

BEYOND OBLIGATION:  
REASONS, DEMANDS, AND THE PROBLEM OF SUPEREROGATION

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BEYOND OBLIGATION:  
REASONS, DEMANDS, AND THE PROBLEM OF SUPEREROGATION

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ABSTRACT

It is commonly believed that we need not always do, morally speaking, our very best. There are acts, the supererogatory, that involve going beyond our obligations. For example, while it is morally preferable to donate to UNICEF, we are often permitted to, say, buy new shoes instead. The idea that a great many acts are supererogatory is deeply intuitive, but this raises a serious problem for theories of moral reasoning. Since the supererogatory act is better than its omission, a moral agent will have more (and often much more) moral reason to perform the supererogatory act than to omit it. The donation to UNICEF, for instance, could potentially save lives or greatly reduce suffering. By comparison, any moral reasons that favor buying the new shoes seem quite weak. But then why is it not a moral failing to do what we have no (or very little) moral reason to do rather than what we have very strong moral reason to do?

Philosophers have typically approached this question by looking at the reasons for and against performing the supererogatory act. I argue that these accounts will not work, and I defend a different approach. I argue that an act's deontic status can also be

impacted by the reasons that we have to hold the agent accountable for performing the act. I argue that there is a conceptual connection between obligation and accountability and that one can have conclusive reason to perform an act without there being conclusive reason to hold her accountable for its performance. A conclusive ought may then fail to generate a requirement, or an obligation. It is in this space that the supererogatory resides. I also argue that the intuitions that underlie our moral concept of supererogation have non-moral analogues. A virtue of my account is that it can be used to account for non-moral supererogation as well.

PREVIEW

## ACKNOWLEDGEMENTS

Thanks are owed to many who have helped in shaping my ideas and in strengthening the arguments in this text. Papers including some of the arguments in this dissertation were presented at the Conference of the International Society for Utilitarian Studies and at the Oxford Philosophy Graduate Conference in 2005. I received constructive feedback from participants at both of those conference. I am especially grateful to Roger Crisp for providing both commentary and helpful written feedback on the paper read at the Oxford conference.

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this work, he has both challenged and encouraged me to develop and sharpen its central arguments. His help has been enormous.

I want to thank my parents for their love and support and for providing me with opportunities without which I could never have engaged in the study of philosophy. I want to thank also my children, John and Eleanor. They have not provided any feedback on this work, owing principally to their inability (as yet) to read. They have, however, provided more than their fair share of comic relief, and they have become an endless source of inspiration.

For her encouragement, her patience, and her constant support, I dedicate this work to my wife, Susan. It is to her that I owe my deepest debt.

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PREVIEW

## INTRODUCTION

### An Outline of the Project

There are many examples of acts that seem above and beyond the call of duty, acts that moral philosophers call 'supererogatory.' Wesley Autrey was waiting on a subway platform recently when he saw a man fall onto the tracks in front of an oncoming train. There was a drainage trough between the train tracks, and Mr. Autrey jumped in after the man and pinned him in this trough. The train went over the two men, clearing them by inches, and neither sustained serious injury. Knowing that there are not nearly enough kidneys available to meet the needs of those waiting for transplants, many people check the organ donor box on their driver's license application. David Spence, an Arizona pediatrician, decided to do quite a bit more. He became an anonymous living kidney donor. That is, he gave one of his kidneys to someone that he never met in order to extend her life. Acts like these are exceptional of course, but they are hardly unheard of. History is rife with examples of otherwise ordinary people doing exceptional things, not to mention exceptional people living extraordinary lives. Moreover, there are a great many less dramatic examples of people

doing good beyond what duty requires, examples like mowing a neighbor's lawn or cooking a meal for a friend going through a tough time.

Of course, proclaiming one's own conduct beyond the call of duty is a social faux pas ('I really did not have to do that, how extraordinary!'). As Ralph Waldo Emerson put it, "It is a capital blunder; as you discover, when another man recites his charities."<sup>1</sup> And so it is not uncommon for the agent herself to deny in these cases that she has done anything more than was her duty (Wesley Autrey, for example, said: "I don't feel like I did something spectacular; I just saw someone who needed help. I did what I felt was right."<sup>2</sup>). But these protestations are usually thought the result of humility overwhelming honesty; we do not take them at face value. The belief remains that these acts go beyond duty.

Given the strong intuition that many acts are supererogatory, it is interesting that the concept of supererogation is not easily accounted for within our major moral theories.<sup>3</sup> The problem supererogation, in particular, poses for moral theorists is to some extent part of a larger problem, the problem of accounting simultaneously for both the binary and the scalar concepts employed in our moral discourse.<sup>4</sup> That is, it is

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<sup>1</sup> From his "Heroism."

<sup>2</sup> Buckley, C. "Man is Rescued by Stranger on Subway Tracks," *New York Times*, January 3, 2007.

<sup>3</sup> David Heyd provides a survey of how supererogation fits (or does not fit) within various moral traditions. Heyd (1982).

<sup>4</sup> I follow Alastair Norcross and Michael Slote in using the term 'scalar' in this way. Norcross (2006) and Slote (1985).

difficult for a moral theory to account (plausibly) for either/or concepts like permissible and impermissible on the one hand while also accounting for degreed concepts like better and worse on the other. But supererogation – where the supererogatory is *better* than the minimally *permissible* – involves both of these sets of concepts. The difficulty this raises for moral theory is clear if we look at two of our most dominant moral traditions, Kantianism and utilitarianism. Kant gives us an account of duty but no clear grounds for assessing an act as *better than* what duty requires. Utilitarians give us an account of acts as better and worse but no clear grounds for saying an act is permissible though less than the best.

For Kant's part, he was well aware of the common notion that there are acts that go beyond duty. But he was not impressed by this idea. He writes, "I wish they [educators] would spare them [students] examples of so-called noble (super-meritorious) actions... and would refer everything to duty only..."<sup>5</sup> Kant is here making a point about moral instruction. He claims that examples of the super-meritorious lead students to flights of moral fancy and self-righteousness and that such students will be prone to "release themselves from observing common and everyday responsibilities as petty and insignificant."<sup>6</sup> But Kant's concern is not merely for good

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<sup>5</sup> Kant (1993), p. 160-161 [155].

<sup>6</sup> *ibid*, p. 161 [155]. One thing to note is that Kant seems to consider the super-meritorious as consisting of the particularly heroic. As I'll argue, this is too narrow a view of the supererogatory. Supererogatory acts need not involve heroic self-sacrifice or grave risk.

moral pedagogy. Of the drive to be especially noble, Kant claims that even “among the instructed and experienced portion of mankind, this supposed drive has, if not an injurious, at least no genuine moral, effect on the heart...”<sup>7</sup> We should “attend not so much to the elevation of the soul... as to the subjection of the heart to duty”.<sup>8</sup> And this focus on duty is, of course, driven by the moral theory that Kant proposed.

Kant’s moral law places a constraint, or a limiting condition, on our pursuit of our aims. Kant states this most explicitly when he writes that “the rational being itself, must be made the basis of all maxims of actions, never merely as a means but as the supreme *limiting condition* in the use of all means, that is, always at the same time as an end.”<sup>9</sup> The Categorical Imperative offers a test for an action’s permissibility, and the concept of duty and the moral worth of an action are determined by reference to this moral law. An act has moral worth only if done from duty. But then there can be no morally good action *beyond* duty. And since an act will either pass or fail the test the Categorical Imperative provides (the maxim is universalizable, or it isn’t), the moral law as a test of permissibility does not provide any grounds from which to assess acts as better or worse. Of course we may say that the impermissible are generally worse than the permissible, but this will not capture the sense in which goodness is a matter of degree. There appear to be morally better and worse acts among just those acts that are

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<sup>7</sup> *ibid*, p. 163 [157].

<sup>8</sup> *ibid*, p. 161 [155], footnote.

<sup>9</sup> Kant (1997), p. 45 [4:438]. Italics added.

permissible and among just those acts that are impermissible. That is, acts are better and worse both above and below this line of duty. If it is permissible to give only, say, 10% of our incomes to charity, will it not often be even better to give more?<sup>10</sup>

So Kant's theory provides an account of permissible and impermissible but no obvious account of better and worse. Utilitarianism, on the other hand, provides an account of better and worse but may give us no useful account of permissible and impermissible. The utilitarian assesses acts by reference to the goodness of their consequences, and a standard utilitarian account of right action claims that an act is right if and only if its (expected) consequences are at least as good as those of its alternatives.<sup>11</sup> But then nothing less than the best will do, and if we draw the line of duty at the point of optimal goodness, what results is obviously an extremely demanding morality. Indeed, it may be so demanding as to make our binary moral concepts of little actual use. It is certainly plausible to think that almost none of our actual acts were the very best available. Or at least it seems we could have little

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<sup>10</sup> For Kantians attempting to capture scalar concepts, the formula of humanity and the idea of respect for persons may be more useful than the universal law formula. For instance, it is quite plausible that killing would be worse than lying since it involves a rather more severe impediment to the exercise of one's rational autonomy. It is less clear how it might help with an account of better and worse above the line of duty, however.

<sup>11</sup> Satisficing consequentialism on which an agent merely needs to do (in some sense) well enough in a given case might do better here. I will say more about this approach in chapters two and three. I will argue that we can make sense of the idea of doing well enough in a way that is at least consistent with a consequentialist framework but not in a way that will allow the mere satisficer to avoid some moral/rational failing.

confidence that they were. If so, then an optimizing account of permissibility will make the distinction between permissible and impermissible of little use in our moral assessments.

In fact, Alastair Norcross has argued that utilitarians should simply claim that there is no sharp distinction between right and wrong. They should, he claims, embrace the notion that rightness, like goodness, is a scalar concept, that acts can be more and less right and that there is no line at which an act goes from right to wrong. For whatever line we might try to draw, the utilitarian, whose concern is essentially to promote good consequences, will be just as concerned about increases in goodness above the line or below the line as he will about increases in goodness from below to above the line. As a result, Norcross argues that utilitarians should “reject the claim that duties or obligations constitute any part of fundamental morality.”<sup>12</sup> He writes that “consequentialist theories such as utilitarianism are best understood purely as theories of the comparative value of alternative actions, not as theories of right and wrong that demand, forbid, or permit the performance of certain actions.”<sup>13</sup> But if the utilitarian does not offer an account of permissible and impermissible to go along with the account of better and worse, utilitarianism will not be able to account for supererogation.<sup>14</sup>

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<sup>12</sup> Norcross (2006), p. 43. See also Norcross (1997) in which he rejects the notion of a line between good and bad actions.

<sup>13</sup> Norcross (2006), p. 38.

<sup>14</sup> Norcross suggests at one point that viewing utilitarianism this way (as simply about better/worse and not about obligation/duty/demands) allows the utilitarian to capture the

None of this is to suggest that no account of better and worse is possible in a generally Kantian framework or that no account of permissible and impermissible is possible in a generally utilitarian framework. But providing such accounts is not easy. As we've just seen, if we claim that only the best is permissible, then 'permissible' and 'impermissible' will be of little use in distinguishing between our various actions since it is quite possible that they are (almost) all impermissible. But if we draw the line of duty (below which acts are impermissible) below the optimal, then we face the challenge of explaining how the act that is worse is nonetheless permissible since it appears we have good (sometimes quite weighty) reason to prefer the act that is better. That is, doing what is worse appears to involve a moral (and rational) failing.

A study of supererogation is important in part because it pulls together these binary and scalar elements of morality – the supererogatory is *better than* the minimally *permissible*. Thus to account for supererogation, we need to tell a coherent story that includes both of these elements. And it must be a story that answers the challenge raised above. That is, we need to explain how an act that is worse (the supererogatory

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idea of supererogation since the better act is not demanded. But he later notes correctly that the problem supererogation presents utilitarianism is not simply the demandingness objection. It is not enough to show that the better act is not demanded, but rather, one needs to show how the worse act, when it is a supererogatory omission, is permissible in a way that some morally worse acts are not. Supererogation makes sense only in company with obligation. Thus, in rejecting the line of duty altogether, Norcross' view rejects the supererogatory as well.



omission<sup>15</sup>) can nonetheless be morally (and rationally) permissible. In this dissertation, I will not focus specifically on the problem that supererogation poses for any particular moral theory but rather on this related but more general challenge that it poses for moral and practical rationality.

\* \* \* \* \*

Though it is widely presumed that some acts are supererogatory, the concept itself has not always been clearly defined. Supererogatory acts have been described variously as good but non-obligatory or meritorious but non-mandatory. But I argue in chapter one that these descriptions of the supererogatory are far too broad and that they fail to accurately capture our common-sense notion of supererogation. The supererogatory are not merely good but are *better than* the minimally permissible. They are not just good non-duties but go *beyond* duty.

However, if the supererogatory are better than the minimally permissible in a given option set, then supererogation poses the challenge discussed above. If the supererogatory act is better, then it seems the agent has good reason to prefer it. And so

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<sup>15</sup> By 'supererogatory omission' I mean simply the omission of an act the performance of which would be supererogatory. This is not to be confused with a case in which the omission of an act is itself supererogatory (as could perhaps be the case if someone were to resist an extraordinary temptation).

when the agent omits that act, she acts against the balance of her moral reasons. This would appear to involve a moral failing.

A number of philosophers have tried to meet this challenge. I argue in chapter two that these attempts have not been successful. A problem common to many of these prior accounts of supererogation is that they attempt to justify the supererogatory omission by appealing to the relative weights of those reasons for and against the supererogatory act. Many appeal to the (agent-relative) moral and non-moral costs involved in performing the supererogatory act. One problem for any such view is that the supererogatory need not involve significant costs.

When we discuss supererogation, we tend to focus on examples like donating a kidney to a stranger or jumping on a grenade to save one's platoon. What these cases have in common is that they involve a profound risk or sacrifice on the part of the agent. But there is nothing in the concept of supererogation that would limit it to such cases. The concept is meant to capture the common intuition that one can do better than morality demands. And this intuition extends well beyond those cases that are especially costly or risky to the agent. While jumping on a grenade certainly seems to fit the bill, so does shoveling a neighbor's walk or buying a gift for a friend. Indeed, so do many cases in which the act is not selfless at all.

I argue that just as we do not believe that we must always do our moral best, we also do not commonly believe that we are rationally required to do what would be, all

things considered, rationally optimal. But then any approach that appeals to the interplay of moral and non-moral reasons or more generally to the costs of supererogatory action will not be able to cover the broad range of cases in which an act is better than the minimally permissible.

To fully account for supererogation, we must look beyond the balance of reasons for and against the supererogatory act. In chapter three, I argue that we should look also at the notion of accountability and at the reasons that govern our practice of holding ourselves and others accountable. I argue that understanding accountability is central to understanding a common use of the term ‘obligation.’ In this sense, an act is obligatory only if one can properly be held accountable for its performance. Where an act is obligatory, one can appropriately be held to account for, or justify, its omission and punitive sanctions may also be appropriate. Moreover, an obligatory act can reasonably be demanded and normatively expected. A supererogatory act is non-obligatory in this sense. The speech act of demanding and the entitlement conditions involved in issuing a legitimate demand are especially important here. I argue that the normative authority required for issuing a legitimate demand is lacking where an act is supererogatory.

A central reason that we are concerned with supererogation is that it is important for allowing options in the face of admitted value (one may omit an act he rightly believes it would be better to perform). But I argue that a prescriptive (conclusive)

ought is not in conflict with such options. Talk of morality's "demands" involves a useful metaphor, but it can be misleading. A moral prescription does not itself constitute a genuine demand. There may be conclusive reasons for an agent to  $\phi$  even where it is not appropriate that anyone demand that she  $\phi$  or that anyone demand an excuse (or sanction her) if she does not. But then a prescriptive ought is not, by itself, in conflict with options. Where one is not *accountable* for doing as she ought, she is free to choose otherwise. We are, at times, free to do less than we ought. And this is not surprising since we probably do so with some regularity.

My approach allows us to distinguish between a prescriptive ought and an obligation and to explain the permissibility of the supererogatory omission while nonetheless accepting that the agent ought to perform the supererogatory act. I argue that the idea of moral accountability can be extended into a notion of rational accountability and that we can draw a general distinction between a rational prescription and a rational requirement. Thus, this approach to supererogation is not subject to the limitations of many of the views considered in chapter two.

## CHAPTER ONE

### The Challenge of Supererogation

Most of us believe that morality makes many demands on us. However, it is also commonly believed that morality does *not* demand that we always strive to do as well as we could. It seems perfectly plausible, for example, that the moral perfectionist would donate her fifty dollars to UNICEF though the rest of us are within our moral prerogative when we buy ourselves tennis shoes instead.<sup>16</sup> Although donating to UNICEF is considered especially good, it is usually accepted that morality permits us to buy the tennis shoes; doing so is not considered a moral failing. When we consider our reactions to examples like this one, the idea that morality does not demand moral perfection seems extremely intuitive. On its face, however, it is rather curious. If in a given situation it would be morally better to give to UNICEF than to buy tennis shoes, then why is it not morally required that we give to UNICEF rather than buy the shoes?

Successful moral deliberation is usually thought to result in one of three different types of judgments regarding a potential action. Acts are judged to be

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<sup>16</sup> The belief that we are within our moral prerogative when we give less than we could (and instead buy things like tennis shoes) is perfectly consistent, of course, with the belief that we are required to give some, perhaps even a great deal.

forbidden, obligatory, or merely permissible. These categories are interrelated in the following way. An act is obligatory if its omission is forbidden. An act is forbidden if its omission is obligatory. And an act is merely permissible if its omission is neither obligatory nor forbidden.<sup>17</sup> Within this last category are those acts (like giving to UNICEF in the example above) that are thought to be particularly commendable but not required. These acts are called supererogatory.

In “Saints and Heroes,” a paper that is credited with sparking a renewed discussion of supererogation, J.O. Urmson noted that this three-fold classification does not seem to do full justice to the concept of supererogation.<sup>18</sup> Consider a classic example of supererogatory heroism: a soldier jumping on a grenade to save the rest of his platoon. Though this act is neither forbidden nor obligatory, it seems to fit rather uncomfortably in the category of the *merely* permissible. This is because most acts that are permissible but not required are not particularly commendable either.

For example, an act may be permissible because it is morally insignificant; moral reasons recommend neither performing nor abstaining from the act. When one decides between grey socks and black, moral considerations will normally not come into play. In other cases, moral reasons can recommend that an agent perform one act from among a limited set of equally good acts but not recommend any particular act

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<sup>17</sup> I say *merely* permissible because obviously acts that are obligatory are also permissible. This third category is meant to include those acts that are permissible but non-obligatory.

<sup>18</sup> Urmson (1958).

from within that set. Though I am obliged to return a library book, it does not matter whether I drop it in the return slot or hand it to the librarian. Neither act will be obligatory or forbidden, and neither act will be particularly commendable either. When we consider acts like wearing grey socks and dropping the book in the slot, it seems right to call them merely permissible since they are not forbidden and since some other act is just as good. Perhaps there are also cases in which we would not say that some other act is just as good but rather that the options are incommensurable and unrankable. But neither of these descriptions seems to fit when an act is supererogatory. When the soldier jumps on the grenade, he performs an act that is especially good relative to his other options. It is not true that other permissible acts are just as good or that the options cannot be ranked.<sup>19</sup> Thus it seems not *merely* permissible but instead *particularly* good and yet not required. This leads, I will argue, to a serious problem.

### 1. Defining 'Supererogation'

In order to see what is problematic about the concept of supererogation, it will, of course, be helpful to have a working definition of that concept, a sort of target

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<sup>19</sup> As we'll see, the supererogatory is best defined as *better than* the minimally permissible. If this is right, then an act cannot be supererogatory unless it can be ranked as superior to other permissible options.

explanandum. Our use of the concept of supererogation is driven largely by our intuitive responses to certain kinds of acts, and so a fundamental condition for a successful definition of ‘supererogation’ is that it apply to all and only those kinds of acts. Of course, intuitions vary with respect to precisely which acts should be considered supererogatory and precisely how demanding our obligations may be, and some would argue that there is no such thing as a supererogatory act. But even these staunch anti-supererogationists will usually admit that their position is counterintuitive.<sup>20</sup> Moreover, despite much disagreement about *exactly* which acts are supererogatory, there is widespread agreement that certain acts are and that certain acts are not. Thus, in attempting to define ‘supererogation,’ it will be useful to appeal to those areas of agreement; it will be useful to appeal both to examples of acts that seem paradigmatically supererogatory and to acts that seem clearly not supererogatory. I will make use of a number of such examples in this section.

#### *The Etymology and the idea of Oversubscription*

The term ‘supererogation’ has its etymological roots in the Latin verb ‘*supererogare*,’ to overpay or to spend more than is required or owed. There is clearly a similarity between this Latin word and our modern usage of ‘supererogation,’ but the meaning of the term has also changed considerably. One early occurrence of the term

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<sup>20</sup> See, for instance, the opening few paragraphs of the first chapter of Shelly Kagan’s *The Limits of Morality*. Kagan (1989).