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978-0-521-03871-3 - In Harm's Way: Essays in Honor of Joel Feinberg

Edited by Jules L. Coleman and Allen Buchanan

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For several decades the work of Joel Feinberg has been the most influential in legal, political, and social philosophy in the English-speaking world. This volume honors that body of work by presenting fifteen original essays, many of them by leading legal and political philosophers, that explore the problems that have engaged Feinberg over the years. Among the topics covered are issues of autonomy, responsibility, and liability. It will be a collection of interest to anyone working in moral, legal, or political philosophy.

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Frontmatter

[More information](#)

Contents

Preface	<i>page</i> vii
Contributors	ix
1 Liberalism and group rights ALLEN BUCHANAN	1
2 The argument from liberty SHELLY KAGAN	16
3 Autonomy and preference formation RICHARD J. ARNESON	42
4 Critical analysis and constructive interpretation DAVID LYONS	76
5 Liberalism, free speech, and justice for minorities DAVID A. J. RICHARDS	92
6 Liberalism and the new skeptics THOMAS MORAWETZ	122
7 Tort liability and the limits of corrective justice JULES L. COLEMAN	139
8 Liberalism, retribution and criminality JEAN HAMPTON	159
9 Responsibility for consequences JOHN MARTIN FISCHER and MARK RAVIZZA	183
10 Some ruminations on women, violence, and the criminal law JEFFRIE G. MURPHY	209
11 Force, consent, and the reasonable woman JOAN MCGREGOR	231

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Frontmatter

[More information](#)

vi

CONTENTS

12	Self-defense	255
	ROBERT F. SCHOPP	
13	Letting patients die: Legal and moral reflections	290
	SANFORD H. KADISH	
14	Fetal-maternal conflicts	324
	HOLLY M. SMITH	
15	Benign and malign morality	344
	HYMAN GROSS	
	Publications by Joel Feinberg	351

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Preface

Given how far-ranging and subtle Joel Feinberg's work is, and how eloquently it speaks for itself, no brief overview could possibly do it justice. Instead, we will limit ourselves here to a few unsystematic remarks about what we take to be some of the most distinctive features of his approach to philosophy, knowing full well that we will not succeed in indicating its richness. Our attempt to convey something of the man's character will be even less satisfactory.

It is no secret that Feinberg's writings achieve an unparalleled combination of rigor, sensitivity, and clarity. No other contemporary philosopher writing in English is as able to deal with complex and nuanced issues without lapsing into the false security of jargon. That Feinberg's books and essays represent much of what is best in liberal, legal, and moral philosophy is also widely recognized. What is less often appreciated is the fact that Feinberg's work achieves something that some of the most vociferous contemporary critics of Liberalism assume to be incompatible with Liberalism: a highly contextualized, concrete rendition of the liberal point of view, rooted in the actual practices and culture of a distinctive society, rather than in an abstract and ahistorical conception of the moral agent.

It is interesting (some less charitable might say suspicious) that "communitarians" and "contextualists" such as MacIntyre and Sandel, who excoriate Liberalism for its abstractness and sterility, almost uniformly fail to engage Feinberg's work. Yet here, if anywhere, we find Liberalism, or one interpretation of it, as a living doctrine built on the common values of a certain type of society and political culture, within a definite historical context.

Feinberg draws upon patterns of legal reasoning (especially in the common law), public and scholarly constitutional debates, common sense moral thinking, and the best, most systematic thought of Western Judeo-Christian secular and religious ethical theory. In this sense Feinberg actually does what these critics advocate but do not themselves attain. He articulates, refines, and sometimes challenges the shared values of a community – what we might call the liberal community of principle – in the right context of the historically evolving, particularistic conflicts of values which that community now faces. What is more, the substantive views he puts forward are unmistakably liberal

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Frontmatter

[More information](#)

– just the sorts of views which these critics of Liberalism mistakenly think are necessarily rooted in a noncontextualist, abstract approach to values.

In other words, Feinberg not only talks about the importance of rooting moral philosophy in a community of values, he actually participates in that community by deftly negotiating the practices, discourses, and institutions in which those values are embodied. To say that Feinberg always treats these wellsprings of liberal values critically is true, but fails to capture his more important accomplishment: In his own thinking, he shows quite convincingly that the liberal culture which nourishes him and which he in turn nourishes contains concepts and styles of argumentation that make its own self-criticism possible. And in doing so, he gives us a special reason to give our allegiance to this community.

There is something highly artificial about dividing our comments between Feinberg the philosopher and Feinberg the man. Joel Feinberg is a good man, writing and speaking well, about things that matter. Sympathy without sentimentality, a sensitivity which does not sacrifice strength, rectitude without rigidity, seriousness of purpose leavened by a wit that is sharp but never malicious – these rare virtues are equally well expressed in his life as well as his writings.*

For those who have not had the good fortune to know him personally, we take the liberty of mentioning two anecdotes which do something to convey a sense of wholeness of the person and the thinker. Both incidents occurred when Feinberg was a young soldier in World War II. In the first, he was reprimanded while he was an officer candidate because he was too polite towards the troops under his command in a trial exercise (“Bill, would you please move that machine gun forward a bit?” was thought to lack command presence). In the second, Joel was sentenced to thirty days in the guard house for having allowed the prisoners he was guarding to come into a boiler room out of the bitter cold. These vignettes are of course endearing and indicate Joel’s kindness and generosity. But what is equally significant is what he did with the experiences – reflection on them helped generate his interest in the relationship between law and morality. It is no doubt because Feinberg the thinker and Feinberg the person are one that his work provides not only knowledge but wisdom.

Allen Buchanan
Jules L. Coleman

*A complete bibliography of Joel Feinberg’s works appears at the end of this volume.

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x

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