No Making Responsible, We Might Say, Without Holding Responsible

*Sebastián Figueroa Rubio**

Abstract

This article analyses some theses developed by John Gardner that deal with the relations between different concepts of responsibility and how these are useful for understanding the relationships between agency, reasons and responsibility practises. In the first two sections, the text introduces the Aristotelian view developed by John Gardner, focussing on how he understood the relationships between the concepts of basic responsibility, consequential responsibility and prospective responsibility. Sections III. and IV. then review two challenges that arise from the author's treatment of the concept of basic responsibility. The first is the difficulty of understanding some types of responsibility and the second is how we can make sense of the role of excuses in our responsibility practises. Finally, some philosophical tools that Gardner developed in his last works are presented in order to deal with those challenges.

Keywords: Responsibility. John Gardner. Excuses. Agency. Reasons.

I. Few people in recent decades have thought as deeply about the concept of responsibility and its relationship to our moral and legal agency as John Gardner. In his elegant and insightful work, he has not only clarified much of the debate in our tradition, but has also developed an interesting way of understanding how we see ourselves in legal and non-legal practises. In this text, I will review some of the theses that the author developed on these topics over the course of two decades. In particular, I will focus on how he understood what he called basic responsibility. The concept of basic responsibility plays an important role in three of his books (viz. *Offences and Defences* (2007), *From Personal Life to Private Law* (2018) and *Torts*

* Universidad Autónoma de Madrid, Ciudad Universitaria de Cantoblanco, C/ Kelsen, 1 Of. 93. 28049, Madrid, Spain, sebastian.figueroa@uam.es.

and Other Wrongs (2019)) and in a series of essays on agency and responsibility that he wrote as part of his development of a broader Aristotelian philosophical conception. I will begin this text by outlining some basic elements of this conception (Section I) and then set out his views on responsibility (Section II). I will then analyse two challenges arising from Gardner's treatment of the concept of basic responsibility, namely the difficulty of making sense of some kinds of responsibility such as vicarious responsibility and role-based responsibility (Section III), and the way in which we can make sense of the role of excuses as non-relational reasons in our responsibility practises (Section IV). To conclude, I will explore some philosophical tools that Gardner developed in his last works that might help us to overcome those challenges (Section V). From these tools I have taken the title of this article, which is a direct quotation from Gardner, as we shall see.

In the works already mentioned, John Gardner defends an Aristotelian view of responsibility, which he defines in contrast to a Hobbesian one that would prevail in the modern age[1]. According to the Hobbesian story, «the only natural aim of rational beings is to stop nasty consequences, including nasty moral and legal consequences, from descending upon their own heads»[2]. In this framework, the central element of responsibility is the imposition or avoidance of punishment for wrongdoing. Lay people respond to what the authorities say as far as a serious imposition of punishment is in play and the practises of responsibility play an important role in determining who has acted wrongly and therefore deserves to be punished. Excuses in this context would be explained, for example, by the fact that they serve to deny the existence of responsibility and thus prevent the possibility of imposing a punishment. In this way, the practise in question would be relational in the sense that people aim to convince the decision-maker to achieve a good outcome (which means to avoid punishment).

The Aristotelian view, on the other hand, is based on a different way of seeing our rational agency, in which the propension to be understood by others and to give an account of oneself takes centre stage. In a co-authored text with Timothy Macklem on reasons, the author expresses:

> In differentiating human beings from other animals Aristotle emphasizes human excellence in the closely connected faculties of speech and reason. We may think of these faculties, in their most developed form, as the distinctively human ways of relating to the world. One, the faculty of speech, provides us with a distinctive way of imposing ourselves on the world. The other, the faculty of reason, is the distinctive channel through which the world, in return, imposes itself on us[3].

---

[1] This contrast begins clearly in his 2003 essay "The Mark of Responsibility" (see Gardner 2007: ch. 9; 2008: 139-140). Before that, he referred to some elements of the Hobbesian conception as a residual view (see Gardner 2007: ch. 4).

[2] Gardner 2007: 179.

[3] Gardner, Macklem 2002: 440. See Gardner 2007: 185.

According to this view, our human abilities produce a particular way of being in the world, in which language and rationality are central. A good life therefore presupposes that we develop these abilities in society. On the one hand, we use the faculty of speech in order to make sense of what we do and what we are, and to shape our social environment. On the other hand, we use the faculty of reason in order to respond appropriately to the facts surrounding us and do justice to them. The mixture of both is what makes responsibility so important, because it is in the practise of responsibility that our human abilities are revealed in all their splendour. Being a responsible agent therefore means «being able and willing to explain one's action as a manifestation of one's rational competence»[4].

An Aristotelian view thus focuses on the way in which our rational powers and the value we attach to them permeate practise and our understanding of it. Rather than focusing on the avoidance of punishment, this view explains responsibility in terms of our interest in understanding and justifying what we do. In this context, offering an excuse is a way of providing reasons that explain our behaviour. Consequently, Gardner points out that «[a]s rational beings, we might want our wrongs and mistakes to be justified, or failing that excused. It is what we could call the Aristotelian story. As rational beings we cannot but aim at excellence in rationality»[5].

II.   Gardner's Aristotelian view is supported by an analysis of the relationships between the different concepts of responsibility. In the writings of the 2000s, Gardner focussed in particular on the difference between "basic responsibility" and "consequential responsibility", a distinction he adopted from Ronald Dworkin[6]. As for consequential responsibility:

> Those who are responsible are those who are singled out to bear the adverse normative consequences of wrongful (or otherwise deficient) actions. The consequences in question are normative in two ways. First, they are changes in someone's moral or legal (or otherwise normative) position. Second, they are effected by someone's violation of a norm (moral, legal, or otherwise). In other respects they are very varied[7].

This concept of responsibility is usually referred to in the literature as 'liability' and refers to how we react to a person (e.g. blaming, punishing, imposing the obligation to repair) after we have attributed a wrong (e.g. legal, moral or political) to her. The notion of liability is present in the sense that the ascription of the wrong implies that someone is held liable to be the object of a reaction, which changes the normative status of the person responsible. These normative issues can be repre-

---

4   Gardner 2007: 84.
5   Gardner 2007: 177-178.
6   See Dworkin 2000.
7   Gardner 2008: 132.

sented as the imposition of a burden. Thus, according to the author: «[t]o say that D is liable is to say that another has a normative power to burden her, for example by imposing extra duties on her or taking away some of her rights»[8]. This, in turn, implies that «I am consequentially responsible if some or all of the unwelcome moral or legal consequences of some wrong or mistake (whether mine or someone else's) are mine to bear»[9]. Subsequently, we have a way of saying that a person responds for what has happened in the sense that others might impose a burden on her. As we can see, this concept of responsibility is directly related to the possible consequences of our acts that others can impose on us. This fits very well with the Hobbesian view of responsibility, in which the threat of punishment plays a central role.

For Gardner, on the other hand, basic responsibility is «a kind of ability to respond. More precisely it is the ability to explain oneself, to give an intelligible account of oneself, to answer for oneself as a rational being»[10]. In this context, when we say that someone is responsible, we mean that she is capable to respond in the sense of answering some questions related to her actions. For Gardner, this means that we are talking about the abilities of human beings. More precisely, for Gardner this concept of responsibility «is a compound [...] of our ability to use reasons in acting, thinking, choosing, wanting, etc. and our ability to use those reasons again in giving an account of whatever it was we did, thought, chose, wanted, etc., and in that sense, as rational beings, giving an account of ourselves»[11].

There is a third concept of responsibility that is important for a more comprehensive picture of responsibility practises: prospective responsibility. This third concept was introduced by the author in his last writings as part of what he called assignable responsibility. In this sense, when we talk about responsibility, we are talking about the responsibilities that people have and we are referring to the reasons that apply to people and that show what they ought to do. According to Gardner, this "ought" should not be confused with the idea of duty, in his words: «duties are individuated according to the actions that they are duties to perform. A duty to perform a different action is a different duty. Responsibilities, however, are individuated otherwise. Alongside rights, they belong to the apparatus for explaining why I have whatever duties I have. They are individuated at the level of the reasons for my duties. I have a responsibility inasmuch as a certain reason or set of reasons is mine to conform to»[12]. In this context, someone is responsible in the sense that there are reasons that apply to her as guiding reasons[13].

---

[8]   Gardner 2019: 173.
[9]   Gardner 2007: 177.
[10]   Gardner, 2008: 123.
[11]   Gardner 2007: 185. See. Gardner 2011: 87-88; 2018: 75.
[12]   Gardner 2019: 200.
[13]   Gardner says that «[o]ne's actions can be regulated by norms only if one is the kind of being who can be guided by norms. Guidance by norms requires guidance by reasons. It requires that one have the

In terms of the relationship between these concepts, Gardner sees basic responsibility as primary. The practises associated with consequential responsibility are meaningful insofar as they open up the space for people to give their reasons and explain themselves to others. Our prospective responsibilities, in turn, depend on our rational capacities. Without our capacity to respond to them, they would make no sense at all. The interplay between these different concepts of responsibility is more complex. In what follows, I will consider some of them in the context of John Gardner's work.

III.   The first point I would like to address concerns the existence of a kind of conceptual connection that he identified between the concepts of consequential responsibility and basic responsibility. He called it 'the rudimentary link' and it consists in the idea that: «one must be basically responsible, or at least assumed to be basically responsible, for the question of one's consequential responsibility to arise in the first place»[14]. For Gardner, the presence of basic responsibility is therefore a precondition for consequential responsibility[15].

The proposal immediately raises the question of whether such a connection is accurate for describing the various ways in which consequential responsibility is deployed. It can be argued that in many cases of vicarious responsibility, as well as responsibility for the exercise of a role, it is irrelevant whether the person who has to bear the normative consequences has exercised basic responsibility for the wrong for which she is responsible. This is the case, for example, when the employer must bear the consequences of a wrong done by her employee or when a mother has to bear the normative consequences of her daughter's actions, even though her actions played no role at the time of the wrong. An example of the latter is when a person occupying a new position has to take responsibility for the decisions of her predecessors in that position. In this latter case, it is the exercise of the role that justifies that the person responds, not that her did something wrong. It may even be that the person being held responsible did not know that the wrong had been committed.

For Gardner, an answer to this possible problem can be sought by reflecting on the ambiguity of the expression "holding responsible". He says that: «[w]e hold people responsible in two senses of 'hold'. [...] Sometimes we hold a person responsible in the ('constative') sense of coming to the conclusion that she is responsible. Sometimes we hold a person responsible in the rival ('performative') sense of making her responsible: we confer responsibility on her by an exercise of our

---

ability to justify or excuse one's actions» (2008: 128). See Gardner 2007: ch. 5; 2018: 23-31; 2019: ch. 6.

    14   Gardner 2008: 137.

    15   See Gardner 2011: 88. Consequently, for Gardner, whenever a person is held responsible by attributing consequential responsibility to her, basic responsibility is also attributed to her. In his words: «[o]ne asserts H's basic responsibility, in other words, by imposing consequential responsibility on H» (2008: 139).

normative powers»[16]. This distinction can be applied to the three aforementioned concepts of responsibility in different ways. For example, prospective responsibility, insofar as it is assignable, can be conferred when a new institution is created and new responsibilities arise for those who fulfil roles in that institution.

What is interesting for our purposes is the fact that, as it stands in contrast to consequential responsibility: «Basic responsibility [...] cannot be conferred. One cannot assume it, impose it, be relieved of it, be exempted from it, or otherwise subject it to the exercise of a normative power»[17]. Since basic responsibility refers to some abilities that are part of our human life form, «we cannot intelligibly complain, for example, that basic responsibility is unfairly distributed, such that I keep finding myself basically responsible for actions that I did not know I was performing. Nobody distributes it and so the question of the fairness of its distribution does not arise»[18]. Basic responsibility lies outside the scope of our normative powers.

Nevertheless, Gardner says that «[t]here may be legal norms that instruct others (e.g. officials) to treat some people who are not basically responsible as if they were basically responsible. But these norms do not make those people basically responsible. Instead, they create a legal fiction of basic responsibility»[19]. If we introduce this idea, the cases described as problematic can be explained: We treat the employer, the mother, and the person performing the role as if they were basically responsible at the time of the wrong, and we treat them as someone who can justify or excuse their link to the wrong[20]. In those cases, it would therefore suffice to point out that we are dealing with a fictitious product of this instruction issued by a normative authority.

While one can agree with Gardner that legal authorities can make such attributions through the enactment of legal norms, I suspect that if we accept without further ado that we must assume in every difficult case that basic responsibility is fictitiously attributed, the interpretation becomes unsatisfactory. This is because it seems that something else is needed to explain such a fiction. We can come up with various reasons that might justify this technique (e.g. to prevent certain behaviour or to ensure compensation for victims), but I suspect that those justifications might take us far away from the Aristotelian story. Furthermore, without such an explanation or justification, the argument might be impossible to refute, since basic responsibility is either affirmed or created in each case, and no counterexamples can be given. Regarding this last idea, I suspect that the argument supporting the rudimentary link is in danger of losing its force, as it is no longer available to place limits on

---

[16]   Gardner 2008: 129.
[17]   Gardner 2008: 129.
[18]   Gardner 2019: 219.
[19]   Gardner 2008: 129.
[20]   See Gardner 2007: 60, n.3.

what people can be held responsible for, and each case (whether easy or difficult) can be interpreted as a fictitious attribution of basic responsibility.

IV.   I would now like to turn to the second problematic question, which is related to how Gardner understands the relations between the different concepts of responsibility. This challenge has to do with the concept of excuse and arises from two ideas that Gardner puts forward. The first idea is based on the Aristotelian view that responding to others is to explain something about our agency and the reasons that apply to us. The second is that, according to Gardner: «basic responsibility, unlike some other kinds of responsibility, in non-relational. one is not responsible to anyone in particular»[21].

The sum of the two ideas seems to contradict two very common theses about what excuses are. The first thesis is that excuses are a way of denying responsibility. It is common to distinguish between justifications and excuses, where justifications are thought to deny the existence of wrongdoing, while excuses go in a different direction. As David Brink points out: «[e]xcuses concede wrongdoing but deny that the agent is blameworthy for her misconduct by denying the agent's responsibility or culpability for the wrongdoing»[22]. The second common thesis is that we present excuses in responsibility process in order to avoid a negative verdict[23]. This later thesis has two consequences. The first is that it recalls the Hobbesian idea that responsibility is related to the possibility of imposing a punishment or some other reaction and leads to an exchange in which people have the possibility of defending themselves in order to avoid this.The second is that, practises of responsibility are presented as practises in which agents respond to others who have the authority to impose such reactions, and to whom we should therefore respond within the scope of their authority. The reasons we should give to avoid punishment are thus relational in the sense that in order to identify the relevant reasons, we need to see what kind of relationship is at play. It is not the same to deny my responsibility for a wrong as a friend and to deny it as a citizen or employee[24].

With regard to the first point, Gardner suggests that while it is true that those who present excuses are trying to avoid undesirable normative consequences: «they didn't want to do so by denying, or casting doubt on, their responsibility in the basic sense, at least not if they could avoid it. On the contrary, they wanted to assert their responsibility in this basic sense. they wanted to assert that, in spite of all they had been through, they were fully responsible adults. And they asserted this precisely

---

[21]   Gardner 2007: 276.
[22]   Brink 2021: 52.
[23]   See Hart 1968: ch. II; Edwards 2023.
[24]   See Duff 2007: 19-30; 2018: 91-101; Gardner 2011.

by arguing that, although unjustified, their actions were excused»[25]. In this respect, according to Gardner's interpretation, the public and sometimes dialogical nature of the practises of attributing responsibility allows us to affirm ourselves as responsible agents. To offer an excuse when we have no justification for our actions is not to denying our responsibility, but to express it. To offer an excuse is to affirm our responsibility in a basic sense, and as we have seen, according to Gardner, basic responsibility is a precondition for consequential responsibility[26].

As for the second theses, Gardner's emphasis on the idea that one expresses oneself in this context leads him to reject relational theories that assume that these reasons are offered to someone and that the kind of relationship we have with that person partly determines which reason is correct. In his words:

> Remember that, by hypothesis, I am no longer interested in whether my account of myself makes my interlocutors sympathetic, rebuilds my friendship with them, persuades them to let me off punishment, or anything like that. those are just more of the same Hobbesian factors [...] What I care about, under the Aristotelian heading, is giving, so far as I am able, a good account of myself. If it really is a good account and other people can't see how good it is then, relative to the Aristotelian story of basic responsibility, that's their problem[27].

On this basis, Gardner argues that the reasons relevant in this context are not held and offered in relation to a particular audience or person (e.g. a group of friends, a court), but regardless of to whom they are offered. The same applies when we ask for the reasons of others. Any rational agent is capable of recognising them and therefore, strictly speaking, nothing is ever «none of my business»[28]. At this point, then, he defends a Kantian conception of reasons, in which every reason is the concern of every rational agent. In this sense, reasons come first and relations second. Our relationships can help us understand how important a reason is in respect of attention, but they do not enclose the realm of reasons[29].

I do not find this idea entirely convincing. It is not necessary to reject an Aristotelian view in order to consider that the relevant reasons we can give to others are relational. To give an account of who we are is something we do not only for ourselves, but also for others and in conjunction with others. If we understand that the interre-

---

[25]   Gardner 2007: 182.
[26]   Gardner points out that: «On the view I sketched, unlike the residual view, offering an excuse is not a way of denying, but rather a way of asserting, one's responsibility. For having an excuse, like having a justification, is by its nature an affirmation of one's rational competence. Both justifications and excuses are rational explanations for wrongdoing. They explain why the agent acted as she did by pointing to reasons that she had at the time of her action» (2007: 86).
[27]   Gardner 2007: 187.
[28]   See. Gardner 2011; 2019: 208-209.
[29]   See. Gardner 2007: ch 3; 2011.

lation between rationality and speech is part of our social nature, we can say that our reasons, as well as the way we state them, depend in some cases on the relationship that produces them, and that they can be meaningfully expressed within that relation[30]. We form our practical identity in the various kinds of relationships and exchanges we enter into with others in the course of our lives, and it is within these relationships that we justify ourselves. Often the only way to account for the wrongs we commit is to address the elements of the circumstances, and the particular relationship between the parties involved can be one of them. This is true not only at the level of our intimate relationships, but also at the broader societal and institutional level. In this sense, while Gardner may be right to see the defence in a trial as an expression of responsible agency, I believe that relational theories still have something important to say.

V.   The two challenges to which I have drawn attention in Sections III and IV are addressed directly or indirectly by the author in his later works.

As for the latter issue, I personally tend to think that Gardner developed a more relational view of reasons over time[31]. A first methodological note I would like to draw attention to is the reason why, in *From Personal life to Private Law*, he rejects the use of thought experiments in favour of using literary examples, as he says:

> For the most part, they deliberately eliminate any hint of background story. They treat problems about what some generic agent is to do now as touched on only occasionally, and in strictly demarcated ways, by the way in which the agent came to be facing those problems, the role she is occupying, and the place that her actions have in the wider story of her life[32].

For Gardner, these abstractions are problematic. I agree with him. But even if it is true that this can be said without considering relationships and interactions with others as part of the background against which we act, such a notion shows a poor view of our practical lives. Even if we can accept that not every aspect of our practical lives is relational, to deny the constitutive importance of our relations for some of the reasons we have is not the best way to express it. In fact, I think Gardner himself would agree. This is reflected in his recognition of strictly relational duties, which he defines as those «one has for the reason that one stands in some special relationship with the person to whom the duty is owed»[33].

---

[30]   See. Scanlon 2008; Duff 2007.

[31] One possible manifestation of this is his continuity thesis, according to which the reasons that support a duty continue to concern us even when we violate those duties and justify some relational-dependent actions such as reparation and apology. I cannot discuss this thesis in detail in this text. (see Gardner 2018: ch. 3; Oberdiek 2023; Sinel 2023).

[32]   Gardner 2018: 10-11. For a similar methodological issue see Gardner 2007: 58-59.

[33]   Gardner 2018: 23.

This leads us to the notion of prospective responsibility to which I have referred and which Gardner introduced in his later writings. As we have seen, this idea is linked to the concept of duty in terms of reasons. In his later books, Gardner presents this idea based on the understanding of duties as categorical and mandatory reasons and the understanding of responsibilities as sources of duties[34]. In this sense, in Gardner's words: «when we have responsibilities we have reasons to concentrate on some reasons for action at the expense of others in connection with our own actions»[35]. This in turn is consistent with the fact that «[r]esponsibilities [...] belong to the apparatus for explaining why I have whatever duties I have. They are individuated at the level of the reasons for my duties»[36]. Since many of the duties we have are shaped in our relationships with others, one can imagine a much stronger connection between reasons and relationships in his approach.

As might be expected, these special relationships shape not only the duties we have, but also the ways in which we account for their violation in a process of attribution of responsibility. In this sense, I find an approach that takes this relational aspect into account when we talk about the reasons that are present in our practises more satisfying.

Regarding how to explain the aforementioned cases of vicarious or role-based responsibility, in his essay "The Negligence Standard: Political Not Metaphysical"[37], he introduces a new notion of responsibility, which he calls 'assignable responsibility'. As the name suggests, these are responsibilities that can be voluntarily assigned to the individual, as opposed to basic responsibility, which, as we have seen, cannot be conferred. More precisely, assignable responsibility has a double face, as he says:

> When we talk of assigning responsibilities (plural), we are generally thinking of things that are, at the time when the responsibility arises, yet to be done. We are asking who will be the one to do those things, or at least see to it that they are done. When we talk of assigning responsibility (singular), by contrast, we are often thinking of things that were already done, or will already have been done, by the time the responsibility arises. We are asking who will be the one to face the music or pick up the pieces when the things that were supposed already to have been done were not done[38].

In this vein, what the law and our practises do is precisely to assign responsibilities to us, in the sense that they generate new duties towards us, on the one hand,

---

[34] See Gardner 2019: 68, 199-200.
[35] Gardner 2019: 197.
[36] Gardner 2019: 200.
[37] The article was originally published in 2017 and reprinted as ch. 7 of *Tort and Other Wrongs*. In this text I quote this latest version.
[38] Gardner 2019: 198.

and the obligation to face up to the things that happen and, if necessary, to bear the consequences, on the other hand. The two cases in question can therefore be understood within this framework. In the case of vicarious responsibility, we assign responsibility to someone for what someone else has done, even if it is not within their basic responsibility to prevent what has happened. For Gardner, in the case of role responsibility, in addition to this, the responsibilities of the predecessor are attributed retro*actively*[39].

The question that now arises is how to account for basic responsibility in this reasoning. Gardner does not speak here of a conceptual connection between the two meanings of responsibility, but says that basic responsibility is normally a condition for assignable responsibility. He explicitly uses the word "normally" in relation to the cases: «in which assignable responsibility for something is assigned to someone who lacks basic responsibility for that thing»[40].

In these cases, Gardner is inclined to say that we sometimes assign responsibility to those who have not basic responsibility and at the same time he claims that in such cases we treat them as if they were basically responsible. On this point, the argument is symmetrical to the one discussed above, and he pointed out that:

> Assignable responsibility is sometimes assigned, rightly or wrongly, to people who are not basically responsible for whatever they are being assigned assignable responsibility for. However, it is assigned to nobody without at least the fiction of their basic responsibility for whatever they are being assigned the assignable responsibility for. No making responsible, we might say, without holding responsible[41].

It seems to me that the introduction of the concept of assignable responsibility is very valuable and helps to account for how our practises lead to duties that are ultimately political rather than metaphysical. We often have good reasons to assign responsibility to people for what others do and even for events beyond their control. However, I suspect that in doing so we move away from the notion of basic responsibility as Gardner understands it. It is not easy to see how this ability can be genuinely exercised in these cases. In cases of vicarious responsibility, one wonders what kind of reasons can be given by someone who was not the one who acted. How will she present her perspective on the wrong if there is no such perspective? We should have in mind that basic responsibility shows precisely the connection between the two moments.

The problem becomes even more serious when we think of the case of role responsibility. In this case, we are also assigned the prospective responsibilities of

---

[39] See Gardner 2019: 199.
[40] Gardner 2019: 209.
[41] Gardner 2019: 211.

which the person was not aware. Here it does not seem possible to offer excuses to express our practical perspective. In this way, basic responsibility seems to be absent in a more radical way. At this point, it is not clear what role basic responsibility plays beyond a faint reminder that our rational powers are behind our practises, which leads us to question the extent to which it can be treated as a fiction.

I do not wish to draw any strong conclusions from what has been said, but rather to leave open these questions that arise from the profound and rich ideas that John Gardner has developed about the concepts of responsibility. While the notion of basic responsibility seems to explain some important elements of our practical lives and Gardner's reflections on it allow us to make sense of many important issues, it also seems to have limitations when it comes to addressing the complexity of responsibility practises and the exercise of our practical identity in them.

References

Brink, D. O. (2021). *Fair Opportunity and Responsibility*, Oxford, Oxford University Press.

Duff, R. A. (2007). *Answering for Crime: Responsibility and Liability in The Criminal Law*, Portland, Hart.

Duff, R. A. (2018). *The Realm of Criminal Law,* Oxford, Oxford University Press.

Dworkin, R. (2000). *Sovereign Virtue*, Cambridge (Mass.), Harvard University Press.

Edwards, J. (2023). «Explaining Ourselves in Court», in Dempsey, M., Tanguay-Renaud, F. (eds.), *From Law to Morality and Back Again: A Liber Amicorum for John Gardner,* Oxford, Oxford University Press: 89-108

Gardner, J., Macklem, T. (2002). «Reasons», in Coleman, J., Shapiro, S.J. (eds.), *The Oxford Handbook of Jurisprudence & Philosophy of Law*, Oxford, Oxford University Press: 440-475.

Gardner, J. (2007). *Offences and Defences,* Oxford, Oxford University Press.

Gardner, J. (2008). «Hart and Feinberg on responsibility», in Kramer, M., Grant, C., Colburn, B., Hatzistavrou, A. (ed.), *The Legacy of H.L.A. Hart: Legal, Political, and Moral Philosophy*, New York, Oxford University Press: 121-140.

Gardner, J. (2011). «Relations of responsibility», in Cruft, R., Kramer, M., Reiff, M. (eds.), *Crime, Punishment, and Responsibility: The Jurisprudence of Antony Duff,* Oxford, Oxford University Press: 87-102.

Gardner, J. (2018). *From Personal Life to Private Law,* Oxford, Oxford: Oxford University Press.

Gardner, J. (2019). *Torts and Other Wrongs,* Oxford, Oxford University Press.

Hart, H.L.A. (1968). *Punishment and Responsibility: Essays in the Philosophy of Law*, Oxford, Oxford University Press.

Oberdiek, J. (2023). «Wrongs, Remedies, and the Persistence of Reasons: Re-Examining the Continuity Thesis», in Psarras, H., Steel, S. (eds.), *Private Law and Practical Reason: Essays on John Gardner's Private Law Theory*, Oxford, Oxford University Press: 161-176.

Scanlon, T. (2008). *Moral dimensions: permissibility, meaning, blame,* Cambridge (Mass.), Belknap Press of Harvard University Press.

Sinel, Z. (2023). «The Place of Regret in the Law of Torts», in Psarras, H., Steel, S. (eds), *Private Law and Practical Reason: Essays on John Gardner's Private Law Theory*, Oxford, Oxford University Press: 202-222.