

173 Introduction to the Special Issue on Legitimate Expectations

LUKAS H. MEYER

THOMAS PÖLZLER

PRANAY SANKLECHA

Department of Philosophy, University of Graz, Austria

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Let us define expectations as predictions about the future (Meyer and Sanklecha 2011). When an agent acts on the basis of an expectation that she has, and this expectation is frustrated, then it is reasonable to say that the agent is harmed because of the frustration of her expectation (Buchanan 1975; Coleman 1992; Meyer and Sanklecha 2011; Meyer and Sanklecha 2014). However, it is not at all clear what follows normatively from the fact that an agent would suffer harm from the frustration of some particular expectation that she has.

Take the following example. A thief steals a car and forms the expectation that he will get away with the theft. Let us further say he makes some plans on that basis. The frustration of his expectation will certainly cause him harm, but in this case, we would normally think that neither is he owed anything as a result nor does he have a valid complaint. The harm caused by frustrating the thief's expectation does not seem to count normatively.

But now consider a different case. Two housemates, A and B, enjoy having dinner together and for a long time have had dinner together on Fridays. They take turns in preparing dinner, and if A prepares dinner this Friday because it was her turn, then A has acted thus because of her expectation that she will have dinner with B. If B does not turn up, A can be said to have been harmed to some extent because of the frustration of her expectation. In this situation, the harm caused to A as a result of her expectation being frustrated is (in the normal

case) relatively small. Nevertheless, we would think that A is owed something as a result of her expectation being frustrated. We might think, for instance, that B owes her an explanation or apology, or both. That is to say, we think that A's expectation counts normatively – her frustration calls for some response from B, and A can validly complain about it being frustrated (Meyer and Sanklecha 2014).

This brief sketch is already sufficient to describe some of the central issues raised by the problem of legitimate expectations. We consider the following issues to be basic in the sense that every comprehensive theory of legitimate expectations would have to resolve them.

How can we systematically distinguish between legitimate expectations (such as A's above) and illegitimate ones (such as the thief's)? Further, even though this is not a question investigated in this volume, distinguishing between legitimate and illegitimate expectations on the basis of normative criteria presupposes an understanding of what counts as an expectation in the first place: What are the epistemic criteria that allow us to systematically distinguish between, on the one hand, mere hopes or even delusional beliefs about what will be the case in the future and, on the other, epistemically justified expectations? Having identified epistemically valid and normatively legitimate expectations, what is their normative strength and relevance? For instance, are there some legitimate expectations that should always be honoured, no matter what the cost of honouring them is? When, and if so how, can legitimate expectations validly be frustrated? Under what conditions does the frustration of legitimate expectations, even when valid, give rise to valid claims of e.g. compensation on the part of those agents who have been harmed by the valid frustration of their legitimate expectations?

It is useful to note that the problem of legitimate expectations is simultaneously closely connected to (the concept and problems of) justice while also being a separate issue. As Sidgwick points out, 'we include under the idea of binding engagements not merely verbal promises, but also what are called "implied contracts" or "tacit understandings"' (Sidgwick 1967, p. 269). These are not as clear as explicit contracts, and so the 'attempt to map out the region of Justice reveals to us a sort of margin or dim borderland, tenanted by expectations which are not quite claims and with regard to which we do not feel sure whether Justice does or does not require us to satisfy them' (Sidgwick 1967, p. 270). This is not to say that one cannot have a justice-based theory of legitimate expectations, of course. Indeed, two of us have canvassed this kind of possibility in an earlier paper (Meyer and Sanklecha 2014). The point is that such a justice-based theory reflects a substantive claim about the relevance of considerations of justice to legitimate expectations, and that alternative theories reject this claim. To take just one example, one could also provide an account of legitimate expectations

that is based on, e.g., a Razian understanding of the conditions of legitimate normative authority (Meyer and Sanklecha 2014).

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One particularly exciting aspect of the philosophical debate on legitimate expectations is just how little work has hitherto been done on the aforementioned questions (though this has begun to slowly change). One obvious place to look for relevant insights is in legal theory, because the law has long recognised the issue of legitimate expectations (e.g., Craig 1996; Thomas 2000). It is therefore particularly pleasing to us as editors that we have been able to include two papers, by Anne-France Colla and Stefan Arnold, that deal with aspects of the issue of legitimate expectations from a legal perspective. Furthermore, adding to the interest and importance of the issue, the problem of legitimate expectations arises in a number of contexts. The three of us, for instance, have worked on the problem of legitimate expectations in the context of climate change (Meyer and Sanklecha 2014; Ortner et al. 2017), and in this issue Margaret Moore and Tim Waligore discuss the problem in the context of territorial rights. Matt Matravers takes Rawls' influential understanding of legitimate expectations as his starting point for developing his account in the context of non-ideal circumstances, which he does by taking into account an understanding of just punishment. Fergus Green's contribution is meta-theoretical, in that he attempts to develop a methodology for helping us to systematically choose between different theories of legitimate expectations. We hope that these significant and original contributions will help in developing interest and stimulating further work on this important and relatively under-researched topic.

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