#footnote-13)

Fairness concerns arise because moral facts supervene on natural facts. P2 fails to perceive the correct degree of risk because of some fact about him (he is not that bright). But P3 also fails to respond correctly to the risk because of some fact about him; although that fact may be more complex to describe. Yet, P2’s failure is judged against his own standards of reasoning and P3’s against the standard of a reasonable person. This is because of Simester’s distinction between capacities that do, and that do not, “reflect a moral vice.” As he puts it in summary: “we should differentiate between stupidity and cowardice.”[[14]](#footnote-14) However, for those who are sceptical of the compatibilist move, that is a distinction without a difference. The coward is no more or less blameworthy than the idiot.[[15]](#footnote-15)

***The interplay of moral responsibility and culpability***

P2 is said to fail to appreciate the risk, and the concomitant moral reason to pay attention. Yet, if we are in the realm of blameworthiness at all, then it must be the case that he meets the minimum requirements for moral responsibility. That is, he “has [sufficient] capacity to recognize, evaluate, and, ultimately, respond to reasons for and against φing.” I think this makes sense only if we say that P2 failed to perceive *the correct degree* of risk, rather than that he failed wholesale “to perceive the risk”. However, that invites the question of whether moral responsibility is a threshold in the first or second senses identified above. People’s ability to recognize and appropriately respond to risks vary considerably, and if the threshold condition is understood in the second way, then this fact might remain relevant in considering culpability.

To see how this might play out, consider what we have learned about from neuroscience and developmental psychology. Children do not fully mature and magically turn into adults at 18. Rather, they enter ‘young adulthood’ and continue to mature until their mid-twenties. One feature of people in this position – particularly males – is that they misperceive risks and over-discount the future. In short, most 21 year-old men are poor at recognizing, and correctly responding to, risk even when – as in the vast majority of cases – they meet the minimal conditions for moral responsibility. Now, being a young adult is not a moral vice in itself, although it can certainly result in inattentiveness to the interests of others. Where should this fact fit in to the account?

One possibility would be to treat young adults as analogous to P2, perhaps by introducing distinct offences relativized to the status of “young adult”. The standard for, say, careless driving – “driving without due care and attention” – might then be “driving that falls below the standard expected of a competent and careful driver”[[16]](#footnote-16) in cases of defendants above 25, and “driving that falls below the standard expected of a competent and careful *young adult* driver” for those under 25, and *mutatis mutandis* for other offences.

A second possibility is that the variations in culpability are “remaindered to sentencing”[[17]](#footnote-17) out of fear that the point above generalises and the law cannot aspire to have distinct offences to cover every nuance of culpability. That fear is justified, but note that the issue arises because the capabilities identified in the criteria for moral responsibility are found to greater and lesser degrees even in people who clear the threshold.

***Wootton’s question***

Any account that imposes a capacity threshold – in this case for “moral responsibility” – where the capacity in question lies on a range, faces the issue of where to draw the apparently bright line between those who have sufficient capacity and those that do not. The seemingly endless and unresolved debate over insanity standards suggests that resolving that issue is not easy.

However, beyond this question of where to draw the line, there is a further issue for the criminal law where it recognises partial irresponsibility defences. Simester discusses these in the last chapter of his book and it here the issue of how to think of the threshold makes a further reappearance.

Simester notes the complexity of the issues and that “when we descend into detail, variations proliferate”.[[18]](#footnote-18) He considers some well-known cases like *Ahluwalia*, *Doughty*, and *Camplin*,[[19]](#footnote-19) but the most compelling and difficult example he gives is that of *Kingston*.[[20]](#footnote-20) In what follows, I first consider Simester’s account of, and response to, Kingston and then add a final case, *Byrne*, to illustrate a further difficulty (and to explain the reference to Wootton in the section heading).

Here is Simester on Kingston (footnotes omitted):

K, who had paedophiliac inclinations, was invited to T’s flat, apparently to discuss some business matters. Once there, K was given coffee that T had laced with disinhibiting drugs. T then led K to a bedroom where a fifteen-year-old boy, also drugged, lay unconscious on the bed. K performed non-penetrative sexual acts on the boy. He had no previous record of such behaviour; it was accepted that, save for being drugged unawares, he would not have acted as he did.

K’s self-restraint was impaired by his involuntary intoxication, which bears on the level of restraint that can fairly be expected of him… [and] any claim to exculpation in *Kingston* rests on K’s understandably reduced capacities rather than on a non-relativized standard. As such, it does not involve a *hybrid* (partially rationale-based) defence. It takes us instead into the realms of a temporary, partial irresponsibility.[[21]](#footnote-21)

Given that Kingston’s capacities were involuntarily reduced so that he can be fairly described as only possessing partial responsibility, what can we properly expect of him? After all, as Simester notes, had “*Kingston* been a prosecution for murder, the plea of diminished responsibility would have been straightforward.” Yet the House of Lords upheld K’s conviction of indecent assault. As Simester puts it:

their Lordships were rightly wary of crafting a more general, and potentially amorphous, ‘involuntary disinhibition’ excuse. Legally speaking, corralling such a defence would not be at all easy. Fencing in provocation has been challenging enough.[[22]](#footnote-22)

Simester recognizes the difficulties here and the tensions between “doing justice”, so to speak, and the institutional demands of the criminal law (although he might demur from that formulation of the tension). As he says of this part of the book, his aim is not “to resolve” these issues, but “to highlight their existence”. In the face of these and other issues, recourse is again to sentencing: “ultimately, the criminal law must remainder some of these difficulties to sentencing.”[[23]](#footnote-23)

However, we might think that the core issues here are not just difficult to resolve and beyond the immediate scope of the book, but *irresolvable*. Consider *Byrne* described in the 2003 edition of Simester and Sullivan as follows:

D [the defendant] was described by expert witnesses as a dangerous sexual psychopath, responsible for a number of atrocious, sexually-motivated killings of young women. The evidence was that the particular sexual drives of D were much harder for him to suppress and control than sexual urges of a normal character. Quashing his conviction for murder, the court ruled that his capacity to exercise self-control was relevant to his responsibility for his acts. It was conceded that the degree of difficulty that D experienced in controlling himself was a matter which fell beyond scientific demonstration.[[24]](#footnote-24)

In other words, Byrne was to be judged according to what we can expect of people like him. He certainly failed to attend to the correct moral reasons and to engage those reasons in guiding his conduct. But, we might ask, what else can we expect of a “sexual psychopath”?

I’ve called this sub-section “Wootton’s question” because Wootton took Byrne to be evidence of the fundamental irrationality of the criminal law. She thought we could not distinguish between Byrne and an “ordinary” offender who murders young women out of sexual motives, and we should not pretend that we can. Perhaps even more importantly, she argued that:

the fact that the impossibility of keeping a clear line between the wicked and the weak-minded seems now to be officially admitted. In the judgment of the Court of Criminal Appeal on Byrne’s appeal… the Lord Chief Justice frankly admitted that “the step between ‘he did not resist his impulse’, and ‘he could not resist his impulse’ was one which was incapable of scientific proof.”[[25]](#footnote-25)

Put differently, there is no principled way to distinguish those whom we should judge against a “reasonable person” standard and those we should judge in ways “sensitive to certain of [their] own limitations”.

My point is not to endorse Wootton’s account, but to highlight the Pandora’s Box nature of recognizing that the capacities on which moral responsibility depend exist on a range and that such responsibility is not always either/or, but sometimes and to different degrees partial. As a result, the law is likely to part company with a strict or ideal understanding of how moral responsibility and culpability interact. It might do this by moving the issue from conviction to sentencing – about which more below – or perhaps by admitting that its capacity for justice is limited by its relation to “community sentiments”.[[26]](#footnote-26) Perhaps, for example, the community is willing to accept that the likes of Byrne are not fully responsible for their actions, but would not be willing to allow the same for someone with “Pedophilic Disorder”[[27]](#footnote-27) with respect to his desires for sexual conduct with pre-pubescent children.

It might be thought that comparing *Byrne* and *Kingston* is inapt given that *Byrne*, unlike Kingston, is a case of murder. As noted above, had Kingston been prosecuted for murder, he, like Byrne, would have had available to him a plea of diminished responsibility. Partial responsibility in English law is recognized only within murder and, as Simester notes, “their Lordships” found the idea of a possible new partial responsibility defence of “involuntary disinhibition” that might apply to “the entire range of criminal offences… a disturbing prospect”.[[28]](#footnote-28) Rather, the assumption – as we shall see shortly, made explicit in the judgment on Kingston – is that partial responsibility in cases other than of a charge of murder should be dealt with at sentencing.[[29]](#footnote-29)

That partial responsibility can generate a plea against only the charge of murder is puzzling until one appreciates that it is not possible to deal with it at sentencing given the mandatory (life) sentence for murder. One puzzle – the point of the discussion above – is whether this does justice to those who are rightly thought only partially responsible, but who commit other offences. Another – dealt with below – is whether the criminal law, and criminal law theorists, should be content to remainder these complex problems to sentencing.

***Sentencing***

Throughout the book, Simester is (admirably) honest about the pragmatic (and democratic) considerations that must be taken into account in shaping the criminal law. And, as we have seen, at several points he recommends “remaindering” issues to sentencing. This is neither uncommon nor necessarily problematic. Sentencing is often more individualized and nuanced than the criminal law could ever be. The judgment in *Kingston* explicitly endorsed this (shortly after declaring the idea of a wider defence “a disturbing prospect”) as follows:

the interplay between the wrong done to the victim, the individual characteristics and frailties of the defendants, and the pharmacological effects of whatever drugs might be potentially involved could be far better recognised by a tailored choice from the continuum of sentences available to the judge than by the application of a single yeah-or-nay jury decision.[[30]](#footnote-30)

However, I think there are three reasons to be cautious about this approach.

First, we might worry that we are simply avoiding difficult problems. In a Barbara Wootton mode, we might think that when faced with deep theoretical incoherence, we bury our theoretical heads in the sand and rely on sentencing to do the work. Was Byrne fully, partially, or not at all responsible? Who knows? So, let’s leave it to the sentencing judge to craft something that reflects our uncertainties. In a less provocative form, we might wonder whether the availability of a range of sentences acts as a sort of “pressure relief valve” when doctrine delivers the “wrong” answers. So, for example, a route to a non-mandatory sentence must be found for battered women who kill their abusers even in the face of doctrine.[[31]](#footnote-31)

Second, the assumption seems to be that sentencing can be an effective means of responding to these “remainders”. But it is not at all obvious that that is the case. In particular, Douglas Husak has recently argued that proportionality theory is bedevilled with problems in measuring both hard treatment (punishment severity) and censure and, even more problematically, in combining these two elements.[[32]](#footnote-32) Of course, the literature on sentencing is considerable and there are those who are more optimistic about proportionality and the possibility of developing principled sentencing schemes,[[33]](#footnote-33) but this should not be taken for granted.

Third, and finally, the problem of whether sentencing can in principle be effective as a response to culpability “remainders” pales in comparison with the problem of sentencing in practice. In short, no-one seems to have told those who pass sentencing legislation (and even guidance) of the critical function assigned to it in criminal law theory of sweeping up, and appropriately responding to, the many and various remainders of culpability. In most countries, sentencing codes are a “buffet-style” mix of principles combined with seemingly arbitrary rules that provide less of a “tailored choice” to the judge than they do a “straitjacket”.[[34]](#footnote-34)

Of course, these final points are not directed at Simester alone, or even at Simester in particular. They are perhaps by way of a suggestion for the discipline as a whole; that we should worry about, and engage more with, the ways in which sentencing (and, for that matter, policing and prosecution) interact with the core questions of criminal law theory.

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2. This summary amalgamates various claims, particularly in Chapter 4. [↑](#footnote-ref-2)
3. §4.1 [↑](#footnote-ref-3)
4. §4.1 [↑](#footnote-ref-4)
5. §10.1 [↑](#footnote-ref-5)
6. §11.0 [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)
8. Peter Strawson, *Freedom and Resentment*, 48 Proceedings of the British Academy (1962). [↑](#footnote-ref-8)
9. T. M. Scanlon, What We Owe to Each Other 148ff (Harvard University Press. 1998). [↑](#footnote-ref-9)
10. Strawson, Proceedings of the British Academy, (1962). [↑](#footnote-ref-10)
11. §11.4 [↑](#footnote-ref-11)
12. *Id.* [↑](#footnote-ref-12)
13. For a brief discussion, see Matt Matravers, Responsibility and Justice 137-39 (Polity Press. 2007). [↑](#footnote-ref-13)
14. §19.1.3 [↑](#footnote-ref-14)
15. G. Strawson, *The Impossibility of Moral Responsibility*, 75 Philosophical Studies (1994);Derk Pereboom, *Free Will Skepticism and Criminal Punishment*, *in* The Future of Punishment (Thomas Nadelhoffer ed. 2013). [↑](#footnote-ref-15)
16. Road Traffic Act, 1988 §3. [↑](#footnote-ref-16)
17. Ch 11. Note 59. [↑](#footnote-ref-17)
18. §19.1.3 [↑](#footnote-ref-18)
19. *Ahluwalia* [1992] 4 All ER 889; *Doughty* (1986) 83 Cr App R 319; *Camplin* [1978] AC 705 [↑](#footnote-ref-19)
20. [1995] 2 AC 355 (HL) [↑](#footnote-ref-20)
21. §19.1.3 [↑](#footnote-ref-21)
22. §19.1.3 [↑](#footnote-ref-22)
23. *Id*. [↑](#footnote-ref-23)
24. A. P. Simester & G. R. Sullivan, Criminal Law: Theory and Doctrine 585 (Hart Publishing. 2003). [↑](#footnote-ref-24)
25. Barbara Wootton, Crime and the Criminal Law: Reflections of a Magistrate and Social Scientist 73 (Stevens & Sons. 1963). [↑](#footnote-ref-25)
26. A. P. Simester, et al., Simester and Sullivan's Criminal Law: Theory and Doctrine 889 (Hart/Bloomsbury. 2019). [↑](#footnote-ref-26)
27. American Psychiatric Association, Diagnostic and statistical manual of mental disorders: DSM-5 697-700 (Fifth edition. ed. 2013). [↑](#footnote-ref-27)
28. *Kingston*. [↑](#footnote-ref-28)
29. I am grateful to Miri Gur-Arye for pushing me on this point. [↑](#footnote-ref-29)
30. *Kingston.* [↑](#footnote-ref-30)
31. In *Ahluwalia*, the Court of Appeal upheld the instruction with respect to provocation thus denying Ahluwalia that defence. This would have meant her conviction for murder stood, and with it a mandatory life sentence. Despite Lord Taylor CJ insisting that new defences should not be raised at Appeal, the Court then allowed just such a defence and allowed Ahluwalia a plea of diminished responsibility. [↑](#footnote-ref-31)
32. Douglas Husak, *The Metric of Punishment Severity: A Puzzle about the Principle of Proportionality*, *in* Of One-Eyed and Toothless Miscreants: Making the Punishment Fit the Crime? (Michael Tonry ed. 2020). The other chapters of the same book provide further challenges to the idea of proportionality. [↑](#footnote-ref-32)
33. In particular, Andreas von Hirsch and Andrew Ashworth. [↑](#footnote-ref-33)
34. This problem is particularly acute where mandatory minimum sentences exist for some offences, but not others. An egregious example is Morton Berger, an Arizona teacher convicted of 20 counts of possession of child pornography, each of which carried a mandatory 10-year prison sentence. His 200-year sentence was affirmed by the Arizona Supreme Court and the Federal Supreme Court declined to hear a further appeal. Although Berger’s sentence is extreme; the lack of proportionality is not unusual in systems that impose mandatory minimum sentences for some crimes. To take a more recent English example, a former policeman, Timothy Brehmer, having pleaded guilty to manslaughter, was sentenced to ten and a half years in prison. The judge commented that while he was sure that Brehmer “did deliberately take [the victim] by the neck, applying significant force with your forearm or the crook of your elbow for a period of time while she struggled against you”, the sentence was determined “on the basis you lost your self-control following the sending of the text message to your wife where the affair was revealed, rather than on the basis that you had no intention to kill or cause really serious harm.” <https://www.theguardian.com/uk-news/2020/oct/28/dorset-police-officer-timothy-brehmer-jailed-for-10-years-claire-parry-manslaughter>   
    The point here is not whether the sentence was correct or incorrect, but that there are many people in English prisons for aiding and abetting murder – that is people who did not intend to kill – serving minimum terms of 19 or 20 years. [↑](#footnote-ref-34)