# The Doctrine of Doing and Allowing I: Analysis of the Doing/Allowing Distinction

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## Abstract

According to the Doctrine of Doing and Allowing, the distinction between doing and allowing harm is morally significant. Doing harm is harder to justify than merely allowing harm. This paper is the first of a two paper critical overview of the literature on the Doctrine of Doing and Allowing. In this paper, I consider the analysis of the distinction between doing and allowing harm. I explore some of the most prominent attempts to analyse this distinction: Philippa Foot's sequence account, Warren Quinn's action/inaction account, and counterfactual test accounts put forward by Shelly Kagan and Jonathan Bennett. I also discuss Jeff McMahan's account of the removal of barriers to harm. I argue that analysis of the distinction has often been made more difficult by two mistaken assumption: (a) the assumption that when an agent does or allows harm his behaviour makes the difference to whether or not the harm occurs; (b) the assumption that the distinction between doing and allowing and the distinction between action and inaction are interchangeable. I suggest that Foot's account is the most promising account of the doing/allowing distinction, but that it requires further development.

You are a mountain rescue worker in the process of taking two severely injured men, Alistair and Bryan, to hospital. On the way to the hospital, you notice a third man, Charlie, trapped in the path of a large boulder that is rolling down the hill. If you stop to help Charlie, then your arrival at the hospital will be delayed and Alistair and Bryan will die. If you do not stop to help, Alistair and Bryan will be saved but Charlie will be hit by the boulder and crushed to death.

It is at least permissible for you to continue to the hospital and leave Charlie to his plight. But what if you had to push the boulder towards Charlie to save Alastair and Bryan? Suppose the boulder was currently blocking your route to the hospital and the only way you could get through in time was to push the boulder towards Charlie. Detouring round the boulder or stopping to free Charlie would delay you too long. Your only options are to push the boulder towards Charlie – in which case Charlie will be crushed by the boulder but you will be able to save Alistair and Bryan – or to abandon the rescue attempt – in which case Charlie will eventually be rescued but Alistair and Bryan will die.

Intuitively, there is a significant moral difference between the two cases. While it does seem permissible to refuse to stop and help Charlie so that you can save Alistair and Bryan, it does not seem permissible to push the boulder towards Charlie to save Alistair and Bryan. A common way to try to explain this difference is by appealing to the Doctrine of Doing and Allowing (DDA). The DDA states that doing harm is harder to justify than merely allowing harm. If you pushed the boulder towards Charlie, you would be doing fatal harm to him; if you failed to save him you would merely be allowing him to be fatally harmed. The greater good of saving two lives may be enough to justify allowing fatal harm to one person but it is not enough to justify doing fatal harm to him.

The DDA seems to be part of commonsense morality. As Philippa Foot puts it: "We are not inclined to think that it would be no worse to murder to get money for some comfort such as a nice winter coat than it is to keep the money back before sending a donation to Oxfam or Care." ('Killing and Letting Die', 281.) I believe that denying the DDA commits us to radical revision of our understanding of what morality requires of us. If there is no moral difference between doing and allowing, then morality must either be far more permissive than we generally suppose – permitting us to kill to protect our personal projects – or far more demanding – requiring constant sacrifice from us to save the lives of others.

Nonetheless, many philosophers reject the DDA. Even those who would retain it should admit that it requires defence. On the face of it, the DDA is puzzling: if serious harm comes to another person and that person would not have been harmed if I had behaved differently, how can it make a moral difference whether I have done harm or merely allowed harm to occur? When lives are at stake, how can the difference between doing and allowing matter?

Defenders of the DDA must complete two tasks. First, they must provide an analysis of the distinction between doing and allowing harm: what makes an agent count as doing harm rather than merely allowing harm? Then they must provide a justification for the DDA: they must show that the distinction between doing and allowing is genuinely morally significant.

This article is one of a pair. I will discuss the debate about the moral relevance of the distinction between doing and allowing in the second article. In this article my focus will be the analysis of the distinction between doing and allowing. This is a vital task for assessment of the DDA, for how can we work out whether the distinction between doing and allowing is morally relevant until we are clear on what that distinction is? However, it is also interesting in its own right. The difference between what we do and what we merely allow is central to our understanding of our own agency and its intersection with other causal processes. Moreover, analysis of the distinction connects with important issues in other areas of philosophy, such as the nature of causation.

I will explore some of the most prominent attempts to analyse the distinction between doing and allowing: Philippa Foot's sequence account, Warren Quinn's action / inaction account, counterfactual test accounts put forward by Shelly Kagan and Jonathan Bennett. I will also discuss Jeff McMahan's account of the removal of barriers to harm. I will suggest that Foot's account is the most promising account of the doing/allowing distinction, but that it requires further development.

## 1. Harmful Sequences: Philippa Foot

Contemporary debate about the DDA began with Philippa Foot's 1967 article, "Abortion and the Doctrine of the Double Effect". In this article, and in several follow up articles, Foot puts forward her analysis of the distinction between doing and allowing. Foot's analysis begins with the observation that we think of particular events as the result of certain sequences ('Killing and Letting Die' 282). For Foot, the doing/allowing distinction is, at heart, a distinction between different ways an agent can be related to the sequence that leads to a given harm: "it makes all the difference whether those who will die if we act in a certain way will die as a result of a sequence that we originate or one that we allow to continue, it being of course something that did not *start* by our agency" ('Killing and Letting Die' 283).

Foot picks out two different ways an agent can allow a sequence to continue. An agent *forbears to prevent* a sequence if there is a harmful sequence already in train and the agent could do something to prevent it but refrains from doing so. An agent *enables* a sequence to continue if he removes some obstacle that would have held back the sequence. Both forbearing to prevent and enabling count as merely allowing harm, even though an agent must actively do something to enable a sequence.

In her earliest accounts, Foot seems to suggest that an agent counts as doing harm if and only if he initiates the harmful sequence (Killing and Letting Die, 283). However, later she recognises that an agent may also do harm by sustaining a harmful sequence "keep[ing] it going when it would otherwise have come to an end". She notes, "Then he initiates a new stage of the sequence rather than the sequence itself" ('Morality, Action and Outcome', Footnote 2.)

Foot's account is often interpreted as holding that an agent allows harm if and only if he enables or forbears from preventing a *pre-existing* threatening sequence. This leads to the obvious objection that an agent can allow harm even if the victim does not seem to be subject to a threatening sequence prior to the agent's behaviour. Warren Quinn gives the example of a helpful man who usually fires up his aged neighbour's furnace before it runs out of fuel. When the helpful man rushes off to save some friends and does not have time to refuel the furnace, he counts as allowing the aged neighbour to die, not as killing him. But, as Quinn points out, it seems odd to say that the neighbour was already in danger before the agent rushes off (298).[1]

Quinn's example illustrates that the pre-existing threat formulation is unhelpful. The doing/allowing distinction cannot turn on mere chronology. Suppose that you know that Charlie will be crushed by the boulder unless you free him from the hillside. You drive past without helping because you need to get Alastair and Bryan to the hospital. You should still count as merely allowing harm whether you drive past while the boulder is rolling, at the same moment as something pushes the boulder down the hill, or several hours earlier. What we should focus on is not whether the sequence existed before the agent acted, but on whether the sequence is appropriately independent of the agent's behaviour. Thus understood, Foot's account avoids Quinn's counterexample. It is clear that the sequence leading to the elderly neighbour's death is independent of the agent's behaviour.[2]

This account places a lot of weight on the idea of a sequence being "appropriately independent" of an agent's behaviour. More detail is needed to explain this idea. When an agent does or allows harm, the harmful sequence is always in some way dependent upon his behaviour: usually had the agent behaved differently the harm would not have occurred. If the harmful sequence is causally independent of the agent's behaviour, so it would have unfolded in exactly the same way however the agent behaved, then it is odd to describe him as doing or allowing harm. So the idea of independence appealed to here cannot be causal independence. Until we are told what it is for a sequence to be appropriately independent of an agent's behaviour, Foot's account remains incomplete.

## 2. Quinn's Action/Inaction Account

Warren Quinn seeks to analyse the doing/allowing distinction in terms of the difference between action and inaction. According to Quinn, an agent does harm if and only if his most direct contribution to the harm is an action; an agent merely allows harm if and only if his most direct contribution to harm is an inaction (301).[3] So for example, in the first Mountain Rescue case, Charlie dies because you do not rescue him from the

boulder. You are performing an action at this time – you are rescuing Alistair and Bryan. However, this action only contributes to Charlie's death indirectly by explaining your failure to rescue Charlie. You count as merely allowing harm. In contrast, in the second Mountain Rescue case Charlie dies because you push the boulder towards him. Your most direct contribution to Charlie's death is an action. You count as doing harm.

The most obvious objection to Quinn's account is that it is unhelpful. For Quinn tells us very little about the difference between ''an action'' and ''an inaction''. Although we can all confidently recognise that pushing the boulder is an action while failure to help is an inaction, Quinn does not give us any principled explanation of this difference. Nor is there a great deal of guidance in Quinn's statement that harm that the agent does occurs because of ''the existence of one of his actions'' while harm that the agent merely allows occurs because of ''the noninstantiation of some kind of action that he might have performed'' (294). As Jonathan Bennett points out, this depends on prior recognition of which ways of behaving count as actions (139). Why doesn't failure to help count as an action? Why doesn't pushing the boulder count as the non-instantiation of the action of leaving the boulder where it is?

## 3. Counterfactual Accounts and Gimmicky Cases

It is useful to compare Quinn's account to a series of accounts which can be grouped by their common structure. Instead of analysing the doing/allowing distinction by appealing to the action/inaction distinction, these accounts offer a counterfactual test, picking out some crucial feature of the agent or the situation and asking what would have happened in the counterfactual situation in which this feature had been absent. What would have happened if the agent had not been present or had not been conscious or had never existed? If the harm would still have occurred in the counterfactual situation, then they will say that the agent merely allowed harm; if it would not have occurred in the counterfactual situation, the agent did harm. The idea is that the agent cannot have done harm if that harm would still have occurred even if the agent had not existed, or had not been present etc. I call analyses of the distinction that share this strategy ''counterfactual accounts'' because they try to pick out the distinction using a counterfactual test.

Perhaps the simplest counterfactual account is that put forward by Shelly Kagan.[4] He suggests the following test: ''we ask whether the victim would have been better off had the agent not existed'' (94).[5] Jonathan Bennett suggests that the doing/allowing distinction is actually made up of two associated distinctions working together. The active/passive distinction reflects whether the harm would still have occurred if the agent had refrained from exercising his agency. The test looks at whether the harm would still have occurred if the agent had temporarily lost the ability to act (108–9). The positive/negative distinction reflects whether the agent had to perform some specific action for the harm to occur. If most ways the agent could have moved his body would have led to the harm, the agent counts as merely allowing harm: if most ways he could have moved his body would not have led to the harm, the agent counts as doing harm (94–5).[6]

Each of the counterfactual accounts seems initially plausible. Each appears to draw the line in the right place in most cases. For example, on each of the counterfactual accounts described above, the mountain rescue worker counts as doing harm when he pushes the boulder towards Charlie, but merely allowing harm when he continues to the hospital. However, none of the counterfactual tests proposed so far seems completely satisfactory.

For each seems vulnerable to certain counterexamples or 'gimmicky cases'. The use of the term 'gimmicky cases' is a reference to Kagan's use of a series of such counterexamples to try to discredit the distinction between doing and allowing, arguing that the most tempting analyses are undermined by such cases.

Some gimmicky cases seem to be specific to a given version or formulation of the counterfactual test. For example, consider Kagan's case in which the youngest son of a King squanders his inheritance and then starves to death when his elder brother refuses to give him food (96). The elder brother clearly merely allows the younger to die. Kagan's existence account misclassifies the case, counting the elder brother as doing harm: had the eldest son never existed the youngest son would have inherited the throne and thus been better off. However, the active/passive account and the positive/negative account both correctly classify the elder brother as merely allowing harm: if the elder brother had temporarily lost the ability to act, the youngest would still have died; most ways the elder brother could have behaved would still have had the youngest starving to death.

However, there are some gimmicky cases which seem to threaten all counterfactual accounts. Consider the following, put forward by Frances Howard-Snyder as a counter-example to Bennett's positive/negative account:

Sassan: An assassin, A. Sassan, is preparing to assassinate Victor by shooting him. A second assassin, Baxter, is waiting across the street watching Sassan to ensure his success. If Sassan shows any signs of hesitation, Baxter will shoot Victor himself. Suppose Sassan knows about Baxter and his intentions and also knows that he can turn his gun on Baxter instead of on Victor if he so chooses. Although this thought crosses his mind, he quickly suppresses it, since he is committed to Victor's annihilation. He shoots Victor and Victor dies instantly (Howard-Snyder).

Sassan has clearly done harm to Victor, he has not merely allowed Victor to die. However, as Howard-Snyder points out, Bennett's positive/negative account classifies Sassan as merely allowing Victor to die. Given that Baxter would have shot Victor if Sassan did not, most of the ways Sassan could have moved his body would still have led to Victor's death.

This counter-example applies to other counterfactual accounts too. If Sassan had temporarily lost the power to act, Baxter would have killed Victor. Given the determination of the assassin agency, it seems likely that if Sassan had not existed, either Baxter or someone else would have killed Victor.[7] So it seems that the active/passive account and the existence account also misclassify the Sassan case.

I suggest that the Sassan counterexample, and indeed several other types of gimmicky case, arise because of a mistaken assumption that is part of the very structure of the counterfactual accounts. I call this mistaken assumption 'the difference assumption'. These accounts assume that when an agent either does harm or allows harm, his behaviour must make the difference to whether or not the outcome occurs. If an agent does harm, then the outcome would not have occurred if he had not acted. If he merely allows harm, then he could have prevented the harm. The distinction between doing and allowing harm is assumed to be a distinction between what it is about the agent that makes the difference to whether or not the harm occurs. If it is his existence, his agency, or some specific movement on his part that makes the difference, the agent does harm. If it is merely his failure to interfere that makes the difference, the agent merely allows harm. Thus the difference assumption makes the counterfactual test seem like a natural strategy for distinguishing doings and allowings.

The difference assumption is false. Suppose that Sassan had no way of preventing Baxter from shooting Victor. Perhaps Baxter is protected by a bulletproof shield. Then

Victor will be killed whatever Sassan does. However, if Sassan shoots Victor, he has still done harm to Victor. This should not be surprising, for cases of pre-emption are familiar from the literature on causation. An agent's behaviour can cause harm even in cases of pre-emption i.e. even when some pre-empted 'back up' cause would have brought about the harm if the agent had acted differently (C.F. Lewis). It is not a big step to the idea that an agent can do or allow harm even if some pre-empted back up cause would have brought about the harm if the agent had acted differently.

Interestingly, Quinn's account does not seem vulnerable to Sassan style counterexamples. Quinn's account focuses on whether the agent's most direct contribution to the harm is an action or an inaction. When Sassan shoots Victor, his most direct contribution to the harm is his pulling of the trigger. According to Quinn, Sassan counts as doing harm because pulling the trigger is an action. In contrast, if Sassan made a daisy chain and let Baxter do the killing, his most direct contribution would be not-pulling-the-trigger, an inaction. Quinn's account fails to give a fully satisfactory analysis of the Sassan case not because Baxter's presence causes problems but because Quinn fails to explain the difference between action and inaction.

This suggests that the counterfactual accounts may still be of interest. They attempt to pick out which features would be needed in the counterfactual test if the difference assumption were correct. This might still be useful. In particular, it might help us to understand the difference between an action and an inaction. For instead of applying the counterfactual test to the harm itself, we could apply the test to the relevant fact about the agent's behaviour. Indeed, Bennett first introduces his positive/negative distinction in terms of the distinction between positive and negative propositions about an agent's behaviour (89). Positive propositions about an agent's behaviour tell us that he did something i.e. that he pushed a boulder or that he pulled a trigger; negative facts tell us that he did not do something i.e. that he did not release Charlie or did not give his brother food. For Bennett, a proposition about an agent's behaviour is negative if and only if most ways that the agent could have moved his body would have made that proposition true. In contrast, a proposition about an agent's behaviour is positive if and only if most of the ways that the agent could have moved would not have made the proposition true (91). We can use Bennett's positive/negative fact distinction as an analysis of the action/inaction distinction that Quinn appeals to, but does not analyse.

On this model, pulling the trigger is an action because the fact that Sassan pulled the trigger is a positive fact about his behaviour: most ways Sassan could have moved would not make it true that Sassan pulled the trigger. Consider the contrast case, where Sassan allows Baxter to kill Victor. In this case, Sassan's most direct contribution to Victor's death is his failure to shoot Baxter. The fact that Sassan did not shoot Baxter is a negative fact about his behaviour: most ways that Sassan could have moved, would make it true that he did not shoot Baxter. Thus in this case, Sassan's most direct contribution is an inaction. I thus suggest that the counterfactual accounts are most fruitfully used in conjunction with Quinn's account, or with some other appropriate way of picking out the relevant facts about an agent's behaviour.

## 4. Removing Barriers to Harm

The main contrast between Foot and Quinn's accounts, as typically interpreted, is the way in which they deal with cases in which the agent actively removes a barrier to harm, for example, by turning off a life-support machine that is keeping a person alive. Foot seems to classify all such cases as enablings, and thus as a way of allowing harm. Quinn

on the other hand, seems forced to classify all active removals of barriers as doings. For in each of these cases, the agent's most direct contribution to the harm is an action. Quinn does state that there may be cases involving the active withdrawal of aid that should count as allowing. He suggests that ''special amendments'' may be needed for the action/inaction account to make room for such cases (302–3). Unfortunately, these special amendments are never explained.

Foot and Quinn both seem to offer a uniform account of the active removal of barriers. Until the promised amendments are provided, Quinn's account implies that all active removals of barriers are doings. As usually interpreted, Foot's account states that all active removals of barriers are mere allowings. However, Jeff McMahan provides a series of paired examples that suggest that no uniform treatment of the removal of barriers will be acceptable.

In the Burning Building cases, Imperilled Person jumps from the top of a burning building. A firefighter places a self-standing net at the foot of the building, where it will catch Imperilled Person. In Burning Building I, the imperilled person's enemy removes the safety net when the firefighter's back is turned (254). In Burning Building II, it is the firefighter who removes the net, moving it to the foot of another building where it is needed to break the fall of two other imperilled persons (262). McMahan suggests that the enemy counts as doing harm when he removes the net, but that the firefighter counts as merely allowing harm when he moves it.

The respirator cases are similar. In these cases, a life support machine is keeping a person alive. In the first case, the person's enemy sneaks into the hospital and turns off the respirator. In the second, a doctor, acting with official sanction, switches off the machine. As before, McMahan suggests that the enemy counts as doing harm, while the doctor counts as merely allowing harm.

In each of the cases, the agent actively removes a barrier to harm. Yet in some cases he counts as doing harm, while in other cases he counts as merely allowing harm. McMahan suggests that neither Foot's account nor Quinn's account is acceptable. We need a more complex account of the removal of barriers. According to McMahan's account, the removal of a barrier to harm will count as merely allowing harm if and only if the barrier was provided by the removing agent and the barrier is either not self-sustaining or not yet operative. In such cases, the agent can be seen as in the process of providing aid. Withdrawal of aid that the agent is in the process of providing counts as merely allowing harm. In other cases, we see the victim as safe without further aid from the agent. In this case, removal of the barrier counts as doing harm (261).

An obvious criticism of McMahan's argument is that the cases he gives are not strictly analogous. The enemy is motivated by maliciousness; the firefighter by the desire to save lives. It is suggested that these motivations distort our classifications of the cases. One might suggest that the enemy's malicious motives make us call what he does killing when it is merely the unjustified allowing of harm. Alternatively, it could be argued that the firefighter does harm, but that we refer to this as merely allowing harm because we see it as admirable behaviour.

However, we can provide a McMahan style pair of cases without distracting motives. Suppose that the agent moves the net because he needs it to save his wife, Violet, who is trapped at the top of another nearby burning building. To avoid complications, let us also assume that all those involved are private citizens. I see a marked contrast between the case in which the agent removes *his own net* to save Violet and the case in which the agent removes *Imperilled Person's net* to save Violet. In the first case, the agent merely refuses to allow his net to be used to save Imperilled Person. His behaviour counts as

merely allowing harm and it is morally permissible. In the second case, the agent prevents Imperilled Person's net from protecting Imperilled Person. His behaviour counts as doing harm and it is morally impermissible. We see this contrast despite the fact that the agent has the same motive in each case.

Nonetheless, many people are reluctant to classify the active withdrawal of a barrier as merely allowing harm. Active withdrawals of a barrier seem to be different from 'normal' allowings. Suppose that the agent removed his net simply because he did not want its expensive frame to be damaged by the heat from the fire. Many people would classify this as murder.[8] However, refusal to move your net under the imperilled person does not seem to be murder.

I suggest that the issue here is that there are two morally relevant distinctions in this area. One distinction is the action/inaction distinction: the distinction between cases where harm occurs because the agent did something and cases where the harm occurs because the agent did not do something. Active withdrawals of aid fall on the action side of this line: the agent has to perform an action for the harm to occur. The temptation to classify cases of active withdrawal as doings springs from the fact that such cases involve action rather than inaction. Nonetheless, we also require a separate doing/allowing distinction which recognises active withdrawals of aid as mere allowings. This distinction is needed to explain not just the private citizen burning building case, but a host of other examples ranging from cancelling a direct debit to a charity to ducking out of the way of a missile.

Foot's account is thus more promising than Quinn's account as an analysis of the doing/allowing distinction. For Foot recognises that withdrawal of aid can count as merely allowing harm. I also suggest that, properly interpreted, Foot can recognise that some cases of removing a barrier to harm involve doing harm. I suggest that when an agent removes a barrier to harm that belongs to the victim, the harmful sequence is not appropriately independent of the agent. Had the agent not interfered, the sequence would have come to a halt, held back by barriers that do not require any contribution from the agent. I suggest that Foot should count such cases as cases of *sustaining* a harmful sequence: keeping it going when it would otherwise have stopped.[9]

However, the very fact that it is unclear how Foot's account should be interpreted reinforces the earlier criticism. Foot's account is essentially incomplete. It does not tell us enough about what it is for a sequence to be independent of an agent's behaviour. Nonetheless, I believe that Foot's account points us in the right direction. Roughly speaking, I suggest that a harmful sequence is independent of an agent's behaviour if and only if any link between the agent's behaviour and the harm runs through a negative fact about the agent's behaviour or resources. Negative facts tell us that something is *not* the case: you did *not* move Charlie from the boulder's path; the net was *not* underneath Imperilled Person; the respirator was *not* running. Thus when the link between the agent and the harms runs through a negative fact about his behaviour or resources, the agent is only relevant to the sequence through the absence of some condition that he could have maintained in order to prevent the sequence. His behaviour counts as a condition for the sequence rather than part of the sequence.[10]

## 5. Recent Trends

Since the late 1990s, the literature on the proper analysis of the doing/allowing distinction has continued to grow. There is a great variety of excellent recent work on this topic – too much to discuss here. However, it is possible to pick out some trends.

McMahan's article lead to increased attention on cases involving the removal of barriers to harm and on more roundabout ways of preventing a person from being saved such as preventing the creation of a barrier to harm. Several philosophers have argued that a third category is required for such cases as they cannot be fully assimilated to standard doings or standard allowings (Hall, Hanser). Alternative approaches try to resist the addition of an extra category, often by incorporating rights or claims to certain objects into the analysis of the doing/allowing distinction (Draper, Woollard). The most obvious overall trend is that analyses of the distinction have become increasingly complex and sophisticated in response to the objections faced by previous attempts.

## 6. Conclusion

Contemporary debate about how to analyse the distinction between doing and allowing harm dates back to Foot's 1967 article. Foot proposes that we analyse the doing/allowing distinction in terms of the agent's relationship to the sequence leading to harm. I have argued that Foot's account, when understood in terms of whether the threatening sequence is appropriately independent of the agent, is the most promising account of the doing/allowing distinction. However, it requires further work to explain what makes a sequence count as appropriately independent of the agent.

Prominent alternatives to Foot's account include Warren Quinn's action/inaction account and various counterfactual accounts. Quinn's account is also incomplete, for he does not provide a satisfactory account of the difference between action and inaction. The counterfactual accounts are vulnerable to gimmicky case counterexamples. This is largely due to a mistaken assumption that when an agent does or allows harm, his behaviour makes the difference to whether or not the harm occurs. Once this assumption is corrected, the counterfactual accounts can be combined with Quinn's account to provide a series of more promising alternatives. Nonetheless, these alternative accounts fail to properly classify cases of active withdrawal of aid. They are better understood as attempts to analyse the action/inaction distinction than the doing/allowing distinction.

## Short Biography

Fiona Woollard's main area of research is Normative Ethics, in particular the moral permissibility of doing and allowing harm. She also has side interests in Applied Ethics and the Philosophy of Sex. She has published papers in these areas in *Mind, Pacific Philosophical Quarterly*, and *Ratio* and co-authored a paper in the *Monist*. She is currently writing a monograph in which she defends the moral significance of the distinction between doing and allowing harm, arguing that constraints against doing harm and permissions to allow harm are necessary for anything to genuinely belong to a person, even his own body. The monograph will also explore our obligations to aid others. Before taking up her present post as a Lecturer in Philosophy at the University of Southampton, she held a temporary lectureship at the University of Sheffield. She is currently on a 6-month Early Career Research Fellowship supported by the Mind Association and is a Visiting Fellow in Philosophy at Harvard University from October to December 2011. She holds a BA in Mathematics and Philosophy from the University of Oxford, an M.Litt in Philosophy from the University of St Andrews and a PhD in Philosophy from the University of Reading.

## Notes

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[1] Samuel Rickless argues that there is a pre-existing threat in this case: the worsening weather and the aged neighbour's vulnerability to cold (561).

[2] Foot herself seems to be misled by the pre-existing threat formulation. In discussing Thomson's famous violinist case (44), Foot argues that abortion must involve the initiation of a fatal sequence because "the fetus is not in jeopardy because it is in its mother's womb; it is merely dependent on her in the way children are dependent on their parents for food" ('Killing and Letting Die' 289). If the type of abortion in question really does involve no more than the withdrawal of life support, analogous to a parent simply failing to feed her child, the fact that the fetus is not aptly described as "in jeopardy" is irrelevant.

[3] I ignore certain complications in Quinn's account relating to the intentional failure to prevent the action of an object because you will that action of the object (298–300).

[4] Note that although Kagan sees this as the most promising analysis of the distinction, he does not ultimately endorse it. Kagan argues that the most tempting analyses are undermined by counterexamples.

[5] Kagan's formulation of the test in terms of overall welfare makes him vulnerable to counterexamples. In Kagan's gimmicky case, the King stabs his wife in the leg at the same time as he saves her from choking (97). To avoid such counterexamples, Kagan should focus on whether the harm in question would have occurred in the counterfactual situation. C.F. Woollard, 263–4.

[6] The positive/negative account may not seem to be strictly a counterfactual account. It does not test for whether the harm would have occurred in a specific counterfactual situation, but looks at what proportion of counterfactual situations would still have involved the harm occurring.

[7] Howard-Snyder offers a different but structurally similar counterexample to the existence account (Howard-Snyder).

[8] Kai Draper describes a very similar case and claims that the agent is "quite clearly a murderer" (270).

[9] See Woollard, 274.

[10] For a full account, a proper analysis of the distinction between positive and negative facts is needed. I use an extension of Bennett's distinction between positive and negative facts about an agent's behaviour (91–2, 98). A proposition about X is negative if and only if most ways that X could be would make that proposition true. This analysis is well founded for any X such that we are able to compare the size of subsets of 'ways that X could be'. Thus a proposition about an agent's behaviour is negative if and only if most ways the agent could have moved would have made the associated proposition true; a proposition about the position / speed/ temperature of one an agent's resources is negative if and only if most possible positions / speeds / temperature of that resource would have made the associated proposition true.

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