

Joint Berlin-Jerusalem Post-Doctoral Fellowship Program

Confidential information

Richard Healey

Application number: joint-postdocs-5232

Core Data

Contact Address: 4220 Rue de Bullion, Montreal, H2W 2E7, Quebec, Canada

Email: richard.healey@mail.mcgill.ca

Field of Research: Humanities

Title of Research Proposal: Normative Powers and Valuable Relationships

PhD University: University of Sheffield

Year of PhD: 2016

Current Institution: McGill University

Year of Award:

Recommendation 1, First Name(s): Daniel

Recommendation 1, Last name: Viehoff

Recommendation 1, Institution: New York University

Recommendation 2, First Name(s): Victor

Recommendation 2, Last Name: Tadros

Recommendation 2, Institution: University of Warwick

Endorsement FUB, first name(s): Stefan

Endorsement FUB, last name: Gosepath

Endorsement HUJI, first name(s): David

Endorsement HUJI, last name: Enoch

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Figure 1: Project Proposal and time plan, 1 (2018_01_30_1517342558.pdf)

Joint Berlin-Jerusalem Post-Doctoral Fellowship Program, 2018
Richard Healey

Research Proposal: Normative Powers and Valuable Relationships

Project Overview

Normative powers – such as the power to promise, to give consent, to make contracts, and to give orders – are central to our interpersonal relationships and our social lives. This is because normative powers enable persons and institutions to directly and intentionally change the duties that they and others have. Consider some examples. When we make a *promise* to a loved one to help them, we intentionally give ourselves a new duty to do so; when we sign employment *contracts* we deliberately alter the legal duties we have, as well as the benefits we are legally entitled to; by giving our *consent* we release others, such as doctors or sexual partners, from duties they previously had not to operate on us or have sex with us; and those with practical authority, such as military officials, can impose obligations by giving *orders* to those under their authority.

Despite the ubiquity of normative powers in our lives, it is only relatively recently that philosophers have sought an answer to the question: What are the moral grounds of our normative powers? The challenge, as Gary Watson has suggested, is to understand how normative powers accord with our understanding of rational and moral agency, and more generally, to understand how normative powers figure in an account of what matters in human life (Watson 2009: 161). Given the central role that normative powers play in a variety of social contexts, addressing this challenge is necessary if we are to fully understand ourselves, as well to address a range of important questions about morality, politics, and the law.

The central aim of this research project is to develop a unified theory of the moral grounds of normative powers, and to utilize this general account in order to argue for novel positions within contemporary debates in moral and political philosophy. The central claim to be developed during the project is that normative powers play a central role in enabling a valuable form of moral relationship between individuals. This account (if successful) has the virtue of offering a unified account of normative powers, as well as having clear implications for a range of debates, including: (i) accounts of political authority, (ii) sexual consent and gender justice, and (iii) the possibility of immoral promises and exploitative contracts.

The project will proceed in two stages. The first stage, which will be conducted under the supervision of Professor David Enoch at The Hebrew University of Jerusalem, will focus on developing an account of the moral foundations of our normative powers. The second stage, supervised by Professor Stefan Gosepath at the Free Universität, Berlin, will develop this account in the context of three debates in contemporary moral and political philosophy. The outputs of the project will consist in six papers to be published in leading philosophical journals (see Detailed Timeline below).

Figure 2: Project Proposal and time plan, 2 (2018_01_30_1517342558.pdf)

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In the remainder of this proposal I outline the two stages of the project in more detail, set out a timeline for my research with an abstract for each of the papers to be written during the fellowship, and highlight how both I, and the research project, will benefit from the research environments of The Hebrew University of Jerusalem, and the Free Universität, Berlin.

Stage One: The Moral Grounds of Normative Powers

October 1, 2018 – September 30, 2019

The Hebrew University of Jerusalem

Host Supervisor: Professor David Enoch, Department of Philosophy and Law

During the first stage of the project, which focuses on questions concerning the moral grounds of normative powers, I intend to develop a suggestion that has been made by several philosophers, according to which the grounds of normative powers lie in their contribution to morally valuable interpersonal relationships (Raz 1977, 1982; Shiffrin 2008; Enoch 2012). To date, this suggestion has been limited to the claim that the power to promise plays an important role in the development and maintenance of special relationships such as friendship (in the work of Joseph Raz and Seana Shiffrin). I will argue, however, that normative powers play a central role in the development and maintenance of a wide variety of valuable relations between persons (a large number of which are not well described as *special* relationships, like friendship). That is because, I wish to propose, normative powers play a crucial role in a larger theory of rights and duties that regards the moral grounds of rights and duties as closely bound up with the role rights and duties play in the constitution of valuable relations between people.

In addressing the question of the moral grounds of normative powers, the project takes as its starting point the following claim: Normative powers provide the agents who possess them with a form authority – that is, with *normative authority*. That is because normative powers equip agents with direct and intentional control over reasons, rights, obligations, and permissions that apply both to themselves and to others (Owens 2012; Enoch 2014). For instance, the power to create new legislation enables lawmakers to place citizens under new legal obligations. Likewise, an individual's power of consent over her own body provides her with normative authority over her own body: Other agents are bound by an obligation not to touch her, examine her, and so forth, unless she exercises her power of consent. The question of grounds, then, can be understood as a question about what grounds or justifies these different forms of normative authority.

The central claim to be developed in response to this question is that a variety of forms of normative authority (embodied by a variety of distinct normative powers) serve important human interests in pursuing the relationships and projects that constitute a valuable life while standing in a valuable form of *moral relationship* with one another. I refer to this relationship as a relationship of *mutual recognition*.

Figure 3: Project Proposal and time plan, 3 (2018_01_30_1517342558.pdf)

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Unlike other contemporary uses of this term (e.g. Scanlon 1998), the type of mutual recognition in question might be described as a *concrete* or *literal* form of recognition between agents (cf. Scanlon 1998: 162). Roughly speaking, two individuals stand in this relationship just when, in the course of an interaction between them, they have common knowledge that they give one another's significant interests an appropriate role within their practical deliberations.

I argue that normative powers play a central role in fostering relations of mutual recognition because they provide us with direct control over the normative requirements (e.g. rights and duties) that are constitutive of our interpersonal relations. (For instance, friends or colleagues are required to act in certain ways with regard to one another, and these requirements partly determine the kind of relationship they stand in.) In general, these normative requirements foster relations of mutual recognition by providing a basis for mutual intelligibility between agents, thus underpinning the common beliefs necessary for relationships of mutual recognition. Generally speaking, for example, if I respect your rights over your person and property this gives you reason to believe that I relate to you in a morally decent way, giving your interests an appropriate role in my practical reasoning. However, these requirements also place significant limitations on our ability to interact and develop valuable forms of relationship with one another. For example, your rights and duties preclude our having sexual relationships or sharing property. Normative powers, such as the power of consent, enable us to shape our interpersonal relationships – to have sexual relations, to share property, and so on – while at the same time preserving or fostering relations of mutual recognition between us. The fact that normative powers play this role within our interpersonal relationships, I wish to argue, is central to explaining the moral grounds of normative powers, and understanding the role that normative powers play in human life.

Stage Two: Political and Moral Implications

October 1, 2019 – September 30, 2020

Free Universität, Berlin

Host Supervisor: Professor Stefan Gosepath

The second stage of the project will centrally concern developing the account sketched above in order to draw out important implications for issues in contemporary moral and political philosophy.

I will focus on three such debates. The first of these concerns the normative powers purportedly held by political authorities, such as states (e.g., legislative powers, judicial powers). While an account that focuses on valuable interpersonal relationships may seem well placed to offer an explanation of the moral powers possessed by individual moral agents, it may seem unable to account for the normative powers of legitimate state actors. I will argue, however, that the states

Figure 4: Project Proposal and time plan, 4 (2018_01_30_1517342558.pdf)

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possession of certain normative powers can foster valuable relationships between co-citizens. On this view, the interests citizens have in standing in such relationships is held to be served through an agent who is *external* to the relationship possessing normative power over the parties within the relationship. To see how this structure might work consider that we may be able to maintain a valuable relationship between us if we take our disagreement to an impartial arbitrator, and treat her directive as binding upon us. Building on the work of philosophers including David Enoch (2014: 324-5) and Daniel Viehoff (2014), I will argue that the normative powers associated with legitimate state authority can be justified, in part, by showing how the state's possession of certain normative powers plays a similar role to that of an arbitrator, thus supporting valuable relationships between co-citizens.

The second debate concerns what might be called the "scope" of normative powers. Specifically, it concerns whether we can exercise our normative powers in the pursuit of immoral ends, for example, with whether we can make a morally binding promise to commit a murder. I will argue that if it is correct to hold that normative powers are grounded in their contribution to morally valuable interpersonal relations, this suggests a *constraint* on our ability to exercise these normative powers. Specifically, it suggests that our ability to exercise normative powers depends upon our using those powers in a manner that is consistent with morally decent and valuable relationships. The precise nature and significance of this constraint will be considered in the context of discussions about the binding nature of immoral promises and exploitative contracts (cf. Shiffrin 2000, 2008, 2011; Watson 2009; Owens 2016).

The final debate I will bring my account of normative powers to bear upon concerns sexual consent. Specifically, it concerns the question of whether background social conditions of gender inequality impact or undermine the sexual consent that is given by women to men. Whilst recent liberal authors (e.g. Archard 1998) have been sceptical of this idea, I wish to argue that focusing on the moral foundations of sexual consent, and the role that sexual consent ideally plays in upholding a relationship of equality between sexual partners, brings into the relief the significance of the background conditions against which consent is given.

The philosophical significance of the overall project is twofold. First, it will offer a novel and unified account of a phenomenon central to our shared moral, political, and legal life, and bring this account to bear on contemporary debates in moral and political philosophy. Second, it will contribute to our understanding of a general philosophical trend towards accounts of moral and political norms that ground them in the value of certain forms of relationship (e.g. Scanlon 1998; Anderson 1999; Kolodny 2014).

Detailed Timeline:

Year 1: Hebrew University of Jerusalem

Figure 5: Project Proposal and time plan, 5 (2018_01_30_1517342558.pdf)

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October 2018 – January 2019

Paper: “The Moral Grounds of Normative Powers”

Abstract: There is a significant philosophical literature addressing the question: What grounds or explains our ability to give ourselves new obligations by making promises? Yet the power to make promises is just one example of a more general phenomenon: The ability to deliberately alter our shared normative environment through the exercise of *normative power*. Other examples of normative powers include the power to consent, to give orders, to make contracts and wills, to sell property, and to get married. This paper considers, at a general level, what we are seeking to ground or explain when we consider the moral grounds of normative powers. It answers that we seek to elucidate the moral reasons why agents possess a certain kind of *normative authority*, an authority that agents possess when they have direct intentional control over certain moral reasons and duties. It then develops a set of desiderata that satisfactory explanations for this normative authority should (at least ideally) meet. Finally, it surveys some general approaches to explaining normative authority (partly by extrapolating from, e.g., accounts of promising in the existing literature), comparing these approaches against the desiderata.

February 2019 – May 2019

Paper: “Mutual Recognition, Friendship, and the Moral Relationship”

Abstract: Moral agents are often thought to stand in a kind of valuable relationship with one another. This relationship is often characterized by way of an analogy with special relationships such as friendship (e.g. Korsgaard 1992; Scanlon 1998, 2008; Wallace 2013). Yet this analogy can seem strained: Friendships are historical and on-going relationships between individuals that are quite distinct from otherwise decent moral relations between people (Wallace 2011). In this paper I propose a novel way of making sense of the analogy between friendship and the “moral relationship.” I do so by developing a conception of *mutual recognition* between persons. Specifically, I argue that a concrete form of inter-subjective recognition endows many different forms of interpersonal relation with a distinct form of value. This form of recognition is well exemplified by friendships, as well as other forms of special relationship. But these examples also help us to see that mutual recognition is a valuable constituent of our interactions and relations with those whom we have nothing more than a basic moral relationship.

June 2019 – September 2019

Paper: “Normative Powers, Mutual Recognition, and Valuable Relationships”

Abstract: This paper argues that normative powers are central to our ability to develop valuable projects and relationships while standing in an important *form* of moral relationship with one another, a relationship of *mutual recognition*. The central

Figure 6: Project Proposal and time plan, 6 (2018_01_30_1517342558.pdf)

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argument is developed in two steps. First, I will argue that valuable relationships between self-conscious individuals are (partly) constituted by a set of reasons, duties, and permissions. This is significant, I will argue, not only because these normative requirements are action guiding for individuals, but also because these requirements establish the framework of mutual intelligibility within which the parties to a relationship can understand how they relate to one another, thereby enabling mutual recognition between them. Second, I argue that our ability to directly control these normative requirements in certain ways by exercising normative powers (e.g. consent, promise, etc.), in a way that both parties to a relationship are able to recognize, enables individuals to shape their relationships in desirable ways whilst maintaining mutual recognition between them.

Year 2: Free Universität, Berlin

October 2019 – January 2020

Paper: "Political Authority, Normative Power, and Valuable Relationships"

In this paper I explore a relationship-based approach to justifying the normative powers purportedly possessed by political authorities. Generally speaking, political authorities claim to have broad normative powers to directly and intentionally impose new duties on their subjects (Perry 2013; Enoch 2014). For example, states purport to impose new duties on citizens through the enactment of legislation. Plausibly, however, there is no non-instrumental value in relationships that are (partly) constituted by one agent's having this *directive authority* over another. Thus, attempts to ground the normative powers which (at least partly) constitute political authority may seem constrained to appeal only to the instrumental value of such authority relations, e.g., the ability for authorities to solve co-ordination problems, or help individual agents comply with pre-existing reasons and duties they have, and so on. Instrumental approaches, however, face significant challenges, such as the existence of so-called "authority gaps". I will argue (drawing on a rich philosophical tradition) that we can, in fact, appeal to the non-instrumental value of certain kinds of relationship in justifying the normative powers at the heart of political authority: Namely, the non-instrumental value of certain kinds of *horizontal* relationships between co-citizens (as opposed to the vertical relationship between authority and subject).

February 2019 – May 2019

Paper: "The Possibility of Immoral Promises"

Abstract: In this paper I develop a principled explanation of why some purported promises are not morally binding in virtue of their content. Any account of promising that claims that the moral content of some promises ensures that they fail to bind faces the challenge of consistently explaining why some promises but not

Figure 7: Project Proposal and time plan, 7 (2018_01_30_1517342558.pdf)

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others fall into this category in a way that accords with our intuitions (Owens 2016). For instance, if we say that we cannot promise to commit *any* act that will involve wronging someone, we face what seem to be counter-examples: It seems plausible that I can promise to meet you tomorrow for lunch even though I have already promised Jane the very same, and so won't be able to meet you without wronging Jane. While it is foolish of me to make this second promise, we think I have the moral power to make such a promise. I will argue that the key to understanding why I lack the moral power to make some promises – promises to murder, for example – lies in an account of the value (or disvalue) of the relationship that is established by a promise.

June 2019 – September 2019

Paper: "Sexual Consent, Gender, and Relational Equality"

Abstract: A number of feminist authors, most notably Catharine MacKinnon, have argued that social conditions of entrenched gender inequality undermine the sexual consent of individual women in patriarchal societies (e.g. MacKinnon 1989). Broadly liberal critics (e.g. Archard 1998) have responded by arguing that this claim implausibly implies that most if not *all* sexual consent lacks normative force, i.e., that Y's purported voluntary sexual consent cannot prevent X from wronging Y. In this paper, I develop and defend an alternative version of (what I take to be) MacKinnon's central idea. Specifically, I will argue that while *instrumental* considerations may guarantee that there are few (if any) social conditions in which a competent agent's power of consent lacks normative force, these same social conditions are of central importance when we are concerned with consent's ability to realize the *non-instrumental* value of certain kinds of relationships of equality. Insofar as this value is a crucial part of the explanation of sexual consent's moral significance, then even assuming that voluntary sexual consent still has normative force, the free consent of individuals cannot be regarded as a moral panacea. For sexual consent to enable valuable relational equality between sexual partners, broader systemic changes will need to occur.

Benefit of Research Environment

Professor David Enoch and Professor Stefan Gosepath, who have agreed to host this research project, are leading scholars in moral and political philosophy. Their expertise will be invaluable to me as I pursue my research. Moreover, their areas of expertise are complementary in relation to the theme of the project: Professor Enoch's current research, which concerns foundational questions about normative powers, overlaps significantly with my interest in the moral grounds of normative powers (see, e.g., Enoch 2014, 2017). Professor's Gosepath's expansive research interests and knowledge of contemporary political philosophy – in particular, his research on social justice, equality, and rights – make him a perfect candidate to

Figure 8: Project Proposal and time plan, 8 (2018_01_30_1517342558.pdf)

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guide me through the second stage of the project, in which I will focus on important political implications of the moral theory I develop.

More generally, the research environments at the Hebrew University and Free Universität will be of great benefit to me. Both institutions are regarded as having vibrant philosophical cultures, and both have a number of scholars working in closely related areas of moral, political, and legal philosophy who I will profit from meeting and discussing my work and theirs. At the Hebrew University, Professor Enoch also co-directs the Center for Moral and Political Philosophy (<http://cmpp.huji.ac.il/>), which hosts a wide range of events and attracts a significant number of visitors from all over the international philosophical community working in moral and political philosophy, which will offer another forum within which to learn, and to meet scholars working on closely related philosophical problems from around the globe. Professor Gosepath is also a co-director of the Justitia Amplificata project (<http://www.justitia-amplificata.de/>), which centrally concerns normative debates about justice. This will offer yet another venue that will be beneficial for my research and my scholarly development.

Bibliography

Anderson, Elizabeth S. "What is the Point of Equality?" *Ethics* 109, no. 2 (1999): 287-337.

Archard, David. *Sexual Consent*. Boulder: Westview Press, 1998

Enoch, David. "Being Responsible, Taking Responsibility, and Penumbra Agency." In *Luck, Value, and Commitment: Themes from the Ethics of Bernard Williams*, edited by Ulrike Heuer and Gerald Lang, 95-132. Oxford: Oxford University Press, 2012.

——— "Authority and Reason-Giving" *Philosophy and Phenomenological Research* 89 (2014): 296-332.

——— "Hypothetical Consent and the Value(s) of Autonomy." *Ethics* 128 (2017): 6-36.

Kolodny, Niko. "Rule Over None II: Social Equality and the Justification of Democracy." *Philosophy and Public Affairs* 42, no. 4 (2014): 287-336.

Korsgaard, Christine. "Creating the Kingdom of Ends: Reciprocity and Responsibility in Personal Relations." *Philosophical Perspectives* 6 (1992): 305-332.

MacKinnon, C. A. *Toward a Feminist Theory of the State*. Cambridge, Mass.: Harvard University Press, 1989.

Owens, David. *Shaping the Normative Landscape*. Oxford: Oxford University Press, 2012.

——— "Promises and Conflicting Obligations." *Journal of Ethics and Social Philosophy* 11 (2016): 1-19.

Figure 9: Project Proposal and time plan, 9 (2018_01_30_1517342558.pdf)

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Perry, Stephen. "Political Authority and Political Obligation." In *Oxford Studies in Philosophy of Law 2*, edited by Leslie Green and Brian Leiter, 1-74. Oxford: Oxford University Press, 2013.

Raz, Joseph. "Promises and Obligations." In *Law, Morality, and Society: Essays in Honour of H. L. A. Hart*, edited by P. M. S. Hacker and J. Raz, 210-228. Oxford: Clarendon Press, 1977.

——— "Promises in Morality and Law," *Harvard Law Review* 95 (1982): 916-938.

Scanlon, T. M. *What We Owe To Each Other*. Cambridge, Mass.: Harvard University Press, 1998.

——— *Moral Dimensions: Permissibility, Meaning, Blame*. Cambridge, Mass.: Harvard University Press, 2008.

Shiffrin, Seana Valentine. "Paternalism, Unconscionability Doctrine, and Accommodation." *Philosophy of Public Affairs* 29 (2000): 205-250.

——— "Promising, Intimate Relationships, and Conventionalism." *Philosophical Review* 117, no. 4 (2008): 481-524.

——— "Immoral, Conflicting, and Redundant Promises." In *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, edited by J. Wallace, R. Kumar, and S. Freedman, 155-178. Oxford: Oxford University Press, 2011.

Viehoff, Daniel. "Democratic Equality and Political Authority." *Philosophy and Public Affairs* 42, no. 4 (2014): 337-375.

Wallace, R. J. "Dispassionate Opprobrium: On Blame and the Reactive Sentiments." In *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, eds. R. Jay Wallace, Rahul Kumar, and Samuel Freeman, 348-372. Oxford: Oxford University Press, 2011.

——— "The Deontic Structure of Morality." In *Thinking about Reasons: Themes from the Philosophy of Jonathan Dancy*, edited by David Bakhurst, Brad Hooker, and Margaret Olivia Little, 137-167. Oxford: Oxford University Press, 2013.

Watson, Gary. "Promises, Reasons, and Normative Powers." In *Reasons for Action*, edited by David Sobel and Steven Wall, 155-178. Cambridge: Cambridge University Press, 2009.

Figure 10: Curriculum Vitae including list of publications, 1 (2018_01_30_1517342538.pdf)

Richard Healey
Curriculum Vitae
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Employment

2016 – 2018	Postdoctoral Researcher, Centre de Recherche en Éthique and McGill University (Canada)
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Education

2011 – 2016	University of Sheffield (Sheffield, England) PhD Philosophy Thesis Title: ‘The Power of Consent’ Supervisors: Daniel Viehoff and Christopher Bennett Examiners: Victor Tadros and James Lenman
2010 – 2011	University of Sheffield (Sheffield, England) MA Philosophy <i>Distinction</i>
2006 – 2009	University of Leicester (Leicester, England) BA Politics <i>First Class Honours</i>

Areas of Specialization

Moral, Political, and Legal Philosophy

Journal Articles

“Interests, Wrongs, and the Injury Hypothesis,” *Journal of Ethics and Social Philosophy* 12, no. 1 (2017): 102-109.

“The Ontology of Consent: A Reply to Alexander,” *Analytic Philosophy* 56, No. 4 (2015): 354-363.

Manuscripts Under Review

“Consent, Directed Duties, and Mutual Recognition”

“Consent, Rights, and Reasons for Action”

Book Reviews

David Owens, ‘Shaping the Normative Landscape’ (Oxford: Oxford University Press, 2012), in *Journal of Moral Philosophy* 12 (2015).

Figure 11: Curriculum Vitae including list of publications, 2 (2018_01_30_1517342538.pdf)

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Conference Presentations and Invited Talks

“Consent, Directed Duties, and Mutual Recognition”

- Centre for Advanced Study in Bioethics, University of Münster, Germany, Conference on *Consent: Its Nature and Normative Relevance*, June 21 – 23, 2017.
- Society of Applied Philosophy Annual Conference, University of Copenhagen, 30 June – 2 July, 2017

“A Relational Theory of Consent”

- University of Zurich Centre for Ethics, Workshop on *The Ethics of Consent: Foundational Issues*, September 2016.
- Queen’s University Department of Philosophy Colloquium, Kingston, March 2016.

“Consent, Gender, and Social Justice”

- International Social Philosophy Conference, Carleton University, Ottawa, July 2016.
- ‘Consent, Gender, and Social Justice’ Brave New World Graduate Conference, University of Manchester, June 2015.
- Warwick Graduate Conference in Political and Legal Theory, University of Warwick, February 2015.

“Consent, Rights, and Reasons for Action”

- Ontario Legal Philosophy Partnership Graduate Conference for Legal Theory, McMaster University, May 2016.

Funding Awards

Society of Applied Philosophy Funding: Support for research visit to UCLA (2014).

Arts and Humanities Research Council, Research Training Support Grant: Support for research visit to UCLA (2014).

Arts and Humanities Research Council, Doctoral Award: three years full tuition and maintenance (from 2011).

Visits

Visiting Graduate Researcher in the Philosophy Department at University of California, Los Angeles (Summer 2014).

Teaching

Course Instructor:

University of Sheffield (Autumn 2013)

Course Taught: The Normative Powers of Promise and Consent

Seminar Tutor:

Figure 12: Curriculum Vitae including list of publications, 3 (2018_01_30_1517342538.pdf)

Richard Healey

University of York (2014-2015)

Courses Taught: Contemporary Political Philosophy, History of Political Thought

University of Sheffield (2011-2013)

Courses Taught: Self and Society, The Earliest Greek Philosophers, Feminism

Additional Responsibilities

Convenor of the Moral and Political Philosophy Research Group (University of Sheffield) (2013-14).

Post-Graduate Representative on the Post-Graduate Affairs Committee (2013-14).

Referees

Sarah Stroud (Postdoctoral Supervisor)

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Figure 13: Recommendation Letter 1, 1 (2018_02_01_1517481572.pdf)

**NEW YORK UNIVERSITY****Daniel Viehoff**
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25 January 2018

Dear Search Committee Members:

I am writing in enthusiastic support of Richard Healey's application for the postdoctoral fellowship jointly advertised by your institutions. Richard completed his PhD in philosophy under my supervision at the University of Sheffield (where I used to teach) in 2016. Since then he has held a postdoctoral position at McGill University. I think Richard is a very promising philosopher with an important and sophisticated project at the intersection of theoretical ethics and legal and political philosophy, who would not only greatly benefit from the opportunities provided by the fellowship, but also make a significant contribution to the intellectual life of the local philosophical community.

Both Richard's dissertation and the work he has done since completing his PhD are concerned with an issue central to our moral, legal, and political lives: consent, and its effect on the rights we have against each other. The phenomenon itself is familiar enough: a doctor normally needs my consent before she can do surgery on me; by giving consent I can allow my spouse to open letters that arrive for me; consent may make the difference between a neighborly visit and trespass on a neighbor's property. But we also know that not every instance of consent is valid: if I only consented because the doctor held a gun to my head, then my consent cannot make permissible her interference with my bodily integrity. Though these familiar examples are the starting point of Richard's investigation, he is equally, if not more, concerned with more difficult cases where our intuitions are much less stable. In particular, he asks how assessments of consent and its limits are shaped by background norms and institutions, and specifically by the existence of implicit power relations among the parties. For instance, if a woman grows up in a culture where she is taught that she cannot say 'no' when her husband insists on sexual relations, then what does that mean for our assessment of their interactions? Under what conditions, if any, can relationships among employees and employers, or graduate students and their supervisors, ever be fully consensual? And how should we think about sexual relations among, say, two students both of whose capacity for consent is impaired by alcohol? (Given recent discussions about these matters on many college campuses, Richard's work is clearly topical. But it is topical without being superficial: Richard is driven as much by the desire to figure out what is the morally right thing to say about these particular cases as by the hope to discover deeper structural features about interpersonal morality by reflecting on such examples.)

Richard, sensibly enough, approaches these matters via a critical analysis of some of the most prominent accounts of consent available in the philosophical literature. (It is worth adding that, while much has been written on particular instances of consent, general discussions of consent's normative foundations are relatively rare. Much more has, for instance, been written on consent's close cousin, the power to promise. I believe this may reflect a sense among many philosophers that consent is easier to justify than promising. For a long time this seemed very plausible to me. Richard's careful discussion has convinced me that it isn't so.) His main targets

Figure 14: Recommendation Letter 1, 2 (2018_02_01_1517481572.pdf)

in this critical discussion are Joseph Raz's and David Owens' work on normative powers in general, and consent in particular. He argues that neither the value of personal autonomy (central to Raz's account, and to what we might call the 'standard picture' of consent among contemporary legal and moral philosophers) nor what Owens calls our 'authority interest' can straightforwardly account for consent as we know it. (A paper developing Richard's objection to Owen's influential view was recently published in the *Journal of Ethics and Social Philosophy*.)

Instead, Richard proposes that to understand the normative power of consent we should focus on the significance that such power has for managing valuable interpersonal relationships. His insight – basic once it has been stated, but until recently largely ignored by philosophers writing on consent – is that consent plays a crucial role for regulating and sustaining valuable interpersonal relationships. This proposal is in turn related to an important observation that Richard makes about consent: consent seems to range only over certain kinds of reasons – roughly, the domain of 'what we owe to each other' – and not others. A number of philosophers have recently distinguished 'bipolar' normativity, exemplified by duties we *owe to others*, or rights they *hold against us*, from other types of reasons or normative considerations that are 'unipolar' in character, and do not create the same normative relations among people. Richard argues that only bipolar reasons can be directly changed by consent; unipolar reasons, though they may be affected by people's choices, cannot be changed by consent alone. If Richard is correct in claiming this (and I think he does a good job making the claim quite plausible), then this would impose an important methodological constraint on an adequate theory of consent: it should explain the deep internal connection between consent and bipolar reasons, reasons which relate us to others in specific ways. (This is the kind of observation that really advances our understanding of consent, and once Richard's argument for it is published, I expect it to have significant impact on philosophical discussions of what consent is and how it can be normatively grounded.)

Richard believes that he can offer a theory of consent that meets this constraint, by combining an account of the moral foundations of consent with an explanation of distinctive features of bipolar phenomena like moral rights and the corresponding duties owed to the right-holder. These features include the special binding or obligatory character of the demands that other people's rights make on us; the partial independence of rights from harms; and – bringing together a theory of rights with a theory of consent – the role that consent plays in making permissible acts what would otherwise be violations of rights, even if such consent does not change any underlying harm the act inflicts.

Richard's genuinely original proposal (which he has worked out in a long article that he has recently started submitting to journals) is that, to understand the connections between rights, harms, and consent, we must recognize that we have not only first-order interests in autonomy or wellbeing. As distinctly social creatures, we also have second-order interests (i) in others' recognizing us as persons whose autonomy and wellbeing matter, and (ii) in being able to recognize that others recognize us as such persons. (This is the sense in which his theory is *relational* in orientation.) Satisfying these second-order interests requires the existence of shared social conventions or institutions that establish what Richard calls 'fixed points' in our interactions with others – points towards which each of us can orient herself, and on the basis of which we can reach a shared understanding and assessment of our relationship. Once we see consent through this lens, we can make sense of certain intuitive judgments that many of us share about, e.g., sexual consent – for instance, that sexual consent requires some external sign, and

Figure 15: Recommendation Letter 1, 3 (2018_02_01_1517481572.pdf)

cannot simply be treated as a state of mind, or that certain legal and social norms may crucially bear on the morality, and not just the legality, of sexual relations. And once we see moral rights through this lens, we can neatly make sense of their bipolar character and their binding force.

With his account of consent being close to completion, I expect Richard to soon be turning towards developing in greater detail his thoughts on rights. Beyond the piece on consent and rights that Richard has recently finished, he has enough ideas for at least one, if not two, papers directly focused on the nature of moral rights and bipolar relations more generally. I think Richard's take on the nature of moral rights has real promise, and offers a genuine alternative to the standard views of rights in philosophical discussions. Suitably developed, the framework Richard lays out would also make an important contribution to some of the ongoing discussions (between philosophers like Jay Wallace, Stephen Darwall, and others) about the distinctiveness of bipolar reasons in our more general picture of reasons and values.

While Richard's work starts from within contemporary theoretical ethics, he is also importantly concerned with issues that arise at the intersection of morality, law, and politics. Thus towards the end of his dissertation, Richard deploys his account of consent and its foundations to shed light on disagreements among 'radical' feminists like Catharine MacKinnon, who argue that in a society in which men and women are as structurally unequal as they are in ours, women cannot give free (and therefore effective) consent, and their liberal critics, who deny that structural injustice could have this effect. Richard worries that simply denying women the capacity to consent under conditions of structural injustice amounts to perpetuating rather than undermining the dependency relations in which dominant social norms cast them. At the same time, a genuine concern for the relational value that underpins Richard's view commits us to overcoming the hurdles raised by these very norms. In light of this tension Richard develops a sensitive analysis of the various ways in which agency can be protected and recognized in sexual relationships even as the parties understand the limits that social norms impose on their capacity to fully relate to each other as equal. I understand Richard is planning to return to this work soon, and to develop a free-standing version of this chapter for submission to a journal.

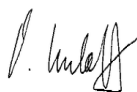
Richard has significant teaching experience both as a tutor (supervising small groups of first-year undergraduates just beginning to study philosophy) and as the sole instructor of a seminar for final-year philosophy students at Sheffield. (Instructorships for these courses are very competitive, offered to only two graduate students per year. That Richard was awarded one such position reflects the very positive feedback on his teaching abilities that the department had previously received from students in his tutorials.) The seminar, which Richard designed and taught by himself, introduced students to the philosophical literature on normative powers, focusing in particular on consent and promising, and ranging in its readings from ethical theory to applied topics in medical and sexual ethics. Since I was assigned as Richard's pedagogical mentor for the course, I attended a seminar session to observe Richard's teaching, and also had an opportunity to talk to some of the students enrolled in it. Richard did an admirable job leading the classroom discussion without dominating it, and allowing the students to develop their own insights and ideas. At the same time he knew when to take over to explain in more detail concepts or arguments that the students were unfamiliar with, or to highlight links to issues previously discussed in class. The clarity of his presentation, and the ease with which he connected with the students, was impressive, and exceeded what I have seen in many more experienced classroom teachers.

Figure 16: Recommendation Letter 1, 4 (2018_02_01_1517481572.pdf)

Last but not least, let me say that Richard is a very pleasant person to have around, and a terrific philosophical interlocutor. He is open-minded and willing to listen to other people's ideas, quick to play along when people try out new thoughts, yet patient when it comes to helping them develop their insights into full-blown intellectual positions. I strongly believe you found find him a very valuable asset for your intellectual and social community.

Overall I recommend Richard to you very highly indeed. Please do not hesitate to contact me with any questions you may have regarding Richard's application.

Yours sincerely,



Daniel Viehoff
Assistant Professor
Department of Philosophy
New York University

Figure 17: Recommendation Letter 2, 1 (2018_02_01_1517481563.pdf)

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To Whom it May Concern

REFERENCE FOR RICHARD HEALEY

I am writing to you in support of Richard Healey's application for Post-doctoral research position at Berlin University and Hebrew University. I have met Healey twice: I examined his thesis at the University of Sheffield, and I attended a workshop that he organised on David Owens' book *Shaping the Normative Landscape*. I will also attend a workshop that he is co-organising at McGill with Sarah Stroud next year. I believe that my reference is suitably impartial.

The thesis that Healey wrote, under the supervision of Christopher Bennett and Daniel Viehoff, is on the nature and moral significance of consent. This is a topic that is attracting more, and deeper, philosophical attention than ever before. Indeed, it is fair to say that whilst consent is of central importance across a range of social and political contexts, it has received surprisingly little detailed philosophical attention. Healey develops a relational theory of consent – one that claims that the importance of consent is in the relationships that it helps to make possible. This view contrasts with more familiar autonomy-based views of consent. It gives autonomy a role, but does not claim that autonomy can provide a full explanation of the moral importance of consent. It is also contrasted with Owens' novel view that the importance of consent is grounded in distinctively normative interests.

Healey's view, as defended in the thesis, is a promising new theory, and it certainly merits further exploration. Furthermore, Healey provided an insightful, interesting, and clear defence of this view. Whilst there was room for further defence against objections, the thesis was an excellent example of doctoral research in that it deeply explored a very important issue with creativity, acumen and poise. It is also a very well written doctorate, and it passed without significant corrections.

Healey has now begun to develop that work, and to publish from the thesis. Two short pieces have been published – powerful responses to two of the leading philosophers of consent (Larry Alexander and Owens). Furthermore, he has written a substantial piece on the main topic of the thesis, which I have read. The latter piece provides a clearer and more detailed defence of his view, and also improves on the thesis in showing more clearly both how it is related to other views in the literature and how it is distinct. It is currently under review, and I imagine that it will find a home in a high quality journal. Overall, Healey has clearly made significant progress as a philosopher in his time at McGill in terms of the care that he outlines his arguments, and the clarity of his thinking, and he was already working at a very high level.

Personally Healey is excellent company – down to earth, unpretentious, smart, and entertaining. I think that he would be a great addition to the environment at both Universities.

Yours sincerely,

Victor Tadros

Figure 18: Endorsement Letter FUB, 1 (2018_02_13_1518519737.pdf)



Prof. Dr. Stefan Gosepath, Freie Universität Berlin
Institut für Philosophie II, Thielallee 43, D-14195 Berlin

To whom it may concern

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Berlin, February 9th, 2018

Endorsement letter for Richard Healey

It is with great pleasure that I write this letter in support of Richard Healey's application to the Freie Universität Berlin and The Hebrew University of Jerusalem Joint Berlin-Jerusalem Post-Doctoral Fellowship Program. Richard Healey has asked me to serve as his sponsor in the Department of Philosophy at the Freie Universität Berlin, and I very happily accepted his offer.

Richard Healey contacted me indirectly through my research assistant Felix Koch, PhD. I did some background research and spoke to one of his PHD supervisor at NYU, Daniel Viehoff, and his possible co-supervisor in Jerusalem, Prof. Enoch, in case his application should be successful. Since my inquiries turned out to be quite positive I decided to serve as his sponsor at the FU. He is a very good PhD student from one of the best, if not the best philosophy department(s) in the western world.

Richard Healey plans to work in philosophy on the topic of "Normative Powers and Valuable Relationships". The central aim of this project is to develop a unified theory of the moral grounds of normative powers. Normative powers enable persons and institutions to directly and intentionally change the duties that they and others have. This is a relative new cutting-edge area of research in the philosophical concerns with reason, rationality, and grounds, especially in morality.

Figure 19: Endorsement Letter FUB, 2 (2018_02_13_1518519737.pdf)

Given my expertise as professor for moral and political philosophy at the Free University Berlin I would be pleased to supervise Richard Healey during his stay at the Freie Universität. I myself have published extensively on morality, normativity and reasons. One of my research assistants, Felix Koch, PhD, writes his habilitation on a related issue and knows Richard Healey personally. Thus, Richard Healey's topic falls directly into one of my two main research areas.

The year he will spend under my supervision at FU Berlin I can offer him a highly intellectual environment. I am the Co-Director (together with Rainer Forst in Frankfurt) of the center for advanced study JUSTITIA AMPLIFICATA (see the English version of our website: <http://www.justitia-amplificata.de>). Financed by JUSTITIA AMPLIFICATA I organize a weekly colloquium held in English with invited first class international guests mostly from the UK and North-America. This gives my post-docs and my various international fellows the opportunity to discuss the most recent theories in practical philosophy.

In Berlin there is a group of researchers that work on moral powers especially the group around Einstein Fellow Prof. Jay Wallace, of which my research assistant Felix Koch is temporarily a member. Richard Healey will certainly profit from this very stimulating environment while in Berlin.

In his year in Jerusalem he will be supervised by Prof. Enoch who is internationally well known and highly respected expert in moral psychology at the Hebrew University. I met him two years ago at the international conference on *Discrimination* held at the Hebrew University under the auspices of the Minerva Centre for Human Rights (a collaboration with FU Berlin).

Richard Healey stated pretty clearly how he will divide his time between Jerusalem and Berlin and what the added value for him will be to be supervised by two professors in Jerusalem and Berlin. The joint fellowship for Richard Healey will help forge an institutional relationship between the two departments of philosophy and will help strengthen cooperation between the departments' scholars. At the same time, I am sure we will be able to organize a conference on Richard Healey's topic on normative powers in Berlin that will bring together the leading figures of the current debate.

To sum up: Richard Healey research focuses on a new topic of moral significance and academic interest. He is well equipped to start his research immediately. Both her planned supervisors will in different ways contribute to the progress of

Figure 20: Endorsement Letter FUB, 3 (2018_02_13_1518519737.pdf)

her very interesting work.

I thus highly recommend Richard Healey for the fellowship and would be very happy to supervise him during his stay in Berlin.

A handwritten signature in black ink, appearing to read 'Stefan Gosepath', written in a cursive style.

Prof. Dr. Stefan Gosepath

Figure 21: Endorsement Letter HUJI, 1 (2018_01_17_1516192354.pdf)

January 14th, 2018

To: The Fellowship Selection Committee
Freie Universität Berlin and the Hebrew University of Jerusalem
Joint Berlin-Jerusalem Post-Doctoral Fellowship Program

Re: Endorsement Letter, Dr. Richard Healey

Dear committee members,

I am writing this letter in support for Dr. Richard Healey's application for the joint Berlin-Jerusalem post-doc fellowship. I am happy to endorse his candidacy.

I don't know Richard personally. We've corresponded several times in the past about a conference he helps in organizing in Canada in the spring (I'll be speaking there), but that's it. At his request, I had a look at his work and his research proposal for the Joint Berlin-Jerusalem Program, and based just on those materials I would love to have him here and to interact with him.

Richard works on normative powers – roughly, powers to change the normative landscape. We seem to possess such powers and to exercise them all the time. For instance, when I tell my son to go to his room, he (arguably) thereby acquires a duty to go to his room, so I (arguably) possess the normative power to create for my son such a duty. If I ask a colleague to read a paper of mine and give me comments, she (arguably) thereby acquires a reason to read my paper and send me comments, so I (arguably) possess the normative power to create such a reason for my colleague. And of course, *consent* seems to make a huge normative difference, as it seems to turn rape into love-making, a battery into a football tackle, and a trespass into a dinner party (paraphrasing Heidi Hurd here). So normative powers are ubiquitous, and understanding them seems a necessary condition for understanding a lot of what's going on, normatively speaking.

In his work so far – mostly, in his PhD dissertation – Richard has been focusing on consent, and he has a couple of papers based on the dissertation under review now. In his proposal he takes the natural next step, and attempts a more general understanding of normative powers. In particular, he wants to study the relations between normative powers and normatively valuable relationships. Several authors (myself included) have made comments about the relevance of the value of relationships to understanding specific normative powers, but such comments are not developed systematically, certainly not with the right kind of generality to apply to *all* normative powers. Enter Richard – he plans to develop a general theory of precisely this kind, utilizing the idea that there's a common form to many valuable relationships,

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Figure 22: Endorsement Letter HUJI, 2 (2018_01_17_1516192354.pdf)



that of mutual recognition. That relation, in turn, is closely tied to the nature of rights and duties, and through them, to normative powers. As if this is not ambitious enough, Richard suggests to proceed and consider some applications of this way of viewing normative powers – in particular, to the political sphere and a proper understanding of political authority. All of this doesn't just indicate a lot of philosophical talent and potential – it is also a deeply interesting and promising project, and for me also a deeply engaging one.

Richard comes with a great record: Sheffield is a very strong department, though not quite as strong as it was, because Daniel Viehoff – one of Richard's supervisors – was stolen by the perhaps world-number-1-ranked philosophy department at NYU... This is an indication of the kind of training Richard received. It also means that this connection will make it easier for him to take the next few steps in "the game". He has already published one paper in a very good journal, and a shorter reply-piece in another very good journal. Based on the level of work I've seen, I have no doubt that the papers under review will be accepted in excellent journals. And he is now a post-doc at McGill, working with the excellent Sarah Stroud. I was not surprised, then, to hear that my Berlin colleague, Stefan Gosepath, has also agreed to sponsor his application.

I think that the Hebrew U will be a great environment for Richard. True, most of our classes are in Hebrew. But most of the talks are in English, of course. And there's a lot going on in philosophy, and specifically in moral philosophy broadly understood. There's interest in normative powers not just on my part, but also from several philosophically minded (and trained) colleagues in the law school (such as Ori Herstein, Re'em Segev, and Ofer Malcai). And we have here the Center for Moral and Political Philosophy (<http://cmpp.huji.ac.il/>) whose many activities will also benefit Richard. I'm afraid that we cannot promise a full office for Richard (should he come here), but with the resources of the CMPP it is likely that we will have an office for him, and if not, it is virtually guaranteed that he'll have a desk at a shared office. He will, of course, have access to all talks, seminars, libraries, etc.

I also want to mention the following, somewhat personal, point. As I said, I'm sure Richard will benefit from spending time at Hebrew U. But also, I am confident that I will benefit from having him here, to discuss consent and other normative powers.

Let me know if you have any further questions, and thanks,

