

THE STEP FROM DUTY TO CHARITY *JOHN RAWLS ON THE NATURAL DUTY OF MUTUAL AID AND THE POSSIBILITY OF SUPEREROGATION IN A JUST AND FAIR SOCIETY IN A THEORY OF JUSTICE*

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ABSTRACT

The first part of this paper asks the question regarding the possible justifications for what Kant and Rawls respectively claimed was a human being's duty to be beneficent to others and give aid to those in need. Going back to Kant's distinction between perfect and imperfect duties, and his acknowledgement of super-meritorious actions, the ethical status of what J. O. Urmson called supererogatory actions will be approached in the second part. The third part will show how Rawls goes beyond Kant's account for the duty of mutual aid based on self-interest, by also considering how it can bring about trust and confidence in one another, which makes civic friendship the foundation of the relationships between members of a society. Through the help of a work of art, the fourth and fifth parts go on to introduce the notion of a 'duty of charity', a duty at once natural and supererogatory, which may be necessary for a society to have both justice and love.

KEYWORDS

John Rawls, Immanuel Kant, ethics, social philosophy, supererogation, beneficence, mutual aid, charity, christian iconography

Goodness and love as the most salutary medicine in traffic between men are such precious inventions one could well wish they might be employed as economically as possible: but this is impossible. Economy of goodness is the dream of the boldest utopians.

Friedrich Nietzsche¹

Although friendship, like justice, involves sharing with someone else, love is not necessarily related to someone else, and love is enough for the idea of charity.

Thomas Aquinas²

I. AM I MY BROTHER'S KEEPER?

In the initial chapters of *A Theory of Justice* (1999), John Rawls lays out some of the natural duties that members of a just and fair society must possess. In contrast to *obligations*, which are actions required of individuals in relation to the society of which he or she is part (the obligation to abide by the agreed upon rules of just institutions), by *natural duties* Rawls pertains to those duties that we owe to individual members of a society irrespective of their relationships with institutions in general.³ The natural duties are drawn from the principle that we all are equal persons, and this requires that we have duties to observe for all persons in general.⁴ Rawls goes on to classify our natural duties into *positive* and *negative* duties. Assisting another person who may be in distress, for example, is drawn from the positive duty of mutual aid; while not causing harm or injury to others is a negative duty we have.⁵ The distinction is “intuitively clear”: as he simply puts it, a positive duty is a “duty to do something good for another,” while negative duties “require us not to do something bad” to others.⁶ Rawls nowise finds the necessity of making this plain distinction because he says that this will play a significant role later on when he considers the “priority problem.” Plainly stated, which duties for the most part come first and carry more weight, negative duties or positive duties? And which of the natural duties are we supposed keep at all times?

¹ Friedrich Nietzsche, *Human, All too Human*, trans. R. J. Hollingdale (Cambridge: Cambridge University Press, 1996), §48, p. 39.

² Thomas Aquinas, *De Caritate (On Charity)*, a. 7.

³ John Rawls, *A Theory of Justice*, rev. ed. (Oxford: Oxford University Press, 1999), §19, p. 98. Henceforth to be referred to as *TJ*.

⁴ As Rawls says, “natural duties are owed not only to definite individuals, say to those cooperating together in a particular social arrangement, but to persons generally. This feature in particular suggests the propriety of the adjective ‘natural.’” *Ibid.*, p. 99.

⁵ *Ibid.*, p. 98.

⁶ *Ibid.*

But Rawls already remarks this early that “negative duties have more weight than positive ones.”⁷ For instance, while there may be times that I may not be able to offer help to another person in distress because doing so may cause harm to myself, at no time will I be allowed to cause injury or harm to others. The assumed privileged rank of negative duties over positive ones is easily recognized in the basic spirit of the laws of liberal societies. Most laws are prohibitive: they warn against actions which may at the very least curtail the freedoms of other members of society, or in the worst of cases violate their basic rights. The man on the street may thus take the laws that govern him to be a set of rules which instructs him on what he *ought not* do to live peaceably with fellow citizens who have the same freedoms and rights he possesses. And this will be perfectly understandable to him, if only because he, too, wants to be secure and safe from other people who may cause him harm. Whence may come the inevitable consequence that marks everyday relationships between individuals in a society: one shall simply do each other no harm, and nothing more, because each one wants no harm done to oneself, and nothing less. In this case the letters of the law and the spirit of self-interest found each other perfectly.

But to say that the duty of not doing bad to others has more weight than the duty of doing good is not tantamount to saying that the latter has less relevance on the wellbeing of members of a society than the former. Isn't a society where members show care and give support to one another more fair and just, compared to one where everyone is just a law-abiding member, concerned only about his own good, and possibly indifferent to the needs of others? This is the sticking point, one which Rawls will develop in *A Theory of Justice* until he is able to show that the good of society and all its members will be congruent with that of the individual who, motivated by self-interest, also wants to achieve what it sees as his own good. Yet at the early sections where he still lays out the basic principles of a just and fair society, Rawls already indicates the philosophical and practical challenges that necessarily come with the idea that doing good and helping others must be a duty of all.

On what grounds, for example, can the duty of mutual aid be more clearly secured? While a liberal society cannot require by law its members to help one another, there must still be other ways of accounting for the necessity of the duty of mutual aid which everyone ought to understand. We may, for instance, account for the duty of mutual aid from the observation that helping others, like hospitality, concern and friendship, is naturally inscribed in the very heart of each moral human being. No prearranged social practice, religion, or upbringing had to tell me that I ought to come to the side of those in distress, because I know that already since I am human. Experience has shown me that if I am in front of another human being, whoever he may be, even if he be a stranger, I simply *know* without having clear reasons that not only do I owe it to him that I do not cause him suffering; more than

⁷ Ibid.

that, I also know *in principle* that I *ought* to come to his aid if he needs me, whether or not I *can*, even if *in fact* I am actually incapable of doing so.

One possible way therefore of grounding the duty of mutual aid is to look no farther than in the kind of being which we always are but without usually knowing how or why—social and moral beings who are sensitive and responsive to the needs of others. But this intuitive knowledge must be accounted for philosophically, that is, we must show the conditions of the possibility for us being able to in fact perform a wide variety of acts of kindness to others—from simple acts of generosity like giving alms to a street urchin, to volunteering in relief efforts for victims of calamities, even all the way up to great acts of charity and self-sacrifice, or what we call supererogatory actions. And these are the facts that Rawls, initially following Kant, will initially try to account for in giving philosophical grounds for the positive duty of mutual aid.

But before we proceed it should be clear that Rawls's fair and just society is no 'city of God'. He recognizes that we are not all saints, try as best as we can, limited as we all are and vulnerable to the vicissitudes of life. While he states multiple times in different sections of *A Theory of Justice* the importance of the natural duty of mutual aid, he knows that it cannot be expected of *all individuals at all times*. How are we to clarify this (non-)expectation? The trouble is whenever Rawls addresses the question regarding *when* under *what conditions* one may do good for others, and *when* and *under what conditions* is he excused from doing so—he at times stops short abruptly.⁸ Why is this relevant particularly in the case of the natural duty of mutual aid? Because the very definition Rawls gives for the duty of mutual aid may also beg such a question since it is "the duty of helping another when he is in need or jeopardy, *provided that one can do so without excessive risk or loss to oneself*" (emphasis mine).⁹

The proviso or condition is crucial on two levels. First, it is a philosophical problem given that the duty of mutual aid if left unarticulated can at times rather absurdly seem to be *not* a duty, that is, there are times one must perform it while at other times one is excused from it. Yet isn't a duty generally, following Kant, a categorical imperative which must be carried out universally or at all times by all rational beings? To put it bluntly: Is the duty of mutual aid therefore merely 'optional'? Am I at "liberty both to do and not to do" it?¹⁰ And what happens to the status of this duty when I do in fact fail to perform it, if I fail to come to the side of someone who needs me, because doing so might be too risky—shall I be morally accountable for my failure? Can I be blamed? Will I be a 'bad' person if I fail to do

⁸ When it came to the opportunity to clarify the exempting conditions which can excuse us from helping others because of self-interest (the possibility of causing harm to ourselves), Rawls assumes that these must be worked out from the start in the original position. *Ibid.*, p. 385.

⁹ *Ibid.*, p. 98.

¹⁰ *Ibid.*, p. 100.

good because doing so meant risking or losing something which was essential or important for me?

Secondly, the provision in the duty of mutual aid if not examined further leads to concrete personal dilemmas for any ordinary human being: faced with someone who needs his help, what *ought he do* at that moment? What really counts as “excessive risk” or “loss to oneself” in concrete terms so that he may discern then and there and before an urgent situation what he ought to do—before a drowning child, in front of a naked beggar, when your countrymen from a distant province are overwhelmed by a typhoon, etc.? Or does the duty to help others only pertain to those who have more or who have less to lose at that given moment of need; while those who have less and more to lose are exempted from its accomplishment at least for that time? Is there such a table or calculus of risks that I can consult so I can weigh through some ludicrous ‘cost-benefit analysis’ whether I should, say, sponsor a poor child’s education all the way up to college which seems possible and of no risk to me now because I think I have a bit more than what I need?

These ethical and existential questions, at the same time formal and particular, general and concrete, are I believe urgent questions as people everywhere remain poor, sick, hungry, homeless, suffering, in despair, alone, and vulnerable, and simply in need of the aid and help that Rawls says we, as moral beings, have a natural duty to give. But let us simplify. What, in a word, is the duty of every just and fair member of society to his underprivileged and vulnerable fellowmen? Or as Kant simply put it, *What ought I do?*

II. KANT ON THE IMPERFECT DUTY OF BENEFICENCE AND SUPER-MERITORIOUS ACTS

Kant’s Distinction between Narrow or Perfect Duties and Wide or Imperfect Duties in the Groundwork of the Metaphysics of Morals

Rawls does not pretend that his vocabulary of duties is new. In particular we can easily trace the distinction Rawls makes between negative and positive duties back to Kant’s own distinction between *perfect* and *imperfect* duties. So we need to revisit Kant again.

In his *Groundwork of the Metaphysics of Morals* (1785), after giving his formulation of “the universal imperative of duty”—to “*act as if the maxim of your action were to become by your will a universal law of nature*”—Kant gives a casuistry of duties which is important for us because this prepares the ground for understanding Rawls’s own account for the positive duty of mutual aid.¹¹ Of

¹¹ Immanuel Kant, *Groundwork of the Metaphysics of Morals*, rev. ed., trans. and ed. by Mary Gregor and Jens Timmerman, rev. translation by Jens Timmerman, and with an introduction by Christine M. Korsgaard (Cambridge: Cambridge University Press, 2015), 4:421, p. 34.

particular interest is the fourth case which Kant gives: that of a man who is flourishing but does not see the need to extend any help to others who may be suffering.

Yet a *fourth* [man], who is prospering while he sees that others have to struggle with great hardships (whom he could just as well help), thinks: what's it to me? May everyone be as happy as heaven wills, or as he can make himself, I shall take nothing away from him; I just do not feel like contributing anything to his well-being, or to his assistance in need! Now, certainly, if such a way of thinking were to become a universal law of nature, the human race could very well subsist, and no doubt still better than when everyone chatters about compassion and benevolence, even develops the zeal to perform such actions occasionally, but also cheats wherever he can, sells out the rights of human beings, or infringes it in some other way. But even though it is possible that a universal law of nature could very well subsist according to that maxim, it is still impossible to *will* that such a principle hold everywhere as a law of nature. For a will that resolved upon this would conflict with itself, as many cases can yet come to pass in which one needs the love and compassion of others, and in which, by such a law of nature sprung from his own will, he would rob himself of all hope of the assistance he wishes for himself.¹²

If we simplify the view or belief that there is nothing wrong in not helping another person who may need assistance as long as we do not take anything from him into the *maxim of nonbeneficence*,¹³ then, as the argument goes, such a maxim will ultimately result in a contradiction when it is willed into a universal law of nature. Since a person's life and welfare are never secure, it is then logically possible that he or she may need assistance from others. This contradiction results in the *duty of beneficence*, or the duty to come to the aid of others in need. While reaching this conclusion is fairly mathematic, Kant nevertheless singles out this duty from others by his distinction between perfect and imperfect duties, which at other times Kant calls narrow and unremitting duties, and wide and meritorious duties, respectively. He says of actions which arise from perfect or narrow duties that "their maxim cannot even be *thought* without contradiction as a universal law of nature; let alone that one could one *will* that it *should* become such."¹⁴ An example that Kant gives of such duties is promise keeping. Because making promises without having any intention of fulfilling them (for example, repaying a debt) would, according to Kant, straightaway from its very *conception* alone, apart from actually *willing* it, as a candidate for being a universal law will lead to a contradiction which "would make the promise and the end one may pursue with it itself impossible, as no one would

¹² Ibid., 4:423, p. 36.

¹³ Borrowed from Barbara Herman's "Mutual Aid and Respect for Persons," *Ethics*, vol. 94, no. 4 (July 1984), pp. 577-602.

¹⁴ Kant, *Groundwork*, 4:424, p. 36.

believe he was being promised anything, but would laugh about any such utterance, as a vain pretense.”¹⁵

Then there are imperfect (*wide* or *meritorious*) duties, where “that inner impossibility [of thinking it as a universal law of nature] is indeed not to be found, but it is still impossible to *will* that their maxim be elevated to the universality of a law of nature, because such a will would contradict itself.”¹⁶ In the hypothetical case of a world where people do not harm but also do not do good to each other, “the human race,” as Kant earlier said, “could very well subsist.”¹⁷ But the distinct feature that makes actions such as beneficence or kindness to others indeed a duty is because, even if one can conceive of a world where nonbeneficence is indeed accepted as a law of nature, actually *willing* such a world will lead to contradictions—like the aforementioned inability of the once indifferent man to ask for assistance at a time he might need it. Beneficence then is a *wide* or *imperfect duty*. At first glance helping others is not as strict or as narrow as the duty of promise keeping. But upon closer consideration we see some good behind it at least when we consider the personal benefit we might gain when the duty to do good to others is willed into a universal law. It is for Kant also a *meritorious act* because, if we restrict ourselves to the argument above, I need not strictly do good to others in principle, yet I can choose to do it nevertheless, even if the motive for doing so would be out of a regard for my own interest—as in the case of the man who might only be looking out for his own good in doing good to others. Or as Adam Smith famously put it, “It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner; but from their regard to their own interest.”¹⁸

Super-Meritorious Acts in the Critique of Practical Reason

Yet an objection easily arises: Do we ultimately help others out of self-interest, because we see a future benefit to be gained? Is benevolence, like goods and products exchanged in the market, to be determined in merely economic terms? But doesn't that sound, for lack of a better word, a little too ‘un-Kantian’? For one, we know that Kant is notoriously against consequentialism, or acting because of its possible effects, especially ones that may eventually be for one's own good.¹⁹

¹⁵ Ibid., 4:422, p. 35.

¹⁶ Ibid., 4:424, p. 36.

¹⁷ Ibid.

¹⁸ Adam Smith, *The Wealth of Nations*, vol. 1, ed. R. H. Campbell and A. S. Skinner (Indianapolis: Liberty Press, 1981), pp. 26-27.

¹⁹ In the *Groundwork* Kant says duties are to be done out of a good will and performed categorically for the sake of duty alone. And “an action from duty,” he says, “has its moral worth *not in the purpose* that is to be attained by it, but in the maxim according to which it is resolved upon, and thus it does not depend on the actuality of the object of the action, but merely on the *principle* of

Grounding the duty of beneficence on self-interest also seems to be counterintuitive and unfaithful to human experience: we do not, in front of the suffering of others, first consider what we might gain if we addressed their need. The butcher, the brewer, and the baker after all may provide meat, drink, and bread to a starving passerby whom they know they might never see again. And more than feeding the hungry, there are even instances when a person performs great acts in spite of himself, without any regard for his own security, well-being, and safety, even to the point where his own life shall be at risk. And Kant was well aware of these kinds of actions. He will call them “noble and magnanimous” acts, or *super-meritorious* acts.²⁰

In the *Critique of Practical Reason*, published three years after the *Groundwork*, Kant gives two examples of exemplary acts of courage and sacrifice that can give us another possible motive for the duty of beneficence aside from self-interest. The first is “the action by which someone tries with extreme danger to his life to rescue people from a shipwreck,” and then “finally losing his own life in the attempt.”²¹ The other is “the magnanimous sacrifice of his life for the preservation of his country,” which we can imagine a brave soldier is ready to do every time he enters the battlefield to defend his country and his fellowmen.²² These dramatic acts of sacrifice, at once fearless and rare, are limit cases of Kant’s previous account for the necessity of the duty of beneficence based on self-interest. It is after all safe to say that dead men will no longer be in need of any future aid or protection. So why, then, did they commit these exceptional acts of great surrender? What moral motive then can account for the last sacrifice of rendering one’s life for an other?

To be sure Kant for his part mentions these two cases only as extreme examples to reiterate that the moral worth of actions derives from their being done out of duty and in reverence for the law. Because we might get easily carried away and mesmerized by the audacity of such acts of courage, he warns us that there is still the possibility that the self-sacrifice exhibited in the two cases can still, at least partly, be done for the glory or recognition—in a word, *merit*—that one can gain. When a person acts not only because of his perceived duty to others but also because of the praise or esteem that he may gain, or the glory that his name will acquire even he, in the end, eventually dies, “then the incentive” behind self-sacrifice, says Kant, “is already somewhat mixed with self-love and thus has some assistance from the side of sensibility,” or from the inclinations of surrendering to the seductions of vanity.²³

willing according to which—regardless of any object of the desiderative faculty—the action is done.” See 4:399-400, p. 15.

²⁰ Kant, *Critique of Practical Reason*, rev. ed., trans. and ed. Mary Gregor, with a revised introduction by Andrews Reath (Cambridge: Cambridge University Press, 2015), 5:158, p. 126.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*, 5:159, p. 127.

So Kant had to bring the two apparently noble and magnanimous acts of self-sacrifice back from the high heavens and to the humble province of duty itself: “But to put everything below the holiness of duty alone and become aware that one *can* do it because our own reason recognizes this as its command and says that one *ought* to do it; this is, as it were, to raise oneself altogether above the sensible world.”²⁴ Acting out of one’s duty and revering the moral law should be ennobling enough, and that is precisely what we should admire.²⁵

The Limits of Kant’s Determination of Duties: Urmsen’s Saints and Heroes

While Kant’s precaution regarding how we should see exemplary acts of great sacrifice is indeed necessary in ethical considerations particularly about the motives for moral action, an observation here has to be raised. Can we really imagine the rescue swimmer or the soldier considering what his duties are as he faces a threat to his own life in attending to the life of others? Of the thousand and one thoughts and images that blur past his mind’s eye before a thundering moment of great need, is the question whether or not the maxim of ‘jumping into the water to save another’ or ‘surging past enemy lines to immobilize conquerors’ can be thought and willed into a universal law of nature without any contradiction—are these the concerns that come to his mind when he hears desperate calls for help or when he stares down the barrel of a gun?

With apologies to Kant, maxims and duties and categorical imperatives would perhaps be the farthest things in the mind of a person when he is asked to save another’s life. When it comes to those tremendous moments which call for great sacrifice, we drop the vocabulary of duties and are forced to rise to a higher plane, as it were, where the elevated vantage point enables us to gather all the possible considerations of a chaotic situation into the sharp point of the simplest of questions, a great Either/Or, that a man or woman in various ways must face at one point in his or her life: *Am I to render my life for another?* And the answer in the affirmative usually comes without accounts and moral justifications, without a table of possible risks or losses, without a list of reasons, that is, without a why—a holy ‘Yes’ which can only be said in the silence of the heart. “Whatever is done out of love takes place beyond good and evil” (Nietzsche).²⁶ And once you act out of love to the point of

²⁴ Ibid.

²⁵ As Kant reiterates: “I maintain, further, that even in that admired action, if the motive from which it was done was esteem for one’s duty, then it is just this respect for the law that straightaway has the greatest force on the mind of a spectator, and not, say, any pretension to inner magnanimity and a noble cast of mind; consequently duty, not merit, must have not only the most determinate influence on the mind but, when it is represented in the correct light of its inviolability, the most penetrating influence as well.” Ibid., 5:156-57, p. 125.

²⁶ Friedrich Nietzsche, *Beyond Good and Evil*, trans. Judith Norman, ed. Rolf-Peter Horstmann and Judith Norman (Cambridge: Cambridge University Press, 2001), §153, p. 70.

staking your our own life, you suspend the ethical and transgress the plane where oughts and ends are still deliberated upon, to finally transcend the horizons of duty. Only then do you begin to approach the holy ground on which saints and heroes walk. *Saints and heroes*—whose exemplary actions after Kant will be called “supererogatory actions.”

Supererogatory actions are roughly defined as acts which go “beyond the call of duty.” Another formula for these acts is that they are “praiseworthy but not obligatory acts.” They appear problematic or at least ambiguous if one is to confine himself with using only the standard vocabulary of duties: on the one hand, they are without question actions which intend what is good—which to recall for Kant is a duty—but on the other hand, their goodness derives from doing what is precisely no longer a duty or an obligation.

The introduction of this rather interesting class of actions is largely attributed to J. O. Urmson in his seminal essay “Saints and Heroes” (1958).²⁷ Urmson there charged that traditional moral theories such as those of Kant’s and utilitarianism could not account for exceptional acts of ‘saints’ and ‘heroes’ because they suspend ethical considerations on what our duties are by precisely going beyond them. A ‘saint’, according to Urmson, is one who “does actions that are far beyond *the limits of his duty*, whether by control of contrary inclination and disinterest or without effort”; in almost the same manner the ‘hero’ in turn “does actions that are far beyond *the bounds of his duty*, whether by control of natural fear or without effort.”²⁸ Either way, the saint or the hero—any old person, not necessarily martyred or bemedalled²⁹—according to Urmson goes beyond Kant’s narrow reduction of possible moral action to within the *limits* and *bounds* of duty at least as presented in the *Groundwork*. (But as we shall also see later, Kant gives other more important grounds for the duty of beneficence particularly in his more mature work, *The Metaphysics of Morals*.) Rather hastily, Urmson concludes that when it comes to supererogatory actions, “it is surely evident that Kant could not consistently do justice to the facts before us.”³⁰

III. RAWLS’S ACCOUNT FOR THE DUTY OF MUTUAL AID: ON THE WAY TO HUMAN FELLOWSHIP

²⁷ J. O. Urmson, “Saints and Heroes,” in *Essays in Moral Philosophy*, ed. A. I. Melden (Seattle: University of Washington Press, 2001), pp. 196-216.

²⁸ This and the previous quote, in Urmson, p. 201.

²⁹ Urmson presents more ‘ordinary’ examples of the saintliness and heroism he has in mind: that of a doctor who leaves everything behind and volunteers to care for residents of a plague-stricken city and the more familiar case of a member who unthinkingly ‘goes the second mile’ to serve a club. *Ibid.*, pp. 201-206.

³⁰ *Ibid.*, p. 207.

The peculiar situation where we find someone who expends or “pays more than what is due” (*super-erogare*) also caught the attention of Rawls. Toward the end of the same section where he explored permissions arising from individual duties, we see Rawls first breaching the question of supererogation cautiously:

But among permissions is the interesting class of supererogatory actions. These are acts of benevolence and mercy, of heroism and self-sacrifice. It is good to do these actions but it is not one’s duty or obligation. Supererogatory acts are not required, though normally they would be were it not for the loss or risk involved for the agent himself. A person who does a supererogatory act does not invoke the exemption which the natural duties allow. For while we have a natural duty to bring about a great good, say, if we can do so relatively easily, we are released from this duty when the cost to ourselves is considerable. Supererogatory acts raise questions of first importance for ethical theory. . . . I shall not however pursue this matter further. Supererogatory acts are mentioned here for the sake of completeness (§19).³¹

The next time Rawls mentions the question of supererogation is when he properly discusses the various duties and obligations of members of a society at length in Chapter VI of the *TJ*. But what immediately precedes that is important for the scope of our inquiry, leading us back to the first of our concerns regarding the natural duty of mutual aid and what can account for it. Before treating the question of supererogation, and if Rawls can also account for it in the context of a just and fair society, we must now first see how Rawls justifies the duty of mutual aid should it be made public. Turning to the question of the natural duty of mutual aid as determined by Rawls will eventually serve as a kind of baseline or lower limit for us, the ‘minimum requirement’ asked from all members of a society, which is precisely what supererogatory acts disregard or overstep. To understand what it means to go beyond, we must first know where we stand. As the rest of the paper will attempt to show, the step from the natural duty of mutual aid to supererogatory actions may not be as difficult to take as one may think.

The Calculus of Mutual Aid

Rawls determines the duty of mutual aid by presenting two accounts for it: the first through the motive of self-interest as shown by Kant in the *Groundwork*, while the second will be of his own conception, that making the duty of mutual aid public will lead to certain positive effects on the general quality of life for all individuals and their relationships with other members of a society.

In his first account, Rawls straightaway says that the “principle [of mutual aid] is clearly in our interest” because, like Kant’s currently flourishing man who is

³¹ Rawls, *TJ*, p. 100.

nevertheless susceptible to changes in fortune, “situations may arise in which we will need the help of others, and not to acknowledge this principle is to deprive ourselves of their assistance.”³² Rawls then takes the long view and recognizes that even if we are at times required to give aid, “we are likely to gain *on balance* at least over the longer run under normal circumstances” (emphasis mine).³³ How so? Because if the possibilities of being the beneficiary of aid are almost equal with the chances of being the benefactor; coupled with the fact that according to Rawls the gain of the beneficiary is always greater than the loss of the benefactor; he then calculates that the total possible gain by any individual who adopts the duty of mutual aid shall outweigh his total possible loss in the long run. How so?

Everyday experience may confirm this: the aid *received* appears to be far more significant than the aid *given*. In dire situations when food, shelter, clothing, or medicine are needed for others to survive, any aid received by those who suffer can save their lives. But there are many cases also when it is not only food or clothing that is asked from us. Personal failures, hopelessness, grief and sorrow also debilitate us, and we know that in these difficult times, when we feel most especially alone, that love and sympathy, even a little encouragement from others, can lighten our burden and help us slowly get back on our feet. In any case, the value of what was given to someone in need, may it be great or small, can make all the difference in the world for someone who suffers.

The help that the benefactor gives, in contrast, appears not to be as ‘valuable’ to him as to the beneficiary. In the first place, assuming that, as Rawls and Kant seem to do, he only follows his duty in giving aid to others in need, he thereby only gives *what he can*—that is, what he can afford to give or *spare*. For mutual aid considered merely as a duty only requires as much: “the duty of helping another when he is in need or jeopardy, *provided that one can do so without excessive risk or loss to oneself*” (emphasis mine).³⁴ “Without excessive risk or loss to oneself”—inversely, what he loses in giving is not a real loss, neither a loss that significantly subtracts anything from him nor one which really hurts or pains him. But let’s not be too melodramatic and turn back to the everyday.

Cases abound where supposed ‘charity’ is performed: fundraisers rally donors to start different foundations which focus on different ‘causes’; corporations and

³² In full, Rawls’s account is as follows: “Kant suggests, and others have followed him here, that the ground for proposing this duty is that situations may arise in which we will need the help of others, and not to acknowledge this principle is to deprive ourselves of their assistance. While on particular occasions we are required to do things not in our own interests, we are likely to gain *on balance* at least over the longer run under normal circumstances. In each single instance the gain to the person who needs help far outweighs the loss of those required to assist him, and assuming that the chances of being the beneficiary are not much smaller than those of being the one who must give aid, the principle is clearly in our interest.” Ibid, pp. 297-298.

³³ Ibid., p. 298.

³⁴ Ibid., p. 98.

millionaires ‘give back to society’ through large donations; any group or institution, from television networks to academic institutions, begin relief operations when a natural disaster strikes some distant province; even the man on the street on his commute home hands out a few coins to a street child who sells garlands of flowers to subsist. When one knows where to look, charity seems to be all around us. If you really think about it, these acts can be inspiring and at times incredible: that instead of minding his own business and keeping to himself, a person does ‘go out of his way’ to help others he may not even know.

Yet a hard and rather awkward question must be asked here as provoked by Rawls’s observation on the value of what is received and given: Does a donation really cost the donor much? Does one really lose anything when he gives only what he can afford? Assuming normal conditions, is not a donation nowadays usually understood by most as what one can *spare*—a spare shirt, some spare time, and a spare coin—or precisely what is in excess of what one needs? If we follow only this account for the duty of mutual aid, then one usually in so-called acts of charity only gives or donates “*provided that one can do so without excessive risk or loss to oneself*”. Consequently the donor also donates only *as long* as he can afford it. If it happens that he can no longer spare anything, when there is already a risk or possible loss to himself—if giving his shirt will leave him naked, and this bread leaving him hungry—he is quickly excused from giving aid to others by the all-important provision which demands that you only give what and so long as you can.

Charity conceived in this narrow sense, and the duty of mutual aid in this light, are in the end at best *circumstantial* in nature, and the decision to perform them at most, *prudential*. They are acts to be made by first considering one’s current condition before judging whether or not I can comply with the duty of giving aid to those in need. If so, this seems to imply then that charity and benevolence are not necessarily accomplished because of a demand that cancels further considerations of particular situations. The duty of mutual aid in this case appears to be not a categorical imperative with the full of weight of universality. That is why, to recall, Kant above called it a *wide* and *imperfect* duty: while it is demanded of all rational beings, it cannot be demanded at all times or in certain situations: “To be beneficent *where one can* is one’s duty. . . . (emphasis mine).”³⁵ And we know this already: sometimes we give to the poor when we can, sometimes we don’t when we can’t; sometimes we act in behalf of a friend, sometimes we hesitate. Sometimes I am my brother’s keeper, and sometimes I am not. ‘Sometimes’—that is to say, our charity borders on the arbitrary. The justifications in choosing to give aid or not, or what we tell ourselves before such decisions, are not always clear to us.

We see now the full weight of the possible problems of defining mutual aid as a duty as suggested in the introductory remarks. More importantly, if all this is true,

³⁵ Kant, *Groundwork*, 4:398, p. 13.

then making the duty of mutual aid public *only* on the grounds that it in the long run will be in the interest of each individual becomes even embarrassing. Rawls is correct that what each individual possibly gains when he is a recipient of aid will indeed *always* be more than what he ‘loses’ when he is the one who gives it—because one loses nothing when one gives without risking anything. Seen from this narrow perspective there will be nothing really good about the good Samaritan who could spare some time and coin to help a fallen man. If the duty of mutual aid is to be conceived only in this way, then there will be nothing dutiful nor mutual about it.

Mutual Aid as Leading to Confidence and Trust in One’s Fellowmen

While Rawls concludes that adopting the principle of mutual aid is again in the interest of any individual in the long run, he too recognizes that there are more important justifications for it. What he adds to Kant’s argument for the duty of mutual aid in the *Groundwork* is what he sees will be its “pervasive effect on the quality of everyday life” of each individual in society if the duty is made public.³⁶ Knowing that others will come to our aid when we need it, leading to acquiring confidence and trust in others, according to Rawls, is more significant than whatever the results of a calculus of mutual aid turn out to be in the long run for each person. As Rawls writes in full:

The public knowledge that we are living in a society in which we can depend upon others to come to our assistance in difficult circumstances is itself of great value. It makes little difference that we never, as things turn out, need this assistance and that occasionally we are called on to give it. *The balance of gain, narrowly interpreted, may not matter. The primary value of the principle is not measured by the help we actually receive but rather by the sense of confidence and trust in other men’s good intentions and the knowledge that they are there if we need them* (emphasis mine).³⁷

A society where the duty of mutual is made public also assures me that if I in fact am unable to help those whom I want to help—especially the ones I love, my family, my friends—because of one reason or another (lack of resources, distance, etc.), I can trust that others more able than myself shall also come to their aid. One does not really think of one’s own self alone, there will always be others that we also care for, even more than we do for ourselves. It is also a matter of great insignificance already for Rawls whether or not we actually gain more or lose more in the long run; balances of costs and benefits amount to little compared to the knowledge that one is never alone, that a neighbor is always close and help is not too far away. Thus the greatest effect of adopting the duty of mutual aid is on the building of closer ties, that of civic friendship, in society as a whole.

³⁶ Rawls, *TJ*, p. 298.

³⁷ *Ibid.*

Kant interestingly in the later *The Metaphysics of Morals* would also note how a world where people acknowledge the *common interest*, and no longer *self-interest*, and understand that helping others is indeed a duty, makes it a world of *fellowmen*.

Consequently the maxim of common interest, of beneficence toward those in need, is a universal duty of human beings, just because they are to be considered fellowmen, that is, rational beings with needs, united by nature in one dwelling place so that they can help one another.³⁸

Here I do not come to side of another who needs me only because I may need him by my side tomorrow. Others can require from me that I come to their aid by the mere fact that they are my fellowmen—fellow human beings who, like me, are “rational,” and who, like me, are “beings with needs,” all “united in one dwelling place.” These fundamental facts which make up our very humanity, before any possible action or personal motive, are enough to make any person recognize that it is his duty to come to the side of those who suffer. Like Rawls, Kant in the *Metaphysics of Morals* finally surpasses individual concerns of costs and benefits, and argues for the goodness of doing good to others by showing how it will gather all individuals who usually look out for themselves into a fellowship of men. They are, after all, found near each other “in one dwelling place so that they can help one another.”

And to finally rule out any possible ambiguities his account in the *Groundwork* may have caused, Kant in no uncertain terms redefines what it means to be good to others: “To be beneficent, that is, to promote according to one’s means the happiness of others in need, *without hoping for something in return*, is everyone’s duty” (emphasis mine).³⁹

IV. APPROACHING THE SUPEREROGATORY: THE DETERMINATION OF THE ‘DUTY OF CHARITY’ AS SHARING WHAT ONE HAS

As said above, Rawls’s account for the duty of mutual aid will serve as a baseline, say, a lower limit, for considering the possibility of supererogatory actions which, to recall, are actions that go beyond one’s duty. By establishing through Rawls that it is indeed a duty to be beneficent or come to the aid of others in need, the next crucial step would be the one which delivers us to the land of ‘saints’ and ‘heroes’, where supererogatory actions are already performed. To recall, the difference between what is a duty and what is considered supererogatory is *constitutive* of both: when one remains bound to the sphere of duty and only acts within it, one can neither be a

³⁸ Kant, *The Metaphysics of Morals*, trans. and edited by Mary Gregor and with an introduction by Roger J. Sullivan (Cambridge: Cambridge University Press, 2012), §30 of *The Doctrine of Right*, 6:453, p. 202.

³⁹ *Ibid.*

saint nor a hero by right and by name; and when one performs acts of selflessness even if it was no longer required, one already leaves the plane of mere duties and obligations, elevating himself, as it were, to another order.

How is it then possible to reconcile the fundamental difference, or bridge the gap, between the two? And why cover over the abyss in the first place, and bring them nearer to each other? Because, it is here claimed, that for a society built on fellowship and solidarity as envisioned by Rawls to become a reality, benevolence to others in the form of charity must be reconsidered as not merely ‘optional’ or as only “praiseworthy but no longer required”—least of all as the giving of only what one can spare. Acts of charity are here reimagined as having the whole weight of a command that is addressed to all, whether or not you have something to spare, whether or not you are able to actually give it or perform it. But for those who are unable to give or come to the aid of others, it must also be shown that they are not worthy of blame in the same way that one is blameworthy when one fails to carry out a perfect duty. Yet what kind of speculative ethics is this—one which interprets charity as a duty asked of all, but at the same time spares those who are unable perform it from blame? How can a person, on the one hand, be bound to charity by duty; and on the other, be permitted or excused from doing so if he finds himself unable to? More absurdly, what reimagined charity is this which is both a duty—having the force of a moral law—and also beyond a duty—which ultimately guarantees that it remains essentially not a mere obedience to a law but a genuine love for others?

What shall tip the scales from duty to the supererogatory (or charity), and the criterion for determining who is expected to do one or another, and in what times, will precisely be the crucial category of justice *as* fairness. It is above all fairness—that unseen measure and moving scale—which is able to shift its weight from one side to the other, able to consider different situations for different people, seeking balance even if things are left unbalanced. For justice left to itself only demands that each receive what is due to *all equally*; but fairness demands that each one receive not only what is due to him but also what is only fair for him, or what is fitting, which may be *different for each person*. In a society of fellowmen who help each other, those who have less deserve more than what each one merely owes to them. In the same manner, those who have more, and even those who have only enough, are obliged to give more or share even the little that they have—more than what mere duty asks of them, “even at the risk of injury or loss to oneself”—even all the way up to the point of the supererogatory, almost short of provoking the holy. Because in front of the poor, the hungry, and the naked, wouldn’t *sharing* even the little that you have, and not only what you can afford, not only what you can spare—wouldn’t that only be fair? Guided by an old work of art, what follows then is an attempt to determine this imagined supererogatory “duty of charity” as the simple, yet loving act of sharing what we have.



Jean Fouquet
Saint Martin Sharing his Cloak with a Beggar,
 c. 1452–60,
 illumination heightened with gold on vellum parchment,
 The Louvre, Paris.

Jean Fouquet's St. Martin Sharing His Cloak with the Beggar

A clear yet profound metaphor of the privileged but ordinary phenomenon of sharing can be found in a famous legend of a saint who shared his cloak with a naked beggar. St. Martin of Tours (316–397AD) was then a young 18-year-old catechumen, and a soldier under the Roman army under the influence of his father, a military tribune. The celebrated story has it that when his squad was on its way to Amiens in Gaul, he meets a half-naked beggar shivering in the cold. The young Martin then drew his sword, cut his mantle in half, gives one half to the beggar, keeping the other half and replaces it on his back. The legend of St. Martin's cloak has been immortalized by artists throughout the centuries, and we study one of the more beautiful depictions by Jean Fouquet (1420-1481). The picture can on its own terms perhaps present for us alternative ways of addressing the different problems already raised and prepare us for the final step from duty to charity.

A miniature part of Ettiienne Chevalier's Book of Hours, *Saint Martin Sharing his Cloak with a Beggar*⁴⁰ (c. 1452-60) shows the encounter between St. Martin and the beggar at a bridge crossing. Moving from the right, high on a white horse and in fine military dress, the young St. Martin is stopped by an old beggar. The old man comes from the left and is barely dressed for the cold day, his legs uncovered. He genuflects before Martin, clasps his hands together—all as if in desperate prayer before the man who may deliver him from the bitter cold. The surprise encounter cuts the line formed by Martin's troop in half. Those before Martin with their backs turned to us have passed by the beggar with cold indifference, and are now unaware that the men following them have broken off from them. Meanwhile those behind Martin come to a complete stop, leaving them wondering (particularly the soldier with the green helmet who curiously tries to see what lies before Martin) what momentarily delayed them from their official duties.

With a bowed head we see Martin drawing his weapon from its sheath. And we can imagine that the vagrant at that terrifying moment trembles before the soldier. Perhaps what Fouquet really shows us is the fear of the beggar, and the real reason he is clasping his hands is to beg for his life, because he knows like everyone else that a soldier only draws his sword in order to debilitate and even kill. But the sword which is made to pierce another's flesh will be drawn to protect that same flesh. Martin cuts his cloak down the middle, in order to share half of it with the beggar. And the other half? Martin keeps for himself, to be sure, in order to continue to protect him from the cold, the cold to which he had been exposed to in their long march to Amiens.

⁴⁰ Jean Fouquet, *Saint Martin Sharing his Cloak with a Beggar*, c. 1452-60, illumination heightened with gold on vellum parchment, The Louvre, Paris. Photo by T. La Mage (RMN Grand Palais). Image from https://fr.m.wikipedia.org/wiki/Fichier:La_charité_de_saint_Martin.jpg. Date accessed: February 1, 2017.

The theme of halves (which is what sharing usually is, cutting something into two), is continued by Fouquet down to the lower part of his composition. We see below two angels separated by an open diptych showing two scenes: to the left Martin is cast down the stairs by the devil, and to the right is the Virgin Mary with St. Agnes coming to Martin's aid carrying balm. Suffering, which the beggar too suffers, and the consolation of grace, as given too by Martin, are here side by side, both human and divine, two parts of the same whole, constitutive of the two faces of life.

Above the diptych are two symbols. The burning heart to the right symbolizes Martin's love and charity. The *O* on the left marks the beginning of the Latin antiphon offered to the saint: "O Martine, o pie . . ."—he who is pious, devout and dutiful. Behind that we see the famous scene where Jesus appeared to Martin that very night after his charity to the beggar. The Christ in that dream is said to have worn half of the same cloak Martin shared with the beggar, and is said to have told him "Martin, who is still but a catechumen, clothed me with this robe." Other versions of the legend also have it that when Martin awoke the next morning he finds his mantle repaired and whole again.

The scrolls of the two angels at the bottom mark for us the whole point of the miracle of St. Martin—or better, their *two* points, the force of duty and the grace of charity, which meet each other in the crossing of the gazes of beggar and soldier. The scroll carried by the angel to the left reads "*Hic Martinus qui nulli nocuit*," "Behold Martin, who did ill to no man." The scroll to right bears the message "*Hic Martinus qui cunctis profuit*," "Behold Martin, who was good to all men." Why the two separate scrolls and their particular placements? For doing ill to no man and doing good to all men are two absolutely different orders, coming from two absolutely different roads. You can, of course, keep to yourself and 'mind your own business', as we say; so long as you do not harm others, and do not get what is rightfully theirs, which are negative duties. One can be human that way, that is, be a law-abiding and soldier-like citizen of humanity who follows the law. But obedience breeds indifference. The soldiers ahead of Martin passed by the beggar with ease: they did not apprehend the vagrant who may have bothered them, and to be sure, did not cause him any harm. They simply went on their way, thinking they had nothing to give.

But Martin's charity is precisely found in his ability to go beyond what is asked of all universally. That is, Martin is able to not only "do ill to no one" by his sword—a positive and perfect duty to be observed at all times and by all men—but by taking the next step, he is also able to "do good to all men" with that same sword—a negative and imperfect duty expected of all but only when one can. And all that Martin did to do good was to share what he already had.

Thus in the cloak cut and shared in half, duty and charity come together and cross each other. And it is this crossing, the meeting between duty and charity, of doing ill to no one and doing good to all, where a new duty can be found, here provisionally called the "*duty of charity*," determined as sharing what one has, one which is neither

simply perfect duty nor perfect charity. Why not perfect charity yet? For Martin does not give away totally what he also needs for himself, keeping half of his cloak because he has his own back to protect. One who looks at the glass half empty may easily say that he should have given the whole mantle, for *wouldn't giving the whole cloak be more charitable and loving?* But no. Martin, both soldier and saint, sees that there are some decisions that have to cut both ways. Anything less or anything more would be unfair to one or the other. We have duties to others and are asked to look out for their well-being, but we also have duties to ourselves that we have to keep for our own well-being. But between these two duties, there can still be room for the duty to share with others when they are in need. Thus what is cut and shared by Martin with the beggar was only his own *fair share*—a share that Martin did not even have to give in the first place.

And when He appears to Martin that night, Christ approves. He seemed to have asked of Martin nothing more, nothing less.

V. RAWLS ON THE CONTINUITY OF THE SENSE OF JUSTICE WITH THE LOVE OF MANKIND: THE FINAL STEP FROM DUTY TO CHARITY

If one cannot give everything that he has, he can nevertheless share part of what he does with someone else while keeping for himself what he may also need. What is shared divides what is enough so that at least two human beings with needs can enjoy what originally was merely for one's own sake. For to share is not simply to spare what one does not need; you are only able to truly share if what you part with is also of significance to you. Thus the phenomenon of sharing is saved from the form of 'donation' initially described above which only gives when and only as long as there is abundance, when there is a surplus.

Now a society which is built on the spirit of sharing will doubtless no matter the circumstance be marked by strong ties of friendship and a sense of community. In both times of great need and abundance, others share what they have to provide for those who have nothing. No more need charity be arbitrary. When thought as a duty, charity here determined as sharing what one has and even needs acquires also the force of universality and no longer merely circumstantial. Yet only those, of course, who can share something of their own, are called to respond to the call of charity. (One cannot share what one doesn't have.) While the exemption required by the natural duty of mutual aid, "that one give only provided that one can do so without excessive risk or loss to oneself"⁴¹ must remain, the condition is made stricter and thus clearer when sharing is thought positively to be a communion between two human beings, and not merely in terms of costs and benefits.

⁴¹ Rawls, *TJ*, p. 98.

As Rawls already said, “The sense of confidence and trust in other men’s good intentions, and the knowledge that they are there if we need them,” give each man the certainty that he shall never be alone.⁴² In the decisive hour of great need one can have faith that the “jar of flour will not be used up and the jug of oil will not run dry” (I Kings 17:14). A society which acknowledges from the original position that it is each member’s duty to respond to the call of distress of others leaves no jar empty and no jug dry. And when they by happenstance or by ill fortune do, I know that the neighbor, he who dwells close to me, will come bringing flour and oil, as to share a meal with me.

It is only when we recognize in its fullest sense what it means to be human, to be as Kant said “rational beings with needs, united by nature in one dwelling place so that they can help one another,” that we also realize that doing ill to no one is not enough.⁴³ To dwell with one another more importantly means to be able to do good for one another. Human beings do not live alone. Only a god and a beast can do that, said Aristotle, and that is because the first has no need of any other while the latter is afraid to be preyed upon by another. Neither god nor beast, and unable to live without each other and unafraid of each other, we are able to live near one another. And we were made near each other so that we may help and share with one another: “It is not good for the man to be alone. I will make a helper suitable for him” (Genesis 2:18). In a word, we were made to be our brother’s keeper.

In the latter parts of the *Theory of Justice*, Rawls also hints that the obligations and duties the principles of justice require from members of a society may not be enough to secure the greatest possible good in a just and fair society that is to be based on civic friendship. To progress from justice to friendship may require more, it may require love already. Though not expected from all, the ability of some to go beyond the moral requirements applied to all of its members marks the possibility of extending one’s sense of justice to the point of obtaining another kind of sensibility which already borders on love. And the step from justice to love is a short one, or better, the first naturally leads to the other: “it is also the case that the sense of justice is continuous with the love of mankind.” And he adds that while

the difference between the sense of justice and the love of mankind is that the latter is supererogatory, going beyond the moral requirements and not invoking the exemptions which the principles of natural duty and obligation allow. [. . .] clearly the objects of these two sentiments are closely related, being defined in large part by the same conception of justice. If one of them seems natural and intelligible, so is the other.⁴⁴

⁴² Ibid., p. 298.

⁴³ Kant, *Metaphysics of Morals*, 6:453, p. 202.

⁴⁴ This and the preceding citation, Rawls, *TJ*, p. 417.

A sense of justice is a preparation for a sense of love, and is its most important first step to boot. The duties of justice are prolegomena for the works of charity. For example, Rawls explains that when “feelings of guilt and indignation are aroused by the injuries and deprivations of others unjustifiably brought about either by ourselves or third parties, and our sense of justice is offended in the same way,” our compassion may also be stirred from its slumber, having thought of oneself for so long.⁴⁵ Upon witnessing an injustice you cannot but also feel compassion next. You see a beaten man who was robbed on a highway, stripped of everything he owned. What ought you do? While others may have passed him by, indifferent to the plight of a man who has lost everything, you may take it upon yourself, you volunteer and will (*voluntas*) it as your own the duty to at least come to his aid, to dress his wounds, provide what he needs and give him shelter. But after the immediate indignation of witnessing injustice propelled you to come to his side to care for him, if compassion is already awake, “on the next day” (Luke 10:35) you sense that dressing wounds and providing temporary shelter are not enough. He has yet to recover completely, is yet to stand on his own two feet. What ought you do *next*?

Do you disappear?—thinking your duty has been done, already having answered the ethical command issued by rationality itself in the face of a fellow human being who was suffering. Or do you answer once more to a new call, to a new invitation?—this time to step into what Pascal saw was the order of love where only saints can tread, by giving what can no longer be asked. Once a life has been in your hands, a responsibility at once terrifying and so rare, a new command will be handed down to you, this time from elsewhere, and you recognize without clear reasons that you also have to provide or *give more than what is due—super-erogare*. For charity always gives more than what is due—much more than calculated interests, much more than what duties require, sharing the little that it has. And even what it does not yet have. Which all comes to the same as saying that love promises all things.

After the wounds have healed and the provisions distributed; once the storms have passed, shelters rebuilt and lives rehabilitated; next comes that decisive moment, the crossing on the bridge, where the works of love may continue what the duties of justice had already accomplished. You ought to go on, and even from a distance look after those whose call you had once already answered. “Take care of him; and whatever more you spend, when I return I will repay you” (Luke 10:35).

⁴⁵ Ibid.

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Image

Jean Fouquet. *Saint Martin Sharing his Cloak with a Beggar*. 1452-60. Illumination heightened with gold on vellum parchment. The Louvre, Paris. Photo by T. La Mage (RMN Grand Palais).

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