Rescue and the Duty to Aid

by

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Abstract

It is a commonly held view that we ought to help others when they are in peril or in need, at least when we can do so at little cost to ourselves. This means that we have a duty to aid the child drowning in the pool of water in front of us and that we also have a duty to aid hungry and needy people in distant places. I agree with this view, but I show that it does not follow that the situation of the drowning child and the situation of the needy person bind us in the same way.

Rescue and the Duty to Aid argues that there are two distinct types of duties to aid—a perfect duty to rescue and an imperfect duty to help the needy. Both are moral requirements, but they require different things. The duty to rescue demands a particular act of an agent. The duty to help the needy demands that the agent adopt a certain end—helping needy persons—and that she act to fulfill this end. In the former situation the agent is bound to do something specific, in the latter situation the agent has the latitude to choose how to best fulfill her end. My aim is not to show that one duty is necessarily stronger or more pressing than the other, but that they demand different things.

Once I fill out the structure of our duties, we see that the duties have different fulfillment conditions. Perfect duties can be completely discharged by doing the required act. Imperfect duties are never completely discharged but we can do our share by contributing to
the end. I show that there are limitations on the duty to aid but that these limitations apply differently to perfect and imperfect duties. With a greater understanding of how the limitations work, we are in a better position to understand what and how much these duties demand of us.
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Chapter One:

Distinguishing the Duty to Aid from the Duty of Beneficence

Do we have a duty to aid others when they are in peril or in need? More specifically I am asking if there is a duty to aid *strangers*. By limiting my discussion to strangers, I am putting to one side questions about the nature of our obligations to those with whom we are in special relationships, such as the duty of a mother to a child or the duty of a lifeguard to a swimmer. These kinds of special obligations are informed by prior commitments. But what about the stranger who is in serious need of aid? Is there a moral obligation to aid even though no special relationship or prior commitment exists? We may disagree about the extent and scope of such an obligation, but I think that most people would agree that, *in certain circumstances*, we do have obligations to aid others.

In this chapter, I will not argue for the claim that there is a duty to aid, nor will I provide any particular justification for it. I will begin with the intuitive assumption that there is a duty to aid, and I will show that acknowledgment of this duty is common to a wide-range of moral theories.¹ My main task in this chapter will be to articulate what the *duty to aid* is about and to distinguish it clearly from the *duty of beneficence*. I will show that all plausible moral theories accommodate the duty to aid and acknowledge the difference between aiding and benefitting.

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¹Of course, these different moral theories justify the duty in their own ways. This is not a problem because my account of the duty to aid is not tied to any particular justification.
I will show that the distinction between the duty to aid and the duty to benefit has both intuitive and theoretical support and it will be important to my project to clarify its structure. Once it becomes clear how the two duties differ, we will be in better position to focus in on the duty to aid and its structure. The main task of my thesis will be to articulate and defend the distinction between two different types of duties that are part of the duty to aid—the perfect duty to rescue and the imperfect duty to help the needy. The claim that there is a duty to aid others and that there is a distinction to be drawn within this broad duty is intuitively plausible and, I will show, has the support of the dominant moral theories. The main contribution my thesis makes is in the way I draw this distinction and how I explain it. Before we turn to my main argument, we must first get a better understanding of the duty to aid itself.

Providing Intuitive Support

Consider the following scenario. You are casually strolling through the park on a nice spring day when you suddenly see a child slip and fall into the fountain. The child has hit her head on the concrete ledge of the fountain and has knocked herself unconscious. Without help, you are certain that the child will drown. There is no one else nearby; if anyone is to help it must be you. All that is required to save the child is to wade into the shallow fountain and pull her out. Physically, this is not challenging or risky; though you will likely ruin your new leather shoes. Do you have a moral obligation to save the child? This is an easy one, you think. Of course, there is a moral obligation to save the child. What
sort of person would stand by and do nothing? Different moral theories will make different judgements about the person who fails to aid. The consequentialist may say that the person is not promoting the best state of affairs. The Kantian may say that the person is not respecting the victim's autonomy. The contractarian may say that the duty of easy rescue is a principle to which we would rationally agree. Even the libertarian has room to say that the person does an indecent thing. In this example of an easy rescue, I think most of us would agree (though for different reasons) that you would be wrong not to save the drowning child. But, of course, questions about the duty to aid are not always this easy.

Let us change some of the facts. Instead, you are walking along the beach on a stormy summer night. You see a child up ahead, disregarding the warning signs and diving off the end of the pier. A few minutes later you hear screams from the water. You cannot see the child but you know, almost certainly, that he will drown in the choppy sea. You are not a very strong swimmer and the dark stormy conditions further weaken your chance of success. What is your moral obligation in this case? This is not as easy as the first example. Even though you think persons do have obligations to aid each other, you also think that there must be limits on what we must do for each other. You may have to ruin your leather shoes, but must you risk your life? How far does the duty to aid others extend? What factors legitimately limit the scope of our obligations? Even if we agree about the existence of a duty to aid in general, we may disagree about the limits and scope of this duty (again, for

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2We will see later whether the libertarian has the resources to say the person does something wrong or merely that he does something indecent. When I suggest that the duty to aid is something that we all accept, I am talking about the stronger claim that failing to aid is wrong.
different reasons). Nevertheless, I believe that many would share my intuitive response that we have a duty to aid others, at least sometimes in some situations. The bulk of this thesis will attempt to answer at what times we have these duties and under what circumstances. But for the purposes of this chapter, these more complicated issues may be put aside. While it may not be entirely uncontroversial to assert that there is a duty to aid others (even in the easy rescue example), from this point on I will take for granted that we have a moral obligation to help the child who has fallen into the fountain. 

Even though, I am suggesting that there is broad agreement about the existence of a duty to aid, it will be important to understand exactly what we are saying there is a duty to do (i.e., are we all saying the same thing). My main claim in this chapter is that even though we loosely speak about a broad duty to aid that encompasses all of the positive duties we have to help others, in our moral reasoning, we actually make some important distinctions. This “broad” duty is commonly discussed in the literature as a duty of beneficence. Accordingly, one would say that you are fulfilling your duty of beneficence when you save the drowning child and also say that you are also fulfilling your duty of beneficence when you help an elderly person cross the street (the person is not in danger but is having some difficulty

3These are all questions I will take up in later chapters.

4Notice that this claim can be articulated in varying strengths. One might think there is a legally enforceable duty to aid; or that there is a non-enforceable moral duty; or even, more weakly that there is no moral duty to aid but that we would judge the person who aids more favourably than the person who does not. My only concern will be with our moral duties, i.e., what we are morally obligated to do. Those who reject the language of duty can read this as an explication of what, morally speaking, we ought to do.
navigating through the crowd on her own). I think that our common moral understanding distinguishes between these two acts of helping and I think this is something that our language about duty should reflect. I am not merely suggesting that the difference between these two examples is that the amount of good at stake is different, but that there are other important differences. The differences can be expressed in various ways, depending on the moral theory we endorse. I suggest that we think of the examples as expressing two different types of duties—the duty to aid and the duty of beneficence.  

In the example of saving the drowning child, the duty involved is the duty to aid. In the example of helping the elderly person cross the road, the duty involved is the duty to make persons better off (by aiding their projects or helping them achieve their goals). From this point forward, I will be referring to the former as the duty to aid and the latter as the duty of beneficence. I not only think it is important to distinguish the duty to aid from the duty of beneficence, but I think that this distinction is shared by all plausible moral theories. To say

\[\text{I say we should think of them as expressing two types of duties. Putting it in this loose way will allow us to include theories that claim there is an actual difference in duty and theories that claim that it would be best if we treat them as if they were different duties. Either way, it will be important to explain the difference. Of course, the reasons one would give to justify these duties will vary from theory to theory.} \]

\[\text{A failure to see the distinction between aiding persons and making them better off can lead a theory astray. See Joel Feinberg's article "The Moral and Legal Responsibility of the Bad Samaritan," in Freedom and Fulfillment (Princeton: Princeton University Press, 1992): 175-196.} \]

Feinberg argues that persons who deny that there is a duty of rescue often employ the "enforced benevolence argument." According to this argument aiding persons is identified with conferring gratuitous benefit. One can then go on to argue that conferring mere gratuitous benefit cannot be required by law and/or morality. Feinberg argues that this view is mistaken because by saving the drowning child we are not merely benefitting him but we are responding to a claim that he has against us that we save him.

Feinberg clearly distinguishes between aiding persons in peril (in easy rescue situations) and benefitting them and he says that if we see this distinction clearly we will be less apt to view aiding in a mistaken way. We need not adopt Feinberg's exact view that the victim has a right to be saved in
it is shared does not necessarily mean that it is explicitly acknowledged, but merely that it plays a role in that theory.

The duty to aid is a duty to aid a person in peril or in need. This is a duty to protect someone's capacity for autonomy, or put in a less Kantian way, a duty to protect the conditions of our moral agency. Our capacity for autonomy is a capacity to set ends for ourselves and pursue those ends. This capacity is an essential feature of moral agents, and persons, more generally. Rather than be concerned with making persons better off, this duty is concerned with ensuring that people have the capacity to make themselves better off. So it is not a duty to help someone achieve her own ends, but a duty to enable her and to help her retain the tools necessary to achieve her ends herself. Moral views that do not place value on this capacity can interpret the duty to aid as a duty to provide for the basic needs of others. These different ways of expressing the duty really come to the same thing—by providing for persons' basic needs, we are ensuring that they have the capacity to live their lives on their own terms. There are different ways of defining these basic or core needs. My preferred way is to define them in terms of the necessary conditions for agency. Or we could say that basic needs are those things people need to function. The distinction I draw does not commit me to a particular account of basic needs and so my account is consistent with different definitions.7

order to retain the force of his point.

The example of the drowning child is an example where a person’s capacity is in jeopardy. The child’s life is at stake, and her life is a necessary precondition of her autonomous agency. Of course, by aiding the drowning child, you are also making her better off, but we are not merely making her better off. The important thing is that the duty only arises in such extreme cases where a person’s capacity is threatened; and thus, typically only in cases where a person’s life is threatened. So when we say that a person is in need, not just any type of need is relevant, but a need in this important sense where the person’s very agency is under threat.8

The duty of beneficence is a duty to help a person pursue her projects and achieve her ends. It is a duty to help a person who is having difficulty carrying out her projects herself. This can also be interpreted as a duty to promote someone’s well-being. Thus, it would be a duty to make someone better off than she is. In these types of situations, the person’s capacity for autonomy is not in jeopardy. You are being beneficent when you help the elderly person who is having a difficult time crossing the street. Thomas Nagel’s example of climbing Mount Kilimanjaro is another example.9 You would be helping me achieve one of

8The duty to aid does not only cover cases of emergency rescues (though emergency examples are less controversial examples of aid); it also covers cases of need such as Peter Singer’s example of the starving Bengali refugees. Though I will later spend a great deal of time distinguishing rescue cases from need cases, for our purposes here I will treat them as alike since they both concern persons whose basic needs or agency is threatened and thus they both ground an obligation to aid. I focus on the rescue example in this chapter because it is the clearest case about which most people can agree and focusing on this clear case is sufficient to explore the differences between aiding and benefitting.

9See Thomas Nagel, A View From Nowhere (Oxford: Oxford University Press, 1986), IX. Another well-known example is Thomas Scanlon’s example of helping a person build a monument to his God in “Preference and Urgency.”
my projects and would make me better off if you help me climb Mount Kilimanjaro, but this is not what we mean when we say you have a duty to aid me. Or consider, for example, that you pass by a person sleeping on the street on a cool November night. Do you have a duty to give this person your winter coat (or at least the extra sweater you have in your bag)? Is it a duty to aid or a duty of beneficence? It is a duty of beneficence if the person’s life is not in jeopardy and it is a duty to aid if it is in jeopardy. The duty of beneficence gives us reason to help others in the pursuit of a specific end; the duty to aid enables them to pursue their ends themselves.

In this chapter, I will show that the distinction between the duty to aid and the duty of beneficence is a common part of our moral reasoning. Even though the distinction is (relatively) uncontroversial, it is important to my project to fill out its structure. Once we have an understanding of its structure, I will be in a position to make further claims about the duty to aid. In particular, I will argue that there is an important distinction to be made within the duty to aid—there is a perfect duty to rescue and an imperfect duty to help the needy. For now, we only need to be concerned with the distinction between aiding and beneficence. Before I show how the distinction is accommodated by the dominant moral theories—sophisticated consequentialism, contractarianism and Kantianism, I will examine two important theories that reject it—libertarianism and direct utilitarianism.

A theory that cannot accommodate this distinction is one that is at odds with our common moral understanding. These theories fall into two camps. On one side are theories that draw no distinction between these two duties because they either have no room for any type of duty to aid or if they could find limited room for the duty to aid, they certainly could
not make room for a duty of beneficence. Libertarian theories fit into this category. On the other side are theories that do not recognize the distinction because they assert that all duties to aid are alike in type and that any differences can only be determined on a case by case basis. Direct act utilitarian theories fit into this category.

In addition to claiming that a theory must account for this distinction, I want to make the further claim that the duty to aid should be understood as more pressing than the duty of beneficence. That is, aiding someone takes priority over helping her achieve her ends. I do not take this to be a very controversial claim. In fact, I will show that the theories that accept the distinction between aiding and benefitting also believe that aiding is more pressing than benefitting (though again, they accept this for a variety of reasons).

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10Egoist theories fit into this category also. The egoist always acts in his own self-interest and does not think that morality can demand anything else. In fact, he says that morality cannot contain anything more than the pursuit of our own individual interests. There is no requirement to take the interests of others into account. I can do whatever I want to advance my own interests, even if I do it at your expense; after all I owe you nothing. To get an idea of the kind of thinking that leads to this theory, consider Henry Sidgwick's strong man example:

Even granting that everyone, in the actual moment of distress, must necessarily wish for the assistance of others: still a strong man, after balancing the chances of life, may easily think that he and such as he have more to gain, on the whole, by the general adoption of the egoistic maxim; benevolence being more likely to bring more trouble than profit [Henry Sidgwick, The Methods of Ethics (New York: Dover Publications, 1966), 389]. Someone like the strong man would not accept any type of duty to help others (the duty to aid or the duty of beneficence) because it is not in his best interests. Sacrificing his own interests for the sake of others is too high of a price to pay for the comfort of knowing that if he is in trouble he too will be the beneficiary of help from another. Any theory that places such a strong emphasis on individual interests to the exclusion of the interests of others has no grounds upon which to base the existence of duties to others, especially when helping others is not in the best interests of the individual at all. Such a person would think there is no good reason to limit his interests to help another.

Given that I have started this paper with the assumption that we do have duties to aid, we can reject the egoist theory outright since it cannot accommodate such a duty. A theory that is unable to accept that we even have reasons to aid others, is in that regard implausible. The egoist does not recognize a difference between aiding or benefitting because he is concerned with neither, and as such we will no longer concern ourselves with him.
Rejecting the Distinction: Libertarianism and Direct Utilitarianism

Of course, there is not unanimous agreement over the distinction I am drawing between the duty to aid and the duty of beneficence, but this should be neither surprising nor worrisome. Even though I have asserted that this distinction is part of our common moral understanding, it is rejected by two main moral theories—libertarianism and direct utilitarianism. I will give a brief account of these two theories and explain why they do not accept the distinction and why this gives us reason to reject both theories.

i. Libertarianism

Unlike the egoist who rejects the existence of any kind of duty to others, the libertarian recognizes that we do have negative duties to others. Negative duties are important because, without a restriction on the liberty of others, no individual would be able to exercise her liberty to its fullest. Thus, I cannot promote my own interests at any cost. I must accept the liberty of others as a constraint on my behaviour; that is, I cannot exercise my liberty at the expense of your security. This constraint corresponds to the negative duty not to harm others. Negative duties are recognized to be in the interest of all individuals. But recognizing negative duties does not necessarily have implications for recognizing positive duties because positive duties may not be in the best interests of all.

Typically, libertarians claim that positive duties are an undue interference on personal
liberty.\textsuperscript{11} It is in the interest of liberty that one would either exclude, or severely limit, any positive duties to aid others. When arguing against the existence of duties to aid others, Richard Epstein argues that if such a duty were admitted "no principled basis could be found to prevent unacceptable infringements of individual liberty."\textsuperscript{12} On this view we are only required not to harm others; there is no further obligation to help them. Epstein's account rules out both the duty to aid and the duty of beneficence. The extreme version of this view recognizes no positive duties at all. One might not think it is worth the gamble: better not to have a duty to aid, even though you may need aid, than to have a duty to aid and be required to give up your interests for the interests of others.

Since the libertarian does not recognize any type of positive duty, we can infer that he does not draw a distinction between duties to aid and duties to benefit—there is no point in distinguishing them since neither is part of the theory. So we might say that the problem with libertarianism is that it does not recognize any positive duties to aid. Or we might say that the problem with libertarianism is that it misses the distinction between duties to aid and duties of beneficence. If it took account of this distinction, it would do a better job of capturing our intuitions. As it stands, the libertarian has no basis for saying that you do something worse by not helping the drowning child than by not helping the elderly woman cross the street. Once he recognized the distinction, the libertarian could go on to say that

\textsuperscript{11}This claim is supported by each of the libertarians I will discuss—Richard Epstein, Eric Mack and Robert Nozick.

\textsuperscript{12}Richard Epstein, "A Theory of Strict Liability," \textit{The Journal of Legal Studies} 2 (January 1973), 203. As I have already claimed, one principled basis is to recognize the difference between benefitting persons and protecting their capacity for autonomy. That is, I do not have to help someone with her project, I just have to make sure she has the capacity to pursue it herself.
since there is a principled way to distinguish between aiding and benefitting (i.e., an answer to Epstein’s line-drawing objection); accepting a duty to aid may not be an unacceptable infringement on liberty.

Even if the libertarian is not willing to accept a full-fledged duty to aid, he should be able to recognize a difference between aiding and benefitting. That is, he may be able to say that one who saves the drowning child is a better (or more virtuous) person than one who helps the elderly woman. I will look specifically at Eric Mack’s account of libertarianism to see if it can accommodate duties to others, and to see if it has room to recognize the difference between aiding and benefitting.\(^\text{13}\)

\(^\text{13}\)Judith Thomson’s account of rights in *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990) is cited as an example of a view that does not recognize a duty to aid others. Clearly, Thomson shows that we each have stringent rights not to be harmed (which correspond with others’ negative duties not to harm us). This is set out in the Harm Thesis: we have claims against others that they not cause us harm (228). Thomson acknowledges that one can cause harm by failing to do something (238). One is said to cause harm if harm results from her failing to do something that it was her duty to do. However, Thomson makes it clear that nobody has a claim to be saved (160-3). She says that “the fact that Y can save X’s life does not give X a claim against Y that Y do so (175).” While she also acknowledges that people commonly want it to be the case that such a claim to be saved exists, it does not.

I should note that Thomson’s claim about there not being a duty to aid does not necessarily exclude the possibility that there are other moral grounds on which to argue that we ought to save the drowning person. In fact, she does agree that there are cases in which it is true that we ought to save someone (163). Thomson’s point relies on a distinction she draws between what we ought to do and what someone has a claim against us that we do. While it may be the case that we ought to save the drowning child, it does not follow that the child has a right to be saved. I agree that there may be things we ought to do that we do not have a duty to do, but in this thesis, I will be arguing that we ought to aid strangers and that we have a duty to aid strangers. My understanding of duty is much less technical than Thomson’s understanding of duty (see her discussion of Hofeldian duties in her Chapter 2). I will put Thomson’s distinction to one side and will frame these issues in terms of what it is our duty to do and not what someone has a right that we do.

One more noteworthy thing: Thomson draws a distinction between minimally decent samaritanism and good samaritanism in “A Defense of Abortion,” *Philosophy and Public Affairs* 1,1 (Fall):47-66. She argues that we only have to be minimally decent samaritans. However, she does not provide much justification for this claim. She says that we are not morally required to be good samaritans (643). Citing the well-known Kitty Genovese case where a woman was killed and 38
Eric Mack argues that there is no duty to aid strangers.14 Mack acknowledges that we have a duty not to cause harm to others, and that persons have a right not to be harmed by us. It is because of the importance we place on the liberty of individuals that we recognize these negative duties. Mack provides a sustained attack against the view that not aiding strangers does in fact cause them harm. The view he argues against (which is defended by John Harris and John Kleinig15) asserts that the duty to aid others is grounded in the rights individuals have to not be harmed. Harris and Kleinig argue that if you do not save a person from drowning you will have caused his death. That is, you will have violated your duty not to cause others harm. Mack tries to rebut this argument and show that failing to prevent harm is not equivalent to causing harm. He claims that though it may be true that by aiding someone you will have prevented the harm from coming about, your failure to prevent it does not play part of the causal explanation of the harm.16


16Epstein makes a similar argument. Epstein argues that we should not hold people liable for being bad samaritans because bad samaritans do not cause the injury and someone is liable only if she causes the injury. But I should note that the force of Epstein’s argument applies to legal and not moral duties to aid. However, Epstein does mention moral duties to aid: “Failure to aid those in need can make at most moral censure on the ground that the person so accused did not voluntarily conform his conduct to some ‘universal’ principle of justice. . . . It may well be that the conduct of individuals who do not aid fellow men is under some circumstances outrageous (italics added) (Epstein, 200-1).
Notice that the success or failure of Mack’s argument does not speak to the existence of a positive duty to aid. Thus far, the argument seems to be about whether or not failing to aid someone is really an infringement of the negative duty not to harm others. Let us assume for the sake of argument that Mack is successful and is able to convince us that not aiding is not the same as harming or that the duty to aid cannot be subsumed under our negative duties. Does this necessarily rule out the possibility that there is a duty to aid anyway? That is, is there not still room to argue for a positive duty to aid?

Let us examine what Mack says about positive duties. Mack recognizes that there is a positive duty to aid in cases where we have played a causal role in the harm. For example, you have a positive duty to help the person you have thrown into dangerous waters or the person you have innocently shot while hunting. Mack calls this a “prior causal role account of positive duties” because your causal role in the initial injury explains the emergence of your positive duty.17 He says that when A violates a positive duty to B, “A’s subsequent inaction allows the completion of A’s causation of injury to B.”18 So when a person neglects his positive duty, it is not the neglect that causes the harm but the prior endangering act.

It should be clear that this is not the kind of positive duty to aid for which I have been looking since it only applies to Drowning Child if you inadvertently knocked her into the

While this could be taken to mean that Epstein thinks we have a moral duty to be good samaritans, I do not think we should jump to this conclusion because he makes it clear that he thinks his legal doctrine is in accord with morality. For a further discussion of this potential paradox within Epstein’s view see Ernest Weinrib, “A Case For a Duty to Rescue,” Yale Law Journal 90,2 (December 1980): 247-293.

17Mack, 240.

18Mack, 240.
fountain. If this is the only kind of duty to aid that Mack can make room for, we should look elsewhere. Whether we have a duty to help a person we mistakenly shoot or whom we purposely throw into dangerous waters is not a very contentious issue. My concern is with the duty to aid someone whose harmful situation arises independently of us. Mack really only recognizes the negative duty not to cause harm to others; thus his view does not have the resources to ground a duty to aid strangers. Mack tries to give an account of causation that would allow him to avoid any duty to aid. He does this because he thinks, following Epstein, that there is no principled line to draw between aid that is morally required and aid that is not morally required. But, if it can be shown that there is a principled line, his efforts to maintain his extreme position seem unnecessary, especially if they are motivated by the fear of excess infringement on individual liberties.

One principled way of drawing the line is to say that we have a duty to aid a person when her agency is threatened or her basic needs are unfulfilled and we do not have a duty to help someone achieve her own ends. A libertarian may very well reject a duty of beneficence since it requires that we help others in the pursuit of their projects, but accept that we may have a duty to aid (especially when doing so involves little or no cost to the agent). Certainly, the libertarian would not want this to be interpreted as an enforceable duty. And even if the libertarian would not go so far as to commit to there being a duty to aid, the libertarian may judge someone who does not help the drowning child more harshly than the person who does not help the elderly woman cross the street.

As evidence of this, let us consider an example by Jeffrie Murphy:

I can be highly morally lacking even in cases where I violate no one's rights. For
example, I am sitting in a lounge chair next to a swimming pool. A child (not mine) is drowning in the pool a few inches from where I am sitting. I notice him and realize that all I would have to do to save him is put down my drink, reach down, grab him by the trunks, and pull him out (he is so light I could do it with one hand without even getting out of my seat). If I do not save him I violate no rights (strangers do not have a right to be saved by me) but would still reveal myself as a piece of moral slime properly to be shunned by all decent people.¹⁹

Thus it is possible for the libertarian to recognize that there is a moral difference between aiding someone and benefitting someone’s project, even though he does not want this recognition to be expressed as a moral duty or a moral right. Presumably, Murphy would not judge the person who does not help the elderly woman cross the street as harshly as the person lounging next to the pool (i.e., such a person may not be very nice, but is not moral slime).

So the distinction can be understood as having broader appeal than I first indicated, since it is even compatible with views that do not make room for either type of duty. Now that I have suggested how the libertarian may make use of the distinction (at least loosely), I will put this view aside because distinguishing between aiding and benefitting is not enough—the view should recognize them as duties or moral requirements. Minimally, a plausible moral theory must say that you do a moral wrong when you fail to save the drowning child, not just that you do something slimy and indecent.²⁰

¹⁹Jeffrie G. Murphy, “Blackmail: A Preliminary Inquiry,” Monist 63(1980), 168. This example is discussed by Feinberg in “The Moral and Legal Responsibility of the Bad Samaritan,” 176-7. Feinberg thinks Murphy’s problem is that he interprets failing to save the drowning person as failing to confer a benefit. Feinberg argues that by failing to save the drowning person you are violating her right to be saved. Notice that Feinberg is also distinguishing aiding a person from merely conferring a benefit—he thinks that the former is expressed by a right while the latter is not.

²⁰Since Robert Nozick’s account of libertarianism is among the strongest, it is worth a brief mention. See Anarchy, State and Utopia, (New York: Columbia University Press, 1974). Nozick
ii. Direct Act Utilitarianism

The problem with libertarianism is that it does not accommodate the distinction between the duty to aid and the duty of beneficence because it does not accommodate any positive duty to others. Direct act utilitarianism (or direct utilitarianism for short) also does not recognize the distinction, but for a very different reason. The direct utilitarian recognizes that we must help others--this is just one part of the more general duty to promote the best states of affairs possible. The direct utilitarian does not think it is legitimate to make the general claim that aiding others is more pressing than benefitting them--this will depend on the circumstances of the particular case. The situation that is more pressing is the one that makes a more significant contribution to the overall good.

So it is possible that an instance of aiding is more pressing than an instance of

asserts that the state may not use its coercive apparatus for the purpose of getting some citizens to aid others (intro). But this does not speak to the issue of a moral duty to aid. Even if it is true that the state ought not to enforce an obligation that we help others, one may still hold that we have such a moral obligation. However, it is quite clear that Nozick does not accept the moral obligation to aid.

For Nozick, the rights of others determine the constraints upon your action (29). He states that “your being forced to contribute to another’s welfare violates your rights, whereas someone else’s not providing you with the things essential to the protection of your rights, does not itself violate your rights, even though it avoids making it more difficult for someone else to violate them (30).” The only constraint on our actions is that we ought not violate the rights of others.

Nozick only goes so far as to justify a libertarian side-constraint that prohibits aggression against other persons. However, the problem from the point of view of justifying any type of duty to aid is that Nozick does not provide a basis upon which our moral obligations extend further than constraining our behaviour so as not to infringe the rights of individuals. He leaves no room for an account of positive rights. Nozick takes for granted that all duties to aid would be alike, but denies that there are any.

I should note that the utilitarian may object to framing this in terms of a duty. Not much turns on the use of this concept in particular. The same idea can be captured by those that reject the language of duty, by referring instead to moral obligations or requirements.
benefitting, especially given the examples I have given. Saving the drowning child will bring about more good than helping the elderly woman cross the street; so we should save the drowning child. But the fact that a particular instance of aiding happens to bring about more good than benefitting does not allow us to generalize from this particular instance to the more general claim that aiding brings about more good than benefitting. What if, for example, I am on my way to perform in a sold-out rock concert. Let us imagine that I can bring about more good by pleasing my 10,000 fans than by missing the show and saving the drowning child. In this particular instance, the direct utilitarian would have to say that I must abandon the drowning child for the sake of the greater good.

I imagine that we will more often promote more good when we do aid persons. Since, on this view, maximizing good states of affairs (such as happiness or welfare) is the point of morality, we ought to do anything that contributes to this goal. Shelly Kagan makes this point:

[s]uppose I see a child drowning, and I have a spare life preserver in my hands. Surely I am required to throw it. And what explanation can we offer for this, except to say that in this case, at the very least, goodness of results has generated a requirement to act?²²

Not only does Kagan think that we have a duty to aid someone whenever it best promotes the good, but he thinks the duty is so stringent that we would be required to risk a lot to carry it out. Thus, he is able to ground a very stringent duty to aid, at least on those occasions in which it is optimal.

Let us look at Peter Singer’s particular account of direct utilitarianism to see how he

handles the duty to aid. Singer claims that suffering is bad and that we must alleviate suffering when we can. On his view, it is not merely important that we not cause suffering ourselves, but we must also minimize suffering (when possible). This is a direct act utilitarian view because it simply demands that, on every occasion, we perform the act that best promotes the good overall. Notice that it does not make much sense to distinguish (and prioritize) negative duties from positive duties, or different types of positive duties: in any given situation, your duty is to perform the optimal act.

In “Famine, Affluence and Morality”, Singer argues that there are very stringent duties to help others. In fact, he claims

if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it.\(^{23}\)

Thus we ought to sacrifice anything morally insignificant and anything less significant than the suffering you can prevent. Not only must we make these kinds of sacrifices to save the drowning child, but we must also make these sacrifices to help needy Bengali refugees. Even though Singer claims that this is the right moral principle, he recognizes that he is making a very strong claim that entails, given the great amount of need in the world, that one would be morally required to reduce herself to very nearly the material circumstances of a Bengali refugee.\(^{24}\) This leads him to propose a more moderate version of this principle:

if it is in our power to prevent something bad from happening, without thereby

\(^{23}\)Peter Singer, “Famine, Affluence and Morality,” *Philosophy and Public Affairs* 1, 3 (Spring 1972), 231; italics added.

\(^{24}\)Or as Singer puts it, to the point of ‘marginal utility’, at which point giving more would cause one’s self or one’s dependents more suffering than one would prevent.
sacrificing anything else morally significant, we ought, morally, to do it.\textsuperscript{25}

No matter which principle is accepted, it is clear that Singer shows that the duty to aid may be understood as a duty that demands very much of persons.

Through this brief introduction to Singer’s utilitarian account, we can see that it does not make sense for a direct (act) utilitarian to recognize any duties more specific than the duty to maximize good states of affairs. This is so because the direct act utilitarian judges on a case by case basis which available alternative best promotes the good: “whenever one faces a choice of actions, one should attempt to determine which act of those available would most promote the good, and should then try to act accordingly.”\textsuperscript{26} One should always act to maximally promote the good. Sometimes this act may involve aiding and sometimes it may not; this is not something we can determine in advance. The utilitarian would only recognize a duty to aid if doing so is the best means of maximizing the overall good.\textsuperscript{27}

The most familiar objection to direct act utilitarianism is that it is self-defeating.\textsuperscript{28} It

\textsuperscript{25}Singer, 231. I think there are problems with shifting from the extreme principle to the moderate principle. While unpalatable, the extreme principle is still consistent with the principle of utility. It is less clear that Singer is able to justify the moderate principle. More importantly, he does not really try to do so except to say that the common person would find it easier to accept and he would rather some good be done than none. But it is clear that Singer thinks the extreme principle is the right one.


\textsuperscript{27}This makes sense given that “consequentialist theories are basically theories of the good and only derivatively theories of the right” [L.W. Sumner, The Moral Foundation of Rights (Oxford: Clarendon Press, 1987), 165]. Moreover, the theory will only contain principles of duties or rights that are derived from its principles of the good (167). Thus, it would recognize the duty to aid if doing so best promotes the overall good. On Sumner’s account, this duty is an indirect duty.

\textsuperscript{28}For an excellent discussion of this issue see Railton “Alienation, Consequentialism and the Demands of Morality.”
is self-defeating because, by requiring that we maximize the good each and every time we act, we actually end up doing less good than we would do if we did not set out to maximize every time. It may be that by demanding that we maximize the good each time we act, less good is promoted or that we become the type person that ends up promoting less good. This means that it is quite possible that the person who sets out to only act in the optimal way will not bring about the most good. The truth of this criticism rests on how things turn out empirically (though I should add that there is much support for this objection). It is widely accepted that a more indirect consequentialist approach has a better chance of reaching the consequentialist goal. Furthermore, we shall see that indirect consequentialism not only avoids the self-defeating problem, but also is able to distinguish between aiding and merely benefitting.

The direct utilitarian and the libertarian do not distinguish between the duty to aid and the duty of beneficence. The libertarian thinks we never have a duty to aid or a duty to benefit others, so there is no point to distinguishing the two. However, I did suggest that even the libertarian might judge not aiding as worse than not benefitting. The direct utilitarian thinks we ought to aid persons and make them better off because doing so promotes the overall good. It does not make sense to distinguish them or claim that one is more pressing than the other because this is something that we must judge in each particular case. Numerous criticisms have been advanced against both theories, but only one concerns

\footnote{The direct act utilitarian may make the claim that we have a “duty” to meet persons’ basic needs, but can only hold this as a guideline for action. These guidelines are based on the general tendency that acts that meet persons’ basic needs are often the optimal act. These guidelines can be understood as shorthand (i.e., we do not have to calculate every time because that would be
me here. Both fail to distinguish the duty to aid from the duty of beneficence, and in so doing fail to capture an important part of our common moral understanding. In what follows, I will demonstrate that this distinction has a role in the most plausible moral theories: sophisticated consequentialism, contractarianism, and Kantianism.

**Defending the Distinction: Sophisticated Consequentialism, Contractarianism, and Kantianism**

The leading (and most plausible) moral theories have achieved their exalted status because they do a good job of capturing our most basic moral intuitions, and they do so in a systematic and principled way. One of these important intuitions is that saving the drowning child is different from, and more pressing than, helping the elderly person cross the street. From this shared intuition, we can arrive at the shared principle—that the duty to aid is more pressing than the duty of beneficence. In what follows, I will support my claim by showing how these otherwise different moral theories converge on this point.

i. **Sophisticated Consequentialism**

I have already shown that direct consequentialism (or direct utilitarianism) does not
accept that there is a difference, in principle, between aiding and benefitting—both are merely seen as instances of contributing to the overall good. So whichever is optimal in a particular case takes precedence in that case. No more general principle can be derived. But as I have already mentioned, many criticisms have been made against the theory, not the least of which is that the theory is self-defeating (i.e., it cannot successfully achieve its own goal).

Sophisticated consequentialism has been able to address this criticism against direct consequentialism. But can the sophisticated consequentialist make room for the distinction between a duty to aid and a duty of beneficence?

According to Peter Railton, a sophisticated consequentialist is "someone who has a standing commitment to leading an objectively consequentialist life, but who need not set special stock in any particular form of decision-making." Both types of consequentialists are committed to maximizing the good; the difference is that the sophisticated consequentialist recognizes that an indirect strategy may be a more effective means of achieving the desired end. Railton argues that

individuals may be more likely to act rightly if they possess certain enduring motivational patterns, character traits, or prima-facie commitments to rules in addition to whatever commitment they have to act for the best. Because such individuals would not consider consequences in all cases, they would miss a number of opportunities to maximize the good; but if they were instead always to attempt to assess outcomes, the overall result would be worse, for they would act correctly less often.

Railton goes so far as to claim that the sophisticated consequentialist may even accept

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30 Railton, 113.

31 Railton, 120.
Kantian morality as his decision procedure if that is the strategy that best promotes the good in the long run.\textsuperscript{32} The sophisticated consequentialist still thinks that maximizing the overall good is all that matters ultimately, but he thinks that there are better strategies of achieving this goal than aiming for it directly. The indirect decision procedure that the sophisticated consequentialist chooses will not maximize the good in each particular instance, but will maximize the overall good.

The sophisticated consequentialist is able to accommodate a duty to aid, not because he thinks that aiding those in peril or need maximizes the good in every particular case, but because he thinks that adopting this general rule or disposition will maximize the overall good. So, the sophisticated consequentialist rejects the straightforward consequentialist claim that we only have a duty to aid when aiding best promotes the good. That is, the good is maximized when one understands that there is a duty to aid and then acts accordingly, even in particular cases when it does not maximize the good. This means that even if on a particular occasion it is optimal to let a person drown (say for example no one is around to see what you do, the person drowning is evil, and you are a doctor on your way to help a number of ailing persons that have just been injured in an automobile accident) you do not have to do the optimal thing. You do not have to pass by the drowning stranger (in fact, you may not pass by the drowning stranger) because there is a duty to aid persons, even if on this occasion you maximized the good.

\textsuperscript{32}I mention this because I will later give a Kantian explanation of the duty to aid others. The sophisticated consequential would say that if, empirically, it turns out that grounding the duty to aid in the respect we owe rational autonomous persons is the best strategy we can adopt to best promote good states of affairs, then we should adopt it as our decision procedure. Of course, this significantly diverges from a Kantian understanding of the duty to aid, since the Kantian accepts such a duty because it is the morally right thing to do and not because it is the best thing to do in terms of promoting good states of affairs.
particular occasion, helping the drowning person does not maximize the good. It is important to recognize that accepting the existence of a duty to aid will in the end be the best way of maximizing the good. I think it is very likely that the recognition of the duty to aid will serve the instrumental purposes of the sophisticated consequentialist which is to uncover a decision procedure that will best promote the overall good.

More importantly, the sophisticated consequentialist is able to say that it best promotes the overall good to understand the duty to aid those in peril or need as more pressing than the duty to merely benefit someone. The whole point of recognizing the duty to aid is that we can best promote the overall good by recognizing that aiding persons takes precedence over promoting welfare or benefitting persons. It would not make sense to say that the duty to promote welfare has equal status (in terms of our decision procedure) because the indirect strategy would lose its point. In this way, the sophisticated consequentialist does accommodate our intuitions that aiding is different from benefitting. He understands aiding as more pressing than merely benefitting not because it leads to more good in each particular case, but because adopting this general principle leads to more good overall. Thus, when deciding what we should do, we should always treat aiding as more pressing than simply benefitting. The sophisticated consequentialist acknowledges that this distinction is important to ordinary moral reasoning, and provides a justification for it within a consequentialist framework. No matter how the distinction is justified--in this case it is justified because it is the best indirect means of maximizing welfare-- it is an important part of our moral theory.
ii. Contractarianism

Social contract theory also recognizes that there is a distinction to be made between duties to aid and duties of beneficence. This distinction may not be made explicitly; nevertheless it is important to the view. On this view, any duty to help others (aiding or benefitting) is an acceptable moral principle only under the condition that it is a principle that would be chosen by rational agents as being to their mutual advantage. There are many different versions of social contract theory or contractarianism and for my purposes I will discuss two very different examples—David Gauthier and John Rawls. What will be of interest is to see how these views accommodate the duty to aid and the duty to make persons better off, and the reason they distinguish between the two.

According to Gauthier, moral principles are the objects of voluntary agreement among rational persons. Thus a duty is a justifiable moral principle only if it is something that would be hypothetically agreed to by rational agents. Gauthier shows that rational persons are not merely self-interested persons, but persons that understand their interdependence and so understand that there must be a place for “mutual constraint” on the pursuit of their own interests. Thus, we understand that there are some desires it is wrong

\[\text{33At first glance this seems to suggest that any kind of duty to aid that may be derived will be about benefit. I do not dispute that aiding someone benefits him; my claim is that it is useful to distinguish between merely benefitting someone (i.e., helping someone achieve certain aims and projects he has set out) and aiding someone (i.e., providing him with the conditions necessary for him to achieve his aims and projects himself).}\]


\[\text{35Gauthier, 9.}\]
to act upon and that there are some acts we must perform that we do not desire. This should not take many people by surprise. One of Gauthier’s projects is to show that “it is rational to be disposed to constrain maximizing behaviour by internalizing moral principles to govern one’s choices.”\textsuperscript{36} However, it will be important to figure out if the duty to aid and the duty of beneficence are principles that Gauthier would recognize as part of our duties of social cooperation. That is, is it rational to limit our own interests in order to help (aid and/or benefit) another in need?

An important distinction Gauthier raises is the distinction between “worsening someone’s situation and failing to better it.”\textsuperscript{37} The former ought to be prohibited while the latter is not.\textsuperscript{38} Gauthier raises the example of a person drowning in the river. If I pass you drowning in the river and do nothing, I do not worsen your situation (though I fail to better it) because you would have drowned in my absence. However, if I push you into the river and you drown, I do worsen your situation because you would have been better off in my absence. Notice that merely accepting this sort of constraint, or proviso, on our self-interested behaviour is not being very cooperative (i.e., not worsening your situation is not really cooperating with you, at least not in any robust way), and hence likely not maximally beneficial for either of us. The proviso is not something that we rationally agree to but it is a

\textsuperscript{36}Gauthier, 15.

\textsuperscript{37}Gauthier, 204.

\textsuperscript{38}This discussion is raised in the context of the Lockean proviso which is an example of a constraint that we would accept on our maximizing behaviour. The point is to show that in the initial bargaining position we cannot take advantage of others, or better our situation through interaction that worsens the situation of another (Gauthier, 205).
condition that we must accept before an agreement is possible. That is, the proviso constrains natural interaction, making rational, fair, and free cooperation possible.

As Gauthier puts it, interaction that is governed by this limited proviso does not require that we extend concern to others.\(^{39}\) It merely requires that we refrain from taking advantage of someone by not bettering our situation by worsening theirs. Gauthier recognizes that this is insufficient: given that we are interested in achieving an optimal state of affairs and that this can only be achieved through cooperation, we must extend concern for others (i.e., accept certain costs in exchange for expected future benefits). As Gauthier says an understanding to cooperate may place each of them under a rational and moral obligation to endeavour to save the other even at real risk to oneself. . . . For both [ . . . ] stand to benefit from a practice imposing certain costs on each in order to confer greater benefits on the other. Each insures himself or herself against being left to whatever perils there may be by agreeing to seek to rescue the other.\(^ {40}\)

Because cooperation is essential to achieving an optimal state of affairs, it may be rational to be disposed to aid someone, even if, on particular occasions, we do not stand to benefit from it. Gauthier explains that

the moral claims that each of us makes on others, and that are expressed in our rights, depend, neither on our affections for each other, nor on our rational or purposive capacities, as if these commanded inherent respect, but on our actual or potential partnership in activities that bring mutual advantage.\(^ {41}\)

So under these conditions we would rationally agree to aid persons in peril or need because it is, in the end, mutually advantageous. But what about helping the elderly woman

\(^{39}\)The proviso is intended to apply to interaction under assumptions of individual utility-maximizing rationality and mutual unconcern (Gauthier, 105).

\(^{40}\)Gauthier, 207-8.

\(^{41}\)Gauthier, 222.
cross the street? Here it is less obvious that the contractarian would accept that there is a duty. It is less obvious because it does not seem that it would be to the advantage of all. The duty of beneficence is duty to make others better off, i.e., a duty to improve their welfare. Gauthier may say that we must not make others worse off and that the disposition to aid is rational, but improving persons’ welfare is different. Gauthier says that given the assumption that we are utility maximizers it would not be rational to endorse a principle that redistributed resources from one part of the population to the other without compensation or advantage to the persons giving. Gauthier claims that “a contractarian account of morals has no place for duties that are strictly redistributive in their effects, transferring but not increasing benefits, or duties that do not assume reciprocity from other persons.”

We may assume that the duty of beneficence falls into this category. Gauthier’s account does capture our common intuition that there is something different between aiding persons and benefitting them. Gauthier explains that our disposition to aid others is rational. That is, it is rational to choose a principle that imposes certain costs on us if we all stand to significantly gain from it in the future. The duty to aid is one such duty. However, we are not morally obligated to benefit others. It would not be rational to

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42Gauthier, 16.

43In his discussion of Nozick’s Robinson Crusoe example, Gauthier questions if the strong and rich Crusoe would be required to contribute to the weak and poor Crusoe. He answers in the negative: “any principle other than the one allowing each to benefit himself would be unfair and partial, in requiring some to give free rides to others, or to be hosts for their parasitism”(219). One of the reasons that Gauthier accepts this outcome is that he accepts that persons’ preferences and physical and mental capacities are unequal but, nevertheless, accepts that they provide the basis for our interaction. Thus it is not unjust if one person has more and another has less, as long as the one did not take advantage of the other.
accept a principle that obligated us to make others better off because the costs it would impose on us are extremely high and the benefits are uncertain. The duty to benefit will be to the advantage of some and the disadvantage of others and thus it is not mutually advantageous. Whether or not we agree with Gauthier’s analysis is beside the point. What is important is that Gauthier can give an account of the intuitive distinction between aiding and benefitting by saying that it is rational to be disposed to aid persons in peril or need but that it is not rational to be disposed to benefit them more generally.

If I am to make the case that social contract theory expresses the distinction between aid and benefit, it is worth exploring John Rawls’s more prominent and more plausible contractarian approach to see if it makes room for this distinction. Without going into much of the detail of Rawls’s account in A Theory of Justice, I will show that Rawls draws a contrast between the duty of mutual aid and the duty of beneficence.

Among the natural duties Rawls discusses is the duty of mutual aid. The duty of mutual aid is a duty to help others “in need or jeopardy.” This coincides with the description I gave of the duty to aid as the duty to aid those in peril or need. We are only required to aid others in this respect without excessive risk to ourselves. In Rawls’s own words,

[a]n act which would be very good for another especially one which protects him from great harm or injury, is a natural duty required by the principle of mutual aid, provided that the sacrifice and hazards to the agent are not very great.\(^4^5\)


\(^4^5\)Rawls, 438.
Notice that the act here is not *merely* good for the person (i.e., it does not merely provide a benefit), though of course it is good for him; it protects him from great harm. Rawls distinguishes between good or beneficent acts which we are not obligated to do and acts which are "very good," especially those protecting another from great harm which we are obligated to do (i.e., it is a natural duty required by the principle of mutual aid). Rawls explains that it is in our best interest to have a principle of mutual aid, not only because we may stand to be aided by it ourselves, but because of the confidence and trust we gain in each other's intentions. I understand him to be making the same general claim I have made; the duty to aid is different from the duty of beneficence.

Rawls is quite aware that aiding others in jeopardy is not the only kind of help we may be called upon to provide. Sometimes, people need help to achieve their ends. But, as I maintain, benefitting others in this way is different from aiding them and it is clear that Rawls agrees. Now that we have an idea of what the duty to aid is for Rawls, we should see what he has to say about beneficence. A beneficent act is a good act "which we are at liberty to do or not to do . . . and which *advances and is intended to advance another's good*, i.e.,

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46Rawls provides a Kantian argument to ground this duty. He claims that "situations may arise in which we will need the help of others, and not to acknowledge this principle is to deprive ourselves of their assistance" (338). Rawls continues:

While on particular occasions we are required to do things not in our own interests, we are likely to gain on balance at least over the longer run under normal circumstances. In each single instance the gain to the person who needs help far outweighs the loss of those required to assist him, and assuming that the chances of being the beneficiary are not much smaller than those of being the one who must give aid, the principle is clearly in our interest (338).

But the primary value of a principle of mutual aid "is not measured by the help we actually receive but rather by the sense of confidence and trust in other men's good intentions and the knowledge that they are there if we need them" (339).
promote another’s good.47 A benevolent act is similar to a beneficent act, except that it must be performed for the sake of the other person’s good.48

Whereas the duty of mutual aid is a natural duty, it is less clear that benevolence is a duty. At one place, Rawls says the acts of benevolence fall within the category of permissions, “acts which we are at liberty both to do and not to do.”49 More specifically, they are permissions that are supererogatory. But Rawls also says that “we have a natural duty to bring about a great good, say, if we can do so relatively easily, we are released from duty when the cost to ourselves is considerable”.50 We may think that benevolence is a duty for us when it is easy to do the act. On this interpretation, helping the elderly woman cross the street is a duty since all we have to do is extend our hand as we cross ourselves. Or, we may think it really is not a duty at all and is always a permission unless a “great good” is involved; and here we would not include acts that merely benefitted others but those that saved their lives. On this interpretation, helping the woman cross the street is something we are permitted to do (it is even something nice to do), but it is not our duty. Whether or not we have a duty to benefit others or make them better off, or whether it is supererogatory is not an issue I must resolve here--what is important for my purpose is to show that Rawls accepts the intuitive distinction between benefitting others and aiding them.

47 Rawls, 438 (italics added).
48 Rawls, 438.
49 Rawls, 116.
50 Rawls, 117.
iii. Kant and Kantian theories

We saw that the sophisticated consequentialist took account of the distinction between aiding and benefitting because it is the best strategy\textsuperscript{51} for maximizing good states of affairs. It was also important to distinguish between aid and beneficence for the contractarian since it may be rational to act on the disposition to aid persons even if it is not rational to adopt a more general duty to make people better off. Now I will turn to the Kantian to see if she can take account of this distinction. Even though it may appear that a Kantian account cannot accommodate this distinction, I will argue that it can and that it does so because it is necessary for the appropriate respect we owe to persons.

Kant clearly and explicitly argues that we have a duty of beneficence. The duty of beneficence is a duty to take up the ends of another. In essence, what we are required to do is take an interest in each others’ projects and help each other achieve the ends we have set for ourselves. Notice that this description is broad enough to encompass the elderly person’s end of getting to the grocery store (by helping her cross the street which is a necessary means to getting to the grocery store) and the drowning child’s ends (by saving her which is a necessary means to achieving all of the particular ends she has set for herself, and is also a necessary precondition of her capacity to set any ends).\textsuperscript{52} Thus it seems that Kant’s version

\textsuperscript{51}Of course, we cannot assert this with a great deal of certainty. We can say that it seems like this strategy is a very effective means of promoting the good; but whether or not it is the best means is an empirical question.

\textsuperscript{52}The only ends that are excluded in principle are those that are morally forbidden (i.e., those that fail the categorical imperative test). So we only have a duty to take up the morally permissible ends of others.
of the duty combines aiding and benefitting under one duty.

We should take a closer look at Kant’s account to see if both aiding and benefitting necessarily have the same structure. To this end, I will examine Barbara Herman’s interpretation of Kant’s duty of beneficence. Herman claims that, even though there is textual evidence to support the view that Kant argues for this more broad duty of beneficence, the duty is really a narrow duty to aid and does not include a duty to merely benefit others’ projects. I will then argue that whether or not Kant himself explicitly distinguishes aiding from benefitting, it makes sense on his account to do so.

In the *Groundwork of the Metaphysics of Morals*, we are first introduced to the duty of beneficence. This duty, like all duties, is a requirement of the moral law. In Kant’s discussion of the first formulation of the Categorical Imperative, the formula of universal law—“act only in accordance with that maxim through which you can at the same time will that it become a universal law”—he shows it is impossible to will that the maxim ‘one need not contribute to another person’s welfare or his assistance in need’ become a universal law. He says that

> a will that decided this would conflict with itself, since many cases could occur in which one would need the love and sympathy of others and in which, by such a law of nature arisen from his own will, he would rob himself of all hope of the assistance he wishes for himself.\(^\text{53}\)

He then shows that this duty is also required by the second formulation of the Categorical Imperative, the formula of humanity—act in a way so that you always treat humanity as an

\(^{53}\text{Groundwork, 4:423.}\)
end in itself and never merely as a means. We must, as far as we can, try to further the ends of others because "the ends of a subject who is an end in itself must as far as possible be also my ends."  

Kant's arguments for a duty of beneficence continue in The Doctrine of Virtue. Kant argues that the duty of beneficence is a duty of love that we owe to other human beings. He says that "beneficence is the maxim of making others' happiness one's end." Up to this point it seems like the duty of beneficence is merely concerned with making people better off. But it is clear that the duty of beneficence, as Kant explains it, is concerned with more than making people happier than they are; it is also concerned with helping the needy. Kant says that to be beneficent is "to promote according to one's means the happiness of others in need, without hoping for something in return." He calls it a maxim of beneficence toward those in need: "a universal duty of human beings, just because they are to be considered fellowmen, that is, rational beings with needs, united in one dwelling place so that they can help one another." Some parts of the text support the claim that it is important that the help we provide be aimed at a person in need and other parts merely show it is important that we

54 Kant, Groundwork, 4:423. The same point can be made with the third formulation of the C--we must harmonize our ends with the ends of others in the Kingdom of Ends. The idea is that as rational autonomous agents we give laws to ourselves and are subject also to these laws. We must recognize others as giving laws to themselves and regard them as responsible agents. This means that our actions and our ends must be compatible with the autonomy of all other beings. And as we have seen, persons may need help to secure the conditions of their autonomy (4:432-9).

55 Groundwork, 4:430.

56 Kant, The Doctrine of Virtue, 6:452-3.

57 The Doctrine of Virtue, 6:453.

58 The Doctrine of Virtue, 6:453.
take up and promote each others' ends more generally (i.e., even for those who are not in
need).

A casual reading of the above passages seems to suggest that Kant’s account of the
duty of beneficence does not differentiate between the two types of helping others that I have
argued should be kept separate—aiding persons in peril or need and helping persons achieve
their ends. Kant seems to collapse this distinction because he includes both of these
categories under the single duty of beneficence. Both are required under the moral law and
both seem to be subsumed under this broad duty of beneficence.

Barbara Herman argues that the duty of beneficence that Kant defends is much less
broad than what I have suggested. She acknowledges that there are passages in the
*Groundwork* and in *The Doctrine of Virtue* that suggest a strong and wide version of a duty
of beneficence (i.e., one that includes both benefitting and aiding), but she argues for another
interpretation. In “Mutual Aid and Respect for Persons,” Herman interprets Kant’s duty of
beneficence as a duty of mutual aid.\(^5\) That is, it is a duty to aid those in need, and not merely
a duty to make others better off. A maxim of non-aiding cannot be consistently willed as a
universal law because we cannot will that no one help us when we are in grave need. It is
however possible to consistently will that no one help us achieve any of our particular ends
(or make us better off). It follows that we must help each other when in need but not when
we are not in need. Thus, we could have a universal principle that states that we need not
help elderly persons cross the street, but we could not have a universal principle that states

\(^5\)Barbara Herman, *The Practice of Moral Judgement* (Cambridge: Harvard University Press,
1993), Chapter 3.
that we need not help drowning children.

We can attribute the difference to the different kinds of ends at stake. The end (or necessary means to the end) at stake for the elderly woman is something she can rationally forgo. But the end at stake for the drowning child is not something she can rationally forgo. That is, the elderly person can decide not to cross the street or not to go to the grocery store that is across the street, and so can change her end because the end is contingent and the means to the end is contingent—she can choose another store or she can take a taxi. But the drowning child cannot give up the end (i.e., her life) that is threatened because that end is a necessary condition of her capacity to set ends for herself—the end is necessary for her humanity.

Herman shows that Kant does argue for a duty of beneficence but that it is really a duty of mutual aid. We have a duty of mutual aid because there are ends that it is not rational for us to forgo, that is, ends that are necessary to sustain oneself as a rational being. So it may be rational for us to give up some of our contingent ends, but there are other ends we cannot rationally give up and it is precisely the latter that the duty of mutual aid protects. The ends that it is irrational for us to give up are our "true needs." Herman adds that "it is a fact of our nature as rational beings that we cannot guarantee in advance that one will not require help of others as means to ends one could not forgo," and so we could not will a universal law of non-beneficence.

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60 Herman, 55.

61 Herman, 55.
The duty of mutual aid, then, is a duty to aid the (truly) needy. Herman restricts the relevant class of need to our “true needs.” She says that “the needs for which a person may make a claim under the duty of mutual aid are those that cannot be left unmet if he is to continue in his activity as a rational agent.”\(^{62}\) An obvious true need is our physical integrity. If we are in danger of losing our physical integrity, we are necessarily in danger of losing our autonomy (i.e., our ends-setting capacity). A person who is drowning or starving to death is not someone we would consider to be autonomous. Being autonomous means that we are self-legislating beings that have the capacity to set ends for ourselves and seek to achieve these ends. We are the creators of our own identities, but if we are fighting for our lives (e.g., if we are drowning or starving), we cannot possibly achieve any of our ends. Thus, physical integrity is an essential precondition of autonomous agency and an obligation to respect persons will necessarily entail an obligation to protect a person’s physical integrity.\(^{63}\) Thus when someone’s life is in jeopardy, we ought to help.

Herman’s notion of “true needs” fits in with the duty to aid category but not the duty to benefit.\(^{64}\) Even though Kant calls it a duty of beneficence, Herman interprets this as being

\(^{62}\)Herman, 67.

\(^{63}\)Ernest Weinrib makes this point in support of the Kantian claim that there is a moral obligation to respect the person of another and to safeguard her physical integrity because it is necessary for whatever aims she chooses to pursue. Weinrib asserts that “[a]n individual contemplating his actions from a moral point of view must recognize that all others form their projects on a substratum of physical integrity” (289).

\(^{64}\)A note about terminology. At the beginning of this chapter, I define the duty of beneficence as a duty to benefit others or make them better off. I do this so I can distinguish it clearly from the duty to aid. But Kant does not use the duty of beneficence in the same way. What beneficence means for Kant depends on our interpretation. I suggest that for Kant, the duty of beneficence is very broad and includes both the duty to aid and the more narrow sense of the duty of
a duty of mutual aid. And she argues that there are good Kantian reasons for interpreting it as a duty to aid, that is, as a duty to protect persons' true needs. She claims that it is only this kind of help that the moral law requires. It may be the case that we could have a universal law that held we need not help others achieve their contingent ends; but certainly we could not universalize a law of not helping others meet their necessary ends. So the duty that Kant is concerned with is not a duty to benefit others' ends, no matter what kind of end. It is a duty of mutual aid and thus only requires that we help when others' lives (or rational capacities) are in jeopardy.

Herman claims that one could interpret Kant's duty as including the requirement to take up all the ends of others--necessary and contingent. But she warns that this stronger duty is "implausible in its own right and at odds with deeper features of Kantian ethics." The problem is that it does not distinguish between ends that an agent can give up and ends that an agent cannot rationally abandon. It is plausible to assume that it is important on Kant's view to distinguish these different types of ends and place priority on those we could

beneficence. So this broad strong version of the duty of beneficence is a version of beneficence that includes both the narrow duty of beneficence and the duty to aid. This is one way of interpreting Kant. Herman interprets him differently. Herman argues that when Kant refers to the duty of beneficence he just means the duty to aid, so it does not include the more narrow duty of beneficence. Thus she should say that he uses the term beneficence inappropriately. I mention this because, throughout her article, Herman identifies the duty of beneficence with the duty of mutual aid. This leads to some confusion when she later tries to distinguish the duty of mutual aid from a "stronger version of the duty of beneficence", especially since she tries to show that these two different duties of beneficence have a different structure (69). When I refer to "the duty of beneficence" simpliciter, I am referring to the narrow duty of benefitting others, if I use it to mean something else, I will qualify it by calling it the strong and broad version of the duty of beneficence or Kant's version of the duty of beneficence.

65 Herman, 70.
not rationally abandon. Herman argues that Kant does not make the mistake of including too much under the duty: when he says that we must take up the ends of another as our own, he does not mean that we must help him pursue all of his ends. Herman interprets taking up the ends of another to mean

I support his status as a pursuer of ends, so that I am prepared to do what is necessary to help him maintain that status. We might say “I help him pursue-his-ends” and not “I help him in the pursuit of his ends.”

So Herman claims that when Kant says we ought to promote the happiness of others, he really means we have to support the conditions necessary for their happiness. For Kant, the duty of beneficence just is the duty of mutual aid. Herman thinks we would be mistaken to read him as including too much (i.e., aiding others in the pursuit of their contingent ends) under the duty of mutual aid.

On this interpretation, the duty of mutual aid leaves out helping persons when helping does not respond to their “true needs.” We may wonder if, given all that Kant says on the subject, he would agree that helping in these other cases should be left out. Kant may respond to this in one of two ways. The first way is to argue that we are not obligated to help others pursue their contingent ends. It may be “nice” of us to do so, it is certainly permissible, but it is not required. It would be kind of us to help a person with a flat tire, but it is not something that is morally required. It is not morally required because we do not violate the Categorical Imperative if we fail to help in these types of situations. The second way is to argue that there is a duty to take up the ends of other agents (and thus help them

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66Herman, 70.
pursue their contingent ends), and that this is different from the duty of mutual aid; so this duty must be argued for on other grounds. Herman thinks that, either way, Kant’s moral theory should make room for helping others pursue their ends.

If we accept Herman’s argument, the duty that Kant refers to as the duty of beneficence is really a duty of mutual aid (or what I have been referring to as the duty to aid). Can Kant include the further duty of helping persons when they are not in peril or need? Certainly Kant thinks that we should help others in non-perilous and non-desperate situations. Otherwise, he would not stress the importance of taking up the ends of others. Kant’s reason for saying that we must take up the ends of others is not (contra Herman) just that we must take up those ends necessary for a person’s capacity for autonomy out of respect for her humanity. If we are to treat others as ends in themselves and as agents who confer value on their ends, we must recognize their ends as valuable, that is, as providing us with a reason to pursue them. So, if going to the store is an end of yours, I treat you as an end in yourself if I acknowledge that end as valuable. In so far as I understand it as valuable, I have a reason to take it up and promote it myself. I take this to be the kind of explanation Kant would give to show why we are required not only to aid those in peril and need, but also to make them better off.

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67 For excellent discussions of this formulation see Christine Korsgaard, Creating the Kingdom of Ends (Cambridge, Cambridge University Press, 1996); “Formula of Humanity,” 106-132, especially 122-4 and “The Reasons We Can Share,” 275-301.

68 Herman sketches another type of response that Kant could give. On Herman’s reading of Kant, helping persons pursue their contingent ends is not a part of the duty of mutual aid. So Kant cannot argue for it on the same grounds that he argues for the duty of mutual aid. Herman suggests that Kant would find helping persons important because persons who display the virtuous behaviour of helping others are more responsive to those whose true needs are in jeopardy. She does not frame
Kant does not clearly and explicitly distinguish aiding persons and helping them more generally. But it would be too hasty to reject his view on account that he misses this intuitive distinction. Whether or not we agree with the details of Herman’s exegesis, I do think she has shown that Kant’s account can make room for both kinds of helping.\textsuperscript{69} Herman rightly emphasizes that there is a difference between mutual aid and beneficence. The duty of mutual aid requires that we help others when their “true needs” are in jeopardy. Herman tries to show that when Kant says we have a duty to promote the happiness of others by taking their ends as our own, he means that we have to help them maintain the conditions necessary for the pursuit of their ends. So we do not have to help them in the pursuit of their particular ends, but we have to help them protect their capacity to pursue their ends. But even if we reject Herman’s interpretation and maintain that Kant’s argument for beneficence requires that we both aid persons’ capacities to pursue their ends and help them pursue their particular ends, there is room to prioritize these two different tasks. Certainly Herman is

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it as a duty, but more like a virtuous attitude that accompanies the duty to aid. A person who fulfills a duty of mutual aid by helping a person in need takes that person’s true needs as a reason to help. Likewise, a person who helps another (e.g., stops to help with a flat tire) takes that person’s need as a reason to help. These two types of helping are closely related. Herman even suggests that “it may be that both need to be present for the exemplary exercise of either.” Herman does not take it to be her task to provide a persuasive argument to show how one can fit beneficence into Kant’s moral theory. I will follow her lead and not pursue this further. It is sufficient to show that it is possible to fit beneficence into Kant’s account even if you restrict the duty of mutual aid to include only aiding the truly needy (Herman, 72).

\textsuperscript{69}We may reject Herman’s claim that Kant’s duty of beneficence is really a duty of mutual aid. It would be possible to maintain that Kant did view beneficence as a very broad duty that included both aiding the needy and helping others achieve their ends. Thus, it is not necessary to identify Kant’s duty of beneficence with the duty of mutual aid in order to show that Kant believes that aiding in one situation is more pressing (i.e., when true needs are at stake) than aiding in another (i.e., when true needs are not at stake).
right to think that Kant would claim that our capacities to set and pursue our ends are more important than any of the particular ends we set. As rational autonomous agents it is more important that we have the capacity to set and pursue ends than it is that we achieve all of the ends that we have set for ourselves. And if this is true, we have good reason to think that Kant would agree that aiding persons is more pressing than making them better off (or that the duty of mutual aid is more pressing than the duty to benefit). Thus the distinction I have been arguing for can be accommodated within a Kantian moral theory.

**Conclusion**

There seems to be something different between saving a drowning person and helping a person cross the street. Both are instances of helping others, but it is important to acknowledge them (or treat them) as distinct types of duties. I suggested that we call the former a duty to aid and the latter a duty of beneficence. Not only are they different, but the duty to aid is more pressing than the duty of beneficence. What I have tried to show is that all plausible moral theories distinguish aiding persons from helping persons pursue their ends. Some think we need only aid those in peril or need while others think we should also help make them better off. Either way, the sophisticated consequentialist, the contractarian, and the Kantian all share the view that it is important to recognize that aiding persons is different from merely benefitting them.

There is much of interest that could be said about both types of duties, but in this thesis I will only be concerned with the duty to aid. All we have established thus far about
the duty to aid is that it is commonly accepted, not only because our intuitive reactions to cases like the drowning child suggest it is, but because all plausible moral theories accommodate it. Though I have been relying on an example of the drowning child to make my point about the duty to aid, I have also said that aiding is not restricted to situations of peril—we must also aid persons in need. This means that we must also aid persons in need such as the famine victim and Singer's Bengali refugee. But is our obligation to the drowning child the same as our obligation to the starving refugee?

In the next chapter I will show that not all duties to aid are of the same kind or structure. I will argue that there are two different kinds of duties to aid: the duty to rescue and the duty to help the needy. After establishing this distinction, I will give an account of what types of situations give rise to the duty to rescue and what types give rise to the duty to help the needy. I will then continue by explaining what implications these structural differences have on our moral practices.
We begin this chapter with a basic understanding of the duty to aid (i.e., understanding the difference between it and a duty of beneficence). As I mentioned earlier, I am more concerned with providing a thorough explanation of the duty to aid than with providing a moral justification for it. I do not take this to be very controversial since I have shown in Chapter One that a wide range of commonly held moral theories agree that we must aid others.\(^1\) Though different theories may ground the duty in different ways; in general, we may say that we have a duty to aid someone whose basic needs or autonomous agency is threatened.

Thus we start with the assumption that when someone’s physical security is at stake, there is a moral obligation to help her.\(^2\) But what does this obligation demand of the individual? Are all duties to aid the same or does the kind of obligation one has depend on the circumstances? Though I have claimed that it is widely accepted that we ought to help

\(^1\)See Chapter One for a discussion of how the duty to aid is accommodated within various theories. I also explain why the libertarian and the direct act utilitarian may have problems with my assumption.

\(^2\)I should note that when I say there is an obligation to help, I do not mean to infer that our obligations are exceptionless. The moral factors that suffice to mitigate our obligations will be the subject of later chapters. For example, our obligations may change if the victim knowingly created the risk himself. For those who outright reject the language of obligation, it is possible to substitute ‘obligation’ with ‘a strong moral reason’. It would then follow on my account that our reason to rescue someone and our reason to help the needy are reasons of a different nature.
persons in need, the nature and scope of the duty is in dispute. My main aim in this chapter is to show that not all duties to aid are alike. There are two different types of duty to aid--the duty to rescue and the duty to help the needy. Accounts that do not distinguish between different types of aiding lead to an extreme view--that aid is an all or nothing issue. Peter Singer argues that all persons in need have an equal claim to our help when it is in our power to prevent their suffering; so we are obligated to help everyone we can. Eric Mack (and other libertarians) argues that the individual is not required to sacrifice her liberty to help others and since there is no way to draw a line between aid that we must provide and aid that we are not required to provide, we are obligated to help no one (since helping everyone would be too great of an infringement on liberty).

Acknowledging that there is some type of distinction within the broad duty to aid is not entirely new. I take the important contribution of this thesis to be the way I draw the distinction between the duty to rescue and the duty to help the needy and the way I explain it. I expect that there is a lot of intuitive support for this distinction--though for competing reasons--and I hope to build on this support and vindicate our intuitions. Once I expose some of the problems with approaches like Singer’s that resist this distinction, I will discuss some attempts at distinguishing between different kinds of duties to aid. I pay particular attention to the accounts of Joel Feinberg and Ernest Weinrib. Both of these accounts fall short, but they point us in the right direction. My own account of this distinction will be the focus of the next chapter.
The Difference between Rescues and Relieving Need

My first task will be to make an intuitively plausible case for my claim that there are differences between rescue situations and situations of need. In order to do this, I will rely on Singer’s classic cases of aid—Drowning Child and Famine. I use these cases because of their familiarity and because they will help me make my point. I hope to explain why some of us may have had difficulties with Singer’s explanation of the cases. I will engage with Singer’s own analysis in the next section, but for now I want to examine the cases themselves.

Let us examine these two cases closely to see if there are relevant differences that would affect the individual’s duty to aid. I will argue that there is a duty to aid in both of these cases but that the duty in each is significantly different. In particular, I will show that there is a duty to rescue in the first example and a duty to help the needy in the second example and that the duty in each instance places different moral demands on the individual. I do not mean to suggest that one type of duty is necessarily stronger or more pressing than the other, though I will establish in the coming chapters that they have different structures. Once I have explained the differences between these two duties, we can see where Singer’s argument goes wrong.

Let us first examine a variant of the familiar rescue example. Imagine that you are walking in the park. Not more than 10 metres in front of you, you see a child slip and fall into a park fountain. The child is face down in a large and relatively deep pool of water (i.e., certainly deep enough for her to drown in). If someone does not pick the child up, she will drown. There is no one else nearby, so the fate of the child’s life is in your hands. There is
no time for hesitation, you must act now. This case will serve as our paradigm example of a rescue situation and I will refer to it as "Drowning Child."

What features of this case indicate that it is a rescue situation? First, we are struck by the imminence of the peril, a characteristic common to all rescue cases. Second, we notice that there are no institutional support mechanisms that can solve the problem—there are no lifeguards around and there is no time to call the police for help. You, the person on the scene, are the only one who can help the child. Furthermore, you seem to be bound to aid this particular person in this particular instance. Another indicator that this is a rescue case is that the type of aid needed to save the victim is evident. That is, you know that by turning the child over or pulling her out of the water, you will save her life. It is important to remark on the specificity of the scenario as this is an important distinguishing feature of rescues that cases of need lack. The person that needs help is specified, the person who is in a position to provide the help is specified, the type of response required to address the harm is specified and when it is required is specified.³ For now, it is sufficient to note this feature of rescues (i.e., specificity); later, I will explain its role in structuring the actual duty.⁴

As I mentioned, this is an example of a “simple” rescue. It is simple because there is one victim and one rescuer, the rescue is easy for the rescuer, and neither the victim nor the

³See Patricia Smith, *Liberalism and Affirmative Obligation* (New York: Oxford University Press, 1998). Smith describes a similar rescue scenario to explain the duty of the Good Samaritan within the narrow context of emergencies. An easy rescue situation “always involves one (or a few) determinate victims with a clear, specifiable need, and a possible right to a particular act of assistance against a specifiable individual (or a small group of them)”(17).

⁴In Chapter Four, I will show which of these features are necessary for a situation to give rise to a perfect duty to rescue.
rescuer are at fault in the situation. It is important that I initially set out the significant
features of simple cases before I mention the more complicated ones. For my present
purposes, I will not need to delve very deeply into the complicated scenarios. My aim is to
show that there are morally significant differences between cases of rescue and cases of need.
The clearest way of demonstrating these differences is by discussing simple cases. The more
complicated the case is, the more difficult it is to isolate morally significant features. As long
as I can show that there are differences between our moral obligations in simple cases of
rescue and in simple cases of need, I will have gone part of the way to showing what the
differences are in the more complicated examples. Once the morally relevant factors that
determine the shape of the duty to rescue become more clear, I will be able to draw
conclusions about how neatly the more complicated examples fit with the rest of my analysis.
In this chapter, I am only concerned with showing that there is a way of distinguishing
between the duty to rescue and the duty to help the needy: I will accomplish this by focusing
on clear examples of each.

I will now look at cases of need in order to show that they are very different from
rescues. We are all aware that there are many, many people in this world who are in need.

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5An example of a more complicated rescue scenario is one in which there are two children
who have fallen into deep puddles. The problem is that the two puddles are at different ends of the
park. You are the only person at the scene and are not able to save them both, and there is no one
around to help you. Another example of a complicated scenario is one in which a child is face down
in the puddle and you are just one person among many standing nearby. Notice that these two
scenarios do not seem to be as determinate as Drowning Child. It is quite evident that you have a
duty to do something, but the exact nature of your duty is not as evident. The more indeterminate the
situation is, the less the situation resembles a simple rescue. But there are many similarities between
these more complicated examples and the simple ones. I will discuss these more complicated cases
in Chapter Four.
The most evident examples are people who live in poor, famine-stricken, or war-torn countries, in need of food, shelter and medical supplies. You and many others can help by giving money to relief agencies. Without help, these needy persons will continue to suffer and some will die. I will refer to this paradigm case of need as “Famine.”

I agree with Singer that we all have an obligation to help these needy people and that the fact that they are far from us does not sever this obligation. However, I also want to make clear that need cases are different in many respects from rescue cases, and furthermore, that these differences are morally significant. Thus the duty to make a rescue is different from the duty to make a contribution to Oxfam.

What are the most obvious differences? The most obvious difference is that the situation in the need case is not very determinate (i.e., there is not a high degree of specificity). For present purposes, my explanation of what makes a situation determinate (or specific) in the relevant respects will be vague. Chapter Four will take up this point in greater detail. In the need cases there are many people in need of help and many people available to provide it and it does not seem as though any particular individual has an obligation to provide aid to someone specific (e.g., Jim), nor that any particular individual (e.g., Jim) has a claim on a particular person that she help him. And even if there is an obligation to help, the details of what one must do are not clear. However, this is not inconsistent with the fact that there is an obligation to help the needy. There is an obligation to help the needy, but it is not an obligation that binds us to act in particular cases the way the
The duty to rescue does. So the duty to help the needy is not an obligation to do a particular thing or to help a particular person.

When I said that there is a difference between rescues and need, I set out to show not that one type of duty is more pressing than the other, but that the very natures of the duties are different. This is not to say that they both do not loosely fall within the main category “positive duties to aid others” because they do. My point is that by fitting them both into this category we are ignoring important moral differences between them. What I have suggested so far, just by giving examples of each and highlighting some of their features, is that the structure of the duty to rescue is different from the duty to help the needy.

I will show that the direct consequentialist and the libertarian conflate the duty to rescue and the duty to help the needy. Then I will discuss Weinrib’s and Feinberg’s accounts of the differences between rescue and need. As should be obvious by now, I reject any account that does not recognize the moral difference between the two duties. I will show that Singer’s straightforward act utilitarian reasoning is not a necessary feature of any utilitarian or consequentialist approach. In fact, I will show that the sophisticated consequentialist is able to recognize the distinction between rescues and need. Weinrib and Feinberg also recognize that there are differences in the duties to aid but the differences they recognize are

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6Smith draws a similar contrast between rescues and situations of poverty, disaster and hunger. She claims that these latter types of situations involve “vast numbers of people, indeterminate claims of ongoing or chronic, even if severe, need, most generally for material goods (food, medicine, shelter), and addressable in the form of monetary contribution that could appropriately be given by one donor as another” (Smith, 17).

7It will become clear in later chapters that the sophisticated consequentialist’s reasons for accepting the distinction are different from those that I will advance. Nevertheless, my point is that the distinction is important to the sophisticated consequentialist.
only differences on the surface or differences in degree, not fundamental structural
differences. Thus, I do not think that the ways they draw the distinction between rescue and
need are the most fruitful.

*Conflating the Duty to Rescue with the Duty to Help the Needy*

1) *Singer on Rescue and Need*

Peter Singer does not merely overlook a possible distinction between different types
of duties to aid, but he explicitly claims there is no such distinction. He makes his point in
“Famine, Affluence and Morality” when he claims that there is no difference in what is
morally required of an agent in his two classic aid examples—Drowning Child and Famine.
In the first example, you discover a child drowning in a pond; you can prevent significant
suffering (at insignificant cost to yourself) by pulling the child out of the water. In the
second example, you learn that there are people suffering in Bengal; you can prevent
significant suffering (at insignificant cost to yourself) by providing financial assistance.
Singer is clear; there are no relevant differences between the examples that would affect our
duty to aid; we have the same duty in each case. But is Singer right?

Singer argues that we have a very strong obligation to aid in both of these aid
scenarios. With this I have no dispute. My dispute is with his claim that these two scenarios
obligate us in the same way. It is not that he does not notice any difference between the two
cases. In fact, he notes that there may be two differences: *proximity* and *the number of*
people available to help. He does not think that proximity is a morally significant factor.

Given the "global village" and the fact that we can now effectively direct our aid to those far away, he says that

the fact that a person is physically near to us, so that we have personal contact with him, may make it more likely that we shall assist him, but this does not show that we ought to help him rather than another who happens to be further away.

And he does not think that it matters if there is one person or thousands of people able to help; they each still have a duty to help people in need. He thinks it is absurd to think that numbers lessen obligation. Singer raises these two possible differences between the two scenarios only to dismiss them as morally irrelevant. The problem is that the differences Singer considers are not the significant differences that explain why our duties are different in these cases. I intend to show that the difference between these two scenarios is that they give rise to different duties because one is a determinate situation and the other is indeterminate.

Categorizing different types of duties does not fit in with Singer's account because he recognizes only one type of moral requirement—the requirement to prevent suffering (or to maximize the good). According to Singer, we have this obligation in every situation where we can prevent suffering. From my brief discussion of the examples of rescue and need, I hope to have already made some progress toward establishing that there are interesting

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8 I do not take this to be an uncontroversial claim. I will not spend any time challenging it here because my argument for the difference between rescue and need is not merely based on the difference in the efficacy of our aid.

9 Singer, "Famine, Affluence and Morality," 232. I discuss the issue of distance further in Chapter Four. I also do not think that distance is the relevant difference between these two scenarios.
differences between them. I hope to show that Singer misses something important by conflating these two types of duties to aid.

Singer rejects the distinction between rescue and need on utilitarian grounds. He starts with the premise that suffering is bad and that we must minimize suffering in the world. Notice that on this view, it does not matter if the suffering person is the child drowning in front of you or the person starving in Bengal; the only concern is to alleviate suffering, no matter whose suffering it is. However, the view that all duties to aid obligate in the same way does not necessarily follow from utilitarianism. I think it is possible to justify the rescue/need distinction on utilitarian grounds and Ernest Weinrib shows us how to do this.

Weinrib gives reasons to show that the utilitarian ought to draw a distinction between easy emergency rescues and other types of aid cases. To refrain from setting any parameters or drawing a line between the type of aid we are required to provide and the type of aid we are not required to provide would force us into perfect and general altruism. There would be no limits on the duty to help others and the demands on each of us would be endless. Weinrib notes that to demand perfect altruism is undesirable because it is unrealistic: it would overwhelm relationships founded on friendship and love; it would obliterate the distinction between what is praiseworthy and what is required; and most importantly, it would be self-defeating. But even Singer recognizes that an agent would not have to aid someone if the benefits she would confer are outweighed by the cost to herself


11Weinrib, 281.
and so Singer does place a limit on the duty to aid. Nevertheless, the very minimal limit Singer accepts is still vulnerable to Weinrib’s criticism. But as Weinrib notes, not all utilitarians have to make the same mistake.

Some utilitarians, such as J. S. Mill and Jeremy Bentham, argue for limits on the duty to aid (and more specifically, limits on the duty to rescue) based on administrative considerations. Weinrib discusses some of these administrative difficulties that would ensue from a position like Singer’s. These include reliance on aid, difficulties resulting from recalcitrance, and excessive interference with the rescuer’s own preferences: these can be avoided if we place limits on the duty. The consequentialist may place limits on the duty to aid and may even place limits in a manner that outwardly resembles the distinction I draw between rescue and need. This should not be surprising since, as I mentioned at the start of this chapter, my defense of the distinction between the duty to rescue and the duty to help the needy may be consistent with various moral theories. In the next section, I will explore this possibility further to see if the distinction I draw can be considered to be consistent with a consequentialist understanding of the obligations we have to help suffering persons.

The problem with Singer’s account is that it attempts to show that every situation of need binds the individual in the same way. That is, the person drowning in front of you and any starving person abroad are suffering equally and thus have an equal claim on your help. He counts on the fact that we will agree that our obligation in Drowning Child is very strong and he uses that to show that we are similarly obligated in Famine. I do not have a problem

\[\text{Weinrib, 285.}\]
with Singer showing that we also have a strong obligation in Famine; my problem is that the two scenarios give rise to two different kinds of obligation. One binds us to act in that particular situation and the other does not. To say that I am not bound to aid a particular starving Bengali, is not to say that I do not have a strong duty to help the needy; it is merely to show that the duties in each have a different structure and must be fulfilled differently. Singer tries to show that it is the individual’s responsibility to help as many needy people as possible. This is not only extremely demanding on the individual but it fails to recognize an important difference between rescues and need.

2) The Libertarian on Rescue and Need

There is not much I need to say about the libertarian position on the difference between rescues and need, or even on the duty to aid itself. I have shown in Chapter One that the libertarian rejects any type of positive duty to aid; and thus does not ever consider whether there are different types of duties to aid. I think that his failure to consider this important distinction is a reason that he rejects the duty in the first place. By viewing the issue of aid in an all-or-nothing way as Singer does, the libertarian chooses to reject all such duties. Assuming that we agree that the libertarian is mistaken to reject the duty to aid outright, I hope to show that the distinction I draw should make it easier for the libertarian to include, at least, a duty to rescue.

Recall Jeffrie Murphy’s pool lounger example I discussed in the previous chapter. In the example, there is a person lounging around a pool when a small child begins to drown.
Murphy, who argues that there is no duty to aid, thinks that a person who does not reach over
and pull the child out is “moral slime.” But still, he resists the claim that there is a moral
obligation to aid the child. The resistance is strong because of the fear that once one accepts
a duty in this type of case, the individual will be bound to aid in every situation where he can
prevent suffering. The libertarian will not accept that any needy person has a claim on our
help because he does not think that there is a principled way of showing that not every needy
person has an equal claim on our help. By treating all duties to aid alike, the libertarian
makes the same mistake Singer does but with the opposite results. Within a libertarian
account, the individual completely escapes her responsibility to aid others, a consequence we
must also reject. Treating all duties to aid alike pushes us to one extreme or the other;
recognizing that there are two different types of duties to aid will allow us to avoid these two
extremes.

**Recognizing a Difference between Rescues and Relieving Need**

1) *The Consequentialist on the Distinction between Rescues and Need*

If a consequentialist recognizes a distinction between the duty to rescue and the duty
to help the needy, he does so not because he thinks that they are structurally distinct, but
because it is the best means of maximizing the overall good.\(^{13}\) I have already pointed to some

\(^{13}\)That is, he would recognize the distinction between the duty to rescue and the duty to help
the needy only if doing so best promotes the overall good.
of the advantages of a consequentialist theory that recognizes that the person who sets out to only act in the optimal way will not bring about the most good. Rather, a more effective decision procedure for the person who wants to maximize the good may be one that does not require that he maximize the good each and every time he acts. A sophisticated consequentialist is still committed to leading an objectively consequentialist life and maximizing good states of affairs, but recognizes that this may be most effectively accomplished through an indirect decision procedure.

I mention the sophisticated consequentialist at this point to show that he may find something of value in my account of the distinction between the duty to rescue and the duty to help the needy. In fact, he may adopt it in its entirety. There is no obvious reason to rule out my account of the distinction as a strategy that may promote the most good overall; though I take no stand on that question of fact. That is, by differentiating between different moral obligations and the demands they place on us, we may, in fact, be acting in a maximally good way.

Thus, the sophisticated consequentialist may reject Singer’s claim that the moral obligation to help the drowning child is no different from the moral obligation to help the needy Bengali. Consider the possibility that if we were to follow Singer’s reasoning, we would be overwhelmed by what morality requires of us, given the great amount of need in the world. If we combine this feeling of being overwhelmed with the belief that no particular needy person has a claim to the help of any other particular person, the result may be a

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paralysis in which we end up helping either no one or very few people. However, if we were to recognize that our duties to help the needy do not place the same kinds of demands on us as the duty to rescue (where a particular person does have a claim on another particular person), we may be able to accept the fact that we, nevertheless, do have a general duty to help the needy (though no duty to help a particular needy person). On this understanding, it may be the case that we end up doing more to relieve suffering than we otherwise would have done. Thus, it may be the case that the good is maximized when one understands the duty to rescue as a duty to help the endangered person she discovers and the duty to help the needy as a more general duty to help needy persons, and then acts accordingly. My distinction, then, could be helpful to the consequentialist because it is the sort of distinction that might be effectively applied by the agent who is deciding what to do.

I should make it clear that I accept the distinction because of the structural differences between the duty to rescue and the duty to help the needy and not because it is the best way of maximizing the overall good. That is, I am trying to show that there is a real structural difference between the two duties, and not merely that we should treat them as if they were distinct. I will spend much of the next chapter defending and explaining this structural difference. So, I am not excluding the possibility that my account of the distinction can also serve the instrumental purposes of the sophisticated consequentialist to uncover a decision procedure that will best promote the overall good. And so, our tasks are not incompatible.15

15 Of course, the consequentialists will have a different justification for holding the distinction. Nevertheless, in practice (i.e., when we decide what we should do), the distinction will be important.
We can understand J.S. Mill to be saying something similar when he shows that we can distinguish between different types of duties. Mill does not explicitly draw a distinction between the duty to rescue and the duty to help the needy, but he does distinguish between different kinds of moral obligations—perfect duties and imperfect duties. I will postpone my discussion of Mill’s distinction until the next chapter where I provide a thorough discussion of the distinction between perfect and imperfect duties and show how this distinction is useful for our discussion on rescues and helping the needy. For now I will say that understanding the difference between the duty to rescue and the duty to help the needy along the lines of a difference between perfect and imperfect duties can be very fruitful. And in the next chapter, I will explain why.

2) Feinberg on the Distinction between Rescue and Need

Joel Feinberg does not explicitly draw a distinction between rescue and need in the way I have suggested, but he does end up with a similar distinction between easy emergency rescues and other “positive duties to give assistance.” First and foremost, Feinberg recognizes that there are limits on what we can expect of individuals. Even though we have a moral duty to aid other persons, we are only required to take a “reasonable risk” when providing the aid. In itself, the concept of reasonable risk does not mark any difference between rescue and need because in both types of aid cases we can use the concept of

reasonable risk to limit the duty to aid. In neither case is one required to risk her own physical integrity, or sacrifice those resources and interests integral to her agency for the sake of helping another.\textsuperscript{17}

Feinberg is most concerned with discussing the duty to rescue and its limitations. However, he also briefly discusses need cases. He says that failure to give money to a beggar is not the same as failure to make an emergency rescue:

\begin{quote}
It was manifestly absurd to hold that each time a wealthy man encountered a beggar, he had a duty to rescue him by making a small contribution. Such rescues were not at all analogous to pulling drowning children out of water and thus eliminating their peril once and for all; rather the inevitable harm could only be forestalled. . . . Perhaps a more plausible interpretation of them was as acts of charity discharging an imperfect obligation to give help to some, when help to all was impossible.\textsuperscript{18}
\end{quote}

He further asserts that our obligation in this type of situation (i.e., the needy beggar) may be obviated by our contributions to state welfare systems, while “the random and unpredictable emergencies of life that require time and effort, rather than money from chance passersby, are not obviated by state welfare systems.”\textsuperscript{19} This suggests that we must help in cases of rescue \textit{and} in cases of need, though in different ways. But for Feinberg the difference is not really a theoretical or moral difference, but rather a practical difference of coordination.

On Feinberg’s view, the aid situation I have referred to as a general case of need differs from an easy rescue because it lacks “determinate recipients with correlative claims

\textsuperscript{17}I will not discuss how much risk is reasonable or how many of our resources we may be required to give up until Chapter Six. For now, I will be dealing with easy or minimally risky situations.

\textsuperscript{18}Feinberg, 192-3.

\textsuperscript{19}Feinberg, 192-3.
against me,”

That is, the needy person does not have a claim against me that I help him, whereas the drowning person does have a claim against me that I rescue her. Feinberg explains this difference as a logistic one; “a problem of coordination that could be solved, if at all, by a cooperative scheme among similarly situated donors, defined by set rules.”

Unless we impose some system of coordination in the needy beggar example, Feinberg claims that any beggars would still starve since no one of them would have an enforceable right against any particular benefactor, and many might simply be overlooked in the confusion. Other recipients might collect from numerous sources, if only by lucky accident, while the most guileful of the mendicants might acquire fortunes.

However, the duty to rescue the drowning child in the pool is different “because the emergency is clear and present, and the aid can be given to one victim without being withheld from any other.” Thus, there is no difficulty of coordination in the easy emergency case; the person who discovers the child must help. However, in the case of needy persons, there are many people in need and many people able to help: there is difficulty in coordinating who must help whom.

In emergency rescue situations, the person at the scene has an obligation to provide the aid herself as long as there is no unreasonable risk involved. There is nothing to be coordinated: the person at the scene helps the person in trouble. But in cases of aiding the

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20Feinberg, 182.

21Feinberg, 182.

22Feinberg, 193.

23Feinberg, 182.
needy, it is more difficult to isolate a particular person to provide the aid and a particular person to receive it. We want to ensure that all needy people get some help, not that some get none and others get an excess, and that all people in a position to help give their “fair share,” not that some give too much and others give nothing. We can ensure that our resources are fairly distributed and that aid will be dispensed most effectively if we develop a system of coordination. Our welfare system is an example of this because it is a way of coordinating our efforts and resources in a way that will do the most good (or at least this is what is ideally envisioned). Feinberg claims that even though there are limits on what can be required of individuals, there is no limit on what society, as a whole, must do to help the needy. By dividing the work between us and by training experts in certain fields (e.g., police officers and lifeguards), we can ensure that aid is delivered more fairly and effectively.

Even though Feinberg shows that coordination is an important difference between our duties to make rescues and our duties to help the needy, the difference is not in the nature of the duty itself, but rather in the most effective and efficient way of discharging the duty. Feinberg does not spend much time discussing the nature and scope of the duty to aid the needy because his aim is to justify the duty to rescue. Nevertheless, one can assume that but for the fact that coordination is a problem for one and not for the other, the duties are the same. Thus if we could completely solve the coordination problem by having a thoroughly fair and effective procedure for dividing up the responsibilities to the needy among all of us, there would not be much of a difference between rescue and need.

There are two ways of interpreting Feinberg’s view. On one interpretation, easy emergency rescues are considered not to require any sort of coordination. On this view, in
the emergency rescue case there is no need to coordinate who the recipient of the aid should be and who ought to provide it. There is no need for coordination because the nature of emergency rescues is such that it is obvious who the victim is and who the rescuer ought to be. Thus we can distinguish cases of need from easy rescues insofar as the former require coordination while the latter do not.

On the second interpretation, easy emergency rescues are considered a separate category only insofar as they are coordinated differently than need cases. On this view, it is not the case that coordination is not necessary, but that emergency rescues contain the means of coordinating the aid situation within themselves (i.e., the means of coordination is ‘built-in’ to the structure of emergency rescues). The fact that an aid situation is an emergency rescue can be understood as a salient feature of the situation according to which we can coordinate our efforts. That is, it is a feature according to which we can pick out the cases in which our help is required. So, all duties to aid require coordination, though in duties to rescue, the coordination procedure is evident: the person on the scene of the emergency (who is easily able to help) has a duty to help the person in danger. However, in need cases there is no intrinsic means of coordinating who must help whom; in these situations, coordination is more difficult. In need cases, we must seek out another method of coordination.

Either way, Feinberg has uncovered an important difference between rescue and need (i.e., the issue of coordination). He is right to think that there is a difference in the coordination of aid, but what I am looking for is deeper than this: I am trying to explain why there is a difference in the coordination scheme, i.e., what makes the one easy (or unnecessary) to coordinate and makes the other more difficult. It is not enough to show that
it is difficult to coordinate our efforts to help the needy or that it is not difficult to coordinate rescues; we must further explain why these differences arise.

I do not think that the existence or absence of coordination mechanisms changes the stringency of a duty. Consider if I were to go through the phone book and match up certain persons with certain charities so that each person gives their “fair share” (depending on her resources and needs) and each charity receives its “fair share” (depending on its priority). If this were possible, would we then say that we each have a duty to help the charity to which we have been assigned? Is it the case that the indeterminate duty to be charitable is suddenly transformed into a determinate duty to contribute a particular amount to a particular charity? I think not. Though there is merit to coordinating our charitable efforts (i.e., we can distribute aid more effectively), the practice of coordination does not in itself change the structure of the duty. How and why duties to aid have different natures is the subject I will be dealing with at great length in the next chapter.

3) Weinrib on the Distinction between Rescues and Need

Ernest Weinrib also draws a distinction between easy rescues and general cases of need. Weinrib is mainly concerned with establishing the existence of a legal duty to rescue, but his account is useful even if we are only concerned with the moral duty to rescue. The difficulty with arguing for a legal duty to make easy rescues is that people fear that accepting the existence of a legal duty in this instance forces us to accept a duty (legal and moral) to aid in a wider range of aid cases. The fear is that this duty will come at a high price--our
freedom. However, Weinrib is confident that there is a way to draw the line so that these unbearable demands are not placed upon us.

Weinrib argues for two limitations on the duty to aid others—convenience and emergency. If an aid situation is such that only a reasonable amount of inconvenience will be endured by the rescuer and it is an emergency, there is a duty to aid. Weinrib argues that both utilitarian and deontological reasoning can be used to support his claims. The advantage of being able to justify these two limitations within both utilitarian and deontological theories is quite straightforward: he has a chance of gaining the support of the two dominant ethical traditions. I am less concerned with showing that the rescue/need distinction can be supported from various angles than with showing the best way of drawing it. I will explore Weinrib’s preferred way of justifying the distinction to see how he explains the difference.

On Weinrib’s deontological account, persons have a moral obligation “to respect the person of another and to safeguard his physical integrity, which is necessary for whatever aims he chooses to pursue.” The emergency and convenience limitations fit into this account because an emergency is an instance of imminent threat to physical security and the convenience limitation allows each of us to protect her own physical security, as well as her life-defining interests and projects. Weinrib does not draw the line at easy emergency rescues for administrative reasons like the utilitarian (i.e., it is a better way of maximizing the good) but because it fits better with the justification of the duty. We should remember that Weinrib is concerned with limiting the duty to rescue for legal purposes. And while he does

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24Weinrib, 289.
not argue that there is a *legal* duty to help the needy in non-emergency situations when their physical integrity is at stake, his account does not preclude the possibility that there is a *moral* obligation to help the needy. Since I am concerned with what our *moral* obligations are, I will assess Weinrib’s two limiting conditions to see if they provide the best way of drawing the moral distinction between rescues and need.

We can all think of cases of need where a person’s physical integrity is threatened and where it is not overly inconvenient to help this person. What if you could save someone’s life by donating $100 to Oxfam? On Weinrib’s view, given the limitations he discusses, you would likely have a moral obligation to do so. But even if the same amount of harm is at stake and even if there is no inconvenience involved in both the rescue case and the need case, I am claiming that there are still relevant differences between them. Weinrib’s emergency and convenience limitations are important factors to consider when determining whether or not one is obligated to provide aid, but I do not think that these factors capture the most significant difference between our moral obligations in cases of rescue and need. Nevertheless, they may be good ways of drawing the line between the cases of aid that one is *legally* obligated to provide and those in which one has no legal obligation—that was Weinrib’s aim from the start.

The way Weinrib views the duty to aid can be summed up in his own words:

> when there is an emergency that the rescuer can alleviate with no inconvenience to himself, the general duty of beneficence that is suspended over society like a floating

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25Here it is important to think of a simplistic example of need where your help will actually save the needy person. Typical cases of on-going famine are more complicated examples in which it is less obvious that your $100 will *save* anyone.
charge is temporarily revealed to identify a particular obligor and obligee, and to define obligations that are specific enough for judicial enforcement. Notice that this account does not really show that rescues and need give rise to different types of duties. In fact, he tries to show that the duty to rescue is part of a larger general duty to aid. The only difference is that, in rescues, the general duty to aid temporarily becomes more determinate. It becomes more determinate because the circumstances of the situation are such that a particular person is picked out as the rescuer and a particular person is identified as the victim. I agree that this may be true but I think that this claim needs to be taken further to show that different types of situations actually give rise to different types of duties. What I hope to show is that they are different types of duties: this is not the same as saying that they are both the same type of duty except that one picks out the relevant victim and agent.

Weinrib and Feinberg’s accounts both contribute to the project of distinguishing between different kinds of duties to aid. While I think that they are on the right track, I do not think that they go far enough. What I have endeavoured to show is that their accounts are plausible but ultimately unsuccessful attempts to uncover the difference between rescue and need. Their attempts are unsuccessful because neither of them recognizes that the duties are

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26 Weinrib, 282.

27 Weinrib understands the more general duty as a duty of beneficence. I disagree for reasons I have given in Chapter One. I understand this more general duty as a duty to aid. Weinrib’s account can easily fit into this reading. He could just say that the duty to rescue is a special, more specific, type of duty to aid.

28 In Chapter Four I will show this is not the best way of explaining the duty to rescue because it is not always the case that there is a single rescuer and a single victim identified. That is, there could be multiple potential rescuers and multiple victims.
structurally distinct. Rescue is not merely a special instance of the more general duty to aid that on occasion descends upon us, nor is the difference captured by showing that the methods of coordinating and discharging them are different. I want to show that duties to rescue and duties to help the needy have a different structure. To draw out these more interesting differences between rescue and need, I will return to the examples I mentioned earlier, Drowning Child and Famine.

*The Structural Differences between the Duty to Rescue and the Duty to Help the Needy*

In the rescue example, I noted that there is a high degree of specificity. Not only do we know what needs to be done to save the child, but we have a clear sense that the endangered child has a claim on the bystander. There is a strong connection between the bystander and the person in need of rescue, we would even say that the bystander would wrong the child if she fails to rescue him. And we would only say that the bystander wrongs the child by failing to rescue him if it was her duty to save the child in the first place. That is, you have a duty to do a particular act in this particular situation because the situation binds you to act.

In the need example, on the other hand, we only get a very general picture of the situation. We know that there are many people who need aid, we know that they need food and we also know that there are many people in a position to provide aid. It is different from the rescue case because there is no particular person that has a claim on you; for example, you do not wrong Jim if Jim happens to starve to death. You only wrong Jim if you have a
duty to help him in particular. This situation does not bind you to do any particular act, nor to help any particular person. However, it is important to remember that just because you do not have a duty to help Jim in particular, it does not mean you do not have a moral obligation to help anyone.

The difference between the two types of duties is the way in which they are structured. Even though the content of both types of duties deals with the moral obligation of persons to aid other persons, and even though both types of duties are similarly grounded, the duty to rescue seems to be about a particular act we are required to do while in the need case there is no particular act required. In the need case, there is no specified duty ("give Jim food") as there is in the rescue case ("pull Jane out of the water"). It is more like there is a general duty to help the needy. In this general duty to help the needy, there is no particular act that gets specified, just an end that one must work towards. Notice that this does not mean that one duty is necessarily stronger than the other or that one duty places greater demands on us, it is just that the contours of the duties are different. One articulates a particular act that morality demands of you and the other articulates an end that morality demands that you pursue.

This suggests to me that the difference in the structures of the duty to rescue and the duty to help the needy mirrors another moral distinction that we are already familiar with—the distinction between perfect duties and imperfect duties. My next task will be to provide an account of what perfect and imperfect duties are. There is not only one way that the perfect/imperfect distinction gets drawn, so I will spend some time giving an overview of the various accounts. My aim will be to provide an account of the perfect/imperfect distinction
that best aligns with the rescue and need distinction so that we can gain a better understanding of the differences between our moral obligations in cases of rescue and in cases of need.
Now that we have an account of some of the characteristics that distinguish rescue situations and general cases of need,¹ I will endeavour to show that these characteristics map onto the differences between perfect and imperfect duties. First, so I can motivate this alliance, I will give a brief discussion of my reasons for comparing these two seemingly distinct concepts in moral theory. Next, I will note some of the important characteristics that distinguish perfect duties from imperfect duties. To focus this discussion, I will articulate some common beliefs about the distinction, most of which are drawn from a broad understanding of Kant’s view. Then I will give a more detailed account of Kant’s formulation. Discussing Kant’s formulation is important because it will serve as the foundation for assessing some of the different ways that the distinction can be explained.

From the beginning, I have been indicating that there are intuitive problems with lumping all duties to aid into one category. There seems to be a difference between the way we should respond to cases of rescue and the way we should respond to cases of need. Both generate moral requirements, but the demands on us seem to be different. In my effort to explore how and why these moral demands impact on us differently, I noticed that the

¹I am not claiming to have provided a thorough explanation of why these duties are distinct—this is the focus of my next chapter. My aim for this chapter is to make plausible my claim that there are two different duties and the difference seems to mirror the difference between perfect and imperfect duties.
differences between rescue and need are similar to the differences between perfect and imperfect duties. If I am right and the distinction I have drawn between rescues and need maps onto the well-established distinction between perfect and imperfect duties, I hope to gain insight into the structural differences in our moral duties to aid others. There would then be more than intuitive grounds for suggesting that there is a difference, there would be good philosophical grounds for claiming that the distinction between rescues and need is one that, though not well-articulated, is well-established in the literature on perfect and imperfect duties. I do not mean to suggest that the perfect/imperfect duty distinction is self-evident; however, I will not spend much time justifying the distinction. For my present purposes, I will need to explain what the distinction captures so I can show that duties can have different structures and still express equally pressing moral obligations. Before I can show that these two distinctions line-up, I will have to give an account of the differences between perfect and imperfect duties. It is to this task that I will now turn.

A Common Understanding of the Perfect/Imperfect Duty Distinction

The distinction between perfect and imperfect duties may not be one that is clear and precise, but it is certainly one which is familiar. Most often, this distinction is traced back to Kant. Perhaps the reason that there is no clear understanding of how the distinction gets drawn or justified by Kant is that he does not make it all that clear. Nevertheless it will be

2My point is that one type of duty is not stronger or more important than the other. Of course it is possible that one particular situation will be more pressing than the other.
important to provide a general picture of the difference as it is discussed by Kant since his version is central in the literature on perfect and imperfect duties. I suspect that the first things that come to mind when we think about this distinction are the paradigm examples of each that Kant discusses in the *Groundwork of the Metaphysics of Morals*. I will discuss two of the paradigm examples to give a general idea of the differences between perfect and imperfect duties.

There is a perfect duty not to make a lying promise. We ought to make all our promises in good faith on every occasion. A perfect duty is one which has to be fulfilled each and every time. Though I have expressed this duty in general terms it is, in fact, quite specific. Take for example my promise to you that I will pick you up at two o’clock to drive you to your doctor’s appointment. I have a moral obligation not to make this promise to you if I know I will be unable to fulfill it. There is a specific act I am prohibited from doing—I must not make a lying promise. Notice the characteristics of this perfect duty: the duty obliges one to do (or refrain from doing) a particular act, it is determinate in terms of who must carry it out, when it must be done, and to whom it is owed. If I am to fulfill my obligation there is some specific thing I must not do and this specific thing is articulated by the duty itself. The determinacy of the situation is one of the characteristics that distinguishes perfect from imperfect duties.

I explained that in typical cases of rescue, such as Drowning Child, the situation is also determinate. It is clear who needs the help, who is able to provide the help, exactly what kind of help is required and when it is required to rescue the child. Furthermore, the duty is specifically targeted at a particular act—rescuing the child. Perhaps the rescuer can choose to
either use a reaching assist to reach the child or climb into the fountain to pull the child out herself, but this is not much leeway: whatever her methods, she must save the child. The important similarity between rescues and perfect duties is that they both express very specific moral obligations.

Imperfect duties are different. Consider Kant’s paradigm example of an imperfect duty; the duty to develop our natural talents and capacities. Nowhere does Kant say that we must always be working to develop all of our talents; nor is it implicit in the duty itself which particular acts must be performed for the duty’s fulfillment. This duty is more open-ended, there is some latitude in the way it can be fulfilled. Presumably, if I take some philosophy courses, I will have gone part of the way to fulfilling this duty. I will not have completely discharged my duty to develop my intellectual capacities by taking one philosophy course, but I will have contributed to this end. What the duty does indicate, however, is that the duty to develop my talents is a morally worthy end, one that I must work towards. The details of how and when to promote it are left largely to my own judgement.

In the same way that rescues resemble perfect duties, cases of need resemble imperfect duties. As I have mentioned, cases of need have a less determinate nature. There are many people who are in need, many people who can provide help and many different

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3I discuss the issue of fulfilling our imperfect duties (i.e., how to fulfill them and even if it is possible to fulfill them completely) in Chapter Five.

4In Chapter Four, I show that cases of need can be more or less determinate depending on the circumstances; but I show that they are not determinate in the requisite sense and so cannot give rise to perfect duties. See Chapter Four for a full discussion of what it means to be determinate in the requisite sense. The explanation of determinacy that I give in this chapter should be adequate for my present purposes.
types of needs that must be addressed. Just because I do not have a particular duty to help a particular needy person, it does not mean that I have no obligation to help the needy. The fact that we each have duties to help those in need is not in dispute, but the kind of duty involved is. The kind of latitude that exists in imperfect duties seems to be present in this case as well. That is, there is a duty to help the needy and one has some leeway in deciding how and when she will fulfill this duty. The amount of help one should give will depend on her particular situation (i.e., how many resources she has and how much she can give before the projects and commitments integral to her identity as an autonomous agent are threatened).\(^5\)

Though the perfect/imperfect duty distinction is not explicitly worked out in the *Groundwork of the Metaphysics of Morals*, Kant makes good on his promise to discuss the implications of the distinction more fully in *The Metaphysics of Morals*. Since my main concern is with the duty to aid, I will not need to spend much time discussing the important distinction Kant draws between duties of justice (legal duties) and duties of virtue (ethical duties). For my purposes it suffices to note that the perfect/imperfect distinction cuts across the justice/virtue distinction. This is important to note because it is often thought that duties of justice are perfect duties while duties of virtue are imperfect duties. This reading is overly simplistic and, as we will see, contrary to Kant’s understanding. Likewise, we should be aware that, even though the perfect/imperfect distinction is something drawn from Kant’s work, his manner of drawing the distinction has been variously interpreted and widely

\(^5\)I say more about limitations on our duties to aid in Chapter Six.
confused. Part of the reason that Kant’s account gets muddled is that he relies on many different distinctions that are sometimes difficult to keep straight. Here is a small sample: duties of justice/duties of virtue, wide/narrow duties, limiting/widening duties, negative/positive duties, duties of respect/duties of love, maxims of actions/maxims of ends, duties to oneself/duties to others. My point is that even though the perfect/imperfect duty distinction is part of common moral discourse, how we understand the distinction is important.

Thus far I have introduced the difference between perfect and imperfect duties and have suggested that the difference between them explains the difference between rescue and need. Next, I will give a brief account of how Kant draws the perfect/imperfect duty distinction. A discussion of Kant’s version of the perfect/imperfect duty distinction is important because the most plausible versions of the distinction are either interpretations of or extensions of Kant’s account. My discussion of Kant will be brief and will rely in part on interpretations by philosophers such as Christine Korsgaard, Onora O’Neill, Barbara Herman, Thomas Hill Jr., Mary Gregor and Marcia Baron.6 Since the account of the distinction I will ultimately accept is derived partly from Kant’s own work and partly from secondary sources, a thorough exegesis of Kant’s discussion of the distinction is not

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necessary. Once we have a general understanding of Kant’s version of the distinction, I will explore various competing ways the distinction gets worked out.

The Perfect/Imperfect Duty Distinction According to Kant

Kant’s own discussion of perfect and imperfect duties evolved from the time of his early Lectures on Ethics, to the Groundwork of the Metaphysics of Morals, to The Metaphysics of Morals (and more specifically The Doctrine of Virtue). It is not until the Groundwork that Kant rejects the traditional distinction between perfect and imperfect duties. The traditional distinction was based on the distinction between legal duties and ethical duties, the most prominent difference being the possibility of external compulsion of agents in the former and not the latter. In the realm of ethics, unlike the realm of law, only self-constraint is possible; that is, necessitation occurs only through one’s own will. But in the Groundwork this distinction is rejected: Kant acknowledges both perfect and imperfect duties within the category of ethics. Kant gives examples to instantiate each type of duty, but he does not discuss the implications of the perfect/imperfect distinction in the Groundwork. Kant, himself, admits this in a footnote where he explains that he will develop the distinction in the Metaphysics of Morals. For the time being, he notes that the distinction

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7 For discussion of the origin and development of the perfect/imperfect duty distinction, see J. B. Schneewind in the “The Misfortunes of Virtue”, Ethics 101 (October 1990): 42-63. Schneewind claims that the distinction was first made by Hugo Grotius in On the Law of War and Peace (1625).

8 Gregor, 95

9 Groundwork, 4:422-423.
is somewhat arbitrary, though he does claim that he understands a perfect duty as “one that admits no exception in favor of inclination.”

From this we can infer that imperfect duties are those that can permit of exception in the interest of inclination. This claim may be (and is) interpreted in various different ways. If this was all Kant had to say on the matter, we might infer that imperfect duties are those that permit of arbitrary exceptions, i.e., one does not have to carry out the requirements of an imperfect duty if she does not want to. However, the implications of the perfect/imperfect duty distinction get worked out in The Metaphysics of Morals and it would be hasty and inaccurate to make any major claims about Kant’s version of the perfect/imperfect distinction solely on the basis of what is claimed in the Groundwork. I mention this interpretation of the distinction in passing now to indicate that there is a textual support for it in the Groundwork. Kant’s treatment of perfect and imperfect duties in the Groundwork has been cited as evidence to show that the real difference between perfect and imperfect duties is that one kind permits of exceptions and the other does not. Once I have given a brief account of the way the distinction is discussed by Kant, I will revisit this interpretation and develop it more fully to show that it stands as one of the main competing versions of the perfect/imperfect duty distinction.

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10 Groundwork, 4:422fn

11 The implications of this distinction get discussed by Christine Korsgaard in “Formula of Universal Law,” in Creating the Kingdom of Ends and Barbara Herman in “Murder and Mayhem” in The Practice of Moral Judgement. Both explain the distinction in terms of the difference between deriving a contradiction in the will vs. a contradiction in conception. This difference is concerned with the different ways of testing our maxims to see if they are consistent with the Categorical Imperative. See also Onora O’Neill “Consistency in Action” in Constructions Of Reason: Explorations in Kant’s Practical Philosophy, and her Chapter Five in Acting on Principle.
Kant builds upon the claims he makes in the *Groundwork* in *The Metaphysics of Morals*. There we learn more about the intermediate principles according to which the Categorical Imperative guides our conduct.\(^\text{12}\) Duties are divided into juridical and ethical duties or duties of strict obligation and broad obligation respectively. Ethical duties, with which I am concerned, get further divided into duties to ourselves and duties to others—some of each are perfect (narrow) and others are imperfect (wide).\(^\text{13}\) The main difference between perfect and imperfect duties is that perfect duties specify an act (or omission) one is required to do or to avoid doing; while imperfect duties tell one to adopt certain ends, or, as Herman puts it, general policy maxims. Inherent in the imperfect duty, then, is a latitude between the aims we must adopt and the acts we will do to satisfy these aims. In Kant’s own words,

if the law can prescribe only the maxim of actions, not actions themselves, this is a sign that it leaves a playroom (latitudo) for free choice in the following (complying with) the law, that is, that the law cannot specify precisely in what way one is to act and how much one is to do by the action for an end that is also a duty.\(^\text{14}\)

Notice that this leaves room for judgement to determine the specific course of action, since that is not determined by the law itself. This does not necessarily mean that one can make this judgement solely on the basis of inclination, as the *Groundwork* may suggest. There is much dispute in the literature about what exact latitude one does get. It is clear, however, that there is some latitude present in the structure of imperfect duties which is not present in

\(^{12}\)For a more in-depth discussion of the different interpretations of the perfect/imperfect duty distinction in Kant and its place in Kant’s greater moral system see Korsgaard, Gregor, Herman, Baron and O’Neill.

\(^\text{13}\)It is common to identify perfect and narrow duties and imperfect and wide duties. Later in this chapter, I discuss how these concepts get differentiated by O’Neill and Korsgaard.

\(^{14}\) *The Doctrine of Virtue*, 390.
perfect duties.

How much latitude does Kant think exists in imperfect duties? Barbara Herman provides substantial textual evidence to support a rigoristic reading of imperfect duties.\textsuperscript{15} Kant himself says,

> a wide duty is not to be taken as permission to make exceptions to the maxim of actions but only as permission to limit one maxim of duty by another (e.g., love of one’s neighbour in general by love of one’s parents).\textsuperscript{16}

Thus, one may think that there is no latitude for arbitrary exceptions and that imperfect duties can only be limited by other imperfect duties or perfect duties. Thomas Hill Jr., Mary Gregor and Marcia Baron provide support for a less rigoristic interpretation.\textsuperscript{17} Hill even argues that in order to pursue our own happiness we have the freedom to do as we please on certain occasions and not fulfill some other (imperfect) duty.\textsuperscript{18} Thus, it is not obvious how to exactly interpret this “playroom” that Kant acknowledges. However, settling this matter conclusively is not important to my immediate project.\textsuperscript{19}

The fact that there is a role for judgement in imperfect duties and not in perfect duties is important and warrants further discussion. Laws that specify precisely what act is morally necessary do so because it is just that particular act that is necessary to harmonize with the

\textsuperscript{15}Herman, “Mutual Aid and Respect for Persons,” \textit{The Practice of Moral Judgement}.

\textsuperscript{16}\textit{The Doctrine of Virtue}, 390.


\textsuperscript{18}Hill, 152-3.

\textsuperscript{19}I say more about this in Chapter Five.
universal law. Thus, there is no room to allow the agent any freedom to determine which act she will perform because this will leave her room to do what is morally impermissible (i.e., act on a maxim that could not serve as universal law). Her judgement plays an essential role in determining how she will carry out an imperfect duty. To seriously accept a maxim to pursue or adopt an end, she must act accordingly. It is not enough to say to yourself that you accept the maxim “develop your natural talents”; you must act to develop your natural talents. Empirical circumstances will factor into the decision about what acts to do. If you have a natural talent to both sing and play musical instruments, it makes sense that you act to perfect your singing talent if the circumstances are such that you do not have access to a musical instrument. This way you will be fulfilling your imperfect duty.

Another difference that is evident between perfect and imperfect duties is the way in which it is possible to violate them. A perfect duty is violated by not doing, or refraining from doing, a specific act. Since imperfect duties do not specify a particular act, they cannot be violated in the same way. To violate an imperfect duty is “to adopt a maxim of indifference to the obligatory end.” Thus, an agent does not violate the duty by refraining from doing a particular act towards the obligatory end, but she violates it by not holding the obligatory end as her end. Take for example the end of helping others in need. Herman claims that if one lives by the general policy maxim of mutual aid, one must sometimes act in

\(^{20}\)Gregor, 98.

\(^{21}\)Gregor, 98. Note: this may be somewhat overstating the point since there is some role for judgement in deciding how best to carry out the act--for example, I can repay my debt to you by giving you cash or writing you a cheque.

\(^{22}\)Gregor, 100.
ways that help others:

Although the duty of mutual aid allows one not to help sometimes, in the normal course of things someone who acknowledges the duty will in fact give help. One cannot have the opportunity and the ability to help, never help, and yet claim to have (live by) a policy of sometimes helping others. We call this hypocrisy.23

As I mentioned earlier, my discussion of how much one must do to fulfill (or discharge) an imperfect duty will come later. For now it is important to understand that the manner in which a perfect duty and an imperfect duty are fulfilled is entirely different. It is not even clear if it makes sense to talk about completely discharging an imperfect duty. One discharges a perfect duty by performing the act it specifies. But what does it mean to discharge an imperfect duty? An imperfect duty cannot be simply discharged because the ends in question cannot be completely achieved.24

Another possible difference between perfect and imperfect duties is the role of motive. For Kant, it is important to act from a motive of duty when one discharges a duty. I want to explore whether or not motives have different significance when one is fulfilling a perfect duty compared to when one is fulfilling an imperfect duty. If it is my duty to repay a debt I owe you, I fulfill my duty even if I do so because you are a very intimidating person and have threatened to harm me if I fail to repay you. That is, my act of repaying the debt discharges my duty. Perhaps my act does not have the same moral worth as it would have if I had acted from the appropriate moral motive, but the duty is, nevertheless, discharged.

23Herman, 65. Hill makes the same point in “Imperfect Duty and Supererogation,” 150-1.

24Korsgaard 20. The issue of how to fulfill perfect and imperfect duties is the focus of Chapter Five.
When fulfilling an imperfect duty, I must be guided by the end the duty articulates because the imperfect duty just is an articulation of an end or policy I must adopt. Giving a person twenty dollars because he has intimidated me into doing it is not an act that fulfills my obligation to help others in need. However, it is entirely possible that if the person was truly needy, I will have contributed to the appropriate end even if I have not seriously adopted it as my end. 25 I have not really shown that I have adopted the maxim of aiding the needy if I give someone money because he has intimidated me though I have contributed to the obligatory end. At most, I have shown that I am indifferent to the maxim of aiding the needy. To show indifference to a policy is to violate the corresponding imperfect duty. So neither act has moral worth; however, morally non-worthy acts may fulfill a perfect duty (i.e., once the money is returned the perfect duty ceases to exist) whereas they do not count as contributions to our imperfect duty to help the needy (even though a needy person has been helped).

What I have set out to show is that Kant draws a distinction between perfect and imperfect duties. Even though each of his commentators notes that the distinction does not get clearly drawn or fully explained, what I have discussed so far should be enough to serve as a basic conception of the distinction, an account that will provide me with the tools I will

25 In actual fact, it would be very difficult to discern if I have or have not seriously adopted the end since when one acts in a way that is clearly a means of achieving the appropriate end it is usually taken to indicate that one has adopted that end.

What implications does this have for compulsory taxation? Compulsory taxation is a good method of achieving the end to help the needy. Notice however, on my reading, we only fulfill our duty to help the needy by paying taxes if we seriously adopt the end of helping the needy. If we merely pay our taxes to avoid legal sanctions, we have not fulfilled the duty, but we have nevertheless contributed to the end. Thus, even though compulsory taxation may not be the best means of fulfilling our moral obligations, for practical reasons, it is a good means of contributing to the appropriate end.
need to draw the rescue/need distinction I introduced earlier.

Kant's account does show that both perfect and imperfect duties are moral duties. It further supports my claim that the difference between the duties is a difference in the structure of the duty. In *The Metaphysics of Morals*, these duties get classified as different principles that can be derived from the universal moral principle—the Categorical Imperative. They are different types of duties, one is not merely a special instance of the other. Likewise, I argue that one cannot show that the duty to rescue is a special instance of the duty to help the needy (as Weinrib and Feinberg try to do); it is a different duty altogether.

What I have discussed so far serves as the basis for different competing interpretations of the distinction between perfect and imperfect duties. As is quite evident, Kant’s own account needs further explanation since he does not give a clear and sustained account of the distinction himself. I will explore the various competing ways the distinction is explained. In what follows, I reject the interpretations that explain the perfect/imperfect duty distinction in terms of the difference between positive and negative duties or the difference between strict and lax duties.

*Competing Ways of Drawing the Perfect/Imperfect Duty Distinction*

By now we should have a basic understanding of the distinction between perfect and imperfect duties. Typically, the common understanding of the distinction and most versions that get discussed in the literature have their roots in Kant’s articulation of the distinction; though each tries to simplify Kant’s unclear and sometimes confusing account. The way this
is commonly done is by emphasizing the part of the distinction that one thinks is most significant; that is, emphasizing what it is about perfect and imperfect duties that makes them distinct. I will discuss two competing ways of drawing the distinction, before explaining the version I accept.

First, I will show how the distinction gets articulated as the difference between positive and negative duties. On this interpretation, the thing that distinguishes perfect duties from imperfect duties is that one is a negative duty and the other is a positive duty. Second, I will show how the distinction is articulated as the difference between duties that make room for exceptions and duties that do not. On this interpretation, perfect duties are understood as strict and imperfect duties are understood as lax. I argue that both of these efforts to characterize the perfect/imperfect distinction in a more clear and effective way, fail. They fail because they do not get to the heart of the distinction.

1) Understanding the Perfect/Imperfect Distinction in terms of Positive and Negative Duties

It is commonly accepted that there is a morally significant distinction between positive duties and negative duties. This distinction is often put in terms of the difference

26 This version of the distinction is mostly based on Kant's discussion of the distinction in the *Grounding for the Metaphysics of Morals.*

27 This distinction is commonly cited as a part of common sense morality. However, there is fierce criticism about whether or not there is anything morally significant about the distinction. Shelly Kagan [*The Limits of Morality* (Oxford: Oxford University Press, 1989)]; Jonathan Bennett [*The Act Itself* (Oxford: Oxford University Press, 1995)] and James Rachels [*"Killing and Starving to Death,"* *Philosophy* 54, 208 (April 1979): 159-171] are the most notable of these critics. For a defense of this point see Patricia Smith, *Liberalism and Affirmative Obligation* (New York: Oxford
between doing and allowing harm. If there is a negative duty not to harm someone, we each have a duty not to bring about harm. This is a negative constraint on liberty; one is not required to do anything, one must refrain from harming someone. If there is a positive duty not to allow harm from coming to someone, one has a duty to prevent harm from coming about. This duty places positive demands on liberty; one is required to do something (i.e., prevent harm). The important idea behind the positive/negative distinction is that one (i.e., positive duties) requires that we act in a certain way and the other (i.e., negative duties) prohibits us from acting in a certain way. If we were to line-up this distinction with the perfect/imperfect duty distinction, perfect duties would be negative duties, and imperfect duties would be positive duties. And by extension, rescuing someone would be a negative duty and aiding the needy would be a positive duty. Let us explore whether or not this alliance works.

According to this distinction, one should be able to determine, when faced with a particular situation, if there is a corresponding perfect or imperfect duty. If I am morally required to do something (i.e., act positively), I can determine that a positive duty, thus an imperfect duty, is involved. If I am prohibited from doing something, I can determine that a negative duty, thus a perfect duty, is involved. Consider the kinds of duties involved in the paradigm examples of perfect and imperfect duties—not making a lying promise and

perfecting our natural talents. The duty not to make a lying promise is a negative duty, and therefore a perfect duty. The duty to perfect one’s natural talents is a positive duty, and therefore an imperfect duty. If it is the “positivity” or “negativity” of the situation that helps us determine the kind of duty that is involved, then this distinction may be helpful in drawing the distinction between rescues and need.

In discussing the duties of virtue to oneself, Kant explicitly claims that there are two different kinds of duties. He refers to one as “limiting” or negative and the other as “widening” or positive. Though both are duties of virtue, they have different aims: “negative duties forbid a human being to act contrary to the end of his nature,” while positive duties “command him to make a certain objects of choice his end.”28 The perfect duties we owe to ourselves are prohibitive (e.g., against suicide, lust, and gluttony). On the contrary, imperfect duties demand that we increase our natural perfection or develop our natural powers. To fulfill a perfect duty, one must limit her actions in the specified way, whereas one never really fulfills an imperfect duty (though you can continually progress in complying with it).

Kant continues with this distinction in his discussion of the duties of virtue to others. He claims that the duty of love or benevolence is a wide and positive duty, while the duty of respect, which prohibits us from degrading another as a mere means to our own ends is a wide and negative duty. It is clear that, for Kant, wide or imperfect duties can be both positive and negative. If it turns out that Kant is right and that imperfect duties can be both positive and negative, the distinction between positive and negative duties will not be of

28The Doctrine of Virtue, 419.
much help to us in explaining the difference between perfect and imperfect duties.

The difficulty arises when we examine the duty to rescue and the duty to help the needy more closely. Upon closer examination, we see that both of these duties fall into the general category of “the duty to aid others” and the duty to aid others is a positive duty. Thus it may not make sense to show that an important difference within the more general category of the duty to aid (which is a positive duty) is that some are positive and others are negative. If all duties to aid are positive and moreover, if some are positive and perfect (i.e., negative), this would lead to the existence of duties that were both positive and negative. What would a positive negative duty look like? Recall that this negative/positive distinction was supposed to help draw the perfect/imperfect distinction within the category of positive duties to aid, but it does not seem as though this will work. For this interpretation to succeed, one would have to explain how there can be both positive perfect duties and positive imperfect duties. I will give two possible ways of getting around the difficulty that all duties to aid are positive. One way is to argue that not all duties to aid are positive (thus we are free to make the positive/negative distinction within this category). The other way is to accept that duties to aid are positive but then argue that we can have positive obligations that are articulated by perfect duties (thus we can draw the perfect/imperfect distinction within positive duties). I will take each of these up in turn.

If one rejects the claim that all duties to aid others are positive duties, one can make the claim that some duties to aid are negative. Thus, some would be perfect and others would be imperfect. But this seems to go against the common understanding of what positive duties are and what duties to aid are. Let us see if it makes sense to say that there are duties to aid
that are negative (i.e., specify prohibitions). Take for example my duty to rescue the drowning child. We think this is a positive duty because it is a duty to do something (i.e., act positively). But perhaps the duty can be articulated to sound more like a prohibition; for instance “I must not allow this child to drown.” Since I hope to show that the duty to rescue is a perfect duty, on this account I must also show that it is a negative duty. One of the reasons that perfect duties are identified with negative duties is that perfect duties specify precisely what has to be done to fulfill the duty and to violate the duty. Maybe we think that the duty to rescue the child is perfect because it can be specified in negative terms (“I must not allow this child to drown”). Notice that this same strategy cannot be used when dealing with the more general duty to aid. This cannot be done because the duty is not specific enough to demand that there is some particular act one must not do (or allow). So the duty to help those in need is not a prohibition and is not a negative duty.

Have I accomplished what I have hoped to? I have shown that the duty to rescue can be described as negative and that the duty to help the needy can be described as positive. So perhaps the difference between rescue and need is that one is negative and the other is positive. In order to get to this point I have had to manipulate some of our moral concepts; I have tried to redefine positive duties so that we could conclude that the duties to aid are not all positive. However, it only makes sense to follow this strategy if we presuppose that perfect duties must be negative duties and we would only do this if we had independent

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29See Patricia Smith, *Liberalism and Affirmative Obligation*, 27-45, where she argues that the duty to rescue is a “special positive duty”, or a “hybrid duty” somewhere in between a positive and negative duty. Smith claims that the duty to rescue functions like a negative duty and, like other negative duties, is justified on the grounds of justice (42-43).
reasons for claiming that duties to rescue are perfect. Notice that on this reading the positive/negative distinction is not doing any work.

Let us try the second strategy. Consider the claim that duties to aid are all positive, but that, nevertheless, some are perfect and others are imperfect. This seems to lead to the right conclusion: there is a distinction between perfect and imperfect duties to be drawn within positive duties to aid and this distinction lines up with the distinction between rescues and need. So there is no longer the problem of claiming that some positive duties to aid are really negative duties. Thus the duty to rescue is still a positive duty but it is still very different from the positive duty to help the needy. The problem is that we have not gained an understanding of what makes them different, though it is clear that it does not have anything to do with the positive/negative distinction. If we can reach this end without relying on the distinction between positive and negative duties, the distinction is not doing the work it is supposed to do: it does not get at the heart of the difference between perfect and imperfect duties.

The main problem with the positive/negative duty distinction is that it is not helpful: we have to look for other ways to show how perfect duties differ from imperfect ones. Even though we have seen that it is often the case that perfect duties are negative (e.g., Kantian juridical duties), and imperfect duties are positive (e.g., some ethical duties like the duty to perfect our talents), this is not always the case. For the distinction to be helpful, one must be able to say that a positive duty is also an imperfect duty because it is a duty to do something. It is imperfect because it is positive. Similarly, a negative duty is also a perfect duty because it is a duty that constrains actions. But if it is the case that perfect duties can be both positive
and negative, the positive/negative duty distinction cannot be used to help clarify the differences between perfect and imperfect duties. One would be left to demonstrate on other grounds why it is that some positive duties are perfect and others are imperfect.

By discarding the positive/negative duty distinction as a way of explaining the difference between perfect and imperfect duties, I can also avoid the difficulty of proving the moral significance of the distinction. It would not be very helpful to rest one’s hopes on a contentious distinction unless one was going to argue for this distinction. That the distinction is contentious is not a good reason to reject it outright, but combined with the various other difficulties I have raised, we do have good reason to not pursue it any further. The difference between perfect and imperfect duties is not captured by the positive/negative duty distinction; thus this is not a helpful way of showing how situations of rescue differ from situations of need.

2) Making Exceptions to the Duty—The Distinction between Strict and Lax Duties

One may argue that the real difference between perfect duties and imperfect duties is that perfect duties do not permit of exceptions and imperfect duties do. Thus, once one determines whether or not the duty permits of exceptions, one can determine if it is perfect or imperfect. On this view, it is the room allowed for exceptions that is the criterion by which one draws the line between perfect and imperfect duties. Another way of explaining this difference between duties that admit of exceptions and those that do not is to express it in terms of the difference between strict duties and lax duties. Perfect duties are strict duties
because they do not permit of exceptions and imperfect duties are lax duties because they permit of exceptions.

It will be worth giving a brief account of Mill’s discussion of perfect and imperfect duties because his version may be seen to fit in with the strict/lax interpretation. Mill recognizes a distinction between perfect and imperfect duties within the domain of morality. The distinction serves to distinguish justice from “other branches of morality.” The duties of justice are perfect duties and the duties within these other branches of morality are imperfect.

Mill defines the duties of perfect obligation as “duties in virtue of which a correlative right resides in some person or persons.” Duties of imperfect obligation, on the other hand, are those in which, though the act is obligatory, the particular occasions of performing it are left to our choice, as in the case of charity or beneficence, which we are indeed bound to practice, but not toward any definite person, nor at any prescribed time. Moreover, Mill says that “no one has a moral right to our generosity or beneficence because we are not morally bound to practice those virtues toward any given individual.” Notice that on this interpretation, there are two important features we can point to that distinguish

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31Mill, 48. Mill identifies these other branches of morality with charity, beneficence and generosity.

32Mill, 48.

33Mill, 47.

34Mill, 49.
perfect from imperfect duties. The first is the existence of a right correlative to the moral duty in one instance and not in the other. The other important difference is the latitude or choice one has with regard to the particular act she will do.

If one were to emphasize the second feature, i.e., that we have a lot of latitude in fulfilling our imperfect duties and that there is no latitude in fulfilling our perfect duties, one may argue that Mill distinguishes perfect duties from imperfect duties based on the strictness or laxness in how they must be fulfilled. However, I do not think that emphasizing this aspect of Mill's account is right. While it is true that strictness is a feature of perfect duties and laxness is a feature of imperfect duties, it is not the main difference about which Mill is concerned. The main difference for Mill is that only one of these duties gives rise to a right.

Duties of justice are those duties to which other persons have a correlative right. For example, I have a perfect duty of justice not to kill you and you have the correlative right that I not kill you. For Mill, perfect duties are duties of justice but that does not mean that they are duties solely in the domain of the legal. Thus, the rights Mill speaks of are not only legal rights, but also moral rights. He says "[j]ustice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as a moral right."\(^{35}\) It is important to note that these rights are not natural rights or rights that stem from any feature of persons, but that these rights exist because it is expedient that they exist. In other words, rights and moral duties are justified by Mill on utilitarian grounds.

Mill does not think that justice exhausts the category of the moral. We may have a

\(^{35}\)Mill, 49.
moral duty to do something even though no one has a corresponding right. These are imperfect duties. Imperfect duties are duties of beneficence or generosity. To reiterate, Mill says that “no one has a right to our generosity or beneficence because we are not morally bound to practice those virtues toward any given individual.”36 So we are bound to be beneficent but not in any particular situation, nor towards any particular individual.37 It is not difficult to see how imperfect duties may be interpreted as being less strict than the perfect duties of justice. But I hope I have shown that Mill’s account is much more complicated than this and that the strictness or laxness of a duty is a consequence and not a determining feature of whether or not there is a corresponding right.

Feinberg quotes Mill’s definition in his discussion of imperfect duties. On Feinberg’s view, “the reason why my duty is “imperfect”, lacking determinate recipients with correlative claims against me, is entirely a logistic one, a problem of coordination that could be solved, if at all, by a cooperative scheme among similarly situated donors, defined by set rules.”38

Feinberg uses this to show that we do have a duty to rescue the child drowning in the pool

36Mill, 49.

37We will come to see that Mill divides up perfect and imperfect duties in a different manner than I will. However, I should note that there are many similarities between the distinction he draws and the one for which I shall argue. These similarities are hidden because Mill does not make the explicit distinction between duties of aid and duties of beneficence as I have (in Chapter One). Perhaps Mill is right to claim that duties of beneficence and duties of generosity are imperfect duties, but I am making the further claim that some duties to aid are also imperfect. And they are imperfect for the reasons that Mill gives. No one has a right to our aid in certain situations and thus we have no perfect duty to do any particular act. But in other types of aid cases, we may want to say that someone has a right that we rescue him and so we have a perfect duty to do a particular act. Though, in my account I do not talk about our obligations in terms of rights.

38Feinberg, 182.
“because the emergency is clear and present, and the aid can be given to one victim without being withheld from any other.” Thus, Feinberg argues, our duty to rescue in cases of emergency are not like imperfect duties; in an emergency situation, the victim has a right that the person on the scene save him. So in an emergency rescue, we have no latitude to decide our course of action; we have no choice, we must act. On this point Feinberg and I agree. But notice, that he claims that the reason that imperfect duties are structured as they are is that there is a problem of coordinating our activities. I take this to mean that if we could figure out a way of dividing all our duties into fair shares, and thus coordinating our efforts, we would no longer have imperfect duties to aid. This is in direct contrast with Kant’s idea behind imperfect duties. Imperfect duties are imperfect for Kant because they are about the adoption of certain ends, and no amount of coordination can change this fact.

Mill’s interpretation of the difference between perfect duties and imperfect duties has its basis in Kant’s writing, though, of course, he and Kant justify the distinction in different ways. We must see if Kant’s own account of the distinction is based on the difference between strict and lax duties, or duties to which we can and cannot make exceptions.

Think back to the Categorical Imperative: “Act according to a maxim whose ends are such that it can be universal law that everyone have these ends” or “Act only according to that maxim by which you can at the same time will that it should become a universal law.” According to the Categorical Imperative, one should only be acting on a universalizable

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[40]The Doctrine of Virtue, 395.

maxim. Thus one cannot justify acting on an exception to a universalizable maxim.

Take for example the maxim of making a false promise to repay a debt so that someone will lend you money. Can everyone have this end or could you will that everyone have this maxim? No. If you are hoping that I will lend you a hundred dollars because you promise to pay it back in a week (though you have no intention of paying it back), your hopes are based on the assumption that I will believe you when you promise to pay back the money. If everyone always promised to repay their debts but did not keep their promises, it would be difficult for anyone to ever secure a loan. No one would give out loans because they would know that they would not be repaid. That is, your false promise would not get you what you want, since no one would believe you. So not everyone could hold the maxim "lie to secure a loan" because it would interfere with the efficacy of the lie (which you are counting on). In fact, your lying promise is most effective if it is an exception to the rule of promise-keeping: you want everyone else to keep their promises. Some people interpret this as a logical contradiction (i.e., the maxim, if universalized, is inconceivable), others interpret it as a practical contradiction (i.e., your maxim is self-defeating if universalized). The point is that you want to be the only person to be excepted from this rule; you still think it ought to apply to everyone else.

Kant makes some very explicit claims about what he thinks about making exceptions

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42 Some maxims cannot be universalized because that would violate the contradiction in the will test and others would violate the contradiction in conception test. For an excellent discussion of the different interpretations of the idea of contradiction Kant had in mind, see Korsgaard, "Formula of Universal Law" in Creating the Kingdom of Ends. Korsgaard also claims that a different contradiction is involved in perfect duties and imperfect duties; see "The Right to Lie", pp. 135-137.
to the perfect duty not to lie in "On a Supposed Right to Lie Because of Philanthropic Concerns." In this short work, Kant argues that one cannot make any exceptions to the perfect duty to tell the truth (which he discusses as a juridical duty), not even if one were to lie to a murderer to save an innocent person's life. A person who wants to make an exception to this duty does not acknowledge truthfulness as itself a duty but reserves for himself exceptions from a rule which by its very nature does not admit of exceptions, inasmuch as to admit of such would be self-contradictory.43

And in The Doctrine of Virtue where lying violates an ethical duty, Kant claims that lying is a violation of a human being's duty to himself merely as a moral being.44 Thus, we can conclude that for Kant, juridical duties (i.e., perfect duties of right) and perfect ethical duties are strict, that is they do not admit of exceptions.

The reason one cannot make exceptions to perfect duties is that perfect duties specify the act which it is one's duty to perform. I cannot make a lying promise to Jack because I have a perfect duty not to lie to Jack. To act on the contrary is a simple and obvious violation of my duty.

Let us look at those duties that we have discussed as Kant's imperfect ethical duties, such as the duty to perfect our natural talents. Is this a duty that can be interpreted as a lax duty (i.e., a duty that admits of exceptions)? This does not get discussed as explicitly by Kant, though I suspect for good reason. Imperfect duties seem to be the kind of duties that by


44 The Doctrine of Virtue, 429-431.
nature allow exceptions since they do not strictly demand any particular act from us in the first place. So if I miss my art class on Monday because I have something better to do, I fail to do an act that would be one way of fulfilling the duty to perfect my natural talents. This does not necessarily mean that I have violated my duty since I may have chosen to go skating and perfect that talent instead. Because imperfect duties specify certain ends that must be promoted, and not specific acts that must be done, one may choose not to do a particular act that is a means of fulfilling the end without violating the duty. Thus in this way we could say that one is allowed to make exceptions to the duty. We can see why someone may think of them as lax duties.

I will examine the more general category of duties to aid others (which I have suggested can be either perfect or imperfect) to determine if it fits in with the analysis I have given about the room for exceptions in other duties. Perhaps if perfect duties, such as the duty to rescue, do not permit of exceptions and imperfect duties, such as the duty to help the needy, do permit of exceptions, one can conclude that the morally significant difference between them is that the room they allow for exceptions allows us to interpret one as strict and the other as lax. Then one can conclude that this is a helpful way of drawing the distinction between perfect and imperfect duties.

When we think about Drowning Child, we think as long as it is an easy rescue (or at least, not a difficult one) there is a duty to save the child. If I choose not to save the child, I have violated my duty. This is not typically considered the kind of duty that permits of exceptions (i.e., what would we think if I said that I would rather get to my art class than save this child, or that I just saved another child last week, so I will not save this one?). Since the
structure of the duty is such that I have to do a particular act to fulfill the duty, it follows that if I fail to do that act I violate the duty. I am not suggesting that I always have a duty to rescue a person in trouble, even if it puts my life in danger; but I am saying that if it is my duty to rescue the child, the duty is one which does not permit of exceptions. I want to make clear that when I am talking about a duty being strict or lax I am not referring to the demands it places on the agent in terms of the risks she must take, the resources she must expend, or the interests she must sacrifice, I am referring to whether or not the actual duty she has is one that does or does not permit of exceptions.

Not surprisingly, the duty to help the needy, which I have suggested is an imperfect duty, is the kind of duty that permits of exceptions. If one does not perform an act that is a means to fulfilling the end she must promote, we do not immediately conclude that she has violated her duty. I have not violated my duty to help the needy if I do not make a donation to Oxfam on Monday. Why not? Because my duty to aid is not that specific. I do not have a duty to donate to Oxfam on Monday. I have a duty to help the needy and I can fulfill this duty by giving to Oxfam on Tuesday, or even never giving to Oxfam but helping in other ways such as volunteering in shelters. Thus, on Monday, if you are approached to make a donation to Oxfam you can refuse without violating your duty to help the needy. You can make an ‘exception’ in this case, as long as you fulfill your obligation to help the needy in other ways.

This interpretation of the perfect/imperfect duty distinction leads to a criticism raised by Daniel Statman in “Who Needs Imperfect Duties?” Statman is mostly skeptical because he doubts that the distinction can withstand scrutiny and he claims that no satisfactory
definition of imperfect duties has ever been given. He acknowledges that there is a latitude in imperfect duties that there is not in perfect duties. He infers, relying on a definition by David Heyd, that an imperfect duty is equivalent to a perfect, disjunctive one.\(^{45}\) Thus an imperfect duty can be fulfilled just as a disjunctive duty is fulfilled--by carrying out one of its disjuncts. However, I will show that Statman’s understanding of the distinction is based on a misunderstanding of what imperfect duties are about.

Statman claims that understanding imperfect duties in the way he does leads to a lax moral theory. He would be right if it were the case that one could discharge an imperfect duty to be charitable by only making one donation to charity (i.e., carrying out one of the duty’s disjuncts). This is a bad interpretation of the duty, since no one seriously claims that one can discharge her duty to be charitable by undertaking one charitable act. We can reject Statman’s interpretation while agreeing with his claim that “charity is the sort of duty we never really complete.”\(^{46}\) His claim is consistent with the Kantian version of the distinction I just presented, but the reason he runs into difficulties is that he accepts a weak definition of the distinction.

Interpreting perfect duties as strict duties and imperfect duties as lax duties leads to Statman’s other concern that on a typical reading of the distinction, perfect duties will always trump imperfect duties in conflict situations. Thus if I had the opportunity to either fulfill a promise to meet you on the corner or help a person in trouble, Statman thinks I would be

\(^{45}\)Statman, 212.

\(^{46}\)Statman, 213.
under a moral obligation to fulfill the promise. He argues that we must resolve the conflict “on the basis of considerations referring to the content of the conflicting duties” and not “merely on the basis of the different logical structure of perfect and imperfect duties.”47

What Statman tries to show is that given the logical structure of an imperfect duty (a disjunctive perfect duty), conflicts between (instances of) perfect and (instances of) imperfect duties should not be able to arise, but that nevertheless they do arise.

We can respond to Statman’s concern by showing that, contrary to appearances, perfect duties and imperfect duties do not conflict. If I am on my way to meet you and pay you the five dollars I promised I would repay today and I get asked by an Oxfam representative to donate the five dollars to the needy instead, is there necessarily a conflict between the two duties at stake (i.e., my duty to repay my debt and my duty to help the needy)? If I repay my debt to you, do I violate my duty to help the needy? Not necessarily; that depends on whether or not I have acted in the past and will act in the future to relieve the suffering of the needy. Similarly, we may interpret the duty to repay my debt less strictly so that I still fulfill my duty even if I pay the debt one hour later than I promised (unless the timing is somehow an essential part of the promise).

By raising these and other difficulties with drawing the perfect/imperfect duty distinction, Statman wants us to reject the distinction altogether. To buttress his criticisms, he gives another reason to reject the distinction: it encourages what he calls “yuppie ethics” where the demands of morality are very minimal, allowing us to concentrate on “our careers

47Statman, 215.
and worldly possessions.” Thus, it provides us with an excuse for not doing for others, an excuse he claims “accords well with popular views about autonomy and self-realization: ‘I have no obligation to help this homeless person. Please leave it to me to decide whom I shall help and when.’”

He does concede, however, that both Kant and Feinberg accept a rigoristic understanding of imperfect duties. Kant claims that “a wide [or imperfect] duty is not to be taken as a permission to make exceptions to the maxim of actions, but only as permission to limit one maxim of duty by another.” And Feinberg claims that to discharge the imperfect duty to aid others, we have to help as many people as we reasonably can. Given that there is a rigoristic interpretation of imperfect duties, there is no reason to think that accepting the distinction itself will lead to the acceptance of an overly lax system of morals. I will admit, though, that it is possible to interpret imperfect duties in this lax way and some have even tried to interpret Kant in this manner. Ultimately, I do not think that there is enough textual support to interpret Kant in an extremely lax manner. We will be in a better position make this judgement when we get a better idea of what imperfect duties demand of us. In fact, I hope it will be clear that there is an important sense in which imperfect duties are just as important as perfect duties, though, of course, they demand different things in different ways.

I will now assess the possibility of drawing a distinction between perfect and imperfect duties based on whether or not the duty involved makes room for exceptions. And

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48Statman, 221.

49Statman, 221.

50The Doctrine of Virtue, 390.
I will argue against this way of drawing the distinction. In discussing the room duties allow for exceptions, all we are really discussing is a characteristic of perfect and imperfect duties. Perfect duties do not admit of exceptions and imperfect duties do. This does not really explain what makes perfect duties different from imperfect ones. It is not the fact that one does not admit of exceptions and the other does that differentiates them. It is because they are very different kinds of duties that one does not admit of exceptions and the other does. That is, insofar as they do or do not admit of exceptions, it is as a result of their other structural features.

This discussion about the strictness or laxness of duties is both interesting and tells us something about the differences between perfect and imperfect duties, but it is not a strong basis for distinguishing these duties. We must search deeper to discover the reason that imperfect duties admit of exceptions and perfect duties do not. The ‘room for exceptions’ criterion that I have been discussing is a backward way of drawing the distinction between perfect and imperfect duties because one would have to first ask if the situation is one which admits of exceptions and then declare whether it is perfect or imperfect accordingly. It is not enough to follow our intuitions about which duties seem like they can admit of exceptions and which cannot; there must be some criterion on the basis of which this gets decided. It makes more sense to determine that a duty is perfect or imperfect on other grounds and then use this as a basis of deciding whether or not it admits of exceptions.

There is another difficulty with this approach. The claim that perfect duties admit of no exceptions is contentious. In fact, this claim is something Kant’s critics focus on to show that Kant’s theory is unreasonable. What kind of moral theory would prohibit us from lying
to a murderer to save the life of an innocent person? Korsgaard convincingly argues that Kant mistook the implications of his own theory and shows that one can construct his theory in a way that it is permissible to lie to the murderer. This indicates that it is possible to build exceptions into the duty. For example, I am allowed to lie to someone who is using me as an instrument to achieve his own evil ends. Here the duty not to lie remains perfect but the duty does not include situations of lying in the face of evil; this exception is built right into the duty. A more common example is the perfect duty not to kill. It is permissible to kill an aggressor in self-defense. It does not follow that the duty not to kill is not perfect but that there are exceptions built right into the duty.

Whether or not Korsgaard's justification is accepted, this seems like another obstacle that the person using the 'room for exceptions' criterion must overcome. If both perfect duties and imperfect duties admit of exceptions, then we would not consider this to be a feature that distinguishes them. This particular criticism is not likely to be devastating because it seems likely that Korsgaard succeeds in her project of showing that there are principled ways we can build exceptions into perfect duties without detracting from the general claim that perfect duties do not permit of exceptions. For example, we might say that one is always required to make an emergency rescue unless by doing so she would be placing herself at significant risk--this maxim can be universalized, even though there is a sense in which it does admit of an exception. If it is possible to build many kinds of exceptions into

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51 See Korsgaard's discussion in "The Right to Lie". She tries to show that lying to the murderer is permissible under the Formula of Universal Law but that when "treated from the perspective provided by the Formula of Humanity and the Kingdom of Ends, it becomes clear why Kant is committed to the view that lying is wrong in every case" (Korsgaard, 134-5).
perfect duties, there would not be very strong grounds on which to build the distinction between perfect and imperfect duties since they both would permit of exceptions. I will not pursue this point further because, at this stage, it does not really matter if we can make the case that perfect duties do not admit exceptions. It does not matter because, either way, the fact that a duty does or does not admit exceptions does not bring out the real difference between perfect and imperfect duties. As I mentioned above, we are left to come up with other criteria on the basis of which we can distinguish perfect duties from imperfect duties, and only then will we know if the particular situation at hand is one that does or does not make room for exceptions.

3) *Understanding the Perfect/Imperfect Distinction in terms of the Act/End Distinction*

My main concern has been to explain the difference between perfect and imperfect duties and to show what implications this distinction may have on our moral obligations to aid others. I have canvassed various ways the distinction gets expressed in the literature, many of which are ways of working out the implications of the distinction as it is expressed by Kant. And I have explained why some of the common or seemingly obvious ways of understanding the distinction are really of no help at all. It does not help to explain the distinction in terms of positive and negative duties. And it does not help to explain the distinction in terms of the exceptions that can be made to the duty, that is, interpreting perfect duties as strict duties and imperfect duties as lax duties.

The distinction is best explained in terms of the difference between having a duty to
do a particular act or a duty to adopt or pursue a certain end. Perfect duties are duties to do particular acts and imperfect duties are duties to adopt ends. This is the way I understand the distinction. Understanding the distinction in this way makes sense of the differences I have noted between the duty to rescue and the duty to help the needy. This account is not novel; it is explicitly discussed by Kant and it is considered by many of his commentators. In what follows, I will discuss two different ways that the act/end distinction has been interpreted.

The first way of explaining the act/end distinction is by focusing on the role of inclination in both perfect and imperfect duties as the significant distinguishing characteristic. A duty to do an act is very specific and leaves no room for inclination to play a role in deciding what to do. Thus inclination has no role (or a very small role) in perfect duties because the duty specifies exactly what to do. A duty to adopt an end is more general and inclination can guide us in deciding how to fulfill this end. Thus inclination has a role to play in imperfect duties because the law does not specify what and how much must be done to promote an obligatory end. Notice that even though this distinction focuses on the role of inclination, this factor is just a feature of the act/end distinction I have introduced. I will argue that this way of describing the act/end distinction is not the most helpful.

The second way of explaining the act/end distinction is the account I favour. I will show that it best explains the differences between perfect and imperfect duties. The difference just is that one duty expresses a particular act we ought to do while the other expresses an end we ought to adopt. Any latitude that exists, or any role that inclination plays in determining how a duty ought to be fulfilled, is a consequence of the different structures the duties have (i.e., one specifies an act and the other articulates an end); it is not
the determining feature of the structural difference. We will see that my account of the
perfect/imperfect duty distinction does not merely describe differences between the duty to
rescue and the duty to help the needy, it explains them.

a) The Role of Inclination

Can we draw the distinction between perfect and imperfect duties on the grounds that
one allows a greater role for inclination than the other? As we have seen in the earlier
discussion of Kant’s Groundwork, he claims that a perfect duty is “one that admits no
exception in favor of inclination.”\(^{52}\) Thus we may infer that imperfect duties do admit
exceptions in favour of inclination. This criterion for distinguishing perfect from imperfect
duties is similar to but not the same as the “room for exceptions” criterion discussed earlier.
It is more specific. It is not just that imperfect duties permit of exceptions, but that any
exceptions are based on our inclinations. It is worth discussing this criterion because it is
mentioned explicitly by Kant and it is a common way of interpreting the distinction,
especially by those who base their understanding of Kant solely on the Groundwork. Of
course, this is an incomplete understanding of Kant’s ethics, especially with regard to his
distinction between perfect and imperfect duties because he says himself, in the Groundwork,
that he will be discussing the distinction further in The Metaphysics of Morals.\(^{53}\) This

\(^{52}\)Groundwork, 422n.

\(^{53}\)Kant says that "It must be noted here that I reserve the division of duties for a future
Metaphysics of Morals, so that the division here stands only as one adopted at my discretion (for the
sake of arranging my examples)(G 422n)."
criterion is not only similar to the ‘room for exceptions’ criterion but I will show that our reasons for rejecting it are also similar.

The role that inclination plays in our duties--perfect and imperfect--is a matter of some dispute. O’Neill chooses to reject the perfect/imperfect duty distinction altogether because it is linked in the *Groundwork* to the permitting of exceptions on the basis of inclination. And she takes this understanding to be misleading because she argues that the important distinction that Kant makes should be discussed in terms of narrow and wide requirements. Hill, on the other hand, considers this aspect of imperfect duties (that they permit exceptions on the basis of inclination), as evidence against a rigoristic understanding of those duties. He takes the passage in the *Groundwork* to mean that “imperfect duties allow us to do what we please in some occasions even if this is not an act of a kind prescribed by moral principles and even if we could on those occasions do something of a kind that is prescribed.” And he further thinks that this interpretation is not unique to the *Groundwork* but that it is reaffirmed in *The Metaphysics of Morals* when Kant writes,

... it is rather that legislative reason, which includes the whole species (and so myself with it) in its Idea of humanity as such (not of men), includes me, when it gives universal law, in the duty of benevolence, according to the principle that I am equai with all others besides me, and permits you to be benevolent to yourself under the condition of your being benevolent to every other man as well (*The Doctrine of

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55I give a fuller account of this interpretation in the next section.


57Hill, 152.
Thus, we have some freedom to pursue our own happiness as long as we also pursue the happiness of others.

Korsgaard discusses the role of inclination in another way. She takes Kant’s claims in the *Groundwork* to mean that

inclination is allowed to play a role in determining exactly what and how much we will do to carry them out. . . . We have an important duty of virtue when there is a positive end to promote, but the law does not say exactly how. For instance, you ought to develop your talents and powers, but you may choose those that are suitable to your occupation and tastes.59

On this reading we do not have the freedom to do whatever we want, but we have the freedom to fulfill our imperfect duties in ways that we want. My point of showing these various interpretations of what Kant means when he says that perfect duties admit of no exceptions is to show that there is no single, obvious way to use this criterion to draw the line between perfect and imperfect duties.

In what follows, I build upon Korsgaard’s more sophisticated interpretation of the role of inclination.60 Inclination has some role to play in determining how we will fulfill imperfect duties, but it has no role to play in perfect duties. According to Korsgaard, “perfect duties of virtue arise because we must refrain from particular actions against humanity in our

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58 Hill, 153.

59 Korsgaard, 20.

60 It is more sophisticated than the account that claims that inclination determines whether or not there are exceptions to the duty.
own person or that of another."61 Perfect duties clearly specify what act or omission is required: for example, do not lie; do not commit suicide; do not treat a person without dignity. In order to fulfill a perfect duty one must perform the particular act that the duty specifies (or refrain from performing the act it prohibits). Wants and desires have no role to play. Because the duty is specified clearly, one knows exactly what to do and how much needs to be done. There is no ‘playroom’ for one to choose how she wants to fulfill the duty.

This, of course, is not the case for imperfect duties. And as I have already discussed, there is a “playroom” in imperfect duties. One is required to genuinely accept a certain end or policy and this commits her to doing things to achieve this end. For instance, if your end is to perfect your talents, you must do things to develop and perfect your talents, and your inclination can help you choose which things you will do. Since inclination factors differently in perfect duties than in imperfect duties, it may seem like we have found a promising approach to distinguish these two types of duties. For my purposes it will be important to examine the role of inclination in both the duty to rescue and the duty to help the needy.

Let us first look at the duty to help the needy. It seems as though inclination has a role to play in determining exactly how to fulfill this duty. A perfectly acceptable way of fulfilling the duty to help the needy is to give money to a relief organization that provides food and medical resources to starving children instead of adults, or to volunteering to work at a women’s shelter on weekends instead of during the work-week, or to make a monthly

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61 Korsgaard, 20.
donation after each pay instead of every day. Furthermore, it is permissible to base these choices on one’s own interests and desires.\textsuperscript{62}

By contrast, let us look at the duty to rescue. If you come upon a rescue situation, inclination no longer seems to have a role to play in deciding how you ought to fulfill your moral duty. If you see a person drowning, you must do whatever act that will prevent the person from drowning; you must pull him out of the water. If you see a person about to walk into a deep hole in the sidewalk, you must shout out a warning. If you notice a building on fire, you must call the fire department. It is not up to you to decide who will be the recipient of your aid or how you will provide it. The nature of the situation is such that all of these elements are already specified, thus leaving no role for inclination.

Notice that we do not first ask ourselves if we can or cannot rely on inclination to help us decide on our course of action. We first look at the duty that confronts us and we examine what kind of duty it is. If it is the kind of duty that exactly specifies the act that must be performed, we know that inclination has no role to play in determining what we ought to do. If the duty is one which articulates a certain end to be pursued, we know that there is some role for inclination to help us determine the way this end can be fulfilled. If the ‘role of inclination’ is the criterion by which one could determine if the duty was or is not imperfect, it could be used to draw the distinction between perfect and imperfect duties. But as it is, it seems like the distinction must be drawn on other grounds before it can be asserted

\textsuperscript{62}Feinberg seems to be making a similar point when he says, “when a person in a situation of scarce resources discharges his duty of imperfect obligation . . . , he violates no one’s rights, no matter how arbitrary his selection process” (187).
that perfect duties do not have room for inclination and imperfect duties do. We should recognize that there was the same problem with the 'room for exceptions' criterion. Merely describing a feature of perfect and imperfect duties does not get to the heart of the difference between them. Thus, we can conclude that the 'role of inclination' criterion is not a useful way of drawing the distinction between perfect and imperfect duties. I will now turn to my own account of the distinction.63

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63There is another interpretation of the act/end distinction worth mentioning. In Acting on Principle (New York: Columbia University Press, 1975), O'Neill explains the act/end distinction in terms of the distinction between narrow duties and wide duties (or more specifically, narrow and wide requirement). There are two senses of narrow and wide that ought to be distinguished; there are narrow and wide obligations and narrow and wide requirements. O'Neill claims that when we talk of duties being narrow or wide in obligation, we are talking about the ways of establishing or justifying a duty (47). Duties of narrow obligation are “duties because certain acts can be shown obligatory” (47). Duties of wide obligation are “duties because certain ends can be shown obligatory” (47). These two different types of obligation are derived or justified in different ways. The other important distinction is drawn between narrow and wide requirement: this distinction is about the ways of fulfilling duties. Duties of narrow requirement are duties to do a specific act. Duties of wide requirement are duties to adopt certain ends or policies.

O'Neill argues that the perfect/imperfect duty distinction is not significant for Kant. O'Neill claims that the perfect and imperfect duty distinction is about the room for exception that is permitted in the execution of a duty. Imperfect duties permit of exceptions in the interest of inclination, while perfect duties do not. She claims that the latitude which imperfect duties are said to have in the Groundwork—that of permitting exceptions—is very different from the latitude of duties of wide requirement allow in The Metaphysics of Morals—that of choosing among alternative ways of realizing an obligatory end (47). The reason people take the perfect/imperfect duty to be important is that they identify it with the narrow/wide distinction which is an important distinction for Kant.

Given what I have said thus far about perfect and imperfect duties, it should be evident that typically, the perfect/imperfect distinction is taken to coincide with the narrow/wide requirement distinction. O'Neill recognizes this herself, but says “though the perfect/imperfect distinction may coincide with that between duties of narrow and of wide requirement, there is no sufficient reason for holding that the two distinctions are identical”(49). Then, in a footnote, she adds “[w]e might keep the ‘perfect/imperfect’ terminology as a substitute for the distinction between duties of wide and of narrow requirement. I do not favor this since the use of the term ‘imperfect’ is linked in [the Groundwork] to the permitting of exceptions, which can mislead” (49). It is misleading, she thinks, because when we discuss imperfect duties, we are more concerned with their wideness than the fact that they permit of exceptions. Since this definition of perfect and imperfect duties is misleading, and since everything it was meant to capture can be captured more clearly by the narrow/wide distinction, O'Neill suggests that we reject the perfect/imperfect distinction altogether.

The category I am concerned with here is the category of wide duties in which both perfect
b) My Understanding of the Act/End Distinction

I will not argue that my understanding of the perfect/imperfect duty distinction in terms of the differences between maxims for acts and maxims for ends, is the best interpretation of Kant’s view. It is not important to my project to stay true to Kant’s account, though I do use Kant’s distinction and the different ways it is interpreted by his commentators as a basis for developing my own account. What is important is that my account is able to use the distinction between perfect and imperfect duties to make sense of the distinction between rescue and need for which I am arguing. In this section, I will discuss my understanding of the act/end distinction and explain the moral basis for drawing it.

Perfect duties are structurally different from imperfect duties. Perfect duties specify an act that one must do. That is, one is morally obligated to do or refrain from doing a
particular act. Notice that this type of duty is very specific. There is no room for any latitude, not if one intends to act according to the duty. I have a perfect duty not to lie when making a promise to you. It is not merely that I must adopt a general goal of not lying but that on each occasion in which I make a promise, I must not be lying. I promise that I will meet you at 12 o’clock. I violate a perfect duty if I make the promise to you knowing I will not keep it. The only way of not violating my perfect duty is to not lie in the first place. I have shown that some people take the important feature of perfect duties to be that they are strict, and some take it to be that they specify negative duties. I claim that the important feature that shapes the essence of a perfect duty is that it expresses a moral requirement to do (or refrain from doing) an act or bring about a particular outcome. It is not important because it shows that there is no room for inclination to determine the duty, but simply because it specifies an act.

Imperfect duties, on the other hand, have a different structure. Imperfect duties specify an end that one must adopt or pursue. Notice that this type of duty is not very specific. There is a lot of room for latitude. The duty does not specify which act we must do in order to promote the particular end. Nor does the duty itself specify how much we must do to fulfill the end. These features are evident when we consider the imperfect duty to develop our natural talents. If I am to seriously adopt this as my end, I must do certain acts that count as means of developing my talents. Since the duty itself does not specify how or to what extent I must fulfill this end, I may choose from among various alternative ways. It is not up to me to decide if I ought to adopt the end in the first place, but if I am to adopt the end I must take it seriously. I take the end seriously if I work towards promoting it. The
important feature of an imperfect duty is not that it is lax or that it specifies a positive duty.
The most important feature is the fact that the duty specifies an end that must be adopted.
This is not important because it shows that there is room for inclination to play a role in
determining our actions, but simply because the duty is one which specifies an end rather
than a specific act.

Since a lot rests on my claim that there is a difference of structure between perfect
duties and imperfect duties, in the next chapter I will say much more about what types of
situations give rise to perfect duties and which give rise to imperfect. The type of situation
determines the type of duty. So why is it that some moral duties specify acts and others
specify ends? I have already explained that the difference does not merely amount to the fact
that some duties are easier to coordinate than others. Feinberg claims that the difference with
imperfect duties is that there is no way of coordinating a specific duty with a particular
person. Notice that on this account, if we had a society that was completely coordinated
there would be no imperfect duties. All duties would be perfect. The difference between
perfect and imperfect duties is deeper than this.

We have an obligation to aid others. This obligation is not merely an obligation to
make persons better off, but is an obligation to ensure that their basic needs are met and their
autonomous agency is protected. One thing that follows from this is that we must make an
effort (and even limit our own liberties) not to harm others. Notice that this shows that there

64 In Chapter Four I argue that a determinate situation gives rise to a perfect duty and an
indeterminate situation gives rise to an imperfect duty. I also explain what makes a situation
determinate in the requisite sense.

65 Chapter One explains the difference between the duty of beneficence and the duty to aid.
is a prohibition against harming others (at least for no reason). Of course, this does not prove that there is an absolute prohibition against harming others, but that unless you have good reason there is a prohibition against each and every harmful act. It is important that we understand this prohibition as being a prohibition against an act and not an end. It is not as though there is a general duty to adopt the end of not harming others and we can choose from among various ways of fulfilling this end. The duty specifies the act required of us: do not hit others for no reason. Likewise, if it is my duty to rescue the drowning child, I must perform that act, otherwise I fail to protect her agency or satisfy her most basic needs. Thus sometimes we are required to do or refrain from doing a specific act to aid others.

However, in order to protect a person's agency or meet her basic needs, we are not always required to do or refrain from doing certain acts. Sometimes we are required to adopt certain ends. So, if it is my duty to help the needy, I am still contributing to this duty even if I do not help a particular needy person, as long as I seriously adopt this as my end. Thus, sometimes we can fulfill the demands of morality by pursuing certain ends and pursuing them in ways that we judge to be best and sometimes the demands of morality are more specific and we are required to do or refrain from doing a specific act. For now all we need to be clear about is that there are two different types of situations that give rise to two different types of duties; i.e., the situation may demand an act or it may demand that you adopt a certain end. In the next chapter we shall see how we can tell which type of situation we are facing.

66 This is a general formulation of the duty, but the duty is not general; it is quite specific, i.e., it tells us exactly what not to do.
Conclusion: Using the Perfect/Imperfect distinction to Explain the Differences between Rescue and Need

By this point I hope it is clear how I have aligned the perfect/imperfect duty distinction with the distinction between rescue and need. Understanding the perfect/imperfect duty distinction as a difference between the duty to do an act and the duty to adopt an end has led me to understand the difference between the duty to rescue and the duty to help the needy. Just as perfect duties specify acts that must be performed, the duty to rescue specifies an act that must be performed. And just as imperfect duties specify ends that must be adopted, the duty to help the needy specifies an end that must be adopted. I have made explicit some of the implications of holding this view. Most importantly, what I hope to have accomplished is to have vindicated my initial intuitions in the aid examples Singer gave in “Famine, Affluence, and Morality.”

At the start I noted that there seemed to be something different about the case of rescuing the drowning child and the case of sending relief to the needy refugee. There seemed to be no doubt that I would have a duty to save the drowning child if I discovered her drowning in the shallow pond. But I did have doubt about whether or not it was my duty to aid the Bengali refugee. Yes, the Bengali was in need of aid and was deserving of aid (i.e., she is not at fault in the situation), but even though I recognized that there is a duty to help others, I suspected that my duty to help the Bengali was different from my duty to help the drowning child. The difference is not that we only have a duty to help those close to us; nor is it that there is no duty to help the needy. I have shown that the difference between the
rescue case and the need case is that in the rescue case there is a duty that specifies an act that I must do which binds me to act in that particular case. In the need case there is a duty that specifies an end that I must adopt which does not bind me to act in that particular case. It is my duty to save the drowning child I discover and I must perform that act. It is my duty to help needy persons and I can adopt this end and still refrain from helping the Bengali if I pursue the end by other means. No particular needy person has a claim that I help him. But I do have a demanding duty to help people in need, even if the duty does not specify exactly who I must help or how much I must do. Nevertheless, imperfect duties permit a certain amount of latitude that perfect duties do not.

This is why it seems as though there is a more pressing duty in cases of rescue. Perfect duties are not more pressing, they are just more rigid and determinate because there is one specific thing that one must do. Imperfect duties are not necessarily lax, it is just that we get to choose, from among various alternatives, which acts to do in pursuit of the ends we have adopted. This is why I have claimed all along that the duty to rescue is not more pressing than the duty to help the needy; it is just a duty of a different structure.

This way of interpreting the difference between the duty to rescue and the duty to help the needy allows me to avoid the difficulties that plague Singer’s view. Singer makes the counterintuitive claim that all duties to aid have the same structure; that is, we have the same kind of duty to help the needy Bengali as we do to help the child in the shallow pond in front of us. My interpretation has also allowed me to avoid the extreme position at the opposite end of the spectrum—the position that we ought to reject the existence of a duty to rescue (even in easy rescues) because otherwise there is no way of drawing a line between the
aid we are required to provide and aid that goes beyond what is morally required of us. Both
extreme versions lead to undesirable consequences. One version leads to an overly strict
moral theory and the other leads to an overly lax one. The position I defend supports a
middle ground. We owe it to ourselves and to others to protect each other’s autonomous
agency and our most basic human needs. To this end we must aid each other. In this chapter,
I have shown that there are two different types of duties to aid; there is a perfect duty to
rescue and there is an imperfect duty to help the needy.
Chapter Four:

The Significance of Determinacy

The duty to aid can be divided into two categories—the duty to rescue and the duty to help the needy. Each category represents a structurally different duty. One is a perfect duty to do a specific act and the other is an imperfect duty to adopt an end. What reason do we have for distinguishing between these two different types of duties?

I initially suggested that there seemed to be an intuitive difference between our duties to aid in different circumstances. Many of us have different intuitive reactions to the child drowning in the pond than we do to the many persons starving overseas. But we need to explore the basis of our intuitive reaction. Is the difference merely psychological, with no moral basis? Are our intuitions merely being guided by self-interest, since we do not want morality to demand too much from us? After all, it is not every day that we run into a

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1 Both duties are grounded in the same way. There are various ways of grounding the duty to aid (see Chapter One). In this chapter I take no stand on which justification is best. I merely begin with the assumption that a duty to aid exists.

2 In Chapter Two, I argue that this is the best way of understanding the perfect/imperfect duty distinction, though, of course, it is not the only interpretation.

3 I suggested that this intuition is widely shared. However, this is contrary to what Singer argues in “Famine, Affluence, and Morality,” Philosophy and Public Affairs, 1, 3 (Spring, 1972), 229-243. Singer argues that the only differences between Drowning Child and Famine are proximity and the number of people involved and that these differences do not make a moral difference. Thus he concludes that our duty to aid in each is the same. I agree that these differences (proximity and the number of persons in need) are not driving the difference between these two scenarios but I think we need to look at these situations more closely to see what the difference is.
drowning child, whereas everyday there are needy persons who require aid. By drawing a line between these two types of aid cases, we would not have to treat the drowning child on par with every needy person; and we would make morality's demands more manageable. But this does not seem to be a good reason, or at least not a morally legitimate one. I do want to draw a distinction here and I hope to show, contra Singer, that these two cases really are different in a morally significant way. There are good reasons to claim that some situations give rise to perfect duties to rescue and others give rise to the imperfect duty to help the needy.

In Chapter Two, I showed that Drowning Child could be understood as a paradigmatic example of a perfect duty of rescue and that Famine could be understood as a paradigmatic example of an imperfect duty to help the needy. I claimed that these are equally pressing duties, but duties with different structures. In this chapter I have one main aim. I will explain why it is that a situation like Drowning Child gives rise to a perfect duty to rescue while a situation like Famine gives rise to an imperfect duty to help the needy.

First, I will attempt to capture the difference as a difference between emergencies and standing misfortunes and will discuss the shortfalls of this approach. Then, I will show that the real difference is that one situation is determinate while the other is indeterminate. For instance, one type of situation (e.g., Drowning Child) specifies who must act, what exactly must be done, and when it must be done. The situation itself picks out these features (i.e., "who," "what" and "when"). The other type of situation (e.g., Famine) does not specify who in particular must act, what exactly must be done, or when. The agent has the latitude to pick this out herself. Notice that in the latter case, there is an imperfect duty to aid, but we have
some latitude in deciding how to fulfill our duty. In the former case, we have a perfect duty and there is no such latitude; the situation has specified how the duty must be fulfilled for us.

I. Explaining the difference

Accidents vs. Basic Social Justice

One way of distinguishing between Drowning Child and Famine is to claim that one is an instance of an accident while the other concerns an issue of basic justice. Then we could say that we have different obligations in accidents than we do in basic justice cases.

Frances Kamm suggests this difference in her paper “Does Distance Matter Morally to the Duty to Rescue.” Kamm’s main concern is to argue that distance makes a difference in our duties to aid; however, she does comment on a pair of cases raised by Peter Unger that intuitively seem to be different even though distance cannot be the difference (since the distance is the same in each). These are the cases: one is a version of Envelope in which you

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4Frances Kamm discusses a number of differences between the cases (i.e., Drowning Child and Famine) as Singer has set them up. She argues that we cannot learn much about the moral differences between the cases unless they are equalized in the appropriate way. That is, if there are multiple differences between the cases it may be difficult to determine which differences are doing the real moral work. Thus she provides us with a methodology for setting up the cases in a useful way. First, we must isolate the factor we think is morally significant. Second, we must construct the cases so that this factor is the only difference between them (i.e., we equalize for all other factors). Only then can we judge the moral significance of the factor.

are a visiting a poor country and receive an envelope in the mail asking you to give money--$100--to aid the children next door. The second case is Sedan in which you pass by a person who has been injured in an accident. Driving the accident victim to the hospital will cost you a lot of money--$5000--because he will bleed all over your car and you will have to pay to have it repaired. Unger claims that we will react differently to each of these cases. He claims that we think that it would be wrong not to pick up the injured person in your Sedan but we do not think it would be wrong if you do not give money to the neighbouring children. Kamm suggests that we can account for the difference by distinguishing issues of basic justice from accidents--Envelope involves basic justice and Sedan is an accident.

Kamm only briefly mentions some of the ways that accident cases are different from basic justice cases. She thinks that one raises the issue of individual duties of beneficence, while the other is about basic social justice. The duty to support basic justice is to be carried out by institutions, or indirectly by individuals by supporting institutions that provide basic justice; whereas the duty to rescue in accidents must be carried out by individuals directly. She also suggests that proximity matters differently in accidents than in basic justice cases. Further, she cites Liam Murphy to support the claim that our duties to achieve basic justice require each of us to do our 'fair share' while our duties in accidents may obligate us to do more than our 'fair share'. Finally, she adds that the duty to support social justice, but not the duty to rescue in accidents, may vary with social membership. It does not matter if I am in another country when I notice the drowning child (I am equally obligated as if I were at home). However, if the issue is one of social justice, I may have a weaker duty to support the institutions of another country than I do in my own. Each of these differences is mentioned
only briefly by Kamm because the aim of her paper is not to work out the difference between accidents and basic justice but to establish the moral significance of distance. At first glance, the accident/basic justice distinction seems to point to a real difference between Drowning Child and Famine, and so there is potential for it to be useful. However, I will show that this distinction does not get it exactly right, and understanding why should lead us to the right distinction.

My problem with Kamm’s account is that I do not think she has the right distinction, or at least, that she is using the right terminology. It would be more accurate to talk about \textit{emergencies} rather than accidents. This is because not all emergencies that Kamm would want covered under the category are accidents. Should it make a difference to our duty to aid if the child drowning in the pond accidentally slipped in or was deliberately pushed in?\footnote{Perhaps we do want to say that the person who pushes the child in does have a special responsibility towards the child (i.e., would be more responsible for the resultant death than the bystander who does nothing). But if that person is not on the scene or if he intentionally pushes the child in and it is quite clear that he will do nothing to help the child out, I think that the bystander’s duty to rescue the child is the same as it would have been if the child had fallen in. That is, the situation is an emergency.} I do not think so and I do not think that is what Kamm was getting at. If it is the fact that a situation is an \textit{emergency} that is important, then that should be the factor we focus on.

Likewise, it would be more useful to talk about \textit{standing misfortunes} rather than issues of basic justice.\footnote{The term “standing misfortunes” is used by, and I believe originates in “Mischief and Misfortune,” \textit{McGill Law Journal.} 41, 91 (1995) by Arthur Ripstein and Jules Coleman.} If a situation is not an emergency, it does not necessarily make it an issue of basic justice but, more generally, a standing misfortune. Take for example the following scenario. A small community of people that live outside your town do not have the
resources to sustain themselves. At one time the isolated community did well for itself. Its members worked together to feed and care for each other. But for many years their crops have been meager and their productive young members have been leaving the community for better opportunities in town. Now, those who remain are destitute and unable to nourish and properly care for themselves. They clearly need outside help. It is not the case that this situation has come about suddenly or that there is an immediate solution to their problem.

The best solution would be one that included an initial capital investment and then the appropriate training so the community could learn to sustain itself. Once the situation starts turning around, the young members will no longer be forced to leave and the community will once again have the capability to sustain itself. While it is a bad thing that these people are suffering, no one is necessarily responsible; in particular, your own society’s policies and practices are not responsible for the community’s dire situation. It is just that a community that was once able to sustain itself by growing its own food and caring for its members can no longer do so. This is an example of a standing misfortune. This is not an emergency situation, though aid is needed, and it is not necessarily a problem of basic social justice.

While emergencies come up suddenly and need to be addressed immediately, standing misfortunes are longer lasting situations. Duration is an important element here. This factor is not emphasized in Kamm’s account because her distinction between accidents and basic justice is based on a difference in responsibility (i.e., individual responsibility vs. social responsibility). The advantage of differentiating them based on duration is that it relates more directly to how we ought to respond. The way we ought to respond to emergencies is different from the way we ought to respond to standing misfortunes, but it
does not follow that we are only responsible for one type. We will see that the individual is responsible differently in these two types of cases, but nevertheless, the individual has some responsibility in each.

These longer standing problems or situations of need do not necessarily involve social justice issues (e.g. a famine that comes about because of drought instead of political instability). In some cases, basic justice cases may be coextensive with standing misfortune cases (the need in our community is a standing misfortune that is also a problem of social justice), but they need not be. Intuitively, at least, it seems that basic justice cases have to contain a further element---they have to be concerned with justice---and there are cases, outside of emergency cases, that demand aid though they may not involve an issue of basic justice. When persons are suffering from a famine (for simplicity, imagine that it has been brought on by drought), it is more accurate to classify it as a standing misfortune. This is not to judge that it is just that there are people suffering from famine, but that it is not useful to classify it as an issue of basic social justice. Classifying it as an issue of basic social justice is classifying the situation based on responsibility and not on how an individual should respond. I take the standing misfortune category to be broader than the justice category. Emergencies

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8One may say that it is unjust that people are starving due to drought, but I think it makes more sense to say it is a bad thing rather than an instance of social injustice, particularly when the drought is a result of environmental and geographical factors. Thus, we are not saying anything about responsibility. Perhaps a case could be made that any ongoing situation of need indicates a lack of just social institutions. If this is so, the accident/social justice distinction may be more useful than I claimed. But it would only be more useful in terms of being a more accurate description of the differences between rescues and need; we must still search deeper for an explanation of why these differences lead to different types of moral obligations. For views that suggest that most need cases (in particular poverty and famine) are issues of social justice, see Onora O'Neill, *Faces of Hunger: An Essay on Poverty, Justice and Development* (London: Allen & Unwin), 1986 and Amartya Sen, *Poverty and Famines: An essay on Entitlement and Deprivation* (Clarendon Press, 1981).
can also be issues of basic justice, though they cannot be standing misfortunes (i.e., the category of standing misfortunes is exclusive of the category of emergencies).  

In what follows, I will explore the differences between emergencies and standing misfortunes to see if it is an important difference that allows us to differentiate between different cases of aid, and so is able to explain why one gives rise to a perfect duty and the other gives rise to an imperfect duty.  

*Emergency vs. Standing Misfortune*

**i. Emergency**

What makes something an emergency? The Oxford dictionary defines emergency as “a sudden state of danger requiring immediate action.” This definition is a helpful start. In this section, I hope to identify some of the central features of emergencies. We will use Drowning Child as a paradigmatic example of a simple emergency case and see what it tells us about emergencies more generally. It is important to note that emergency examples are not always as clear-cut as Drowning Child.  

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9This is not to say that it is always obvious what a case is an example of and that it is easy to determine. Some examples are more complicated and do not fit into either category neatly.  

10This distinction coincides nicely with the distinction Patricia Smith draws between emergency and chronic condition. See her Chapter Three, “The Duty of Charity and the Equivalence Thesis” in *Liberalism and Affirmative Obligation*.  

11I will take up more complex examples in the next chapter. For my purposes here, it should be enough to bring out the differences between the clearer instances of emergency and standing
First, we notice the urgency of the situation. A standard and necessary feature of emergencies is that the peril comes about suddenly and must be addressed immediately. If aid is not provided immediately, grave harm will come to the victim. Thus the timing of your response is crucial to providing the aid and carrying out your duty. You cannot decide to first go to your job interview (or pursue another of your projects) and then come back and save the drowning child—the opportunity to save will be gone. If you are to aid in this type of situation, you must act now or not bother acting at all.

A second feature of this emergency example is that many of the important details of the scenario are specified. The person in need of aid (or rescue) is evident and likewise the person who must carry out the rescue is evident. There is no confusion about who needs to do what or for whom; this is all obvious. If you do not help, no one else will and the child will drown. In this kind of case, it does not make much sense to ask: "Why me, why must I help?" or "why must I help in this particular situation?" You know who must act and what action must be done.

A third feature of the paradigmatic emergency example is that the problem (i.e., that

misfortune, especially since I am responding to Singer's examples and those are more simple and clear-cut.

12This will not always be a single individual as it is in Drowning Child. Nevertheless, the individual or group of individuals in danger are identified. I will go on to show that this factor does not distinguish Drowning Child from Famine because in Famine it may also be possible to identify the needy. The relevant difference is not that the victims are specified but that the agent who ought to provide the help is specified. I will defend this claim later in this chapter.

13When I say that the act that needs to be done is obvious, I do not necessarily mean the specific act—for example, one can rescue a drowning child by jumping in the water or by throwing in a life preserver or by many other means—the important thing here is that the act is an instance of saving the child by getting him out of the perilous situation.
someone is drowning) is one that can be completely solved by a particular action (i.e., once you pull the child out she is no longer in danger of drowning). That is, the problem is a solvable one. So an emergency situation is not an ongoing problem but a finite one. We know when the problem is over and when we can get back to the pursuit of our own projects. Once the agent pulls the child out of the water, the peril is over. One may notice that, given the finite nature of emergency situations, it is not an undue interference on our personal liberty to be required to put our own projects on hold to make an emergency rescue. That there is a clear indication of what needs to be done to fulfill the duty is important because once the duty is fulfilled, one may go back to her own projects. It is also important because the fact that there is a particular act that is required is a defining feature of perfect duties.

A final difference I will note is that the problem is most effectively solved by an individual rather than an institution. You must save the drowning child yourself. You cannot wait for some institutional mechanism to save the day. However, if there is an institutional mechanism already set up (which may be the case in circumstances in which

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14 That means it is solvable, at least in principle. Of course, this does not mean that the answer is always clear or that any attempt at a rescue will necessarily solve the problem, nor does it mean that there will be no lasting consequences either physically or psychologically on the rescued child, but at least it is possible that there will not be—that is, it is possible that your act of rescue will completely solve the problem. I am not suggesting that your rescue effort will end all drownings but that it will end this particular emergency situation.

15 I should say something about how I am using the term “act”. I understand an act to be a discrete event. When I talk about the act of rescuing the drowning child, I refer to “rescuing” as an act. Thus it is not necessary that an exact act description such as “throwing in the life preserver” is specified by the situation.

16 For a discussion of the division of responsibilities see Ripstein in “Three Conceptions of Rescue: Moral, Civil and Criminal,” forthcoming in Law and Philosophy. See also Rawls in A Theory of Justice.
emergencies often arise\textsuperscript{17} you may be required to alert the proper authorities. For example, if you see a child drowning and you are on a beach that is patrolled by a lifeguard, you must get the lifeguard's attention: this is the particular act required of you in this instance.

Similarly, if you see someone being assaulted, you are required to call the police and not necessarily intervene yourself.\textsuperscript{18}

These features of Drowning Child that I have mentioned are all common features of emergencies. Emergencies are urgent situations that require an immediate response; they specify the victim(s), the potential rescuer(s), and the act to be done; they are finite and solvable; and they are best solved by an individual rather than an institution.\textsuperscript{19, 20} It will be important to determine if all of these features are necessary features of perfect duties. I will return to this task once I have given a brief account of standing misfortunes.

\textsuperscript{17}For example, lifeguards patrol popular beaches and police officers patrol dangerous neighbourhoods because the circumstances are such that emergencies will likely arise. It is more effective in these kinds of cases to set up organizations and train experts to deal with these kinds of emergencies. It spreads costs more evenly among individuals and the likelihood of successful results is greater.

\textsuperscript{18}Though this will depend on the details of the case. Maybe you are required to scream and scare the attacker away. Or if you are twice his size and he poses no physical danger to you, you may be required to intervene. These alternatives are especially likely when calling the police will not help in time.

\textsuperscript{19}We shall see later on that not all emergency scenarios fit into this description neatly. Natural disasters such as hurricanes and floods may serve as more complicated emergency examples which are different in many respects from rescue situations such as Drowning Child. This is one reason I will reject articulating the rescue/need distinction in terms of emergency/standing misfortune.

\textsuperscript{20}Smith discusses emergencies in terms of the following features: 1) they are unexpected and cannot be planned for; 2) they are urgent and required immediate attention; 3) they are severe and incapacitate the victim and 4) they are witnessed by someone who can do something about correcting the situation (63). These are the circumstances that generate a duty to rescue. The similarity between her list and mine should be clear.
ii. Standing Misfortune

What is a standing misfortune? A standing misfortune, as I will be using the term is, like the emergency, a situation in which aid is required in order to protect a person's agency or provide her with her basic needs. I want to make it clear that when I am talking about standing misfortunes, I am not implying that the harm is less grave than in an emergency situation, or that the situation is less dire, or that the person in need of aid is less deserving of receiving aid. What I do want to show, however, is that it differs from an emergency in many important respects. Famine will stand as the paradigmatic example of a standing misfortune.

First, the problem is not a sudden one. The situation, while serious, is not urgent, in the same respect as the emergency. If we take Famine as the example, we see that aid is crucial to saving lives but that the timing with which the aid must be delivered is not as crucial to bringing about the aid. In the emergency case, if you do not act immediately, you will not save the drowning child, you will not save anyone--you will outright fail to fulfill your duty. In Famine, the timing of your aid may be crucial to saving the life of a particular person. For example, if you send money to Oxfam today, the money will make it through the

21 Though there are similarities between the emergency/standing misfortune distinction I have drawn and Smith's emergency/chronic condition distinction, I should note an important difference. For Smith, cases of chronic condition are cases where the victims can live with the situation and even at times correct it themselves (e.g., poverty, malnutrition, disease, crime and unemployment). She notes a further category that she calls chronic emergency disasters that include cases like famines and natural catastrophes (64). Thus it seems that the emergency/disaster distinction may be closer to the distinction I am making. However, on Smith's account disasters give rise to duties of charity whereas on my account they would give rise to duties to aid. Moreover, Smith claims that the duty in a disaster situation is a cooperative social duty whereas I discuss it as an individual duty.
appropriate channels in order to save a person one month from now—say Jane. Now, it is true that if you do not give the money to Oxfam today, you will not save Jane (so the timing with which you deliver the aid is crucial to aiding Jane in particular), but it does not mean that you will not save anyone. And in the case of Famine, unlike the case of the emergency that you encounter, you have no particular connection to any particular person (the circumstances are not such that they tie you to a particular person in need); so, from your perspective, saving Michael (or anyone else) is morally equivalent to saving Jane.

Second, the problem is an ongoing one. That is, it is not solvable, or not immediately solvable. In the emergency rescue situation, the problem is one which we can and know how to solve; however, in the famine example, the problem is not solvable (that is, the need is never fulfilled). David Schmitz puts it this way: in an easy rescue case you know exactly when it is time to get on with your life but with the famine case you have no idea. This is an especially important consideration if one is concerned with explaining which duties ought to take priority over one’s personal projects. An ongoing, not immediately solvable problem is one that should not be the kind of situation that always takes priority over one’s projects because it is not clear how one could get back to her own projects since the problem seems to

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22 This is a feature of famine that David Schmitz emphasizes in “Islands in a Sea of Obligation: The Nature and Limits of the Duty to Rescue”, Moral and Legal Limits of Samaritan Duties Conference, Georgia State, 1999 (forthcoming in Law and Philosophy).

23 This is important, especially if you have a moral theory that values the fact that people have their own lives. I do not think that any moral theory that does not value this is acceptable; but this is not a claim I am going to argue for here.
have no end.  This is not to say that imperfect duties should never take priority over personal projects because they do. If they never took priority over our personal projects, we would not be taking them very seriously. To seriously hold the end of helping the needy is to work towards that end, not in any particular way or at any particular time, but nevertheless, you must do something. Both our personal projects and the imperfect duty to help the needy are very important; one should not entirely eclipse the other, rather both have a claim on you.

One way to object to this way of formulating the difference between emergencies and standing misfortunes is to hold that it is not only standing misfortunes that are not solvable, but that emergencies are also not solvable. That is, we should not consider emergencies to be solvable because there will always be more emergencies (e.g., there will always be more drownings). We cannot bring emergencies to an end just as we can not bring famines to an end. This criticism raises doubts about my aggregating all starving people into the ongoing famine category while individuating specific cases of drowning. But this is how the situations confront us. The drowning child confronts me as an individuated situation that I alone can address whereas no starving person confronts me in this way. The reason we can aggregate starving people into one category is that we can do the same for all of them. But this is not so for drowning people, we cannot do the same for all of them. Though it is possible to talk about the general category of emergencies, I intend to show in my discussion of determinacy that a particular instance of a drowning is different from a particular instance

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24This does not mean that the problem is in principle unsolvable, just that it is not easily or quickly solvable. The solution to an ongoing problem will typically require some kind of long-term strategy rather than a miracle solution.

25This objection was raised by Tom Hurka.
of a starving famine victim.

Another way of thinking about a duty to aid in this type of situation is to say it is a duty that can never be fulfilled. Giving money to Oxfam, even a large sum, does not completely fulfill the duty to aid the needy. Aiding the needy is an end we must adopt and we must contribute to this end until the end is achieved. This type of end is one which we can merely make progress towards and contribute to, not one that we can completely achieve or fulfill. The emergency situation on the other hand does not have this feature. We know how to solve the problem and we can do so and then get back to our own projects: the duty is one that we can fulfill. That is not to say that we may not be required to sacrifice any of our own projects because we are. However, given the limited nature of the emergency, the infringement on our projects is also limited. This kind of infringement is justifiable.

Consider the following scenario: you are walking down the street and you see a homeless person in need. Is this an emergency or a standing misfortune? Well, the answer, in part, depends on what type of response is required in the situation. If the homeless person is on the verge of death because he is bleeding from a stab wound, you must respond immediately by calling an ambulance or stopping the bleeding. If the homeless person is

\[\text{\footnotesize \textsuperscript{26}}\text{At this point I will not say anything specific about what it takes to fulfill an imperfect duty (if this is ever possible). This is the main focus of Chapter Five. My point here is that there is no particular act (or set of acts) that can fulfill the duty.}

\[\text{\footnotesize \textsuperscript{27}}\text{I do not mean to claim that we must always act in emergency situations; some do require too much risk or sacrifice. I will discuss the limits of what the duty to aid can require of us in Chapter Six. At this point, I am merely making the claim that emergencies are the types of cases that have finite solutions.}
hungry\textsuperscript{28}, there is no particular response that you can provide that will end the need. You can direct him to a shelter, give him your sandwich or give him a ten dollar bill, but none of these responses is more than a temporary answer. Though both victims seem to have a similar kind of problem (both are at risk of death), the need of the first person is more immediate and thus more of an emergency. An important difference is that in the first case you can solve the problem—you can save the person's life by providing the aid, while the other is more of an ongoing problem (giving a finite, even substantial sum of money will not solve the problem).\textsuperscript{29} Notice that once you give the first person the needed aid, the situation becomes more like the second one (recall: both are homeless and needy); it becomes an ongoing problem or a standing misfortune. Notice that this does not mean that the need in the second example is not serious. It is very serious because without aid (food and/or money) this person will soon also be on the verge of death. And we do not want a system that promotes waiting until people are on the verge of death before we must help them (because help would then likely come too little too late). Nevertheless, we ought to recognize a difference between these types of cases—only one of them requires that you drop your projects and act immediately.

Third, the kind of problem in famine is a problem most effectively \textit{solved by institutional means}. Whenever a problem is or becomes a standing misfortune, it is most

\textsuperscript{28}For the example to work, the hungry homeless person cannot be on the verge of starvation, because this would then be a perilous situation that a sandwich could address. Though, of course, the same person might be in peril the next day.

\textsuperscript{29}This is partly because you will likely not have enough money to sustain this person on a long term basis, and partly because the situation is not one that can be addressed by money alone (i.e., other underlying factors that contributed to the problem must also be addressed).
likely a problem for which we must organize an institutional response. Because there are famines in the world and this is more than a temporary problem, we have assembled agencies to help organize and coordinate relief efforts in ways that bring about aid more effectively. Organizations of this sort are important because they make it possible for small amounts of aid to be useful. If there were no such institutions, my $100 contribution would not likely save anyone's life. The reason $100 may save (or prolong) someone's life is that there is an organizational structure in place that will take your money and use the existing system to effectively and efficiently deliver food to needy persons.\(^{30}\) I want to make it clear that even though I point out many differences between emergencies and standing misfortunes, I do not think that only emergencies deserve our assistance or that only emergencies justifiably limit our own projects.

What is it about the simple emergency case and the longstanding misfortune that suggests that we have reason to treat the cases differently? In an easy emergency case, such as Drowning Child, all that is needed to save the endangered person is a simple action (e.g., wade into the pool, call over the lifeguard, throw in a life preserver, administer CPR). These are all finite and determinate types of responses, so it makes sense to say that the required course of action is an \textit{act} (the act is performed and the peril ends; the problem is solved). However, in the standing misfortune case, such as Famine, there is no such finite,
determinate action that can be assigned to a person, or a group of persons to solve the problem. And while it is true that some needy person may be saved, it is also likely true that more need will remain. The most that one could be obligated to do is to adopt the end of helping needy persons and to contribute to this end. And as I have argued in Chapter Three, the difference between these cases seems to line up with the difference between perfect and imperfect duties.

I think this distinction between emergencies and standing misfortunes is plausible and it gives us an indication of some of the differences between Drowning Child and Famine. However, I think that this distinction is only a rough one. It is only rough because I do not think that the differences I have discussed hold for all emergencies and standing misfortunes. Not all emergencies are immediately solvable by a certain action, some need to be addressed on an ongoing basis. The Montreal ice-storm and the Winnipeg flood are examples of emergency situations that cannot be easily and quickly remedied. These are examples of real-life occurrences that do not neatly fit into any of the categories I draw. The storm and flood cases do not seem to fit into the emergency category very neatly, but they share some features of emergencies and they do not seem to fit into standing misfortunes category very

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31This is true in cases of famine both where the need arises naturally and where it is the result of political conflict (think about the stories one hears of food being received by the needy country but the food not being distributed to needy civilians--sometimes the aid is funneled to the military and sometimes it is left to rot). A series of financial contributions will not likely bring an end to the need. In actual fact, many severe famines need to be addressed by the international community with a collective unified strategy; and even then the relief may only be short-term depending on the circumstances that brought the famine about in the first place. Often shipping food is only a short-term help. It may be more effective to provide the needy nation with the tools to address its own needs (this may be done through training, donating capital, or by supporting certain political regimes).
neatly, though they also seem to share some of those features. In Chapter Five, I explain that these cases are cases of need that give rise to an imperfect duty because the situation is not determinate in the requisite sense. That is, the situations do not bind any particular individual to give aid; but they are especially urgent cases of need and I suggest this may give us reason to direct our aid there over other less urgent cases of need. In Smith’s terms these are examples of disasters. She agrees that they do not fit into the emergency category. However, she argues that they only give rise to duties of charity whereas I argue that they give rise to duties to aid.\footnote{Smith, \textit{Liberalism and Affirmative Obligation}, 46-64.}

Furthermore, some standing misfortunes are such that they can be completely solved. The following may serve as an example. There is a poor family on the outskirts of town that is barely managing to survive. If you give up most of your projects you will free up enough resources to sustain them until you can provide them with the tools and skills to sustain themselves. Among the things required of you are to give them money for food and for supplies, you must teach them the appropriate skills so they learn to provide for themselves, and you must babysit their children so they can go provide for their family. By carrying out this series of acts you can end this rather specific longstanding misfortune. And though the standing misfortune is specific to some extent, it is not specific enough to ground a perfect duty because no one particular act is required of you (partly because there is no particular act that can resolve the situation and partly because, even if there was a specific act required, there is no special reason to require it of you). If it were the case that by giving them
fertilizer for their crops you do what is necessary to provide them with the tools to obtain
their basic needs, we might say that there is a particular act that is required. But if what is
needed is a series of acts over a period of time, this cannot be counted as a particular thing
that is required. And in neither case can we say that there is something required of you. The
response that is required can more accurately be classified as an ongoing strategy.

Nevertheless, in this example, the need is somewhat limited and can be relieved over time.

I am trying to draw attention to the fact that one type of solution is finite and the other
is an ongoing process. However, this is not the only important difference. I will later explain
that it is not just that there is a particular act that is required that makes the situation an
emergency, but that it is a particular act required of the agent (and required immediately). So
the connection between the agent and the response will also be important. Thus I will show
that it could be the case that only a single finite action is required to bring an end to the need,
but because the agent is not appropriately connected to the situation, it is not his duty to do
the act.

This example was meant to show that not all long standing misfortunes are
unsolvable. Some can be solved, though most likely not by a single act but through a series
of responses or an ongoing strategy. So strictly-speaking, even though the distinction is a
helpful rough guide to some of the differences in duties to aid (especially in the simple
examples of Drowninging Child and Famine), the distinction itself does not hold up. What we
do learn from this distinction is that we should look for something closely related: we need to
go back and see what was really doing the work when I claimed that there was a difference
between emergency and standing misfortune.
The more fruitful way to discuss the factual and moral differences between the easy rescue example and the famine example is to show that the difference is in the *specificity*\(^{33}\) of the circumstances of the situation. The former is a situation that specifies exactly who the agent is, what act must be performed, and when the agent must perform it. The latter is a situation that does not specify all these factors itself, but leaves some latitude for the agent to decide. The emergency rescue case is an instance of a determinate situation; there is a very specific act you must perform. The famine example is an instance of an indeterminate situation; it does not require any act in particular from you, though you still have an obligation to adopt a certain end. On this account, it will be clear that a determinate situation gives rise to a perfect duty to rescue and an indeterminate situation gives rise to an imperfect duty to aid the needy.

*The 'Specificity' (or 'Determinacy') of the Situation*

When a situation is such that there is a person whose agency or basic needs are threatened we know that this situation will ground some type of duty to aid. Any genuine situation of need can give rise to a general duty to aid, and some give rise to the more specific duty to rescue. We saw in Chapter Two that perfect duties were duties to do particular acts and imperfect duties were duties to adopt ends. An account of what makes a situation give rise to perfect or imperfect duties must fit with this definition. Generally speaking, a very

\(^{33}\)I will be using specificity and determinacy interchangeably.
determinate situation that requires a particular act from an agent is one that grounds a perfect duty to rescue while a situation that is not specific in this regard and does not demand a particular act grounds an imperfect duty to help the needy. In this section, I will give a more precise explanation of what it takes for a situation to be specific in the right way (i.e., so that it grounds a perfect duty to rescue).

A situation is specific or determinate in the right way (and thus grounds a perfect duty to rescue) if it specifies the following three conditions:

1. a specific act that one must perform to address the need—(the “what”)
2. an agent that must perform the act—(the “who”)
3. that the act must be performed immediately—(the “when”).

A situation of genuine need which must be addressed by a specific act, by a specific agent and at a specific time is a determinate situation. Each of these three features is individually necessary and they are jointly sufficient to give rise to a perfect duty. If all three features are not specified, then the duty is imperfect. Drowning Child is a good example of a determinate situation. A good example of an indeterminate situation is Famine.

A situation is specific or determinate if these three relevant features are specified (or picked out) by the situation itself. The situation specifies what needs to be done, who must do it, and when it must be done. Since these relevant features are specified by the situation, the agent does not have much latitude to choose what she should do or how she should fulfill her duty to aid. A situation that is not determinate does not pick out what exactly needs to be
done, who needs to do it, and when it must be done; and so the agent has more latitude to choose how and when to act. In Drowning Child, ‘you’ must ‘pull the child out’ ‘immediately’ or fail in your duty, but in Famine you can either act later or decide to help in another way (e.g., help the Turkish earthquake victims instead) and still fulfill (or contribute to) your duty.

Specificity (or determinacy) is not a concept that admits of degrees for my purposes here. While it is true that a situation can be more or less determinate, a situation must have the above mentioned features specified to generate a perfect duty. Thus if these three features are specified the situation is determinate. A situation that does not specify these features is not determinate in the requisite sense and does not generate a perfect duty. These indeterminate situations can be more or less indeterminate, but that is not significant for my account; what is significant is that they are determinate in the right way. This is important because perfect and imperfect duties are not typically thought to admit of degrees. That is, our duties are not more or less perfect. They are either perfect or imperfect. Likewise situations are either determinate in the right way or they are not.

I will briefly examine each of the relevant features in turn. My aim will be to demonstrate that a situation is specific in the right way if these three features are specified. Thus a perfect duty only arises if these three features are present and specified by the situation; if they are not, the situation gives rise to an imperfect duty. A specified feature must be salient to a normal observer. For our purposes, it does not make sense to talk about something being specifiable in principle—we want to know if the relevant features are specific to the agent. Thus it is not useful to say that a situation is determinate from a God’s
eye view. Perhaps from such a view everything is completely determinate, but my concern here is with what the finite agent’s obligations are. So on an objective account, it may be the case that only my $100 will save a particular person’s life and so I should direct my aid to him. But this is information to which the finite agent does not have access. I want to know what the agent’s obligations are given the information to which she does have access. Perfect duties must be able to tell the agent what to do.

My $100 can save a number of needy persons. And thus it does not matter if my account of duty is subjective or objective because, even if I somehow knew who I would help in Ethiopia and that there was some specific thing I could do, it is not the case that I am the only person in the world who could help this person, nor that knowing I could help her binds me to help her rather than some other person I could help. Presumably, that same determinate action could help any number of needy persons. So even if an objective point of view adds some determinacy, it does not make the imperfect duty perfect. There is still a significant difference between my choosing to help the Ethiopian person in some particular way and my rescuing the drowning child for whom I am uniquely situated to aid.

Before discussing these three criteria in more detail, I should note that an essential feature of any situation that gives rise to either a perfect or imperfect duty to aid is that it is a genuine case of need. This is obvious and does not need much defense. We must know that someone’s agency is threatened or their basic needs are not met for the duty to aid—perfect or imperfect—to come into play. Notice that this feature is present equally in Drowning Child and Famine because both are genuine cases of need. If this is the only salient feature, this type of situation can only give rise to a very general duty to aid. This is because none of the
three factors that are relevant to determining a perfect duty to rescue is salient; i.e., there is not enough specificity to give rise to anything other than a general, imperfect duty to aid. Now I will give a more detailed explanation of each of the three necessary features of a perfect duty to rescue.

1. A situation is specific in the right way if it specifies the particular act that must be done to address the need or to restore the victim’s agency. Thus, the “what” is specified. A specific act is required only when such an act is sufficient to address the need or bring the peril to an end. We know this is an essential feature of a situation that grounds a perfect duty, since I have earlier defined perfect duties as duties to do particular acts. Note however, it is not merely that an act is specified, but that the situation itself specifies what must be done to solve the problem; i.e., it picks out for the agent what must be done.

In Drowning Child, it is obvious what needs to be done—the child must be pulled out of the water. This is a specific act you can do to solve the problem. The agent does not choose this act as a way of solving the problem; in a way, the situation chooses it. In Famine, we have some idea of what needs to be done—arrangements have to be made so that water, food and the necessary supplies reach the needy persons. There are a wide range of acts that will help persons in the needy situation. When the appropriate institutions are in place, deciding what to do may be easy, and when they are not, deciding what to do will be difficult. But even where there exist channels to distribute the food aid, it is not always clear that there is a solution that will end the problem. The root of the problem must be analyzed. Is the famine a result of no rainfall, a poor irrigation system, poor citizens with no resources to farm, or internal political troubles that we cannot even begin to address by sending over
food? It does not seem as though the situation specifies any particular solution.

But what if sending over food is a solution to the short-term problem of hunger? Does this make the situation specific enough to demand a specific act, and so ground a perfect duty? I do not think that even this more specific problem (i.e., hunger) can be addressed by the agent with a specific act and even if there was a specific act we could do, e.g., give $100. This particular act would be something we would choose to do rather than it being determined by the situation.

Typically, the situation picks out an act that must be performed only if the aid that is required is finite. It need not be as simple as there being one finite act that solves the problem, like in the drowning child example. In that case, once you perform the necessary act--you pull the child out of the water--what is required of you is over. You have provided the needed aid and that was all that you had to do. It may be more complicated than that. If, for instance, you pull the child out but the child is not breathing, you may be required to do something else. If you are able, you must provide CPR to the child. But this act too, is finite. The important feature we are looking for here is that the situation is one for which there is a finite solution; there is an answer to the problem and the situation itself determines this.

Notice that I have not said that we cannot pick a particular finite way to respond to Famine. For example, we can choose to give a monthly donation to a particular family. This is a specific act that we can do. But there is a difference between the agent picking out a specific act and the situation specifying the act for you. In Famine, you can choose this specific act of supporting a particular family, or you can choose to send over wheat from your
own farm, or you can help distribute food that has been donated—these are different acts you can choose as means of helping in this situation. In Drowning Child, you have no choice: the situation narrows your choice down to one—pull the child out of the water. Of course, whenever we act, even to fulfill an imperfect duty, we are doing a specific act. So it is not the fact that a specific act can address or help address the problem but that the situation itself picks out the specific act that must be done.

2. A situation that is specific in the right way specifies the agent who must provide the aid. Thus, the “who” is specified. A situation is specific enough to ground a very specific duty only if there is a particular person to whom the duty attaches. This is important because a duty to rescue would not exist if there was no agent who could carry out the rescue. It is not as though, when the child falls in the pond, there is a floating perfect duty to rescue that is waiting for an agent to walk by. Perfect duties do not just float in the air, they attach to particular persons, i.e., they obligate particular persons. The situation singles out an agent that can carry out the particular act.\(^\text{34}\) A specific agent is not necessary to determine that an imperfect duty exists—it does not have to attach to a particular agent, it attaches to all agents.\(^\text{35}\) The general imperfect duty to help the needy is a duty that we each have all of the

\(^{34}\)I will address more complicated scenarios where the situation obligates more than one person, in the next chapter. It is not important that there is only one agent but that the set of agents is picked out. For example, there are three of us next to the pond; we each have a perfect duty to save the drowning child. The duty attaches to all three of us. Of course, the duty dissolves once one of us acts on it. If no one acts then we all fail to fulfill a perfect duty.

\(^{35}\)This does not necessarily mean that we do not have stronger reasons to fulfill our imperfect duty to aid in one way rather than another. I may have a stronger reason to aid Montrealers during the ice storm than persons in Bengal. My point is that the imperfect duty to aid the needy is general and does not specify exactly what needs to be done, or who should do it.
time, but the specific perfect duty to rescue is a duty for particular persons in certain circumstances. Drowning Child singles out the person at the edge of the pond as the agent who must act. Famine does not single out any particular agent (nor does any particular need within Famine single out a particular agent). There is nothing about the situation itself that obligates any particular person in any particular way. One way of thinking about the difference is that in one type of situation, the agent chooses what she will do to help persons in need; and in the other type of situation, the situation itself decides for her (or limits her options to one).

When examining the situation we should see if any of the facts of the situation connect you to the person in need.\textsuperscript{36} I do not mean to suggest that there must be a personal connection. There could be a direct connection to a particular individual if you happen to pass by and notice the peril; or there could be a more loose and indirect connection if you happen to have heard that there is a person or persons in need. I say this is a loose connection because hearing about a far away emergency does not necessarily connect you to the victim in any strong sense, though in some cases it may. For example, someone without any means of helping herself tells you about a person stranded on a mountain in a storm; you have a cell phone, so you must call the police. The important thing here is that you know of the peril and there is a determinate act you can perform that will bring the peril to an end.

Unless you are singled out, you cannot have a perfect duty to do a particular act.

\textsuperscript{36}It seems to make a difference whether or not there is a one to one matching between victim and rescuer or if there is a vast group in need or many potential rescuers. I will address this issue in a later chapter and will argue that contrary to appearances the number of victims does not affect the structure of our obligations.
3. A situation that is specific in the right way determines when the agent must act. Thus, the “when” is specified. A perfect duty to rescue is not one that allows the agent any latitude in deciding either how to respond to the need or when to respond; a perfect duty arises from a situation that already specifies this for the agent. In Drowning Child, we must act immediately or fail to fulfill our duty. I cannot say that I will rescue the child later because I am on my way to volunteer in a homeless shelter (which is a legitimate means of contributing to my imperfect duty to help the needy). The nature of the situation is that it requires an immediate action.

This is one of the main reasons that emergencies seem to fit into the perfect duty category. Emergencies require an immediate response. In fact, the nature of most emergencies is such that all of the above relevant features (i.e., who, what, when) are determined by the situation. But for reasons I have given earlier, we should not define the class of situations that give rise to perfect duties in terms of emergencies. Even if it does turn out that all emergency cases of need do specify the “who,” “what,” and “when” and that no non-emergencies specify all these features, it is still philosophically useful to explain why emergencies (or what features of emergencies) give rise to perfect duties.

It should also be noted that the fact that the situation specifies the “when” is a necessary but not sufficient feature to generate a perfect duty. Also, it may be the case that many, though certainly not all, cases of need must be responded to immediately. And further, it may be the case that an otherwise not specific situation itself picks out the “when” (i.e., so that it is not something the agent picks out). But if the determinate “when” is not combined with a determinate “who” and “what”, there is no perfect duty to rescue.
Otherwise, the fact that the situation specifies a "when", at most, provides us with a reason for fulfilling our imperfect duty in one way (or at one time) rather than another (i.e., perhaps we ought to satisfy the end of helping the needy by acting on more immediate needs first, or at least, that we have stronger reason to do so).³⁷

A situation that is specific in the right way--one that specifies the "what," "who," and "when"--gives rise to a specific duty. Each of these features is necessary and none is sufficient. Once you know that you are dealing with a very specific situation in which you know that you must carry out a particular act at a particular time, you will also know you have a perfect duty to rescue. This analysis fits with the earlier analysis I gave of perfect duties. Perfect duties are duties to do particular acts. You have a perfect duty to do a particular act, such as rescue a person, if there is a person whose agency is threatened, if there is a specific act that can resolve the threat, if you are the person that must carry it out, and if you must carry it out immediately.

Perhaps if it is my duty is to restore an individual's agency, I should I take it upon myself to randomly choose one needy individual and direct all of my aid to him. For example, Ali lives in Ethiopia and I choose to direct my aid to him. Likely Ali has a family and he will share the new resources with them. Even if I have given enough to sustain their family for months, I have not solved the greater problem of famine and need in that area. And once the family runs out of the aid I have given (because of course it is not limitless), they once again become needy persons in need of aid. Have I solved anything? Have I done

³⁷I will address this issue further in the next chapter.
my duty? I may have benefitted Ali and his family but, in the end, I have not done much to restore their agency. Their agency is always under threat in unjust and unstable social situations and it means that we may have to modify our responses in these types of situations. For example, instead of giving money or food aid, we should support efforts for political change.

But what if you can help Ali and his family for a finite amount of money? For four thousand dollars, you can buy airplane tickets to Toronto for Ali and his family. Once they arrive you can help them get work and start over. Do you have a duty (a perfect duty) to do this? I think that this is an excellent way of fulfilling your imperfect duty to aid but I do not think that this particular act is demanded of you. The situation itself does not make such a specification. This is unlike Drowning Child where there is only one specific act that is demanded—which the situation itself determines. In Famine, there are various ways of helping the needy, one way is to direct a finite sum of money to a subset of the needy and fly them to Toronto.

You do not wrong Ali and his family, if you randomly choose Iman (also a needy Ethiopian) instead, nor do you wrong anyone in Ethiopia if you choose to help earthquake victims in Turkey instead. You do not wrong Ali because it was never your duty to help him in particular. There is no reason to single you out to provide aid to the needy in Ethiopia. However, you would wrong the drowning child if you do anything other than pull her out of

\[38\] This itself may be something we are obligated to do, but as I made clear in Chapter One, my discussion will focus solely on the duty to protect a person’s agency and not the duty to benefit a person or her projects.

\[39\] Arthur Ripstein raised this question and the subsequent example.
the water—this situation does single you out as the agent and it attaches this very specific duty to you.

One can now see why I was drawn to the earlier distinction between emergency and standing misfortune. If it is true that emergencies are usually very specific situations and standing misfortunes are more general situations, then there is reason to believe that the distinction might have been helpful. However, it turns out that not all emergencies are determinate and not all standing misfortunes are indeterminate (though I still think that many are); thus we were forced to uncover the real difference between them. It is not that something is an emergency per se that gives us the moral requirement to act, but that the situation is determinate in the requisite sense (i.e., there is an urgent need that must be met in a particular way, at a particular time, by a particular agent). And it is not that something is a standing misfortune per se that gives us the latitude not to act immediately to address the need, but that the situation is not specific enough to demand a particular act from you.

II. Objections and Replies

Turning an Indeterminate Situation into a Determinate One by Piling on Empirical Data

One objection to framing the issue as I have, one may say, is that the distinction I am trying to draw is merely based on the empirical circumstances of the situation. A situation that we have a lot of information about is going to be more specific than a situation about which we have less information. A critic may say that this is not a real difference. It is not a
difference that holds up because it is easy to pile empirical data onto the situation so as to turn an initially indeterminate situation into a determinate one. Perhaps we only think a situation is indeterminate because we have not gathered all the facts. If this is the only difference, we should not claim that this situation is really different from a determinate one. This would be a problematic consequence of my view because we would be able to deliberately opt out of many moral obligations. That is, if I know that I do not have to give up all my important personal projects and act immediately when confronted with an indeterminate situation but that I must do so when confronted with a determinate situation, I will never make the effort to figure out the facts of the situations (or I may make an effort not to) because I would be able to change the nature of my moral obligations (i.e., make them less demanding). Clearly, it would not make sense to ground our moral obligations in this unprincipled way.

Consider this example.\textsuperscript{40} You are watching television and a commercial for World Vision comes on. The spokesperson informs you that your money is needed to prevent children from starving in a famine-stricken country in Africa. But more specifically, the spokesperson tells you that Jamal, a young boy, will starve to death unless you send $100 immediately. What this example is supposed to show is that this case is not an example of there being millions of hungry people that can be saved by millions of others. This is not a case where you do not know where your money should go or where you are unsure that your

\textsuperscript{40}This objection and example was raised by John Hubert at the Canadian Philosophical Association meeting in Sherbrooke (June 1999). A similar version was also raised by an anonymous referee for the CPA.
money will save the life of anyone in particular. In this case we know the answers to all of this. We know who must do the saving—you. We know who needs the help—Jamal. And we know what act you must carry out to save the boy— you must send $100 immediately. Now is this an indeterminate case as you initially thought it was or is it a determinate case, the critic asks? And if you now change your mind and say it is determinate, does the distinction I was trying to raise between determinate and indeterminate situations of need not just collapse? After all, if a famine example can be shaped into a determinate scenario can we not do the same for every other case? All that is required is that we keep piling empirical data onto the situation.

I do not think this example is devastating to the distinction I draw. Let me explain why. The relief agency involved in this situation, like all relief agencies, is motivated by one main goal: get as much money donated as possible so as many people as possible can be aided. A good strategy on their part would be to make a potential donor feel connected to, or feel responsible for one particular person. Why? Because this will make it more likely that the potential donor will donate. But does the fact that the relief agency is trying to manipulate the situation change the situation? I believe the situation does not change at all. When the spokesperson in the commercial says they need “you” to give aid and that “you” must give it to “Jamal,” they are trying to make it seem as though you have a very specific

41Each of us that sees the commercial is supposed to think that they are the one singled out to help.

42Responsibility issues are complicated and much more needs to be said about what makes a person responsible. For my purposes here, it is merely important that the television commercial serves to make the person feel responsible, whether or not she really is.
duty to give Jamal $100. But their saying that you owe something to Jamal does not make it so. You are not the only person watching this commercial on television. The relief agency hopes to be reaching a lot of people and this is most effective when we each feel that this request is a personal appeal. But a television commercial is hardly personal. So let us change the facts to make it more personal and make the critic’s challenge more difficult.

Consider another example. Instead of a television commercial, the relief agency sends out a mass mailing to appeal for aid for the needy. They personalize all the letters, and your name appears on the letter you receive in the mail. Does doing this change your obligation? Does it change an indeterminate scenario into a determinate one? Presumably, we are each made to feel responsible for Jamal. But it cannot be the case that each of us is responsible for Jamal or that all of our money (i.e, everyone who responds to the mail-out) will be directed to him. While it is true that more than my $100 will be needed to sustain him for any prolonged period of time, it is not true that everyone’s money will, in fact, be directed to Jamal.

But what if the relief agency knew that you would not feel this type of connection to Jamal unless you were the only one who was able to save him? Let us modify the example again so that the relief agency in their direct mailing campaign coordinates each potential donor with a different needy person—Jamal happens to be the child randomly assigned to you (and only you). And the relief agency has rigged it so that if you do not send $100, no one else’s $100 will go to Jamal. His life is really in your hands. Now, you may think, we have the right kind of specificity.

It seems to me that in the commercial example, the relief agency does not really
achieve its goal of changing the relevant facts of the situation so that your obligation changes. I am not even sure that they think that they are really doing this. The direct mail example is different. The facts of the situation are manipulated and do change and so it is not surprising that this may be a very determinate situation even though the original example was not. It is different because only your donation can save this particular person and you know this: if you do not help, Jamal will die. Because it is the case that only you can do some particular thing to save the life of this child, the example is relevantly different from Famine or the television commercial example. In those situations, you are not uniquely situated to aid any particular person. Thus this direct mail example is determinate in a way that the others are not. So even though this example may not seem on the surface to resemble the paradigmatic rescue case we have been talking about, it is similar in that both situations are determinate (i.e., they specify who, what, when) and both generate a perfect duty to rescue.

But is this a legitimate way of operating? It seems to me that in the direct mail example, the relief agency is doing something morally wrong. They are manipulating the situation in a way that uses Jamal in an inappropriate way--it deliberately endangers him (if you do not give aid he gets nothing, but if he was not tied to you he would have a chance of receiving some other aid that is given). And you seem to be a victim of blackmail. This deliberate way of tying you to the situation is very different from the way you get similarly connected to the drowning child you happen to discover as you are walking by the pond. In this latter case, it is a matter of luck that you happen upon the child, there is no one who calls you and tells you to walk along the pond. While you may think that you are unlucky and you may wish it had not been you that discovered the emergency, you would feel even worse if
you knew that the scenario was deliberately arranged by another person to turn out in that way.

I will illustrate with another example. What if you and I are the two top contenders for a prestigious academic position and you know that my interview is at 2 o’clock this afternoon and that to get to the interview I must walk by a pond. You deliberately push a small child into the pond when you notice me coming. You quickly leave the area knowing that I will take my obligation to save the child seriously, especially if there is no one else around to help and I will miss my interview—giving you an advantage for winning the position. Now to me, as I walk by the pond, this situation appears to be exactly like the initial drowning child example. There is an innocent drowning child; no one else is around and if I fail to save her she will drown. But are the situations the same? Does the deliberate manipulation of circumstances alter my obligations? Yes, the situation is determinate in the right way (it is intentionally arranged to be) and yes, I must act. That is, I would wrong the child if I fail to save her, even if I realize the situation was set up by my opponent. We recognize that my competitor’s actions are morally heinous, not only because he pushes the child in the pond but also because he is using me. This type of deliberate manipulation does succeed in making a situation more determinate, but it does so in a morally inappropriate way. This is not really an example of a making an indeterminate situation determinate—it is more like creating a determinate scenario. But the fact that it is possible to create a determinate situation of need, even by devious means, does not undermine the distinction I have drawn, and so does not support the critic’s challenge.

The critic challenged the integrity of the distinction between determinate and
indeterminate situations. Interestingly enough, in this example, the critic presupposes the distinction he wishes to challenge. That is, his entire scheme relies on the assumption that by rigging the situation in a certain way he will create a determinate scenario that will give rise to a perfect duty to rescue. He does not merely make it appear that this is the case, he actually makes it that this is the case. Showing that it is possible to manipulate a situation and create a scenario which gives rise to a perfect duty of rescue does not weaken the distinction for which I have been arguing.

Relief agencies are not in the business of this type of manipulation (not only is it morally suspect, it is not an efficient operating procedure for the agencies). The more common ways of trying to make the situation appear more determinate, as in the commercial example, do not actually succeed in changing the situation or making it more determinate; they merely make it appear this way. What I hope to have shown is that it is (at least, in principle) possible to change the empirical circumstances to make an indeterminate situation more specific, but one cannot do this by simply ‘piling on empirical data.’ One may do so by actually changing the facts of the situation (e.g., by manipulating the situation in a morally suspect way). Once enough new empirical facts are added to the situation, an entirely new situation exists. But this approach does not succeed in undermining the distinction I have drawn.

*Is distance the real difference?*

Another way of arguing against the distinction I draw is to counter it by showing that
it is not the specificity of the situation that matters morally, but some other feature instead.

One may argue that it is not specificity that differentiates Drowning Child from Famine, but distance (or proximity), i.e., your distance from the victim.\textsuperscript{43} On this account one would have a stronger duty to aid those nearby and a weaker duty (or none at all) to aid those far away. It is more plausible, however, to claim that there are many differences between these two cases and that distance is only one of the differences that matters morally. I want to briefly examine what difference distance makes and suggest that distance is not the factor that is driving our intuitions when we judge that Drowning Child is different from Famine.\textsuperscript{44}

Kamm argues that distance is morally significant. She claims that when we commonly talk about distance mattering morally to the duty to aid we do not really mean distance \textit{per se}—one thing we mean is nearness and nearness is measured from the extended parts of the rescuer to the extended parts of the victim.\textsuperscript{45} Consider the following situation that Kamm discusses. There is a person \textit{far away} from you who will drown unless you come to the rescue. The person is drowning in France and you are in Canada. She thinks that our


\textsuperscript{44}Kamm, in her paper "Does Distance Matter Morally to the Duty to Rescue" (presented at the Moral and Legal Limits Of Samaritan Duties Conference, Atlanta, June 1999) could very well agree with this conclusion, even though her aim is to show that distance does matter morally. That is, it is consistent with her view to claim that the difference between Famine and Drowning Child is not as simple as a difference in distance since many other things are going on. One of these others things that may make a difference could be determinacy (though Kamm does not consider this possibility). It is a further question to explore if distance matters morally within the category of determinate cases and indeterminate cases.

\textsuperscript{45}Kamm, 7.
intuitive response would be to say that we have no duty, or at least a very weak duty to aid. But she says our response would change if we alter the situation. She asks us to imagine that you have exceptionally long arms that can reach across the ocean and can save the drowning person. In this case, Kamm claims that if you have these extraordinarily long arms your obligation to the person drowning in France is the same as it would be if the person was drowning in front of you. This is because the relevant distance between you is the same. If you did not have the long arms, your duty would either not exist or at least be weaker.

I do not think it is distance that matters morally when we typically think that distance is making a difference (because I agree there is a moral difference between the near person drowning and the far person drowning and I agree that it seems like it is distance that makes the difference). I suggest that distance is a proxy for determinacy. This means that whenever we think that distance makes a difference morally, we only think so because usually a difference in distance results in a difference in determinacy. That is, when the drowning person is far away, it is not the fact that he is far away that matters morally, but that the scenario is much less determinate for us than it would have been if the person was in front of you. It is less determinate because you likely will not learn of the drowning in a timely manner and you will not be able to act in a way to solve the problem. There is no way that the situation would pick you out as the agent required to help. But in a case where the person is near, there is a particular act that you know you can do and the situation picks you out as the agent.

Does Kamm's example of the person with the extraordinarily long arms support the critic's charge that there is no real moral distinction between determinate situations and
indeterminate ones? That is, if we can change an indeterminate situation into a determinate situation by just adding more empirical information or changing some of the facts of the situation (i.e., adding long arms), does the determinate/indeterminate distinction do any real work? First we should consider if changing the situation by introducing the long arms changes our duty. Or is this similar to the manoeuver in the television commercial example in which we pile on empirical data that does not really change the facts? Here, I believe I would have to concede that changing the situation in this way does change the duty because it changes the determinacy of the situation, especially if we couple the long arms with extra-long distance vision. In this case, the actual situation is changed, not just our knowledge of it. Before we added the long arms the situation was indeterminate; there was no act you could do to save the person drowning in France and none was required of you. The altered situation is determinate; you know exactly what needs to be done to solve the problem and you are able to do it.

One might object and claim that the situation that Kamm describes need not be a determinate one. In fact, she herself says that the long arms need not be efficacious. If the long arms are not efficacious, we might think that the situation is not one in which we can do anything particular to help, and is thus indeterminate. And if they are not efficacious and we still have a stronger duty to aid in this type of case, determinacy cannot be the important feature I am claiming it is because we would have a strong duty to rescue in an indeterminate situation. Thus this case would appear to be counterexample. However, Kamm merely says that if the long arms are not efficacious you still have a strong duty to aid by using means that
you can access by remote control.46 In effect, she is saying that there is a strong duty if there is a some particular thing you can do to help. I would agree and would add that it is because the situation is determinate and not because my long arms make me close by.

This seems to be a hollow victory for the critic who would want show that my distinction between determinate and indeterminate situations will not hold up because we can change an indeterminate scenario into a determinate one merely by piling on more empirical facts. I say it is a hollow victory because the only way it is possible to change the empirical facts in the relevant way is when we add hypothetical or impossible features, if we deliberately manipulate the situation in an unethical manner (like the direct mail example), or if we change the situation.

What is the Moral Significance of Salience?

Peter Unger claims that when we think there is a difference between cases like Drowning Child and Famine, the difference is due to the fact that one situation of need is more salient to us than the other.47 He claims that salience refers to the conspicuousness of a situation, and thus, it is merely a factor that makes us psychologically more apt to act.48 He then goes on to argue that salience is not morally significant and we ought to treat both aid

46Kamm, 7.

47In Living High and Letting Die, Unger gives his own version of Drowning Child and Famine--Sedan and Envelope.

48Unger, 28-9.
cases alike. For example, he says that if we see a person in rags on the street and a well-dressed person on the street, both of whom are in need of aid, the need of the poorly-dressed person will not be as salient to us as the well-dressed person. Thus we would be more apt to help the well-dressed person. It is one thing to say that we may be more psychologically drawn to the well-dressed person, and quite another to suggest that we have a stronger obligation to him than the poorly-dressed person.49

Our obligations to the needy should not depend on how conspicuous the need or the victim is to me. Clearly, salience should not have this effect on our obligations, and moreover, Unger tries to show that for it to have such an effect is in conflict with our basic moral values. It is in conflict with our basic moral values, he thinks, because our basic moral values must tell us that the conspicuousness of a situation should not determine our moral obligations. I think Unger is right about this.

Kamm also takes up the issue of salience and she argues that it is not salience that guides our intuitive responses to cases like Drowning Child and Famine (or Sedan and Envelope), but rather distance. Kamm defines salience as the obviousness and inescapability of noticing need and the continuing imposition of this knowledge on us.50 She claims that if there are ten people drowning, the one dressed as a clown will be more salient to us. This example is better than Unger’s example, Kamm thinks, because in Unger’s example the

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49 This example suggests that Unger’s notion of salience is subjective—it depends on what grabs and holds my attention (perhaps his need should not be more salient or would not be salient for a normal or ideal observer).

salience of the situation is very subjective. And she thinks that we should operate with an objective conception of salience (and that Unger should criticize the objective conception not the subjective one). Had Unger used an objective conception of salience, he would have recognized that a normal observer should not find the well-dressed person more salient. Kamm’s example is not a case of subjective salience, she claims, because even a normal observer would notice the clown more. Kamm does not think that we have a greater obligation to the person in the clown suit than the other equally needy people around, even if we are under greater psychological pressure to aid the clown. I think she is right.

For Kamm, one indication that salience is not a morally significant feature is that we are permitted to change the salience of the need. We would not be able to do this if it was salience (and only salience) that grounded our duty in the first place. For example, when choosing a vacation destination, we are allowed to avoid going to a certain country with many needy persons, because, once there, their need would become salient. But would we be permitted to walk around with blindfolds and earplugs on (then no one’s need would ever be salient)? While I agree that the salience of the need does not give rise to the duty, I am not convinced that we can avoid making situations salient.

But I want to see if salience makes a moral difference at all. Practically speaking, the salience of a situation is not only relevant to creating the psychological pressure to aid, but it also makes us aware of the situation. If we are unaware of a needy situation, or if a reasonable or normal person is unaware of it, it does not make sense to discuss what our duty
is in that situation. Knowing about the need is an important condition for having a duty to remedy it. But the fact that the need is salient to you is not enough to determine whether your duty in that situation is perfect or imperfect—this depends on further features of the situation that we have been discussing. Of course, the relevant features for judging if the duty is imperfect or perfect must be salient. Does the situation specify a particular act that one can do to address the need? In order to make this judgement the kind of need and the type of solution must be salient to us. It is of no use to say that something is a perfect duty if the act required is not salient to you.

The following will serve as an example: you are witnessing a magic stunt in which the magician locks himself into an airtight compartment. This is a very risky stunt because there is only enough air for the magician to survive for five minutes—after five minutes he will suffocate. Of course, you think the magician knows what he is doing, and furthermore you think this is all a fancy trick. But as time goes by you begin to worry. Five minutes go by and you are convinced that if you do not do anything (all others in attendance are children so you are the one most capable of helping), the magician will die. But you remember the magician announcing at the start of his act that there is no way of unlocking the compartment from the outside—at the time this added to the drama of the situation (now you realize how foolish and dangerous this is). Unbeknownst to you there is a secret latch on the compartment, made exactly for situations like these. Usually, the magician has an assistant

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51 Though one could argue that there is a duty to make oneself aware. While I take it as likely that there is some such duty, I will not try to specify what exactly such a duty entails. I imagine that it, at least, requires that we not walk around with blinders on.
with him, but she was sick today so there is no assistant here. One may think that this type of emergency scenario is an obvious example of a perfect duty, but the particular act that one would be required to do is not salient to you (or any normal observer) in this situation. It is not only important that there is a particular act that you can do to rescue, but you must be aware of this act, i.e., this feature of the situation must be salient to you. Here salience does not necessarily mean that something is obvious and inescapable but that it presses upon you and becomes known to you.

It is not the salience of the need that determines what duty you will have, though this important. It is the salience of the act that is required to solve the problem. This understanding of salience may be different from Unger’s and Kamm’s—and I suspect that Kamm may agree that salience is important even though it is not the feature (or the only feature) that gives rise to a duty. It seems quite obvious that the nearer someone is that the more salient her need will be; and Kamm concludes that it is nearness that gives rise to the duty. Notice however, that the need must first be salient, even before we can judge how far or near the victim is or what kind of duty we have. So the salience of just any feature is not relevant. The fact that someone is wearing colourful clothing does not give us an obligation to that person that did not otherwise exist. We do not have an obligation to help the guy in the clown-suit but not the equally needy person next to him. We would not be doing anything morally wrong if we save the person drowning next to the person in the clown-suit, even if his need is not as salient to us. In this situation, the person in the clown-suit initially grabs our attention; but surely now the entire situation is salient, or should be salient, to us. As Kamm suggests, salience should not be interpreted strictly subjectively. And while we
may be under extra psychological pressure to aid the clown—this psychological impact should provide us with no more than an extra reason to aid the clown over the person next to him.

It is not salience per se that is morally relevant. Salience is only instrumentally important. That is, it is important insofar as it gives us an awareness of the relevant features of the situation. If none of the features of the case was salient, we would not have enough information on which to base our judgement about the type of duty to which the situation gives rise.

Now we should ask if a need becomes salient in a general way, are we obligated to find out more of the specifics of the case? That is, can we avoid our duties by not making any effort to learn more about a situation that confronts us? Investigating a situation does not create specificity that was not there to begin with—situations that become more specific upon investigation were specific, it is just that the relevant features were not salient at the start.

Consider this example. You hear cries from what seems to be a young child coming from a wooded area up ahead. At the moment, you are sure that there is someone in need (this much is obvious or salient) but you need to make an effort to see what the exact situation is and what, if anything, you can do about it. So you walk up to the edge of the wooded area and look in. There you see the child tied to a tree. Now you know it is a completely determinate situation—there is a specific act that is required of you—you must untie the child now. This is a perfect duty to rescue.

Let us change the facts of the situation. Upon further investigation into the area you do not see a child tied to a tree but rather see that the cries are coming from a small child that merely fell and skinned his knee—there is nothing you need to do about that. But what if you
notice that the child is with a group of people who are living in an abandoned cabin and you can tell that they are on the verge of freezing to death? They all look hungry and some are very ill. The situation is more specific now than it was before you looked into the area but the situation is not such that it grounds a specific duty to do an act (though it may—for example, the duty to call the authorities). My point here is that investigating scenarios that we suspect are emergencies is required of us, but that further investigation does not always lead to a determinate scenario. A situation that is not determinate in the requisite sense does not simply become that way after deeper inquiry. This suggests that we do have to make an effort to become informed about the need in the world, especially because we know it exists. Perhaps if we lived in a very sheltered community that did not have the capacity to communicate with other parts of the world, we may not have this duty. The duty arises because we already know that there is need out there and that we have some kind of obligation to address it.

Conclusion

So when you are confronted with a situation in which a person’s agency or basic needs are threatened, how do you know what you are supposed to do? We have to figure out if the situation generates a perfect duty and specifies exactly what we should do or if it generates an imperfect duty and so gives us latitude in deciding how to act. A situation generates a perfect duty if it is determinate. It is determinate if it specifies the following three things— we know who must provide help, we know what must be done to solve the
problem and when it must be done. If the situation is indeterminate, we know that we still have an obligation to help but that this obligation does not require that we do a particular act—we can choose from a range of options.\textsuperscript{52} This is because in the indeterminate situation, no particular act is required of me.

I began this chapter with a claim I demonstrated in Chapter Two: there are two structurally different types of duties to aid—perfect duties to rescue and imperfect duties to aid the needy. In this chapter I have endeavoured to explain which situations of need give rise to perfect duties to rescue and which give rise to imperfect duties to help the needy. A situation of need that is determinate is one that specifies that there is need, that you must address the need, that there is a particular act you can and must do and that you must act immediately. It is determinate because it specifies the act that must be performed (both what and when) and attaches that act to an agent. This fits with my analysis of perfect duties—that they are duties to do particular acts. Indeterminate situations of need do not specify a particular act that must be done; there are various ways of satisfying the imperfect duty to aid. This fits with my analysis of imperfect duties—that they are duties to adopt ends but the agent has latitude in deciding exactly what to do. We know the type of duty the situation generates once we know if it is the situation that picks out what needs to be done or if the agent has some latitude in deciding this for herself.

\footnotesize{\textsuperscript{52}Nothing I have said undermines the existence of duties to aid others in indeterminate scenarios. This is because the determinacy of the situation does not create the duty to aid--this duty emerges because we owe it to other persons to help them protect their agency and their basic needs. I have argued that the determinacy of the situation does affect the nature of the obligation and the way it must be fulfilled.}
Now that I have established that we have two kinds of duty to aid, the perfect duty to rescue and the imperfect duty to help the needy, I will focus my attention on explaining the differences in how these duties ought to be fulfilled. That is, how do we fulfill our perfect duties and how do we fulfill our imperfect duties?
Chapter Five:

Fulfilling Perfect and Imperfect Duties to Aid

So far I have claimed that we have a duty to aid persons and argued that this duty can take two different forms—a perfect duty to rescue and an imperfect duty to help the needy. In Chapter Four, I explained which situations of need gave rise to perfect duties and which gave rise to imperfect duties. Situations, themselves, that specify what must be done to address the need, who must carry out this act, and when it must be done are the types of situations that generate a perfect duty to rescue. Situations of need that do not demand a particular act from a particular person generate an imperfect duty: an agent may choose to act in such a situation as a means of fulfilling her imperfect duty to aid the needy, but she does not have a specific duty to do so.¹ Whereas the perfect duty is binding in the particular case, the imperfect duty is not. In this chapter my main concern will be to explain how agents ought to fulfill both their perfect and imperfect duties to aid others.²

¹It is not that each indeterminate situation gives rise to a separate imperfect duty to aid but that these various indeterminate scenarios are identified as different means of fulfilling the general imperfect duty to help the needy. For short, I sometimes refer to certain indeterminate situations as situations that give rise to imperfect duties, when more precisely, I mean that the situations are means of fulfilling an imperfect duty that each of us has. For example, I say that we have an imperfect duty to aid the earthquake victims, but more precisely we should say that aiding earthquake victims is one legitimate way of fulfilling our imperfect duty to the needy.

²This question should be kept distinct from the question of how much one must do when fulfilling her duties. I will address the question of how much we must do in Chapter Six. My concern in this chapter is the manner in which we must fulfill our perfect duties and imperfect duties (i.e., what we must do, when we must do it, and who we must help).
It should be obvious that it is easier to know how and when to fulfill perfect duties since the duty itself specifies this; the agent cannot choose how to fulfill her perfect duties. This is especially obvious when there is a one-to-one matching between the agent (potential rescuer) and a victim. This type of perfect duty not only specifies the act one must do but also specifies the particular person one must aid. But not all perfect duties of rescue are this simple. I will address the more complicated cases of perfect duties in which there is no one-to-one matching between the agent and victim (e.g., either there are more victims in need of rescue than the agent(s) is able to save or there is more than one rescuer who can rescue the victim(s)). Who must act to save whom in these more complicated rescues?

It should also be obvious that explaining how and when we must fulfill our imperfect duty to help the needy is not as straightforward. It is not as straightforward because agents have latitude in choosing how to fulfill their imperfect duties. There are many different ways an agent can contribute to her goal of helping needy persons. And though an agent may choose from among many different options, I suggest that there may be better and worse ways of fulfilling one's imperfect duty. That is, not all possible ways of fulfilling the duty are equal—there may be good reasons to act in one situation rather than another. We will also see that it does not necessarily follow that failing to act in the situation in which you have strongest reason to act means you will have failed to fulfill your duty.

An issue I will address at the end of this chapter is the conflict between duties to ourselves (i.e., to fulfill our own needs and to pursue our projects so that we lead meaningful
lives) and duties to aid others. The perfect/imperfect duty distinction suggests a way of managing this conflict. Perfect duties will often conflict with duties to ourselves, but because of the nature of their requirements their interference is reasonable: imperfect duties are less likely to conflict with our projects and when they do the agent can choose which projects to trade off. I will show when duties to ourselves may take priority and when they may not.

I. Fulfilling Perfect Duties

The agent does not have much choice

By distinguishing between perfect and imperfect duties to aid we are able to distinguish between aid that we must provide immediately and in a specific way and aid that we have latitude in deciding if and when we will provide it. Perfect duties arise from determinate situations in which there is a very specific act that must be performed at a particular time (now). Sometimes, as in the Drowning Child example, the duty even specifies that the act is owed to some particular person. In this type of situation, the agent does not have any choice about what she should do. The duty itself specifies exactly what the agent must do. The duty one has in this type of case is a duty to pull the child out of the water immediately. There is no latitude involved. The lack of latitude correlates with the complete determinacy of the situation.

3Kant argues for duties to ourselves, but for Kant they are not duties to pursue our ends, but rather duties to perfect ourselves.
Perfect duties are binding in each particular instance. If you have a perfect duty to save Jane—you have a binding moral duty to save her. There is no other option for you to choose because the choice has been made for you. You fail to fulfill your duty, in this example, if you fail to rescue Jane. The duty specifies the conditions for its fulfillment in a straightforward way and if you do not satisfy those conditions, you do something wrong—you fail to fulfill your duty.

Notice that Drowning Child illustrates a special kind of perfect duty. It is not only a duty to do a particular act, but it is a duty owed to someone in particular. This feature of being owed to someone in particular is not a necessary feature of perfect duties—perfect duties need only specify the “who,” “what” and “when,” not the “to whom.” But some instances, like Drowning Child are perfect duties owed to someone in particular. These special types of perfect duties are the most determinate type of perfect duty because nothing is left up to the agent. The act she is obligated to do and the person to whom she owes it are already specified for her. I should note that the type of act is specified, e.g., “pull the child out of the water,” but that the different ways the rescuer could go about this is left up to her. She can wade in and pull the child out or she can go get a tree branch and use it to pull the child out. These are both different tokens of the same type of act. The duty does not specify the exact method of carrying out the required act, though it does specify the required act.

The duty to rescue is not always as straightforward. I will consider a more

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*I do not mean to suggest that the duty may not be overridden by another duty or, of course, that you may choose to ignore your duty. My point is rather that I cannot choose to fulfill my duty to aid by donating money to famine relief instead of saving Jane.*
complicated example of a rescue. In this case, there is one drowning victim but multiple potential rescuers. Does the fact that there are multiple potential rescuers on the scene change one’s duty? I will argue that it does not change one’s duty because this is still an example of a perfect duty that is owed to someone in particular. It is more complicated than the initial example because there is no one-to-one matching between the potential rescuer and victim.

Not all perfect duties are duties owed to someone in particular. I will also consider an example in which there is one potential rescuer and more than one victim; thus there is no simple one-to-one matching between the potential rescuer and the victim. This type of situation, like the one before it, is somewhat less determinate and somewhat more complicated. I say it is more complicated because the ways of fulfilling the duty are more complicated than when the duty to rescue is owed to someone in particular. When there is a one-to-one matching, the agent has no choice in deciding how to fulfill her duty. When there are multiple victims, the agent has a little more room to decide how to fulfill her perfect duty. This is because the duty does not specify who the agent must aid. There is still a perfect duty to rescue but it is not owed to any person in particular.

More complicated cases

i. Multiple Agents (Potential Rescuers)

The first complicated case is an example where there is more than one potential
rescuer. Imagine that you are in the park when you see a child slip and hit his head on the fountain. The water is very shallow and you can rescue the child with little risk and cost to yourself. This is the Drowning Child example. Now imagine a scenario identical to Drowning Child except for one important difference—you are not the only person nearby (let us call this Drowning Child II). In fact, there is a group of us standing right next to you. What is your duty in this case? Does your perfect duty of rescue change because there are others nearby? Recall that Singer argues that the number of people able to help does not change your duty (more specifically it does not diminish what is required of you). He claims that this is a morally unjustified excuse that people use to avoid helping needy persons.\(^5\) If we all stood by and waited for someone else to help the child, the child would drown. Surely, this is not acceptable. But how do we avoid this conclusion? I agree with Singer that in this case the number of persons around the fountain does not change your duty. That is, you still have a perfect duty to rescue the child.

It does not make sense to think that in Drowning Child you have a perfect duty to save the drowning child, but that you have no duty to do the exact same thing if there are other persons around. Would we want to say that you do nothing wrong in this case if you stand by and do nothing and watch the child drown? We should treat Drowning Child II like the original Drowning Child because the what, when, and who are specified, even though the who happens to be the members of a group of persons in this example. Each person standing around the fountain has a perfect duty to save the child. So the duty attaches to each of them.

\(^5\)Peter Unger makes a similar claim.
Notice that it is still a necessary feature of perfect duties that the who is specified. So it does not make sense to say that everyone in the world has a perfect duty to save the child; only those persons around the fountain have this duty (i.e., the situation picks them out as persons who must rescue the child). The reason this is a complicated example of a perfect duty is that it specifies a number of agents who have a duty to rescue. Clearly the duty only exists as long as the need exists, so once one of the persons rescues the child, the others are no longer under a duty to do so. But if no one saves the child, each has failed to fulfill her duty to rescue.

Notice that in this case the perfect duty is owed to a particular person, so the agent does not have much (or no) choice about what to do. The situation determines what the agent must do and when she must do it. However, the case is more complicated because not every one of the persons who has a duty must actually act to fulfill the duty—only one must. Only one agent must save the child in order to fulfill the perfect duty to rescue.

There are two ways we may interpret how the duty gets fulfilled. We may either say that the agent not only fulfills her duty to rescue but also fulfills each of the other agents’ duties, or we may say that once one agent fulfills her duty, the other perfect duties disappear. On the first formulation, the act of rescuing the child that is performed by one of the agents is the act that fulfills each person’s duty to rescue. It is a bit odd, however, to think that your act of rescuing can fulfill my duty to rescue. Though it does seem right to think that my duty has been discharged. On the second formulation, the act of rescuing the child fulfills the acting agent’s duty to rescue, and because the child has been rescued, no duty to rescue remains. That is, once it is the case that there is no peril for me (or any of the other agents
present) to avert, I no longer have a duty to rescue. Both explanations capture the important point that each person in the group has a perfect duty to rescue, even though it only takes one of them to fulfill it.

ii. Multiple Victims

I will consider another example that is similar to Drowning Child: it is similar but less determinate. You are walking along the river. It is a stormy night and it seems as though you are the only one that is outside. You begin to hurry to get home and to get out of the storm. Your solitude is interrupted by a group of noisy young children sailing down the river in a small boat. The children are horsing around and the boat is rocking back and forth. The kids are being very careless, given the terrible weather conditions, and you notice that none of them are wearing life-jackets. No sooner do various dangerous scenarios run through your mind, when the boat flips over and the kids fall overboard. You run over to the riverbank and you see for yourself that only one of the six children is able to swim. The rest of the children are screaming and trying desperately to stay afloat. It is obvious to you that they do not have much time left; without help they will drown. But it is not possible to save them all yourself: even though you are a strong swimmer, you can at most rescue one or two of them. Do you have a duty to aid in this situation? And if so, what kind of duty is it—what must you do?

Once we examine the situation we see that the necessary features of a perfect duty are present. We first notice that the situation specifies the particular act that must be undertaken and it specifies that this act must be carried out immediately. You know exactly what needs
to be done. The children need to be pulled out of the water and they must be pulled out immediately. Furthermore, it specifies that you are the agent that must perform the act because you are the only person on the riverbank. Thus far the situation seems exactly parallel to Drowning Child.

But there also seems to be an important difference. You cannot solve the entire emergency scenario. You cannot rescue everyone, nor is it your duty to do so. That is, you do not fail in your moral obligation if you jump in and only save one or two of the children. Furthermore, it seems that you can choose whom to save. There is no act that you owe to any particular child, as there is in Drowning Child. Unlike Drowning Child where you have a direct connection to the drowning child— you owe her the aid—in this more complicated example, it is not as clear to whom you owe the aid. The difference is that there is no particular connection between you and any particular person in need of rescue, i.e., there is no one-to-one matching between an agent and victim. The needs of any one of the children is not more salient to you than the needs of any of the others; there is nothing about the situation that picks out one particular child. You do not wrong the children that you do not rescue, at least not if you rescue someone (or as many as you can).

This is still a perfect duty that you owe, even if you do not owe it to anyone in particular. Recall that a perfect duty need not specify who the recipient of the aid is. In this altered example (let us call it Capsized Boat), we can just as easily see that you would have a perfect duty. Though the perfect duty may not be owed to anyone in particular, there is a particular person that the duty attaches to and the duty is a duty to do a specific act. There is more latitude in this less determinate scenario because you get some leeway in deciding
whom to help. You may choose to help the child you recognize or you may choose to save the youngest child or you may choose to save the child closest to you. Notice that the leeway is very limited. You do not get to choose what to do; the act you must do is completely specified. You do not have the latitude to instead choose to send money to famine relief; you must help in this emergency situation by rescuing a child (or two). This example shows that there are two different kinds of perfect duties—a perfect duty owed to someone in particular and a perfect duty owed to no particular person (though the eligible group of victims are identified, no particular one of them is owed the aid).

In this case, given that the water is shallow enough for you to stand and that you are a strong swimmer and that the children are very light and nearby (i.e., the situation is such that it is safe for you to go in the water)—we may say that it is your duty to save two of the six (you can at most carry two of them to the shore at one time and you only have time to make one trip because of the current of the river). It is still a perfect duty because it specifies what you must do and when you must do it, even though you do get to choose two of the six children. The only feature that distinguishes the perfect duty in Capsized Boat from the perfect duty in Drowning Child is that it is not a perfect duty owed to any particular person: who we aid is up to us.

Capsized Boat is very similar to the pool lounger example that Feinberg raises. In Feinberg’s example, you are lounging at the side of a pool when you notice that there are multiple children drowning. Feinberg does not think it makes sense to say that you have a

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6Feinberg gets this example from Jeffrie G. Murphy, “Blackmail: A Preliminary Inquiry,” Monist 63 (1980).
duty to rescue only when there is one child drowning but that you do not have a duty to rescue when there are multiple children drowning. It seems problematic to say that a child has a right to be rescued when she is the only one drowning in the pool, but that she has no such right when there are more children drowning. However, we cannot deny that these two situations (single drowning vs. multiple drowning) are relevantly different. When there is one child in peril, it may make sense to say the child has a claim on me, but when there are many children in peril, does it make sense that they all have a claim on me?

Feinberg suggests that in this kind of case it is possible that our duty to aid becomes more like an imperfect duty because no particular child has a claim on me. He agrees, however, that I do have a duty to rescue one of the children (or as many as I reasonably can). He takes it to be a defining feature of imperfect duties that even though aiding is obligatory, there is a lack of determinate recipients with correlative claims against me. This is because there are many people in need of aid and my resources are finite (i.e., I cannot save them all). In this example, Feinberg claims that if you do not attempt to save any of the children you violate the rights of at least one of them. The drowning children have a right that you save as many as you reasonably can. So if you save one, you have fulfilled your obligation and you have not violated the rights of those who drown. But if you fail to save any of them you violate all of their rights. This analysis emphasizes the fact that I have a duty to rescue even

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7Feinberg's understanding of imperfect duties comes from J. S. Mill.

8An additional problem here is to figure out which child is the victim, since it was never the case that all could have been saved. So by failing to do anything you wrong one child (i.e., the one who would have survived but for your omission). Notice that this becomes a problem only when we become interested in discussing the responsibility of the agent (and blameworthiness), especially legal responsibility. The problem for tort law is to determine who the plaintiff is. For Feinberg's
though I do not owe help to a particular person.

Though Feinberg indicates that some may want to treat this as an imperfect duty because there is no determinate recipient who has a claim on me, I want to suggest otherwise. It may be in this case that there is no determinate recipient, but there is certainly a determinate action required at a determinate time and by a determinate agent—and these are the only three criteria necessary for a perfect duty to rescue.9 On such an account, one would consider the duty involved to be an imperfect duty with very little latitude (i.e., latitude only to choose whom to help not what to do or when to help). But I do not think there is anything to gain by adopting this approach (i.e., interpreting it as an imperfect duty rather than a perfect duty). I hope to have given good reason to think that distinguishing between perfect and imperfect duties as I have makes more sense. On my account, the multiple victims example is an example of a perfect duty to rescue, though a perfect duty that is not owed to any particular person. Multiplying the number of victims does not change a perfect duty into an imperfect one, though it does give the agent a small amount of latitude to decide how to fulfill her perfect duty. She cannot decide to do nothing—she must save someone—but she

9I will again mention something about the level of description required of the action. It is important on my account that specifying the act does not require specifying exactly the person for whom the act must be done. For example, the act is specified if the following is specified: “pull the child out of the water” or even, “pull two of the six drowning children out of the water.” This latter description is more general than the former but it is a sufficient description of an act. If someone were to convincingly make the case that specifying an act necessarily requires specifying the exact person to whom it is directed, then we may have reason to adopt Feinberg’s account and describe this as an imperfect duty—then only cases that specify the person to whom the act is owed would count as perfect duties. On that reading, a perfect duty would be a duty to do an act that is owed to a particular person.
can choose whom to save.

Furthermore, we would not want to say that one’s perfect duty changes into an imperfect duty once it becomes difficult or impossible to completely fulfill. Consider this example: I have two perfect duties—one to repay you $10 and another to repay another friend $10. However, I only have $10, so I am not able to fulfill both duties. Does this make one of the perfect duties disappear? Or does this make my two perfect duties imperfect? If the duty were to change into an imperfect duty that would mean that I would not be obligated to repay both debts. Even though it becomes difficult (or not possible) to repay the debts and fulfill both duties, I am still bound to repay both of them. That is, I still have two perfect duties to fulfill and my $10 will, at most, fulfill one of them—the other is still something I will owe.

iii. Multiple (Potential) Rescuers and Multiple Victims

The first case I examined dealt with multiple potential rescuers and one victim and the second dealt with multiple victims and one potential rescuer. I have tried to show that in each instance there is still a perfect duty to rescue. Now I want to complicate things further to see if there can still be a perfect duty to rescue in a situation in which there are multiple potential rescuers and multiple victims.

In the first example there was one victim and several potential rescuers. The important thing in this example was that there was more than one person who could do the rescuing. Increasing the number of potential rescuers did not change the fact that there was a perfect duty to rescue the person in peril. There would still be a perfect duty to rescue even if
there was more than one victim.

Likewise with the second example of the one agent and multiple victims, there is still a perfect duty to rescue but no duty to rescue a particular individual. The important thing in this example is that the number of victims is greater than the agent is able to save. As a result the potential rescuer had latitude in deciding whom to rescue. Nevertheless, there is a perfect duty to rescue because the who, what and when are specified (i.e., the situation is determinate). It is not essential to this analysis that there is only one potential rescuer. The same point can be made if there are two potential rescuers and multiple victims. I will illustrate with an example.

Imagine that there are two of us on the embankment when we notice the capsized boat. There are six children in danger. We each have a perfect duty to rescue as many persons as we can. The only difference here is that the perfect duty attaches to two people instead of just one and the duty is not a duty to rescue any particular person. There is more latitude in this type of case because we each get to choose someone to save. Nevertheless, the situation is determinate. Again, the same point can be made if there are three or four (or more) potential rescuers. A situation with both multiple victims and multiple potential rescuers can still be determinate enough to generate a perfect duty of rescue. There may be fifty of us on a beach when a group of children shout out for help; this does not mean that we can continue sunbathing because there are so many potential rescuers. As long as we can

\[10^{th} \text{In my example there is only one potential rescuer. The reason I imagine only one potential rescuer is to make it clear that there are more people than the one is able to save and so, necessarily, there is some choice involved in discharging the duty.} \]
each do something to aid, we each have a perfect duty to rescue. If no one helps, each of us fails in her duty.

Someone might think that this example could be further expanded to cover cases like famine. There are millions of people in need and millions of people able to address the need. But here the situation is different. There is no longer any specific thing that a specific person (or group of persons) should do; that is, the who, what and, when are not specified.

Fulfilling a perfect duty is quite straightforward since the duty specifies the conditions for its own fulfillment. It is especially straightforward in cases like Drowning Child where the agent must perform a particular act for a particular person. Once the agent does this, she fully discharges her perfect duty. I also showed that there are more complicated instances of perfect duties. These perfect duties may be more complicated because there is no one-to-one matching between the agent and victim, but the principle of discharging it is the same—the duty specifies an act that must be performed and once it is performed, the agent has fully discharged her perfect duty. This highlights a big difference between perfect and imperfect duties because fulfilling imperfect duties is not straightforward, if it even makes sense to talk about fulfilling them. In what follows, I will explain how we can fulfill, or at least contribute to, our imperfect duty to help the needy.
II. Fulfilling Imperfect Duties

*The agent has latitude to choose*

Each of us has an imperfect duty to help needy persons. No particular situation of need binds me to help in that particular situation, but in order to fulfill my duty I must help in some needy situations and help some needy persons. But what exactly must I do; when must I act; and who must I help? The answer to much of this is up to each of us. A situation of need that gives rise to an imperfect duty is one that does not specify the agent who must act (the "who"), the act that must be done (the "what"), and the timing of the response (the "when"). The duty that arises in this type of situation is not a duty to do a particular act, nor is it a duty that is owed to a particular person. The situation is indeterminate and gives rise to an imperfect duty because it lacks the specificity to pick out a particular act I must do or to connect me to a particular person that I must help. As a result, the situation does not completely determine what our obligations are. All we know is that there is a general duty to aid the needy and that the duty is imperfect. We must adopt a particular end--this much is clear. We must adopt the end of helping persons in need. And we must act to fulfill this end by adopting various means of achieving the end that are available to us. Nevertheless, there is a latitude present which gives us the room to choose which acts to do and whom to help. We do not get to choose between helping or not helping, but we get to choose how, when and
who we will help.\textsuperscript{11}

In an indeterminate situation, there is need that must be addressed, but that need does not bind you in a particular way (i.e., no particular act is required of you and no particular person has a claim on your aid). This does not mean that in an indeterminate scenario aid is not desperately needed and deserved, but rather that the agent need not direct her aid at any particular moment or toward any particular person. The point is not that the need in determinate situations is more important than the need in indeterminate situations, but that they must be fulfilled in different ways.

The question of how to fulfill imperfect duties is more complicated than the parallel question for perfect duties. The perfect duty to rescue specifies the conditions of its own fulfillment, but the imperfect duty to help the needy does not. First we may want to question if it even makes sense to talk about completely fulfilling an imperfect duty. Certainly it cannot be fulfilled as neatly or completely as a perfect duty is fulfilled. To fulfill a perfect duty, you must do the act specified by the duty. But imperfect duties do not specify an act, so there is no particular thing you can do to fulfill it. Our imperfect duty is a duty to adopt the end of helping needy persons--adopting the end does not fulfill the duty; one must also endeavour to bring about the end by actually helping needy persons. You cannot fulfill your

\textsuperscript{11}As I mentioned in the first section, I will not be concerned with \textit{how much} we have to do or give to fulfill our imperfect duties (that is dealt with in the next chapter). In this section, I want to explain how we should fulfill our imperfect duties, that is, in which situations we should act. So in what follows, I will focus on the various ways we can contribute to the imperfect duty to help the needy that are equally costly--that way the cost to us is not a factor I will consider as giving us reason to act in one situation rather than another (though of course, cost is an important consideration for us). Since you need not act in any \textit{particular} situation, I want to see if there is a principled way of deciding in which situations we should act.
imperfect duty to help the needy by doing one act, such as donating a sum of money to Oxfam because helping the needy must always be an end of yours. This end is not something you can take care of and then forget; the duty to aid the needy will always have a claim on you. This is different from the perfect duty to rescue insofar as that duty no longer has a claim on you once you do the rescue.

Can an imperfect duty ever be fulfilled, or is it more like an ongoing duty that we can work towards but never really fulfill? One might think that the imperfect duty to help the needy exists as long as need exists. Perhaps once need is eradicated, we may think that the duty is completely fulfilled. But if we mean by fulfilling the duty that the duty is completely discharged and no longer exists, I do not think that the imperfect duty to help the needy is ever completely fulfilled, even when persons are no longer in need. That is, I do not think that it is, in principle, something that can be fulfilled. One might say that there is not much point in discussing what our duties would be like if there was no need because it does not seem possible that such a world will ever come to exist. Nonetheless, we could say that a duty to help the needy always exists and it is only something that we must actively pursue when there is actual need. This is because we know that the basic needs of persons must be met if they are to function as persons (or agents) and that if (and when) such needs arise, we must do something to help. I think we can put this complication aside and work under the assumption that there will always be need; this is especially plausible when we consider that a great deal of need is a result of either natural disasters such as floods and earthquakes or economic and political instability. The best way of thinking about fulfilling an imperfect duty is to think about how each of us must contribute to the end. We can all agree that each
individual is not responsible for aiding all needy persons, though we must all actively work toward fulfilling this goal.

Korsgaard’s explanation of what is required to discharge duties of virtue is illuminating for this discussion. Korsgaard says that duties that
tell you to adopt and pursue certain ends . . . cannot simply be discharged, for the ends in question cannot be completely achieved. So the obligation here is broad. To the extent that you pursue the end, as an end dictated by the law, you achieve moral worth.12

Thus we need not talk about discharging our imperfect duties in the way that one can completely discharge perfect duties. We need only be concerned with contributing to them as much as we can and as much as is required. Our obligation with regard to the imperfect duty to help the needy will be to adopt it as our end and to pursue it by acting in situations that are means to the end. As long as we take our end seriously and pursue it seriously (which we do by helping in specific situations), we are doing what is morally required of us.13

There is a wide range of situations that we can choose to act in as means of fulfilling our imperfect duty to help the needy. We can choose to send money to Oxfam to help persons suffering from famine; we can send money to relief agencies that are helping the earthquake victims in Turkey or the flood victims in Mozambique; we can volunteer in homeless shelters. These are just a few of the many ways we can help persons in need. Are some ways of fulfilling our imperfect duty to help the needy better than others? Is there a

12 Korsgaard, 20.

13 All I am claiming is that we are going about fulfilling our imperfect duty in the right way; it may turn out that we are not doing enough (more on this in Chapter Six).
significant difference between any of the ways of fulfilling our imperfect duty to rescue? Are they all on equal footing or do we have stronger reason to help in some rather than others? Let us assume that each of the possible ways of acting requires the same amount of our resources (this ensures that we are not concerning ourselves with how much we should do instead of what we should do). My aim here will be to see if there is any principled way of distinguishing between the alternatives available to us.

I want to suggest that there are (at least) two different principled ways of choosing the situation in which we should act and each of these ways gives us a reason to choose one situation over another as a means of fulfilling our imperfect duty. The first principle is urgency. We have a stronger reason to act in a more urgent situation rather than a less urgent situation. The second principle is efficacy. We have a stronger reason to act in a situation in which we can most effectively bring about aid. Situations that are urgent and in which our help is efficacious seem to provide us with reasons to fulfill our imperfect duties in those particular ways. It is important to remember that the cases we will examine in this section only give rise to the imperfect duty to help the needy. Thus no particular situation binds us to act in that particular instance, and so we do nothing wrong if we choose one means of contributing to our end over another. Nevertheless, I want to suggest that our imperfect duty need not be fulfilled in an arbitrary way and indeed should not be fulfilled in an arbitrary way. The two principles I discuss do not exhaust all the possible reasons one may have for choosing one situation over another, but I believe they are among the most important.¹⁴ I am

¹⁴Of course, we may have a stronger reason to help someone to whom we have a special obligation; but I have put this issue aside by focusing solely on strangers. It may be the case that you
not making the stronger claim that we must act on these principles when fulfilling our imperfect duty, but the weaker claim that they should serve as guides for deciding the situation in which we should act. But before I discuss any of these particular reasons, I will say something more general about the strength and force of reasons in guiding the ways we should fulfill our imperfect duties to aid.

*Reasons for choosing one aid situation over another*

Since there are many different ways of fulfilling imperfect duties, it is important to have a principled method of figuring out how we should respond to certain situations given that we do not have to respond to all of them. When I say that there must be a principled method, I mean that there must be reasons for fulfilling imperfect duties in certain ways. Otherwise, we would be aimlessly choosing random acts of helping the needy to fulfill our obligations. There is nothing morally wrong with this, but it certainly is not the best way of fulfilling our duties to the needy. We must have reasons for choosing one situation over another.

The fact that a person is needy and that we know about the need automatically gives us a reason to aid her. But there are so many persons in need (i.e., we have reason to help

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do not have a special obligation toward someone but that you are inclined to help him because he is an acquaintance or you may prefer to help in an area that has special meaning for you--this may also provide you with reason (an agent-relative reason that arises from your own point of view) to act in one situation rather than another. What I want to explore here is if there are any such agent-neutral reasons (i.e., reasons that can be recognized from anyone's point of view).
millions of people) and it cannot be up to each of us to help every needy person. So who must we help? We should aid those people we have strongest reason to help. One good reason for choosing a particular way of fulfilling our imperfect duty is the *urgency* of the situation. A situation of need that is extremely urgent may be given higher priority than a less urgent situation. Another good reason for choosing to fulfill our imperfect duty in a particular way is that our aid will be efficacious. It makes sense that we would choose situations that we can be certain that our help will be efficacious instead of situations where we are unsure about the efficacy of our action. This may mean that we can help a greater number of people or that our help is an effective means of ending need in the long-term.

Both of these considerations--urgency and efficacy--provide us with reasons to do a particular act. In what follows, I will say a bit more about what gives rise to these reasons to fulfill an imperfect duty in one way rather than another, which reasons are stronger, and which reasons are overriding.

We can judge the strength of our reasons for acting in a particular way once we compare the various alternatives for acting that are open to us. At any given time, there are many situations that we can act in as means of fulfilling our imperfect duty to help the needy. We should act in that situation in which we have the strongest reason to act, but we are not morally bound to do so. Once reasons reach a certain strength and outweigh any contrary reasons we call them overriding reasons (or decisive reasons). If we have an overriding reason to fulfill our duty to aid by acting in this particular situation, that is how we must act.

Given this description of overriding reasons, it seems that only situations that give rise to perfect duties are the types of situations in which we have an overriding reason to act.
This is because we have no decisive reason to fulfill an imperfect duty in any particular way because the very nature of imperfect duties is that agents have latitude in fulfilling them. We may have reasons for fulfilling our imperfect duty to aid in a certain way but these reasons are not overriding. If they were it would be wrong in act in any other way. If we have an overriding reason to act in a particular way in a particular situation, we would be bound to act in that particular way. So we should reserve talk of *overriding* reasons for perfect duty situations and instead talk about *strong* reasons in imperfect duty situations.\(^\text{15}\) Unlike overriding reasons, strong reasons need not be decisive guides of our actions. We may have a reason to help a needy person in our community, in fact, we may have a strong reason, but if the reason is not decisive, we can choose not to act upon it. We can choose instead to do something else we have reason to do, even if it is a weaker reason. Weak reasons provide even less guidance, but they are important nevertheless because they still provide us with some principled way of fulfilling our imperfect duty to aid.

An imperfect duty to aid can be fulfilled in many different ways, but we should not just pick a needy cause out of a hat or a person randomly out of a phone book. There may not be anything morally wrong about acting in this unprincipled way, but it does not seem to be a rational approach, nor one that is a good explanation of how we should choose to fulfill our imperfect duty to help the needy. There is typically some basis (some reason) for choosing one way of helping over another. At this point, I should reiterate that I am not

\(^\text{15}\)Perhaps we have an overriding reason to help someone we are specially obligated to help. For example, I may have an overriding reason to help my sister or help someone I am in a contractual relationship with or someone to whom I have made a promise. But here I am only concerned with our obligations to strangers.
commenting on how much we need to do to fulfill our imperfect duties, or if it is even possible to specify an amount. What we do know is that the answer to this will be different for each of us and will depend on the resources we have and the other projects to which we are committed. No matter how much we need to do to fulfill our imperfect duty to aid, we must do something and there is a principled way of choosing that thing.

There may be a principled way of choosing how to fulfill our imperfect duties, but there is no mandatory way. The factors I will discuss are factors that an agent should consider when deciding how exactly she will contribute to her imperfect duty. But even though these factors can be weighed against each other, there is no moral requirement that the agent act on the strongest reason. It may turn out that we usually do act on the strongest reason, but you do nothing morally wrong if you instead choose to act on a weaker reason. Thus, you need not act in the most urgent situations or in the most efficacious way—though you have good reason to; you may choose to act in some other situation. The main point here is that you do nothing wrong if you fail to act in any particular situation, even though we may think that you have a very good reason to act in a particular situation. Since the imperfect duty does not bind you in any specific instance, you cannot be blamed for failing to act in any specific instance. However, you do something morally wrong if you fail to do anything to help the needy (this would show that you have failed to adopt helping needy persons as an end).

Agent-relative reasons can give one a basis for deciding to act in a certain situation of need. For example, I happen to be fascinated with Indian culture, so I choose to donate my money to needy people in India. Or I happen to have fond memories of vacationing in
Turkey, so I direct aid there for the earthquake victims. Any preferences or tastes I have can provide me with reasons for choosing one cause over another. For imperfect duties, our agent-relative reasons can take priority. However, my concern is with whether there are any agent-neutral reasons that provide us with a basis for deciding how to fulfill our imperfect duties to the needy.

\textit{i. Urgency}

One may think that all situations in which there are persons in need are urgent. It may very well be the case that there is an urgency about helping persons in need, but there is no reason to think that all such situations are equally urgent. Perhaps the most urgent types of cases are the types of cases that give rise to the perfect duty to rescue. The following are examples: a child drowning in a pond, an injured person trapped in a well, a person caught in an avalanche in the mountains. All of these situations are of the utmost urgency because the victims are in peril--if someone does not act \textit{immediately} the victims will surely die. These kinds of emergency situations are typically the kinds of situations that can be addressed by a particular act and hence a particular act can be assigned to an agent in the form of a perfect duty. But there are urgent situations that do not give rise to perfect duties.

Take an example from current events: an earthquake devastates a large city in Turkey and thousands of persons are killed, thousands are trapped under rubble, thousands are injured and thousands are left homeless and impoverished. If you happen to be there, you may have a perfect duty to rescue some of the persons trapped in buildings and under rubble...
(unless of course the situation was dangerous in which case the rescues should be carried out by experts). When civilians do get involved in risky rescue attempts, they go beyond duty because of the risk to their own lives. If you are not in Turkey you do not have a perfect duty to help the trapped persons, but because of the extreme urgency of the situation you have a good reason to help them if you can. And what about the injured and homeless persons? If the injuries are not immediately life-threatening, we can say of this group that they are in need of help but that their situation is less urgent than those persons trapped under the rubble. We may also judge that it is more urgent to help the injured than it is to help the homeless; though this could be reversed if the injuries are not very serious and shelter is more urgently required because of the impending cold weather.

Is there a reason that these needy persons have a greater claim on my help than other needy persons in the world? If there is a greater sense of urgency in this situation than in other situations of need (e.g., the continuing famine in Ethiopia) we might think that have more reason to help in Turkey. That is not to say that both do not contain persons in need or that the persons in both situations are not equally deserving of aid—they are. But since it is not our duty to help in every situation of need, we must choose among the alternatives available to us. Our choice will depend on the reasons we have to help in Turkey and in Ethiopia. One reason we have for acting is that acting in the situation is a means of fulfilling our imperfect duty to help the needy. This is an important reason for acting, but notice that we cannot distinguish between the two alternatives (helping in Turkey or Ethiopia) on this ground alone because both are means to that end. Once we know that both are legitimate options, we should look to the differences between them. One important difference may be
that the situation in Turkey is more urgent. Disease is spreading quickly, many persons are seriously injured, and winter is approaching while many persons are without shelter. The injured persons must be attended to promptly; a safe water supply must be restored; shelters and food must be provided. All of this requires outside aid. Because of the urgency of this situation, we could say that our aid should be directed to Turkey first and to Ethiopia second.16

The fact that the aid is required urgently, perhaps more immediately than in other cases of need, gives us reason to fulfill our imperfect duty to help the needy by helping in this situation. That is, we have more reason to help here than in a situation that is not as urgent. This is so even if our giving the same amount of aid in Famine may produce some more good there.17 Thus, if presented with the opportunity to help either the hungry persons in Famine or the victims in Earthquake, we have stronger reason to aid the earthquake victims. It does not follow that no famine victim can be preferred to an earthquake victim or that no famine victim is deserving of aid (i.e., we do no wrong if we direct our aid to the less urgent situation), I am merely suggesting that we may have reason to help the earthquake victim

16 Of course, a precise judgement can only be made once we had more information. Perhaps it is the case that the famine situation is more urgent—the situation may have reached crisis proportions and aid should be sent there first. To say that one situation is less urgent than another is not to underestimate the need in that situation; however, if we can only help in one situation, helping in the one that requires help most urgently makes sense.

17 Though if it produces a significant amount of more good, we then seem to have a stronger reason to act in Famine. Just how much good is significant is not something that is easy to specify in advance. The point I want to make is that there may be times when some good, but not a significant amount of good, may be compromised for acting in more urgent situations. And this is contrary to the common utilitarian principle that the amount of good an action may produce is the only important guide to our action. See Chapter One for a discussion that shows that not all consequentialists have this principle as their decision-procedure.
over the famine victim—though, of course, it may turn out that we have other stronger reasons to aid in Famine and these would outweigh the reasons that arise from the urgency of the situation in Earthquake.

ii. Efficacy of Aid

An important and obvious consideration we must take into account when deciding how to fulfill our imperfect duty to help the needy is whether or not a particular action will be efficacious. Of course, an act must be an effective way of addressing some need, otherwise doing it is not an instance of fulfilling your imperfect duty. My question is rather; should we choose the most efficacious act. This could either be the act that ends the need in the long-term instead of temporarily or the act that brings about an end to the most need or the need of the greatest number of people. I want to suggest that we do have a stronger reason to act in a situation in which our help will be more efficacious. If this was the only legitimate consideration, we might choose to focus our help in our own community where it may have the greatest impact, or alternatively we might choose to contribute to the poorest and worst off group of needy persons because an equal amount of aid would help a greater number in that community than it would in ours. The fact that our aid will be more efficacious in a particular situation certainly does give us reason to act in that situation rather than one in which our help will not do much good.

One might reply that we are not and should not be concerned with doing the most efficacious thing. After all, the duty to aid is not about maximizing good states of affairs or
making people better off—that is the subject-matter of the duty of beneficence.\textsuperscript{18} However, it would be naive to think that the efficacy of our action makes no difference at all, especially when the alternatives we are choosing from are all legitimate means of fulfilling our imperfect duty to help the needy. That is, if we get to choose how to fulfill our imperfect duty to help the needy, why not fulfill it in a way that leads to more good or helps a greater number of people? If sending $100 to Ethiopia were to save the lives of a family of four (or at least temporarily address their most critical needs) and the same amount of money would only help one person from our own community and both are legitimate ways of fulfilling our imperfect duty, we have stronger reason to send our money to Ethiopia. Notice that I only say we have stronger reason to help in Ethiopia and not that we \textit{must} help there. The reason for this is that this situation does not bind me in particular; i.e., I do not have a duty to help in this particular situation, so no matter how much good I could do by directing my aid to Ethiopia, I do no wrong if I direct it elsewhere.\textsuperscript{19} This is so even if the fact that it is \textit{my} community gives \textit{me} a reason to give greater weight to aiding in my community over aiding in another community.

It is not only important that our aid serves to help the largest number of people possible but also that we know what kind of aid is needed and we can do something about it. Even if I was a doctor, I would not have a perfect duty to go to Turkey to help the needy

\textsuperscript{18}The distinction between the duty to aid and the duty of beneficence is the subject-matter of Chapter One.

\textsuperscript{19}As long as I am directing aid somewhere, I am fulfilling my imperfect duty to help the needy. In Chapter Five I will address this issue further and say more about why it is that the imperfect duty to help the needy is not a duty to help all the needy, nor a duty to help the maximum number of needy people.
earthquake victims, though doing so is a good way of fulfilling my imperfect duty and I have reason to choose it over Famine where I am less sure about how I can contribute. I have a reason to aid in that situation not because I can aid the maximum number of people (or perhaps I can do this by sending a cheque to Oxfam), but because there is something I can do to help.

But since I am not a doctor, do I still have reason to help in Earthquake rather than Famine? Maybe my help in Earthquake will be more efficacious because there are other more complicated problems underlying the need in Famine that will prevent my help from being as efficacious there. Sometimes we hear that aid never gets to certain countries because of corruption in the relief agencies or sometimes that agencies do their part but the leadership in the recipient country prevents the aid from getting to its needy citizens for political reasons. If this is the case I have a stronger reason to give in other situations where my help will do more good. Again, I will note that we may have agent-relative reasons that override this agent-neutral reason. For example, I may choose to give my aid to charities in India even though I have heard that they are corrupt because I am moved by Indian culture.

I need not spend much time defending the claim that this consideration gives rise to reasons on which we should act. This a common consideration which we all take into account. The important point is that, even though efficacy is a legitimate consideration, it is not the only legitimate consideration. That is, sometimes the urgency of the situation gives

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20 This is certainly one reason why persons are hesitant about sending money to international relief agencies—they are not confident that their contribution will do much good. This may be a legitimate reason for choosing to give money locally but it is not a legitimate reason not to give at all.
us reason to act in situations in which our actions are not maximally efficacious.

What I hope to have shown is that the various ways of fulfilling our imperfect duties to the needy differ from rescue cases where agent-relative reasons are irrelevant. In rescue cases, I cannot choose who to save based on my preferences or tastes; what I must do is already specified for me. I have tried to show that there is also an agent-neutral basis for fulfilling our imperfect duties. That is, we should choose to act in those situations that are most urgent or in which aid will be most efficacious. But even though there is this agent-neutral basis for deciding, I have conceded that agent-relative reasons may provide us with a basis for fulfilling our imperfect duties to aid in certain ways.

A 'complicated' example

Notice that the two factors I have been discussing--urgency and efficacy--are factors that add to the determinacy of a situation. Situations are either determinate in the right way and so generate perfect duties of rescue or they are not. But even situations that are not determinate enough to ground a perfect duty can be determinate to a greater or lesser degree. Knowing what kind of aid is needed (i.e., how you can help in a particular situation) or that the aid is needed urgently are both features that make a situation less indeterminate (because we know more about the "what" and "when"). This added degree of determinacy is not sufficient to change an imperfect duty into a perfect one but it is sufficient to provide us with guidance about the ways we should fulfill our imperfect duty.

The example that follows is only complicated when we compare it to the simple
examples of Drowning Child and Famine because the situation is not quite determinate enough to generate a perfect duty of rescue but it is not obviously indeterminate. That is, it is indeterminate insofar as it generates an imperfect duty but it is more determinate than Famine because it provides us with more guidance with respect to what aid is needed. I suggest that the fact that aid is needed urgently and the fact that there is something we know we can do to end some need provides us with a real guide to action. The case we will consider is Hurricane.

A small village has been devastated by a hurricane. The village consisted of 100 homes, but after the devastating storm none are left standing. The short term needs of the 500 homeless persons are clear on this cold winter night. They need shelter from the cold and they need food. Moreover, 200 of the villagers are injured and need medical attention. There should be obvious parallels between this example and Famine. There are many people in need and they need help from others or they will die. They need the same type of aid--food, shelter and medical supplies. I concluded in Famine that the duty to aid is imperfect and we are not obligated to direct aid to this particular situation of need. Even though Hurricane is more determinate than Famine, is the type of duty at stake in Hurricane also imperfect? And if it is, how much latitude is involved?

It is not immediately obvious whether this situation is determinate or indeterminate, so it will be necessary to go through the criteria for determinacy again to see how this case fares. First, we notice that like Famine, there are many people who need help and potentially many people who could help (this group could contain every person that is not needy and who is able to make a difference). If it is an imperfect duty, as I suggest it is, there is nothing
we must do because imperfect duties are not binding in particular cases. No particular individual must aid in this particular situation. I have already argued that hearing about someone’s need is not sufficient to create a duty to that person (though knowing about it is a necessary condition for such an obligation). There is nothing that obligates me to any particular person in this group instead of any number of other needy persons in the world. Even if we agree that there is a duty to help needy persons, this situation is not specific enough to obligate me directly.

We also notice that the kind of response that is necessary is salient to us. The needs of the victims are salient to the people who are either involved or have knowledge of the situation. If I have heard about the village disaster, I know the extent of the need, how many people are involved, and generally what kind of help will be required. It is not like a rescue; there is no particular act I can do that will save the needy persons, and there is no reason to connect me to this situation in particular. In this situation, the help required is more like an on-going strategy rather than a simple, finite response (though the need is somewhat finite once aid is given, it is certainly not as long-term as the famine situation which requires that we address more complicated issues, such as addressing political factors or underlying natural and environmental concerns). Unlike pulling the drowning child out of the water, to aid the people of this village a strategy of gathering the appropriate resources, rebuilding homes and assembling a number of experts must be devised.

But what if there was some determinate thing you could do to help? What if you were driving past the village just after the disaster with a truckload full of tents? There seems to be something different about the situation once we add this complication. We need to
figure out if we are required to give up the tents, or if this is simply something that is up to us. That is, is there a perfect duty to give the needy persons your tents? Or is giving up our tents merely one way of fulfilling our imperfect duty to help the needy?

I think that the duty in this altered situation is a perfect duty because there is a particular act you can do to help. The situation demands it of you. It demands it of you because you are in the village and can provide the needed tents. The victims need shelter and you are in a special position to provide it. However, it does not follow that in the original situation you would have a duty to go to Canadian Tire to buy a bunch of tents, rent a truck and deliver them to the village; though this is one possible means of fulfilling your imperfect duty. One way of testing this is to ask if you would do something wrong if you leave the village with your truck full of tents.\(^1\) I think we would say yes. But I do not think that we would say you do something wrong if you do not go and buy tents to give (especially if you use that money to help other needy persons).

Just how strong are our reasons to fulfill our imperfect duty to aid the needy by acting to aid the hurricane victims? Do we have a stronger reason to help in this situation than we do in the Earthquake disaster in Turkey? Perhaps the need in Turkey is more salient to us now because the situation is being reported daily in the news. If we had the same facts about both situations and knew that the timing and type of response required is similar (or the same) in both we would not have any compelling reason to prefer either one (though we may

\(^1\)This will depend on your particular circumstances. I have not yet discussed *how much* is required of persons in the fulfillment of their moral duties, but we could say that if your entire livelihood is tied up in these tents, we do not expect you to give them all up--though we still may think you should give up a few tents (i.e., a reasonable number). More on this in Chapter Six.
have other personal, agent-relative, reasons; i.e., I went to Turkey on my honeymoon and the people there were very generous to me). We must be clear that we would not be doing anything wrong if we chose not to act in either situation—we can choose to help someone else (e.g., help in Famine) at this time or we can even choose to fulfill our own projects as long as we do not neglect our duty to aid altogether. Some may think that this is an unfortunate consequence of my view and that it really means that we do not have to help others and; in fact, that we can just do what is in our own best interest. But this would not be taking the imperfect duty to aid seriously. An imperfect duty is a duty nevertheless. Even though we do not have a perfect duty to aid in these more complicated in-between type cases because they are not determinate in the right way, we still must be committed to helping others.

An account of how to fulfill perfect and imperfect duties to aid cannot be complete until we consider how these duties fit in with the duties we have to ourselves. What duties do we have to ourselves and when do these duties take precedence over our duties to aid others? I will turn to this question next and show that the conflict between these two different duties is different when we are dealing with the perfect duty to rescue than when we are dealing with the imperfect duty to help the needy.

22 We have good reason to act on our own ends as well. We have stronger reasons to act on our more central projects and weaker reasons to act on our more peripheral ones. I will address this issue further at the end of this chapter.
III. The Conflict Between Duties to Ourselves and Duties to Others

It is important, and I think, legitimate for morality to leave some room for each of us to pursue our own projects and to allow us to provide for our own basic needs. Thus it is important that the duties we have to aid others—both perfect and imperfect—not be all-consuming. Space must be left for us to do things for ourselves. To deny this is to deny persons the capacity or the basis on which they are able to pursue their lives in any meaningful way. Nevertheless, we must not only be concerned with pursuing our own projects because we have obligations to others as well. Clearly duties to ourselves and duties to others will conflict. For present purposes I want to explore some of the different ways that duties to ourselves conflict with the duty to aid. Because there are structural differences between the perfect duty to rescue and the imperfect duty to help the needy and because the duties are fulfilled differently, each of them conflicts with the duty to ourselves differently.

23Kant argues for duties to ourselves extensively in the Groundwork and the Metaphysics of Morals. For Kant the duty to ourselves is a duty to perfect ourselves and not a duty to pursue our own happiness. Thus I will not be following Kant in that my understanding of the duty to ourselves includes the duty to pursue some of our projects, especially our more central ones.

Talk about duties to ourselves need not commit one to a Kantian view. On an indirect consequentialist account, it is quite plausible to suppose that each of us, as agents, has the duty to ensure that our basic agency remains intact. The reason for this is not merely that without this basic level, we can have no (or very poor) welfare of our own, but that we would not be very effective agents that can promote good states of affairs. Perhaps, even a more direct version of consequentialism recognizes the importance of this and will agree that we ought to protect the basis of our agency even if doing so is not the optimal thing at that time. On the consequentialist account the duty is indirect and on the Kantian account it is direct; I will not be making this distinction throughout, but will merely refer to it as a duty.

24I will talk about it in terms of a duty to ourselves, though it is not important if it is not a "duty"; that is, one could instead argue that it is the sphere of legitimate self-interest (i.e., an option). The difference is that we need not (though we are permitted to) act on our self-interest (legitimate or not), while we should act on our duty.
My main goal in this section is to show how duties to ourselves conflict with the duty to rescue and the duty to help the needy and to explain why they conflict differently. In the next chapter, I will discuss the relative importance of each type of duty and say a bit more about the basis of the duties to ourselves.

It will be important to figure out how our obligations to aid others fit with our obligations to pursue our own projects (i.e., live our own lives) and how they conflict. Which cases of aid immediately take priority over our own projects? None of them? All of them? Neither answer seems right. As I have suggested, the duty to aid would not have much impact or would not be taken very seriously if it were the case that the duty to aid never took precedence over the duties to ourselves (i.e., the pursuit of our own projects and goals).25 Neither would there be any real sense in which we have our own projects or duties to ourselves, if we were always required to subordinate them to the duty to aid.26 I will try to demonstrate that there is a principled basis on which to claim that some situations of need

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25Presumably, we would only be concerned to protect those projects of ours that are morally permissible. So, my project of stealing candybars may not ever take priority over the duty to aid, but my project of reading philosophy sometimes does.

26But both of these views have support in the moral literature. The former is supported by libertarianism and the latter is supported by consequentialism (in particular, by direct utilitarians Singer and Unger). The libertarian is concerned with personal liberty and rejects any duty that interferes. But, I think that if it is possible to show that we have duties to aid which do not unduly interfere with our liberty then, at least, the more moderate libertarian may consider accepting these duties. The utilitarian, on the other hand, will only consider accepting these duties if it can be shown that the principles I put forward have the consequence of bringing about the most good overall and I will not attempt to demonstrate that consequence here. However, it is important to note that many consequentialists would not accept Singer’s or Unger’s versions of the duty to aid because it seems very implausible that either will result in maximizing the good. For an interesting discussion of the disastrous social consequences that would follow from Singer’s and Unger’s views, see David Schmitz’s paper “Islands In a Sea Of Obligation: The Nature and Limits of the Duty to Rescue”, presented at The Moral and Legal Limits of Samaritan Duties conference at Georgia State, June 1999 (forthcoming in Law and Philosophy).
require our immediate action while others do not automatically trump our own projects. Though we are required by morality to give up our own projects to aid others at times, we are not required to give up all our projects for an indeterminate period of time. To do so would be to ask too much from the individual: it would be to ask her to give up on her self.

Some duties to aid are such that they take priority over our own projects and some do not. I will show that it makes sense to claim that the duty to rescue can have priority over our own projects and that our projects can have priority over our imperfect duty to help the needy. That is, you are required to save the drowning child even if it prevents you from making an important appointment; though you are not required to miss the appointment in order to fulfill your imperfect duty to help the needy (i.e., you can make the appointment and help the needy at different times). It will often be the case that the imperfect duty to help the needy will not come into direct conflict with our projects. This is not because the imperfect duty does not demand very much, but because of the structure of an imperfect duty. We not only have some flexibility in deciding when to fulfill our imperfect duty, but many of our projects are flexible as well. Of course, it would be problematic to say that the imperfect duty to help the needy never takes priority over any of our projects or ends. If this were the case we would never fulfill the imperfect duty; and hence we would not even seriously hold it as and end of ours (because to adopt it as an end requires that we try and fulfill the end).

It is important to note that not all of our projects and ends have equal moral worth. This seems obvious given that we do not value all our ends equally anyway. Some of our ends are more central to our conceptions of who we are and others are more peripheral. We might want to say that we are required to give up our more peripheral projects more
frequently and easily and that we get to hold on to the more central projects. For example, we may have less problem saying that you must forgo your expensive wine-collecting habit than saying that you must give up your philosophy career in order to use your resources to help the needy.\textsuperscript{27}

I will suggest that perfect duties must be fulfilled immediately, and so will likely be fulfilled at the expense of some of your ends; imperfect duties allow some latitude, and so fulfilling them does not necessarily take priority over any particular end. My intention is to show that they are different \textit{types} of situations, so they affect our projects differently.

\textit{When perfect duties conflict with duties to ourselves}

A likely consequence of acting in an emergency to rescue someone is that we may be required to put some of our personal pursuits on hold temporarily. However, I do not think that it is likely that these are the types of cases that would significantly interfere with our projects. Because the situation is an emergency, we understand why we must put everything on hold immediately—that is the nature of the need. Most individuals, while they value their own projects dearly, understand that there may be instances in which they will be required to modify their lives. This requirement may be as minimal as carrying out a project at a later time or as stringent as forgoing a project entirely. Depending, of course, on the structure of the project, it is likely that the moral requirement to give priority to rescuing persons in

\textsuperscript{27}I discuss this point further in the next chapter.
emergencies over our own pursuits will delay rather than destroy our personal projects.\textsuperscript{28}

This is because the duty is not open-ended--it is strictly a duty to do a particular act.

It is not the case that perfect duties trump our projects merely because the duty to rescue comes up very infrequently. While it is true that it is rare that we may come upon a drowning child and have a duty to rescue her, the duty would take priority over our own projects even if we passed twenty drowning children each day. This is because each instance binds us in particular. The only legitimate reason we would have for not rescuing a drowning child is that it would leave us needy ourselves.\textsuperscript{29}

Since fulfilling a perfect duty only requires that you do a specific act, the conflict between doing that act and acting on our own interests will typically only be temporary. Though we may have to sacrifice something, the sacrifice is limited because of the structure of the perfect duty.\textsuperscript{30} When there is a specific duty to do a particular act, we know when we

\textsuperscript{28}In fact, the duty to aid could never lead you to destroy all (or an important subset) of your personal projects because this would be a serious violation of your agency, the very thing to which this duty is opposed. Sometimes, fulfilling your perfect duty may have onerous consequences for the pursuit of your ends. I will address this further in the next chapter when I discuss how much we must do to fulfill our duties (i.e., what is the limit to our duty to aid).

\textsuperscript{29}Practically speaking, if it were the case that so many persons were drowning in a particular place, there are better ways of dealing with it than leaving the burden to individuals. For example, we could hire a lifeguard to patrol the dangerous area--this would be something we should do collectively.

\textsuperscript{30}While the fulfillment of any particular perfect duty is necessarily a finite act and thus only conflicts with our own projects in a finite way, it is possible that the fulfillment of perfect duties is more onerous than that. This would be the case if we frequently encountered situations in which we had a duty to rescue. That is, if we were required to do countless finite acts, they could interfere with our own projects to a greater degree. To a certain point this does not change how our duties to aid and our duties to ourselves conflict--we must fulfill our perfect duties even when they conflict with our projects and even though we have several such duties. I say to a certain point because at some point--perhaps when our projects are interrupted to the extent to which our agency is threatened--we have a legitimate excuse not to fulfill an perfect duty. For example, rescuing one drowning child
are permitted to return to the pursuit of our own projects. We do what we must to deliver the aid and then we can pursue our own projects. Once the child is pulled out of the water, we will have protected her agency and provided her with her most basic need and we will have done what is required of us. Once that is completed, nothing more is required of us (our obligation has been fulfilled), thus, we may carry on with our own lives.

When imperfect duties conflict with duties to ourselves

Imperfect duties are not like this. There is no specific act that can be performed that will solve the problem. Unlike fulfilling perfect duties which typically only require a temporary setback or delay of our own projects and interests, imperfect duties are fulfilled differently. It is not as though we can fulfill the imperfect duty and then get back to our own projects. The imperfect duty to help the needy is ongoing. It is not fulfilled after we give $50; it is not fulfilled after we give $200 and it is not even fulfilled if we give our entire life-savings. In fact, I have claimed that we can never fully fulfill our imperfect duty to help the needy, and so it will never be the case that we can fulfill the duty and then fully devote ourselves to pursuing our own good—there will always be something we can do to aid others. The duty to help the needy always makes claims on us because it is never discharged. This is unlike the duty to rescue which makes no further claim on us once it is discharged.

The situations we are concerned with are not very determinate and thus they do not

should take precedence over (almost) any other duty, but rescuing 20 drowning children a day does not allow you to do anything else that makes your life meaningful.
bind us. If we are not bound to a particular situation, we need not act on it. That is, we do nothing wrong if we choose to act in another situation of need at another time. So I need not drop my projects to aid in situation X if I can retain my project and act in situation Y later. If there is no moral difference between acting now or later, the agent is not required to drop all her personal projects immediately. The agent gets to choose which projects of hers she will trade-off in order to help others and which she will not.

This should not be interpreted to mean that the aid is not required or that it is not desperately needed; but that the way in which we must respond is different from way we must respond in a more determinate scenario. Notice that this just means that our personal projects are not automatically trumped when these types of aid situations emerge; however, it does not follow that we need not sacrifice any of our personal projects to provide this type of aid. The kind of sacrifice required is different in determinate and indeterminate situations. In the indeterminate case, we do not have to sacrifice something extremely important to us. For example, if we are in the midst of an important endeavour (e.g., this could be as simple as going to a job interview or as lengthy as putting all your time and money toward a university degree), we are permitted to finish it first before we are required to act. We may use some discretion about when we will act and what we will do. This is not because our personal projects are more important than the life of the endangered person, but because it is legitimate to value our own projects and remain committed to them and because the timing of our action is not crucial to fulfilling our imperfect duty.

When we consider Singer's views, one of the important things missing is that he does not recognize a moral space for the pursuit of our own lives--this is obvious when he
advocates giving up our resources to the point of marginal utility. Similarly, Unger thinks we must be willing to commit moral wrongs such as stealing and murder and even give up our own lives without considering that these acts may be fundamentally opposed to all of our commitments. A view that is unable to strike some balance between our own interests and the interests of others is to that extent problematic.

While it may be obvious that we must help needy persons (in some way and to a certain extent), it is also obvious that we must protect our own agency. This means that we must be able to pursue, to some extent, the projects and ends we have set for ourselves. What is not obvious is how to deal with situations when these two “obvious” aims conflict. It is my hope that my discussion has helped in this regard. I hope to have shown when it is morally required of us to put aside our own ends for the sake of helping others, and when we have the space to pursue our own projects.
Chapter 6:

Limitations on the Duty to Aid

In this final chapter, I will explore some of the factors that are commonly thought to limit the scope and extent of our obligation to aid. These factors include the amount of risk and cost taken by the agent, conflicting obligations and ends we hold, the compliance of others with their duties to aid and the actions of the person in need of aid. The main point of this chapter is to show that these factors apply differently to the perfect duty to rescue and the imperfect duty to help the needy.

But first let us briefly retrace how far we have come. I have shown that the most widely accepted moral theories include a duty to aid others. The duty to aid is a duty to help persons who require the basic necessities of life or whose very agency is under threat. Not all theories converge on this point. The exceptions I discussed were direct utilitarianism and libertarianism. The direct utilitarian is committed to the optimal act and hence is not committed to aiding when it is not optimal. The libertarian rejects all positive duties to others. I suggested that we should consider this another reason to reject these two accounts. I then turned to examine the duty to aid more closely. The main thrust of this thesis has been to argue that not all duties to aid are alike.

There are two different types of duties--the perfect duty to rescue and the imperfect duty to help the needy. The main difference between these types is not that one is more important than the other, but rather that they bind individuals differently; in particular the
conditions for their fulfillment are different. The duty to rescue binds the agent to act in a particular situation. As in Drowning Child, the agent must do something to aid a particular child. We do not accept, as legitimate, the excuse that the agent just mailed off a $100 cheque to Oxfam and so has met his “quota” of aid for the day. But the duty to help the needy does not bind the agent to help in any particular situation. As in Famine, the agent is not bound to aid any particular famine victim. It is perfectly acceptable for the agent to say that she just mailed off a $100 cheque to the Mozambique Flood Fund and so has met her “quota” of aid for the day.\(^1\) It is acceptable because the agent has latitude in choosing how to fulfill her imperfect duty—the important thing is that she aid others. It is not important that she helps a particular person or that she directs her aid to a particular situation.

But now that we know that there is a duty to aid and that these two different types of duties must be fulfilled in different ways, it will be important to see how my account of the distinction bears on the question of what and how much we must do to aid others. Two things are clear. We cannot help everyone all of the time and we should not do nothing when there are persons in need. We must do something, but surely there are limits to what morality demands of each of us.

An important feature of the distinction I have drawn between perfect and imperfect duties to aid is that it frames the question of how much we should do in a different way. It does not, however, provide us with a procedure for determining exactly how much we must

\(^{1}\)I do not think it is possible to determine a precise daily quota, but imagine that one way of fulfilling our imperfect duty to aid is to each give ten per cent of our income to the needy; perhaps we can arbitrarily divide this into weekly or even daily contributions.
do to aid others. There is no reason to think that by drawing a distinction between perfect duties of rescue and imperfect duties of helping the needy, we will end up with some formula that states that we must rescue five people a year and donate ten per cent of our income to famine relief. But drawing the distinction I have will guide us in deciding what aid we must provide and to whom we must provide it. How much we should do and what we should do will depend on whether or not we are dealing with a perfect or imperfect duty.

The point of my account is not to determine the precise amount of money we must give or the exact amount of time and effort we must expend, but to provide us with the resources to frame this problem differently and, I hope, more clearly. By examining the limitations on the duty to aid, we will see that the force and scope of these limitations depend on whether a perfect or imperfect duty is at stake. The fact that the distinction between the perfect duty to rescue a person in peril and the imperfect duty to help the needy has implications for the limitations on our duties further demonstrates the significance of the distinction. On my account, one should not ask the general question "what are the limitations on the duty to aid?" because there is no single answer. The duty to aid is a broad category that includes both the duty to rescue and the duty to help the needy. What and how much is required of the individual is different in the case of rescuing and in the case of relieving need. It is different because the duties are structured differently and they must be fulfilled differently.

I will first examine the limitations on the perfect duty to rescue. Is it ever the case that we are not required to save the drowning child? I will argue that the duty to rescue has a threshold—at some point, rescuing becomes too difficult (i.e., too risky or too costly) and the
agent is not obligated to act. I will also show that in certain cases it matters that the person in peril knowingly put himself at risk. However, we will see that the boundaries of our duty to rescue are not affected by the obligations of others or the pursuits of any of our other particular projects and ends.

I will then examine the limitations on the imperfect duty to help the needy. How far-reaching is this duty for the individual? The answer will depend on how the duty is formulated—-is it a duty to help as many people as much as possible or is it a duty to help some needy people sometimes? I will show that we have good reason to prefer the second formulation. Before we can understand the extent of our obligations to the needy, we must determine how this duty fares against our other obligations and our other pursuits. Moreover, we will see that contrary to what Singer and Unger claim, the actions (or inactions) of others do not increase the scope of our obligations.

By showing if and how these factors serve to limit our obligations, we will gain a better understanding of what and how much we are required to do for those in peril and in need. It is important to my account to show how these constraints and limitations function differently for perfect and imperfect duties to aid.

1. Limitations on Perfect Duties to Rescue

The Easy/Difficult Limitation on the Duty to Rescue

Even among those of us who agree that we must aid others, there is disagreement
about how much we must do. One of the most common reasons people cite for not aiding someone is that it is too difficult. The ease or difficulty of an aid situation is not a straightforward feature—it can refer to various things such as the extent of risk one must accept, the amount of resources one must expend, or more generally the cost or sacrifice that one must endure in order to provide aid. As we progress, it will become clear that our judgements about the significance of ease and difficulty are different for perfect duties of rescue and imperfect duties to help the needy. Thus what counts as too difficult to fulfill a perfect duty is different from what is too difficult to fulfill an imperfect duty.

My aim in this section is to explore the extent to which ease and difficulty make a moral difference to our duty to rescue. Is it the case that an individual is always required to fulfill her perfect duty just because the situation is urgent and she is able to do something to save the person in need? Is it ever the case that a rescue is too difficult? And if so, what makes it too difficult? We most certainly have to throw in the life preserver to rescue the child but we do not have to rescue someone if it means that we must sacrifice our own life. Somewhere between these two extremes is a threshold above which the agent has no duty to rescue because the rescue is too difficult.

Because of limitations of space, I will not be able to discuss the difficulty limitation on other types of perfect (and imperfect) duties. I should mention, however, that the difficulty limitation is not unique to the duty to rescue. For example, we do not have to keep promises at any cost. So I can break my promise to meet you at 12 o’clock for lunch if a friend becomes ill and I must take her to the hospital.

Consider another version of Drowning Child--Drowning Child in Dangerous Waters.
In this version, the child is drowning in rough waters and the only way to effect the rescue is for you to jump in and pull her out yourself. You are not a particularly strong swimmer and you fear that if you go in after the child you will drown yourself. Given the difficulty of the situation (i.e., you will risk your life), are you required to save the child?

There are two different ways we can respond to this situation. The first is to say that you are not required to save the child. On this view, there is a threshold of risk and cost on the duty to aid and once the risk and cost to the agent reaches this threshold level, there is no duty. That is, once a situation becomes too risky or too costly an agent is justified in not performing the rescue. This means that an agent does nothing wrong if she does not aid. Of course, the agent still has a reason to rescue the drowning person but that reason is overridden by the consideration of cost. So, you do nothing wrong if you refrain from jumping into the dangerous waters.

The second way to respond is to say that you do the wrong thing if you do not go into the dangerous waters, but that we do not blame you. You still have a duty to rescue but the high risks and costs of this situation are conditions that excuse your inaction. Since you are excused, we do not blame you or hold you responsible for not rescuing the child. On this view, the duty to aid has no threshold, but we understand why an agent does not act in the very difficult situation.

The first response makes the most sense. There is a threshold on the duty to aid and once the difficulty of the situation reaches this threshold, an agent has no duty to act. That is, you do not do the wrong thing when you do not jump in to save the child drowning in dangerous waters. Rather than saying that you do the wrong thing, but that we do not hold
you responsible or blame you for it, it is more appropriate to say that you do the right thing. The duty to rescue only asks so much of agents, beyond that point an agent is not obligated. Thus, difficulty limits the duty to rescue and does not merely serve as an excusing condition. I also think that the agent may act in a very difficult situation and that if she does, she goes beyond duty and does something supererogatory.

Notice that I am not saying anything specific about where exactly to set this threshold. My account does not provide us with the resources to make this precise determination. Similarly, I will not say exactly how much we must give up when fulfilling our imperfect duties to aid the needy. This does not mean that my account has nothing interesting or important to add to this debate. It does. What it adds is that it shows us that we must take account of the fact that these limitations apply differently to the two duties.

We will begin by examining two insightful approaches to the easy/difficult limitation in the literature—those of Feinberg and Weinrib. Both Feinberg and Weinrib claim that we have a duty to make an easy rescue. Examining their accounts will help us formulate a response to the question of how ease and difficulty limits our duty to rescue, and in particular, what makes a rescue too difficult.

Feinberg argues that the duty to rescue is a duty to make an “easy rescue.” He mainly discusses it in terms of a rescue that one can do without unreasonable cost and risk to oneself. Nowhere is his concept of reasonable defined very precisely. This may be taken as a criticism of his view because it does not provide precise guidance; or it may be taken as a strength because he recognizes that it is not possible to construct a perfectly precise and
satisfactory formula for what should count as reasonable in all cases. Feinberg suggests that we divide up the spectrum of hypothetical cases into three segments: (1) clear cases of opportunity to rescue with no unreasonable risk, cost, or inconvenience to the rescuer or others (including cases of no risk, cost, or inconvenience whatever); (2) clear cases of opportunity to rescue but only at unreasonable risk, cost, or inconvenience to the rescuer or others; and (3) everything in the vast no-man’s land of uncertain and controversial cases in between the extremes. To err only on the side of caution, we would hold no one in the middle (uncertain) category liable. Then we could hold everyone liable who clearly deserves to be liable...

Can this concept of “reasonable” provide us with any guidance to determine the limits on an individual’s duty to rescue? To help us, we should first look to what we know is clearly unreasonable. We know it is unreasonable to say that we need not sacrifice any interest or even put ourselves at minimal risk in order to rescue someone. This is because

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Even though Feinberg’s discussion is focused on the legal duty to rescue, his insights into what is reasonable have bearing on moral duties as well. We can loosely apply Feinberg’s standard to the moral case if we take care to expose some of the important differences between the legal and the moral. For one, we need not be as worried about mistakenly holding someone morally responsible for failing to rescue as we might be about mistakenly holding someone legally responsible because the repercussions are not as serious. This is not a reason to have more demanding moral duties or less demanding legal duties, but perhaps a stronger reason to err on the side of caution especially when judging particular legal cases. That is not to say that there are no moral or social consequences for failing to fulfill a moral duty, but only that they are not as significant as the legal consequences (which can include loss of freedom). A second difference is that in the legal case there is a jury (or adjudicator) that is able to determine and apply the standards of reasonable danger, cost and inconvenience. The only person able to make this judgement fairly in the moral case is the individual herself. Society at large may be expected to play this role but it is the individual that must apply it to her own behaviour. A third important difference is that more precision is needed in the legal duty because the law must set out its requirements explicitly. But even if we need more precision in law than in morality, Feinberg claims that we do not need much precision in law, particularly because relatively vague rules give some discretion to juries to make judgements about what is reasonable given the particularities of the situation. Even though there are differences between legal and moral standards, both can rely on a conception of the reasonable to set a standard for how much is required of the individual.

Feinberg, 191.
there is so much at stake on the one side and so little at stake on the other. And it is also unreasonable to require that you put your own life in peril to rescue another. This is because it is reasonable to prefer your own security to that of another.

However, one need not go so far as to risk her life to be doing something unreasonable. Feinberg thinks it is clear that we must take one step to save a life and that we do not have to run two kilometres. But this may depend on the particularities of the situation: running two kilometres may be unreasonable for one person and reasonable for another. For example a ballerina with a sore ankle may not have to run two kilometres to make a rescue because it may permanently damage her foot and cost her a future in the ballet, but a healthy athlete who runs ten miles a day to train may have to make the same rescue. Notice that what is at stake for the person in peril is fixed and what is at stake for the potential rescuer will depend on the particular person.

Let us turn to Weinrib’s account of “easy rescues” to see if it offers any additional insight into the easy/difficult limitation. Weinrib considers a rescue with low risk, cost and inconvenience to be easy. He explicitly discusses two limitations to the duty of easy rescue--emergency and convenience. I will focus on his convenience limitation because it is very similar to the easy/difficult limitation.

Weinrib claims that “the convenience limitation reflects the rescuer’s priority of his own physical security over that of the endangered person.” As Weinrib notes, stating the

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4Weinrib, 289. Weinrib shows that the inconvenience limitation can be justified in both utilitarian and deontological theories. My discussion of Weinrib’s convenience limitation will focus primarily on the deontological approach to the duty to rescue that he examines.
limitation in these terms will lead to a very demanding requirement because we would only be allowed to give priority to ourselves when rescuing the endangered person endangers our own physical security. Such a limit would obligate the agent to attempt a rescue if it does not put his life in danger "no matter what the disruption of his life." Weinrib explains that setting such a minimal limit on the duty to aid would be at odds with the very justification of the duty in the first place.

According to Weinrib, the duty to rescue is a duty to protect the conditions of an individual's physical security:

physical security is valued because it allows individuals to realize their own projects and purposes. Whatever the reach of the right to physical integrity, therefore, it must allow the rescuer to satisfy his purposes in a reasonably coherent way. Still, though the extension of the moral duty cannot be so drastic as to require the sacrifice of all of a person's projects, it can be substantial. It can require the rescuer to undergo considerable inconvenience short of fundamental changes in the fabric of his life.

Thus the potential rescuer does not have a duty to rescue when rescuing would either put his life in danger or cause fundamental changes in the fabric of his life. Weinrib cites Macaulay's famous example of the surgeon from Calcutta and claims that the surgeon may be required to go to Meerut to perform the operation that only he could perform because the journey, though inconvenient, would not be dangerous. But the surgeon would not be required to spend his entire life going from town to town performing surgeries because that would drastically interfere with his life projects.

Even though Weinrib accepts this limitation on the duty to rescue and argues that the

5Weinrib, 290.

6Weinrib, 290.
individual must be able to pursue her projects and life plans in a reasonably coherent way, it is not quite accurate to call this an “easy rescue.” Is it really easy to rescue someone if it entails that you must sacrifice things that are important to you, even very important to you? We may think that you are required to sacrifice important things, but this does not mean it is easy. It is obviously easy if you are only required to throw in a life preserver or call the police, but you are required to do much more than this, even on Weinrib’s account.\textsuperscript{7} One must save the drowning child if it means that she misses an important interview, if it ruins her favourite suit and even if it means that she must violate another less important duty. It is more accurate to refer to this limitation as the difficulty limitation rather than the inconvenience limitation.

Consider the following scenario.\textsuperscript{8} You are on your way home from an auction at which you purchased a rare and expensive Rembrandt. In order to afford this purchase, you have spent your life savings. Consider also that you have made a promise to the local art gallery that you will loan them the painting. Because of your promise they have arranged to make your Rembrandt the centerpiece of their next exhibit and they have featured it on all of their advertising. The gallery has, in turn, promised that they will donate half of the proceeds collected from ticket sales to famine relief. But on your way home, you pass a child drowning in a small but deep pond. The child is six feet away from you; you reach over as far as you can but you cannot reach her. As luck would have it, you are carrying the

\textsuperscript{7}Consider the famous Kitty Genovese case in which 38 witnesses heard Kitty Genovese scream as she was being attacked (and eventually murdered). None of them picked up the phone to call the police and none of them even screamed out the window to startle the attacker.

\textsuperscript{8}The idea for this example came from Arthur Ripstein.
Rembrandt which you can use as a reaching assist. There is no doubt that this would completely ruin the painting. I think it is fairly obvious that you would be required to save the child, and that it is also obvious that doing so would not be “easy.” It is only if you would be required to sacrifice your life or to give something up that is important to the fabric of your life that you would have no duty to rescue.

Perhaps if saving someone requires that you sacrifice some of the commitments and projects most important to you, we may think it is an unreasonable cost. This is a difficult consideration to specify because it depends a great deal on individual judgement. The individual gets to judge what is important or meaningful to her, and thus gets to decide what is and is not reasonable for her to give up. Something can have meaning for me and not be one of the projects most important to me. The important feature of this limitation is that the individual is not required to give up her life, the conditions necessary for living her life, or those commitments and projects with which she most closely identifies. It is not very likely that the fabric of someone’s life will be disrupted by rescuing someone. That is, it is not likely that the requirement of giving up any particular project, even an important project, especially in the period of time that it takes to make the rescue, will have this unacceptable effect on one’s life. I will be more concerned with this type of cost when we discuss fulfilling imperfect duties because continuously distributing one’s resources to the needy may have this cumulative effect.

And if you have doubts about this (since paintings can be restored) imagine that the painting is a watercolour by Turner.
The role of luck

It is interesting to note the way that luck figures into this. One person may be lucky enough not to have to sacrifice any of her projects or interests in order to rescue someone in peril because she just does not happen to come across any one in peril. It is easy to imagine that a person does not come across an emergency that will require her assistance because such situations are relatively rare. And they are especially rare for the lucky person. The unlucky person encounters persons in peril often. No particular situation requiring her aid is extremely demanding on her or her projects. But when we consider that she runs into these types of situations often, the cumulative effect on her projects may be disastrous. Nevertheless, the limit here ought to be set very high; it is only when the cumulative effect is disastrous that the individual can legitimately refuse to rescue the next person in peril she encounters.¹⁰

For example, you live in Turkey and have survived the earthquake. You are surrounded by disaster, some of which you can ameliorate. You can save some of the persons trapped in the buildings on your street and you are obligated to do so. You must continue to rescue persons (unless you would compromise your own life) until the disaster is over or there is nothing more you can do. You may be lucky to have survived but unlucky insofar as you have very demanding duties to rescue. The unlucky person has to live with

¹⁰This is basically the same limit I have set in the case of individual rescue cases--that is, the limit is set at the point at which doing anymore would seriously impair our own autonomy or prevent us from living a meaningful life.
incurring more cost than the luckier person.

This feature is not unique to duties to rescue, but happens with other perfect duties also. Typically, keeping one’s promises is not very costly, but some people are unlucky and their circumstances change after making the promise. For example, I promise to meet you for lunch tomorrow. Unexpectedly, I receive an invitation to have lunch with John Rawls who is in town to give a talk. Keeping my promise to you normally would not cost me much, but in this case, it does impose a burden I did not anticipate. Or imagine that I have an excruciating headache and do not feel up to leaving my house. Depending on the size of the burden, we may say that I am released from my obligation to you. Again, this will depend on what is at stake on both sides.

The fact that someone has a disproportionate number of easy rescues to make is not in itself a good reason to limit her future duty to rescue. It is never a good excuse or justification to say “I just rescued two children this morning.” The fact that you rescued these two children is not relevant to the requirement that you rescue the next one you encounter, unless all of these rescue attempts together have quite significantly interfered with you living your life.

*Other Duties and Ends We Hold As Limits On Our Duty to Rescue*

We have already seen that the number of rescues I do does not limit my obligation to rescue, unless I am extremely unlucky and the number of rescues I am obligated to do will severely interfere with my life. We will later see that the imperfect duty to aid is different
because the amount of aid I provide does affect how much I must give in the future. That is, if I have already given $1000 this year I am required to do less than if I had only given $100. As I have put it, it is not legitimate to say to a drowning person as you walk by "I have already saved someone today," but it is legitimate to say to the relief agency that solicits your support "I gave at the office." ¹¹ In this section I will show that fulfilling other moral obligations or pursuing other ends we have does not limit our duty to rescue.

If I donate a lot of money to the needy, may I be excused from rescuing? Because the imperfect duty to aid the needy has different fulfillment conditions than the perfect duty to rescue, acts that contribute to the fulfillment of one do not serve to fulfill the other. Otherwise, the wealthy person who must give ten per cent of his income may instead choose to give fifteen per cent to insure himself against having to involve himself in any emergency rescue situations he may encounter--he would not have to wade into the pond or even throw in the life preserver. The duty to rescue is a perfect duty to do a particular act that will save the life of a person in peril--you are obligated if and only if there is some particular thing you can do to save the person’s life. It does not matter that you gave at the office that morning or that you are a very generous person; if you find yourself in a rescue situation you are obligated to help.

What about other types of moral obligations; do they limit my duty to rescue?

¹¹This does not mean that by simply giving at the office one day, you will have done enough for the needy, so you cannot keep using the excuse "I gave at the office" if you gave at the office six months ago and have not done anything since. The point I am making is that the amount you do give to the needy is relevant to how much you must give in the future but the number of rescues you have performed is not relevant to the how many rescues you will have to perform in the future.
Imagine I have just fulfilled a promise today, repaid a loan, helped an elderly person cross the street and did not harm anyone. I have been an extremely conscientious moral agent today. Surely, I have earned some reprieve from my moral obligations for the rest of the day. Am I allowed to walk by the drowning child? Just as fulfilling my imperfect duty to the needy does not affect my obligation to rescue, fulfilling any other (or even every other) moral obligation does not affect my obligation to rescue. Particularly since the duty to rescue is a perfect duty that must be fulfilled in a very specific way, our carrying out other moral obligations does not limit, in any way, what we must do when we encounter a person in peril who we can help.

*The Actions of Others as a Limit on Our Duty to Rescue*

Do the actions of others affect my perfect duty to aid? Does the fact that others fulfill their duties to aid--perfect and imperfect--or fail to fulfill them, change the amount I must do? That is, if others are not complying with their duties to aid, am I required to do more to pick up the slack? Following Liam Murphy, I will refer to this as the compliance condition. We will see later on that the compliance condition is a significant factor in our discussion of the limitations on our imperfect duties to aid the needy; however, it is not very significant for the perfect duty of rescue.\(^\text{12}\)

You may fail to fulfill your perfect duty to rescue or everyone may fail to fulfill their

perfect duties of rescue, but this does not change my duty to rescue because my situation picks me out and yours picks you out. The extent to which others comply with their perfect duties does not affect me; that is, it does not give me a duty to rescue where I did not have one before. Similarly, it does not matter if I have rescued anyone in the past—once I come across the drowning child, I must rescue her. The duty to rescue is not a cooperative duty, and so there is no reason to think that the actions of others affect me. However, if there are two of us on the rescue scene and you do nothing, I certainly must act. Note, however, that I am not really picking up your slack here, but am acting on my duty.

Murphy also considers the rescue case to be different from the duty to aid the needy (or, in Murphy's terms, the duty of beneficence). Murphy claims that in cases like Drowning Child "my optimal level of sacrifice would be no different under full compliance; whereas in the case of famine relief it would clearly be much less under full compliance."¹³ In rescue situations, there is no way to allocate fair shares to individuals; some people may not have to rescue anyone and others may have to rescue many, this will depend on the situations in which they find themselves. It would not make sense to say that we each have to rescue five persons because some of us may never encounter anyone to rescue and others may encounter more than five people that they can easily rescue.

¹³Murphy, 291.
The Risky (Reckless) Behaviour of the Person in Peril as a Limit on our Duty to Rescue

We might think that an individual’s duty to rescue is affected by the voluntary assumption of risk by the person in peril.\textsuperscript{14} That is, in situations where the person in peril knows of the risk and consents to assume the risk and any of the consequences that follow, we might think that we do not have to rescue this person. We do not have to jump to such an extreme conclusion—that there is no duty to aid—to establish that this feature makes a moral difference. One need only show that the person who voluntarily assumes the risk becomes a lower priority for aid. For example, if we must choose between two drowning people (we can only save one), may we save the “innocent” instead of the one who knowingly assumed the risk? If this is a relevant feature we will be able to cite it as a reason to choose one drowning person over the other.

I want to show that the behaviour of the person in peril may be relevant to our obligation to rescue him. I am not suggesting that the risky or reckless person gives up his claim to any aid, particularly when an easy rescue is involved. So, we should not say to the person who went into the well-marked dangerous waters that, even though we could easily save him by throwing in a life preserver, we are not obligated because he knowingly got

\textsuperscript{14}The principle I consider is analogous to the legal principle “\textit{volenti non fit injuria}.” The volenti principle is a defense of voluntary assumption of risk. The defense is narrowly defined and strictly applied. The defendant must prove that the plaintiff agreed to “exempt the defendant from liability for any damage suffered by the plaintiff, occasioned by the defendant’s negligence.” Thus the plaintiff must consent to accept or assume risk without compensation. It is not sufficient that the plaintiff knew of the risk. If the plaintiff consents to assumption of risk without compensation, the defendant is absolved from his duty to take care. DUBE v. LABAR (1986), 27 D.L.R. (4th) 653 (S.C.C.).
himself into the danger. In cases where the rescue is easy and risk-free, the obligation to rescue remains very strong. But maybe this changes when the rescue becomes riskier or more costly for the rescuer? There are two ways it may change. The first is that the duty gets weaker (or ceases to exist altogether); and the second is that the agent has an excuse for not aiding: either way we get the idea that the victim’s behaviour has an impact on how much we have to do to rescue him. Perhaps when the person in peril knowingly puts himself in peril we only have to accept a reasonable amount of risk, but not an unreasonable (or significant) amount of risk.

If the person is drowning in the well-marked treacherous waters and you can only save him by jumping in yourself, should you do it? In this situation, we must look at the amount of risk involved for the agent rather than the fact that the person in peril knowingly put himself in danger. If you assess the situation and determine that since you are a very strong swimmer and since the water is not very deep that you should be able to make the rescue; it should not matter whether or not there was a warning sign. Perhaps we can use the reasoning behind the legal principle of volenti as a guide. Knowing about the risk is not enough; the person in peril must have consented to accept the risk without the aid of others. Notice, however, that often it is the case that if the individual is in peril as a result of a certain risky activity (i.e., jumping into dangerous waters) that same activity may be too risky for the potential rescuer. This is likely the reason we think voluntary assumption of risk matters to the duty to rescue—it matters because the situation will often involve significant risk and not because the person in peril has given up all claim to aid.

Consider a case where there are two persons drowning, only one of whom you are
able to save. If the one knowingly put herself in danger while the other did not, do you have stronger reason to save the innocent? This factor may be the reason we choose one person over the other. Is this feature something of which we may take account or something of which we must take account? Does it matter more than any other reason we may have for choosing between two parties, such as familiarity or age?

This becomes more clear once we think about a trio of examples Richard Arneson presents. A park rescue team only has the time and resources to save one of the following three parties: which should it save? The first party is a group of stranded schoolchildren caught in an unanticipated storm. The second party is a group of experienced climbers who knowingly undertook a difficult route in hazardous conditions which suddenly turned desperate. The third party is a group of drunken tourists who repeatedly disregarded warnings from signs and park rangers and ventured on a foolhardy hike across a treacherous slope. Arneson claims that voluntariness and gross recklessness reduce the moral claims to aid of the latter two groups when compared with the claims of the stranded schoolchildren.

We can agree. This does not mean that the hikers or the tourists have no claim to aid, but in a conflict situation we ought to choose the schoolchildren. This statement is stronger than the one suggested in the previous paragraph, that the voluntary assumption of risk is a factor we may take into account: we must take it into account. This is a very reasonable suggestion; it shows that a person in peril does not give up her claim to aid if she knowingly assumes the risk, but it also shows that this feature matters.

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The fact that we have other obligations and that we have other ends and projects to pursue does not typically affect our duty to rescue a person in peril because of the specific nature of the duty and the fact that our help is needed urgently to save a life. However, the duty to rescue is not without limit. We have seen that there is a threshold on the duty to rescue. Once rescuing becomes too difficult, i.e., once the risks and costs associated with carrying out the rescue attempt actually endanger your life, you are not obligated to rescue the person in peril. But since the costs are so high for the person in peril, we assume that the potential rescuer must also assume some costs. Thus it is not only the case that you must rescue when rescuing is easy. Even though our obligations to persons in peril are not limitless, they do demand immediate action and some sacrifice on the part of the agent.

II. Limitations On Imperfect Duties to Help the Needy

The Easy/Difficult Limitation on the Duty to Help the Needy

We can talk about easy and difficult ways of fulfilling imperfect duties to the needy just as we can talk about easy and difficult rescues. However, the easy/difficult limitation on the imperfect duty to help the needy is very different from the same limitation for the perfect duty to rescue. Likely when we say a rescue is too difficult we are referring to the risks or costs associated with carrying out the rescue attempt. But when we say our obligations to the needy are too difficult we are referring to the fact that helping others is often incompatible with pursuing our own ends. We may agree that we should help the needy when we can do
so at very little cost; but how much cost is reasonable? When are we permitted to pursue our own ends and when must we put our own ends aside to help others?

We discussed that the agent need not rescue when doing so risks her life, the conditions of her agency, or her most important life projects. These same conditions apply to the fulfillment of our imperfect duties as well, but they do not come into play in the same way because the fulfillment conditions for imperfect duties are very different from the fulfillment conditions for perfect duties. In fulfilling our imperfect duty to help the needy, there are many ways we can choose to act to fulfill this obligation. Any particular choice we make is not likely to interfere excessively with our life plans. This is because we have the opportunity to choose which interests to sacrifice. Perfect duties of course are different because you do not get to choose who to help or how to help, this is determined for you. You do not get to choose which of your interests you will sacrifice, you must sacrifice those that conflict with the act of rescue you must perform (unless of course they exceed the limits we have discussed).

How much we must do to fulfill our imperfect duties depends on how our general policy maxim to help the needy is formulated. It should be uncontroversial to say that the duty is not a duty to help all needy people all of the time since finite beings with finite resources cannot possibly adopt that end. And even if it was possible, it would be putting too much responsibility on the shoulder of each particular individual. Thus, there are limits on what and how much we must do. But if help to all is impossible, to whom must we give and how much? There are two more reasonable ways of formulating the policy maxim: ‘help as many people as you can as much as possible’ and ‘help some people sometimes.’ Though I
give reasons to reject the former and to support the latter, both are compatible with the
distinction between perfect and imperfect duties to aid.

I should reiterate that the aim of this endeavour is not to determine exactly how much
we must do or how hard we must try to fulfill our imperfect duties. I have conceded that my
account does not provide us with this kind of precision. My aim instead is to examine how
the difficulty limitation works and to show that it applies differently to perfect and imperfect
duties.

i) The duty to help as many people as you can as much as possible

One way of formulating the imperfect duty to help the needy is as a duty to help as
many needy people as much as possible. Notice that if the general duty to help the needy is
formulated in this way, the duty is just as demanding as Singer’s principle which amounts to
the same thing. It seems that on this interpretation, my view and Singer’s would be equally
demanding of individuals. In itself, the fact that the view is demanding is not a strong
criticism against the perfect/imperfect distinction I defend. On this view, the agent must
always (or almost always) act so that he is aiding someone.

Does formulating the imperfect duty to help the needy as a duty to help as many
people as much as possible just mean we have a perfect duty to help all the people we
possibly can? If the agent does not get to choose whom to help or what to do because she
must act whenever her act is most efficacious, there no longer appears to be a significant
difference between our perfect and imperfect duties to aid. And if the agent must aid every
needy person she encounters that she is able to aid, she will have almost infinite perfect duties (i.e., a perfect duty to help each needy person she is able to aid).

This is a challenge to the perfect/imperfect distinction I draw. The challenge may be put this way: does efficacy perfect the imperfect duty to aid? If we are obligated to act whenever our act is efficacious, it seems like the duty to help the needy is not really imperfect after all, but rather perfect because it requires an act. If we are obligated to act whenever we can do something to aid a needy person, there does not seem to be a real difference between the duty to rescue and the duty to help the needy. And if it were true that the imperfect duty to help the needy, when formulated as an end that covers all acts of aid we can possibly provide, becomes a perfect duty to rescue (since we would have to act in each case of aid we encounter if we possibly can) then the distinction I have drawn would collapse. There would be no reason to maintain that there is any significant difference between rescuing and relieving need because we would be required to rescue every person in need who we can. And if this were the case there would seem to be no point discussing the different structures of perfect and imperfect duties to aid.

But no matter how the imperfect duty is formulated, there is still an important distinction between the duty to rescue and the duty to help the needy. Even when the imperfect duty is understood as a duty to help all the people we possibly can, an agent is still not required to act in every situation of need with which she is confronted; that would be to require her to do more than she possibly can (given the amount of need in the world). An

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16This challenge was raised by Tom Hurka.
agent cannot be efficacious in every instance of need. There remains a difference between perfect and imperfect duties, even when the duty is formulated in this very demanding way, no particular indeterminate situation binds the individual to perform a specific action.

But is the fact that you are not bound to act in any particular situation a necessary or a contingent feature of the imperfect duty? Is it that we are not bound to aid in any particular situation because, as a matter of fact, there is just so much need (roughly equal in intensity) that we cannot help everyone; and so we just choose particular parties from the pool of needy persons? Or is it a necessary feature of imperfect duties that they give the agent latitude in choosing which acts she will do to contribute to her duty? My analysis of imperfect duties as a duty to adopt an end has supported this latter option.

Imagine that there was a list of needy individuals ranked on some master list which clearly indicates where and to whom your aid will be most efficacious. What if Jane was on the top of this list; do you have a perfect duty to aid Jane in particular or is aiding Jane just one way (among many) you may choose as a means to fulfill your imperfect duty? Notice that even though your aid will be most efficacious here, it does not mean that it would not be efficacious elsewhere, or that someone else’s aid would not be efficacious here. I do not think that you are obliged to help Jane in particular since there is no reason to think that your aid will not help the second person down on the list and that someone else can help Jane. You do not violate your obligation to help the needy if you help John instead. You must have “helping the needy” as an end of yours and you must act to fulfill this end, but you may

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17This question was raised by Arthur Ripstein.
contribute to the end by helping John.

Notice that this is different from the Drowning Child example where your act in particular is necessary; no one else can save the child. You cannot choose to do something else and there is no one else who can save the drowning child. There is no other act that will satisfy your moral obligation in this instance, it is only fulfilled by saving the child. The fact that you are bound to do a specific act is a necessary feature of perfect duties. My point is that, even when the duty to aid the needy is formulated as a duty to do as much as you can, there is still a difference between it and the perfect duty to rescue.

According to the distinction I have defended, when an individual has an imperfect duty to aid, she is not bound to aid any particular individual even if her aid would be efficacious. So it is not merely because we do not know how efficacious our aid will be in helping a particular individual that we are not bound to help her (though it is often the case that we do not know this), but because we are not uniquely situated to help her. That is, it is not the case that only my aid can help this individual, nor that my aid cannot help someone else. As things turn out, it may be that my aid (e.g. $100) will save Jane’s life, however I can still send the money elsewhere (where it will save John) because neither one of them has a claim on my aid in particular. Even if we have to help as many people as possible, we still get a degree of latitude in deciding whom to help. We can still choose not to provide help to Jane and not do anything morally wrong as long as we do help as many other people as we can. So, even when the imperfect duty is formulated so stringently, our perfect duties of rescue are still distinguishable from our imperfect duties to aid the needy. Perfect duties are distinguishable because they demand specific acts from us—we must help a certain person or
help in a certain situation.

Singer’s view may be similar in terms of the stringent demands it makes on the individual but it is different because he does not think there is any difference between rescue and need cases.\textsuperscript{18} He argues that we should be helping in more instances than we currently are but not that we are necessarily bound to act in any particular instance. But do we really think that an agent that is doing as much as she can with the resources she has available does not violate a moral obligation by choosing not to save the drowning child? Presumably, Singer must be open to the possibility that we are allowed to refrain from saving the drowning child, especially if the resources that would have been spent on that rescue effort will be used to save two other needy people. Think back to the Rembrandt example. I can only save the child by using the Rembrandt to reach and pull her out. But if I let her drown, the Rembrandt will raise a lot of money for the art gallery which will be donated to famine relief. More lives will be saved if I do nothing. Nevertheless, we must save the child. Perhaps even Singer would agree that the most effective use of our resources would be to rescue the child since the situation is urgent and our aid will certainly be efficacious.

Thus far I have shown that even this stronger formulation of the imperfect duty fits with the distinction I have drawn between perfect and imperfect duties. Both supporters of the strong and moderate formulations should acknowledge this important distinction between the different types of duties to aid. However, the moderate formulation fits best with the account I have given of the duty to aid. There is good reason to think that the strong

\textsuperscript{18}See Singer, “Famine, Affluence and Morality.”
formulation is too strong and the moderate principle is the one we should accept.

It is commonly thought that formulating the imperfect duty to help the needy as a duty to help as many people as much as possible is problematic because it would cause too much disruption in our lives. What I have tried to convey in my discussion of the difficulty limitation is that there are limits to what a moral agent can be required to do for others. The very reason that there is a duty to aid others will also serve to justify limitations on the duty. We have a duty to provide persons with their basic needs or to restore their agency so they can go on to lead autonomous meaningful lives. Agents must be able to set goals and priorities and define their life plans. We must enable agents by ensuring that they have the necessary tools. This means that we should not be required to sacrifice any of the necessary tools for having meaningful lives ourselves because such a requirement would be counterproductive and would contravene the reasoning behind the duty to aid. I will say more about the problems with the strong formulation in the sections that follow, particularly in my discussion of Unger.¹⁹

ii) The imperfect duty to help some people sometimes

The formulation that seems most plausible to me is that we have a duty to help some

¹⁹In “Famine, Affluence and Morality”, Singer also gives reasons why some may consider his strong principle to be too strong. For example, Urmson and Sidgwick argue that we need to have a basic moral code which is not too far beyond the capacities of an ordinary man because there would be a general breakdown of compliance with the moral code (Singer, 237). Singer also suggests a moderate version of his principle. However, he maintains that the strong version is the right one (Singer, 241).
needy people sometimes. This maxim is very vague and can be interpreted in many different ways. Does it mean that by helping one person a year, we will have done enough? Or perhaps, one person a week? It is not possible to put this in terms of the number of people one must help or the amount of money that one must give. These particularities will vary with the particularities of each individual. Someone with greater resources will be obligated to do more than someone with very few resources. The principle of helping some people sometimes may on the surface seem not to demand much from us, but that need not be the case. Recall that in Kant's discussion of imperfect duties, he says that the agent has “playroom” to decide what to do. Recall also that playroom can be interpreted very differently. Hill, Gregor and Baron argue for a more lenient interpretation in which we are permitted to allow our own ends to take precedence; whereas Herman argues that only other moral principles could take precedence over the duty.20

If the duty to aid the needy is a duty to aid some people sometimes, what would be required of the agent? A good place to begin is with the approach Singer suggests in Practical Ethics.21 He suggests that we have a social policy of tithing which requires that each individual give ten per cent of her income (reminiscent of the ancient tithe collected by the church). The money collected will go to help the needy (notice that this will not do anything to help the drowning child). We would each have to give ten per cent of our income, whether we happened to rescue no one or whether we rescued fifty people this year.

20See discussion in Chapter Three.
Exactly how much we must give varies with our wealth and not the particular situation we are in.

This way of formulating the end to help the needy can be interpreted so that it tells us the same thing as Singer's more moderate principle--that we must help others unless it entails that we sacrifice something morally significant. So, we must help some people sometimes, or even all of the time, when we can do so without sacrificing something morally significant. And of course, the exact amount that we are required to sacrifice will depend on what we count as morally significant. Surely protecting our own lives is significant, and providing for our children is significant. But there is a grey area here. Is pursuing a career significant; is taking music lessons significant; is buying books significant? I will leave these as questions here and will return to them shortly.

How important is the precise formulation of the maxim to aid? The particular formulation may affect how much will be required of the agent, but none of the formulations speaks against the structural distinction between the duty to rescue and the duty to help the needy that I have drawn. No matter how the imperfect duty to help the needy is formulated, it still has a different structure from the perfect duty to rescue. Since there is no particular act that the agent is bound to do to fulfill the imperfect duty, we do not need to say that she should only do those acts that are easy or that she is allowed to avoid those that are difficult. We need not specify this because the agent gets to choose which acts to do. Since it is the agent's choice, there no problem with saying that the agent may choose to do something that is difficult (i.e., something that costs her a great deal) because the agent has made this choice herself.
Individuals are not required to give up their lives but they must give some things up. As I mentioned earlier, the amount the individual must sacrifice will vary with the amount of resources she has and the amount of need in the world. It may seem most obvious that she should be required to give up those things that are not important to her identity, but not her most important life projects. Since we are discussing the imperfect duty to aid, we are not as concerned that she may be required to sacrifice these important things in any particular instance of helping, but that the cumulative effect of her giving should be limited in this way. To get a better grasp of the limitations on the imperfect duty to aid we must determine which interests and projects one must give up and which one is allowed to retain.

*Having Space to Pursue our own Projects*

It seems obvious that we are allowed to attach priority to our own ends, at least sometimes. But are we allowed to attach priority to our ends to the extent that those ends are important to us and meaningful to our lives; or are we allowed to attach priority to our ends just because they are ours provided that we have done our “fair share” to help others? These are two different ways of understanding this issue. The first--which is the version Singer and Unger accept--says that the individual must prioritize all her projects and commitments and only be allowed to keep those that she values most highly (or those that are morally significant) and the rest she must give up for the sake of aiding others. On this account, one may never be allowed to go to a movie or send one’s children to private school. These may never be important enough. The second says that each individual must do a certain amount
to aid others and beyond that she can do what she pleases with her time and resources. That is, she can choose to pursue a career, send her children to private school, or go to the movies, if she has done her part to aid others. I will examine each of these in turn. I will show that the second account expresses the right relationship between our projects and the duty to aid.

i) *Weighing Our Ends Against the Need of Others*

On the first account, individuals must look at the priorities and commitments in their lives and figure out which are important and which are dispensable. Let us assume that my career and my family are the most important things in my life and that I also enjoy leisure activities, particularly going to the ballet. The need of some is certainly more weighty than my interest in ballet. Does this mean that I may never go to the ballet, i.e., that aiding others should always take priority over this interest? Perhaps this follows if I consider my interest in ballet to be a very peripheral interest in my life. I enjoy ballet, but my life would not really lose any meaning if I were never to spend money on ballet tickets and never see another ballet production. From this does it follow that I should never spend any money on the arts or on leisure?

I think that even on the strict utilitarian account there may be good reasons to say it would be a bad thing overall if individuals did not have moral space to support the arts or enjoy some leisure. Perhaps without time for leisure, we would become too exhausted to be very good utility maximizers. The utilitarian certainly leaves room for this possibility. However, it is in this area of our more peripheral interests that we need to examine how we
could better use our resources to help those that not only cannot afford to maintain peripheral interests, but are in danger of losing their lives.

Perhaps I may be required to give up my peripheral interests, but what about those that are central to my life? May I spend money on my family or pursue a (not very lucrative) career in philosophy? Many would say it is more clear that I should be allowed to retain these important projects over others such as ballet-watching. This answer may be clear to some but it is not acceptable on all accounts. Unger discusses what, if any, limitations there are on the duty to aid and provides a very demanding answer. Though Unger may agree that it is more obvious that we would have to give up ballet watching over our careers, he also thinks many of us have to give up our careers.

Unger is very specific about some of the costs, in particular the financial costs, associated with living a morally decent life. Unger calls this his “Pretty Demanding Dictate”:

On pain of living a life that’s seriously immoral, a typical well-off person, like you and me, must give away most of her financially valuable assets, and much of her income, directing funds to lessen efficiently the serious suffering of others.22

At one point he considers that a financial donation of $10 000 may be appropriate, but this figure must be calculated relative to one’s income (i.e., those making a good income would have to give much more). He does not give much credence to the “excuse” that giving so much to the needy will conflict with other moral duties we have to those whom we are specially obligated. He agrees that we may have strong obligations to meet the basic needs of our young children but that does not mean we have to live in good neighbourhoods, send

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them to private schools and buy them luxuries. This requirement demands that we give up almost all of our material assets, even those that may be critical to sustaining ourselves and our dependants.

Unger considers more than the financial aid we must provide to the needy. He thinks it is imperative, not just that we give a certain amount of our actual income, but that we structure our lives so that we make more income so we can give more. About academic lawyers, he says “it's seriously wrong not to exchange their present posts for much more lucrative jobs and, then, contribute as much as they can toward the morally most imperative ends.” And about philosophy graduate students or those academic philosophers “not yet very well established,” he says that they should seek employment in fields that pay better.

This requirement, in a way, demands more than the last because it demands not merely that we give a portion of what we have, but that we have to organize our lives and our most important projects so that we can earn more money so the contributions we make will be even greater. Thus, Unger argues that we must give up most of our money, change our

\[23\] Unger, 150.

\[24\] Unger, 151.

\[25\] Unger, 151.

\[26\] But this is not all that Unger thinks we must do. Unger does not even consider the above mentioned sacrifices to be truly serious. The truly serious losses we may be morally required to impose on ourselves are losses like that of “life or limb”(152). Unger notes that this should be taken as a theoretical implication of his view, since most of us are only required to give money to save lives and not to sacrifice life and limb to save lives. But nevertheless, this is an implication he accepts. If what is required of you to save the life of two others, is that you give your own life up (i.e., the choice is between letting the trolley run over and kill the group of people it is heading toward or turning the trolley on to yourself) then you are morally required to sacrifice your life.
deepest projects and commitments and even sacrifice our lives if doing so brings about more good (prevents more suffering) than it costs.

Unger thinks that we ought to prioritize our projects and interests and that the less important they are the more obvious it is that they ought to be given up for the pursuit of the greater good, but he also thinks that we are obligated to give up those projects most meaningful to us. Thus on Unger’s view the fact that something has value for us does not give us a good reason to give it priority; in fact, nothing takes priority over preventing the suffering of one life except for preventing the suffering two (or more) lives. Marginal utility is really the only limitation that Unger accepts. The main difficulty with Unger’s position is that it treats every situation of need as an emergency rescue which takes priority over almost anything that might be thought to compete with it.

The duty to help the needy, as I have been discussing it, is a duty to provide an individual in need with the most basic necessities of life and to protect her very agency. The duty exists because we value human lives and we value lives that are worth living. A view like Unger’s does not allow us the moral space to ensure not only that we have the basic necessities to live, but also the necessities we need to live our lives on our own terms by choosing the projects we will commit to and by pursuing them. The demand to aid others should not go so far as to compromise our own lives because we have duties not only to

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27 Unger does not draw the distinction I draw in Chapter One between the duty of beneficence and the duty to aid, so on his account we may do the right thing if we bring up the welfare of 100 wealthy people (which counts for 200 utiles) instead of saving the life of one (which counts for 100 utiles).
others, but also to ourselves. Unger’s dictate violates these most basic duties. In trying so hard to make a case that we must do more for the needy than we are currently doing, he is neglecting the importance and value we place on the individual.

This first account does not value individuals appropriately because it does not recognize the value of the projects and interests that make individuals’ lives valuable (no matter how important those projects are objectively, or even to the agents themselves). The problem with this account is that it demands that individuals prioritize their projects and then rank them in importance against their duties to aid the needy. But I do not think we should compare the value of any particular project against the value of saving lives. For example, we should not compare the value of going to the movies against the value of saving a life. Framing the issue this way surely does not leave much room for the individual to pursue any of her ends and it requires us to think of ourselves and our projects in the wrong way. If we were to weigh the value of our projects, even our very important projects, against the value of saving lives, I think we would agree that our projects will almost always lose out. And while this may not seem problematic (especially when we consider some of the relatively insignificant ends we do have), having the moral space to pursue our ends is essential to our conception of the person. A person’s ends and projects are the things by which she defines her life. This does not mean that they must always take priority, but it does mean that they should not merely be weighed against other projects and acts—that would not be taking them

28One need not accept that we have duties to ourselves to accept my more general claim that we are permitted to give our own lives priority or that we are permitted to protect those projects and commitments most important to us.
into account in the right way.

Perhaps one example that illustrates this point is Bernard Williams’ example in which his wife and another person are drowning.29 We likely all agree the he is permitted to value his wife’s life over the stranger’s life and that he is permitted to save her. However, if he has to think about his decision and weigh out his options, Williams says he has “one thought too many.” His wife would not be happy to learn that he was mentally weighing his options, even if it did lead to the right conclusion. Is the life of his wife just another project or end? Because if it is, it is something that could be weighed and outweighed by other projects or other persons. This is basically the way Unger views a person’s projects. And this is why it ends up on his calculation that saving the lives of those in need will take priority over almost everything else in our lives.

Instead of conceiving of our lives and our projects as just another entity to be weighed against the value of the lives of those in need, we should shift our thinking. We should conceive of these as two separate components of an agent’s life that must coexist. That is, the agent must include both in her life: she must set ends for herself and pursue them and she must aid persons in need. Thus we must (we are morally obligated to) make aiding persons in need one of our ends and a person such as Unger can choose to make aiding persons in need his primary end. Thus, Unger’s project of aiding the needy could in fact take priority over all his other ends, but this is not because his other ends lose out in a calculation, but because this is the way he has set his priorities. That is, donating money to Oxfam (as a

means of aiding the needy) is the thing Unger most deeply cares about and this is why it is the thing that always takes priority in his life. The problem with the way Unger develops his account is that he assumes that no matter what projects and ends each of us most deeply cares about, they will likely lose out when weighed against the importance of saving peoples’ lives.

**ii) Valuing Our Ends Appropriately**

This brings us to the second way of framing the issue. Recall that on this account, the agent must give her share to the needy (for example, ten per cent of her income) and then she can do what she wants with the rest of her resources. The virtue of this account is that it recognizes the importance projects and ends have in a meaningful life and that these ends are valuable just because they were chosen by some person. Part of being an autonomous person and having a worthwhile life is having the space to set ends for yourself and being able to value them because they are your ends. This account explains why an agent should be allowed to go to the ballet or spend money sending her children to private school even when there are so many people in need. The agent has the moral space to pursue these projects because aiding the needy is an imperfect duty and the agent has latitude in deciding which persons to help—the duty merely requires that she help the needy (i.e., that she have this as one of her ends) and as long as she is doing her share she may live her life as she wishes.

The duty to aid the needy may be a demanding duty indeed, but it is not a duty that requires that we radically alter the course of our lives. As Weinrib stated, the reason that we value our agency at all is because we set projects and commitments to pursue that shape our
lives. To be denied this is to deny one of the bases for the duty to aid. We must aid others to protect their agency, not merely to prevent them from dying, but so they can have the capacity to construct meaningful lives. If this is something we truly value then it does not make sense to demand that we give it up. Thus the individual is permitted, on this account, to set those ends that will make her life worthwhile and pursue those ends freely as long as she is doing her part to help the needy. That is, as long as we are helping others we can live our lives as we wish. Presumably it does not matter to the starving person if I give up going to the ballet this month in order to free up enough resources to help or if I save my lunch money each day or if I buy one less book. It is up to me to choose what to give up. This way we can value the lives of those that need aid while also valuing the lives of every individual, ourselves included.

Fulfilling Other Duties as a Limitation on the Duty to Help the Needy

Is my imperfect duty to help the needy limited by the number of rescues I have made or the number of moral duties I have fulfilled? Perhaps I do not have to do as much to help the needy if I have rescued several people recently or have fulfilled many of my other moral obligations. On the surface it may seem that my rescuing a drowning child should count as an instance of helping the needy. Since the imperfect duty to aid the needy is less strict in terms of its fulfillment conditions and we have playroom in deciding how to fulfill it, we may

30Certainly the needy person does not care about the value of the project or interest I must give up --this only matters to me. The needy person just cares about receiving the aid.
think that we may be contributing to its fulfillment by performing other moral acts. I want to suggest that this is not the case. If it is determined that the costs of helping the needy are fairly distributed if everyone were to give ten per cent of their income, then this is how much each person must give. One could not equally fulfill this obligation by hanging around the beach all day and rescuing persons in peril so that he does not have to give up any of his wealth. While it is true that by saving persons in peril, you are helping a person in need, for reasons I have already given, rescuing is a different kind of obligation.

If one accepts that imperfect duties are not limited by the performance of perfect duties of rescue, it should be easy to accept that they are not limited by the performance of other duties. I may have kept my promises, repaid all my debts, and not harmed any one else, and all of this contributes to my being a good moral agent, but none of it contributes to the fulfillment of my imperfect duty to help the needy.

What if I have given ten per cent of my salary (or even fifty per cent if that is what we determine is the appropriate amount) and I hear of another famine, or just know that there are more people in need of aid; am I allowed to spend the rest of my resources on my own projects and do nothing more for the rest of the needy? Here, I think I am. I am doing my

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31 Fulfiling our imperfect duties to help the needy can be fulfilled in ways other than giving financial aid. For example, one could volunteer time at a shelter or could work for social and political changes. I will examine these possibilities later in this chapter. The point I am making here is that rescuing the drowning child is not merely one of the options you can choose to fulfill your imperfect duty to aid--your duty to rescue is a duty of a different kind.

32 I should note that it very unlikely that the duty would require that you do nothing more. There is always more you could do to help the needy and even if we determine your share, you must give your share each year--so there is more you must do next year. My point is that as long as you are doing your part and are thus contributing to the fulfillment of your duty, you can pursue other projects and ends. This one end does not consume your whole life.
share and that is the extent of my obligation to others. Otherwise, the demands on the individual become almost limitless and the individual does not get the moral space to live a well-rounded life.

Do The Actions of Others Matter?

Does the amount we must do to aid others change if others are not doing their part to aid? This is a question Liam Murphy raises.\(^{33}\) I will consider this question to see if the compliance condition is another limitation on our moral obligations to aid. Contrary to some moral theorists, utilitarians in particular, Murphy argues that our obligations to promote the good of others do not become increasingly demanding as the compliance of others with their obligations decreases.\(^{34}\) It is important to know if our obligations differ under partial compliance because that is the current situation with which we are faced.

Murphy argues that beneficence is a cooperative project and we must each do our fair share. Our fair share is determined on the assumption of full compliance and it does not

\(^{33}\)See Liam Murphy "The Demands of Beneficence" for a strong argument for the compliance condition. I will not duplicate that argument here. My point is not to argue for the compliance condition but to show that if it is a legitimate limitation on our duty, it applies differently in perfect and imperfect duties.

\(^{34}\)Murphy's discussion is put in terms of the principle of beneficence, i.e., the requirement to promote the good. I have argued that we have good reason to distinguish the duty of beneficence from the duty to aid. Murphy does recognize a distinction between beneficence and rescue—I recognize a three part distinction between beneficence, aiding the needy and rescue. I agree with Murphy that the compliance condition does not come into play with the duty to rescue; but I think it is relevant to beneficence and aiding the needy. Everything Murphy says about beneficence, I will take to apply to aiding the needy as well.
change if there is only partial compliance. Once we have distributed the demands of beneficence fairly to each individual and determined what her share is, we have placed limitations on her obligations to promote the good of others. She need not do more even if others are not doing their part. Murphy claims that when persons object to the demandingness of the duty they are not objecting to the size of their individual share but the fact that, on some accounts, we have to pick up the slack for others.

I accept Murphy's argument for the compliance condition and will apply his insight to the imperfect duty to aid the needy. Just as Murphy limits the principle of beneficence by the compliance condition, we can limit the imperfect duty to aid by the compliance condition. That is, we each must do a certain amount to aid others and this amount varies with the resources we have and the amount of need in the world and not how well others are fulfilling their obligations. Thus the amount of aid we must provide does not increase if others do not comply. Feinberg seems to accept the same sort of limitation. Feinberg thinks we should desire "some sort of scheme of coordination that would allow the starving as a class to be rescued by the wealthy as a class"; thus the burden must be shared by all of society and does not fall unfairly on the shoulders of some individuals. Each of us then is responsible for her "fair share," not more and not less.

If the compliance condition is a legitimate limit to our duty to aid, the individual will have more space to pursue her own projects. If each of us is allocated a certain share, as long as she is doing her part, she is free to pursue her ends as she sees fit. Those that do not accept

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35Feinberg, 193.
the compliance condition as a limitation on our obligations think that we must continuously
give aid (as long as there is need) and that there is no room for us to pursue our ends unless
they are considered important enough. We have seen that on this kind of view, our ends only
take priority over our duty to aid others when the good we can do for ourselves outweighs the
good we can do for others.

Singer would reject the compliance condition. While he may think that coordinating
our efforts would be an effective way of preventing more suffering in the world, he also
thinks that we are obligated to prevent as much suffering as we can. This means that we will
often be required to do more than our fair share, especially when others are not doing their
fair share. Singer’s view is so demanding not only because each individual is allocated a
large share but precisely because the individual does not merely have a finite share of the
burden; she must keep aiding until there is no more need. Because there is no end to what the
agent must do for others, she will have less (or no) space to pursue her own ends.

As we have seen earlier, Murphy’s analysis does not apply to the rescue case because
rescues are not cooperative in the same way. Even if there were two of us standing by the
fountain when the child falls in, we do not have to cooperate or divide up the task at hand.
Either I reach in to pull the child out, or if I do not, you must reach in to pull her out. Thus in
this instance, the less you do, the more I will be obligated to do. Since helping the needy is
necessarily a cooperative enterprise, it makes sense to examine the impact of the actions of
others on our obligations. We determine our share of the burden in advance and this share
does not increase if others are not doing their part.
The Risky (Reckless) Behaviour of the Victims as a Limitation on the Duty to Help the Needy

The fact that the person in need knowingly put herself at risk may be even less of a factor in the case of imperfect duties than it was for perfect duties because much of the need in the world is a result of natural, social and economic conditions over which an individual does not have control. The sufferers of famine or poverty are usually the victims of natural disasters, political conflicts and the international economic order. It is not that they knowingly put themselves at risk, but more often that they cannot do anything to avoid their situations. But this is not always the case, nor must it be. We can imagine various scenarios where groups of persons or even communities engage in risky activities which result in their becoming needy. Take for example a community that disregarded warnings that they should ration their depleting supplies of food, or the community that knowingly polluted its own water supply. The difference between these types of situations and a situation where an individual is in peril is that there is no specific act that any agent is required to perform. We can choose to help someone in either one of these communities of needy persons, but it is not something we are specifically obligated to do. Thus the group engaged in risky activity does not directly affect our obligation since it would not have been our obligation to specifically help them even if their behaviour was not risky.

But one might wonder if the fact that the group or individuals in the group are engaged in risky behaviour is something it would be appropriate for us to consider when choosing how to fulfill our obligations. Should we give aid to the innocent only, or give aid to them first? I take this to be a large and complicated issue with wide-ranging implications.
It is easier to reject the general claim that we should only help the innocent than it is to specify how exactly we should take this factor into account when deciding whom to help. Given that the structure of imperfect duties is such that the agent may choose whom to help, she may choose to help the innocent first. This is allowable and even understandable. But it does not make sense to say that the person in need who voluntarily assumed the risk has no claim on anyone's aid. If we care that persons are autonomous agents and that their basic needs are met, we should not allow persons to give this claim up very easily.

We can find this idea in Kant. Kant claims that it is not up to individuals to give up their autonomous agency. Taking up this point, Herman argues that it is not rational for persons to give up their true needs. Because persons are rational and autonomous, they cannot give up their claims to aid. If this is right, it would mean that no matter what kind of trouble I knowingly get myself into, I never give up my claim to be aided by someone (especially when this can be provided easily). So, no matter what, we are obligated to help those in need.

Do we have to give money to a cult whose members have burned all their money and assets as a sacrifice and now face a cold winter? No, we do not have to direct our aid to the cult; we can instead choose to help other needy persons. And, in fact, I think we have good reason to direct our aid elsewhere. But we do not violate our obligation to the needy if we do send our money to the cult; that is, aiding the needy cult victims is a permissible way of fulfilling our imperfect duty to help the needy. We should not think of it as though we are supporting any of their particular ends or projects; we are providing them with basic needs
that every individual deserves and thus we are doing something to fulfill our duty.\textsuperscript{36} And even if the needy "innocent" (i.e., those who find themselves in need because of circumstances beyond their control) have grounds to complain that we should have aided them instead of the persons who knowingly squandered their resources, the pull of this complaint is not sufficient to show that we are in fact required to send our aid their way. We would only be required to direct our aid to them if it can be shown that the cult members should not be included among the group of needy persons deserving of aid (i.e., helping this group would not count as a means of fulfilling our obligation to the needy).

Though intuitively it may seem that the voluntary assumption of risk may make a difference to the duty to aid, we have seen that this difference is very limited. We have also seen that this consideration matters differently in perfect and imperfect duties to aid.

I said from the start that drawing the distinction between perfect and imperfect duties would not provide us with any precise practical guidance about where we should direct our aid and how much we must give; but my account has provided the resources to explain some of the limitations on the duty to aid. By setting out some of the boundaries of the duty to help the needy, we have seen that agents have room to value and pursue their own ends as long as they have adopted the end of helping the needy. The actions of others, including the persons in need and those in a position to aid, have little effect on what we must do to help.

Though we are not required to give to the point of marginal utility or even give up living

\textsuperscript{36}Someone may want to challenge this claim and show that not all persons are equally deserving of aid. If it were the case that someone could give up all claims to the aid of others either through past actions or by will, we could modify the account to accommodate this.
meaningful lives, it is important to remember that to actually hold the end of helping the needy, we must act to fulfill it. Whatever amount we agree on—whether it is ten percent or fifty percent of our income—the agent must contribute her share, otherwise she is failing to fulfill her moral obligation.

Now that we have explored some of the limitations on the duty to rescue and the duty to help the needy, we have a better understanding (though not a precise formula) of the sorts of actions that are required of the individual. But I want to end by saying a little more about the different ways our perfect and imperfect obligations can be fulfilled: in particular, the different kinds of contributions the individual can make.

*Methods of Fulfilling Our Obligations to Aid: Institutional vs. Individual Aid*

I have already said that the method of fulfilling our various obligations to aid will depend on the kind of duty at stake. Perfect duties to rescue are most often fulfilled by a physical act such as throwing in a life preserver, calling the police, or yelling to scare away an attacker. However, this is not always the case. Kamm explores a scenario where you can deposit money into a machine that will engage rescue machinery that will save the drowning child.\(^{37}\) Thus, in some special cases, giving money may be the way to fulfill the duty to rescue. This does not undermine the distinction I have drawn because the difference between perfect and imperfect duties to aid is not that the one is addressed by financial means and the

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\(^{37}\) Kamm, "Does Distance Matter Morally to the Duty to Rescue," 3.
other is addressed through physical action. But one thing that does distinguish the two types of duties to aid is that in order to rescue someone from peril the individual must do something to end the peril directly. The potential rescuer cannot direct her resources to support institutional support mechanisms or to make institutions more just. Giving money to emergency services is not a way to discharge our perfect duties to rescue. However, this more indirect approach is a way, and possibly the best way to fulfill our imperfect obligations to the needy.

Most of what I have said about an individual’s responsibility to fulfill her imperfect duty to help the needy has been put in terms of financial contributions to charitable organizations and relief agencies. Thus the question about how much we must do is often put in terms of how much money the individual must contribute. It is important to mention that individual financial contributions (whether voluntary or involuntary as in the case of paying taxes) are not the only type of help that is needed for fulfilling the duty to help the needy. In particular, we do not want to say that the best way of helping the needy is to leave it up to each individual to give money. If institutional arrangements are in place—such as relief organizations—I can discharge some of my obligation by supporting them. I can also do this by making a financial contribution or volunteering. But if institutions are not in place, I have an even greater latitude to decide how to discharge my obligations. One good way is to work to establish institutional arrangements or to improve on those that exist.

The contribution of the individual is essential in the duty to rescue because the duty attaches to a particular individual while the duty to help the needy attaches to all individuals. This does mean that we each have a duty to help the needy but not necessarily that we should
consider the individual in isolation as the most effective way of significantly addressing the need in the world. The first reason is the practical one Feinberg discusses—the problem of coordination. If we leave it up to the individual, we will not be able to distribute aid most effectively. There will be an unfair burden on the individual to help and there will be an unfair distribution of aid. The second reason is that it does not seem right (or fair) to put the burden of all the need in the world on the shoulders of the individual. Does it not make more sense to say that society has a responsibility to address the need? Putting the responsibility on society may be both more appropriate and effective. It is more effective because it provides the basis for a coordinated effort.

But if it is society’s problem to deal with the needy, what is the responsibility of the individual? I do not want to minimize the significance of our tax contributions to social welfare programs; but clearly contributions of this sort are not sufficient given the fact that there are still many persons in need. Moreover, our tax contributions only have very limited impact on the needy outside of our society where their efficacy is limited by our government’s spending priorities and foreign policies. We must recognize that individual responsibilities do not begin and end with giving money. An important way for the individual to fulfill her imperfect duty is to work for social and political change. This change must come at both ends—the donor society and the recipient society. It is necessary that individuals contribute their “fair share” and that our institutions make effective and efficient use of the resources they collect. And it is necessary that the recipient nations fairly distribute these resources and work to improve the conditions of their societies. There is a lot
of dispute in the literature over what the most effective procedure is for ending need.\textsuperscript{38}

Can the needed changes come about within current political structures and the present international economic order? These and other questions must be raised and debated.

Helping the needy is complex. And perhaps when more effective structures are put in place, those skeptical of the efficacy of their financial donations will be more willing to give. So perhaps the most important contributions individuals can make are to continue the debate and to work to ensure that our social and political institutions reflect the best practices possible.

Until just institutions are in place, we must continue to do what we can to improve our institutions while at the same time providing support to those in need.

\textsuperscript{38}There are those who argue that food aid worsens the situation in the long-term. There are those who stress that any aid offered to needy nations must not be given with strings and conditions that are to the detriment of the recipient nation. And there are those who argue that nothing should be done because starvation is a natural response to our exploding population in a world of scarce resources. See Onora O'Neill's discussion in "The Moral Perplexities of Famine and World Hunger" in \textit{Matters Of Life and Death: New Introductory Essays in Moral Philosophy}, ed. Tom Regan (New York: Random House, 1986), 294-331, and \textit{Faces of Hunger: An Essay on Poverty, Justice and Development} (London: Allen & Unwin, 1986). O'Neill discusses the different approaches of the neo-Malthusians and the developmentalists. The neo-Malthusians think that the "the only secure way to end famine is by limiting population growth", and thus allowing the starving to die (M.P.F, 302). The developmentalists think that "the first aim must be economic growth, which is a prerequisite of lowering population growth"(MPF, 302). She then goes on to show that there are many disagreements among developmentalists; some emphasizing economic changes and others emphasizing political changes. See also Garrett Hardin "Lifeboat Ethics: The Case Against Helping the Poor" in W. Aiken and H. La Follette, \textit{World Hunger and Moral Obligation}, Englewood Cliffs: Prentice-Hall, 1977 and Amartya Sen, \textit{Poverty and Famines: An Essay on Entitlement and Deprivation}, Oxford: Clarendon Press, 1981.
Conclusion: The Significance of the Distinction between Duty to Rescue and the Duty to Help the Needy

By drawing the distinction between the duty to rescue and the duty to help the needy, I have shown that aiding those in need is not an all or nothing prospect. I have not shown that it is more important or pressing to rescue the person in peril than it is to help the distant needy, but I have shown that these situations are relevantly different, and so they have different moral claims on the individual. In a rescue situation, an individual is picked out to do the saving. The situation is determinate—we know who must aid, what must be done and that it must be done immediately. In a need situation, no particular person is bound to help. This does not mean that we are not obligated to help the needy, we are; but it means that no particular situation of need binds any particular person. Unlike, the rescue situation, the individual has some leeway in choosing how to discharge her obligation. She can choose whom to help and when to help. She does not get to choose whether to help or not, she must help some people some of the time—this is her moral obligation.

Drawing the distinction I have has proven to be important in our discussion of the limitations on our duties to aid. How much we must do and what we must do depends on the type of duty at stake. Framing these issues in a way that recognizes the distinction between the perfect duty to rescue and the imperfect duty to help the needy leads to a better understanding of the duty we have to aid others. This understanding fits well with our intuitive reactions to the various aid scenarios we have examined (especially Drowning Child and Famine). Though we are not left with a precise formula for what and how much we must
do, we are given guidance. The guidance is more clear and determinate in cases of rescue and less determinate in cases of need. Nevertheless, we have gained a better understanding of the structure of our duties to others. A better understanding of this structure is useful because it puts us in a better position to reason about what we as individuals and as members of society must do for those in peril and need.
Bibliography


