

# Corrective Duties/Corrective Justice

## Abstract

In this paper, I assess critically the recent debate on corrective duties across moral and legal philosophy. Two prominent positions have emerged: the Kantian rights-based view (holding that what triggers corrections is a failure to respect others' right to freedom) and the so-called continuity view (correcting means attempting to do what one was supposed to do before). Neither position, I try to show, offers a satisfactory explanation of the *ground* (why correct?) and *content* (how to correct?) of corrective duties. In the final section, I suggest that it is probably better to restrict the label "corrective duties" to duties generated by interpersonal wrongdoing.

## 1. Introduction

While moving your hands distractedly, you accidentally break your friend's precious porcelain dog. You ought to do something to *make up* for it. It might be that you ought to buy her a new one, help her repair it, or simply apologize. Suppose, instead, you had *intended* to smash the porcelain dog, maybe out of spite. After you realize that what you did was wrong, what are you supposed to do? The *content* of what you are required to do will probably be different – for instance, we might think a mere "Sorry!" is hardly enough in this case – but it remains the case that you ought to do something to make up for what you did before.

Philosophers have been interested in the topic of corrective duties at least since Aristotle's isolation of a separate domain of corrective justice in *Nicomachean Ethics*. In this essay, I assess critically the recent literature on corrective duties between moral and legal philosophy to identify some recurring themes, common assumptions, and possible shortcomings. I do that by focusing on two questions that a successful account of corrective duties – or corrective justice – should aspire to answer. The first concerns the *ground* of corrective duties – the factor that explains, better than any other, why moral agents find themselves under an obligation to correct. The second concerns the *content* of corrective duties – in which way, that is, moral agents are supposed to correct once the grounding condition, whatever it is, has been triggered.

The survey will end with the observation that none of the accounts presented so far in the literature succeeds in offering a theory that can explain both *what* generates the need for moral agents to correct and *how* they can correct. Specifically, what I am going to call the rights-based account says something relevant about the ground of corrective duties while struggling to disclose anything significant about their content, whereas the so-called continuity view answers the content question but in an ultimately unsatisfactory way.

Throughout, I am going to focus mostly on corrective justice and corrective duties in morality, leaving aside the relationship between corrective justice and the law of torts.<sup>1</sup> This is for two reasons. Firstly, even though one of the accounts of corrective justice I will consider – the rights-based view – has been elaborated specifically to explain why the law of torts responds to requirements of corrective justice, I believe it makes sense to consider what each account has to say about corrective justice in general, regardless of its success at making sense of some features of legal doctrine. Secondly, even if we agreed that a specific account of corrective justice is the most plausible, it is far from obvious what conclusions we can draw from it that are relevant for the law. After all, purely consequentialist approaches to the law of torts have been popular within the law and economics movement and they need not deny the relevance of corrective justice for interpersonal morality. Going beyond the pure consequentialism of law and economics, one could support some kind of *mixed* approach under which the law of torts, or remedial practice in the law, are sensitive to both corrective justice and to other kinds of requirements (distributive justice? social efficiency?). In which case, corrective justice will provide only a *partial* answer about the organization of the law of torts. Hence, nothing I say here about corrective justice in general has *immediate* implications for the law.

A final disclaimer concerns the relationship between the domains of correction and *compensation*. Let's take compensation to be any requirement that aspires to make sure that the

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<sup>1</sup> See (Ripstein 2022).

welfare of a damaged individual or group is brought back to where it was, roughly, before a damaged occurred or to a status that is roughly equivalent.<sup>2</sup> There is a tendency, in the literature, to assume that compensatory duties are corrective and that a theory of corrective duties must find a place for compensation. But I want to leave open the question of whether compensation is part of corrective justice, and I am going to gesture at an answer in the final section.

This is how the paper is organized. In Section 2, I introduce corrective duties and notice how some theorists – but not all – treat them as part of second-personal normativity. I then move to isolate *ground* and *content* as the two axes of investigation through which we can judge whether an account is successful. Sections 3 and 4 present the rights-based and continuity views, flagging their merits and drawbacks. Section 5 offers some final observations about the second-personal nature of corrective duties and Section 6 concludes.

## **2. Corrective Duties in General**

Suppose the porcelain dog in the initial example had been mine, instead of my friend's. At least arguably, my smashing the dog might generate the self-directed normative requirement to be more self-conscious in the use of my arms. And treating this first-personal requirement as part of the domain of correction seems in harmony with linguistic usage; admittedly, we correct our mistakes, not merely the wrongs we have inflicted.

Some theorists of corrective justice, nonetheless, explicitly reject a purely first-personal understanding of corrective duties.<sup>3</sup> Ernest Weinrib, for instance, affirms that corrective justice “links the doer and sufferer of an injustice in terms of their correlative positions” (Weinrib 2012, 18). The correlativity of corrective duties, for Weinrib, follows neatly from the fact that the

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<sup>2</sup> For the distinction between different forms of compensation – which is however orthogonal to the present discussion – see (Goodin 1989) (Slavny 2014).

<sup>3</sup> Weinrib reconnects his second-personal understanding of corrective duties to Aristotle's comments about corrective justice as “the mean between loss and gain” in *Nicomachean Ethics* 1132a 15. Another account of corrective justice emphasizing the correlativity of corrective duties is (Coleman 2002, Chapter 16).

injustice suffered by the victim and the injustice perpetrated by the wrongdoer – the wrong to be corrected – are one and the same thing.

For authors that take corrective duties to be second-personal in character, corrective duties instantiate a *bipolar* normative nexus that connects the wrongdoer and the victim, and nobody else.<sup>4</sup> A bipolar normative nexus connects three entities: a duty, the bearer of the duty, and the holder of a *claim* against the duty-bearer (somebody the duty-bearer *owes the duty to*). Corrective duties are thus a species of the more general genus of directed duties.<sup>5</sup> What makes corrective duties special among directed duties is that their emergence presupposes the violation of a previous, equally directed, duty.

A contrast might be helpful to appreciate this point. Suppose I am required not to pick some mushrooms in a protected natural area. The mushrooms are “raw materials for wrongdoing” (Thompson 2006, 352), features of the world that may occasion my wrongdoing if I interact with them in a particular manner. My friend in the initial example, however, is not a mere occasion for wrongdoing. By flouting a requirement that is due to her (presumably, the duty of care in the case of the accidental smashing and a duty not to harm in the case of the deliberate smashing), I produce a *moral injury* which is bound to generate two consequences. First, it is now fitting for my friend to feel and display *resentment* towards me. Secondly, the “order of right”<sup>6</sup> previously existing between us has turned into an order of at least partial injustice which can only be rectified through the corrective act of the wrongful agent.

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<sup>4</sup> For the idea of a normative nexus, and the description of it, I am indebted to (Wallace 2019). For the language of bipolar normativity, see (Thompson 2006) (Darwall 2012).

<sup>5</sup> On directed duties in general, see (Sreenivasan 2010) (May 2015) (Cruft 2019). On second-personal normativity, see (Darwall 2006) (Wallace 2019) (Schaab 2023). For attempts to describe corrective duties in second-personal terms, see especially (Darwall and Darwall 2011) (Jonker 2020) (Oberdiek 2020).

<sup>6</sup> Again (Thompson 2006, 352).

Not everyone agrees, however, about the inclusion of corrective duties within the realm of second-personal normativity.<sup>7</sup> As I am going to show later, some authors – especially but not only those subscribing to the so-called continuity view – defend the idea that corrective duties can emerge whenever an agent has breached all kinds of normative requirements, including purely first-personal or impersonal ones.

The dispute regarding the second-personal character only concerns, however, one aspect – however crucial – of corrective duties. But it does not affect the ground or content question.

Let's start with the *ground* question, keeping in mind that, in line with the recent debate in metaphysics, I take “ground” as the factor that explains, more accurately than any other, why a particular fact obtains.<sup>8</sup> If supporters of second-personal normativity are right, corrective duties emerge only when two individuals are in the position of victim and wrongdoer which means that one has flouted a requirement previously directed to the other party. This may go some way towards understanding the ground of corrective duties. But it leaves an open question: what are the requirements that, as moral agents, we can legitimately demand from others to the point that failing to comply with them is a wrong perpetrated against us? A complete account of the ground of corrective duties cannot limit itself to offering one necessary condition for the emergence of corrective duties, namely, the breach of a duty directed to the victim. It also needs to be informative regarding the types of requirements moral agents can generally hold each other accountable to.

Things do not improve if one rejects the identification of corrective duties with duties to make up for the breach of *directed* requirements. Those who believe that corrective duties do not require interpersonal wrongs for their emergence still owe us an explanation of *which* normative requirements, if left unsatisfied, generate duties to correct. Rational agents are

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<sup>7</sup> See, apart from authors supporting the continuity view, (Smith 2019, Chapter 7) (Tadros 2020) (Keating 2023) (Slavny 2023). For the idea that, by contrast, continuity is consistent with second-personal normativity, see (Oberdiek 2023).

<sup>8</sup> See (Fine 2001) (Rosen 2010).

ordinarily subject to a plethora of different requirements – rational, prudential, moral – many of which cannot be simultaneously satisfied. It would be surprising if corrective duties emerged whenever one cannot satisfy *any* of these requirements.

Let me now introduce two prominent accounts of corrective duties in the contemporary debate and let us see how they address the two central questions.

### **3. The Rights-Based View**

The rights-based view takes inspiration from Kant's doctrine of right as presented in the *Metaphysics of Morals*. The starting point is the Universal Principle of Right: "if [...] my action or my condition generally can coexist with the freedom of everyone in accordance with a universal law, whoever hinders me in it does me *wrong*; for this hindrance (resistance) cannot coexist with freedom in accordance with universal law" (Kant 1996 [1797], AK 6: 230-31).

The Universal Principle of Right advances our understanding of the ground question insofar as it introduces one sufficient condition for wrongdoing: I wrong others whenever I interfere with their action or "condition," so long as such action or condition is consistent with the freedom of others. The sole expectation we can hold others accountable to is, for Kant, that they do not interfere with our agency so long as what we are doing or the condition we are in is consistent with the freedom of others. But this only pushes the question further back: how can I determine whether what I am doing, or the condition I find myself in, is consistent with the freedom of others?

Among contemporary Kantian authors, Arthur Ripstein offers a twofold characterization of wrongdoing. According to him, I interfere with another person's "independence," and thus wrong her, "either by drawing that person into purposes that she has not chosen or by depriving her of her means" (Ripstein 2009, 15). As persons are characterized, first and foremost, by their capacity to set purposes and to use means in pursuit of such purposes (14), interfering with

another's act or condition counts as an act of wronging if it assaults either of the constitutive capacities of personhood: "Literally forcing or fraudulently luring another person into helping you pursue your purposes generates familiar examples of the first type of interference, bodily injury a familiar example of the second" (15). Notice that the two conditions of wronging help define not only the types of conduct that count as wronging and that can be legitimately subject to coercion (following the Kantian precept according to which coercion is justified when it serves as a "hindering of a hindrance of freedom" (AK 6: 231)) but also the types of conduct that, however factually detrimental to others, do *not* count as wronging and cannot be subject to coercion. Borrowing Ripstein's example, those that purchase the last quarter of milk at the store do not "interfere with your independence, because they impose no limits on your ability to use your powers to set and pursue your own purposes. They just change the world in ways that make your means useless for the particular purpose you would have set" (16).

Does Ripstein's gloss on Kant give a definitive, unambiguous answer to the ground question? It does so if we presuppose, as Kantian authors do, that the state can articulate a system of rights and freedoms such that the exercise of one's freedom does not interfere with the ability of others to do the same. The example about the last quarter of milk is illustrative: Ripstein takes it as a good example because he assumes, in line with contemporary Kantian scholarship, that the distribution of property within a mildly idealized state is such that no person is so destitute that they need to depend on others for their very ability to set and pursue purposes.<sup>9</sup> The system of rights and liberties that the state instantiates is supposed to correspond to a "domain of right" (Weinrib 2022, 30) wherein citizens never risk depriving others of their capacities of personhood if they do what they are, according to the same system, entitled to do.

One way to challenge the Kantian account would be the express skepticism on the plausibility of a "domain of rights" wherein every person can exercise their right to freedom without

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<sup>9</sup> See (Ripstein 2009, Chapter 8), (Weinrib 2012, Chapter 8), (Hasan 2018).

interfering with others doing the same. However, the gravest shortcoming of the account seems to be its response to the content question. Kantian authors respond to the content question by deferring to the articulation of corrective practices in private law, which usually follows the precept that the wrongdoer is liable for the reparation of all adverse consequences on the victim's property and wellbeing, so long as such consequences can be proven to be connected to the original wrong through a link of proximate cause (Weinrib 2012, Chapter 3, Ripstein 2016, Chapter 8).

Weinrib, for instance, presents the content of the corrective duty by writing that "the function of the remedy is to remove the inconsistency with the plaintiff's right that is imputable to the defendant" (2012, 109) but straightforwardly emphasizes that this aim (the elimination of the inconsistency between the wrongdoer's act and the victim's right) is no other than what the law tries to achieve when it urges the wrongdoer to *repair* all adverse effects on the victim (or pay nominal damages in those cases in which the violation of a right has not caused any material damage). Ripstein, on the other hand, follows Justice Blackburn's old maxim according to which what the wrongdoer is required to do is to put the victim "in the same position as he would have been in if he had not sustained the wrong" (Ripstein 2016, 233, citing *Livingstone v. Rawyards Coal Co.*, (1880) 5 App Cas 25, 39). Since the right survives its own violation, what the wrongdoer is required to do is to give back control of the right "in the form of your entitlement to have me do something that brings the object [of the right] or a substitute under your control to the extent that it is possible to do so" (Ripstein 2016, 243). When it comes to delineating which specific obligations fall on the wrongdoer after the breach of the right, Ripstein holds that "Although the [original] obligation makes no reference to a magnitude, a wrong in violation of that obligation will always have a magnitude, and can only be addressed by the transfer of powers of choice equivalent in magnitude" (244).



But, if the obligation has no magnitude (it is just an obligation to respect another's right) and, moreover, "the nature of a wrong does not depend on its magnitude at all" (244), why should the corrective duty – which is the normative response to the wrong – be specifically sensitive in its content to the magnitude of the wrong? Notice that the magnitude of Ripstein's harm-based wrong can only be determined *ex-post* and, in ordinary circumstances, duty-bearers have very limited control over it. I can decide whether to violate another person's right, but I generally cannot determine whether my violation of another's right will lead to a damage, and to which extent. Why shouldn't the content of the corrective duty depend, instead, on the *moral gravity* of the wrong, something that, at least arguably, is under the control of the wrongdoer?<sup>10</sup>

In holding that the content of the corrective duty should be tied to the "magnitude" of the damage, the rights-based view seems to affirm two contradictory things. On the one hand, it says that the *ground* of corrective duties – the wrong – is the violation of another person's right, which is itself understood as a *moral injury*. Indeed, Ripstein takes the idea that "no person is in charge of another" as "normatively attractive" (64) and capable, in itself, of sustaining a regime of rights. But the *content* of the duty that aims at correcting the wrong is said to depend on the "magnitude" of the damage, which varies independently of the degree of violation of the right itself. There is a mismatch, in sum, between the criterion offered to explain what the wrong consists of and the procedure used to determine what moral agents need to do to correct a wrong.

Even if rights-based views are not oblivious to this problem, the responses they offer seem to reiterate, rather than address, the mismatch. Ripstein, for instance, writes that "Provided that the plaintiff's means survive intact, there is no inconsistency between the defendant's act and the plaintiff's right to his or her means, regardless of how badly the defendant behaves" (2016, 87). But that means admitting that whether one's action is consistent with the

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<sup>10</sup>This problem is hardly new. For prior presentations, see (Perry 1992) (Cornell 2020) (Penner 2020) (Sage 2021).

freedom of others can be a mere matter of chance; however inconsiderate I am of others' independence, if I just happen not to damage their means, my action is as consistent with their freedom as that of any considerate agent. If that is correct, the rights-based view lacks a moral explanation not only for why the magnitude of a damage matters in determining the content of correction but also for why the consistency of one's action with others' independence is morally valuable. In looking for an explanation for why the duty to correct depends on circumstances that are beyond the duty-bearer's control, Ripstein is forced to embrace a rather uncomfortable position: he admits that even the factor that explains the emergence of the obligation – the inconsistency of one's action with others' right to independence – may be beyond anyone's control. But, decoupled from agential control, the ideal itself of mutual independence – “no person is in charge of another” – does not look as naturally attractive or, at least, becomes much harder to defend.

Notice that the problem is not about the definition of what counts as a violation of another's right.<sup>11</sup> We could agree, for instance, that a failed attempt to enter another's property does not constitute a violation of a right whereas a clumsy, involuntary trespassing still does. But we could agree with that and still think that the agent who wanted to enter another's property for no good reason and did not succeed in doing so ought to do something to correct for his misconduct (for instance, apologizing) whereas the agent who accidentally entered the property, due to his innocence, has got nothing to correct.

So, even if we agree with Ripstein that an act can be a violation of another's right even if it is blameless, we could still maintain the view that corrective duties cannot emerge when an agent has engaged in blameless conduct. Alternatively, we could agree with Ripstein that all interferences with another person's right call for some form of correction, even blameless ones,

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<sup>11</sup> Incidentally, we may even argue, following (Cornell 2015), that not every violation of a right corresponds to a wrong and *vice versa*.

and maintain the view that the content of the correction should be sensitive to the moral gravity of the interference and not the “magnitude” of the damage, which is not under the control of the interferer. The rights-based view owes us an explanation about why, among all the relevant features of a wrong, only the “magnitude” of the damage determines the content of corrective duties and why, among the various types of interpersonal conduct, violation of rights specifically triggers a need to correct.

The objections I have raised would be toothless if the rights-based view were presented as a value-neutral description of the *legal* obligations and liabilities that fall on individuals who have caused a damage as a result of violating others’ rights.<sup>12</sup> Because it is of course true that the law often assigns obligations and liabilities to repair independently of the wrongdoer’s culpability and purely in function of the “magnitude” of the damage. But, as an explanation of the nature and value of corrective duties, the rights-based view is unsatisfactory. It merely limits itself to reiterating the ideal of reparations that informs damage redress in modern law, the one according to which “any human act that causes a damage to another, obliges the person whose fault it is to repair it.”<sup>13</sup> But that ideal cannot be assumed to be correct in a moral vindication of corrective practices of the law.

#### **4. The Continuity View**

The continuity view is a more recent addition to the literature on corrective duties. It builds on an insight already present in the rights-based view, namely, that the duty to correct must be continuous in character with the obligation that the agent now required to correct had previously breached. Weinrib, for instance, writes that “what is rightfully the plaintiff’s remains

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<sup>12</sup> I say *duties and liabilities* because, as noticed in (Smith 2012), common law systems generally do not recognize a *duty* to repair.

<sup>13</sup> “*Tout fait quelconque de l’homme, qui cause à autrui un dommage, oblige celui par la faute duquel il est arrivé, à le réparer*” (French Civil Code of 1804, article 1240).

constant throughout” (Weinrib 2012, 84) and that this explains why violators of rights must correct. The view I present in this section, however, explains continuity in terms of reasons:<sup>14</sup> reasons (or, more specifically, as I am going to argue, *grounding* reasons) rather than rights remain in place and justify the existence of a corrective duty.

The continuity view offers a sophisticated argument about the content of corrective duties which can be schematized thus:

P1. Every time you wrong someone, you have contravened a duty.

P2. Duties produce (or are equivalent to) protected reasons for action, i.e., first-order reasons to do something combined with a second-order reason that requires the duty-bearer not to act following other, potentially countervailing, reasons (Raz 1999, 191).

P3. Your breach of a duty cannot defeat the duty’s protected reasons of conformity.

P4. The conformity principle: “if one cannot conform to reason completely one should come as close to complete conformity as possible (Raz 2011, 173).”

C. Whenever you wrong someone, the reasons you have to correct the wrong are no other than the same reasons that justified your having the duty. “The normal reason why one has an obligation to pay for the losses that one wrongfully occasioned [...] is that this constitutes the best still-available conformity with, or satisfaction of, the reasons why one had the [original duty] (Gardner 2011, 33-34).”<sup>15 16</sup>

I am not going to contest premises 1 to 4 in the previous scheme. Let me explain in a few words why P3 and P4 are particularly relevant. P3 expresses the familiar view that one cannot simply cancel the reasons to conform to a duty by violating or ignoring its content; binding duties survive their violation. Very often, however, violating a duty makes it impossible or

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<sup>14</sup> I take the distinction between rights-continuity and reasons-continuity from (Steel 2020).

<sup>15</sup> In later work, Gardner re-elaborated: “[a] duty of repair is none other than a duty to mitigate, so far as possible, one’s non-performance of one’s original duty” (Gardner 2018, 100).

<sup>16</sup> Scheme derived from (Fornaroli, [online first]).

exceedingly hard for the violator to conform her action to it after the breach. Hence why P4 applies: even when complying with a duty has become increasingly difficult, one can do something almost as good, namely conforming only partially, as much as possible, with what the duty dictates.

The insight behind the continuity view can be summarized by saying that there is, in fact, nothing special in an obligation to correct. By correcting, moral agents merely attempt to do what they were previously required to do. More specifically, the same *reasons* that demand from any agent confronted with a duty that they comply with it also mandate the same agent to do something as close as possible to discharging the duty after the breach. To borrow one of Gardner's examples (2011, 28-29), if I promise my children to bring them to the beach today, and I cannot deliver on the promise, the same reasons for which I should have respected the promise before now require that I do something nearly as good, such as, for instance, bringing them to the beach at the earliest opportunity.

There are distinct advantages with the continuity approach. Firstly, it gives a simple, elegant solution to the content problem. The solution is further consistent with two powerful intuitions we may have about corrections in general: the first is that correcting means making up for something one should have done before, and the second is that duties cannot be cancelled with an act of will. Notice that the continuity approach makes the ground problem less pressing. If one takes corrective duties to be responses to failures to discharge duties, there is no point in investigating what specifically triggers a demand for corrections: *any* failure to discharge a binding duty, for the continuity approach, can generate a demand to correct.

Its merits notwithstanding, the continuity approach suffers from two problems at different levels of abstraction. The most abstract problem is that it seems to equivocate what it means to act for reasons derived from a duty. When Gardner says that, by correcting, I conform to "the reason why I had the obligation," he means that correcting is one (suboptimal) way of attending

to the reasons *grounding* an obligation, i.e., the reasons that explain why one is subject to a particular obligation.<sup>17</sup> But, in addition to grounding reasons, obligations also produce reasons of conformity to which one can attend only by *complying* with the duty. If one merely attends to the reasons grounding a duty, she can still fail to comply with the duty. To exemplify, the reasons grounding the obligation to stop at a red light are, presumably, reasons of security and fair cooperation: I ought to stop *because* doing so prevents accidents and shows respect to a well-functioning cooperation scheme. But, suppose I am driving in the middle of the night, slow down before the red light, look around carefully, and, only when I am certain no car is approaching on either side, cross anyway. Then, it seems I have attended to the reasons grounding the duty without, in the end, complying with it.

Sometimes, when a duty has lost its normative pull – for example, if it is impossible to comply with it any longer – one can *appear* to attend to the reasons grounding it when, in reality, she is doing something different, such as *complying with a different duty*. Consider again Gardner’s example: by bringing my children to the beach tomorrow, I may seem to attend to the very same reasons for why I needed to bring them to the beach today, namely, that I have promised them to do that. But imagine there is no beach I can bring them to tomorrow, so I decide to buy them a present. Does it still make sense to claim that I am buying them a present *because I had promised to bring them to the beach today*? A much more natural identification of the reasons grounding my action is that I am doing that not because I had promised them but *because I failed to deliver on a promise*.<sup>18</sup>

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<sup>17</sup>That continuity advocates care fundamentally about grounding reasons is particularly relevant in these passages. “According to the continuity thesis, the *further reasons why* I had my primary duty are [...] still in play. At least some of them went at least partly unconformed to when I failed to perform my primary duty. Just as they shaped my primary duty, so they now shape my fallback secondary duty” (Gardner 2018, 119). “The reason or reasons *grounding* the duty breached continue post-breach, and next-best conformity to those reasons may require compensation” (Steel 2020, 259). (Emphasis added.)

<sup>18</sup>For similar arguments, see (Tadros 2020) (Slavny 2023, Chapter 3).

Our recurring example seems particularly fitting to support this point. Once the porcelain dog is shattered, there is no way for me to discharge, albeit only partially, the original duty (of either care or “do no harm”). The most I can do is do something else, possibly quite far from what is dictated by the original duty, but which makes up for the failure to obey it. By doing that, am I attending to the reasons grounding the original duty? Suppose what I decide to do to correct now is *apologizing*. Am I apologizing *because I needed to be careful* towards my friend’s possessions or *because I have failed to be careful* towards my friend’s possessions? The second reading seems much more straightforward. If this reasoning is correct, the continuity view is wrong in assuming that correcting means attending to the reasons grounding a previously breached duty and, more importantly, fails to notice that the breach itself may originate its own, separate, reasons.

At a lower level of abstraction, one of the apparent advantages of the account – that it renders the ground question possibly redundant – can be shown to be a shortcoming. By ignoring the issue of what wronging amounts to, the continuity approach neglects the specific second-personal aspect of corrective duties. If corrective duties are rational responses to the failure to comply with a duty, then there is no difference between correcting one’s failure to comply with an impersonal duty (such as a duty not to pick mushrooms in a natural park) and correcting one’s failure to comply with a duty directed to somebody. But we noticed that the failure to discharge a duty directed to somebody, as opposed to a generic, impersonal duty, creates some distinct normative consequences, such as the fact that the duty-recipient can now legitimately resent the duty-bearer and that the moral relationship between the two has been impaired. If we want a theory of corrective justice to be responsive to those normative consequences, in the sense that it gives guidance to moral agents confronted with them, then we have to acknowledge that the continuity approach is, in this respect, defective.

## 5. Final Notes on Correction, Compensation, and Second-Personal Normativity

I noticed in Section 2 that some authors dispute the idea that corrective duties are necessarily second-personal. I here want to show that we may have reasons, nonetheless, to restrict the domain of corrective duties to duties that depend on interpersonal wrongdoing.

We should start by noticing that it is not only defenders of continuity who deny the second-personal understanding of corrective duties. Victor Tadros, for instance, distances himself from the reasons-continuity approach insofar as he takes corrective duties to be discontinuous in ground from the originally breached obligation but suggests that all corrective – or, in his parlance, “secondary” – duties emerge because agents who fail to discharge a primary duty fail to respond accurately to the *value* underpinning the duty (Tadros 2020, 196) (Slavny 2023, 63).

Suppose there are both self-directed and undirected duties. An example of the former could be duties of virtue, an example of the latter purely epistemic or rational requirements. If we follow Tadros, failures to discharge self-directed or undirected duties would generate corrective duties. But, then, we would be incapable of isolating, within the vast realm of “secondary” duties, the duties that we ought to discharge because we have failed to give adequate respect to others.

Is this a problem? One could counter that what ultimately matters about corrective duties is their remedial aspect, the fact, that is, they attempt to make up for normative failures which we can qualify in various ways. But generically remedial duties have less in common than what we may initially think. They do not share a common ground apart from the very vague reference to a normative failure. And they do not share a common content except for the vague reference to “making up.” So, it is not obvious to me that something is gained by isolating a separate realm of generically remedial requirements.

My suggestion, then, is to reserve the label “corrective duties” only for those duties that (i) are grounded in interpersonal, morally significant wrongs and (ii) aim at responding



normatively (in a yet-to-be-determined manner) to such wrongs. That is my (very modest and provisional) response to the ground and content questions. The aim of this proposal is mainly to emphasize the *moral significance* of corrective duties; unlike other kinds of “secondary” or remedial duties, corrective duties – under my terminology – would be characterized by their being demanded by the respect we each owe to other moral peers. We can then meaningfully speak of a realm of corrective justice which is co-extensive with corrective duties, something that would be impossible were to treat corrective duties as all kinds of duties generated by failures to respond accurately to value.

Regarding the content question, accepting that corrective duties are second-personal duties that emerge when one agent has wronged another means further accepting that at least some compensatory duties cannot be part of corrective justice. Consider for instance compensation that is required from an agent despite lack of finding that the agent has engaged in wrongful conduct, as it is the case with strict liability in the law.<sup>19</sup> Or take all cases where compensation follows the recognition that the agent required to compensate has indeed wronged the victim, but where the content of compensation is determined considering purely the entity of the damage, and not the gravity of the wrongdoer’s conduct.

Neither duty should be called corrective following my proposal: the first would not meet the criteria for a corrective duty in its ground, since it is not grounded in a wrong, the second would be at odds with the content of corrective duties, since it seems to respond normatively to the material consequences of a wrong and not to a wrong *per se*. We could deal with these duties in two ways. We could either say that we should get rid of them – at least in morality – or that they are genuine moral duties, but not part of corrective justice.

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<sup>19</sup> For a defense of the moral credentials of strict liability, which, importantly, has nothing to do with corrective justice, see (Keating 2006).

Let me explain very briefly why the first, deeply revisionary, strategy is probably unnecessary. Some scholars have already suggested that compensation –understood as the domain of justice that deals with the restoration of a victim’s wellbeing when it has been affected negatively by others’ wrongdoing – may be a matter of distributive, not corrective justice.<sup>20</sup> According to a purely distributive understanding of compensation, the compensatory question would be something like this: who is responsible for making sure that a victim’s wellbeing is restored to a level that is either identical or as good as it would be were it not for the harm? I am not suggesting that the answer to this question should altogether *ignore* issues of corrective justice, only that, in being an ultimately distributive question, it may respond to criteria that are independent of those of corrective justice proper. The overall plausibility of this detachment of compensation from corrective justice cannot be defended here. However, it is important to introduce this possibility so that we understand that we need not discard an account of corrective duties simply because it does not include canonical compensatory requirements among corrective duties.

Demanding that the content of a corrective duty is tied to the second-personal character of wrongdoing does not close all questions we might have about corrective duties. Once we divorce corrective duties from damage reparations, it might not be easy to figure out what exactly we mean by correcting a wrong – the content question is still mostly unanswered. One suggestion might be to look at the burgeoning literature on reparative or transitional justice and at its insight that what must be repaired after the occurrence of a wrong is the disrupted relationship between victim and wrongdoer.<sup>21</sup> The risk inherent in the move is conflating the possibly separate domains of corrective and reparative (or transitional) justice. To avoid that, one would have

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<sup>20</sup> (Perry 1992), most likely (Nozick 1974, p. 153).

<sup>21</sup> (Allais 2011)(Radzik 2009) (Radzik 2014) (Murphy 2017).

to find a non-relational, but still second-personal, understanding of the content of corrective duties. But that is a task for another day.

## 6. Conclusion

I have offered a critical assessment of the contemporary literature on corrective duties and corrective justice across moral and legal philosophy. I have presented the two most prominent accounts of corrective duties in the extant literature, what I have called the rights-based and continuity view. If I am right here, both accounts have distinct advantages but neither succeeds in giving an explanation of the *ground* and *content* of corrective duties. Throughout, I have reported that authors disagree regarding the second-personal character of corrective duties: only some understand corrective duties as necessarily belonging to the realm of second-personal normativity. In the end, I have suggested that we may have reason to embrace this latter understanding, mostly to distinguish the duties generated by interpersonal wrongdoing from all the generic requirements that emerge whenever an agent fails to do something she was supposed to do.

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