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BIOGRAPHY

Rowan Cruft has taught philosophy at the University of Stirling since 2002. He has published articles on the nature and justification of rights and duties, focusing on comparisons between different forms of right: human rights, contractual rights, property rights, legal rights. He is co-editor of Crime, Punishment and Responsibility: the jurisprudence of Antony Duff (OUP 2011), and is currently co-editing OUP’s Philosophical Foundations of Human Rights (forthcoming 2014).

EDITORIAL NOTE

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WHY IS IT DISRESPECTFUL TO VIOLATE RIGHTS?

ROWAN CRUFT

Violating a person’s rights is disrespectful to that person. This is because it is disrespectful to someone to violate duties owed to that person. I call these ‘directed duties’; they are the flip-side of rights. The aim of this paper is to consider why directed duties and respect are linked, and to highlight a puzzle about this linkage, a puzzle arising from the fact that many directed duties are justified independently of whether they do anything for those to whom they are owed.

I. DIRECTED DUTIES AND RESPECT

Directed duties include my duty, owed to the Aristotelian Society, to present this paper, or your duty, owed to me, not to assault me. These contrast with undirected duties (that are not owed to anyone) which might include our duties of benevolence or our duty to pursue the truth. The distinction between directed and undirected duties is important in at least three ways. First, if one is owed a duty then one is wronged by its violation. By contrast, violation of an undirected duty is wrong but does not wrong anyone in particular. If environmental legislation to protect rare birds does not give us duties owed to the birds but simply undirected duties to treat them in certain ways, then the birds are, in Thompson’s memorable words, ‘raw materials for wrongdoing’ rather than wrongable beings with rights (2004, p. 372). Secondly, someone who is wronged by a violation is, ceteris paribus, owed an apology and compensation. There is no such close link between apology or compensation and being harmed by a violation that did not wrong one. Thirdly, directed duties are at the heart of rights. The relationship is complex, but I here declare that any violable right held by some being is constituted by an enforceable directed duty owed to that being. The three implications of the distinction between directed and undirected duties apply equally to the duties of critical morality and to those in positive law, social conventions and games. When a footballer violates a duty to another footballer, she fouls her (‘game-wrongs’ her) as opposed merely to flouting the rules, and talk of a rights-violation is appropriate. We can add that she therefore owes her an apology: an acknowledgement of the foul, perhaps a handshake.

My paper is driven by intuitions about the relationship between directed duties and respect. It turns out that Raz’s celebrated account of rights and directed duties neatly explains these intuitions, while Wenar’s extensionally superior recent account makes them puzzling. In particular, Wenar’s account rightly allows that a duty can be owed to a person even when it is justified independently of whether it does anything for that person; but it is puzzling why violating such a duty is disrespectful to the

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1 The main text here draws on Cruft (2013).
2 Hohfeld distinguishes claim-rights constituted by directed duties owed to one, privilege-rights constituted by one’s not bearing a given directed duty, power-rights constituted by (putting it roughly) the ability to create or remove directed duties and immunity-rights constituted by others’ inability to create or remove directed duties for one (Hohfeld 1964). Only claim-rights are violable. Privileges, powers and immunities concerning undirected duties might also constitute rights.
3 See Wenar (2013, pp. 203-4).
person to whom it is owed. I can canvass several attempts to solve the puzzle, thereby touching on alternative theories of rights and directed duties including the Will Theory and Kramer’s theory; but I do not find a satisfying solution.

The driving intuition about directed duties and respect is this:

(1) *Violation of a duty owed to a person, animal or group is disrespectful to that person, animal or group.*

I follow Thomson here in taking ‘violation’ of a duty to perform some action to involve the unjustified non-performance of that action, while ‘infringement’ involves non-performance that is justified according to the rules of the normative system (1990, p. 122). If I owe a moral duty to you to turn up on time, then I show you disrespect if I unjustifiably fail to turn up. If the rules of the game place me under a duty to you not to push you out of your position on the pitch, then I show you disrespect qua footballer if I do this in a way that is unjustifiable under the rules (Wenar 2013, pp. 203-4). If my boss asks me to deal with a customer’s request, then I show the boss disrespect – within the norms of the business – if I unjustifiably fail to take this on.

Related theses seem less plausible:

(2) *One cannot disrespect a person, animal or group without violating a duty owed to it.*
(3) *One cannot disrespect anything without violating a duty owed to it.*
(4) *Disrespect always involves violating directed duty.*

Thesis (2) is incorrect because disrespect sometimes seems permitted. British soldiers singing ‘Hitler has only got one ball’ in the 1940s were being disrespectful to Hitler but violated no duty to him. Let us try an amended version:

(2)* One cannot disrespect a person, animal or group without violating or infringing a duty owed to it.

Potential counter-examples to (2)* are indecisive. If I fail to reply when you ask a silly question, this might well be disrespectful but does not seem very wrong. Nonetheless, it justifiably infringes a duty to you. I am tempted by the thought that even singing ‘Hitler has only got one ball’ justifiably infringed a duty to Hitler. It is not like imprisoning a convicted criminal: our duty not to imprison someone disappears when they are justly convicted and sentenced. Therefore imprisonment infringes no duty to them. And it shows them no disrespect. By contrast, I suggest that Hitler’s actions did not annul the duty not to sing the song. Instead, his actions made it right to infringe duties towards him, rather than simply cancelling them. That is, Hitler’s actions made it correct to show him disrespect.

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4 For the contrary position, see Griffin (2008, pp. 65-6).
Raz claims respect involves thinking appropriately about its object (2001, p. 161); perhaps here lie the counter-examples to (2)*. Even aspects of my thinking that seem wholly outside my control (e.g. my initial untutored reaction to you) can appear to manifest disrespect. Yet to say that they can – e.g. to say that a horrified reaction to someone’s disfigurement is disrespectful even if it is only an internal ‘thought’ reaction – seems, I suspect, to entail claiming that such reactions can be controlled and that we have a duty, to the person in question, to adjust this reaction. That is what (2)* leads us to expect. Note that because this duty is not enforceable, it will not correlate with a right for the person to whom it is owed.5

Theses (3) and (4) seem less defensible, even starred versions in which ‘infringing’ supplements ‘violating’. One would behave in a disrespectful manner by destroying a beautiful rock formation or a barren planet, but – contra (4) and (4)* - it is doubtful that this wrongs anyone, justifiably or not. If we say it involves disrespect to the formation itself, or the planet, it still seems – contra (3) and (3)* – doubtful to say that this is because we bore a duty owed to the rock formation or to the planet. One way to rescue (3)* and (4)* is to claim that destroying the beautiful rock formation shows disrespect to Nature and Beauty, and violates duties to these entities; fortunately for me, the paper’s principal arguments are independent of (3)* and (4)* so I will not pursue this. I will occasionally rely on (2)*, but my main concern takes (1) as its cue: it is difficult to explain (1), given what directed duties are.

II. A THEORY OF DIRECTED DUTIES THAT EXPLAINS THE LINK WITH RESPECT

Raz’s Interest Theory of rights neatly explains (1):

“X has a right” if and only if X can have rights, and, other things being equal, an aspect of X’s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty (1986, p. 166).

It is best to reframe ‘sufficient reason for holding...’. Raz is not saying that someone has a right in cases where there is sufficient practical reason to hold (e.g. to assert) that someone X has a duty even when actually X does not have such a duty.6 Nor is Raz’s ‘sufficient reason’ epistemic. A person’s interest could constitute epistemic reasons for inferring the existence of a duty without that person holding rights.7

It is better to read Raz as saying that X has a right, and is owed a correlative duty, iff X’s interest is a sufficient reason for the existence of that duty, where ‘reason’ is not here essentially about the directing of reasoning, but rather indicates a ground.

5 See §III below.
6 Suppose the only way to avert disaster is to tell everyone you have a duty even when you do not.
7 Suppose Mary is the only person who knows where the fire escape is. In a fire, I have a strong interest in doing what Mary says. This interest of mine might constitute a sufficient epistemic reason for observers to infer that both I and my colleagues have a duty to obey Mary in a fire. But I do not hold a right here (suppose my colleagues’ obeying Mary will not help me escape). I doubt Mary has a right to be listened to either.
In this sense a sufficient reason for the existence of a duty is something sufficient to make it the case that the duty exists.

There are several possibilities for the precise meaning of ‘sufficient’. An interest might be:

- a factor that has been sufficient on its own to ground the duty.
- a factor that would (normally?, almost always?) be sufficient on its own to ground the duty.
- a factor that, along with others, has been sufficient to ground the duty, though it needed the presence of other pro-duty factors for this grounding to succeed.

In earlier work, I assumed Raz meant that a duty is owed to (and a right is held by) whoever’s interests strongly individualistically justify it:

Strong individualistic justification: A duty D is strongly individualistically justified by some genuine feature of a person X iff (i) that feature of X is of sufficient non-instrumental importance to constitute a powerful (rarely defeasible) ground for D, and (ii) that ground is undefeated.8

But perhaps for Raz the non-instrumental importance of the duty-grounding interest does not have to be powerful in my sense, for the duty to be owed to the interest-bearer. It simply has to be a factor that would normally succeed in grounding the duty, or that has in actual fact grounded the duty. It is unlikely, however, that Raz meant that a duty is owed to whoever’s interests weakly individualistically justify it:

Weak individualistic justification: A duty D is weakly individualistically justified by some genuine feature of a person X iff because of its non-instrumental importance some feature of X has played some (however small) part in grounding D.

Sometimes a utilitarian justification of a duty D owed to X will involve weak individualistic justification by some feature of X. Suppose X’s happiness features on the ‘in-favour-of-D’ side of the utilitarian calculus.

Incorporating individualistic justification into one’s account of a duty’s direction explains the link between directedness and respect. According to individualistic accounts, violating a duty owed to X involves failing to respond to something about X (for Raz, an interest) whose non-instrumental importance has played a role in grounding the duty. If we exclude the ‘weak’ reading, then whenever I violate a duty to someone I fail to respond to something about them that has significant duty-grounding importance. Consider a Razian account of duties to respect

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8 ‘This is adapted from Cruft (2006), p. 154. ‘Genuine’ is meant to exclude such gimmicky features as ‘being such that if a right is owed to one then this will serve others’. Note that the main text’s focus on the strength of individualistic grounds for a duty is distinct from the question of the strength of the duty itself (i.e. the question of when it can be justifiably infringed)
bodily integrity. My duty not to chop off your arm, owed to you, is justified by the importance of your interest in your bodily integrity. On ‘strong’ readings, this interest of yours plays a major, or perhaps even the only, role in grounding my duty. No wonder that violating the duty is disrespectful to you. Such violation ignores the importance of this normatively powerful interest of yours.

The concept of *interests* is incidental to this explanation of the link between directedness and respect. *Individualistic justification* is central: the duty is grounded by something about the person to whom it is owed, so violating it involves failing to respond to a duty-generating aspect of that person. Alternative theories of rights and directed duties that appeal to something other than interests – needs (Miller 2007, Pogge 2002, Wiggins 1987), freedom or autonomy (Hart 1955, Sen 2004), personhood (Griffin 2008), or self-ownership (Locke 1689, Nozick 1974) – can equally plausibly explain thesis (1), if their chosen value plays an *individualistic* role in the grounding of directed duties.

The problem for Raz and alternative individualistic theories is that some duties are owed to people – and correlate with rights – even though features of the people to whom they are owed play no part in their grounding. Raz mentions parents’ rights to child benefit payments (1994, p. 50). These are justified by the interests of the child, plus perhaps the wider importance of instituting morally permissible public policies that have been legitimately adopted. The parents’ own interests or freedom need play no non-instrumental role in this justification. Yet if the appropriate system is set up, parents are right-holders, owed duties to be paid benefits by the state. Students’ duties to hand their essays in on time are similar. They are *owed to* teachers. We have a right to timely hand-ins and we are disrespected when this is violated. But this right is grounded in the interests of students and in considerations about the smooth running of universities and schools. It is not grounded in teachers’ interests. Also consider trivial property rights like my right over this pen. This is grounded in how a property system serves the common good. Your duty not to use the pen is owed to me even if I gain nothing from the pen, and even if I am the sort of self-sufficient person who gains nothing from having a property system in operation overall. I still have a justified right over the pen, so long as I acquired it according to the rules. But it is not individualistically justified, even in the weakest sense.⁹

Raz thinks he can accommodate these counter-examples. He suggests that a journalist’s right to withhold the names of her sources cannot be justified by how it serves the interests of the journalist, but is instead justified by the common good. Raz maintains that (as required by his theory) the journalist’s interests justify her right – but he adds that they do this precisely because serving these interests serves the common good (1986, 179). Yet as Kamm notes, ‘[i]f the satisfaction of the interests of others is the reason why the journalist gets a right to have his interest protected, his interest is not sufficient [in any of our listed ways] to give rise to the duty of non-interference with his speech’ (2002, p. 485).

⁹ See Cruft (2006) for an argument against individualistic approaches to property, including Lockeian self-ownership-based approaches.
In my view, Raz’s account is correct for basic human rights. My interest in not being tortured is of sufficient non-instrumental importance to constitute a powerful ground for your duty not to torture me, a ground sufficient to make this duty exist independently of whether it serves anyone other than me. My being able to take part in public debate is similarly important. Whether or not letting me take part serves anyone else, my interest in being able to participate is enough to ground appropriate duties. My criticism of Raz is simply that not all rights and directed duties fit this model.

It is worth pausing to emphasise this last point. Raz complains that proponents of the ‘traditional’ view of human rights which regards them as distinctively important and universal can offer no good explanation of the former feature: their special ‘importance’ (2010, p. 39). But Raz’s own conception of rights as individualistically justified captures basic human rights’ distinctive importance. Not all rights are strongly individualistically justified, but basic human rights are. Its individualism is often cited as a benefit of the modern regime of human rights: it recognises each individual as sufficiently non-instrumentally important on their own to be a source of duties for states and others.10

The counter-examples undermining Raz’s theory do not discredit my thesis (1) about directed duties and respect. Even violation of rights that are not individualistically justified seems disrespectful to the right-holder. Painting graffiti on my barn – even a barn I own on another continent, that does nothing for me – disrespects me. Suppose my ownership of the barn is entirely determined by factors other than my interests or anything else of moral importance specifically about me: I simply happen to have ended up owning it as a result of the playing out of a system of property justified by the common good (perhaps I inherited it). The fact that graffiti on this barn disrespects me seems puzzling. The latter is an instance of my central puzzle, namely: why is (1) true even of those rights and directed duties that cannot be accommodated by Raz’s theory? Why is it disrespectful to you to violate duties owed to you, when their justification is independent of anything non-instrumentally important about you?

III. A BETTER THEORY OF DIRECTED DUTIES

We need to avoid incorporating individualistic justification into the definition of directed duty. We also need to avoid the extensional inadequacy of such alternatives as the Will and Hybrid Theories.11 My commitment to analysis broadly reflecting ordinary usage is based in confidence that everyday moral and wider normative

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10 This is not to reject the ‘political’ aspect of human rights, but simply to say we can develop a secular conception of human rights as a distinctive type of natural moral right by using the notion of individualistic justification.

11 For the Will Theory of rights, see Hart (1955) and Steiner (1994). For its problems see, e.g., Kramer (1998 and 2013). For the Hybrid Theory, see Sreenivasan (2010); for problems, see Kramer & Steiner (2007) and Kramer (2013).
thinking is our best, if fallible, guide to truth in these realms. A non-Razian theory that gets close – by requiring duties to serve what their recipient desires given her role or kind, and by detaching the way a duty serves its recipient from its justification – is Wenar’s Kind-Desire Theory:

Consider a system of norms S that refers to entities under descriptions that are kinds, D and R. Iff, in circumstances C, a norm of S supports statements of the form:

1. Some D (qua D) has a duty to phi some R (qua R);
   - where “phi” is a verb phrase specifying an action, such as “follow the orders of”, “refrain from touching”, “shoot”, etc.
2. R’s (qua R’s) want such duties to be fulfilled; and
3. Enforcement of this duty is appropriate, ceteris paribus;

Then: The R has a claim-right [is owed a duty] in S that the D fulfil this duty in circumstances C (Wenar 2013, p. 209).

Enforceability, as required in clause 3, distinguishes directed duties we call rights from those we do not. If I help you cross the road then you owe me a duty of gratitude, but we do not call this a right. This is because enforcement of your duty to thank me is morally inappropriate. But violating this duty is disrespectful to me. My thesis (1) links respect with all directed duties, not just that subset we call rights, and for this reason I will mostly ignore clause 3 in what follows.

‘Kinds’ for Wenar include social roles. By tying duties’ direction to kind- or role-wants, Wenar accommodates duties owed to beings whose well-being is not served by the duty. Even if one is an unusual parent whose well-being is not served by one’s children’s flourishing, nonetheless qua parent, one wants whatever will help one fulfil one’s role, and this includes child benefit payments. Wenar tells us this follows from the nature of the role of parent (2013, p. 210). Hence (according to Wenar’s theory) the state’s duty is owed to one, even though one lacks interests grounding it.

For Wenar’s theory to deliver the correct extension, kind- or role-dependent wants have to be distinct from their concrete bearer’s psychology and well-being. For example, it has to be the case that as a promisee who has accepted a promise, I want the promise fulfilled even if my mind contains no pro-attitude whatsoever towards fulfilment, and even if fulfilment would not be good for me in any way. We have the relevantly independent conception of role- or kind-wants:

When travelling through King’s Cross station in London you may hear a recorded announcement saying that members of the station’s staff will be happy to help passengers. Even if every individual who works at King’s Cross is entirely misanthropic, we still say that all staff members, qua staff members, are happy to help passengers (Wenar 2013, p. 215).
Here we can assess whether wants in the relevant role- or kind-based sense exist independently of intuitions about directed duties. Similarly parents qua parents want whatever benefits would help them fulfil their job, whether or not the state has a directed duty to provide them, and, I venture, humans qua humans want freedom whether or not they are owed it.

But this is not always the case. Suppose I am a private whose duty to salute the sergeant is owed to the sergeant. Wenar tells us this is because sergeants qua sergeants want to be saluted. But isn't this because the duty-to-salute is owed to them? Sergeants in armies that do not salute, or whose duties-to-salute-sergeants are understood as owed to the monarch and not the sergeant, seem to lack the relevant role-want.

Similar problems arise for trespassory duties. Wenar is aware of the dangers. He writes:

All analyses of property [...] claim-rights face the challenge of setting up the problem: of describing the relevant duties without smuggling in the claim. One must not, for example, frame the first condition of an analysis of a property right as: “Some person has a duty to refrain from touching the property of a property-owner”. Owning a piece of property implies having a claim-right over it, so this description of the duty looks rigged. The challenge is met by finding a non-rigged way to connect the owned object to the owner; for example, by finding land boundaries matched to names on deeds with a valid legal pedigree (2013, p. 212, n. 21).

But once we find a non-question-begging way of specifying the recipient of an ownership-based trespassory duty, it is then not clear that the relevant person has the necessary role-based want. Take Wenar’s suggestion about names on deeds. According to Wenar, Joe owes to Sarah his duty not to cross Greenacre without her permission iff (a) Joe bears a duty not to walk on that field, Greenacre, which is matched with Sarah’s name on valid legal deeds, and (b) Sarah, in her role as person named on the deeds associated with a piece of land, wants Joe not to walk on whatever piece of land this is. Unless Sarah’s being named on the deeds is taken to entail being owed trespassory duties, then even if her being so named is understood to associate her with the field, perhaps to give her control over trespassory and other duties in relation to the field, it will not guarantee that (b) is true: that she has the relevant role-want. If anything, the role-want seems to exist because of the directed duty owed to Sarah, rather than vice versa – or at least, the two seem to stand or fall together rather than the direction depending on the role-want.

The problem cases do not impugn Wenar’s biconditional. Skorupski suggests that a biconditional is a definition if it makes no sense to ask whether the left-hand side is made true by the right or vice versa (2010, pp. 455-6). In this vein, Wenar could be read as giving us an explicit rendering of a definition implicit in ordinary usage. On this approach, Wenar’s biconditional is not explanatory: the fact that sergeants qua sergeants want the duty fulfilled does not cause or ground the separate fact that the duty is owed to sergeants; and the fact that those named on the relevant legal documents want related trespassory duties fulfilled does not cause or ground the duties’ being owed to them; rather, this is just
what owing a duty to someone means. For this to work, we need to deny the reverse dependence. That is, we need to deny that the duty’s being owed to Sarah or to the sergeant is what creates or grounds the relevant role-based desire. We should see the two – (a) the duty’s having a direction and (b) Sarah’s or the sergeant’s having the role-want – as having no priority, neither explaining the other. This seems plausible, and saves Wenar’s theory as a definition.

IV. RETURN OF THE PUZZLE ABOUT RESPECT

If Wenar’s theory is correct – and I believe it is extensionally accurate – then we are left with the puzzle about respect from the end of §II. Wenar rightly allows that your duty not to steal this pen is owed to me, and the state’s duty to pay child benefits is owed to me, even though in neither case is it grounded on any feature of me, but rather on the common good or my children’s interests. I have the role- or kind-wants which make the duty owed to me simply by happening to fall into a social or natural relation (parenthood, a property system). I need not (even though I often will) have pro-attitudes, interests, needs, freedom or autonomy at stake in relation to the directed duty. Why, then, does violating such duty disrespect me?

One response denies there is a puzzle. A first version maintains that values such as the common good or education are served by practices which cause us to think actions are required by directed duty, and that this is enough for such a way of thinking to be morally justified. But this allows that moral justification for, say, thinking that students owe it to their teachers to hand their essays in on time, does not entail that such duties are genuinely directed. Compare the distinction, endorsed by indirect consequentialists, between a ‘decision procedure’ and a ‘criterion of rightness’. Keeping my promise now might be required by a consequentialistically justified decision-procedure even though it will, on this occasion, lead to my doing the ‘wrong’ thing by consequentialist lights.

This first dismissive approach is unsatisfactory. If deeming property violations to wrong owners is only a useful way of thinking, then why do we think – as thesis (1) affirms – that such violations manifest disrespect? Is this also just a useful way of thinking? The seriousness of disrespect, even of disrespect for trivial rights, seems incompatible with the view that it is useful to adopt systematic ways of thinking which will deem certain actions to wrong (and hence disrespect) others independently of whether they ‘really’ do.13

A second dismissive response maintains that because important values are served by thinking that practice-based violations involve directed duties, they therefore genuinely do

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12 A duty’s direction is not wholly independent of its moral justification, on Wenar’s account. The kinds or roles admissible in using Wenar’s theory to test a given morally justified duty for directedness are the kinds or roles used in those statements of the normative system whose truth is necessary if the system is to be morally justified: those statements which reflect the moral ‘point’ of the system. Nonetheless, Wenar’s account allows that I might fall under a morally justified role – ‘owner of Blackacre’ – without any feature of me grounding the moral justification for the role and my falling under it.

13 The seriousness of disrespect should not be overplayed: there are many morally unimportant instances of disrespect. But often an action’s being disrespectful to someone legitimizes their making serious demands on the agent even if the action violated only a trivial duty owed to them.
involve such directed duties, and trigger attendant facts about disrespect. An analogous thesis not focused on directedness is Thompson’s claim that a formal transfer principle holds such that if a practice is morally good (on whatever ground, including the common good or education), then actions falling under the practice are morally good or matters of duty whether or not they are instrumental to achieving or constitutive of the good of the practice (2008, p. 166).\footnote{Note that Thompson’s thesis is meant to apply only to social practices constituted by actual behaviour, such as promising or property, not the ideal rules of rule-consequentialists.}

Now, the claim in focus – that if it is valuable (e.g. on common good grounds) for us to think that certain duties are directed, then they genuinely are directed – is, if anything, more plausible than the analogous claim deriving the existence of genuine duties from the value of a practice which deems them to exist. Our claim is more plausible because the truth about ‘role-wants’ depends on our thinking. This is not so for ‘natural-kind-wants’: what cows want qua cows does not depend on what we think cows want. But Wenar’s ‘kind-wants’ rightly include ‘role-wants’, and the constitution of some social roles is up to us. We can decide that station staff want to help passengers; we can imagine an alternative role lacking this desire. We can decide whether sergeants qua sergeants want to be saluted. We can decide whether those named on deeds concerning a bit of land, and who have control over others’ trespassory duties concerning that land, should be conceived as wanting, given this role, that the relevant trespassory duties be fulfilled. Similarly, it might seem that we can decide whether those to whom an attempted ‘promise’ is addressed should be conceived as wanting it fulfilled qua addressee. Wenar’s theory tells us these decisions determine whether the relevant duties are directed. Further, there seems nothing wrong in inventing social roles if it would be valuable for them to exist. We should therefore expect that if it is valuable for us to think that certain social-practice-based duties are directed, then they are directed, or they become so once we think in the relevant role-creating way.\footnote{There are limits on possible role-wants. Roles defined by duties – such as goal-keeper – seem to require that, in one’s role, one wants to be able to fulfil one’s duties.} We do not need to link duties’ direction to anything intrinsically morally important about their recipients.

This fails to dispel my puzzle about respect. The problem, as ever, lies with non-individually justified rights and duties, but first I explain why promising is an interestingly unhelpful example. Promissory duties, while not strongly individually justified, are nonetheless justified by important features of the promisor and promisee considered independently of wider society. Raz mentions the promisor’s interest in control conferred by promising and the promisee’s interest in the opportunity the promise provides, plus the authority comprised by her waiver-power (2012).\footnote{On the authority of the promisee, see Owens (2006). It is not clear that the relevant interests are present in every case of promising. But when they are not – e.g. when the promisee has no interest whatsoever in the enhanced control conferred by a promise (consider Raz’s Abby case (2012, pp. 18-19)) – then the promise does not seem binding.} Whether or not this is correct in detail, it seems plausible that together some important features of promisor and promisee are sufficient to ground the promissory duty independently of whether it serves anyone else. Thus promissory duties are, in one of my senses, individually justified by something about the promisee. This explains why violating disrespects promisees: it fails to respond to important features of the promisee that play a key role in grounding the promissory duty.
This is true even though the role-wants which make promissory duties owed to the promisee seem up to us. Undirected ‘promissory’ duties would be duties to do something φ in relation to someone P (see Wenar’s condition 1), created by the duty-bearer through addressing P, and over which P had waiver power; but we would not regard P qua addressee-who-has-not-waived as thereby wanting the duty’s fulfilment. Such undirected ‘promising’ appears conceivable, but it is not a real possibility. Because the justifying ground for promissory duties is, in central part, the interests (or some other important feature) of the addressee P, it is hard to maintain that nonetheless qua addressee P does not want the duty fulfilled. Individualistically justified rights unavoidably generate the kind- or role-wants that make them satisfy Wenar’s theory.17 This is why Raz’s account generates no ‘false positives’ (duties erroneously deemed directed), but only ‘false negatives’ (duties wrongly excluded from qualifying as directed).

My puzzle remains regarding non-individualistically justified rights and duties. I find it quite compelling to think that disrespecting a being must involve failure to respond to something of non-instrumental moral importance that is genuinely about that being, not about the common good or something else. If a certain system of directed duties (e.g. property) is valuable on common good grounds, and if these non-individualistic grounds are sufficient to generate the type of roles that make the system’s duties genuinely directed, we are still left with the question why violating such a duty to you, one that is only owed to you because of considerations that are not to do with you, is disrespectful to you.

V. ATTEMPTED SOLUTIONS

I discuss five attempts to explain why, despite the failure of Raz’s theory and the success of Wenar’s, thesis (1) is correct: violation of a duty owed to some being is always disrespectful to that being.

(i). Perhaps a person is in a sense no more than their roles and kinds. So of course it disrespect them to violate a duty they want fulfilled given their role or kind. I doubt this approach’s grounding claim: my well-being and desires are central to who I am, but they need not coincide with my role- and kind-based wants. The roles driving our problem are conferred on a person independently of anything of moral significance about them in particular, but rather because so doing serves other values. Conceiving matters this way already undermines the thesis that the individual is essentially constituted by their roles and kinds.

(ii). A second approach claims it disrespectful to violate directed duties, however they are justified, because recipients legitimately expect them fulfilled. But in nasty situations people might have no expectation that moral duties owed to them will

17 Wenar’s example of a mechanic who has ordered an engine that he would be better off without does not undermine this picture of promising (2013, p. 204). The mechanic has some interests served by the promise (e.g. in the opportunity it provides); the promissory duty does not serve his interests on balance, but it serves interests sufficient – in conjunction with the interests of the promisor – to justify it. Or if it does not, then no promissory duty exists (see n. 17 above).
be fulfilled, so we have no explanation for thesis (1) (that violating a duty to someone always disrespects that person) in such cases. This approach also struggles with (2)* (that disrespect to a person always involves infringing a duty to them). For people can form legitimate expectations regarding undirected duties and duties owed to others. I legitimately expect my neighbour to care for his elderly parents independently of whether his duty is owed to me.

(iii). A third approach appeals to rights’ demandability. The reason violating a duty to someone disrespects that person is because it involves failing to do something that that person can demand. However, I can permissibly demand that you respect someone else’s rights. The rights of which this is true are limited. I cannot permissibly demand that my neighbour provide the full level of care he owes his parents. But I can permissibly demand that he provide them a minimal level. Yet I hold no right that he provide this. Being permitted to demand fulfilment of a duty is not distinctive of those to whom the duty is owed. Thus even if this approach could explain thesis (1), it would not also explain (2)*. Like approach (ii) above, it would imply – implausibly – that when my neighbour does not care for his parents, he disrespects me as well as them.\(^1\)

In addition, the demandability approach faces problems explaining thesis (1). In my view someone who holds a right that correlates with a directed duty can, ceteris paribus, permissibly demand its fulfilment; this demandability, along with the enforceability in Wenar’s clause 3, captures an important aspect of the character of rights. But not every directed duty is necessarily demandable by its recipient: those that do not correlate with rights are not. My neighbour’s parents are owed not just a minimal but a full level of care from their son. But they have no right to this, because they cannot permissibly demand it (not even ceteris paribus) but can only demand a minimal level. Disrespect goes along with directed duty not demandability: it is disrespectful not to provide the full level of care even though the parents to whom this is owed cannot permissibly demand it.

(iv). A fourth approach questions my account of respect. I have taken an action to be disrespectful of a being because it fails to respond to the importance of some feature of that being. A Kantian might offer a non-teleological account that avoids my puzzle. I cannot do justice to the options here, but I will record my view that a broadly teleological account of disrespect, in which features of the being who is disrespected play an important role in the explanation of why a given case involves disrespect to that being, strikes me as compelling. Kantian alternatives which explain why an action manifests disrespect by focusing on the universalizability of the maxim on which the agent acts, or on the character of the agent as self-governing, seem to give the subject of disrespect insufficient place in the explanation. For these reasons I will not here pursue a Kantian solution to my puzzle about thesis (1).

\(^1\) One could argue that rights and directed duties permit a special form of demand on the part of the right-holder, and this is an approach that several theorists have tried to work out (Feinberg 1970, Darwall 2012, Harel & Eylon ms.). But my second problem remains.
I recognise this is too schematic and question-begging to persuade Kantians; we can make a slightly more confident dismissal of their approach if we endorse (2)*. Kantian accounts struggle to explain why violating duties owed to you is disrespectful of you while violating undirected duties or duties owed to others is not. Appeal to the distinction between acting on maxims contradictory in conception and those contradictory in will does not help. Given that both forms of action can affect others significantly (consider both the false promiser and the person who ignores others’ need), why does only one of these forms of contradiction necessarily manifest disrespect to the people affected?19 Similarly, a Kantian approach based on the idea that respecting someone involves acting on reasons that person can share or principles they can endorse struggles with (2)*, for such reasons or principles reject violation of both directed and undirected duty.20

(v). Finally consider a piecemeal approach. This looks at the range of directed duties and finds, for different classes, different accounts of why their violation disrespects those to whom they are owed.21

First, I have argued that Raz’s account, which accommodates thesis (1), is correct for basic human rights; it is also correct for directed duties that have a similarly ‘basic’ character but are not rights because they are unenforceable, such as duties of fidelity to one’s partner.

We could add a second type of directed duty for which an explanation of (1) seems available: a duty, owed to P, to allow P to do her duty. Consider Mary’s duty not to obstruct a police officer apprehending a suspect. Wenar’s theory makes this directed because police officers qua police officers want to apprehend suspects. For such cases, we have a good explanation of thesis (1)’s link between a duty’s direction and respect. Violating a duty to allow P to do their morally justified duty offends against P’s standing interest in behaving morally. Stopping someone doing what they morally should is disrespectful whether or not the ‘should’ is grounded by this interest in being moral.

A bold third move would incorporate all directed duties that the Will Theory of rights endorses by maintaining that it is disrespectful, to a given being, to violate a duty over which that being has powers of waiver or enforcement. This does not

19 For a version of the perfect/imperfect-duty distinction that comes close to answering this question, see Hope (2013). Note that I doubt the conception/will distinction is my distinction between directed and undirected duties (and I am not claiming that Kantians must think this). One problem is to accommodate my duty not to assault you within the ‘contradictory in conception’ branch, which is the one I take to be ‘directed’. I surely can conceive a world of universalized assault (see Herman (1993)). Consider also the apparent universalizability in conception of a maxim never to apologise; yet apology is surely a directed duty.
20 Hill suggests that respecting others ‘means to restrict one’s personal acts and policies to those compatible with whatever general principles everyone would accept if “legislating” from the moral perspective’ (2000, p. 100). Even if we accept, contra (2)*, that all duty violations in a sense disrespect everyone, the account under consideration will still leave it unclear why attacking you involves a special disrespect directed to you over and above the disrespect – shown to everyone – in your acting on a principle that we cannot endorse.
21 Compare the similar approach in May 2012, driven there not by intuitions about respect but by the view that rights must be ‘for the sake of’ the right-holder.
endorse the Will Theory as an account of directedness. It holds that violation of a duty that is directed under Wenar’s account, and over which the recipient also has powers of waiver or enforcement, disrespects its recipient precisely because it violates something over which the recipient has powers. Is this plausible? Maybe if you have power to waive a duty, then violating that duty when it has not been waived involves failure to respect your will: the duty’s continued existence in some sense embodies your will. But only ‘in some sense’. You might have failed to waive it through forgetfulness or because you did not care (see Kramer 2013). If your power over the duty, or its existence, is justified independently of your own interests or will, then the sense in which violating the duty disrespects you is loose. Parents have powers of waiver or enforcement over their children’s duties to do homework. But it is bad parenting to say that when children fail to do the work they thereby disrespect their parents. This case does not involve a directed duty in Wenar’s sense (for the children’s duty is not to do something ‘to’ parents – see clause 1 in Wenar’s account above), but it meets the conditions for disrespect in the sense we would expect if the account here was correct. I am therefore doubtful of the Will Theory move.

VI. A UNIFYING META-RIGHT

We should stop seeking partial accounts to feed the piecemeal approach. It is problematic precisely for its piecemeal nature. While some violations of directed duty involve aspects of disrespect (e.g. unequal treatment) that others lack, there is a constant form of disrespect, that of wrongdoing someone, accompanying any such violation. The piecemeal approach cannot explain this.

What can is that every morally justified duty a person happens to be owed is protected by a meta-duty to respect that duty, and this meta-duty is individualistically justified. Ignoring complications about enforceability, we can say each person holds an individualistically justified right to respect for whatever morally justified rights they hold, however the latter are justified. A duty to fulfil a duty (or right to respect for a right) might sound odd, but consider my promise that I will look after my children, or your oath to do your duty in battle for your country. The thesis is that for any justified duty directed to you, your interest in its being respected, because it is a justified duty owed to you, is sufficient on its own to ground a meta-level directed duty to respect this duty.

This gets us a link between violation of any justified duty owed to someone and disrespect for that being. It also captures the phenomenology of rights- and duty-violation: your graffiti feels like an affront to me because if my right over the barn is morally justified, then even though its justification is independent of my interests, I have an important interest in respect for whatever morally justified rights I hold.

The homework example reveals the Will Theory to generate ‘false positives’ as well as ‘false negatives’, unlike Raz’s theory. A further explanation that might seem useful for the piecemeal approach is what May calls the ‘ancestor’ approach (2012, pp. 126-8). But I am not convinced that this approach offers anything beyond a restatement of Raz’s own theory.
But this raises more questions than it answers. First, what exactly is the interest in having one’s morally justified rights respected – an interest in recognition, or something analogous to the interest in doing one’s moral duty seen from a ‘recipient’ perspective? Secondly, if we accept that the grounds for a duty to me (e.g. your duty not to use my gnomes) have nothing to do with me, why are such duties included within the moral status protected by my individualistically justified meta-right? This is my puzzle about (1) recast: why are all duties owed to me protected by individualistically meta-level duties? Why do I have a significant interest at stake in fulfilment of duties not justified by my interests?  

VII. RADICAL CONCLUSIONS?

We might be tempted by a radical conclusion when we note – contra §IV – that it is unclear directedness is necessary to serve the common good, education or other non-individualistic ends grounding such practice-based rights as property, the rights of scientific researchers, or teachers’ rights to timely essay submission. This opens the possibility of revising our practices, purging them of directedness whenever they conflict with thesis (1), without thereby losing anything of moral importance.

For property, the proposal would be to adopt a system in which trespassory duties persist as at present, and control over these duties (e.g. Hohfeldian powers to allow others to use a field) is distributed as at present, including powers to alter such control by giving it away etc. But those with the control, named on the relevant legal deeds, are not conceived as wanting, in their role as possessors of such control and bearers of such deeds, that the trespassory duties be fulfilled. Of course, most people in such roles will actually want fulfilment. But qua person named on the deeds to X, with control over the duties not to trespass on X, I will not – within this system – want the duties fulfilled. My role-based relationship to their fulfilment will be the same as that of a third party. Wenar’s account tells us that trespassing on X will therefore not wrong me, but will be undirected wrongdoing.

In this system, people can use what they control to pursue their own interests within the constraints of the trespassory norms. Such a system would supply the benefits of a free market – distributing goods efficiently despite humans’ non-altruistic motivations and epistemic limitations – that Hayek, Hume and Smith highlight. It would be a free market property system without property rights. We could then deny that violations of Whiteacre specifically disrespect me with my deeds to Whiteacre. Such violations are wrongdoings offending against the whole system and its common good justification without specifically disrespecting me.

23 This section could be restated in terms other than interests.
24 We could add that I, qua person named on the deed, have not just powers to control the duties but also powers to claim their fulfilment. This would seemingly give me the ‘rights’ Feinberg denies citizens of Nowheresville (1970). But Wenar’s account tells us it would not give me real rights correlating with directed duties, if I did not have the relevant role-want. After all, third parties can have powers to demand or claim that others’ rights be fulfilled – see §V(iii).
Adopting such systems, thereby rejecting non-individualistically justified rights as not genuine rights, allows us to endorse thesis (1) without requiring us to explain why violating your rights disrespects you even when these rights are not morally grounded in anything to do with you. The non-rights property system wears its moral grounds on its face as if it were, or at least avoids the misleading appearance of individualistic grounds.25

Yet a non-rights property system seems unlikely to persist. Let us call bearers of relevant deeds within the non-rights property system ‘controllers’ of goods. There would be pressure to conceive control as ownership and hence as involving the role-wants that make trespassory duties correlate with rights. The pressure differs from that on attempted systems of undirected promising or undirected duties of natural law (e.g. duties not to torture you that are not owed to you). Because the interests or other fundamental features of the individual for whom these duties require us to do things (keep our promise, not kill or torture them) play a major role in grounding these duties, it is impossible not to see them as owed to that individual. The pressure to conceive control as ownership is weaker, springing from the fact that most controllers of a given X will benefit from others fulfilling their duties not to trespass on X. So even though trespassory duties are justified by the common good, violating them typically sets back the relevant controller’s interests. This makes it hard to resist seeing the controller role as involving a desire, qua controller, that the relevant duties be fulfilled – and once we get this, we have ownership and rights.

The slide is resistible: we can deny that beings in a role will qua role-bearers want something which most beings in the role happen actually to want. Perhaps most cinema ushers want to watch the film, but it does not follow that they want this qua usher. But we can resist this in the usher case because the role is defined by a duty of office: to show cinema-goers to their seats. Non-rights controllership is not like this. It is defined by certain powers and one’s name’s appearance on a deed. Unlike the concept ‘usher’, there is little to stabilise people’s use of ‘controller’ in a way that would prevent it gaining role-wants that convert it to ‘owner’.

Thus my radical conclusion is unavailable. Perhaps this should reconcile us to the status quo in which property and other non-individualistically justified systems of duties involve rights. Generalizing from property, we could conjecture that all violations of directed duty place the recipient in a position that would typically be a set-back. This is to claim that anything fulfilling Wenar’s account of directedness also fulfils Kramer’s. The latter maintains that a duty is owed to anyone whose situation would, by the duty’s fulfilment, necessarily be affected in a way that is typically beneficial for a being of the relevant type (Kramer 1998 and 2010). We could add, thereby saving thesis (1), that placing someone in a position that would typically be a set-back is always disrespectful.

25 It might be claimed that the system misses the value in making rectificatory duties owed to specific owners. But there could be undirected rectificatory duties: the person named on the ‘deed’ to Blackacre could be tasked with hearing your apology-for-treading-on-Blackacre without themselves being owed this duty. It is unclear what value making the duty directed would add.
But first, it is doubtful that we can generalize from the case of property: for some morally justified directed duties, violation is not typically a set-back to their recipients. If I obstruct my bin each week so the council’s waste collectors have to leave it, I make their life a little easier. But I still owe them a duty to let them do their job. Wenar’s theory tells us this is because waste collectors qua waste collectors want to collect bins. This is true even though people occupying this role do not typically benefit from being able to collect more bins.

Secondly even if, pace the previous paragraph, every directed duty fulfilled Kramer’s theory, we would still face my puzzle about (1). Even if property typically serves its holders’ interests, such rights are still justified by the common good. Why does violating them disrespect the holder whose interests are at stake but are not their ground? Many other set-backs to a being’s interests do not count as disrespect to that being (consider out-competing someone in the market). So the fact that fulfilling duties owed to someone typically serve that being’s interests cannot explain (1).

Thus neither the radical conclusion nor the status quo is sustainable. An alternative radical conclusion rejects (1). Such an approach reserves disrespect for violation of rights and directed duties that are individualistically justified. Violating my trivial property rights or rights to child benefit payments will not be disrespectful to me. But this jars, both with the intuitions driving (1), and with the meta-right sketched in §VI.

The option for which I have not found good explanation is the non-radical one of maintaining thesis (1), keeping current practices of directedness with their non-individualistic groundings, and keeping Wenar’s plausible account of directedness. Each of these commitments chimes with ordinary usage, but I have not resolved the tension between them.  

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26 Many thanks to Simon Hope and Leif Wenar for discussion.
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