

THE CORRELATIVITY OF RIGHTS AND DUTIES

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Some writers have held that a being can have rights only if it can have duties. Only moral agents can have duties, and the only moral agents are some, though not all, human beings.¹ Thus these writers would not say of an idiot, an infant, a human fetus or an animal that it is something that is the possessor of rights. Usually, however, they do not mean to imply that moral agents do not have duties to these beings that are lacking in rights. That is, they do not accept the correlativity principle—that whenever there is a duty there is a right, and whenever there is a right there is a duty. In contrast, I deny that moral agency is a necessary condition for the possession of rights, and I accept the validity of the correlativity principle. Since I believe that moral agents owe duties to beings who are not moral agents, I count these latter among the holders of rights.

An important distinction that needs to be made is the distinction between general rights and duties and the rights and duties that individuals have in particular situations. First, consider the difference between making a claim and having a claim. Making a claim is something one does, and when one makes a claim he knows that he is making it. But having a claim is something one has, and a person may have a claim without knowing he has it. Also, while a person may make a claim to anything under the sun, if a person has a claim to something, there are some, though perhaps insufficient, grounds for saying that he should have it. I shall say that a claim a person makes is either invalid, valid, or justified. The claim is invalid if there are no grounds for the claim, valid if there are some grounds for it, and justified if it should go through. Note that in the use of "valid," some claims are more valid than others. Observe also that although some claims that people make are invalid, claims that people have are always valid in the sense that if they were to make these claims the claims would always have some validity, although they would not necessarily be justified. Finally, I shall distinguish a ground of claim from a claim. Having a claim entails some degree of probability that some agent may be called on to consider the weight that is to be given to the claim, but a ground of claim does not. The last man on earth would have no claims, but he would have any number of grounds of claim. Because rights are to be identified with claims rather than grounds of claim, every right has a duty correlated with it.

The distinction between general rights and duties and the right and duties that individuals have in particular situations can now be specified. An individual has a right to something *x* if occasions may arise such that if the individual were to make a claim, or have a claim made on his behalf, on

some moral agent or agents to *x*, there would be some, though perhaps insufficient, grounds for saying the the moral agent(s) should either bring *x* about or do nothing to prevent *x* from coming about. Since a general right may not be a sufficient condition for making a justified claim, a general right may be properly overridden on any particular occasion when it is not a sufficient ground. If, however, the general right constitutes a sufficient ground for making a justified claim that it is the duty of some moral agent(s) either to bring *x* about or do nothing to prevent *x* from coming about, then the general right will establish the particular right that the individual has on that occasion that the behavior of the moral agent(s) be regulated in the proper manner. Strictly speaking, it is an individual's particular rights that are violated, and they are violated on every occasion in which they are overridden.

Every moral agent has the right to do his duty. Here "right" refers to the general right (which is absolute), and duty refers to any particular duty that the moral agent is called on to perform. Some writers explicitly deny that we always have the right to do our duty. Thus I quote from S. I. Benn.

So while a man restraining another man from torturing an animal could claim a right to do so only if the man had consented in advance to be restrained in particular, he could properly rely on a general duty to prevent unnecessary cruelty, to override the obligation he owes the man not to interfere with his freedom.²

Benn has misidentified the owner of the particular rights. In morality, if not in law, it is the animal, not his tormentor, whose rights are being violated on this particular occasion. The man, if he is the owner of the animal, has the general right to treat the animal in ways of his choosing, but that right is properly overridden in the present instance by the more pressing claim of the animal. Since the man is not exercising a nonexistent right to torture the animal, none of his particular rights are being violated by the other man. The man who interferes has a right as well as a duty to interfere, and his right would be violated by any other person who interfered with the performance of his duty.

P having the particular duty to do *x* entails that *P* ought to do *x*. This entailment has been denied by a number of writers who think that talk about rights and duties is radically different from other moral language. Thus Joel Feinberg says: "Often we will say that a man ought to do something merely because we take it to be his duty. On the other hand, there is no absurdity in saying that he ought not to do his duty."³ Pace Feinberg, it *is* an absurdity except in unusual contexts to say to a person that he has a duty or an obligation to do *x*, but that, nevertheless, it would be wrong for him to do *x*. Failure to see that this is so may result from confusing general duties

with the duties that persons have on particular occasions. Consider an example. While at work, *P* will normally have the duties that go along with his or her job, but if a fellow worker has suffered a heart attack and *P* is the only one around to drive the victim to the hospital, *P* does not have any of these normal duties. They are cancelled by the circumstances.

Whether there are any philosophers who believe that there are rights without duties is open to question, but it is clear that there are quite a few philosophers who believe that there are duties without rights. They are willing to say that we owe duties to animals and children and to people in distress on occasions when we can help them, but they are unwilling to say that passive rights exist or that animals and children have rights. Some writers, however, admit that these rights exist, but still maintain that there are duties without correlative rights. Feinberg, for instance, distinguishes two kinds of duty—duties based on rights and general moral duties.⁴ Charitable giving, the duty to obey the law when no specific persons can claim our obedience as their due, and the duty to preserve animal species are all given as examples of general moral duties. Feinberg's main point seems to be that rights do not correlate with these duties because there are no specific sentient beings who can demand the performance of these duties as their rights. I argue that the difficulty can be overcome if narrow concepts of rights holders and entities that can have duties are avoided.

The easiest of these to discuss is a person's duty to obey the law. In all situations in which it is a person's duty to obey the law, obedience is owed to the government; and the government is one of the rights holders, who ever else is a rights holder. Although governments are not sentient creatures, there is nothing out of the way in regarding governments as rights holders. Certainly, governments have duties to perform, and every entity that has a duty to perform has at least the right to do its duty. In fact, although it is not in line with his general thesis, Feinberg admits that both corporations and governments have rights and duties.

Charitable giving in its purest sense entails that the people who receive the charity do not receive it by right, but the reverse side of the coin is that the act of charitable giving lacks the aspect of moral coercion that is characteristic of duties. I agree, however, that a rich man may sometimes have a duty to help the poor, and this opens up the objection that there is no particular poor person who can claim the rich man's help as his right. Two contrasting cases need to be considered. (1) The well-to-do have enough riches between them to feed all of the starving persons if each member of the well-to-do does what it is his duty to do. Here it seems reasonable to say that every starving person has a particular right, or justified claim, to be fed, and this despite the fact that it may be impossible to single out any particular rich man who should help him. If it be asked what entity it is that has the correlated duty, the answer is that it is the community of the well-

to-do. The community of the well-to-do is not a sentient being, but this is not to say that it cannot have duties or that poor people cannot make claims against it. As far as the individual members of the wealthy class are concerned, they owe duties to the other members of the wealthy class as well as to the starving individuals to contribute what they can to the alleviation of the present misery. (2) The combined riches of the well-to-do is not enough to feed every starving person even if every wealthy person does everything that it is his duty to do. Here it would be incorrect to say that every starving person has a particular right to be fed. Without additional information, all that can be said is that every starving person has the right that his valid claim be carefully and impartially considered, and that this is a claim that is addressed to the community of the well-to-do.

Finally, I will comment briefly on the moral duty to preserve animal species. I quote a few lines from Feinberg.

There is one human duty toward animals that is not derived from any right of animals (or anyone else for that matter) against us, and yet honoring that duty may be more important, morally speaking, than respecting animal rights. I refer to the duty to preserve whole species from extinction—certainly a more important matter morally than preserving the life of any single animal. Yet a species, unlike an individual animal, is not the kind of entity of which it even makes sense to say that it can have rights.⁵

Feinberg probably thinks that species cannot have rights because they are not sentient creatures. But sentience, no more than moral agency, is a necessary condition for the ascription of rights. Either of these is sufficient, but neither is necessary. My own view is that moral language (including talk about rights) is meaningful whenever we are talking about things that have their own good, that is, a good that is not entirely dependent on what they are good for. Since animal species have their own needs, they qualify under this principle. And if one looks at what goes on in nature, it is hard to escape the conclusion that claims made on behalf of animal species, including the human species, are more important than claims made on behalf of animals.

NOTES

1. Perhaps it is also reasonable to regard human organizations as moral agents.
2. S. I. Benn, "Rights," in *The Encyclopedia of Philosophy* (New York: Macmillan, 1967), vol. 7, p. 198.
3. Joel Feinberg, "Supererogation and Rules," in *Ethics*, ed. Judith J. Thomson and Gerald Dworkin (New York: Harper and Row, 1968), p. 395.

4. Feinberg, "Human Duties and Animal Rights," in *On the Fifth Day: Animal Rights and Human Ethics*, eds. Richard W. Morris and Michael W. Fox (Washington, D.C.: Acropolis Books, 1978), p. 46.

5. *Ibid.*, p. 67.