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F.M. Kamm, *Intricate Ethics: Rights, Responsibilities, and Permissible Harm*, Oxford University Press, 2007.

Reviewed by Rob Lawlor

With a philosopher as well known as Kamm, the worry is that many potential readers will have made their mind up before reading the book or even before reading any reviews. In particular, there will be those who have concerns about Kamm's methodology and her intuitionism. For this reason, it is a shame that the one chapter that left me rather disappointed was chapter 14, in which Kamm considers the reliability of intuitive judgements, responding to objections made by psychologists Kahneman and Tversky.

This is not because the arguments in chapter 14 are weak. On the contrary, the demolition job is so relentlessly thorough that one ends up feeling rather embarrassed for the psychologists. Rather, my concern is that it doesn't address more common objections. The chapter serves as a brutal reminder to psychologists that they need to think very carefully about the conclusions that can be drawn from the results of empirical research. As such, the chapter would make a great teaching tool for psychologists. For its target audience, however, the chapter may be disappointing as it doesn't address the more common challenges of philosophers.

Here, I have in mind the objections of people like Singer and Sumner, and also Jeffrey Brand-Ballard's review of *Intricate Ethics* for *Notre Dame Philosophical Reviews* (May 2007). Singer frequently contrasts his rational form of consequentialism with other approaches to morality, suggesting that his approach relies solely on reason, while others' rely on emotion and intuition. Similarly, Sumner complains more specifically about the intuitionist methodology of Thomson and Kamm, stating that "as a matter of autobiography" he does not always share the relevant intuitions, and that, wherever this is true, the rest of the argument becomes nothing more than "an interesting exercise." ("Rights" in *The Blackwell Guide to Ethical Theory*, ed. Hugh LaFollette, Blackwell, 2000, p. 301.)

Sumner is criticising Thomson in this passage, rather than Kamm, but Sumner's review of Kamm's *Creation and Abortion* makes it clear that, in his eyes, Kamm and Thomson share the same intuitionist methodology. (Review of Kamm's *Creation and Abortion*, L.W. Sumner, *Ethics*, Vol. 105, No. 2, Jan, 1995, p. 427.) As such, Kamm too needs to address this criticism.

Kamm does address some of these concerns in the chapter on Singer's ethics, where she makes the obvious, but important, point that Singer "also relies on some intuitive judgements – those about the plausibility of general principles, such as 'maximise the good'." (p. 417) But I would have liked to have seen her defend her

approach to ethics in more detail, rather than focusing specifically on the challenge from Kahneman and Tversky.

I was particularly disappointed by this absence because it seems to me that Kamm's approach can be defended, and ought to be. Furthermore, the evidence elsewhere in *Intricate Ethics* suggests that, if she had addressed these issues in more detail, she would have given her opponent's an incredibly hard time.

In response to Sumner's complaint that, if one disagrees with one of the core intuitions, the rest of the argument becomes nothing more than an intellectual exercise, I suggest that Sumner needs to take a broader perspective. Kamm is often at her best when she *isn't* relying on her own intuitions, but rather is responding to other people's arguments, accepting their intuitions (for the sake of the argument) and then pointing out the implications or highlighting flaws in the argument.

It might be very tempting to treat these two things separately, to concede that Kamm has powerful arguments against others, but to say then that you aren't convinced by her own positive arguments, for the reasons Sumner discussed in relation to Thomson. My suggestion is simply that the arguments against others and her arguments for her own position should not be treated separately. The best way to read Kamm, I suggest, is to think of her as providing arguments by best explanation. Her defence of her own position doesn't depend only on her intuitions. It depends also on the consideration, and rejection, of the other alternatives.

In relation to rights, and the status of inviolability, for example, she *doesn't* just rely on brute intuitions. We don't have a stalemate of consequentialist intuition versus non-consequentialist intuition. First, she doesn't limit herself to discussing intuitions. Like the consequentialist, she too seeks an underlying principle that *explains* the "case-based judgements" (see p. 5). (Here, my defence of Kamm's method is similar to David McNaughton's defence of Ross in McNaughton's 'An Unconnected Heap of Duties?' in Philip Stratton-Lake (ed.) *Ethical Intuitionism: Re-evaluations*, Oxford: Clarendon Press, 2002. The thought that the consequentialist's method is radically different from, and superior to, the nonconsequentialist's is simply mistaken.) Second, many of Kamm's examples and clarifications are designed to make the reader see something in a new way, and therefore have the potential to make people rethink their intuitions.

The discussion of the following case, for example, may lead some people to ask themselves, why is deontology supposed to be paradoxical?

> Each of twenty people will lose his $5 as a result of a gust of wind blowing it away. The only thing that will get the money back to each is taking away A's $5 bill, which alone survives the storm, and investing it to recoup the lost $100. Unfortunately, A will soon be gone and will not be able to benefit from the investment… if it were permissible to take his $5 for this purpose, the claim of *any* person, including those who benefit, to his $5 would be a weaker claim. It is only if it is impermissible to take A's $5 that each of the others would have a stronger right to his $5 (if he had it).
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> (P. 256, my italics.)

Presumably, some people will find this case more persuasive than others. But this case is not intended to be taken in isolation. At this point in the book, Kamm has already argued against the interest theory of rights (p. 244-248). The plausibility of the claim that deontology is paradoxical depends a lot on how we understand rights. Kamm doesn't focus on a person's interests, but on his nature and worth.

> An alternative account of the right [not to be killed] (and other fundamental human rights) is that the status to which it gives rise expresses a good that is not so much *in a person's interests* as it is *a good in him* (in the sense of *worth he has*) that makes his interests worth protecting.
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> (P. 271. My italics.)

On this account, deontology seems much less paradoxical and failing to minimise rights violations does not look irrational.

> Concern for a right can rationally be expressed not by acting as though the right everyone has is weaker, so that it is permissible to minimise the violation of this weaker right, but by acting in accord with the strength of the right… Furthermore, both what it is impermissible to do and the associated degree of inviolability are not legislated by our choosing any given morality; we do not make people inviolable. They either are or are not inviolable. If they are, we should act in accord with this.
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> (p. 269.)

In relation to the equivalence thesis (the thesis that killing and letting die are morally equivalent), Kamm doesn't simply oppose this by appealing to her own nonconsequentialist intuitions. Rather, she finds flaws in the arguments presented by Rachels (p. 17-21) and Singer (p. 411-415). Kamm argues that, to avoid the confusion that leads to the equivalence thesis,

> We must be careful in speaking of essential differences, for there are two types: (a) differences that are essentially true of either killing or letting die per se and also necessarily excluded from cases involving the other, and (b) those that are essentially true only of one but not necessarily excluded from cases involving the other.
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> (p. 19.)

Kamm's point here is that some of the examples presented by Singer and Rachels rely on the thought that essential differences must be of type (a). One strategy of those arguing for the equivalence thesis is to take factors present in killing cases and export them to letting die cases, thus demonstrating that the differences are not essential differences. If essential differences had to be type (a) differences, this strategy would be a legitimate one: the exporting of a property from a case of killing to a case of letting die would demonstrate that the property was extrinsic to killing per se and that there was no essential difference between killing and letting die. If essential differences can be of type (b), however, the examples do *not* demonstrate that there are no essential differences between killing and letting die. It only shows

that it is possible to export a property that is intrinsic to killing to a case of letting die. Kamm writes,

> Exportable properties could account for one way that defenders of the Equivalence Thesis might find cases in which a killing and a letting die were morally equivalent: They could find examples of killing and letting die in which essential properties of one of the behaviors were exported to the case involving the other. Then, as long as the other morally relevant properties were equivalent in the cases, we would have identified a killing and a letting die that were morally equivalent. But that would not show that killing and letting die per se were morally equivalent; it would show just the reverse, since it would show that one of the behaviors (but not the other) has this particular morally significant exportable essential property.
>
> (p. 19.)

More generally, many disagreements in philosophy can be traced back to fundamental differences in intuitions. If, when these disagreements were discovered, we simply treated each other's work as somehow interesting but irrelevant, we would simply fail to engage with each other. The challenge is to find arguments that could potentially change the other person's intuitions, such that they come to see your position in a new light, and have to radically rethink their own position.

Regardless of whether Kamm succeeds or not, this is certainly something that Kamm tries to do in *Intricate Ethics*, and this alone goes a long way towards vindicating her approach. The fact that she does this very well, presenting powerful arguments against her opponents' views and often presenting attractive alternatives, means that her approach is not only vindicated, but also very fruitful, making this is an impressive and important book.