

**Knowledge, First Aid and the Moral Requirements of Rescue**

**by**

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## **Author's Declaration Page**

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

## Abstract

In cases involving the rescue of people in need of immediate medical care, it is often thought that the responsibility to save the lives of the imperilled falls to advanced professionals, such as paramedics, doctors, nurses, etc. This tells only part of the story, however, as in many cases the first point of contact for a person under duress is non-professional bystanders – average people with often little to no training in first aid or medicine. If the first point of contact is the bystander, do these bystanders have an obligation to help? Even if we assume that it is good to help people in need, the answer is not immediately obvious. Matters become more complicated when the bystander does have training that would make their intervention efficacious in helping the victim. Are they expected to help because they are trained and could presumably help more?

This thesis seeks to examine this question and argue the following two conclusions: first, in terms of rescue cases, trained bystanders, whom I call *informed rescuers*, are morally required to act because of their training; and second, given the special role of knowledge in rescue, those who do not possess training in first aid can be held morally blameworthy for failing to know how to act in rescue cases. Because of this, everyone ought to learn basic first aid.

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## **Dedication**

This project is dedicated to the University of Waterloo Campus Response Team and anyone who offers a comforting hand of help to those in need of it. They give of themselves to help ease suffering, wherever, whenever.

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## Introduction

We all generally agree that helping others is a good idea. In particular, this extends to cases where help is needed and we can easily give it. For instance, the person's car parked next to mine has a dead battery and needs a boost. I have jumper cables in my car and my car is working, so the good thing for me to do is to offer to help the person. In this case, I can easily help the person at little cost beyond the time it takes to complete the task.

However, a question arises as to how far this notion of generosity extends. For instance, if we are supposed to help others in need, how do we qualify this? We could start by examining what the need is and whether it is something we can help with. If the need is simple, say, helping to move a friend, then based on my ability, schedule and resources, I can probably help. When the need is complex, though, we will run into problems. What happens when the need is dire, that is the person is gravely injured in some way; the answer becomes less simple. What kind of help, if any, would I be expected to give, especially if I am not a doctor of medicine? What if the need is dangerous to me and I could potentially be harmed? What if there are costs associated with helping that I do not wish to exceed? In all of these considerations, we add layers of complexity that obscure the decisions and make the claim "I have a general obligation to help those in need" harder to accept.

This thesis will examine some issues that arise when considering moral obligations regarding helping others, specifically cases of rescue. What we will see, under close scrutiny, is that the appropriate acts for agents involved in rescue are not as clearly laid-out as we may think. This thesis will examine the roles of bystanders in rescue and discuss, within a general framework of rescue, the differences in moral requirements between lay-persons,

professionals, and specifically *informed* rescuers. A lay-person (lay-rescuer) will be any agent who is in a position to render aid, but has no special set of skills or knowledge<sup>1</sup> available to them to help. They act based on their best assumption of what is needed. Most cases discussed in the literature appeal to this kind of agent; the agent is in a position to help in cases that require little cost to perform. A professional rescuer is any agent who not only has specialized skills and knowledge, but also has a formal, professional duty to act in a particularized way. The professional duty stems from both their education and experiences, such as doctors, or from being employed to rescue, such as lifeguards and ski patrollers. In the former case of doctors, the obligation stems from their vocation, where in the latter from their occupation. Their skills, knowledge and duty to act are tied to some special role they play – say, an appointed position or paid employment. By contrast, the informed rescuer falls between these two extremes. The informed rescuer, such as a certified first aider, possesses special knowledge for a special purpose, but carries no professional duty to act. They are not in a special relationship to the person(s) in need of rescue, and do not owe a special duty to act.

An example will help to show the relations between the three. In three cases, three agents, Lisa, Ian and Paul, come across a child who is drowning. The mother of the child, who is in a special relationship to the child in virtue of being the legal guardian, is unable to rescue her child.<sup>2</sup> Lisa has no experience in water rescues. Ian is a certified lifeguard but is currently not employed as a lifeguard. Paul is both certified as a lifeguard and happens to be working a shift at the pool where the child is drowning. In this case, Lisa is a lay-rescuer: she has no

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<sup>1</sup> For the purposes of clarity, the term “knowledge” will be used to describe theoretical knowledge pertaining to rescue (such as understanding human physiology), practical knowledge of what is to be done and when in rescue cases, and non-propositional ‘know-how.’ “Knowledge” in rescue is often rooted in abilities or skills; however understanding is also required to be effective. These considerations will be made more explicit in chapter three.

<sup>2</sup> For this case, we will assume that if she could, she would render aid.



special knowledge on how to save the child, but could possibly make a best guess on what to do, should she be inclined to act. For instance, she could try to swim out and successfully pull the child to safety. Ian, the informed rescuer, has special knowledge on how to act, but is not required to act at the pool because of some *professional* duty; he is a trained lifeguard but he is not employed as a lifeguard. Paul, on the other hand, is the professional. He has both the skill and knowledge on how to act and has a clear duty to save the child in virtue of being employed at the pool.

On the face of it, we can say that Lisa, likely, is not morally blameworthy if she does not swim out to the child because she does not know how to safely pull the child from the water and feels it dangerous to try.<sup>3</sup> Paul, should he not act, would be both legally and morally blameworthy for the child's death. But what of Ian? If Ian was the only person to come across the drowning child, should Ian act? Would Ian be morally blameworthy for not acting? The case of the informed rescuer is not as clear as we are led to think for the other two people. Something else seems to be appealed to here why we think Ian ought to act. The question of the moral obligation of informed rescuers is the subject of this thesis.

This thesis will concern itself with the obligation for informed rescuers to act in rescue cases. I will argue that those with special knowledge in first aid are morally required to act if they are able to do so. If they do not act, they are subject to moral blame. A corollary of this is that everyone ought to learn basic first aid. Lacking this knowledge does not necessarily absolve one of moral blame if one fails to act in rescue cases.

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<sup>3</sup> We can set aside, for the moment, questions whether she would be wrong if she does not call for help while alone.

According to a poll conducted by Ipsos Reid<sup>4</sup> for the Red Cross, 78% of Canadians say knowing how to perform first aid is ‘very important’ while 20% say it is ‘somewhat important’ (Ipsos Reid, 4). Given that this attitude is pervasive, arguing in favour of everyone learning first aid will bolster this general position held by many.

Chapter one will consider the nature of aid as a type of beneficent act. Here, we distinguish rescue as a subset of aid which raises moral questions whether one’s obligations change in cases of aid versus cases of rescue. I, and many other authors, believe that these cases are appreciably different and create separate moral requirements of us. Some authors, like we will see with Peter Singer, collapse the distinction, claiming that there is no moral difference and we should treat the requirements the same. I will argue against this position in order to keep the distinction intact that rescue is special and creates its own set of unique obligations on the part of bystanders. This will give us our background to discuss the legal questions pertaining to rescue and the role knowledge plays.

Chapter two explores the legal side of rescue. Here, we see that the law treats rescue differently in various jurisdictions, some with Good Samaritan laws protecting altruistic behaviour, while others with Bad Samaritan legislation that punishes those who fail to act in some expected way. Arguments against Bad Samaritan legislation will be examined, specifically that laws such as these unjustly limit freedom, are hard to enforce and finally appeal to mistaken view of causality and harm.

Finally, in chapter three, I will turn to the role that knowledge plays in the rescue process. I will discuss why knowledge is the salient feature that separates the informed rescuer from the lay-person and why it, unlike the professional, is what requires action from

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<sup>4</sup> Ipsos Reid. July 2012. *Canadian Red Cross*. September 2012. <[www.redcross.ca/documents/Ipsos%20Factum%20First%20Aid.pdf](http://www.redcross.ca/documents/Ipsos%20Factum%20First%20Aid.pdf)>.

the informed rescuer. Absent of professional legal requirements, the knowledge possessed by the informed rescuer is the reason why they should act. Since I will be discussing knowledge, skill and ability, I will appeal to virtue theory to give an account of how informed rescuers go from knowledge to action.

With this in mind, I will then turn to the question of whether people have a moral obligation to learn first aid, and whether not possessing knowledge in first aid excuses one of moral blame. I will argue that beneficence requires us to learn basic first aid and that we are subject to moral blame if we cannot act in rescue cases. After addressing some objections, I offer proscriptions on how and why people can learn first aid with examples from recent research suggesting the benefits of acquiring the knowledge.

## Chapter One – Criteria for Rescue Cases

In contemporary philosophical debates about the limits of our obligations to aiding others, rescuing often plays an important central role. Rescues are easy examples to use in philosophical thought-experiments and arguments because they are mostly straightforward in nature: you have a limited number of people in peril and they can be helped with quick action in relatively short order by some number of people. Arguing in favour of rescuing people is easy because it's leveraged on our intuitions that helping in general is a good thing.

However, when you break away from straightforward rescue cases into more complicated aid cases, claiming that the obligations remain the same becomes less clear to accept. The connection between individual obligations to help the needy does not seem, on the face of it, to be the same. For instance, in a rescue case, the need of the victim easily maps on to the aid to be given by any one person. If I see a person in medical duress, and I am able to help, then I can intervene to help. Presumably, my efforts will help them, or at least sustain them until advanced care can arrive. Even if there are multiple victims that need help, the matter is only complicated by resource allocation management and perhaps the need for more rescuers to physically tend to the victim's injuries.

Aid cases, on the other hand, appear at face value different. The needs of those who require help seem to be of a different nature, at least in the context of how we address the need. The straightforward mapping of individual helper to individual needer does not hold as well. For example, there are many people in my town who live in poverty and cannot meet all their basic needs. If I am even slightly more affluent than they are, I am presumably able to help them on some level, but in what way? I can help in small, unsustained ways such as

volunteering, donating food, giving money, helping with housing or employment, etc. However, these are small gestures that probably will not be sustainable to meet an individual's needs. The problem is then amplified at the sheer number of people in need of help just within my city. Coordinating help for my fellow city-dwellers is enough of a challenge, let alone the massive effort needed to help those the world over. It must be stressed, though, that the issue is not whether efforts or adequate resources can be coordinated. The size and scope of the help needed does not concern this project. What is of concern is whether the *moral obligation* changes between rescue cases and general aid cases. If the obligations are the same, namely that regardless if I am giving money to help feed the faraway needy or helping to pull a child from drowning, then no individual has unique responsibilities to help; instead everyone is required to help, regardless of context. I will argue, though, that this formulation of the problem is wrong. Rescue and aid are similar, but the moral demandingness of rescue cases is, as I will argue, different from aid cases. Rescue cases create unique obligations for certain kinds of people. Those who are uniquely able to help, who are in a better position to help, have a greater requirement to help than others. I will ultimately show that knowledge and ability are the salient features that generate these unique obligations, however I will defer discussing the role of knowledge in the rescue process until chapter three.

In the meantime, we need to say more about aid cases and rescue cases. First, a little background will be given on the nature of giving aid and how rescue cases are appreciably different. We will see how different people can have different obligations placed on them even if the context of the aid case is the same. I will then give a definition of rescue and show how certain features of rescue set it apart from aid. Finally, we will discuss why we cannot collapse the distinction between aid and rescue. There is a temptation to leverage our

intuitions on rescue to create strong duties to render aid in general; duties that many find too demanding on us. Our discussion relies on the distinction being present between aid and rescue because rescue entails obligations that are not present in aid cases. This will set up our discussions of legal duties to help (chapter two) and knowledge in rescue (chapter three).

## **A General Discussion of Beneficence**

To understand the scope of *rescue*, a proper understanding of the underlying principles and ideas is needed first. At the most basic level, we have the principle of beneficence. Beneficence concerns itself with promoting the good of others – through acts like charity, kindness or generosity – and reducing harm. This formulation seems vague, but it intentionally is made broad to capture all intuitions and cases seen as promoting good in others as a starting point.

It is important to keep separate the notions of *beneficence* and *non-maleficence*. Beneficence, when reducing harm is not the same as non-maleficence – refraining from doing harm. In theoretical terms, beneficence is the positive sanctions which promote positive actions – they say what an agent, broadly speaking, ought or can do. Non-maleficence, on the other hand, gives negative actions; they say what an agent is prohibited from doing. For example, beneficent actions like “help the elderly,” “protect animals,” and “give to charity” can all be thought of actions that one ought to promote, whereas maleficent acts (“kill your neighbour,” “take candy from babies,” and the like) are often thought to be repugnant, morally wrong and are formulated as negative actions (i.e. “do not kill,” “do not steal,” etc.). The distinction between beneficence as helping, or what will be harm-reduction in rescue cases,

and non-maleficence as harm-prevention, will become more important in chapter two, when we discuss the legal status of aid.

Our primary concern, then, is which beneficent acts we are required to do and, if necessary, when. This assumes that not all beneficial acts, which aim at helping others, are the same. In fact, we can place acts along a beneficent continuum. At one end we can place strict obligations (more formally, duties) that we ought to do all the time, such as keeping our promises, not lying and giving one what is owed. At the other end, we can place acts which are praiseworthy but not (strictly) required. These acts can be obligatory for some, but for others are above and beyond their duty. At the furthest point on this end we have a special subclass of beneficent acts. These acts are almost never morally demanded but are highly praiseworthy: the supererogatory acts<sup>5</sup> and “saintly” or “heroic” acts.<sup>6</sup> Supererogatory acts are often thought of as praiseworthy, but their omission is not blameworthy. Extreme examples of supererogatory acts can require some sort of self-sacrifice in the aim of saving others, such as a soldier jumping on a grenade to save their platoon.

An example will show how the beneficent continuum fits together. Imagine an office building where a fire starts. For the good of everybody, we can say that everyone has a strict obligation to raise the alarm, which not only warns others about the fire but also notifies professional firefighters of the fire. Smith, an employee, pulls the fire alarm. Meanwhile Jones, another employee, decides that he will attempt to contain the blaze and begins using a fire extinguisher.<sup>7</sup> Having little effect, Jones abandons his attempt and escapes from the

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<sup>5</sup> For instance, see David Heyd, “Supererogation,” *The Stanford Encyclopedia of Philosophy* (Winter 2011 Edition), Edward N Zalta (ed.) <<http://plato.stanford.edu/archives/win2011/entries/supererogation>>

<sup>6</sup> J. O. Urmson, “Saints and Heroes,” in *Essays in Moral Philosophy*, ed. Abraham I. Melden (Seattle and London, 1958), pp. 198-216

<sup>7</sup> For the purposes of the example, we will ignore that there are typically fire suppression sprinkler systems installed in modern buildings

building. A fire truck arrives and Brown, a firefighter, enters the building and sets to work containing the fire and ensuring everyone has escaped. Unbeknownst to all present, an employee stuck on the second floor is calling for help from a window. Parker, a bystander, sees the trapped employee and decides that he is able to help and rushes to the aid of the trapped employee at great risk.

In this example, we have four persons and four unique actions. As said above, everyone regardless of their position or role can be said to have a general duty to, in the interest of public safety, raise the alarm to both alert of the danger and to call for professional help. Smith, though an employee with a potential interest in the building, fulfilled her obligation by pulling the alarm. She has no strict duty imposed on her beyond this. Jones, the other employee, also has no professional obligation to combat the fire – in fact, all things being equal it is in his best interest to safely leave the building. Nevertheless, we can praise his act of trying to suppress the fire.<sup>8</sup> Smith and Jones are both lay-persons, having no special knowledge regarding extinguishing fires.

Brown, on the other hand, has a duty to fight the fire; a duty that is unique to other firefighters like her but not to other people in general. This duty arises in virtue of her being a professional firefighter. She has both the special knowledge and is employed for the unique purpose of fighting fires. Brown, despite putting her life in danger by entering the building, is fulfilling her obligation. This may be praiseworthy for the perceived heroism, but she is simply doing her job. She, in this case, is no more praiseworthy than any other professional

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<sup>8</sup> Assuming there is no reason to do otherwise. For instance, Jones may have set the fire, accidentally or otherwise. If this is so, then we could argue that he does indeed have an obligation to put it out for the safety of others. All things being equal, though, in this case he has no further duty, like Smith.



carrying out the requirements of their job.<sup>9</sup> It is a reasonable expectation placed on her, all things being equal. If, on the other hand, the building were to be on the brink of imminent collapse, and Brown knew this, it would constitute an unreasonable risk and Brown would not be morally wrong for valuing her life by leaving.

Finally, Parker, having no special knowledge, nor employed in a special relation to help, has no duty to risk his life; indeed, Parker has no ties to the building at all. He nevertheless resolves to put himself in harm's way to save the life of the person trapped on the second floor. If Parker were a firefighter, like Brown, this would not be the case for Parker would have a duty to act and it would be required of him as a reasonable act. As a civilian, though, running into the building constitutes an unreasonable risk. On the other hand, if Brown were to stay when the building is on the brink of collapse to try and save the trapped person, this would be, then, supererogatory because it would be an act that is considered unreasonable to require Brown to fulfill. Here, we can say that, all things being equal, Parker is committing a supererogatory act for risking his life.

The point of showing this example is to illustrate how some acts can fall as general obligations for people – even if not everyone shares the obligation – while other acts do not. Lay-persons have far less expected of them than professionals. But, as we have seen in the opening example with Ian, informed rescuers fall somewhere between the two extremes. There seems to be instances where acts can be required by some, but not from others. This matter lies at the heart of this chapter. The general requirement to help is not shared by everyone in all cases. In certain cases, such as rescue cases, there are those who are thought of as being uniquely required to act. They have a stronger moral requirement to act. This

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<sup>9</sup> Praise can be given for doing the job well, or exceeding expectations, but not for completing tasks you are paid to do.

distinction will be brought out in chapter three and fleshed out in full on why knowledge, and not just a legal duty, carries the weight. This is the crux of what sets the informed rescuer apart from others. For now, however, we need to see what constitutes a rescue case for informed rescuers. As we shall see, not every case of beneficence or aid is a rescue case. For our purposes, we are looking at a narrow criterion for the informed rescuer.

### **Beneficence through Aid**

We are now in a position to carve out a particular subset of beneficent actions for discussion: acts that render aid. A simple definition we can use for aid is any benefit conferred from one person (or group) to another person (or group) whom the recipient will be made better off than if had not received it. This definition is, admittedly, broad and vague but this is necessary to, like defining beneficence, capture all instances of what we think is to give aid. Therefore, giving aid encompasses general acts such as lending or giving money, food or goods, performing a task for another, bolstering the attempts or endeavours of others, etc. More concrete examples can include reading over a friend's paper, giving my officemate half my lunch, sending money to charity, raking the leaves with my father and driving my brother to a doctor's appointment. At the broadest level, these are all instances of giving aid to another person. We might distinguish between three sorts of aid:<sup>10</sup> *reparation*, where the recipient is a person we have previously harmed; *dire need*, where the recipient will die, or be seriously disadvantaged without the aid; and *helping* which broadly refers to anything less than dire need, but always enhances the already good life the recipient has. Important to note

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<sup>10</sup> For instance, see Jan Narveson, "We Don't Owe Them a Thing! A Tough-minded but Soft-hearted View of Aid to the Faraway Needy," *The Monist*, vol. 86, no. 3 (2003) 419-433.

is that aid is not always connected to need, because we can help, say, the rich with money even if they do not require it to subsist.

Aid can be finite (a single instance) or indefinite (no arbitrary end). It can be tangible (money, goods, etc), or intangible (moral support, bolstering feelings, etc). It could be the result of a strict duty or an entirely supererogatory benefit. Regardless of details such as who gives what to whom and in what manner, the point here is that aid amounts to positively benefitting some other in some form or another.

### **Rescue As a Particularized Case of Aid**

Until now, I, along with the authors we will look at momentarily, have essentially used the terms *aid* and *rescue* in a more or less interchangeable manner. However, we are now in a better position to demarcate what the morally relevant factors are that separate rescue from aid. What, then, is rescue and how is it different from aid? Recall that aid was defined as a benefit conferred from one person to another that makes the recipient better off than had they not received it. Rescue is the temporally sensitive aid for a demonstrably concrete need, that, if not rendered soon enough, results in lasting harm on the recipient. Let us unpack what this means.

First, the aid is *temporally sensitive*; that is to say the aid is required within a narrowly defined window of time in order to be efficacious. The need has a fixed starting point both in time and space, and at some period of time will no longer be efficacious. The child does not need to be pulled from the pond until she starts drowning (assuming there is no need to prevent the child from being near the pond before), but if the child's body is not pulled out of

the pond before she dies, the aid is no longer helpful. Likewise, there is no need for the employee to leave the building before the fire starts, but getting the employee's charred remains out of the building is pointless as aid.

Aid can be given along a continuum of time, where the need for the aid can be resolved within discrete points of time. For famine relief, the aid must arrive before people starve, but the need for aid is likely to be ongoing until the conditions that created the famine and food shortage are resolved, conceivably over a long scale of time. Rescue, on the other hand, will deal with relatively shorter scales of time. Aid may still be needed for a person to live, but the rescue portion will have been resolved. For example, a person who has a heart attack needs CPR to save their life (rescue), but once their heart resumes beating and they recover, they may need a pacemaker, heart operations or in-home care to live (aid).

Second, the need is *demonstrably concrete*. What this suggests is that the type of aid is limited by the need and can only be satisfied by a narrow set of actions. Ideally, this would amount to a single action that will satiate the need (end), though allowing for a small latitude of possible actions (means) is permissible so long as it satisfies the need. The need is also simple in the sense that it does not have on-going steps. Either the child is pulled from the pond, or is not. Either the employee is rescued from the burning building, or is not. Whether a scuba diver pulls the child out, or you do is irrelevant so long as the child is pulled from the pond. Whether Brown saves the trapped employee or Parker does is irrelevant; whether Brown scales a ladder from her truck to the window, or Parker finds a route that bypasses the danger is irrelevant so long as the employee is extricated from the building without dying. Going back to the famine case, a single food drop or meal will not solve the need as it is a

temporary stopgap.<sup>11</sup> There is an ongoing need for aid. Rescue cases, on the other hand, can be resolved with quick decisive action that will eliminate the danger.

Next, if the aid is not rendered in time, the consequence is *harm* that may have significant consequences. These consequences may last over time as permanent disabilities, though not necessarily. The ability to prevent lasting damage does not diminish the seriousness of the aid. For instance, a cut with gross haemorrhaging (copious bleeding) is usually easy to manage and does not necessarily result in permanent damage beyond scarring. Nevertheless, this does not address the seriousness of the cut – if not treated promptly, the cut would set off a physiological chain of events, possibly leading to death. The relative ease of preventing damage does not affect the seriousness of the need for aid. The potential harm is the salient feature here. If left untreated, the harm will persist in time as a new normal condition and will likely not be able to be corrected.<sup>12</sup>

Imbedded in rescue is the idea that the act of rescue mitigates the consequence that would happen but for the aid the rescue brings. The rescue need not allow the recipient to come away from the event completely unharmed – that is to say, the rescue is not a failure if a limb is lost but the life is saved. What this does mean, however, is that the total harm that would befall the victim will be reduced with the rescue by the rescuer. If not for the act of rescue, the victim will suffer maximally.

Another strong element that separates cases of rescue from more general cases aid is the circumstances under which the event occurs. In many cases where aid and rescue are thought to be interchangeable, we need to distinguish whether this is a case of *systemic harm*

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<sup>11</sup> We can imagine a hypothetical case where technology allows us to instantaneously create enough food and supplies that would effectively solve the famine crisis. Until such a time comes, though, we do not need to consider this possibility as it is, for us, an impossible scenario.

<sup>12</sup> It may be morbid to point out, but few things are more lasting than death.

or *accidental harm*. Many of the authors below do recognize a difference between problems of basic social justice, where there are systemic issues that cause suffering, versus a one-time problem that has an immediate solution. I will only look at accident cases for this thesis.

Before delving even further into what amounts to *rescue* from a legal point of view, let us pause to look at how aid is discussed in terms of an obligation – what kind of aid do we owe (if any at all) to whom, and how much is required. Typically, aid is discussed in terms of moral duties, where rescue is covered in legal considerations. The remainder of this chapter will pick up the problems discussed at the opening of the chapter: are there reasons to keep aid and rescue cases separate? How does our obligation change if we collapse rescue into a general obligation to help the needy? This will help to show that rescue is separate from aid, and current ideas in aid are not able to speak to the special case of rescue. Rescue is not so easily discussed in the models below, as we shall see.

### **Collapsing Rescue into Aid**

If one line of argument could best exemplify collapsing the distinction between aid and rescue, it would probably be served best by Peter Singer. In his seminal paper “Famine, Affluence, and Morality,”<sup>13</sup> Singer challenges our notions of rendering aid to others. Singer sets out to show that we have mistaken conclusions about helping those near to us (physically) and those faraway. Starting from the obvious point that suffering and death are bad, and that if it is in our power to prevent suffering and death from happening without sacrificing anything of comparable moral worth, he argues that we ought to help (Singer, 231). The principle,

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<sup>13</sup> Peter Singer, “Famine, Affluence, and Morality,” *Philosophy and Public Affairs*, vol. 1, no. 3 (Spring, 1972), pp. 229-243

therefore, makes no claim that allows a moral difference between those close to us and those far away. Instead, we should help those with the greatest need; if they happen to be far away, then so be it. Distance does not absolve us of the obligation to help.

To demonstrate, Singer offers an example: “if I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This will mean getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a very bad thing,” (Singer, 231). This is then contrasted with the implied analogue case:<sup>14</sup> if I hear about a famine in a foreign country where people are dying of starvation, I ought to send aid to help the people out. This will mean that I send my money away instead of having it for myself, but this is insignificant, while the death of the people would presumably be a very bad thing. In these two cases, Singer has us consider his principle: (a) there is a demonstrable bad thing happening (suffering and death); (b) it is in his power to prevent it (wading in or sending money); and (c) in rendering aid, there is no sacrifice of anything of comparable moral worth (muddy clothes or money). It seems obvious to us that we ought to help in the first case, because preventing very bad things at little cost to ourselves seems uncontroversially required. Singer therefore concludes that we ought to help in the second case as well.

What Singer is effectively doing is using the rescue case to strengthen our requirements to help in aid cases, which is stronger than we typically assume. He takes our general thought that we need to help in rescue cases and leverages it as an argument for stronger moral obligations for aid. By doing this, he denies that there is a meaningful moral difference between rescue and aid cases, and collapses one into the other.

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<sup>14</sup> I say here implied because Singer never actually takes two explicit cases and places them side-by-side for comparison the way his commentators and critics do.

Singer stipulates that this principle is constrained neither by proximity or distance, nor the number of people in the unique position to help. Regarding distance, Singer admits that being physically near the suffering makes us *more likely* to help, but there is no morally relevant factor that separates those close and those far away. It is also now a fact that technology allows us to dispense aid quicker and more efficiently, thus removing that from the equation (Singer, 231-2).<sup>15</sup> In terms of numbers available to rescue, Singer admits that there is perhaps a psychological difference; the burden of inaction is easier to bear if there are many others in the same position who also do not act. This, however, makes no difference upon the moral obligation. The only difference it would make is that if everyone provided aid, it would lessen the burden per person. However, as soon as people drop-out of giving aid, it wrecks the system and undermines the effort, to the point that people would have to give as much as they could – to the point that giving any more would harm them (Singer, 232-4).

While never meaning to completely obliterate the line between obligation and charity, Singer admits that the line needs to be redrawn, though an argument of the details is beyond the scope of his paper. In place of this, he anticipates objections to his position. First, in response to the charge that such a system would be too drastic of a change to our moral scheme, Singer's bottom line is that unless the premises are wrong or the argument is unsound, the conclusion holds regardless of how we feel about it. If it happens to go beyond what we feel is the minimal requirements expected of people in society, then this is an empirical question as to how much is reasonable. A second consideration made is a kind of runaway utilitarian conclusion – that if we are to increase overall happiness, then we will have people

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<sup>15</sup> Considering this paper was written in the 1970s, the advances in technology since then make his point all the more compelling.



giving unreasonable amounts in the name of aid. Again, Singer sees this as daunting, but not a valid criticism, nor one that most self-interested agents are likely to seriously encounter.

The position laid out by Singer is a strong case for breaking down the distinction between aid and rescue. By claiming that the same argument that requires us to carry out a rescue is also requiring us to aid people in general, he is levelling the moral playing field by placing everyone in the same moral category: if you are able to offer aid to those who need it, you ought to do so as far as you can. People do not take issue with the sentiment that helping is good, but instead take issue with the moral demandingness of the position. For Singer, if you are aware of suffering, you should help to resolve it, regardless of distance or context. Rescue, in this case, is no different or more special, than any other case of giving aid.

### **Salvaging Rescue from Aid**

Many authors, though, argue against this move by Singer, not because they disagree with the idea of helping others, but because they think the argument is missing a crucial distinction in the levels of moral requirements. It fails to address various considerations that would parse out rescue from aid and uphold differing moral requirements in each case. Below, we will see how some authors argue against this move. Once we are able to separate rescue from aid cases, we will be able to discuss how moral requirements are different from those involved in rescue.

One way of answering this argument is to swing the idea of moral requirement in the opposite direction by agreeing that there is no difference between aid and rescue, but denying the special obligation of rescue cases. Jan Narveson goes this direction, claiming that while it

is praiseworthy to voluntarily help people in need, there is no moral claim on the part of the needy to the aid of the helper.

Narveson argues that there is no legal or morally enforceable duty to help the faraway needy as a matter of justice, though it is encouraged and praiseworthy to do so. He first makes crucial distinctions in his set-up, which we have seen part of above: first, that if we have directly harmed anyone, then we do owe them reparation, so this is not the case we are looking at. Next, it is not merely the case that we help those *worse off*; instead, we want to look at those who, by some reasonable criteria is quite *badly off* (Narveson, 419). Finally, the central question is whether there is an *enforceable* duty (Narveson, 420). Narveson agrees that we should help others, especially if at little cost to ourselves – we should even admire those who go beyond what is expected. This, however, is not the same as an enforceable duty. To Narveson, admirable qualities do not translate into a proscription to carry them out in all cases as duties.

As a general theory of duty (Narveson, 422), claiming that benevolence is encouraged, especially when the cost is low is not the same as a strict duty. In Kantian terms, a broad duty – one that has latitude as to when, where and how much you give – is not the same thing as a strict duty – one you do at every opportunity. Narveson notes that regardless of how quick or easy it is to give aid, the recipient is not *entitled* to it; they merely *need* it. Giving aid is not a strict duty, merely a broad one at best. If the needy are not entitled to our help, then we are not obliged to give it.

Narveson's account is aimed more at resolving questions regarding the faraway needy and those whom we have not personally harmed through our actions that need help. Nevertheless, the core of his argument lies in the claim that if we have not been directly

responsible for the harm of others, there is no moral reason that obliges us to act, beyond it being a praiseworthy activity to undertake. He presents a skeptical rebuttal to the faraway needy case, but his account, like Singer, does not look close enough at whether rescue is special on its own. Is there something at work that sets rescue cases apart from general aid cases? No one is denying that helping is good, merely whether there is an obligation to do so.

Much of the problem seems to be in simplifying the two cases. The analogy of rescue as a proxy for aid in general does not admit of any salient features that show the dissimilarities between the two cases. If it were shown that aid and rescue cases are identical in all relevant ways – whatever factors we agree to be relevant – then we could reason analogically from rescue to a general obligation for aid. However, arguments in favour of this move do not do this, as we shall see.

The first and most glaring dissimilarity is that of distance. Helping others far away appears different from rescuing those nearby. This is not meant to say that helping our neighbours is more important than helping people half a world away. As Narveson jokes, “neither stomachs nor genes respect national boundaries,” (Narveson, 431) and instead we must focus on the need relative to distance. The issues of distance could presumably matter, for instance in terms of the costs associated with helping those near versus far (Narveson, 430).

Kamm takes the question of distance seriously in her paper.<sup>16</sup> Is there something special about the needy being near us that is absent in the far away? There are certainly

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<sup>16</sup> F. M. Kamm “Does Distance Matter Morally To The Duty of Rescue,” *Law and Philosophy*, vol. 19 no. 6 (2000) pp. 655-681. See also “Famine Ethics: The Problem of Distance in Morality and Singer’s Ethical Theory,” in *Singer and His Critics*, ed. D. Jamieson (Blackwell’s, 1999) pp. 163-208. Singer gives a response to this, largely dismissing Kamm’s attempt to reach ‘reflective equilibrium’ as counter-productive to her challenge of moral intuitions. Peter Singer, “A Response”, in *Singer and His Critics*, ed. D. Jamieson (Blackwell’s, 1999) pp. 267-335

problems if we are comparing cases that are dissimilar in details, such as physical distance (being geographically far away),<sup>17</sup> temporally distant (the time it takes for help to arrive),<sup>18</sup> cost,<sup>19</sup> being alone,<sup>20</sup> being able to see the victim,<sup>21</sup> communication,<sup>22</sup> basic justice versus accidents,<sup>23</sup> etc. The task, then, is to ensure that we are comparing like cases with like to tease out the morally salient features.

She argues that we do intuit having stronger moral obligations to accidents near us than far, though she also emphasises that these are not contrary to any obligations we have to helping the faraway needy (Kamm, 671). She does this by supposing that we know of a threat nearby that will shortly travel far away to kill someone (Kamm, 671). Despite the distance of the (potential) victim, our nearness to the threat suggests we have an obligation to help if we can. In this case, our proximity to the threat or the victim is grounds for us helping, so that “we think that we have greater obligations to take care of what is in the area near us, whether this is threats that will cause harm at a distance, or persons who are or will be victims,” (Kamm, 671). This reasoning also extends to the agent’s or victim’s means by which we can rescue, where we are far from the victim but have means nearby, say a vehicle, we could have an obligation to help – or at least lend our means (Kamm, 671-3).

She then moves to justify these intuitions by showing why distance could matter. Negative and positive duties based on rights can behave differently in response to proximity (Kamm, 674). The duty to not harm extends over any distance because it is a right inherent to the victim (i.e. the victim has a right not to be harmed, no matter where they are), not the

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<sup>17</sup> Ibid. Kamm, 662.

<sup>18</sup> Ibid. Kamm, 663.

<sup>19</sup> Ibid. Kamm, 658.

<sup>20</sup> Ibid. Kamm, 657.

<sup>21</sup> Ibid. Kamm, 664.

<sup>22</sup> Ibid. Kamm, 665.

<sup>23</sup> Ibid. Kamm, 668-9.

rescuer. We as agents have equally strong duties to not harm those close and those far. This is different, though, from someone who needs our help. We do not have a strict duty to help on those grounds. Outside of a duty to help as a result of a positive right (i.e. I promised I would help), a duty to help based on proximity would come from a different source. Kamm suggests this could be born out of an agent's moral prerogative to give greater weight to one's own interests and projects over giving equal weight to others (Kamm, 675-6). Depending on where the agent chooses to focus – assuming they are not ignoring duties related to others – they can give moral weight in whichever direction they choose. This can focus on those close-by or those far away. If an agent chooses to give moral weight to those closer in proximity, then this could create a duty to help. The prerogative is not what gives rise to the duty; it merely gives the agent options, not obligations (Kamm, 676). It is the choice of attaching moral weight that would give rise to a possible duty. Again, this shows how we could give weight to those near over those far, but the option to help those far away still stands.

I use Kamm to show that distance can matter in rescue cases, leading to a split from aid cases. The distance consideration, though, is not the only thing at work. There are other reasons to suggest rescue cases can be appreciably different from aid cases. For instance other authors have seen the link between the helper and the harmed as playing a more critical role in creating an obligation. For instance, Scott James does not take the distance question to matter, *per se*<sup>24</sup>. Instead, there is something different between being a humanitarian – a person who helps those who are in need, whoever or wherever they are – and being a Good Samaritan – a person who helps those they encounter who are in need – and this difference is morally relevant. James argues that our obligations as Good Samaritans are more stringent than

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<sup>24</sup>Scott M. James, "Good Samaritans, Good Humanitarians," *Journal of Applied Philosophy*, vol. 24, no. 3 (2007) pp. 238-254

obligations required of us as humanitarians (James, 238). To show this, James introduces the concept of *unique dependence*, which “is the idea that there is a determinant individual who relies on you and only you for help,” (James, 238).

Unique dependence relies on a causal notion of the harm, whereby the refusal of the aider to help the victim practically assures the victim’s imminent or continued suffering (James, 240). In this sense, the aider is a direct causal element in the harm that comes to the victim. This is not to say that the aider causes the event to happen; rather, counterfactually, but for the intervention of the aider, the victim will suffer. So, if the aider intervenes, then the victim is, all things being equal, going to avert the harm.

James argues that this is not the case with humanitarian efforts. Whereas in Good Samaritan cases, the effort of the bystander causally results in the safety of the victim, James states that there is no causal link between a fixed effort and determinant lives saved. James denies that something like writing a check to Oxfam is more or less the same as rescuing a drowning child simply because in both cases someone will be alive in the near future who would not have been otherwise (James, 240). There is something appreciably different between pulling a child from drowning and writing a check. For instance, giving money to humanitarian efforts will undoubtedly result in good things but the good is not measurable in a one-to-one correspondence between the dollar and the utility of a unique individual. The moral difference here is a refusal to give humanitarily is not the same as refusing to give in an accident. Those in the faraway country are not uniquely dependent on my contribution and mine alone. To James, “there is a fundamental indeterminacy with respect to your responsibility for any one distant death and unique dependency entails that there is a determinant beneficiary,” (James, 241). The aid given to humanitarian initiatives is not

directly responsible for the preservation of life the way that a rescue effort is on an accident victim. Relief programs are set up to maximize development and aid distribution, making a one-to-one connection between aider and victim impossible (James, 241). The accident victim needs help, and if I am available to help by being near them, then my failure to help is directly affecting the continuation of their suffering. Since you have nearly complete control over the harm that comes to the victim in a rescue case, then unlike the aid case, where you do not have control over any determinant life, there is an appreciable difference in contexts (James, 242).

Coming back to his notion of unique dependence, the victims of famine are, perhaps, dependent on us in a general sense – they need our help to sustain themselves – but because there is a causal link in whether a unique individual survives an accident, they are uniquely dependent on our aid for survival. This may be the case that only one person needs our help for a rescue, versus a million famine sufferers. Nevertheless, we cannot substitute any one life for another, but we can be directly responsible for the one life in the uniquely dependent case. This makes the morally salient difference between humanitarian efforts and Good Samaritan efforts. This creates a more stringent duty on us to be Good Samaritans, allowing us to prioritize the rescue of an individual as being more important than helping a faraway person. A Good Samaritan bears a fundamentally distinct relationship to her beneficiary (James, 250).

As we will see in chapter two, an account of rescue that relies on causal reasoning in assigning blame is troublesome; however James is onto something with his idea of unique dependence. I believe James is correct in identifying this notion of unique dependence as being important, which I have folded into the idea of rescue. The physical relationship of the rescuer to the victim seems to set apart rescue cases from general aid. The strong need for

help that can be given by a unique individual or set of individuals – help that cannot be reasonably given by anyone else – makes our considerations of rescue different from aid.

To close out this general account of rescue, we shall turn back to a distinction mentioned by Narveson in passing that does speak to cases where there are seeming strong and weak obligations to act. Most of the authors above seem to, on one level or another, see a difference in duty between helping a drowning child and helping the faraway needy. Singer collapses these two into a general case of aid, and this usually is the source of objection because his theory is thought to be too demanding.

Violetta Igneski gives the most plausible defence on why we have the intuition that the duty to save a drowning child is stronger than the duty to help the faraway needy.<sup>25</sup> Like James, Igneski does not attempt to show why distance may make a difference in aid. Instead, she focuses on the moral difference in duties between rescue and humanitarian efforts. Her system, borrowed from Kant,<sup>26</sup> is built on a contrast between *perfect duties* and *imperfect duties*.<sup>27</sup> She uses these two sets of duties to defend there being a moral asymmetry between cases like the drowning child and famine relief.

A perfect duty is an obligation to “do (or refrain from doing) a particular act and it is determinate in terms of who must carry it out and when it must be done,” (Igneski, 444). The duty picks out a particular action that the agent must carry out to achieve some sort of end. There is no latitude in the means of fulfilling the duty, rather the objective is clear to the agent. By contrast, an imperfect duty is the adoption of an end that allows for a number of different

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<sup>25</sup> Violetta Igneski, “Perfect and Imperfect Duties to Aid,” *Social Theory and Practice*, vol. 32, no. 3 (July 2006) pp. 439-466

<sup>26</sup> Immanuel Kant, *Grounding for the Metaphysics of Morals*, Third Edition, trans. James W. Ellington. (Hackett Publishing Company, Inc, Indianapolis/Cambridge) 1993

<sup>27</sup> Igneski gives an in-depth look at the nature of perfect and imperfect duties in her dissertation, *Rescue and the Duty to Aid the Needy* (University of Toronto, 2001).



methods to achieving it at different times. For instance, in the context of famine relief, we can give a little bit of money every day, or a lot all at once, or even fly to the country itself to volunteer ones talents and time. All of these help to address the need, but no one means is more required of us than the others. It is also agent-independent: it does not matter who does any of these. Anyone can help the famine relief, mostly at any time. There is no particular correspondence between any of the famine victims and the potential aiders, for the famine victims have no particular claim to the help.

The contrasting feature that sets perfect from imperfect duties apart is *moral determinacy*. A situation is morally determinant when both an act that an agent must perform will address the need of the victim, and is limited to a particular time (Igneski, 445). In imperfect duty cases, as mentioned above, any agent is in a position to render help and the help is undefined in scope. However, in a perfect duty case, the nature of the rescue picks out a particular agent to help (usually because they are physically closer to the victim in space) at a particular time (again, usually because they happen to be close). The nature of the rescue also defines the clear means to achieving the end, as opposed to some general end like the imperfect duty.

There is also a case-sensitivity difference between the two duties. Imperfect duties are with us all the time; at all times we could and should be trying to help others. This is not the case in a perfect duty; it is a kind of one-shot, (hopefully) non-repeating or non-systemic event that requires immediate action to resolve. Once the act is performed and addresses the need, the duty is resolved and the obligation lifts. For instance, a rescue will resolve once the danger that threatens the victim is removed. My acts as a rescuer can take care of this and my duty would be discharged. With giving aid, though, this is likely to be an ongoing act (i.e. giving

money) until the cause of need is resolved. Here, the former highlights the nature of a perfect duty while the latter, an imperfect duty.

Igneski's argument captures nicely the idea that rescue is different from aid. Moral determinacy picks out rescuers and yields stricter perfect duties. Moral determinacy, in this case, helps us to understand, again, why rescue differs from aid. Rescue picks out particular kinds of people, usually bystanders to the accident, and requires that they help because they are in a very unique position to help: they are close in proximity, can help in short time, and their unique action will (hopefully) resolve the danger. The same cannot be said of aid cases in general. The context sensitivity of rescue cases is what makes rescue unique. While there are features that can overlap with aid, aid cases do not present the same degree of challenge. Because of this, rescue cases need to be treated differently than aid cases. A collapse in distinction between aid and rescue misses key salient points. While in both cases there are people in need, the way we handle moral requirements will have to be treated separately.

This chapter sought three things: first, understanding beneficence and helping in general, I showed how it is possible for different people in the same situation to have differing moral obligations and subject to different moral judgments. Second, I gave a definition of rescue to illustrate how certain features can set it apart from aid. For this project, rescue is temporally sensitive aid for a demonstrably concrete need, that, if not rendered soon enough, results in lasting harm on the recipient. Finally, I discussed how collapsing rescue into aid to leverage it for a moral obligation to help the needy misses key salient features. The dissimilarities end up outweighing the similarities and the rescue cases can be separated with its own moral considerations.

Having now a better understanding of aid in general and rescue in particular, we are in a good position to discuss moral considerations involving rescue. When we were first introduced to the problem of rescue in the drowning child case with the three types of rescuers, I hinted that there is some intuition at work involving the role of knowledge. Professionals employed to rescue have a fairly clear obligation to act in rescue cases, but what of non-professionals? To broach this question, it will be useful to understand legal obligations to help because the considerations made by law will frame the discussion of knowledge in chapter three. Rescue cases and the law have a rich history, so let us now turn to chapter two to examine the legal obligations people possess in rescue.

## Chapter 2 – The Legal Bounds of Rescue

In chapter one, we examined the nature of beneficence and how it impacts acts related to giving aid. With the understanding that different people can have differing obligations and moral judgments placed on their actions, we begin to see that not everyone is always treated the same in moral considerations. Having looked at the broad theory framework for rescue cases, we are now in a position to begin discussing how we treat rescue cases at the societal level, specifically as it pertains to law. It will serve us well to see how the law treats rescue, both requirements of and failures to act, for it will give us a working understanding of how society views the permissibility of helping in emergencies. In this chapter, we will focus on describing the legal framework of rescue. A general overview of the history of legal duties to rescue will be given, followed by a discussion of Good and Bad Samaritans in law. The differences in legislation will be highlighted before moving to an examination of problems with Bad Samaritan legislation (legislation that requires people to act in rescue cases). Establishing this, we will be in a better position to discuss knowledge and the informed rescuer in chapter three.

Given the structure of society, rescue cases will invoke legal reasoning to examine how they fit in with our values and beliefs. As O.W. Holmes<sup>28</sup> remarked, “the law is the witness and external deposit of our moral life,” (Holmes, 147). However, as we shall see shortly, there are considerable gaps between what the law requires and what we think ought to be the case in rescue, namely that people ought to help if it is easy and they are able. Some jurisdictions harmonize law and attitudes towards rescue, however there are a great deal of other

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<sup>28</sup> O.W. Holmes, “The Path of the Law (1897)” *Pragmatism: A Reader* ed. Louis Menand (Random House, New York, New York) 1997 pp. 145-169

jurisdictions, as we shall see, that place individual autonomy and liberty over enforcing benevolent acts.

## **The Law and a General History of Rescue**

In Anglo-American law, generally called common law, there are no general duties to aid someone that is in danger. This is said to be a reflection of the individual and prizing autonomous freedom.<sup>29</sup> However, given the greater interdependence of society's members, there are certain specific exceptions to this. These exceptions usually manifest themselves as specific duties born out of special relationships between persons. Some examples of special relationships include: (as social interest benefit)<sup>30</sup> possessor of land-business visitors, licensees, certain classes of trespassers and vendors, master-servant, and parent-child;<sup>31</sup> (antecedent duty) controlling of a dangerous substance, tortious conduct inflicting harm, and undertaking to aid a helpless person;<sup>32</sup> (civil cases) carrier-passenger and manufacturer-consumer;<sup>33</sup> and others like husband-wife, shipmaster-crew, proprietor-customer, educator-pupil, and employer-employee (Weinrib, note 1)<sup>34</sup> and innkeeper-guest (Grush, note 9).<sup>35</sup> Other duties to render rescue can exist via vocational knowledge for institutional relationships,

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<sup>29</sup> For instance, see Eric Mack, "Bad Samaritanism and the Causation of Harm" *Philosophy and Public Affairs*, vol. 9, no 3 (Spring, 1980) pp. 230-259. Mack quotes Judge John P. Flaherty's ruling comments on the matter of forcing one person to give bone marrow to another to save his cousin's life. Says Flaherty, "In our law, there's no duty to rescue someone or save someone's life... Our society is based on the right and the sanctity of the individual," (Mack, 230).

<sup>30</sup> For case law citations, see "The Failure to Rescue: A Comparative Study" *Columbia Law Review*, vol. 52, no. 5 (May, 1952) pp. 631-647. Citations to this study will be referenced parenthetically as CLR.

<sup>31</sup> *Ibid.* CLR, note 13

<sup>32</sup> *Ibid.* CLR, note 15

<sup>33</sup> *Ibid.* CLR, note 18

<sup>34</sup> Ernest J. Weinrib, "The Case for a Duty to Rescue" *The Yale Law Journal*, vol. 90, no. 2, (Dec., 1980) pp 247-293.

<sup>35</sup> Eric H. Grush, "The Inefficiency of the No-Duty-to-Rescue Rule and a Proposed "Similar Risk" Alternative", *University of Pennsylvania Law Review*, Vol. 146, No. 3 (Mar., 1998), pp. 881-900.

as is the case for doctors, nurses, police officers, firefighters, and lifeguards (Kleinig, 383).<sup>36</sup> As we have seen from chapter one, these are professional duties that require action. They have been trained to help and are thus required to do so. However, outside of cases like these, where no antecedent contract exists, and where the potential rescuer is not directly responsible for the harm experienced by the person in need, common law does not find the rescuer to be legally liable; therefore, there is no general legal duty to render aid.

Beyond common law, though, there are cases where duties to act exist.<sup>37</sup> Outside of predominantly English-speaking states like Great Britain, the United States, Canada and Australia – where Bad Samaritanism is seemingly tolerated by law – many European countries have adopted some form of duty to render “easy rescue”: (by date) Portugal (1867), the Netherlands (1881), Italy (1889 and 1930), Norway (1902), Russia (1902-1917), Turkey (1926), Denmark (1930), Poland (1932), Germany (1935 and 1953), Rumania (1938), France (1941 and 1945), Hungary (1948 and 1961), Czechoslovakia (1950), Belgium (1961) Switzerland (various dates), and Finland (1969) (Feinberg, note 2).<sup>38</sup>

By referencing specific law statutes and case law, the Columbia Law Review explores these legal duties as they appear in the former Soviet Union and in France. I will quickly summarize their findings here. In Soviet law, the creation of a wide range of duties were brought about in the aims of developing a strong socialist society by way of their economic plan for rapid achievement of industrial goals, the importance of safeguarding public property and conscious inculcation of the population to socialist attitudes through legal channels (CLR,

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<sup>36</sup> John Kleinig, “Good Samaritanism” *Philosophy and Public Affairs*, vol. 5, no. 4 (Summer 1976) pp. 382-407

<sup>37</sup> There are cases where some jurisdictions impose fines or penalties for Bad Samaritanism. For instance, the state of Vermont has a statute that requires people to aid strangers, and the fine for failing to do so results in a \$100.00 fine (Mack, note 2) However, in most Western common law jurisdictions, cases like this appear to be an exception to the general rule.

<sup>38</sup> Joel Feinberg “The Moral and Legal Responsibility of the Bad Samaritan (1984)” *Freedom and Fulfillment* (Princeton University Press, Princeton, New Jersey) 1992 pp 175-196

635). With the introduction of the Stalin Constitution in 1936, several positive obligations were enforced, such as: a duty to work, a duty to maintain labour discipline, to perform public duties, and to ‘respect the rules of socialist intercourse, and a duty to safeguard public property (CLR, note 34). In most cases, there was no explicit duty to render general aid,<sup>39</sup> however it can be argued that subsumed under the obligation to ‘respect the rules of socialist discourse’, the duty to aid can be found, so long as it would amount to an easy rescue – not inconvenient or not hazardous to third-party persons (CLR, 639).

Regarding French law prior to the Vichy government, there existed no general duty to render aid. Short of a breach of contractual duty, omissions to act were not a civil liability. However, certain exceptions did crop up through tort law (as has happened in Anglo-American law) for particular classes of people, such as landowners, manufacturers, those in control of dangerous persons or chattels, etc (CLR, 639). Yet, these were only exceptions and like Anglo-American law they “did not impinge on the blanket rule that one need not account for the injury this action might have prevented if only his connection with the injury was his knowledge that it might occur,” (CLR, 639).

After the Vichy government made changes, punishment was enforced on those who failed to inform on criminal acts and those who failed to bring or call for aid to a person in danger when to do so could occur at no risk to the rescuer or a third-party and when failure to act was causally related to serious harm or death of the person in danger. This was later updated in Article 63 of the Penal Code whereby the requirement of serious harm or death was

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<sup>39</sup> Specific statutes of the Soviet Penal Code did make more precise proscriptions, such as in Article 156, where it is unlawful to ‘abandon’ a person if the rescuer has an obligation and the means when that person’s life is considered to be in danger and helpless. However, beyond certain specific cases, (i.e. Articles 156(1), 157, 176, 184, etc) the nature of the obligation is ambiguous (CLR, 637).

removed from the general duty.<sup>40</sup> In order to get around the problem of causation,<sup>41</sup> the statute focuses on the behaviour of the rescuer (CLR, 640). Several details have been worked out through case law that often are thought to be detrimental to arguments in favour of affirmative duties – which we will see below – such as: the degree and nature of the danger, the extent of the risk, and cases of multiple potential rescuers (CLR, 640-1).

### **Good and Bad Samaritans**

Before moving on to discuss various arguments levied for and against the legal enforcement of rescue, I wish to pause and examine an example of Good Samaritan legislation. In the literature, there are clear differences between what is typically thought of as a “Good Samaritan”, a “Bad Samaritan”, “Good Samaritan legislation” and “Bad Samaritan legislation.” A “Good Samaritan” is thought to be any person who helps a stranger *at* a potential risk to him or herself for no expected reward in return. Kleinig sketches the moral principle of Good Samaritanism to be that “one ought, out of sympathy, to keep (or at least offer to help) those whose welfare is endangered without adequate justification,” (Kleinig, 384-5). By contrast, we can borrow Feinberg’s criteria to define the Bad Samaritan: they are (a) a stranger standing in no “special relationship” to the endangered party, (b) who omits to do something –warn of unperceived peril, undertake rescue, seek aid, notify police, protect against further injury – for the endangered party, (c) which he could have done without

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<sup>40</sup> “Whoever abstains voluntarily from giving such aid to a person in peril that he would have been able to give him without risk to himself or to third persons by his personal action or by calling for help’ ... shall be punished by imprisonment of a month to three years and/or a fine” (CLR, note 66).

<sup>41</sup> In this case, the problem of causation refers to how the failure to act by a potential-rescuer contributes to the harm experienced by the victim. For instance, the law is not clear if a bystander not helping is treated as causing harm to the victim. We see here and later in the chapter that the law treats these counter-factuals individually, because the question of causing harm through inaction is not clear.



unreasonable cost or risk to himself or other and (d) as a result of which the other party suffers harm, or an increased degree of harm (Feinberg, 175). Naturally, the Good Samaritan is the cause of the victim being helped; however it is not as clear to say the Bad Samaritan's lack of action is a *cause* of harm. The law does not necessarily punish *causing* harm in this case because "cause" here is ambiguous. The nature of causing harm in this sense will be discussed at the end of the chapter when we examine objections to Bad Samaritan legislation.

Based on these criteria, the difference between Good and Bad Samaritans is the act or omission in (b) which directly relates to (d). Bad Samaritan legislation seeks to punish offenders for failing to meet some assumed standard (i.e. a Minimally Decent Samaritan). Good Samaritan legislation, on the other hand, seeks to protect citizens from civil liability in rendering aid. In a sense, it removes the possibility of litigation in the hopes of encouraging or promoting a desired set of acts or dispositions in potential rescuers. If a state chooses to not force people to help, as with Bad Samaritan legislation, then at least it will protect those who wish to help. It helps to incentivise people to help where they can. Furthermore, it recognizes the moral worth of these types of pro-social behaviour and seeks to avoid punishing good deeds. Good Samaritan legislation protects Good Samaritans from tort recourse.

As an example of this legislation we shall turn to Canadian Law, especially since, as Allen Linden has pointed out, Canadian courts have made significant contributions to jurisprudence on this topic (Linden, 241).<sup>42</sup> In Canada, several provinces have enacted some form of good Samaritan legislation – for instance, the Good Samaritan Act, 2001 (Ontario), the Emergency Medical Aid Act (Alberta), the Good Samaritan Act (British Columbia), and the Volunteer Services Act (Nova Scotia). We see the pattern, again, that common law

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<sup>42</sup> Allen M. Linden "Rescuers and Good Samaritans" *The Modern Law Review*, vol. 34, no. 3 (May, 1971), pp. 241-259)

provinces impose no duty to render aid, but these various bits of legislation ensure that those who choose to undergo rescue are protected against liability for “wrongdoing”. The only notable exception is Quebec, where their Charter of Human Rights and Freedoms imposes a duty of aid in cases where aid can be delivered at no serious risk to the rescuer or third party.<sup>43</sup>

Turning to Ontario’s legislation,<sup>44</sup> we can note the following four points. First, the Act applies to medical cases. The Act specifies “health care professionals” and non-health care professionals rendering “first aid assistance” and the targets of the aid are persons who are “ill, injured or unconscious as a result of an accident or other emergency” (2001, c. 2 s. 2a-b). Here, “health care professionals” are those specified under the Regulated Health Professions Act, 1991 (2001, c. 2 s. 1), which include any body of professionals regulated by a self-governing college of health professionals, such as in medicine, nursing, etc. Otherwise non-health care professionals are all other individuals not included in the definition of a health care professional.

Second, the Act specifically addresses the nature of the liability it guards against. Under section two, the Act specifies that these voluntary acts may be contrary to the rules of common law. Because of the nature of the Act, no person rendering services described in the Act are liable for “damages that result from the person’s negligence in acting or failing to act while providing services,” (2001, c. 2, s. 2(1)). Furthermore, it limits the protection to everything except those damages that are established to be caused “by the gross negligence of the person,” (2001 c. 2, s. 2(1)). By setting limits on what is protected by the Act, we can infer that gross negligence<sup>45</sup> occurs when an act or omission occurs that no reasonable person would

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<sup>43</sup> This seems to be a carry-over of Quebec holding on to France’s legal practices.

<sup>44</sup> [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_01g02\\_e.htm#](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_01g02_e.htm#)

<sup>45</sup> Epstein, quoting case law, defines *negligence* as “the *omission* to do something which a reasonable man guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or not doing

commit, or that the negligence either extends beyond the standard operating procedure of a professional, or falls below it. Here, going beyond standard operating procedures would be when a person is performing skills that they are not formally trained to do, that are above what they are reasonably expected to know. Going below, on the other hand, is failing to do what is expected of them as it relates to their level of training. For example, in the case of CPR, I would be grossly negligent if I performed it differently than how I were taught (going beyond training), or not performing it at all when deemed appropriate (falling short).

Linden notes that not every act of rescue is protected (Linden, 256-9) as several factors play into this. As an example, the danger may not be real. Rescue attempts that are carried out when they are not needed (like performing CPR on someone who is not dead) are not protected. However, reasonably perceived danger must only be acted upon in reasonable proportion, given the circumstances. Excessive acts which result in harm or death of the rescuer (or victim) may not always allow for tort compensation. The danger is assessed from the rescuer's point of view and judged against the reasonable person standard. The law asks what the reasonable person would do in such-and-such case, which determines whether a person acts correctly. Even in the case of the informed rescuer, they are judged by what a person in their position – with their training – would reasonably do.

Third, the Act specifies where, geographically, it applies. This is less important for the non-health care professional, who can only reasonable act at in the immediate scene of the accident or emergency. What is more important is that for professional health care providers, the care must come *outside the hospital*. Specifically, “[the] professional does not provide the service or assistance at a hospital or other place having appropriate health care facilities and

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something which a prudent and reasonable man would not do,” (Epstein, 190). Richard A. Epstein “A Theory of Strict Liability” *The Journal of Legal Studies*, vol. 2, no. 1 (Jan, 1973), pp. 151-204

equipment for that purpose,” (2001, c. 2, s. 2 (2a)). The aid must come at the expense of the inconvenience placed on the rescuer. They cannot be on duty (specifically, they cannot be paid for what they do while rescuing), and it must be in such a place where less than optimal care can be assumed.

Finally, the Act limits the amount the rescuer can be reimbursed for their effort. “Reasonable reimbursement” of expenses “reasonably incurred” in providing the service cannot be compensation or reward for the act. That is to say, the act must be voluntarily taken on without prior contractual agreement for compensation or reward.

It has only been relatively recently that Good Samaritanism has been protected in law<sup>46</sup> and the process is still being developed, as show when Ontario’s Good Samaritan legislation took effect barely a decade ago. For instance, a rescuer who was injured as a result of their attempt, at one point, was denied tort recovery. It was also the case that rescuers could be liable for damages resulting from their attempted rescue. However, the law has slowly begun to shift, reflecting the sentiment that altruism should not be punished. This is probably best summarized by Justice Cardozo: “Danger invites rescue. The cry of distress is the summons to relief. The law does not ignore these reactions of the mind in tracing conduct to its consequences. It recognizes them as normal. ... The wrong that imperils life is a wrong to the imperilled victim; it is a wrong also to his rescuer,” (Linden, 254). The law has shifted; in some places it is forcing people to act to help, and in others it is continually moving to protect the good intentions of those who seek to help suffering people. There are those who debate these moves, lending their arguments to either side of whether people ought to be legally required to help.

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<sup>46</sup> See Linden, 241.

Having looked over the general field of legal obligations to render aid, the remainder of this chapter will examine arguments for and against a legal duty to rescue.

### **Problems with Bad Samaritan Legislation**

Broadly speaking, appeals to morality tend to be favoured by those arguing for an affirmative legal duty while those arguing against tend to appeal to how law operates generally within common law. This is not to say that there is no cross-contamination, as we have seen above where case law works to bring forward protection from liability for Good Samaritans. Nevertheless, those who argue against creating a legal duty to rescue roughly focus on three main themes: unjust limits on freedom, administrative problems and determining causal liability for damages or harm. Before explaining each, a few notes need to be made regarding technical definitions, specifically how the law treats nonfeasance and misfeasance.

Many authors<sup>47</sup> use some form of F.H. Bohlen's<sup>48</sup> distinction between misfeasance and nonfeasance. The difference lays in two distinct attributes – first, the character of the conduct (the causal component of what happened) and second, the nature of the detriment suffered (the type of harm that followed). In the case of the former, there are differences between acts and omissions, where tort law defines an act as a voluntary muscular contraction or external manifestation of the will (Weinrib, note 24). Acts are carried out by deliberate movements of the body. Omissions, on the other hand, are the absence of this. Regarding the nature of the detriment, what sets nonfeasance apart from misfeasance is whether the person harmed is made worse-off as a result. Misfeasance, then, means that the victim's position is changed for

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<sup>47</sup> For the purposes of this chapter, I will only focus on two: Epstein and Weinrib.

<sup>48</sup> Francis H. Bohlen, "The Moral Duty to Aid Others as a Basis of Tort Liability." *University of Pennsylvania Law Review and American Law Register*, vol. 56, no. 4, vol. 47 new series (Apr., 1908), pp. 217-244

the worse “through the creation of a negative quality in the form of a positive loss or new harm,” (Weinrib, 251). Nonfeasance, on the other hand, merely fails to confer a benefit, where the only conceivable loss is no positive (net) benefit being added for the victim (Weinrib, 251). Therefore, in plain terms, nonfeasance typically amounts to an omission to confer benefit, though can refer to acts which do not make the victim any worse off. Misfeasance, then, is the detrimental impact on a victim, whether caused or exacerbated.<sup>49</sup>

Nonfeasance, as an example, is if I were to refrain from diving into a pool to save a drowning person; the person is drowning due to no influence by me. The victim may die if no one helps to stop them from drowning, but the actual drowning is not caused by me. If I were drowning the person by holding them under water, then it is misfeasance because it is my direct action that causes drowning. The point of contention is whether failing to act in a rescue causes harm or merely fails to confer benefit.

As mentioned above, depending on which position is argued for, particular appeals tend to be found in common frequency. Those who argue in favour of affirmative duties will often argue along the following lines. First, they either assume it to be the case or argue in favour of the premise that a failure to benefit another in emergency situations amounts to being causally related or responsible for the harm.<sup>50</sup> The next move appeals to any number of ethical doctrines to discuss benefitting others.<sup>51</sup> With these two as premises, the conclusion argues for some sort of positive duty to confer a benefit. In the pool example above, the

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<sup>49</sup> Kleinig makes the distinction between harm-*exacerbating* and harm-*initiating* in terms of how failure to aid amounts to harm for the victim (Kleinig, 393).

<sup>50</sup> See, Mack 235-59; Feinberg, 182; Kleinig 382-86 and Weinrib 268-79. In a separate account, Dagan ignores the question of an imposition of positive duties and focuses on a justification for restitution and compensation of expenses brought on by rescue, the implication being that the rescuer is causally responsible for the saving of the person, good, property, etc. See Hanoch Dagan, “In Defense of the Good Samaritan” *Michigan Law Review*, vol. 97, no. 5 (Mar., 1999), pp. 1152-1200

<sup>51</sup> See, Kleinig 386-91 and Weinrib 258-68 and 279-92. Grush offers an economic theoretical appeal for a duty to rescue, but the principle has clear parallels to utilitarianism.

argument would be that my failure to act is causally related to the person suffering. Because of this, I violate the principles of beneficence because I am causing harm. Therefore, I ought to help.

Arguments that reject these positions tend to concern impositions on liberty and either appeal to pragmatic concerns or attack the causal connection argument. The three typical objections from earlier, unjust limits on freedom, administrative problems and determining causal liability will now be examined.

### **Unjust Limits**

In the first case, many object to the unjust limits imposed on freedom if people were legally compelled to affirmative acts from duty. The laws are seen as enforcing benevolence without justification and the Columbia Law Review notes during the early years of common law, “judicial reluctance to require positive action was a concomitant of the individualistic premises inherent in the common law: not only was a person considered capable of taking care of himself, but the imposition of criminal or civil liability for the purpose of encouraging beneficent action or redistributing loss seemed an unwarranted limitation on personal freedom,” (CLR, 632). By enforcing benevolence, you are conferring gratuitous benefits at the expense of liberty. Feinberg quotes Ames to show how the Anglo-American tradition views it: “However revolting the conduct of a man who declined to interfere, he was in no way responsible for the perilous situation; he did not increase the jeopardy; *he simply failed to confer a benefit upon a stranger. ... The law does not compel active benevolence,*” (Feinberg, 179, original emphasis). Instead, the purpose of law ought to restrict those acts which cause or

threaten harm to others (Kleinig, 400). If there is to be any reasonable restriction to freedom, it is only to respect negative rights.<sup>52</sup> Critics fear that these limits of freedom will lead to the erosion of personal liberties (Kleinig, 403).

This is something we saw with Narveson in chapter one when he rejected forcing people to help by way of the state, unless we were somehow the cause of suffering. If, however, we are not the source of the suffering, then it infringes on our rights to force us to help; it should instead be left to those who want to help of their own accord. Opponents of this view would prefer that the law recognize the moral imperative to help and make a legal requirement to render aid. In this case, we have a disconnect between the limits of law and the requirements of morality. As we shall see, morality demands us to help in rescue cases, but the law is reticent in requiring action in all but a few explicit conditions. Under this view, it would be wrong for the state to enforce people to rescue through legal mechanisms. As it stands, the current compromise to the problem lies in maintaining Good Samaritan legislation. Settling the debate beyond this compromise is beyond the scope of this thesis.

### **Administrative Problems**

After unjust limits, the next objection is administrative problems with Bad Samaritan legislation. This is a loose descriptor title for a grab-bag of problems. First, similar to limits on freedoms, legislation like this will produce gross intrusions into private affairs which may impel people to be officious meddlers (CLR, 642; Kleinig, 405). Rather than seeking to

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<sup>52</sup> For additional arguments discussing problems with morality and law overlapping, see George Klosko, "Duties to assist others and political obligation", *Politics, Philosophy & Economics* vol. 3, no. 2 (2004), pp 143-159 and Lester H. Hunt, "An Argument Against A Legal Duty To Rescue" *Journal of Social Philosophy*, vol. 25, no. 1 (Spring, 1995) pp. 16-38



promote benefits in others, people will fear legal recourse and meddle in the lives and personal business of others. Kleinig admits this is theoretically possible, but dismisses it practically since potential laws would specify acts to grave peril or serious danger cases.

However, there is also the problem of vagueness in formulating the rules, leading them to be ineffective (Kleinig, 402).<sup>53</sup> It is difficult to draft laws that apply to all situations and cover all contingencies *and* prescribe just, proportionate penalties. Kleinig, again, notes that sufficiently clear legislation will take care of these problems and since these laws have worked elsewhere in the world, like France, these need not be serious concerns.

Likewise, what about cases which require persons to give unreasonably? Macaulay wonders about this and questions the extent that one is required to go to save someone (Feinberg, 189-93). We would first need to establish the limits on how far one ought to go. If, for instance, a doctor is aware of a patient half-way around the world, it would need to be determined if it is reasonable for the doctor to be required to go there. Also, where no special relationships exist, limits on warning about danger and distance would need to be established, if at all. Further, economic considerations are needed whether only the well-off are required to act or if everyone is required. We see these issues wrestled with in chapter one, but for legal requirements to be imposed, these questions need to be addressed.

Beyond restrictions like these, we also need to determine how to pick out whom bears the liability should the victim die when no aid is rendered. This is complicated if there are multiple potential rescuers present. For opponents, the difficulty of answering these questions suggests that the specificity that would be required for the law to be able to handle such varied and important nuances is a good reason to not legislate pro-social behaviour requirements in

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<sup>53</sup> See, H.M. Malm “Bad Samaritan Laws: Harm, Help, Or Hype?” *Law and Philosophy* vol. 19 no. 6 (2000) pp. 707-750

this area. The Columbia Law Review offers some suggestions on how to deal with this problem, such as placing equal blame on all bystanders unless they have legitimate excuses recognized by law (CLR, 642-3). Kleinig offers additional comments, likening the case to how the law deals with rioting, illegal mass demonstrations and gangland activities (Kleinig, 404).

The final consideration is how one ought to draw non-arbitrary lines in rescue cases. This is a two-fold issue: first, the law ought to, as stated above, limit itself to dealing with legal breaches of duty (i.e. breaking contracts or violating special relationships) and not assumed duties of altruism and beneficence. Second, selecting genuine omissions from accidental, non-negligent oversights and nonculpable ignorance is troublesome (Kleinig, 404-5). Furthermore, carving out exactly whose rights are being violated for an omission is troubling. What exactly are the rights to? Are they to life, to the effort of another to save the victim, for equal consideration to be saved, etc? What happens when the rescuers remain the same, along with the relative ease of the rescue's difficulty, but the number of victims increases (Feinberg, 179-189)? While all of the above questions prove challenging, the consistent answer tends to be that sufficiently narrow legal statutes and definitions will address these problems and the details will be smoothed out in case law, as has been the case in those countries with rescue statutes (i.e. CLR, 644).

### **The Problem of Causality**

The final problem and arguably the most important, is issues with causal liability. The problem of causality in rescue, mentioned both in chapter one with James and early in this

chapter, is a major sticking point in discussing omission and harm of the victim. Its importance is manifest because this is the bridge that spans the chasm between moral theory and legal requirement. If it is shown that rescuers are causally linked to the harm or death of the victim, then there stands a reason for the imposition of a duty since we are liable for the damages. The collapsing of cases of nonfeasance into misfeasance would create the need for Bad Samaritan legislation when altruism fails. However, there are issues with this view. For instance, most commentators find it absurd that failing to aid *causes* death (Kleinig, 400-1). This comes back to the distinction between nonfeasance and misfeasance – failing to aid leaves the person no worse off generally than had the potential rescuer not been present. It is of no fault to the rescuer that the person is injured; therefore failing to confer a benefit is not causally linked to the death. Simply stated, if I do not step in to help a person, it is not that I killed them; rather I merely did not save them. So long as I do not prevent the possibility of the person being saved, I am no more at fault than any other person on the planet who also did not confer a benefit. A funny consequence of this is in any case of a drowning person at sea, Mack writes that under a causal theorist’s interpretation of events, they will “have to allow that the non-appearance of this or that friendly porpoise by Smith’s side also stands as one of the causes of Smith’s death,” (Mack, 257). Since the law is concerned with punishing misfeasance, a rescuer who commits nonfeasance in relation to the victim when they fail to act will not be causally responsible for the harm and therefore not liable to damages.

A common response to this is to reason counterfactually (i.e. CLR, 645): in a causal chain of events, a person in peril will suffer harm/drown/die but for the act of the rescuer. Since the omission lead to harm, the rescuer is causally necessary to the harm suffered. For instance, if I see a person drowning and I can throw a rope to them, by doing so I can

potentially save their life – all things being equal. If I fail to act by not throwing the rope, I am essentially assuring their death; but for my omission, the person drowns.

Again, though, the fact that rescuers fail to confer benefits is nonfeasance, which the law does not punish. Moral reasoning may say otherwise, but the law is clear in this regard in how it wants to treat cases of nonfeasance. Epstein is adamant on this point: “No matter how the facts are manipulated, it is not possible to argue that B [the bystander] caused A [the victim] harm in any senses of causation,” (Epstein, 191). In his case for strict liability, it is this feature that limits tort law’s ability to make demands upon bystanders. He elaborates that “once it is accepted that the defendant was not responsible for the harm he caused, then he should be able to treat the plaintiff as though he were a stranger who placed himself in a position of danger,” (Epstein, 194). Epstein leaves open the possibility of moral condemnation, but says that “the law of tort cannot be invoked simply because the defendant has done something; it must be shown that the act in question has caused harm to the plaintiff,” (Epstein, 194), something that nonfeasance cannot do.<sup>54</sup>

This may seem detrimental to this project, but it is necessary to accept this notion of causality if we want to preserve Good Samaritan legislation. If we accepted nonfeasance as causing harm, then I think any failed attempt to rescue or any rescue that ends in failure (i.e. if a course of treatment is chosen that does not prevent death), could allow that since the rescuer in question omitted possible, better treatments, they were still causing harm. Further, any bystander present in cases where a rescue fails and they did not intervene would be equally culpable for not acting on the basis that even if not in the strict causal chain that lead to the injury, they still did not work to reduce harm. If we want to punish those who do not act, it is

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<sup>54</sup> For additional commentary on counterfactual reasoning in bad Samaritanism legislation, see Alison McIntyre, “Guilty Bystanders? On the Legitimacy of Duty to Rescue Statutes” *Philosophy and Public Affairs*, vol. 23, no. 2, (Spring, 1994), pp. 157-191.

not because of nonfeasance; it would have to be by way of some other reason unless we want to lose our safety net in Good Samaritan legislation.

Where, then, are we in terms of rescue and the law? We know that a duty to rescue is present in all cases where special relationships exist between a victim and their potential rescuer. Where there are no special relationships, the law can go one of two ways: it can protect helpers with Good Samaritan legislation, or it can demand certain forms of action of potential rescuers with Bad Samaritan legislation. In the case of Good Samaritan legislation, the law protects, within reason, the good deeds of those who come to the aid of suffering victims. The law could also go the route of Bad Samaritan legislation, which spells out specific types of actions required of bystanders. Bad Samaritan legislation does pose significant questions whether the state ought to punish people for not acting generally. I will leave aside the question of adopting Bad Samaritan legislation and instead focus, in chapter three, on the morality of rescue regarding informed rescuers. Since we know, generally, rescuers are in a safer position now, legally, to render aid, we will assume informed rescuers will not be punished for helping within the context of a Good Samaritan legislative framework. However, since there are no general legal duties for affirmative acts leading to rescue, I will not advance any more arguments in this field.

Instead, we can use this as a springboard to discuss moral considerations to enact rescue. If this chapter has demonstrated anything, it is that there is a recognizable gap between legal duties and moral duties. If we assume, for the moment, that there are good reasons to not have strong legal duties to rescue, this does not address whether a.) one *ought* to rescue; and b.) one is morally blameworthy for not acting.

We know that professionals face legal sanctions for failing to attempt rescues that informed rescuers do not face under the same conditions. Does this fact tell the whole story in terms of obligation, that being a professional health care provider is the sole element in requiring rescue attempts? Or is there, perhaps, a deeper moral difference at play here, one that affects the informed rescuer? Put another way, is it only the professional who has the duty (legally and morally) to act, or does the informed rescuer *also* have a moral obligation, even if this duty is not reflected in law? My argument is that the informed rescuer does have moral obligations that are not reflected in law. Until now, I have only mentioned the role of knowledge in the rescue process. We now have a firm background to discuss what the role is and how it creates the obligation to act. With this in mind, I will now turn to moral considerations of the informed rescuer.

### Chapter Three – Knowledge and the Rescue Process

In chapter one, we saw some of the conceptual problems that arise when we collapse rescue cases into aid. We saw that we can treat rescue cases as different from general aid cases, with their own moral considerations. Chapter two looked at general legal duties related to rescue. We are now ready to look at knowledge as it relates to rescuing. In the Lisa, Ian and Paul example, we are inclined to see no morally relevant difference between Ian and Paul beyond the professional obligations Paul has because of his employment, whereas Lisa is seen to be excluded from the moral considerations placed on the other two. We assign blame based on what is reasonably expected and Lisa, having no formal training in rescue, is not necessarily expected to execute the rescue. Ian, however, is seen to be similar to Paul since they are, *ex hypothesi*, the same regarding skill level; the only thing separating them is the duty to rescue required in virtue of being employed. While Ian may not be legally required to rescue, in some sense we see him as being morally required.

A point of clarification about the moral appraisal of Paul and Ian needs to be addressed here. The nature of the moral appraisal that we use to separate informed rescuers and professionals from bystanders is knowledge, whereas the informed rescuers are distinct from professionals by the legal obligations placed on the professional. There is a further moral distinction between the professional and the informed rescuer that needs spelling out.<sup>55</sup>

Imagine I go swimming where there is a lifeguard. When I do so, I assume that if I get in danger the lifeguard will try to save me. I *trust* the lifeguard, and I make decisions about what to do on the basis of that trust. If the lifeguard then declines to save me, they violate my trust in a way that a *bystander* does not. The bystander fails to do me a great benefit, one that

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<sup>55</sup> I thank my advisor, Dr. Doucet, for pointing out this helpful distinction and example.

it would be easy to confer. But the bystander does not violate my trust in the same way. I did not set out to swim on the assumption that trained bystanders would be there to save me – that would be an unreasonable assumption.

On this revised account, in addition to being legally culpable, the professional is morally wrong for this violation of trust; a trust that does not exist with informed rescuers and bystanders. So, in a meaningful way, there is a significant difference between informed rescuers and professionals in this regard. However, this does not exhaust the domain of moral consideration for, as we shall see, the knowledge possessed by the informed rescuer is what creates the requirement to act in rescue cases.

Lisa, Ian and Paul are analogous to three levels of rescue: the bystander, the knowledgeable rescuer and the professional rescuer. Much of the literature surveyed in chapter one applies to the non-professional, non-knowledgeable bystander; someone who does not have any special skills or knowledge. They may be physically present at the location of the accident, or they may have knowledge about some disaster far away. On the whole, though, they lack the specialized skill and knowledge that makes them uniquely capable to handle the emergency.

In chapter two, we saw how the law views rescue cases. In most common law jurisdictions, requirements to rescue are usually born out of obligations arising from special relationships between the victim and the potential rescuer. If a special relationship exists, then the rescuer must act in the eyes of the law. The only other instance where someone would be required to act is in the case of professional rescuers who, by the knowledge and training they possess and by their occupation, are legally liable for their actions and omissions. Otherwise, there is no general duty by law requiring a commitment to rescue.



There is, on the other hand, legal protection for those who wish to help in good faith. Good Samaritan legislation protects non-professionals in all cases of legitimate help and it protects professionals in clearly defined exception cases. This allows for anyone to help with the peace of mind that their good intentions will not be punished, even if they are unsuccessful.

Setting aside the legal issues, we can now turn to the moral issue of requiring action. The obligation to act is clear for the professional, but what of the non-professional? I will set aside questions about the untrained bystander until the end of this chapter and for now

focus on the remaining group: the knowledgeable, non-professional first aider or the informed rescuer. These are individuals who have knowledge that sets them apart from bystanders (though their knowledge is not necessarily as advanced as that of the professional) but they do not carry an obligation that stems from being employed or a special relationship. The goal of this chapter is to give a robust account of their obligation to help. Very few people will deny outright the proposition that “all things being equal, if it is safe to do so, a first aider ought to help.” This chapter seeks to give an account to support this position. I will also tackle the question of whether people ought to learn basic first aid.

There is an obvious problem that arises here. If informed rescuers are on the hook to act where bystanders are not, there then is a disincentive to learn first aid. A bystander could easily escape moral blame by choosing to never learn the skills in the first place, thus never getting into trouble on the chance that they might be if they acquired the skills. As we shall see, though, this problem is ill-formed under a virtue theoretical perspective because the bystander will be on the hook for *lacking* the knowledge. While true that the bystander cannot be blamed for not being able to act because they did not know how to, they are still

blameworthy for not being in a position to act when they could have. I will show why their ignorance make their lack of ability to act subject to moral blame.

To approach this problem of why informed rescuers ought to act and why everyone should learn basic first aid, I will focus on a virtue theoretical account. First, first aiders will be defined in virtue theory terms. Next, I will show how the special knowledge and skills possessed by first aiders begets the requirement to act. Further, I will show why a failure to act because of ignorance, in the context of virtue theory, leads us to the requirement that everyone ought to learn first aid. This will lead to some possible objections to this account, to which I will offer a reply. I will finish with pragmatic concerns of why people ought to learn first aid and proscriptions to address the problems discussed.

### **The Informed Rescuer**

The general form of the argument is that by possessing the relevant virtues, a person will use his or her knowledge to render aid. If beneficence requires that we help, then the informed rescuer ought to help. Further, beneficence, along with several pragmatic considerations will support why everyone should learn first aid.

Recalling the distinctions made in chapter one, we will treat aid as any assistance or good rendered to promote the wellbeing of another. Rescue is a subset of aid whereby the aid rendered is time sensitive and location specific and has the feature that if not given, the person in need of aid will be permanently affected, up to and including death. Thus, a rescuer is a

person who rescues. Finally, a first aider will be any non-professional (or, non-employed) rescuer.

In chapter one, the notion of the “informed rescuer” was introduced. A person who is “informed” possesses the requisite prior knowledge and skill set to rescue, that is, to render time sensitive aid, safely and effectively at the scene of an accident. The informed rescuer will often, though not necessarily, be a third-party to the situation and must not have a prior legal duty to render aid. From this point on, “informed rescuer” and “first aider” will be used interchangeably.

We shall now pin down what qualifies as “requisite prior knowledge and skill sets,” which will be used when we finally bring in our virtue theoretic terms to distinguish the virtuous rescuer from the bystanders. The relevant expertise is broken down into two related but distinct subcategories: first, there must be some level of knowledge on how a particular skill is relevant to its objective outcome; and second, the rescuer must be able to physically and reliably execute the skill. Put more simply, the person knows what to do and how to do it. Knowledge and skill here are treated as two separate but closely related qualities of the rescuer.<sup>56</sup> Knowledge is all the abstract concepts and ideas that inform how the body works on a basic level whereas skills are particular acts that influence both how the body works and how the rescuer can bring about certain desired ends.<sup>57</sup> For example, in CPR, we can have *knowledge* of how the body circulates blood and what CPR does to the body, and the *skills* necessary to performing proper CPR.

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<sup>56</sup> A suggestion has been to think of knowledge and skill in terms of *episteme* or speculative knowledge, and *techne* or practical/artisan knowledge; however I wish to refrain from unnecessarily restricting their meanings to the classical interpretations of the two words.

<sup>57</sup> I am restricting knowledge here to both knowing how the body works and to medicine in general purely for simplicity. This account would also work for non-medical cases of rescue, such as lifeguarding, fire fighting, search and rescue, etc. The point is to separate the theoretical aspect from the hands-on aspect.

At first it may be tempting to collapse skill into knowledge; however the two are not the same. We can conceive of a case where a person can have knowledge but not skill, or skill without the higher-order knowledge. For instance, imagine a case of a patient in the midst of a cardiac arrest. We can imagine potential rescuers, here of the non-informed variety, which have one quality of either knowledge or skill without the other. A rescuer with only knowledge could have perfect understanding of the physiological processes carried out by the cardiovascular system (how blood is oxygenated and carried throughout the body) without having the skill to do cardiopulmonary resuscitation (a physical process that mimics the normal functioning of the cardiovascular system). They could perfectly describe and explain how the electrical signals registered on an electrocardiogram machine relate to the physical processes of the tissues in the heart polarizing and depolarizing in order to contract and relax the heart muscles to pump blood without being able to pump the heart manually for the patient. Furthermore, the potential rescuer could perfectly know how an automated external defibrillator delivers shocks to stop the erratic heart rhythm without being able to properly use the machine.<sup>58</sup>

On the other hand, we can imagine a rescuer without any knowledge of the physiology of the human body but instead can perfectly execute the skills required to mimic the heart's function. It would be as simple as knowing all the mechanical movements of blowing air into the patient's mouth, landmarking on the chest and delivering thirty compressions for every two breaths at a depth of 1.5 to 2 inches,<sup>59</sup> all without having any conception of what is occurring below the skin. Conceivably, a machine could be built to do what our potential rescuer is doing for the patient. Even if a person had the ability to perform CPR on command, this does

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<sup>58</sup> I thank Jillian Wannamaker and Marie-France Paré for this explanation.

<sup>59</sup> Assuming an adult patient.

not mean they will know when to perform it. For instance, heart attacks do not present the same for everyone, and can easily be mistaken for back pain, general fatigue, or heart burn. Likewise, not every instance of chest pain is a heart attack.

In both cases we can conceive of either rescuer only having half of the puzzle pieces. This illustrates for us that regarding rescuers or first aiders, knowledge and skill are related but separate qualities. It might be tempting to say that skill is enough for first aid and collapse knowledge into skill; however this is not the case for two reasons: first, a rescuer needs to possess knowledge to adapt skills to treat non-textbook cases.<sup>60</sup> Second, without a working knowledge of the body and how it reacts to injury, a rescuer cannot interpret the relevant signs and symptoms to estimate what the problem is, should the immediate cause not be obvious. If you cannot interpret the signs and symptoms, you cannot employ the correct skills appropriately.

Therefore, a rescuer requires both knowledge and skill, and needs to be able to reliably use them in rescue cases. Having defined the scope of rescuers, we will deal solely with first aiders so as not to confuse our project with obligations that arise from professional obligation. Now, we will fit the conception of first aiders within virtue theory.

## **Virtue Theory**

Roughly, virtue theory as a normative ethical system is one that emphasizes virtues or moral character in determining what is right or good. That is not to say possessing the skill or knowledge necessitates possessing the relevant virtue, say benevolence. You can have the skill and choose not to use it, or use it poorly, but this is independent of the relevant virtue.

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<sup>60</sup> That is, those scenarios which are unique to the environment the accident occurs in.

Harman<sup>61</sup> summarizes it nicely when he says that “mere possession of that knowledge with no disposition to use it to benefit people would be insufficient for possession of a benevolent character, (Harman, 317). While the goal of this thesis is to provide a normative account for first aiders, we will need to delve into both virtue ethics and virtue epistemology to help explain the connection between knowledge and action. To do this, I will draw heavily on Zagzebski’s account of virtue and knowledge.<sup>62</sup>

Zagzebski defines virtue as “a deep and enduring acquired excellence of a person, involving a characteristic motivation to produce a certain desired end and reliable success in bringing about that end,” (Zagzebski, 137). To understand this, she unpacks the features to give a broad explanation in five points. First, a virtue is an acquired excellence in a deep and lasting sense, whereas a vice is an acquired defect. Virtues often lie between two vices at either extreme. For instance, Aristotle<sup>63</sup> defines courage as the mean between fearlessness and rashness at one extreme and cowardness at the other (Aristotle, 1107<sup>a</sup>33-<sup>b</sup>4).

Next, Zagzebski says that virtue is acquired over time and through work. An agent is not born with virtues or vices; rather they are habituated over time (Zagzebski, 135-6).

Third, as we have seen above, virtues are distinct from skills. Skills are often correlated with certain virtues, but the acquisitions are separate processes (Zagzebski, 115). For our purposes, we shall see that first aid skills are naturally paired up with charity and benevolence.

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<sup>61</sup> Gilbert Harman “Moral Philosophy Meets Social Psychology: Virtue Ethics and the Fundamental Attribution Error” *Proceedings of the Aristotelian Society, New Series*, Vol. 99, (1999) pp. 315-331

<sup>62</sup> Linda Trinkaus Zagzebski *Virtues of the Mind: An Inquiry into the Nature of Virtue and the Ethical Foundations of Knowledge* (Cambridge University Press, New York, New York) 1996

<sup>63</sup> Aristotle *The Nicomachean Ethics* trans. David Ross, revised by J. L. Ackrill and J. O. Urmson (Oxford University Press, New York, New York) 1998

Fourth, Zagzebski maintains that virtue has a motivational component. A motive is an “emotion or feeling that initiates and directs action toward an end,” (Zagzebski, 131). These emotions are directed towards desired ends, to which the motive aims at.

For our case, the virtue of beneficence would beget acts of first aid. A beneficent person would be motivated out of empathy and a desire to help to act to reduce suffering and help those in need. It aims at others to bring about a better outcome. Zagzebski thinks of motivation as “a persistent tendency to be moved by a motive of a certain kind,” (Zagzebski, 132). If we keep in mind that virtue is a habituation, then we see how a virtue will reliably bring about particular emotions and aims in response to events in the world. Beneficence, we will see, motivates – or is the motivation for – the first aider to act.

The fifth and final element is reliability. In order for a virtue to be manifest in a person, it is not enough that a person aims at it. They have to be able to reliably bring about certain ends. It is not enough for a person to try and be courageous, only to back down at the first instance of resistance. Likewise, a beneficent aim is only successful if it brings about a positive end. A first aider who ignores patients is not acting beneficently.<sup>64</sup>

As we can see, this account of virtue is aligned nicely with how we conceive of the first aider. If the first aider is acting virtuously, then according to Zagzebski we can assert the following:

1. Beneficence is the primary reason why the first aider acts;
2. Beneficence motivates the first aider;
3. The first aider aims to bring about positive change and help the patient; and

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<sup>64</sup> All things being equal; there are cases where a first aider would be required to ignore a patient, but we will discuss that when we discuss phronesis.

4. Through their knowledge, skill, and practice,<sup>65</sup> the first aider is reliably able to help.

We will now turn to the final component, *phronesis* or practical wisdom, to show how a first aider goes from knowledge to action. Phronesis will also show why a first aider is required to act in certain cases. Once we have finished covering phronesis, I will offer some possible objections and replies to this interpretation of the duty to render aid. Finally, we will discuss why people ought to learn first aid.

### **The Informed Rescuer and Phronesis**

We see the need for phronesis arise when we consider the structure of the argument so far whereby on the one side you have the virtues separate from knowledge and skill, and on the other side you have an event in the world that requires action to resolve it. Somehow, for the first aider, we must connect the right virtue with the right knowledge and skill to form the right action. The first aider must pick out the right salient features to inform their decision and must execute their skills in the right way to have the best outcomes. Because knowledge is doing the work in our intuitions, we will turn to phronesis to see how exactly it works.

Phronesis, often translated as ‘practical wisdom’ or thought of loosely as ‘good judgment,’ is, for virtue theorists, a kind of higher order virtue that helps to pick out the correct virtue and bring about the correct acts. Like the other virtues, phronesis is not innate; rather phronesis is developed through habituation and imitating virtuous traits in others.

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<sup>65</sup> Because of the nature of first aid, it is a skill set that is not used very often. Therefore, the skills and knowledge must be practiced to be useful. One cannot learn the skill once and always be effective. Instead, first aid is an ongoing process – this helps the rescuer be reliable in their ability to help.



In this way, good judgment cannot be taught, but instead is learned by knowing nonmoral facts about the world and ways of bringing out certain outcomes. By using virtue and ability, the virtuous person is able to reliably bring about certain outcomes in the world. For Zagzebski, virtue is a kind of success term. A person is said to have a particular virtue when they regularly act in accordance with it. If they fail to act a certain way, then they do not possess the virtue. This leaves open the question of selecting the right acts in the right circumstances. Phronesis will help to pick out the relevant virtues and relevant facts about the world since “good judgment cannot always be reduced to the following of a decision procedure specifiable in advance of the situation in which action occurs,” (Zagzebski, 220), often because the mean virtue is relative to both person and context.

Zagzebski offers three principle reasons why phronesis is necessary to make sense of morally right action. First, phronesis is used to determine the mean at the time of action. Simply stating that one ought to be courageous or charitable is like saying one ought to exercise – it defines a broad range of acts that are not terribly helpful in selecting what will count for it. Phronesis acts to guide the virtue to determine how one ought to display the virtue. It also accounts for the fact that the mean between two extremes may be different from person to person. Much like how a soldier or police officer is expected to be more courageous in certain situations than a civilian, a professional rescuer would be expected to be more beneficent or have more courage to act than a first aider or even a bystander. She summarizes:

Whether or not the practically wise person’s behaviour can be explained as the implicit following of a rule, it is clear that moral behavior (sic) requires the ability to do *something* that Aristotle identifies as acting out of the virtue of *phronesis*. It takes *phronesis* to

know *how persevering* one should be to be persevering, *how careful* one should be to be careful, *how self-sufficient* one should be to be autonomous, and so on. (Zagzebski, 221 original emphasis)

The second need for phronesis comes from the fact that the virtues apply to multiple areas of life that overlap in various ways. Features of a situation may invoke multiple virtues. It can often be the case that, for example “in a situation of danger, many other features of the situation may concern other virtues, such as generosity, fairness, or humility,” (Zagzebski, 222). We need a virtue like phronesis which is able to discern the salient features at hand that relate to any virtue and make judgments as a virtuous person. These judgments show how to act, when to start acting and sometimes when one must stop, refrain or omit an action.

The third and final need for phronesis is linked to the above consideration whereby the virtuous person needs to bring the virtues into harmony so that a single line of action can be brought to bear on whatever the virtuous person desires to influence (Zagzebski, 224). If any of these parts are missing, then we cannot account for the action in question: with no motivation there is no impetus to act; without the virtue, the motivation is lost; and a lack of either skill or knowledge we have seen will not bring about the desired aim. From the above consideration, though, phronesis is needed to be able to discern the relevant features of the situation, which puts everything into motion to act. Phronesis facilitates this move from virtue to good by aligning all of the above into a concrete line of action.

From this, we have our account of the first aider. By way of beneficence, the first aider learns certain skills and knowledge that helps her help others. She is motivated by beneficent emotions and aims at promoting good in others. Because she has the virtue of beneficence, she is able to reliably use her skills and knowledge to the aim she seeks. She is also able to be

adaptable to the circumstances she finds herself in. Contrary virtues and salient features are used to guide her actions. Through habituation and practice, she is able to exercise good judgment to achieve her ends, even when faced with novel scenarios. This has the result of her being able to carry out the correct set of actions to promote good by helping others. Finally, she knows when action needs to begin, how long it is to continue and finally when it ought to end.

We now have an account of how knowledge sets the informed rescuer apart from bystanders. We also can explain, in virtue theoretical terms, the role that knowledge and skill plays. It is time to run the argument in the other direction and address why moral blame is assigned for not knowing how to rescue. Once we understand this, I will offer some objections and reason why we ought to learn first aid.

### **Assigning Moral Blame**

It is not enough simply to know what to do to be virtuous. A component of action is required to carry out virtuous aims, whether they are informed by traditional moral virtues like courage, temperance, etc, or intellectual virtues as advocated by Zagzebski, like open-mindedness, intellectual humility, etc. As much as we may praise motivation, it is the act which we most heavily appraise and criticize. Here we will look at appraising acts within the above context.

At its core, virtue theory appraises acts based on the criteria of the virtuous person. An act is said to be right, roughly, when it is something that a virtuous person would carry out at a certain time or place. Zagzebski points out, though, that there then arises a tension regarding

how virtue theory and deontological accounts treat ‘right,’ (Zagzebski, 233). Deontic theories see right as “not wrong” or “permissible,” but often do not venture into calling it “praiseworthy” unless it broaches into the supererogatory. Virtue theory, on the other hand, see “right” as something the virtuous person does, hence something those lacking virtue ought to strive towards. In that case, the “right” is praiseworthy, and that which is not right is subject to blameworthiness. The key component, then, is the right becomes that which a virtuous person might do in certain circumstances.

This still permits that a person can do a right act without being motivated by virtue. For instance, a first aider could rescue someone because he or she seeks a reward. The rescue is right in some sense, but it is not virtuous. As Zagzebski notes, “the act must mimic the behavior (sic) of virtuous persons in certain respects,” (Zagzebski, 234). Those respects are the virtuous motive and reliable success in achieving the virtuous ends.

Allowing for deontic terms, Zagzebski offers a definition of *right* and *wrong* acts as well as *moral duty*: “A *right act* is what a person who is virtuously motivated, and who has the understanding of the particular situation that a virtuous person would have, might do in like circumstances,” where a *wrong act* is “what a person who is virtuously motivated, and who has the understanding of the particular situation that a virtuous person would have, would not do in like circumstances,” (Zagzebski, 235 original emphasis). Finally, a *moral duty* is “what a person who is virtuously motivated, and who has the understanding of the particular situation that a virtuous person would have, would do in like circumstances,” (Zagzebski, 235 original emphasis). In less formal terms, a duty is counted as a duty “if and only if it is wrong not to do it,” (Zagzebski, 235).

Notice here the subtle difference between a right act and a moral duty; the difference between what a virtuous person *might* do and what they *would* do, respectively. In this sense, duties arise out of that which the virtuous person would necessarily do, whereas right acts could be any number of possible actions that are not contrary to a virtuous person's character. These acts, though, are not required of the virtuous person in the way that a duty is. For instance, Zagzebski notes that a virtuous person with the virtue of generosity or charity will not express it for every single opportunity which might arise to act so (Zagzebski, 236).<sup>66</sup> Acts of generosity or charity which might be carried out by a virtuous person are right acts. However, those acts which a virtuous person would judge to always do in certain circumstances – for our example, first aid – are counted as duties.

Therefore, praiseworthy acts, or cases where a person is praiseworthy in doing an act, are cases where the person does the act that a virtuous person *would* do in the same circumstances and is motivated by virtuous motives (Zagzebski, 236). To reiterate then, those acts which a virtuous person would judge to be right are based on phronesis; so, simply stated, right acts are what persons with phronesis *might* do, wrong acts are what they *would not* do, and duties are what they *would* do in like circumstances (Zagzebski, 239-40).

To review, here is the sketch of a duty to rescue for rescuers and first aiders I propose. Rescuers, by way of a motivation to cultivate beneficent acts within themselves, learn skills and knowledge in first aid. Their desire to help others in rescue cases aims their actions toward that end. With the virtue of benevolence and the aim of helping in particular ways, they use their knowledge and skills to help in emergencies. Based on phronesis, they are able to understand salient features in rescue cases and harmonize any competing virtues that arise within them to produce a single course of action. When this action in a particular situation is

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<sup>66</sup> As Singer would possibly have us do.

what a virtuous person would do, all things being equal, then they are fulfilling their duty; doing anything contrary to what a virtuous person might do – that is, not contrary to virtue – is a right act and therefore permissible. We praise those acts which a virtuous person would do.

We now come to the question of how far does blame extend. Does this create a duty to know first aid, and furthermore, can a person be blamed for not knowing first aid? If we are to be living virtuous lives aimed at promoting the good, we would need to work towards possessing the virtues, including beneficence. Beneficence, which aims at helping others, seems to naturally require that we have the ability to help others charitably. This suggests that to be beneficent, one would need to know how to help in emergencies, thus one ought to know first aid. Foot<sup>67</sup> clarifies this clear when she says that “charity requires that we take care to find out how to render assistance where we are likely to be called on to do so, and thus, for example, it is contrary to charity to fail to find out about elementary first aid,” (Foot, 4). What Foot is getting at here is tied to how acts and character are morally judged. Intentions often play heavily in judging moral dispositions. However, she notes that failure to perform can also display a lack of virtue. The ignorance itself becomes culpable, and can be traced to previous acts or omissions that are the source of the ignorance. For this reason, by not learning first aid skills, one can be judged for not being able to help where it would be appropriate to act.

However, not knowing first aid is not simply a case of choosing not to indulge in a possibility to be benevolent. Benevolence requires that we know first aid. If you do not have the virtue of benevolence, then you can be blamed for not having cultivated the virtue.

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<sup>67</sup> Philippa Foot *Virtues and Vices and Other Essays in Moral Philosophy* (University of California Press, Berkeley and Los Angeles) 1978

Therefore, since not knowing first aid is wrong, you ought to learn first aid, even if you do not yet possess the virtue of benevolence.

Failing to learn first aid is an issue of a lack of virtue, though not necessarily in the presence of a vice. Remember, the virtuous person with *phronesis* does not indulge in every opportunity of exercising benevolence, so the person without a fully developed virtue of benevolence certainly will not either.

We must also take care to separate *virtues* from *personal traits* because moral blame is assigned to a deficit of the former but not the latter. For instance, to equivocate on perceived excellences will have us inappropriately blaming a lack of some feature where it ought not to be evaluated as such. Being intelligent is praiseworthy, but in some cases lacking intelligence does not merit blame. We do not blame the mentally deficient for lacking intelligence because it is not something within their control, therefore it is inappropriate to expect it. For an ‘average’ person, however, there are some instances where a display of a lack of intelligence is morally blameworthy – where we, as a general rule, think someone “ought to have known otherwise.” As an example of something that is praised but ought not to be blamed, we will often praise beauty, but in no case would we blame someone for being “ugly.” These cases illustrate why virtues relating to rescue need to be separated from personal traits for the purposes of moral evaluation. Related to rescue, people ought to learn first aid relative to their abilities. A child may not have the strength to do CPR, but they can still understand when someone is in distress and call for help. The degree to which one possesses skills in first aid can only be blamed if it is a failure of virtue, not the result of a personal trait. If a person possesses adequate mental and physical abilities to execute first aid, then they ought to learn the skills as far as their natural abilities allow. The level of skill can be relative for each

person so that they are expected to perform within their own abilities. The lack of virtue is the source of the blame, not a personal trait of the person in question.

So, if a person has a skill but does not act appropriately, then by the standard of the virtuous person they have failed to act virtuously because they lack the relevant virtue. Where they lack the skill, we do not blame them for not acting since they did not know how to act. Instead, we blame them for not knowing how to act in the first place. Lacking first aid knowledge is a failure of benevolence. The requirement to know arises because of the virtue of benevolence. We will blame them, though, for not acting because it goes against the virtue of benevolence. Put another way, we do not blame them because they did not know; we blame them because they *should have* known. The bystander in question is on the hook for not knowing.

## **Objections**

Having given the account above, I will present three possible objections to this conception of an obligation to rescue and present a response to them. The first is on the basis of moral luck and succeeding in rescue attempts. Suppose a first aider has the correct motivation, acts according to the right virtue with the right actions but still fails on a particular occasion to rescue a patient. Does this not go against the account above?

Zagzebski attempts to deal with this by separating success and failure cases. In cases where everything is right – that is the emotions, motives, judgments and acts are all according to the virtuous person standard – and is successful in reaching the aim of rescue is said to be committing an act of the target virtue. An act of a target virtue, then, is a success condition.



She defines it where an act is an act of virtue “if and only if it arises from the motivation component of A [the virtue in question], it is something a person with virtue A would (probably) do in the circumstances, and it is successful in bringing out the end (if any) of virtue A because of the feature of the act,” (Zagzebski, 248). The reliability of the virtuous person to bring out a certain outcome is tied to their knowledge and skill, so therefore all things being equal, they are able to execute the virtue properly. However, there may be particular cases where the virtuous person does not succeed; perhaps they lacked important information beyond their control, or perhaps the conditions prevented success. In this case, there is no blame on the virtuous person for it was beyond their reasonable control. When they fail, they still acted virtuously (warranting praise). For example, a first aider who does CPR correctly but is unable to resuscitate the patient failed to save a life, yet still acted benevolently, not for lack of trying, but for circumstances beyond their control.

A second objection was brought up briefly in chapter two. This is the brother’s keeper argument. Any moral imperative for rescuers to act raises the problem that, like the officious meddlers, the rescuer is given an unjustified amount of responsibility. In this case, the rescuer becomes burdened with the task of watching out for everyone around them and being ready at a moment’s notice to render aid at all times. Some would claim that this will either place too great of a burden on the rescuer or it will lead to over-anxious rescuers whom will feel compelled to act when they reasonably ought not to. This objection was also hinted at in chapter one with Singer’s account placing too great of a demand on people to help.

However, the role of the rescuer is not meant to subvert the rescue process proper. The role of the rescuer in question falls into a chain that collectively bears the burden of rescuing individuals in peril. Rescue begins with early recognition of the peril, something that

phronesis takes care of, and the activation of advanced care if need be. Since we cannot reasonably expect professionals to always be immediately adjacent to potential peril, nor can we expect institutions as they are currently conceived and administered to perfectly respond to the problems they are intended to serve in society, the next reasonable course of action would be to call upon the able-bodied that make up the everyday population in a given society and recruit them in ad hoc fashion to respond to impromptu peril. People are naturally inclined to help those in need – whether it is through pure altruism or impure altruism (i.e. motivated out of expected gain in some form of utility). If a person is already disposed to act, then they are not affected by a stronger moral commandment to act, particularly when the virtues are cultivated.

Overall, from a virtuous person's point of view, this is dealt with by using phronesis. The virtuous person knows when and where to act charitably towards others. This will not result in officious meddling or vigilantism. Rather, the virtuous rescuer will act appropriately in each situation.

The final objection to be raised deals with unperceived danger.<sup>68</sup> We take as granted that first aiders are taught to mitigate safety concerns and danger when performing rescues, such as refusing to enter scenes that are unsafe, wearing gloves and using other barrier devices. However, in the case of unprofessional rescuers or rescuers who are not as capable as, say, the virtuous person would be, and therefore lack some skill, knowledge or experience, is it not wrong to require them engaged in rescue? A fire or gunman is an obvious sign of danger, but communicable diseases like Hepatitis or HIV are not readily perceivable, and so arguably more dangerous to unsuspecting rescuers. Without proper precautions, a rescuer helping in good faith may contract a disease or develop a disability because they were

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<sup>68</sup> I thank Megan Farrell for pointing this out to me in earlier versions of this argument.

fulfilling their obligation to help. This is especially the case because we are requiring that people help regardless if they are prepared to do so (i.e. they may not have protective gloves or other barrier devices with them).

I have two responses to this, a weak answer and a strong answer. The strong answer is that since these rescuers lack the experience to be able to either mitigate or avoid these dangers, then they are not subject to blame for deciding not to partake in rescue. The only thing they are blamed for is lacking the knowledge in the first place. It would be foolish of them to run into danger because they are supposed to help. We want prudent rescuers, not short-sighted helpers. Cultivating the virtues and skills is the appropriate response. For lacking these, they warrant moral condemnation.

The weaker, less satisfying answer is more pragmatic. Rescuers willingly accept the hazards that go with rescuing. In their evaluation, a rescue is carried out on a balance of probabilities: what is the chance of immediate harm to me, versus the chance of long-term harm to me. A fire or gunman presents an immediate threat whereas disease and disability may not manifest until long after the rescue. Inherent in first aid knowledge is the understanding that these hazards, while not necessarily clear and present dangers, are still possibilities. The requirement to act comes from possessing skills unique to facilitating the rescue. If the scene is judged to be safe enough to effectively commit to the rescue, then all things being equal the rescuer ought to act. Otherwise, the rescuer must fall back on their training and respond in a way that is appropriate to them, their skill and their conditions.

## **Proscriptions**

There is another question that must be addressed in this account. So far, we have seen how, in a virtue theoretical framework, one goes from having knowledge to virtue requiring action in rescue cases. This applies to all individuals who have knowledge pertaining to rescue and have the relevant virtues cultivated. Even in cases where the knowledge is absent, virtue requires the agent to gain that information. However, if a person in general has neither knowledge nor the relevant virtue, why should they learn first aid? We can leave aside questions of legal responsibility since, as seen in chapter two, lacking a relevant relationship or contract will often absolve a person of responsibility in most legal systems.

The remainder of this section will be devoted to answering this point. Since I have examined above why the virtues require everyone to learn first aid, I want to instead tackle this problem from a more pragmatic angle. I believe it fruitful to address the most common reasons why bystanders are likely to not act in emergencies. Accounting for why the average bystander is likely to not act will show why training and experience are important aspects to performing rescues. By showing why training and experience are important, we will then be in a position to show why people ought to get basic training in first aid and why ignorance does not absolve one of moral blame for not knowing. This position will be given support on multiple fronts from across several disciplines, both from the humanities and medicine in general.

Most people are confident they could recognize signs of a medical emergency, and a smaller but still significant portion believes they could help.<sup>69</sup> The likelihood of them actually helping is slimmer as psychological studies show a far different picture. In particular, there are two well-known phenomena that hinder rescue cases: the bystander effect and the normalcy bias

The bystander effect<sup>70</sup> is a well-documented social phenomenon whereby a person's likelihood of helping decreases when passive bystanders are present in a critical situation.<sup>71</sup> Cases of bystanders idly bearing witness to accidents is fairly ubiquitous and has spurred on many research projects on the topics of bystander intervention and prosocial behaviour. The standard model is that as the number of bystanders to an accident increase, the probability that any one person will intervene decreases.

Multiple explanations have been given to account for this phenomenon, including *diffusion of responsibility* among bystanders (the more people witnessing the event, the less the perceived responsibility is for each person), *pluralistic ignorance* (bystanders take their reaction cues from others, so when they see others not reacting, they question whether they should in ambiguous situations) and *evaluation apprehension* (bystanders fear being judged by others), among others (Fischer, 518). Darley and Batson<sup>72</sup> even suggested that how much of a hurry a bystander is in can impact bystander intervention rates (Darley and Batson, 105).

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<sup>69</sup> For instance, 90% of respondents believe they could recognize a person choking but only 67% believe they were confident in their skills to be able to help. Other emergencies include heart attack (73% vs. 47%), heat emergencies (65% vs. 55%) and anaphylactic shock (62% vs. 40%) (Ipsos Reid, 2).

<sup>70</sup> For a quick primer, see Chapter 10 of David McRaney *You Are Not So Smart: Why You Have Too Many Friends on Facebook, Why Your Memory Is Mostly Fiction, and 46 Other Ways You're Deluding Yourself* (Penguin Books Ltd, New York, New York) 2011

<sup>71</sup> For this discussion, I will draw heavily on the meta-analysis paper published by Fischer and colleagues that examines several decades of bystander effect research. See Peter Fischer et al., "The Bystander-Effect: A Meta-Analytic Review on Bystander Intervention in Dangerous and Non-Dangerous Emergencies," *Psychological Bulletin*, vol. 137(4), (July, 2011) pp. 517-537

<sup>72</sup> John M. Darley and C. Daniel Batson "From Jerusalem to Jericho": A Study of Situational and Dispositional Variables in Helping Behavior" *Journal of Personality and Social Psychology* vol. 27, no. 1, (1973) pp. 100-108

Fischer notes that, according to research, intervention will occur when (1) the bystander notices a critical situation, (2) identifies the situation as an emergency, (3) develops feelings of personal responsibility, (4) possesses the belief that he or she has the skills necessary to succeed, and (5) reaches a conscious decision to help (Fischer, 518). Recent research suggests that there are two variables that help lower the incidence of the bystander effect: when the emergency is recognized as dangerous (having either physical or social costs) and when the bystander is highly competent (Fischer, 520).

These findings are entirely consistent with the proposed virtue model. In the first instance, recognizing danger as being salient can be difficult in ambiguous cases. As Fischer notes, this becomes easy with non-ambiguous cases where the danger to the victim can be easily recognized as high to the bystander, not because of the danger to the victim themselves, but because the bystander perceived their own cost of intervention as high. While Fischer notes this may seem counter-intuitive, he explains that “if participants recognize that they might be injured in case of intervention, they realize that they are indeed confronted with a dangerous situation (both for themselves as well as the victim),” (Fischer, 534). This, however, only holds for easily identifiable cases of danger. In more ambiguous cases, the bystander would need to recognize the danger, which can be address with training. The person trained in how to perform rescues will be better equipped to pick out the salient dangerous features in more ambiguous situations. Their training and experience will inform their judgment when using phronesis, which will allow them to act.

Fischer’s paper mainly deals with accidents and scenarios that involve one person being aggressive towards a victim, and many of the conclusions drawn reflect this type of scenario. Because of this, relatively little is given in elaboration to the second mitigating point

– that skilled bystanders present to an accident decrease the incidence of the bystander effect. It is difficult to say that learning first aid makes one more likely to act in an emergency, mostly because learning or refreshing first aid skills happens so infrequently (usually every two to three years, depending on the required certifications).<sup>73</sup> Given the explanation how knowledge and skill, plus the relevant virtues, inform action above, little needs to be said directly on this matter beyond conjecturing that if the knowledge and skills are practiced with more frequency, then people are probably more likely to help, though admittedly this is an empirical question that needs further investigation.<sup>74</sup> However, there is another phenomenon that does give support to the role of training in emergency scenarios.

The normalcy bias<sup>75</sup> is the tendency for people to, rather than have heightened anxiety or panic in the face of perceived danger, become abnormally calm when faced with crisis. Leach<sup>76</sup> offers insight into why cognitive paralysis occurs during emergency situations. It is assumed that when faced with a threat to life, a person will have a classic “fight or flight” response. However, failing to act by way of ‘freezing’ “is an impaired response that delays evacuation, establishing a closed-loop process that leads to fatalities in otherwise survivable situations,” (Leach, 539).

Leach offers examples of reports and studies of disasters where instances of freezing were reported. For instance, he notes that in 1995 at a Boeing-737 fire at Manchester Airport, UK, (where 55 people died and 82 survived), victims “were seen to remain in their seats until they became engulfed in flames,” (Leach, 539-40). Leach estimates from these reports that

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<sup>73</sup> 67% of Canadians have taken a first aid course, but only 18% have done so within the last three years and 49% more than three years ago (Ipsos Reid, 3).

<sup>74</sup> For instance, research suggests that bystanders with previous CPR training are 3.4 times more likely to perform CPR than those without. See K. Tanigawa, et al.; “Are trained individuals more likely to perform bystander CPR? An observational study,” *Resuscitation*, vol. 82, no. 5, (2011) pp. 523-8

<sup>75</sup> For a quick primer, see McRaney, Chapter 7.

<sup>76</sup> John Leach “Why People ‘Freeze’ in an Emergency: Temporal and Cognitive Constraints on Survival Responses,” *Aviation, Space, and Environmental Medicine*, vol. 75, no. 6, (June, 2004) pp. 539-542

10-15% of people will remain calm, their judgement and reasoning abilities remaining unimpaired; 75% will be stunned and bewildered, their thinking reflexive and instinctual; and 10-15% will show counter-productive behaviour, such as weeping, confusion, screaming and paralyzing anxiety, (Leach, 540).

To explain this, Leach notes that the brain has a limited capacity to process information. Two constraints affect the brain: the amount of information it can hold within the working memory, and the speed at which it can process has a maximum rate that cannot be exceeded. Under normal conditions, the time it takes for the brain to carry out higher order cognition requires 8-10 seconds to complete (Leach, 540). In non-optimal cases, the processing speed may be retarded. If the standard sequence for cognition is perception, comprehension, decision, implementation and finally movement, then we can see how a delay in any of the first four steps will lead to a delay in carrying out an action.

Leach notes, however, that response times can be improved through practice, training and experience (Leach, 541). This is accomplished by converting complex cognitive operations into simple cognitive operations (from 8-10 seconds to 1-2 seconds). These pre-learned responses do not require deliberation or higher order cognition, and overcomes the limited storage of working memory. A set of several complex operations is then simplified and easy to process.<sup>77</sup> To Leach and this project, it has clear significance to training. Having training and experience allows the mind to process and deliberate action faster than not having it. In this project, these are tied up with phronesis when a rescuer carries out a rescue. A rescuer is able to understand the context of the emergency and can then rely on their skills and knowledge to choose those courses of action that allow them to carry out the rescue.

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<sup>77</sup> Leach does note that there is a drawback: the learned response is only recalled and operated upon in the manner in which it was learned. Novel conditions could cause the operation to move back into higher order cognition, losing the advantage of the training in question.



These are not strictly academic or experimental proscriptions. In 2011, the Canadian Association of Emergency Physicians (CAEP) released a statement on bystander CPR.<sup>78</sup> In their report, they note that victims of out of hospital cardiac arrests have a three to four times more likely chance of survival when receiving bystander CPR, however only receive treatment from bystanders in less than 25% of all reported cases in Canada.<sup>79</sup> They assert that if bystander CPR rates are increased to 50%, it could save an additional 2000 lives per year, or an additional 10% of all cases, (Vaillancourt, 339).

They recommend the following: (1) since CPR is a “life skill”, all Canadians should be trained in CPR; (2) all Canadians should respond and provide minimal care, depending on their training, if able; (3) if not able, they should be taught the early signs to recognize cardiac arrests so that they can call for help; (4) and that 9-1-1 ambulance dispatch-assisted CPR instructions be given for all cases of cardiac arrest. These proscriptions fall in line with the essence of this project – that people ought to learn basic rescue skills. A virtue theoretical account captures why we have the intuition that people ought to learn these skills, and both psychological literature as well as medical evidence supports it.

In the above two accounts, the bystander effect and the normalcy bias, we see why people often do not act. However, the literature and experiments suggests that these phenomena can be subverted by training. If it is a simple matter that training can increase the chance of people acting in the best interests of victims, then it is natural to suggest that people

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<sup>78</sup> Christian Vaillancourt, et al., “CAEP position statement on bystander cardiopulmonary resuscitation” *Canadian Journal of Emergency Medicine* vol. 13, no. 5 (2011) pp. 339-346

<sup>79</sup> According to a study by Swor, et al., in a small percentage of cardiac cases, bystander CPR is initiated. They found that important predictors of CPR performance are: witnessed arrest, bystander was CPR trained within the last five years, arrest occurred in a public location, and bystander had more than a high-school education. Reasons that people gave why they did not act include panicking (37.5%), thinking they would not be able to perform adequate CPR (9.1%), and thinking they would hurt the patient (1.1%). Only 1.1% objected because of the need to use mouth-to-mouth. See Robert Swor, et al.; “CPR Training and CPR Performance: Do CPR-trained Bystanders Perform CPR?” *Academic Emergency Medicine*, vol. 13, no. 6, (2008), pp.596-601

ought to learn it. This is both demanded of us by benevolence and by empirical evidence. From this point of view, there is no reason to not learn basic first aid. Indeed, if confronted by an accident, bystanders can be morally blameworthy for not being able to act on a most basic level. The knowledge and skills gained from training will allow people to recognize the danger of the situation and act appropriately – whether that involves carrying out the rescue themselves by rendering aid, or calling for advanced help. The issue is not whether every emergency requires bystanders to become directly involved; that demands too much upon the bystanders and can result in more harm than good. However, early recognition of harm and basic skills allow for aid to be given to those who need it in emergency situations. Having the tools to help (both knowledge and practical skill) then becomes a requirement of everyone.

With all these factors at play, what sorts of proscriptions can be offered to help? Below, I shall offer some considerations for making first aid a universal skill. First, as the CAEP recommends, make basic first aid education compulsory learning at the high school level (Vaillancourt, 340). If first aid training were built into the high school curriculum (say, in the already required health classes), then students would be exposed at the same time to the same material across the country. Instead of relying on self-initiated learning, students would all have the opportunity to learn and practice the skills. Granted, not everything learned at the high school level is retained indefinitely. However, starting the exposure there will allow students to cumulatively learn and practice their skills.<sup>80</sup> All students would graduate with a basic level of competency that would better prepare them for rescue cases.<sup>81</sup>

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<sup>80</sup> Pilot studies show that teenager's acquisition of Basic Life Support (BLS)/CPR knowledge is adequate and skill retention over four months is stable. See Theresa M. Meissner, et al.; "Basic life support skills of high school students before and after cardiopulmonary resuscitation training: a longitudinal investigation," *Scandinavian Journal of Trauma, Resuscitation and Emergency Medicine*, vol. 20, no. 31, (2012)

<sup>81</sup> In Germany, teens are required at 17 to take compulsory first aid and BLS classes for their driver's license (Meissner, 2).

An argument could be made to simplify the knowledge and expose younger students to it, modifying the material to match their understanding and abilities.<sup>82</sup> For instance, a case in British Columbia<sup>83</sup> involving a five year old girl calling emergency medical services after her mother suffered a seizure suggests that adequate help can be given from younger ages/skill levels. An explicit argument for this, though, will not be given here.

Second, another CAEP recommendation, governments should subsidize first aid education or offer tax exemptions (Vaillancourt, 341). This would incentivize both individuals and companies to invest in first aid training, whether as part of a company initiative or through personal/individual development. The obvious benefit is that it opens the training up to all individuals, especially to those who normally would be unable to pay for the training. This would contribute to safer environments, both in and out of work.

A third and similar option would be for the government to pair with nongovernment organizations to increase awareness and provide resources to help in first aid. We already see how technology is aiding in disseminating information and resources to people. For instance, with smart mobile devices becoming ubiquitous, consumers have greater access to knowledge through the internet when on-the-go and through mobile applications. A quick search through Apple's mobile app store (iPhone/iPod and iPad applications) or the Android app market using the keyword "first aid" generates over 400 hits across both stores. One app in particular, PulsePoint, is highly specialized. The app, once only available in California, will notify the owner of the mobile device when the fire service receives notification of a cardiac arrest

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<sup>82</sup> Students as young as nine years-old are able to successfully learn basic life support skills, including AED deployment, correct recovery position, and emergency calling. They are limited by their strength and size, but skill retention is good. See Roman Fleischhackl, et al.; "School children sufficiently apply life supporting first aid: a prospective investigation," *Critical Care*, vol. 13, no. 4, (2009)

<sup>83</sup> Hartnett, Cindy E. *Five-year-old B.C. girl praised as hero for 911 call after mom collapses in yard*. Victoria: The Province, 16 August 2012.  
<<http://www.theprovince.com/news/bc/girl+calls+after+mother+collapses+family+yard/7095701/story.html>>.

within the user's geographical area. Since the app first debuted early in 2011, it has spawned the PulsePoint Foundation,<sup>84</sup> an independent initiative that helps to bring the service across the United States. Less specialized apps available provide compendiums of encyclopaedic medical and first aid knowledge to help diagnose and treat injuries. If dedicated money and effort were put into technology and awareness campaigns (for example, the stoke commercials on television, World First Aid Day celebrated by the Red Cross on September 8<sup>th</sup>, etc.) individuals would be better prepared to recognize emergencies and thus able to help.

A final option, albeit harsher than the previous three, would be to legislate against Bad Samaritans. We saw in chapter two that there are some provinces, states and countries which have sanctions against people who do not provide minimal help in emergencies. If the state would adopt Bad Samaritan legislation, individuals found not rendering reasonable aid in emergency cases could face sanctions such as fines or worse. I will not propose what sorts of punishments ought to be used here; I merely raise it as an option.

In light of these proscriptions, one final objection that could be raised is whether we place too much responsibility on the part of bystanders to act, when instead we should shift the focus to the institutional level. If the bystander is so important, why not change the way social institutions are structured so that either a.) the government makes training more available, more affordable and more encouraged; or b.) emergency medical services are better, faster or more available? Would the more efficacious option be to focus on basic social justice instead of a higher demand on the average person? On this view, we seem to demand too much in the name of virtue.<sup>85</sup>

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<sup>84</sup> [www.pulsepoint.org](http://www.pulsepoint.org)

<sup>85</sup> I thank Brian Orend in his commentary on the final draft of this thesis for this objection.

I have three principle reasons why shifting the focus away from the individual to social institutions in order to bring help when it is needed is not plausible. If resources were not a limiting factor, then perhaps we could make this move. However, I believe focusing on the individual works for three reasons.<sup>86</sup> First, bystander rescue rates already occur in a relatively small number of cases. Four in ten Canadians, on average, have reported that they have been in a situation where they have used first aid in an emergency situation, whereas 62% of Canadians have never performed first aid (Ipsos Reid, 3-4). Of those who have performed first aid, 22% have done so on family members, 15% on strangers, 13% on friends and 12% on work colleagues. Because the need to act happens so infrequently overall, it would not justify radically restructuring emergency medical services to be more available and instead could be better serviced by bystanders being better equipped to act.

Second, restructuring emergency medical services for faster response times would only plausibly work for densely populated urban areas. When people are close to professional help, such as in cities with multiple hospitals, fire halls and ambulance bays, the average time for help to arrive is relatively low. However, away from cities, there are fewer resources per geographic area, which stalls response times. We even see this reflected in response rates per province. Of those who responded claiming to have used first aid, British Columbians accounted for the highest with 47% (Ipsos Reid, 3). This means that for all people from British Columbia who were polled, almost half have used first aid. Alberta shows 39% of respondents having used first aid and Ontario at 38%. We see, though, that there is an inverse

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<sup>86</sup> Surveys of the literature yields that the best efforts to improve bystander CPR rates tend to focus on the person, not social institutions, such as dispatch-assisted CPR instructions, teaching CPR to family members of cardiac patients, self-training videos, increasing time spent with manikins , and teaching the concepts of ambiguity and diffusion of responsibility. See Christian Vaillancourt, et al.; “Understanding and improving low bystander CPR rates: a systemic review of the literature,” *Canadian Journal of Emergency Medicine*, vol. 10, no. 1, (2008) pp. 51-65

correlation between response rates and population. As of a 2006 Canadian Census report, 85% of British Columbians lived in urban areas, or approximately 3.5 million people and 15% in rural areas, or about 602,000 people.<sup>87</sup> There are similar numbers in Alberta<sup>88</sup> with 82% urban (2.7 million) and 18% rural (590,000), but even with Ontario<sup>89</sup> having similar percentages (85% urban and 15% rural), the numbers are significantly larger (10.3 million urban dwellers versus 1.8 million rural dwellers). This suggests that where populations are higher and more dense, more social resources are available, whereas in places with fewer people, there will be a greater need for bystander intervention. The cost of improved social institutions in areas with fewer people does not justify the move away from the individual; rather, it strengthens it.

Finally, the first point of contact for a victim is usually a bystander who then summons for advanced medical care. It stands to reason that when a bystander is already present to summon for help, then if they could also begin the treatment process, in a sense building treatment momentum, this could pay-off for the victim and their recovery.<sup>90</sup> Being in a position to help someone when you are already calling for help is a great benefit for the victim and cannot be addressed by focusing strictly on social institutions. All this is not to say that social institutions cannot be improved. However, shifting the focus away from the moral obligations of the average person to social institutions is not the best option. To be more efficacious, we should cultivate the skills and virtues of people so that they can help when needed.

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<sup>87</sup> <http://www.statcan.gc.ca/tables-tableaux/sum-som/101/cst01/demo62k-eng.htm>

<sup>88</sup> <http://www.statcan.gc.ca/tables-tableaux/sum-som/101/cst01/demo62j-eng.htm>

<sup>89</sup> <http://www.statcan.gc.ca/tables-tableaux/sum-som/101/cst01/demo62g-eng.htm>

<sup>90</sup> Based on evidence, delays in the start of basic CPR has a great impact on survival. Delays of more than three minutes can decrease survival up to 50%. See, R.A. Waalewijn, et al.; "Survival models for out-of-hospital cardiopulmonary resuscitation from the perspectives of the bystander, the first responder, and the paramedic," *Resuscitation*, vol. 51, no. 2, (2001) pp. 113-122

## Conclusion

This thesis sought to argue two points: first, that informed rescuers, those individuals who possess skills and knowledge in how to rescue but carry no professional obligations, ought to act in rescue cases if they can; and second, not possessing first aid knowledge does not absolve one of moral blame for not acting in rescue cases. The result of this is that everyone ought to know basic first aid.

In chapter one, rescue cases were carved out as distinct from general aid cases. Because they are different in context, they elicit separate moral considerations that are related but still separate from general cases of aid. Chapter two explored the legal side of rescue, showing that rescue is viewed differently in various legal jurisdictions. Of note, there are clear cases where people are required to act where special relationships exist. Generally, Good Samaritan legislation is in place to protect the good intentions of those who wish to help. Legislation that requires action in emergencies, Bad Samaritan legislation, is not common in North America and poses a few issues that still need attention. Finally, chapter three explored the role that knowledge plays in rescue and how it generates a moral requirement to act for the informed rescuer. Under a virtue theoretical perspective, informed rescuers act out of benevolence and use their skills to help others. Benevolence, in general, requires that we help, so everyone ought generally to learn first aid. There are a number of other pragmatic reasons why people ought to train, such as avoiding the bystander effect and helping more people to survive emergencies.

The ultimate responsibility lies with individuals to act. Under a virtue theoretical account, the motivation to act is bound up in the cultivated virtues. When one acts charitably,

benevolently, and courageously, they will act correctly. These actions, when guided by practical wisdom, will ultimately lead to aiding those victims who need the help in emergency situations. Therefore, those that do not bother to learn first aid, maintain it, and use it when appropriate are considered morally blameworthy, even if their ignorance never leads to harm. Because they lack the appropriate virtues, they bear the blame for their failing. Benevolence requires that we learn these skills and use them when those who are injured call out for help. For this reason, everyone ought to learn first aid. Everyone ought to learn these skills and shrink the gap between the mere bystander and the informed rescuer to the point where there are no bystanders.



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