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Review Article

Darwall on Second-Personal Ethics

Robert Stern

Morality, Authority, & Law: Essays in Second-Personal Ethics I, by Stephen Darwall. Oxford: Oxford University Press, 2013, 209 pp.
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Stephen Darwall is rightly regarded as one of the most interesting ethicists writing today. In his 2006 book *The Second-Person Standpoint: Morality, Respect and Accountability* (Darwall 2006), he introduced into the debate a new emphasis on what he called the *second-personal character* of ethics, which he defended with skill and care. In the newer books under review,¹ which are collections of papers most of which were published previously, he expands and elaborates the position taken in his monograph. This includes engaging in debates with critics and opponents; following through various implications of his position in new ways; and adding depth and detail to some of the historical background of his view. Taken together, then, these three works represent a formidable articulation of a distinctive position in ethics, which is bound to continue to attract discussion and controversy. In what follows, I will begin by offering a brief sketch of Darwall's basic outlook (§1), offer an overview of the themes of the papers in these collections (§2), and then present some critical responses of my own (§3).

1. Moral obligation, authority and the second-person standpoint

In her classic essay 'Modern Moral Philosophy', Elizabeth Anscombe raised a fundamental doubt concerning the idea of moral obligation, as she took it to rest on the authority of a divine law-giver, who most of us now assume doesn't exist (Anscombe 1958). This, she suggested, was like trying to uphold the criminal law but without any body able to enact or enforce it. It would be more honest to just 'jettison' the notion, and perhaps try to do ethics some other way. She did, however, recognize that attempts can be and have been made to find some

alternative to God, two of which are Kantian self-legislation, and the appeal to socially enforced norms. The former she thinks can be dismissed as ‘absurd’, while the problem with the latter is that there is no clear correlation between the norms societies have decided to enforce and what we might want morality to comprise: societies have enforced some norms that we would reject as unethical (persecution of the Jews, for example), and failed to enforce others that we would want ethics to include (a prohibition against slavery, for example). Thus, she argues, social norms, like an individual’s conscience, provide a poor substitute for the will of an omniscient, omnipotent and benevolent God who can be relied on to make laws that get our moral obligations right.

Darwall, however, is not so gloomy. On the one hand, he thinks there is something importantly correct about divine command ethics: namely, that moral obligation comprises more than just categorical, conclusive and overriding reasons to act, but also involves the exercise of legitimate authority over the person obliged, just as divine command theorists like Samuel Pufendorf had argued. However, on the other hand, Darwall thinks that it is ultimately incoherent for the divine command theorist to insist that God *alone* has this authority: rather, all rational individuals must be taken to share it, so that contra Anscombe, moral obligation can indeed be seen as something that is socially enforced, through the exercise of this authority.

This means, therefore, that there is something essentially *second personal* about moral obligation for Darwall, precisely in the sense that involves this exercise of authority which makes one person accountable to another or others. To make this clear, in his earlier book Darwall gives an example. Suppose I am stepping on your foot, causing you pain. There are various grounds on which to explain to me why I should get off. It could be pointed out to me that you are in pain because of where my foot is placed, and pain is bad, so I should move my foot. It could be said that feet should just not be stepped on, and it is wrong for me to be doing so. Or it could be stated that you are entitled to demand of me that I get off your foot, and that is why I should do so. In the first two cases, Darwall argues, I would be operating under a third-personal reason, but in the final case I would be responding to a second-personal reason if I acted, because I would be recognizing your authority to make a claim over me to act in this way –

where Darwall also suggests that it isn't *just* my authority that is operative, but my authority qua member of the moral community of which we are part. This means, contra Anscombe, whether or not an obligation obtains doesn't depend on the *actual* demands an individual or a community of individuals might make: if they *could* legitimately make such demands, then an obligation holds (so slave owners were obliged not to have slaves), and if they *couldn't* legitimately make such demands, then it doesn't (so Germans were not obliged to persecute Jews).

This is undoubtedly an attractive position in many ways, even on top of its apparent ability to settle Anscombe's worries. Firstly, it seems to explain what many have found mysterious about the idea of moral obligation, namely how it is that the so-called 'moral must' gets its particular *binding* character, such that it takes away our freedom to act otherwise. The idea that we might have authority over others can be used to account for this, as we hold them to account and constrain one another's wills accordingly. Secondly, although Darwall's picture departs from the Kantian picture of self-legislation in moving to legislation through and by others, nonetheless he manages to retain and capture a number of fundamental Kantian notions, particularly those of equal dignity and respect, in a way that contrasts with the more hierarchical divine command view, where God alone has the authority to legislate the moral law. Thirdly, at a normative level it is an account that may seem to capture what precisely is wrong with ignoring an obligation we owe to another, which is not merely that it may mean the other suffers or is harmed, but that they are wronged in a special way, by having their legitimate authority neglected and their status unacknowledged. Finally, *The Second-Person Standpoint* puts all this together in a rich way that incorporates a range of different issues and thinkers, including Pufendorf, Smith, Kant, Fichte, Strawson and Rawls.

2. Second-personal ethics

In his new collections of papers, Darwall continues to develop the position he presented in the earlier book. Each volume has a slightly different character. The first focuses on what makes this a distinctive account of morality, and how this then relates to questions concerning autonomy, authority and law. The second concerns the notions of honour, respect and accountability that are involved, as

well as the kind of relation that makes up the second-personal standpoint, while it concludes with a section of four fascinating essays on relevant aspects of the history of ideas, with papers on Grotius, Pufendorf, Fichte and Kant. Taken together, these volumes help to deepen our understanding and appreciation of Darwall's view; enable him to address some objections that have been raised; and set this view in a valuable historical context. In this section, I will outline the themes of these papers, reserving critical comments on some of them to §3.

In the first volume, Darwall begins by defending his conception of morality itself, where as we have seen he follows Anscombe (and earlier, Sidgwick) in holding it to have a particularly 'juridical' character. Focusing on a critique of Hume's account of the virtues, Darwall uses this to bring out how moral blame has a distinctive kind of character which is more than just disdain, but precisely involves the kind of second-personal aspect that then explains its connection to accountability: if I think you have behaved in an immoral manner, as opposed to just a stupid or imprudent one, I will feel a kind of resentment to you qua individual which indicates how a legitimate demand I can make of you has been violated, where this is a distinctively moral response.

Darwall's next essay is one of several where he starts to grapple with actual or potential opponents, where this one focuses on the relation between the idea of second-person reasons and 'bipolar obligations', where this is used to denote obligations owed to specific persons, the violation of which is not simply a wrong, but a wronging of that person. The special character of such obligations has been emphasized by Ernest Weinrib and Michael Thompson and has also been highlighted by others including R. Jay Wallace, where in an early review of *The Second-Person Standpoint*, Wallace used it to criticize Darwall's position (Wallace 2007); in this essay, Darwall tries to turn the tables on that critique. Certainly, there are obvious connections between the two ideas, where bipolar cases of normativity are those that involve a relation between two 'poles', as when one person wrongs another, or fails to respect their authority, as opposed to monadic cases where the person fails to perform a certain action in a way that can be criticized but without bringing in a relation to anyone else. It may seem, therefore, that Darwall's view and the bipolar account of moral obligation should be natural allies, insofar as the latter holds that moral obligation is not just a

matter of not violating a law or commandment, but only obtains if in so doing one relates incorrectly to another person. However, while the second-person view is certainly bipolar, the latter position is potentially broader than the former, as it would seem to allow many different *kinds* of relation to count, whereas the second-person view allows only one, namely the violation of a legitimate demand. Thus, the two positions can indeed end up as rivals, where Wallace argued against Darwall in his review that there are cases of moral obligation which fit the bipolar view but not the second-personal one, because while it may be the case that one person is wronging another (making it bipolar), it may not be the case that the wronging involves the flouting of a demand. In his response, Darwall points out that Wallace allows that when bipolar obligations are violated, this gives the victim a 'privileged basis for complaint' in a way that makes blame legitimate; but if so, Darwall argues, such blame implies the authority to demand behaviour of the obligated individual, making such cases second-personal after all.

Darwall then turns to a project that has eluded many theorists, perhaps including even Kant himself, namely how to get moral content from form; so in this case, how to get any substantive moral requirements from the second-personal view of obligation. Darwall's strategy is to argue that for the procedure of moral demands to be possible, others must be able to hold themselves responsible and thus be autonomous in this sense, so that there must be a *pro tanto* obligation not to take this moral autonomy away.

The next essay considers Darwall's position in relation to issues of 'buck-passing', and in particular whether the fact that not acting would violate a legitimate demand gives us a further reason to act, on top of the features that make the demand legitimate in the first place. So, for example, if my treading on your foot violates a right of yours, while that may then mean you can demand I get off it, does this demand add anything to the wrongness involved – does that just rest on the rights violation itself, to which the buck can then be passed? In response, Darwall argues that this would leave something important out, namely the wrongness of violating the demand, and the disrespect for authority this would show, which therefore cannot be dropped from the picture.

The final essay in this section considers Darwall's position in relation to Jonathan Dancy's particularism, where Darwall argues that the legalistic nature of morality requires some element of generality in the way it operates, as without this it would be unclear to agents just what is being demanded of them. The moral law, like the laws of a state, therefore needs publicity and promulgation, which would not be possible if Dancy's particularism were true.

In the next section, Darwall turns to a consideration of autonomy, on which he contributes two papers. In the first, he gives what is essentially a Kantian grounding to what is often seen as a Humean view, namely that our desires give us reasons to act. Darwall argues that this is so, because to fail to give desires rational weight, whether our own or that of others, is to fail to respect the person who has these desires. The next paper also sounds a very Kantian note, where Darwall offers a wide-ranging discussion of how autonomy relates to the second-person approach. Respect for our autonomy, he argues, is something that we can demand of others in a second-personal manner, and is thus more than just a good that brings with it various benefits to the agent. Moreover, in holding people accountable to this demand, we must assume that they are also autonomous which (Darwall argues) therefore means more than assuming that they are agents who can respond to values, but also agents who can respond to these demands by holding *themselves* to account, which makes them autonomous in a more genuinely Kantian sense, as self-legislating subjects.

In the final section of this volume, Darwall turns to various implications that his positions has for philosophy of law, broadly conceived. The first two papers focus on an important disagreement between himself and Joseph Raz, where two aspects of Raz's view are particularly relevant to Darwall: namely Raz's 'normal justification thesis' concerning authority, and his account of exclusionary reasons, which such authority can generate. The worry about the former, from Darwall's point of view, is that it would seem to show that the authority involved can be justified in terms of reasons that are not themselves second-personal, as for Raz this authority obtains if the agent would better comply with reasons that apply to him if he accepted that authority rather than trying to follow those reasons directly; this would apparently ground authority in what could well be non-second-personal reasons, thereby raising the doubt

that Darwall is wrong to insist as strongly as he does in the fundamental and irreducible nature of the second-personal to any proper account of the normative force of authority. In response, Darwall argues that meeting the standards of the normal justification thesis is not in fact sufficient to establish that one person has authority over another, for while it might give someone a reason to treat another *as if* she had authority over him, this doesn't establish that she actually has it, because a person might meet the conditions of the normal justification thesis, but without that person themselves being entitled to demand the compliance that genuine authority requires. Thus, in an example Darwall gives, an expert in Chinese cooking might comply with the normal justification thesis insofar as doing what he tells you to do will mean you do many more of the things you have reason to do in preparing the meal; but this doesn't give that expert any real authority over you, as he cannot insist that you comply with what he tells you to do, in a second-personal manner.

Darwall recognizes, however, that Raz may in some sense accept this, but that Raz could move instead to another aspect of his position, which concerns the idea of exclusionary reasons, which he therefore focuses on in his next paper. Exclusionary reasons are those that pre-empt other reasons one might have to act, not by being balanced against them at a first-order level, but by operating at a second-order level and making it the case that reasons at the first-order level are no longer to be taken as reasons to act. Now, Raz sees the commands of an authority as generating exclusionary reasons of this sort, as when a sergeant orders a private to commandeer a van (see Raz 1975: 38): to be a *legitimate* authority the sergeant must meet the normal justification thesis, but what *makes* him an authority is that he has given the private an exclusionary reason to act. In response, however, Darwall argues that as the normal justification thesis is not sufficient to make someone an authority over someone else in a genuine sense (as argued in the previous paper), this means that individuals who meet the normal justification condition still cannot generate exclusionary reasons, so that outside the second-person standpoint, the obligations that come about through authority remain a mystery.

The final two papers in this collection relate to issues in the philosophy of law more generally. The first considers how far the second personal approach

can shed light on questions of legal (and not just moral) authority, as well as distinctive features of criminal and civil law, where Darwall argues that we should consider punishment on the one hand and torts on the other in second-personal ways. In the final paper (co-authored with Julian Darwall), he expands on this treatment of civil law, relating it to 'civil recourse theory', and the kind of accountability this theory requires.

Moving now to the other volume of papers under review, this starts with two papers that contrast the kind of recognition respect involved in second-personal ethics, from that involved in an ethics of honour. In the latter case, respect relates to the individual's 'persona' or social position and rank, whereas in the former it relates to the person as a moral subject. Honour is therefore inherently hierarchical, while the respect found in second-personal ethics is egalitarian, and as such marks a shift to a more modern form of ethical life. We also express the two forms of respect very differently: in the case of honour respect, we show deference to others, whereas in the case of respect for persons, we hold them accountable to us and us accountable to them. Moreover, Darwall argues, when failing to live up to your 'persona' or social standing you will feel shame while others will react with contempt which need not necessarily be displayed to you as such, whereas in failing to function properly as a person you will feel guilt while others will react with blame or resentment that will be addressed *to* you. With its greater egalitarianism and its outlook of mutual accountability, Darwall clearly sees the shift from honour respect to person respect as a major advance, where in the second of these papers he traces out Adam Smith's complex and ambivalent relation to these changes from the one outlook to the other.

Nonetheless, of course, not all thinkers have been fans of morality as a system of ethics, in part precisely because of its emphasis on retributive emotions like blame, guilt, resentment and the like, whilst others have been suspicious of its supposed egalitarianism and its claims to represent a progressive step towards greater enlightenment. Darwall turns to such 'morality critics' in the next set of papers. In the first of these, he considers J. S. Mill's account of resentment, arguing that while Mill was right to see that resentment is not essentially retaliatory, he argued for this in the wrong way. Instead, Darwall

follows Strawson in suggesting that the aim of resentment is not to retaliate to an injury, but to hold a person responsible for failing to honour a legitimate claim, where this is to accord the resented person the capacity both to acknowledge and to act on such claims, and thus to show him respect in crediting him with capacities of this sort. The resented individual therefore retains his membership of the moral community, rather than being merely injured or cast out. In the next paper, Darwall uses this approach in a discussion of Nietzsche, arguing that the latter's *ressentiment* is very different from Strawsonian resentment as it figures in second-personal ethics; so while Nietzsche may well be right to be critical of the former, this does not impugn the latter.

Another way in which morality has been criticized in recent years, is for leaving out what is distinctive in our personal relationships, in favour of a more impersonal attitude that concerns overall utility or general duties. Darwall argues, however, that the very idea of relationships between individuals requires the capacity for those individuals to hold each other to the relationship in a second-personal manner, and so is in fact underpinned by the outlook he favours. By contrast, he argues, it is care ethics that turns out to be the more impersonal approach: for while respect for the claims of the other requires us to take into account their point of view, the giving of care can become paternalistic, in not being concerned with what the other asks of us, but just with what is in his or her interests. In the next paper, Darwall explores further what it means to 'be with someone' in a relationship, which he argues must involve giving the other individual second-person standing, as this thereby makes you answerable to them, which then places you in their hands and so brings the two of you together; it is also to claim the same for yourself. The result is a kind of seeing things from the other's perspective which (Darwall argues) amounts to a form of empathy which he calls *projective*, and which he distinguishes from other kinds of empathy that may also be involved when two people are as one.

Another way in which individuals can relate to one another is through the process of making promises, where promising has been the focus of much discussion, in part because of its apparently puzzling character: how is it that you can bind yourself to others, simply by saying that this is what you are doing? Darwall runs through and rejects various accounts of promising, including those

of Rawls and Scanlon, which he argues neglect the second-personal nature of the phenomenon. Since, for Darwall, this already involves the idea that we have authority over others and ourselves, it is then less mysterious how we could bind ourselves through the process of promising.

The last section of this volume moves on to a series of papers with more historical themes, beginning with a discussion of Grotius. Darwall's aim in this paper is to challenge the recent claim of Terence Irwin, that it is wrong to see Grotius as particularly distinctive or pioneering because he adds little to the classical natural law framework (Irwin 2008: 98). Darwall argues that this is to underestimate Grotius's significance: for while on the one hand he saw morality in judicial terms as involving obligations (thus departing from the more eudaemonist tradition of Aquinas), on the other he rejected a divine command account of those obligations (thus departing from the position of someone like Suarez), holding instead that persons have the authority to make demands of each other, thus importantly foreshadowing the kind of approach that Darwall thinks becomes distinctive of modern accounts of obligation. At the same time, Darwall argues, this leaves Grotius facing a skeptical challenge that does not afflict the more eudaemonist natural law tradition: for if this authority makes demands that conflict with the interests of the agent over whom it is exercised, what ultimate reason does the agent have to respect it? For the eudaimonist natural law theorist, and for the divine command theorist, this conflict could be said to be merely apparent; but for someone like Grotius it becomes a real possibility, and he is therefore also pioneering for Darwall in ushering in this distinctively modern concern that later becomes familiar in the work of Hume, Kant, Sidgwick and many others.

Like Grotius, Darwall also sees Pufendorf as an important transitional figure, where he was extensively discussed in *The Second-Person Standpoint*, and is also the subject of the next essay. While Pufendorf himself defends a divine command account of obligation, Darwall nonetheless thinks he has important insights into the nature of obligation which push in a different direction, towards a more second-personal view. In *The Second-Person Standpoint*, Darwall argued that insofar as Pufendorf takes God's authority to be legitimate, he must in the end allow that we have authority over ourselves and thus over each other, so

moving to a non-theistic account (see Darwall 2006: 107-115; for some critical discussion see Stern forthcoming). In this paper, Darwall re-iterates this objection, but also points to a rather different tension in Pufendorf's position: namely, on the one hand Pufendorf takes God to impose on us an obligation to take a sociable attitude to each other and so recognize that others have dignity and rights; but on the other hand a command of this sort would in fact undermine itself, as it is God alone who has this status if he is the only one taken to have authority; this sociability is therefore only possible if we see ourselves as obligated by others instead, so that Pufendorf's position in fact contains the seeds of a second-personal view.

Darwall's last two papers deal with two more obviously modern figures, namely Fichte and Kant respectively, where both had also been given prominent treatment in the earlier book. In the first paper, Darwall presents Fichte as inheriting from Kant the difficulty of arguing for a radical kind of practical freedom, as the capacity of the agent to give a law to itself. Where Kant had either taken such freedom to be a presupposition of agency (in the *Groundwork*), or to be derivable from the 'fact of reason' as a basic awareness of the moral law (in the second *Critique*), Darwall argues that Fichte's argument is centered on the 'summons' that others make of us which grounds this ought; it therefore operates in a more second-personal manner which (he claims) gives Fichte's position advantages over Kant's. Finally, Darwall considers Kant's treatment of respect and dignity, in which he draws out various complexities and potential tensions that are often overlooked. Darwall traces through these tensions, arguing that as Kant's ethical thought progresses, by the time we get to *The Metaphysics of Morals* it has moved closer to the view of respect and dignity that can be seen as second-personal, where respect consists in acknowledging the claims others can make of you, while dignity consists in the capacity to make such claims. Thus, while Kant's position may be an ancestor of Darwall's approach in certain important respects, these papers make clear that this is no more than an inspiration which also requires modification to bring it in line with Darwall's considered view.

3. Assessment

Having outlined Darwall's undeniably powerful and distinctive position as presented in these papers and the earlier book, let me now turn to some critical assessment of it.

To see what may be problematic, consider a slight variation of Darwall's initial foot-treading example (outlined above in §1). Suppose in this case, A is treading on B's foot, causing him great pain, while this is being witnessed by C who happens to be passing by. As we have discussed, Darwall wants to say that A is under an obligation to get off B's foot, because B can legitimately demand that he do so. But what about C? Is he under any obligations here? Suppose A shows no signs of moving his foot (he is unaware he is causing the pain, or he is rather enjoying doing so, or whatever), and it is clear that B is in great agony. It seems intuitive to say that C is under an obligation to intervene and do what he can to get A off B's foot and so stop the pain (subject to various conditions, such as constraints on his own safety, and that his intervention not somehow make things worse, and so on).

But what is it that puts C under this obligation? Again, it looks intuitive to say that it is B's pain and so the fact that B is suffering, where C is obliged to do what he can (within limits) to help. What makes this problematic for Darwall, however, is that this is then apparently an agent-neutral, third-personal reason, of the sort that he claims cannot constitute an obligation. We therefore seem to have found a plausible counter-example to Darwall's analysis, from which many similar ones can then easily be generated.

The difficulty, then, can be put in terms of an inconsistent triad:

- (1) A person's suffering does not give a second-personal reason to act
- (2) Obligations require second-personal reasons
- (3) The suffering of others can give us obligations

It seems that Darwall must reject one of these three claims, but it is not clear how he can.

Let us first consider (3). It could be said here that the call to aid suffering is never an obligation, because it is always supererogatory and so 'above and beyond' what one has a duty to do. Now of course, in some cases of aid, this is true: for example, when it involves great personal risk, or when the ability to provide the aid would require enormous effort or be unlikely to succeed. But this

case is not like that: it is easy enough for C to help, there is no great risk involved, and he is well placed to intervene. It seems difficult to treat this as a case of supererogation.

Darwall might argue, however, that this is still a case of care or benevolence or sympathetic concern, and as such cannot be thought of as obligatory precisely because it cannot be demanded and so does not involve any second-personal relation (cf. Darwall 2006: 128: '[R]espect for one's dignity is something anyone can demand; but this is not so with sympathetic concern for oneself and one's welfare'; and cf. also II, 105). But this may seem to just beg the question: why can't one be obliged to care for the other, even if this cannot be turned into a second-personal demand?

Perhaps, however, Darwall can respond by saying that there is nothing wrong with (3), but we have been too quick in our understanding of (1). One way might to argue this would be to claim that there can be needs-based rights, just as there are rights to bodily integrity, and the former can warrant demands of a second-personal kind against C just as the latter warrant demands of a second-personal kind against A. However, that may seem too strong: for while the notion of needs generating rights is not implausible, it may not seem appropriate in this case, as B's needs may not appear pressing enough to give him a *right* to C's assistance, though the attack on his bodily integrity does appear enough to give him a right against A.

Nonetheless, Darwall may not need to go down the rights route to still claim that the relation between B and C involves a demand. After all, it could be argued, what matters in our revised example is not just the pain that B is feeling, but the fact that in ignoring that pain, C would be *wronging* him. Of course, that wronging isn't the same as A's wronging of B, and maybe not even of the same order – but it is a wronging nonetheless. Moreover, Darwall could argue that this is evident in precisely the ways that he likes to stress: namely that on hearing that C just walked by for no good reason, B could justifiably feel resentment towards C, just as he can feel a different sort of resentment towards A for treading on his foot in the first place. And if this is the case, Darwall could go on, then B *does* have entitlement to demand that C intervene after all, in a second-personal manner – so that while it may not be true that a person's suffering *as*

such gives a second-personal reason to act, there can be cases that *involve* suffering (such as the one I have presented) where a second-personal reason will apply not just to the agents who cause the suffering, but also to other bystanders and those who could give aid, for this gives the suffering person the authority to make demands of them too, and so put them under obligations in ways that fit Darwall's account perfectly well.

Now, it does indeed seem plausible to claim that C would be wronging B if he just walked by, so that this case is certainly *bipolar*: C has reason to help B not just because pain is bad and by helping B he could cut down on the amount of pain in the world, but also that by not helping B he would be failing to aid B and so wronging him as such. But the more fundamental issue is whether, as a result of this wronging, B has the authority to *demand* C's assistance, and whether having such authority is necessary to put C under an obligation. For, as we saw in the discussion above, the notion of bipolarity is arguably broader than that of second-personality if the latter is taken to incorporate the capacity to make demands: we can say, then, that what constitutes the obligation is the fact that C would be wronging B (making it bipolar) but without saying that what constitutes the obligation is the fact that B can demand this action of C (making it second-personal). The issue also relates to questions of buck-passing that have also been mentioned: for even if this wronging *does* give B some sort of entitlement to make a demand of C, it could still be argued that it is the wronging that constitutes the obligation, not the demanding which may or may not be based upon it. Or to put the point another way: suppose C does come to B's aid, because he sees that to do otherwise would be to wrong B, even though he doesn't think of himself as responding to any demand stemming from B; why should we not still say that C has responded to an obligation? Thus, it could be argued, Darwall has not yet shown that a person's suffering gives a second-personal reason to act – this could merely be a bipolar reason, but not a reason that incorporates the kind of demand and authority that he makes characteristic of the second-personal relation underlying obligation on his account.

Put simply, then, the worry is this: Darwall is right to say some reasons to act stem from what people can demand of me or hold me accountable for doing, where my reasons consist in the fact this demand applies; but also some reasons

to act stem from the various harms and wrongings that not performing those acts would involve, where my reasons consist in the fact these harms or wrongings apply; and while the latter reasons may legitimate the former demands, what is not clear is why it is *only* the reasons stemming from such demands that are obligating – why can't the reasons relating to harms and wrongings in and of themselves constitute obligating reasons to act? Thus, if (1) and (3) hold, it looks like we should reject (2).

I now want to consider three replies which I think Darwall might give to this worry, and suggest that they would not be adequate, so that the worry still stands.

The first reply centres around Darwall's thought that moral reasons are *distinctive* from other sorts of reasons. Now, for some, this distinctiveness rests on the idea that they are categorical, and/or overriding, and/or conclusive. But, Darwall suggests, these might be features of non-moral reasons too, such as reasons of logic, where my reasons to believe a conclusion given certain premises may also be categorical, overriding and conclusive (cf. Darwall 2006: 26-7). What makes a moral reason distinctive for Darwall, then, is precisely that it involves a demand, where no such demand applies in the logic case: your reasons to believe the conclusion do not rest on my authority to require this of you, whereas your reasons to get off my foot do, on Darwall's account. He might therefore argue that unless we think of the reasons that constitute moral obligations as involving such demands, we will lose any way of distinguishing the moral from non-moral cases, and that this will be the result of adopting the approach I outlined above.

However, it seems to me, on that approach the distinctiveness of morality could still be explained, precisely because there is a wrongdoing involved, which does not apply to the logic case: in failing to believe the conclusion, you have not wronged anyone, whereas in failing to take a person's need as a reason to act, you have, which is what makes the moral case distinctively bipolar in a way that the non-moral case is not. Darwall may then be right to say that such cases will involve distinctive kinds of retributive emotions, such as resentment, which are appropriate because *you* have been wronged; but it doesn't follow from this that

the obligation as such is constituted by the demand to act otherwise that this resentment embodies – it could be said to consist in just the wrongdoing as such.

This response might however lead to a second reply from Darwall, which this time centres on another important aspect of his distinctiveness claim. This is that morality is an essentially *juridical* notion: thus, just as legal obligations are brought about through laws enacted by a legitimate authority and enforced through punishment, so moral obligations comes about through the demands we make of one another and sanctioned through retributive emotions such as blame, guilt and resentment. The claim might be, therefore, that without the element of demand and accountability that Darwall insists on, this legalistic character of morality would be lost.

Now, what to make of this legal analogy, and how far to press it, is of course a matter of much contention. Thus, Darwall's opponent might reply, the mere fact that we are talking about *obligations* at all makes the moral case juridical in some sense, as the idea is that these acts are no longer *optional* but are required, much as the law requires one to act in various ways. It could be argued, therefore, that there is no need to press the analogy any further, and to do so would become misleading, while what makes morality juridical in this now weaker sense can be accounted for by something other than Darwall's structure of authority.

Moreover, there are elements to Darwall's account where this approach seems to get him into difficulty. Thus, just as a legal obligation doesn't exist until a law has been passed, does a moral obligation exist if a demand is not made? Darwall's response to this problem is to say that the individual does not need to actually make the demand, but that it can be expressed by the 'moral community' of which the individual is part. But again, does the moral community actually have to make the demand? As we pointed out at the beginning, this was one of Anscombe's concerns about moving from a divine command theory to a social command theory: if we rely on our communities as a source of moral obligation, there is a risk that they do not demand what we expect morality to comprise, or demand things that we want to exclude from morality, whereas God can be expected to command appropriately. Now, in response Darwall suggests that the moral community need not be thought of as 'actual', but rather as a 'regulative

ideal' (Darwall 2007: 64); but then, can an ideal demand be a source of actual obligations, any more than a hypothetical contract can be binding (cf. Adams 1999: 246)? There is a danger, then, that the divine command theorist may seem to have the advantage over Darwall here – or that ultimately his ideal 'moral community' just *is* a form of divine command in disguise, as a perfect source of the moral law.

A second and related difficulty concerns Darwall's handling of our apparent obligations to non-rational animals. On the view that wrongdoing is sufficient to constitute an obligation, my dog's suffering can be enough in itself to give me an obligation to take it to the vet (again, subject to some conditions). For Darwall, however, this is not enough; but on the other hand, it is hard to see how my dog is in a position to make the demand of me that Darwall claims is needed, as she lacks the capacities of rational agency that this requires. So again, Darwall turns to the moral community to help out, which can then 'speak for the animals' in the way that Dr Seuss's character the Lorax says he 'speaks for the trees' (Darwall 2006: 29). But this may also seem an unnecessary and rather implausible complication that is required by the legalistic model Darwall is following, while it would have the implication that strictly speaking we do not ever have any obligations *to* animals as such: for they do not themselves form part of the moral community because they lack the requisite second-personal competence, and therefore cannot stand in the necessary accountability relation out of which the obligation arises, according to Darwall. By contrast, the bipolar approach based around the wrongdoing they would undergo seems able to accommodate the intuition concerning our obligations to animals much more naturally.

However (and this is the third and final response from Darwall I want to consider, and which is perhaps the most fundamental), Darwall could reply further that the real difficulty with the bipolar approach is that it cannot account for the fundamental feature of moral obligation, which is that it *binds* us to act, where such binding makes no sense unless we think of it as one agent or group of agents exercising their authority over another or others, as it is *this* that does the binding. Thus, for example, in his discussions of Grotius, Pufendorf, Suarez and Hobbes, Darwall makes clear that this is the problem he sees with traditional

natural law theory as found in Aquinas: namely, '[o]nly if [this law] can be grounded in an authority to issue demands would it be able to "lay us under" a genuine obligation in a way that a mere counsel of prudence cannot' (II, 171). Thus, for Darwall, the choice is between divine command accounts that see God as the source of the demand, and social command accounts like his own – where he thinks problems with the former mean that the latter is the only real option.

Now, as we noted at the beginning, there is certainly something very plausible about Darwall's assumption here: for, if obligation requires the taking away of our freedom to act otherwise, how else can we make sense of this except through another will exercising its authority over us in some manner? Thus, while to wrong someone may be bad in some way, or undesirable, or to be regretted, it may only seem to be obligatory to do otherwise if someone can require of us that we act in this way, either the individual concerned or others on her behalf – for without this, how does the bindingness of morality get to be explained?

This, however, leads us back to Darwall's dispute with Raz, as I understand it. For, what Darwall takes to be a weakness in Raz's position may rather be an answer to the objection raised here. As we have seen, for Darwall the ultimate problem with Raz's view is that it precisely leaves out the way in which an authority can bind us: rather, the best that Raz's authority can do (Darwall argues) is produce exclusionary reasons for us to act, but where such reasons then do not really bind as they are just *reasons*, and not the exercise of authority as such. However, it seems to me that Raz can concede this point, but say that it still leaves obligatoriness explained: for it is precisely by *being* an exclusionary reason that it no longer leaves us the option to act on other first-order reasons, and *this* is what the bindingness of such reasons consists in. Thus, in fact, on this account they don't need to come from authority at all: rather, B's suffering can constitute an exclusionary reason for C to act to relieve that suffering, where it is just because it is a reason of this sort that C is constrained, as other first order reasons (such as the reason to carry on walking by, or to prefer his interests to B's), now drop away as reasons on which C can act, thereby constraining him after all. It would seem, then, that Raz's approach can draw the distinction between obligation and counsel that Darwall rightly makes

central to the moral case, but in a way that dispenses with Darwall's notion of demands made by demanders: wrongings of certain kinds appear to be enough.

Of course, Darwall may reply that this is all rather mysterious, nonetheless: how is that some reasons are exclusionary in this way, with this peculiar kind of power to bind? Isn't this precisely the sort of claim that has convinced Mackie and his legions of followers that morality is 'queer', with its odd kind of prescriptivity? That may be so: but then, it could be argued, Darwall's rather spectral 'moral community' of demanders is really no better, while Raz does at least seem to capture the phenomena: that reasons do have these structures of priority, where the best way to explain this may just be to examine the reasons themselves, rather than introduce another layer of explanation which itself can then be challenged. As we have seen, of course, Darwall claims that only his account is rich enough to properly capture the phenomena of our moral lives, and that anything like Raz's view falls short. What this discussion perhaps suggests, however, is that notwithstanding the undoubted subtlety and interest of Darwall's thinking here, he underestimates the resources of his opponents, and thus an alternative direction that our account of moral obligation may plausibly take.²

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NOTES

1. References to these collections will be given in the text using the volume number and page number: e.g. II, 56.
2. I am grateful for comments on this review to my colleagues Chris Bennett, Paul Faulkner and Daniel Viehoff, and also to Hans Fink.

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