

Comments on Nicolas Cornell's "Third Parties"

Romy Eskens (SU)
2nd Annual Rights Workshop

1. *Introduction*

Standard View: A person is wronged by an action *iff* that action transgresses a right of theirs (or, correlatively, breaches a duty owed to them by the agent).

Claim: A person can be wronged by an action that does not transgress a right of theirs (or, correlatively, does not breach a duty owed to them by the agent), if (a) that action (non-trivially) harms the person, and (b) the agent acts wrongly.

Evidence: Ex post accountability practices and emotions are evidence that someone has been wronged, and such practices and emotions are in place in cases that satisfy (a) and (b).

2. *Wronging Without Wrongdoing?*

Overgeneration Problem: We want (b), because otherwise any action that (non-trivially) harms someone will count as wronging that person.

Ex Ante vs. Ex Post: "[T]he ex post relations of answerability need not trace back to the ex ante rights and directed duties. They stand as evidence that a party may be wronged though it was not her rights that were violated" (p.13). But then it seems at least possible that a permissible action that harms a third party wrongs that party, if the relevant ex post relations apply.

Example 1: Fraternity dare (p.30). I agree that ex post accountability relations are in place, but it doesn't seem that the fraternity bros acted wrongly.

- *Reply*: The wrongdoing requirement requires *objective* wrongdoing (rather than subjective wrongdoing).
- *But...* Move doesn't seem to fit well with the account, and an objective version of the wrongdoing requirement doesn't seem to solve the overgeneration problem.

Example 2: "Constance, a senior party in a prominent brokerage firm is concerned about a junior associate in the firm, George. Due to the recession, the firm will be cutting back on staff, and Constance knows that George's position is one of those slated to be cut. She tells him, knowing that it is better for him to look for another job while he can, before a flood of new applicants inundates the brokerage houses. George, being a reasonable person, does so, and gets a job at another firm. But, due to a sudden and completely unexpected influx of cash, Constance's firm is able to keep its staff, though not to hire any new persons. George's new

firm, however, due to the sudden demise of its President, is forced to cut back and George loses his job. He is unable to get another job at a brokerage firm because at this point there are too many qualified applications for the jobs available, and he ends working as a driver for a car service in Manhattan for minimum wage” (Driver 1997: 852).

- *Verdict:* Constance acted permissibly, and ex post accountability relations seem in place.

Suggestion: Distinguish between cases in which excuse, special concern, apology, etc., are owed and can be demanded by the third party, and cases in which those things are merely fitting and cannot be demanded. Only when these things are owed and demandable does the ex post accountability package indicate wrongdoing.

- *Downside:* Seems that some examples from the chapter no longer count as third-party wrongings (e.g. fraternity dare, prodigy son). But (what I think are) the strongest examples still do.