



Can Duties to the Self Bind if They Are Waivable?

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ABSTRACT

It is often argued that, because she would always be in the position to waive it, a person cannot owe a duty to herself. In a recent *AJP* article, Janis David Schaab argues that a person *can* owe a duty to herself *even if it can be waived*, thus rendering unwarranted a scepticism about such duties, as well as efforts to show that they are unwaivable. Here I argue that, for all that Schaab says, waivability continues to threaten the very possibility of duties to self. As such, scepticism about their existence remains justified, as do attempts to vindicate them by demonstrating that they cannot be waived.

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1. Introduction

To have a duty to someone is to stand in a special kind of normative relationship to them. But, according to many, a person cannot bear this relationship to herself. A duty owed to oneself, it is said, could always be waived by its bearer, thereby empowering her to do what it proscribes without committing any violation. So, for instance, had I a self-directed duty to not take a harmful drug, I would nevertheless be in the position to grant myself a waiver, and thus to escape the duty's grasp through a mere act of will. A duty whose grasp can be escaped in this way is no duty at all. Or so we might think.

In a recent article [2021], Janis David Schaab challenges this line of thought. Schaab contends that a person can be subject to a duty *even if* she's able to waive it. The upshots are that those who doubt the existence of duties to self are mistaken to do so, and that those who defend duties to self by showing that they're *not* waivable needn't make the effort. Here I will argue that, for all that Schaab says, worries about self-directed duties remain. My claim will be that a duty from which one can release oneself is a duty that does not *bind*—something that Schaab's discussion overlooks—and that a duty that does not bind is no duty at all. Scepticism about the existence of self-directed duties thus remains legitimate, and such duties remain in need of defence.

2. Inviolability

According to what Schaab calls the *Inviolability Thesis*, if there is no way for an agent to violate a particular norm, then the norm is not one under which the agent can stand.

The thought is that, if it's impossible to violate a norm, then there's no sense in the idea that an agent may be guided by it, and if there's no sense in the idea that she may be guided by it, then she doesn't stand under it in the way that agents characteristically stand under norms. Schaab understands opponents of duties to self to be appealing to this thesis, objecting that it would be impossible to violate any such duty, given the bearer's capacity to waive it. The best evidence for this reading comes from Marcus Singer, who writes: 'To promise oneself to do something just *is* to be strongly resolved to do it, and if one were to change his mind and not do what he intended he would not have broken any promise' [1959: 203]. Because a person who violates a self-directed duty associated with a promise will always have waived it, there is no possibility of violation, and therefore no sense in the idea that there was ever a genuine duty in play.

Schaab distinguishes between two ways in which the Inviolability Thesis might be invoked by opponents of duties to self—one conceptual (which I will discuss now), and one psychological (which I will discuss in section 4). According to the former rendering, if there's no action that could, even as a conceptual matter, count as violating some particular obligation, then there's no sense to be had in the idea of someone bearing such an obligation. Against those who would deny the existence of duties to self on these grounds, Schaab counters that they are not, in fact, conceptually inviolable [2021: 6]:

no matter what *kind* of act waiving is, it cannot be conceptualised as an act of waiving independently of the normative power of which it is an exercise. In other words, the act-description 'waiving an obligation' is conceptually linked to this normative power. If this is true, it immediately follows that there is a conceptual gap between releasing oneself from an obligation and acting contrary to it. After all, to act contrary to an obligation to ϕ , one does not have to fulfil an act-description that is conceptually linked to the normative power of waiving; it is simply not to ϕ .

To illustrate this, suppose that I promise myself that I will adhere to a diet of dry foods. I possess the normative power to waive the duty associated with this promise. I then proceed to eat a papaya. This rogue act is not linked conceptually to the power to waive my duty, and indeed I might eat the papaya without ever exercising that power at all. There thus exists conceptual space within which I refrain from waiving the duty, but nevertheless violate it by eating papaya. On the basis of this, Schaab concludes that it is possible to violate a duty to oneself, despite the duty-bearer's power to waive it. Thus, there's no incoherence in the suggestion that the duty exists.

3. Binding

Schaab begins his paper by noting early formulations of the argument against duties to self—specifically, those articulated by Hobbes and Kant. Although he ultimately focuses on a more 'schematic' rendering offered later by Singer, it's worth attending to the earlier texts. For there we find no mention of inviolability, and my concern is that, by fixating on inviolability, we overlook what ultimately worries these thinkers. Here is Hobbes, contemplating a sovereign who attempts to legislate for himself [1991: 184, spelling modified]:

having the power to make, and repeal laws, he may when he pleases, free himself from that subjection, by repealing those laws that trouble him ... [H]e that can bind, can release; and therefore he that is bound to himself only, is not bound.

And here is Kant [1996: 173]:

If the I *that imposes obligation* is taken in the same sense as the I *that is put under obligation*, a duty to oneself is a self-contradictory concept. For the concept of duty contains the concept of being passively constrained (I am *bound*). But if the duty is a duty to myself, I think of myself as *binding* and so as actively constraining (I, the same subject, am imposing obligation). And the proposition that asserts a duty to myself (I *ought* to bind myself) would involve being bound to bind myself (a passive obligation that was still, in the same sense of the relation, also an active obligation), and hence a contradiction. – One can also bring this contradiction to light by pointing out that the one imposing obligation (*auctor obligationis*) could always release the one put under obligation (*subjectum obligationis*) from the obligation (*terminus obligationis*), so that (if both are one and the same subject) he would not be bound at all to a duty he lays upon himself. This involves a contradiction.

Notice that neither refers to inviolability, or to the conceptual impossibility of violating a duty that its bearer can waive. Instead, both focus on the impossibility of an agent's being *bound* by such a duty. This difference is philosophically significant. For we might think it possible for an agent to subject herself to a norm, and also to be capable of violating that norm, all while not being *bound* by it.

Consider an analogy. A philosopher queries whether an agent can truly *detain* herself with a set of handcuffs, in so far as she possesses the keys. She can, of course, cuff herself to the desk. Furthermore, she can, perhaps, subject herself to a rule specifying that she remain chained to the desk—a rule that she *could* violate by unlocking her cuffs and leaving the precinct, all while continuing to subject herself to the rule (perhaps because she enjoys being someone who breaks rules—even her own). Yet, even if we grant all of this, her situation is still very much unlike that of a person cuffed to the desk *without* the keys. For, unlike the keyless detainee, whether she remains in the precinct is ultimately up to her. In this sense, she is not actually bound at all. And, in some sense, a person who isn't bound cannot be genuinely detained.

A person said to owe duties to herself, we might worry, is like a detainee in possession of keys to her own handcuffs. For even if there is sense in the idea that she subjects herself to a standard, and in the claim that she might violate that standard, whether she's ultimately held to the standard at all is something that is within her power to determine. Thus, she finds herself in a normative situation very unlike being interpersonally obligated. Return to our dieter, discussed in section 1. Perhaps she can successfully violate her promise to herself by eating papaya while refusing to waive the promise. But the power to escape the promise's normative force is located in her own will. Her normative situation is thus very different from one in which a will distinct from hers decides whether this necessity will remain in force, as it's not simply up to her whether she is held to the standard.

Given the contexts in which earlier thinkers voiced the argument against duties to self, the focus on binding is unsurprising. Hobbes is interested in whether law could play the same role for the lawmaker that it does for a typical subject. That the lawmaker could always avoid its force through a mere act of will suggests that it could not play the same role, since typical subjects are compelled by the law regardless of what they will. Kant, on the other hand, is interested in showing that the form of normativity exhibited in a person's relationship to herself is the same as that exhibited in interpersonal relationships—ultimately, because he thinks that the normative relationship to one's self is metaphysically prior to one's normative relationship to others. Since being bound is an essential feature of one's normative relation to another, it is crucial for him to show that a person can be bound by herself—hence the focus on binding.

Schaab shows that it's conceptually possible to violate a standard to which one subjects oneself, even if one possesses the power to waive it. What he doesn't show is that it's possible to be bound by a duty owed to oneself when one possesses the power to waive it. If being bound is essential to being obligated, Schaab's argument leaves duties to self in need of vindication.

4. Psychological Inviolability

As mentioned above, Schaab discusses another rendering of the argument against duties to self, which claims that they are incoherent because they are *psychologically* inviolable. According to it [2021: 8],

any motive for not φ -ing is equally a motive for releasing oneself from an obligation to φ and *vice versa*, so that, whenever my motivation is sufficient to make me not φ , it will also be sufficient to make me release myself from any obligation to φ .

Here is one way to reformulate that thought. If I have a duty to myself to stand up to a bully, whatever cowardly motive might inspire me to violate that duty will equally inspire me to waive it. Thus, even if there exists conceptual space within which to act against a duty while declining to waive it, no coherent individual would do so.

Schaab discusses this reading of the argument against duties to self in the context of my own work. I myself have defended such duties, but, *contra* Schaab, I hold that their existence depends on their being unwaivable. In the paper of mine on which Schaab focuses, I attempt to vindicate duties to self that are *diachronic*, such as those protecting one's future wellbeing from one's present action, by arguing that they could not be waived [2015: 516–25]. The strategy that I employ exploits the notion of a temporal perspective. Because it is impossible, I argue, to obtain a waiver from a future perspective whose interests the duty is meant to protect, an agent can be duty-bound from her present perspective. But this move, I maintain, is not available to someone attempting to argue for *synchronic* self-duties, owed by a person to herself at a particular time. For even if we can identify multiple perspectives that a person occupies at a single moment, perhaps associated with various roles or practical identities, she would seemingly be able to waive any duties associated with them. Schaab writes thus [2021: 10]:

We might paraphrase Schofield's complaint as follows: since access to the perspectives corresponding to our practical identities is not restricted to specific points in time, we will release ourselves from any obligation to φ that is generated by these perspectives as soon as our motives are strong enough to make us not φ —regardless of which perspective it is to which these motives are attached. In particular, Schofield seems to think that I will release myself from my obligation to go to the gym today (from my perspective as [an athlete]), as soon as my motive to continue working on my paper is strong enough to make me act against that obligation, although this motive belongs to a different perspective (my perspective as a philosopher).

So characterised, my complaint appears to rest on the worry that any synchronic self-duty would be psychologically inviolable. Schaab thinks that I'm mistaken to have such concerns. His argument runs as follows. Motives from one's perspective *qua* athlete can conflict with motives from one's perspective *qua* philosopher. Because they can, it's possible for an individual to have, at a single moment, both a motivation to perform an action and a motivation to withhold the waiver. *Qua* philosopher, she might be motivated to read and to demand of herself that she do so. *Qua* athlete, she might be motivated to exercise rather than to read. Because the obligation to read is generated

from her perspective *qua* philosopher, this is the perspective from which she would need a waiver. But, from this perspective, she is not motivated to issue the waiver. Nevertheless, *qua* athlete she might be motivated to act against the obligation, and thus to spend the day exercising. So, it is psychologically coherent for her to act against the demand and to violate the obligation. No threat is posed by the argument against duties to self.

My complaint can thus be dismissed if it's read as concerned with psychological inviolability. However, I believe that the complaint remains in force in so far as it pertains primarily to whether putative obligations at a particular time can *bind*. Consider that, regardless of the psychological possibility of her violating the duty to read, our imagined philosopher-athlete would nevertheless possess the power to avoid the necessity of the duty. For it is *she herself* who occupies both perspectives, and it is *she herself* who exercises her will from them. When the moment for action arrives, she might, or might not, be motivated to release herself—just as a person in possession of keys to her own handcuffs might, or might not, be motivated to release herself. But the individual person, with her singular will, able to occupy either perspective at a singular moment, ultimately wields the power to avoid the necessity associated with the obligation (regardless of whether she's motivated to exercise it). As such, in the moment when she must act, she is not bound.

In a later article, I discuss in more detail the worries about synchronic duties voiced above [2019: 226–7]:

Vindicating duties to the self, then, will require showing that there exist practical identities that bring with them some kind of necessity—that is, identities that bring with them obligations that cannot simply be waived by the person to whom they are owed. If such practical identities exist, and if a person makes demands from the perspective of one of them, then the duties that they generate will be un-waivable, and we'll have found a way of defending synchronic duties to the self.

I proceed to argue that there do indeed exist such practical identities. But, crucially, my point is that *this* is the sort of account that is needed in order to show that a person really can be *bound* by an obligation to herself. To simply point, as Schaab does, to the conflicting motivations associated with different practical identities or roles would be insufficient.

5. Conclusion

Schaab thinks that the ability to waive duties to oneself doesn't threaten their status as duties. He thinks this because he reads those who are concerned with waivability as being fixated on inviolability. I have argued that we should focus instead on whether waivable duties to the self could ever *bind*. On this reading, the case against duties to the self remains formidable, successfully threatening the very notion of a self-directed duty and demanding an account of duties to self on which they cannot be waived.¹

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