Harming, not Aiding, and Positive Rights

F. M. Kamm

in Morality, Mortality Volume II: Rights, Duties, and Status

Considers what would follow if the General Equivalence Thesis (GE) of the moral equivalence of harming and not aiding (in cases in which less than life is at stake) were true. The possible existence of positive rights (or duties minus correlative rights) is considered, and an argument against positive rights by Judith Thomson is examined. Arguments are considered that attempt to derive positive rights or duties from the existence of negative rights and a warning given against the failure to consider the role of independent rights or self-standing claims to things, and the significance of already having had something. An examination is made of how far it is possible to come, consistent with Thesis GE, toward deriving the radical conclusion that we may have a right to something to which we have no independent right or self-standing claim if it is not permissible to take it from us.

From universal love to human rights?

Richard Sorabji

in Gandhi and the Stoics: Modern Experiments on Ancient Values

The Stoics moved from the naturalness of love for all to the novel and important conclusion that justice was owed to all. Gandhi connected universal love instead with non-violence. Neither Gandhi nor the Stoics were recommending universal human rights, the Stoics chiefly because they regarded it as ‘indifferent’ whether justice succeeded in meeting human needs. The important thing was rather the virtue exercised...
in attempting to meet human needs, or, in the Christian version of John Chrysostom, the sin shown in not attempting. The stress on the importance of virtue may still have been as effective in meeting human needs. Gandhi equally preferred talk of human duties to talk of human rights, for the different reason, that insistence on one's rights can lead to violence. He further claimed that it was only by performing his own duties to his family that he gained his right to their respect.

Correlativity
Ernest J. Weinrib

in The Idea of Private Law

In Aristotle's presentation of corrective justice, the correlativity of gain and loss is the organizing feature of liability. This chapter deals with what this correlativity means and how these gains and losses can be identified and seen as expressions of Kantian right. Two aspects of gain and loss must be distinguished: the factual and the normative. The gains and losses of corrective justice are normative rather than factual. They are correlative when the justificatory considerations at work are unifying, bipolar, and expressive of the parties' transactional equality. The Kantian conception of right and duty satisfies these requirements. This chapter explores the relationship between the normative and the factual and between rights and welfare. It concludes by applying the correlativity of right and duty to the reparation of tort and contract losses and to the restitution of gains.

Incorporation by Law 1
Joseph Raz

in Between Authority and Interpretation: On the Theory of Law and Practical Reason
It casts doubts on the incorporation thesis, that is, the view that moral principles can become part of the law of the land by incorporation.

Talking Politics
Ramin Jahanbegloo and Bhikhu Parekh

One of the most distinguished political philosophers of our time, British-Indian academic and peer Lord Bhikhu Parekh’s work continues to deeply influence our understanding of identity, politics, and multiculturalism. Based on a series of interviews of Bhikhu Parekh by Iranian philosopher Ramin Jahanbegloo, Talking Politics is a journey into the life and work of the acclaimed political thinker. From cultural diversity and global ethics to universal moral rights and duties, liberalism, multiculturalism, Marxism, Islam and Europe, and Mahatma Gandhi in the twenty-first century—Parekh addresses issues which India and nations across the world are grappling with in a changed and changing global order. Moving from the public to the personal domain, this engaging conversation affords rare glimpses of Parekh’s world: from early-life struggle and sacrifice to the joys of success, and finally his entry into the House of Lords.

Authoritative Input
Henry Richardson

This chapter shows that the input stage of the moral community’s exercise of its moral authority arises from the delimited moral power of duty-holders (alone or in concert with the correlative right-holders) to specify their duty. To establish this claim, the chapter defends the Specificatory Theory of dyadic rights and duties. Like H. L. A. Hart’s Will Theory (and unlike Joseph Raz’s Interest Theory and Leif Wenar’s Kind-Desire Theory), this theory sets out to explain the existence of ontologically correlative rights and duties. It argues that these arise when the social division of moral labor addresses responsibilities regarding individuals’ monadic moral rights to specific individuals. These individuals are called upon intelligently to specify the content of their
duty—a fact that explains ontological correlativity. This theory is shown to deal better with counterexamples than the Will Theory and to well support the requirements of the input stage.

Normative arguments for and against compulsory voting
Sarah Birch

in Full Participation: A Comparative Study of Compulsory Voting
Published in print: 2009 Published Online: July 2012
Item type: chapter

This chapter outlines and assesses the principal normative arguments that have been made for and against compulsory electoral participation. These claims fall into three principal categories: arguments relating to rights and duties, legitimacy and collective rationality arguments, and evaluations of the practical consequences of making electoral participation mandatory. After reviewing these arguments, the chapter then summarises the empirical claims made by normative theorists whose main objective is to test these claims.

Setting and Pursuing Ends
Paul Guyer

in The Virtues of Freedom: Selected Essays on Kant
Published in print: 2016 Published Online: December 2016
Item type: chapter

This chapter argues that all of the categories of duty that Kant recognizes can be interpreted as duties to treat humanity as an end and never merely as a means if humanity is equated with the capacity to set ends and the duties are construed as conditions for the preservation or expansion of that capacity. First, a bipartite interpretation of humanity as two separate capacities to set and pursue ends is not necessary because an avoidable failure to develop effective means to pursuing ends restricts the range of ends an agent may rationally set, while developing means to pursue ends effectively expands the range of ends that may be set. Then the main forms of duty recognized by Kant, especially duties of right toward others and the imperfect duties of self-perfection and the promotion of the happiness of others, can be interpreted as duties either to avoid restricting the range of ends agents may rationally set for themselves or to expand that range.
This chapter further examines the derivation of all classes of duty from the duty to preserve and expand freedom of choice whether in oneself and others, making detailed use of Kant’s 1793–4 lectures on the metaphysics of morals, transcribed by his attorney Johann Friedrich Vigilantius. The chapter adds to Chapter 6 the point that Kant’s concern that one promote the happiness of others only after their own conception of happiness is an expression of his emphasis on the moral end of promoting the freedom of agents to set their own ends rather than aiding in their pursuit of happiness as a merely natural goal. The extensive discussions of our duties regarding marriage, child-rearing, and friendship in Vigilantius also demonstrate Kant’s commitment to the goal of expanding the scope to freely set our own ends more clearly than his more compact discussions of those topics in the published Metaphysics of Morals.

The Idea of the Moral Community
Henry Richardson

This chapter explicates the idea of the moral community as the open-ended set of all individuals who can wrong or be wronged by another. Examining these ideas of wronging someone or being wronged by someone as dyadic ideas, intrinsically involving a moral relationship between two persons, the discussion casts this kind of relationship as structuring the moral community. Dyadic norms, which give rise to directed rights and duties, give that structure definite generality and firmness. Distinguishing norms that merely mention another person (“A ought to compensate B”) from truly directed or dyadic norms (“A owes it to B to compensate B”), the text notes the metaphysically demanding sort of ontological correlativity that holds between directed duties and the corresponding rights. This, in turn, sets the stage for an important
challenge posed by Michael Thompson—namely, how to explain what unites all persons into one moral community.

Gewirth: community, rights, values
Lynn Dobson
in Supranational Citizenship
Published in print: 2012 Published Online: January 2013
Published Online: 2013
Item type: chapter

This chapter provides an analytical discussion of some major themes in Gewirth’s Community of Rights and Self-Fulfillment. The focus of the chapter is on how rights- and duty-bearing agents interact to create political community, and how the rights to freedom and well-being posited by his moral theory include the right to develop a conception of the good life to be pursued through political community. Such a community will enable capacity-fulfilment, self-respect, and self-esteem. The chapter draws out of Gewirth's work the notion of a reasonable, situated, mutualist self, able to cooperate with other such selves to enact both the just and the good.

The Charter of Economic Rights and Duties of States (1975)
C. H. Alexandrowicz
in The Law of Nations in Global History
Published in print: 2017 Published Online: May 2017
Published Online: 2017
Item type: chapter

This chapter focuses on the Charter of Economic Rights and Duties of States adopted by the UN General Assembly on 12 December 1974. The Charter consists of a preamble and four chapters, the most important of which are Chapter I relating to the fundamentals of international economic relations, and Chapter II on the detailed economic rights and duties of States. Chapter I contains general principles such as the sovereignty and equality of states and other principles, the adoption of which presented few difficulties to members of the United Nations Conference on Trade and Development (UNCTAD). On the other hand, the provisions of Chapter II, particularly article 2, were the subject of hard bargaining in which the negotiating states had to face some of the most controversial problems of international law in the economic field.
Conclusion
Henry Richardson

in Articulating the Moral Community: Toward a Constructive Ethical Pragmatism
Published in print: 2018 Published Online: August 2018
Item type: chapter

This concluding chapter restates the book’s central arguments in a simple, linear order, highlighting its conclusions about the nature of the moral community, the proper analysis of dyadic rights and duties, and the possibility of moral authority. It explains how this argument clears away a threshold objection to constructive ethical pragmatism (CEP) and how the book’s accounts of practical intelligence, moral psychology, and objectivity further support this normative ethical view. It considers how the central argument might be extended by dropping the assumption that moral authority is limited to specifying objective moral norms and by relaxing the expository focus on cases of two intelligent individuals working things out together at the input stage. Against the former of these broadenings, it notes the value of the way that the account, as developed, enables us to reconcile morality’s possibly eternal objective core with the possibility of our contingently adding to its objective content.

The Entrepreneurial Ideas of Booker T. Washington
Michael B. Boston

Published in print: 2010 Published Online: September 2011
Item type: chapter

This chapter aims to explain the core aspect of Washington's leadership strategy—his entrepreneurial philosophy. He had developed his strategy by 1891 and he emphasized duties rather than rights. The chapter highlights that Washington's entrepreneurial philosophy has not before been analyzed deeply from a business perspective and aims to present concretely Booker T. Washington's entrepreneurial ideas by reconstructing their components from many of his speeches and writings and then explicating them. Washington's entrepreneurial philosophy never had the individual at its central idea, rather, the group was primary. Ideologies like the Protestant work ethic and social Darwinism
greatly influenced him and promoted individual successes, but once individuals became successful, he urged them to reach back and help others, as he believed group progression was more meaningful for the advancement of his race and, ultimately, their happiness.

Corrective Justice
Ernest J. Weinrib

in The Idea of Private Law

Published in print: 2012 Published Online: January 2013
Publisher: Oxford University Press
DOI: 10.1093/acprof:oso/9780199665815.003.0003
Item type: chapter

Aristotle's account of corrective justice describes the form of the private law relationship. Corrective justice treats the wrong, and the transfer of resources that undoes it, as a single nexus of activity and passivity where actor and victim are defined in relation to each other. Being concerned with structure not substance, Aristotle presents corrective justice in formal terms, as an equality between the two parties to a bipolar transaction, in contrast to distributive justice, which is a proportion in which each person's share is relative to a distributive criterion. Although formal, Aristotle's account is not empty. It captures the coherence of the private law relationship and the categorical difference between private and public law. Because Aristotle omits to tell us what the transactional equality of corrective justice is an equality of, his account must be supplemented by Kant's philosophy of right.

The Return of Descartes's Malicious Demon: An Outline of a Philosophy of Precaution
François Ewald and Stephen Utz

in Embracing Risk: The Changing Culture of Insurance and Responsibility

Published in print: 2002 Published Online: March 2013
Publisher: University of Chicago Press
DOI: 10.7208/chicago/9780226035178.003.0011
Item type: chapter

The new paradigm of security calls forth a new economy of rights and duties. While the language of risk, against a background of scientific expertise, used to be sufficient to describe all types of insecurity, the new paradigm sees uncertainty reappear in the light of even newer science. It bears witness to a deeply disturbed relationship with a science that is consulted less for the knowledge it offers than for the doubt it insinuates. Moral obligations are swallowed up in public ethics, and the
principle of responsibility is seen as a reflection of a brand-new notion of precaution. The paradigm of responsibility is a paradigm of insurance—it assumes the logic of loss compensation. The paradigm of solidarity is also a paradigm of insurance, of universal and indeterminate insurance, of social and compulsory insurance. It is not so much concerned with voluntary and contractual forms of compensation as with the institution of pools of all kinds. The paradigm linked to the precautionary principle will undoubtedly remain a paradigm of insurance, but in a new shape that will have to integrate new cultural boundary conditions.

**Pax Gandhiana**

Anthony J. Parel

Published in print: 2016 Published Online: August 2016
Item type: book

Gandhi’s political philosophy concerns the peaceful political order—Pax Gandhiana. Its main contention is that peace cannot be achieved by politics alone. Peace requires the confluence of the four canonical ends of life: politics and economics (artha), ethics (dharma), forms of pleasure (kama), and the pursuit of spiritual transcendence (moksha). Modern political philosophy isolates politics from the other three ends. Gandhi corrects this error. Therein lie his originality and importance. Gandhi reaches his conclusion by reinterpreting the Indian theory of the four canonical ends of life. In his interpretation, these four must not operate in isolation from one another. Therefore, politics must act in coordination with the nonviolence of the other three ends. This mandatory coordination imposes an intrinsic limitation on the kind of violence that artha exercises. The nonviolence that Gandhi stipulates therefore is civic, and compatible with the requirements of the coercive state. The coordination also stipulates that the means of politics be ethically good, that rights be coordinated with duties, that the state renounce war as policy, and that the self-rule of individual citizens supplement the independence of the state. Next to the limited state, the peaceful political order requires a multitude of nonviolent NGOs engaged in constructive programs. Though Gandhi invented satyagraha, he later downgraded its importance vis-a-vis constructive programs. Pax Gandhiana is Gandhi’s response to the violence of Indian politics, whether it stems from religion, race, ethnicity, or gender differences. His response has relevance not only to India, but to every society plagued by violence.
This chapter discusses how two camps emerged among NGO leaders planning IWY activities. A small group of New York-based women focused its efforts on political equality and educational and economic opportunities for women, reflecting its US orientation. A larger, more diverse group centered in Geneva concentrated more on human rights, social justice issues such as racial discrimination and apartheid, and global disparities of wealth. These debates occurred against a backdrop of UN debates over economic sovereignty and the conflicts between Israel and its neighbors. As the United States increasingly served as a punching bag at the UN, the State Department began to see women’s rights as an arena where it might curry favor; it substantially increased the resources dedicated to IWY and supported calls for a UN-sponsored IWY conference to overshadow the planned NGO conference in East Berlin.