

Legal Duty and the Golden Rule

The 'Golden Rule' is the moral imposition of socially-perceived duty to another and legal duty is what the law imposes upon us to act in a particular statutory-defined relationship. There are heightened duties imposed, by statute, upon certain relationships such as agent-client, doctor-patient, parent-child, etc. These duties require acting where another, without a legally-proscribed relationship, would not be required to do so.

It is difficult to legislate morality and thus impose a legal duty (with accompanying sanctions). Many of us (if not all of us) agree that we should help people in situations where rescue is called for. However, proscribing statutory language that addresses mandated duty to rescue, or assist another, often leads to ambiguity in the interpretation and enforcement of the statute. Further, the language could lead to imposing a duty on everyone around, thus qualifying it as over-broad, which could create more problems than are solved.

This is the difficulty that legislatures encounter when they draft laws rooted in fundamental rights and morality. My morality may not be your morality, and sometimes the moral majority is wrong depending on the time, place, and manner that a particular 'moral majority' controls the social narrative (and thus, at times, legislative initiatives).