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WHAT IS OPTIONAL IN THE FULFILLMENT OF DUTY?

Gregory Mellema

Moral duties are often described in terms of rigid requirements to perform, or refrain from performing, actions of certain specific types. In various theological traditions this point is often expressed in terms of the demands God places upon His creatures. However, there are several important ways, as Kant, Mill, and others have noted, in which the fulfillment of duty admits of options. In this paper an effort is made to offer a precise characterization of these ways. On this basis it is concluded that many duties are not of the form in which duties are commonly characterized.

Moral duties are often described in terms of rigid requirements to perform, or refrain from performing, actions of certain specific types. If one has a duty to perform such actions, then that is exactly what one must do. To do anything else, strictly speaking, constitutes a failure to fulfill the duty. "Moral precepts," according to Emile Durkheim, "demand of us certain specific behavior."

In various theological traditions this point is often expressed in terms of the demands God places upon His creatures. God demands of His creatures that they perform, or refrain from performing, actions of certain specific types. These God-given duties, it is generally urged, play a highly significant role in the lives of believers. Because people often look for ways to escape their duties, it is often felt important to stress the specificity of our God-given duties. In particular, it is judged necessary within these traditions to stress this point to children and new converts. Because our God-given duties are depicted as requirements of a specific nature, believers can be made aware that there are definite expectations which apply to them.

Here I shall urge that, in spite of the significance of such duties in the lives of believers, it is by no means essential to the concept of duty to embody such requirements. While there are many duties which can be fulfilled or discharged only by performing actions of certain specific types, there are a great many duties whose fulfillment admits of options of various types. The recognition that there are such duties is, of course, by no means novel. Kant acknowledged, for example, that there are certain duties which agents are free to fulfill when they choose to do so. I believe Kant is entirely correct on this matter. My aim in what follows, however, will be to distinguish several important ways in which

it is possible for the fulfillment of duty to involve elements of what is optional. I will attempt to offer a precise characterization of these ways, as well as examples of each, and in so doing I hope to make clear that the “imperfect” duties of Kant comprise only one class of duties whose fulfillment admits of options.

1. *Basic Duties*

The first class of duties I shall discuss is typified by the following version of act utilitarianism: “Every agent ought to act in every circumstance so as to bring about the greatest benefits for the greatest number.” For every person, no matter who, in any circumstance, no matter what, there is something the person has a duty to do, namely, whatever is necessary to bring about the greatest benefits for the greatest number. To fail to do this is, *ipso facto*, to fail to fulfill one’s duty. Each person has a requirement to do whatever is necessary to bring about the greatest benefits to the greatest number.

Duties of this type I shall call ‘Basic Duties.’ A duty qualifies as a basic duty, as I shall employ the term, just in case it is of the form:

- (1) Every agent ought to do whatever is necessary in order to bring about outcome O whenever in circumstances of type C².

An example of a basic duty can be seen by imagining that George is standing idly on the beach when a swimmer in the process of drowning begins calling for help. Suppose that no one else is present, that George is skilled in the techniques of rescuing persons who are drowning, and that there are no unusual risks involved in attempting to rescue the individual in this situation. Surely it is plausible to say that George has a moral duty to rescue the swimmer in distress. If so, his duty is a basic duty, for he is in circumstances such that any moral agent in relevantly similar circumstances ought to do the same thing. Naturally, these are not the only circumstances in which one ought to rescue swimmers in distress. But it is clear that his duty is a basic duty, for whenever one is in such circumstances, one has a duty to do whatever is necessary to come to the rescue of the swimmer.

There are three features of basic duties which will turn out to be of significance in the following discussion. First, basic duties apply to every moral agent without exception. Anyone in circumstances relevantly similar to those of George has the same duty. Second, basic duties apply to every occasion in which moral agents are in circumstances of type C. No matter how many times George finds himself in relevantly similar circumstances, he has the same duty. Third, basic duties apply to every element or portion of an agent’s effort required to bring about outcome O. George must perform a series of actions in order to rescue the drowning swimmer, and the entire series of actions falls within the scope of

this duty. By performing only some of these actions, but not enough to complete the rescue, George fails to fulfill it.

Notice that what counts as a 'circumstance' includes not only states of affairs such as the swimmer's calling for help or there being no one else present, but it includes such states of affairs as the agent's possessing certain qualities or properties. Were George not able to rescue swimmers in distress, then, on the present account, his circumstances would be relevantly different. It may seem odd to describe George's ability to rescue swimmers in distress as one of the circumstances in which he finds himself, but I shall nevertheless employ the term in this manner. Also included among George's circumstances, finally, is the state of affairs of George's having no overriding duties. George's duty, therefore, will be understood to be what philosophers call an 'all-things-considered-duty,' and the same will be assumed in subsequent examples.

It might appear as though (1) is formulated in such a way as to place too heavy an emphasis upon the outcome or consequences of what agents ought to do. According to (1) there must be an outcome O towards which one ought to direct one's efforts. Thus, it might appear as though (1) leaves no room for duties requiring that an agent perform an action A regardless of the consequences of performing A. However, my use of the notion of 'outcome' is intended to be wide enough so as to include such duties. Outcome O can simply be taken as the state of affairs that the agent perform action A, and hence there can be a categorical duty to perform action A which is of the form of (1).

Duties of the form of (1) can also include duties whose fulfillment does not require the performance of actions at all. Some basic duties, such as the duty not to seize the possessions of another, are fulfilled precisely by refraining from seizing the possessions of others. In such circumstances one ought to do whatever is necessary to bring about the state of affairs that one does not seize the possessions of others.

Can there be anything optional in the fulfillment of basic duties? Clearly a duty whose fulfillment does not admit of options, *i.e.*, which embodies a rigid requirement to perform a particular action, is a basic duty. If an airline pilot has a duty to press a button activating the safety belt signs whenever the aircraft descends below 5,000 feet, then everyone in relevantly similar circumstances must do exactly that—press the button. However, it is not true that every basic duty is one which embodies rigid requirements of this sort. George must do whatever is necessary to rescue the drowning swimmer, but it is certainly possible that George knows two or three equally effective techniques for rescuing drowning swimmers. If so, the choice of technique can be optional in the fulfillment of George's duty. Generally speaking, the specific actions performed by an agent in doing whatever is necessary to bring about outcome O need not be dictated by the circumstances of the agent. Hence the choice of specific actions can

frequently be optional in the fulfillment of basic duties. The duties referred to at the outset of the discussion, accordingly, turn out to constitute an important, but by no means exhaustive, subclass of basic duties. Nevertheless, in what follows I shall suggest that when one begins to consider other ways in which the fulfillment of duty is optional, one is led beyond basic duties to countenance duties of other types.

2. *Duties of Indeterminate Occasion*

Kant was correct in acknowledging that there are certain duties which agents are free to fulfill when they choose to do so. Mill too acknowledged them, and it is clear from the following passage in *Utilitarianism* that their recognition has become somewhat common among moral philosophers:

Now it is known that ethical writers divide moral duties into two classes, denoted by the ill-chosen expressions, duties of perfect and of imperfect obligation; the latter being 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...³

Charity is obligatory, according to Mill, but the particular occasions of performing acts of charity is a matter which is optional.

It is important to see that these "imperfect obligations" cannot qualify as basic duties, for they are not binding upon agents whenever they are in circumstances of a certain type. One is obliged to perform acts of charity at some time or other, but, unlike George, one is not required to act at a specific time. I shall refer to duties of this type as 'Duties of Indeterminate Occasion,' and I shall characterize them as duties of the form:

- (2) Every agent ought sometimes (but need not always) do whatever is necessary to bring about outcome O in circumstances of type C.

While basic duties, for some particular type of circumstance C, apply to every occasion in which moral agents are in C, the same is not true for duties of indeterminate occasion.

The recently paroled inmates of a certain correctional facility, for example, might be required to check in at least once per month with the parole officer (their release being conditional upon their promising to do so). There is no specific day of the month or specific circumstances such that they must carry out the duty on that day or in those circumstances. They must simply do whatever is necessary to appear before the parole officer on some day or other during the course of the month, for as long as their circumstances include participation in the parole program.⁴

There are, moreover, duties of indeterminate occasion which do not involve the precise specification of time intervals. Suppose, to slightly alter Mill's example, that I promise an administrative representative for a certain charity that I will from time to time donate money to it. By making such a promise I have presumably created for myself a duty. But what type of duty have I created? Since I have made no commitments as to how frequently I will make donations, I have created one whose fulfillment will consist in my making occasional contributions.

Unlike George, who has an immediate duty to rescue the drowning person, there is no specific occasion such that on that occasion I have a duty to make a donation. I simply have a duty on various future occasions, whatever they may be, to do whatever is necessary to make a contribution. One of the basic differences between basic duties and duties of indeterminate occasion, accordingly, would seem to be that if an agent has a basic duty, then there is a particular occasion (and possibly more than one) such that the agent has a duty to do all that is necessary to bring about a certain outcome on that occasion. And if an agent has a duty of indeterminate occasion, then there need be no such occasion.

It might be argued that in the charity example I have a basic duty to do whatever is necessary to bring about the following outcome: That I occasionally contribute to the charity. I have a duty to bring about this outcome, and this duty is binding upon me as long as I remain alive, the charity remains in existence, and so on. It is not a duty which requires me to perform acts of charity on certain occasions; it is a duty which requires me, on a continuous basis, to see to it that the outcome is brought about.

In response, I wish to claim that this basic duty is stronger than the duty I have described above, and it strikes me as dubious that this basic duty is binding upon me. Let O be the state of affairs that agent S occasionally brings about outcome O' . If D_1 is a basic duty to do whatever is necessary to bring about outcome O whenever in circumstances C , and if D_2 is a duty occasionally to do whatever is necessary to bring about outcome O' in circumstances C , then it is plausible to claim that S has D_1 only if S has D_2 . If S has a duty, on a continuous basis, to see to it that S will occasionally bring about O' , then it would seem that S has a duty occasionally to bring about O' . However, the claim that S has D_2 only if S has D_1 is a different matter entirely. If S has a duty occasionally to bring about O' , there seems no reason at all to conclude that S has a duty, on a continuous basis, to see to it that S will occasionally bring about O' .

It is not entirely clear what is required of S in order to fulfill D_1 prior to such time as S actually makes a contribution (for example), but suppose we say that D_1 requires S to be in a continuous state of 'monitoring.' This need not, of course, be a conscious state of mind or any state of mind at all. But remaining in a state of monitoring would seem, at the very least, to preclude one's lapsing

into a state of total forgetfulness for an extended period of time of what one ought eventually to be doing. If S were to lapse into such a state, then suddenly remember the requirement to make a contribution some thirty years later and promptly do so, it would be difficult to defend the claim that S had nevertheless remained in a state of monitoring and therefore had fulfilled D_1 . Duty D_2 , by contrast, does not require anything comparable, and S would in this instance have fulfilled D_2 . I conclude that D_1 is stronger than D_2 , and I would argue that I do not clearly have an ongoing duty in the charity example to bring it about that I occasionally contribute money to charity.

3. Duties of Indeterminate Agency

All of the duties considered up to this point share a common characteristic: They apply to every agent in relevantly similar circumstances if they apply at all. It might be tempting to suppose that this characteristic is one which must be possessed by all duties. For how, one might ask, can there be a duty which applies to some, but not all, persons in relevantly similar circumstances? Philosophers discussing topics such as universalizability sometimes seem to come perilously close to endorsing the idea that something can be a duty only if it is binding upon every agent in relevantly similar circumstances (if it is binding at all). Nevertheless, I shall argue that there are *bona fide* duties for which this is not the case.

Imagine a situation in which George is joined by a large group of persons, each of whom is experienced in the techniques of lifesaving, when a swimmer in the process of drowning begins calling for help. If it is apparent that they cannot all simultaneously rescue the swimmer and that the optimal situation would be if exactly one of them were to rescue the swimmer, then none of the persons has a basic duty to rescue the swimmer. For if any of them has a basic duty, then each of them has the same basic duty. But surely it is false that each of them has a basic duty to do whatever is necessary to rescue the swimmer, for it is not within anyone's power to rescue the swimmer if everyone else were attempting to do the same. The duty to rescue the swimmer, therefore, is not a basic duty. Someone or other in the group ought to do it, but no particular member of the group has a basic duty to do it. It is what I shall call a 'Duty of Indeterminate Agency,' or, more precisely, a duty of the form:

- (3) Some agent or other (but not every agent) ought to do whatever is necessary in order to bring about outcome O whenever in circumstances of type C.

One might argue, of course, that although this duty is not a basic duty, there are nevertheless basic duties in the neighborhood which are binding upon these

persons. There ought to be, for instance, some type of impromptu selection process for determining who will perform the rescue, and it is plausible to argue that each person has a basic duty to participate in this process, or, in other words, to see to it that someone in the group takes action. If one of them were to walk away, totally unconcerned over whether the drowning person would be rescued, then such a person can reasonably be blamed for the failure to fulfill a duty. And the duty which this person has failed to fulfill is a basic duty, for it is one which is binding upon each of the persons standing on the beach, and it is one which would be binding upon any agent in relevantly similar circumstances.

Each of these persons, then, has a duty of indeterminate agency to do whatever is necessary to bring it about that the swimmer is rescued (for short I shall call it a 'rescue duty'). This means that someone or other in the group ought to do whatever is necessary to bring this about, even though there is no person in the group for whom there is a basic rescue duty. Because this is so, it cannot be deduced from the fact that they each have rescue duties of indeterminate agency that any one of them has the following duty: To do whatever is necessary to rescue the drowning swimmer in the event that no one else does. Imagine that everyone else in the group refuses to get wet until such a time as the water temperature has had a chance to reach 65 degrees. Does George now have a basic rescue duty?

I am inclined to think that George does now have a basic rescue duty, but the point to be stressed is that his having this basic duty is not entailed by his having a rescue duty of indeterminate agency. If he does have such a basic duty, it is in virtue of being in a new, altered set of circumstances. To argue that it is binding upon him cannot, therefore, rest entirely upon pointing out that he has a rescue duty of indeterminate agency.

Perhaps some will find it counter-intuitive to speak of duties which, although they are binding upon every person in a group, fail to require of any specific persons in the group that they undertake (or refrain from undertaking) any action. However, consider the alternative. To deny that there are such duties would force one to affirm that there exists a moral obligation to rescue the drowning person when George is alone on the beach, and there exists no moral obligation to rescue the same drowning person when George is joined by a group of others who are capable of rescuing the person. But it is hard to see how the presence of obligation vanishes simply by the addition of potential rescuers.

One might, it is true, prefer to think of duties of indeterminate agency as duties which attach or apply to groups of agents rather than individual agents. According to this point of view, George himself cannot properly be said to have such a duty; it is a group duty. I do not believe this is the best way to conceive of duties of indeterminate agency, but the point to be emphasized is that in some manner or other one must account for the presence of obligation in group situations

of this kind. And in whatever manner one prefers to think of duties of indeterminate agency, it is clear that they accomplish this result.

Consider another example. One hundred persons who are being imprisoned by a group of political terrorists are informed that one of them must volunteer to clean out the septic tank. They are informed that if no one volunteers, then the terrorists will explode a bomb at a location where it is almost certain to injure many innocent people (and they will not do so otherwise). Here I believe it is correct to say that somebody ought to volunteer (to prevent the explosion of the bomb) but not that each prisoner has a duty to volunteer, nor, for that matter, that any particular prisoner has a duty to volunteer.⁵ If Betty volunteers to clean out the septic tank, thereby preventing the explosion, then it is not at all clear that Bonnie, who did not volunteer, can be blamed for having failed to fulfill a duty to volunteer. Some prisoner or other ought to volunteer, but it is not the case that any particular prisoner ought to volunteer. The duty to volunteer is a duty of indeterminate agency.

Similar results apply if it were demanded that two prisoners volunteer to clean out the septic tank. Two prisoners or other ought to volunteer, but it is still false to say that each prisoner has a duty to volunteer, or to say of any particular prisoner that he or she has a duty to volunteer. It is possible, therefore, that there be duties of indeterminate agency which specify that multiple agents fall under their scope. They need not, however, specify exactly how many such agents fall under their scope.

4. *Duties of Indeterminate Degree*

Duties of indeterminate occasion and duties of indeterminate agency each contain an element of what is optional. In the fulfillment of the former it is the occasion which is optional; within certain boundaries an agent can choose when to discharge the duty. In the fulfillment of the latter it is optional which agent or agents, out of those in the same set of relevant circumstances, discharge them. Duties of indeterminate degree will now turn out to be those in which it can be optional as to the degree or extent to which one's actions contribute to the outcome:

- (4) Every agent ought to do some (but need not do all) of what is necessary in order to bring about outcome O whenever in circumstances of type C.

Unlike the duties considered in the foregoing sections, duties of indeterminate degree do not apply to every portion of the effort necessary to bring about the outcome in question.

Suppose that as the result of our joint efforts you and I manage to steal \$100 from a mutual acquaintance. If each of us has a duty to return the stolen money,

then these duties are such that our acquaintance will recover his \$100 if and when we fulfill them. His recovering the money in full, accordingly, is the outcome toward which the fulfillment of our respective duties will contribute. But I do not have a duty to bring about this outcome if, as we might imagine, you steadfastly refuse to cooperate with my efforts to return the money. Given your refusal to cooperate, I cannot fairly be blamed for the failure of our acquaintance to recover the full \$100. I have a duty to do some of what is necessary to bring this about, but I do not have a duty to do all of what is necessary to bring it about. My duty is a duty of indeterminate degree. It is not clear exactly what I must do, whether it be to reason with you, or to simply grab some of the money and run, but that is just the point. It is clear that I ought to do something, but the degree to which my actions contribute to the outcome is indeterminate.

If you and I had already split the money, then the situation would be different. In such a situation I have a basic duty, not a duty of indeterminate degree. I have a duty to return the \$50 I pocketed, and hence there is an outcome which I ought to do everything necessary to bring about. I have a basic duty, not with respect to my acquaintance's recovering his \$100, but with respect to his recovering the \$50 I pocketed, and my duty is no longer a duty of indeterminate degree.

Other examples of duties of indeterminate degree are not hard to find. If two of us have a duty to load a heavy crate on a truck, and neither of us can load it alone, then each of us has a duty of indeterminate degree to get it loaded. But there is no particular portion of the crate which falls within the scope of my duty and another which falls within the scope of your duty. Rather, each of us has a duty to contribute to the loading of the entire crate.

The same appears to be the case when two of us have a duty to load a large number of small cartons on a truck. The degree to which I have a duty to contribute to the loading of the cartons is indeterminate. There is no basic duty, specifying how many cartons I must load, to which my duty is precisely equivalent. Certainly I have a basic duty to load at least one carton on the truck, but the entirety of my duty of indeterminate degree is not exhausted by fulfilling this duty. Nor is it evident that my duty is equivalent to a basic duty to load at least half the cartons. For if at the end of the afternoon we have loaded them all, but I have loaded slightly fewer than you, then it is far from evident that you have fulfilled your duty but I have not fulfilled mine.

Here it seems correct to state that there is no number n such that, necessarily, I have fulfilled my duty if and only if I have loaded at least n cartons. The extent to which my efforts contribute to the final outcome, therefore, admits of options. There are various options, any of which will constitute the fulfillment of my duty. My duty, in other words, is not reducible to a basic duty to load at least n cartons.

5. *Other Types of Duties*

Having seen several important ways in which the fulfillment of duty can admit of options, it can now be seen that by combining elements of what is optional in the foregoing types of duties, it is possible to generate several other types of duties:

- (5) Some agents or other (but not every agent) ought sometimes (but need not always) do whatever is necessary to bring about outcome O in circumstances of type C.⁶

Some duties are sufficiently weak so as to apply only to some persons at some times, as when it is required that at least once per month a prisoner volunteer to clean the septic tank.

- (6) Every agent ought sometimes (but need not always) do some (but need not do all) of what is necessary to bring about outcome O in circumstances of type C.

Some duties apply only to some times and only some of what it takes to achieve the outcome, as when it is required that every prisoner volunteer at least once per month to help load a heavy crate on the truck.

- (7) Some agents or other (but not every agent) ought to do some (but need not do all) of what is necessary to bring about outcome O whenever in circumstances of type C.

Some duties apply only to some persons and only some of what it takes to achieve the outcome, as when it is required that two prisoners volunteer to help load a heavy crate on the truck whenever the truck returns.

- (8) Some agents or others (but not every agent) ought sometimes (but need not always) do some (but need not do all) of what is necessary to bring about outcome O in circumstances of type C.

Some duties are so weak that they apply only to some persons, at some times, and with respect to only some of what it takes to achieve the outcome, as when it is required that some prisoner volunteer at least once per month to load some cartons on the truck. If any prisoner loads any cartons on any day of the month, then the duty has been fulfilled.

6. *Conclusion*

People are often inclined to think of duties in terms of rigid requirements rather than in terms of requirements whose fulfillment admits of options. It seems

more natural, for example, to think of duties as requirements to be discharged at definite times than as requirements to be discharged, at least to some degree, according to one's personal convenience.⁷ Thus, it is likely that basic duties function for most people as paradigms of duty, and because of this there is a potential temptation to overlook duties of other types. Philosophers have long since recognized that "Duties of Imperfect Obligation" are likewise genuine duties. However, the contention Mill ascribes to "ethical writers," that moral duties are either duties of perfect or imperfect obligation, seems to have gone almost entirely unchallenged (with the exception of Burchill and perhaps one or two others) by contemporary writers. I hope to have shown that there are, in addition, duties of indeterminate agency and duties of indeterminate degree, not to mention still weaker duties in which these features of indeterminacy are combined in various ways.

Many of the duties which embody God's demands upon His creatures are indeed basic duties, but our God-given duties, I believe, go well beyond the confines of basic duties. There are important demands God makes of His creatures which allow a genuine freedom to choose their means of fulfillment. It is important to stress that God often demands of us a certain specific mode of behavior, but our God-given duties frequently require us to make responsible choices regarding the manner in which we discharge them in our lives.⁸

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NOTES

1. Durkheim, *Moral Education*, p. 55.

2. Some philosophers might prefer to think of these duties in terms of what agents ought to *undertake* to bring about, but for purposes of simplicity I shall speak of duties in the manner expressed in (1). A duty which is an instance of a duty of the form of (1) I shall also regard as a basic duty.

3. Mill, *Utilitarianism*, p. 74. It may not be entirely clear what Mill means by the locution, 'particular occasion,' but for the purposes of this paper I shall assume that a precise criterion has been provided for what counts as a particular occasion.

4. It might be objected that the duty of each paroled inmate in this example is actually a basic duty in disguise. Let 'C*' stand for the circumstances of a paroled inmate Sam by virtue of which Sam has a duty of indeterminate occasion to check in monthly with the parole officer. Add to C* the following two states of affairs: (i) Sam has not yet paid the parole officer a visit this month, and (ii) It is now Sam's last opportunity to pay the parole office a visit this month. Let 'C**' stand for the resulting expanded set of circumstances. One might then argue that Sam's duty is logically equivalent to a basic duty to pay the parole officer a visit whenever in circumstances C**. However, even if this argument is successful (and I believe there are good reasons for thinking it is not), it

does not apply to examples such as the one described in the next paragraph.

5. It is compatible with this position, however, to judge that the prisoners share in the responsibility for the explosion in the event that no one volunteers.

6. Lorene Burchill appears to acknowledge duties of this type in asserting ('In Defense of Saints and Heroes,' p. 155) that actions of heroism or sacrifice are actions which "some agents ought to do on some occasions." That actions of heroism or sacrifice are duties of this type, however, strikes me as mistaken.

7. Philosophical discussions sometimes seem to reflect this tendency. Actions are said to be supererogatory, for example, just in case their performance is both praiseworthy and fulfills no duties or obligations. But what types of duties do supererogatory actions fail to fulfill? Discussions of supererogation almost invariably leave the impression that the fulfillment of duties of indeterminate occasion would have no bearing upon whether a praiseworthy action achieves supererogatory status. When an agent performs a praiseworthy action on a given occasion and there is no duty by virtue of which the agent is required to perform such an action on that occasion, one seems encouraged to conclude that the action is supererogatory. The idea appears to be that one has gone beyond the call of duty by performing a praiseworthy action at a time when it was not required to do so. But clearly this manner of talking about supererogation is misleading in its simplicity.

8. I am indebted to Thomas Kennedy, Edward Wierenga, and members of the Calvin College Philosophy Department for criticisms of an earlier version of this paper.

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