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A Funeral March for Those Drowning in Shallow Ponds?

Imperfect Duties and Emergencies¹

I discuss the problem that Kant's ethics seems to be incapable of capturing our strong intuition that emergencies create a context for actions that is very different from other cases of helping and from other opportunities to further obligatory ends. I argue that if we pay attention to how Kant grounds beneficence we see that distress and emergency function as constitutive concerns. They are vital to establishing the duty of beneficence in the first place, and they also guide the application of duties to specific cases. Kant's conception of imperfect duties to others, when understood correctly, offers a way to understand why emergencies are morally important, but also why other factors have a place in our moral reasoning.

Imperfect Duties, Beneficence, Emergency, Easy Rescue Cases

In this paper, I discuss how Kant's ethics can handle so-called "easy rescue" cases. These cases are often assumed to trigger intuitions that many philosophers take to be of central relevance for ethical theorizing. Kant holds that imperfect duties to others allow for latitude and that victims of emergency do not have a right that bystanders help them. Furthermore, and this is a complication that is often overlooked in the literature, even if an agent is willing to put obligatory ends before her personal happiness, we still

¹ I am grateful to Jens Timmermann, Kate Moran, Oliver Sensen, Alice Pinheiro Walla, Michael Walschots, Stefan Lo Re, Corinna Mieth, Nora Kassan, Ido Geiger, Irina Schumski, James Camien McGuiggan and two anonymous *Kant-Studien* referees for feedback on earlier drafts of this paper. I presented earlier versions of this paper at the University of St Andrews and at a workshop jointly organized by the Ruhr-Universität Bochum and the Institute for Advanced Study in the Humanities in Essen, as well as at conferences of the Israeli Philosophical Association at Ben-Gurion University and of the Association for Social and Political Philosophy at the University of Sheffield. My research was financially supported by a two-year Irish Research Council grant on Kant and overdemandingness. I am grateful to Jens Timmermann, Kate Moran, Marcel van Ackeren, Alice Pinheiro Walla, Joe Saunders, Brian McElwee, Paul Formosa, Corinna Mieth, James Camien McGuiggan and Lucas Thorpe for many fruitful discussions of overdemandingness and Kantian ethics, and to the departments of philosophy of the Universities of Göttingen, Trinity College Dublin and Bristol for facilitating my research on this topic.

require an explanation for why easy rescue cases have to be prioritized over other possible ways to exercise the duty to help others and why they should enjoy priority over possibilities to perfect oneself. It is a desideratum for Kantians to show that and how Kant can accommodate the widespread intuition that it would be very bad or even straightforwardly morally *wrong* not to save someone who, in our immediate vicinity, is in great danger and who we could save easily and with little cost to ourselves.

I argue that distress [*Noth*] is a *constitutive concern* for the duty of beneficence. That a finite rational agent can find herself in distress plays a central role in establishing a duty of beneficence in the first place. Furthermore, constitutive concerns are also factors that inform our application of moral principles and obligatory ends to specific moral cases. I begin by explaining the problem I am focusing on in more detail, and I focus on one specific version of this problem, namely, intra-moral prioritization. Even an agent who is fully committed to morality might act in ways that we find highly objectionable when it comes to easy rescue cases (sec.I). I then look at those passages in Kant's critical writings in which he explains why we have a duty of beneficence. I argue that the roles of emergencies or distress stand out and that helping agents in distress takes precedence over most other moral concerns (sec.II). Finally, I explain how we should understand easy rescue cases on Kant's framework, and I indicate what the implications of my argument are for a more comprehensive account of Kantian beneficence (sec.III).

I

Prominent Utilitarians, such as Peter Singer (1972) and Peter Unger (1996), often motivate their theories with cases of emergency and easy rescue: Due to no fault of her own a person in our immediate vicinity is in danger of serious harm or death. We, a bystander, innocent of the person's predicament, could easily save her. Intuitively, we clearly must help. The crucial second step of the Utilitarian argument is then to suggest that we extend this intuition to widespread and constant emergencies such as global poverty and natural disasters.

By contrast, many Kantians consider it one of the strengths of Kant's philosophy that he does not make intuitions about cases of easy rescue his starting point. Barbara Herman (2001, 227), for instance, claims that "[i]t is generally agreed that there is a duty

of easy rescue”, but that “a slippery slope threatens” (ibid., 228). Once we approach our duty towards others from cases of easy rescue, it is difficult to avoid very stringent duties towards the globally poor, which could lead us ultimately to think that an agent is “to be regarded as a warehouse of potentially distributable skills and possessions” (ibid., 241). There is so much emergency in the world that if we *start* our ethical theorizing from cases of emergency, then everything else that is also morally or otherwise important for an agent’s life, such as developing our own talents, pursuing valuable projects, caring for those near and dear to us, etc., will turn out to be secondary or even almost irrelevant. Kantians thus see it as a considerable advantage of Kantianism that it systematizes a more inclusive and richer conception of morality than Utilitarianism does.

However, this raises the question of whether Kant’s ethics can handle easy rescue cases, as it must do if it is to do justice to the widespread and steadfast conviction that we must save victims of emergency in our vicinity if we could do so easily. Imagine a child is drowning in the infamous shallow pond and that I could easily save her with little cost to myself. Assume that saving her is in no way a matter of perfect duty: I did not promise anyone that I would look after this child, and there are no Bad Samaritan laws that make it illegal not to help humans in peril.² Intuitively, it seems clear in this situation that we are morally *required* to save the child. However, the Categorical Imperative merely prohibits certain types of actions and prescribes that we adopt certain ends. Saving the child falls under the end of others’ happiness or is a case of beneficence,³ an imperfect duty to others. Beneficence is a very general duty type that encompasses many different potential instantiations or tokens, but whilst furthering beneficence is a duty, none of the individual instantiations are obligatory. That is to say, although beneficence in general is a duty, it need not be our duty to be beneficent in this or that specific way, or in this or that particular context. In addition, there are

² For instance, according to German law, it would be a violation of the law for a bystander to refuse to help the child (see §323c StGB). This presumably means that bystanders could be lawfully coerced to help and be punished for not helping.

³ Kant phrases the duty of beneficence variously as the duty to further others’ well-being/happiness (GMS, AA 04: 423.17-35, MS, AA 06: 453.1-33), to make others’ ends one’s own (GMS, AA 04: 430.18-27, MS, AA 06: 393.12-394.12), to help those in need or distress (GMS, AA 04: 398.8-399.2, 423.17-35, MS, AA 06: 393.16-23, 453.1-33) and to not look with complete indifference on the need of others (KpV, AA 05: 69.20-35). I will use the term “beneficence” as the most general term for the imperfect duty to others that I am concerned with. In sec.2, I will discuss the object and content of beneficence in more detail.

other very general obligatory ends to be promoted. At least when it comes to imperfect duties the Categorical Imperative leaves duty tokens, such as the duty we have in the situation described, underdetermined.⁴ As such, it does not say that we must save the child.

Whilst Utilitarians might overemphasize the significance of emergency and easy rescue, Kant might be afflicted with the reverse problem and fail to accord emergency the normative status it intuitively does have. If something as intuitively salient as emergency played no or only a very limited role for Kant's ethics, we should wonder whether Kant successfully captures the common cognition of duty in his philosophy, as he himself prominently stresses that he does (GMS, AA 04: 393.2-5). In response to this worry, Jens Timmermann (2013, 53) has claimed that "one may want to make some allowance for particularly pressing wide duties to others, e.g., first aid, or perhaps introduce a principle of moral efficiency". Marcia Baron (2016, 351) holds that it is a "friendly amendment" to Kant's account of imperfect duties to others to single out and give priority to others' *pressing* needs. However, it is fair to ask whether these amendments really are *friendly* or rather constitute substantial changes to Kant's theory that import a material notion of the good alien to Kant's moral framework—in which case such amendments would be *ad hoc* ways of fixing Kant.

There is also a less friendly version of the worry as to whether Kant can handle easy rescue cases. Brad Hooker (2000, 161) criticises the notion of imperfect duties to others sharply:

Suppose I am faced with two strangers who each need help, but one of whom has greater needs and can be helped a lot more than the other. According to the imperfect duties view, I can simply choose which to help. But that answer seems wrong. Other things being equal, I should help the needier one. The imperfect duties view leaves too much room here for arbitrary choice. Or suppose I saved someone's life this morning and now

⁴ See Timmermann (2013, 44-50) for a recent scholarly discussion of Kant's conception of the terms "duty" and "obligation", which roughly track our duty type/token distinction. These distinctions matter greatly for a supposed clash between perfect duties, or for what is commonly referred to as a moral dilemma, the existence of which Kant denies (MS, AA 06: 224.9-26). It should be noted that in what follows, I will deal with matters of correct judgement and that Kant would not think that any of the problems I discuss have the form of moral dilemmas.

I can save someone else's life at no cost to myself. Is it really morally optional whether I go on to save the second person? Surely not!⁵

The first case Hooker presents – in which I arbitrarily save the less needy person – is of particular interest for us, as it brings up the problem that even an agent who is committed to her obligatory ends and prioritizes them over her inclinations and personal ends might (arbitrarily) act in a way that profoundly disagrees with our ordinary conception of morality.

There is, indeed, relatively little discussion in the Kant literature of the intramoral weighing of emergency against other requirements of beneficence, as well as between beneficence and self-perfection.⁶ However, these issues raise genuine problems for Kant. Imagine an agent who is strongly committed to morality, though of course still tempted by his inclinations (MS, AA 06: 379.23-5), and who has two alternatives to saving the drowning child: In the first alternative, instead of saving the child, the agent takes out her violin and plays the child a funeral dirge in order to practice her violin skills. This version of the agent, when faced with the drowning child, correctly identifies the situation as one that allows or calls for exercising an imperfect duty and does not hesitate to seize the opportunity, but she exercises an imperfect duty to *self* (developing her talents) when we think that what she should clearly do is exercise an imperfect duty to *others* (save the child). In the second alternative, the agent ignores the child's distress so as not to be late to meet a friend who needs help moving a piano into his third-floor apartment. Let us assume that the agent did not promise the friend help, i.e., this is not a case of perfect vs. imperfect duty, but rather a case of prioritizing one way of helping over another, albeit in such a way that we think the agent did something wrong. Neither version of the agent prefers self-interest to morality (assume

⁵ This is directed specifically against Hill's (2002, 155) influential latitudinarian interpretation, according to which imperfect duties allow "freedom to choose to do x or not on a given occasion, as one pleases, [...] provided that one is ready to perform acts of that sort on some other occasions".

⁶ Recent papers that specifically deal with the role of emergency in Kant focus on tensions between emergency and perfect duties (Pinheiro Walla 2015, Stohr 2011, 47-9) and between emergency and personal happiness (Hill 1992, ch.8, Stohr 2011). See also Cumiskey (1996, 118-9) and Stohr (2011, 45-6), who both express concern that imperfect duties leave too much room for latitude, but their exemplary cases reveal that they have in mind agents who fail to do something good for self-interested reasons. They do not discuss that even an agent who is strongly committed to Kantian morality might make the wrong call and act on what we would consider the wrong duty or prioritize incorrectly within one duty, and that Kant's notion of latitude seems to condone this.

the first agent does not enjoy playing the violin and the second would rather stay home and watch Netflix than lift a piano). Yet, it seems that the agents' prioritisations reveal deficiencies in what they think morality requires of them. This raises the question of whether Kant's ethics has the resources to say that we *have* to save the child (and not do anything else instead) and to help us understand *why* this is.⁷

Let me make four quick remarks before I address these questions.

Firstly, for any discussion of what imperfect duties to others⁸ can require of us it is central that this type of duty allows for "leeway" or "latitude" [Spielraum (*latitudo*)] (MS, AA 06: 390.6-7). "Latitude" means that it is up to the agent "in what way one is to act and how much one is to do by the action for an end that is also duty" [wie und wie viel durch die Handlung zu dem Zweck, der zugleich Pflicht ist] (MS, AA 06: 390.8-9). It is a controversial topic in the literature whether latitude really can extend to the question of *to what extent* obligatory ends are to be furthered (as the above quote might indicate).⁹ At least in his last work on moral philosophy, the *Metaphysics of Morals*, Kant emphasizes that latitude "is not to be taken as permission to make exceptions to the maxim of actions but only as permission to limit one maxim of duty by another (e.g., love of one's neighbor in general by love of one's parents)" [nicht eine Erlaubniß zu Ausnahmen von der Maxime der Handlungen, sondern nur die der Einschränkung einer Pflichtmaxime durch die andere (z. B. die allgemeine Nächstenliebe durch die Elternliebe)] (MS, AA 06: 390.11-2, see also Vigil, AA 27: 537.3-28). Fortunately, I can sidestep this fraught debate here, since I will discuss the problem that even if agents prioritize duty over self-love they might still make judgement calls that we would find

⁷ Pinheiro Walla (2015) has recently argued, correctly I believe, that in cases in which we could without much effort and sacrifice help another person in great need, not helping is incompatible with having adopted the obligatory end of others' happiness. In these cases, "latitude shrinks away" (*ibid.*, 734). But this still leaves open the question *why* not helping a person in great need is incompatible with the obligatory end of promoting others' happiness whereas declining to help a friend move her piano would be compatible.

⁸ Kant introduces a provisional distinction between perfect and imperfect duties in the *Groundwork* (GMS, AA 04: 421.fn.), and a definite one in his *Metaphysics of Morals* (MS, AA 06: 390). He distinguishes between perfect and imperfect duties (GMS, AA 04: 421.fn), juridical and ethical duties (MS, AA 06: 218.11-221.3, 239.4-12) and duties of strict and wide obligation (MS, AA 06: 390.1-91.25). I shall ignore these differences. See Hill (1992, sec.2) for discussion.

⁹ Timmermann (2018), for instance, denies this. For him latitude only extends to the choice of the right means for moral ends. At the other pole is Hill's (1992, ch.8) latitudinarian reading. See Baron (1995, ch.3) and van Ackeren and Sticker (2018) for middle-ground positions.

deeply objectionable. Thus, I can remain neutral about whether (occasionally) choosing satisfaction of inclinations over imperfect duty is covered by latitude.

Secondly, I accept the standard Kantian view that perfect duties may not be violated even for the sake of obligatory ends. Easy rescue cases of the kind I am interested in are usually stipulated such that we can save someone without violating a perfect duty. Furthermore, the cases I stipulated are neither cases of agents *causing* the child harm if they fail to save them, nor cases in which an agent *benefits* from the child's predicament. Moreover, in the shallow pond case, not helping the child does not constitute a treatment of the child as a mere means, since the child is not a means to any of the agent's ends.¹⁰ We are thus concerned with imperfect duty alone when assessing these cases.

Thirdly, a similarity between beneficence in Kant and forms of Utilitarianism is that both avoid appeal to *rights*. For Kant, strictly speaking, all our duties are owed to our rational self (see MS, AA 06: 388.24-5, 417.5-418.23). This means that “no one else has a right to require of me that I sacrifice my ends if these are not immoral” [niemand anders ein Recht hat von mir Aufopferung meiner nicht unmoralischen Zwecke zu fordern] (MS, AA 06: 388.24-5) and that others cannot complain (blame me, demand reparation, etc.) if I refuse to help them. For both Kant and many Consequentialists shallow pond cases cannot be answered with appeal to rights that someone supposedly has to my help.

Fourthly, Kant himself discusses a case of someone “who tries with extreme danger to his life to rescue people from a shipwreck, finally losing his own life in the attempt” [mit der größten Gefahr des Lebens Leute aus dem Schiffbruche zu retten sucht, wenn er zuletzt dabei selbst sein Leben einbüßt] (KpV, AA 05: 158.12-3). Kant warns that whilst this action deserves “esteem” [Hochschätzung], this esteem is considerably weakened since one might consider the action an infringement of a duty to self (KpV, AA 05: 158.15-8).¹¹ Kant believes that beneficent actions that would

¹⁰ Contrast the case where I do not help the child because I further an obligatory end in a different way instead with a case where I do not help because I record the child's fight for his life on my mobile phone to sell the video to a news outlet. The latter, but not the former, would be a case of treating the child as a mere means, and it is important that we maintain this distinction. I am grateful to Melissa Seymour Fahmy for pushing me on this point and for discussion of where to situate easy rescue cases within Kant's framework of duties.

¹¹ In other passages, it becomes apparent that we have a duty not to commit suicide, but not a duty to preserve our life at all costs. See for instance the famous gallows case (KpV, AA 05: 30). Here it is clear

endanger an agent's own life might not be morally required, even in cases of emergency, and could even be immoral. I shall therefore focus on cases of *easy* rescue, since these cases do not pose a significant risk to the agent.

Furthermore, Kant is careful to stress that beneficence cannot require that we sacrifice everything that makes our lives worth living. How far we should go in the sacrifice of our own welfare “depends, in large part, on what each person's true needs are in view of his sensibilities” [Es kommt sehr darauf an, was für jeden nach seiner Empfindungsart wahres Bedürfnis sein werde] (MS, AA 06: 393.27-9 see also MS, AA 06: 432.10-2).¹² Moreover, Kant argues that the universalization procedure that makes “benevolence a duty will include myself, as an object of benevolence” [so wird das Pflichtgesetz des Wohlwollens mich als Object desselben im Gebot der praktischen Vernunft mit begreifen] (MS, AA 06:451.6-10). This “permits you to be benevolent to yourself on the condition of your being benevolent to every other as well; for it is only in this way that your maxim (beneficence) qualifies for a giving of universal law” [erlaubt es dir dir selbst wohlzuvollen, unter der Bedingung, daß du auch jedem Anderen wohl willst: weil so allein deine Maxime (des Wohlthuns) sich zu einer allgemeinen Gesetzgebung qualificirt, als worauf alles Pflichtgesetz gegründet ist] (MS, AA 06: 451.16-9). Kant also acknowledges that “in benevolence I am closest to myself” [ich bin im Wohlwollen mir selbst der Nächste.] (MS, AA 06: 451.27-33).¹³

that Kant thinks that I am required to tell the truth, even though this would lead to my execution. The crucial difference might be that in the shipwreck case the agent risks her life in fulfilment of an imperfect duty, whereas in the gallows case a perfect duty is at stake, and there is thus no leeway for the agent.

¹² Kant's brief remarks about true needs would require a separate discussion, as they are often cited as evidence that Kant's ethics does not demand that agents make great personal sacrifices for others. See for instance Herman (1984), who specifically seeks to establish a duty to aid those in distress based on the notion of true needs that we all supposedly share. Recently Sticker, van Ackeren (2018, sec.4) have argued on textual and philosophical grounds that it is mistaken to expect that true needs can inform and moderate our duty of beneficence. My endeavor in this paper is to show that we do not need to take the detour via true needs, since concern for distress is already part of Kant's argument for beneficence. It should also be noted that Gregor's translation of MS, AA 06: 393 makes true needs potentially look more objective than Kant intends them to be, because of the phrase “in view of his sensibilities”, which seems to refer to the spectator or philosopher. It is clear in the German that Kant has in mind the sensibilities [Empfindungsart] of each individual agent. Each person's respective sensibilities determine what matters in their eyes, from their perspective. I am grateful to an anonymous *Kant-Studien* referee for alerting me to this potentially misleading implication of Gregor's translation.

¹³ In this passage (and elsewhere) Kant sometimes speaks of “Wohlthun” (beneficence) and sometimes of “Wohlwollen” (benevolence). A full understanding of the prerogatives that Kant here grants to agents would require a careful discussion of the relation between these two terms, as well as how they relate to “Menschenliebe” (MS, AA 06: 451.21) and to “thätiges, praktisches Wohlwollen, sich das Wohl und Heil

These caveats matter greatly for any discussion of how much agents are to donate to charities and how they are to react to emergencies for people far away. They could potentially block the Utilitarian argument from our intuitions about easy rescue cases to very stringent duties to the globally poor. Yet, as far as easy rescue cases themselves are concerned, I take it that Kant would not think that agents can refrain from helping people in distress in their vicinity by pointing out that benevolence encompasses their own ends, or by pleading closeness to themselves, and in none of these cases do helpers risk their lives or non-satisfaction of their true needs.

II

The problem cases I brought up in the previous section are problems of the application of types of duty to concrete cases, i.e., problems of judgement. According to Kant, there cannot be rules that completely determine matters of judgement, since if judgement was rule-governed a further rule would be required for the subsumption of these rules under the rule of judgement, and a further rule for the subsumption of those further rules under rules of the subsumption of rules, etc. (see KrV A/B: 132-3/171-2, KpV, AA 05: 169, TP, AA 08: 275). That judgement is not determined by rules, however, does not mean that it has to be arbitrary.¹⁴ When Kant explains human beings' rational faculties and their proper workings in the *Anthropology*, he says that it is the function of the power of judgement to discern "what is at stake" [Worauf kommts an] (Anth, AA 07: 227.23). Some factors matter for judgment, and how we are to apply obligatory ends to specific situations is sensitive to the factors or stakes at play.

Unfortunately, Kant does not present us with a comprehensive list of what these factors are. We can assume that perfect duty is one factor, as perfect duties constitute absolute prohibitions and thus rule out certain courses of action in every situation. Thus, agents always have to pay attention not to violate these prohibitions.¹⁵ I will now argue that another factor that matters for moral judgements about concrete cases is *emergency*

des Anderen zum Zweck zu machen" (MS, AA 06: 452.4-5). See Rinne (2018) for a recent detailed discussion.

¹⁴ See Sticker and van Ackeren (2018) for exegetical arguments that judgement in Kant is not arbitrary. A prominent Kantian proposal of what it takes to correctly apply moral principles can be found in Herman's (1993, 73-94) rules of moral salience.

¹⁵ Of course, many situations agents are faced with are such that false promises, suicide, etc., do not even constitute relevant options.

or *distress*¹⁶, because the threat of distress for myself is central to establishing imperfect duties towards others in the first place. Avoiding distress and being saved when in distress are concerns that are constitutive of beneficence in the sense that if we, finite rational agents, did not have these concerns, Kant could not establish that we have a duty of beneficence. It is unsurprising that constitutive concerns, such as distress, play important roles in Kant's groundings of specific duties. After all, the formal universalization procedure is not supposed to establish or generate duties from nothing, as advocates of the empty formalism objection would have us believe. Rather, universalization is supposed to evaluate maxims with distinct content. Agents already bring content to the universalization procedure, and some of this content, or some concerns incorporated into agents' maxims, will make it the case that agents cannot will certain other maxims as universal.

My argument rests on the assumption that constitutive concerns, i.e., those concerns without which an obligatory end would not be obligatory for agents like us, must also matter for the application of this end to specific cases.¹⁷ That this is the case becomes apparent in the Second *Critique* (KpV, AA 05: 69.20-70.9). Kant here grounds our duty to help others by arguing that we would not assent to an order of things in which everyone "looked with complete indifference on the distress of others" [anderer Noth mit völliger Gleichgültigkeit ansähe] (KpV, AA 05: 69.20-35). Kant here announces that he will discuss the "rule of judgement under laws of pure practical reason" [Die Regel der Urtheilskraft unter Gesetzen der reinen praktischen Vernunft], i.e., matters of *application* of duty. In what follows in this passage, however, we actually get very brief *groundings* of the duties not to lie and cheat, not to kill yourself, and not to ignore distress. It seems that Kant is interested here in both showing what duties we have and bridging the gap to the application of these duties. Kant assumes that there is

¹⁶ I should note that I do not claim that emergency and distress have the same role in judgement as absolute prohibitions do. A violation of an absolute prohibition can never be outweighed by the good (for self or others) it could bring about. Helping others in emergency and distress is not an absolute constraint. It is one factor among others, and it can, in principle, be outweighed. I will say more about balancing distress against other factors in sec.3.

¹⁷ This is often assumed without further defence. Herman (1984, 578) for instance simply asserts that "it is reasonable to expect that the casuistry of beneficence (how the principle of duty is to be applied in particular cases) will be informed by those considerations used to establish that there is such a duty".

continuity between the grounding of duties and their application when it comes to the question of what the salient factors for grounding and for application are.¹⁸

Interestingly, Kant here does not indicate that beneficence is less stringent and due to a different kind of contradiction than the other duties he mentions. Indeed, he even says that all of the duties in this passage are due to certain maxims being “morally impossible” [sittlich unmöglich] if conceived of as a law of nature. Kant here treats beneficence as very stringent, presumably because its content is so narrow and only requires that we are not completely indifferent to others’ plight. This strongly suggests that in its application beneficence can be very stringent (almost on the level of perfect duties) if a minimum is required or if the case is clearly one in which a lot is at stake for others (it is a case of emergency or distress; see below), and thus even an agent who only minimally cares about others would feel compelled to act.¹⁹ As we will see shortly, beneficence is not restricted to these cases, but other occasions to exercise beneficence are less salient in the balancing of different obligatory ends against each other and in the prioritization of different factors within beneficence. We should bear in mind, though, that even in cases of distress and emergency there is still one important difference between beneficence and perfect duties: Agents in distress still have no right that I help them, unless I promised my help or this help is part of a contractual or role obligation.²⁰

Before I look in detail at the passages in which Kant grounds²¹ beneficence in order to explain in what sense distress functions as a constitutive concern, let me make a

¹⁸ Schumski (2017) presents KpV, AA 05: 69 as exegetical evidence for her claim that the Categorical Imperative itself can bridge the gap between abstract principles and concrete actions. Of course, this passage only shows that Kant thinks that the Categorical Imperative has the *potential* to bridge the gap. How it actually does this in the case of duties of beneficence is the subject of the present paper.

¹⁹ Stohr (2011, sec.4) argues that the command to not be indifferent to others is, in stringency, akin to perfect duties. I take up the idea that some courses of action that show disregard for imperfect duties are vicious and wrong (not merely lacking in virtue) in sec.3.

²⁰ Another important difference, as I pointed out in sec.1, is that beneficence and other imperfect duties are limited by perfect duties. This is a Kantian thesis that many philosophers have questioned, and I cannot discuss it here. See Pinheiro Walla (2015) for a discussion of this problem specifically with regard to tensions between emergencies and property rights.

²¹ “Ground” is intended as a catch-all for the relation between duty types and formulae of the Categorical Imperative. I leave open whether Kant aims to *derive* duty types from the Categorical Imperative in order to justify that we have these duties or merely aims to *illustrate* abstract formulae by indicating how they could yield various duties.

philological remark. In contemporary German, “Not(h)” is equivalent to “emergency” or “distress”. Emergencies are situations of existential and immediate need, and the non-satisfaction of this need would constitute serious peril. Distress is a serious but not necessarily immediate need. Gregor (1996, 572) usually translates “Not” as “need”. Need, however, does not have to be serious, existential or immediate, since I can have a need for relatively trivial things. In Kant, however, “Not(h)” often clearly does mean “emergency”, for instance in Kant’s discussion of “Nothrecht” (Right of Necessity – see MS, AA 06: 235.12-236.16, TP, AA 08: 300fn.), which is a “supposed *right* to do *wrong* when in extreme (physical) Noth” [ein vermeintes *Recht*, in der höchsten (physischen) Noth *unrecht* zu thun] (TP, AA 08: 300.8-9). Kant here discusses how legal institutions, in particular punishment, are affected when an offender breaks the law in a situation of immediate danger to his life. Furthermore, “Not” is more serious than mere need. Kant often uses “Noth” in the sense of “necessity” [Notwendigkeit],²² with which it is etymologically connected (see *Adelung* 1811, 523-4). “Noth” is “not a small thing” [“keine Kleinigkeit”] (Log, AA 09: 490.16-8). Not any kind of unsatisfied need puts an agent in a situation of Noth. Only *serious or existential* need does, but this need does not have to be an *immediate* need such as acute danger to one’s life.²³ The best translation for “Noth” is, I think, “distress”, and emergency should be understood as a specific kind of distress, namely, immediate distress.²⁴

The first passage in Kant’s published critical writings in which distress is accorded a prominent status for beneficence is already to be found in *Groundwork I*

²² See Anth, AA 07: 217.30-1, ÜGTP, AA 08: 165.8, ÜE, AA 08: 190.9, 231.6, Refl, AA 19: 554.14-7.

²³ In a pre-critical lecture, Kant distinguishes explicitly between “Nothdurft”, needs [“Bedürfnisse”] and matters of comfort [“Annehmlichkeit”] (Collins, AA 27: 441.24-7). “Nothdurft” here refers to particularly serious needs. The 18th-century dictionary *Grimm* (vol.13, col.905-6) confirms that “Noth” is a serious need that puts one in a position to require others’ help. *Grimm* specifically stresses that Noth originally meant a need that is pressing and that it is often used together with danger and the threat of violence.

²⁴ Gregor (1996, 264) also sometimes uses this translation. Moran (2017, 318), by contrast, argues that “Noth” is “something like a state of serious need, but not necessarily dire emergency. Translating the term as ‘need’ is thus appropriate, though we should certainly not assume that this need is simply a strong inclination for any object of desire”. The difference between me and Moran seems to be largely verbal. Moran maintains that Noth is a serious need, I maintain that it is a form of distress that is not always an emergency in the sense of a situation in which someone requires immediate help. In fact, at least in some English expressions, such as “A friend in need is a friend indeed”, or when making appeals to children in need, the term “need” is used to indicate something like distress or even emergency. In that sense “need” encompasses “distress” and “emergency”, but the term still has the drawback that it also covers less serious cases. Most recently, Sticker and van Ackeren (2018) have opted for “distress” as a translation of “Noth”. I am grateful to Jens Timmermann, Kate Moran, Oliver Sensen, Marcel van Ackeren, Mario Brandhorst and an anonymous *Kant-Studien* referee for discussion of the best translation of “Not”.

(GMS, AA 04: 398.8-399.2). Kant here spells out beneficence as the duty to help others in *distress* [“fremde Noth”] and those who suffer from distress [“Nothleidenden”]. “Noth” here clearly refers to a particularly pressing need or to a state of danger. Lack of sympathy [“tödtlichen Unempfindlichkeit”] is exemplified by an agent who is unaffected by others who suffer from distress. Distress goes beyond the fact that finite agents have needs they cannot satisfy on their own. However, distress here does not yet appear as a constitutive concern, since the function of *Groundwork* I is to showcase “common moral rational cognition” [gemeinen sittlichen Vernunftkenntniß] (GMS, AA 04: 393.3). Kant here only describes what beneficence, according to the common conception of duty, requires. He does not yet intend to philosophically ground beneficence.²⁵

In *Groundwork* II (GMS, AA 04: 423.17-35), Kant presents a philosophical grounding of the commonly accepted duty to help others. He here appeals once more to distress. However, he specifies that the imperfect duty of beneficence is concerned with others’ *well-being or assistance in distress* [“Wohlbefinden oder seinem Beistande in der Noth”]. An agent cannot will as a law of nature a maxim of not furthering others’ well-being/happiness *as well as* not helping those in distress. Beneficence is of a broader scope than is assumed by the common cognition of duty presented in *Groundwork* I, as it also encompasses mundane cases in which we would wish for others’ help [“wo er anderer Liebe und Theilnehmung Bedarf”]. Still, Kant deems it necessary to especially flag the role of distress.

That others’ distress is not merely the most obvious object of beneficence but also a constitutive concern becomes apparent in the *Doctrine of Virtue* §30 (MS, AA 06: 453.1-33). Kant here argues that we have to adopt others’ happiness as an end not simply because finite rational agents sometimes need the help of others to accomplish their personal goals. He emphasizes that helping “the happiness of others in distress” [“Menschen in Nöthen zu ihrer Glückseligkeit”] is our duty, since we ourselves, when in “distress”, also want others to help us. If the maxim of never assisting those in distress were a universal principle, then I would not receive help when I want it the most. I therefore cannot will as universal a maxim of not-helping. Being saved by others specifically when in distress is here the concern that is responsible for why I cannot

²⁵ See Sticker (2017) for some necessary qualifications to this commonly accepted view.

will universal non-beneficence. This leaves open that I could will not to receive help with relatively trivial issues and that I could will as universal a maxim of not helping agents with mundane issues (see below).

An important additional aspect the *Doctrine of Virtue* brings to the fore is that, according to the Formula of Humanity, we seem to get a somewhat different duty of beneficence than according to the Universal Law Formula. According to the former, the duty of beneficence requires that we make *other agents' ends our own* (MS, AA 06: 393.12-394.12, see also GMS, AA 04: 430.18-27). The focus of the *Doctrine of Virtue* is not on well-being and distress, but on others' plans or projects.²⁶ The reason for this is that the *Doctrine of Virtue* is concerned with (obligatory) ends (as opposed to the *Doctrine of Right's* focus on external actions). Hence, Kant phrases his explanation of the duty to help others in terms of ends.²⁷ However, even here Kant argues that we have to make others' ends our own because it is an essential part of our self-love that we wish that they make our ends their own and help us when in distress (“in Nothfällen geholfen”) (MS, AA 06: 393.16-23). Agents, as Kant thinks of them, are fully aware that there are some situations that stand out insofar as they constitute perils for all or almost all of their ends. After all, distress constitutes a threat not only to an agent's bare life but also to her happiness and pursuit of her ends. Helping a person in distress is thus at the same time an expression of concern for that person's happiness and ends. Thus, even when Kant grounds beneficence in its broadest sense, as a duty to make others' ends one's own, distress matters greatly and merits separate consideration.

Kant believes that concern about the possibility that I myself might be in distress is one of the major factors – in fact, it is the factor that Kant appeals to most consistently – that makes it irrational for me to will a principle of non-beneficence as universal. His emphasis on distress is not just a heuristic device to make the non-universalizability of non-beneficence particularly apparent. It is central to the plausibility of his argument. After all, it is perfectly conceivable that I could will that no one help me with my non-existential or non-serious needs and that I, in turn, help no one with their (relatively) trivial needs. An agent might worry that if she had to help others with all kinds of ends, she might be required to help them so much that she would not be able to pursue her

²⁶ It is of course only others' *permissible* ends that I am to make my own (MS, AA 06: 388.7).

²⁷ There is of course overlap between one's well-being and one's ends. Most if not all agents have the end of keeping themselves out of mortal danger, and their own well-being is one of their ends.

own ends effectively. She therefore restricts her help to when it really matters and, likewise, only expects help from others when it really matters to her. This is possible, and as a result Kant, in his groundings of beneficence, does not appeal simply to needs that agents might want others' help with. Rather, he assumes that it is irrational for me to will a universal maxim of indifference towards others when it comes to threats to things of existential importance. This assumption is central for his arguments for a duty of beneficence, since, as a matter of fact, I have a deep and inalienable concern for my own survival and for avoiding serious harm.²⁸

Furthermore, making distress the central concern of his argument for beneficence allows Kant to latch on to material from the common cognition of duty for his universalization procedure. The fact that in Kant's *Groundwork* I outline of the common cognition of duty (GMS, AA 04: 398.8-399.2) only the alleviation of distress, as opposed to helping others in all kinds of more mundane ways, appears to be a matter of beneficence, suggests that Kant acknowledges that alleviating distress is the most common moral concern agents have concerning their treatment of others (apart from not lying/making false promises). Focusing on this concern affords the most intuitive and most widely acceptable route to establishing a duty of beneficence. The common philosophically untutored agent, Kant believes, does not need to be convinced that distress creates a morally salient context for action but is already aware of this, and this awareness needs to be grounded in a philosophically reflected supreme principle of morality. What the philosopher needs to do is to make a case that beneficence can also pertain to concerns other than distress.

III

If agents have adopted the end of others' happiness, the constitutive concerns that make it unwillable for them not to adopt this end will provide strong reasons to save people in distress. According to Kant's conception, there is something paradoxical in our actions if we prioritize someone's mere happiness over someone else's distress. If we

²⁸ This, of course, raises the question of whether I really cannot will that I do not receive help in emergencies. Of course, an agent can *claim* that she does not want others' help even if her life is at stake, but Kant would presumably suspect such an agent of being disingenuous or deceiving herself. Furthermore, even an agent who is genuinely not interested in her own survival might still have other ends that are very important to her and that she wants others' help with. Finally, an agent who has no ends at all would hardly count as an agent, and the Categorical Imperative might not apply to her.

make beneficence our end (as we should), then our actions should reflect the reasons for which this end is a duty. False prioritization in the application of an end can call into question whether we are really committed to the end, since we fail to understand why this end has a moral status and why we have to adopt it. Agents who misapply obligatory ends because they do not understand what makes these ends special rather seem to be committed to other ends than beneficence, such as pleasing their friends. However, adopting an obligatory end is a duty, and it would be wrong for agents to make it their “principle not to comply with such duties” [es dem Subject Grundsatz wäre, sich jenen Pflichten nicht zu fügen], as this constitutes “*culpability*” [*Verschuldung*] or “*vice*” [*Laster*] (MS, AA 06: 390.21-2), not merely lack of virtue.

Unfortunately, Kant does not elaborate on what it means to make it one’s principle not to comply with an imperfect duty, and it is partly upon the Kantian ethicist to fill in this gap.²⁹ Certainly, if I make it my principle never to help anyone then this would be vice. However, this would only be a very minimal constraint on my actions. The passage in the Second *Critique* discussed in the previous section (KpV, AA 05: 69) suggests that it also counts as a principled transgression if one does not accord others’ distress a prominent place in one’s judgement. After all, in KpV, AA 05: 69, Kant presents a particularly stringent version of beneficence that he discusses alongside perfect duties, and he specifies that this duty morally prohibits us from looking “with complete indifference on the *distress* of others” [anderer Noth mit völliger Gleichgültigkeit ansähe] (KpV, AA 05: 69.28, my emphasis). He specifically spells out the most stringent version of beneficence that we find in his works as concerned with distress. Ignoring others’ distress in one’s judgements reveals that an agent has adopted principles (such as to look with complete indifference on the distress of others) that are incompatible with the obligatory end she is to adopt, and that she fails to comply with the duty on principled grounds.

How does this help us to address the problem cases I set out in section 1? If I let the child drown but still help my friend move the piano, then we should analyse this as me having adopted principles that lead me to fail to comply with beneficence. After all,

²⁹ The literature does acknowledge that Kant’s idea that it would be wrong (not merely lacking in virtue) to make it one’s principle not to comply with imperfect duties imposes an important constraint on our actions. See for instance Pinheiro Walla (2015, 734), who argues that “[c]ertain circumstances [...] put the sincerity of one’s commitment to the moral end *under proof*”. However, a detailed account of what this constraint exactly is, i.e., what courses of actions and what principles are ruled out, is lacking.

the central concern that is responsible for why I cannot will universal non-beneficence is absent from how I morally assess cases I encounter. I seem to only care about avoiding distress for myself and extracting myself from distress, but I do not have a concern for other people in the same situation as me. I thus exhibit vice, not merely a lack of virtue, and I thus can be criticised strongly – or, since Kant emphasizes self-assessment over assessing others, I should criticise myself strongly. If I nonetheless still help my friends, then the most likely explanation would be that I do it because I like my friends or because of other impure motives. Furthermore, helping them might be part of a self-deceptive ploy to make myself believe that I am in fact complying with beneficence – after all, I do something for others.

If I play the violin instead of saving the child, I show that I am indifferent to the morally salient aspect of distress that is to guide my applications of beneficence. Not helping someone in existential need is the wrong choice unless this existential need is outweighed by another concern constitutive of another (or the same) imperfect duty. However, equivalents for emergencies or distress with regard to developing one's talents are rare. Agents usually do not completely lose their talents if they neglect to exercise them on any specific occasion. If a beneficent action would undermine future opportunities to develop my talents at all or at least come with the risk of doing so, for instance because I would have to risk or even sacrifice my life, then such a course of action would be incompatible with commitment to the obligatory end of self-perfection. However, it is rare for an act of beneficence to lead to death or disability, and part of the way shallow pond cases are stipulated is that helping is easy and relatively non-costly. In most cases in which I can either rescue victims of emergency or perfect myself, the weighing is between the opportunity to further one's own talents and an irrecoverable loss (such as someone's life). We can promote our talents as effectively at other times and by other means than playing the drowning child a funeral dirge, but we cannot save *this* drowning child at another point in time if we fail to save her now. Intuitively, distress (of the child) here is clearly the more salient concern, and Kant can accommodate this intuition because he accords distress great (though not absolute) weight in moral judgement.

One might here raise the objection that if we encounter a drowning child (or anyone) in distress, there is a sense in which Kant's framework of imperfect duties still might license us to opt for self-perfection: namely, if there are other effective ways to

help children in distress that we have pursued in the past and will pursue in the future. After all, there are not just numerous ways to promote self-perfection, but also numerous ways to promote beneficence, and we are not required to pursue all of these. So, how can Kant show that his framework of imperfect duties does not license us to ignore an emergency in our vicinity, if we have helped in the past and are committed to helping in the future? Kant's answer here would presumably be that if our concern is that we be saved if we are drowning in the pond (or in similar danger) and we would not accept the fact that someone who could help us has saved people in the past (or will help in the future) as an excuse, then we cannot will as universal a maxim that limits beneficence in cases of easy rescue. This at least is the reply suggested by KpV, AA 05: 69, where Kant indicates that universalization can help us even on the level of judgement.

That distress is an important factor in our moral judgement according to Kant raises difficult questions regarding how much we must do for the poor and destitute far away – people whom we could each save at very little cost to ourselves. For this issue it is important that self-perfection can constrain beneficence, presumably at least if we were required to rescue repeatedly, at substantial aggregate expense of time and resources, and if this would undermine the development of our talents. There would then be a conflict here between beneficence and self-perfection in which a constitutive concern akin to distress might be at stake. Concerns that make self-perfection obligatory in the first place are described by Kant as becoming “a useful human being in all sorts of respects” [einem in allerley Absicht brauchbaren Menschen] (GMS, AA 04: 423.1-2) or developing capacities “for all sorts of possible purposes” [zu allerley möglichen Absichten dienlich] (GMS, AA 04: 423.13-6) that one might have as a rational end-setter (see also GMS, AA 04: 430.13-5, MS, AA 06: 391.30-1, 392.1-19). An agent who fears that her capacities to pursue the full spectrum of ends will diminish if she does not get time off from charity work to practice her skills might rationally and morally decide to take a break from beneficence. Distress is certainly not the only factor that matters for balancing obligatory ends against each other. Developing talents is, after all, a duty. Agents morally cannot make it their principle not to comply with self-perfection (for instance, by always prioritizing the needs of others over their own).

If we occasionally encounter a person in acute peril and we could easily help, we must do so, and Kant can provide a story for why this is the case. The question we must

ask when applying duties to specific situations is: What is at stake in the situation? For this question, distress is an important factor, and often it will be the most important factor – but it is not the only important factor. Aiding those in distress is part of a larger ethical framework. This framework grounds beneficence in universality and rational nature, and it can also limit beneficence, since it also grounds perfect duties that may not be violated even for the sake of helping the most needy, as well as obligatory ends other than beneficence, and obligations under the end of beneficence other than rescuing agents in acute distress. Kant’s conception of imperfect duties to others, when understood correctly, offers a way to understand why emergency is morally very important, but also why other factors matter and have a rightful place in our moral reasoning.

Admittedly, my discussion leaves many questions open. Most importantly, I remained neutral as to whether latitude also extends to the question of how much we should further obligatory ends. Whether agents must do all they can (within the constraints of perfect duty) and whenever possible to promote obligatory ends is a question for a different paper. Furthermore, I have not discussed the important question of whether the same considerations that speak in favour of saving the drowning child also pertain to charitable donations to the starving and the sick far away.

Kant’s ethics might be very demanding if we have to be very concerned about others’ distress (as I argued we have to) and if we have to do as much as we can to promote obligatory ends, even if the people we are helping are far away. What I have shown in this paper is that the converse problem, that Kant’s ethics would allow us to develop our talents but almost never help others, or to help our friends but ignore clear cases of strangers’ distress in front of us, does not afflict Kant. Kant has the resources to help us understand why certain cases of beneficence matter much more than others (and more than occasions to promote other obligatory ends). There might still be much room for judgement in his framework of imperfect duties, and much indeterminacy that might prove troubling, but at least the indeterminacy is not so great as to sanction playing a funeral dirge for the child whom we could easily pull out of the pond.

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