The Stakes of Taking a Social Approach to Rights

1. The Problem
2. The Options
3. The Implications
4. The Stakes
We have **claim rights** protecting important moral interests (like property or bodily integrity).

They generate **correlative duties** that others owe to us.

Whether an action violates those duties can be shifted by doing things like

- **Consenting**
- **Promising**
- **Commanding**
- **Gifting**
- **Forfeiting** (e.g. by unjustly attacking)
1. The Problem

In a **Normative Opacity Problem**, Bea’s available evidence does not rule out the possibility that Abe has **not** changed his right to allow her action.

**THE CHALLENGE**

Bea has to either socially withdraw or **guess**, and she will **sometimes misjudge Abe’s intentions**.

**THE PROBLEM**

**Bad social norms** and stereotypes make her more likely to make mistakes with **some people than others**.

**THE CHOICE**

Which mistakes are **reasonable**, as opposed to ones for which we should hold Bea responsible to compensate Abe?
Option 1: Bea’s mistake is reasonable if it was rational on her evidence.

When a well-calibrated agent would guess that Abe consents to Bea’s taking the umbrella, it’s reasonable for Bea to take it. When a well-calibrated agent would not guess that Abe consents to Bea’s taking the umbrella, Bea would be blameworthy for taking it.
2. The Options

Option 1:
Bea’s mistake is reasonable if it was rational on her evidence.

Problem 1: calibrating well concentrates error risk on the outliers.

Over the long run there aren’t many mistakes, but the same small subgroup keep suffering them.
Option 1:
Bea’s mistake is reasonable if it was rational on her evidence.

Problem 1: calibrating well concentrates error risk on the outliers.
Problem 2: calibrating well exposes people to differently bad risks.

If it’s worse for you for someone to guess low, the blue group are being treated worse by the facially fair policy.
2. The Options

Option 1:
Bea’s mistake is reasonable if it was rational on her evidence.

Individuals have a claim to our tracking whether they are consenting (or attacking), not that we guess in a way that does well on average, but is likely to be mistaken about them.

Problem 1: calibrating well concentrates error risk on the outliers.
Problem 2: calibrating well exposes people to differently bad risks.

It’s much worse to be mistakenly treated as consenting or attacking than mistakenly not so treated.
Bea’s mistake is reasonable if we would hesitate to blame her, given her evidence (& social norms).

Even worse! This is the wrong direction.
2. The Options

<table>
<thead>
<tr>
<th>1: rational on her evidence</th>
<th>2: not blameworthy given context</th>
<th>Option 3:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><strong>No mistakes are reasonable; Bea must be held responsible <em>any time</em> her guess is mistaken.</strong></td>
</tr>
</tbody>
</table>

Problem 1: when there are bad social norms, we won’t actually enforce this.
2. The Options

1: rational on her evidence
2: not blameworthy given context
Option 3: **No mistakes are reasonable; Bea must be held responsible any time her guess is mistaken.**

Problem 1: when there are bad social norms, we won’t actually enforce this.

Problem 2: demands more than is actually (intuitively) owed.
### 2. The Options

<table>
<thead>
<tr>
<th>1: rational on her evidence</th>
<th>2: not blameworthy given context</th>
<th>3: no mistakes are reasonable</th>
</tr>
</thead>
</table>

#### Option 4: The Social Approach

**When it results from following A’s signals.**

Signals must be **public** and **adequately avoidable**.

What we owe each other is to do our part in a **fair coordinating norm**.

When norms are unjust, we owe it to each other **not to perpetuate or support them**.

- **Avoids concentrating error risk on minorities.**
- **Does not demand more (or less) than intuitively is owed.**
- **Does not fix the problem of bad social norms.**
3. The Implications

What does it take to respect others’ rights?

First pass: to not **use** the bad norms or conventions.

Bonus: pressure people to dislike the norm.

A social norm persists as long as a sufficient number of people conform to it, and expect others to conform to it.

Your reasons to conform to a norm are a function of:

1. The strength of your **taste** for the norm
2. The strength of your **conditional preference**
3. Your belief in its **prevalence**

Even an **unpopular** norm will persist if enough people think it is **prevalent**.

Option 4: The Social Approach

When it results from following A’s signals.

What we owe each other is to do our part in a **fair coordinating norm**.

When norms are unjust, we owe it to each other **not to perpetuate or support them**.
What makes a norm appear prevalent?

How we talk about mistakes

First pass: to not use the bad norms or conventions.

Bonus: pressure people to dislike the norm.

So to avoid supporting bad norms, we have to actively work against them.

Even an unpopular norm will persist if enough people think it is prevalent.
3. The Implications

What does it take to respect others’ rights?  
First pass: to not **use** the bad norms or conventions.  
Second pass: **argue** that we should shift to better norms.

What **makes** a norm prevalent?  What we **do** about mistakes

---

**PROBLEM**

Conforming to bad norm about reasonable mistakes consists in following **or distributing costs according to it**.

When norms are unjust, we owe it to each other **not to perpetuate or support them**.  

To avoid supporting bad norms, we have to actively work against them.  

Defecting requires **demanding accountability**.

---

Option 4: The Social Approach

When it results from following A’s signals.
3. The Implications

What does it take to respect others’ rights?
First pass: to not use the bad norms or conventions.
Second pass: to argue that we should shift to better norms.

Final pass: To not use, argue against, and not enforce bad norms, and do my part in creating conditions for the emergence of fair norms.

Option 4: The Social Approach

When it results from following A’s signals.

When norms are unjust, we owe it to each other not to perpetuate or support them.

to avoid supporting bad norms, we have to actively work against them.

Defecting requires demanding accountability.
4. The Stakes

Orthodox (Individualist) Approaches

When should we treat Bea’s mistake as reasonable, not requiring Bea to compensate Abe for the mistake?

1: when rational on her evidence  
2: when not blameworthy given context  
3: never; no mistakes are reasonable

The Social Approach

Option 4: The Social Approach

Only when it results from following A’s signals.

What does it take to respect others’ rights?

To not yourself make a mistake.

To not use, argue against, and not enforce bad norms, and do my part in creating conditions for the emergence of fair norms.

How should you respond to mistakes made by others?

Assess whether the mistake was rational on their evidence, excuse accordingly. Treat as tragic.

Protest the continued reliance on perverse social norms; demand accountability for resultant mistakes. Treat as injustice.
1. Normative Opacity Problems

What does B owe it to A to do? Applied to Consent

**Outcome-relative:** match the world state

**Evidence-relative:** follow his rational credences

**Social Approach:** follow A’s signals, unless evidence suggests that would be a mistake.

You may borrow my umbrella...

...