



Regular Article

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If You Can Understand This Essay, Then You Have Moral Rights and Moral Duties

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Abstract: Alan Gewirth's work on moral and political philosophy attracted a great deal of attention between 1978 and 2000, but has received very little attention since then. This essay aims to revive interest in Gewirth's work by providing a more direct and straightforward version of his core argument for objective moral rights and duties and clarifying how a Gewirthian moral and political theory can proceed beyond the conclusion of the core argument.

Keywords: Gewirth Alan, deontology, consequentialism, virtue ethics, human rights, moral rights, moral duties, structural-systematic philosophy

The essay that follows is written more conversationally than the standard in contemporary philosophy. I take the essay's content to be best served by its conversational style, and I indicate why I take this view as the essay proceeds.

In May 2018, I read an article by Gregory J. Walters titled "MacIntyre or Gewirth? Virtue, Rights and the Problem of Moral Indeterminacy." I had been familiar with a fair amount of MacIntyre's work, but with none of Gewirth's – possibly at least in part because I had taken the objections to Gewirth in MacIntyre's *After Virtue* to be telling. The Walters article persuaded me that MacIntyre's objections were misdirected – the position that MacIntyre rejected was not the position that Gewirth defended. Intrigued, I read Gewirth's *Reason and Morality*, and was blown away by its core argument. "Wow!" I thought, "He's right! And what he's right about is really important!" But I also wondered: given how important the core argument is, how is it that I, a philosophy professor even if not a specialist in moral philosophy, didn't know about it until now?

Reading more, I learned not only that *Reason and Morality*, along with other Gewirth's works, had received a fair amount of attention up to around 2000 but also that it has received relatively little since then. I also discovered that many other philosophers, like MacIntyre, just got Gewirth wrong. Wondering why they did, I developed a suspicion. In *Reason and Morality*, Gewirth says that his core argument is understandable by pretty much anyone.¹ But the version of the argument presented in *Reason and Morality* is not aimed at pretty much anyone – it's aimed, as it seems to me, at people with sufficiently extensive backgrounds in philosophy to enable them to understand Gewirth's technical terms and formulations. But even many with such backgrounds – many extremely talented philosophers including MacIntyre and Bernard Williams – have misrepresented Gewirth's argument.² So I decided to write a version that was aimed at pretty much anyone, and so might be more resistant to misrepresentation. Attempting to make it maximally direct and accessible, I present this version in the second person.

¹ Gewirth, *Reason and Morality*, 46.

² Their misinterpretations are explained in Section 3.

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1 A straightforward version of Gewirth's core argument

If you continue to read this section attentively, you'll encounter a number of claims that you'll discover you have to accept as true.

With the aim of preventing misunderstandings, I add three qualifications, all relevant to my presentation of the core argument in the second person. The first qualification is the following: the "you" who is addressed in the previous sentence and in what follows is the you – whoever you are – who is reading this article, as you are reading it. It is not some other actual or hypothetical or fictional human being, and it is not you in some other actual or hypothetical situation.

The second qualification is the following: as you encounter one or more of the claims I tell you that you have to accept it as true, you may be inclined to think, "Well, if I accept this, then I can see problems looming on the horizon, so maybe I shouldn't accept it." If you fail to accept the claim for that reason, you will be evading rather than confronting the argument. The appropriate response is, instead, to ask, "Must I – here and now (see first qualification) – accept this as it is presented?" If the answer to that question is "Yes," then the argument succeeds, and its conclusion will provide us with a starting point for thinking about the many problems that will indeed loom on the horizon. They will loom on the horizon because there are enormously many issues involving moral rights and moral duties that Gewirth's core argument cannot address. The conclusion to the core argument is, however, the best available starting point for addressing those issues.

The third qualification is the following: you also might be inclined to respond to one or more of the claims that the article says you must accept as true by questioning whether the claim follows deductively from what precedes it. That too would be an evasion: the appropriate question is not whether there is deductive entailment, but instead whether or not you must accept the claim as true. If you must, then the issue of its deductive entailment is irrelevant.

The first claim you have to accept as true is that you're linguistically competent; if you weren't, you couldn't be reading what you're now reading. Your linguistic competence is presupposed by everything that follows. Also presupposed is that all the other people considered in this section are linguistically competent. That is, the core argument I'm developing concerns only linguistically competent people. It says nothing one way or the other about people or animals who are not linguistically competent; such people, and animals, are considered briefly in Section 4.

The second claim you have to accept as true is that you sometimes want things and decide to act in ways that you think will get you what you want. Proof of this is that you are now reading this article. You can't be reading it without having decided to read it, and you wouldn't have decided to read it if you hadn't wanted to. Why did – why do – you want to? I, of course, don't know. Perhaps, you're a college student and it was assigned in a course you're taking. If so, perhaps you're genuinely interested in the course's subject matter and so want to know more about it, or perhaps you are or have become indifferent to that subject matter but still want to pass the course, or get a good grade in it. Or perhaps you're a philosophy professor who's reading this because you thought, "Ah, a defense of moral rights and duties – maybe I can publish an article showing where it goes wrong."

A second example is that you might at some point want to drink some orange juice (OJ) and think that the best way to do that – the best way to attain that goal – is to go to the fridge, open it, take out a carton of OJ, pour some juice into a glass and drink.

Because you sometimes do things like deciding to read this article or to drink OJ because you want to, I'm going to call you a *purposive agent*. You're purposive because you have goals that you want to attain, and you're an agent because you sometimes decide to act with the hope of attaining your goals. But you're not always a purposive agent – you're not, for example, when you're in a deep sleep. So, I'm going to call you not just a purposive agent, but a *prospective purposive agent*. The reason is that when you're in deep sleep, you don't stop being a purposive agent, you're just temporarily not acting purposively.

So, you're a prospective purposive agent, and you're sometimes – like now, as you read this article, or when you act on your decision to get some OJ from the fridge – an active purposive agent. Reading this article and drinking some OJ are two of the enormously many goals you might have from time to time. Because reading the article and drinking the OJ are among the myriad things that you might just happen

to do or might just happen to want to do hoping to benefit, I'm going to call the benefits you hope to get from such activities as *contingent* goals.

At this point, I'm going to start using the word *goods* for all the goals you choose to act in order to attain. I do this because you consider any of them that you act in order to attain *good enough* to make it worth the time and effort required to try to get them – like reading this article or going to the fridge for the OJ. Now, not everything you choose to act in order to get might be good *for* you, in the sense, say, of making you healthier, or good for you *to do*, in the sense of being legally or morally good or even permissible. You might opt for another beer or a second bowl of ice cream, even while thinking, “I'd really be better off without this,” or you might cheat on your taxes even while thinking, “This is illegal, and morally wrong.” Still, if you opt for the beer or the ice cream, or for cheating on your taxes, you consider the beer or ice cream or saved money to be good enough that it's worth going to the trouble of attempting to get them – if you didn't consider them to be good enough, you wouldn't go to the trouble.

So, you've got a bunch of contingent goods. But are all your goods contingent? Or do you have goods that are necessary? Necessary goods would be goods that you *have to have*, that you *must* have, in order to be able to act successfully to get *any* of the goods you just happen to want, that is, any of your various contingent goods. I'm confident that you'll come to agree that you do have necessary goods. I say “come to agree” because you may well not agree until I've explained why your necessary goods *are* necessary.

I'm confident that you'll have to agree – again, after some explanation – that you have two necessary goods. Following Gewirth, I'm going to call them *freedom* and *well-being*.

To clarify freedom: if, say, you've been handcuffed and locked in the trunk of a car, your ability to act to get what you want will be severely restricted. You might really want some OJ, and you might know of various ways you would, if not trapped in the trunk, be able to get some. Too bad. If you're not free to act on your choices, you're not going to be able to get many of your contingent goods. Of course, trapped in the trunk, you presumably have the contingent good of escaping, and you might have various ways of trying to attain that good. So, unless your captor also knocked you unconscious, you have some degree of freedom. But you don't have much freedom, so there will be many contingent goods that you just can't get.

Now, to well-being. What if you were to become a complete quadriplegic? You'd be unable to move your arms and legs. I hope you'd have lots of help from other people, and if you did, you might well lead a rich and rewarding life. But what if you didn't have any help? That would be horrible: you wouldn't be able to avoid dying of thirst.

Why, assuming you didn't die of something else first, would you die of thirst? Because, for us, water is a good that is necessary for our well-being. So is air and so is food. You must have sufficient amounts of these necessary goods in order to keep going as a prospective purposive agent who can choose to act in all sorts of ways to get at least some of the things you just happen to want – some of your contingent goods.

So, you have to have your *necessary* goods in order to continue to be what you are, that is, a prospective purposive agent – which, I'll say, you *generically* are, no matter what you more *specifically* are. More specifically, you might be a transgender female, a college student, a Warriors fan, and so on. But you can't go on being any of these more specific things unless you continue to be a prospective purposive agent. That's why I call the goods you need in order to continue to be a prospective purposive agent both *necessary* and *generic*. Your necessary and generic goods are, again, freedom and well-being. We could also say: in order to continue to be a prospective purposive agent, you have to have at least *enough* freedom and well-being to enable you to continue to be such an agent.

A new question, whose answer will require some clarification, is: Is it, as a default – I explain “as a default” below – *ok* for you to maintain your freedom and well-being? You might be inclined simply to say “Of course it is!,” but if you did say that, that might be something you just happened to say – something *specific* and *contingent* that you said. After this bigger game – I'm confident that I can get you to agree that “as a default, it's ok for me to maintain my freedom and well-being,” or some sufficiently similar statement, is something that you, as a prospective purposive agent, *must* say, if you respond to the question raised in the first sentence of this paragraph.

Let's start simply: Is it – as a default – *ok* for you to breathe? Most of the time, I assume, you breathe pretty much automatically. But you can also hold your breath, at least for a while. Give it a try, and while

you do, ask yourself, is it – as a default – ok for me to stop holding my breath? That is – to begin to clarify “as a default” – for it to be ok for you to inhale, must you, before you do so, come up with reasons explaining why it’s ok for you to inhale? Or, instead, would you need to come up with reasons only if you thought, in some specific instance, that it might *not* be ok for you to inhale?

One specific instance in which it might not be okay for you to inhale would be if you were trying to escape from a burning building and needed to avoid inhaling smoke. Another instance might be if breathable air were scarce and your inhaling would deprive others. But these are clearly unusual situations and that they are reveals that you have to agree that, except in such situations – or, again, as a default – it is ok for you to inhale.

A different way of getting to this same point – and an extremely important one – is by asking whether, if someone tried to *keep* you from breathing when you wanted and needed to, it would be ok for you to resist. If you said no, you would also have to say that, as a default, it was ok for the person who was trying to keep you from breathing to make that attempt and to do so successfully – that the person had the *right* to do that. But you can’t say that because, again, you have to say that, as a default, it’s ok for you to do the things that you can’t help doing and that you have to do in order to keep being a prospective purposive agent.

Should we say that it’s never ok for anyone to prevent you from breathing, that is, from inhaling and exhaling? No, because you, as a prospective purposive agent, might decide that you *wanted* someone to keep you from inhaling and exhaling. You might make this decision if you needed an operation that involved your being put on a respirator – and, while on the respirator, not inhaling or exhaling. If that were your free choice, made (in this case) in order to maintain or enhance your well-being, it would be just fine for the relevant medical experts to halt, temporarily, your inhaling and exhaling.

But what if you were to freely decide – although I hope that you won’t – that you wanted to stop being a prospective purposive agent by preventing yourself from breathing at all by, say, securing weights to your legs, putting a plastic bag over your head, and plunging into a lake? Even in this extreme case you would, first, be acting as a purposive agent and you would, second, be preventing yourself from breathing *air*, but not from at least trying to breathe. So, even if you freely decided to try to stop being a prospective purposive agent, you could attain that goal only by acting purposively, and to be able to do that you’d have to be sufficiently free and sufficiently well.

You can’t avoid at least trying to breathe, but you *can*, at least for much longer, avoid trying to quench your thirst. Should we conclude that, because you have this greater degree of control, you don’t have the right, as a default, to try to quench your thirst? No, because, again, if you didn’t have that right, then it would be ok, as a default, for somebody else to prevent you from quenching your thirst when you wanted to, and you have to agree that that wouldn’t be ok, because if you didn’t, you’d also have to agree that you would have no right to resist.

A new question: Is it merely ok, merely permissible, for you to do what you must do in order to continue to be a prospective purposive agent, or might it be obligatory – might it be something that you *have* to do? Again, I’m confident that you will come to agree that it is something you have to do. To see why, we can first go back to the OJ example. If your highest priority is getting the OJ, and you believe that the best way for you to get it is by going to the fridge, then you *must either* go the fridge for the OJ, *or*, at least for now, cease to have that as your highest priority. Because getting the OJ is merely a contingent good for you, you have the option of giving it up. It’s different, however, with your necessary goods. I take you to have agreed that even if you wanted to cease to be a prospective purposive agent, you could achieve that goal only by continuing to have enough freedom and well-being to enable you to continue to be a prospective purposive agent until you had done what you needed to do to end your life. That’s why freedom and well-being are, for you, *necessary* goods. Because you can’t give them up, you have to agree that – as of this point in our argument – you are, as a default, *obligated* to do what you believe you need to do in order to maintain them.

An example: What if, *given only what you have agreed on so far*, you wanted to continue to live, and you believed that you would freeze to death if you didn’t take the coat off my back so that you could wear it yourself? And what if you also believed that your best option for getting the coat was killing me without warning? In this case, it would not only be permissible, but it would also be obligatory for you to try to kill me.

If this disturbs you, don't worry – you'll soon have to agree that it would be *morally impermissible* for you to kill me, and that you are rationally required to behave morally. But *at this point* in the argumentation, I've introduced only what we can call *prudential* rights and duties, that is, rights and duties governed by self-interest. So, given that it *must* be in your self-interest to continue to be a prospective purposive agent – again, even if you want to *cease to be* a prospective purposive agent, you can attain that goal only by *continuing to be* a prospective purposive agent until you have done what you needed to do to attain it – you *must*, until then, do whatever you believe you must do in order to continue to be a prospective purposive agent.

I'm confident that you now agree that, as a default, you have the right to do what you need to do to maintain the well-being you must have in order to continue to be a prospective purposive agent. So, what about freedom? That, I hope, is pretty obvious. Your default right, say, to drink when you're thirsty does you no good if you're entrapped by a captor who won't give you anything to drink. So you have to have the default right to resist the would-be captor who tries to entrap you, and to try to escape if your resistance is ineffective. That's because you have the default right to maintain your freedom.

At this point, something else follows. If you have the default right to resist the kidnapper, then the kidnapper can't have the default right to entrap you. If the would-be captor *did* have that right, then it would be *wrong* for you to resist. But given that you have to agree that you have the default right to resist, you also have to agree that the would-be captor doesn't have the default right to entrap you.

I hope that you'll now be ready to join me in accepting a generalization based on the examples we've been considering. The generalization is this: you have default rights to the goods that are necessary for you to keep on being a prospective purposive agent, and no one has the default right to deprive you of any of those goods without your consent (your opting for the respirator is an example of consent). There are various other ways either of these points could be put, but I'll introduce only a few for the second one. You have to accept as true all of the following claims: It's default *wrong* for anyone to deprive you of any of those goods without your consent; everyone else, as a default, *ought not* to deprive you of any of those goods without your consent; it is not, as a default, *permissible* for anyone else to deprive you of any of those goods without your consent; everyone else has the default *duty* to avoid depriving you of any of those goods without your consent; and everyone else must *respect your rights* to those goods.

Note that the formulations provided in the preceding paragraph are, at this point, ones that *only you* must agree to. Your would-be kidnapper might well reject all of them. The crucial point is that no matter what your would-be kidnapper thinks about rights or duties or oughts or anything else, *you* affirm that you have the default right to resist the kidnapper's attempts, and you therefore also affirm that the kidnapper has no default right to try to kidnap you.

Now, a question you may well be ready to answer: *Why* do you have the default rights I'm confident that you now agree that you have, and *why* – according to you – must everyone else respect those rights? What's so special about you? The answer to this last question is "Nothing," in the sense that there is nothing *specific* about you – nothing that distinguishes you from any other prospective purposive agent – that gives you your default rights, or gives everyone else their default duties toward you. Why not? Because we haven't considered anything specific about you. I of course may well know nothing specific about you (except that you can read English, but that's not important, because it would be straightforward to translate this essay into any other human language).

So, you have to agree that you have these default rights *just because you're a linguistically competent prospective purposive agent*. But given that, you also have to agree that *all other* linguistically competent prospective purposive agents, *just because they are such agents*, have the same default rights that you have agreed that you do, and that you have the same default duties toward each of them that you have agreed that each of them has toward you. The reason is that you accept, as the sole and sufficient condition for *your* having your default rights, that you are a linguistically competent prospective purposive agent, and that sole and sufficient condition is satisfied by *every* linguistically competent prospective purposive agent.

Having taken this step, you have agreed that there are what we can call *objective moral values*. They are *values* because they concern what it is default *right* or *wrong* for us to do. They are *moral* values because they tell us that it is default wrong for us to do various things to other prospective purposive

agents even if we want to do those things and it is in our power to do them. They are *objective* moral values because no linguistically competent prospective purposive agent who considers the preceding argument with sufficient care can deny that the values apply to them and to all other linguistically competent prospective purposive agents.

Given what you have now agreed to, it would be *morally impermissible* for you to kill me in order to take the coat off my back, even if you believed that without it you would freeze to death. The reason is that you have now agreed that you are morally obligated to respect my rights, and killing me in this situation could not qualify as respecting my rights.

Now, a new wrinkle. To smooth it out, we need a more complex scenario than any of my previous ones. Here it goes: You are dining in a restaurant in Massachusetts. You don't know it, but there is, at a neighboring table, a person who, although not a medical professional, is trained in cardiopulmonary resuscitation (CPR), and who has accepted the argument presented above. This person knows that there are no laws requiring them ever to use their CPR skills but also knows that there are laws protecting them from prosecution if they use those skills when they are needed. You have been chewing your food carelessly, and a big hunk goes down your windpipe and gets stuck. You begin to choke, and you can't manage to clear your airway. Your CPR-trained fellow diner recognizes that you're choking, and that their use of the Heimlich maneuver may well be your only way of avoiding death. No one else is making any moves toward you, and if your fellow diner merely called out in alarm, you might die before anyone else could help you. So, a question: Does this fellow diner have the duty to apply the maneuver?

Given what I take you already to have agreed to, I'm fully confident that you'll have to agree that they do. Why? Well, you have the right to breathe, but can't breathe, and your CPR-trained fellow diner can, without risking any harm even remotely comparable to the harm they take to be impending for you, do what appears to them to be the only thing that can be done that could save your life. If they don't apply the maneuver, they're *choosing to act* in a manner that *ignores* rights of yours that they have agreed they are *morally required* to respect – and no matter what turns out to be the best way of understanding what is involved in other people's respecting your rights, *utterly ignoring* cases in which you cannot do what you have the right to do can't qualify as respecting your rights. Of the person satisfying the qualifications of the example who allowed you to choke to death, we can also say that they would thereby have *deprived* you of a good to which you have a right. That's why in any adequate explanation of why you died, their *deliberate failure to intervene* would play a significant role.

What's the wrinkle that the preceding paragraph aims to smooth out? It is that *in this situation*, your fellow diner must agree that they have *not only* the duty not to prevent you from breathing but *also* the duty to *attempt to enable* you to breathe. So, we prospective purposive agents must agree that there are at least some situations – including the one just introduced – in which we have what we can call *positive* duties – duties to *intervene* – in addition to our *negative* duties – duties not to interfere. And, therefore, *in these situations*, those in need have the *right* to be helped by those others.³ Specifying precisely when and how we have duties to intervene – if such specification were possible – would be far beyond the scope of this essay, which needs to show only that its readers must agree that there can be at least some cases when we do have such duties.

³ Although this argument adds positive duties after having established negative duties, because that strikes me as most straightforward, I accept that an alternative is to establish them separately, though an argument parallel to the one for negative duties. Versions of such an argument may be found in Gewirth, *Community of Rights*, 39–40, and Beyleveld, *The Dialectical Necessity of Morality*, 333–59. The importance of the parallel argument is asserted by Edward H. Spence, in *Ethics Within Reason*, 139. I see no problems with accepting both arguments. Also worth noting is that in “Human Dignity as the Basis of Rights” (1992), Gewirth argues that human rights are “grounded in human dignity” and presents an argument leading first to dignity and then from dignity to rights. He sees (13) as the only possible alternatives to this grounding that human dignity is grounded in human rights or that human dignity and human rights are equivalent. He does not recognize the possibility that human dignity and human rights are distinct, but that one cannot accept either without accepting both. That is the relationship between the two that I accept. Consequently, I accept both the core argument presented in this essay, which makes no mention of human dignity but could easily be extended to include it, and the 1992 argument moving from human dignity to human rights.

Given that prospective purposive agents, confronted with the argument presented so far, must agree that all such agents have moral rights and duties, can we drop the agreement talk and just say, all such agents *have* moral rights and duties? Yes, if we're careful. Given that no prospective purposive agent can deny that we have the rights and duties, we *do* have the rights and duties, *for all practical purposes*. "I have these rights and duties" means "No linguistically competent prospective purposive agent can deny that I have these rights and duties."

2 The form of the core argument

You might of course have some doubts, and many questions, about what more needs to be said about our objective moral values. Fortunately, various works by Gewirth and others (especially Deryck Beyleveld and Edward H. Spence) address the most pressing of those doubts and respond to the most important of those questions. In this essay, I need not and could not cover all of the ground that they cover, but I can take at least a few additional steps.

I begin by clarifying the method relied on in Section 1. Gewirth calls it the method of dialectical necessity. It is *dialectical* because its starting point is with what someone says, accepts, or agrees to, and it moves to additional claims that, given the starting point, that someone must also accept in order to avoid self-contradiction. To take a trivial example, if you tell me, "Red is my favorite color," and I then ask, "So blue isn't your favorite color?" then you must either agree that it isn't, or abandon your earlier claim about red. If you have a favorite color, you can only have one of them. But you might not have one, and if you do have one, it might not be red. So, the argument just sketched is one that is dialectically *contingent*. It works only if someone happens to announce that their favorite color is red.

As may well be clear, dialectically *necessary* arguments rely on starting points that *must* be accepted or agreed with. But the starting points need not be *immediately* accepted or agreed with. They can, instead, emerge within clusters. Hence, before reading Section 1, or as you were reading that section, you might not have been immediately prepared to agree that you have the default right to breathe; "I have the default right to breathe" might have struck you, initially, as rather odd. But if asked, "If someone tries to keep you from breathing without your consent, do you have the default right to resist?," then you have to accept that you do (once "default" has been adequately clarified). Having accepted that, you must also accept that no one could have the default right to prevent you from breathing, and that, because you have the default right to resist anyone trying to prevent you from breathing, you have the default right to breathe. And, as discussed in Section 1, it is not difficult to use similar arguments to establish your default rights to other things that are necessary to your freedom and well-being.

In the next step, you must accept that you have those default rights precisely because you're a linguistically competent prospective purposive agent, but once you accept that, you must also accept that all other linguistically competent prospective purposive agents also have those rights, for precisely the same reason.

It is important to emphasize that these agents' having these rights does not depend on their having accepted the core argument presented above. The core argument shows us why we must accept that we have the rights, but it shows us that we must accept that we have them because we are linguistically competent prospective purposive agents, *not* because we realize that we must accept that we have them.

3 Misinterpreting the core argument

As indicated above, both Gewirth and his defenders have responded in detail to a wide variety of objections to Gewirth's core argument. Here, I briefly respond to the objections of the two philosophers introduced at the outset, i.e., Alasdair MacIntyre and Bernard Williams.

3.1 MacIntyre

Given its impressive success – its 1981 edition has been succeeded by two others, one in 1984 and the other in 2007 – and its focus, in its critique of ethical theories involving rights, on Gewirth’s core argument, it seems likely that MacIntyre’s *After Virtue* is in part responsible for the decreasing interest in Gewirth. Given also that extensive responses to MacIntyre’s objections to Gewirth are provided in Gewirth’s “Rights and Virtues” and Walters’s “MacIntyre or Gewirth? Virtue, Rights, and the Problem of Moral Indeterminacy,” this essay need not and, due to space considerations, could not respond to MacIntyre in detail. For this essay’s purposes, two points suffice.

The first point is the following: perhaps the central flaw in MacIntyre’s treatment of Gewirth is that he fails to recognize the distinction between necessary and contingent goods. MacIntyre writes,

It is first of all clear that the claim that I have a right to something is a quite different type of claim from the claim that I need or want or will be benefited by something. From the first – if it is the only relevant consideration – it follows that others ought not to interfere with my attempts to do or have whatever it is, whether it is for my own good or not. From the second it does not. And it makes no difference what kind of good or benefit is at issue.⁴

MacIntyre’s statement “it makes no difference what kind of good... is at issue” makes fully clear his failure to note, and hence to take into consideration, Gewirth’s centrally important distinction between necessary and contingent goods. As Gewirth emphasizes in “Rights and Virtues,” “[t]he dialectically necessary method requires that the argument be confined to... rational necessities.”⁵ No putative critique of Gewirth’s core argument that, like MacIntyre’s, fails to distinguish between necessary and contingent goods can possibly succeed.

The second point to be made here is that MacIntyre appears to presuppose – he assumes, without argumentative support – that the only relevant defense of human rights would be ontological. This is implicit in this thesis that “there are no [natural or human] rights, and belief in them is one with belief in witches and in unicorns.”⁶

A Gewirthian response to this thesis may rely on distinguishing between *semantic* and *ontological* issues. Gewirth’s dialectically necessary argument shows that I cannot deny that I and others have rights in the sense that I cannot deny that there are moral permissibilities and impermissibilities. The primacy of semantics for the core argument is at least suggested by Gewirth’s contention, in “Rights and Virtues,” that what is “central to moral philosophy” is “the *concept* of human rights,” hence not some putative entity or entities “human rights.” Gewirth elaborates as follows:

human rights are personally oriented, normatively necessary moral requirements, in at least two senses of “requirement”: they are justified demands for or claims to certain kinds of guaranteed conduct on the part of other persons, and their objects, what they are rights to, are the necessary conditions of action and successful action in general as having to be equally possessed by every actual or prospective agent.⁷

Neither Gewirth nor MacIntyre is a systematic philosopher, or (explicitly) an ontologist. But Gewirth’s core argument is semantic rather than ontological in that it reveals *claims* or *theses* that linguistically competent prospective purposive agents cannot reject. As shown above, the most central of these claims and theses, on the one hand, can be formulated without reliance on the language of rights, but on the other hand, they are conveniently and perhaps most intelligibly paraphrased or rearticulated using the language of rights.

⁴ MacIntyre, *After Virtue*, 64–65; also quoted in Gewirth, “Rights and Virtues,” 745.

⁵ *Ibid.* This text also refers readers to *Reason and Morality*, 77–78, 81–82, where the central importance of the distinction between necessary and contingent goods is likewise emphasized.

⁶ MacIntyre, *After Virtue*, 69.

⁷ Gewirth, “Rights and Virtues,” 743.

3.2 Williams

In *Ethics and the Limits of Philosophy*, Bernard Williams presents⁸ an argument that is similar in several respects to that offered by Alan Gewirth in *Reason and Morality*, adding that “[a]lthough Gewirth’s [account] differs in some respects from that considered here, I believe it fails for the same general reasons.” As Beyleveld notes in “Korsgaard v Gewirth on Universalization,”⁹ “Williams... does not tell us what modifications he has made” to Gewirth’s argument.

Williams writes as follows:

[P]erhaps I must regard my own freedom as a good. But if so, I must not be misled into thinking that my freedom constitutes a good, period. This would be so only if it were a good, period, that I should be a rational agent, and there is no reason why others should assent to that.¹⁰

The third sentence in this passage appears to commit Williams to the claim that anything qualifying as “a good, period,” would have to have its goodness assented to by others, indeed perhaps by all others. But how this is relevant to Gewirth is not clear.

Williams’s argument concerns what “each agent... must think,” apparently in isolation. But Gewirth’s core argument says nothing about what isolated agents must think; it considers instead how agents can, without contradicting themselves, respond to the core argument.

Like MacIntyre, Williams fails to recognize the centrality of Gewirth’s distinction between necessary and contingent goods, as is evident from his introducing, as relevant, the question why, “if I am going to prescribe [that others not interfere with my freedom], I should not more ambitiously prescribe that no one interfere with whatever particular purposes I may happen to have.”¹¹ To this question, Gewirth’s answer is clear: the argument that concerns my *necessary* goods simply cannot be extended to include any of my merely *contingent* goods.

Williams asserts, “[t]he argument needs to tell us what it is about rational agents that requires them to formulate [the] conception of themselves as, so to speak, abstract citizens.”¹² But responding to Gewirth’s core argument does not require that I consider myself as such a citizen. The core argument requires only that I recognize that, no matter what else I may be, I am a linguistically competent prospective purposive agent, although of course I can never be *nothing more than* such an agent.

4 Beyond the core argument

As indicated at the outset, I came to suspect that one reason Gewirth’s work is no longer attracting the attention I take it to deserve is that he does not present his core argument in a form that is as easily accessible as he takes that argument to be. I now want to consider two additional reasons: (1) that Gewirth routinely overstates the conclusion to what I take to be his core argument, and (2) that he is insufficiently clear about the methodology he relies on in moving beyond the conclusion of the core argument.

Gewirth writes,¹³ “what justifies for every agent his having [the generic] rights is that he is a prospective agent who has purposes he wants to fulfill.” To see why this is an overstatement, consider the case of a typical 3-year-old child. This child is a prospective agent who has purposes he or she want to fulfill, but there is nothing that justifies, for the child, the child’s having the generic rights. Why not? Because the child cannot yet understand the core argument. So the core argument does not force us to

⁸ Williams, *Ethics and the Limits of Philosophy*, 210n2.

⁹ Beyleveld, “Korsgaard v Gewirth on Universalization,” 576n8.

¹⁰ Williams, *Ethics and the Limits of Philosophy*, 59.

¹¹ *Ibid.*, 62.

¹² *Ibid.*, 63.

¹³ Gewirth, *Reason and Morality*, 121.

accord any rights to the child. Nor, as far as I can tell, is there any dialectically necessary argument that forces us to conclude that the child either does or does not have the rights.¹⁴ So, how are we to proceed?

Let's begin by terming the child a *potential* linguistically competent prospective purposive agent. What makes this terminology appropriate is that, if the child matures and is adequately educated, the child will become a linguistically competent prospective purposive agent to whom we will then have to accord the generic moral rights and duties.

Now, we have two options: *either* we say that *until* the child becomes a linguistically competent prospective purposive agent, the child has *no* rights, *or* we say that the child, prior to that developmental point, has at least *some* rights. Saying the latter, I suggest, makes far more sense. Why? Because I see no plausible argument concluding that the attainment of linguistic competence transforms an entity without any rights into an entity with the generic rights. Far more plausible, I suggest, is that the closer a *potential* linguistically competent prospective purposive agent approaches being an *actual* linguistically competent prospective purposive agent, the more fully that potential prospective purposive agent has the generic rights. So, for example, whereas newborns have no right that medical procedures be explained to them, because they could not understand the explanations, as children's capacities to understand such explanations increase, so too do their rights to increasingly detailed explanations. The newborn is simply given the shot; the 5-year-old has the right to be told something like, "This will hurt a little bit, but it will help keep you from getting sick."

A somewhat different way to put this point: if we said that only linguistically competent prospective purposive agents had rights, then we would have to say that human beings acquire rights only when they become linguistically competent. That, I suggest, would be unacceptably arbitrary. After all, we were all *prospective* purposive agents long before we were linguistically competent, and perhaps, for a while, before we could be *active* purposive agents. Perhaps we were not, as newborns, active purposive agents; as newborns, we certainly were not linguistically competent. Yet clearly, we had the *potential to become* linguistically competent prospective purposive agents, because all of us who are reading this article have, by now, actualized that potential. So, unless we say we acquired rights only when we became linguistically competent – or, more specifically, when we became able to understand the argument presented above – then we must say we had rights before that point, and that we had rights even as newborns.¹⁵ But we haven't reached this conclusion by using a dialectically necessary argument.

If we indeed accord rights to newborns, should or must we also accord them to at least some nonhuman animals? Again, I see no dialectically necessary way of answering this question. But that does not mean that we cannot proceed. The argument for children's rights presented above identifies two relevant factors: (1) children are *potentially* linguistically competent prospective purposive agents, and (2) as children grow, they typically become *increasingly similar to* linguistically competent prospective purposive agents. Factor (1) does not, according to our best currently available scientific theories, apply to any nonhuman animals, but a version of factor (2) may be relevant. Normal adult cats and dogs and chimps, for example, are more similar than are newborn humans to linguistically competent prospective purposive agents in that they can engage in much broader ranges of purposive action. And chimps, again for example, are far more similar to such agents than are mussels. So, again we have two options: either we say (1) that these varying degrees of similarity are irrelevant with respect to rights, in which case we have no reasons linked to the core argument to accord any rights to any nonhuman animals or we say (2)

¹⁴ *Reason and Morality* (121) extends rights to children on the basis of the *Principle of Proportionality* (PP), which it describes as "a pervasive feature of traditional doctrines of distributive justice," and which it links (374, n39 to 121) to Aristotle's *Nicomachean Ethics*. It merely asserts that "the PP is true ... if it is interpreted correctly" – it makes no claim that accepting the PP is dialectically necessary.

¹⁵ It is worth emphasizing that many newborns' rights entail positive duties on the part of others. The newborn cannot provide itself with, most importantly, food, clothing, and shelter. Morally adequate states will have laws indicating how newborns' rights are to be adequately respected.

that the more similar nonhuman animals are to linguistically competent prospective purposive agents, the more rights they have. The most I can say in this essay, I think, is that the latter is far more reasonable.¹⁶

I now turn to an additional issue, one for which I will provide an argument that *is* dialectically necessary. This is the issue of how we should deal with conflicting duties. Let's return to the dinner example from Section 3 and add an additional detail: the CPR-trained person had promised his or her spouse a cozy, romantic dinner, and this person affirms that he or she has the default duty of keeping his or her promises. Recognizing your need for the Heimlich maneuver, this person has conflicting duties: the duty to keep the promise to his or her spouse, and the duty to use the Heimlich maneuver in an attempt to keep you alive. Must we agree on how this issue is to be resolved?

First, once we've agreed that we all have the duty of respecting one another's rights to freedom and well-being, we can ask whether these rights can, in any significant way, be ranked. It is not difficult to see that they can. The most basic right is the right to life, because if one's right to life is violated, one no longer has either freedom or well-being. In the restaurant case, the one choosing to perform the Heimlich maneuver is not ignoring – not failing to respect – what he or she accepts as his or her spouse's default right to have the promise kept. He or she is instead recognizing the greater claim made on him or her by your choking. Your right to life is far more essential to you than keeping of the promise is to the spouse. Or, in terms of duties, in this case, the default duty to save a life overrides the default duty to keep the promise. In a form that is more explicitly dialectically necessary: if you say that, in the position of the CPR-trained person, your keeping your promise to your spouse is adequately respectful of rights, then you have to say that, in allowing your fellow diner to choke to death, you are adequately respecting the fellow diner's rights. But you can't say that because, as indicated above, one cannot respect a right by ignoring it. You *can* say, however, that in performing CPR you are adequately respecting your spouse's default right that you keep your promise, because respecting that default right is fully consistent with overriding it in order to respond to a more important right.

5 Two additional extensions

This section briefly introduces two additional extensions beyond the core argument, one relating to ethics, and the other to politics. Due to space considerations, it is possible here only briefly to sketch each of the two extensions; the chief purpose of this section is to show that both extensions are both necessary and possible.

Concerning ethics, it is often held, as for example by Joshua Greene in his 2014 *Moral Tribes* that “[t]here are three major schools of thought in Western moral philosophy: utilitarianism/consequentialism (à la Bentham and Mill), deontology (à la Kant), and virtue ethics (à la Aristotle).”¹⁷ Gewirth's moral theory avoids this trichotomy by supplementing his deontological account of human rights with both consequentialist considerations and moral virtues. The former is particularly significant given that there are passages in Kant which suggest that deontological thinkers cannot consider consequences when deciding what is required by the moral law.

On Gewirth and consequentialism:¹⁸ “For the deontological consequentialist, a violent action against other persons is justified not [as for utilitarianisms] if its consequences (or the consequences of a general

¹⁶ In more technical terms, a theory granting rights proportional to similarities is more coherent and intelligible than is one deeming such similarities to be irrelevant. The structural–systematic philosophy (SSP), presented in part in Puntel, *Structure and Being* and *Being and God* and White, *Toward a Philosophical Theory of Everything*, explicitly relies on coherence and intelligibility as criteria of theoretical adequacy. This essay is a step toward incorporating a broadly Gewirthian moral and political philosophy into the SSP.

¹⁷ Greene, *Moral Tribes*, 329. For more on Greene's *Moral Tribes*, see White, “Toward a Systematic, Rights-Based Moral Theory.”

¹⁸ Gewirth, *Reason and Morality*, 216.

rule upholding such actions) will serve to achieve more good than will any alternative action, but rather if the action, directed against the perpetrator of a severe injustice, will remove or remedy that injustice without leading to worse injustices, and only if it is quite clear that the severe injustice cannot otherwise be removed.” Hence, to extend the example introduced above, the CPR-trained person takes into consideration the likely consequences of performing the Heimlich maneuver and of breaking their promise. Even if the maneuver fails to save your life, the use of the maneuver will have been shown to be morally obligatory by deontologically consequentialist reasoning.

As for virtues, some are, according to Gewirth, “deep-seated enduring dispositions that underlie and help to moderate actions,”¹⁹ and that thereby “contribute to [the agent’s] effectiveness in action to fulfill his purposes.”²⁰ As contributing to the agent’s effectiveness, these virtues are prudential, but they become moral, “in that sense in which ‘moral’ is opposed to ‘immoral’ as well as to ‘nonmoral,’ [in that] they must [– in order to be consistent with the morally mandated respect for human rights –] be guided by or at least subordinate to the other-regarding virtue of justice.”²¹ In other words, because I am morally obligated to act justly, I am also morally obligated to strengthen those dispositions that increase the probability that, particularly when tempted to do otherwise, I will indeed act justly.

As for politics, extensions are clearly mandated by the requirements of positive duties. The first extension is to what Gewirth calls “the minimal state.” Because, as a matter of incontestable empirical fact, not all human beings always act with adequate respect for the rights of others, there will be violations of rights that must somehow be addressed. If it were left to individuals to address these violations, then (1) many individuals would be unable to address them because of lack of requisite power – e.g., an unarmed, elderly woman would likely be unable to prevent a strong, 25-year-old man from assaulting either her or someone else – and (2) there would be no provisions such that the violations, when addressed, would be addressed equitably. In addition, people whose houses are burning, or who are suffering cardiac arrests, can be aided reliably and effectively only by trained firefighters or medical personnel. Thus, the minimal state must include such structures as a system of criminal justice, and systems for responding to fires and to medical problems.

In addition to being minimal, the state, in order to be consistent with the moral requirement of adequately respecting human rights, must be democratic, to insure that each citizen has an adequate say in how the state is organized. Finally, because no matter how the minimal state and the democratic state were organized, some of their residents would lack the resources required for them to become or to continue to be prospective purposive agents, the state must also be supportive, in order to provide those resources to those residents.

6 In closing

Reason and Morality anticipates and responds to various objections that have nevertheless been raised by other philosophers who have often ignored those responses. Later, two volumes appeared – Regis, *Gewirth's Ethical Rationalism* and Boylan, *Gewirth: Critical Essays* – that include objections to Gewirth made by various philosophers, and Gewirth’s responses to those objections. Beyleveld’s *The Dialectical Necessity of Morality* responds systematically, and with Gewirth’s full approval,²² to all objections to the core argument that had appeared by that point, and Spence in *Ethics Within Reason* responds to what he takes to be the most significant objections to Gewirth’s moral philosophy as a whole, including its extensions beyond the core argument.

¹⁹ *Ibid.*, 243.

²⁰ *Ibid.*, 242.

²¹ *Ibid.*, 243.

²² *Ibid.*, vii, xiv.

Two points are to be emphasized. The first is that although the various objectors agree that Gewirth goes wrong somewhere, there is no consensus about where he goes wrong. The second is that the objectors fail to note Gewirth's (or Beyleveld's or Spence's) responses to those objections. Particularly striking is the nonresponse of Alasdair MacIntyre. Walters, in "MacIntyre or Gewirth," reports its author's having been told by MacIntyre that although the latter had spoken with Gewirth about Gewirth's response to his objections, "he had not [responded to Gewirth] in writing."²³ Walters 2003 notes that "[t]he absence of a formal, published response by MacIntyre to Gewirth's critique may be telling." It continues, "Scholarly protocol would at least seem to require a response to Gewirth, since MacIntyre initiated the critique." This protocol would also seem to require responses by others who initiated critiques to which Gewirth or others have responded.

A January 2020 search of Notre Dame *Philosophical Reviews* yielded, since the *Review's* inception in 2002, five reviewed books that mention Gewirth; none of these defends Gewirth. It yielded 133 mentioning MacIntyre, 654 mentioning John Rawls, and 177 mentioning Bernard Williams. These appear to be appropriate comparisons because the work of MacIntyre, Rawls, and Williams, like that of Gewirth, focuses on moral and political philosophy. Also worth noting is that Gewirth's works include extensive and, in my view, successful objections to Rawls as well as to MacIntyre; additional successful objections to MacIntyre are raised in the Gregory Walters article cited above, and Beyleveld's publications from 2013 and 2015 defend, also successfully, in my view, Gewirth against Williams.

Debates among consequentialists and deontologists, deontologists and virtue ethicists, virtue ethicists and consequentialists, and all of the above with various sorts of moral relativists and amoralists, can appear to be unavoidably interminable. Gewirth's core argument establishes that they should not be. We must all accept the objective moral rights and duties that emerge from that argument. Accepting them would enable us to move beyond the various fruitless debates listed above and to focus, instead, on how to meet the challenge of building on the core argument in ways that will make our world a morally and politically better place.²⁴

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²³ Ibid., 195.

²⁴ For comments on earlier versions of this essay, my sincere thanks to Henry Burton, Jane Nicholls, Daniel O'Connor, Niko White, the anonymous reviewers for *Open Philosophy*, and students in various of my courses over the past three semesters.

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