



DISCUSSION NOTE

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ETHICISTS GENERALLY AGREE that there are supererogatory acts, which are morally good, but not morally obligatory.¹ It is sometimes claimed that, in addition to supererogatory acts, there are suberogatory acts, which are morally bad, but not morally impermissible. According to Julia Driver (1992), the distinction between impermissible acts and suberogatory acts is legitimate and unjustly neglected by ethicists. She argues that certain cases are best explained in terms of the suberogatory.² Hallie Rose Liberto (2012) denies the suberogatory on the grounds that Driver's cases can be explained without invoking it. In order to make good on this claim, Liberto suggests an account of moral impermissibility that purportedly eliminates the need to posit suberogatory acts.

We defend the suberogatory. Our defense is twofold. First, we argue that Liberto's account of moral impermissibility is dubious. Second, we attempt to show that it is possible to construct an argument against the supererogatory that is exactly analogous to Liberto's argument against the suberogatory. The upshot is that if the suberogatory is denied for the reasons that Liberto suggests, then the supererogatory should be denied as well. Few ethicists, however, are willing to deny the supererogatory.

Before we present our defense, we would do well to discuss some of Driver's cases. One type of case involves "morally charged situations" (1992: 286-88), in which someone must choose between performing a supererogatory act or an act that is worse than morally neutral. For example, suppose that you board a train. You prefer to sit next to the window, but you know that by taking the seat next to the window you will be preventing a happy couple from sitting next to each other. If you surrender the seat to the couple, then you are performing a supererogatory act. If you take the seat, then you are acting within your rights, but it still seems that you are acting in a way that is worse than neutral. Another type of case involves "owed favors" (1992: 289). Suppose that you have a friend who has done you the favor of helping you move between apartments. Now your friend needs someone to help her move into a new apartment. Even if you are available, it seems too strong to say that you have a moral obligation to help. She helped you move in the past, but there was no requirement that you reciprocate. Still, if you refuse to help your friend move when you do not have any other

¹ This idea has roots in the Roman Catholic tradition. It is fair to say that modern discussion of the supererogatory began with Urmson (1958).

² Driver's discussion of the suberogatory is probably the most famous. She points out, however, that the idea has roots in Islamic philosophy. Chisholm (1963) also discusses suberogatory acts, though he calls them "offensive" acts. Thomson (1971: 59-62) speaks of "indecent" acts, which seem to form a similar moral category.

engagements, it seems that you are acting in a way that is somehow bad.³

As Liberto sees things, Driver errs in thinking of impermissible acts as always involving the violation of someone's rights. If you decline to save a toddler from drowning because that would require you to ruin your expensive suit, then you have acted impermissibly, but you have not violated anyone's rights. Similarly, if you tell an obese child, for no worthwhile reason, that he is fat, then you have insulted him and therefore acted impermissibly, but again you have not violated anyone's rights (2012: 397).

The distinction, then, is between impermissible acts that are *rights violations* and impermissible acts that are *mere wrongs*. Drawing inspiration from Jeremy Waldron (1981) and Alan Wertheimer (1996), Liberto fleshes out the distinction as follows:⁴ Rights violations are distinct from mere wrongs in that people have a moral reason to prevent someone from committing a rights violation, but people do *not* necessarily have a moral reason to prevent someone from committing a mere wrong (2012: 398). Indeed, people have a moral reason to *refrain* from interfering with merely wrong acts, since they do not involve the violation of someone's rights. Thus, other people have a moral reason to prevent you from physically harming a child, since physically harming a child is a violation of that child's rights. However, other people do not necessarily have a moral reason to prevent you from insulting a child. Indeed, other people have a moral reason to refrain from interfering.⁵

The crux of Liberto's argument seems to be that if we recognize the distinction between rights violations and mere wrongs, and if we properly spell out Driver's cases, then we can satisfactorily evaluate those cases without invoking the suberogatory. Specifically, we can classify the relevant

³ Driver describes several other cases, including cases in which a woman has "multiple frivolous abortions." For the sake of brevity we must set these other cases aside. But we would like to note that we hesitate to endorse Driver's discussion of "frivolous abortions." Driver seems to have in mind cases in which a healthy woman is capable of carrying a pregnancy to term but chooses to terminate simply because it would be inconvenient for her to be pregnant. Driver suggests that this is suberogatory. The idea is that, while the fetus may not have any moral status in the sense of having moral rights, the fetus still seems to have value. We hesitate to endorse Driver's classification of this case, since it is not obvious to us that the fetus, independent of the woman's attitude toward it, has the kind of value that would make it morally bad to eliminate.

⁴ It is not entirely clear from Liberto's remarks whether she is endorsing the following account or merely suggesting it as one possible way of drawing the distinction between rights violations and mere wrongs. It seems to us that she is endorsing the account, so throughout our paper we refer to it as "Liberto's account." It is, in any case, the only account that Liberto offers. Even if there are other ways of drawing the distinction between rights violations and mere wrongs, we have serious worries about the category of mere wrongs. Some of these worries will be explained in the following paragraphs. Here it need only be remarked that Liberto must offer some account of the distinction between rights violations and mere wrongs. Otherwise her argument against Driver would have very little force, or so it seems to us.

⁵ For example, Liberto says that, since you have a right to insult the obese child, other people have a moral reason to refrain from covering your mouth and muffling your words (2012: 398).

acts as either morally neutral or else morally impermissible (keeping in mind that mere wrongs count as impermissible). For example, suppose that the happy couple announces that this ride constitutes their final hours together before one of them is sent to war. Then it is clear, according to Liberto, that you would be acting impermissibly by taking the seat next to the window (2012: 400). This is presumably because you would be committing a mere wrong. Similar considerations apply to Driver's other cases.

We said above that Liberto's account of moral impermissibility is dubious. Why? One possible objection is that it is not altogether implausible that the drowning toddler has a right to your help, keeping in mind that we are talking about *moral* rights rather than *legal* rights. Similarly, it is not altogether implausible that the obese child has a right not to be told that he is fat, at least where that would constitute an insult. But Liberto might respond that it is immaterial whether we choose to say that the toddler has a *right* to your help, or that the obese child has a *right* not to be told that he is fat. The important thing is that there is not necessarily any moral reason to prevent you from insulting the obese child, or from letting the toddler drown. This is what distinguishes mere wrongs from other impermissible acts.

But this is exactly the reason that Liberto's account of impermissibility is dubious. Mere wrongs are supposed to be impermissible acts. Yet there is not necessarily any reason to prevent someone from committing a mere wrong. Thus, according to Liberto's account, doing something might be impermissible even if there is *no* reason to prevent someone from doing it. Indeed, doing something might be impermissible even if there is always a reason *not* to prevent someone from doing it. Accepting such an account would surely mean dispensing with the ordinary understanding of moral impermissibility. For it seems to us that "impermissible," as the word is ordinarily used by ethicists, is interchangeable with "forbidden" and "prohibited."⁶ But it is difficult to take seriously the claim that an act is impermissible, in the sense of being morally forbidden and prohibited, when there might not be *any* moral reason to prevent it from being performed, and when there is actually a moral reason *not* to prevent it from being performed.

Now, there are plausibly cases in which it would be wrong to interfere with an impermissible act. For example, everyone agrees that physically harming a child is impermissible. But if preventing you from physically harming a child will prompt you to do something even worse, then there are strong moral reasons to refrain from interfering. We are not suggesting, therefore, that there is never any reason to refrain from interfering with an impermissible act. What is objectionable about Liberto's account is that it allows for an impermissible act such that there is *no reason whatsoever* to prevent it from being performed, and such that there is necessarily a reason

⁶ This is clearly the way that the word is understood in contemporary discussions of the supererogatory and suberogatory. Driver herself writes, "Whereas supererogatory acts are good to do, but not required, suberogatory acts are bad to do, but not forbidden" (1992: 286). See also Feinberg (1961: 281) and Chisholm (1963: 14), among many others.

not to prevent it from being performed. A more natural account would have it that there is always a reason to interfere with an impermissible act, even if that reason might be overridden by stronger reasons.

In addition to going against the ordinary understanding of moral impermissibility, it seems that Liberto's account goes against the ordinary understanding of moral obligation. For it is a familiar fact that obligatory acts and impermissible acts are *interdefinable*. To say that an act is obligatory is to say that not performing it is impermissible, and to say that an act is impermissible is to say that not performing it is obligatory. Now, according to Liberto's account, an act might be impermissible even if there is no moral reason to *prevent* someone from performing it. It seems to follow that an act might be obligatory even if there is no moral reason to *compel* someone to perform it. Consider again the case of the drowning toddler. According to Liberto's account, letting the toddler drown is wrong, but merely wrong. It follows that helping the toddler is obligatory, since mere wrongs are impermissible acts. It also follows that there is not necessarily any reason to prevent you from letting the toddler drown. But if there is no reason to prevent you from letting the toddler drown, then there is no reason to compel you to help the toddler. In general, if there is no reason to prevent a person from doing something, then there is no reason to compel the person to do otherwise. But if there is truly no reason to compel you to help the toddler, it is difficult to take seriously the claim that helping the toddler is morally obligatory, at least where "obligatory" means "required" or "mandatory."⁷

Our argument has appealed to the ethicist's ordinary understanding of moral impermissibility. It is open to Liberto to argue that this understanding of impermissibility is dispensable. But if Liberto is willing to dispense with the ordinary understanding of moral impermissibility, then there is nothing to stop her from dispensing with the ordinary understanding of moral obligation (indeed, as we argued in the preceding paragraph, it seems that Liberto *must* dispense with the ordinary understanding of moral obligation, since the obligatory can be defined in terms of the impermissible). But if we can dispense with the ordinary understanding of moral obligation, then we can construct an argument against the supererogatory that parallels Liberto's argument against the suberogatory. The argument would proceed as follows.

Just as Liberto introduces a category of impermissible acts called "mere wrongs," we introduce a category of obligatory acts called "mere duties." A mere wrong is characterized primarily by the fact that there is not necessarily any reason to prevent someone from performing it. A mere duty is characterized primarily by the fact that there is not necessarily any reason to compel someone to perform it. We can now argue that every alleged example of the supererogatory is properly classified as either morally neutral or else morally obligatory (keeping in mind that mere duties count as obligatory).

⁷ Clark (1978) refers to morally obligatory acts as "mandatory acts."

For example, J. O. Urmson describes a case in which a soldier jumps on a grenade in order to save his comrades (1958: 202). This would seem to be a paradigmatic example of a supererogatory act. But we might instead characterize the soldier's act as the fulfillment of a mere duty: There is no moral reason to compel him to jump on the grenade (in fact, there is probably a moral reason to refrain from compelling him to jump on the grenade), but jumping on the grenade is nonetheless obligatory. More mundane examples, such as holding a door open so that someone can more easily enter a building, can be treated along similar lines. Since every alleged example of the supererogatory can be treated along these lines, we might conclude that there is no compelling reason to posit the supererogatory as a separate moral category.

It should be understood that we do not endorse this argument against the supererogatory. We believe that it does violence to the ordinary understanding of moral obligation. But the argument is instructive, because it seems to be exactly analogous to Liberto's argument against the suberogatory. To be sure, there are holes in the above argument against the supererogatory. But there are corresponding holes in Liberto's argument against the suberogatory. For example, what does it mean to have a moral reason to *compel* someone to do something? If you have a moral reason to compel a man to do something, does that mean that you have a moral reason to physically force him to do it? Does that mean that you have a moral reason to offer him a reward for doing it? Does that mean that you have a moral reason to punish him for not doing it? These questions have been left unanswered, but so have the following questions. What exactly does it mean to have a moral reason to *prevent* someone from doing something? If you have a moral reason to prevent a man from doing something, does that mean that you have a moral reason to offer him a reward for not doing it? Does that mean that you have a moral reason to distract him so that he forgets to do it? Does that mean that you have a moral reason to intimidate him so that he becomes unwilling to do it? Does that mean that you have a moral reason to render him physically incapable of doing it? What if that requires breaking his legs, or killing him?⁸

Returning to the main point, the above argument against the supererogatory seems to be analogous to Liberto's argument against the suberogatory. In the absence of an independent reason for thinking that there is an asymmetry between these two moral categories, it is fair to

⁸ As we mentioned in n. 5, Liberto suggests that insulting an obese child is a mere wrong and thus there is a moral reason to refrain from muffling your words. But is there a moral reason to refrain from distracting you, so that you forget to insult the obese child? Presumably not. Is there a moral reason to refrain from punishing you? Perhaps. But suppose that the punishment is extremely light. It is less clear, in that case, that there is a moral reason to refrain from punishing you. Analogous questions could be asked about what means could be employed to compel someone to help the drowning toddler.

conclude that they stand or fall together.⁹ If the suberogatory is denied, then the supererogatory should be denied as well. This is despite Liberto's suggestion that her argument against the suberogatory has no bearing on whether the supererogatory exists (2012: 402).

Before we conclude, we want to discuss one more thing. Liberto says at various points that ethicists should not posit moral categories as a way of bypassing hard questions in applied ethics. We agree. We also agree that if Driver's cases can be explained without positing the suberogatory, then so much for the suberogatory. The problem is that Liberto's account does not provide us with a satisfactory way of explaining Driver's cases. Thus, there are strong theoretical reasons to posit the suberogatory. That is not to say that it will always be obvious whether a particular act is suberogatory or impermissible. Sometimes it will be difficult to tell. Similarly, it is sometimes difficult to tell whether a particular act is supererogatory or obligatory. Determining the exact scope of our duties is a formidable project. As Liberto rightly emphasizes, we need to be sensitive to the details of particular cases and do serious work in applied ethics.¹⁰

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⁹ To those who suspect that there is an independent reason for insisting upon an asymmetry, we would respond, first, by emphasizing that we are concerned with Liberto's paper, which fails to provide such a reason. We would respond, second, by referring to Driver's (1992) original discussion. Driver herself considers several possible reasons for insisting upon an asymmetry. In particular, she considers the claim, which we have encountered several times in personal discussions, that supererogatory acts are *better* than obligatory acts, even though suberogatory acts are not *worse* than impermissible acts. It seems, then, that there is an asymmetry between the two moral categories. Driver, however, argues that supererogatory acts are *not* always better than obligatory acts. Her example concerns a tortured soldier who refuses to reveal the location of his comrades (1992: 290). The soldier is doing his duty, and his act is therefore obligatory, but it is more deserving of praise than many acts that are typically counted as supererogatory. We agree with Driver's conclusions, though we also think that the issue deserves further debate.

¹⁰ We are indebted to Shannon Kurtz, Amir Saemi, Dan Kauppi, an anonymous reviewer and the editors of this journal.

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