

subscriptions the British Medical Association (BMA) brushed aside any suggestion of such a scheme. This revelation undoubtedly uncovers the BMA's true reason for supporting a 'no-fault' scheme – more money for its members. The simple answer to the current debate seems to have escaped everyone. Those doctors operating in the market place should pass on the cost of malpractice insurance to their customers, but for those employed in the NHS, the employer should accept the tort as his own just as he does for nurses, physiotherapists and laboratory workers.

Lord Scarman has reviewed the impact on medical ethics of two separate court cases.

The Sidaway case demonstrated that the patient, save in exceptional circumstances, has a right in English law to know the material risks as well as the anticipated benefits of the treatment proposed. The Gillick case established the right of a minor, if of sufficient understanding, to give valid consent to treatment without the need to consult the parent.

And so to sex. Wendy Savage thinks that women are undervalued, under-represented, under-employed and under-promoted in medicine. Well, she would, wouldn't she? What I found surprising was the awe and reverence in which she holds the medical establishment – the teaching hospitals and Royal Colleges. Granted, they are the bastions of the pompous old buffers, but who wants to join them? Everyone knows that real medicine is practised at the periphery, and women are welcome there.

Robert Winston gives a clear account of *in vitro* fertilisation which helps to explain why there was so much opposition to Enoch Powell's Bill: the argument here all depends on the view one takes on the status of the newly fertilised ovum. As Mr Winston says, 'Either an embryo is an unborn child and therefore sacrosanct in all situations, or it isn't'. If you take the former view the chapter is superfluous. If you take the latter, there is no argument and the Warnock Committee's embryo of 14 days with a primitive streak is as arbitrary as the medieval 'quickening'.

Anthony Kenny tries to support the Warnock position by arguing that the pre-14 day embryo is not an actual identifiable human individual because part of its substance will form the (disposable) placenta and it might yet divide to form monozygotic twins. This argument seems to me as specious as to

argue that I am not an individual human being because part of my substance will become my (disposable) nails and hair. Perhaps I misrepresent him, he was difficult to follow in places. . . .

Finally, Ian Kennedy on confidentiality, competence and malpractice covers the Gillick, Savage and medical defence issues all over again. He stresses that not all teenage girls are competent to decide to have under-age sex, that formal inquiries are no way to settle personality difficulties, and that doctors are crying wolf over the high cost of malpractice insurance – after all, practising lawyers and perhaps even academic lawyers like Professor Kennedy have to pay far more.

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## **Rights, Restitution and Risk: Essays in Moral Theory**

Judith Jarvis Thomson, 269 pages, Cambridge, Massachusetts and London, £8.50, pbk, Harvard University Press, 1986.

This is an extremely rewarding collection of articles on moral philosophy. Only the first two articles, on abortion, the first of which is already widely known, are directly concerned with medical ethics, most of the others being in the field of philosophy of law; but there is much to be learned from the author's general approach, in particular her approach to the analysis of rights. Accordingly, rather than even pretending to try to summarise thirteen complex articles that range through abortion, self-defence, killing and letting die, privacy, preferential hiring, liability, and rights in general, among other topics, I will concentrate on what her account of rights has to offer medical ethics.

Ms Thomson's work does not so far deal with the justification of talking about moral rights, which in these articles she assumes, nor does she deal with the analysis of the concept of a right. Rather, she is concerned with the analysis of such notions as the 'right to life', and to argue that these are really 'bundles' or 'clusters' of more precisely defined rights, so that our entitlements from and duties to each other are more specific, and above all more complex, than the use of terms such as 'the right to life' or 'the right to freedom' would

suggest. Moreover, the way to discover the exact nature of these rights and duties is to consider a large number of situations, including ones which cannot in fact arise in practice, and ask what the rights of the parties involved would be.

For example, in *A defence of abortion*, she considers the question whether there is an absolute right to life held by all persons under all circumstances (for the purposes of argument, she grants that a fetus is a person). To test this, she considers the (impossible) case of a famous violinist with a kidney disease, whose friends kidnap a healthy person, into whom they plug the violinist's circulatory system, in order that for the nine months while the illness lasts the kidneys of the healthy person will do duty for both and thereby keep the violinist alive. She argues that in such a case the violinist's right to life, and by extension to what is necessary to sustain life, does not extend to a right to use another person's body for this purpose, and therefore, although it would be generous to remain plugged into the violinist, it would not be unjust, or a violation of his rights, to refuse to do so – still less would it be murder.

Much has been written about whether this would or would not be a violation of rights, and also about whether the analogy holds at all – suppose, one writer suggests, that the person in question is the violinist's mother! There is no question that here and elsewhere Ms Thomson's work has proved extremely thought-provoking both for those who agree and for those who disagree. But perhaps more important is that it marks a very significant advance in the development of moral theory. This is the recognition of the complexity of questions about moral rights, so that, even if we agree that there is a right to life of some kind, we have to go on to ask what precisely are the claims that we may legitimately make on each other's resources, time, expertise or even actual bodies in order to remain alive, and in what ways these claims differ in different situations. We have a long way to go before we have more than provisional answers to these questions, and indeed before we have found a method for fully adequately tackling them; but a collection such as this one takes the vital step of opening up this area of moral theory to investigation and the further step of demonstrating one way in which the investigation can be launched.

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*Department of Philosophy  
University of Manchester*

# Rights Restitution And Risk Essays In Moral Theory

**Leslye Denisse Dias Duran**



## **Rights Restitution And Risk Essays In Moral Theory:**

Rights, Restitution, and Risk Judith Jarvis Thomson, 1986 Moral theory should be simple the moral theorist attends to ordinary human action to explain what makes some acts right and others wrong and we need no microscope to observe a human act Yet no moral theory that is simple captures all of the morally relevant facts In a set of vivid examples stories and cases Judith Thomson shows just how wide an array of moral considerations bears on all but the simplest of problems She is a philosophical analyst of the highest caliber who can tease a multitude of implications out of the story of a mere bit of eavesdropping She is also a master teller of tales which have a philosophical bite Beyond these pleasures however she brings new depth of understanding to some of the most pressing moral issues of the moment notably abortion Thomson's essays determinedly confront the most difficult questions What is it to have a moral right to life or any other right What is the relation between the infringement of such rights and restitution How is rights theory to deal with the imposition of risk

*Rights, Restitution, and Risk* Judith Jarvis Thomson, 1986 Moral theory should be simple the moral theorist attends to ordinary human action to explain what makes some acts right and others wrong and we need no microscope to observe a human act Yet no moral theory that is simple captures all of the morally relevant facts In a set of vivid examples stories and cases Judith Thomson shows just how wide an array of moral considerations bears on all but the simplest of problems She is a philosophical analyst of the highest caliber who can tease a multitude of implications out of the story of a mere bit of eavesdropping She is also a master teller of tales which have a philosophical bite Beyond these pleasures however she brings new depth of understanding to some of the most pressing moral issues of the moment notably abortion Thomson's essays determinedly confront the most difficult questions What is it to have a moral right to life or any other right What is the relation between the infringement of such rights and restitution How is rights theory to deal with the imposition of risk

**Works Righteousness** Anna L. Peterson, 2020-10-19 In *Works Righteousness* Anna L Peterson examines the place of practice in contemporary ethical theory Peterson argues that rather than assuming that pre established moral ideas guide action ethicists should acknowledge and explore the relationship between ideas actions and results Both an analysis of alternative models in which practice plays a stronger role and an argument for taking practice more seriously in broad questions of ethics as well as in concrete case studies *Works Righteousness* contends that what we do generates and alters our values just as often as expressed values motivate or guide the ways we act Peterson here challenges prevailing philosophical and religious theories that ideas are what truly matter underlining the value of attention to people's concrete experiences and highlighting the relevance of theoretical insights to contemporary social issues such as climate change euthanasia and hate speech Through examinations of pragmatism Marxism and religious pacifism all of which significantly highlight a practice focused approach *Works Righteousness* addresses the way social structures condition moral ideas and actions the dangers of thinking about moral problems as polarized dilemmas and the complex mutual shaping of ideas and

actions      **Goodness and Advice:** Judith Jarvis Thomson, 2003-01-26 How should we live What do we owe to other people In Goodness and Advice the eminent philosopher Judith Jarvis Thomson explores how we should go about answering such fundamental questions In doing so she makes major advances in moral philosophy pointing to some deep problems for influential moral theories and describing the structure of a new and much more promising theory Thomson begins by lamenting the prevalence of the idea that there is an unbridgeable gap between fact and value that to say something is good for example is not to state a fact but to do something more like expressing an attitude or feeling She sets out to challenge this view first by assessing the apparently powerful claims of Consequentialism Thomson makes the striking argument that this familiar theory must ultimately fail because its basic requirement that people should act to bring about the most good is meaningless It rests on an incoherent conception of goodness and supplies not mistaken advice but no advice at all Thomson then outlines the theory that she thinks we should opt for instead This theory says that no acts are simply good an act can at most be good in one or another way as for example good for Smith or for Jones What we ought to do is most importantly to avoid injustice and whether an act is unjust is a function both of the rights of those affected including the agent and of how good or bad the act is for them The book which originated in the Tanner lectures that Thomson delivered at Princeton University's Center for Human Values in 1999 includes two chapters by Thomson Goodness and Advice provocative comments by four prominent scholars Martha Nussbaum Jerome Schneewind Philip Fisher and Barbara Herrnstein Smith and replies by Thomson to those comments      *Hillel Steiner and the Anatomy of Justice* Stephen De Wijze, Matthew H. Kramer, Ian Carter, 2009-06-02 In this volume essays by an international roster of contributors evaluate the political philosophy of contemporary philosopher Hillel Steiner The study concludes with a response by Steiner himself      *Just War Theory and Civilian Casualties* Marcus Schulzke, 2017-08-10 This book addresses the inadequacies of just war theory and international law regarding civilian rights developing new principles of individual restorative justice      The Politics of Energy Steve Vanderheiden, 2013-09-13 This book brings together leading scholars on the politics of energy examining the natural resources and developing technologies that are essential to its production and the various public and private factors affecting its use along with the ecological consequences of both Section One examines the looming challenges posed by continuing dependence upon oil as a primary energy source including peak oil scenarios and the social and political consequences of resource extraction upon the developing world Section Two considers proposals to dramatically increase nuclear power production as a means to reduce carbon emissions with both the risks and potential of this nuclear option carefully weighed Although many tout renewable energy sources for their environmental benefits Section Three calls attention to several potential problems with large scale renewable energy development and the dilemmas that they have caused for would be supporters of such efforts Finally Section Four weighs the prospects for developing sustainable energy systems on the ground including conservation measures that reduce energy demand and system wide energy policy efforts

Together these essays demonstrate the importance of sound energy policy along with the numerous obstacles to developing and implementing it This book was originally published as a special issue of Environmental Politics **Facing Up to Scarcity** Barbara H. Fried,2020 Barbara H Fried presents a powerful critique of the nonconsequentialist approaches that have been dominant in recent Anglophone moral and political thought She argues that nonconsequentialist theories have disastrous consequences in the political domain and are inadequate at dealing with conflicts of individual interests in the moral domain

**Ethics and Future Generations** Rahul Kumar,2018-10-18 Existing human beings stand in a unique relationship of asymmetrical influence over future generations Our choices now can settle whether there are any human beings in the further future how many will exist what capacities and abilities they might have and what the character of the natural world they inhabit is like This volume with contributions from both new voices and prominent established figures in moral and political philosophy examines three generally underexplored themes concerning morality and our relationship to future generations First would it be morally wrong to allow humanity to go extinct Or do we have moral reasons to try and ensure that humanity continues into the indefinite future Second if humanity is to continue into the future how many people should there be And is it morally important whether they have lives that are of high quality or are just barely worth living And third how can we best make sense of the intuitive idea that by not taking action on climate change and preserving natural resources we are in some way wronging future generations This book was originally published as a special issue of the Canadian Journal of Philosophy **Climate Liberalism** Jonathan H. Adler,2023-01-31 Climate Liberalism examines the potential and limitations of classical liberal approaches to pollution control and climate change Some successful environmental strategies such as the use of catch shares for fisheries instream water rights and tradable emission permits draw heavily upon the classical liberal intellectual tradition and its emphasis on property rights and competitive markets This intellectual tradition has been less helpful to date in the development or design of climate change policies Climate Liberalism aims to help fill the gap in the academic literature examining the extent to which classical liberal principles including an emphasis on property rights decentralized authority and dynamic markets can inform the debate over climate change policies The contributors in this book approach the topic from a range of perspectives and represent multiple academic disciplines Chapters consider the role of property rights and common law legal systems in controlling pollution the extent to which competitive markets backed by legal rules encourage risk minimization and adaptation and how to identify the sorts of policy interventions that may help address climate change in ways that are consistent with liberal values **Liberalism Without Perfection** Jonathan Quong,2011 Liberalism without Perfection offers an introduction to the debate between liberal perfectionism and political liberalism This book is a new account and defence of Rawlsian political liberalism one of the most discussed but widely misunderstood and criticized theories in contemporary political theory **Rights and Private Law** Donal Nolan,Andrew Robertson,2011-12-02 In recent years a strand of thinking has developed in private law scholarship

which has come to be known as rights or rights based analysis Rights analysis seeks to develop an understanding of private law obligations that is driven primarily or exclusively by the recognition of the rights we have against each other rather than by other influences on private law such as the pursuit of community welfare goals Notions of rights are also assuming greater importance in private law in other respects Human rights instruments are having an increasing influence on private law doctrines And in the law of unjust enrichment an important debate has recently begun on the relationship between restitution of rights and restitution of value This collection is a significant contribution to debate about the role of rights in private law It includes essays by leading private law scholars addressing fundamental questions about the role of rights in private law as a whole and within particular areas of private law The collection includes contributions by advocates and critics of rights based approaches and provides a thorough and balanced analysis of the relationship between rights and private law

Rights and Christian Ethics Kieran Cronin,1992 Kieran Cronin helps philosophers and theologians to understand each other s perspectives on rights making this book a significant contribution to Christian ethics and moral philosophy

**Machine Learning in Medical Diagnosis** Leslye Denisse Dias Duran,2025-06-09 This book seeks to navigate between the optimism that has arisen from the promise of the potential of machine learning ML in healthcare and the lack of clarity about what realistic risks and benefits we can foresee Its main aim is to develop a relational rights based normative approach to evaluating the distribution of burdens and benefits of implementing ML in medical diagnosis This framework called the Ecosystem of Moral Constellations assumes that every person has an equal claim to the fundamental rights necessary to lead one s life but recognizes that there may be conflicting interests that risk violating or infringing the rights of an individual or individuals and that therefore an assessment of these tensions requires a situational prioritization of certain rights over others This framework proposes to consider the normative relevance of relationships at different points of moral engagement to assess the potential tensions between these burdens and benefits of these technologies The author argues that decisions about the implementation of AI systems require more than an assessment of technical feasibility Instead it is imperative to consider the different normative goals and interests of the actors involved the material capabilities of the tools and the role they should play in the clinical workflow

*Deterrence* Thom Brooks,2019-11-11 Deterrence is a theory which claims that punishment is justified through preventing future crimes and is one of the oldest and most powerful theories about punishment The argument that punishment ought to secure crime reduction occupies a central place in criminal justice policy and is the site for much debate Should the state deter offenders through the threat of punishment What available evidence is there about the effectiveness of deterrence Is deterrence even possible This volume brings together the leading work on deterrence from the dominant international figures in the field Deterrence is examined from various critical perspectives including its diversity relation with desert the relation of deterrence with incapacitation and prevention the role deterrence has played in debates over the death penalty and deterrence and corporate crime

Rethinking Self-Defence T Markus Funk, 2021-01-14 Self defence the ancient right has never been more relevant than in the present era of widespread calls for criminal justice reform The book substantially advances the patinaed discussion by introducing for the first time a comprehensive value centric approach to thinking about the defence s deeper rationale It tackles core issues such as the relative importance of the State s claimed monopoly on force procedural justice and the need to shore up the justice system s legitimacy and creditworthiness everyone s presumptive right to life and the importance of ensuring equal standing between citizens And in so doing the book breaks ground by addressing public perceptions of just and right outcomes as well as the emphasis legal systems place and should place on State power

**Immigration Control in a Warming World** Johannes Graf Keyserlingk, 2018-08-07 In the course of the twenty first century climate change is projected to significantly increase the already weighty immigration pressures that rich countries in Europe and North America face Estimates vary greatly from 50 to 500 million further migrants until 2050 most of them from developing countries that have contributed little to global warming Meanwhile the willingness of citizens in destination countries to let further foreigners immigrate is unlikely to keep pace with that increase In fact the concern with climate migration is a blurry intricate and pressing one that will turn out to challenge current political and philosophical frameworks It is a blurry one because it will often be impossible to tell whether or to what extent it really was the changing climate that triggered a particular migratory flow rather than say economic social or demographic factors that often interact with the climatic trigger It is an intricate one because although it appears that heavily emitting countries have a particularly strong responsibility toward climate migrants there is little doubt that in times of rising anti immigrant sentiment that moral responsibility cannot be addressed by simply calling for more open borders And it is a pressing one because this latter insight neither absolves us from our obligations toward climate migrants nor will it keep them from moving Immigration Control in a Warming World aims to address these concerns and discusses potential future solutions to the issue of climate migration That such morally appropriate solutions are hardly in sight in today s practice of international politics is a poignant realization and it serves as a starting point for this book s trenchant critique of political inaction and of some philosophical commentators more idealistic perspectives on migration in the 21st Century

**Pluralism and Law** A. Soeteman, 2013-04-17 AREND SOETEMAN In the past we lived on one earth but in many different worlds Different civilisations in regions far apart knew about one another at least from about the 16th century they competed with one another or tried to dominate the other they influenced one another but in many important aspects they were independent from one another Somewhere in the 20th century however this changed There is no far apart anymore We have lived through two European wars which developed into world wars Modern aeroplanes allow us to travel in only a couple of hours around the world Instant communication between individuals who have the whole globe in between is a reality There still exist great differences between different civilisations But they can ignore one another only at their peril They deeply influence one another Today therefore we live in one world Conflicts in the

Middle East in Rwanda and Uganda or in the former Yugoslavia have their impact all over the world Violations of human rights no matter where are increasingly considered to be the concern of all of us The whims and caprices of some dictator may influence the spending possibilities of the general public far away

**The Blackwell Guide to the Philosophy of Law and Legal Theory** Martin P. Golding, William A. Edmundson, 2008-04-15 The Blackwell Guide to the Philosophy of Law and Legal Theory is a handy guide to the state of play in contemporary philosophy of law and legal theory Comprises 23 essays critical essays on the central themes and issues of the philosophy of law today written by an international assembly of distinguished philosophers and legal theorists Each essay incorporates essential background material on the history and logic of the topic as well as advancing the arguments Represents a wide variety of perspectives on current legal theory

**Moral Principles** Maïke Albertzart, 2014-10-23 The history of moral philosophy has been dominated by attempts to find and defend the correct moral principle or set of principles However over the last two decades the assumption that morality can and should be understood in terms of principles has come under attack from several quarters The most radical attack has come from so called moral particularists according to whom principles are at best useless and at worst a hindrance to successful moral reasoning and action Why should and how can morality be based on principles These are the leading questions of this book Moral Principles offers a historically informed in depth examination of the current particularist generalist debate and presents a novel account of the place of principles in our moral thought and action



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