

International Phenomenological Society

Replies to My Critics

The Limits of Morality by Shelly Kagan

Source: *Philosophy and Phenomenological Research*, Vol. 51, No. 4 (Dec., 1991), pp. 919-928

Published by: [International Phenomenological Society](#)

Stable URL: <http://www.jstor.org/stable/2108192>

Accessed: 13-08-2014 16:36 UTC

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



International Phenomenological Society is collaborating with JSTOR to digitize, preserve and extend access to *Philosophy and Phenomenological Research*.

<http://www.jstor.org>

Replies to My Critics

SHELLY KAGAN

University of Illinois at Chicago

I am grateful to Dan Brock, Frances Kamm, and Michael Slote for their thoughtful and challenging contributions to this symposium. I have in fact learned a great deal from all three of these people—not just from their present essays, but over the years—and I am glad to have this opportunity to acknowledge that debt.

I

Frances Kamm's dense remarks touch upon a large number of issues, and I regret that I lack the space to address most of them here. With considerable misgivings, I have chosen two: Kamm offers both what I take to be a general argument for a constraint against harming, and a more specific argument aimed at establishing, in particular, the moral relevance of the do/allow distinction. I will begin with the general argument.

Ordinary morality recognizes a constraint against harming, which forbids an agent to harm another person, whether in the pursuit of the agent's own personal goals, or in the promotion of the greater good overall. If there is such a constraint, protecting each of us from being harmed, then there is a sense in which each of us is "inviolable". Kamm suggests that "If we are inviolable in this way we are more important creatures than violable ones, we are creatures whose interests are more worth serving." The constraint expresses or reflects the fact that we are important or valuable creatures; if there were no such constraint this would reveal that we were less important than we take ourselves to be.

I find it difficult to get a firm grip on this idea. Admittedly, there seems to be something to it. If I can be harmed by others, and my interests sacrificed, for the sake of goals not my own, then there does seem to be a sense in which I must be less important, and my interests less "worth serving," than would be the case if I could *not* be permissibly sacrificed in this way. If I am protected by a constraint, then there is a sense in which I must be a more important type of creature.

Unfortunately for this argument, the following also seems to be true. If I as an agent must restrict my behavior, and curtail the pursuit of my goals, then there is a sense in which I must be less important, and my interests less worth serving, than would be the case if I were *not* constrained in this way. That is, if my acts were not limited by constraints, then there would be a sense in which I would be revealed to be a more important type of creature.

These two ways of being important can be combined, if I am the only creature protected by constraints. Then others cannot sacrifice *me* (I am too important for that), but I can sacrifice others (I am too important to be constrained for their sake). But if other people are as important as I am—as Kamm certainly believes—then these two thoughts are in tension. Constraints express a greater importance in one way, but a lesser importance in another.

The situation is even worse. There is a sense in which I am revealed to be more important if others must come to my aid, putting aside their own interests so as to serve my own. And there is yet another sense in which I am revealed to be more important if I need never come to the aid of others, need never put aside my own interests for the sake of goals not my own. But these two ways of being important are in tension with each other as well.

In short, I am revealed to be a more important creature insofar as others cannot sacrifice me, but I can sacrifice others, and others must aid me, but I need not aid them. Given the restriction that all people are to have the same set of liberties, protections, and so on—which set of features reveals us to be the most important sorts of creatures, the ones whose interests are most worth serving? I do not know how to answer that question.¹ In effect, the thought that we are important creatures gives out, long before convincing me that there must be a *constraint* against harming—a prohibition against harming even when this would serve a greater number of equally important creatures. Thus, despite Kamm's appeal to our importance, I think we still lack an adequate motivation for a constraint against harming.

Beyond this general argument, however, Kamm also offers a suggestion as to why, in particular, the do/allow distinction matters morally. Following her lead, let us consider her proposal in terms of the distinction between killing and letting die.

If I kill someone then (in the normal case) I deprive him of something—his life—that he had, and would have continued to have, independently of me. In contrast, if I let someone die, then although she fails to get my aid, this is

¹ One might, I suppose, try to settle it by asking which set of features it would be rational for me to select, given that others are to have the same moral standing. Or perhaps we might turn to a contract approach, and ask what features rational bargainers would settle upon. But this would take us far beyond Kamm's own remarks, so I'll leave the matter here.

not something that she had, or would have had, independently of me; and when this second person loses her life, this is not something that she would have *continued* to have independently of me. If we assume that it is especially morally important that goods should be distributed in accord with the desires of those on whom they are dependent, then we seem to have an explanation of the moral relevance of the do/allow distinction: when I do harm, goods that are had independently of me are distributed in a way that goes against the wishes of those on whom the goods are dependent; but when I allow harm, my reaction is not morally offensive in this way.

When I considered this argument in *The Limits of Morality* I raised the following objection.² There is indeed a clear and obvious sense in which when I kill a stranger I deprive him of something—his life—which he has and would have continued to have independently of me. But it seems equally clear to me that there is another sense according to which the stranger's continuing to have his life is not altogether independent of me and my actions; since it is only my refraining from killing him that permits him to keep his life, that life is not something that he continues to have completely independently of me. The defender of the argument needs to explain why it is only dependence of the former sort that is morally relevant here, and not dependence of the latter sort. In effect, we need an explanation of why *positive* dependence matters morally in a way that *negative* dependence does not. And, I suggested, any attempt at an explanation will simply presuppose the relevance of the do/allow distinction, the very point we were trying to establish.

In reply, Kamm urges us to resist the claim that “we depend on those who must make efforts not to kill us in the same way as we do on those who make efforts to save us.” But I never suggested that we are dependent “in the same way.” I am quite cognizant of the metaphysical distinction between what I have here called positive and negative dependence. The question is simply why the one sort of dependence should have greater moral significance than the other.

Perhaps Kamm would reject my assertion that negative dependence is indeed a kind of dependence. To my own ear, at least, talk of negative dependence is not improper, given that one person is here subject to the control or influence of another. But perhaps Kamm will hear it differently. No matter. If being subject to such “negative control” is not genuine dependence, so be it. The question will still remain why *dependence* (genuine, positive dependence) should have a moral weight lacking from mere negative control. So far as I

² But I inadvertently failed to note (in the initial printing of the book) that the argument itself came from Kamm (“Killing and Letting Die: Methodological and Substantive Issues,” *Pacific Philosophical Quarterly*, 1983). I have corrected this omission for subsequent printings.

can see, any answer will still presuppose the relevance of the do/allow distinction.

Of course, as Kamm observes, the relevance of the do/allow distinction might be more apparent in this context than it is elsewhere. But for my own part, at least, I find it remains obscure.

II

Dan Brock's focus is on options. He argues that these can best be defended in terms of an appeal to the value of individual autonomy. Options, Brock tells us, are "necessary conditions for autonomy." Although there is an attractive plausibility to this claim, I once more find the argument difficult to pin down.

Suppose we say, following Brock, that autonomy involves defining and pursuing one's own conception of the good life. What exactly is supposed to be the tension between accepting this as a moral ideal and denying the existence of options?

One possible interpretation of what Brock has in mind is this. Call a moral theory *directive* with regard to a possible act facing an agent, if the theory classifies the act as either forbidden or required. If a moral theory classifies each particular possible act as either forbidden or required, then we can say that it is *universally directive*. A moral theory that denies the existence of options comes *very* close to being universally directive (the only exceptions are the rare cases of ties, where more than one act would maximally promote the overall good). But the closer to being universally directive, the less "choice" is left to the agent. This is where the conflict with autonomy comes in, since autonomy is basically a matter of choosing for oneself. Since autonomy requires choice, it is threatened by a theory that leaves little room for choice.

If this is indeed Brock's argument, then it seems to me mistaken. It is certainly a moral ideal to be able to choose for oneself how to act. And it is a perfectly familiar point that social and political pressures can interfere with one's choosing for oneself. Arguably, inner psychological compulsions can do this as well. But is your choosing for yourself similarly interfered with if there are *reasons* for one choice rather than another? As far as I can see, the answer to this is No. Nor is it interfered with if there are *decisive* reasons for one choice rather than another (and that is really all that an act's being morally required comes to). So long as you are still free to decide for yourself *which* act is best supported by reasons—able to evaluate the various arguments yourself, make your own judgment as to which reasons are decisive, and so on—the mere fact that one act rather than another *is* supported by decisive reasons does not undermine your freedom of choice. So

even if morality lacks options, this doesn't undermine or threaten one's autonomy.

Consider this analogy. If autonomy in the practical realm involves choosing for oneself what to do, then autonomy in the theoretical realm involves choosing for oneself what to *believe*. This is no doubt a theoretical ideal; and it can be threatened by various social and political (and, perhaps, psychological) forces. But it is *not* threatened by the fact (when it is a fact) that there is decisive epistemic reason to believe one claim rather than another.

In short, autonomy requires the freedom to determine for oneself which judgments are true. But for a theory to deny the existence of options does nothing to threaten this.

But what of your ability to *act* on your autonomously arrived at judgments? If autonomy is to be a moral ideal, mustn't it also be morally permissible to act on your choices? To be honest, it is not at all clear to me that it must be. Virtually any moral theory will say of certain acts that they are required. So if a given individual judges otherwise, that individual is simply wrong; and if that individual acts on that false belief, she acts immorally. Surely Brock does not mean to claim that it is part of our moral ideal that one be able to act immorally.³

Perhaps what Brock has in mind is this. Autonomy involves choosing for oneself among some significant range of alternatives. If this is to be a moral ideal, then the alternatives chosen among must themselves be morally permissible.

Now I do not, in fact, think that this follows from the notion of autonomy that we have been considering so far. From the mere fact that choosing for oneself is a moral ideal, it simply does not follow that the objects chosen among must be equally acceptable morally. Even if only one particular choice is the morally correct one, this doesn't undermine the moral value of *making* the choice for oneself. (Similarly, autonomy in theoretical investigations is not undermined by the fact that only one particular theory is correct.)

Of course we can introduce a new, or further sense of "autonomy," according to which one's autonomy is indeed undermined to the extent that in any given choice situation only one act is morally permissible. But then it seems to me that we really have gained merely an illusion of progress. To say that options are necessary because of the value of autonomy in this new sense, is to say that options are necessary because of the value of there being a range of acts that are permissible. But for there to exist such a range simply

³ Doesn't it interfere with your autonomy if others may permissibly stop you from acting on your considered judgment—even if it is mistaken? Perhaps. But virtually any moral theory will permit this in *some* cases (typically it will depend on the nature of the forbidden act you are about to perform, the costs of stopping you, and so on)—and, at any rate, the mere denial of options entails no position on this matter.

is for there to be an option. Thus options are necessary because of the value of options. Appeal to the value of autonomy in *this* sense provides no independent motivation for options.

At times it seems to me that Brock's concern is not actually autonomy at all. Brock characterizes autonomy in terms of the definition and pursuit of one's own conception of the good life. However, it is difficult to see what work is being done by his focusing on choice concerning *the good life*. In most of Brock's discussion, what seems to really be at issue is simply the general matter of choice concerning how to act; and this is how I have construed autonomy in discussing Brock's arguments.

But all this talk of pursuit of the *good life* suggests that the objection may simply be this. If there are no options, then agents may have to dramatically curtail the *pursuit* of the good life; if there are no options, agents may be called upon to make significant sacrifices of their various interests. This is, of course, a crucially important fact about the significance of options. It prompts the thought that if one could better understand what exactly is problematic about requiring the sacrifice of interests one would be better able to state why options should be included in morality. Since I devote something close to half my book to pursuing this line of thought, I certainly do not want to be dismissive of it. But stripped of the references to autonomy, I cannot see how Brock's remarks could be taken to add anything new to this line of argument.⁴ In contrast, the appeal to autonomy does add something largely new. But if I am correct, it is unsuccessful as part of a defense of options.

Brock's closing remarks suggest an alternative defense of options, one couched in terms of fairness. Brock invites us to consider an individual who asks why she should be morally required to sacrifice nearly all her interests, when the need to do this is largely the result of the failure of others to do their fair share. Aren't one's moral requirements limited to doing one's fair share?

I must say that I find this line of argument rather unpersuasive. It seems obvious to me that if others who could help are refusing to contribute to those in need, then I may myself be required to do even more. Consider this simple example. Suppose there are two people drowning, and two of us standing at the pier with several life preservers each. No doubt under a fair

⁴ Brock's talk of creating a "unique self" and "unique conceptions of the good life" suggests that his concern may not be so much autonomy as individuality. If we grant that we have a deep interest in such uniqueness, and grant further that in the absence of options this interest must be sacrificed (a point more obvious to Brock than it is to me) then perhaps Brock has also drawn our attention to a particular interest that may be threatened by the absence of options. But I don't see why this particular interest would provide a more compelling basis for options than many others.

distribution of the burdens, each of us would have to throw a life preserver to only one person. But if you immorally refuse to do your fair share, then I must do more: I am required to save them both.⁵ So one's moral requirements are *not* limited to doing one's fair share, despite what Brock suggests. When Brock's imagined agent complains that it is unfair that she should have to sacrifice nearly all her interests, we can all agree that this is indeed unfair. But the complaint should be directed at those who refuse to do what they are morally required to do. They are the ones who treat her unfairly, not morality.

III

In my investigation of ordinary morality, I largely excluded from consideration nonmoral reasons—reasons which have no weight from the moral standpoint. My reason for doing this was that I was concerned with the question of what is *morally* required of us, and moral requirements are presumably grounded on morally acceptable, or morally legitimate reasons. But Michael Slote rightly points out that even *nonmoral* reasons might be relevant to the investigation of what morality requires, and so should not be disregarded. Slote proposes a justification of options *within* morality, that nonetheless turns on the existence of such nonmoral reasons. That argument deserves careful scrutiny.⁶

In my discussion of what I called the *negative argument*, I noted that the defender of ordinary morality might insist that a genuine moral requirement must be based on reasons that are capable of motivating the agent. Thus even if there is on balance greater moral reason to perform some act, that reason might nonetheless fail to ground a requirement—fail to be morally decisive—if it lacked the necessary motivational underpinning. This meant that the moderate could concede that the balance of morally legitimate reasons might always support promoting the good. Yet the moderate could still argue that the pro tanto reason to promote the good frequently lacks sufficient motivating force to enable the agent to overcome her natural bias in favor of her own interests. Since that reason typically fails to meet the motivational condition necessary for grounding a requirement, there can be no general requirement to promote the good; morality must include options.

I argued, however, that if the moderate concedes that from the moral standpoint the bias in favor of one's interests should be viewed as a hindrance and nothing more, then the agent would in fact have motivation to at least try

⁵ A similar point is made—with a similar example—in Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs* 1 (1972), at p. 233.

⁶ I did not actually overlook the possibility of an argument along the lines that Slote proposes. However, as Slote correctly observes, most of my discussion of matters in this neighborhood was confined to the footnotes. This particular argument is briefly considered in a note to p. 383.

to overcome that bias, and that this would suffice to meet the motivational condition, grounding a requirement to promote the good. Of course, the moderate could go on to argue that the bias is in fact of positive moral value in its own right, supported by its own set of moral reasons. But this would be to abandon the negative argument for the *positive argument*, which I then subjected to its own criticism.

Slote proposes a modification in the negative argument. He suggests that the moderate should recognize the existence of nonmoral reasons for promoting one's own interests. If these reasons are sufficiently weighty, then even though from the *moral* point of view the bias in favor of one's interests would be a hindrance, from the larger perspective which takes into account *all* genuine reasons for action, the bias would be of genuine (albeit nonmoral) value. All things considered, then, the agent would frequently lack motivation to try to overcome that bias. And so even though among the *moral* reasons the balance supports promoting the overall good, there would still be no general requirement to promote the good, for it would lack the necessary motivational underpinning.

Should the moderate welcome this version of the negative argument? One possible reason for hesitation is this. The reasons that Slote is proposing support the agent's choosing to promote her various interests at the possible expense of the greater good. They reflect the divergence of the personal point of view from the objective, impersonal point of view. But the personal point of view diverges from the impersonal not only with regard to the person as agent, but also with regard to the person as recipient, or patient. Thus we should expect the existence of *two* kinds of subjective reasons: not only *agent-protecting* reasons of the sort that Slote identifies, but also what might be called *patient-protecting* reasons.

In my discussion of the positive argument I raised the possibility—on the moderate's behalf—that patient-protecting reasons might ground constraints. I noted several difficulties facing this suggestion, but it seemed a promising one nonetheless. However, if they are to ground moral constraints—one type of moral requirement—then patient-protecting reasons must themselves be moral reasons. Yet it is difficult to see why one kind of subjective reason (the patient-protecting kind) should be among the moral reasons, while the other kind of subjective reason (the agent-protecting kind) is not. So if the moderate is indeed to help himself to this approach to grounding constraints, he must say against Slote that the agent-protecting reasons are moral as well. But this would simply turn Slote's argument into the positive argument, and Slote has not challenged my criticisms of that.

Of course, Slote might try to argue that patient-protecting reasons are indeed moral ones, while agent-protecting reasons nonetheless are not. But I haven't a clue as to how one might defend this claim. Alternatively, however,

Slote could simply decline to help himself to this defense of constraints. He could then deny the very existence of patient-protecting reasons, or hold that they too are nonmoral.

So the question remains whether it is open to the moderate to hold that the agent-protecting reasons are nonmoral. I do not in fact think that most moderates will want to say this. It must be borne in mind that saying of a reason that it is a moral one—in the sense relevant here—is merely saying that it is morally legitimate, morally acceptable. It is *not* a matter of saying that the reason is particularly or especially “moral” in content. Rather, it is only a matter of saying that the reason is to be counted in determining where the balance of moral reasons lies, that it has weight from the moral point of view. I am not completely happy with any of these characterizations,⁷ but I hope they suffice to make plausible my claim that most moderates do consider agent-protecting reasons to be moral reasons in this sense. When I spend extra time playing with my children, or pursuing my love of romantic poetry, I think that most moderates will view me as acting on reasons that should indeed be counted from the moral point of view. That is why I believe that, on reflection, most moderates will find that they are in fact drawn to the positive argument after all.

But I certainly have no argument that all moderates will feel this way. Some may be happy to classify the bulk of agent-protecting reasons as nonmoral; and Slote himself may be such a moderate. So here is one further problem. Admittedly, if the agent-protecting reasons are nonmoral, then they certainly cannot ground a moral requirement. But since they are nonetheless genuine reasons for action, the question arises whether they can and do ground *rational* requirements. Slote is arguing, in effect, that whenever the agent has a moral option, then from the rational point of view the reasons the agent has for favoring her own interests outweigh the reasons that support promoting the greater good. (Were this not so, then her natural bias would still be viewed overall as a hindrance, and my original answer to the negative argument would remain in force.) But if this is so, then what if anything prevents these reasons from grounding a rational *requirement* to favor her interests in each such case? Do these reasons fail to meet some further condition necessary for being rationally decisive? I cannot, however, think of any plausible condition that might be of help here. (Slote himself, of course, does not consider this objection, and so I cannot tell what he might suggest.)

Can the moderate live with this conclusion? I am inclined to think not. It would mean that whenever the agent is granted a moral option, she is in fact *rationally* required to promote her interests. That is, it would be rationally

⁷ I am often tempted to say that the moral reasons are those that are morally relevant. But the possibility of an argument along Slote's lines shows that even *nonmoral* reasons may be relevant in determining moral requirements.

forbidden—irrational—to choose to do the morally preferable act. I am not denying that a moderate might hold that in *some* cases it would be irrational to promote the greater good, even though this would be morally permissible. But surely no moderate—Slote included—wants to say that in every single instance (or even most instances) of a moral option, it would be rationally forbidden to choose to promote the good. Yet this, I think, is what Slote's approach would lead to. And so the moderate must reject it.

This last objection returns us to an important point, with which I would like to conclude these comments. Ordinary morality consists of a cluster of beliefs—any one of which might, perhaps, be defensible when considered in isolation. The challenge, however, for those who want to defend our commonsense moral views, is to keep in mind the various central features of ordinary morality, and to provide them with a defense that can cohere as a whole. This is, I think, a challenge that cannot be met.