



ISLANDS IN A SEA OF OBLIGATION:
LIMITS OF THE DUTY TO RESCUE

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I. MAROONED

John Harris muses, "If we sometimes take comfort from the reflection that no man is an island, we may sometimes ponder just how, or how far, we are involved in mankind."² I cite Harris's musing not as a preface to criticizing it but simply because I find it fascinating. I have tried to imagine what it would be like to take comfort from the reflection that no man is an island. I am involved in certain patterns of interdependence, and not others. The bare fact of being so involved seems neither lamentable nor comforting. To be sure, I am glad I can depend on others in the ways I do, but I equally am glad I need not depend on others in the ways I do not.

It is a near-miraculous fact that I live in a society that can support full-time intellectuals. Making a living as an intellectual means that in some ways I am not an island. So be it. I take no comfort from that. Is it only in some ways that I am not an island? I do not know why some people will find that thought disturbing, but I realize they will. I take no comfort from that either.

My main question is: if we have a duty to rescue in a local emergency, must we also have a duty to rescue people from chronic famine in foreign countries? Most of the literature in this area seems to consist of reflections on thought experiments. It's not my style, but it seems apt for this topic, so I follow custom here. The basic puzzle is illustrated by the following pair of cases.

¹ For their many thoughtful comments, I thank participants at the Duty to Rescue conference at Georgia State University, especially my commentator Gerald Postema. Thanks also to conference organizer Kit Wellman and assistant Irene Pierce for their consummate professionalism and hospitality. Finally, I want to thank Joel Feinberg for years of friendship, mentorship, and philosophical leadership on this and so many other topics.

² John Harris, "The Marxist Conception of Violence," Philosophy and Public Affairs, 3 (1974) 192-220, here p. 211.

ACCIDENT: You come across a traffic accident. You know that one of the victims will survive if and only if you stop to help. You also know that if you stop to help, it will cost you a hundred dollars.

Compare this to:

FAMINE: You receive a letter in the mail asking you to send a hundred dollars in support of a famine relief effort. You know that a life will be saved if and only if you contribute.

Are these cases morally different? Even if they are—even if it is obvious that they are—it is not obvious why. This essay leaves open whether we actually have a duty to rescue in local emergencies. Assuming for argument's sake that we have such duties, the question is whether that premise entails that we also have a duty to participate in famine relief efforts. Or are there obstacles blocking any easy move from such a premise to such a conclusion? I consider obstacles pertaining to beneficiaries: what we must do and what we must not do in the face of uncertainty about whether intervention will do more harm than good. Second, I consider obstacles pertaining to the self: the difference between duties we accept so as to make life meaningful and duties we must, for the same reason, reject. Finally, I consider obstacles pertaining to institutional frameworks that help to determine what we ought to expect from one another.

II. REGARDING THE BENEFICIARIES

A. *Uncertainty*

Peter Unger notes that in a case like ACCIDENT you see the situation for yourself whereas in a case like FAMINE, you get information indirectly, via someone's report. According to Unger, this difference in "informative directness" is morally irrelevant. We know this because it is "common

sense.”³ Maybe so, but the real issue is reliability, not directness. The information you get in FAMINE is produced not by a trusted researcher but rather by an advertising agency whose purpose is to raise money. If the money raised by the appeal were used to buy guns to shore up a pro-western military dictator, it would be neither the first time nor the last. Not relevant? You decide.

Unger insists we flesh out our cases in the most boring way possible, such that nothing is at stake other than what Unger specifically says is at stake (p. 26). Unfortunately, what Unger calls boring is not realistic. For better or worse, the real world is interesting. When I recently crossed the border from Zimbabwe into Zambia, a large sign warned that bringing second-hand clothing into Zimbabwe from Zambia is prohibited. Puzzled, I wondered whether second-hand clothing might carry some disease. When I passed through the town of Livingstone, just north of the border, I asked what the sign was about, and I was told by three different sources (two white men, one black woman, all local residents) that Livingstone had until recently been the hub of Zambia’s textile industry. Cotton was grown, processed, and woven into cloth there. However, a few years ago, in the wake of a severe and highly publicized drought, international relief agencies decided that what Zambia needed was planeloads of second-hand clothing. Livingstone manufacturers could not compete with free clothing, though. Today, the unemployment rate in Livingstone is ninety percent.

This particular relief effort was more thoughtful than most, undertaken by people who understood how much damage has been done by would-be saviors from the North. We remembered that money sent to Somalia had been used to buy guns. We remembered that grain sent to India had become infested with plague-carrying rats, and that when the hordes of people arriving in search of free food realized they were being exposed to the plague, they fled back to their villages, carrying the plague with them. With such experiences in mind, we sent clothing to Zambia because we meant to ensure above all that this time we did no harm.

Everywhere I went, in South Africa, Botswana, and Zimbabwe as well as Zambia, the people I met (blacks as much as whites, women as much as men) spoke of international aid as having done

³ Peter Unger, Living High and Letting Die: Our Illusion of Innocence (New York: Oxford University Press, 1996) p. 36.

considerable short-term good in isolated cases but as having the larger and longer-range result of corrupting and ultimately crippling their country's cultures and economies. So, Unger can stipulate that, in his thought experiment, the influx of international aid is not driving third-world farmers out of business and into the cities. But stipulating it does not make it so.

Unger acknowledges that research is needed. Having your heart in the right place is not enough. Doing the research, though, is not a small cost. Famines are so much less clear-cut than roadside emergencies, which themselves are not especially clear-cut in the real world. At a real accident scene, I do not know what ACCIDENT says I know. Indeed, police urge motorists not to feel certain and not to stop at highway accident scenes, but rather to notify the police, lest they be set up for a robbery. In our thought experiments, we are omniscient. At a real accident scene, we have no idea what will happen if we stop.⁴

The real world is opaque in interesting ways, morally relevant ways. The opacity not only obscures our responsibilities. It changes them. Real-world morality makes us more responsible for situations we know best and less responsible for situations others know best. Why would morality do that? My thought is, morality would do that so as to be conducive to our living good lives.

B. Token-Benefit and Type-Benefit

TRAGIC COMMONS: A baby is drowning in the pool beside you. You can save the baby by a process that involves giving the baby's family a hundred dollars. If you do not save the baby, the baby will die. You save the baby. A crowd begins to gather. Seeing what you have done, two

⁴ We are similarly uncertain of what to do about local homelessness. We can find literature on the plight of street people every bit as convincing as anything Unger says about more distant crises. Yet when we actually meet street people, in a town like Tucson where the current unemployment rate is under three percent and where every second or third storefront displays a "Now Hiring" sign, the majority appear to be young and able-bodied people of normal intelligence who simply prefer not to be tied down by a job. Some openly admit they want the money for alcohol or drugs, thinking their honesty will touch a chord among those who long to be stoned themselves. Despite knowing relatively more about this situation, it remains hard to know what to do, other than the obvious: don't give them money. (On occasion, I see someone who seems horrified to be on the street, rather than comfortable with it, and I buy them groceries.)

onlookers throw their babies into the pool. The babies will drown unless you give each of their families a hundred dollars. More onlookers begin to gather, waiting to see what you do.

I am not saying our world is like TRAGIC COMMONS. I would say, though, that TRAGIC COMMONS is not a world we have any good reason to want to live in. And we could make our world more like TRAGIC COMMONS if we acted as Unger and Peter Singer say we should.⁵

TRAGIC COMMONS illustrates one kind of type-token issue. In TRAGIC COMMONS, the token-benefit is a saved life, but this token-benefit is wildly misleading as a characterization of your action's real consequences. The token-result of your action is a saved life, but the type-result is an escalating catastrophe. Knowing that foreign aid has a history of driving such wedges between token-benefits and type-disasters, I now get a letter asking me to participate in what may be another commons tragedy in the making. I have to make a decision. Should I accept a theorist's or professional fund-raiser's verbal assurance that if we turn on the spigots in response to problems and turn them off in response to solutions, we'll eventually have fewer problems and more solutions? Is that what morality requires of me? Or is that what morality forbids?

To whatever extent we take responsibility for other people as well as ourselves, our actions are encouraging people to depend on us rather than on themselves. Act-utilitarianism usually would not permit people to arrange circumstances so that our act-utilitarian commitments require us to support them, but unless they too are committed act-utilitarians, that will not stop them from doing it. Theories often have implications other than ones they formally acknowledge. A theory can stipulate an action guide and an intended result. But a theory cannot stipulate that following its action guide will have its intended result, for that is an empirical matter. So it is with maximizing utility. One can say that trying to maximize utility actually tends to maximize utility, but saying it does not make it so. A simple maximizing strategy like Singer's or Unger's may tend to lead to the best possible outcome for beings like us in situations like ours. Then again, it may not. It has no history of doing so.

⁵ Peter Singer, "Famine, Affluence, and Morality," Philosophy and Public Affairs 1 (1972) 229-43.

It is worth noting that Unger's argument is not as overtly utilitarian as Singer's. Instead, Unger presents a series of cases, telling us over and over again that his way of reacting to a case is common sense or otherwise intuitively compelling.⁶ Unger makes it clear, though, that the intuitions he expects us to share are relentlessly act-utilitarian. For example, Unger dismisses our (intuitive) tendency to divide the world into insiders to whom we are more obligated and outsiders to whom we are less obligated. Unger finds this intuitive separation indefensible on the grounds that it is intuitively indefensible (p. 97).

The problem is, in relying on intuitions, we miss everything that isn't a mere intuition. The case for dividing the world into insiders to whom we owe more, and outsiders to whom we owe less, is based not on intuition but on what happens when we fail to distinguish between insiders and outsiders. It may be intuitive that we can do more good by allocating our resources to those who need them more, and thus correspondingly intuitive that we should throw our doors open to anyone anywhere who needs our stuff more than we do. No matter what our intuitions say, though, the fact remains that no good comes from pouring resources down the sink of an open access commons. Trying unconstrainedly to satisfy all demands results in greater demand, not greater satisfaction.

III. REGARDING THE SELF

A. *Selective Focus*

Is there any simple connection between premises about how bad someone's problem is and conclusions about what we ought to do about it?

FAST PAIN RELIEF: There is a button you could push. If you push it, all sentient life will painlessly vanish from existence. You will, of course, minimize suffering in the process.

⁶ For further discussion of Unger's "Method of Moral Intuitions," see Robert Hanna, "Must We Be Good Samaritans?" *Canadian Journal of Philosophy*, 28 (1998) 453-70.

FAST PAIN RELIEF shows us that minimizing suffering is not the only thing that matters. Nor is it always what matters most. Further, there are things (e.g., all sentient life) that ought not to be sacrificed merely to minimize suffering.

What FAST PAIN RELIEF leaves open is whether minimizing suffering matters a lot, or relatively little, in the cosmic scheme of things. However, we need not settle that, because suffering could matter quite a lot without it being true that we ought to spend quite a lot of our lives working to put an end to it. Let me approach the point obliquely, beginning with a story. Environmental activist Paul Watson, founder of the Sea Shepherd Society, confronted a Japanese fishing fleet in 1982 and negotiated a halt to a netting process that was killing dolphins. During the discussion, a fisherman asked Watson which is of more value, the life of a dolphin or a life of a human?

I answered that, in my opinion, the life of a dolphin was equal in value to the life of a human. The fisherman then asked, “If a Japanese fisherman and a dolphin were both caught in a net and you could save the life of one, which would you save?”

All the fishermen in the room smirked. They had me pegged for a liberal and felt confident that I would say I would save the fisherman, thus making a mockery of my declaration that humans and dolphins are equal. I looked about the room and smiled. “I did not come to Japan to save fishermen; I am here to save dolphins.”⁷

There is power in Watson’s response. It is no mere philosophical inconsistency. We can learn from it. It is a pivotal feature of our moral psychology that when we focus on something, it takes on added moral significance to us. We can call it the phenomenon of selective focus. A lot of people are consumed by one burning issue or another, and most of them think everyone ought to be consumed by the same issue. In fact, we freely choose to be consumed by one issue rather than another. Peter Singer

⁷ Paul Watson, “Tora! Tora! Tora!” Earth Ethics, edited by James Sterba (Englewood Cliffs: Prentice Hall, 1995) 341-46, here p. 341.

may think what he has chosen to focus on is the thing on which we are all obliged to focus, but it only looks that way when you already are focusing on the same thing. What Paul Watson was telling the Japanese fishermen was that although he may be philosophically committed to viewing humans and dolphins as equals, he has no obligation to be preoccupied by that particular commitment. He is committed to respecting humans and dolphins alike, but he is not committed to giving them equal time when deciding how to plan his life.

Even if, counterfactually, everyone who thought hard about Singer's puzzles came to the same conclusions as Singer, that would not imply everyone will come to Singer's conclusions, for not everyone will think hard about famine (and some will think very hard, and that too will lead to different conclusions). Not everyone will focus as Singer does. Some people focus on environmental degradation and wonder how Singer can fail to see that if a billion humans were to starve, the world would be a better place. Or perhaps the one true moral problem is sexism. Or atheism. Whatever. Selective focus. It makes complicated lives seem so simple. It makes overly simple solutions seem so righteous.

I believe in fighting injustice. Does that commit me to fighting injustice wherever I find it? Not at all. There is injustice everywhere I turn. Am I committed to fighting whichever injustice happens to be firing the imagination of Peter Singer? Not at all. That's not what I'm here for. Like Singer, I decide for myself where to make my stand.

Generally speaking, the 1960's slogan "if you aren't part of the solution, you're part of the problem" is a false dichotomy. If the problem is real, morality imposes constraints that require us to avoid being part of it. In addition, morality asks us to form and pursue goals that make life meaningful within those constraints. Which is to say, morality requires us not only to avoid being part of that problem but also to be part of the solution either to that or to other real problems—to take some aspect of the problem of making the world a better place to live and make that problem our own.

I believe in small efforts that save lives—performing them, not just talking about them. So, I give blood several times per year. I do not believe I am required to give blood, and I would not compel people to give blood. I would not give blood if I had no idea whether I was saving lives or spreading a

fatal disease. For the record, I also give a few thousand a year to charitable organizations, and I am sure my donations do some good. However, my main obligation to the world concerns not how I spend my paycheck, but rather what I do to earn it.

B. Token-Cost and Type-Cost

We noted that even when the token-benefit is desirable, the type-benefit may be no benefit at all, but may instead be a nightmare. This section offers a complementary warning about the difference between token-cost and type-cost.

VAN GOGH IN THE LAKE: You find yourself in a lifeboat. Are you obliged to throw a Van Gogh painting overboard to make room for a drowning person?⁸

Compare this to:

VAN GOGH AT THE AUCTION: You find yourself at an auction. Are you obliged to auction off the same Van Gogh to raise money to save starving people?

What is the difference? Token-cost is the cost of a particular rescue. Type-cost is the cost of undertaking a kind of rescue whenever the occasion comes up in the course of our lives. One difference between VAN GOGH IN THE LAKE and VAN GOGH AT THE AUCTION (likewise between ACCIDENT and FAMINE) is a difference in cost. In a sense, of course, that cannot be true, since by hypothesis the cost is identical. But the cost that is stipulated to be identical is token-cost. Type-cost is another matter.

⁸ This case is inspired by Susan Wolf, "Morality and the View From Here," Journal of Ethics, forthcoming.

Is distance per se important? Frances Kamm (in this issue) says it is. She may be right. I don't know. What surely matters, though, is this: distant problems are types of which there are innumerable tokens. Local emergencies are simply tokens. If one falls in your lap today, you can be fairly sure there won't be another in your mailbox tomorrow. You help and that's the end of it. Life goes on.⁹

When professional fund-raisers exhort us to help relieve famine, they talk about token-cost (although not by that name), going into some detail explaining how a hundred dollar donation can change a recipient's life. Yet, it is no particular token of the type "starving person" they have in mind. It is the type itself, and famine relief's type-cost is not small. If we embrace the duty to relieve famine in the way Singer and Unger say we should, life does not just go on.

In fact, Singer says, "if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it" (p. 231). The strong version of this principle requires "reducing ourselves to the level of marginal disutility," by which he means "the level at which, by giving more, I would cause as much suffering to myself or my dependents as I would relieve by my gift. This would mean, of course, that one would reduce oneself to very near the material circumstances of a Bengali refugee." Singer adds, "I should also say that the strong version seems to me to be the correct one" (p. 241).

Unger likewise ultimately asks us not to contribute a hundred dollars to famine relief but rather to contribute 51% of our wealth (p. 138). Now, perhaps 51% would satisfy Unger, but according to Unger's theory, satisfying Unger is not good enough, for there is nothing in Unger's theory to make this a one-shot game. After giving 51%, what justifies failing to give half again of what we have left? Is there a point when we can consider ourselves to have done our share and can think of the plight of the still-starving millions to be someone else's problem? Is Unger mistaken in asking us to contribute (only) 51% of our wealth, or is he mistaken in presenting us with a theory that asks us to contribute

⁹ I thank Arthur Ripstein for the intriguing suggestion that we think in terms of psychological rather than physical distance. Nearness, Ripstein suggests, is not a matter of where you happen to be but rather of where you live your life. If I think of my town as my town, then I may have the attitude that no one drowns in my town if I can help it. It is because I think of it as my space that what occurs within it is psychologically near.

virtually everything we have? Or are we to think of 51% as the real request and of the theory as a gambit meant only to soften us up in preparation for the real request?

Unger does not distinguish between type-cost and token-cost, but he does say we must liberate ourselves from the paralysis of “futility thinking.” Futility thinking involves thinking of people who need help as constituting an overwhelmingly large group. From that group’s perspective, helping a single person is roughly the same as not helping at all. Overwhelmed, we give up (p. 75-76). As therapy for futility thinking, Unger gives us another case (p. 77):

AIRPORT: There are ten bombs about to explode in ten busy airports. We can stop one (but only one) of the bombs from going off and killing several people.

Of course, we should defuse the one bomb. So what? The point is, Unger wants us to see FAMINE as a single hundred dollar problem, and not see it as a problem we failed to solve with yesterday’s donation and again will fail to solve with each new day. We are meant to draw that lesson by seeing it as analogous to AIRPORT, in which the right course was to forget nine problems we couldn’t solve and just tackle one we could. But the ten problems in AIRPORT do not constitute an endless series. By hypothesis, nine of the problems will never be ours, no matter how much we might wish to make them ours. By hypothesis, there is one action for us to perform, after which there will be nothing left to do. The crisis will be over.

I think Unger must be missing what it is about FAMINE that stops us. I know when I can regard AIRPORT as a solved problem. I do not know when I can regard FAMINE as a solved problem. In AIRPORT, I know exactly when it will be time to get on with my own life. In FAMINE, I have no idea. The face that FAMINE presents to me tomorrow will be indistinguishable from the face it presents to me today, no matter what I do.

I discussed differences in how much good we might be doing in ACCIDENT as compared to FAMINE. There is also a difference in cost: a difference in what kind of life we have left after meeting

the purported obligation. In ACCIDENT, the problem goes away and leaves you alone once you fix it.

In FAMINE, the problem is a permanent feature of your moral landscape no matter what you do.

Back to VAN GOGH IN THE LAKE. If you had two seats, each occupied by a Van Gogh, and there were two people in the water, would it be okay to throw one painting overboard, save one person, let the other drown, and still have one painting left? I suppose not. The issue of type-cost, though, is not about one-shot emergencies involving one person rather than two. The type-cost worry is not about the obligation's multiple nature so much as its serial nature. The issue is about a situation where, no matter what you do, there always will be someone in the water. Having thrown a Van Gogh overboard, there is no point in ever acquiring another one: no point in ever trying to have a life of your own, because there won't ever be room for it. It will always be the thing that went overboard.

Unger wants to help people get past futility thinking. What would help? I suppose we could use a better theory—a theory that identifies nonarbitrary limits of obligation compatible with living a recognizably good life. Singer stresses that pious talk is not enough. “What is the point of relating philosophy to public (and personal) affairs if we do not take our conclusions seriously? In this instance, taking our conclusion seriously means acting upon it” (p. 242). Indeed. Singer’s conclusion cannot be taken seriously in this sense. Late in Living High and Letting Die, after admitting he has not given up the high life, Unger assures us that as long as we have a “multi-dimensional context-sensitive semantics,” it is fine to embrace both “my severe Liberationist judgment of the Envelope’s behavior and my lenient ordinary judgment of the same behavior” (p. 170).¹⁰ But it is not okay. If Unger’s theory could be taken seriously in Singer’s sense, then Unger would not need an Orwellian semantics to excuse the discrepancy between word and deed. Shelly Kagan once said at a public lecture that he did not live up to standards proposed by Unger and Singer and himself. Kagan insisted, though, that he ought to be and in fact was ashamed of himself for so failing.¹¹ I can see how the discrepancy between theory and behavior would lead Kagan to conclude he should be ashamed of something, but why assume the behavior is shameful? Why not the theory?

¹⁰ What Unger calls Envelope is comparable to what I call FAMINE.

¹¹ Spring of 1993, Yale University.

How much should we give? Unger's theory gives the easy answer: more. To get past futility thinking, and to get to something we can take seriously in Singer's sense, we have to do better than that. Theorists need to realize that moral theorizing isn't a game you win by having the most demanding theory.

IV. REGARDING INSTITUTIONS

A. *Institutional Expectations*

The remaining sections consider roles that institutions play in determining how likely people are to be rescued, and to be in need of rescue in the first place.

TROLLEY: You know the story. A trolley is rolling down the track on its way to killing five people. If you switch the trolley to another track on which there is only one person, you will be saving five and killing one.

Compare this to:

HOSPITAL: Five patients lie on operating tables about to die for lack of suitable organ donors. A UPS delivery person just walked into the office. She is a suitable organ donor for all five patients. If you kidnap her and harvest her organs, you will be saving five and killing one.

HOSPITAL may appear to be nothing more than a TROLLEY in a surgical mask, but it is quite different. TROLLEY is about one versus five. HOSPITAL is not. HOSPITAL is about trust. What gives society its utility for those who live in it? The answer is, trust. We can't trust people who assume a right to harvest our liver whenever we stray too close to a hospital. HOSPITAL and TROLLEY differ because hospitals cannot serve their purpose unless people can trust hospitals to treat people as rights-

bearers. Institutions have utility by creating conditions under which people can trust each other not to operate in an act-utilitarian way.¹²

Act-utilitarian philosophers sometimes seem blind to the fact that there literally is no such thing as maximization per se. Maximization necessarily is relative to a set of constraints. How much good our actions actually can do depends on the constraints. If we want to live in a good society, a society whose members can flourish, the primary imperative is to get the constraints right, so that constraints within which individuals pursue goals have the effect of leading them to formulate and pursue their goals in peaceful and mutually supporting ways. For example, we need constraints that enable patients and doctors to trust each other. If those constraints also stop doctors from killing one patient to save five, that is good, because doctors who can be trusted to respect that constraint will save more lives than doctors who cannot. From a consequentialist standpoint, the utility of particular act-tokens is a secondary issue at best.

Some utilitarians say they consider it a mystery why morality would incorporate any constraints beyond a requirement to do whatever maximizes the good.¹³ But there is no mystery why it is moral for institutions (including cultural norms) to constrain individual action. Moral institutions constrain the good's pursuit because the good is pursued by individuals. If the good is to be realized, then institutions—legal, political, economic, and cultural institutions—must get the constraints right, so as to put individuals in a position to pursue the good in a manner conducive to the good's production in general. Institutions do that by (a) curbing people's tendency to pursue their good in a partial

¹² I think it generally is understood that the trolley conductor is not using the lone victim as a mere means of saving five. TROLLEY's victim simply is in the wrong place at the wrong time, unlike the victim in HOSPITAL who in effect is being hunted down for use as a mere resource. The seminal article on this point probably is Philippa Foot, "The Problem of Abortion and the Doctrine of Double Effect," *Oxford Review*, 5 (1967) 5-15. Foot argues persuasively against attaching too much weight to the idea of double effect, but see the discussion of acts and omissions in Horacio Spector, *Autonomy and Rights*, Oxford: Oxford University Press (1992). See also Jean Beer Blumenfeld, "Causing Harm and Bringing Aid," *American Philosophical Quarterly*, 18 (1981) 323-29.

¹³ See Shelly Kagan, *The Limits of Morality* (New York; Oxford University Press, 1989) pp. 121-27. Samuel Scheffler, *The Rejection of Consequentialism* (New York: Oxford University Press, 1982) p. 129, expresses similar skepticism, despite departing from utilitarianism in other respects.

manner, and by (b) helping to make people more predictable to each other, thereby helping them avoid wasting resources on projects that needlessly put them in each other's way.

There are interesting parallels between rational agents and moral institutions in terms of how they operate in the face of real-world complexity. Moral institutions respond to people as they are. Similarly, rational agents respond to themselves as they are. Both are sensitive to their own limitations. For example, individuals adopt satisficing strategies in pursuit of particular goals. They impose constraints on local goals so as to bring their various goals into better harmony with each other, thereby making life as a whole go as well as possible.¹⁴ Likewise, moral institutions get the best result not so much by aiming at the best result as by imposing constraints on individual pursuits so as to bring individual pursuits into better harmony with each other. Institutions (hospitals, for example) serve the common good by leaving well enough alone—creating opportunities for mutual benefit, then trusting individuals to take advantage of them. That is how (even from a utilitarian perspective) institutions have a moral mandate to serve the common good that does not translate (or collapse) into a mandate for ordinary moral agents to maximize utility.¹⁵ In effect, there are two sides to the sense in which institutional utility is based on trust. First, people have to be able to trust their society to treat them as rights-bearers. Second, society has to trust people to make use of the opportunities that people have as rights-bearers within society.

Let me stress, this appeal to consequences is not a plea for social engineering. I am not asking what to maximize but rather what to respect. The kind of consequentialism I have in mind does not ask us to maximize utility. Instead, it asks us to show respect for existing customs and institutional arrangements that truly have utility. A reflective consequentialist morality is not about one versus five. It is not even about costs versus benefits. It is about how we need to live in order to be glad we are

¹⁴ For extended discussion, see David Schmidtz, "Rationality Within Reason," *Journal of Philosophy* 89 (1992) 445-66.

¹⁵ For discussion of the broader theoretical framework of the ideas here and in the following paragraphs, see Chapter 7 of David Schmidtz, *Rational Choice and Moral Agency* (Princeton: Princeton University Press, 1995).

neighbors. It's about getting on with our lives in a way that complements rather than hinders our neighbors' efforts to get on with their own.

B. Institutional Limits of Positive Rights

If we can impose legal constraints that keep people from tearing out each other's throats, why not go all the way? Why not impose a legal obligation not merely to abstain from violence but to minimize violence? Thomas Nagel doubts that morality requires agents to be thoroughly impartial. Yet, Nagel asks, "How can there be a reason not to twist someone's arm which is not equally a reason to prevent his arm from being twisted by someone else?"¹⁶ The question is not rhetorical. For Nagel, there is a real puzzle here.

Nagel's question is answerable, though, when considered in an institutional context. For the sake of argument, let us suppose that the impartial reason to refrain from arm twisting is, as Nagel suspects, equally a reason to prevent arms from being twisted. Thus, the same reasons why an institution should not twist arms are also reasons why it should prevent arms from being twisted.

How, then, do institutions prevent arms from being twisted? One way in which institutions prevent arm twisting is by forbidding it. Institutions carry out their mandate to prevent harm precisely by imposing constraints against causing harm. In addition, and in conjunction with the general imposition of constraints against causing harm, legal and political institutions give selected citizens the mandate to prevent harm by enforcing laws that forbid causing it.

The psychological fact is that most of us are averse to doing evil—to twisting arms. And it serves the common good for institutions to work with rather than against that psychological fact.¹⁷ We

¹⁶ Thomas Nagel, Equality and Partiality, (New York: Oxford University Press, 1986) p. 178.

¹⁷ For purposes of this discussion, I assume some part of morality is bound up with the idea of serving the common good. (See Chapter 7 of my Rational Choice and Moral Agency for some argument and explication.) One thing that would serve the common good (plausibly construed) would be the general prevention of arm twisting. Prohibiting arm twisting might not be an end in itself, but if it serves to prevent arm twisting, that goes a long way toward justifying the prohibition.

Note also that taking on a duty to help people in trouble would be only one way of minimizing harm. Another way would consist of taking on a duty to minimize the likelihood of people being in

do not have the same aversion to failing to prevent harm as we do to causing it. Thus, from a structural viewpoint, positive duties to prevent harm and negative duties not to cause harm are not symmetrical. Social structure has psychologically potent material to work with in inducing compliance with negative duties; it has less to work with in inducing compliance with positive duties. Institutions prevent harm by working mainly (if not only) with the psychological aversion to causing harm, reinforcing that aversion as best they can.

Some would say a distinction between acts and omissions is psychologically salient only because of cultural contingency; that is, people are beguiled by false moral theory or false religion into thinking the distinction is important. But the origin and contingency of the distinction's salience is beside the point. I am not saying our tendency to distinguish between acts and omissions is hard-wired; I assume only that the tendency is real, and that a society that ignored this tendency would be dysfunctional.¹⁸

I explained how a theoretical endorsement of the prevention of arm twisting might manifest itself, at the action-guiding level, as a stringent prohibition of arm twisting. The upshot is that if we as a society have duties to prevent arm twisting, we are meeting those obligations when we create institutions that effectively prohibit arm twisting. That is how we prevent arm twisting. Indeed, it likely is our best way, regardless of whether it is our only way. Again, the point is not that there are no grounds for requiring harm prevention but rather that structurally embedded constraints against causing harm can be grounded in an institutional obligation to prevent harm.

trouble in the first place. That is why, for example, insurance companies have compelling reason to structure policies so as to give clients an incentive to avoid accidents.

¹⁸ In general, when can we properly speak of a failure to act as causing harm? Christopher Wellman, "Liberalism, Samaritanism, and Political Legitimacy," *Philosophy and Public Affairs*, 25 (1996) 211-37, explains why we should not accept Joel Feinberg's claim that failing to aid a person in need amounts to a causing of harm. Withholding aid is withholding aid, period. It may constitute a failure to stop a process that is causing harm, but it is not itself the process that is causing the harm (pp. 228-29). Alison McIntyre, "Guilty Bystanders? On the Legitimacy of Duty to Rescue Statutes," *Philosophy and Public Affair*, 23 (1994) 157-91, adds that many crimes do not depend on causing harm (p. 172). McIntyre agrees with Wellman that we should stop trying to fit the wrongness of omissions into a causal paradigm (p. 191). We need not get into the metaphysics of harm and causation to determine when a refraining is morally tantamount to murder.

Whether institutions also should try to compel us to be good Samaritans—whether they should compel us to donate blood, for example—depends in part on whether that is the best way of inducing people to be good Samaritans. It may not be. There are empirical issues here that need sorting out. By way of general observation, though, it is relatively easy to argue that people have positive obligations to children, especially their own children. The dependency warned of earlier is, in young children, innocuous, indeed appropriate. Enforcing special responsibilities of adults to their children need not undermine the recipients' sense of personal responsibility. Positive rights grounded in such relationships are not prescriptions for commons tragedies. Their only cost is a token-cost.

Beyond that, there are going to be some serious moral constraints on the potential scope of positive rights. Real positive rights are not “open-access.” The only defensible positive rights are those compatible with human flourishing, and the only ones compatible with human flourishing are those that do not reconstitute morality as an open access commons.

This suggests that the only credible positive rights are rights grounded in relationships to which access is not open—where the class of potential claimants is small. Or, if the class of people who can invoke the obligation is not sharply limited, then it is the nature of the obligation itself that will be sharply limited. The issue is more complicated than that, however, because even in the context of special relationships, there has to be a limit to the nature and extent of the obligation. A relationship is not healthy unless both givers and receivers respect the separate personhood of the givers. Free riding and seemingly limitless need often are painfully evident in even the most intimate relationships.¹⁹ Self-respect sometimes requires a person to ask herself when she ought to quit.²⁰

¹⁹ I owe this observation to Gerald Postema and Frances Kamm. See also Jean Hampton, “Selflessness and the Loss of Self,” *Social Philosophy and Policy*, 10, #1 (1993) 135-65.

²⁰ Liam Murphy proposes a Cooperative Principle that, were it correct, would limit our liabilities without embedding them in special relationships. First, Murphy intuits that morality is a cooperative project, and that our obligation as part of that project does not depend on how much other people contribute. (See “The Demands of Beneficence,” *Philosophy and Public Affairs*, 22 (1993) 267-92, here p. 267.) Whatever others actually contribute, our own obligation is to contribute our fair share (p. 278). As Murphy acknowledges, though, this principle is incorrect. If you and another person are walking past a pond in which two babies are drowning, Murphy’s Cooperative Principle says your fair share involves saving one baby. However, Murphy admits that if the other person does not save one, then your obligation is to save both. Thus, the other person’s action does affect what morality requires of you. This undermines not only Murphy’s Cooperative Principle, but also the driving

In the end, it seems inescapable that emergencies and chronic problems are two different things. When we assume a burden of long-term care, we give up the life we had. When we help out in a one-shot emergency, we are inconvenienced, maybe even at risk, but we are not abandoning life as a member of a kingdom of ends and replacing it with a new life as a mere means.

C. Liberationism

Unger imagines a future world in which “whenever well-off folks learn of people in great need, they promptly move to meet the need, almost no matter what the financial cost. So, at this later date, the basic needs of almost all the world’s people will be met almost all the time. . . . What’s more, should any of these descendants find herself facing such preventable suffering as now actually obtains, she’d devote almost all her energy and resources toward lessening the suffering” (p. 20).

I am left wondering whether this vision is coherent. It has the following logic. The productive output of the western world is put up for grabs. A world-wide competition ensues. And the way for a country’s leaders to win the competition for that output is to have a population that needs (or seems to need) it more than anyone else. But if we are devoting almost all our energy and resources to meeting such need, then how is it that we are well off?

Imagine what our community would be like if a lot of us voluntarily did as Unger asks. There were about five thousand people in the nearest town when I was growing up on a farm in Saskatchewan. Suppose farmers gave up that part of our crop we would have cashed in to buy movie tickets. The Towne Theater goes out of business. No big deal, perhaps. The half dozen employees seek work elsewhere, although suffice it to say that in a town of five thousand, opportunities are limited. Maybe they find work at the Princess or Lucky Cafes. Fine, but we are not done. We also stop cashing

initial intuition that morality does not demand more as others contribute less. Murphy says we may need to appeal to special obligations in cases occurring at our feet, reserving the Cooperative Principle for distant cases (p. 292). But given that the Cooperative Principle does not distinguish between local and distant cases and given that the Principle is incorrect in local cases squarely within its domain as formulated, we need something different both for local and distant cases.

in grain for hamburgers at the cafe, instead sending that part of our crop abroad. The cafes close, over a dozen people are out of work, and we exceed our town's ability to find work for them.

Unger says we would not have nice cars and nice homes (p. 145). We send away that part of our crop that would have bought new cars. Fine. The car dealers and their employees are out of work. They no longer send money to foreign countries; nor do they support local merchants, critical services aside. The furniture shop and the clothing store shut down. They stop repaying business loans. Their employees stop making mortgage payments. Banks begin to foreclose on houses. There is no one to buy the houses, though, so the banks close too, and I don't know what happens to their employees. Perhaps they become refugees.

One last thing. The shippers we relied on to ship our grain to foreign countries? We no longer have the money to pay them to ship the grain, and in any case the overall volume of business in our town has spiraled down to a point where servicing our community is no longer feasible. Nor is there any local market for our grain. We eat what we can until it spoils. Police begin to crack down on "hoarders." They work on commission; there is no money for salaries. We do not bother to plant next year's crop. The police would just take it, anyway.

Singer would allow that we have to keep doing our part to maintain our incomes so that we remain able to send money overseas. But in the above thought experiment, the problem isn't that we aren't working as hard but that we aren't doing as much business. It is the lack of business that shuts down the theater and the coffee shops. Moreover, the experiment is not merely a thought experiment. Historically, with few exceptions, this is how communal societies end, unless they switch to some other way of doing business first.²¹

There is more. Unger advocates not only that we contribute our own resources to famine relief, but that we contribute our neighbors' resources, too, with or without permission (p. 62). Unger says he believes this is morally required but will argue only that it is permissible forcibly to divert other people's money to famine relief (p. 63). As Unger puts it, "to lessen serious suffering, it's good to take

²¹ See David Schmidtz, "The Institution of Property," *Social Philosophy and Policy*, 11 (1994) 42-62 for some exceptions to this historical rule and also for some explanation of why it is the rule.

what's rightfully another's" (p. 63). What Unger thinks is good sounds like a recipe for chaos. Indeed, it is chaos wherever it has been a general practice, which is why we still have "developing" countries that will not develop until people in those countries can count on being able to control the wealth they create.

It seems relevant that what Unger calls Liberationism—the view that we need liberating from goals or scruples that stop us from throwing our whole lives into the minimization of suffering—has never done any good in the world while the morality he rejects has produced the civilization he wants to tap. Unger and Singer give the distinct impression that they are not keen on western civilization and indeed would be glad to help accelerate its decline and fall.²² For some, perhaps, that is the point of being a Liberationist. If they respected western civilization, they would respect the morality that makes it work.

D. Structural Violence

John Harris defines the Marxist conception of violence as holding, first, that people are causally responsible for harm they could have prevented, and second, that such harm is a form of violence (p. 192-93). Harris says, "If we have a duty not to kill others, it would be strange indeed if the duty not to kill by positive actions was somehow stronger than the duty not to kill by negative actions" (p. 211). Yet, no morality that ever has formed the backbone of a viable civilization has ever put simply failing to aid on a moral par with killing.²³ So, is it "strange indeed" to think my duty to send money to African

²² If this seems too implausible, then let Singer speak for himself. Having endorsed the redistributive principle in its strong form, Singer adds, "Even if we accepted the principle only in its moderate form, however, it should be clear that we would have to give away enough to ensure that the consumer society, dependent as it is on people spending on trivia rather than giving to famine relief, would slow down and perhaps disappear entirely. There are several reasons why this would be desirable in itself" (p. 241). Now, if this is the moderate principle's predictable result, what happens if we follow the strong principle Singer favors? What else disappears along with consumer society? Books? Art? Presumably spending time on "trivia" would be no more allowable than spending money on it.

²³ We can distinguish between something we simply did not do and something we refrained from doing with the intent that a harm occur. See Heidi Malm, "Killing, Letting Die, and Simple Conflicts," Philosophy and Public Affairs, 18 (1989) 238-58, here p. 239. Malm convincingly argues

famine relief is less stringent than my duty not to shoot people for fun when I go on safari in Africa? Harris seems not to notice that the lumping together of responsibility for actions and nonactions could be seen as leaving us with an absurdly nondemanding theory. Perhaps he thinks a prohibition of murder is the common-sense bedrock to which he can anchor what otherwise is a concerted attack on common sense morality. But Harris is not entitled to assume without argument that while everything else shifts around in response to his attack, his anchor remains unmoved. If murder becomes no worse than declining to send your movie money to a third-world dictator, then murder has moved to a new place in the realm of moral wrongs. There is no warrant for assuming that, at the end of its odyssey, murder is as wrong as ever.

I mentioned I was raised on a Canadian farm. I don't know much about violence. (I know a little. Writing this reminds me I once was shot at by a poacher.) In that sense I have lived a privileged and sheltered life. However, I do know about being poor. My parents grew up in houses with dirt floors. I was the fifth of six children and the first born into a house with electricity. Running water and an indoor toilet came a little later. I remember when water was delivered and sewage was removed by truck. Given the expense, our parents did not allow our toilet to be flushed more than once a day (and it served a family of eight). We didn't feel sorry for ourselves. We didn't ask America to rescue us. We didn't see ourselves as victims of violence. Lucky for us. Had we been taught to see ourselves as victims, it would have ruined us, for such teaching is poisonous, doing more violence to a poor person's mind than mere lack of money ever could.

V. CONCLUSION

None of the preceding discussion is meant to suggest we have no duty to rescue. However, taking that duty seriously requires us to understand its limits. We must draw lines, with or without the aid of moral theory. First, we have to learn how to lend aid so as to enhance rather than undermine our

that the moral difference between killing and letting die neither entails nor corresponds to any moral difference between acting and refraining.

sense that being moral is an integral part of living a life that is worth living. Second, we have to recognize that even if being in situation X were unjust, that does not mean any particular agent is obligated to dedicate his or her life to helping people escape from situation X. Morality presents us with options when choosing goals around which we organize our lives within relatively less flexible moral constraints.

Third, we have to take responsibility for distinguishing between aid that helps beneficiaries resume meaningful lives and aid that turns people into seekers of aid. Relief efforts in Africa have a history of failure in this regard. Fourth, the world is opaque in morally relevant ways. When we may well be utterly wrong about the nature of the problem and about what truly would help solve it, that uncertainty affects what we ought to do.²⁴ The thought experiments that dominate discussion in this field often suppose we know all relevant facts, which makes them unreliable as ways of shedding light on real-world obligations.

Fifth, we have to understand that a reflective consequentialist morality is not (even in emergencies) about numbers but about how we need to live so that our relationships constitute a good community. Finally, we have to understand that when we respect institutions that forbid causing harm, we thereby play a role in our community being a preventer of harm. Institutional arrangements that give priority to our duty not to cause harm, seemingly slighting our duty to prevent harm, may not be slighting the latter duty at all. Such institutions may instead be fulfilling their duty to prevent harm by stopping us from causing it. We do not excuse doing less by claiming we were trying to do more.

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²⁴ Charlie Wilmot is a pilot for AirServ International, working out of Maputo, Mozambique. AirServ provides transportation (funded by USAid) for organizations such as Save the Children. I met him in Johannesburg in July of 1999. Wilmot told me that Canada donated a de Haviland aircraft to Guinea a few years ago. Guinea used the craft until it needed servicing. They asked Canada to service it. Canada refused. Now the plane sits idle, because Guinea believes they are better off waiting for someone to give them another airplane. Wilmot says relief efforts always are meant to help African countries become self-sustaining, but that is not what African governments want. The authorities have too much to lose. Their first priority is to keep the money coming in.

Islands In a Sea of Obligation

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