What are the Duties in the Duty View?

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Victor Tadros’s *Ends of Harm* offers a satisfyingly rigorous treatment of the theoretical underpinnings of the justifications for state punishment.¹ Too often, Tadros points out, philosophers of punishment divide up the world into retributivism and deterrence theory and argue that the former goes with nonconsequentialism and the latter with consequentialism, while ignoring that our arguments for punishment are extricable from the underlying moral theory we adopt. Given that extricability, we could offer, as Tadros does, an instrumental argument for punishment from within a nonconsequentialist moral framework. Tadros’s instrumentalist account of punishment, which he calls the “Duty View”, says that, if someone commits a crime, then he owes certain duties to his victim. These duties include both the duty to recognize that what he did was wrong and, more importantly, the duty to provide a remedy to the victim for the harm suffered. The content of this remedial duty is to protect the victim (and her associates) from future harms by other people. When an offender is unwilling to fulfill his protective duties, it is permissible to compel him to fulfill them even though he is likely to suffer as a result. The suffering of an offender is intrinsically bad, but justified by the good it produces in protecting victims (and others) from future harms.

The greatest challenge to this view, Tadros says, is the means principle: that, in punishing an offender, the offender is used as means to achieve a good and hence not respected as a person. Tadros devotes much of *The Ends of Harm* to answering this challenge. Put simply, he says that it is an offender’s duties to achieve the good of general deterrence that make it permissible to use him as a means to achieve it.

In articulating the Duty View, Tadros seeks to bring together the best of both worlds. He says that his view shares with consequentialist theories the idea that we punish people in order to deter others from offending, and it shares with retributivism the idea that it is respect for persons (rather than practicalities) that requires us both not to punish the innocent and not to punish the guilty disproportionately (42). There is much that is attractive in Tadros’s Duty View,

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including its intuitive appeal, first, that an offender has certain restorative and reparative duties other than compensation which flow from his wrongdoing, and second, that, in light of this, it is permissible to suspend ordinary relations and impose burdens on him in the name of those duties. Another highly attractive part of Tadros’s project is his formidable critique of desert theory in the opening chapters of the book. Tadros’s challenges against standard versions of desert theory are wonderfully stimulating and difficult to resist. A further attraction of Tadros’s work is his vivid, case-driven argumentative style, which can quickly dislodge the analytic footing of a sceptic.

Where Tadros’s account is somewhat less convincing is in its claims about the content of the duties that flow from wrongdoing. This is true for both offenders’ duties and victims’ duties. Let us start with offenders (section 1) and then move on to victims (section 2).

1. Offenders’ duties

An instrumentalist argument for something is credible if only if that something actually is an instrument that serves the thing it is said to serve. Hence, an instrumentalist argument for punishment in the name of general deterrence is credible if, and only if, punishing offenders actually is an instrument that serves the good of reducing crime. Tadros’s defense of punishment relies on the starting assumption that punishment does serve the good of reducing crime and, indeed, that it does this better than nonpunitive responses do. He says that punishment is loosely speaking a “last resort” (322):

... [It] is justified only insofar as it is more effective in reducing crime than other less costly and harmful methods that we might use. Given that punishment harms both offenders and non-offenders, and given that it is very costly, there is every reason to seek alternatives to punishment. The theory of punishment that I offer may, in that way, be a stepping stone to abolition... (40).

This sounds like an appropriate stance to take toward punishment, but there are a few problems here for Tadros. They are: (1) Tadros’s wish to avoid modesty in his theory of punishment; (2) the check that Tadros’s analogy with defensive force places on the permission to punishment; (3) the question-ability of the starting assumption that punishment serves well the good of reducing crime by giving persons prudential reasons to avoid offending; and, related to this, (4) the lack of respect for persons which a prudence-based approach implies. In this section, I shall take each problem in turn, treating

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2 There is a nice irony in the intuitive appeal of Tadros’s non-retributivist account since the observation that it is legitimate to respond to culpable wrongdoing by suspending ordinary relations and confronting the offender with the new duties that are his, is typically taken to be a central insight of retributivism.
the third and fourth problems together. I shall then outline three further issues relating to offenders’ duties.

1.1. Immodesty

There is a snag in the idea that Tadros’s account of punishment offers a possible transition to abolition; it is that he speaks about not wanting our approach to punishment to be too modest (291). He notes that punishment aims at more than rectification (286). Whereas an offender’s compensatory duties are fulfilled when he does what is required to rectify the harm, the duties that underpin punishment are not thereby fulfilled (288). (This is made plain by cases of easy compensation and group offending.) The fact that punishment aims at more than rectification is justified, he says, on the basis that the duties that an offender incurs are more extensive than duties of compensation (286). The protective duties underpinning punishment are not limited to ensuring the person harmed is as well off as she would have been had the harm not occurred. Rather those protective duties are set by the degree to which it would have been permissible for the offender to avert the original threat he posed, and that degree can include accepting now a harm that is greater than the harm he caused. Tadros uses a case of defensive force to show through analogy that, when an aggressor’s own harm can no longer be averted, it is permissible to require him to bear a harm greater than that which he caused to his victim in order to protect his victim from that other harm. Tadros says that this idea is not needed to defend deterrence as the basis for punishment. Instead, it is needed to ensure that our theory of punishment is not implausibly modest (291). But, of course, aiming to avoid “implausible modesty” suggests that this theory of punishment is, at best, a slippery stepping-stone to abolition since modesty would be a hallmark of such a transition.

1.2. Defensive force and permission to punish

Following from that, the idea that the duties underpinning punishment justifiably go beyond rectification is hard to reconcile with the idea that the burden on an offender should be roughly that which it is justified to impose on an aggressor in a case of defensive force. The reason these ideas are hard to reconcile is that, when an offender’s basic rectification duties—to correct his

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3 It is permissible to harm an offender to a greater degree than is necessary fully to compensate the victim for having been wronged. The offender may be harmed to make the victim better off than she would have been had she not been wronged by the offender (286).

4 The other reason that the duties underpinning punishment are not satisfied by rectification of the wrong done, Tadros says, is that liability is grounded not only in the harm an offender causes to his immediate victim, but also in the fact that we have good reason to make ourselves secure from that offender as someone who might pose a threat again (288).
judgements and compensate his victim—roughly cancel out what would be justified to do to him in a case of defensive force, there is no ground for punishing him even if punishing him would best achieve the good of crime reduction. In short, in such a case, the Duty View gives us no permission to harm that offender ex post (i.e. punish him) for the sake of deterring others from future offending even if it would best serve crime reduction.

Now, in reply, Tadros might deny that an offender’s basic rectification duties can ever be sufficiently burdensome to cancel out what is justified to do to him in cases of defensive force. And, this would be true in cases of easy compensation. But, it is not true in all cases that basic rectification duties are never so burdensome as to equate to what would be justified to impose on someone in defensive force. If compensating a victim for a theft, for example, would render an offender destitute, that compensation would equate to or exceed what would be justifiable to do to him by way of defensive force, and hence there would be no case for punishing him even if that would best advance general deterrence.

1.3. Crime reduction, prudence, respect, and care

Tadros’s starting assumption that punishment is an instrument that serves (let alone best serves) the good of crime reduction is highly questionable. Such an assumption puts any theory of punishment built on it at risk of being hopelessly idealized and practically irrelevant. Tadros devotes little attention to the empirical question of whether punishment actually serves the good of crime reduction. Where he does comment on the assumption that it does, he focuses on the inclination to offend. He says:

...the existence of deterrent systems of punishment can help to create a culture in which intentions to commit wrongs are formed less regularly. Responding to deterrence, a person begins to see that wrongdoing is not an option simply for prudential reasons. This can help the idea that offending is not an option to become embedded in the person’s psychology, so that she never considers wrongdoing (281).

He continues:

I believe that deterrence has powerful effects of this kind in most modern democratic societies, and other societies as well. It plays a significant role in ensuring that people do not develop inclinations to offend. The personalities and judgements of citizens in these societies are shaped in a context where wrongdoing is already ruled out for reasons of prudence, both in their own minds and in the minds of those, such as parents, teachers, and carers, who shape their moral psychology. I also believe that this is one of the most attractive features of deterrence (281–2).

Tadros then argues that those thinkers who doubt the deterrent effects of the criminal law tend to focus on its lack of ability to motivate people who already
have the inclination to commit crime. But, he says, putting the attention on those people fails to acknowledge the much more profound effect that criminal justice institutions can have more generally:

> We see the effects of criminal justice much more clearly by comparing societies where the criminal justice system is reasonably effective in discovering and punishing criminals with societies where it is not. In the latter case, I suspect, we will find many more people with the inclination to commit criminal wrongs for the reasons to which I have alluded (282).

Now, one difficulty with Tadros's line of reasoning we might call the instability problem. The problem is that, if a deterrent system of punishment actually does foster a culture in which, for prudential reasons, people less regularly form the intention to commit wrongs, such a culture would necessarily be inherently unstable.

The reason it would be unstable is that, with the reduction in crime that (ostensibly) would result from prudence, there would also be a reduction in opportunities to appreciate that offenders will be punished in ways that are not prudent to experience. In essence, if prudence is fuelled by deterrence, and if enough people are deterred that only a few, if any, offenders are being punished, then there will be a dampening of the cultural sensibility of the prudential value of avoiding criminal wrongdoing. The self-preserving impulse not to offend could not stay alive if there were no offender suffering for people to see that would keep it going. This would then lead to an increase in crime, at which point the cycle would begin again.

One overly optimistic response to this instability problem is that, if a culture of prudence were established, it would be self-sustaining and not inherently unstable. The reason this response is overly optimistic is that it is inattentive to the kind of reactive, calculating attitude that prudence is.

The correct response to the instability problem is to concede that, outside conditions of extreme oppression, it is most likely not from prudence that a general inclination not to offend arises. Deterrent systems of punishment may have far less to do with people forming decent inclinations than do loving family norms, high social subsistence levels, general cultural attitudes of treating people well, high levels of education, a general liberality of ideas, and a general sense of personal well-being and contentment. All of these things probably contribute far more to a cultural lack of inclination to offend than the threat of punishment does.

Indeed, there is a legitimate worry that a deterrent system of punishment, far from cultivating inclinations not to offend, would cultivate inclinations to offend, first, by modeling how to harm people, and second, by modeling the

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5 Tadros favors this optimistic view of deterrence. He says, “… when we use general deterrence, we prevent threats that are not imminent. We even prevent threats coming into existence at all. In fact, if deterrence works in the way that we hope that it will, we might think that it should prevent threats coming into existence.” (281).
use of people as a means. Although such harm and use of offenders might be defended, they may do more damage than good for a culture of decent inclinations by creating distrust among citizens, heightening distrust between citizens and legislators, fueling offenders’ associates’ desires for revenge at perceived mistreatment, inviting a dehumanizing attitude toward offenders as potential objects for use, and fostering a general willingness to harm. If this is right, then the potential that a deterrent system has to affect people’s inclinations may be not one of its most attractive features, as Tadros thinks, but one of its darkest ones.

Related to this, a prudence-driven approach seems to seek to override people’s moral autonomy by not engaging with them at the level of reason, but instead making them aware of the “stick” that awaits them if they fail to follow the law. This worry about overriding people’s moral autonomy, and treating them as brutes to be threatened, is one to which Tadros is sensitive, though he does not discuss it in relation to prudence. He says:

We might doubt that recognition of the moral truth is truly valuable when it is achieved through suffering because if [offenders] accept the moral truth they don’t accept it through the autonomous exercise of their own critical judgement. But even if recognition of the moral truth by the offender retains its value when it comes about through suffering imposed on them by others, it shows inadequate respect for them as a person that they are made to suffer by another person to encourage them to grasp the truth (355).

Given Tadros’s sensitivity to this issue, his endorsement of a prudence-based argument for a deterrent system is surprising. He might respond by noting that the Duty View is distinct from other deterrence theories, which genuinely do face the problem that they treat people more as brutes than reasoning moral agents capable of responding to moral reasons. In his view, offenders are not treated as brutes when they are punished in the name of deterrence because they have a duty to protect their victims from future harms and they honor that duty by accepting punishment because, by doing so, other people will (hopefully) be deterred from offending. The difficulty with this response is that it treats those other people as brutes since offenders’ punishment is meant to cow them into not offending.

Moreover, irrespective of whether it is prudential self-interest or caring attitudes that foster general inclinations not to offend, there is the separate issue of which of these two attitudes—prudence or care—actually better serves crime reduction. Even if Tadros were right that people’s appreciation of offenders’ suffering gave them stable, prudence-based inclinations not to offend, it does not follow that such prudential inclinations would serve the good of crime

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6 Tadros notes but does not say much about the fact that punishment has criminogenic properties (338).
7 I make this argument in Kimberley Brownlee, Conscience and Conviction: The Case for Civil Disobedience ch. 7 (2012).
reduction better than, or as well as, unselfish, mutually supportive inclinations. It may well be that the societies that are most adept at detecting wrongdoing, but that choose not to punish it lead to the best results in crime reduction. If that is right, then a deterrence-based defense of punishment becomes largely an academic exercise.

To bring this nonpunitive alternative down to earth, consider the following case.Reportedly, when a member of the South Africa BaBemba tribe acts unjustly or irresponsibly,

...he is placed in the center of the village, alone and unfettered. All work ceases, and every man, woman, and child in the village gathers in a large circle around the accused individual. Then each person in the tribe speaks to the accused, one at a time, each recalling the good things the person in the center of the circle has done in his lifetime. Every incident, every experience that can be recalled with any detail and accuracy, is recounted. All his positive attributes, good deeds, strengths, and kindnesses are recited carefully and at length. This tribal ceremony often lasts for several days. At the end, the tribal circle is broken, a joyous celebration takes place, and the person is symbolically and literally welcomed back into the tribe.8

There is good reason to think that such an appeal to our better nature can do much more than an appeal to our prudence could do not only to reduce our inclination to offend and to reaffirm in others the value of good inclinations, but also, in turn, to foster a more stable culture of inclinations against wrongdoing that reduces crime and is not dependent on the vivid appreciation of offenders’ suffering.

Now, Tadros might call the BaBemba ritual “punishment”, but that would not sit well either with his account or with a plausible interpretation of the ritual. Tadros does not offer a conceptual specification of punishment, but he does say that there is more to punishment than simply getting a person to see that she did wrong and to feel bad about it (75). It requires at least that we intentionally impose burdens on her. But, of course, not all intentional impositions of burdens are punishment. We bear many such burdens as members of a society. We are required to pay taxes and to give our labor in emergencies or defensive war. In some countries, we are required to vote. When we breach a contract, we are required to compensate the other party. The fact that we are compelled to do these burdensome things does not make them punishment. What makes something punishment, for Tadros, is, I take it, the intentional imposition of harm and suffering. By that standard, a BaBemba-style ritual is not punishment since no effort is made even to get the person to feel bad about the wrong let alone to impose suffering on him for it. Public shame is absent from the ritual. Indeed, the offender is not punished, but healed. He is

8 JACK KORNFIELD, THE ART OF FORGIVENESS, LOVING KINDNESS, AND PEACE (2010). This example is apocryphal since it lacks a corroborating reference. It is offered here as a hypothetical case.
forgiven, he is applauded and honored for his good qualities, and he is welcomed back into the community whole and accepted.9

Such a nonpunitive response gives a perfectly credible fleshing-out of the protective duties that offenders have to their victims on the Duty View. In addition to undergoing a ritual of reintegration, there are many other things that an offender could have a duty to do for his victim and for society in the name of remedy, which track better than state punishment does the directness and imminence of the relations between offender and victim, and the grounds for the offender’s remedial duties. An offender could have a duty to contribute to the cultivation of a culture of decency and good will. (An example of an offender who did this might be Tookie Williams, who sought to contribute to a culture of decency by writing children’s books against gang life.)10 And, an offender could have a duty to protect his victim against her own inclination to commit wrong, which she may well come to have as a result of being the victim of a crime. Although these duties would be expected of the offender irrespective of his attitude, they are not punishment since the intention behind these duties is not to make the offender suffer, but to achieve the crime reduction, irrespective of his suffering, which these duties can hopefully secure.

Such nonpunitive responses align well with Tadros’s claim that both victims and offenders have duties (I say more about victims’ duties below) because through rituals of affirmation and reintegration, a community’s members can honor a duty they have collectively to protect each member and the group from future harms. There is more psychological pull in favor of this nonpunitive approach to offenders’ duties (and others’ duties) than there is in the punitive approach that Tadros articulates. And since Tadros has done his work well in Part I of his book to discredit desert as a ground for punishment, there is no reason to think an offender really should be suffering here rather than being celebrated for his good qualities.

Moreover, a nonpunitive version of the Duty View enjoys a closer analogy with the self-defense theory that Tadros outlines in Part III of the book than a punitive version of the Duty View does since, as self-defense theory acknowledges, the imposition of suffering on an attacker is not necessary to avert a threat, and that is a good thing.

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9 Of course, the BaBembic response to wrongdoing is only possible where people are emotionally sensitive to their own good qualities and bad qualities. But the hurdle here is no greater than the hurdle for punishment theory in seeking to bring offenders to recognize that their act was wrong. The emotional element of this alternative is one that would not be appealing to Tadros, who sponges emotional content from the recognition of wrongdoing.

10 Stanley “Tookie” Williams was a Los Angeles gang leader convicted in 1979 for four robbery-related murders and sentenced to capital punishment. For several years, he continued to lead a gangster life in prison, assaulting guards and fellow inmates and attempting escapes, which resulted in six and half years in solitary confinement. However, in the mid-nineties, Williams began to renounce his former life. He became an anti-gang activist, wrote nine children’s books against gang life, received a President’s Call to Service Award from George W. Bush, and reportedly was nominated five times for the Nobel Peace Prize. He was executed in 2005.
There are many other points about the status and duties of offenders that are worth discussing. Before I turn to victims’ duties, let me note three of them.

1.4. Other issues

Harms and wrongs: Tadros talks about the offender’s duty to provide a remedy to the victim for the harm she has suffered. He does not explain how to think about cases such as pure rape where no harm is done (since the victim is and remains unaware that she has been violated) but severe wrong is done.\footnote{For a discussion of the wrong of pure rape, see \textit{John Gardner}, \textit{Offences and Defences} ch. 1 (2007).} Can the Duty View make sense of the offender’s remedial duties in such cases?

Temporality, repentance, and proportionality: Tadros argues that there is less reason to punish a person if time passes between his crime and when we punish. He says:

The degree of harm that it is permissible to impose on a person to avert future threats that victims and others may face diminishes over time. As the connection between the person as they are now and the person who committed the offence weakens, as it does over time, we have less reason to punish the person, and we are more likely to conclude that punishing her is disproportionate. Imposing severe punishments for offences committed many years ago, even if those offences were very serious, can seem disproportionate. The strength of the connection between the person as she is now and the person as she was when she offended may help to explain this appearance (308–9).

Tadros argues that the same is true for the repentant offender since the connection between him and his offense is also weakened, which may make it impermissible to punish severely on the grounds that that would be disproportionate (348). These claims raise a few questions.

First, in the case of both the repentant offender and the time-lapse offender, it seems strange for the Duty View to say that they may not be punished as much as they otherwise might be. The reason it is strange is that these offenders have the same protective duties to their victims that the unrepentant offender and the nontime-lapse offender have. The strength of those forward-looking duties is not lessened either by repentance or by time laping.

Second, concerning the time-lapse offender, when offenses go unaddressed, presumably Tadros must say that more compensation and protective assistance is owed to the victim, not less, since the victim has gone without the offender’s protection and compensation for the interim period between the offense and the imposition of duties on the offender.

Third, there is a more general question about the relation between permissibility and proportionality in the Duty View. Despite the discussion of proportionality in Chapter 15, it is not entirely clear (1) what kind of \textit{principled} check, if any, disproportionality places upon the permissibility of harming
offenders as means, and (2), if it does place a check, what the principled basis for it is on the Duty View. This leads to a more concrete worry about organ forfeiture.

Using offenders as a means for organ distribution: This worry about the Duty View—that it does not have attractive limits—is one to which Tadros is sensitive:

In particular it might seem that it would be permissible, on my account, to remove the organs of healthy offenders and use them to cure the sick. Focusing on punishment institutions will help us to see that even if this conclusion were warranted in principle, it would be seriously unjust to develop a practice of doing this (293).

Tadros focuses on lethal organ forfeiture. He offers both principled arguments and institutionally pragmatic arguments to reject (in all but the most serious cases) punishments like this that involve the death penalty (307ff). In terms of principled arguments, he says that, despite the apparent alignment with the Duty View, it seems barbaric to think that those who commit serious criminal wrongs can be killed so that their organs can be distributed to cure the sick (308). Organ harvesting may be seen as a particularly pernicious reason to execute someone. Using a person’s organs involves surgically invading his body and, therefore, in the lethal case, organ harvesting may be worse than using a person as a shield against a threat (309). That said, Tadros admits that he is not sure whether the invasiveness worry has moral force; it may simply be squeamishness that inclines one to distinguish between surgery and using a person as a shield. Either way, though, we must consider whether alternative responses would secure the same degree of security as killing the offender (309).

But what view does Tadros take of nonlethal organ forfeiture? He does not explicitly contrast nonlethal organ forfeiture with lethal organ forfeiture, so we must try to extrapolate from his view of the latter to a view of the former.

The principled argument that seems most relevant to the nonlethal context is Tadros’s invasiveness worry that surgically removing a person’s organs is a particularly invasive and pernicious use of a person. But, the moral force of this worry is debatable, as Tadros notes, and even if it were forceful, it would not speak against other related uses of offenders, such as, for example, using the subjects in phase one clinical trials on drugs that would shield others from the threats of diseases.

A further, principled argument that Tadros offers as an aside later in the book, in a discussion of impersonal value, is that it is impermissible to harvest the organs of offenders to save people who are dying of fatal diseases not because it is wrong to use offenders as a means, but because it is wrong to harm persons in order to tackle a problem that is utterly different from criminal offending (354).
But, what this implies is that Tadros can conclude against nonlethal organ forfeiture only when innocent, dying people are not dying as a result of anything done to them, directly or indirectly, by an offender or as a consequence of the reality of, and necessary responses to, criminal offending. And he cannot conclude as much about nonlethal organ forfeiture when the problem of organ need arises directly or indirectly from the problem of crime. To get the conclusion that taking offenders’ organs is impermissible in that context, it seems that Tadros must rely on pragmatic arguments about the practical difficulties of administering a scheme of organ forfeiture, such as the expansive tendencies of criminal justice systems and the fact such a scheme can give rise to incorrectable and incompensable injustices (310).12

This is an unsettling result. In addition to general worries about respect, it is unsettling because offenders and victims are not mutually exclusive classes of people. Many, if not most, offenders are also victims. This leads us to the worries about victims’ duties.

2. Victims’ duties

The observation that many offenders are also victims is the first of two points that I wish to make about victims. This first point concerns the identities of, and relations between, victims and offenders. Tadros argues that it is better if a responsible person suffers than if a nonresponsible person suffers. Indeed, when a choice must be made, it is better if a responsible person is harmed intentionally than if a nonresponsible person is harmed as an unintended side effect. This claim is difficult to parse in the context of criminal wrongdoing because many offenders are the victims of previous offenses, and of other abuses that may or may not fall under the purview of the criminal law. It is unclear then who is to be protected and who is to be protected against. Who is the duty-bearer and who the right-holder? Specifying who is to bear the burden when burdens must be borne is by no means straightforward for the Duty View even in theory.

My second point about victims concerns the stringency of victims’ duties. Tadros identifies several reasons to think that victims of crimes have a duty to protect others from criminal offending (297). One reason he gives for this is the importance of self-respect. In some circumstances, a failure to defend oneself against a culpable attacker displays a failure of self-respect. If a person could prevent herself from being killed by a culpable attacker by breaking the

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12 Tadros offers a few other pragmatic reasons not to use lethal organ forfeiture. They focus on the ability of institutions to track the relevant considerations and to ensure better than private persons would do that liability is distributed in a way that is fair, impartial, and evidentially well supported. Tadros says that a scheme of (lethal) forced organ distribution would have to have not only reasonable prospects of being fair to those convicted of serious criminal offences but also substantial benefit to victims of crime. Tadros says that it is difficult to imagine that both of these conditions being satisfied in the real world. This is probably true, but it is not particularly comforting since the fact that something is difficult does not mean it is impossible (310).
attacker’s arm, but refuses to do so and tells others not to harm him because she is a committed pacifist, we may think that her refusal to consent is not decisive for the reason that her failure to protect herself violates a self-regarding duty owed in virtue of the value of her life (297). A second reason he gives is the duty (of the state) to protect all of its citizens:

We might think that if [victims] have a right manipulatively to harm the offender for reasons of protection victims might be obliged to exercise that right for the sake of others who will, in this way, be protected from future offending. If that is true, the victim does not have a liberty right to see the offender punished. For if a person has a liberty right to v she may choose either to v or not to v. Rather she has a duty to see the offender punished (298).

These two grounds imply potentially stringent duties for victims, some of which are plausible despite their stringency, and others of which are not. Let me comment on the plausible duties first.

Tadros’s account of victims’ duties is consistent with defensive action (rather than passive action) that is motivated by a concern for the wrongdoer. For instance, a prospective victim might have a duty to prevent an attack upon herself if she can prevent it, not only for her own sake but also for the sake of the wrongdoer. If a victim could prevent a lethal attack by breaking her attacker’s arm, she may well have a duty to do so not just to save her own life, but also to spare the attacker the horror and consequences of committing a lethal attack.

Although such reasoning is unattractive to many political liberals who are uncomfortable with the idea that we might harm someone for the sake of his own integrity, nevertheless it is an attractive feature of Tadros’s view that it seems to allow that victims may legitimately be motivated by concern for the offender when they avert the threats that that offender or others pose. It supports the view that our own morality and its effects is not always only our business, particularly in extreme cases.

Despite this attractive feature, victims’ duties can be stringent in a way that is implausible. In brief, in the Duty View, the stringency of a victim’s duties seems to track her good or bad luck of being a victim of a modest crime or a serious crime. The more serious the crime against her, the more stringent her duties as a victim are to protect others from future harms by cooperating with prosecution of the offense against her and by taking additional steps to ensure that the state can honor its duties to protect all people. The stringency of the duties that go with being a victim of a severe crime is comparatively unfair to

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13 Reportedly, the Dalai Lama was asked once: What would you do if a guy came at you pointing a gun? He replied that he would shoot him in the knees and then go over and comfort him. The Dalai Lama’s statement can be interpreted as saying that he would incapacitate the attacker as much to protect the attacker from his proposed act as to protect his own life.
those victims, and seems to add insult to injury by requiring more of them than of the luckier victims of less serious crimes.

That said, Tadros is sensitive to the demands placed on victims, though he notes only the demands on victims who are associated with the offender. Requiring victims to assent to the prosecution of their partners or their children, for example, may impose too great a cost on victims, he observes (299).\(^\text{14}\)

From this, we might extrapolate to cases where victims are not associated with offenders, but nonetheless punishing the offender will be harmful to the victim.

Although, in this discussion, I have raised challenges against some parts of Tadros’s account, my overall assessment of his book is one of great admiration. Tadros has produced a substantial work that makes an impressive, original contribution to both the philosophy of punishment and defensive-force theory. The Duty View is an engaging, thought provoking, and highly promising approach to the difficult task of addressing criminal wrongdoing. That promise lies, I believe, in fleshing out its nonpunitive possibilities.

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\(^{14}\) Tadros notes: “The magnitude of the costs that a person would bear if he were to rescue other people makes a contribution to our evaluation of whether that person has such a duty. The magnitude of the costs increases if the person who will suffer is someone that the offender cares about and/or is dependent on. In making these judgements, we must also consider the fact that the victim has been offended against, and will be disadvantaged as a result. That may give us good reason not to impose further burdens on her for the sake of others.” (299)