

The Extension and Limits of the Duty to Rescue

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Abstract. While many people believe that we have a moral duty to rescue another human being from a mortal danger when we can do so at little cost to ourselves or to other persons, there is less agreement concerning the extension and limits of this duty. When do we have a duty to rescue? What exactly is meant by “little cost”? In this paper we will examine a consequentialist as well as a deontological way of approaching the duty to rescue. We will point to some significant problems for both versions, but also indicate a way in which at least the deontological position can be improved. Finally, we will try to indicate how the duty to rescue may be applied to the international scene.

Key words: duty to rescue, consequentialism, deontology, duty of necessity, relational duty.

I. THE CONSEQUENTIALIST VERSION OF THE DUTY TO RESCUE

Here is how Peter Singer famously discusses the duty to rescue, relating it to a consequentialist principle of preventing bad things from happening:

“[I]f 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.... An application of this principle would be as follows: if I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This will mean getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a very bad thing [...]. [T]he principle takes, firstly, no account of proximity or distance. It makes no moral difference whether the person I can help is a neighbor’s child ten yards from me or a Bengali whose name I shall never know, ten thousand miles away. Secondly, the principle makes no distinction between cases in which I am the only person who could possibly do anything and cases in which I am just one among millions in the same position.” (Singer 1972, 231–32)

Hence, according to Singer, we have a duty to rescue whenever our intervention is sufficient to prevent something bad from happening and when it does not involve a sacrifice of “comparable moral importance.” His account raises at least two objections, both of which emanate from the consequentialist idea that we have a duty to rescue whenever our intervention is sufficient to prevent something bad from happening. The first objection concerns consequentialism’s inability to make an important distinction between two different ways in which we can have a duty to rescue. The second objection concerns the maximization inherent in consequentialism and how it may cause confusion as to whom the duty to rescue applies.

Sufficiency vs. Necessity and Different Kinds of Duties

The idea that we have a duty to rescue whenever it is *sufficient* to prevent something bad from happening, regardless of whether our intervention is also *necessary*, seems to ignore the fact that some agents may have more of a duty to intervene than others, at least in

a given situation. Of course, if you are the only person present, and you can easily rescue the child from drowning, then it is both necessary and sufficient that you intervene, and therefore it would also be obvious that you have a duty to rescue the child.

But what if the child's parents are present at the scene and do nothing, while being both aware of what is happening and capable of intervening? Or what if a trained lifeguard, employed to make the pond safe, is present without intervening, although he is capable of doing so? Or what if the person who pushed the child into the water in the first place is there, watching the child drown, without intervening, although she could easily do so?

In all these cases there exist certain relationships between the agents mentioned and the drowning child, and these relationships also create special duties on the part of the agents. We may call these *relational duties*. Parents have a special responsibility for their children that nobody else has. They are morally obliged to look after their children and see to it that they come to no harm. Likewise, a lifeguard employed to maintain the safety of a certain pond has a special responsibility to rescue a child about to drown there that nobody else has. And a person who has pushed a child into the water and thereby exposed it to a life-threatening danger has a duty that nobody else has to correct her wrongdoing by pulling the child out of the water.

If you, an unrelated passer-by, find yourself by the pond in the company of any or all of these agents, it is they rather than you who have a moral duty to rescue the child. It may be the case that it is sufficient that only one of you intervenes to rescue the child, but you are not all equally morally obliged to do so. The parents, the lifeguard, and the person who pushed the child into the water have, for different reasons, a duty to intervene that you do not have.

However, if all of these people who have a relational duty to rescue the child either are unable to fulfil that duty, or simply refuse to act in accordance with it, then it would be necessary for you to intervene to save the child from drowning. Then you would have what we may call a *duty of necessity*, emanating from the causal necessity of your intervention, rather than from any special relationship between you and the drowning child. Hence, we do not adhere to the view, criticized by Joel Feinberg, that "apart from special moral relationships, our moral claim against others is only to be let alone" (Feinberg 1987, 131). If your intervention is necessary to save the child's life, and if you can intervene at no cost to yourself, then the child has a right to your intervention.

But the primary duty to intervene rests with the people who stand in a special relationship to the child. If you have to intervene because they refuse to act in accordance with their relational duty to rescue, they are morally responsible not only for failing to help the child but also for leaving it to you to make up for their failure. It is a weakness of the consequentialist version of the duty to rescue that it fails to distinguish in this way between relational duties and duties of necessity, and between agents with different degrees of responsibility for fulfilling the duty to rescue.

Sufficiency vs. Necessity and the Maximization of Outcomes

The consequentialist version of the duty to rescue also suffers from a tension between, on the one hand, the intuitions evoked by its premises and, on the other hand, the way it justifies its conclusions. We believe that a child, in a situation of the kind described by Singer, has a *right* to our assistance, and that we have a corresponding duty to rescue the child. Unless our intervention brings with it a serious threat to our own well-being, there can be no justification whatsoever for us not rescuing the child.

However, consequentialism, concerned with total outcomes rather than with individual rights, is open to the possibility that we are not only permitted, but actually morally required to leave the child to drown. Singer's justification of the duty to rescue takes place against the background of a more general argument, holding that we should pay attention to all the interests of all those affected by our planned course of action and "weigh up all these interests and adopt the course of action most likely to maximize the interests of those affected" (Singer 1979, 12). This means, however, that we may well face situations in which the duty to rescue the child in the pond may be outweighed by a duty to save other people somewhere else.

Consider, for instance, a case in which you are on your way to the post office to mail a sum of money which will save ten persons from dying from starvation in some far-away country – but only if the money is mailed today. You pass a pond where a child is about to drown. You realize that you can easily pull the child out of the water, but it will take some time to do so, and the post office is about to close. So if you stop to save the drowning child, you will not make it in time to the post office, and then you will not be able to save the ten starving persons. From a consequentialist point of view, the loss of ten lives would be a morally worse outcome than the loss of one life. Hence, your duty is to proceed to the post office and let the child drown.

Now, this result would seem counterintuitive to many of us. Whatever duty you may have to save the starving ten, it cannot set aside the more urgent duty to rescue the drowning child. In the words of Patricia Greenspan, "I do not have moral leeway [...] to pass by an accident victim whom no one else is available to help, on the grounds that I have given or plan to give enough aid elsewhere" (Greenspan 2010, 197).

Some might think that this is because "we have greater obligations to take care of *what is in the area near us*, whether this is threats that will cause harm at a distance, or persons who are or will be victims" (Kamm 2000, 671; emphasis in original). However, this is not a strong argument against the consequentialist position, since the consequentialist may simply counter by questioning the validity of our intuitions. She could claim that they just reflect our prejudice for proximity and against distance (in time as well as in space). We are moved to act by what we have in front of us here and now, and find it easy to ignore consequences more remote in time and space, regardless of the relative importance of the interests at stake.

A stronger objection against the consequentialist position would instead point to the fact that while it is necessary that you intervene to rescue the child from drowning, it is not necessary that you get to the post office in time in order for the starving ten to be saved. Of course, it is necessary that you arrive in time at the post office for the ten to be saved *by you*, but even if you do not get there in time, there is still the possibility that someone else can contribute the sum of money required for saving their lives. Hence, your money is *sufficient* to save the starving ten, but not *necessary*. The child in the pond, on the other hand, can only be saved by you. If you do not pull the child out of the water, no one else will do it. Hence, you have a duty of necessity regarding the child that you do not have regarding the starving ten. Once again, we find that the consequentialist idea that we have a duty to rescue whenever our intervention is sufficient to save someone's life tends to confuse our moral priorities.

What if your intervention would be as necessary for the rescue of the starving ten as it is for the child in the pond? That is, only you can save the child in the pond, and only you can save the starving ten, but you cannot do both. Here we would have to admit that you should give priority to the starving ten. Numbers do not decide by themselves what is the morally right action, but in a case where two groups of people have equally good claims on your support (your intervention is necessary to both of them, and none of them stands in a relationship to you that gives you special relational duties to its members) it seems reasonable that you should choose to help the more numerous group. But unlike consequentialism, quantity is here secondary to quality, in the sense that it is first when we have ascertained that there is no difference in terms of necessity or special relationships that we let numbers decide our duty.

II. THE DEONTOLOGICAL VERSION OF THE DUTY TO RESCUE

Like Peter Singer, Alan Gewirth, in his discussion of the duty to rescue, takes his point of departure in a case of a drowning person:

"[W]henever some person knows that unless he acts in certain ways other persons will suffer basic harms, and he is proximately able to act in these ways with no comparable cost to himself, it is his moral duty to act to prevent these harms.... Suppose Carr, who is an excellent swimmer, is lolling in the sun on a deserted beach. On the edge of the beach near him is his motorboat, to which is attached a long, stout rope. Suddenly he becomes aware that another person, whom I shall call Davis, is struggling in the water some yards away. Carr knows that the water is about thirty feet deep at that point. Davis shouts for help; he is obviously in immediate danger of drowning. Carr sees that he could easily save Davis by swimming out to him, or at least by throwing him the rope from his boat. But Carr simply doesn't want to bother even though he is aware that Davis probably will drown unless he rescues him. Davis drowns." (Gewirth 1978, 217–18)

Here the background is not the consequentialist one of being required to prevent bad things from happening whenever one can do so at little cost to oneself, that is, when one's intervention is *sufficient* to prevent bad outcomes. Instead, as the formulation "*un-*

less he acts in certain ways” indicates, we are required to intervene when it is *necessary* to prevent basic harms and when we can do so at “no comparable cost” to ourselves. The reference to “basic harms” also implies that we have no duty to intervene to prevent bad outcomes in general, but only to prevent certain harms that interfere with other people’s right to basic well-being.

However, we still need to clarify the meaning of “comparable cost”. The deontological version presupposes that the rescuer as well as the rescuee have *rights* to basic well-being. That is why we have a moral duty to intervene when it is necessary to prevent someone else from suffering basic harm. But this also raises questions of conflicts of rights. To what extent is the rescuing agent supposed to sacrifice aspects of her own well-being for the sake of maintaining the basic well-being of some other person? Gewirth’s story about Carr and Davis does not provide us with any clue here, since Carr obviously does not risk any bodily harm at all by rescuing Davis.

The comparable cost condition

At one extreme, we have the possibility that every loss up to the level of loss that the rescuee is confronted with can be required of the rescuing agent. If the person in need of rescue is about to lose her life, then everything except loss of her own life can be required of the rescuing agent. This seems much too demanding, however. As Jonathan Quong has pointed out:

“If a child is drowning and X can rescue the child at the cost of muddying their trousers, most will agree X is required to save the child. But suppose instead X can only save the child at the cost of becoming a paraplegic. Here I think many would agree X is no longer required by morality to save the child. Since the death of the child is worse than the cost of becoming a paraplegic, the only explanation is that agent-relative considerations have altered what morality permits.” (Quong 2009, 517)

To be sure, professional lifeguards, close friends, relatives, and others who stand in a special professional, contractual, or emotional relationship to a drowning person may have a relational duty to risk even their lives when necessary to save that person. But in the absence of such special relationships, we assume that the rescuing agent, too, has a right to basic well-being that cannot be set aside for the sake of maintaining that same right of a drowning person. This is what the comparable cost condition is about.

Now, granting that becoming a paraplegic would violate the comparable cost condition, we have not said anything about what kinds of harm a rescuing agent *should* be morally required to accept for himself. Certain kinds of harm seem trivial compared to what a drowning person is about to lose, and would hence be consistent with the comparable cost condition. For instance, an opera singer may catch a common cold if she tries to rescue a drowning man, and as a consequence she will be unable to perform arias for some time. But does this imply that she is entitled to refuse to rescue the drowning man? That would be absurd. After all, the opera singer’s loss is limited and temporary, while the drowning person is about to suffer a loss that is total and permanent.

Here we may have a point of departure for a more principled argument concerning the contents of the comparable cost condition. We will claim that total and permanent losses of capacities for action constitute attacks on any agent's basic well-being of a kind that is ruled out by the comparable cost condition, while limited and temporary losses of capacities for action may be acceptable according to this condition.

The Right to Basic Well-being

Basic well-being, then, will be taken to include not only life, but also those other physical and mental abilities that are required for agency in general (and not only for certain specific actions). Hence, no agent is morally obliged to risk her life, nor to expose herself to a total and permanent loss of such capacities as the ability to use one's limbs, the ability to see, hear, speak, and so on, the ability to stay concentrated and focused, the ability to perceive and interpret one's natural and social environment correctly (not suffering from delusions), and so on.

Accordingly, no agent can be morally required to make a total and permanent sacrifice of any aspect of her basic well-being for the sake of rescuing another agent's life. (That is, unless her duty to rescue is also a relational duty obliging her to do more than is required by the comparable cost condition.) However, a rescuing agent may be required to make a limited and temporary sacrifice of aspects of basic well-being, such as having her hearing impaired (without becoming completely deaf) for a few days, or suffering from a mild headache (not severe enough to make thinking and concentration impossible) for a day or two. This is how we should understand the comparable cost condition.

Of course, "temporary" is a vague term. Is a headache that lasts a year still to be called temporary? It is certainly not a permanent affliction, but it is not a short-term experience either. We might avoid this problem by simply saying that when it is unclear whether a loss of basic well-being will be limited and temporary, we should leave it to the rescuing agent to decide whether she should intervene or not. In these cases of uncertainty then, the duty to rescue will become an *imperfect duty*, in the sense indicated by Kant and Mill. According to Kant, this means that "the duty has in it a latitude for doing more or less, and no specific limits can be assigned to what should be done" (Kant 1996[1797], 156; Akademieausgabe 6:393). In Mill's terminology, those duties are imperfect "in which, though the act is obligatory, the particular occasions of performing it are left to our choice" (Mill 1987[1863], 66).

When we hold that an agent has no duty to expose herself to a total and permanent loss of any aspect of basic well-being for the sake of rescuing a person in mortal danger, this applies not only to the dangers of the rescue operation itself, but also to the expected effects of rescuing the person in question. Just as the agent has no duty to jump into the ocean to save a drowning person if she herself cannot swim, so she has no duty to rescue a drowning person who in the past has made credible threats that he will kill or mutilate

the agent if he ever gets the opportunity to do so. We are under no duty to risk our own basic well-being by providing opportunities for somebody else to do us unjustifiable harm.

Possible Exceptions: Relational Duties and Fairness

We should note, however, that the comparable cost condition can be set aside by an agent's relational duties. For instance, if the agent has chosen to become a bodyguard, she may well be morally obliged to risk even her life for the sake of protecting her client's basic well-being. Likewise, parents, lovers, and close friends are morally expected to risk their basic well-being when it is necessary to maintain that same basic well-being of their children, partners, and loved ones. But all these relationships should have a background in the agent's voluntary commitments and hence be at least indirectly consistent with her right to freedom. Only in this way can there be a morally justified duty for the rescuing agent to take risks beyond what is required by the comparable cost condition for the sake of saving another person's life.

Could an agent's duty to rescue be limited for other reasons than for being inconsistent with the agent's own right to basic well-being? One such reason is suggested by Liam Murphy in his discussion of fairness in relation to the duty to rescue. Given a situation in which there are many potential rescuers – you being one of them – and many potential rescuees, we may claim that each rescuer is responsible for a certain *share* of rescuees. But what will happen if the other rescuers refuse to intervene? Will you have to rescue more persons than is your fair share, or are you entitled to limit your rescue activities to include just that number of persons that is your fair share? According to Murphy, it seems at least intuitively plausible to hold that “[w]e should do our fair share, which can amount to a great sacrifice in certain circumstances; what we cannot be required to do is other people's shares as well as our own” (Murphy 1993, 278).

Here I would like to turn Murphy's conclusion on its head, however. While you cannot be morally obliged to make “a great sacrifice”, since this seems to imply a loss of your basic well-being, you may well be morally obliged to do more than your “fair share” of a rescue operation. If other potential rescuers do not intervene to save some persons in need of being rescued, and you can save these rescuees at little cost to yourself, then it is your duty to rescue them, even if this means that you will have to save more persons than would have been the case had all potential rescuers done their fair share. It is the cost to yourself, not the fairness of your share, that might limit your duty to rescue.

III. THE DUTY TO RESCUE AND THE DISTANT STARVING

As we have already seen, Peter Singer claims that “[i]t makes no moral difference whether the person I can help is a neighbor's child ten yards from me or a Bengali whose name I shall never know, ten thousand miles away.” Can the duty to rescue really be extended to global humanitarian aid in this way?

Do Individuals Have a Global Duty of Necessity to Rescue?

As we have already noted, we have a duty of necessity to rescue someone whose basic well-being is endangered, if our intervention is indeed necessary to prevent this from happening. If it is true that certain people will die from starvation in some distant third world country unless you contribute a certain sum of money, and if it is also true that this will not deprive you of any aspect of your basic well-being, then you have a duty to make that contribution.

However, it is very rare that we can establish a causal relationship between one potential donor here and some victims of starvation there, such that if this particular donor does not contribute her money, these people will die from starvation. It is not like the case of the drowning child, where a limited number of people are present, and you know that if none of the others intervene, then it is necessary that you intervene. In the case of the distant starving, it is not at all obvious who has a duty of necessity to help them. Why you? Why not your neighbour? Why not any other citizen of your country? Why not any other citizen of any other wealthy country?

To place the burden of contribution on your shoulders alone would be unfair, given that there are countless other individuals who are equally well off and who could provide the contribution required. On the other hand, for each and every one of these other individuals it will also be true that her specific contribution is not necessary, since it could be provided by some other member of this group of wealthy potential donors. Hence, we seem to lack what Violetta Igneski calls a *morally determinate* situation, connecting a particular rescuer with a particular rescuee (Igneski 2001, 606–7). So who has a duty to rescue the distant starving?

Relational Duties of States

As we have already noted, the duty to rescue comes not only in the form of duties of necessity, but also in the form of relational duties. Now, relational duties apply not only to individuals who stand in a special emotional or professional relationship to the rescuee, such as parents, friends, lifeguards, and so on. Relational duties also apply to institutions and, indirectly, to the persons who are in charge of or work for them. Especially important when it comes to dealing with human afflictions like starvation is the institution of the *state*. This is so, since starvation, unlike the case of a drowning person, cannot be categorized as a sudden occurrence of danger that threatens the basic well-being of some individual and that can be averted by the intervention of some other individual.

Instead, starvation is often the final outcome of a long process of deterioration of communal life in which citizens are deprived of political rights and hence also of the means to voice their grievances. It has been pointed out that “there has never been a famine in a functioning multiparty democracy” (Sen 1999, 178). And since the state, and more precisely the government of the state, has a relational duty to maintain and protect the political rights of its citizens – this is the responsibility that comes with political sover-

eignty – the government will also have a duty to support those of its citizens who starve as a consequence of governmental misrule.

Of course, to the extent that the governments of other countries have contributed to create adverse conditions of development for the starving nation by, for instance, maintaining very unfair conditions of trade, it could be argued that they, too, have a relational duty to support the starving. (This would be a compensatory kind of relational duty, similar to the one that figures in the argument that the person who pushed the child into the water also has a duty to pull the child out of the water.) Thomas Pogge has made an argument to this effect, claiming that world poverty is a consequence of “institutional arrangements [...] to which most of the world’s affluent are making uncompensated contributions” (Pogge 2005, 721).

An International Duty to Rescue?

Could there be a duty for another state to intervene in support of victims of starvation in a poor country, that has nothing to do with past wrongdoing on the part of the intervening state? For instance, if it is necessary to remove the dictatorial government of the poor country in order to end starvation there, and a neighbouring country has the military means to do so – would that country thereby also have a duty to intervene? What if this military intervention can be expected to result in casualties among the intervening soldiers – is it still a duty for the neighbouring country to intervene?

Whether or not we accept that there is a duty to intervene militarily in another country for the sake of rescuing its starving people will depend on how we conceive of international relations in general. If we think of states as being members of a “community of nations”, we might well accept that “[p]eoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime” (Rawls 1999, 37). This international duty of assistance could then include military interventions, given that such interventions are necessary and feasible.

However, to the extent that we accept such an international version of the duty to rescue, it will be more like a duty of necessity than a relational duty – that is, in the absence of alliances or treaties that commit one state to pay special attention to the communal well-being of another state. Just as individuals are supposed to intervene to each other’s rescue when it is necessary and when they can do so without sacrificing their own basic well-being, so one state will have a duty to intervene for the sake of saving the people of another state – but only when it is necessary, and when the intervening state can do so without sacrificing important aspects of its own communal basic well-being.

Hence, the duty of a government to rescue another nation will be limited by the government’s relational duty to its own citizens not to endanger their basic well-being, at least not without their consent or unless it is necessary to preserve their own political community. However, governments have a relational duty to its own citizens not only not to endanger their basic well-being, but also to *promote* their well-being. This can be expected

to set further limits to their duty to intervene militarily for the sake of rescuing citizens of another country.

Hence, we may conclude that the duty to rescue indeed can be applied at an international level. However, the extension of the international application of the duty to rescue will be limited by the negative and positive relational duties of governments to their citizens.

IV. SUMMARY OF CONCLUSIONS

The consequentialist version of the duty to rescue exhibited certain weaknesses in its inability to distinguish between relational duties and duties of necessity, and hence of different degrees of moral responsibility among potential rescuers. According to the consequentialist, you have a duty to prevent bad things from happening whenever you can do so, regardless of whether it is necessary that you do it or not. This focus on *sufficiency* rather than *necessity*, in combination with the maximizing aim of consequentialism, also imply that you might have to ignore some rescuees whom only you can rescue for the sake of rescuing a larger group of rescuees who could be rescued by other people as well.

The deontological version of the duty to rescue, on the other hand, accepts that you have a duty to rescue only when it is necessary that you do so. However, since the deontological version is based on the idea that both rescuer and rescuee have moral *rights*, it brings with it an obvious risk that these rights will conflict. The formula of “comparable cost” hence needs to be clarified, in order that we should be able to know how far the rescuing agent’s duties extend and what sacrifices she has to accept for herself.

We outlined an idea of the right to basic well-being according to which no agent should have to risk neither her life nor a total and permanent loss of the physical and mental capacities generally needed for agency for the sake of rescuing another agent. (That is, unless the agent has voluntarily entered relationships which bring with them relational duties that go beyond the comparable cost condition.)

With this elaboration of the deontological version of the duty to rescue we will arrive at a relatively clear picture of what is involved in the duty to rescue and of the limits of this duty. Finally, we have applied our reasoning about the duty to rescue to the international scene, and established, at least in a tentative way, that there might indeed be an international duty to rescue, but that this duty is also limited by the relational duties of the intervening state or government to its own citizens.

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