



The Duty to Let Others Do Their Duty

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Abstract

We have no general duty to help others do their duty. But arguably we do, for a combination of agency-based and outcome-based reasons, have a general duty to let others do their duty. Our duty is derived from the other's duty, but it is none the worse for being so. It is best seen as a duty, rather than as the upshot of some right or power of the other that would preclude us from insisting that the others do their duty. Finally, our duty to let others do their duty is owed primarily to those toward to whom the others' duty is owed, rather than to those whom we should allow to do their duty.

Keywords Duty to let others do their duty · Tortious interference · Others' duties

1 Introduction

It is presumably a good thing, other things being equal, for people to do what their moral duties require of them.¹ But we ordinarily suppose that we generally have no moral duty to help other people do their moral duties.² Tom has a duty to repay Dick the \$100 that he borrowed from him. But that fact imposes no duty

¹ Maybe because the state of affairs brought about by their being done is (ordinarily) a good state of affairs. Or maybe because you doing your duty is good, over and above the goodness (if any) of state of affairs thereby produced. Or maybe, as I shall suggest, because of the combination of those two considerations.

² Throughout, my focus is firmly on moral duties. When I discuss legal duties, I do so purely for the light that that may shed on our moral duties.

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on Harry (assuming he was not involved in the transaction) to help Tom discharge that duty.³ Ordinarily, it does not even give Harry a pro tanto moral reason to do so. The debt, and the duty to repay it, is Tom's alone.

Even if there is no general duty to help others discharge their duties, might there be a general duty to *let* others do so?⁴ That is to say, might we have a moral duty to refrain from otherwise morally permissible actions just because those actions would make it significantly more difficult for someone else to (or otherwise significantly less likely that she will) discharge her moral duty to some third person?⁵ Or, if we already have some moral reason or even a duty to refrain from so acting, do we have *more* of a duty or an *extra* moral reason to refrain from so acting just because our actions would make it significantly more difficult for someone else to (or otherwise significantly less likely that she will) discharge her moral duty to some third person?

2 Arguments for the Duty

Broadly two types of arguments might be offered for supposing that we do have some such duty.⁶ First, we might think we have a duty to let someone else do her duty because her doing her duty is an exercise of her moral agency, which is good in and of itself; we ought not ordinarily stand in the way of that. Second, we might think we have a duty to let someone else do her duty because its being discharged would ordinarily lead to a good outcome.⁷

Those two arguments do not necessarily always point in the same direction, and sometimes they can be in tension with one another. But in the end, a combination of both of them is required for a proper account of why we have a duty to let someone else do her duty. The first, agency-based argument is needed to explain why we should let *her* do her duty—rather than our doing it for her whenever that would be the most cost-effective way of achieving the end in view.

Respecting her agency cannot be the whole story, however. Some version of the second, outcome-based argument needs to be added. That is required in order to

³ I report this commonplace, without blanket endorsement, merely to situate the present discussion. Conceptually, the distinction between helping and not-hindering is fraught (Bennett 1983). But no matter since, as I shall go on to argue, moral significance attaches not to the distinction itself but merely to further features that are only contingently (albeit quite commonly) associated with it.

⁴ So far as I can ascertain this question has been completely undiscussed, heretofore, within contemporary philosophy. Lawyers however do discuss it under the heading of 'tortious interference' (Prosser and Wade 1979, p. 767; Anon 1980; Fine 1983; Connor 2014).

⁵ The *Restatement (Second) of the Law of Torts* similarly defines tortious interference in terms of 'preventing... or causing his performance to be more expensive or burdensome' (Prosser and Wade 1979, p. 766B). I leave open what should count as 'significantly more' or 'significantly less' in the formulations in the text; just note, however, that those formulations are open to being read (by anyone so inclined) as '*any* more' or '*any* less'.

⁶ The same two arguments might similarly ground a duty to let others perform supererogatory actions, above and beyond the call of their duties. If so, the 'duty to let others do their duty' discussed below could be read (except where otherwise indicated) as 'the duty to let others do their duty and beyond'. And everything I say below about the performance of supererogatory actions can also be said, *mutatis mutandis*, about the performance of imperfect duties.

⁷ 'Ordinarily', in both cases, because (as explained below) those are pro tanto reasons that might be outweighed by other countervailing reasons, all things considered.

explain why, although we should let her do her duty, we may interfere with her exercising her agency in negative ways that produce bad outcomes.⁸ A person doing her moral duty would, in contrast, ordinarily yield a *good* outcome—and that is at least part of why we should ordinarily not interfere with her doing her moral duty.⁹

To put the point in the form of a slogan: it is *good* that her duty be performed, and it is *right* that it be performed by her. The combination of those two facts is what underpins our duty not to interfere with her in discharging her duty.

Of course any such duty could, at most, only ever provide a pro tanto reason for refraining from interfering with others doing their duties. All things considered, that pro tanto reason might be outweighed by countervailing reasons.¹⁰ And of course you have no moral duty not to interfere with someone's discharging a 'duty' (if there can be any such duty) to do something that would be morally wrong. There can be no duty to stand aside while a contract killer discharges that 'contract'. Bracket those sorts of cases in whichever way you prefer.¹¹

3 Relations Between the Two Duties

Our duty to let others do their duty is parasitic upon the latter having such a duty in the first place.¹² If their duty did not exist, ours would not either. Furthermore, the only reason our duty exists is that theirs exists. Their duty *grounds* ours.¹³

⁸ Even if exercising her agency in that negative way does not impinge on anyone else's agency. Maybe it is not 'moral agency' at all if she exercises the agency in intentionally negative, immoral ways. But we may also interfere with her genuinely moral agency if she is unwittingly producing bad outcomes or performing acts that are, unbeknownst to her, immoral.

⁹ That also explains why, all the more, we ought not interfere with her to the extent as to make it impossible for her to do her duty. Given that 'ought implies can', her duty would then disappear. Even if thereafter we are no longer interfering with her doing her duty, our preventing her from doing her duty has blocked a desirable outcome that would otherwise have been obtainable.

¹⁰ That might be because there are some more morally important things *we* should do that are inconsistent with refraining in this way. Or it may be because there are some more morally important things that *she* should do that are inconsistent with her discharging that particular duty. The need for such balancing in reaching a correct all-things-considered conclusion is highlighted in a much-discussed section of the *Restatement (Second) of the Law of Torts* that 'states the important factors to be weighted against each other and balanced in arriving at a judgment of whether an interference is improper' (Prosser and Wade 1979, p. 767, Comment; cf. Connor 2014).

¹¹ Maybe 'duties to do bad' are not really moral duties at all. (That is how the law handles contractual promises to commit crimes: hence the 'scare quotes' around 'contract' in the previous sentence [Prosser and Wade 1979, p. 774].) Alternatively, even if they are genuine moral duties that provide pro tanto reasons for discharging them, those pro tanto reasons are outweighed by much stronger countervailing moral reasons for not doing so; hence, you do not have an all-things-considered moral duty to do the bad thing, in which case I cannot have any moral duty that derives from your moral duty to let you discharge it.

¹² The same is not straightforwardly true of the analogous 'duty to let others perform supererogatory actions, above and beyond the call of their duties'. But that duty is at least grounded in the same considerations as ground duties: it applies to actions that are extraordinarily meritorious, in the same dimension of merit that makes other actions of a more ordinary sort the fitting subject of duties.

¹³ Anyway, that is the sort of duty here under discussion. In other sorts of cases, both our duty and theirs might derive from one and the same further source. Maybe, for example, everyone has a duty to bring about good states of affairs however they can; and the others can bring about a good state of affairs directly through what they do, and we can bring it about only indirectly, by letting them do that. But then our duty to let the others do their duty is not grounded in their duty; rather, something else grounds both our duties and theirs at one and the same time. That is simply not the sort of structure here under discussion.

Given that fact, it might be supposed that the moral importance attaching to our duty to let them do their duty can be no greater than the moral importance attaching to them doing their duty. Thinking purely in outcome-based ways, that may well be so. But factoring in agency-based considerations as well, more moral importance might attach to our duty to let others do their duty than attaches to their doing their duty itself. That is simply to say that there is some moral good in our not interfering with them in doing their duty, over and above the good that is done by their doing their duty.

Of course, one may sometimes have other, independent moral reasons for not interfering with others' ϕ -ing, over and above the reasons for that that are specifically derived from the fact that others have a duty to ϕ . You have a duty to feed your children, for example; and I have a duty to let you do your duty in that regard. But my duty deriving from yours is hardly the only reason I have for not interfering with your feeding your children, which is also good in all sorts of ways and for all sorts of other reasons other than that.

4 Is It Best Characterized as a Duty?

Even if I have pro tanto moral reasons to let you do your moral duties, is 'duty' quite the right way of characterizing them? There are other moral notions that might, on the face of things, seem eligible (some might suppose 'more eligible') candidates.

Here are two obvious candidates. Perhaps your duty to ϕ vests in you a 'liberty-right' (or a 'privilege' or a 'permission') to ϕ ; and that vests in me what Hohfeld calls a correlative 'no-right' to interfere with your ϕ -ing.¹⁴ Or perhaps (again in Hohfeld's terms) what you have is moral 'immunity' from interference with discharging your duties; and what I have is a correlative moral 'disability' (morally 'no power') to interfere.¹⁵

Neither of those other two relations is really fit for the present purpose, however. True, both of them would deny me any moral right or power to interfere with your doing your moral duty, which is just what we are looking for here. But each delivers that result in a way that would have an unwelcome further ramifications.

Imposing a moral duty on me to let you do your moral duty is perfectly consistent with me having, at the same time, moral permission (or even a moral right, or even a moral duty) to *insist* that you do your moral duty.¹⁶ Those other Hohfeldian relations are not. They would, at least on the face of it, deny me any right or power

¹⁴ Nozick (1974) has this sort of view, for example.

¹⁵ I hasten to add that these are my own extrapolations from Hohfeld (1923), who did not himself analyze third-party deontic relations of the sort here under discussion.

¹⁶ My having a moral duty to let you do your moral duty is even consistent with me doing certain things to *induce* you to do your moral duty—just so long as the means by which I induce you to do your duty works, at least in significant measure, through your own will. (If not, then it would arguably not be a case of *you* doing your duty—and my inducing 'you to do your duty' would then be nothing of the sort.) 'Inducing' might involve behind-the-back psychological 'nudges', whereas 'insisting' involves in-your-face exhortations. Neither need be remotely 'compelling', however.

to interfere *tout court*—whether with your doing your duty or with your *not* doing your duty.¹⁷ A Hohfeldian ‘privilege’ or ‘immunity’ would protect your right or power to choose as between either of those two options. Yet an important part of what motivated us to want to impose a duty (or something like a duty) on me to let you do your moral duties was a concern that your moral duties get discharged. Casting my moral relation to you in terms that would require me to allow you to discharge your duties—*or not, just as you please*—would be clearly counterproductive of that.

Maybe we don’t think that uninvolved third parties should *always* have a right (or even just moral permission) to insist on other people discharging their moral duties to one another. That certainly seems to be the case with the \$100 loan with which I began. Uninvolved Harry would seem like a moral busy-body if he butted into insist that Tom repay Dick such a modest sum. But other times—when the duty is of more consequence, or when you have a more legitimate interest in seeing the duty discharged (even if the duty is not strictly directed toward you¹⁸)—we surely do think that you should be morally permitted to insist on others doing their duty.

5 The Permissibility of Insisting that Others Do Their Duties

Some may resist that conclusion by pointing to people’s *general* negative liberty rights against interference. Insisting that others do their duty, they may say, would violate that right—from which they would conclude that there can be no moral permission (much less a right) to insist. That is I think the wrong conclusion.

It is relatively uncontroversial that we all have a duty to respect others’ negative liberty—a duty not to interfere with others’ morally permissible actions and choices. People may disagree about the strength of that duty and what other countervailing considerations might override it. But pretty much everyone agrees we have some such duty in one form or another.

How does that duty change when what others are doing is something that is not merely morally permissible but is, instead, something that is morally required of them? Perhaps our duty not to interfere with them is then somewhat stronger. After all, when they are doing their moral duty, they are morally bound to do what they are doing. Maybe that fact gives us an extra reason, over and above our general duty, not to interfere.¹⁹

¹⁷ Maybe they could be tweaked in such a way as to avoid that result. If the dereliction of moral duty were really severe, perhaps we might say that the privilege or immunity is forfeited or overridden, and others insisting is therefore permissible. Whether that can plausibly account for all the cases in which we think insisting ought to be permissible is an open question. Certainly it will be harder to justify saying a ‘privilege or immunity is overridden’ (or indeed forfeit) than it would be to justify saying merely that ‘circumstances permit insisting’ when there is no reason not to insist. The latter is of course the case with the ‘duty to let others do their duty’ formulation.

¹⁸ May (2015).

¹⁹ And in cases that they are performing some supererogatory acts, perhaps we have even more reason yet again not to interfere—grounded there not in the sheer fact that they were under a duty (in cases of supererogation they are not) but in the fact that considerations of the sort that ground ascriptions of duty make those acts even more meritorious along the same dimensions as is discharging one’s duties.

But what, now, about the case in which others are omitting to do something that they are actually morally required to do? By parity with that other case, it might be thought that we should then be just a little less-than-ordinarily reluctant to interfere when they are failing in their moral duty. That ‘extra weight’ falls on different sides of the moral scales in those two cases, to be sure. But we might be inclined to think that the source and the magnitude of that ‘extra moral weight’ is the same in both cases.

That would be a mistaken diagnosis, however. What is actually going on in the case of someone failing in her moral duties is something quite different. The general duty is, remember, not to interfere with people’s *morally permissible* actions and choices. But that is not what is involved, here. Instead, people are acting *contrary* to their moral duty. What they are (not) doing is not something that is morally permissible for them (not) to do. Therefore the general duty not to interfere with them does not apply.

Thus, there is not just *less* of a reason not to interfere with them in that case than the other. With the duty not to interfere with others’ morally permissible actions and choices, there is literally *no* reason for you not to interfere. There may be *other* reasons not to interfere, and on balance that might be the correct thing for you to do.²⁰ But if so, that is not for any reason to do with the duty not to interfere with others’ morally permissible actions and choices.

6 Why a Duty-Not-to-Hinder but No Duty-to-Help?

As I remarked at the beginning, we do not suppose that there is a general moral duty (or even ordinarily a pro tanto moral reason, necessarily) to *help* others discharge their moral duties. But as I have now shown, we arguably do have a moral duty (certainly at least a pro tanto moral reason) to *let* others discharge their moral duties—not to interfere with their so doing. Let me now return to suggest, if only briefly and in passing, why that difference might obtain.

There would seem to be no good answer looking at the situation from the point of view of the person who would be helped or hindered. The magnitude of the contribution made to the doing of his duty does not vary systematically with the type of intervention. Others’ helping him do his duty can be equally instrumental (or more so) to his succeeding in doing his duty as would be their refraining from interfering with his doing his duty. Nor is the difference well grounded in a concern for his moral autonomy, for much the same reason. The positive assistance that others provide at his request could be as important in facilitating the exercise of his moral agency as their negative interference would be in impeding it.²¹

²⁰ Recall my ‘busy body’ point, in relation to the \$100 debt, which might point to one of them.

²¹ In other cases the positive assistance might preempt his own exercise of moral agency. I am not here claiming that positive assistance always necessarily facilitates the exercise of his moral agency—merely that it *can*.

Perhaps there is a better explanation for the differential treatment of helping and hindering when we look at the situation from the perspective of the prospective helper-or-hinderer. There, comparative costs plausibly do vary systematically with the type of intervention. It is ordinarily (if not invariably) more costly to provide positive assistance than it is to do nothing—including, among other things, ‘not interfering with the others’ discharging their duty’. Such cost considerations might explain why we think it is right to impose an (ordinarily costless) duty not to interfere with others’ doing their duty, but not to impose an (ordinarily costly) duty to help them do their duty.²²

Similar cost considerations might also explain why we think it is proper sometimes to give uninvolved others a permission (or perhaps even a right) to insist that others do their moral duties but not, ordinarily, to impose a duty on them to do so.²³ Couching it as a permission or a right, rather than a duty, leaves it up to would-be helpers to decide whether or not they want to incur the costs of insisting.

As I have said, we do not impose any *general* duty on people to help others do their duty. Nonetheless, there may be some special cases in which we would. Those might be cases where the moral duties in question are extremely important and extremely unlikely to be discharged without our assistance, and where our assisting would be minimally burdensome for us.

The rationale for a duty to assist in such cases might be just a natural extension of my argument for letting people insist that others do their duties. As the moral stakes rise, perhaps ‘moral permissibility to insist’ turns into ‘moral duty to insist’. And as stakes rise further still, that may turn into a ‘moral duty to help’ (and, as stakes rise still further, perhaps even ‘moral duty to do it for them’).

Those would, however, be situations of high moral drama, not ordinary moral life. In more common garden cases, we simply have a moral duty to let others do their moral duties and a permission to insist that they do so. Still, it is worth nothing that one of the same considerations that underpin the duty not to interfere with others’ doing their duties (*viz.*, an outcome-based concern that those duties get discharged) also gives rise in more morally charged situations to those other permissions, rights and duties to insist, to help or even in extremis to do it for them.

²² Were ‘costs’ to include opportunity costs, then ‘not interfering’ might be quite costly—i.e., the difference between the non-interferer’s payoff from interfering in the most lucrative way and not interfering at all might be substantial. But in discussions of the role of demandingness in delimiting moral duties, the focus is almost invariably merely on out-of-pocket costs rather than opportunity costs. No one thinks that the fact that there is a million dollars in the bank you might rob makes your duty not to rob it unreasonably demanding.

²³ As I have said, we may want to give them such permission only if the stakes are non-trivial. At the other extreme, however, if the stakes are enormous and the cost of insisting is not too great, we may then want to impose a duty on them to insist, as discussed below.

7 To Whom is the Duty Owed?

Assuming that there is indeed a duty to let others do their duties, to whom is that duty owed?

A natural (but, I shall argue, incorrect) thought is that it is owed to the person who is being allowed to do his duty. Consider the more general duty of non-interference with others' morally permissible actions. That is a duty owed, in the first instance anyway, to the potential target of the interference. She is the one who will have a right to complain if you interfere with her morally permissible actions. So too, we might suppose, with duty here under discussion—the duty not to interfere with others in their performance of actions that are morally mandatory for them.

That would indeed seem to be the correct interpretation, if we prioritized the agency-based strand of the argument for the duty to let others do their duty. But that is not what we do in practice. Anyway, that is not what we do in the practice of the law. There, at least, the outcome-based strand of the argument seems to dominate.

Suppose you improperly interfere with me in discharging my contractual duty to someone else. It is not me (the bearer of the contractual duty) but rather that other person (the beneficiary of my contractual duty) who can sue you for 'tortious interference'.²⁴ Or again (to quote Blackstone), 'obstructing the execution of lawful process'—interfering with police officers in the discharge of their official duties—has long been regarded as an 'offence against public justice'.²⁵ To say it is an offence against 'public justice' is simply to say that the offender will be prosecuted for wronging the Crown or the State or the People—that, rather than for wronging the police officers who were interfered with in course of discharging their duties.

What those examples clearly suggest is this. When we object to someone interfering with someone else doing his duty, our concern is with the impact of the duties not being done on those *for whom* they should be done rather than *by whom* they should be done. Those with standing to complain about interference that prevents duties from being discharged are those to whom the duties themselves were owed.²⁶

Some moral duties are special duties, directly owed to specific individuals. When someone interferes with someone else discharging such duties, it is that specific individual who is wronged and who has particular standing to complain. Many moral duties, though, are general duties, owed to everyone in general but no one in particular. When someone interferes with someone else discharging the latter sort

²⁴ 'One who intentionally and improperly interferes with the performance of a contract... between another and a third person by inducing or otherwise causing the third person not to perform the contract, is subject to liability to the other for the pecuniary loss resulting to the other from the failure of the third person to perform the contract' (Prosser and Wade 1979, p. 766). The doctrine originated with the English case of *Lumley v. Gye* [1853] EWHC QB J73; for historical background see Anon (1980). Within my framework, interference would be 'improper' if the countervailing reasons for interfering are insufficient to outweigh the pro tanto reasons for not doing so.

²⁵ Blackstone (1765), bk. 4, ch 10, sec. 3, p. 129. Nowadays most jurisdictions also have similar statutes against interfering with public safety workers (firefighters or emergency workers) in the discharge of their official duties. See, e.g., New York Penal Code, S 195.05 (obstructing governmental administration in the second degree), S 195.15 (obstructing firefighting operations) and S 195.16 (obstructing emergency medical services).

²⁶ Similarly, those with standing to complain about interference that prevents someone from performing supererogatory acts are those who would have benefited from those acts being performed.

of duties, it is the moral community at large that is wronged.²⁷ The former is the moral analogue to the legal case of tortious interference with someone discharging his contractual obligations. The latter is the moral analogue to the criminal offense of obstructing police officers in the discharge of their official duties.

8 What About the Person Interfered with?

The person interfered with is not without claims in these sorts of situations, to be sure. The manner in which we interfere with someone in the discharge of his duties will often, in itself, constitute at law a tortious wrong against him. We locked him in a room, or took his wallet, or restrained him with physical force. Those would all be wrongs, both morally and legally, against the person with whom we interfere.

Those wrongs, however, would be equally wrong—and wrong to just the same extent and for just the same reasons—whether or not the person interfered with had any duties he was thereby prevented from discharging. While those are all wrongs, they are therefore not the *distinctive* wrong here in view, which is the wrong that we do when interfering with someone's discharging his duty. The fact that we might have wronged the person in some of those other more *generic* ways must not be allowed to obscure the *distinctive* wrong done when interfering with his doing his duty.

Certainly we have a general duty not to interfere with anyone else's actions, so long as those actions are not themselves morally impermissible. 'Not morally impermissible', of course, straddles both the 'morally permissible' and the 'morally mandatory'. So that general duty of non-interference is the same whether the other's actions are, for that person, morally mandatory or merely morally permissible. The question here is whether someone has any *extra* grounds for complaint if what we interfered with was her doing her moral duty, over and above those general grounds she has for complaining about our interfering with her not-morally-impermissible actions in general.

One reason for thinking that they do might be that interfering with someone's performance of her moral duties is an interference with her moral agency. Of course, interfering with their actions always interferes with the exercise of their agency of some sort or another. But their moral agency, perhaps, is a very special and morally especially important sort of agency. Hence interferences with it may be all the more objectionable than interferences with other sorts of agency.

I am skeptical of that move, however, for the reasons with which I began. Any argument from the special status of moral agency that is used to ground the duty not to interfere with people in the exercise of their moral agency would also surely imply that there should also always be a *pro tanto* reason (perhaps even a duty) to help them in the exercise of their moral duties.²⁸ Maybe there is, in extremis. But as

²⁷ I am here assuming that the 'moral community at large' is an entity that can itself be wronged—the moral analogy to the entity (the 'State' or the 'Crown') wronged by the criminal offender. Who has moral standing to bring complaints about wrongs done to it I here leave as an open question. But perhaps any member of the moral community should be entitled to complain about interferences with these general moral duties being performed.

²⁸ Just help, mind: not do it for them, or even assist them in any way that would circumvent their agency.

I have said, in more standard cases we do not ordinarily think that we have any general duty to help people to do their moral duties.

9 Conclusion

I conclude that there is indeed a general moral duty not to interfere with other people's doing their moral duties, which is distinct from the general moral duty not to interfere with others' not-morally-impermissible actions and choices. While the duty to let others do their duty has twin roots, it is more deeply rooted in a concern with interests of those toward whom those others have duties than it is in a concern with the others' own moral agency.

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