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INTRODUCTION

The concept of responsibility lies at the heart of a number of central questions in moral philosophy and legal theory. Under what conditions is it appropriate to praise or blame agents for their actions (or their omissions)? When is it legitimate for a legal system to hold an agent accountable for the consequences of his behavior? Are people's decisions and actions in some sense causally determined, and, if they are, is this determinism compatible with our moral and legal practices of assigning responsibility?

The essays in this volume address these questions and confront related issues. Some analyze different theories of causality, asking which theory offers the best account of human agency and the most satisfactory resolution of troubling controversies about free will and determinism. Some essays look at responsibility in the legal realm, seeking to determine how the law should assign liability for negligence, or whether the courts should allow defendants to offer excuses for their wrongdoing or to claim some form of "diminished responsibility." Other essays explore libertarian views about political freedom and accountability, asking whether libertarian positions on consent, contract law, and responsibility are consistent, or whether restitution is superior to retribution or deterrence as a basis for a theory of corrective justice. Still others examine the notion of partial or divided responsibility, or the relationship between responsibility and the emotions.

The first six essays deal with various issues relating to legal responsibility. Michael S. Moore's "Causation and Responsibility" explores the concept of causation which is presupposed by the liability doctrines of Anglo-American tort and criminal law. Moore begins by isolating a number of characteristics of the law's view of the causation of harms. On this view, causation is not mere correlation; nor is every necessary condition of some harm a cause of that harm. Causation is a scalar property: something can be more or less of a cause. What's more, causation can diminish over the number of events through which it is transmitted; and causal chains can be broken by intervening causes. Omissions or failures to act, on this view, are not themselves causes, though one may be liable for them on noncausal grounds. Once Moore has established this set of common-sense presuppositions about causation, he attempts to discover whether any of the commonly held metaphysical theories of causation can endow it with the characteristics that the law requires. He examines the four leading types of theories of causation—Humean regularity theories, neo-Humean theories, probability theories, and counterfactual theories—and finds that none of them

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are able to accommodate the law's demands on the concept. He concludes that rather than abandoning the law's common-sense views about causation, we should continue our search for a metaphysical theory of causation that can support these views.

In "Negligence," Kenneth W. Simons examines the moral underpinnings of our practice of holding people legally responsible for negligence—that is, the creation of an unjustified and low-probability risk of causing harm. Simons contends that the common-sense moral precept that one should not be negligent reflects neither a coldly calculating economic or utilitarian conception of morality, nor an absolutist deontological conception that ignores all costs or disadvantages of taking precautions against risk. Rather, ordinary moral judgments, informed by plausible nonutilitarian and deontological moral principles, can make sense of the duty not to act negligently. Simons argues that a pluralistic balancing approach to negligence can recognize the breadth of values expressed in these judgments and principles. He goes on to discuss the institutional implications of his view, touching on a range of subjects, including collective responsibility, the "reasonable person" standard, and the relationship between moral duties and legal rules. He concludes with a discussion of the foundations of tort law, suggesting that principles of fault, rather than of corrective justice, offer the better interpretation of Anglo-American tort doctrine.

The libertarian view of contract law is the subject of Leo Katz's contribution to this volume, "Responsibility and Consent: The Libertarian's Problems with Freedom of Contract." Katz begins by observing that libertarians support freedom of contract, provided that there is no force or fraud involved and that the agreement imposes no adverse effects on third parties. Yet libertarians also believe in certain ideas regarding responsibility: for example, the idea that one is not responsible for failing to rescue someone in peril, but that one is responsible if one actively does him some harm. The central argument of Katz's essay is that libertarians' beliefs about consent and freedom of contract are in conflict with their beliefs about responsibility. In order to show that this is so, Katz describes three types of contracts in which the libertarian's intuitions about consent would incline him to approve of the contract, while his intuitions about responsibility would lead him to condemn it. Drawing on real-life cases and invented examples to illustrate his points, Katz argues that the tension between responsibility and freedom of contract is real, and that it has important implications even for those who disagree with libertarian legal and political theory. He shows how this tension helps to illuminate the nature of consent, the distinction between responsibility for acts and for omissions, and the significance of promises exacted under duress.

Like Katz, Roderick T. Long is concerned with libertarian views on legal responsibility. In "The Irrelevance of Responsibility," Long argues that judgments about whether a wrongdoer is responsible or nonrespon-

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sible should not determine how he should be treated by the legal system. Libertarians generally believe, Long observes, that the life appropriate to human beings—as rational, political animals—is one that involves renouncing the use of force except in response to the aggressive force of others. Hence, the presence or absence of responsibility on the part of a wrongdoer makes no difference to the degree of force that may legitimately be used in response to his actions. No more force may be used against a responsible aggressor than against a nonresponsible one, since only aggression licenses retaliatory force, and the responsible aggressor commits no greater amount of aggression than the nonresponsible one. If this view is correct, Long maintains, then all legal practices imposing greater costs on responsible wrongdoers than on nonresponsible ones must be considered unjust. In the course of his discussion, Long defends a theory of corrective justice based primarily on restitution rather than on retribution or deterrence.

The notion of “diminished responsibility” is the focus of John Staddon’s contribution to this volume, “On Responsibility in Science and Law.” Staddon begins by noting that responsibility is an intrinsically behavioristic concept, since responsibilities are discharged by action, not thought; and he goes on to challenge the idea that if behavior is causally determined, a person cannot be held responsible for his actions. Responsibility, he suggests, depends on a degree of determinism, namely, predictable response to reward and punishment. Scientifically defined, responsibility has two components: normal sensitivity to reward and punishment, and the ability to learn from instruction and example. Together, these components determine an agent’s deterrability. While normal adults possess both components (to varying degrees), children, animals, and the mentally ill lack one or both. The problem of diminished responsibility, Staddon argues, is fundamentally a question of how we should deal with individual differences in deterrability. He concludes that moral and political considerations must determine whether diminished responsibility is treated as mitigation (as when a defendant is held to be suffering from a “mental defect”) or leads to increased penalties (for those who are considered “repeat offenders”).

Michael Stocker’s “Responsibility and the Abuse Excuse” deals with a particularly prominent basis for claims of diminished responsibility: the idea that being a victim of past abuse can in some sense lessen one’s culpability for a crime committed against one’s abuser (or against someone else). Stocker asks whether we should accept abuse excuses in criminal trials, arguing that the answer to the question is far from simple and straightforward. Within a single category of excuses (for example, the “battered woman” defense), there are a wide range of particular cases, each with its own distinguishing elements; thus, an excuse that may be valid in one case may not be valid in another. Stocker challenges opponents of abuse excuses who would seek to disallow them in every case.

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He focuses on the work of James Q. Wilson and other critics, who claim that allowing abuse excuses threatens our sense of responsibility and encourages jurors not to judge the behavior of defendants but to try to explain it—a practice that plays on jurors' sympathies and leads to excessive leniency. Many of these critics contend that the acceptance of abuse excuses would cause potential wrongdoers to exert less effort in resisting the temptation to break the law, and would lead them to be less deterred by legal penalties. Stocker argues that the critics have not made a convincing case, and that a background of abuse may well be acceptable as a mitigating factor, particularly in situations where the magnitude of the punishment does not fit well with the circumstances of the crime.

While Stocker and others discuss responsibility in the legal realm, Alvin I. Goldman explores responsibility in the political realm—specifically, in the context of elections. In his essay “Why Citizens Should Vote: A Causal Responsibility Approach,” Goldman observes that responses to the question of whether citizens should vote usually center on the fact that it is highly unlikely, in large elections, that a single voter's ballot will be decisive. In setting out a new approach to this problem, Goldman focuses on the fact that an individual's vote can be a partial cause of an electoral outcome even if it is merely an overdetermining cause of that outcome. He sketches a model of “vectorial causal systems” in which states of affairs result from the interplay of different forces (in this case, votes) that can be treated as vectors. This analysis of causation implies that a person will be more causally responsible for a good candidate's victory if he votes for the candidate than he would be if he abstained. Moreover, even if the candidate loses, a voter will avoid causal responsibility for the loss if he votes for the candidate rather than abstaining. Goldman concludes that these considerations often provide citizens with good reasons to vote.

Goldman's essay suggests that responsibility for the outcome of an election can be shared among a group of individuals, and the theme of shared or distributed responsibility is taken up by Henry S. Richardson in his essay “Institutionally Divided Moral Responsibility.” Richardson addresses the issue of forward-looking responsibility—the kind of responsibility people sometimes take, prospectively, to look out for a certain range of concerns. He proposes that what differentiates taking on such a responsibility from merely having a duty is that the former involves some authorization—probably strictly delimited—to revise any preexisting moral rules. Utilizing this notion of forward-looking moral responsibility, Richardson then asks how it is distributed across people. Does everyone have the same authorization (if any) to revise moral rules? Or does prospective moral responsibility vary systematically according to individuals' roles? Richardson argues for a version of the latter possibility, according to which prospective moral responsibilities, including their component authorizations to revise moral rules, vary in a socially institutionalized way. He suggests that this division of moral responsibility, in the context of

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deliberative democracy, provides us with a way of evaluating and (if necessary) altering existing moral practices and social institutions.

Susan Sauvé Meyer offers a historical perspective on responsibility and causation in her contribution to this volume, “Fate, Fatalism, and Agency in Stoicism.” Meyer examines the doctrine of determinism—the view that everything that happens is determined by antecedent causes—and asks whether it is compatible with the practice of holding agents responsible for their actions. She argues that the thesis of fate put forward by the ancient Greek Stoics is a determinist theory which can nevertheless support attributions of responsibility. The Stoic thesis, she maintains, is a brand of determinism that is very different from modern varieties, since it is articulated using causal notions that are very different from modern ones. The “chain of causes” that the Stoics identify with fate is not a sequence of events, but rather a system of mutual causal influence among the constituents of the universe. Drawing on the doctrines of Chrysippus, Alexander, Cicero, and other major Stoic thinkers, Meyer elaborates the Stoic view and contrasts it with the thesis of fatalism—the view that nothing is up to us, since everything is predetermined. A proper understanding of the thesis of fate, she contends, allows us to explain away the apparent evidence for attributing fatalism to the Stoics, and to see how some characteristic elements of the Stoics’ ethics are rooted in their physical theory. In the end, she suggests, Stoic notions of causation may prove superior to modern notions in offering us a better way of assessing the implications of determinism for human responsibility.

The compatibility of determinism and responsibility is also the subject of Alfred R. Mele’s essay “Ultimate Responsibility and Dumb Luck.” The idea of ultimate responsibility, Mele notes, requires the falsity of causal determinism: agents are possessed of such responsibility only if they are causally undetermined sources of at least some of their decisions or choices. Yet at the same time, if determinism is false, then agents are subject to a kind of luck that may seem to preclude ultimate responsibility. If one’s decisions and actions are simply matters of luck, then it is difficult to see how one could be held morally responsible for them. In developing his view of ultimate responsibility, Mele provides a detailed discussion of the notion of “ultimacy” and its relationship to the “principle of alternate possibilities”—the idea that someone is morally responsible for what he has done only if he could have done otherwise. Mele defends the thesis that ultimate responsibility is consistent with indeterministic luck, that it is a possible attribute of human beings, and that it may reasonably be valued more highly by some people than any kind of responsibility that is consistent with determinism. He offers an account of what is desirable about ultimate responsibility from the perspective of someone who values a certain kind of freedom that is incompatible with a deterministic worldview.

In the collection’s final essay, “Taking Responsibility for Our Emotions,” Nancy Sherman explores ways in which people might be held to

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have some responsibility for their emotional states. Sherman notes that we often praise people for their compassion, think less of them for their ingratitude or hatred, or reproach them for their self-righteousness or unjust anger. In the cases that she considers, the ascriptions of responsibility are not simply for the offensive behaviors or actions which may accompany the emotions, but for the emotions themselves as motives or states of mind. Sherman argues for a limited claim of moral responsibility for emotions based on the notion of emotional agency. In doing so, she develops a broadly Aristotelian position, according to which character (including emotional states as well as dispositions toward action) develops through direct and indirect actions. There are intentional actions we take to mediate our emotional experiences; we are not merely passive sufferers of our emotions. Sherman supports this view by drawing on developmental and clinical research on emotions and their growth: observational research on children suggests that, from earliest infancy, children mediate and regulate their emotions. Moreover, she argues, the role of agency in a person's emotional life can be seen in the therapeutic context of psychoanalysis, where patients take responsibility for their emotions by loosening some of the defensive structures that stand in the way of more mature character development. Thus, in these cases, we can see that agents are able to assume some measure of responsibility for their emotional lives.

The notion of responsibility occupies a crucial position in ethical and legal theory. The eleven essays in this volume present the views of leading scholars on the nature of responsibility and its relationship to questions about human agency, free will, causation, and corrective justice.

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