On Audi's Marriage of Ross and Kant

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As its title suggests, Robert Audi's *The Good in the Right*[1] defends an intuitionist moral view like W.D. Ross's in *The Right and the Good*. Ross was an intuitionist, first, in metaethics, where he held that there are self-evident moral truths that can be known by intuition. But he was also an intuitionist in the different sense used in normative ethics, since he held that there are irreducibly many such truths. Some concern the intrinsic goods, which are in turn plural, so there are prima facie duties to promote pleasure, knowledge, virtue, and just distributions. But others are deontological, requiring one apart from any consequences to keep promises, not lie, make reparations, express gratitude, and not injure others.

Audi embraces both these intuitionist views, but in each case with an important addition. Ross sometimes said that if a proposition does not need proof, it is incapable of proof, or cannot be justified inferentially. Audi argues persuasively that this is not so. A proposition that is self-evident, in the sense that understanding it justifies one in believing it, can also be derivable from other self-evident propositions in a way that increases its justification. And he exploits this possibility in his normative ethics. Whereas Ross held that his prima facie duties are underivative, Audi suggests that, while self-evident, they can also be grounded in a more abstract principle. More specifically, he argues in Chapter 4 of his book that they can be grounded in Kant's categorical imperative, which he applies primarily in its second, or formula of humanity, version. The result is to transform what Audi calls Rossian intuitionism into Kantian

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intuitionism, where specific duties about promoting pleasure and keeping promises derive from a more fundamental requirement to respect rational personhood.

I will not challenge Audi's version of metaethical intuitionism, which I think is the most subtle and persuasive yet given. Nor will I question his normative starting-point in Ross's theory of prima facie duties, which I find unimpeachable. But I will challenge his Kantian attempt to ground Ross's duties in the categorical imperative. My objections will not reflect a blanket opposition to abstract moral theorizing like that of Philip Stratton-Lake, who has said, in defence of the "naivete" of Ross's approach, that grounding the prima facie duties in some overarching principle requires us to think in a way we not only do not think, but cannot persuade ourselves we *should* think.[2] In my view this type of objection is telling against the first, or universal law, formulation of Kant's categorical imperative. As Thomas Hill has said, if we ask why slavery is wrong, the claim that a world in which everyone is a slaveowner is logically impossible is not the right answer.[3] But I do not think the objection applies so clearly to the second formulation of the categorical imperative. Claims about respect for persons, though not explicit in everyday moral thought, are close enough to it that they could in principle give it a persuasive rationale. And I will later sketch a non-Kantian theory that I think does successfully unify Ross's duties to some degree. Instead, my objection to Audi's Kantian unification will be simply that it does not succeed. Even in its best formulation, the categorical imperative does not yield the specific duties it is meant to, or does not unless supplemented by claims that assume what it is meant to explain. It is worth noting that this was Ross's own view. In his 1952 book *Kant's Ethical Theory*, he starts, as Stratton-Lake might, by expressing a general skepticism about whether there can be a "general criterion of rightness," but continues, "we must not prejudge the case. We must study

Kant's attempt on its merits, and see whether his criterion will do the work he claims it will do."[4]

His conclusion is that the attempt fails.

Audi intends his Kantian ideas to play four roles. Ross held that when two prima facie duties conflict we can sometimes say that one is stronger, but only on the basis of an immediate intuitive judgment "for which no logical basis can be offered."[5] Audi thinks the categorical imperative can explain some these comparative judgments about the strength of duties, making for a theory that in his terminology is more "normatively complete" (85), because it justifies claims that Rossian intuitionism can only assert. Ross also acknowledged that we sometimes cannot weigh conflicting duties or say that either is stronger; past a point our intuitions run out. Here Audi thinks the categorical imperative can decide some of these cases and so make Ross's theory more "epistemically complete" (86). He also finds Ross's theory inadequate because it provides no unifying ground for its disparate duties, instead treating the requirements to promote the good, keep promises, and so on as independent. Again the categorical imperative can provide that unifying ground. And in doing so it can give the individual duties a deeper rationale, so we see why, for example, it is wrong to break promises when we see that that is one way of not respecting others.

Audi starts his defence of these Kantian ideas with the issue of normative completeness, and does so by considering the familiar case where it seems right to break a promise to meet a friend for lunch if that is necessary to save someone else from serious harm. Ross said the comparative judgement in this case cannot be given a "logical basis," but Audi thinks it can be justified, first, by the first formulation of the categorical imperative, which he takes to ask whether we could *rationally* will the universalization of our maxim. Would breaking one's

promise in the case in question offend a reasonable promissee, he asks. His answer is that it would not: one's friend, if rational, would accept one's choice (91-92). He also thinks the judgement can be justified by the second formulation: keeping one's promise would fail to treat the person facing harm as an end, since it would put her in danger "for a less than weighty reason" (92).

But both these arguments invite the objection that they assume what they are meant to explain. If a reasonable friend would accept one's choice, that is only because he would see that in this case the moral duty to prevent harm is stronger than the duty to keep one's promise, which is just Ross's claim. And if the reason to keep the promise is "less weighty," it is for the same reason. Audi anticipates this objection and responds that in speaking of "reasonableness" and "weights" he is not using these terms in specifically moral but only in broader senses, so his arguments do not beg crucial questions (221n.25). But it is hard to see how this response is persuasive. Ross himself would not have accepted it, since he did not distinguish between moral and non-moral reasons. Staying close here to Kant, he held that all categorical imperatives, or all imperatives that do not refer implicitly to a person's desires, are moral imperatives. Audi seems to take the contrary view that moral reasons are a specific subset of reasons, including of categorical ones, which are perhaps arrived at by constructions over the full set of reasons, as in T.M. Scanlon's contractualism.[6] Now, I happen to share Ross's view that multiplying types of reasons adds complexity but no illumination to normative ethics. But it is not necessary to argue this point here. For we can assume that whatever other reasons might bear on our case of breaking a promise to save someone from danger are neutral about it. For example, if there are personal or prudential reasons derived from one's own well-being, they are equally balanced

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between the two options. Then what makes one option right can be only the intrinsic weights of the reasons to save the person and to keep the promise, which I assume are categorical. And how much have we gained if, instead of saying that the moral reason to save the person simply and underivatively outweighs the moral reason to keep the promise, we say this is because a non-moral reason to save the person simply and underivatively outweighs a non-moral one not to? While not strictly circular, this explanation is surely too close to what it is meant to explain.

It is equally hard to see how the Kantian ideas can help with the issue of epistemic completeness, or enable Kantian intuitionism to decide more cases of conflict between duties. How can it be any easier to make underivative judgements about the weights of non-moral reasons than to make similar judgments about moral duties? And this second problem generalizes. The second formulation of the categorical imperative yields at least two basic duties: to treat persons as ends and not to treat them just as means, where the second or negative duty is stronger. If successfully established, this priority claim can do some explanatory work, showing why specific negative duties such as not to harm, break promises, or lie, can all outweigh positive ones. But how much epistemic work can it do? Will it be easier for us decide whether the duty to keep a specific promise outweighs a specific duty to aid if we ask how much in general the duty not to treat as means outweighs the duty to treat as ends? That seems dubious. If anything, the more abstract question seems harder to answer, one we can address only by deciding specific cases of conflict between negative and positive duties.

Similar difficulties arise from an observation of Audi's that, if it has not been made before in the Kantian literature, is an acute contribution. This is that Kant's distinction between treating people as ends and treating them only as means does not exhaust the morally relevant

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possibilities. Consider an example of Audi's in which I talk loudly while you are giving a lecture (103). I am not treating you as a means, since I am not using you in any way, but I am also not just failing to treat you as an end, as I would be if I merely failed to give you some benefit. My behaviour is worse than that. Or consider a related case where I do treat you at least to some extent as an end. If to save five people from drowning I drive over a bridge where you are lying immoveable on the ground, I am again not treating you as a means. But I am treating you as an end if I weigh your interests seriously, would avoid driving over you if I could, and would not drive over you to prevent lesser harms. My attitude to you is therefore the same as to another person whom I decide not to save because saving the five is more important. But many would say that while it is right to let one drown in order to save five, it is not right but wrong to drive over one to save five. So again there is a ground of wrongness distinct from treating as a means.

As these examples show, Kant's talk of treating as a means is close to the double-effect distinction between intending harm as an end or means and merely foreseeing it, which many deontologists use in formulating their constraints. But many, including Ross, also use, either in addition or instead, the distinction between doing harm and merely allowing it, and it is this distinction that explains why talking during your lecture and driving over you are worse than merely allowing similar harms to come about. Recognizing this, Audi proposes to extend the categorical imperative to forbid actions that, while not treating others as means, nonetheless treat them with disrespect or in a way inconsistent with their dignity. The question, however, is whether our grasp of the concepts of respect and dignity is sufficiently independent of the relevant judgments to explain and help us reach them. Imagine that, as I prepare to drive over you on the bridge, you say that doing so would be wrong because it would be inconsistent with your

dignity. If I respond that my action would be perfectly consistent with your dignity, since it would treat you as an end in the same way I treat someone whom I choose not to save in order to save five, how can you reply? Do you not have to say that actively causing you harm is in itself more disrespectful than merely allowing harm to you, and is that not too close to the judgment it is supposed to yield to be genuinely explanatory? The *explanans* again assumes something too close to the *explanandum*.

There is a familiar general thesis in this area, which has recently been stated by Richard Arneson in relation to distributive justice.[7] It says that the concept of respect for persons has no independent content and therefore cannot be used to identify or justify claims about moral duty. To treat a person with respect is to act towards her in accordance with the moral principles that are best supported by reasons, so to know what respect consists in we must first know what those principles are. I have suggested that Audi's arguments about conflicts of duty tend to support this thesis, but there are other claims of his to consider.

Audi claims, plausibly, that moral views are unreasonably demanding if they require people to work constantly at promoting others' good. Consequentialism notoriously does this, as in fact does Ross's theory. Ross held that once people have fulfilled their other prima facie duties, they are required to maximize good impartially.[8] But this was a surprising view for him to take, given his general aim of formulating a theory consistent with common-sense morality. It would have fit that aim better to give people options to produce outcomes that are somewhat less than the best, because of a general agent-relative permission to count their own good somewhat more. And given the general naivete of his approach, he would have added that permission as an underived element of his overall view, so it is a brute fact, for which no deeper explanation can

be given, that people are permitted to favour their own good.

Audi, by contrast, wants to give the permission a deeper rationale, and starts by arguing that submitting to an overriding duty to maximize the good of others would involve treating oneself merely as a means, or close to it (97). But how can this be? If in response to an overseas disaster I ask Bill Gates to donate his fortune to humanitarian relief and he does, I do not treat him merely as a means, since I act only with his consent. And acting only as another consents to is normally thought sufficient for treating him as an end. But if I voluntarily contribute my own fortune to humanitarian relief, am I not implicitly consenting to do so, and does that not answer any charge of treating myself just as a means? Does consent not cancel disrespect in this case too? Audi thinks it would if contributing the fortune were merely a voluntary ideal implying no universal obligation, but not if the beneficence is a moral duty. But how can the specific content of my motive, and in particular whether I am acting as I think I ought, affect whether my act is voluntary in the way that amounts to consent? How is a free choice to do what one thinks is required any less free? And we can press this question by asking about a case involving the less demanding duty of beneficence that Audi accepts. Imagine that in Peter Singer's famous example I save a child from drowning in the pond at the cost of dirtying my suit, and do so because I think that is my duty. Audi presumably does not think I treat myself merely as a means in this case, though someone else would treat me merely as a means if he forced me to save the child regardless of my consent. But if my voluntarily fulfilling what I take to be my duty answers the charge of treating myself merely as a means in Singer's case, why not also in the case where I act on a more demanding duty to give my fortune to overseas relief? Both cases involve similarly voluntary action on what I take to be moral duty. Audi could say the difference is that in Singer's

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case I act on a duty that is reasonable while in the relief case I act on one that is unreasonably demanding. But then we would be back in the familiar situation where a Kantian idea, this time about treating oneself as means, assumes what is meant to justify.

Audi also gives a positive rationale for limiting the duty of beneficence by options, one that appeals to our dignity as persons, in particular persons with autonomy (99). But it is hard to see how Kantian dignity can yield the particular structure that underlies options. That structure, recall, is agent-relative, allowing each person to give extra weight just to his own good. He is permitted to save his own life rather than save those of five strangers, but not to save one stranger rather than five: the permission concerns only himself. But Kantian dignity is agent-neutral, possessed equally by everyone and with equal importance in everyone. And it must be agent-neutral if, as Kant insists, such dignity is unconditional and therefore not dependent on relations to anything outside the person. But how can a dignity that I possess and can possess no more than anyone else ground a permission to care more about my good than about other people's? How can a value that I possess equally with all others permit me to treat myself unequally? There seems a fundamental mismatch between the agent-neutrality of the proposed moral ground and the agent-relativity it is meant to justify.

A similar problem arises within the account of beneficence. Ross happens to have held that beneficence requires us to promote the good of all others equally. But this view is in some tension with his argument, which Audi cites several times, that impartial consequentialism ignores "the highly personal character of duty."[9] It would be more consistent with this argument, as well as with Ross's general aim of mirroring common-sense morality, to adopt the view C. D. Broad called "self-referential altruism," which gives each person a stronger duty to promote the

good of those close to him, such as his family and friends.[10] And Ross did include the relations of child to parent and friend to friend among those consequentialism objectionably ignores.[11] So let us imagine an extended Rossian theory whose duty of beneficence embraces self-referential altruism. It is again hard to see how the resulting agent-relativity could be explained on Kantian grounds. If the basis of the duty of beneficence is a dignity my child does and can possess no more than anyone else, how can my duty to promote her good be any stronger?

And there are more fundamental difficulties with a Kantian account of beneficence. In a later chapter Audi claims, as others including Ross have, that the value-properties of goodness and evil attach primarily to states of affairs. But that was surely not Kant's view. He held that the end whose value grounds the categorical imperative is not "one to be effected," as states of affairs are, but is "independent," so the fundamental value is located in persons rather than in states of affairs. Alan Donagan took this to be a central feature of Kant's ethics, and it is defended by contemporary neo-Kantians such as Elizabeth Anderson, Scanlon, and Stephen Darwall.[12] So to examine a Kantian justification of the duty of beneficence, we must imagine it starting with a fundamental value in persons. How would such a justification go?

Audi seems to think it would be straightforward. He simply asserts, as Donagan also did, that "to treat someone as an end is above all for the relevant acts toward the person ... to be motivated by a concern with the good, say the physical or psychological well-being, of the person for its own sake" (92). But how exactly does this follow? The value one is responding to, recall, is possessed equally by all persons, and equally by them in all circumstances. It is no more present when a person is happy than when he is miserable, or virtuous rather than vicious; even the worst sinner retains his fundamental dignity. And for this reason the property it is based on

must likewise be possessed equally in all circumstances. It cannot be just rationality, which some realize to a higher degree than others. It must instead be something like the property of being rational to at least some minimal degree m, which is equally present no matter how much greater than m one's exercise of rationality is. And how can a value that is unchanging, and based on a property that is likewise unchanging, make it right to favour some changes in a person rather than others, say, ones that make him happier rather than more miserable? How can a value that is independent of any states of affairs lead us to promote some states and not others?

Ross himself was baffled on this point. After noting that Kant's fundamental value was not in states of affairs but was what his translation called a "self-subsistent" end in persons, he wrote:

> The notion of self-subsistent ends is nothing but an embarrassment to Kant. When he remembers that men are (according to his use of words) self-subsistent ends, he interprets 'treating them as ends' merely as not interfering with them ... At other times, e.g. in dealing with [his third and fourth examples] he interprets 'treating men as ends' as the positive 'advancement of humanity' – a stimulating ideal, but one that would be unmeaning if humanity were a self-subsisting end. The plain fact is that in strictness man is not an end at all, and the description of him as an objective and at the same time self-subsistent end can be understood only if we take this as a way of expressing the fact that there is something which can be realized in any man and is worthy of being an object of desire to every man.[13]

In other words, if values are ultimately in states of affairs, there can be duties to promote some states rather than others. But if the fundamental value is in persons and is independent of states of

affairs, it cannot intelligibly ground a duty of beneficence.

Even apart from this difficulty, it is unclear how the Kantian value of persons could ground the full content of Ross's duty of beneficence, which, recall, concerns a plurality of intrinsic goods. How could that one value ground duties to promote states as diverse as pleasure, knowledge and virtue? To cite just one difficulty, virtue or the morally good will as Kant and Ross understand it is good independently of relations to anything outside it, so it can "sparkle like a jewel in its own right." But knowledge essentially involves a relation of correspondence between one's beliefs and reality. How can one fundamental value yield both an essentially non-relational and an essentially relational good?

But enough criticism. While I have questioned Audi's attempt to ground Ross's various duties in the categorical imperative, I have no objection to his general project of justifying self-evident moral principles in more abstract ones that deepen their justification, and believe there is a rival view that achieves this aim better. It has been principally defended by Germain Grisez, John Finnis, and Joseph Boyle, who call it "Thomist."[14] I think this label is unfortunate, for a variety of reasons; Grisez et al. also build into the view certain traditional Catholic assumptions that are not essential to it. While retaining the name "Thomist," I will separate it from those assumptions.

The Thomist view starts by holding, with consequentialists and Ross but against Kant, that intrinsic values always reside in states of affairs. It also holds, again with Ross, that there are a plurality of such goods, including pleasure, knowledge, and virtue. Grisez et al. include among the ultimate goods physical life, which they use to underwrite the traditional Catholic bans on suicide and euthanasia. But many will deny that life as such has value, and the view can easily

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abandon that claim; it can also, following a suggestion of Audi's for Ross (178-79), add freedom, or choice from a wide range of options, to the list of goods. But whatever its exact content, the Thomist starting point is a plural list of good states of affairs.

The view then claims that for each good there are two moral duties: a positive duty to promote it, and a negative one not to destroy or choose directly against it, where the negative duty is stronger than the positive. Grisez et al. echo Kant in holding that the two duties flow from a single attitude of valuing the good, with the second or negative one required because different goods are incommensurable, so the idea of maximizing overall value is incoherent. I see no special difficulty about commensurating different goods and will also drop this feature of the view; instead, I will see the duties to promote and not destroy the good as irreducibly separate. And I will take the greater strength of the negative duty to imply that destroying or choosing against a good can be wrong even though, what incommensurability would seem to preclude, its overall outcome is best.

The view then applies its two duties to each of the different goods. If pleasure is good and pain evil, there is a positive duty to promote pleasure and prevent pain but an even stronger duty not to cause pain directly, so that even if torturing one person would stop two others from being tortured, the torturing is wrong. If knowledge is good, there is a positive duty to promote knowledge in others, but an even stronger duty not to act against knowledge, as one does if one lies to or more generally intentionally deceives them, since then one's aim is false belief. And if freedom is good, there is a duty to increase others' range of options, but an even stronger duty not to reduce their options by coercing them. And so on.

This Thomist view adds several elements of unity to a Rossian deontology. First, it relates

all moral duties to intrinsic goods and evils, understood as located in states of affairs. This should be agreeable to Audi, since he too locates values in states of affairs. Second, it takes these duties to come in pairs, a positive and a negative one for each good, with the negative duty in each pair being stronger. So there is a unifying pattern across the various duties, which can be divided either by positive or negative, into two categories, or by the goods they concern, into as many pairs as there are fundamental values.

But the view has nothing like the grandiose unifying ambitions of Kant's theory; on the contrary, it leaves several irreducible pluralities. The first is between the various intrinsic goods, such as pleasure, knowledge, and virtue. They are irreducibly distinct rather than somehow unified in a single value of rational personhood. The second is between the positive duty to promote goods and the negative one not to destroy them; in my presentation these are also irreducibly distinct rather than expressing some single attitude to value. Nor does the Thomist view claim to increase the epistemic completeness of a Rossian theory. Imagine that we are trying to decide whether we may cause one innocent person pain as a means of saving other people from pain. General Thomist ideas tell us that causing the pain is not permitted just to secure a small decrease in overall pain, but beyond that they do not help. We cannot solve our problem by reflecting in the abstract about the relative strengths of positive and negative duties; we must look at particular cases of causing pain in order to prevent it and try to reach intuitive judgements about them.

But these incompletenesses do not mean the Thomist view has no point. On the contrary, it both unifies the Rossian duties to a considerable degree and illuminates aspects of them that a Kantian approach cannot. Let me mention one such aspect. I have said that a Kantian view,

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which starts from an agent-neutral value of personhood, has difficulty allowing what Broad called self-referential altruism, the view that we have stronger duties to promote the good of people close to us. The Thomist view can justify this view if it says that from each person's point of view his wife's or child's pleasure is a greater good than the similar pleasure of a stranger, yielding a stronger duty to promote it. But common sense also builds a self-referential element into its deontological constraints: while it is wrong to lie or break promises to anyone, it is especially wrong to do so to an intimate. If you lie to your wife, she can protest not only "How could you lie?" but "How could you lie to *me*?"And the Thomist view can give a unifying explanation of these two self-referentialities. If constraints are always duties not to destroy goods, they are presumably stronger when the goods are greater; thus, the duty not to cause intense pain is stronger than the duty not to cause mild pain. But then if my wife's knowledge is a greater good from my point of view, the constraint against acting against it, as I do if I lie to her, is also stronger. With a common foundation in an agent-relative value, my positive and negative duties concerning my wife are both more stringent than comparable duties to strangers.

Let me conclude. In the perhaps unfortunate manner of philosophers, I have said least about the part of Audi's *The Good in the Right* that I find most persuasive: its account of self-evident moral truths and how we know them. Instead, I have concentrated on claims I find less persuasive and that happen to be closer to my interests. As I see it, in trying to ground Ross's prima facie duties in Kant's categorical imperative, Audi is proposing a marriage between one of the greatest moral philosophers ever to write about the subject and another whose approach to normative questions is essentially hopeless. The great moral philosopher is Ross; the one with the hopeless project is Kant. And I have protested against this marriage both because Kant is not

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good enough for Ross – he brings nothing useful to the partnership – and because there is someone else, namely Aquinas, who is better. Ross's prima facie duties can indeed be given a deeper grounding, as Audi's account of self-evidence allows. But it is the more modest Thomist one rather than the grandiose fantasies found in Kant.

Notes

1. Robert Audi, *The Good in the Right: A Theory of Intuition and Intrinsic Value* (Princeton, NJ: Princeton University Press, 2004). Bracketed page references are to this book.

2. Philip Stratton-Lake, "Introduction," in Philip Stratton-Lake, ed., *Ethical Intuitionism: Re-evaluations* (Oxford: Clarendon Press, 2002), pp. 25-26.

3. Thomas E. Hill, Jr., "Kantian Normative Ethics," in David Copp, ed., *Oxford Handbook of Ethical Theory* (New York: Oxford University Press, 2006), p. 488.

4. Sir David Ross, *Kant's Ethical Theory* (Oxford: Clarendon Press, 1952), pp. 28-29.

5. W. D. Ross, *The Right and the Good* (Oxford: Clarendon Press, 1930), pp. 23, 30-32.

6. T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998).

7. Richard J. Arneson, "Luck Egalitarianism and Prioritarianism," *Ethics* 110 (2000): 339-49, p. 344.

8. Ross, *The Right and the Good*, p. 39.

9. Ross, *The Right and the Good*, pp. 19, 22.

10. C. D. Broad, "Self and Others," in David Cheney, ed., *Broad's Critical Essays in Moral Philosophy* (London: George Allen & Unwin, 1971), pp. 262-82.

11. Ross, *The Right and the Good*, p. 19.

12. Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977); Elizabeth Anderson, *Value in Ethics and Economics* (Cambridge, MA: Harvard University Press, 1993); Scanlon, *What We Owe to Each Other*; Stephen Darwall, *Welfare and Rational Care* (Princeton, NJ: Princeton University Press, 2002).

13. Ross, *Kant's Ethical Theory*, pp. 51-52.

14. See, e.g., John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).