

# Expressive Duties Are Demandable and Enforceable

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## 1. Introduction

Common-sense morality holds that we can be required to say or do certain things that express particular attitudes. Many of these duties (“expressive duties”) seem to be directed, rather than undirected.<sup>1</sup> This is true of, for instance, duties to express gratitude to your benefactors, duties to express remorse to your victims, and duties to express forgiveness to repentant wrongdoers.<sup>2</sup> In each of these examples, there is a particular person—the benefactor, victim or wrongdoer—whom you wrong by violating the duty. Since most theorists believe that you wrong a person only if you violate a directed duty owed to them, this is evidence that these duties are directed.<sup>3</sup>

According to the standard analysis of rights and directed duties, rights are the correlates of directed duties: you have a right that someone  $\varphi$  if and only if that person is under a duty, owed to you, to  $\varphi$ .<sup>4</sup> But several philosophers argue that directed expressive duties do not correlate with rights, because the duties correlative to rights are demandable and enforceable, and expressive duties cannot or may not be demanded and enforced.<sup>5</sup> For example, if you fail to express gratitude

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<sup>1</sup> It is possible that there are no undirected expressive duties: all expressive duties are directed duties. Whether this is so does not matter for this paper, since the paper focuses just on directed expressive duties.

<sup>2</sup> Some might deny the existence of one or more of these duties. It is sufficient for my purposes that readers accept at least one, or else substitute the ones I picked for ones they do accept (for example, a duty to express love to one's children).

<sup>3</sup> Cornell (2015) is a notable exception.

<sup>4</sup> See, e.g., Darwall (2013), Hohfeld (1919), Kramer (2000), and Thomson (1990:41-43). Some, such as Martin (2021), dissent. Wallace (2019) denies that *rights* are the correlates of directed duties. He holds that directed duties correlate with claims, and only some claims have the status of rights.

<sup>5</sup> For brevity, I drop the qualification about directedness.

In the rights and directed duties literature, see, e.g., Cruft (2013:209,215), Wallace (2019: 201-202), and Wenar (2013:214). In the gratitude literature, see, e.g., Berger (1975:300) and Horgan and Timmons (2022:149-150). In the forgiveness literature, see, e.g., Allais (2013:643). For the view that rights entail demandability, see, e.g., Darwall (2013),

to your benefactor, it might seem impermissible for your benefactor to say, "I helped you—now show me gratitude!". And even if your benefactor were allowed to say that, their saying it might nonetheless be ineffective.<sup>6</sup>

Some philosophers appeal to the alleged undemandability and unenforceability of expressive duties to argue that they are not genuine duties after all. For example, Christopher H. Wellman (1999:289) claims that, because acts of gratitude seem undemandable and unenforceable, we should conceive of them as manifestations of virtue rather than fulfilments of duty. Others accept that expressive duties are genuine duties, but rely on their alleged undemandability and unenforceability for other purposes. Rowan Cruft (2013:209), R. Jay Wallace (2019:201-202) and Leif Wenar (2013:214) rely on it to argue that, *pace* the standard analysis, not all directed duties correlate with rights.

In this paper, I argue that, sometimes, expressive duties can be effectively and permissibly demanded or enforced. I already indicated a theoretical presumption in favour of this idea: directed duties are normally demandable and enforceable, and expressive duties behave like directed duties in other respects. I therefore proceed by considering and rejecting possible counterarguments—arguments for why expressive duties are nevertheless undemandable and unenforceable—and by giving examples in which these duties seem effectively and permissibly demanded or enforced.

If I am right that, sometimes, expressive duties can be effectively and permissibly demanded or enforced, this removes an important source of scepticism about their status as genuine duties, and disqualifies a central piece of evidence for the claim that not all directed duties correlate with rights.<sup>7</sup> It also puts pressure on the idea that expressive duties do not correlate with rights. While one can deny that a duty's being demandable and enforceable entails the *existence* of a right

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Feinberg (1970), and Skorupski (2010:310-313). For the view that rights entail enforceability, see, e.g., Cruft (2013:201-202), James (2003), and Wenar (2013).

<sup>6</sup> Manela (2015) holds that duties of gratitude are undemandable and unenforceable, but argues that they nevertheless correlate with a right. However, this is an imperfect right to remonstrate with the duty-bearer once the duty has been violated, rather than a right to the duty's fulfilment.

<sup>7</sup> I am not committed to these two views. My point is just that we should not dismiss them on the grounds that expressive duties are undemandable or unenforceable, because they are not.

even if one holds that its being undemandable and unenforceable entails the *absence* of a right, its being demandable and enforceable does create a strong presumption of a corresponding right.

The paper is structured as follows. In section 2, I describe what is normally involved in demanding or enforcing a duty, and distinguish three senses in which a duty can be (un)demandable and (un)enforceable: conceptual, constitutive, and normative. In section 3, I discuss and respond to four arguments for the view that expressive duties are undemandable and unenforceable. In the course of this, I also introduce some examples in which expressive duties seem effectively and permissibly demanded or enforced. In section 4, I anticipate and respond to some objections to my interpretation of the examples from section 3. Section 5 concludes.

## 2. Demanding and Enforcing

There are difficult questions about what exactly is involved in demanding and enforcing a duty-bearer's compliance with their duty, and the conceptual and normative connections between demanding and enforcing.<sup>8</sup> I return to some of these complexities in section 4. For now, it suffices to work with the following rough definitions of the two activities.

I understand demanding a duty as the activity of pressuring (or attempting to pressure) someone to comply with their duty by means of peremptory interpersonal address, where that address carries an implicit (or, sometimes, explicit) threat of a blaming response should the duty-bearer refuse. A demand can be issued more or less forcefully, depending on phrasing, tone and body language. The more forceful the demand, the more salient the threat of being blamed for non-compliance, and the less space the duty-bearer has to refuse. While demands often take the form of imperatives, I argue below that this need not always be the case. We can demand that others fulfil their duty without issuing an imperative.

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<sup>8</sup> For helpful discussion of these issues, see Skorupski (2010:310-311).

Demanding compliance with a duty does not mean generating a new duty for the person being addressed.<sup>9</sup> It aims to make the person do something that they are already under a duty to do. Still, demanding a duty is *prima facie* impermissible. Because the address is peremptory, it presumptively disrespects the person being addressed. To permissibly issue a demand, one needs (at least) good evidence that the duty-bearer will probably not satisfy their duty, and the standing to demand.<sup>10</sup>

Enforcing a duty is also a way of pressuring (or attempting to pressure) a person to satisfy their duty, but here the pressure consists in the use of compulsion, such as physical force, deception, or coercion.<sup>11</sup> Just as a duty can be more or less forcefully demanded, it can be more or less forcefully enforced, depending on the degree of compulsion employed. The more forceful the enforcement, the more costly or difficult the option of non-compliance, and the less space the duty-bearer has to refuse.

Like demanding, enforcing is *prima facie* impermissible. Because it involves the use of physical force, deception, or coercion, it presumptively violates the rights of the person subjected to it.<sup>12</sup> To permissibly enforce compliance with a duty, one needs (at least) good evidence that the duty-bearer will probably not satisfy their duty, and the standing to enforce.

There are at least three senses of (un)demandability and (un)enforceability, and distinguishing these will help us understand the counterarguments of the next section. First, in the conceptual sense, to say that a duty is demandable and enforceable is to say that it is possible to successfully

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<sup>9</sup> This is compatible with the view that demands generate new duties when what is being demanded is not the fulfilment of a pre-existing duty. It is also compatible with the view that demanding the fulfilment of a pre-existing duty changes the quality of its non-fulfilment, or even generates additional reason for fulfilment, by virtue of imposing the duty second-personally on its bearer. See Darwall (2013) and Kukla and Lance (2009) for such views.

<sup>10</sup> On the standing to demand, see Gilbert (2018:ch.4).

<sup>11</sup> One might think that the threat of blame involved in demanding is coercive and that demanding is therefore a type of enforcement. This might be true. But for clarity's sake, I reserve the term 'coercion' for threats of more serious harm or interference. Moreover, even if demanding is a type of enforcement, it is not *merely* a type of enforcement. The two activities have different strategies at their cores. Enforcement aims at compliance by interfering with the duty-bearer's option set: it makes (or attempts to make) the option of non-compliance costlier or more difficult to pursue. Demands aim at compliance by interfering with the duty-bearer's deliberation about their options: it steers (or attempts to steer) deliberation towards the right option.

<sup>12</sup> Barry and McTernan (2021); Flanigan (2019).

demand or enforce compliance with that duty. There are ways of peremptorily addressing, or of physically forcing, deceiving, or coercing, the duty-bearer that could in principle lead to the duty's being fulfilled. To say that expressive duties are *undemandable* and *unenforceable* in this conceptual sense is to say that there are no such ways. Successfully demanding and enforcing compliance with these duties is not possible.

The second sense of demandability and enforceability is constitutive. In this sense, to say that a duty is demandable and enforceable is to say that compliance can be demanded or enforced without its being self-defeating. There are ways of peremptorily addressing, or of physically forcing, deceiving, or coercing, the duty-bearer that would not undermine the purpose or grounds of the duty. To say that expressive duties are *undemandable* and *unenforceable* in this constitutive sense is to say that there are no such ways. Demanding and enforcing compliance with these duties is self-defeating.<sup>13</sup>

The third sense of demandability and enforceability is normative. In this sense, to say that a duty is demandable and enforceable is to say that it is *pro tanto* permissible to demand or enforce compliance with it. There are ways of peremptorily addressing, or of physically forcing, deceiving, or coercing, the duty-bearer that would be permissible as a means to the duty's being fulfilled. To say that expressive duties are *undemandable* and *unenforceable* in this normative sense is to say that there are no such ways. Demanding and enforcing compliance with these duties is *pro tanto* wrong. (I add '*pro tanto*' to allow for special circumstances in which it is all-things-considered permissible to demand or enforce compliance with otherwise undemandable and unenforceable duties, and *vice versa*.)

It is important to also distinguish between the (un)demandability and (un)enforceability of duty *types* and the (un)demandability and (un)enforceability of duty *tokens*. If a duty type is

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<sup>13</sup> If demands or enforcement are self-defeating, then they are in a way unsuccessful. But this way differs from that at issue under conceptual undemandability and unenforceability. In the conceptual case, demands and enforcement have *no effect*. In the present case, they have an effect—undermining the duty's purpose or grounds—but this is not the intended effect.

undemandable or unenforceable, then there is something in its nature or structure that makes it always impossible, self-defeating, or *pro tanto* wrong to demand or enforce its tokens. There are no tokens that it would not be impossible, self-defeating, or *pro tanto* wrong to demand or enforce. By contrast, if a duty type is demandable or enforceable, then there is nothing in its nature or structure that makes it always impossible, self-defeating, or *pro tanto* wrong to demand or enforce its tokens. This does not mean that every token is therefore demandable and enforceable. A token might be undemandable or unenforceable due to the specific conditions under which it obtains, rather than the nature or structure of the type of duty it is. For example, duties not to harm are demandable and enforceable as a type, but a token of this duty might be undemandable or unenforceable if, for instance, there are no means of demanding or enforcing available on this particular occasion.

I take it that those who claim that expressive duties are undemandable and unenforceable do not merely mean that this type of duty has some undemandable and unenforceable tokens. If that were all they meant, there would be no categorical difference between expressive duties and other duties with respect to their demandability and enforceability. There would be at most a difference in the number of demandable and enforceable tokens, and only for context-specific reasons. Wellman (1999:299; italics mine) makes it very explicit that he indeed considers duties of gratitude to be unenforceable *as a type*, for he says that “regardless of how substantial a debt of gratitude is [...] we would *never* interfere because [...] we believe that gratitude is not the *type* of moral consideration that warrants external enforcement”. The claim I am going to examine, then, is that expressive duties are undemandable and unenforceable as a type: there is something in their nature or structure that makes it always impossible, self-defeating, or *pro tanto* wrong to demand or enforce their tokens.

A note before I begin with this examination. Some readers might have wondered why this paper treats demandability and enforceability together, rather than separately. Are these not

different things, in need of separate analysis?<sup>14</sup> My reason should by now be clear. While demanding and enforcing are indeed distinct—one involving peremptory interpersonal address, the other physical force, deception, or coercion—they are also importantly similar. They are each ways of pressuring (or attempting to pressure) a duty-bearer to comply with their duty by means of *prima facie* impermissible conduct. It is because of this similarity that philosophers tend to deny both the demandability and the enforceability of expressive duties, rather than one but not the other. And, as will become clear in the next section, even when these philosophers focus on one instead of the other, the arguments on which they base their scepticism nevertheless apply to both.

### 3. Demanding and Enforcing Expressive Duties

Those who claim that expressive duties are undemandable and unenforceable do not say very much in support of this claim. Still, it is possible to construct four arguments on the basis of their (rather scarce) remarks. I call these the Control Argument, the Value Argument, the Grounds Argument, and the Latitude Argument. The Control Argument holds that it is impossible to successfully demand or enforce compliance with expressive duties (*conceptual undemandability/unenforceability*); the Value Argument and Grounds Argument that demanding or enforcing these duties is self-defeating (*constitutive undemandability/unenforceability*); and the Latitude Argument that demanding or enforcing them is *pro tanto* wrong (*normative undemandability/unenforceability*). In this section, I argue that each argument fails to show that expressive duties are undemandable and unenforceable as a type. In the course of this, I also introduce examples in which token expressive duties seem effectively and permissibly demanded or enforced.

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<sup>14</sup> Thanks to an anonymous referee for prompting me to address this worry.

### 3.1. The Control Argument

According to the Control Argument, it is not possible to successfully demand or enforce expressive duties because these duties can be discharged only if their bearers have (or lack) a particular emotion (for instance, feel gratitude or remorse, or lack resentment), and others cannot make them have (or lack) this emotion.<sup>15</sup> Others cannot make them have (or lack) this emotion because duty-bearers are unable to command its presence (or absence) in themselves at will, even in response to others' demands or compulsion.<sup>16</sup> They might come to desire having (or lacking) a particular emotion as a result of demands or compulsion, but this would not guarantee that it ensues. And if it does not ensue, nothing more can be done about this. A duty-bearer could of course still *say* "Thank you", "I'm sorry", or "I forgive you", but this would not discharge their duty. Only a sincere expression would do that.

It is no doubt true that, in many cases, duty-bearers cannot make themselves have (or lack) a particular emotion merely by willing it. But it seems that they can sometimes achieve this through other means. Following S. Matthew Liao (2015:ch.4) and Douglas W. Portmore (2019), we might say that, sometimes, duty-bearers can produce a particular emotion by reflecting on their reasons for having it. For example, by reflecting on the fact that you wronged someone and that this gives you reason to feel remorse, you might make it more likely that you feel remorse. Another strategy is to add triggers for particular emotions to your social or physical environment. If a personal encounter with your victim will trigger your remorse, then you can make yourself feel remorse by ensuring that you have the encounter. Notice that these two methods—reflecting on reasons and manipulating the environment—might be available to third parties as well. A third party could

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<sup>15</sup> This seems suggested by Allais (2013:643), who claims that “no attitudes and beliefs can be compelled by a third party” (see also Wellman 1999:293). Notice that Allais here mentions beliefs, whereas I discuss only emotion. This is because, excepting Allais, philosophers of expressive duties seem less sceptical about doxastic control than emotion control. Moreover, my objections against the *emotional* Control Argument would apply equally to a *doxastic* Control Argument: we sometimes can produce particular beliefs in ourselves, expressive duties do not always disappear when we lack those beliefs, and the argument does not apply to cases in which someone has the beliefs but does not express them.

<sup>16</sup> The general idea that individuals cannot command particular emotions in themselves at will is accepted by, among many others, Adams (1985) and Owens (2012:ch.3). If true, this might seem to also support a more general scepticism about the *feasibility* of expressive duties. I do not address this larger issue here.



force you to reflect on your reasons for feeling remorse by presenting those reasons and making sure that you listen. And they could add a remorse-trigger to your environment by making sure that you encounter your victim.

I am also not sure that only sincere expressions can discharge expressive duties. It seems that insincere expressions can too, at least when it is not possible to produce the required emotional state.<sup>17</sup> Suppose someone gives you a thoughtful gift. You do not feel grateful for it. You cannot change this. But you can act, convincingly, *as if* you feel grateful. Arguably, you can be required to act in this way, and if you do, no further expressions of gratitude would seem required of you. Moreover, even expressions that are known to be insincere might sometimes fulfil expressive duties. This might be the case when someone who is known to lack remorse nevertheless apologises to their victim.<sup>18</sup> If these observations are correct, they suggest that expressive duties are only partially grounded in agent-considerations. They seem further grounded in patient-considerations—for instance, the value of conferring certain forms of recognition on benefactors and victims. I return to this below.

What I have suggested so far—that duty-bearers may have more control over their emotions than the argument assumes and that even insincere expressions might sometimes discharge expressive duties—is controversial. My third and final response is less controversial: even if the argument succeeds, it still does not rule out demands and enforcement in cases in which the duty-bearer has the required emotion but fails to express it. By stipulation, if an expression were demanded or compelled from such a person, it would not be insincere. In the sections to follow, I focus mostly on cases of this kind, to avoid relying on the more contentious views.

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<sup>17</sup> This assumes, controversially, that one need not actually experience an emotion in order to express it in one's conduct. I cannot defend this assumption here, but others have defended it elsewhere (e.g. Anderson and Pildes 2000).

<sup>18</sup> In the context of court-ordered apologies, some have similarly argued that insincere apologies can discharge duties. See, e.g., Bennett (2006).

Of course, insincere apologies often do not discharge duties. Moreover, even when they do, victims might still refuse to accept the apologies on grounds of their insincerity. These observations raise important questions about the exact role of sincerity in apologising and the relation between discharging duties to apologise and apologies' being accepted. However, since these questions do not directly bear on the argument of this subsection, I set them to the side.

### 3.2. The Value Argument

The Value Argument claims that the fulfilment of expressive duties cannot be demanded or enforced without undermining the value of the duties' being fulfilled. Claudia Card (1988:117-118) suggests this when she says that gratitude expressions are meaningless when they are forced.<sup>19</sup> Griswold (2007:68) similarly argues that expressions of forgiveness "cannot be meaningfully compelled [...] for the sincerity and wholeheartedness with which they are adopted by the agent are essential to their moral value". In the context of court-ordered apologies, Margreet Luth-Morgan (2017:135-136) maintains that even when a convicted offender is remorseful, "a forced expression of apology [...] seems to devalue the sincere expression [of remorse]".

The thought in common seems to be that the fulfilment of a duty to express gratitude, forgiveness, or remorse has value only if the duty-bearer's motivation to fulfil it comes from within. When fulfilment is the result of external demands or enforcement, the duty-bearer's motivation does not come from within. So, the fulfilment lacks value.

The problem is that demanding or enforcing expressive duties is sometimes compatible with the duty-bearer's motivation coming from within. A duty-bearer can fail to fulfil their duty for various reasons. When they fail because they do not find the duty important, think it not really owed, or dislike the person to whom they owe it, the fact that fulfilment is demanded or enforced probably means that their motivation does not come from within. But when they fail because they feel ashamed, afraid or anxious, or because they are under significant pressure right now, or because they are distracted by other things, a demand or compulsion might force them to act on motivation that they do have within.

To see this more clearly, consider two examples:

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<sup>19</sup> I suspect Cruft (2013:215) also has this in mind when he says that demanding gratitude expressions is "intrinsically counterproductive".

*Apology (Demand):* Amy spreads a nasty rumour about her co-worker Asef, whom she dislikes. When the boss hears the rumour, Asef is fired from his job. Amy feels terrible about what she did and truly regrets it. She knows she ought to apologise to Asef, but is ashamed of her behaviour and terrified of being confronted by Asef, who is likely very angry with her. She keeps postponing the confrontation, and with it the apology. Several weeks later, Amy runs into Asef unexpectedly at a party. Asef tells Amy, "Well, this might be the time to finally apologise!". In response, Amy tells Asef how sorry she is and that she would do anything to make it up to him.

*Apology (Push):* As *Apology (Demand)*, but this time Asef has not yet noticed Amy. Amy has noticed Asef. Instinctively, Amy attempts to leave before Asef sees her. Amy's friend Avia blocks Amy's way and tells her to go into the room and apologise to Asef. Seeing that Amy is not responsive to her words, Avia pushes Amy back into the room, knowing this will force Amy to face Asef and apologise to him. Avia also knows that if she does not do this, Amy will never apologise to Asef.

In both examples, Amy apologises to Asef because of a demand or compulsion. Yet it seems that Amy's apology has value. Plausibly, this is because Amy does not lack internal motivation for apologising to Asef. It is not that she thinks Asef does not deserve an apology, or that it is not important to apologise to him. She wants to apologise, but fails to act on this motivation due to strong feelings of shame, anxiety, and fear. Asef's demand and Avia's compulsions force Amy to act on this internal motivation, when otherwise she would not have.

We can think of similar cases for the other two examples of expressive duties. It is easy to see how emotions such as fear and shame could prevent victims from fulfilling their duties to

express forgiveness to wrongdoers. It is admittedly harder to see how such emotions could be behind a beneficiary's failure to express gratitude.<sup>20</sup> But in these cases, there might be other causes of non-fulfilment that are likewise compatible with the duty-bearers being internally motivated to fulfil their duties. Suppose the beneficiary in question is under a lot of pressure at the moment. Although they intend to buy a thank-you gift, they feel that they do not have the time (when in fact they do) or that they should prioritise other things (when in fact they should not). In such a case, demands and enforcement could likewise force the duty-bearer to act on their internal motivation, when otherwise they would not.

A worry might remain. Even if Amy is internally motivated to apologise to Asef, that is not ultimately *why* she apologises. She apologises because of Asef's demand and Avia's compulsion. And those are not the right reasons for apologising. Hence, Amy's apology lacks value.

I agree that Amy's apologising is probably more valuable when it results from her internal motivation than when it results from demands or enforcement. But I do not agree that it has *no* value when it results from demands or enforcement. That would mean that the value of the duty's fulfilment derives entirely from Amy's apologising out of internal motivation, or at least that any further values that it might otherwise have realised are obviated when she does not. Yet, I indicated earlier that expressive duties seem partially grounded in patient-centred values, such as the value of conferring recognition on victims. It is difficult to see why the realisation of those values would be entirely forestalled by the fact that a duty-bearer who is internally motivated to fulfil their duty ultimately does not fulfil it because of that.

Other duties that derive their value from both agent- and patient-centred considerations seem to work similarly. Suppose you promise your mother that you will call her on Sunday. Calling will make your mother happy, and you really want to keep your promise. However, you worry that you might forget. You ask your spouse to remind you when time comes. On Sunday, you fulfil

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<sup>20</sup> Still, there might be such cases. Manela (2016) points out that a grateful response can include negative feelings, such as grief or regret over the sacrifice that the benefactor suffered for our sake. Such feelings can make us avoid our benefactor in much the same way that Amy's shame and fear make her avoid Asef.

your promise because of your spouse's reminder. This might make fulfilling the promise less valuable than it would have been had you done it out of internal motivation. But insofar as you were internally motivated to fulfil it and calling makes your mother very happy, fulfilling it seems valuable. Likewise, I argue, Amy's apologising to Asef might be less valuable when she does it because of Asef's demand or Avia's compulsion than when she does it out of internal motivation. But insofar as she is internally motivated to apologise and apologising is important for Asef's sake, apologising seems valuable.

So while it might be correct that, sometimes, expressive duties' fulfilment fails to realise value when they are demanded or enforced, this is not always the case. Sometimes, demanding or enforcing an expressive duty is compatible with the duty-bearer's motivation coming from within and the duty's fulfilment realising value. Fulfilment might be less valuable in such a case than it would have been in the absence of demands or enforcement, but it can be valuable nevertheless.

### 3.3. The Grounds Argument

The Grounds Argument holds that the person to whom an expressive duty is owed cannot demand or enforce compliance with the duty without undercutting its grounds. For in demanding or enforcing, they reveal that they do not in fact possess the quality of will that partially grounds the duty. For example, if a grateful act is called for in response to the benefactor's benevolence, and a benefactor's demanding the act reveals that they were less benevolent than it first seemed, then the beneficiary's duty to perform the act disappears with the demand. Such a view is suggested by Berger (1975:300), who says that "a demand [for an expression of gratitude] shows the help or gift to be something less than a show of benevolence; it appears to be something done in order to gain favour, and to the extent we feel this to be the case, the duty to show gratitude is diminished".<sup>21</sup>

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<sup>21</sup> Camenisch (1981:29) suggests something similar.

A similar point can be made about forgiveness. It is plausible that a victim ought to express forgiveness to a wrongdoer only if the wrongdoer is no longer malevolent towards them. But a wrongdoer's demanding the expression might seem to reveal that they are still malevolent because, as Griswold (2007:68) puts it, "[the wrongdoer] would once again manifest a distinct lack of respect for the victim, attempting to bend the victim to her will once again". Hence, the victim's duty disappears with the demand.

Berger and Griswold suggest the Grounds Argument with respect only to demands. But if the argument succeeds, it would rule out enforcement as well. For if a benefactor's demanding grateful behaviour reveals that their will is less good than it first seemed, then so does their use of physical force, deception, or coercion. And if a wrongdoer's demanding forgiving behaviour reveals that their will has not improved as it first seemed, then so does their use of physical force, deception, or coercion.

The Grounds Argument does not seem to apply to duties to apologise. A victim's quality of will towards the wrongdoer is not a part of the grounds of the wrongdoer's duty to apologise. The duty to apologise arises in virtue of the wrongdoer's doing something to the victim, rather than the victim's doing something to the wrongdoer. Whether a wrongdoer ought to apologise to their victim, then, does not depend on how the victim might feel about the wrongdoer.<sup>22</sup> In evaluating the Grounds Argument, I thus focus on duties to express gratitude or forgiveness.

It seems true that, sometimes, a benefactor's demand for a grateful act or a wrongdoer's demand for an expression of forgiveness reveals something objectionable about their quality of will, and that this then undercuts part of the grounds of the duty to express gratitude or

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<sup>22</sup> This does not mean that the victim's being malevolent towards the wrongdoer cannot influence the *severity* of the wrongdoing, or the wrongdoer's *culpability*. I am merely suggesting that *if* one person has wronged another without (full) excuse, *then* they can be required to apologise to their victim even if the victim has a bad will towards them.

forgiveness.<sup>23</sup> But a benefactor's or wrongdoer's demand does not always reveal this.<sup>24</sup> Consider the following example:

*Party:* Bob hosts many loud parties, despite his neighbour's complaints. The neighbour, Björn, resents Bob for this. Bob later realises that he wronged Björn by hosting the parties. Feeling truly remorseful, Bob apologises to Björn and does all he can to make things right. Some months later, Björn has still not forgiven Bob; he still shuns him. One day, Bob runs into Björn. He says, "I am truly sorry for my past behaviour, and I did all I could to make it up to you. At some point you just have to forgive me and treat me normally again!"

I set aside for now whether Bob's demanding forgiveness is permissible. What matters is that it does not seem to reveal that Bob is still malevolent towards Björn. Bob is truly sorry for having been inconsiderate, and he has done everything he could to set things right. Perhaps Bob's demand expresses irritation towards Björn for being unforgiving, but such irritation does not constitute a shortfall in regard relative to what morality requires. Hence, it does not count as malevolence.<sup>25</sup>

The example and reply also work for enforcement. Suppose Bob is hosting an important social event. Most neighbours are coming and Bob knows that Björn, who has been feeling isolated lately, really wants an invitation. Bob sends Björn the following message: "If you'll treat me normally again and move past what happened, then you're invited; if you can't or won't, then you're not welcome". With this message, Bob coerces Björn to act in a way that communicates

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<sup>23</sup> This might be the case, for instance, when the demand is delivered in a very aggressive or manipulative way or, in the case of gratitude, in a way that reveals that the benefactor benefitted the beneficiary only with the intention of claiming a return benefit.

<sup>24</sup> For a similar observation, see McConnell (1993:25).

<sup>25</sup> Given spatial constraints, I cannot fully develop a similar example and argument for duties to express gratitude. But here is, in rough outlines, what such an example and argument might look like: Bill willingly saves his neighbour from a fire, at great cost to himself and out of concern for the neighbour. The neighbour never thanks Bill, even though there have been many opportunities for this. If Bill would at some point say to the neighbour, "You know, a 'thank you' would've been nice!", this would not change the fact that Bill acted out of benevolence in saving his neighbour from the fire and, hence, would not undercut the grounds of the neighbour's duty to express gratitude to Bill.

forgiveness. Again, Bob's coercion might express irritation with Björn for being unforgiving, but this is not malevolence.

In addition, suppose the Grounds Argument succeeds. It still would not succeed for *third-party* demands and enforcement. Imagine that it is Björn's spouse who demands that Björn rehabilitate Bob in *Party*. Even if one believes the spouse's demand reveals something objectionable about *their* quality of will, that does not change whether the grounds of Björn's duty towards Bob are satisfied, since the spouse's quality of will is not a ground of those duties.

### 3.4. The Latitude Argument

According to the Latitude Argument, it is impermissible to demand or enforce expressive duties because their bearers enjoy substantial latitude in determining how and when to discharge them. In the context of gratitude expressions, it is widely noted that there is no one act in particular that a beneficiary must perform to fulfil their duty.<sup>26</sup> But other expressive duties seem to admit of latitude as well, at least to some extent. Victims are usually free to decide whether to communicate forgiveness by saying "I forgive you", or by simply picking up the type and frequency of interaction from before the wrongdoing. And although waiting too long to rehabilitate the wrongdoer might be wrong, there is ordinarily no one particular time or occasion at which rehabilitation must occur. Something similar seems true of duties to apologise. Wrongdoers are typically granted some degree of freedom and creativity in choosing how and when to offer their apology.

If there is no one particular act that duty-bearers ought to perform in order to discharge their expressive duties, then it may seem impermissible to demand that a duty-bearer perform some particular act that discharges their duty, or to compel them to perform such an act. After all, they did not have a duty to perform *this* act, and it would have been permissible to pick some other act that would have discharged the duty. This is what Card (1988:122) seems to have in mind when

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<sup>26</sup> See, e.g., Camenisch (1981), Card (1988), and Wallace (2019). To capture this latitude, philosophers sometimes say that gratitude duties are *imperfect* (e.g., McConnell 1993).



she notes that the “unspecificity [of an obligation to express gratitude] [...] is sufficient to hinder enforcement of the obligation”. Wallace (2019:203) similarly suggests that duties to act gratefully do not correlate with rights because “it isn’t as if the benefactor can insist, say, that the person benefited should take her out to dinner at a nice restaurant on the day of her choosing, even if a performance of that kind would count as satisfying the beneficiary’s duty of gratitude”.<sup>27</sup>

However, even if it is impermissible to force the bearer of an expressive duty to perform a particular act, there is still something else that we can demand or compel from them: that they do *something* that discharges their duty. Suppose Chiara saved Chloe’s life. Chloe is lazy and keeps putting off thanking Chiara. Chloe’s spouse is fed up with it and says, “You must do *something* to thank Chiara! She saved your life!”. Chloe’s spouse is not demanding that Chloe perform a particular act of gratitude, so the demand cannot be impermissible on those grounds. With respect to enforcement, Chloe’s spouse could say, “If you don’t thank Chiara by the end of the week, I’ll cancel our holiday!”. In saying this, Chloe’s spouse makes the option of not thanking Chiara costlier for Chloe, but without specifying a particular way in which Chloe must thank Chiara.

A different problem for this argument is that it can be permissible to force a duty-bearer to fulfil their duty in a particular way if otherwise they will not fulfil it at all.<sup>28</sup> Imagine that only you can save Dan or Dunya from drowning (at no cost to yourself), and there is no way to enact a fair decision-making procedure, such as a coin-flip. You ought to save Dan or Dunya, and saving either would fulfil your duty. If you are unmotivated or unwilling to save either, the fact that you are not required to save Dan, because you may save Dunya instead, does not make it impermissible to force you to save Dan. But if this is true for duties to rescue that admit of latitude, then unless there is some reason to think otherwise, it should also be true for expressive duties that admit of latitude.

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<sup>27</sup> See also Camenisch (1981:15-16).

<sup>28</sup> Thanks to Helen Frowe for this reply.

Lastly, sometimes, there is one act in particular that a duty-bearer must perform to discharge their expressive duty. When this is so, it is not impermissible to force the duty-bearer to perform this act, even if the Latitude Argument succeeds. One example concerns deathbed scenarios. If you have one last chance to apologise to the person you wronged before they pass away, or to express your forgiveness or gratitude towards them, it seems you ought to take that chance. ‘Golden opportunities’ for discharging duties are another example. Recall *Apology (Demand)* and *Apology (Push)*. In those cases, Amy's finding herself in the same room with Asef provides her with a new, excellent opportunity to apologise to him, and it seems wrong of her to forego it. She was not planning to apologise in some other way or at some other occasion, and it would seem especially disrespectful of Amy to take steps to avoid apologising to Asef now that such an excellent opportunity has arisen, compared to merely failing to take steps to create such an opportunity.

The Latitude Argument is thus unsuccessful. First, we may force duty-bearers to perform one of the acts that would discharge their duty even if we may not force them to perform a particular act. Second, we may force duty-bearers to perform a particular act that discharges their duty if otherwise they will not perform any of the acts that would discharge it. Third, there are situations in which there is one act in particular that the duty-bearer must perform in order to discharge their duty.

#### 4. Objections

I have argued that the Control Argument, Value Argument, Grounds Argument, and Latitude Argument do not show that expressive duties are undemandable and unenforceable as a type. Each argument picks out some cases in which demanding or enforcing might be ineffective or impermissible, but fails to show that this is true in all cases. Moreover, even if we combine the arguments, there remain cases in which demanding or enforcing an expressive duty

- (a) is not impossible to do successfully;

- (b) does not undermine the value of the duty's being fulfilled;
- (c) does not undercut the duty's grounds;
- (d) and does not (impermissibly) pressure the duty-bearer to perform an act that they were free not to perform.

I believe that the examples from the previous section—*Apology (Demand)*, *Apology (Push)* and *Party*—satisfy (a)–(d). However, even if one agrees with this, one might still object that the examples do not involve *genuine* demands or enforcement, and that *genuine* demands or enforcement are still categorically ruled out with respect to expressive duties. In this final section, I anticipate and respond to several versions of this objection.

#### 4.1. Not Demands

In section 2, I described demanding a duty as the activity of pressuring (or attempting to pressure) someone to fulfil their duty by means of peremptory address, where that address carries an implicit (or, sometimes, explicit) threat of a blaming response should the duty-bearer refuse. According to this definition, the address in *Party* and *Apology (Demand)* counts as demanding. For instance, in saying to Amy, "Well, this might be the time to finally apologise!", Asef pressures Amy to fulfil her duty by addressing her in a peremptory way and conveys that he will respond with blame if she refuses.

One could object that the definition is too broad. More specifically, one could argue that the definition includes *urging* in addition to demanding, and that the address in my examples involves urging rather than demanding. On such a view, demands *order* the performance of a duty, by issuing an imperative, while urgings merely encourage performance, by making a suggestion or recommendation. If this is right, then my examples might not involve genuine demands. For Asef to genuinely demand an apology from Amy in *Apology (Demand)*, he would have to say something like, "Apologise, now!". But saying this might seem impermissible.

The proposed understanding of demanding is too narrow when it comes to demanding *duties*. I am interested in the type of address that is conceptually linked to the existence of a directed duty, and that would be impermissible absent the duty or good evidence that the duty-bearer will probably violate it. It is clear from other contexts that this category includes non-imperatives in addition to imperatives. Suppose you are at the pub with a friend. Your friend just bought you a drink and it is clear to you both that you should buy the next round. In the absence of good evidence that you will probably not do this, it would seem disrespectful of your friend to urge you by saying, "I just bought you a drink, so it would be nice of you to buy me one in return!". Urging you would not seem (impermissibly) disrespectful if it were clear that you had no intention of buying the next round. This difference suggests that at least some urgings fall within the relevant class of address.

The view that only imperatives can be genuine demands is too narrow also in another respect. It implies that certain paradigm examples of demanding would not in fact involve demanding. Suppose your friend promised to help you with a job application but is breaking that promise. You may demand that your friend help you. But it would ordinarily seem inappropriate to demand this with an imperative ("Help me, now!"), as opposed to a non-imperative ("But you promised you'd help me!"). If only imperatives count as genuine demands, this would mean, counterintuitively, that you are not demanding that your friend fulfil their promise by saying, "But you promised you'd help me!".

One might accept these points but insist that there remains an important difference between demanding expressive duties and demanding promise-based duties. While we know that promise-based duties may *sometimes* be demanded with imperatives, we do not know this about expressive duties. That is why we consider promise-based duties, but not expressive duties, a demandable type.

It is not clear why it would be a condition of a duty's being demandable that it is sometimes permissible to demand it with an imperative, if the permissible use of imperatives is not in general

required. But even if we grant this, it would still not rule out expressive duties. Even expressive duties can sometimes permissibly be demanded with imperatives. Consider a case in which someone has one last chance of fulfilling their expressive duty:

*Deathbed:* Five years ago, Ezra saved Elliot's company from bankruptcy, at great cost to himself. Elliot, a proud man, has not thanked Ezra. Now Ezra is dying. Elliot visits him at his deathbed. Elliot knows that if he does not thank Ezra now, there will be no further opportunities. Nevertheless, he refrains. Ezra's and Elliot's mutual friend, Esmée, observes this and says, "Elliot—what are you doing? Thank him!".

In this case, Esmée issues an imperative to demand Elliot's gratitude expression, and it seems that she issues it permissibly. Like promise-based duties, expressive duties may thus sometimes be demanded with imperatives. Even if it were true that a duty type is demandable only if it is sometimes permissible to demand it with imperatives, expressive duties meet that condition.

#### 4.2. Not Enforcement

Some readers might deny that a case like *Apology (Push)* involves genuine enforcement. A first version of this challenge mirrors the objection about demands just considered. It holds that genuine enforcement involves a serious degree of physical force, deception, or coercion. Since *Apology (Push)* involves only a low degree of physical force, it is not an example of genuine enforcement.

The view that genuine enforcement requires a serious degree of physical force, deception, or coercion is too narrow as an account of enforcing duties for the same sort of reason that the view that only imperatives can be genuine demands is too narrow as an account of demanding duties. I am interested in the use of physical force, deception and coercion that presumptively violates the rights of the people subjected to it, but can become permissible in the presence of a

directed duty and good evidence of probable non-compliance. Pushing ordinarily violates the rights of those subjected to it. Hence, the fact that it seems permissible to push Amy in *Apology (Push)*, in order to make her satisfy her duty, suggests that the conduct falls within the relevant class.

Moreover, if it were true that genuine enforcement requires a serious degree of physical force, deception, or coercion, then certain paradigm examples of enforcement would not in fact involve enforcement. Suppose you promised to meet your friend at the pub tonight. When evening comes, you much prefer to stay in. You intend to break your promise, even though your friend is already on their way to the pub. Plausibly, neither your friend nor a third party (say, your spouse) may use serious compulsion to prevent you from breaking your promise. Your spouse may not, for instance, threaten to hit you unless you fulfil it. But it seems permissible for your spouse to pressure you in other ways, such as lifting you off the couch and pushing you towards the door.<sup>29</sup> If enforcement requires a serious degree of physical force, coercion, or deception, then this means, counterintuitively, that your spouse does not enforce your duty by doing these things.

Finally, in some cases, it can be permissible to enforce expressive duties even with serious force, deception, or coercion. This might be the case, for instance, when high stakes attach to the duty's fulfilment. Consider:

*Rescue*: Farah saves Fritz from a fire, at great risk to herself. Fritz does not thank Farah. Some weeks later, Farah needs saving from a fire. Only Fritz can save her, at a risk to himself that just exceeds what we can ordinarily be required to incur to save someone. Plausibly, Fritz is nevertheless required to save Farah at this risk, as a show of gratitude. Fiona, a bystander, realises that Fritz is not going to fulfil this duty. To force him, she falsely promises him a large reward for saving Farah.

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<sup>29</sup> Of course, you might find your spouse's conscientiousness annoying—do they need to be so virtuous all the time? But this does not entail or presume a judgment that they wronged you.

It seems to me that Fiona's deception does not wrong Fritz. But surely, falsely promising someone a large reward is serious enough deception to count as enforcement even under the proposal under consideration.

Now consider a second version of the challenge that my examples do not involve genuine enforcement. In the context of court-ordered apologies, Antony Duff (2012:115) argues that offenders' duties to apologise to their victims cannot be enforced because "nothing that is simply done to the offender, or imposed on him, can constitute his apologising for his crime".<sup>30</sup> That there is typically nothing we can do to duty-bearers, or impose on them, that would constitute the required expression seems true also with respect to gratitude and forgiveness. For example, we can compel an unforgiving victim to invite the wrongdoer to their party, or to stop being mean to them. But we cannot do or impose anything that would constitute the victim's communicating forgiveness to the wrongdoer. Unless the victim themselves says or does something that constitutes such communication, their duty remains undischarged. So if it is true that a duty counts as enforceable only if people other than the duty-bearer can do things that would constitute the duty's fulfilment, expressive duties seem unenforceable.

Notice first that, sometimes, we can do things that fulfil other people's expressive duties. Imagine that your spouse ought to thank their benefactor by sending a thank-you card. You know that your spouse will forget, so you send a thank-you card in their name. If there is no way that the benefactor will find out that it was you who sent the card, it seems that your spouse's duty is thereby discharged. It is of course not your spouse who discharged it, but they are no longer under a duty to send a card, and the benefactor is no longer owed one.

Still, it is often true that we cannot do or impose anything that constitutes fulfilment of another's expressive duty. But it does not seem a necessary feature of enforcement that this be

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<sup>30</sup> Although Duff (2012) is thus sceptical about the possibility of successful enforcement, he thinks the court can successfully demand offenders' apologies.

possible. Imagine that you promised to give a speech at your friend's wedding. Shortly before you are up, you are overcome with nerves and try to escape from the venue. If enforcement requires that others do something that constitutes fulfilling the duty, your duty to fulfil your promise cannot be enforced. Others can do things that push you towards giving the speech, or that make not giving the speech costlier or more difficult for you. They could, for instance, tap their glass and announce to everyone that you will now speak. But they cannot do anything that constitutes your giving the speech. Ultimately, it is you who needs to utter the words. Unless we want to deny that the behaviours just mentioned count as enforcement, the proposed account of enforcement is not plausible.

The account also has another counterintuitive implication, namely that coercion is not a means of enforcement. Coercion aims to make a person do something (in our cases, their duty) by making the alternatives costlier or more difficult to pursue. This means that coercion itself does not constitute the discharging of the duty. The duty-bearer still needs to respond to the coercion by doing whatever it is that discharges the duty. An account of enforcement that rules out coercion as a means of enforcing surely is too narrow.

## 5. Conclusion

Expressive duties are not undemandable and unenforceable as a type: sometimes, they can be effectively and permissibly demanded and enforced. This means that there is no categorical difference between expressive duties and duties of other types with respect to demandability and enforceability. That does not rule out other differences, of course. Indeed, the four arguments from section 3 might well support a difference in the number of tokens that can be effectively and permissibly demanded or enforced. It is possible, for instance, that violations of token expressive duties are *frequently* the result of the duty-bearers' lacking internal motivation to fulfil them. If so, then it might be true that demands and enforcement frequently undermine the value of the duties' fulfilment, and that token expressive duties are frequently undemandable and unenforceable.



Still, if expressive duties are not undemandable and unenforceable as a type, this has important theoretical implications. The alleged undemandability and unenforceability of expressive duties underpins an important form of scepticism about their status as genuine duties, as well as scepticism about strict rights-directed duty correlativity. If expressive duties are not in fact undemandable and unenforceable as a type, this collapses the foundations of both scepticisms. Moreover, although expressive duties' being demandable and enforceable might not *entail* the existence of a correlative right, it does create a strong presumption in favour of its existence. Consequently, it shifts the burden of proof from those who hold that expressive duties correspond with rights to those who deny it.<sup>31</sup>

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