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THE LIMITS OF OBLIGATION. By *James S. Fishkin*. New Haven: Yale University Press. 1982. Pp. viii, 184. \$18.50.

If one can save a human life at minor personal cost, one is morally required to do so. Few persons would disagree with such a modest proposition. Although the extent of an individual's positive moral obligation to aid others can be controversial, this watered-down principle of "minimal altruism" receives nearly universal acceptance. Yet, as James Fishkin points out in *The Limits of Obligation*, this principle is one of many common ethical assumptions that break down when applied on a sufficiently large social scale.

Fishkin introduces this thesis in a striking manner by analyzing the consequences of "minimal altruism" for Peter Singer's famine relief scenario (pp. 3-7).¹ This scenario supposes that a small gift of five or ten dollars to a famine relief charity will save the life of a starving refugee. The cost of such a donation to a typical donor in Western society would be negligible; the value of the human life saved is far greater. Thus, the principle of "minimal altruism" requires that one make the donation. Fishkin, however, argues that this principle also mandates many more small contributions, since each incremental contribution saves a human life at an imperceptibly small marginal cost to the contributor. Ultimately, "minimal altruism" requires the donor to continue giving until the marginal cost of an additional gift becomes burdensome, by which point he may have given away a substantial portion of his income. Thus, a moral obligation which seemed unassailable at a low level results in generosity that most of us would consider far beyond the call of duty. From this example, and many others Fishkin concludes: that "[t]he admission of *any* . . . principle of general obligation to perform actions on behalf of any other person or group will lead, at the large scale, to the breakdown of the basic structure of individual morality."² Paradoxically, the author argues persuasively that to abandon such a notion of general obligation entirely seems "a denial of our common humanity" (p. 33).

Fishkin's "basic structure of individual morality" consists of three moral assumptions. Fishkin calls the first the "robust zone of indifference": "A substantial proportion of any individual's actions falls appropriately within the zone of indifference or permissibly free personal choice" (p. 23). This principle simply recognizes that most of our daily actions have so little moral significance as to be morally neutral — *e.g.*, choosing to wear a blue sweater rather than a brown one.³ The words of this principle are carefully chosen. The zone is "robust" because the vast bulk of our actions fall

1. Singer, *Famine, Affluence and Morality*, in *PHILOSOPHY, POLITICS AND SOCIETY* 21-35 (P. Laslett & J. Fishkin eds. 1979).

2. P. 33 (emphasis in original). General obligations, as Fishkin uses the term are those which "*any* of us could owe to *anyone* else, including a total stranger." P. 25 (emphasis in original).

3. The author does not suggest that such acts have *no* moral significance, but that the moral implications fall below the "cutoff for triviality." P. 89.

within it. Fishkin finds this situation entirely appropriate, for if moral issues were to invade the bulk of our mundane daily decisions, we would lose the freedom to control our daily lives that we correctly regard as our right.

Second, Fishkin assumes the existence of a "cutoff for heroism": "Certain levels of sacrifice cannot be morally required of any given individual" (p. 14). For example, a soldier is not morally blameworthy if he refuses to sacrifice himself by smothering a grenade with his body, even though the act would save his comrades. No one can define the precise level at which sacrifice becomes heroic. This imprecision makes the assumption relatively uncontroversial. As Fishkin notes, this assumption is commonplace in recent moral theory.⁴

Fishkin's final moral assumption divides all acts into three categories according to their moral significance. An act must be either: (1) indifferent, falling within the "robust zone of indifference"; (2) required, wherein failure to act warrants blame; or (3) supererogatory, being beyond the "cutoff for heroism." Fishkin assumes that any given act fits one and *only* one of these three categories. Having posited these three assumptions, Fishkin proceeds to test various theories of obligation against them. Most of these theories break down at a large scale because they require results inconsistent with Fishkin's assumptions. The "minimal altruism" principle, for example, directly conflicts with these assumptions, since it requires additional, repetitive relief contributions, even when one has given away a substantial portion of one's income. "Minimal altruism" *requires* acts more reasonably categorized as *supererogatory*. The conflict is plain; "minimal altruism," if carried to its logical extreme, is inconsistent with the "cutoff for heroism."

The indictment of "minimal altruism" applies with even greater force to moral theories with a stronger concept of general obligation. Classical utilitarianism, for example, suggests that when the "perfectly sympathetic spectator" views the world impartially, he must maximize the net utility or happiness of all persons. General obligations to others necessarily become "impossible to deny" (p. 159). Christianity's "Golden Rule" is another moral theory which cannot avoid conflict with Fishkin's moral assumptions. As Fishkin points out, if an actor must treat a starving refugee as the actor would wish to be treated in the same situation, the actor will assume general obligations much greater than the more modest principle of "minimal altruism would impose" (p. 157). Under both classical utilitarianism and the Golden Rule, demanding general obligations require individual sacrifice far beyond the "cutoff for heroism" integral to Fishkin's "basic structure of individual morality."

Fishkin also applies his thesis to the generalization argument, which analyzes the morality of an action by considering the consequences of its becoming the general pattern of conduct (p. 97). Thus, while a single apple picked from a roadside orchard arguably does no harm and hence falls within the zone of indifference, a general pattern of everyone picking from the orchard would cause significant harm and would thus fall within the zone of required inaction. Fishkin assails the generalization argument on two grounds. First, he argues that the generalization principle would shrink

4. P. 17; see, e.g., D. RICHARDS, *A THEORY OF REASONS FOR ACTION* 95-96 (1971); Urmson, *Saints and Heroes*, in *MORAL CONCEPTS* 60-73 (J. Feinberg ed. 1969).

the robust zone of indifference to insignificance. If acts are judged on the hypothetical results of everyone behaving the same way, many of our most mundane actions would be proscribed because they will have some evil result.⁵ Secondly, the discrepancy between the morality of the same action performed in isolation and on a large scale itself illustrates the author's thesis. If an action can be classified as both indifferent *and* proscribed, the unique classification assumption is violated and "non-equivalence" exists.

Fishkin's argument may be most vulnerable at this point. David Lyons has advanced a theory that denies the nonequivalence of the generalization argument, yet attempts to preserve the unique classification assumption.⁶ Lyons contends that the moral character of the apple-picking does not vary whether the act is viewed in isolation or is generalized over like acts. Although the orchard is not significantly harmed until some *threshold* number of apples are picked, each person who picked an apple contributed equally to the depletion of the orchard. While an apple picked from a full orchard may *seem* morally insignificant, this illusion persists only so long as we ignore the act's contribution to a serious harm. According to Lyons, the equal distribution of blame to each act places each squarely within the category of required inaction, maintaining the integrity of the unique classification assumption.

Fishkin's response to Lyons' argument is unsatisfactory. Fishkin argues that nonequivalence still exists on a sufficiently large scale, even admitting Lyons' threshold concept. Where it takes a large number of acts to reach the threshold, one of those acts viewed in isolation will be allocated such a small fraction of the threshold effect as to make its effect trivial and place it within the zone of indifference. Thus, the nonequivalence: the threshold-breaking act viewed alone is indifferent, while generalized over similar acts it is proscribed. Fishkin himself recognizes two problems with this response: it assumes that the threshold-crossing acts are more numerous than perhaps Lyon would admit, and it further assumes a "cutoff for triviality" and "robust zone of indifference."⁷

Fishkin's response to Lyons' argument demonstrates how utterly dependent his thesis is upon his initial moral assumptions concerning the robust zone of indifference, the cutoff for heroism, and the uniqueness of classifications. Far from being a fault, however, this dependence is responsible for the impressive strength of his argument. The three assumptions possess strong intellectual and intuitive appeal. Admittedly, some of their attractiveness results from the necessarily unspecific way in which they are phrased. This, however, does not undermine Fishkin's equally imprecise

5. Fishkin presents the example of serving beef at a dinner party. While seemingly innocent, it is not *totally* so; the practice contributes in a small way both to the wasteful use of the world's food resources and to the guests' chances of heart disease. P. 95.

6. See D. LYONS, *FORMS AND LIMITS OF UTILITARIANISM* 62-188 (1965).

7. Fishkin points out that a denial of a cutoff for triviality must also result in the collapse of the essential "robust zone of indifference" since "however trivial the consequences of an individual act, when it is generalized over a large enough number of other similar acts its consequences will routinely be enlarged to a level of moral significance." The collapse would entail "a pervasive moralization of everyday life." P. 104. This pervasive moralization would cause the loss of freedom to do as we please in broad areas of our lives. P. 22.

conclusion: that at some sufficiently large social scale, our basic ethical structure breaks down under the weight of general obligation.

Fishkin's work offers little practical aid to attorneys. His work belongs to the realm of moral philosophy. Fishkin analyzes individual obligations that are essentially extra-legal. His arguments are sophisticated and tightly crafted. Many times the reader will think of potential objections only to find them addressed comprehensively in subsequent paragraphs.

Refreshingly, Fishkin admits his inability to offer a solution to the problem he so clearly articulates. Rather, the book sets out the general problem and then proceeds to numerous applications and illustrations. Fishkin does, however, hint at possibilities. In particular he suggests that obligations that become problematic for individuals to assume on a large scale might better be left to "collectivities, nation-states, and other large institutions" (p. 9). This tentative suggestion offers little promise for an escape from Fishkin's dilemma. While shifting responsibility for problems such as world hunger from individuals to collectivities may mitigate the problems articulated in Fishkin's thesis, it seems unlikely to solve the problems. Presumably, a "cutoff for heroism" exists for larger political units as well as for individuals, and the moral demands of the relatively disadvantaged in the world may tax even the largest political institutions' ability to respond without "heroic" efforts.