Introduction: Propositions and Problems

This dissertation defends the uncommon view that consequentialism and the moral relevance of the difference between doing and allowing are compatible. Here I put forward four propositions, each plausible, but which together are incompatible. I then discuss the problems of arguing for compatibility and state my plan for the dissertation.

Four Propositions

The first two propositions express claims that many philosophers think are present in commonsense thought and that many defenders of commonsense morality would endorse. The first is the Difference Thesis, or DT:

DT: The nature of the relation between action and outcome differs in cases of doing and allowing.

DT is a factual claim, asserting the existence of different relations between actions and outcomes in cases of doing and allowing.1 The second proposition states that the difference specified in DT is relevant to moral evaluation. Call this the Relevance Thesis, or RT:

RT: The difference between doing and allowing is relevant to moral evaluation.

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1 I do not need to take a stand here on whether the proposition that DT expresses is metaphysical, causal, or empirical.
According to RT, the way actions bring about their outcomes, by doing or by allowing, is relevant to the moral evaluation of those acts. Many think DT and RT are not only endorsed by commonsense moral thinking but also are so reasonable as to survive critical reflection.

If RT is a fully general thesis, then it applies to any act. For instance, RT should apply to acts such as bruising someone’s hip by pushing a shopping cart across a parking lot, in contrast to allowing a wind-blown shopping cart to cause an identical bruise when stopping the cart involves no harm to the agent. It is uncertain whether RT is a fully general moral principle and it is uncertain whether its supporters believe it is fully general. In contrast to uncertainty about the generality of RT, most consequentialists think consequentialism is a fully general moral principle or theory. That is, consequentialism states criteria that apply to any evaluation of moral rightness.

The third proposition is a version of consequentialism. Call this Standard Consequentialism, or SC:

SC: For any act \( a \) performed by any subject \( S \) in any circumstances \( C \), \( a \) is morally right for \( S \) iff (i) \( a \) is performable by \( S \); and (ii) \( a \) brings about at least as good an outcome as the outcome of any \( a' \) \( S \) can perform in \( C \).

If SC is understood in the usual way and is true, then the only the goodness of the outcome of an action make that action morally right or morally wrong. The first three propositions do not explicitly state the common view that RT and SC are

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2 Some defenders and critics of RT see it as central to commonsense morality. See McCarthy (2000); Thomson (1996); Foot (1985; 2002); Kagan (1989).

3 These cases parallel those Jonathan Bennett cites as paradigms of doing and allowing. See Bennett (1995), p. 67.
incompatible. The fourth proposition is the Incompatibility Thesis, or IT. IT states that RT and SC are incompatible:

\[
\text{IT: If RT, then some } a \text{ is morally right that does not bring about outcomes at least as good as the consequences of any } a S \text{ can perform.}
\]

RT is apparently incompatible with SC because RT states that the way an act is related to its outcome is relevant to moral evaluation while SC states that only the value of the outcome is relevant to moral evaluation.

Moral philosophers commonly assume IT. Every defense of RT that I know of presents it as incompatible with consequentialism. Defenders of these accounts must intend my fourth proposition, which, if true, would require denying or revising SC.

Although RT or something very like it seems ineliminable from commonsense morality, giving a coherent account RT has proven very difficult. Many consequentialists think the difficulty of giving a coherent account of RT is reason to deny it. In contrast, many defenders of commonsense morality think it reasonable reason to reject consequentialism because of its apparent incompatibility with RT.\(^4\)

I aim to show that a significant, plausible version of RT is compatible with consequentialism. The aim of this dissertation is constrained by my acceptance of the claim that RT survives critical reflection and my denial of IT. I shall evaluate the independent merits of RT and argue that there are good reasons to accept an Interference-Dependence account of RT. I then argue that the Interference-

Dependence account of RT is compatible with a widely accepted consequentialist theory and that representative arguments for IT do not give us reason to accept it.

**Problems and the Plan of the Dissertation**

As I stated the four propositions above, I alluded to the problems that constrain my aim of showing the compatibility of RT and consequentialism. I now describe those problems and my plan for the dissertation.

First, take the Difference Thesis (DT) the Relevance Thesis (RT), and Standard Consequentialism (SC). Chapter 1 explains SC, DT and RT in detail. I explain the relation between DT and RT and the implications of the fact that DT is necessary but not sufficient for the truth of RT. Further, despite the fact that RT is thought to survive critical reflection, no account of the relation between DT and RT is without flaws. A plausible account of DT is needed to ground RT, but flaws in the available accounts provide reason to doubt RT. I call this the grounding problem.

Second, since DT is necessary but not sufficient for the truth of RT it is possible that DT is true and RT is false. If this were so, RT would be undermined because DT would not ground RT. Jonathan Bennett argues that this is so. In Chapter 2 I consider Bennett’s argument that RT is undermined and refute it. This refutation alone does not solve the grounding problem. I consider proposed solutions to the grounding problem in Chapters 3 and 4, where philosophers use extant accounts theories of action and causation to ground RT. I find each account flawed but argue that even though they are flawed, we have better reason to accept RT than to deny it. I suggest that the grounding problem is pressing only if one assumes that in moral
theory foundationalist considerations outweigh coherentist considerations. I argue that given the weight of coherentist considerations, there is good reason to accept RT.

The commonsense notion of doing and allowing is complex and covers several overlapping differences, and theoretical unification of those differences has not been forthcoming, so a theory of RT is likely to emphasize one of the overlapping differences. One test of any account of RT is that it implies judgments about cases that are consistent with commonsense moral judgments about those cases and, in cases where the account of RT implies a contrary conclusion; it explains the divergence from commonsense. I call this the *adequacy test*. The method whereby we test an account of RT is by posing problem cases and showing whether the account of RT implies an evaluation that is consistent with commonsense judgments or explains why it does not do so. In Chapters 5 and 6 I present the Interference-Dependence theory of RT and show that it responds satisfactorily to the *adequacy test*. As I develop the Interference-Dependence account, I shall comment on how generally the Interference-Dependence account of RT applies.

Now consider IT. There is good reason to believe the antecedent of IT, which is RT, because RT is thought to survive critical reflection. But RT claims a factor is relevant to moral evaluation that is not a value of an act’s outcomes. So my aim of resolving the incompatibility is constrained by my acceptance of the truth of the antecedent of IT. If so, then SC is not true as stated. In Chapter 7 I defend a form of SC that I show is compatible with the Interference-Dependence account of RT. This consequentialist theory combines the values of acts with the values of the
consequences in an *evaluative outcome*. I call this theory Act-Value Adjusted Consequentialism or AVAC. AVAC is a widely accepted though somewhat controversial consequentialist theory. I argue that AVAC is more plausible than its denial and that AVAC is compatible with RT. I present my conclusions in Chapter 8.

**Summary**

I have introduced my dissertation by stating four propositions. The first three propositions are individually plausible but appear incompatible taken together. The fourth proposition explicitly states the alleged incompatibility. However, AVAC is a plausible form of SC and I show that RT is compatible with AVAC. Replacing SC with AVAC resolves the incompatibility since AVAC is compatible with DT and RT. I then described the problems I need to solve in order to show the compatibility of RT and consequentialism, and stated my plan for the dissertation. I shall show that an element of commonsense morality, acceptance of which is commonly thought to imply a non-consequentialist moral theory, actually is compatible with consequentialism. Since commonsense morality is often thought to be non-consequentialist, showing that an important element of commonsense morality is compatible with consequentialism is evidence in favor of consequentialism as the best moral theory.
CHAPTER 1: Standard Consequentialism and Doing and Allowing

Introduction

In this chapter I present Standard Consequentialism (SC), the Difference Thesis (DT), and the Relevance Thesis (RT). I then discuss the reasons thought to support the common view that consequentialism is incompatible with RT.

1.1. Consequentialism

In this section I introduce the core consequentialist intuition, present SC, and explain the consequentialist view of the relation between moral value and moral rightness. I then consider several principles associated with consequentialist moral theories and argue that the essential principles of standard consequentialism are maximization and ranking.

Standard Consequentialism (SC)

The central consequentialist intuition about moral evaluation is that all that matters to moral evaluation is the goodness of outcomes.\(^5\) Given the core consequentialist intuition, the purpose of consequentialist moral theories is to characterize the relation between two evaluations, an evaluation of an outcome and an evaluation of something that contributes to the occurrence of that outcome.\(^6\) I shall

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\(^5\) I claim this is the core consequentialist intuition about moral evaluation, or the criteria of moral rightness. The core consequentialist intuition about what we ought to do might be different from the core intuition about moral status. Candidates for the core consequentialist intuition about what we ought to do are that the good should be promoted and that we ought to do the best we can. See Russell Hardin (1987), p. 22; Fred Feldman (1986), p. 16.

\(^6\) Many presentations would say that the second evaluation is an evaluation of an ‘act’ that brings about the outcome. I use the more general term to allow for consequentialist evaluation of acts, intentions, motives, or character traits that are relevant to the occurrence of an outcome.
call ‘something that contributes to the occurrence of an outcome’ an ‘object of evaluation.’

An axiological evaluation is an evaluation of the goodness or badness of the state of affairs that constitutes the outcome. An evaluation of the rightness or wrongness of an object of evaluation is a moral evaluation. A moral evaluation is a judgment that some object of evaluation merits some moral status (morally right, morally wrong, or morally permissible). The core consequentialist intuition is that only the values of outcomes determine the moral status an object of evaluation merits.

A common consequentialist theory is Standard Consequentialism (SC):

\[
SC: \text{An act } a \text{ is morally right iff the consequences of } a \text{ are of at least as great intrinsic value as those of any action } a_x, \text{ the agent can perform in the circumstances.}^7
\]

SC is act-consequentialism. I assume the following in explaining SC: (i) acts are identifiable particulars, and (ii) in some circumstances agents can choose from more than one action.\(^8\) In SC, ‘\(a\)’ refers to an identifiable particular and ‘\(a_x\)’ refers to any alternative action the agent could perform. Call (i) the assumption of particular actions. Call (ii) the assumption of alternative performable actions. Both assumptions are widely accepted among consequentialists.\(^9\) I accept assumption (ii) without discussion. In Chapter 7 I suggest slightly revising (i) to remove an ambiguity and take account of the contribution to the value of an act by its general character. Some think the restriction of acts to identifiable particulars implies the denial of the claim

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\(^7\) SC is based on Moore (1912; 1965), p. 28; Smart (1956), (1973); Sosa (1993); and Carlson (1995).

\(^8\) See Moore (1912; 1965), p. 5, for the assumption of alternative performable actions. See Sobel (1976), p. 197, for the definition of actions as “particular doings” and Carlson (1995), pp. 5-8, for the assumption that actions are identifiable particulars.

that act of some general character are intrinsically wrong. I accept the usual consequentialist view that restricts objects of evaluation to particular actions.

According to SC, the intrinsic values of an act’s ‘consequences’ determine the moral status of the act. Some concept of consequences is needed to understand SC. If consequences are understood exclusively as causal effects, that is too restrictive for moral evaluation. Some consequences that are relevant to moral evaluation are not the causal effects of actions. For example, after Jeff leaves the room Joe is the heaviest person in the room. The state of affairs ‘that Joe is the heaviest person in the room’ is a consequence of Jeff’s leaving the room, but ‘that Joe is the heaviest person in the room’ is not a causal effect of Jeff’s leaving the room. Suppose the room is a natatorium. Jeff leaves the natatorium and Joe, a non-swimmer, is the only adult at the poolside with children. The state of affairs ‘that Joe, a non-swimmer, is the only adult in the natatorium,’ is a consequence of Jeff’s action though not a causal effect of Jeff’s action. Jeff’s leaving could be morally relevant, depending on other facts about the circumstances. I conceive of consequences in SC in the broad sense of ‘outcomes.’ Therefore, an outcome can include such varied states as increased rates of risk, influences on the mental states other than the agent’s, and other states related

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10This example is adapted from Sosa (1993).
11Erik Carlson (1995), p. 48, thinks most consequentialists require counterfactual dependence as a necessary condition of ‘consequences.’ If so, a consequence is a state of affairs that would not obtain if the act were not performed. Counterfactually dependent states of affairs are one plausible candidate for specifying outcomes. Counterfactual dependence is a less restrictive condition on an outcome’s obtaining than causal dependence, though at this point I need not take a position on what other conditions are necessary for an outcome’s obtaining.
The relation between acts and outcomes is a relation of dependence, and the dependence relationship can take multiple forms.

SC states that the intrinsic value (or intrinsic goodness) of the consequences determines the moral status of the act that brings them about.\(^\text{13}\) Intuitively, intrinsic value is the value of a state of affairs ‘in itself.’\(^\text{14}\) Intrinsic value is most naturally understood by appeal to intuitively grasped cases of something that has value in itself. Attempts to analyze intrinsic value sometimes assert that the intrinsic value of a state of affairs is the value the state of affairs would have if it existed in isolation, with no relational qualities contributing to its value. Others claim that intrinsic value is value something has necessarily. None of these analyses or explanations of intrinsic value seems exactly right.\(^\text{15}\) However, the concept of intrinsic value is so familiar that I shall assume it.

Intrinsic value (or intrinsic goodness) is distinct from the objects that have value or are the bearers of value. I call the objects that have value or are the bearers of value goods.\(^\text{16}\) The distinction between intrinsic goodness and goods implies that distinct states of affairs can have the same value although they are composed of different goods. Taking outcomes to be states of affairs, two outcomes could have the same intrinsic value though they are constituted of different objects that have value.

Since some actions have outcomes whose constituents have both positive value and

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\(^{12}\) One difference among consequentialists is whether to accept a commonsense notion of consequence or a theoretical concept, such as the entire history or the world that includes the act. I take no stand on this debate. For my purposes, either concept of consequences is adequate.

\(^{13}\) I shall use ‘intrinsic value’ and ‘intrinsic goodness’ interchangeably throughout the dissertation.

\(^{14}\) See Moore (1903; 1993), p. 73; William Frankena (1973), p. 82.

\(^{15}\) Fred Feldman (1986), pp. 26-33, canvases and criticizes these efforts.

\(^{16}\) Some call the objects that have value ‘the valuables.’ See Byquist (2004).
negative value, SC implies that benefits and harms can be aggregated to obtain a total value.\textsuperscript{17} The total values of the outcomes that are brought about by the acts performable by the agent are comparable. According to SC, the comparative intrinsic values of outcomes of acts performable by the agent determine which act is morally right.

I do not have a new account of the bearers of intrinsic value, so I assume a common pluralistic account of the bearers of intrinsic value. The bearers of intrinsic value include at least the following: experiences of pleasure, happiness, and instances of knowledge and achievement.\textsuperscript{18} This assumption does not affect my inquiry since my concern is the structure of consequentialist moral theories, not consequentialist value theories. Structural questions about consequentialism are questions about the relations between the values of outcomes and moral status. Structural questions arise from the consequentialist intuition that moral rightness is based on the values of outcomes and SC, which states that the values of outcomes make acts morally right.

A characterization of structural questions about consequentialism common to both defenders and critics of consequentialism is the two-principle consequentialist theory. The two-principle theory says a consequentialist theory of moral rightness consists of a characterization of the relation between a value-ranking and a moral status.\textsuperscript{19} A consequentialist theory states how a value ranking and a moral status are

\textsuperscript{17} Aggregation is more general than addition and does not imply additivity of value by itself.
related. A value-ranking is an ordering of the outcomes that could be brought about by the acts an agent could perform in her circumstances. A value-ranking orders outcomes from best to worst. Each outcome \( o \) is assigned an individual ranking, symbolized as \( V(o) \). SC is a theory about morally right acts, so a ranking \( V(o) \) must be linked to acts. According to SC, the ranking of the outcomes of the agent’s performable acts in order of value determines the moral status of the act that brings about the outcome. The relation assigns a moral status to the act that brings about an outcome whose ranking is \( V(o) \). SC assigns the moral status ‘morally right’ to the act whose outcome is at least as highly ranked as any alternative performable act. Hence, except when an agent deliberates about performable acts whose outcomes are equally valuable, in which case either act is morally right, the SC view is that there is a single morally right act because some act brings about an outcome with greater intrinsic value than any other act. Since SC holds that the morally right act is the act that brings about the greatest, or maximal, value, SC is a maximizing theory.

Since SC states that the morally right act is the act that brings about the most valuable outcome as determined by the ranking principle, SC is a maximizing theory: the morally right act is the one that brings about the outcome that has maximum value.\(^{20}\) The value of an act is determined by its rank in relation to other acts, and the rank of an act is determined by the ranking of its outcome. As developed so far, the two-principle conception states that a consequentialist theory of moral evaluation is a relation between ranking and maximization.

\(^{20}\) I set aside satisficing consequentialist theories, since satisficing theories do not represent the central consequentialist principles. See Slote, (1985), and Byron, (2004), for discussion of satisficing theories of morality and practical reason.
The two-principle theory of consequentialism is incomplete because not all consequentialist theories share SC’s object of evaluation. The two-principle theory alone does not determine the object to which the moral status attaches. A consequentialist moral theory gives reasons for thinking moral status attaches to a particular object of evaluation. SC takes acts as the objects of evaluation but a consequentialist theory can take other objects of evaluation than acts. Some choices are not choices of what act to perform; they are choices of what attitude to promote, what motive to develop, or what decision-procedure to adopt. The limit placed on objects of evaluation is the range of things about which we want to pose evaluative questions. Thus, when fully stated, a consequentialist theory of moral rightness implies an ordered triple consisting of the value ranking and the moral status that applies to an object of evaluation. The theory assigns a moral status, morally wrong, morally permissible, or morally required, to objects of evaluation, which can be acts, rules, motives, or procedures. Taking moral rightness or MR, for both moral permissibility and moral requirement, a consequentialist theory about acts is stated by the formula \([V(o_x), \text{MR}, a]\). Act \(a\) that has outcome \(o_x\) that has value \(V\) is morally right because \(V(o_x)\) is greater than that of any \(o\) of any alternative performable \(a_x\).

When an object of evaluation brings about a state of affairs that has the value-ranking required by a particular consequentialist theory, that object of evaluation merits the moral status the theory ascribes to it. For example, SC takes the maximum value of an outcome of a performable act in a choice situation to determine the value-ranking. The evaluation ‘morally right’ attaches to the object of evaluation ‘act that
brings about the outcome having the maximum value.' The ranking principle states how the axiological evaluation is determined. The moral status applies to an object of evaluation. The maximization principle states how to determine moral status. The object of evaluation is the subject of disagreement among consequentialists. Historically, the main objects of evaluation have been acts and rules, resulting in act-consequentialism and rule-consequentialism, where rankings of rules provide a method of evaluating acts. However, recent consequentialists have proposed a broader range of objects of evaluation, including characters, motives, virtues, and decision-procedures. However, I shall limit my focus to acts.

**Associated Consequentialist Principles**

Consequentialism is sometimes characterized by a cluster of principles rather than stated as a criterion of moral rightness. It is useful to state the principles associated with consequentialism and distinguish the central principles of SC from peripheral principles. Ranking and maximization are the central principles of any two-principle theory of SC.

**Impartiality**: Impartiality is often thought to characterize any proper consequentialist ranking principle. Impartiality is implied by intrinsic value. A consequentialist ranking principle orders outcomes based on the outcomes’ intrinsic values of the outcomes, and orders actions based on the values of the outcomes they

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21 Alternatively, the outcome that has at least as great value as any other outcome brought about by an act performable by the agent.
bring about. The intrinsic value of an outcome is determined by the values of the objects that constitute the outcome. The natures of the objects determine their values. Natures of objects are general rather than individual, and generality implies that intrinsic value is impartial between particular instances of those objects’ natures. Impartial value is the value of an object without regard for or partiality to the interests of any individual who instantiates the value, including the agent of the act or those to whom the agent bears special relations.\(^{24}\) An impartial ranking is an ordering of outcomes in which the interests of each affected person or affected sentient being enters equally into the ranking. The interests or effects of the act on interests determine the ranking rather than the identity of the person determining the ranking. An impartial ranking is sometimes understood to be impersonal, as when Samuel Scheffler calls it “an impersonal ranking of overall states of affairs.”\(^{25}\)

**Maximization:** Maximizing consequentialists assert that the morally right act is the act that brings about the most valuable outcome, or any act of alternative acts that brings about equally valuable outcomes. The morally right act is the one that brings about at least as much value as could be brought about by any performable act. That is, the morally right act maximizes value. Maximization is often considered central to consequentialism. Maximization implies that any act that brings about less than the greatest value is morally wrong.\(^{26}\)

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\(^{24}\) Richard Arneson (2003), p. 383, says consequentialism “must deny partiality.” Italics are mine.


\(^{26}\) Though, see defenses of satisficing consequentialism: Slote (1985) and Byron (2004).
**Individualism**: Act-consequentialists (and some rule-consequentialists) argue that moral status attaches to individual acts rather than kinds or types of acts.\(^{27}\) Consequentialists often assert that moral evaluation concerns particular acts performed by particular agents at particular times. Individualism is the view that the object of evaluation is the particular act and the consequences of the particular act. That is, moral rightness attaches to individual acts rather than to act-kinds.

**Directness**: Direct evaluation of individual acts is evaluation based solely on the values of the outcomes of individual acts. Indirect evaluation is evaluation of the value of another object of evaluation that is related to the act causally, counterfactually, or indicatively.\(^{28}\) Since adherence to a rule or development of a motive is related to the choice of an act, in rule-consequentialism or motive-consequentialism the value of the outcome brought about by the act is evaluated indirectly. SC is direct consequentialism. Hence, for SC, the value of conformity to a rule or set of rules is no basis for deontic evaluation of particular acts.\(^{29}\)

**Act Focus**: the objects of deontic evaluation are acts. The aim of consequentialist evaluation is to determine the best individual act.\(^{30}\)

Although consequentialism is sometimes associated with these five principles they are not equally central to consequentialism. As I see it, the necessary and sufficient conditions for moral evaluation according to SC are the ranking and maximization principles. I consider **ranking** and **maximization** the central principles

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\(^{27}\) For example, see Smart (1956); (1973).


\(^{29}\) See Smart (1973) and Williams (1973), p. 81.

\(^{30}\) See Regan (1980) on the exclusive act-focus of what he calls traditional consequentialism.
of consequentialism; the other principles are peripheral. The consequentialist relation attaches to multiple objects of evaluation, contrary to the claims stated under the headings of Individualism and Act-focus. The meaning of Impartiality and the requirements for a ranking to embody Impartiality are controversial. While Directness is the ideal condition of moral evaluation, our epistemic limits on predicting the consequences of acts suggest that evaluation of rules, motives, and decision-procedures has an important place in morality.

My overall aim is to give an account of RT that is compatible with consequentialism. I take it that showing the compatibility of consequentialism and RT is evidence for the correctness of consequentialism as a theory of moral rightness since it shows that consequentialism is compatible with a commonsense moral belief. Showing that RT is consistent with ranking and maximization is a better argument in favor of consequentialism than showing RT is consistent with a peripheral consequentialist principle but not consistent with ranking and maximization. In Chapter 7 I argue that the Interference-Dependence account of RT is compatible with ranking and maximization. I shall argue that compatibility requires revising Individualism to remove an ambiguity and take account of the contribution to intrinsic value of the general character of an act.

1. 2. The Difference Thesis (DT) and the Relevance Thesis (RT)

The basic concepts of doing and allowing

Philippa Foot is largely responsible for bringing doing and allowing to the attention of contemporary moral philosophers. Foot argues in “The Problem of
Abortion and the Doctrine of Double Effect” that the difference between doing and allowing explains both widely shared reflective judgments and the doctrine of double effect. Foot’s formulation has provided the focus of discussion of doing and allowing since her essay.

Foot describes two senses of ‘allowing’ that contrast with ‘doing.’ She characterizes ‘doing’ by the equivalence “what one does or causes” but otherwise leaves it unanalyzed. Since ‘what one does’ partly re-states ‘doing,’ it is not an analysis of ‘doing.’ The analysis in terms of ‘what one causes’ in not helpful since the specification of what an act causes is highly controversial. The spirit of Foot’s view is to take ‘doing’ as a primitive in understanding action. If we take ‘doing’ as a primitive, then we ask what distinguishes ‘allowing’ from ‘doing.’ Foot’s first sense of ‘allowing’ is “forbearing to prevent,” which is equivalent to refraining from doing what would prevent some outcome from occurring. Call this allowing1. The second sense is that of “enabling,” or “the removal of some obstacle which is, as it were, holding back a train of events.” Call this allowing2.

Foot’s two concepts of allowing follow:

Allowing1: $S$ allows $O$ at $t$ iff there is a process that begins at $t$ or before $t$, $S$ refrains from intervening in the process at $t$ so as to keep it from bringing about $O$, and the process brings about $O$.

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31 Foot, (1967; 1978), p. 25. Foot (1985; 2002) retracts this view and claims that doing-allowing and intending-foreseen are distinct principles that each deserve a place in moral theory.


33 I am inclined to take ‘doing’ as a primitive in our conception of action. I suspect that our conception of doing is rooted in a phenomenological awareness of ourselves as entities that have effects on external things.

Allowing₂: S allows O at t iff there is a process that begins at t or before t and S removes an obstacle at t that would prevent that process from bringing about O.

Allowing₁ and allowing₂ are similar. In both allowing₁ and allowing₂ the agent is able to perform alternative acts. In allowing₁ the agent can intervene in a process. In allowing₂ the agent can refrain from removing an obstacle that would intervene in a process. Both allowing₁ and allowing₂ relate an act to a process that begins at or before the time of the act. In both allowing₁ and allowing₂ the process results in the outcome.

Allowing₁ and allowing₂ differ as follows. Allowing₁ is an act of refraining from preventing a process that is already underway from bringing about an outcome. Allowing₂ is an act of preventing the occurrence of an event that would prevent a process that is already underway from bringing about an outcome. In allowing₁ S refrains from preventing. In allowing₂ S intervenes in the prevention of a process leading to an outcome. The differences between allowing₁ and allowing₂ suggest they should not be understood to refer to a single sort of action.

The concept of allowing₁ is relatively clear, though it can shift with changes in the sense of the counterfactual ‘could.’ The moral relevance of allowing₁ is clearer than the moral relevance of allowing₂. In allowing₁ there is a process that starts at t, an outcome that the process would bring about at t+n, and an act that occurs between t and t+n by which the agent refrains from intervening in the process. Since at any time there are countless processes underway in which an agent could intervene, and an agent is not able to intervene in all of them, applying allowing₁ is sometimes
difficult. Applying allowing\textsubscript{1} requires identification of possible outcomes and the processes by which an agent is able to intervene to prevent the occurrence of the outcome. The identification of the outcomes might be difficult but is uncontroversial in many cases. Consider the case below:

\textit{Bruised Hip}

The wind rolls a shopping cart across a parking lot. Al can stop the cart but doesn’t. The cart hits an old man who suffers a bruised hip.

The relevant outcome is the bruised hip and the resultant pain and restricted functioning that befall the old man. To apply the concept of allowing\textsubscript{1} requires assumption of background conditions that, if fully stated, would imply Al’s ability to stop the cart. The relevant outcome is understood by reference to ordinary background conditions. To make a moral evaluation based on the judgment that Al allows the cart to hit the old man, would require stating considerations such as the value of the activity Al would need to cease in order to stop the cart.

The conception of allowing\textsubscript{2} as ‘allowing’ and the moral relevance of allowing\textsubscript{2} are both less clear than those of allowing\textsubscript{1}. It is relatively easy to conceive of cases in which the act of removing an obstacle that would prevent an outcome seems as much doing what brings about an outcome as allowing an outcome. Moving a barrier that would deflect the shopping cart in \textit{Bruised Hip} or turning off a respirator whose operation prevents death by suffocation are acts that satisfy allowing\textsubscript{2}. Moving a barrier and turning off a respirator, though, are not easily distinguished from ‘doing.’\textsuperscript{35} Many cases proposed as examples of allowing\textsubscript{2} seem to be doings. It is harder to distinguish the concept of allowing\textsubscript{2} from doing than to

\textsuperscript{35} Foot (1967; 1978) discusses the respirator case.
distinguish the concept of allowing\textsubscript{1} from doing because cases of allowing\textsubscript{2} appear to rely on conventional differences or intentions of agents to distinguish them from doing. Both conventional differences and the agent’s intention come up in a pair of cases Shelly Kagan cites in objecting to our ability to apply the concept of allowing without excessive confusion. In one a physician turns off the respirator of a comatose young person after a long time on life support. In the second, the patient’s rival for a professional prize secretly turns off the respirator.\textsuperscript{36} These cases of allowing\textsubscript{2} cast doubt on the claimed difference between allowing\textsubscript{2} and doing. The cases that cast doubt on the difference between allowing\textsubscript{2} and doing are not as successful at casting doubt on allowing\textsubscript{1}.

In addition to the difficulty of distinguishing allowing\textsubscript{2} an outcome from doing what brings about an outcome, the difference between doing and allowing is conflated with other concepts and distinctions. Jonathan Bennett lists these commonsense pairs with which doing/allowing get conflated: making/allowing, direct/mediated, and intended/foreseen.\textsuperscript{37} The appeal to killing/letting die in debates over euthanasia leads to allowing sometimes getting conflated with ‘letting.’ Since usage is not an authoritative guide in this case, I use doing/allowing roughly as Bennett uses making/allowing. The commonsense ‘distinction’ between doing and allowing introduced by Foot involves two senses of allowing. In addition, Jonathan Bennett’s criticisms imply there is no single distinction between kinds of actions that corresponds to the concepts of commonsense morality.

\textsuperscript{37} Bennett (1995), p. 3.
Despite Foot’s initial statement of the commonsense ‘distinction’ between doing and allowing as reasons for distinct moral evaluations, many think the commonsense distinction conflates several distinctions and “does not refer uniquely.”38 Rather, they claim, the commonsense notions of doing and allowing refer to several overlapping distinctions. One strategy in the face of this confusion is to identify the various distinctions that might be morally relevant and consider each one for analysis and assessment.39 A second strategy is to develop a theoretically justified account that unifies the apparent multiple distinctions by means of some theoretical concept. Chapters Three and Four evaluate accounts that defend a unified distinction between doing and allowing. In Chapters Five and Six, I follow the first strategy. I identify, analyze, and defend the moral relevance of one doing-allowing distinction of interest to moral philosophers.

**DT: Relations between Actions and Outcomes**

I have stated the doing-allowing distinction of commonsense morality in two separate theses. The first is a claim about different sorts of action, which I call DT. The second is a claim about moral relevance of the two kinds of action, which I call RT. DT claims there is a difference between the doing-relation and the allowing-relation:

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DT: The nature of the relation between action and outcome differs in cases of doing and allowing.
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38 Frances Howard-Snyder (2002).
39 Howard-Snyder (2002) suggests this strategy. However, Kadri Vihvelin and Terence Tomkow (2005) argue that a single theoretically justified distinction explains the commonsense distinction.
To assert DT is to assert that there are different ways that outcomes depend on actions. The different ways outcomes depend on actions constitute the different relations called doing and allowing. RT claims that the difference in kinds of relations is relevant to moral evaluation. To show that it is reasonable to accept RT in our morality requires an account that solves two problems. The first problem is the problem of explaining DT and its relation to RT since DT is the non-moral basis for RT. I call this the *grounding problem*. A solution to the first problem shows that RT is grounded in DT. The second problem is the problem of showing that an account of RT implies judgments on cases that cohere with widely shared intuitive judgments. I call this the *adequacy test*.

The elements of DT are a relation between action and outcome that differs in instances of doing and instances of allowing. Since DT is a claim about relations, I sometimes refer to the doing-relation and the allowing-relation. Further, I assume for now that the different relations of dependence are distinct kinds of relations between actions and outcomes. DT states a necessary condition for there being a difference between doing and allowing. I later consider various accounts of DT. Here I consider some requirements of a satisfactory account of DT.

A satisfactory account of DT should show that the doing-relation and the allowing-relation are distinct. At least two conceptions of ‘distinctness’ could be meant. The first conception of distinctness is that of mutually exclusive and exhaustive conditions. The first conception requires a statement of necessary and sufficient conditions for doing and allowing that entail that any act that is not an
instance of one member of the pair is an instance of the other. Since the first conception of distinctness is exhaustive of the relations between action and outcome, it would entail that the only morally relevant relations between action and outcome are doing and allowing. Call this the exhaustiveness thesis. While no philosopher explicitly defends the exhaustiveness thesis, both defenders and detractors of RT sometimes seem tacitly to assume it.\textsuperscript{40} Defending the exhaustiveness thesis would require showing that all relations between action and outcome are explainable by some version of DT. Any such explanation would have to cover many different cases, and that version of DT would be both very general and applicable to a wide variety of commonsense moral judgments. The truth of the exhaustiveness thesis is not required to explain DT, so I shall not assume that burden here.\textsuperscript{41} I assume the second conception of distinctness in evaluating accounts of DT.

The second conception of distinctness is that of conditions that are mutually exclusive but not necessarily exhaustive. The second conception of distinctness is that of concepts such that an instance of one of the pair of concepts is not an instance of the other member of the pair. The second conception leaves it open whether doing and allowing exhaust the morally relevant relations between action and outcome. If the analysis of doing and allowing fail to satisfy at least the second concept of distinctness, then we should need an account that explains how some action or class of actions are related to an outcome by both doing and allowing.

\textsuperscript{40} See Matt Hanser (1999).
\textsuperscript{41} To my knowledge, Matt Hanser (1999) is the first to have named and rejected the ‘exhaustiveness assumption,’ though it is implicit in Judith Jarvis Thomson (1996), who also rejects it.
Some philosophers think a satisfactory account of DT should identify more fundamental sorts of relations existing between actions and outcomes that determine the doing-relation and allowing-relation. These philosophers aspire to what I call a foundationalist account of RT.\textsuperscript{42} I call the sort of account these philosophers aspire to foundationalist because, for them, the explicit aim is to show that RT is determined or constituted by a non-moral proposition that is thought to be more fundamental than RT and thus provides a foundation for RT. I present and evaluate foundationalist accounts of DT and RT in Chapters Two, Three, and Four. None of them is entirely successful.

An alternative to moral foundationalism is a semi-autonomous view of moral propositions. The semi-autonomous view is that moral philosophy should begin from widely shared commonsense moral judgments and pursue the aim of explicating the coherence of those moral judgments. This view thinks of moral propositions as semi-autonomous in relation to metaphysical propositions. Philosophers who pursue the semi-autonomous approach aim to clarify and systematize commonsense judgments by eliminating inconsistencies and arguing for a coherent group of moral evaluations. The semi-autonomous approach to doing and allowing is an approach that accepts the commonsense distinction between doing and allowing and aims to show that the difference is coherent and plausible without being determined by foundational entities. The semi-autonomous approach to DT is concerned that its account of DT is consistent with plausible metaphysical claims without attempting to show that a

\textsuperscript{42} Jonathan Bennett (1995) defends the foundationalist requirement. Vihvelin and Tomkow (2005) aim at a foundational explanation of DT.
particular metaphysical view determines the facts about RT or is required to explain DT.\textsuperscript{43} I discuss the difference between foundationalist and semi-autonomous views in Chapter 3.

DT is a non-moral thesis. Its content is non-moral, and if it is true, the doing-relation and allowing-relation obtain independent of moral evaluation. However, DT is also the basis or ground for RT. An account of DT, whether foundationalist or semi-autonomous, should show that the doing-relation and allowing-relation explained in the account are relevant to moral evaluation. The most natural account is that RT supervenes on DT. Some philosophers demur, thinking it legitimate that our moral evaluations using the concepts of doing and allowing constrain which account of the nature of doing and allowing is correct.\textsuperscript{44} Others are skeptical, asserting that our concepts of doing and allowing are determined by the content of our moral evaluations using the terms and that such determination is reason to deny that doing and allowing are distinct.\textsuperscript{45} Despite these demurrers and skeptics, I think we should aim to give a non-moral account of DT on which RT supervenes.

**Relations between DT and RT**

RT is a claim about moral evaluation. In general, to evaluate is to claim that some object or kind of object merits some evaluative status.\textsuperscript{46} I distinguish two classes of moral evaluations. The first is the class of axiological evaluations,

\textsuperscript{43} Philosophers pursuing the coherentist approach are Philippa Foot in several essays on doing and allowing, Jeff McMahan (1998), and Judith Jarvis Thomson (1996).


\textsuperscript{45} See Alison McIntyre (1994).

\textsuperscript{46} Dominic McIver Lopes (2005) pp. 5-6, says “an evaluation is simply a representation of some object or kind of object as having a merit or demerit.”
evaluations of goodness or value. The second is the class of moral evaluations, evaluations of moral status: moral requirement, moral permissibility, and moral wrongness. I shall use ‘moral rightness’ for both moral permissibility and moral requirement, in contrast to moral wrongness.

RT is stated as follows:

RT: The difference between doing and allowing is relevant to moral evaluation.

The difference between doing and allowing is established by an account of the nature of the doing-relation and the nature of the allowing-relation, as discussed above. An account of DT that explains the difference in the relation between action and outcome in cases of doing and allowing is the basis for claims about moral evaluation of doing and allowing. Thus, RT is true only if the difference between doing and allowing is morally relevant.

To understand RT, we need to consider two characteristics of morally relevant factor of choice situations, the degree of relevance and the nature of relevance. The degree of relevance is the result of the fact that factors are assigned different weights in different theories. I am concerned with two conceptions of the nature of relevance in discussing RT and consequentialism: derivative moral relevance and intrinsic moral relevance. I shall discuss derivative and intrinsic moral relevance first.

The two conceptions result from cases in which a consequentialist might assign value to what people believe is morally good while denying that what is believed is intrinsically morally relevant. So, if people generally believe there is a morally relevant difference between doing and allowing, a consequentialist who
assigns relevance to that belief would assign it value because it is believed by the people who deliberate about choices. The moral relevance of doing and allowing in this case is derivative moral relevance because it is derived from the fact that doing and allowing are believed to have moral relevance.

If a moral factor has intrinsic moral then it is morally relevant because there is good reason to think it is morally relevant. Intrinsic moral relevance is due to the reasons we have for thinking some factor of choice situations is morally relevant because of those reasons. If a factor is intrinsically morally relevant, its relevance is due to itself, it is not derivative from the fact that someone believes it. I am concerned to show that the difference between doing and allowing is intrinsically morally relevant. I argue that there is good reason to think the difference between doing and allowing is intrinsically morally relevant.

Now I discuss the strength of relevance. The mere relation of relevance between some factor and moral evaluation is a weak relation. Relevance of a factor to moral evaluation is not conclusive reason for moral rightness of wrongness because a relevant factor can be overridden by some other factor. Generally, the greater the magnitude of relevance possessed by a factor, the more often it will override other factors. At this stage, I shall withhold judgment regarding the magnitude of the relevance of the doing-relation and the allowing-relation. Various accounts might claim that doing and allowing provide different magnitudes of relevance that supply reasons for moral evaluation. Thus, the RT claim that difference between doing and allowing is relevant to moral evaluation is a necessary condition, and reflects no

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47 See G. Oddie (1997).
assumption at the outset regarding the magnitude of the relevance. One task of an account of RT is to state the strength of the reasons supplied by the doing-relation and the allowing-relation.

If the difference between doing and allowing is relevant to moral evaluation, then the difference between doing and allowing can provide us with reasons for evaluating some action as morally right or morally wrong. I shall assume that facts or considerations in the choice situation provide reasons for evaluation, and that the doing-relation and the allowing-relation can be facts or considerations that provide reasons for evaluation. However, the reasons that doing or allowing provide may not be conclusive, since they may be overridden by other reasons. I speak of facts or considerations providing prevailing or countervailing reasons for evaluating some action as morally right or morally wrong. If an agent who is deliberating has reason for evaluating an action as morally right or morally wrong, I shall assume that the agent’s evaluation gives the agent a reason for performing the action. Generally, I shall say the stronger reason provides the agent with better or greater reason for action.

A number of philosophers claim that RT provides reason for consequence-independent reasons for evaluation. This claim provides one reason for interest in

48 In James Rachels (1986) discussion of killing and letting-die he is more explicit that killing and letting-die are reasons for moral evaluation than others who have written about these problems. Although Rachels restricts his discussion to killing and letting-die, we have good reasons for thinking the claim generalizes so that that doing and allowing are also reasons for evaluation.

49 No assumptions made regarding internalism, whether judgment internalism or reasons internalism will change the outcome of my discussion of doing and allowing.
A consequence-independent reason for moral evaluation is a consideration that is not a consequence of the act and that is overriding when it is present. Some non-consequentialist philosophers claim that in some cases the difference between doing and allowing provides a consequence-independent reason for the moral impermissibility of performing an action that brings about some harm even if it would be permissible to allow other events to occur that bring about the same or greater harm. The inference goes like this. The fact that doing a brings about harm h is a reason that doing a is morally wrong. The fact that allowing is related to h coming about is a reason that allowing h is morally wrong. However, in some circumstances the fact that doing a brings about h is a stronger reason for the moral wrongness of doing a than the fact that allowing is related to h coming about. Philosophers who argue for the link between RT and consequence-independent reasons argue that in some cases the fact that doing a brings about h outweighs the fact that allowing is related to h coming about is a reason that doing a is morally wrong even if the consequences of allowing h are worse than the consequences of doing a and thereby bringing about h. Therefore, when doing a brings about h, it is morally worse than when allowing is related to h coming about in the relevant cases.

I defend the compatibility of RT and consequentialism. I shall argue against the claim that RT entails consequence-independent reasons. I shall show that arguments attempting to prove that RT entails consequence-independent reasons fail to establish this conclusion.

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DT is the non-moral basis for RT and RT states that the difference between doing and allowing is relevant to moral evaluation. Providing an account of DT that grounds RT is the first problem noted above. That is, the truth of DT is necessary for the truth of RT but the truth of RT is not necessary for the truth of DT. Thus, there is an asymmetrical relation between the two theses.

Consider the case in which DT is false. Then there is no difference in the relation between action and outcome in cases of doing and allowing. If there is no difference in the relation between action and outcome in cases of doing and allowing, then there is no difference on which the moral difference asserted by RT could supervene. So if DT is false, then RT is false. But if RT is true, then DT is true. The possibilities are different if DT is true. It is possible that DT is true, that there is some difference in the relation between action and outcome in cases of doing and allowing, and that the difference is not relevant to moral evaluation. That is, it is possible that DT is true and RT is false.

The asymmetrical relation between DT and RT makes it possible to for there to be what I call an undermining account of doing and allowing. An undermining account of DT is an account which, if true, implies that the difference between doing and allowing is not relevant to moral evaluation. If true, an undermining account would show that although the doing-relation and allowing-relation differ, as stated in DT, the doing-relation and the allowing-relation are not relevant to moral evaluation, as stated in RT. An undermining account concludes that the grounding problem cannot be solved. I present and evaluate Jonathan Bennett’s undermining account in
Chapter Two. In Chapters Three and Four I present and evaluate accounts that support RT by giving an account of DT based on foundationalist assumptions. These accounts aim to show that DT is explained by accounts of causation and action. In Chapters Five and Six I present a coherentist account of RT.

**Chapter Summary**

Chapter 1 introduced Standard Consequentialism and the central consequentialist principles, ranking and maximization. The full statement of consequentialism includes an axiological evaluation that ranks outcomes based on their intrinsic value, which is related by maximization to a moral evaluation of an object of evaluation which brings about the outcome. Standard consequentialism ranks outcomes, requires maximizing intrinsic value for the moral status morally right, and applies maximization to acts as objects of evaluation. I then introduced DT and RT and discussed the relations between them. Since the truth of DT is necessary for the truth of RT, it is possible to undermine support for RT by providing an account of DT that, while true, claims that doing and allowing are not relevant to moral evaluation. I call this an *undermining account* and turn to Jonathan Bennett’s version in Chapter 2.
Chapter 2: Bennett’s Undermining Account

Introduction

In the previous chapter I pointed out the asymmetry between DT and RT. DT is a necessary condition for the truth of RT, but RT is not necessary for the truth of DT. The asymmetry between DT and RT opens the possibility of what I call an undermining account of RT. Such an account would undermine RT by showing that because of the nature of doing and allowing they are not relevant to moral evaluation. Jonathan Bennett presents a sophisticated undermining account that, if true, would eliminate good reasons for accepting RT.

Bennett explains DT in terms of positive and negative instrumentality, so I call it the PNI account. Bennett claims that the PNI account is the best explanation of DT but that if doing and allowing are positive and negative instrumentality, they are not relevant to moral evaluation. If this argument is sound, we face the alternatives of abandoning the intuitively appealing RT or knowingly making moral evaluations based on an undermined RT. The former would require abandoning widely accepted moral principles that many think survive critical reflection. The second would be irrational. In response, critics of Bennett claim the PNI account cannot be correct because it implies incorrectly classifying cases as doings that are actually allowings. These criticisms are insufficient, leaving an argumentative gap. I fill the argumentative gap by showing that the PNI account omits two central

51 Bennett’s view of positive and negative instrumentality does not import associations of positive and negative value into his account of DT.
concepts of action that make behavior apt for moral evaluation, direction and structure. These ideas will be explained later in this chapter.

2.1 Bennett’s PNI Account

Bennett presents the PNI account in two parts: an analysis of positive and negative instrumentality and an analysis of DT.53 ‘Doing’ and ‘allowing’ are terms of ordinary language that express rough classifications. ‘Positive’ and ‘negative’ inherit the intuitive sense of doing and allowing, expressing the idea that conduct can relate to outcomes in two ways.

In ordinary thought ‘positive’ is usually associated with making, doing, and causing; ‘negative’ is associated with allowing and inaction. Beyond these associations, Bennett’s analysis departs from ordinary thought. Bennett analyzes positive and negative instrumentality in terms of facts about behaviors that have positive and negative relevance to outcomes. Doing, or positive instrumentality, is analyzed as follows:

\[
S's\ b\text{ is positive in relation to } o\text{ if:}
\]
\[
S\text{ moves;}
\]
\[
o\text{ occurs; and}
\]
\[
\text{there are relatively few other ways } S\text{ could have moved which satisfy the condition: if } S\text{ moved in that way, } o\text{ would have occurred.}
\]

Allowing, or negative instrumentality, is analyzed as follows:

\[
S's\ b\text{ is negative in relation to } o\text{ if:}
\]
\[
S\text{ moves;}
\]
\[
o\text{ occurs; and}
\]
\[
\text{nearly all the ways } S\text{ could have moved satisfy the condition: if } S\text{ moved in that way, } o\text{ would have occurred.54}
\]

53 Bennett’s account is more extensive than I present since space limits me to essentials.
To explain positive and negative instrumentality, I first explain how Bennett conceives of negative and positive relevance and a negative proposition. This prepares us for the discussion of Bennett’s central idea, which is that an action is doing or allowing according to whether the agent’s bodily movement is a member of a relatively large or relatively small class of possible movements.

If a behavior is instrumental to an outcome, it is relevant to the occurrence of that outcome. So Bennett defines instrumentality in terms of relevance. Let \( b \) be a behavior, \( o \) an outcome, and \( S \) an agent; positive and negative relevance are defined:

Positive relevance: \( b \) is positively relevant to \( o \) iff: the weakest fact about \( S \)’s \( b \) that is sufficient to complete a causal explanation of \( o \), when added to environmental constants, is positive.

Negative relevance: \( b \) is negatively relevant to \( o \) iff: the weakest fact about \( S \)’s \( b \) that is sufficient to complete a causal explanation of \( o \), when added to environmental constants, is negative.

Assuming with Bennett that facts are just true propositions, the analysis of positive and negative facts requires an analysis of positive and negative propositions. To do so, Bennett adopts the model of an agent’s “behavior space,” which is a model defined over a person \( S \), a time \( t \), and a set of performable behaviors. A behavior space is a finite region composed of points, with each point having a dual function. Each point both represents a way \( S \) could move at \( t \), including not moving, and corresponds to a proposition whose content describes an “absolutely specific”

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56 See Bennett (1995), pp. 88-92. I do not discuss Bennett’s theory of causal explanation in this paper.
movement. Points both represent behaviors and correspond to propositions. The content of a proposition to which a point corresponds is a description of the specific movement represented by that point. Thus, the propositional contents that describe a movement are able to describe complex behaviors by the conjunction, disjunction, and negation of propositions. A sub-space of the behavior space consists of a set of points corresponding to the disjunction of the propositions whose content describes all performable movements of $S$ at $t$.

Let $p$ be a proposition to which a point corresponds and let $P$ be the disjunction of propositions $[p_1 \lor p_2 \lor p_3]$. The content of any $p_i$ is a specific performable behavior and the content of $P$ is the disjunction of the behaviors performable by $S$ at $t$. An agent’s behavior space is divisible into sub-spaces $A$ and $B$ consisting of points corresponding to complementary sets of propositions. Let the contents of disjunctive propositions $P$ and $Q$ describe the sets of behaviors in $A$ and $B$ respectively. Then the contents of $P$ and $Q$ each describe a set of movements but since $P$ and $Q$ are complementary, no movement in either of $A$ or $B$ is a member of the other. A behavior space is divisible into differently sized sub-spaces, with the size determined by the number of points in the sub-space. If $A$ is larger than $B$, then $P$’s contents describe a larger number of performable movements in $A$ than $Q$’s contents describe in $B$.

Now let the content of some $p_i$ describe a movement related to some outcome. Bennett defines a negative proposition as a proposition that corresponds to a point

59 Although no point representing a movement is a member of both sets, the point representing the fact of $S$ existing is a member of each set.
representing a movement from a sub-space consisting of nearly all the movements
performable by $S$ at $t$. A positive proposition corresponds to a point that represents a
movement from a sub-space consisting of very few of the movements performable by
$S$ at $t$. To determine whether $p_i$ is positive or negative, one asks whether it is a
member of a large set of propositions or small set of propositions. The size of the sub-
space in which the proposition resides is the basis for Bennett’s account of positive
and negative instrumentality. Doing, or positive instrumentality, is analyzed as
follows:

$$S's \ b \ \text{is positive in relation to} \ o \ \text{if:}$$

- $S$ moves;
- $o$ occurs; and
- there are relatively few other ways $S$ could have moved which satisfy the
  condition: if $S$ moved in that way, $o$ would have occurred.

Allowing, or negative instrumentality, is analyzed as follows:

$$S's \ b \ \text{is negative in relation to} \ o \ \text{if:}$$

- $S$ moves;
- $o$ occurs; and
- nearly all the ways $S$ could have moved satisfy the condition: if $S$ moved in
  that way, $o$ would have occurred.

The feature that makes some behavior positive or negative is whether the proposition
whose content is true of it is one proposition of many other propositions or one of few
other propositions whose contents represent movements the agent could have
performed that would result in the same outcome. The size of the set of performable
actions of which $p_i$ is a member determines whether it is positive or negative. Bennett

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$^{60}$ There is unavoidable vagueness in “nearly all” and “relatively few.”

explains DT by what is fundamental to movement: the spatio-temporal locations of physical entities and their geometric properties.

It would be surprising if a distinction between morally relevant considerations derived from such sparse ontological resources. Moral evaluation typically involves richer descriptive terms than movements, frequencies, and sizes of sets. In addition, small movements can have great moral significance, as when a shooter’s hand shifts slightly to his right, so the bullet strikes the victim’s shoulder rather than the chest, and he wounds rather than kills the victim. Bennett does not disagree. He acknowledges that the PNI account identifies doing and allowing with movements that are radically different from the usual objects of moral evaluation. In his account, DT applies to: “hand gestures, arm-swings, foot-shoves, and tremblings of the larynx, rather than to morally interesting kinds of behaviour: giving up, betraying, keeping the faith, sharing, and hoarding.” Bennett supports the claim that the PNI account applies to behavior that is not apt for moral evaluation with an account of intrinsic and relational behavioral facts. Intrinsic behavioral facts are true propositions regarding behaviors that occur without “intermediate behavior,” that is, immediately. Relational behavioral facts are true

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propositions regarding mediated behavior. Mediated behaviors are composed of immediate behaviors. Performing the immediate behavior of which a mediated behavior is composed does not entail that the mediated behavior has also been performed. Signaling by nodding is a mediated behavior. In signaling by nodding, $S$ signals in a mediated way because it is possible that by nodding $S$ does not signal. Perhaps $S$ falls asleep sitting in front of the television. But if someone asks a question and $S$ responds by nodding, then $S$ signals by nodding. In contrast, *he nods* and *she snaps her fingers* refer to immediate actions. Such sentences refer to immediate actions since it is not possible that the content of *he nods* or *she snaps her fingers* fail to entail that *he nods* or *she snaps her fingers*.

Giving up is a mediated behavior, one an agent could perform by nodding. The former is a mediated behavior since nodding could fail to have the value *giving up*. Similarly, betraying, keeping faith, sharing and hoarding are mediated behaviors. Tremors of the larynx and hand movements are immediate actions by which one betrays, keeps faith, shares, or hoards. Intrinsic behavioral facts are facts regarding immediate behaviors such as hand-clapping, finger-snapping, and larynx-trembling. Relational behavioral facts are facts regarding mediated behavioral facts, and only mediated behavioral facts are apt for moral evaluation. Bennett’s PNI account classifies doing and allowing as intrinsic behavioral facts, that is, facts about immediate behaviors. Intrinsic behavioral facts are radically distinct from mediated behaviors, which are apt for moral evaluation, so he concludes that doing and allowing apply to behaviors that are not relevant to moral evaluation.
I understand Bennett’s statement that DT “obviously has no basic moral significance”\textsuperscript{66} to mean that doing and allowing are not relevant to moral evaluation, in contradiction to RT. If DT has no basic moral significance, then the acts it picks out are not among the acts that can be morally evaluated. Lacking apt candidates for moral evaluation provided by DT, the grounds for accepting RT as a moral principle are undermined.

Bennett’s claim that DT, understood as positive and negative instrumentality, obviously lacks basic moral significance suggests that its denial is inconceivable. That is, denying that the way one moves lacks basic moral significance is inconceivable. If so, then Bennett is mistaken because we can conceive of possible worlds at which basic moral significance strictly correlates with the way one moves.

Consider a world \(w\) whose laws require that distinct morally significant particular behavior \(b\) supervenes on distinct particular movement \(m\), and only \(b\) can supervene on \(m\). In \(w\) strict laws govern the relations between immediate actions and supervening mediated actions, so there is a one-to-one relationship between immediate and mediated behaviors. In order to know what morally significant mediated behavior \(b\) an agent performs, one would need to know only the immediate movement that is its subvenient base. Hence, in \(w\) the way one moves strictly correlates with basic moral significance. If it is inconceivable that the way one moves could have basic moral significance, then \(w\) should be impossible. Yet, I submit that \(w\) is possible. So it is not true that how one moves lacks basic moral significance if obviously is intended to imply that its denial is inconceivable.

Perhaps obviously lacking basic moral significance means merely that in the actual world the difference between there being many and few ways the agent can move is a difference that lacks basic moral significance. I would agree with Bennett if ‘obviously’ refers merely to the actual world. However, if obviously refers to the actual world, then the conclusion that doing and allowing lack basic moral significance is implausible. The conclusion that doing and allowing lack basic moral significance would have to derive from the premise that the difference between doing and allowing is a difference between there being many and few ways one could move. Let’s state this argument more formally:

(1) If the difference between doing and allowing is a difference between there being relatively many and being relatively few ways one could move, then the difference between doing and allowing lacks basic moral significance.
(2) The difference between doing and allowing is a difference between there being many and being few ways one could move.
(3) Therefore, the difference between doing and allowing lacks basic moral significance.

That the difference between doing and allowing is morally relevant is an intuitively appealing claim that survives reflection. Consider a pair of cases adapted from Shelly Kagan:

(A) S sees T drowning but, since the rocks beneath the water would do extensive damage to his boat, he decides not to rescue T.

(B) S sees that his boat is about to strike T but, since avoiding T would require steering into the rocks, which would do extensive damage to his boat, S does not change course.67

S’s action is bad in both cases but his doing harm to the swimmer in (B) is worse than his allowing harm to the swimmer in (A). The difference that makes (B) worse is difficult to explain and it may resist systematization but it survives reflection on these cases and other contrasting pairs. If one accepts the relevance thesis and denying basic moral significance is equivalent to denying the relevance thesis, then one denies the consequent on premise (1). By *modus tollens*, then, one denies the antecedent, which is stated in premise (2). It is true that the way one moves lacks basic moral significance in the actual world. However, the difference between doing and allowing is not a difference between there being few and many ways one could move. It is incumbent on me to show this in order to give good reasons to deny (2). I take up this task in 2.2.

### 2.2. Objections to Bennett’s PNI Account

Critics have objected that Bennett’s PNI account incorrectly entails classification of some instances of doing that are actually instances of allowing. Many focus on cases in which the account entails that an agent’s immobility is a doing when it should be an allowing. Call these immobility cases. I shall argue that, in addition, in cases of causal pre-emption, the PNI account implies that some actions are allowings that actually are doings. Bennett has a plausible response to criticisms based solely on immobility cases, but I argue that his response fails when we combine immobility and pre-emption cases.
Daniel Dinello presents this immobility case:68

Spies
Jones and Smith are spies who have been captured by the enemy. They are wired to each other in such a way that any movement by one would electrocute the other. Jones moves and kills Smith.

In order to evaluate the PNI account, we should ask whether Jones’ movement in Spies better satisfies the PNI analysis of doing or allowing. Since many ways Jones could have moved would have the outcome that Smith dies and only one way (Jones not moving) would have the outcome that Smith lives, Jones’ action in Spies is negative.69 The PNI account says that Jones allows Smith’s death. But Jones moves in Spies. The objector appeals to our reflective judgment that Jones’ conduct is a doing, not an allowing, and concluding that the PNI account implies incorrectly that Jones’ action in Spies is an allowing.

Dinello presents this pre-emption case:

Antidote
Jones and Smith are watching television. Jones intentionally swallows enough poison to kill himself. Smith, who knows the antidote, pulls out a pistol, shoots Jones, and Jones dies from damage the bullet does to his body.

To evaluate the PNI account, we should ask how Smith’s action relates to the outcome of Jones’ death. Since few ways Smith could move, the small number of ways of administering the antidote, would have the outcome that Jones lives and many ways Smith could move would have the outcome that Jones dies, Smith’s action satisfies the conditions for negative instrumentality. Thus, Smith allows Jones’

69 In Bennett’s model, not moving is represented by a point in the behavior space.
death. But our reflective judgment is that the relation between Smith’s shooting and Jones’ death is a doing-relation.

According to Bennett’s critics, since the PNI account incorrectly classifies the actions in these cases, the account is not true. Many critics leave the matter at that, citing the conflict between the classification implied by the PNI and our judgments about the cases. Bennett responds that immobility cases are the only kind of case presented against the PNI account and that these are a tolerable anomaly since the PNI account classifies other cases correctly and possess the theoretical virtues of clarity and consistency with important non-moral facts. However, pre-emption cases are of a different kind than immobility cases. Further, when we understand the difference between immobility and pre-emption cases, the PNI account has greater difficulties than Bennett suggests. To show that pre-emption cases are different in kind from immobility cases, I must show that Spies and Antidote capture distinct features of action that the PNI account incorrectly classifies. Further, the distinct features in each sort of case should link to our common concept of action.

Consider Jones’s performable options in Spies. They are (a) no movement, with the outcome patient lives or (b) any movement, with the outcome patient dies. Options in (b) include both movements like tics, spasms, or hiccups and movements such as Jones raising his arm to prevent Smith from disclosing secrets to their captors. However, Jones raising his arm under those circumstances is a doing while tics,

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71 See Bennett (1995), pp. 78-79; 100 for similar responses.
72 I here use ‘patient’ in a quasi-technical sense: the patient of the action done by the agent is someone who suffers or endures what is done to him. The ‘patient’ is not necessarily a medical patient.
spasms, and hiccups are not doings. Movements in the latter group lack an element in our common concept of action.\textsuperscript{73} Action is directional: if some behavior is an action, then it is directed by its agent. Movements that are directional are aimed at some end. Since tics, spasms, etc, are not directional in this sense, and the PNI account fails to distinguish non-directional movement from directional movement, the PNI account is not sensitive to the directional element in our common conception of action. Both doing and allowing are kinds of actions. Bennett’s PNI account of DT classifies mere movement as doing, a kind of action, failing to distinguish the directional element of action.

Now consider \textit{Antidote}. Let us first distinguish pre-emption from simultaneous over-determination. In simultaneous over-determination, two facts or events are causally sufficient for an effect, either at the same time or so nearly the same time as to be practically indistinguishable. Thus, it is uncertain which fact or event is actually causally efficacious. In the case of pre-emption, causal factor A starts earlier than causal factor C. A itself would be sufficient to bring about effect E, except that C intervenes and causes E earlier than A would have done, had A continued uninterrupted. C pre-empts A from bringing about E. In \textit{Antidote}, the causal factor Smith’s shooting pre-empts Jones’ ingests poison from bringing about the effect Jones dying.

The argument against the PNI account based on pre-emption cases goes as follows. The PNI account implies Smith’s shooting is an allowing because there are comparatively many ways Smith could have moved such that Jones dying comes

\textsuperscript{73} J. Skorupski (2006) makes a similar point about our common concept of action.
about, and few that would stop it. But Smith’s shooting is not an allowing. That Jones
would have died if Smith had not shot might change the moral evaluation of Smith’s
action but it cannot make Smith’s shooting an allowing. Smith’s shooting cannot be
an allowing, first because Smith’s action of shooting is directional, and, second
because it involves an element in our common concept of action I call structure.

Structure refers to the ways actions or parts of actions are related to one
another. On the PNI account, where there are multiple actions, the relations of actions
to one another play no part in determining whether some behavior is a doing or an
allowing. Each behavioral fact is isolated from other behavioral facts and the status of
each behavioral fact is determined by the criterion of whether it is from a relatively
densely populated or relatively sparsely populated region of the agent’s behavior
space. As a result, the PNI analysis omits considerations having to do with the
relations between actions or parts of actions, such as means-ends relations.

Pre-emption cases cannot be set aside as anomalies because pre-emption is an
important factor in some of the most perplexing cases of moral evaluation and pre-
emption cases necessarily involve structure. The ways different agents’ actions are
related to one another make Bernard Williams’s *Jim and the Indians* and various
*Judge and Rioting Crowd* cases perplexing.⁷⁴ In Williams’ case, Jim is collecting
rare flora in South America and comes upon a village where the Captain is about to
execute 20 Indians to terrorize the region’s residents. The Captain offers Jim the
opportunity to shoot one Indian in return for the Captain sparing the lives of the other
19. If Jim shoots the Indian, then Jim moves, the Indian dies, and almost all the ways

⁷⁴ Williams, (1973), pp. 98-100. There are many extant versions of *The Judge and the Rioting Crowd.*
Jim could have moved satisfy the condition: if Jim moved that way, the Indian would have been killed by someone else. Hence, Jim’s shooting the Indian is an instance of negative instrumentality, an allowing of the Indian’s death. However, Jim’s shooting surely is a doing.

The concept of structure explains the failure of the PNI account that merely citing cases does not do. The PNI account gives no weight to the relations of the actions to one another. If Jim shoots, his killing the Indian is related to the Captain’s not executing more Indians as means to end. Whatever our moral evaluation of Jim’s shooting, no doubt we evaluate something Jim does, not something he allows.

Williams’ case focuses our attention on the means-end structure of Jim’s shooting.

To gauge the importance of the means-end structure, consider changing the case so that the Captain is inquisitive about a new type of bullet Jim has brought to the village. He presents Jim with an opportunity to demonstrate the effects of the new bullet on an Indian. In both the new bullet version and Williams’ version, if Jim shoots, his action has a means-end structure that the PNI account fails to consider in classifying the action as doing or allowing. Changing the end in the means-end structure of Jim’s action changes the commonsense moral evaluation of his action. It is wrong but not blameworthy in Williams’ original case. It is appalling in the new bullet case. But if we classify Jim’s shooting as an allowing in Williams’ version, as the PNI account entails, we fail to consider the feature I am calling structure, that my comparison of the two versions shows is relevant to moral evaluation.

One version of the Judge and the Rioting Crowd is as follows:
A judge faces a rioting crowd demanding that a person be legally executed for a crime and threatening otherwise to take revenge by killing the person and rioting, killing others in the community as well. The real culprit being unknown, the judge is able to prevent many killings of innocents by signing an order that one innocent be killed.

If he signs the order, the Judge moves, the innocent person is killed, and almost all the ways the Judge could move satisfy the condition: if the Judge had moved that way the innocent person would have been killed. The PNI account implies that the Judge’s action allows the death. Yet, the Judge’s action is a doing that stands in a means-end relation to other doings. If we classify signing the order as allowing one innocent to die, we again fail to consider the structure, as in the case of Jim and the Indians.

Moral evaluation of Jim’s shooting in Williams’ case and the Judge’s signing the order in The Judge and the Rioting Crowd may well depend on our understanding of RT but if our understanding of DT leads us to classify cases incorrectly, then we are unable to apply RT.

Pre-emption cases present us with another element in our common conception of action to which the PNI is not sensitive. Our common conception of action includes the thought that the relations of doings to one another, such as means to ends, affect whether the behavior is a doing or an allowing. Since pre-emption cases necessarily involve structure, which is the relation between doings or parts of doings, and immobility cases do not necessarily involve structure, it is apparent they are different kinds of case, each of which Bennett’s PNI account incorrectly classifies.

Bennett could respond that direction and structure being part of our common conception of action does not guarantee direction and structure a place in our best
theory of DT. But the arguments above support my claim that direction and structure are necessary to our common conception of doing. A theory of DT that fails to include them cannot be the true theory because direction and structure determine the way actions are related to outcomes, and doing and allowing are different ways actions are related to outcomes. An account of DT that omits direction and structure asserts that an unqualified relation between movement and outcome is sufficient to determine whether the behavior is doing something that brings about harm or allowing harm to come about. Bennett’s PNI account is an unqualified theory because its conditions include only the relation between behavior and the outcome. As a result, the theory overextends the class of allowings and fails to capture the doings of agents in Antidote, Jim and the Indians, and The Judge and the Rioting Crowd.

Direction and structure qualify behavior in general as doing what brings about harm and allowing harm to come about. An account of doing and allowing requires a concept of action, which is behavior qualified by direction and structure. If direction and structure are absent from the concept of doing in an account of doing and allowing, such an account fails to capture the difference between doing and allowing that is at issue.

Chapter Summary

Bennett’s PNI account fails to undermine RT. The PNI account entails classifying behavior as doing or allowing contrary to our common concept of doing. Further, Bennett’s response that immobility cases are the only kind of case presented against the PNI account is incorrect. Pre-emption cases are a different kind of case
from immobility cases. Further, the fact that the PNI account incorrectly classifies both immobility and pre-emption cases shows that direction and structure are necessary to our common concept of action. Finally, the PNI account presents an unqualified nature of the relation between action and outcome, omitting direction and structure, which are necessary to our common concept of action.

Bennett’s is the most sophisticated and thoroughly argued undermining account available, and it fails to prove that DT cannot ground RT. We can conclude that a supporting account that solves the grounding problem is possible. I shall present two supporting accounts in Chapter 3.
Chapter 3: Supporting Accounts

Introduction

In Chapter 1 I introduced DT and RT and explained the asymmetrical relation between DT and RT. There is an asymmetrical relation between DT and RT because DT is the necessary but insufficient non-moral basis for RT. Some version of DT could be true but not support the moral relevance of doing and allowing asserted by RT. This asymmetry makes an undermining account of the relation between DT and RT possible. In Chapter 2 I showed that Jonathan Bennett’s PNI account fails to undermine RT.

On its own, failure to undermine RT does not provide good reason to think that DT and RT are true. We need evidence for DT and RT besides commonsense morality and the failure of an undermining account. How much evidence and what sort of evidence we need are disputed. Bennett explicitly argues and many philosophers seem to accept that we need a supporting account that provides a strong foundationalist justification of RT. A strong foundationalist account is an account in which non-moral entities determine moral entities. Bennett argues persuasively that the available attempts to provide a foundationalist account of DT as the ground for RT fail in some respect.75 The next step in considering whether there are good reasons to accept RT is to evaluate proposed foundationalist accounts. A foundationalist account should provide a plausible account of DT that supports RT, so I call them supporting accounts. A successful foundationalist supporting account.

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75 Bennett does not show that either of DT or RT is inconsistent individually or conjointly. Thus, his conclusion is stronger than his evidence, since it is possible that some account of DT and RT lacks the flaws he finds in the accounts he considers. See Thomson (1996).
would explain DT in a way that supports the appeal to doing and allowing in moral evaluation and an account of RT that implies judgments consistent with our reflective judgments. A successful supporting account would solve the *grounding problem* and give us an account of RT that satisfies the *adequacy test*. We first need to distinguish foundationalist and semi-autonomous accounts of morality.

### 3.1. Foundationalist and Semi-Autonomous Approaches

I introduced foundationalism and semi-autonomous views of morality in Chapter 1. Foundationalism is the view that a non-moral metaphysical proposition is the basis for the moral proposition expressed by RT. A semi-autonomous view is the view that moral propositions should primarily be coherent among themselves though they should not contradict well-established metaphysical propositions.

The difference between foundationalist and semi-autonomous approaches is better shown by example than by definition. Bennett’s appeal to the properties of movements to give an account of doing and allowing is a clear instance of foundationalism. Bennett restricts basic moral relevance to the motions exhibited by an agent in a behavior space. A semi-autonomous view holds that an acceptable account of the moral relevance of some factor of property requires showing its coherence with other moral judgments or propositions. Semi-autonomous theories appeal to the coherence of the relations among moral propositions.

Of course, consistency with known non-moral facts is expected of semi-autonomous theories of morality. But the non-moral facts are not the primary

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76 None of the philosophers whose accounts I consider in Chapter 3 is interested in detaching RT from deontological evaluations.
justifiers of factors that are relevant to moral evaluation. Rather than strong links to non-moral factors or properties, semi-autonomists think there are relatively weak links between moral and non-moral factors. It is not be possible to give a completely clear distinction between weak links and strong links between moral and non-moral factors. However, we can supply an example of foundationalism such as Bennett’s theory. In contrast, a coherentist account displays relatively weak links between non-moral facts and morally relevant factors.

The distinction between foundationalist and semi-autonomous accounts is helpful for understanding proposed accounts of doing and allowing. For example, when Jonathan Bennett and Warren Quinn debate the plausibility of RT, part of the debate concerns the sort of analysis of DT necessary to justify the relevance of RT to moral evaluation. But the terms of their debate are not clear. Quinn criticizes Bennett for insisting that doing and allowing distinction be reducible to non-moral propositions whereas Quinn asserts that the moral propositions are not reducible to non-moral propositions. However, in Quinn’s positive account, he appeals to non-moral facts; he appeals to particular theories of action. Quinn appears to appeal to a non-moral fact as if providing a foundationalist account, though Quinn eschews Bennett’s argument that propositions should be reducible to non-moral foundations. But Quinn also appeals to coherence between RT and alleged moral facts about the dignity of persons in defense of the moral relevance of doing and allowing. Quinn gives greater weight to these moral phenomena than Bennett does. Both Quinn and Bennett appeal to some sort of foundationalism. But Quinn adopts a method that is
largely semi-autonomous in his positive account of DT and RT while Bennett adopts a rigorously foundationalist method. Quinn recognizes Bennett’s account is foundationalist although he is “disinclined to adopt such a standard.”

What Quinn offers as a “rationale” for RT is best considered an attempt to show his account of RT is consistent with a widely accepted theory of action. However, Quinn’s account fails for other reasons.

Pure foundationalist accounts and pure autonomous accounts are rare. Bennett’s defense of philosophical analysis in The Act Itself is an unusually clear statement of foundationalism and a clear example of a philosopher who holds himself to a foundationalist standard. It remains a useful distinction even in the absence of pure cases. Distinguishing foundationalist from semi-autonomous views helps evaluate accounts of RT because once the foundationalist and semi-autonomous elements of the accounts are distinguished we can distinguish the kinds of evidence that supports each claim. I present and evaluate supporting accounts of DT and RT in Chapter 3 and Chapter 4 and discuss the foundational and semi-autonomous elements in each account.

Chapter 3 presents and evaluates supporting accounts proposed by Warren Quinn and Alan Donagan. I evaluate Quinn’s account in 3.2. Quinn’s account of doing allowing is based on distinguishing action and inaction. I argue that the action-inaction account fails to show that RT is grounded in DT or cohere with considered moral evaluations. Section 3.3 presents Alan Donagan’s account based on

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intervention and abstention from intervention. Although an account based on intervention and abstention from intervention is a better solution to the grounding problem than the action-inaction account, there is good reason to reject Donagan’s intervention-abstention account. The reason is that Donagan’s account analyzes doing and allowing in terms that are irrelevant to the reasons he gives for moral evaluation. Intervention and abstention do not support doing and allowing in moral evaluation. Donagan’s account of DT is consistent with his account of RT. But Donagan’s account of DT does not support his account of RT because his account of DT does not explain the relevance of intervention and abstention to moral evaluation.

3.2. Positive and Negative Agency

Warren Quinn develops the idea that doing is action that brings about harm and allowing is inaction that brings about harm. He argues that action (or harmful positive agency) and inaction (or harmful negative agency) explain DT and RT. He states:

Harmful positive agency is that in which an agent’s most direct contribution to the harm is action, whether his own or that of some object the agent controls.

Harmful negative agency is that in which the most direct contribution is inaction, a failure to prevent the harm.

Quinn concludes by revising these definitions so that harmful positive agency includes a kind of inaction in complex cases.

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79 Like the other philosophers to be considered in this chapter, Quinn mentions doing and allowing harms; not doing and allowing benefits. Quinn’s account does not easily adapt to doing and allowing benefit. Vihvelin and Tomkow’s account explicitly considers doing and allowing benefit.

80 Quinn (1993a), p. 163.
This section describes the reasoning that leads Quinn to this conclusion.

Quinn starts by considering *Rescue I* and *Rescue II*:

*Rescue I*

*S* can rescue either five people in danger of drowning at one place or a single person in danger of drowning elsewhere. *S* cannot rescue both.

*Rescue II*

*S* can rescue five people from drowning only by running over and killing one person who is trapped on the track between *S* and the five drowning people. If *S* does not run over the one person to rescue the five, the one can later be freed.

Assuming that each life is equally valuable and no reason requires *S* to rescue the drowning person, it is uncontroversial that rescuing the five is morally right in *Rescue I*. But in *Rescue II*, Quinn thinks it is morally wrong to run over the person on the track because the act of running over him contributes to the harm by action.

Contributing to the harm by action makes *S*’s most direct contribution to the harm an instance of harmful positive agency. Unlike *Rescue I*, Quinn’s conclusion regarding *Rescue II* is controversial. Defenders of commonsense morality would agree with Quinn’s conclusions but some consequentialists would argue that running over the person to save five people is morally right.

Quinn then considers *Rescue III* and *Rescue IV*:

*Rescue III*

*S* is riding by train to save five people from imminent death. The train is on auto-pilot and would proceed on its own but *S* can stop the train. *X* is on the tracks ahead. If *S* stops the train, *x* lives and the five die. If *S* fails to stop the train then *x* dies and the five are rescued and live.

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81 Quinn says *S* is “perfectly justified” in saving the five, (1993a), p. 152.
83 David Sosa (1993) argues for the moral rightness of killing one person to prevent the killing of two. His reasons would readily extend to killing one person to save five in *Rescue II*. 
Quinn concludes regarding Rescue III that S is morally required to stop the train before running over the person on the tracks because “the important thing from the standpoint of your agency is that you can stop the train and thereby prevent it from killing the one.”85 S’s control over the train’s movement implies that S has causal responsibility for the causal effects of the train’s movements. This seems to derive from a general principle that control responsibility over an object transmits causal responsibility for the effects of the object to the controlling agent. In Rescue IV S is not morally required to tend to the five according to Quinn, though it is morally permissible for S to tend to the five while the train runs over the person.86

The difference between Rescue III and Rescue IV is not immediately apparent; in both cases inaction would result in one person dying and five being rescued. Quinn argues that inaction is sufficient reason for moral impermissibility in Rescue III but not in Rescue IV because in Rescue III the agent intends that the train move while in Rescue IV the agent does not intend that the train move.87

Quinn elaborates on his reasoning in this passage:

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84 Quinn does not say the agent can save them from death but to assume so preserves the balance found in the rescue cases. If S would only delay their medical treatment or fail to save a limb by leaving the riders and stopping the train, it would seem he is morally required to leave the riders and stop the train.
In Rescue III, but not in Rescue IV, the train kills the man because of your intention that it continue forward. This implicates you, I believe, in the fatal action of the train itself.  

We can reconstruct his reasoning. In Rescue III it is true both that (i) S intends that the train move over the point at which it will kill x; and (ii) S has control responsibility for the train’s movements. In Rescue IV (i) is not true but (ii) is true. The conjunction of control responsibility and intention suffices for the impermissibility of harmful inaction but control responsibility alone does not suffice. To clarify, condition (i) does not state that the intention to kill x is necessary for harmful inaction to be impermissible. Rather, (i) expresses the weaker condition that for S to intend an object to move in a way that causes x’s death and for S to have control responsibility for the object suffices for moral impermissibility.  

Based on his responses to the four cases, Quinn is committed to these complex analyses:  

**Quinn-Doing:** S’s conduct is an instance of doing harm iff: (i) S’s conduct is related to some harm h; and (ii) the contribution that most directly explains h is either (iia) S’s action, or (iib) a movement m₁ of an object such that S can control the object’s movement, and S fails to control the object’s movement, and S intends m₂, and m₁ is causally necessary for m₂.  

**Quinn-Allowing:** S’s conduct is an instance of allowing harm iff: (i) S’s conduct is related to some h; and (ii) the contribution that most directly explains h is neither (iia) S’s action; nor (iib) a movement m₁ of an object such that S can control the object’s movement, and S fails to control the object’s movement, and S intends m₂, and m₁ is causally necessary for m₂.  

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89 S intends that the train move as a means to a good end, rescuing the five. Intending to kill x as a means is prohibited by the intending harm thesis of the doctrine of double effect. However, Quinn’s revision of his account of DT is distinct from the intending harm thesis. My interpretation of Quinn differs from that of Samuel Rickless (1997), p. 562, who thinks that Quinn’s account includes the stronger condition. I discuss this point further in my evaluation of the Quinn’s account below.  
90 See Rickless (1997) for a similar statement of the conditions to which Quinn is committed.
These more complex definitions of doing and allowing result from Quinn’s consideration of the cases above. In *Quinn-Doing* clause (iib) includes the crucial clause which extends doing to some cases of inaction.

**Evaluating the Harmful Positive and Negative Agency Account**

Quinn’s proposal for the grounding problem is that the difference between doing and allowing depends on whether an agent’s “most direct contribution” to a harmful outcome is action or inaction.91 To determine the most direct contribution, assume that an agent is related to an outcome by multiple contributions. Each contribution has a distinct, comparable degree of directness. To apply the directness criterion, we should distinguish S’s contributions to an outcome, compare their degree of directness, and identify the most direct. Upon identifying the most direct contribution, determine whether it is an action or inaction.

To apply the directness criterion, we need to know what makes one contribution more direct than another. Quinn writes that the most direct contribution is “the contribution that most directly explains the harm.”92 “Most directly explains” is the criterion for identifying the “most direct contribution” so ‘directness’ is the characteristic for identifying both explanation and contribution. If ‘directness’ means the same when predicated of ‘contribution’ and ‘explanation’ the account is circular, though it remains to be seen whether the circularity vitiates the account. If ‘direct’ has one meaning when it qualifies ‘contribution’ and another meaning when it qualifies

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‘explanation,’ then, as I explain below, the account is inconsistent with widely shared reflective judgments about *Trolley* cases.

There are three uses of ‘direct’ and its cognates that Quinn might intend. First, I use ‘direction’ to mean ‘aimed at’ or ‘toward some object’ in Chapter Two. Second, ‘direct’ can also mean ‘without intervening states or events,’ in contrast with ‘mediated.’

A third use of ‘direct’ in the neighborhood is in the concept of the directly voluntary in discussions of the principle of double effect. We need to disambiguate these uses to understand what Quinn means by ‘direct.’ At first, Quinn appears to mean ‘unmediated’ by ‘direct’ in contrast to the sense of ‘aimed at’ introduced last chapter. However, if ‘direct’ means absolutely unmediated, then Quinn’s account is contradictory, since he explicitly amends it so that doing that brings about an outcome mediated by another object is inaction. If the meaning of ‘direct’ is that of directly voluntary ascribed to acts in theories of double effect, then the difference between doing and allowing is very closely linked to the difference between the intended and the foreseen. This would be a problem since Quinn argues doing/allowing and intended/foreseen are distinct differences.

Suppose we amend the account so that ‘direct’ does not mean ‘absolutely unmediated’ or entirely absent of intervening events or states. Rather, let ‘most direct’ mean ‘least mediated’ and ‘least direct’ mean ‘most mediated.’ Then the account says that an agent’s contributions to an outcome fall in a range in which the most mediated are the least direct and the least mediated are the most direct. Let the degree of

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94 See the collections edited by McCormick and Ramsey (1978) and Curran and McCormick (1979).
mediation be determined by the number of intervening discrete states or events between an act and an outcome. Then the number of discrete events or states between an act and an outcome determines the degree of directness of an explanation, which is the basis for the criterion ‘directness of contribution.’ As amended, an action being the most direct contribution to a harmful outcome is harmful positive agency and an inaction being the most direct contribution to a harmful outcome is harmful negative agency. The amended account avoids the threat of circularity, since ‘directness of explanation’ refers to the discrete events or states that determine the ‘directness of contribution’ by an agent. However, the amended account implies troubling judgments about Trolley cases, which I explain next.

Quinn claims to meet the adequacy test because his theory implies judgments that are consistent with commonsense morality, solves Trolley cases, and coheres with a widely accepted distinction between positive and negative rights. I start with the last of these claims before proceeding to Quinn’s discussion of the Trolley case and consistency with commonsense moral judgments.

Quinn argues that when an agent’s alternatives are doing harm and allowing harm, doing harm is morally wrong because doing harm infringes on negative rights while allowing harm infringes on positive rights. Negative rights are claims to protection from interference by another (rights bodily integrity or personal safety, for instance) and positive rights are claims that one should be benefited by another. Negative rights take precedence over positive rights, so when the alternatives are violating negative or positive rights, one should avoid violating negative rights. So,
doing harm is morally wrong when the alternative is allowing harm. When the alternatives are distinct harmful positive actions, the agent is permitted to do what is less harmful only if the harm that would be prevented is much greater than the smaller harm the agent does. When the alternatives are a positive harmful action and a negative harmful action, the former is impermissible.  

Quinn intends the appeal to the precedence of negative rights over positive rights as a “rationale” that supports commonsense judgments in the Rescue cases. However, the claim that an agent may not infringe negative rights by Quinn-Doing conflicts with commonsense moral judgments in Trolley.

Quinn cites this version:

_Trolley_

A runaway trolley threatens five people who are trapped on the track where it is now moving. If the driver does nothing, the five will die. The driver can switch to a sidetrack where one person is trapped. If the driver switches to the sidetrack, the one will die.

A widely shared reflective judgment is that it is morally permissible to switch to the sidetrack. If this judgment is acceptable and switching to the sidetrack is doing, then commonsense moral judgments about Trolley are inconsistent with Quinn’s account of RT since it is a case of permissibly doing harm when the alternative is allowing harm.

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98 See Foot (1967; 1978), Thomson (1990). The judgment that it is morally required to switch to the sidetrack is less common.
Quinn responds to the objection by claiming that the apparent inaction in *Trolley* is actually action:

> [T]he driver’s passive option, letting the train continue on the main track, is really a form of positive agency. This is because the only possibly acceptable reasons for him not to switch would be to prevent the death of the man on the sidetrack or to keep clean hands. But the clean-hands motive begs the question; it presupposes that the doctrine does not also speak against not switching. So in deciding the status of his possible inaction we must put this motive aside. This leaves the aim of preventing the death of the man on the sidetrack. But if the driver fails to switch for this reason, it is because he intends that the train continue in a way that will save the man. But then he intends that the train continue forward past the switch, and this leads to the death of the five.\footnote{Quinn (1989; 1993a), p. 166-167. Quinn mentions that the same reasoning applies to cases in which a bystander rather than a driver is the agent. See footnote 31.}

I shall explain Quinn’s response to the objection. Start by understanding that Quinn assumes the deontic evaluation: (1) it is permissible for the driver not to switch. Now, (1) is a plausible deontic evaluation of the driver’s alternative in *Trolley*. Quinn intends both to justify (1) and to show that ‘not to switch’ is an instance of doing, despite the appearance that ‘not to switch’ is an instance of allowing. Quinn thinks there are only two acceptable reasons that (1) is morally permissible:

(i) the agent’s motive of keeping clean hands (that is, avoiding doing what is morally wrong); or
(ii) preventing the death of the one on the sidetrack.

The driver’s keeping morally clean hands is not an “acceptable reason” for not switching because it presupposes that it is morally wrong not to switch. We are trying to determine whether not switching is morally wrong, so we should avoid assuming that not switching is morally wrong.
Reason (ii) for (1), that it is morally permissible not to switch because the driver intends to prevent the one’s death, entails that the driver intends that the train move in such a way that it prevents the one’s death. If the driver intends that the train move in a way that it prevents the one’s death, the driver intends the train to move in a way that the train’s movement kills the five since moving in a way that kills the five is causally necessary for preventing the death of the one. This reasoning shows that the justification for (1) being preventing the death of the one is an instance of Quinn- doing.

If it is morally wrong for the driver to let the train proceed on the straight track and kill the five, Quinn claims his account explains the moral wrongness because it falls under clause (iib) of Quinn-Doing. It is not permissible to do harm in order to avoid allowing harm. Rather, it is permissible to do harm only if the alternative is doing much greater harm. If it is permissible for the agent in Trolley not to switch, and it is not permissible not to switch if not switching is an instance of allowing, then not switching must be an instance of doing. Quinn’s re-interpretation of the agent’s alternatives preserves consistency with Quinn-Doing but also has unsettling implications for other cases.

Quinn’s re-interpretation is unsettling not only because it implies that refraining from switching the train to sidetrack is doing harm, an unusual judgment about whether an action is an instance of doing or allowing, but also because it conflicts with widely shared deontic evaluations of another case. Consider the Fat Man case:
**Fat Man**

$S$ is on a bridge over the trolley tracks. The driver has sent a text-message that the trolley approaching the bridge is out of control. There are five people on the track on the other side of the bridge who cannot get off the tracks before the trolley kills them. The only way to stop the trolley is to drop a heavy weight on the tracks in front of it. The only sufficiently heavy object in the vicinity is a Fat Man leaning over the railing to watch the oncoming trolley. $S$ can push the Fat Man over the railing in the path of the trolley, killing the Fat Man, or $S$ can refrain from pushing him, and the five will die.\(^{100}\)

Quinn’s re-interpretation implies the moral permissibility of pushing the man over the bridge, which would violate the principle that he has “the primary say” about what is done to his body. Not only does this conflict with a widely shared deontic evaluation but it also is inconsistent with Quinn’s view of individual autonomy, which is that a person having “primary say” about what is done to his body has nearly absolute authority.\(^{101}\)

If it is permissible to switch the runaway trolley to the sidetrack in *Trolley*, then it is permissible to push the fat man over the railing in *Fat Man*. If $S$ does not push the fat man then the deaths of the five are the outcomes of $S$’s agency. Further, the harm to the five is caused by an object, the trolley, which $S$ can control. Since control responsibility implies responsibility for the effects caused by the object one can control, $S$’s failure to push the fat man is an instance of *Quinn-Doing*. Since both refraining from pushing and pushing are instances of *Quinn-Doing*, it is permissible to do what brings about less harm, and push him over the railing. This is inconsistent with the commonsense moral evaluation that it is impermissible to push the fat man.

\(^{100}\) Thomson (1990) and Fisher and Ravizza (1992) discuss this case. Quinn does not discuss *Fat Man* but his account is applicable to the case.  
\(^{101}\) Quinn (1993a), pp. 170-171.
It is also inconsistent with Quinn’s strong view of individual autonomy. Since Quinn’s account lacks a principled justification for rejecting or revising commonsense about \textit{Fat Man} and is inconsistent with Quinn’s view of individual autonomy, it fails to solve the \textit{adequacy test}.

John Martin Fischer and Mark Ravizza revise Quinn’s account to avoid the implication that pushing the fat man is morally permissible. Recall that to distinguish \textit{Rescue III} from \textit{Rescue IV} Quinn appeals to the conjunction of control responsibility and intention to argue for the moral wrongness of letting the train run over the person on the tracks. Fischer and Ravizza formulate what they call the \textit{restricted transfer principle} based on Quinn’s appeal:

Consider the class of cases in which there is “already” a causal sequence in motion that threatens to result in some harm. The following specifies the \textit{only} condition in which transfer of intentions is permissible: One can transfer intentions across any of the elements in the causal chain that are necessary to the chain’s resulting in harm.\footnote{102 Fischer and Ravizza (1992), p. 350.}

According to the \textit{restricted transfer principle}, transfer of intentions across links in a causal chain is permissible only under the condition that a causal sequence “already” underway threatens the harm. They call this condition having an \textit{original intention}.

To see how the \textit{restricted transfer principle} applies, consider two variants of \textit{Trolley}:

\textit{Trolley-Bystander}
A trolley’s brakes have failed and the driver fainted from the stress. On the track ahead are five people who cannot get off the track in time and will be killed if the trolley proceeds on the straight track. There is a sidetrack to the right and a Bystander can flip the switch to turn to the trolley to the sidetrack. There is one person on the right sidetrack. Bystander can flip the switch, killing one, or refrain from flipping the switch, and five are killed.
Two-Trolley-Bystander
A trolley’s brakes have failed and the driver fainted from the stress. On the track ahead are five people who cannot get off the track in time and will be killed if the trolley proceeds on the straight track. There is a sidetrack to the right and a Bystander can flip the switch to turn the trolley to the sidetrack, and one person on the sidetrack is killed. If Bystander does nothing, Trolley One will continue along, activating a mechanism that both causes it to slow down and stop, and causes Trolley Two to start its engines and run over the five. Bystander can flip the switch, killing one, or refrain from flipping the switch and Trolley Two will run over the five.¹⁰³

Fischer and Ravizza suppose that allowing Trolley One to proceed is an original intention and that Trolley Two’s proceeding is a necessary link in the causal chain resulting in harm to the five. Since Bystander has an original intention that Trolley One go past the switch, Bystander’s intention transfers to Trolley Two. Bystander has control over Trolley Two and the original intention transfers from Trolley One to Trolley Two and Bystander’s refraining from turning Trolley One to the right sidetrack in Two-Trolley-Bystander is an instance of Quinn-Doing. Since both turning and refraining from turning Trolley One to the sidetrack are instances of Quinn-Doing, it is permissible to turn the train to the sidetrack because it brings about less harm.

The restricted transfer principle is consistent with Quinn’s account, explains why it is morally permissible to turn the train to the right sidetrack in both Bystander cases, and explains the wrongness of pushing the fat man. In Fat Man S has no original intention toward the fat man and the fat man is not a necessary element to complete the causal chain resulting in the harm to the five; thus failure to push the fat man is an instance of Quinn-Allowing. The alternatives from which S chooses are an

¹⁰³ I have slightly altered Fischer and Ravizza’s description of Trolley-Bystander and Two-Trolley-Bystander from but preserved the basic structure.
instance of *Quinn-Allowing* and *Quinn-Doing*. Since only preventing great harm can justify a *Quinn-Doing* when the alternative is *Quinn-Allowing*, it is impermissible to push the fat man. The *restricted transfer principle* appears to revise Quinn’s account to be consistent with widely shared deontic evaluations.

However, *Trolley* and *Trolley-Bystander* differ in a way that makes the *restricted transfer principle* implausible. In *Trolley*, it is plausible that in his role the driver intends that the trolley do as little harm as possible. We have good reason to doubt the Bystander has that intention. There is little reason to think the bystander has any intention about the rare occurrence of runaway trolleys. According to the Fischer-Ravizza amendment, in *Trolley-Bystander* we test our judgments about the action of turning the trolley to the sidetrack without regard for the agent’s intentions before the time at which the agent faces the alternatives. However, Fischer and Ravizza’s amendment implies that Bystander does not have an original intention toward the trolley in *Fat Man* but Bystander does have an original intention toward the trolley in *Trolley-Bystander*.

Samuel Rickless identifies this flaw in Fischer and Ravizza’s revision and thinks Quinn “implicitly recognizes” he needs to show the Bystander has an intention regarding the trolley.\(^{104}\) I find it unpersuasive to think the Bystander has an original intention toward runaway trolleys in general or in particular. An intention to avoid harming and prevent harm is plausible but a specific intention to stop runaway trolleys is not. To suppose that we have intentions to prevent killings by runaway trolleys is not.

trolleys implies that we intend to prevent specific harms, and it is implausible that we have so many specific intentions.

**Section Summary**

As I showed earlier, Quinn’s proposed solution to the *grounding problem* suffers from either vicious circularity or serious obscurity. His proposed solution to the *adequacy test* implies that in *Trolley* the driver’s conduct is a doing if the trolley runs over the five, which is implausible. Further, his account implies that it is permissible to push the fat man over the bridge in *Fat Man*. The attempt to salvage Quinn’s position by adding the restrictive transfer principle requires positing an intention on the part of bystanders to prevent specific harms and an intention having such specific content strains credibility. I conclude that Quinn’s account fails to solve either the *grounding problem* or to meet the *adequacy test*.

### 3.3. Intervention and Abstention

**Actions and Circumstances**

Donagan proposes to explain DT in terms of intervention and abstention from intervention in natural laws or natural processes. He first distinguishes actions from circumstances and derives intervention and abstention from that distinction.

According to Donagan, an action is a deed performed by *S* in some circumstances. He needs to distinguish what the agent causes by an action from what events in the circumstances cause. Circumstances include both (i) processes

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105 Donagan refers to causing-allowing rather than to doing-allowing.
external to the agent (e.g., events in the environment around the agent) and (ii) the agent’s bodily and mental states.\textsuperscript{107} Although the constituents in clause (ii) are occur in the agent they are not occurrences of $S$’s agency. Since circumstances are events determined by natural laws, events internal to the agent that are determined by natural laws are circumstances rather than actions, because actions issue from volition rather than natural processes. To characterize the distinction, Donagan considers a case in which $S$ completely lacks volition, and thus is unable to act. In this case any change, including any change in the agent’s bodily or mental states, “would change according to the laws of nature.”\textsuperscript{108} With these kinds of change distinguished, Donagan distinguishes two act-kinds: “interventions in that natural process or abstentions from intervention.”\textsuperscript{109} The act-kind \textit{intervention in natural processes} is a doing, and the act-kind \textit{abstention from intervention in natural processes} is an allowing.

Donagan then relates intervening and abstaining to causation as follows:

When he [an agent] intervenes he can be described as causing whatever would not have occurred had he abstained; and when he abstains, as allowing to happen whatever would not have happened had he intervened.\textsuperscript{110}

Intervening in natural processes causes an effect while abstaining from intervention allows an effect. Letting $O$ be an outcome, we can state Donagan’s conditions as follows:

\begin{itemize}
  \item Donagan-causing $O$: If $S$ intervenes by acting, then $S$ causes any $O$ that would not have occurred if $S$ had abstained.
  \item Donagan-allowing $O$: If $S$ abstains from acting, then $S$ allows any $O$
\end{itemize}

\textsuperscript{107} Donagan, p. 42.
\textsuperscript{108} Donagan, p. 42.
\textsuperscript{109} Donagan, pp. 42-43.
\textsuperscript{110} Donagan, p. 43.
that would not have occurred if \( S \) had intervened by acting.

Given the operation of natural processes, for any action of \( S \), \( S \) causes the outcomes that would not have occurred had \( S \) abstained from intervening in those natural processes by acting. Given the operation of natural processes and all the ways \( S \) could intervene by acting, for any act from which \( S \) abstains that would have been an intervention in those natural processes, any outcome of those natural processes is something \( S \) allows.

To evaluate Donagan’s account of DT, we first ask whether it classifies cases in accord with our reflective judgments. To evaluate Donagan’s account of RT, we should consider whether it implies deontic evaluations that conform to reflective judgments and plausibly explains cases where it differs from our reflective judgments. To evaluate Donagan’s account as a supporting account, we should then consider whether his account of DT provides support for RT.

The intervention-abstention account has been criticized for incorrectly classifying immobility cases, so consider an immobility case:

*Spies*

Jones and Smith are spies who have been captured by the enemy. They are wired to each other in such a way that any movement by one will electrocute the other. Jones moves and kills Smith.

Given the intervention-abstention distinction, causation by volition distinguishes an act of doing from mere movement, which is caused by processes in the circumstances. A partial list of circumstantial factors in *Spies* includes the room temperature, gravitational pull, ambient noise level, and Jones’ mental and physical states. Movement caused by circumstantial factors is not doing according to the
account. If a low room temperature causes Jones to shiver, thereby killing Smith, shivering is not an instance of Donagan-causing, so it is not an instance of Jones’ doing. In contrast, according to Bennett’s PNI account, Jones’ movement in *Spies* is a doing because is an instance of positive instrumentality. The intervention-abstention account is sensitive to the direction component in the common concept of action while the PNI account is not sensitive to direction. The intervention-abstention account is sensitive because it distinguishes movement from doing caused by the agent’s volition. Suppose Jones feels fear and fear causes him to shiver. If Jones does not intervene in the natural process that causes his shivering, Jones allows the outcome Smith’s dying in *Spies*. That Jones could intervene is shown by this possibility: at the first feeling of fear, Jones imagines an angel protecting him and experiences a deep tranquility that prevents his shivering. But I have stipulated that Jones abstains from such imagining. Therefore, Jones allows the shiver. Jones’ allowing the shiver does not in itself determine the moral evaluation of his abstention but the intervention-abstention account correctly classifies it as an allowing because the account is sensitive to direction.

Now consider this case:

*Earthquake 1*

Sam loses consciousness but is otherwise uninjured during an earthquake. When consciousness returns, Sam is on a child’s chest, suffocating him. If Sam lies completely still, the child will die by suffocation. If Sam gets up from the child’s chest, he will live.

In *Earthquake 1*, the circumstantial factors (Sam’s location, weight, the child’s location, the strength of the child’s skeleton, etc.) are such that if Sam is immobile
natural processes result in the child’s death. In Earthquake1, abstaining from intervening in the natural processes would result in the child’s death, while intervening in the natural processes by rising would result in the child living. Donagan’s analysis yields these judgments:

Donagan-causing α: If S intervenes by rising, then S causes the child’s living that would not have occurred if S had abstained from rising.

Donagan-allowing α: If S abstains from rising, then S allows the child’s dying that would not have occurred if S had intervened.

These judgments about doing and allowing seem correct. In Earthquake1 if Sam abstains from rising, he allows a worse outcome than he would bring about by intervening, which is a doing. Sam’s alternatives in Earthquake1 are doing what benefits the child and allowing what harms the child. If Sam abstains from rising he allows the child’s death. If it is morally wrong for him to do so, then we have a case of morally wrong allowing. Any account of RT should explain these cases as well as cases where the agent’s alternatives are doing harm and allowing the same harm.

Now consider Earthquake 2:

Earthquake 2
Tom loses consciousness but is otherwise uninjured during an earthquake. When consciousness returns, Tom is on a child’s chest, suffocating him. If Tom lies completely still, the child will die by suffocation. If Tom gets up from the child’s chest, he will live. As he returns to consciousness, Tom feels a muscle spasm beginning which would throw him off the child’s chest. Tom resists the muscle spasm, remains immobile, and the child dies.

Earthquake 2 differs from Earthquake 1 in two details: the occurrence of the muscle spasm, a natural process that occurs in the circumstances, and Tom’s resistance, a
volitional act that intervenes in that natural process. Tom remains immobile by resisting the spasm, and the child dies. Donagan’s account of DT classifies Tom’s act as doing harm:

Donagan-causing *a*: If Tom intervenes by resisting, then Tom causes the child’s death that would not have occurred if Tom had abstained from resisting.

Donagan-allowing *a*: If Tom abstains from resisting, then Tom allows the child’s living that would not have occurred if Tom had resisted.

In *Earthquake 2*, resisting the muscle spasm is doing according to both Donagan’s account and Bennett’s PNI account. This seems to agree with common classificatory judgments. The agent’s alternatives in *Earthquake 2* are doing what harms the child and allowing what benefits the child.

Considering what the intervention-abstention account of DT implies about cases presented earlier is a method of evaluating the account. When Donagan’s account is applied to *Antidote*, we get the following classifications:

If Smith intervenes by shooting, then Smith causes the outcome *Jones dies at t by shooting* that would not have occurred if Smith had abstained from shooting.

If Smith abstains from shooting, then Smith allows the outcome *Jones dies at t+n by poisoning* that would not have occurred if Smith had intervened by shooting.

These judgments about doing and allowing seem to be correct. After Jones takes the poison but before Smith shoots, Smith’s alternatives are allowing Jones to die and intervening to prevent Jones’ death. By shooting Smith neither allows Jones to die or intervenes to prevent Jones’s death. Rather, Smith intervenes in the process.
So far I have shown how Donagan derives the concept of intervention into natural processes from his initial distinction between action and circumstances and that the intervention-abstention account, unlike Bennett’s PNI account, correctly classifies the immobility cases *Earthquake 1* and *Spies*. The intervention-abstention account also correctly classifies *Earthquake 2* and *Antidote*. I have given reasons that the intervention-abstention account correctly classifies cases that the PNI account fails to classify correctly above. However, I have noted that in the *Earthquake* cases the agent’s alternatives are not between doing harm and allowing the same harm, but are alternatives of doing benefit and allowing harm in *Earthquake 1* and between doing harm and allowing benefit in *Earthquake 2*. These findings show that the Intervention-Abstention account is a promising account of DT. But we ask more of an account than correctly classifying cases. An account of RT should explain how doing and allowing are relevant to deontic evaluation. We now ask how well the intervention-abstention account explains moral relevance.

**The Moral Relevance of Intervention and Abstention**

Although Donagan’s intervention-abstention account correctly classifies many cases of doing and allowing, we should not immediately conclude that it yields an account of the moral relevance of doing and allowing. That is, we should not immediately assume that his account of DT supports RT and solves the *grounding problem*. Since DT is the necessary condition for the truth of RT, it is possible that the difference specified by the intervention-abstention account is not a morally relevant difference. Donagan has qualms about the moral relevance of doing and
allowing on his account. He acknowledges that “a man may be morally responsible for what he allows to happen, as well as for what he causes.” However, he claims that even so, “it does not follow that the distinction between causing something to happen and allowing it to happen makes no moral difference.” Donagan belies his awareness that the difference between intervention and abstention does not assure the moral relevance of the difference.

In response to this qualm, Donagan defends the moral relevance of the distinction between causing and allowing as follows:

In some cases, traditional morality forbids both causing $X$ to happen and letting it happen; in others, it forbids causing $X$ to happen, but permits letting it happen. Thus it is wrong both to cause harm to an innocent person and to let harm be done to him by others. On the other hand, it may be permissible to let something happen which it would be wrong to cause, if the only way of preventing it is forbidden. Thus, it would be wrong for a physician to prolong his patient’s suffering; but it is permissible to let it be prolonged, if the only way in which he can promptly relieve it is by promptly bringing a certain medication, which he can only do if he drives dangerously, a forbidden action.

It is unclear what moral relevance the difference between intervening and abstaining has from this argument. What Donagan calls “traditional morality” and I have called commonsense morality includes two sorts of moral evaluations. The first moral evaluation forbids causing some harm and allowing the same harm. The second evaluation forbids causing some harm but permits allowing the same harm if the only means of preventing that harm is a prohibited action. This argument does not give the reason the action of driving dangerously is morally impermissible. Substitute the description of the doctor in this case for Donagan-allowing:

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111 Donagan (1977), p. 50.
If the doctor abstains from driving dangerously, then the doctor allows the prolongation of suffering that would not have occurred if the doctor had intervened by driving dangerously.

This seems like an adequate reason for the permissibility of allowing suffering to last longer than it otherwise would have lasted for one of two possible reasons: (a) allowing the prolongation of suffering is overall less harmful than driving dangerously, because driving dangerously increases the risk of harm to the doctor, other drivers and pedestrians, and the likelihood that other drivers will drive dangerously; or (b) driving dangerously just is a morally wrong thing to do. Reason (a) would be unacceptable to Donagan on two counts. First, it involves a consequentialist calculation of harms that Donagan rejects and is not part of the traditional morality he defends. Second, it is subject to counter-examples such as the example that anytime we permit the building of a highway we do something that increases the amount of death and suffering from drivers driving faster, i.e. driving dangerously. In contrast to reason (a), reason (b) is deontological and is plausibly part of the traditional morality Donagan defends. However, if (b) is the reason that explains the wrongness of driving dangerously, then the reason for the wrongness of driving dangerously is independent of the difference between doing and allowing. If the wrongness of driving dangerously in this case is independent of the difference between doing and allowing, then Donagan has not given us a reason to believe that the difference between doing and allowing is relevant to deontic evaluation. Donagan appeals to a moral phenomenon to justify the conclusion that some factor has moral relevance. However, the moral phenomenon to which he appeals is not the relevance
of doing and allowing or a moral phenomenon that is closely linked with doing and allowing.

Jonathan Bennett also suspects that doing and allowing are not morally relevant factors in Donagan’s morality. Bennett thinks Donagan reaches his conclusions by the following line of reasoning. Donagan defends commonsense deontological constraints and construes such constraints as near-absolutes. An absolutist morality selects some act-kind, defined by its deontic status, call it \( a \), and says that \( a \)-ing is morally wrong in any conceivable circumstances. Donagan’s morality is not absolutist but is nearly absolutist, since he thinks an action that violates a deontological constraint is morally permissible if the action is the only available means to prevent a catastrophic outcome, such as the destruction of the planet. Bennett suggests two processes of reasoning by which one might conclude that near-absolute constraints are justified. The first process starts from the thought that doing or causing harm \( h \) is worse than allowing \( h \) because doing is much worse than allowing. So if \( h \) is prolonging suffering, doing what causes \( h \) is much worse than allowing \( h \). In this process, the extra weight of doing is so great that near absolute constraints are justified because only rarely is the weight of doing outweighed by the benefit to be achieved. The second process is to construe the conduct that commonsense morality forbids as wholes consisting of actions, intentions, and circumstances that are not subject to exceptions unless extremely rare conditions

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114 Joram, Haber (1994), p. 3, describes an absolutist morality as one that says \( a \)-ing is morally wrong in any possible world. Since Donagan presents his morality without the framework of possible worlds, I do the same.
obtain. Donagan explicitly rejects explanations of deontic evaluations that take the form of the first reasoning process. He considers weighing the values of lives saved versus lives lost but rejects such reasons for the permissibility of killing. He accepts excusing conditions for killing that reduce the killer’s culpability but excusing conditions are not justifications that change the moral status of an act of killing. I agree with Bennett that Donagan’s thinking is more like the second than the first. But this is consistent with my conclusion of the irrelevance of the difference between doing and allowing in Donagan’s analysis of the case of the doctor discussed above. Donagan’s reasons for the permissibility of the doctor prolonging the patient’s suffering are not reasons based on a difference between doing and allowing but rather are reasons based on an independent moral evaluation that driving dangerously is morally wrong. Donagan’s account, while promising, does not show that intervention and abstention are relevant to deontic evaluation. Donagan’s account does not solve the \textit{grounding problem}.

\section*{Section Summary}

Donagan’s account based on the difference between intervention and abstention correctly captures commonsense judgments of causal relations between actions and outcomes. However, the difference between intervention and abstention does not make a difference to moral evaluation in Donagan’s theory. Donagan has qualms about this, and his attempted explanation shows that moral status is determined by judgments independent of differences between doing and allowing.

\footnote{Donagan (1977), pp. 172-180.}
Despite the apparent soundness of his account of DT, Donagan’s account, like Bennett’s, fails to ground RT. The failure of Donagan’s appeal to causal relations to ground RT suggests we should seek justification for the moral relevance of doing and allowing in the phenomenon of morality rather than in an explanation based on theories of causation.

**Chapter Summary**

In Chapter 3 we have seen two accounts fail to provide solution to the *grounding problem* and satisfactorily meet the *adequacy test*. Quinn’s account based on action and inaction fails to solve either. Donagan’s account provides a satisfactory analysis of DT that is not related to the morally relevant factors that guide moral evaluation. Therefore, Donagan’s account does not show that his account of DT supports RT. I next consider Kadri Vihvelin and Terence Tomkow’s foundationalist account.
4. A Causal Account

Introduction

The supporting accounts considered in the last chapter illustrate the problems of giving a foundationalist account of the relation between DT and RT. Quinn’s account based on positive and negative agency fails to solve the grounding problem or meet the adequacy test. Donagan’s intervention-abstention account goes further toward solving the grounding problem than Quinn’s but Donagan’s moral evaluations are actually supported by what he calls traditional morality rather than by his account of DT. Neither Quinn nor Donagan seem to grasp fully the difference between the foundationalist and semi-autonomous elements in their accounts, though Quinn states that he disagrees with Bennett over the reasonableness of requiring a strong foundational account.

This chapter considers a recent, explicitly foundationalist account, Kadri Vihvelin and Terence Tomkow’s causal account. Vihvelin and Tomkow have the benefit of four decades of renewed interest in the doing and allowing, so they are able to avoid Bennett’s criticisms of other accounts while defending a foundationalist account. After presenting Vihvelin and Tomkow’s account, I shall show that they are required to introduce a non-foundationalist element in order to preserve consistency with commonsense moral evaluation.

4.1. Causing and Having a Causal Consequence

Vihvelin and Tomkow think the difference between an action causing an outcome and an action having an outcome as a causal consequence explains both DT
and RT. They identify the difference between doing and allowing with bringing something about in a causal or non-causal way in this passage:

The difference between an agent’s doing something in a causal as opposed to a non-causal way is, we maintain, precisely the difference between an agent’s causing something as opposed to allowing it to happen.\footnote{Vihvelin and Tomkow (2005), p. 6, typescript version.}

They later assert that “causation makes” the difference between doing and allowing, continuing, “it seems to us, it [the difference between doing and allowing] is a difference which manifestly bears all the moral significance which tradition and commonsense confer on it.”\footnote{Vihvelin and Tomkow (2005), p. 12, typescript version.} This claim is as explicitly foundational as Bennett’s claim that the size of the behavior space from which an agent’s movement is drawn determines whether the movement is a doing or an allowing. Vihvelin and Tomkow believe they can satisfactorily explain DT in terms of the difference between causing and having a causal consequence. They think they can explain DT by giving a theory of \textit{agent-causation}, which they consider one species of object-causation. A theory of agent-causation explains the causal power of an agent who participates in event-causation. Since agents and objects have causal powers they are sometimes called ‘causes,’ but they have causal powers only by participating in events that are causes. Their idea of DT is that agents, like objects more generally, participate in event-causation in different \textit{ways} and the \textit{ways} agents participate in event-causation grounds the moral relevance of doing and allowing.\footnote{Their concept of agent-causation is not the concept of agent-causation found in the free will debate. Nor is it the claim sometimes defended in the philosophy of action that some state of the agent causes}
Their idea is that relations between agents and outcomes, which they call ‘influence,’ following David Lewis, divide into two kinds, causing and having a causal consequence. I first discuss cases in which this distinction applies to non-human objects before showing the distinction applies to human agents.

Consider three cases that illustrate the difference between causing and having a causal consequence. In the first case a fire alarm participates in the event of a fire burning a building by causing the fire.120

(1) The fire alarm short circuits and throws a spark that ignites a combustible patch of drywall and becomes a fire that burns the building.

In (1) the fire alarm causes the fire by participating in the events: short-circuiting and throwing a spark. However, we could appropriately say ‘the fire alarm caused the fire’ to indicate how the fire alarm participated in these events. They do not say it like this but Vihvelin and Tomkow seem plausibly to think that the fire-alarm’s activities in (1) fall under a recognizable commonsense concept of object-causation. The way the fire alarm participates in the events in case (1) contrasts with the way it participates in the events in case (2):

(2) The alarm fails to signal the fire department by failing to make a connection. The fire burns the building.

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119 See Lewis (1973; 1986). Vihvelin and Tomkow do not take a stand on whether causing and having as a causal consequence are exhaustive of relations between acts and outcomes but their view is consistent with doing and allowing being non-exhaustive.

120 Vihvelin and Tomkow consider only cases (1) and (2). I have added (3) since I think it is a more plausible case of having a causal consequence than (2). Of (2) some might hold that the fire alarm is no influence on the fire, though if omissions can be causes, the omission might have the fire as a causal consequence.
Case (2) illustrates the alarm’s participation is the event of the fire by having the fire as a causal consequence because the alarm’s failure to make a connection is “an insufficient but necessary part of a nomologically sufficient condition” for the fire. The failure to make a connection by itself is not sufficient for the fire but it is a necessary part of a whole that is nomologically sufficient for the fire. If the alarm had failed to make a connection but no heat source had been present in the building, there would have been no fire. If all the other conditions that led to the fire had occurred and the alarm had made the connection, the fire company would have been alerted and stopped the fire from burning.

One could object that in (2) the fire alarm performs no behavior. Therefore, the failure to signal cannot have the fire as a causal consequence. Vihvelin and Tomkow could respond that in (2) the fire alarm performs some behavior, though it is not the behavior of signaling by making a connection. Hence, the alarm does something that, in conjunction with other events, is nomologically sufficient for the fire burning the building. However, the fire alarm’s contribution might seem like persisting in a state more than performing a behavior. This makes (2) unlike the case of an agent performing an action that has a causal consequence. I suggest case (3) better illustrates the kind of case Vihvelin and Tomkow want to describe:

(3) The fire alarm sends a signal indicating the fire is in a different building than the fire is actually in. The firefighters go to the wrong building. The fire burns the building.

Case (3) parallels that of an agent performing an action that has a causal consequence more closely than (2). In (3), the fire alarm does something that influences the

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occurrence of the fire by sending the incorrect signal, so the fire alarm performs a behavior that has the fire as a causal consequence. We would not ordinarily think the fire alarm causes the fire in case (3). Our commonsense thought would be that the fire alarm has some other relationship to the event of the fire than it has in case (1).

Further, note that sending the incorrect signal is a necessary but insufficient member of a set of sufficient conditions for the fire to occur. So, sending the incorrect signal is related to the fire by the relation Vihvelin and Tomkow call nomological sufficiency, for short.

In all three cases, the fire alarm participates in events that influence the event of the fire. In all three cases the outcome is a state of affairs in which the fire is a constituent. The difference between the fire alarm’s relation to the fire in (1) and the fire alarm’s relation to the fire in (3) is a difference in the way the fire alarm influences the outcome. Vihvelin and Tomkow call the relationship in (3) having a causal consequence.

Just as objects participate in event-causation both by causing outcomes and by having outcomes as causal consequences, so too do agents. An example illustrates the difference between an action causing and having a causal consequence. S and T are on the dock, when S pushes T into the water and T drowns, so S causes T to drown.

Events follow a different course in Failure to Rescue:

Failure to Rescue
While sitting on the dock, S notices a swimmer thrashing in the lake shouting for help. S could but does not throw a life preserver to the drowning swimmer. The swimmer drowns.
Their idea is that $S$’s action has the drowning as a causal consequence, so $S$ allows the swimmer to drown. Further, Vihvelin and Tomkow appeal to the idea of nomological sufficiency to explain the way actions have outcomes as causal consequences.

Suppose $S$ turns the pages of the newspaper while sitting on the dock. Then there is a nomologically sufficient relation between $S$ turning the newspaper pages and the swimmer’s drowning. State this claim as follows:

\[ S \text{ does something nomologically sufficient for the drowning by turning the pages of the newspaper.} \]

Turning the pages is a necessary but insufficient part of a sufficient set of conditions for the drowning. To specify relations of nomological sufficiency one must assume background conditions obtain that make the failure to perform some action necessary but insufficient for the outcome to occur. In *Failure to Rescue* the background conditions would include that there is no attachment from the pages of $S$’s newspaper to a life-vest-throwing device and that $S$ has not detached it to prevent the device from throwing the life vest. Either $S$’s turning the page of the newspaper or $S$’s reading the newspaper is nomologically sufficient for the swimmer’s drowning but neither causes the drowning, in Vihvelin and Tomkow’s terms. Neither *causes* the drowning because both are insufficient but necessary parts of a whole that is nomologically sufficient for the drowning to occur. How do Vihvelin and Tomkow recommend that we understand the difference between causing and having a causal consequence, then? We need to take our cue from their use of necessary and sufficient conditions. When $S$ pushes $T$, $S$ causes the drowning because the action is a necessary and sufficient part of a whole that is sufficient for the drowning to occur.
The ‘by-locution’ is the usual English form that refers to causal relations, nomologically sufficient relations, and logical relations because they instantiate the ‘by-relation.’\textsuperscript{122} Vihvelin and Tomkow state the following necessary conditions for the by-relation:

\[ S \text{ does } a_1 \text{ by doing } a_2 \text{ only if:} \]
\begin{enumerate}
  \item \( S \text{ does } a_1; \)
  \item \( S \text{ does } a_2; \)
  \item \( S \text{ doing } a_2 \) is an insufficient but necessary part of a condition that is either (a) logically, or (b) nomologically, or (c) causally sufficient for \( S \text{ doing } a_1. \)
\end{enumerate}

Clause (3) lists three ways doing \( a_2 \) can be an insufficient but necessary part of a condition that is sufficient for doing \( a_1. \)\textsuperscript{123} One could object that Vihvelin and Tomkow do not give necessary and sufficient conditions in clause (3) for \( a_2 \) being logically, nomologically, or causally sufficient for \( S \text{ doing } a_1. \) However, they present examples of an intuitive difference between causal sufficiency and nomological sufficiency.\textsuperscript{124}

By-relations occur in sequences that usually begin with a basic action. The entire sequence between action and outcome can be characterized by the presence or absence of causing and having a causal consequence in the sequence. For example, I start the car by turning the key; I turn the key by rotating it with my thumb and

\textsuperscript{122} See Bennett (1995).
\textsuperscript{123} The phrase “insufficient but necessary part of a condition that is sufficient” is Vihvelin and Tomkow’s. Although they do not cite John Mackie, it obviously recalls Mackie’s coinage. See Mackie (1980).
\textsuperscript{124} Vihvelin and Tomkow are not alone in this regard. Bennett (1995), p. and Donagan (1977) each set aside questions about theories of causation that support claims about doing and allowing.
forefinger; I rotate the key with my thumb and forefinger by twisting my arm 90 degrees.\footnote{At this time I make no assumptions about temporal relations of events related in sequences of by-relations.} We can ask of any action \( a_2 \) in the sequence whether it is logically, nomologically, or causally sufficient for an agent’s doing \( a_1 \). Vivhvelin and Tomkow do not completely define a basic action. They suggest a criterion of at least one concept of a basic action. The criterion for some \( a \) being a basic action is that there is no informative answer to the question, ‘How did \( S \) do \( a \)?’ In other words, when asking about some series of actions \( a \ldots a_n \), if there is no further informative proposition about the by-relation between \( a_i \) and any other \( a \), then we may conclude that \( a_i \) is a basic action. They assume that every sequence ends in a basic action.\footnote{Note that being informative is relative to a “context of inquiry” (according to Donagan, 1978, p. 39) or the “interests” of an inquirer seeking an explanation (according to Peter Lipton, 2004, pp. 31-34). A patient about to undergo surgery to correct carpal tunnel syndrome would have an interest in their surgeon being more informed about wrist function than someone who learning to drive and turning the key in the ignition the first time.}

A sequence extends from a basic action to an outcome. A basic action can cause the next event in the sequence or the next event in the sequence can be a causal consequence of the basic action. If the relation between the basic action and the subsequent event in the series is causal and every subsequent relation until the outcome occurs is a causal relation, then the sequence is a causal sequence. The existence of a causal sequence establishes a causal relation between an agent and an outcome. If one relation in the sequence of relations is non-causal, that is, if one relation is a nomologically sufficient or logical relation, then the sequence is non-causal sequence. The existence of a non-causal sequence establishes that the outcome is a causal consequence of the action rather than caused by the action.
One merit of the causal account is that it is consistent with the commonsense view of the agent’s alternatives in *Trolley* and explains the commonsense view.

Recall *Trolley*:

A trolley’s brakes have failed and the driver fainted from the stress. On the track ahead are five people who cannot get off the track in time and will be killed if the trolley proceeds on the straight track. There is a sidetrack to the right and a Bystander can flip the switch to turn to the trolley to the sidetrack. There is one person on the right sidetrack. Bystander can flip the switch, killing the one, or refrain from flipping the switch, and the five are killed.

The commonsense view is that flipping the switch is a doing that brings about an outcome while refraining from flipping the switch allows an outcome to occur. Recall that one reason for rejecting Quinn’s account based on action and inaction is that he has to argue for the highly implausible conclusion that refraining from flipping the switch in *Trolley* is doing rather than allowing. Accepting the causal account does not require accepting such an implausible conclusion. Instead, the causal account implies the same judgment as the commonsense view and explains it. If Bystander flips the switch or performs some other action, Bystander performs an act that influences the outcome. The only way Bystander can flip the switch is causally. Any act of flipping the switch starts with Bystander performing a basic action, some sort of bodily movement. Assuming that the remainder of the sequence from flipping the switch to the trolley striking the person is a causal sequence, the Bystander *causes* the death by flipping the switch.

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127 See Chapter 3.2.
The only way Bystander can refrain from flipping the switch is non-causally. Standing still, whistling ‘Dixie,’ or tapping toes are replaceable by no activity, just as there are multiple actions compatible with refraining from rescuing in *Failure to Rescue*. Performing any one of these actions would be a necessary but insufficient part of a nomologically sufficient condition for the five deaths. Bystander’s action would have the deaths of the five as a causal consequence. The causal account implies a classification that corresponds to reflective judgments classifying the actions in *Trolley* as doing or allowing.

The causal account is also consistent with classificatory judgments of the actions in pre-emption and immobility cases that provide counter-examples to Bennett’s PNI account.\(^{128}\) Recall *Antidote*:

*Antidote*

Jones and Smith are watching television. Jones intentionally swallows enough poison to kill himself. Smith, who knows the antidote, pulls out a pistol, shoots Jones, and Jones dies from damage the bullet does to his body.

Vihvelin and Tomkow correctly point out that in pre-emption cases causal sufficiency requires the action to fulfill a stronger set of conditions than nomological sufficiency, or counterfactual sufficiency. In *Antidote* Smith *causes* Jones’s death because there is a *causal sequence* from Smith’s shooting to Jones’ death. Smith kills Jones by shooting him and Smith’s shooting Jones is an insufficient but necessary part of a condition that is causally sufficient for Smith’s killing Jones. We judge that Smith

\(^{128}\) Vihvelin and Tomkow do not discuss *Antidote* or *Spies* but consider analogous cases. I use them in order to evaluate the causal account on the same cases on which I evaluated the PNI account.
causes Jones’s death despite the fact that Jones’ death would have occurred if Smith had not acted.

Our standard immobility case is *Spies*:

*Spies*

Jones and Smith are spies who have been captured by the enemy. They are wired to each other in such a way that any movement by one would electrocute the other. Jones moves and kills Smith.

If Jones remains immobile, Smith lives. If Jones moves, he causes Smith’s death. The causal account implies that Jones causes Smith’s death because there is a *causal sequence* from Jones’ movement to Smith’s death, so the causal account classifies it as a doing.

The PNI account entails that Jones moving allows Smith’s death because Smith’s death would have occurred nearly every way that Jones could have moved. The causal account is closer to reflective judgments about the alternatives in *Spies* while the PNI account has a very puzzling implication.

Unlike Quinn’s account, the causal account does not conflict with our reflective judgments about the agent’s action in *Trolley*. Unlike the PNI account, the causal account correctly classifies the actions in *Antidote* and *Spies*. The differences between the implications of the causal account and the other accounts support the greater reasonableness of the causal account as an account of DT, the difference in the relations between doing and allowing. Vihvelin and Tomkow’s causal account meets the *adequacy test* better than the PNI account or Quinn’s account with regard to classificatory judgments. Let’s now consider their account of RT.
4.2. Moral Relevance of Causing and Having a Causal Consequence

Vihvelin and Tomkow argue that the difference between causing an outcome and an action having an outcome as a causal consequence satisfactorily explains DT. As noted earlier, they also think the causal account explains the moral relevance of doing and allowing. They aspire to an account that both solves the *grounding problem* and meet the *adequacy test*. To solve the grounding problem they must show that their account of DT explains the moral relevance of doing and allowing to moral evaluation. To meet the *adequacy test* they need to show that their account implies judgments that are consistent with commonsense moral judgments or explain the divergence from commonsense judgments.

Failure to distinguish between allowing₁ and allowing₂ leads to confusion about the moral relevance of doing and allowing. Recall allowing₁ and allowing₂:

Allowing₁: S allows O at t only if there is a process that begins at t or before t, S refrains from intervening in the process at t, and the process brings about O.

Allowing₂: S allows O at t only if there is a process that begins at t or before t and at t S removes an obstacle that would prevent that process from bringing about O.

Although Vihvelin and Tomkow do not explicitly distinguish allowing₁ and allowing₂, they recognize some differences among the cases that commonsense morality calls allowings. Allowing₁ and allowing₂ refer to different relations between actions and outcomes. So if RT is true, it is reasonable to expect allowing₁ and allowing₂ to be treated differently for purposes of moral evaluation. However, if allowing₁ and allowing₂ refer to actual differences between actions and outcomes,
then what is apparently one doing-allowing difference consists of multiple differences. If there are multiple differences, then it is reasonable to think that a single theoretical difference between doing and allowing will not do. If there are multiple differences between doing and allowing within the class of relations commonsense morality calls doing and allowing, then each difference requires explanation and defense of its plausibility. Vihvelin and Tomkow claim the causal account provides a unified explanation of the moral relevance of doing and allowing, so they have the burden of providing a unified explanation while acknowledging differences within the class of allowings.

Their discussion of moral relevance starts by considering undisputed cases of doing and allowing proposed by Jonathan Bennett, *Push* and *Stayback*:

*Push*
A cart stands at the top of a hill. S pushes the cart. It rolls down the hill and fatally injures a child.

*Stayback*
The cart is already rolling; S could interpose a rock which would stop it. He does not do so. The cart rolls down the hill and fatally injures a child.¹²⁹

It is undisputed that the action in *Push* is an instance of the doing-relation and that it is morally wrong. Many further judge the act all things considered morally wrong.

Stayback is an undisputed instance of allowing₁. S allows the child’s death and many would judge that S’s allowing is morally permissible.¹³⁰

The assumption in commonsense morality is that doing harm is morally wrong and allowing harm is either morally permissible or less morally bad than the closest morally bad doing. We can call the relation between doing and allowing and moral status a supervenience relation without committing to any theory of supervenience. If some act is an instance of doing its greater moral badness supervenes on the properties of that act. Some act is an instance of allowing and its moral permissibility or lesser moral badness supervenes on the properties of the act. There can be no difference in the moral evaluation of the act unless there is some difference in the properties of the act on which the deontic evaluation supervenes. For some cases of allowing, such as Stayback and Failure to Rescue, there seems to be a relatively direct link between the act of allowing and moral permissibility. Despite these assumptions, some instances of allowing are obviously morally wrong and some instances of allowing differ from the act in Stayback.

In cases that I call allowing₁ there is an obvious supervenience relationship between allowing₁ harm and moral permissibility. To name this relationship, call it simple correlation. Vihvelin and Tomkow set out to explain this correlation, which is undisputed in Stayback, and to explain the relation between allowing₂ and moral evaluation. Let’s examine what their account says about the difference between doing and allowing₁ before examining what it says about allowing₂.

¹³⁰ I hesitate to say that S does not do something wrong in Stayback. If interposing the rock would require even moderate effort on his part, I am confident refraining from doing so is morally wrong allowing.
On the causal account, \( S \) causes the cart to roll down the hill and injure the child in *Push*, and the action is morally wrong. In *Stayback*, whatever \( S \)’s action at the time the cart rolls down the hill his action does not cause the child’s death. The child’s death is a causal consequence of \( S \)’s action because his action is an insufficient but necessary part of a nomologically sufficient condition of the child’s death. In *Push* and *Stayback* there is a simple correlation between undisputed doing-allowing classifications and moral evaluations. One reason the cases are undisputed is the widespread agreement about the correlation between the classification of the act as an instance of allowing\(^1\) and the moral evaluation of moral permissibility or comparative moral badness. In disputed cases there is widespread disagreement about whether an act is an allowing of harm, and this leads to disagreement about moral evaluation. Now turn to disputed cases. In the disputed cases there is a complex correlation between doing-allowing classification and moral status.

In *Kick* and *Dislodge* the actions are instances of allowing\(^2\) and there is much dispute about them:

*Kick*
The cart is rolling toward a point where a rock would stop it from rolling. \( S \) kicks away the rock; the cart rolls down the hill and fatally injures a child.

*Dislodge*
A cart stands at the top of a hill, its wheel blocked by a rock. \( S \) kicks the rock away. The cart rolls down the hill and fatally injures a child.

In each case a process is underway: the cart is rolling in *Kick*, the rock is blocking the cart from rolling in *Dislodge*. In each case, the act alters the state of an object
involved in the process that is underway. In each case altering the state of the object alters a process that would prevent a harmful outcome.

Suppose we are unsure what moral evaluation the acts in *Kick* and *Dislodge* deserve. Suppose we also classify *Kick* and *Dislodge* as instances of allowing, distinct from *Push*, and do not distinguish allowing₁ from allowing₂. Then the doing-allowing status of the acts does not simply correlate with the deontic evaluation of the acts. If there is no simple correlation between doing-allowing classification and deontic evaluation, then the relevance of RT to moral evaluation is doubtful. These cases create problems for commonsense evaluations based on doing and allowing that theoretical defenses of commonsense morality try to solve. The *adequacy test* requires a theoretical defense of commonsense morality to explain our intuitive responses to these cases. Vihvelin and Tomkow seek to resolve this problem for commonsense morality by their causal account.

Vihvelin and Tomkow argue that the agents cause the deaths in *Kick* and *Dislodge*. In each case an agent performs a basic action that has a causal relation to the next event in the sequence and the sequence is causal to its end. However, they agree with that the actions in *Kick* and *Dislodge* differ from the action in *Push* so that they merit a less disapproving moral status than the action in *Push*. Thinking these actions deserve a less disapproving moral status than that in *Push* might lead one to try to formulate an account of DT that classifies their actions with cases of outcomes related to actions as causal consequences. Vihvelin and Tomkow acknowledge the pull of such intuitions. In agreement with Bennett’s verdict that commonsense
evaluations of regarding these cases are hopelessly confused, they promise to clarify them at another time. Vihvelin and Tomkow agree that when it comes to *Kick* and *Dislodge* doing-allowing classifications do not simply correlate with deontic evaluations. They assert that although these acts cause harm they do not deserve the moral evaluation of being morally wrong, as does the action in *Push*.

They argue that the acts in *Kick* and *Dislodge* are not morally wrong because they are similar to other acts they do not evaluate as morally wrong. Consider:

*Step Away*

The cart is already rolling. *S* is in its path at the top of the hill and if *S* remains where he is the cart will bump into him harmlessly and stop. *S* steps out of the way, the cart rolls down the hill, and fatally injures a child.

The relevant difference between the acts in *Kick* and *Step Away* is that in *Kick* a rock, rather than *S*’s body, would block the cart’s fatal process. Vihvelin and Tomkow say “this seems not much of a difference,” meaning an insufficient difference for a different moral status. In support, they point out that the bodily movements that constitute the action could be identical in *Kick* and *Step Away*. Suppose *S* kicks a rock while stepping out of the cart’s path in *Step Away*. If *S* causes harm in *Kick*, making her act morally wrong, then the act in *Step Away* causes harm so that act is also morally wrong. But this is problematic because it implies an incorrect classification of an act in the case of *Duck*.

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131 See Vihvelin and Tomkow (2005), p. 15 typescript version. There is a tendency to judge the act more excusable in *Step Away* than in *Kick* since the agent seems to have a stronger claim to what happens to his body than what happens to a rock. Even if deontic evaluation of the two acts is different, the movement is identical in both cases so the doing-allowing classification should be the same in both cases only if identical movement is sufficient for two different events being causes.
Duck, introduced by Christopher Boorse and Roy Sorensen, has the same causal structure as Step Away:

Duck
S sees the bad guy about to shoot in his direction. S ducks and the shot kills a child.\(^{132}\)

The intuitive response and I think the widely shared reflective judgment is to say that S’s act of ducking allows the child’s death.\(^{133}\) If Duck is an instance of allowing then so is Step Away. But Step Away is equivalent to Kick, which is an instance of doing. Thus, Step Away is a doing, if Kick is a doing, and an allowing, if Duck is an allowing. If our theory of DT is not to violate the exclusiveness assumption introduced in Chapter 1, this will not do. The exclusiveness assumption states that for any a if a is an allowing then a is not a doing and if a is a doing, then a is not an allowing.

Vihvelin and Tomkow conclude that S’s action in Duck is a doing.\(^{134}\) On their theory of what it is to cause an outcome, S starts a sequence leading to an outcome with a basic action and every event in the sequence is causal, so S causes the outcome. However, they also want to defend the commonsense moral evaluation that S’s action in Duck is not morally wrong. These cases in which causal relations appear to have the same structure but different moral evaluations suggest the difficulty of a single doing-allowing moral difference supported by a single theoretical explanation.

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\(^{132}\) See Christopher Boorse and Roy Sorensen (1988). I have altered the case slightly to focus on doing-allowing rather than action-omission, as Boorse and Sorensen intended in their discussion.

\(^{133}\) Boorse and Sorensen discuss the act-omission distinction rather than doing-allowing, so I do not discuss their proposal in detail. Boorse and Sorensen think S does not kill the child.

\(^{134}\) Vihvelin and Tomkow (2005), p. 19, typescript version.
Kick and Dislodge exemplify one sort of case in which a simple correlation between doing-allowing classification and moral status fails to obtain. Dislodge also exemplifies another sort of disputed case that Jeff McMahan calls “withdrawing aid.”

Walk on By
The cart is rolling down the hill. Dionne walks into its path. If Dionne stops there the cart will bump harmlessly into her and stop. Before the cart reaches that point, she walks on by. The cart continues on its path and the child is fatally injured.

Involuntary Donor
Ingrid finds herself in a hospital bed connected to a sickly violinist. Fluids from Ingrid’s body flow through plastic tubes, sustaining the violinist’s life. Ingrid removes the tubes and the violinist dies.

Vihvelin and Tomkow claim that in withdrawing-aid cases the agent has both a doing-relation and an allowing-relation with the outcome and that this is an acceptable result. They think this result sets their causal account apart from accounts in which the doing-allowing difference is “summary.” In their terms, a summary account holds that, after considering all the agent’s actions and their relations to some outcome, the agent either causes or allows the outcome but not both. Vihvelin and Tomkow think the non-summary nature of their account is appealing because it explains the conflicting commonsense judgments in Kick. S allows the cart to roll downhill before and after the agent kicks the stone. If the duration of the allowing is

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135 McMahan (1993; 1998). Vihvelin and Tomkow discuss cases of ‘withdrawing aid’ but do not note the similarity between withdrawing aid and dislodging the rock in Dislodge.
136 This case is intended to suggest the violinist case in Thomson (1971).
137 Vihvelin and Tomkow (2005), p. 18. Vihvelin and Tomkow’s classification of summary accounts is unusual. I am unfamiliar with any account that is summary in their terms. To me it seems fundamentally confused. We might evaluate an agent based on the sum of the agent’s actions in relation to some outcome. This is an evaluation of culpability or moral character. But traditional and widely assumed object of evaluation are the individual acts that influence the occurrence of an outcome. They do not cite any claim of ‘summariness’ or show that it is implicit in other accounts.
as brief as it is in Dislodge, there seems to be less reason to consider the action an allowing. I agree that a non-summary account is more reasonable than a summary account, though I do not know of any evidence for Vihvelin and Tomkow’s claim that so-called traditional accounts are summary accounts in the way they describe.

According to Vihvelin and Tomkow the agent causes the death of the victim in all these cases except Stayback. The death is a casual consequence of the act only in Stayback, so only that act is an instance of allowing.\(^\text{138}\) However, they want to defend the claim that in some cases an action’s causing harm is morally permissible. Vihvelin and Tomkow argue that a difference in the alternatives available to the agent at the time of the action distinguish morally wrongful causing harm from morally permissible causing harm.

They argue for the distinction between morally wrongful and morally permissible causing harm by first arguing that neither consequentialist theories nor commonsense deontological morality evaluate actions as such. Rather, they evaluate actions given the alternatives available to an agent at the time of the act.\(^\text{139}\) The object of evaluation is the act chosen from among the alternatives available to an agent at a time. Evaluation of an action given available alternatives implies that the alternatives themselves are evaluated and ranked in comparison to one another so that the choice of an action is the choice of an action that has a value. If what is evaluated is not an action itself but an action given available alternative actions, then evaluation must consist of assigning a value relative to the values of available alternatives.

\(^{138}\) Although they do not mention it in this regard, Vihvelin and Tomkow treat Failure to Rescue as an allowing and it has the same structure as Stayback.

\(^{139}\) Vihvelin and Tomkow (2005), p. 20, typescript.
Vihvelin and Tomkow consider the alternatives available to S in *Stayback*, which they think the only instance of allowing among the cases they consider.\(^{140}\) They point out that S’s alternatives are not allowing the child to die or killing the child. Instead, “by staying back he allows the child to die rather than *preventing* his death.”\(^{141}\) The alternatives are allowing the death or preventing the death. In *Push*, the paradigm case of causing death, the alternatives are causing the death or allowing the child to live. Pressing a deontological interpretation of RT, Vihvelin and Tomkow argue that what we compare when we evaluate the action in *Push* to be worse than the action in *Stayback* are the consequences of the action. In both *Push* and *Stayback* the alternative consequences are the child’s dying and the child’s not dying. Although the consequences of the alternative actions are the same, commonsense moral evaluation of each act differs because evaluations differ as the alternatives from among which the action is chosen differ.

When we compare alternative actions in commonsense morality, they argue, two intuitions guide us.\(^{142}\) The two intuitions are:

(i) causing the child’s death is worse than allowing the child’s death; and  
(ii) saving the child’s life is better than allowing the child to live.

They claim the following principle actually guides commonsense moral evaluation.

Call it the **Specific Comparative Alternatives Principle:**

Specific Comparative Alternatives Principle: Killing someone, when the alternative is to allow that person to live, is worse than

\(^{140}\) But recall *Failure to Rescue* which they do not mention but treat as an allowing.  
\(^{141}\) Vihvelin and Tomkow (2005), p. 20 typescript version. Italics in the original.  
\(^{142}\) Vihvelin and Tomkow call these deontological intuitions or judgments. They might more properly be called non-consequentialist moral judgments.
allowing someone to die, when the alternative is to prevent that person’s death.\(^{143}\)

This statement is highly compressed. I shall re-state the Specific Comparative Alternatives Principle more generally than Vihvelin and Tomkow do, and then state it in a less compressed manner. To state the general principle, I shall state it in terms of harms rather than killings. Call it the \textit{General Comparative Alternatives Principle}:

\textbf{General Comparative Alternatives Principle:} Harming someone in amount \(x\), when the alternative is to allow that person to benefit in amount \(x\), is worse that allowing someone to undergo harm in amount \(x\), when the alternative is to prevent that person from undergoing harm in amount \(x\).

A less compressed version of the principle states:

(A) If \(S\) faces the alternatives of (a) killing \(T\) or (b) allowing \(T\) to live, and \(S\) chooses (a),

that choice is morally worse than

(B) If \(S\) faces the alternatives of (c) allowing \(T\) to die or (d) preventing \(T\)’s death, and \(S\) chooses (c).

The principle could also be stated in a less compressed manner for harms.

Assuming that death harms the one who dies and other conditions are the same, it is no surprise to judge that killing someone is worse than allowing him to live and that allowing someone to die is worse than his preventing death. Nor is it surprising that choosing to kill someone rather than allowing him to live is worse than allowing someone to die rather than preventing his death. However, the pairs of alternatives (A) and (B) and the moral evaluations of the members of the pairs are

\(^{143}\) Vihvelin and Tomkow (2005), p. 21, typescript version.
only the first of the moral evaluations Vihvelin and Tomkow consider. Although
Vihvelin and Tomkow call these evaluations deontological judgments, they are more
properly called ‘not strictly consequentialist’ moral judgments. They are not strictly
consequentialist since they appeal to a factor other than the value of the consequences
of the actions for the moral evaluation of the act. They appeal to the value of the
alternative the agents from which the agents choose but choice from among the
alternatives available to an agent does not seem to distinguish deontological theories
from consequentialist theories.¹⁴⁴

If we combine these principles with the premise that to choose what is morally
worse is morally wrong, they together imply judgments of the moral rightness or
wrongness of actions. Vihvelin and Tomkow think they imply deontological moral
evaluations, but I doubt that claim. I have considered deontological theories to be
theories that claim moral evaluation is based on some consequence-independent
consideration or fact. Vihvelin and Tomkow’s principles are not absolute, in one
sense of absolute, since they rank actions as better and worse relative to one another
and do not render moral evaluations on act-types.¹⁴⁵ As stated, either of the
Comparative Alternative Principles is compatible with a consequentialist theory that
assigns values to choices of acts from among alternatives rather than to acts as such.
So far, Vihvelin and Tomkow have not shown that the Comparative Alternative
Principles they think guide commonsense morality are deontological and are not
consequentialist.

¹⁴⁴ The values of the alternatives to the outcome of the best act are required by SC, stated in Chapter 1.
¹⁴⁵ They are not absolute in Haber’s sense of obtaining in every possible world. See Haber’s (1994)
articulation and defense of moral absolutism.
Vihvelin and Tomkow do not consider these issues. In light of the fact that sometimes the alternatives available to agents are not alternatives between (a) and (b) or between (c) and (d), they regard the Specific Comparative Alternative Principle as an incomplete explanation of what they call deontological intuitions. The same would apply to the General Comparative Alternatives Principle. Another principle is required to explain evaluations in which the agent faces other alternatives. Let us consider their refinements.

The distinction between an agent causing an outcome and an action having an outcome as a causal consequence is more important to explaining commonsense moral evaluations when the agent faces other alternatives than those above. Vihvelin and Tomkow point out that in *Kick* $S$ faces the alternatives of refraining from kicking the rock and kicking the rock. Refraining from kicking the rock is not a basic action, and can be done only by performing some other action. Any action that would be nomologically sufficient for the rock not moving, given the background conditions, would result in the rock stopping the cart. If the rock stops the cart, the child does not suffer the fatal injury. If $S$ refrains from kicking, the child’s not suffering the fatal injury is a causal consequence of what $S$’s action. She allows the child to live, alternative (b). But the alternative to (b) is not the alternative of killing, so her alternatives are not those stated in (A) of either of the Comparative Alternative Principles above.

In *Step Away* $S$ faces the alternatives of stepping away, causing the child’s death by Vihvelin and Tomkow’s lights, and refraining from stepping away. They
argue that a basic action is a necessary condition for every way of refraining from stepping away. Thus, the cart would be stopped by some basic action that $S$ performs and he would cause the child to continue living by preventing the child’s death. In *Kick* the agent allows a child to live while in *Step Away* the agent prevents the child’s death, saving the child’s life. But the agents face different alternatives. The agent in *Kick* faces the alternatives of causing the child’s death or allowing the child to live. The agent in *Step Away* faces the alternatives of causing the child’s death or saving the child’s life by preventing the child’s death. Each agent has one alternative in which she causes the child’s death but the alternatives to causing death differ in each case.

In *Step Away* $S$ refrains from preventing the child’s death when facing the alternatives of preventing the child’s death or causing the child’s death. Vihvelin and Tomkow argue that his action is morally equivalent to that of the agent in undisputed cases of allowing, what I have called allowing. So, the agents in *Step Away* and in *Stayback* each perform an act that is morally worse than the act in *Push*. Commonsense morality often takes this to be sufficient for moral permissibility, and Vihvelin and Tomkow do also. In contrast, the agent in *Kick* causes the child’s death when facing the alternatives causing the child’s death or allowing the child to live. So, Vihvelin and Tomkow claim, the action is morally equivalent to the action in the undisputed case of causing death, *Push*. They suggest generalizing from these cases to formulate a principle of *Deontological Equivalence*. They first state the principle in terms of harms:
Deontological Equivalence: Causing a harm when the alternative is preventing that harm, is morally equivalent to allowing a harm when the alternative is preventing that harm.\textsuperscript{146}

Deontological Equivalence can be restricted to deaths.

Causing \(x\) to die, when the alternative is preventing \(x\) from dying, is morally equivalent to allowing \(x\) to die when the alternative is preventing \(x\) from dying.

As in the (A) and (B) pair stated above, let’s state Deontological Equivalence in a less compressed manner:

\[(C)\] If \(S\) faces the alternatives of (e) causing \(x\) to die or (f) preventing \(x\) from dying, and \(S\) chooses (e),

that choice is deontically equivalent to:

\[(D)\] If \(S\) faces the alternatives of (f) preventing \(x\) from dying or (g) allowing \(x\) to die, and \(S\) chooses (g).

Deontological Equivalence requires a comparison of cases such as (C), in which the alternatives are (e) causing harm and (f) preventing the same harm, with cases such as (D), in which the alternatives are (f) preventing harm and (g) allowing harm. Since alternative (f) is a member of each of pair (C) and (D), (f) provides the basis for evaluating the moral status of (e) and (g). The choice of either (e) or (g) is equally bad when the alternative is (f).

4.3. Problems with the Causal Account

Vihvelin and Tomkow’s causal account is unsatisfactory. It neither solves the grounding problem nor meets the adequacy test described in Chapter 1.

\textsuperscript{146} Vihvelin and Tomkow (2005), p. 23, typescript version.
Consider the *grounding problem* first. Vihvelin and Tomkow’s causal account is the most sophisticated recent defense of doing and allowing. They provide a plausible account of DT based on object causation, basic actions, and the distinction between causing and having a causal consequence. However, their account of DT implies that only a few of the cases that commonsense morality calls allowing are allowings for the purpose of moral evaluation. These are the cases that exemplify allowing\(_1\) and which the actions *Stayback* and *Failure to Rescue* illustrate.

Vihvelin and Tomkow aspire to provide a foundationalist account, as indicated by the quotations from their article at the beginning of this chapter. Foundationalist theories seek to justify moral claims by demonstrating close links between non-moral facts and derivative moral factors or principles. Vihvelin and Tomkow appeal to what they believe are basic explanatory facts about distinct influencing relations, causing and having a causal consequence, that explain DT and RT. However, the explanatory facts about causing and having a causal consequence to which they appeal provide incomplete explanation. The facts about causing and having a causal consequence explain the moral relevance of allowing\(_1\). In order to explain allowing\(_2\) Vihvelin and Tomkow appeal to the claim about moral relevance they call Deontological Equivalence. Deontological Equivalence is not a basic fact about causation but a statement of how acts get assigned the values they get assigned. Deontological Equivalence does not appeal to a metaphysical proposition but to a moral phenomenon. That moral phenomenon is a widely shared reflective judgment that some acts of failing to prevent harm are morally permissible. This is a serious
flaw in what aspires to be a foundationalist solution to the grounding problem.

Vihvelin and Tomkow set aside basic facts about causation when they introduce
Deontological Equivalence. We can infer from this that foundationalism is at best an
incomplete strategy for justifying DT and RT. Justifying DT and RT requires a that
we take up coherentist considerations as well.

In addition to introducing a significant coherentist element into an otherwise
foundationalist theory, Vihvelin and Tomkow claim their causal account implies that
the action in *Duck* is a doing. This flies in the face of commonsense and might not be
the correct implication of their theory. Their account distinguishes between an
outcome being a causal consequence of some act and an act causing an outcome. For
an action to have an outcome as a causal consequence, the action must be an
insufficient but necessary part of a *nomologically sufficient* condition for the
outcome. Understanding what it is for an act to cause an outcome requires their
notion of a causal sequence. Their notion of a causal sequence requires that the first
act in the sequence cause the next event in the sequence and that all subsequent
events in the sequence are linked causally rather than non-causally. In *Duck* the
agent’s initial act certainly is causal; the agent sees the threat and ducks. It is highly
implausible to think that there is a causal relation between the act of $S$ and the bullet
striking the child. If they think their causal theory correctly implies that $S$ kills the
child, they need to give us more reason than they have to date. If they do so, I suspect
that the reasons they give will be less satisfactory than the commonsense belief that
the agent allows the child to be killed in *Duck*. 
Now consider the *adequacy test*. Vihvelin and Tomkow argue that commonsense morality involves an implicit comparison of agents’ alternatives. The comparison of alternatives yields an equivalent moral status for causing harm by failure to prevent harm and allowing harm. But there is equivalent moral status only in cases in which the alternatives are causing some harm by failing to prevent that harm or preventing that harm. In such cases choosing to fail to prevent harm is equivalent to allowing harm when the alternatives are allowing harm and preventing harm. Vihvelin and Tomkow represent their account as a defense of commonsense morality as a deontological morality as opposed to a consequentialist morality. What makes commonsense morality deontological, Vihvelin and Tomkow claim, is that something besides consequences determines the moral status of the act. What Vihvelin and Tomkow think commonsense morality considers relevant to deontic status in addition to the consequences of the act, is the value of the act. Acts of killing, allowing death, allowing to live, causing to die, and preventing death contribute a value to the moral status even if they are not elements of the resultant consequence. Vihvelin and Tomkow appear to assume that what distinguishes a deontological from consequentialist theory is that the deontological theory assigns value to acts distinct from their consequences.

As stated, Deontological Equivalence has unacceptable results. Recall *Failure to Rescue*, in which Vihvelin and Tomkow conclude that it is morally permissible to allow the swimmer to drown when the alternative is preventing the swimmer from
drowning. *Failure to Rescue* is a case of kind (D), in which the alternatives are (f) and (g), and (g) is considered morally permissible. Now consider the following case:

**Drowning Swimmer**

S is in her boat when she comes alongside a drowning swimmer. S could move her boat so the swimmer could reach a plank and live or push the swimmer underwater with an oar. The swimmer cannot climb the slick fiberglass side of the boat. S pushes the swimmer underwater with an oar.

In *Drowning Swimmer* the alternatives are pushing the drowning swimmer’s head underwater or preventing the death by moving the boat. It is a case of kind (C), in which the alternatives are (e) causing x to die or (f) preventing x from dying. S could cause death by hitting the swimmer with the oar. S could prevent the swimmer from dying by moving the boat. Deontological Equivalence implies that allowing the swimmer to drown in *Failure to Rescue* and causing the swimmer’s death in *Drowning Swimmer* have the same moral status. In both cases one alternative is preventing the death; in *Failure to Rescue* the other alternative is allowing a death and in *Drowning Swimmer* the other alternative is causing a death. But killing in *Drowning Swimmer* and refraining from saving in *Failure to Rescue* should not have the same moral status. If both acts are morally wrong, then Vihvelin and Tomkow represent commonsense morality as more demanding about aiding those in need than it is. If both acts are morally permissible, then Vihvelin and Tomkow represent commonsense morality is more relaxed about harming than it is.

Vihvelin and Tomkow might say that *Drowning Swimmer* is actually a case of kind (A), in which the alternatives are (a) killing x or (b) allowing x to live. I think
this response would require a revision that makes explicit a difference between alternatives (a) and (e). Call this clause (e*):

\[(e^*)\text{ causing } x \text{ to die by failing to prevent } x \text{ from dying.}\]

Then cases of kind (C) would be cases in which the alternatives are (e*) causing \(x\) to die by failing to prevent \(x\) from dying, and (f) preventing \(x\) from dying. Call the revised principle *Deontological Equivalence*, which states:

\[\text{Deontological Equivalence}^*: \text{ Causing } x \text{ to die by failing to prevent } x \text{ from dying, when the alternative is preventing } x \text{ from dying, is morally equivalent to allowing } x \text{ to die when the alternative is preventing } x \text{ from dying.}\]

The less compressed statement would be

\[(C^*) \text{ If } S \text{ faces the alternatives of (e) causing } x \text{ to die by failing to prevent } x \text{ from dying, or (f) preventing } x \text{ from dying, and } S \text{ chooses (e), that choice is morally equivalent to:}\]

\[(D) \text{ If } S \text{ faces the alternatives of (f) preventing } x \text{ from dying or (g) allowing } x \text{ to die, and } S \text{ chooses (g).}\]

This restatement makes clear that alternative (e) in cases of kind (C*) are cases of allowing. *Deontological Equivalence* restores the liberality of commonsense morality about allowing harm that *Deontological Equivalence* removes.

In the next two chapters I consider arguments that eschew foundationalism for a semi-autonomous theory of morality. These arguments take moral phenomena to be adequate justification of RT and claims we can make a conceptual distinction between doing and allowing as required by DT with minimal appeal to foundational beliefs. In Chapter 7 I present a consequentialist theory that assigns value to acts. I
argue that such a theory is more plausible than a theory that denies assigning value to acts. If my argument succeeds, then we have a plausible consequentialist theory that assigns value to acts as Vihvelin and Tomkow claim commonsense morality does. I also argue for a plausible account of RT that is compatible with a consequentialist theory that assigns values to acts.
Chapter 5: Interference and Dependence

Introduction

In Chapter 2, I showed that Bennett’s undermining account of RT fails. In Chapters 3 and 4 I argued that several supporting accounts are unsatisfactory. Warren Quinn’s account based on action and inaction fails to explain DT because it implies that some cases of allowing are doing. Quinn’s also account implies that some acts of doing harm are morally permissible, contrary to reflective judgments. So Quinn’s account fails to solve the grounding problem or meet the adequacy test. Alan Donagan’s abstention-intervention account is unsatisfactory for methodological reasons. In Donagan’s theory, the abstention-intervention distinction is not relevant to moral evaluation; factors independent of doing and allowing determine the moral status of actions. Since intervention and abstention do not determine the relevant moral evaluations, they are not relevant to moral evaluation. So Donagan’s theory does not support RT.

The last chapter presented Kadri Vihvelin and Terence Tomkow’s causal account. They aspire to provide a foundationalist account in which the difference between causing and having a causal consequence explains doing and allowing. However, the distinction between causing and having a causal consequence does not completely explain the moral evaluations they want to explain. As a result, Vihvelin and Tomkow introduce the Deontological Equivalence principle. The Deontological Equivalence principle is a coherentist element of their account despite their aspiration to foundationalism. In addition, they think their causal account classifies the action in
Duck as an instance of doing, contrary to widely shared classificatory judgments about the action in the case.

These supporting accounts are unsatisfactory partly because philosophical theories of action and causation are highly unsettled. Their unsettled state makes them inapt to provide a foundationalist account of RT even if one thinks action and causation should fully explain RT, as foundationalists do. But such a full explanation is possible only at some idealized end of inquiry. At present, the main undermining account of DT and RT fails and the main supporting accounts are unsatisfactory. I find it more reasonable to accept DT and RT than to accept either the conclusion that RT is undermined or that the unsatisfactory elements of the supporting accounts give us reason to deny RT. The greater reasonableness of DT and RT than the undermining and supporting accounts is due to the weight of commonsense morality in comparison to the theoretical accounts I have considered. Something like DT and RT are widespread to the point of near universality in human cultures and legal systems, which is evidence favoring DT and RT.147 Admittedly, the presence of DT and RT in commonsense morality and their wide acceptance are far from conclusive reasons for acceptance. My acceptance of DT and RT is no claim that we have a priori knowledge of them or conclusive arguments for them. My acceptance is more modest and more provisional; I only claim greater reasonableness in accepting DT

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147 McMahan (1998) and Vihvelin and Tomkow (2005) take the near universality of DT and RT as evidence in their favor. Timothy Chappell (2002) claims that “everyone” accepts a distinction related to DT, the act-omission distinction. John Finnis (1991) discusses the widespread acceptance of the distinction between intended and foreseen consequences in modern legal systems. Although the act-omission and the intended-foreseen distinctions are not identical to the doing-allowing distinction, they support the claim that “something like” DT and RT enjoy near universal acceptance.
and RT than the accounts that undermine them, and that accepting DT and RT is more reasonable than denying them due to the flaws in the supporting accounts.

If it is reasonable to accept DT and RT, we should consider them on their merits rather than wait for philosophical accounts of causation or action that promise an ideally satisfactory account of them. RT is a claim about moral relevance, so it is worth our while to make headway on the claim about moral relevance without awaiting settlement of disputes about action and causation. It is plausible to make a coherentist case for DT and RT based on reflective judgments about moral evaluations and moral theory, assuming little in explanation of RT, and acknowledging what has to go unexplained.\footnote{Thomson (1996) similarly recommends defending RT and not expecting theories of action and causation to provide justification of RT. I also recall Robert Nozick’s (1974), p. xii remark that philosophical work can be valuable even if “less complete” than “a finished, complete, and elegant whole”} This is my strategy in this chapter and the next.

Recall the relation between DT and RT. DT states that there is a difference in the relation between an act by which an agent allows and its outcome and the relation between an act which an agent does and its outcome. I have called these the allowing-relation and the doing-relation. A demonstration that the several distinctions are reducible to a single distinction has been elusive. The failure of a reductive account suggests that the commonsense moral claim asserted by RT refers to several distinctions If it is correct that doing-allowing is the commonsense label for several related distinctions that are apparently not reducible to one distinction, we should not expect an analysis of all instances of doing and allowing solely in terms of
interference and dependence.\textsuperscript{149} Rather, we should expect the Interference-Dependence account to specify one pair of relations in the cluster of relations gathered under the doing-allowing label.

I argue for the Interference-Dependence account of doing and allowing. My plan for Chapters 5 and 6 is to explain the Interference-Dependence account of DT and show that it supports RT. I show that this account can be clarified, applied to a wide range of cases, yielding acceptable moral evaluations, and is the basis for a reasonable response to objections to RT.

The Interference-Dependence account clarifies the difference between the doing-relation and the allowing-relation by means of the concept of dependence. It is intuitive that some differences in the dependence relations between acts and outcomes are relevant to moral evaluation. We shall find that a plausible, significant distinction between doing and allowing is based on the difference between interference and dependence. Initial statements of the Interference-Dependence account of RT are:

\textsuperscript{149} McMahan (1993; 1998) thinks of doing-allowing as “internally complex,” which is more suggestive of multiple distinctions than a single distinction than McMahan seems to think. Scheffler (2004) states that the class of doing-allowing relations might contain multiple distinct relations and notes the elusiveness of explaining doing and allowing by a unified distinction. Bennett (1995) thinks commonsense moral thought erroneously judges multiple relations to be instances of one distinction. F. Howard-Snyder (2004) concludes succinctly that the doing-allowing distinction “does not uniquely refer.” Similarly, Jeff McMahan thinks that RT is not reducible to a single explanatory factor but that RT is “internally complex.” According to McMahan, if RT is internally complex, it is likely that no single factor explains the appeal to RT in all the cases in which commonsense morality appeals to it. Rather, there are multiple factors of which RT is composed, playing different roles in different cases. It is not clear that McMahan’s claim differs from saying there are multiple distinctions that commonsense morality erroneously labels RT. McMahan’s view is thus similar to Bennett’s, despite McMahan’s attempt to separate his view from Bennett’s. I agree with McMahan in rejecting Bennett’s reduction of DT and RT to the location of an act in a behavior space at a time. However, it is not clear to me how much McMahan’s assessment of the commonsense distinction between doing and allowing differs from Bennett’s, beyond the fact that McMahan finds the “messiness” of commonsense morality acceptable while Bennett does not.
An act \( a \) does harm iff \( a \) is interfering in the patient’s possession of a good.

An act \( a \) allows harm iff \( a \) is refraining from providing the patient with a good for which the patient is dependent on \( a \).

These initial statements are schematic. In order to determine whether they are worthy of acceptance, we need to consider theories that develop them, and ask whether such theories satisfactorily explain them.

The Interference-Dependence account explains the difference between doing and allowing by appealing to a difference in the relations between an act and the patient’s possession of a good in the two kinds of act. Interference is the general term for the wrong-making feature found in the doing-relation. Dependence is the general term for the wrong-making feature of the allowing relation, though it is a more complex relation than interference. I first describe the intuitive notions of Interference and Dependence and consider proposed accounts of them. I recommend a new Interference-Dependence account in the next chapter.

5.1. Intuitive Notions of Interference and Dependence

The commonsense notion of dependence is that of being contingently attached to or resulting from some condition or cause.\(^{150}\) In discussions of doing and allowing ‘dependence’ usually refers to a state in which someone lacks or is unable to obtain some benefit and someone else could act so as to provide the benefit. The intuitive notion of interference requires an already existing state or an already started process

\(^{150}\) See Oxford English Dictionary, s.v. ‘depend.’
that is independent of an agent. An agent could interfere by performing an act that alters the state or process.\textsuperscript{151} The intuitive notions apply to both non-human and human states, processes, and objects. An agent can interfere in the process of a plant’s growth or the state of a stone’s being located at a specific point. If a plant depends on an agent to water it and the plant would benefit by being watered, we could correctly say that the plant depends on the agent to provide that benefit. If a stone is in a specific location, the act of kicking it interferes in that state of affairs by altering its location.\textsuperscript{152} Discussions of doing and allowing usually discuss only persons with whom an agent interferes or who depend on an agent for some good. I too shall discuss only persons and call such a person the \textit{patient} of the act.\textsuperscript{153}

Some cases help make the intuitive notions of interference and dependence more concrete:

\textit{Sam’s Wallet}
While visiting Sam’s home, Al sees Sam’s wallet on a table. Al takes $50 from the wallet. Sam has to postpone dental care, suffering a painful toothache.

\textit{Tom’s Request}
Tom asks Al for $50. Al has $50. He refuses Tom’s request, and Tom has to postpone dental care, suffering a painful toothache.\textsuperscript{154}

\textsuperscript{151} See Foot (1967; 1978); Kagan (1989), p. 94.
\textsuperscript{152} Assuming the force of the kick is great enough to move the stone.
\textsuperscript{153} Showing that RT is a fully general moral principle would require showing that the difference between doing and allowing affects any constituent of an outcome, not merely the persons in the outcome. However, I restrict my initial statement of the Interference-Dependence account to the effects of acts on persons since persons are indisputably bearers of value. Establishing the claim about persons is evidence in favor of RT. That persons are indisputably bearers of value does not imply that only persons are valuable or that persons are more valuable than other beings or entities.
\textsuperscript{154} Assume it is morally permissible for Al to be in Tom’s and Sam’s homes.
The claim based on these intuitive notions is that there is a different relation between acts and outcomes in these cases, so we need to fix other aspects of the cases than the relations between act and outcome. I stipulate that Sam and Tom suffer qualitatively similar painful toothaches. They undergo the qualitatively similar intrinsically bad pain and they suffer qualitatively similar effects of the pain and of delaying dental care. The outcomes are equally bad but different kinds of acts bring about the equally bad outcomes. In these cases the money is an instrumental good; it is the means to obtaining the intrinsic good of a painless tooth. The intuitive notion of interference that explains doing is exemplified by the action in *Sam’s Wallet* and the intuitive notion of dependence that explains allowing is exemplified by the refraining from action in *Tom’s Request*. DT states that they differ. RT asserts that the difference is morally relevant. The intuitive notions of interference and dependence apply to these cases as follows.

In *Sam’s Wallet* Al interferes in the state of affairs of Sam possessing $50 independently of Al. Sam’s having $50 in his wallet is a good that Sam possesses. Sam is not harmed unless Al’s action changes the state of affairs that Sam possesses that good. If the act of taking the $50 does not occur, then Sam would maintain possession of that good. In *Tom’s Request* Al does not interfere in Tom’s independent possession of a good because Tom does not possess the good that would benefit him. Tom would benefit if Al were to give Tom the money, so Tom depends on Al for a benefit he could provide. If Al were not to give Tom the money, he is unable to obtain it and would not experience the good of a painless tooth. In *Sam’s Wallet* Al’s
act threatens Sam’s possession of a good because Sam does not depend on Al to possess it before Al’s act. In Tom’s Request Tom depends on Al for the benefit but Al does not threaten Tom’s possession of a good.

The claimed moral relevance of the difference between the acts in these cases is that an outcome that occurs by an act of interference is worse than an outcome that occurs by an act in the case of dependence. So Al’s act in Sam’s Wallet is morally worse than his act in Tom’s Request. These cases depend on ownership conventions established by legal or social processes. Friends of DT and RT think they are onto something more basic than the merely conventional, as in the cases below.

In these cases the patient possesses a good that is not merely conventional, as in Sam’s Wallet and Tom’s Request. The good is a painless, functioning body part:

*Push*
Al pushes a shopping cart across a parking lot. The cart hits an old man who suffers a bruised hip.

*Wind-Blown*
The wind catches a shopping cart and rolls it across a parking lot. Al could stop the cart but doesn’t. The cart hits an old man who suffers a bruised hip.

Again, I shall stipulate that each patient suffers qualitatively similar harms: the pain of a bruised hip and the impediment to movement the injury brings about. In *Push*, Al interferes with the state of affairs that the patient possesses a painless hip and unimpeded power of movement because the old man’s possessing a painless hip is a state of affairs that obtains independent of Al’s conduct. The state of affairs obtains independent of Al’s conduct because it is antecedent to Al’s conduct. In *Push* Al must
interfere in order that the state of affairs that the patient possesses a painless, functioning hip is made worse. In *Wind-Blown* Al does not interfere in the patient’s independent possession of these goods. However, given plausible assumptions, the patient’s retaining a painless hip and unimpeded power of movement depends on Al providing a good. Al’s refraining from stopping the cart does not interfere in the patient’s independent possession of the goods of a painless hip and unimpeded movement. Rather, Al fails to provide the benefit of intervening in the threatening process. The moral relevance of the difference is that an act that interferes is worse than an act that does not interfere when the outcome of each act is the same harm.

These cases illustrate the intuitive notions of interference and dependence. In cases of interference, the act removes a good the patient possesses and if the act were not performed, the patient would maintain possession of the good. In cases of dependence, if the act is performed the patient is provided with a good or maintains possession of a good. If the act were not to be performed, the good would not be provided or maintained. The commonsense moral evaluation is that an act of interference is worse than an act of refraining to provide a good to someone who depends on the agent to provide it. Interference is worse because the good is already in the possession of the patient and the act of the agent introduces the threat into the state of affairs of the patient possessing the good. In *Push* Al introduces the threat by pushing the cart, which results in the old man’s loss of the good of a painless, functioning hip. In cases of dependence, the agent does not introduce the threat to the possession of a good.
The Interference-Dependence account builds on the commonsense notions. The account explains the commonsense moral evaluation that interference in a patient’s independent possession of a good is worse than failing to provide a good to a patient who depends on the agent to provide it. RT does not imply that interfering in the possession of a good is always morally wrong while allowing harm is always morally permissible, as though allowing harm were morally weightless. Neither does the Interference-Dependence account imply this. Rather, the act of interfering in the patient’s independent possession of a good is morally worse than refraining from providing a good when the patient depends on the agent for that good. Harm that comes about by interfering has greater weight in moral evaluation than harm that comes about without interfering because an act of interference is morally worse than an act that is not an act of interference.

We need two things to give rational support to the Interference-Dependence account of RT. First, we need to explain the conceptual distinction between the doing-relation and the allowing-relation. We need to analyze the concept of dependence and its negation, independence, which are central to the concept of dependence and interference, which I analyze partly in terms of independence. A conceptual distinction shows that the two relations are distinct; it does not show them to be implied by or based on distinctions between kinds of causation or action. A conceptual distinction shows the coherence of an identified class of commonsense judgments. The conceptual distinction should clarify the concept of a patient possessing a good independent of the agent; to do so, we need to understand what it is
for a patient to be under a threat.\footnote{The Interference-Dependence account is a descendant of Foot’s early account. See Foot (1967; 1978) and (1985; 2002) and McMahan (1998).} Second, we need to support the moral relevance of the difference between dependence and interference. That is, we need to provide reasons to believe that interfering in the possession of a good is morally worse than failing to provide a good on which the patient’s good depends. Such support should cite an evaluative fact or claim on which the moral status of being morally worse supervenes.

In this chapter I show that other Interference-Dependence accounts fail. I recommend a new Interference-Dependence account in the next chapter.

### 5.2. Counterfactual Tests for Interference

I first consider Shelly Kagan’s “counterfactual test” of interference.\footnote{The concept of a “counterfactual test” is Kagan’s. See Kagan (1989), p. 94.} This account takes interference as its basic concept and tries to clarify the difference between the doing-relation and the allowing-relation by distinguishing interference from non-interference. Second, note that the concept of a test implies a criterion by which we can determine whether some act is an act of interfering.\footnote{See Kagan (1989), p. 94.} That is, a counterfactual test is intended to provide the conceptual distinction between interference, or doing harm, and non-interference, or allowing harm. The difference in how the harm comes about is the reason interference is morally worse than non-interference. Kagan considers two versions of the counterfactual test that I call the \textit{counterfactual existence test} and the \textit{counterfactual action test}. 

Kagan thinks the concept of interference is a rough guide to distinguishing doing and allowing. However, counter-examples based on “gimmicky cases”\textsuperscript{158} are good reason to reject the claim that interference and non-interference provide satisfactory reasons for different moral evaluations. He assumes the conceptual distinction between cases of interference and non-interference but thinks that the counterfactual test does not adequately support the claim that interference provides reasons for a worse moral evaluation than dependence.\textsuperscript{159} That is, Kagan claims that even if the first task mentioned above, the conceptual task is accomplished, the second, moral, task cannot be successfully accomplished.

I call Kagan’s first test the counterfactual existence test. The criterion for determining whether an agent interferes is a counterfactual analysis of whether the harm would have occurred had the agent not existed. To determine whether an agent interferes, one would apply the counterfactual existence test as follows:

\begin{quote}
[W]e ask whether the victim would have been better off had the agent not existed: if the answer is ‘yes’, then the agent has interfered; if the answer is ‘no’ then he has not.\textsuperscript{160}
\end{quote}

The counterfactual existence test is superficially plausible. It is reasonable to believe that if the patient would have been better off had the agent never existed, then some fact about the agent explains the patient’s being worse off. If the patient would not have been better off had the agent never existed, then no fact about the agent could ground the claim that the agent interfered.

\textsuperscript{158} “Gimmicky” is Kagan’s epithet for these cases. See Kagan (1989), p. 95.

\textsuperscript{159} Kagan aims to show that the counterfactual characterization of the interference is not good reason for a deontological constraint, whereas I am not committed to the Interference-Dependence account resulting in a deontological constraint.

Kagan thinks this “gimmicky case” is reason to reject the counterfactual existence test: “Suppose a king slits the throat of his oldest son, so that the second oldest may inherit the throne”\textsuperscript{161} The King’s action is paradigmatic of interference. The oldest son possesses the good of being alive, the King’s act alters the son’s possession of the good of being alive, and if the King had not performed the action, the son could have maintained possession of the good of being alive. But the King could respond that had he never existed, the oldest son would never have existed; so the son would not have been better off if the king had never existed. If the King had never existed, the son would have had no life but the son has some life due to the King’s existence. The counterfactual existence test implies that the King’s action is not a case of interference. In Kagan’s words, the counterfactual existence test “excuses too much.”\textsuperscript{162}

A second “gimmicky case” follows the first. The second son ascends to the throne but a third son wastes his inheritance and afterward begs his brother, now the King, for food to avoid starvation. The second son allows the third son to die of starvation. The third son is under a threat of harm, the second son could perform an act that would benefit the third son, and the third son would benefit by avoiding the harm if the second son performed the act. The second son does something morally wrong but the second son does not interfere in the third son’s well-being. But the counterfactual existence test implies that the second son interferes. If the second son had never existed, the third son would have ascended to the throne and been better

\textsuperscript{161} Kagan (1989), p. 95.
off. The patient would have been better off had the agent never existed, so the agent interferes with the patient. In the second case, according to Kagan, the counterfactual existence test “condemns too much.”\(^{163}\)

The counterfactual existence test is too crude, so Kagan suggests a revision. I call it the counterfactual action test: “the agent interferes by reacting in a given way if the victim would have been better off had the given reaction not occurred.”\(^{164}\) Let’s formulate the counterfactual action test similarly to the counterfactual existence test above. This will make it easier to compare them to each other. This formulation captures the similarity between them:

Would the patient have been better off had the action not occurred? If the answer is ‘yes,’ then the action is a case of interference. If the answer is ‘no,’ then the action is not a case of interference.

The counterfactual action test implies evaluations consistent with reflective judgments in a wider range of cases than the counterfactual existence test. The following case shows that the two counterfactual tests imply different evaluations.

The King and Queen are the only people near a trolley track and a runaway trolley is careening toward the Queen. The King pulls the Queen from the path of the runaway trolley. While pulling her to safety, he deliberately breaks her arm though doing so is not a necessary means to rescuing her. The King benefits her by saving her life and he interferes with her welfare by breaking her arm. According to the counterfactual existence test, if the King had not existed at the time he broke the Queen’s arm, she would have died. She would have been worse off had the King not


existed so the counterfactual existence test implies that the King does not interfere
with her state of being alive. In contrast, applying the counterfactual action test to the
King’s act of breaking the Queen’s arm separately from the act of pulling her from
the trolley’s path gives a different result. We would apply the test as follows. If the
Queen would have been better off had the action of the King’s breaking her arm not
occurred, then the King’s breaking her arm interferes with her well-being. So the
King’s act of breaking the Queen’s arm interferes with her well-being. The
counterfactual action test is not as permissive as the counterfactual existence test.

In Kagan’s terms, the counterfactual action test “excuses” less than the
counterfactual existence test. However, Kagan argues that compared to the
counterfactual existence test, the counterfactual action test “condemns far too
much.” Applying the counterfactual action test to Failure to Rescue, discussed in
Chapter 4, illustrates Kagan’s objection:

*Failure to Rescue*
While S sits comfortably on the dock, S notices a swimmer thrashing in
the lake, shouting for help. S could but does not throw a life vest to the
drowning swimmer. The swimmer drowns.

Apply the counterfactual action test stated above. The agent’s action in *Failure to
Rescue* is *sitting comfortably*. Would the swimmer have been better off had the action
*sitting comfortably* not occurred? Assuming that the agent would have thrown the life
vest and the swimmer would not have drowned had the action *sitting comfortably* not
occurred, we answer ‘yes.’ Hence, the agent interferes in the swimmer’s well-being.
If we accept the counterfactual action test of interference the wrongness of the agent’s

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failure to save the swimmer is grounded in the judgment that the agent interferes with the swimmer’s well-being. However, it is incorrect to think the agent interferes in the swimmer’s well-being by sitting comfortably. The concept of interference does not extend so far as the act of sitting comfortably, even if someone is drowning while one sits comfortably. Sitting comfortably in this case is a callous act of refraining from providing a benefit but it is not interference. So the counterfactual action test of interference does not explain the wrongness of refraining from saving the swimmer. The swimmer possesses the good of being alive and if the agent refrains from the act that would provide good, the swimmer could retain possession of that good. So the patient in Failure to Rescue depends on the agent; the agent does not interfere.

Kagan concludes that the counterfactual action test is much too restrictive. His conclusion regarding the counterfactual action test of interference is:

[If] we stick to the suggestion that the moral offensiveness of doing harm should be located in interference, it now turns out that all of the cases we want to classify as merely allowing harm are nonetheless cases of interfering, and so are just as offensive.  

Kagan exaggerates by asserting that the counterfactual action test makes “all” the cases we intuitively think are allowing harm cases of interfering, and so doing harm.

A less exaggerated statement of Kagan’s conclusion is that the counterfactual action test makes interference unreasonably pervasive. Let us agree that the action in Failure to Rescue is morally wrong. Even so, the action is not an action that interferes with the patient. In addition, we can multiply such cases by imagining the many circumstances in which someone would benefit by an action other than the agent’s

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sitting comfortably. Furthermore, if moral evaluation supervenes on the doing-allowing classification as explicated by the counterfactual action test, then many acts of refraining are morally wrong acts of harming. The counterfactual action test unreasonably expands the classification of actions as doings and in its implications of what is morally wrong. Intuitively, doing harm is not as pervasive as implied by the counterfactual action test. Therefore, the counterfactual action test should be rejected.

Kagan suggests there is no more plausible conception of interference than those described by the counterfactual tests.\textsuperscript{167} He thinks this is trouble for his so-called “moderate” who argues for a deontological constraint on doing harm. Setting aside the attempt to justify a deontological constraint, we can agree with Kagan that the counterfactual tests are over-inclusive and imply evaluations too different from reflective judgments of doing to be acceptable. Even though the intuitive notion of interference explains moral evaluations in many cases, the failure of the counterfactual conceptions of interference with regard to gimmicky cases is reason to reject both counterfactual conceptions of interference.

Kagan explains the Interference-Dependence account by developing the intuitive notion of interference with the counterfactual tests. I suspect part of the problem is taking the notion of interference as the basic notion of the interference-dependence pair. Both the intuitive notions of interference and dependence include the concept of dependence. The patient’s independent possession of a good is central to the concept of interference. This suggests that starting with the intuitive notion of

dependence would have better results than starting with interference. I now consider theoretical developments of the intuitive notion of dependence.

5.3. Dependence and Being under a Threat

The counterfactual tests incorrectly classify some acts as doings. The intuitive notion of interference is partly explained in terms of ‘independence,’ the negation of ‘dependence.’ This and the failure of the counterfactual tests of interference suggest we should understand both concepts in terms of dependence rather than interference.\textsuperscript{168} Since different dependence relations obtain between acts and outcomes, it is initially plausible that different dependence relations explain the difference between doing and allowing. The dependence condition requires that someone who is dependent faces a threat of losing a good or suffering a harm. A successful account based on dependence will need to explain the concept of facing a threat or ‘being under a threat.’ Since the threat must originate before the time when the agent acts or refrains from action, call this an antecedent threat.

Jonathan Bennett states one explanation of ‘being under a threat’ based on the probability of the threatening event’s occurrence, given all the factors in the patient’s circumstances. I call this Total Likelihood or TL. Bennett states the idea of TL this way: “‘$x$ is under a threat of $y$’ means: $x$ is so situated that it is highly likely that $y$ will befall $x$.”\textsuperscript{169} TL asserts that being under a threat is simply the high probability of the threat’s occurrence.

\textsuperscript{168} Kamm (1993; 1996), vol. 2, p. 37 thinks dependence is more basic than interference in the killing-letting die distinction, which is a specific form of the doing-allowing distinction.
TL states that ‘x is under a threat of y’ obtains when the total likelihood of all the causal factors in x’s situation make it probable that x will be harmed by y. Letting O be a harmful outcome, we can define TL for an individual x and an particular harmful outcome as follows:

TL: x is under a threat of O iff it is highly likely that O will befall x.

TL is superficially plausible but fails to explain ‘x is under a threat of y’ in small variations of a case like Wind-Blown:

Wind-Blown
The wind catches a shopping cart and blows it across a parking lot. Al could stop the cart but doesn’t. The cart hits an old man who suffers a bruised hip.

Wind-Blown exemplifies the relation between action and outcome in cases of dependence. Reasonable beliefs about the effects of wind on shopping carts imply a high probability of the cart hitting the old man at the moment Al could have stopped the cart. TL therefore implies that the old man is under a threat. The old man is under a threat; Al refrains from stopping the cart; so the old man is dependent on Al for the benefit of maintaining possession of a painless, functioning hip. Al refrains from providing the benefit, so Al allows the old man to suffer a bruised hip. However, small changes in details the case can shift the act from having the allowing-relation to the doing-relation to the outcome.

Consider this change in Wind-Blown, which I’ll call Last-Second Wind-Blown. Al intends to stop the cart but a highly unlikely event occurs. Al’s intention changes a nanosecond before the cart hits the old man. Up to the moment Al’s intention changes, the old man is not under a threat because it is not highly likely that he’ll be
harmed, given Al’s intention, so the case is not a case of dependence. It becomes a case of dependence a nanosecond before the cart hits the old man when Al’s intention changes. Al’s change of intention changes the old man’s ‘situation’ from one in which the old man is not under a threat, so he is not dependent on Al to provide a benefit, to a situation in which the old man is under a threat and is dependent on Al to provide a benefit. The intuitive notion of dependence we are trying to explicate includes the notion that the patient is already under a threat of harm. The agent then acts, either by intervening or refraining from intervening in the antecedent threat. The problem with TL is that it explains ‘being under a threat’ by the likelihood of $O$ befalling $x$ by any cause by which $O$ might come about, including causes attributable to the agent. The intuitive notion of dependence includes the idea that the threat to the patient is not attributable to the agent. TL does not distinguish threats introduced by the agent from threats antecedent to the agent’s action because it makes the concept of threat a relation between the patient and every causal factor in the patient’s situation.

Defenders of the Interference-Dependence account aim to clarify and develop the intuitive notions of interference and dependence stated above. According to the intuitive notion, the threat to the patient is not attributable to the agent in cases of dependence. Hence, at the least an account of likelihood should distinguish the agent as a source of threat from other sources of threats, not combine them as in TL. Bennett revises TL to take account of the idea that the intuitive notion distinguishes

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170 Bennett (1995), p. 125, says: “probability relative to the state of the world apart from the agency of the protagonist.”
threats attributable to the agent from other sources of threat in the patient’s situation.

Bennett states this revision: ‘x is under a threat of y’ means: y’s occurrence is
probable relative to (i) the facts of the non-human situation conjoined with (ii) the
proposition that the agent does not act. I call this Conjunctive Likelihood, or CL:

\[ CL: x \text{ is under a threat of } O \iff O \text{ is probable if non-human factors would cause } O \text{ and the agent does not act.} \]

CL improves on TL. CL is explicit that the relevant threat is independent of the agent,
so CL captures the intuitive notion of dependence better than TL. Bennett claims that
no supporters of the Interference-Dependence account actually propose CL but that
CL is the best he can do to explain what being under a threat is.

In stating the Interference-Dependence account, Bennett rightly takes
dependence as more basic than interference and explains dependence in terms of
being under a threat. CL improves on TL and states that the threat due to the agent
and threats due to other causal processes are distinct. If there is reason to reject the
Interference-Dependence account, it must be because there is some problem with the
concept of dependence and being under a threat. In objecting to the Interference-

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171 See Bennett (1995), p. 125. I have slightly altered Bennett’s words to put CL and TL in uniform
terms for easier comparison. Bennett shifts from “highly likely” in TL to simply “probable” in CL.
172 Bennett thinks this explanation of ‘being under a threat’ expresses the central idea of Donagan’s
abstention-intervention account. It is also similar to Quinn’s action-inaction account. Notice that TL
describes the threat as “highly likely” while in CL it is only “probable” or likely. One could easily re-
state CL in high likelihood terms, however. A likelihood account that requires the outcome to be
highly probable in order for there to be a threat is more restrictive than one which requires the threat to
be merely probable. A more restrictive account excludes more processes or potential threats from
being considered threats than a less restrictive account. That is, a high likelihood account would
classify fewer processes as threats than a low likelihood account.
Dependence account, Bennett targets Frances Kamm’s account of dependence and being under a threat. 173

Kamm’s account takes dependence as one of its central notions but two features of Kamm’s account merit preliminary discussion. First, Kamm focuses specifically on killing and letting-die rather than the more general concepts of doing and allowing. Hence, I shall re-state her account to be more general throughout this discussion. 174 Second, Kamm’s account is very detailed and marked by numerous refined, sometimes obscure distinctions which she thinks can have interactive effects on moral evaluation. 175 Kamm’s account is the sort McMahan calls “internally complex” and Kamm’s account is probably the most complex contemporary account proposed. 176 The detailed distinctions between factors and complexity of the interaction between numerous factors make it difficult to be sure that one has understood it.

Despite the difficulty getting clear about Kamm’s account, three points are relevant to my purposes.

(1) Kamm takes dependence as the basic concept of the interference-dependence pair. 177

(2) Kamm asserts what I take to be central to the Interference-Dependence account to be central to her account: in cases of interference, the patient

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174 Kamm is aware that the killing-letting die distinction is a species of the general doing-allowing distinction.
175 Kamm’s writing style is notoriously difficult, which adds to the difficulty of understanding her work.
loses a good she could have maintained independently of the agent due to a threat introduced by the agent; in cases of dependence, the patient loses a good that an act of the agent would assist the patient to maintain or prevent.\footnote{Kamm (1996), p. 23; see also pp. 37, 66, and 74 where Kamm returns to this point.}

(3) Kamm partially explicates the moral relevance of point (2) by the concept of the agent’s \textit{efforts} and the size of those \textit{efforts} in relation to what the agent is morally required to do and morally permitted to refrain from doing.

Kamm’s statement of point (2) helpfully clarifies what I think is central to the Interference-Dependence account while explication of (2) by appeal to the agent’s efforts as in (3) is unfruitful. My understanding of the Interference-Dependence account is indebted to Kamm’s work on (2). Here, let us see what goes wrong with explicating (2) in terms of the agent’s effort.

Bennett summarizes Kamm’s account briefly and inadequately before objecting to point (3) about the agent’s efforts. It appears that Bennett responds to Kamm’s view as stated here:

\begin{quote}
In letting die cases one avoids making efforts that would provide someone already under threat of death with continued life. Efforts made to avoid killing in “standard” cases are not ones that would provide someone already under threat of death with continued life.\footnote{Kamm (1984), p. 299. The parallel in Kamm (1996) is on p. 24. The only substantive difference between Kamm’s 1984 statement and her 1996 statement, published after Bennett’s published objection, is substituting “one refuses to make efforts that would provide life” for “one avoids making efforts that would provide someone already under threat of death with continued life” in the description of letting die. Kamm’s (1992) remarks summarizing her (1983) are helpful at clarifying her view.}
\end{quote}
Kamm asserts that what the agent’s efforts would produce in cases of letting-die differ from what the agent’s efforts would produce in cases of killing. Generalizing from killing and letting die to doing and allowing, in cases of allowing one avoids making efforts that would provide someone with a benefit while efforts to avoid harming are not efforts that would ensure that someone continues to possess a benefit. If an agent allows harm, she refrains from efforts that would provide a good. If an agent refrains from doing harm, she does not refrain from efforts that would provide a good. In the passage quoted above, “efforts” might appear to be a loose synonym for ‘actions.’ However, this cannot be the case, for Kamm argues that an agent’s efforts have independent impact on moral evaluation.

Kamm thinks that in some cases the size of the agent’s effort determines the moral status of the act the agent performs. She writes:

[W]e may permissibly let someone die rather than make efforts of a certain size, and we may sometimes permissibly kill someone who will lose only life he would have had via those efforts rather than make them. But it is harder to justify avoiding these same efforts by killing someone who will lose more life than he would have gotten causally via those efforts.  

Kamm’s point is that each of letting die and killing is sometimes morally permissible depending on the relation of “only life” and “more life” to the agent’s efforts. Kamm clearly thinks of efforts quantitatively, as having different sizes. I argue below that the best sense of “only life” and “more life” is also quantitative.

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180 Kamm (1996), p. 58. The parallel is in Kamm (1984), p. 307. The quoted passage is taken from Kamm’s text published after Bennett’s objections to Kamm’s view. I have used the later version even so since it is clearer than the earlier passage. The earlier passage uses “can” where the later uses “may permissibly” and “may sometimes permissibly.” The later passage is clearer that moral evaluation is at issue. Both versions maintain the agent’s efforts are central to distinguishing killing from letting die.
Let the size of the agent’s efforts be represented by \(x\). Then, according to Kamm, it is permissible to let a patient die if saving the patient from letting-die would require efforts of size \(x\). And it is permissible to kill a patient who will lose life if efforts of size \(x\) are not made when the “only life” the patient would have had is the life provided by the agent’s efforts of size \(x\). These claims refer to variations on Judith Jarvis Thomson’s “violinist case,” in which the violinist would “lose only life he would have had” by the efforts of the person to whom he is attached. Unplugging the violinist is killing someone that Kamm thinks is permissible, and understanding this requires interpreting the ‘only’ in this sentence with what I shall call a wide scope. ‘Only’ initially might appear to modify ‘life’ in the first quoted sentence. However, in the contrasting clause in the second quoted sentence ‘more’ modifies ‘life than he would have gotten causally via those efforts.’ If we understand ‘only’ to modify not just ‘life’ but ‘life he would have had via those efforts’ then ‘only’ modifies the complex state of affairs ‘life received by means of the agents efforts.’

Kamm states that it is “harder to justify” avoiding efforts of size \(x\) by killing when the life the patient would have had if not killed were “more life” than that provided by the agent’s efforts. We need to sort out what the comparative ‘harder than’ refers to in this case. The constants in the comparison are (i) killing and (ii) efforts of size \(x\). Kamm appears to contrast what the patient receives causally as a result of size \(x\) efforts and what the patient receives in addition non-causally from those efforts. If we take the causal relation to be one sort of dependence relation by which events are related to subsequent events, and assume that other dependence

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relations are related to states of affairs other than causes and effects, we can understand the distinction between what the patient would “have gotten causally” and what the patient would have gotten by another relation. We can also understand Kamm’s proposed moral evaluation. Suppose in case (a) a patient would receive \( n \) amount of life causally by efforts of size \( x \). Suppose in case (b) a patient would receive \( n+m \) amount of life by efforts of size \( x \), where the \( m \) amount is due to other dependence relations than the causal relations to which \( n \) amount of life is due. What Kamm states is that “it is harder to justify” killing in case (b) than in case (a), which implies that killing in case (b) is morally worse than in case (a).

Bennett correctly attributes this view to Kamm: in cases of allowing, in which the patient is dependent on an act of the agent, the alternative to the patient losing a good is that the patient maintains possession of that good “through my [the agent’s] efforts.”\(^{182}\) In cases of doing, on Kamm’s view, the alternatives differ. If the agent chooses the alternative of performing the act, the patient loses a good. If the agent takes the alternative of refraining from performing the act, the agent does not provide a good to the patient and the patient can obtain or maintain the good she already possesses. This is my point (2) above. Bennett objects to Kamm’s account because of its focus on the agent’s “efforts.”

The objection is based on a case I’ll call Pressured Wind-Blown. Pressured Wind-Blown is the same as Wind-Blown except that someone puts intense psychological pressure on Al to stop the cart.\(^{183}\) Refraining from stopping the cart

\(^{183}\) The means by which the pressure is exerted is not relevant here.
takes as much effort as Al can muster. If the old man retains his painless, functional
hip, it is due to Al stopping the cart. On Kamm’s view, in cases of allowing, the agent
“avoids making efforts” that would provide someone already under a threat with
some benefit. However, Kamm and most friends of RT would say that Al’s conduct is
refraining from providing a benefit. In *Pressured Wind-Blown* it requires no effort for
Al to stop the cart but Al’s action still allows harm even though Al makes efforts. The
efforts are not what make the action a doing. Therefore, Al’s action is related to the
outcome, the old man retaining a painless, functioning hip, by allowing. Al’s
resistance to the psychological pressure is an effort but Kamm’s statement of the
conditions under which allowing occurs state that the agent makes an effort that
preserves the patient’s possession of a good, not that an agent’s efforts result in the
patient losing the good. 184

Kamm’s proposed analysis combines the ideas I have numbered (2) and (3)
above. Kamm’s proposed dependence condition requires that the threat to the patient
is not attributable to the agent. The friends of RT argue that the threat’s not being
attributable to the agent is morally relevant. Kamm’s account includes (3) stating that
the size of the effort the agent may permissibly make differs in cases of doing and
allowing. Effort implies that the agent engages in some activity or action. Bennett’s
condition (ii) states that part of the meaning of ‘being under a threat’ is that “the agent
does not act.”185 I have incorporated the proposition that the agent does not act in the
statement of CL. Bennett does not tell us how he understands ‘the agent does not act,’

184 McMahan (1998) criticizes accounts based on making an effort for similar reasons.
but he does tell us that his account of ‘being under a threat’ is “the core idea in the active/passive analysis of the making/allowing distinction.”\textsuperscript{186} The active/passive analysis states that an agent allows some outcome if the agent is passive with regard to it and makes some outcome occur if the agent is active with regard to it. I do not see how Kamm’s Interference-Dependence account can ultimately fit the active/passive analysis. Kamm’s analysis depends on the agent’s making efforts of some size and the permissibility of bringing about an outcome depends on the relationship between the size of the effort and the amount of life the effort brings about. ‘Effort’ is not restricted to having an effect on events external to the agent. The case of psychological pressure in \textit{Wind-Blown} shows that effort is sometimes required for the agent to refrain from having effects on events external to the agent.

Bennett is correct that Kamm’s account of allowing goes wrong in \textit{Wind-Blown} but Bennett is incorrect about what goes wrong. In Kamm’s analysis of allowing it is possible for the agent to perform an act, even if the agent allows an outcome. The active/passive analysis associates passivity with allowing. So Kamm’s analysis does not fit the active/passive analysis as Bennett claims. However, Kamm’s analysis has another problem. The problem is that effort is not central to dependence that characterizes allowing. Rather, there are many ways in which an agent might provide the benefit in cases of dependence that are not efforts.\textsuperscript{187}

In the passage quoted above, Kamm states that “we may sometimes permissibly kill someone who will lose only life he would have had via those efforts

rather than make them."\textsuperscript{188} This statement quantifies the amount of life the potential victim would receive as the relevant factor in morally permissible killing. The next sentence contrasts morally permissible killing with morally impermissible or less easily justified killing. Killing is harder to justify in order to avoid efforts of size $x$ if the potential victim would “lose more life” than he would have gained by efforts of size $x$. Although Kamm’s thinking is hard to follow here, Kamm’s point is best understood as I interpreted it above. The constants in the comparison are (i) killing and (ii) efforts of size $x$. The agent-related contrasts in the comparison are between the causal dependence relation and other dependence relations. The patient-related contrasts are receiving life by the action’s causing the patient to receive life and by the action’s being related to the patient receiving life by another dependence relation.

As noted above, Kamm’s account is complex and at times obscure. Kamm tries to explain the relevance of the size of the agent’s effort, the relation between the action and the patient’s possession of goods, and the difference between causal relations and other dependence relations to outcomes.\textsuperscript{189} These can interact with each other and with patient-related factors. The complexity and number of factors gives objectors many targets at which to aim. Bennett’s target is Kamm’s focus on the size of the effort, which correlates with the ease or difficulty of the agent’s performing an act that leads to an outcome. An increase in the size of the effort necessary to bring about an outcome makes the outcome harder to bring about and that a decrease in the

\textsuperscript{188} Kamm (1996), p. 58..
\textsuperscript{189} Kamm’s account incorporates at least the three elements I’ve listed above.
size of the effort necessary to bring about an outcome makes the outcome easier to bring about.

Critics of DT and RT sometimes attribute confusion between ease of accomplishing some outcome and allowing the outcome to supporters of DT and RT. The critics allege that the supporters mistake that fact that it is usually easier for an agent to allow harm than it is to do harm with a morally relevant difference. They continue that ease and difficulty of performing some action are contingently related to doing and allowing, not essential to whether some action is doing or allowing. Bennett continues that Kamm’s account has to appeal to the active-passive concepts in order to explain ease and difficulty of performing an action. He thinks the account is circular because the difference between making an effort and not making an effort is intended to explain dependence but when dependence is understood as passivity, the account “succeeds only when helped by the distinction that it is supposed to be analysed.” Effort implies doing, which opens the account to charges of circularity in cases in which the agent faces in psychological pressure. In Pressured Wind-Blown above, the agent’s efforts are directed at resisting psychological pressure but the action is best understood as allowing the cart to hit the old man.

Let us recap. To understand the concept of dependence in the Interference-Dependence account, I have considered how to understand being under a threat. TL is unsatisfactory because TL does not distinguish threats due to the agent from other threats. Bennett suggests CL, which distinguishes threats due to the agent from other threats.  

\footnote{190 For example, see Bennett (1995), p. 75; Rachels (1975).}  
\footnote{191 Bennett (1995), p. 126.}
threats. We then considered Kamm’s explanation of being under a threat but found it is apparently circular since the concept of effort that explains being under a threat appeals to the active-passive distinction which is part of her account.

The complexity of Kamm’s account makes it hard to separate the importance of effort, the active/passive distinction, and the different sorts of dependency relations that obtain in cases of doing and allowing. I suspect that different sorts of dependency relations are the core of the account. However, this is obscure in her text and there is little to gain by extensive exegesis of it. In the next chapter I shall present an Interference-Dependence account that takes dependence as the more basic concept of the pair and that considers dependence separately from the associated concepts.

**Chapter Five: Conclusion**

In this chapter I have considered justifications for two related claims. The first claim is that we can make a conceptual distinction between dependence and independence to support the Interference-Dependence account. The second is that the harm associated with Interference is worse than the harm associated with dependence. The counterfactual existence and counterfactual action tests of interference imply judgments that are at such variance from widespread reflective judgments that neither counterfactual test is justified. This suggests that the concept of dependence is more basic than the concept of interference, so we should base our analysis on dependence rather than on interference. TL does not distinguish threats due to the agent from threats due to other factors. CL states the distinction but we have seen that Kamm’s attempt to explain the distinction appeals to an agent’s effort, which leads to a kind of
circularity in her account. In the next chapter I shall recommend an Interference-Dependence account that does not appeal to the agent’s effort and that captures a wide range of intuitive judgments of moral relevance.
Chapter 6: The Recommended Interference-Dependence Account

Introduction

The previous chapter introduced the intuitive notions of interference and dependence and considered theories of DT and RT based on the intuitive notions. The intuitive notions are appealing but the theories are unsatisfactory. I take the failure of the counterfactual tests of interference to suggest the fruitfulness of taking dependence as the more basic concept of the interference-dependence pair. Explanations of dependence by the concept of being under a threat were then considered. The Total Likelihood (TL) thesis is unacceptable because it does not distinguish threats due to the agent from threats due to other causal factors in the patient’s situation. This led to considering the Conjunctive Likelihood (CL) thesis and Bennett’s objection to Kamm’s appeal to the agent’s efforts to explain doing and allowing. Kamm’s account is unsatisfactory under one interpretation because it is circular to appeal to efforts to explain the difference between doing and allowing when the active/passive version of doing and allowing is used to explain effort. However, the Interference-Dependence account need not be based on the agent’s efforts. An account that is not based on the agent’s efforts does face the threat of circularity.

I recommend a new Interference-Dependence account of RT that improves on these accounts. As in the previous chapter, I examine the conceptual distinction between doing and allowing and the moral relevance of the distinction. I then consider objections to the recommended account.
6.1. The Recommended Interference-Dependence Account

We need an Interference-Dependence account that is not viciously circular. The possible circularity in Kamm’s account derives from the fact that effort implies or suggests activity.\footnote{I am uncertain whether to conclude that Kamm’s account is circular. Under Bennett’s interpretation it is but the best interpretation of Kamm’s account is tangential to my concerns here.} When an agent makes efforts to allow an outcome to occur, one alternative is to appeal to the doing-allowing distinction to explain why that effort is an allowing. Another alternative is to acknowledge that the account misclassifies some actions. Neither alternative is satisfactory. However, an Interference-Dependence account need not be based on the active/passive distinction, as Bennett claims Kamm’s account is.

Kamm also suggests there is a difference in the relations between action and outcome in cases of interference and dependence. I find this aspect of Kamm’s account more fruitful than appealing to the agent’s efforts, and I present a new account based on that difference in cases of interference and dependence in this chapter. Call this a relational account of DT. Relational accounts of doing and allowing claim that some feature(s) of the relation between action and outcome makes an action an instance of doing or allowing.

Start with the notion that harm involves a relation between the patient and a good the patient possesses or could possess. The meaning of ‘a good’ differs from the meaning of ‘good’ when used of ‘the good’ itself. In the latter use, ‘good’ refers to the intrinsic goodness of some state of affairs or to a person’s overall evaluative state, which ranges from better to less good. ‘A good’ refers to a particular good that
benefits a person. A person’s possession of a good is good in itself. That is, the state of affairs of someone possessing a particular good \( g \) is intrinsically good.\(^{193}\) Possession of a good contributes to both individual well-being and to the goodness of the state of affairs in which a person’s possession of a good is a constituent. ‘A good’ is a particular object or state.

Then a schematic statement of the Interference-Dependence account is:

An act \( a \) does harm iff \( a \) is interfering in the patient’s possession of a good.

An act \( a \) allows harm iff \( a \) is refraining from sustaining the patient’s possession of a good for which the patient is dependent on \( a \).

Instances of doing interfere in the patient’s possession of a good and instances of allowing are refraining from sustaining possession a good when a patient depends on an agent for that good. Both the agent and the patient who possesses a good are able to influence the possession of a good. However, the ways the agent and the patient are able to influence the possession of a good differ.

The concepts of interference and dependence capture two ways an agent can influence the patient’s possession of a good. The recommended concept of dependence is:

A patient depends on an agent for a good iff: (a) the patient is under an antecedent threat of harm that is not attributable to the agent; and (b) the agent could perform some act which would prevent that harm

\(^{193}\) My conception of possessing a good is indebted to Thomas Hurka’s recursive account of value. See Hurka (2001). In Hurka’s recursive account there are intrinsic goods and it is intrinsically good or intrinsically evil to have certain attitudes toward something that is intrinsically good. For example, knowledge is an intrinsic good so it is intrinsically good that Jerry loves knowledge. My theory of possessing value states a similar recursive relation: knowledge is an intrinsic good, so it is intrinsically good that Jerry possess knowledge.
to the patient; and (c) if the agent refrains from performing that act, the threatened harm occurs to the patient.

The recommended concept of interference is:

An agent interferes with a patient’s good iff: (a) there is a good the patient possesses independently of the agent; and (b) an act of the agent removes that good from the patient’s possession; and (c) if the agent did not remove that good from the patient’s possession, the patient would retain possession of that good.

The conceptual claim of the Interference-Dependence account is that in doing harm the action must interfere in the patient’s independent possession of a good. It is not the case that in allowing harm the action interferes in the patient’s independent possession of a good. When a patient is under a threat, the threat is the threat of losing a good. I discuss the complexities of these analyses below. For now, let’s compare these analyses with the intuitive notions of interference and dependence introduced in the previous chapter.

These analyses of dependence and interference preserve the central difference in the intuitive notions, the difference each sort of action makes to the patient’s possession of a good in that situation. In cases of dependence, if the agent refrains from sustaining the patient’s possession of the good, the patient loses a good, the occurrence of which the agent could have prevented. Given the condition of being under a threat, the agent’s refraining from the sustaining act is sufficient for the harm even though the threat is not attributable to the agent. In cases of interference, the

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Note that the Interference-Dependence account is based on the concept of an independent possession of a good. This is not the same as the “independence of persons” or the “normative separateness of persons” that Kamm (1992) and Vallentyne (2006) respectively claim are necessary for non-consequentialist moralities.
harm is attributable to the agent. So, in cases of interference, if the agent performs the relevant act, the harm befalls the patient. If the agent does not perform the relevant act, the patient might retain possession of the good. In cases of interference the agent’s refraining is not sufficient to determine whether the patient loses the good.

Doing and allowing are ways actions are related to the state in which the patient possesses some good or in which the patient could possess some good. The relation of dependence between the action and the benefit to the patient is central to the specification of allowing. The relation of independence is central to the specification of doing because the state of possessing the good must be independent of the agent in cases of doing and the threat to the patient must be independent of the agent in cases of allowing.

I now comment on these analyses in detail, relying on Push and Wind-Blown for concreteness. Recall the two cases:

**Push**
S pushes a shopping cart across a parking lot. The cart hits an old man who suffers a bruised hip.

**Wind-Blown**
The wind catches a shopping cart and rolls it across a parking lot. S could stop the cart but doesn’t. The cart hits an old man who suffers a bruised hip.

Both analyses state initial conditions in clause (a). The initial conditions of both the dependence analysis and the interference analysis state a fact about the patient’s relation to some good that is not attributable to the agent. Though that fact is not attributable to the agent in either the interference or dependence case, what that fact is differs in each case. In Push, that fact is the old man’s possession of the good of a
painless, functioning hip. In *Wind-Blown*, that fact is the threat to the old man’s possession of a painless, functioning hip. In cases of dependence, the fact of the initial condition is that the patient is under a threat of a harm befalling him. In cases of interference the fact of the initial condition is that the patient is in possession of a good. In both cases the pertinent fact is not attributable to the agent. However, the initial conditions differ in another regard. The agent bears a different relation to the threat in cases of dependence than in cases of interference. In cases of dependence, like *Wind-Blown*, the threat is not attributable to the agent. In cases of interference, like *Push*, the threat is attributable to the agent.

Conditions (b) and (c) of each analysis distinguish the relation between act and outcome in cases of interference from the relation in cases of dependence. Take dependence first. In cases of dependence, if the action were performed, the outcome would be that the patient benefits by maintaining possession of a good. In *Wind-Blown*, the patient would benefit by maintaining possession of a painless functioning hip. If the agent does not perform the act, the patient is harmed but the harm results from a threat that is not attributable to the agent. Now take interference. In cases of interference, if the action is performed the action removes a good from the patient’s possession. If the action is not performed, the patient could avoid the harm. For example, in *Push* the old man could avoid the harm of a damaged hip. If the agent refrains from an act that would interfere, the agent’s refraining does not determine whether the patient avoids the harm. If the agent performs an act that interferes, the agent’s performing that act determines that the patient is dispossessed of the good the
patient possesses independently of the agent. The agent in *Push* makes it come about that the old man is dispossessed of a painless, functioning hip.\(^{195}\)

The analyses of interference and dependence provide the needed conceptual distinction. We can envisage two different states of the patient’s well-being that might obtain before an agent performs an action. The two states correspond to doing and allowing. In doing harm, the patient possesses a good antecedent to an act the agent could perform such that, if the agent refrains from performing that act, the patient could maintain possession of that good. If an agent interferes, the agent performs an act that is sufficient for the patient to suffer the loss of the antecedently possessed good. In allowing harm, the patient is under a threat of harm from a process independent of the agent, and the patient benefits only if the agent intervenes in the threatening process. If the patient maintains possession of the good, the fact that the patient continues to possess it depends on an act of the agent. If the agent allows the harm, the agent performs some other act by which the agent refrains from sustaining the good or diverting the threat. If the patient is under threat of some harm and the process harms the patient, there is no act that satisfies the condition that the agent *interferes* in the patient’s possession of some good. Rather, the agent fails to intervene in the threatening process. Thus, interference in the patient’s possession of a good is a necessary condition of doing harm but not of allowing harm.

The idea of a patient possessing a good independent of an agent is reasonably clear. For the good of being alive, the patient is alive and has great influence over the

\(^{195}\) This ‘making come about’ is why some call it the making-allowing distinction rather than the doing-allowing distinction.
state of her being alive. If the good is an experience of pleasure or the experience of using a skill, the person who experiences the pleasure or the using the skill is related to that pleasure or skill by possessing it. Anyone who does not possess the experience or ability is not related to it by possession. The concept of a patient possessing a good independently of the agent has the merit of indicating a relation between possessor of a good and the possessed good that does not obtain between non-possessors and that good. When someone possesses a good that cannot be transferred to another person, I say the good is non-distributable. In *Push* and *Wind-Blown*, the old man possesses a painless, functioning hip; the good of his possessing a painless, functioning hip cannot be transferred from him to another person, so that good is non-distributable.

It is less clear how we should understand the idea that the potential patient is already under a threat of harm, as in condition (a) of *dependence*. I can clarify it by revising the CL thesis introduced last chapter. Recall that Bennett explains being under a threat of harm as the probability that the harm will occur, relative to “(i) the facts of the non-human situation conjoined with (ii) the proposition that the agent will not exercise his agency.” Bennett identifies only non-human factors in environmental threats or threats not attributable to the agent. We need not exclude other agents as Bennett does by restricting being under a threat to the “facts of the non-human situation” and the

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Bennett’s statement also describes the agent as not acting. A relational account like the Interference-Dependence account can modify CL without having to exclude other agents and to clarify that when an agent allows an outcome the agent refrains from performing a particular action rather than not acting at all.

We can modify CL as follows. If an agent allows $S$ to be harmed by the outcome, then $S$ must antecedently be threatened by causal processes in the situation. For $S$ to be antecedently threatened by the causal processes is for there to be some probability the outcome would occur unless the agent performs an act that prevents the outcome from occurring. This conception of ‘being under a threat’ explains the antecedent threat that is a necessary condition of allowing and explains antecedently being under a threat as some increased probability of the threat conditional on the agent’s performing some act other than intervening. We can replace CL with CL*:

$$CL*: x \text{ is under a threat of } O \text{ iff the occurrence of } O \text{ would harm } x,$$

$$O \text{ is probable due to a process not attributable to the agent, and the agent refrains from intervening in that process.}$$

CL* makes two changes from CL. First, CL* includes human agency in the processes in which the agent could intervene. Second, CL* changes the agent’s not acting to the fact that what makes $O$ probable is not attributable to the agent and the agent refrains from intervening. This is a distinguishing feature of a relational account of DT. The agent is related to the outcome by refraining though the threatening process is not

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197 Bennett may have inserted it to avoid the following possible case. Assume a causal sequence is underway that would result in a bad outcome for $S$ and a high probability that agent1 will intervene to prevent the outcome if agent2 does not. Then, even if agent2 does not prevent the outcome, it is not probable that the outcome will occur. In such a case $S$ is not under threat from the causal sequence, and even if the outcome occurs, agent2 will not have allowed the outcome to occur. The presence of agent1 in the situation reduces the probability of the outcome so that agent2 does not satisfy the conditions for allowing the outcome.

198 My revision of CL is similar to McMahan’s (1998).
attributable to the agent. To describe the agent’s relation to the outcome as “the agent does not act,” as in CL, suggests inaction or passivity. When allowing is understood as inaction, there is the suggestion that doing is action, and we could once again face the problems that arose for Kamm’s account.

In allowing harm, a process independent of the agent’s action threatens some good the patient possesses and the agent performs some act other than intervene in the threatening process. By refraining from intervening in the threatening process, the agent allows the process to deprive the patient of the good in question. The outcome of the process is some harm to the patient although there is an alternative to the harmful outcome that the agent could have brought about and that would have been better for the patient.

I have provided analyses of interference and dependence. The analyses give us a conceptual distinction between doing, in which there must be interference in the patient’s possession of a good, and allowing, from which interference is absent. I now discuss the moral relevance of interference and dependence.

6.2. The Moral Relevance of Interference and Dependence

When an act interferes in the patient’s possession of a good, the act decreases the patient’s well-being because the good the patient possesses is a good the patient would retain independently of the act.\(^{199}\) If the patient possesses a good and would retain possession of that good independently of the act, then there is a moral reason to

\(^{199}\) Kagan (1989), pp. 115-116, considers this concept of independence in objecting to RT.
avoid interference with the patient’s possession of that good. Call this the patient’s antecedent possession of a good. However, the moral reason to avoid interference is absent in cases of allowing harm because in cases of allowing, the patient depends on the agent to provide the pertinent good. Since some process threatens to harm the patient, and the patient depends on the agent to intervene in the threatening process, the agent cannot interfere in the patient’s antecedent possession of a good. The agent can only refrain from an act that would sustain the patient’s possession of the good. For instance, a patient may possess health but be under a threat of injury by a falling object unless the agent prevents the injury from befalling the patient by informing the patient or pushing the patient from the object’s path. The patient depends on the agent to sustain possession of the relevant good, an act by the agent that would change the patient’s location or information about the danger provided by the agent.

I show that doing provides a moral reason that allowing does not provide in two steps. First, assume that an act has a value distinct from the value of the act’s consequences. In Standard Consequentialism the value of the consequences determines the rank of the act in relation to other acts performable by the agent. Since we are assuming that an act can have a value distinct from the value of its consequences, we need to consider the conjunction of the act and its consequences in order to establish its evaluative ranking. I call this evaluative ranking the evaluative

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200 There may also be reason to avoid interfering with the patient’s obtaining the good. I consider only possession of the good to avoid distracting complications.

201 I argue for the claim that an act has value distinct from the value of its consequences in Chapter 7 when I defend Act-Value Adjusted Consequentialism.
Consider two acts and their values distinct from the consequences of either act. Act $a_x$ interferes in the independent possession of a good. Alternatively, $a_y$ does not interfere in the patient’s independent possession of a good. If an agent allows harm, an agent does not interfere in the independent possession of a good. Interfering in the independent possession of a good is worse than not interfering in the independent possession of a good. So, as regards interference, $a_x$ is worse than $a_y$.

Second, the reason $a_x$ is worse than $a_y$ derives from the patient’s possession of a good independent of the agent. Goods such as life, pleasure, and knowledge are possessed by the patient. For goods possessed by the patient, it is better that what is done to them is what their possessor intends rather than what someone other than the possessor intends. It is better that what the possessor intends is done because the possessor usually has better evidence about what is best done with that good than a non-possessor. If the good is my staying alive, I am nearly always better situated to determine the value of my living or dying than someone else. If the good is my experience of pleasure this is a good I possess, and I am better situated to determine what should be done to it than someone else.

The Interference-Dependence account does not presuppose the moral evaluation claimed by friends of RT. Instead, the Interference-Dependence account of RT combines these claims:

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202 I discuss the concept of an evaluative outcome in Chapter 7.
203 Some goods are not dependent on a patient, such as the fact that well-being is distributed in a population in accord with some formula. There could be no one who is in a position to know the distribution of well-being and therefore no one’s intention is sufficiently informed to be better followed than others. Another feature of the goods mentioned here is that they are non-distributable. I discuss this below.
(a) that a patient possesses or could possess some good is a fact that is relevant to moral evaluation; and
(b) the relevance of the fact that a patient possesses or could possess some good differs when the doing-relation obtains than when the allowing-relation obtains.\footnote{See Kagan (1989), pp. 117-118 for a similar statement, though he considers only the interference half of the Interference-Dependence pair. See Chapter 5.2.}

If \( x \) is a fact that is relevant to moral evaluation, then \( x \) provides some reason for moral evaluation. So claim (a) implies that someone’s possession of a good is a reason for moral evaluation. Claim (a) says nothing about the strength or weight of the reason possession of a good provides. Claim (b) says only that the doing-relation and allowing-relation differ in their relevance to moral evaluation. Friends of RT claim further that the doing-relation has greater moral weight than the allowing-relation. Deontologists claim further still, that greater moral weight of the doing-relation over the allowing relation is grounds for a moral constraint. I defend the claim that the doing-relation has greater weight than the allowing-relation when responding to objections in section 6.3 below. I argue against the deontologist’s claim in Chapter 7.

We can state an argument for the claim that doing harm and allowing harm contribute different values to outcomes. Let \( A \) be an act, let \( G \) be a good, and let other factors that contribute to the value of the outcome be the same.

1. If \( A \) is doing harm then \( A \) impedes the possession of \( G \) contrary to the intentions of \( G \)’s possessor.
2. If \( A \) is allowing harm, then \( A \) does not impede the possession of \( G \) contrary to the intentions of \( G \)’s possessor.
3. It is worse to perform an act that impedes the possession of \( G \) contrary to the intentions of \( G \)’s possessor than to perform an act that does not impede the possession of \( G \) contrary to the intentions of \( G \)’s possessor.
(4) If (3), then doing harm is worse than allowing harm.
(5) Therefore doing harm is worse than allowing harm.

This is a plausible argument for RT based on the concepts of interference and dependence. Premise (1) states that doing harm is an act that impedes the possession of a good contrary to the intentions of good’s possessor. Interference is understood partly in terms of impeding the patient’s possession of a good contrary to the possessor’s intentions. This is a highly plausible claim. As stated above, the possessor of a good is nearly always better situated to know what is best done to that good. Premise (2) states that in cases of allowing harm the agent does not perform an act that impedes the possession of the good contrary to the intentions of good’s possessor. Premise (2) does not commit the Interference-Dependence account to there being no act performed by the agent. Rather, the act by which the agent refrains from providing a good is related to the harmful outcome for the patient differently from the way an act of interference is related.

Premise (3) is a statement of comparative value. It asserts that for a state of affairs to obtain in which an act impedes the possession of a good contrary to the intentions of that good’s possessor is worse than for such a state of affairs not to obtain. Premise (3) depends on the more general proposition that different acts can have different intrinsic values.²⁰⁵ Premise (3) also depends on the claim that possession of a good is a reason for thinking that it is worse to perform an act that interferes in the possession of a good than not to do so.²⁰⁶ Premise (4) connects

²⁰⁵ I defend the more general proposition in Chapter 7.
²⁰⁶ See Moore (1903; 1993), p. 76.
premise (3) to the claim made by supporters of RT. Supporters of RT claim that doing harm is worse than allowing harm. An act that interferes with the possession of a good contrary to the possessor’s intentions is doing harm and an act that interferes with the possession of a good is worse than an act that does not interfere, with regards to that dimension of value. Hence, doing harm is worse in that respect than allowing harm, in which there is no interference.

**The Recommended Account and the Adequacy Test**

The adequacy test requires that we ask what any account of RT implies regarding a broad range of well-known cases. I have criticized several accounts of RT for failure to meet the adequacy test. The purpose of the adequacy test is to determine whether our theoretical explanations imply similar judgments or evaluations about these cases as commonsense morality. Note that the adequacy test applies to both DT and RT. The DT version asks whether the theory implies classifications of cases that are the same as our commonsense classifications of actions as doing and allowing. Call this the classificatory adequacy test. The RT version asks whether the theory implies moral evaluations of actions described in the cases that are the same as our commonsense moral evaluations. Call this the moral adequacy test. Applying the adequacy test is not simply a matter of listing commonsense judgments regarding cases and rejecting theories that do not imply those judgments. Rather, a theory can
explain its divergent recommendations from commonsense judgments and propose to revise commonsense morality.207

Let us consider what the Interference-Dependence account implies about cases commonly presented as tests for theories of RT.

*Transplant*

S is a transplant surgeon, can save the lives of five patients, who will die soon unless she takes the heart, lungs, and liver from T, who has not promised his organs to the five patients or done anything to deserve death. If S takes T’s organs, she kills him. If she does not take his organs, the five patients die.

S faces the alternatives of doing harm to T or refraining from providing a benefit to the five patients. There are widely held, strongly defended intuitions that it is morally wrong for S to take the organs from T. The Interference-Dependence account implies that S allows the patients to die if she refrains from taking T’s organs and that S does harm to T if she takes T’s organs. The patients are under an antecedent threat that is not attributable to S. Given plausible assumptions, S could provide them with the organs; if S does not do so, the harm of death befalls each of the patients. T possesses the good of being alive; if S were to take T’s organs, S would the organs from his possession; and if S does not take T’s organs, T can maintain possession of them. So, the Interference-Dependence account satisfies the classificatory adequacy test.

Commonsense moral judgment is that S should not operate on T. The Interference-Dependence account is consistent with commonsense in *Transplant*. We have what Chapter 4 calls a simple correlation between classification and moral relevance.

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207 This is commonly called the equilibrium method.
The adequacy test requires consideration of several cases. So, consider

*Transplant*, which is in tension with *Trolley*:

*Trolley*

S is near the tracks where there is trolley, whose brakes have failed and whose driver has collapsed. On the straight track ahead are five people; steep banks prevent them from getting off the track before the trolley hits them. The track has a spur turning to the right, and there is a switch that would turning the trolley onto the spur where there is one person. If S flips the switch and the trolley will kill one; if he refrains from turning the trolley, and the five will die.

In *Trolley*, if S flips the switch, then the action is related to the death of the one by interference. If S refrains from flipping the switch, then S refrains from sustaining the five in possession of the good of being alive, and S allows the deaths. In *Trolley*, however, commonsense morality is mixed; people applying commonsense are uncertain what moral status accrues to flipping the switch, the uncertainty being between the moral requirement and moral permissibility of flipping the switch, and turning the trolley to right track where it kills the one.208

A more difficult problem awaits any defender of RT because the significance of doing and allowing differ in *Transplant* and in *Trolley*. In *Transplant*, according to commonsense, the morally better or morally right course of action is to allow the five to die. In *Trolley*, according to commonsense, it is morally worse or morally wrong to allow the five to die. If choosing what is morally worse is morally wrong, then it appears that the Interference-Dependence account is inconsistent. It implies that what is morally right in *Transplant*, allowing the five to die, is morally wrong in *Trolley*.

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208 Thomson (1990), reports that some think S is morally permitted, some that S is morally required, to flip the switch. Kamm (1992) thinks S is not required but only permitted to flip the switch.
Here is one difference in the two cases that supports the Interference-Dependence account. In *Trolley* the probability of the harm befalling the five before the agent can prevent harm is much higher than the probability of the harm befalling the five in *Transplant*. The greater probability of the harm befalling the five in *Trolley* implies it is less probable the five will be able to maintain possession of the good they possess than the five in *Transplant*. In *Transplant* the smaller probability of the harm befalling the five before the harm can be prevented implies it is more probable the five will be able to obtain the means necessary to maintaining the good of being alive they possess than for the five in *Trolley*. The difference in the probability of the harm befalling the five implies that the weight of the dependence differs in the two cases. Greater probability of harm befalling a patient implies that the dependence has greater weight in morally evaluating the alternatives available to the agent. When there is greater probability of harm befalling the patient, it is morally worse for the agent to refrain from providing the benefit to the patient.

Consider the alternatives faced by the agent in *Transplant* and *Trolley* again. The agent in *Trolley* faces alternatives in which there is greater probability of harm befalling the patient than in *Transplant*. Commonsense morality does not judge the alternative of taking T’s organs morally right and I know of no defender of commonsense who holds this view. But people using commonsense are uncertain what the moral status of flipping the switch, and killing the one, is in *Trolley*. It is plausible that commonsense morality tracks the probabilities in the two cases; the
greater probability of the harm befalling the five in *Trolley* is some reason for thinking it morally worse to refrain from flipping the switch than taking T’s organs.

We can compare the probabilities involved in the other alternatives available to the agent in *Trolley* and *Transplant* as well. In the former, the alternative is killing by flipping the switch and turning a trolley to the right spur where someone is on a trolley track. In the latter, the alternative is killing by taking the organs of someone who is otherwise under no threat. The one standing on the trolley track is under a greater threat than the one whose organs would be taken by the agent in *Transplant*. In both cases the agent interferes with the patient’s possession of a good. But in *Transplant* the act of taking the organs introduces a threat that otherwise the patient was not under. The likelihood of being under a threat independent of the agent is greater in *Trolley* than in *Transplant*. The likelihood of the conjunction of a runaway trolley and a collapsed driver and five being located on the straight track is low, and we would not think the one standing on the right spur should have known the likelihood, but there is some probability of harm by virtue of standing on the track that is not attributable to agent. We can suppose the patient in *Transplant* does nothing that increases the likelihood of harm, like stand on a trolley track; rather, the patient is under a lower probability of harm in *Transplant* than in *Trolley*. The act of the agent contributes more to the likelihood of harm in *Transplant* than in *Trolley*.

The Interference-Dependence account also gives a more satisfying response to the case of *Duck* than Vihvelin and Tomkow’s causal account.209 Recall that S ducks at the sight of a shot in his direction, and the shot kills T, though it would have only

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209 See Chapter 4.
slightly injured $S$. Vihvelin and Tomkow consider this a killing, though it is uncertain (at least to me) that this is consistent with their view. When the shot is on its path, there is some probability that it kills $T$, so the Interference-Dependence account implies that $T$ depends on $S$ to maintain possession of the good of being alive. Thus, $S$’s action allows $T$ to die, in accord with commonsense judgments about the case. If Vihvelin and Tomkow were to amend their account to support the judgment that $S$ kills $T$, it is likely the amendments would be less reasonable than the commonsense judgment that $S$ allows $T$ to be killed. The Interference-Dependence account meets the classificatory adequacy test with regard to *Duck*.

We have not given a conclusive argument that the Interference-Dependence account meets the adequacy test by considering these cases. However, we have considered the implications of the Interference-Dependence account for some of the more challenging cases posed for any account of DT and RT. Further support for the adequacy of the Interference-Dependence account is given when responding to objections to the account in the next section.

### 6.3. Three Objections

The Interference-Dependence account makes related claims about DT and RT. The claim about DT is that doing implies interference in the possession of a good contrary to the intentions of the possessor of the good and allowing does not imply interference in the possession of a good contrary to the intentions of the possessor of the good. The claim about RT is that the difference between an act of doing that is

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210 *Trolley* and *Transplant* are prominent cases in discussions of DT and RT. Thomson (1996) treats them as paradigms of difficult cases in her review of Bennett’s *The Act Itself*. 
related to an outcome and an act of allowing that is related to the same outcome is relevant to moral evaluation because interfering in the possession of a good contrary to the intentions of its possessor is worse than not so interfering. Each claim is open to objection.

The objection to DT is that the Interference-Dependence account purports to describe a difference between doing and allowing that is only apparent. Shelly Kagan presses this objection against the Interference-Dependence account. He states the objection as follows:

[I]n a standard case, such as when an agent shoots and kills a stranger with whom he has had no previous contact . . . the redistributed good—the victim’s life—is not altogether independent of the agent. There is admittedly an obvious sense in which the victim’s possession of the good is indeed independent of the agent . . . But there is also an obvious sense in which the good is not one that the victim possesses and maintains independently of the agent, for it is only the agent’s refusal to do harm that permits the victim to retain possession. 211

The objection states that the good at issue is independent of the agent in one sense and dependent on the agent in another sense. Kagan concludes by charging that defense of the Interference-Dependence account needs to show why “the latter sort of dependence is not morally relevant.”212 The objection is based on the fact that the victim of the shooting loses a good that depends on the shooter’s not interfering in the victim’s possession of it. Therefore, the victim’s possession of the good is not independent, but dependent on an act of the shooter’s. If the victim’s good is dependent on the shooter’s act of refraining from doing harm, then a standard

\[211\] Kagan (1989), p. 120.
\[212\] Kagan (1989), p. 120.
instance of ‘doing’ does not satisfy the necessary condition of interference that the patient has independent possession of a good. Kagan objects that Interference-Dependence accounts cannot satisfy the first requirement specifying a plausible account of the patient’s good independent of the agent.

One response is simply to say that the Interference-Dependence account does not imply what Kagan says it does. The Interference-Dependence account does not imply that the sort of dependence involved in the “agent’s refusal to do harm” is “not morally relevant.” Some dependence relations are relevant. That is intuitive and accepted by all participants in this inquiry. The Interference-Dependence account is about what sorts of dependence relations are relevant to moral evaluation and what their moral relevance is. However, this would be too quick a dismissal of the objection. Suppose we take Kagan’s usage of ‘not morally relevant’ more conversationally, not as a denial of the moral relevance of doing and allowing but as a challenge to friends of RT to say what sorts of dependence are relevant and what their relevance is.

A fuller response on behalf of the Interference-Dependence account appeals to the causal relations that underlie doing and allowing and to the sense of possession in which the possessor of a good has a unique relation to that good. An account of causal structure similar to that defended by Vihvelin and Tomkow supports the Interference-Dependence account. As discussed above, the possessor of a good has a relation to the possessed good that non-possessors cannot have. This relation gives the possessor of that good better justified beliefs than others have about what is best.

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213 I discuss these causal relations in Chapter 4 when discussing Vihvelin and Tomkow’s work.
to happen to that possession. The claim to better justified beliefs about what happens
to the good in question is a reason that interference in the possession of the good
worse than non-interference.

If the agent refrains from harming the patient, the act of refraining is
compatible with many acts performable by the agent. In Kagan’s case of the shooter,
the agent might refrain from harming by throwing the bullets in a lake, sleeping
through the appointed time of the assignation, standing on his head, or admiring the
light of the moon. If the agent performs any one of the many acts performable at the
time, the agent refrains from shooting. If the agent refrains from shooting, the
particular goods the patient possesses are at most slightly influenced by the act the
agent actually performs. The act the agent actually performs is a function of the
agent’s bodily movements. In allowing or refraining, the agent’s bodily movements
only weakly influence the goods the patient possesses. Somewhere on the spectrum of
weakly influencing outcomes, we reach a point at which only a single particular act of
the agent would sustain the patient in possessing that good. When we consider the
particular sustaining act in Kagan’s standard case, it involves what Vihvelin and
Tomkow call a non-causal sequence. Suppose the shooter throws the bullets in a lake.
The sequence from the act of throwing the bullets to the outcome, the potential
victim’s remaining alive, is non-causal.

Now consider doing harm. If the agent harms the patient, the act of harming is
compatible with a small number of acts performable by the agent. If the agent
performs an act from among the small number consistent with harming the patient,
the particular goods the patient possesses are strongly influenced by the act the agent performs. Acts are functions of bodily movements. The act the agent performs is a function of a small number of possible bodily movements. In an instance of doing, the agent’s bodily movement strongly the influence the goods the patient possesses. At some point on the continuum of increasing influence we reach a point at which the agent has the options of a single bodily movement that would impede the patient’s possession of a good or refraining from movement. If the agent performs the act constituted by that bodily movement, the agent interferes in the patient’s possession of a good. If the agent refrains from moving, the agent does not do harm to the patient but neither does the refraining do good to the patient.

Influence is a continuous relation. The causal relation I have described underlying the Interference-Dependence account is a relation of influence, ranging continuously from strong to weak. Interference-Dependence accounts claim that some goods the patient possesses are independent of the act of the agent, asserting an exclusive distinction between goods that are dependent and goods that are independent of the act of the agent. Interference-Dependence accounts require a discrete difference between independence and dependence rather than a continuous relation of influence.

Defending a discrete sense of ‘independence’ requires that we reject Kagan’s description of the standard case, in which he says the good of the victim being alive is “redistributed” by the act of shooting. In fact, we need to make use of a distinction between distributable and non-distributable goods that Kagan appears to accept

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214 See Vihvelin and Tomkow (2005); which is based on David Lewis, (1973; 1986).
before introducing the “standard case” but then fails to apply across the board. Earlier in *The Limits of Morality*, when Kagan introduces the notion of interference, he writes:

> In effect, the agent changes the ‘distribution’ of the good (in this case, destroying it) in a way opposed to the wishes of the victim. . . In contrast, when an agent merely allows harm, he has not brought about such an unwanted distribution.  

Scare quotes around a term indicate that it is being used with a sense different than its usual sense.216 The scare quotes around ‘distribution’ in the indented passage above indicate that it is used in a sense different than its usual sense. However, when Kagan later appeals to what he calls the “standard case” to object to the claim that we understand doing as interfering in the well-being of the patient, the scare quotes have dropped from the text. We need to ask whether the change from the scare-quoted sense of ‘distribution’ to the usual sense of ‘distribution’ leads Kagan to erroneously omit or diminish the moral relevance of some factor in the standard case.

Let’s re-consider what Kagan calls the “standard case.” Surely, the victim’s life is not transferred to another person in the standard case. Rather than redistributing the good by shooting, the act of shooting eliminates the good of being alive or eliminates the patient’s ability to maintain the good of being alive. If a good cannot be distributed but only eliminated or destroyed, it is a non-distributable good. The good of being alive is a non-distributable good. This analysis of the scare quotes

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215 Kagan (1989), p. 117. The quotes around ‘distribution’ do not indicate citation; nor are they ‘shudder quotes’ or ‘sneer quotes.’ This leaves only the use of the quotation marks as scare quotes. See Sparkes (1991), p. 9.

around ‘distribution’ show that Kagan elides the distinction between distributable and non-distributable goods. The distinction between distributable and non-distributable goods implies a difference in the value of the goods. Since *non-distributable* goods cannot be transferred between persons or other possessors of goods, an act that destroys a non-distributable good does a kind of harm that is not done by an act that transfers a distributable good.

We can distinguish senses of ‘distribution’ and its cognates occurring in this argument. Kagan’s claim is true in the statistical sense. My claim is true in what I shall call the possessive sense. The sense of ‘distribution’ under which Kagan’s description of the good of the victim of the standard case being re-distributed is true is the statistical sense. An act of killing re-distributes the good of being alive by dividing some population of persons who are alive before the shooting into exclusive sub-populations of those who are living and those who are not living after the time of the shooting. Even if Kagan’s claim is true in the statistical sense of ‘distribution,’ it is not true in the possessive sense. In the possessive sense the good of being alive previously possessed by the person once they are killed is not re-distributed. The difference between the statistical sense, in which a good is distributable, and the possessive sense, in which a good is non-distributable is morally relevant.

At the weakly influencing end of the spectrum, the act performed by the agent has very little influence on the goods the patient possesses, although the agent could perform some act that sustain the patient’s possessing the good. At the strongly influencing end of the spectrum, the agent performs some act that has great influence
on the goods the patient possesses. Somewhere on the strongly influencing end of the spectrum, the act impedes the patient’s possession of a non-distributable good. A non-distributable good is a good that is so closely bound up with the activities of the body and mind that constitute the person who possesses the good, that that good cannot be distributed to another person. The goods of being alive, experiencing pleasure and determining the use of one’s skills are non-distributable in this sense.

When a person possesses a non-distributable good, an act that alters the patient’s possession of the good is what Interference-Dependence accounts describe as interference in the independent possession of the good. There is a relation between the patient who possesses a non-distributable good and the good that does not obtain between the agent and the non-distributable good, so non-distributable goods are independent of agent in that sense. The independence asserted of non-distributable goods refers to their being uniquely related to the person who is constituted by a body and mind.

This account gives us reason to think that the sense of ‘independence’ in the Interference-Dependence accounts refers to goods uniquely possessed by the person. Acts commonly recognized as harms impede this relation by which a person possesses a good. Killing eliminates the non-distributable good of being alive. Causing pain impedes the person’s non-distributable good of pleasurable experiencing one’s mind and body. Denying a person the use of her skills as she

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217 In “Are Persons Mere Containers for Wellbeing?” Martin Peterson argues for a stronger claim than I do here. He argues that “wellbeing is not an entity that can be freely transferred from one person to another” (p. 11, typescript version). I argue for the more conservative claim that some goods that contribute to wellbeing are non-distributable, or cannot be freely transferred from one person to another. Peterson may be correct but the less extensive claim is sufficient for my argument.
intends impedes the non-distributable good of doing with one’s abilities what one intends. Being a non-distributable good does not give the possessor of the good absolute authority over that good. However, it is plausible that the intrinsic value of a non-distributable good is greater than that of a distributable good.

What has been said so far is not enough to defend the Interference-Dependence account. There is a second objection based on the claims about RT. The objection is that the defender of RT needs to show why eliminating a non-distributable good or a non-distributable good from a patient’s possession should be morally worse than refraining from providing a distributable good. This objection targets the relevance claimed for doing and allowing by friends of RT, that doing harm has greater weight than allowing harm.

Responding to this objection requires showing that interfering in the possession of a non-distributable good is worse than performing an act by which an agent refrains from sustaining the patient’s possession of a good. My response is that, other things being equal, it is worse to bring about harm than not to bring about harm, and allowing harm is a species of not bringing about harm. One goal of this chapter is to argue that this intuition is reasonable and coheres with other reasonable moral intuitions. Call this the asymmetric value intuition about doing harm.

Start by considering some cases that give rise to the objection. The objection relies on cases of this sort:

Suppose for example that some tyrant should threaten to torture five men if we ourselves should not torture one. Would it not be our duty to do so, supposing we believed him, because this would be no different from choosing to rescue five men from his torturers rather
than one? If so, anyone who wants us to do something we think wrong has only to threaten to do something we think worse. A mad murderer, known to keep his promises, could thus make it our duty to kill some innocent citizen to prevent him from killing two.  

Philippa Foot claims cases like these are reason some version of RT is necessary to preserve the commonsense moral judgment that killing one to save two from being killed is morally wrong. In contrast, Kagan, referring to the second case, objects that “if I kill the one to save the two from being killed, at least I minimize the extent to which goods are distributed in a manner opposed to the desires of those on whom they depend.” Kagan notes that his position minimizes the extent to which goods are distributed contrary to the intentions of the possessors and contradicts the conclusions of most defenders of RT. He points out that if the defender of RT claims in response that it is worse to bring about the distribution of one death to save two lives, this presupposes RT rather than provides reason to support it.

If the distribution of ‘the good of being alive’ refers to the statistical sense of distribution, then there is a distributable sense of the good of being alive. As Kagan’s description of the shooter and victim above and his comment on this case imply, there would then be a plausible case that shooting one to prevent the murderer from killing two is morally required. However, if ‘the good of being alive’ refers to the non-distributable sense and the asymmetric value intuition is plausible, we should evaluate the moral status of the options in this case more favorably to the Interference-Dependence account of RT.

Assume the non-distributable sense of the good of being alive and the asymmetric value intuition. Then we should analyze the agent’s alternatives as follows. For the agent to kill the one is a doing by which the agent interferes in the patient’s possession of the non-distributable good of being alive. The one who is killed loses that non-distributable good and no one else gains it. The good is eliminated, not re-distributed. The two who are not killed retain the particular goods of each of them being alive. If the agent refrains from killing the one, the two who are threatened by the “mad murderer” have not gained by the agent’s act. If the murderer thereupon kills the two, the murderer interferes with each one’s possession of the non-distributable good of being alive. The agent who the murderer extorts does not interfere with each one’s possession of the non-distributable good. The asymmetric value intuition does not supply a magnitude by which to compare by how much it is worse to lose than simply not to gain. However, if losing is more than twice as bad as not gaining, then the magnitude by which losing is worse than not gaining is enough to justify the agent in not killing the one and allowing the murderer to kill two.

This account in response to the first two objections is at least reasonable and I think probative. But there is a third objection to consider.

A Third Objection

Some arguments against RT attempt to refute it by presenting cases that seem to compel rejecting RT on pain of irrationality. I consider such an argument, based on James Rachels’ well-known argument against the distinction between killing and letting die. The killing-letting die distinction is a species of the general doing-
allowing distinction. Cases that show the killing-letting die distinction fails appear to show that the general doing-allowing distinction also fails.

Rachels’ argument goes like this. The commonsense view is that killing “in itself” is worse than letting die in itself. Rachels does not tell us what “in itself” means but it is safe to say that it means ‘intrinsic’ or irrespective of its status as a means to an end. If Rachels’ argument is sound, it would refute my claim that there is a difference in the values of the kinds of acts that are related to outcomes by doing and allowing. The cases to which Rachels appeals are well-known:

(1) Smith stands to gain a large inheritance if anything should happen to his six-year old cousin. One evening while the child is taking his bath, Smith sneaks into the bathroom and drowns the child, and then arranges things so that it will look like an accident.

(2) Jones also stands to gain if anything should happen to his six-year cousin. Like Smith, Jones sneaks in planning to drown the child in his bath. However, just as he enters the bathroom Jones sees the child slip and hit his head, and fall face down in the water. Jones is delighted; he stands by, ready to push the child’s head back under if it is necessary but it is not necessary. With only a little thrashing about, the child drowns all by himself, “accidentally,” as Jones watches and does nothing.

Rachels’ argument targets the view that difference between Smith’s killing and Jones’ letting die is morally relevant. Each agent’s motive and intention are the same and each agent’s action results in the same outcome. The only difference between the cases is the difference between the relations between action and outcome. Rachels concludes that the difference in relation between action and outcome is not morally

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relevant in this case. If the difference is not morally relevant in the cases of Smith and Jones, it is doubtful that the difference is morally relevant in cases of killing and letting die. If it is doubtful that the difference between killing and letting die is relevant, it is doubtful that the difference between doing and allowing is morally relevant.

The Interference-Dependence account applies to the cases as follows. Smith’s act in (1) exemplifies interference. The cousin possesses the good of being alive; there is an act available to Smith by which he could impede the cousin’s possession of that good; if Smith were not to perform that act, the cousin might retain possession of the good of being alive. Jones’ act exemplifies the dependence relation. In (2), the cousin is under a threat of losing a good; there is an act available to Jones by which the cousin would maintain possession of that good; if Jones does not perform that act, the cousin loses the good of being alive. These cases cast doubt on the claim that we have good reason to think there is a morally relevant difference between Smith’s act that interferes with the cousin’s possession of a good and Jones’ act of refraining from providing a good that the cousin depends on Jones to provide.

We have some reason to think the Interference-Dependence account of doing and allowing is not refuted by Rachels’ cases. First consider the cases below. This pair of cases is similar to Rachels’ cases. In this pair the only difference is the difference between killing and letting die. Doing harm is apparently no worse than allowing the same harm. The agent in this pair of cases is Nurse Nick:

(1) Nurse Nick has a very ill patient on his floor. One night Nick enters the patient’s room while the patient sleeps and turns off the
respirator. The patient dies within minutes.

(2) Nurse Nick has a very ill patient on his floor. One night Nick enters the patient’s room intending to turn off the respirator. The heart monitor shows the patient’s heart is about to fail. Nick observes as the patient dies within minutes.

Case (1) is parallel to Rachels’ case in which Smith interferes with the good of the cousin’s being alive. Nurse Nick (1) interferes with the patient’s good of being alive. Case (2) is parallel to Rachels’ case in which Jones’ allows the threat to befall the cousin when the cousin depends on Jones to provide the good of continued living. Nurse Nick (2) could provide the good of being alive to the patient but allows the threat to befall the patient who depends on him to provide the good.

In Rachels’ case of Smith and Nurse Nick (1) if the agent does not perform the action, there could be an outcome in which the patient does not suffer the harm that befalls him by the act the agent performs. The act that the agent performs eliminates the possibility of the agent maintaining possession of a non-distributable good that the patient already possesses. In Rachels’ case of Jones and Nurse Nick (2) the patient is under a threat before the agent can perform an act that would prevent the harm from befalling the patient.

The Smith and Nurse Nick (1) case are cases where the agent eliminates the possibility of the patient doing what he intends with the non-distributable good in his possession. The Jones and Nurse Nick (2) case are cases where the agent does not decrease the range of possibilities the patient has for doing what he intends with the non-distributable good in his possession. In the Smith and Nurse Nick (1) cases the
agent causes the patient to lose what he possesses. In the Jones and Nurse Nick (2) cases the agent causes the patient not to gain. The asymmetric value intuition is applicable to these cases. The asymmetric value intuition and the Interference-Dependence account support my claim that Smith and Nurse Nick (1) perform acts that are worse than Jones and Nurse Nick (2).

The objector could say at this point that I am now arguing in circles. My intuition is that there is a morally relevant difference between what each of Nurse Nick (1) and Smith do by interfering and what each of Nurse Nick (2) and Jones allows by refraining. The objector has a different intuition than I do. It is open to me to offer a psychological interpretation of reasons someone might fail to have the intuition I do about these cases. The ghastliness of Smith’s and Jones’ acts makes it difficult to see the morally relevant difference between them. The objector also can offer psychological interpretations.

Favoring my view is the modesty of RT. RT does not state that the difference between doing and allowing is always morally conclusive. A principle that is always morally conclusive would be a principle that identifies a factor that, in every applicable case, determines the moral status of an action. Moral relevance is a more modest claim than moral conclusiveness. The moral relevance of RT implies that even if both acts are morally wrong, the fact that one of them is an act of doing what brings about harm makes that one worse than the other that allows the same harm.

My response to the objection based on Rachels’ cases is plausible. I think it is probative. Still, my response likely will not seem probative to philosophers who do
not already have beliefs similar to mine. Each of the supports for my beliefs is fallible; I appeal to conjectures and intuitive judgments at key points. I can ask any who disagree with my intuitions and conjectures to refute them by thinking their way out of them. I think they will find it difficult to do.

**Chapter Summary**

I have presented a new Interference-Dependence account of RT and shown how it is related to others in the literature. I have argued that the concepts of dependence and its negation, independence, are the basic concepts from which one can develop plausible, significant concepts of Interference and Dependence that explain doing and allowing. I have acknowledged the difficulty of giving a unified account of commonsense appeals to allowing since allowing\textsubscript{1} and allowing\textsubscript{2} have different causal structures. The minimal claim of the Interference-Dependence account is that doing harm and allowing harm differ in their relevance to moral evaluation. The friend of RT claims that doing harm has greater relevance than allowing harm. I have responded to objections to the minimal claim and the friends’ claim.

I have argued that Kagan overlooks the distinction between distributable and non-distributable goods in his objection to explaining doing harm as interference in the possession of a good. If the fact that some goods are non-distributable provides weightier reasons against interfering in their possession than against interfering in the
possession of distributable goods, then the range in which RT applies might be more limited than claimed by those who think it central to common-sense morality.\textsuperscript{223}

The Interference-Dependence account I have presented is not explicitly deontological or consequentialist. In contrast to the deontologist’s claim that RT is the basis for a moral constraint, I aim to show that RT is compatible with consequentialism. In Chapter 7 I argue that the Interference-Dependence account is consistent with the two core consequentialist principles, maximization and ranking, and that because it is consistent with each, it is compatible with a plausible version of consequentialism and does not serve as the basis for a constraint.

\textsuperscript{223} For instance Foot (1985b; 2002); McCarthy (2000).
Chapter 7: Against the Incompatibility Thesis

Introduction

I claim that there are good reasons to believe that RT is compatible with consequentialism. That is, I deny the Incompatibility Thesis, or IT. IT is as follows:

IT: If RT, then some \( a \) is morally right that does not bring about outcomes at least as good as the consequences of any \( a \) \( S \) can perform.

IT asserts that if doing and allowing are relevant to moral evaluation, as RT states, then some action is morally right that does not bring about an outcome at least as good as any the agent can perform. That is, if the Relevance Thesis is true, then consequentialism is false since the consequent of IT briefly states consequentialism. The core principles of consequentialism are ranking and maximization, so to deny IT we need good reason to think that RT is consistent with both ranking and maximization.

The previous chapter supported the reasonableness of accepting the Interference-Dependence account of doing and allowing. So we can take the antecedent of IT to be true. This chapter is an extended argument that we have good reasons to think the consequent of IT is false even if the antecedent is true. If the consequent of IT is false, then there is no morally right action that does not bring about at least as good consequences as any that the agent can perform. That is, both RT and consequentialism are true. In order to argue against IT, I shall have to defend
a form of SC that I call Act-Value-Adjusted Consequentialism, or AVAC. I shall argue that AVAC is more plausible than its denial.

Section 7.1 argues that AVAC is a plausible consequentialist theory of moral rightness. In 7.2 I show that the Interference-Dependence account of RT is consistent with the AVAC ranking principle. In 7.3 I show that arguments for the claim that RT is inconsistent with the AVAC maximization principle are unpersuasive. These arguments show that RT is detachable from deontological moralities. Taken together, these considerations support the claim that RT is compatible with AVAC.

**7.1. Act-Value Adjusted Consequentialism**

AVAC is the view that the combination of the value of an act and the value of an act’s consequences constitute that act’s *evaluative outcome*. Outcomes are ranked in order of their value, and the highest ranked evaluative outcome is morally right, so AVAC is a maximizing theory. Since AVAC adheres to both ranking and maximization. This makes AVAC a form of SC. AVAC is stated:

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\text{AVAC: For any } a \text{ performed by any } S \text{ in any } C, a \text{ is morally right for } S \text{ in } C \text{ iff (a) } a \text{ is performable by } S; \text{ and (b) } a \text{ brings about at least as good an evaluative outcome as any } a^* \text{ S can perform in } C. 
\]

AVAC is a form of Standard Consequentialism (SC) though it alters SC in some respects. SC is the following:

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\text{SC: An act } a \text{ is morally right iff the consequences of } a \text{ are of at least as great intrinsic value as any other action } a_n \text{ the agent can perform in the circumstances.}^{225}
\]

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224 I argue in Chapter 1 that ranking and maximization are the core principles of consequentialism.

225 SC is based on Moore (1912; 1965), p. 28; Smart (1956), (1973); Sosa (1993); and Carlson (1995).
As SC is usually understood, the consequences of $a$ are the outcome of $a$. The outcome is the total resultant of the act, the states of affairs that depend on the act. The first respect in which AVAC changes SC is that AVAC substitutes the evaluative outcome for consequences. The second respect in which AVAC changes SC is in the object of evaluation. AVAC, being a form of SC, considers the particular act to be the object of evaluation. However, AVAC, unlike some other forms of SC, claims that the general character of an act contributes to its value. When introducing SC, I explained the assumption of particular actions. The assumption of particular actions is that individual acts are the object of evaluation. However, the assumption of individual acts is incomplete because it does not state what it is about individual acts makes them the object of evaluation. One could understand the assumption to mean that the object of evaluation is the individual act and only the consequences the individual act brings about contribute to the moral evaluation of the act. On such a view, an act’s being of a general class is not an independent contributor to its value. Alternatively, one could understand the assumption of individual acts to mean that a general characteristic of the individual act, in addition to the consequences of the act, contributes to its moral status. Individualism about acts, as stated in the first chapter, is the first view. AVAC accepts the second understanding of the assumption of individual acts. According to AVAC, some general characteristic of the act contributes to the value of the act and thus contributes to the evaluative outcome. SC and AVAC both consider the particular act to be the object of evaluation. However, AVAC is the view that some general characteristic of a particular act is contributes to
the value of the act. The first understanding of the assumption of individual acts
denies this.

AVAC differs from SC in that it adds the intrinsic value of the act to the
intrinsic value of the consequences of the act to determine the *evaluative outcome.*
Hence, we should specify that ‘outcome’ has a technical meaning in this argument for
AVAC. AVAC specifies that the value of the act is determined by the *evaluative
outcome.* Some moral philosophers would say that adding the value of the act to the
value of the consequences is to abandon consequentialism for a more generally
axiological theory. There is no arbiter authorized to determine what a consequence is
but the remainder of this section argues that AVAC is a plausible view.

A plausible view is that performing an act $a$ has the consequence that the state
of affairs obtains *that $a$ is performed.* For example, Sam’s *marking the ballot* brings
about the state of affairs *that the ballot is marked.* Again, John’s *killing the dictator*
results in the state of affairs *that the dictator is killed.* Performing $a$ might result in
other states of affairs besides *that $a$ is performed.* For example, John’s *killing the
dictator* results in the state of affairs *that the proconsul wept.* But the last is no bar to
the sense in which $a$-ing results in the consequence *that $a$ is performed.* A particular
‘performance of $a$’ results in the state of affairs ‘*that $a$ is performed.*’ Since the state
of affairs *that $a$ is performed* is a consequence of $a$-ing, *that $a$ is performed* is a
constituent of a state of affairs, can have intrinsic value, and contribute to the total
value of the consequences of $a$-ing.\footnote{This claim requires only that we accept conjunctions of states of affairs, though it does not exclude other combinatory relations.} The evaluative outcome that AVAC substitutes
Recognized consequentialists advance a view like AVAC. G. E. Moore writes: “In asserting that the action is the best thing to do, we assert that it together with its consequences presents a greater sum of intrinsic value than any possible alternative.”227 More recently, William Shaw writes that, “consequentialists take into account whatever value, if any, the action has in itself, not merely the value of its subsequent effects” and Shaw thinks this view is standard consequentialism.228 Unlike Shaw, I can conceive of a form of consequentialism, such as SC, that does not attribute value to the performance of an act, so I distinguish AVAC from standard consequentialism. However, I think AVAC is ultimately more reasonable than its denial. Moore’s and Shaw’s formulations combine the intrinsic value of the act that brings about the consequences with the intrinsic value of the consequences to obtain a total value. That is, Moore and Shaw each assert that consequentialism takes the evaluative outcome as the object of moral evaluation and they deny individualism about acts.

Some consequentialists do not accept AVAC. They suspect that any view that takes into account the value of the act implies or suggests a surreptitious deontology. The deontological view they suspect holds that an act is morally wrong because of the

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227 Moore, (1903; 1993), p. 76. Italics are in the original. This is from Principia Ethica. When Moore states utilitarianism in Ethics he does not distinguish the value of the act from the value of its consequences. This suggests that Moore might endorse the distinction of AVAC as a form of a more general view that he called utilitarianism and I have called standard consequentialism.

nature of the act, regardless of the consequences of the act. The suspicion seems to be that to accept that an act has value independent of its consequences implies a consequence-independent constraint. To allay this suspicion, what is needed is to present reasons for including the values of acts in the evaluative outcome and to show that doing so is not surreptitiously deontological. I present three arguments in favor of AVAC that I think are cumulatively probative. This should allay these suspicions. I argue for these claims first by explaining the structure of AVAC as stated by Moore, second by appealing to an extended example, and third by considering the implications of denying that the values of acts are part of the evaluative outcome.

First, in the passage from *Principia Ethica* quoted above, the combined value of the act and the value of the outcome constitute the evaluative outcome, not the value of the act alone. AVAC asserts the same proposition. The combination of the value of the act and the value of the consequences of the act constitute the evaluative outcome. Moore considers three sorts of cases that satisfy the conditions in the passage quoted above:

(a) If the action itself has greater intrinsic value than any alternative, whereas both its consequences and those of the alternatives are absolutely devoid of intrinsic merit or demerit; or (b) if, though its consequences are intrinsically bad, the balance of intrinsic value is greater than would be produced by any alternative; or (c) if its consequences being intrinsically good, the degree of value belonging to them and it conjointly is greater than that of any alternative.230

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230 Moore (1903; 1993), pp. 76-77.
In each of these cases the combined value of the act and the value of the consequences constitute the evaluative outcome. AVAC makes explicit something Moore leaves implicit: different acts can have different intrinsic values.\textsuperscript{231} Given that acts and outcomes have distinct intrinsic values that can be combined, the three combinations Moore describes are merely the options implied by combining the intrinsic values of an act and its consequences to obtain the evaluative outcome.

In addition to the implications of AVAC as Moore sets them out, a complete explanation of how an act itself has value would give an account of the metaphysics of acts, including the metaphysical category into which acts fall that determines how they have a general character. Moore does not discuss this question and Shaw merely notes that acts are subject to different true descriptions.\textsuperscript{232} Neither do I have a complete explanation of how an act itself has value. Absent a complete explanation of how an act itself can have value, we can ask for considerations favoring the reasonableness of accepting that an act itself has value. The aim is to state the considerations that make the view reasonable with modest metaphysical implications.

Assume the general thesis that the intrinsic value of anything derives from that thing’s nature.\textsuperscript{233} If it is reasonable to believe that an act itself can have value, then we shall have to extend this assumption to acts. We shall have to accept that the value of an act is not determined solely by its effects but that there can be “something

\textsuperscript{231} Moore (1903; 1993), p. 76.
\textsuperscript{232} Shaw, (2006), pp. 6-7.
\textsuperscript{233} Fred Feldman, (1986), p. 29.
intrinsically good in the nature of one action.” Since not all acts are intrinsically good, and intrinsic goodness varies, something in the nature of acts that are intrinsically good varies also. That is, if acts have different intrinsic values, then have different natures. The denial of the claim that acts have different natures is the claim that all acts are of the same nature. This is absurd. The absurdity of the denial is reason to accept tentatively that acts have different natures, and so acts have different intrinsic values.

I suspect that the claim that acts are of distinct kinds with different intrinsic values motivates the suspicion of surreptitious deontology. The inference seems to go like this. When it is claimed that an act has an intrinsic value distinct from the effects of the particular act it seems possible that the intrinsic value of the act is so great that any particular act that possesses that value has its moral status determined by its intrinsic value. That would be inconsistent with SC and with AVAC. Such a worry could motivate the claim that particular acts are the objects of moral evaluation, independent of their membership in a general class.

Erik Carlson’s cautious discussion of actions and their consequences seems motivated by such a worry. Carlson states that consequentialism concerns the moral status of “particular actions” rather than “generic actions.” However, he agrees that particular actions are instances of some more general class: “a particular action is an instantiation of a certain generic action by a certain agent during a certain time-

\footnote{A. C. Ewing (1953), p. 46. I have introduced the modal ‘can be’ here; Ewing does not say whether acts can have intrinsic goodness or must have intrinsic goodness.}
What Carlson calls a ‘generic action’ could be a universal, a relation, or a kind. If multiple particular actions can instantiate a ‘generic action,’ then a generic action is repeatable. If acts have different natures there is something general that can be instantiated in multiple particular acts. Carlson’s term ‘generic actions’ is ontologically neutral between kinds, relations, or universals. However, the relation between generic actions and particular actions that he posits requires some such entity. DT states that the nature of the relation between act and outcome differs in cases of doing and allowing. I have argued that interference and dependence bear different relations to the patient of the act and that difference in relations distinguishes doing from allowing. Relations are repeatable and suit the need for a ‘generic action’ that particular actions instantiate.

It is hard to understand how an act could have intrinsic value, as Moore and Shaw claim, except by instantiating a general feature such as a relation or universal. Assume that two acts $x$ and $y$ have the same intrinsic value, as Moore and Shaw state. Note that this is the claim that $IV(x)$ is identical to $IV(y)$, not the claim that the $x$ and $y$ are composed of parts, each part having the same amount of intrinsic value. If acts are instantiations of generic acts, as Carlson agrees, then any act that instantiates a generic act, a universal, or a relation has the intrinsic properties that define the class of which the particular act is a member. We can say that at least this much is true: the particular act is the object of moral status and one contributor to the value of the act that determines its moral status is its being an instance of a universal, relation, or

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genera. This much is all I need for the modest claim that the natures of acts contribute to their intrinsic value.

The key step to allaying the suspicion that attributing intrinsic value to acts represents creeping deontology is to point out that the evaluative outcome is not due solely to the value of act but to the combination of value of the act and the value of its consequences. That is, a full consequentialist moral evaluation of an act consists of the values of the act as well as the constituents of the outcome other than the act. It is then a matter for investigation whether there is some range of cases in which the intrinsic value of some general kind of act is such that in that range of cases that act merits the same moral evaluation. However, no matter the range of cases in which an act merits the same moral evaluation, AVAC is consistent with the claim that some case outside that range might merit a different moral evaluation, even if an act that instantiates the same relation.\textsuperscript{236} The possibility that an act that instantiates a relation merits a different moral evaluation than a different act that instantiates that same relation retains the openness of evaluating particulars acts required by the assumption of particular acts.

Second, consider an example that conveys the idea of the intrinsic value of an act. Consider two acts of arm-breaking. We can apply the general formula introduced above to each one: \textit{breaking the arm} has the consequence that \textit{the arm is broken}. It is plausible that each act has the same nature. The breaker’s bodily motions are identical in each case. The bone that is broken is broken in the same location on the arm and

\textsuperscript{236} My claim is that it is an \textit{a posteriori} discovery whether for some act-kind there is no case in which a particular act of that kind is morally right. This is inconsistent with the absolutist claim that there are act kinds of which every particular is morally wrong.
the person whose arm is broken experiences the same pain. The two acts of arm-breaking would have the same intrinsic disvalue because each particular arm-breaking instantiates the same properties and relations. That the first arm-breaking brings about a decrease in the number of cat hairs stroked and the second arm-breaking brings about a decrease in the number of starving people who receive food does not alter the nature of the act or the intrinsic disvalue of arm-breaking that derives from its nature. That fewer cat hairs are stroked or that fewer starving people receive food are not intrinsic to the act of arm-breaking. Since fewer starving people receiving food is worse than fewer cat hairs being stroked, the second arm-breaking has a worse total evaluative outcome than the first. However, the disvalue of the state of affairs that an arm is broken is distinct from other consequences the act brings about that contribute to the evaluative outcome. The disvalue of an act of arm-breaking is partly determined by its nature; its total value or disvalue is determined by the combination of the value based on its nature and the values of its consequences.

Now consider a third act of arm-breaking. In a surgical center an arm that has been previously broken, set, and incompletely healed is broken again in order that it can be re-set and heal more completely than when previously set. The surgeon’s bodily motions are identical to the motions of the two previous agents; the arm that is broken is broken in the identical location as the previous broken arms, and the person whose arm is broken experiences qualitatively similar pain as the two persons considered earlier. The surgical act of arm-breaking instantiates the same relations as the previous arm-breakings, so the surgical arm-breaking’s disvalue is the same as the
arm-breakings that bring about the reduction in cat hairs stroked and starving people fed. The total value of the outcome that includes the arm-breaking, the re-setting of the arm, and its more complete healing presumably make the surgical act of arm-breaking morally right whereas the other arm-breakings are presumably morally wrong. However, the intrinsic disvalue of the act of arm-breaking is the same in all three cases.

This leads to the third argument. Consider the denial of the claim under consideration. The claim concerns an act that is being evaluatively ranked, so call it the \textit{ranked act} in what ensues. The claim is that the combination of the intrinsic value of the ranked act and the intrinsic value of its outcome make up the act’s evaluative outcome. One could deny either of the parts but the denial of interest to us is the denial of the claim that the ranked act has an intrinsic value that it contributes to the evaluative outcome. To deny this is to assert that only the values of the consequences of the ranked act have intrinsic value. The consequences of the ranked act might be the causal or counterfactual consequences but the denial entails that these alone determine the value of the ranked act that determines its moral status. This is to say that the value that determines an act’s place in a ranking is entirely extrinsic to the act since causal or counterfactual consequences are extrinsic to the act. I think such a view is implausible and that we should accept that the act contributes distinct value to the evaluative outcome.
These arguments for the claim that an act has intrinsic value seem probative to me. Since acts that have different intrinsic values are of different act-kinds I shall assume that acts are of different natures in what follows.

The plausibility of AVAC suggests an argument for the compatibility of RT and consequentialism. I present this argument starting by arguing for the consistency of RT and the AVAC ranking principle.

**7.2. Consistency with Ranking**

Ranking and maximization principles are the core consequentialist principles. AVAC is a form of SC in which ranking and maximization are also the core principles. Since ranking is a core principle of AVAC, I need to show that the AVAC ranking principle and RT are consistent to support the denial of IT.

Given the previous argument for AVAC, we can assume that different acts can have different intrinsic values. The Interference-Dependence account of RT presented in the previous chapter supports the reasonableness of the claim that the doing-relation and the allowing-relation have different intrinsic values. We can infer that the acts on which the doing-relation and the allowing-relation depend have different intrinsic values. So I assume it in this chapter. If doing and allowing have different intrinsic values, then doing and allowing contribute different intrinsic values to evaluative outcomes. This would enable us to conclude that RT is consistent with the AVAC ranking principle. We can state the argument this way:
(1) If doing and allowing contribute different values to the evaluative outcomes of which they are parts, then the values of doing and allowing contribute different values to the rankings of evaluative outcomes.

(2) Doing and allowing contribute different values to the evaluative outcomes of which they are parts.

(3) Therefore, the values of doing and allowing contribute different values to the rankings of evaluative outcomes.

Premises (1) and (2) are jointly sufficient for the conclusion in (3), that doing and allowing contribute different values to the total values of evaluative outcomes.

Premise (2) follows from applying the AVAC ranking principle to the antecedent of premise (1). A ranking principle orders outcomes from best to worst by the level of intrinsic value of the value-factors in the outcome. The AVAC ranking principle applies to acts as well as to the other constituents of the outcomes of acts. The AVAC ranking principle applies to acts as follows. Let \( a \) be an act. If \( a_1 \) has less intrinsic value than \( a_2 \), and all value-factors of the constituents of the outcomes apart from \( a_1 \) and \( a_2 \) are identical in value, then the outcome that includes \( a_1 \) is morally worse than the one that includes \( a_2 \). This very plausible principle about acts implies premise (2).

If interference in the possession of a good contrary to the intentions of the good’s possessor is a constituent of the outcome that makes an outcome worse, an outcome in which interference occurs is worse than an otherwise identical outcome from which interference is absent. If other value-factors are the same, then the outcome in which interference occurs is worse than the outcome from which interference is absent. The Interference-Dependence account supports the relevance of doing and allowing to moral evaluation, not the conclusiveness of doing and allowing to moral evaluation. In some circumstances it is better to interfere in the
possession of a good contrary to the intentions of its possessor than not to do so. The Interference-Dependence account does not claim that the difference between doing and allowing is morally conclusive or overriding. If other value factors in the two outcomes under comparison are not identical, it is possible that an outcome in which allowing occurs has a total value that makes it worse than an outcome in which doing occurs. The circumstances of a depressed person who intends suicide are circumstances where it is better that one act contrary to the intentions of the depressed person with regard to the good of their continued living than act in accord with their intentions. However, such examples do not imply that the difference between doing and allowing is irrelevant, only that the difference between doing and allowing is not conclusive. The modest claim of relevance is that the intrinsic value of a state of affairs that includes an act that interferes in the possession of a good contrary to the intentions of good’s possessor is worse than the intrinsic value of a state of affairs in which interference does not obtain. The modest claim of relevance is very reasonable.

Now consider the claim of the friend of RT, that doing harm is worse than allowing harm. Since interference in the possession of a good without regard for the intentions of the patient who possesses the good reduces the patient’s level of well-being, there is good reason for evaluating acts of interference as worse than acts that do not interfere. AVAC is a consequentialist theory in which the value of the act contributes to the evaluative outcome. Since the value of the act is determined at least in part by the act’s nature, the value of the act as an act of interfering or an act that fails to interfere contributes to the value of the act. The value of the act contributes to
the rank of the evaluative outcome. So the Interference-Dependence account is consistent with the AVAC ranking principle.

Some questions remain unanswered. I pointed out in the last chapter that the asymmetric value intuition does not state the magnitude by which losing is worse than not gaining. However, it does suggest that a reasonable consequentialist ranking principle attributes greater value to an individual losing a good she already possesses than not possessing that good. The AVAC ranking principle does not tell us the magnitude of the difference by which losing is worse than not gaining, either. However, my aim is to show that the AVAC ranking principle is consistent with RT, and this argument does so. Consistency with the ranking principle alone does not show that RT and AVAC are compatible. To show they are compatible, we also need to show that RT is consistent with the maximization principle. The magnitude by which losing is worse than not gaining is considered when I suggest considerations against inconsistency with maximization.

7.3. Against Inconsistency with Maximization

In 7.2 I showed that the Interference-Dependence account of RT is consistent with the AVAC ranking principle. I considered the claim made by the friend of RT that doing harm is worse than allowing harm. I did not take up the deontologist claim that RT grounds a consequence-independent moral constraint. The deontologist’s claim is inconsistent with maximization because maximization that the act is morally
right whose consequences have the greatest value. But a deontologist is committed to a consequence-independent constraint: some consideration independent of consequences that determines moral rightness. In 7.3 I consider arguments for IT based on the claim that RT is inconsistent with the maximization principle. The arguments for inconsistency do not show that RT is the reason for the inconsistency, and therefore do not give reason to accept IT. Given that RT is consistent with the ranking principle and the failure of arguments that RT is inconsistent with maximization, we have reason to think that IT is false.

Both consequentialists and non-consequentialists claim that RT is inconsistent with maximization. I show that representative arguments fail to establish inconsistency. If these arguments fail to establish inconsistency, we have good reason to think that RT is detachable from deontological moralities and compatible with consequentialism.

Philippa Foot’s Argument

Philippa Foot argues for the inconsistency of RT and maximization. Foot argues that RT is incompatible with both relatively simple welfarist utilitarian theories and a complex consequentialist theory, namely Amartya Sen’s rights-consequentialism. I distinguish welfarism and rights-consequentialism before responding to Foot’s argument for the inconsistency of RT and maximization.

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237 Or, an act whose consequences are at least as great as any other act performable by the agent in the circumstances, in case of acts whose outcomes are of equal value.

238 See Foot (1985; 2002).
Welfarism, Rights-Consequentialism, and RT

Consequentialists differ about what things are good. The maximization principle states that the morally right act maximizes the good but, to know what to maximize, we need to know what things are good. Foot considers two theories of what is good, welfarism and rights-consequentialism. Foot notes the widely accepted incompatibility between RT and welfarism, the theory that moral rightness is determined solely by the welfare-ranking of the outcomes that an act brings about.239 To limit consequentialist theories to welfarist theories of value is to consider only one version of consequentialism. To Foot’s credit, she considers other theories of the good. Let’s distinguish welfarism and rights-consequentialism.

The sort of welfarist theory Foot considers states that the goodness or badness of an outcome is determined solely by rankings of welfare values in the outcome. A welfare value represents the level of welfare of an individual. A welfarist evaluation of an outcome is obtained by aggregating the welfare values of each individual in the outcome. In crude welfarist theories, the aggregative function is simply the sum of the individual welfare values, without allowance for multiplicative or distributive effects. It is also common, though not necessary, to construe individual welfare rankings solely in terms of the subjective states of the individuals present in the outcome. Foot does not distinguish crude welfarist theories from more sophisticated welfarist theories. Sophisticated welfarist theories might be able to respond to Foot’s objections but it is useful to focus first on crude theories for two reasons. First, crude

conceptions of welfarist utilitarianism are widely thought to be representative of consequentialism and provide the motive for rejecting all consequentialist theories. Although this is conjectural on my part, there is some evidence to support my conjecture.\(^{240}\) Second, more sophisticated forms of welfarism have features similar to objective theories of value, such as assigning value to the separateness of each life, which gives the sophisticated theories resources to respond to objections based on distributive requirements.\(^{241}\) RT is inconsistent with crude welfarism. Crude welfarism implies that individual welfare values are additive and that the identity of the individual who possesses welfare is irrelevant to the value of the outcome.\(^{242}\) Any version of RT is inconsistent with this claim. Foot acknowledges this result, and proceeds to ask whether maximization based on a pluralist value theory is consistent with RT.

Foot argues that RT is inconsistent with maximization even if one substitutes a “pluralist” value theory for a welfarist value theory. Such a substitution yields a theory whose structure is consequentialist but whose ranking principle includes the value of features that many subjective welfarist theories exclude. Foot takes Amartya

\(^{240}\) My conjecture is based on this evidence. First, in conversations with non-philosopher applied ethicists I have noted they are familiar with crude forms of welfarist-utilitarianism but not more sophisticated forms. Second, Railton (1984), p. 148, considers an objective axiology a minority position and subjective state theories the dominant position among consequentialists.

\(^{241}\) For a sophisticated theory that assigns value to the separateness of lives, see John Broome’s *Weighing Lives* (2004), Chapter 8.

\(^{242}\) See Shoemaker (1999). The denial that the identity of the bearer of value is of value is the point of Sen and Williams (1982), p. 4, description of utilitarianism as the view that persons are merely “the locations of value.” See Broome (2004) and Peterson (2007) for arguments that utilitarianism or consequentialism is compatible with conceptions of value in which the identity of the individual who is the bearer of value is of value.
Sen’s rights-consequentialism to represent pluralist theories of value.243 Although Foot takes Sen’s rights-consequentialist theory to represent pluralist value theories, rights are not central to her argument. Her argument against pluralist theories of value targets the supposed inconsistency of maximization and RT. The fact that Sen’s theory incorporates rights is not what Foot alleges to be the source of the inconsistency.

Sen’s theory is consequentialist and it incorporates ranking and maximization. It takes the ranking principle to rank outcomes and explains the moral status of acts by the rankings of the outcomes acts bring about. Sen’s theory prescribes a maximizing principle for evaluating moral rightness. It is not a welfarist theory because it claims that rights violations are constituents of outcomes and that rights violations are intrinsically bad independent of individual welfare values. Rights violations contribute to the goodness or badness of the states of affairs regardless of whether a rights violation increases or decreases any individual welfare value. Since Sen’s theory combines individual welfare rankings and the values of rights violations in the outcomes of acts, it is a pluralist theory.

Foot’s consideration of rights consequentialism is not a change of subject from doing and allowing because she links of doing and allowing closely to rights. She states that doing and allowing are linked to rights because doing harm violates a positive right and allowing harm violates a negative right.244

243 See Sen (1981). I have shortened the name of Sen’s theory from ‘goal-rights consequentialism’ to ‘rights consequentialism.’ See Nozick (1974), pp. 28-29, for a brief summary of a view similar to rights consequentialism, which he calls a “utilitarianism of rights.”
244 See Foot (1967; 1978) and (1985; 2002).
We do not need to consider a full theory of rights to understand Foot’s conception of the links between doing and allowing and rights. It is enough to note that a right is a moral constraint against performing some sort of act even if performing a particular act of that sort would maximize well-being. Rights theorists commonly hold that rights claims are consequence-independent or consequence-indifferent constraints on action because rights violations are considered morally wrong despite the value of the consequences of an act that violates a right. Sen’s theory differs from usual rights theories. In Sen’s theory, rights are not consequence-independent constraints. Rather a rights violation is one factor among others that contributes to the evaluative outcome of an act. Sen’s theory adds the negative value of a rights violation to the total evaluative outcome. Any rights violation that occurs in bringing about an outcome contributes some amount of negative value to the outcome the act brings about. When the negative value associated with the rights violation is added to values of the other bearers of value of the outcome, the value of the rights violation lowers the ranking of the evaluative outcome. If the value assigned to rights violation is large enough, then rights-consequentialism avoids the objection that consequentialism permits or requires rights violations in order to bring about the best outcomes.

Foot argues, however, that rights-consequentialism cannot avoid all such objections. In particular, Foot argues that incorporating the values of rights violations in outcomes does not resolve the inconsistency between RT and maximization. So RT is incompatible with consequentialism.
Her objection to rights-consequentialism is stated explicitly in terms of doing and allowing rather than rights. She writes:

The theory [rights consequentialism] fails, however, to accord with common morality in the verdict it implies in a special range of cases having to do with the causal interaction of one agent with another. Suppose, for instance, that you threaten (reliably) to kill or torture several people if I do not kill or torture one. Then it may be that by doing one of these actions I can lessen the total number done; and it would follow in such a theory that whatever weight of badness is given to this kind of action it could be my duty to do it. We can therefore see no amendment of utilitarianism which retains its consequentialism can get away from the following implication: that there is nothing so bad that it cannot be done to prevent others from doing more things of the same kind.245

The sort of case Foot describes is one where agent \( J \) threatens to do harm \( h \) to patients_2,_,6 unless \( K \) does the same harm \( h \) to patient_1. By hypothesis, the harm to each of patients_1,_,6 is of equal value. Rights-consequentialism implies that it is morally right for \( K \) to harm patient_1 because the outcome, whose constituents include fewer harms of the same value than if \( J \) harms patients_2,_,6, is less bad. The values of the harms are multiplied if \( J \) acts, so the obligation falls on \( K \) to do what harms patient_1. Foot asks us to contrast an act of doing harm \( h \) where \( h \) has value \( n \) with multiple acts of allowing \( h \) where each \( h \) also has value \( n \). Rights consequentialism implies that since allowing would result in an outcome in which the total harm is \( 5n \) and killing would result in an outcome in which the total harm is merely \( n \), it is morally right that \( K \) should kill patient_1. Maximization implies that moral judgments based exclusively on the goodness or badness of the resultant states of affairs “allow no distinction

between what an agent does himself and what he allows others to do.”246 However, Foot defends commonsense morality that says doing is worse than allowing, so it would be morally worse for $K$ to kill patient$_1$. Foot does not mention rights when discussing the case but analyzes it in terms of what $K$ does or allows, killing patient$_1$ rather than allowing the deaths of patients$_2$–$6$.

**Responding to Foot’s Maximization-Inconsistency Argument**

I discuss three points regarding Foot’s argument for the inconsistency of maximization and RT. Taken together, they provide good reason to reject Foot’s argument that RT is inconsistent with maximization.

The first point is that she states without criticism the view that it would be permissible for $K$ to kill patient$_1$ if the alternative were for $K$ to allow the loss of a great enough good. Although Foot does not explicitly endorse this view, she thinks it is more acceptable than “the more obviously bizarre proposition that any net increase in ‘goodness’ over ‘badness’ in the total outcome would do” to justify $K$ in killing the one.247 That is, Foot asserts

(a): that it is permissible for $K$ to kill if a great enough good were at stake; without criticizing (a) and asserts that (a) is more acceptable than

(b): that it is permissible for $K$ to kill for any net increase of value.

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247 Foot (1985; 2002), p. 94. Foot’s statement suggests the case W. D. Ross deployed against ideal utilitarianism in *The Right and the Good*. See Ross (1930), pp. 34-35. Ross claims that if a consequentialist agent knew that 1,001 units of goodness would result from breaking a promise but only 1,000 would result from keeping a promise, the agent is required to break the promise. Joel Kupperman (1981) argues against Ross that there are good consequentialist reasons to keep promises in the case Ross envisages.
Foot’s assertion of (a) implies that RT, as she construes it, is not the sort of moral constraint on killing for the sake of the good that the deontologist seeks.\textsuperscript{248} The deontologist seeks a consequence-independent constraint, which asserts that there are “things which we must not do, however much good we might bring about.”\textsuperscript{249} Foot’s failure to exclude the alternative of killing patient\textsubscript{1} for the sake of a great good suggests that she thinks RT is not the basis of a consequence-independent constraint. This point is not telling since it is merely \textit{ad hominem}. However, the fact that Foot, who is friendly to RT and largely responsible for bringing RT to the attention of contemporary philosophers, does not seem to think that RT implies a consequence-independent constraint, favors my claim that RT is detachable from a deontological morality.\textsuperscript{250}

A second point supports my claim that RT is detachable from a deontological morality. I shall make the point by comparing Foot’s view in the first point above with an explicit deontological view. Distinguish Foot’s view from that of Frances Kamm, who explicitly defends a deontological morality. Defenders of deontological moralities often appeal to factors they think are will support a consequence-independent constraint as Kamm does. But it is difficult to believe that RT supports a consequence-independent constraint.

\textsuperscript{248} A consequentialist could appeal to an agent-relative theory of value to avoid this implication. Foot considers and rejects an agent-relative theory of value. I agree with her that agent-relative theories of value are implausible.

\textsuperscript{249} Charles Fried (1978), p. 3. Anscombe, (1958; 1981), p. 34, writes that “certain things are forbidden whatever consequences threaten.”

\textsuperscript{250} This is not to suggest that Foot is friendly to consequentialism, however.
Recall the discussion of the Interference-Dependence account and the adequacy test in Chapter 6. In considering the Interference-Dependence account of RT and the adequacy test I discussed the difference between Trolley and Transplant. One difference between the cases is that there is greater probability of the harm befalling the five before the agent can prevent the harm in Trolley than in Transplant. This difference holds at the actual world but it is possible to conceive of other worlds where it does not hold. Consider $w$, at which the difference does not obtain, and at which there is no difference in the probability of the harm befalling the five in either case. Call the version of Transplant in $w$, where the probability of harm is the same as the probability of harm in Trolley, Transplant*. A defender of IT might claim that the possibility of $w$ shows that the difference between Trolley and Transplant is not morally significant since our moral judgments differ in the two cases, so RT is incompatible with consequentialism even if consequentialists adopt AVAC.

Kamm states an objection similar to the objection stated above against Judith Jarvis Thomson’s appeal to causal differences to justify different judgments in Trolley and Transplant. Kamm writes: “One of my qualms about Thomson’s solution to the Trolley Problem is just that it does justify cutting up people in transplant cases in other worlds on the same ground that turning a trolley is sometimes justified in this world.” Kamm goes on to claim that an acceptable moral theory should have the result that taking $T$’s organs is morally wrong in every world, so that taking $T$’s

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251 See Chapter 6.2.
252 Kamm (1992), pp. 374-375. Italics found in the original.
organs is not permitted in *Transplant*. Since Kamm is objecting to Thomson’s theory, I shall not discuss her response in detail. Kamm’s objection illustrates an actual objection of the sort I have stated on behalf of the defender of IT. Kamm, like many defenders of RT, think a consequence-independent constraint is required to support the desired conclusion in *Transplant*.

I think the defender of IT who makes this sort of objection is mistaken. The defender of IT might be mistaken for one of two reasons. First, it might be thought that there are no possible worlds where the probability of the five dying is the same in both *Trolley* and *Transplant*. That is, it might be that *Transplant* is impossible. This is dubious. Making small changes to *Transplant* over a number of cases would yield *Transplant*. So, consider the second reason the defender of IT might be mistaken. In worlds where the probability of the five people dying is the same and our moral judgment about *Transplant* differs from our judgment about *Trolley*, it is not a constraint based on RT that justifies our judgment.

The Interference-Dependence account says that the difference between doing and allowing is the difference between interfering in the possession of a good contrary to the intentions of its possessor and not so interfering. It is plausible that the Interference-Dependence account applies to *Transplant*, and that the Interference-Dependence version of RT is relevant to moral evaluation in *w* where *Transplant* occurs. Even if the probability of the five dying of organ failure is the same as the probability of the five dying from the trolley crash, it is plausible that the difference between interference and non-interference obtains in *Transplant*. The Interference-
Dependence account is not deontological. It is consistent with the consequentialist ranking principle, as shown in the previous section. Further, it is detachable from the deontological understanding of rights as consequence-independent constraints. Commonsense morality probably judges taking the person’s organs in *Transplant* to be impermissible, just as in *Transplant*. The Interference-Dependence account of RT is consistent with this commonsense judgment without appealing to consequence-independent constraints. However, the theory of rights that Foot supports takes rights as consequence-independent constraints, unlike Sen’s theory. This leads to my third point in response to Foot’s argument.

The third point about Foot’s argument is that rights-consequentialism retains the maximization principle and the right-consequentialism sometimes implies that it is morally right for agents to do what commonsense morality judges morally wrong. However, RT is not the reason maximization is inconsistent with commonsense moral judgments in Foot’s argument. Foot asserts that RT is linked with rights so that doing harm violates a positive right and allowing harm violates a negative right. There is no argument to show that doing harm implies rights violations or to show that rights violation is the reason doing harm is morally wrong. The Interference-Dependence account of doing harm presented earlier in this chapter is not a rights-based theory. Nor is the causal theory advanced by Vihvelin and Tomkow.\textsuperscript{253} The source of the inconsistency in Foot’s argument is a particular theory of rights as consequence-independent constraints, which differs from the view of rights as constituents of outcomes in Sen’s theory. The Interference-Dependence account of RT does not

\textsuperscript{253} In fact, Vihvelin and Tomkow think it an advantage that their account does not appeal to rights.
imply that rights are consequence-independent constraints. Nor does RT imply that rights are consequence-independent constraints. If RT does not imply a consequence-independent constraint, then RT is detachable from deontological moralities.

I have considered Foot’s argument for the inconsistency of maximization and RT, even when a sophisticated value theory such as rights-consequentialism is adopted. First, Foot thinks the view that doing harm is justified to avoid the loss of some great good is more acceptable than the view that doing harm is justified to avoid the loss of any good. This is consistent with RT being detachable from a consequence-independent morality. It appears that the Interference-Dependence account supports the commonsense view that taking T’s organs is morally wrong in *Transplant*. Since the Interference-Dependence account is not a deontological account, if it is true that the Interference-Dependence account has this implication, it shows that a non-deontological account implies judgments consistent with commonsense morality. Finally, RT does not imply the view of rights that Foot assumes, of rights as consequence-independent constraints. Thus, Foot’s argument does not establish that RT is inconsistent with the maximization principle.

**Kagan’s Extremist’s Argument for Incompatibility**

Shelly Kagan’s basic claim in *The Limits of Morality* is that commonsense morality contains three propositions that are inconsistent when taken together. To support the basic claim, he argues for the Incompatibility Thesis based on the maximization principle. However, the claim that RT is consistent with the AVAC maximization principle is not refuted by Kagan’s argument.
The Basic Claim

Kagan’s argument for the basic claim takes up three propositions of commonsense morality asserted by the ‘moderate.’ The moderate responds to the ‘extremist’ who argues that the three propositions form an inconsistent triad. The three propositions are:

1. In every choice, there is a *pro tanto* reason to promote the good.
2. Agent-centered options apply to some range of choices.
3. Constraints prohibit agents from choosing some acts even if performing those acts would maximize the good.254

Proposition (1), the *pro tanto* reason to promote the good, is representative of maximizing consequentialism.255 The moderate argues that RT resolves the alleged inconsistency. That is, the moderate argues for the compatibility of RT and the *pro tanto* reason to promote the good, which stands in for consequentialism. The extremist responds with counter-arguments to show that RT is inconsistent with the *pro tanto* reason to promote the good. Since the *pro tanto* reason to promote the good represents maximizing consequentialism, we can understand the extremist to argue that RT and maximization are inconsistent, so RT and consequentialism are incompatible.256

Let us explain why proposition (1), the *pro tanto* reason to promote the good appears to be inconsistent with RT. Notice that the reason to promote the good is present in every choice. Thus, any choice is a choice in which the agent should

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254 These are my versions of the three propositions. For Kagan’s see Kagan (1989), pp. 3-4 and pp. 15-19.
255 I do not discuss propositions (2) and (3) since IT concerns only proposition (1).
256 Kagan says *The Limits of Morality* provides an “indirect argument” for consequentialism. His authorial intent is to endorse that argument.
choose what promotes the good. To promote the good is usually understood to imply
that the agent is required to choose what brings about the greatest good overall.
Kagan considers this a sort of impartiality in the requirement to promote the good.
Proposition (1) leaves no choice in which an agent might choose what is in the
agent’s interest rather than what is impartially good. The impartiality implies that the
pro tanto reason to promote the good applies to all agents as well as to all choices by
an agent. Impartiality implies that the considerations that make a particular action
satisfy the pro tanto reason to promote the good are reasons that apply to any agent to
do the same in those circumstances. So, according to the extremist, the pro tanto
reason to promote the good is maximizing, the reason applies to all choices, and the
reason applies to all agents. The pro tanto reason to promote the good is maximizing,
while it appears that RT implies that some non-maximal outcome is morally right.

Kagan’s extremist represents a maximizing form of consequentialism. Kagan
does not discuss the peripheral principles discussed in Chapter 1: individualism,
directness, and act-focus. However, the alleged inconsistency between RT and the
pro tanto reason to promote the good must be based on inconsistency with one of
these three principles or with maximization.

I shall argue that the Interference-Dependence account is not inconsistent with
the AVAC maximization principle, and AVAC permits us to understand the other
features in plausible ways that avoid inconsistency with RT. So AVAC avoids the
inconsistency the extremist alleges.
The Argument for Inconsistency with Maximization

Kagan considers an account similar to the Interference-Dependence account the best account of DT and RT available to the moderate. In Kagan’s view, the moderate’s purpose in distinguishing permissible acts of allowing from impermissible acts of doing is to provide reasons that outweigh the pro tanto requirement to promote the good in some range of cases. Kagan thinks this involves a constraint and aims to show that “the problems that face erecting constraints” based on RT cannot be overcome. He understands the concept of a constraint as a consequence-independent consideration that makes an action morally wrong. He concludes that the problems of basing a constraint on RT show that RT is incompatible with the consequentialist (or extremist) challenge in the basic argument.

Assuming the Interference-Dependence account of DT, the moderate needs to show that the difference between doing and allowing gives an agent reason to override the pro tanto reason to promote the good. If reasons based on the Interference-Dependence account of RT outweigh reasons based on the pro tanto requirement to promote the good, then the moderate must show that a constraint based on RT prohibits doing harm even if more good would be brought about by doing harm than by allowing the same harm. Here the moderate’s argument confronts the maximization principle. If the moral requirement based on the pro tanto

257 See Chapter Five and Six, Interference-Dependence Accounts. Note that the Interference-Dependence account I give is not the one Kagan considers and my account is intended to avoid Kagan’s objections.
reason to promote the good were a non-maximizing requirement, then the moderate would not be required to show that a constraint that prohibits doing harm must override the pro tanto reason even in cases where doing harm would bring about a better outcome. A non-maximizing requirement to promote the good could be overridden in the absence of a consequence-independent constraint.

Kagan thinks the moderate, however, is required to defend a constraint that relies on “the appropriate sorts of facts” about the agent and his or her action. Kagan does not fully describe the “appropriate sorts of facts” that would ground a constraint. However, Kagan specifies the sort of facts he intends to this extent: “For the countenanced outcome to be of special moral concern for an agent, the right sort of linkage between agent and outcome must exist, or be in the offing.” Kagan thinks the idea of “the right sort of linkage” requires a constraint on doing harm based on the badness of interference in the patient’s wellbeing. He objects that although the linkage between act and outcome that obtains in the doing-relation might provide some sort of reason that such linkage cannot be basis for a constraint. Kagan’s argument for this point is highly compressed, so I shall separate the strands of the argument.

The sorts of facts that require an agent to avoid doing harm are facts that result in a distinct relation between the agent and the occurrence of the harm. In cases of allowing, the distinct relation between the agent and the occurrence of the harm does not obtain. If these facts were shown to be present in cases of doing and absent

in cases of allowing, they would provide the moderate with reasons for saying that
different choices are required of the agent in doing than allowing. The moderate could
give reasons of the sort given in the Interference-Dependence account: it is worse to
interfere in a patient’s possession of a good than to allow a patient to lose that good
by some process that is not attributable to the agent. In Kagan’s terms, the reasons
provided by dependence are not as strong as the reasons provided by interference.

Kagan argues against the moderate’s view. He begins by noting that even if
the agent “need not take an interest in harms he merely allows,” the absence of a
requirement that the agent take an interest in harms allowed does not prohibit the
agent from taking such an interest. It is permissible for the agent to take a moral
interest in harms the agent allows, although it is not required that the agent take an
interest in the harms he allows. Kagan infers that if it is permissible for the agent to
take an interest in the harms allowed, then the agent has “a justification for doing
harm when it is necessary to prevent greater harm.” Given the care with which
Kagan distinguishes reasons for action from decisive reasons that ground a
requirement, it is fair to understand “a justification for doing harm” in the quoted
sentence to mean that the agent is justified in doing harm to prevent greater harm.
That is, it is morally permissible, though not morally required, for the agent to do
harm to prevent greater harm.

Let’s make the objection concrete with a familiar case. S faces a credible
threat from T that if S does not kill Ann, T will kill Benny and Cheryl. The moderate

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claims that the facts that link $S$ to killing Ann are reasons for a constraint against killing Ann despite the fact that killing her is the means to a greater good, prolonging two lives rather than one. The moderate says there is some fact about this act that supports a constraint against killing Ann that is not present in the act of allowing $T$ to kill Benny and Cheryl. The extremist objects that the difference in the causal facts between killing Ann and allowing the killings of Benny and Cheryl do not ground a constraint against $S$ doing something, killing Ann, to prevent the killings of Benny and Cheryl, which both agree results in a worse state of affairs than only Ann being killed. Kagan’s infers from the permissibility of taking an interest in preventing a worse harm that if $S$ chooses to do what prevents the greater harm, the killings of Benny and Cheryl, that $S$ has a justification for killing Ann. If $S$ has a justification for killing Ann, then $S$ has a reason that requires $S$ to kill Ann. If $S$ has a reason that requires $S$ to kill Ann, then it is not the case that there is a constraint on doing harm to prevent a greater number of the same harms.

The moderate seeks reasons for a constraint on killing Ann but the extremist argues that any constraint must appeal to reasons about the goodness of the outcomes of the acts of killing Ann or allowing $T$ to kill Benny and Cheryl. The extremist appears to assume individualism about acts as the object of evaluation. Individualism about the object of evaluation is the view that particular actions are the object of evaluation and the consequences of particular actions are the only factors included in the evaluation of the particular act. The extremist’s objection is telling if we assume individualism about acts. Individualism about acts asserts that we evaluate only the
particular act by the value of its consequences. Individualism does not take account of
the value of the act of interfering by which $S$ would bring about the outcome, a value
I have argued is based on the act’s general character of instantiating a certain relation.

AVAC departs slightly from individualism about acts and, as I have argued
above, is more plausible than its denial. AVAC supports the conclusion that it is
morally worse to kill Ann than to allow $T$ to kill Benny and Cheryl. But AVAC is not
a constraint; AVAC includes different values in the outcome than the extremist’s
version of consequentialism. With AVAC, we can show that RT supports the
conclusion of the moderate, or commonsense morality, but do not need to based a
constraint on RT, as Kagan claims.

Consider the difference that AVAC makes when considering this case. If $S$
were to kill Ann, the evaluative outcome would combine the badness of Ann’s death
and the badness of the act of killing, which interferes with a good she possesses
independently of $S$. $T$’s killing Benny and Cheryl is a process that is not attributable
to $S$, so if $S$ refrains from killing Ann, $S$ allows $T$ to kill Benny and Cheryl. Since we
are evaluating the actions $S$ can perform in the situation, we are evaluating the choice
between (i) $S$ interfering with Ann’s possession of the good of being alive and (ii) $S$
refraining from providing a good to Benny and Cheryl. What is attributable to $S$ is the
interference in Ann’s possession of the good if $S$ chooses (i) or refraining from
providing a good to Benny and Cheryl if $S$ chooses (ii). The killings of Benny and
Cheryl, the interference in their possession of the good of being alive, are not
attributable to $S$ if $S$ chooses (ii).
AVAC incorporates Bentham’s axiom, which states that it is worse to lose than not to gain. S faces a choice between making Ann lose life or allowing Benny and Cheryl not to gain by S’s refraining. Neither AVAC nor Bentham’s axiom tells us the magnitude by which losing is worse than not gaining. However it is plausible to think that it is at least twice as bad to make someone lose as to allow someone not to gain. If so, then AVAC and the Interference-Dependence account of RT give a result for the familiar case that is consistent with commonsense morality without appeal to a consequence-independent consideration, a constraint. If I am right about that Kagan assumes individualism about acts, then Kagan’s argument shows that RT is inconsistent with some maximization principle, but not with the AVAC maximization principle.

I have argued that the extremist assumes individualism about acts. Individualism about acts consists of two claims, that individual acts are the only apt objects of evaluation and only the consequences of individual acts determine their value. I have argued only that the second claim of individualism is false, and that an act’s being a member of a sort or instantiating a relation contributes to the value of performing the act. I have preserved the focus on individual acts but adopted a more plausible conception of what contributes to the value of an act than the view the extremist assumes.

Kagan has not given us reason to think the consequentialist maximization principle necessarily is inconsistent with the Interference-Dependence account of RT. Only the extremist view about individualism regarding objects of evaluation and
static consequentialism are inconsistent with the Interference-Dependence account of RT. This argument for IT is not persuasive.

**Chapter Summary**

This chapter has introduced AVAC, and argued that it is a plausible form of consequentialism. I then argued that the Interference-Dependence account of RT is consistent with the AVAC ranking principle. I considered arguments for IT that try to show that RT is inconsistent with consequentialist maximization principle. However, when considering the Interference-Dependence account of RT and the AVAC maximization principle, these arguments were not persuasive. Perhaps some other account of RT and some other version of consequentialism are incompatible but those considered imply implausible claims such as Kagan’s extremist’s individualism about acts or the denial of AVAC. Foot’s argument for IT also fails to persuade because RT is not the reason for the inconsistency in her account. Rather, her conception of rights as consequence-independent constraints yields the incompatibility.

The argument in favor of consistency of the Interference-Dependence account of RT and the AVAC ranking principle and the failure of arguments for inconsistency of RT and the AVAC maximization principle give us good reason to think that IT is false. They do not provide conclusive reasons, since we have not considered all arguments for IT. However, we have considered arguments from both a defender and a critic of consequentialism, and we have considered arguments based on the sort of case that is widely thought to imply IT.
Chapter 8: Conclusions

“It is a strange notion that the acknowledgement of a first principle is inconsistent with the admission of secondary ones.”266
- John Stuart Mill

Propositions and Accomplishments

Throughout this dissertation I have been concerned with the four propositions stated at the outset. The Difference Thesis (DT), the Relevance Thesis (RT), Standard Consequentialism (SC), and the Incompatibility Thesis (IT) structured my inquiry into the reasonableness of commonsense moral judgments that appeal to doing and allowing and whether those judgments are compatible with consequentialism. The claim that doing harm is morally worse than allowing harm, and results in an outcome having a total worse value, given that all other factors that affect the value of the outcome are the same, clarifies the Relevance Thesis. The claim that doing and allowing are relevant to moral evaluation makes a modest claim for the commonsense concepts. The relevance of doing and allowing does not imply that they are conclusive or overriding considerations. The Interference-Dependence account explains the difference between doing and allowing by the relation of the action to the patient’s possession of a good, and appeals to the goodness of possessing what is intrinsically good to explain the harms associated with interference.

I then considered IT and the deontologist’s claim that RT is the basis for a consequence-independent constraint on doing harm. The Interference-Dependence account of doing and allowing is explicitly non-deontological, so the denial of IT

depends on the reasonableness of a form of consequentialism that recognizes that value can accrue to acts. I defended the reasonableness of a specific form of consequentialism, Act-Value-Adjusted-Consequentialism, or AVAC, in which the value of the act is combined with the value of the act’s consequences to obtain an evaluative outcome. I then argued that AVAC is compatible with the Interference-Dependence account. The compatibility of AVAC and the Interference-Dependence account implies the falsity of the Incompatibility Thesis.

There are several accomplishments of my dissertation related to these propositions and claims. The first accomplishment is simply stating and clarifying these various propositions and claims. Given that they are sometimes not well distinguished in the literature on doing and allowing, stating and clarifying each of them is itself of value to inquiry into basic moral theory. The second accomplishment is showing it is reasonable to accept DT and RT, and explaining the Interference-Dependence account. Defending the reasonableness of accepting RT responds to an argument of some deontologists. These deontologists claim that there is no reasonable account of RT, so we should appeal to theories of rights as consequence-independent constraints in support of our moral judgments.267 The third accomplishment is showing that we have support for the claim the friend of RT makes for the relevance of doing harm to moral evaluation. The fourth accomplishment is showing that we have good reasons to think that IT is false, which implies that it is reasonable to believe that RT is compatible with some form of consequentialism. Not only is it reasonable to accept the friend’s claim about RT but it is reasonable to do so without

267 See Draper (2005) for a version of this argument.
being committed to the deontologist’s claim. If IT is false and we can accept the
friends claim, then there is reason to accept some version of the doing-allowing
distinction found in commonsense morality.

Given these accomplishments, my dissertation supports the view that it is
reasonable to accept a moral principle considered distinctive of commonsense
morality without also accepting a deontological morality. This is a reason to think that
consequentialism is the correct morality. One need not endorse what Mill might call
the “strange notion” that accepting consequentialism is incompatible with the
intuitively appealing difference between doing and allowing.

**Promising Features**

The Interference-Dependence account of RT has several particularly
promising features. I shall discuss three of them in conclusion.

The combination of cases like *Transplant* and *Trolley* presents a difficulty for
any form of RT and the Interference-Dependence account shows promise of resolving
this difficulty. Many think that the commonsense moral judgment that it is morally
wrong to cut up the bystander to take his organs should be found wrong in every
possible world, no matter how much the case is changed to make it similar to cases
where commonsense moral judgments say it is permissible to kill, such as *Trolley*.
Since most consequentialist accounts fail to imply this claim, many defenders of
commonsense morality believe that only a consequence-independent constraint is
consistent with this commonsense moral judgment. However, the Interference-
Dependence account shows promise of implying judgments about cases that are
consistent with commonsense moral judgments, even in cases like *Transplant*. I haven’t shown conclusively that the Interference-Dependence account extends to such cases, but I have shown it is plausible to think so, and that it is worth investigating whether it does so. The Interference-Dependence account of RT is non-deontological; it implies conclusions about cases like *Transplant* that are consistent with commonsense moral judgments about the case, based on the consequences of performing the act envisaged, without appealing to a deontological constraint.

Second, the account I have presented has the resources for a plausible response to a challenge about doing and allowing. Assuming the usual intent of RT, that doing harm is worse than allowing harm, it might seem obvious that what I shall call a parity requirement implies that doing benefit and allowing benefit merit parallel but opposite moral evaluations. A parity requirement would state that if doing harm is worse than allowing harm by some factor, then doing benefit is better than allowing benefit by the same factor. Say, for example, that allowing harm $h$ has the value $n$ and doing $h$ has the value $2n$. Then, parity would imply that allowing $h$ not to occur has the value $m$ and doing what prevents $h$ has the value $2m$.

Kagan pronounces it a “mystery” that the moderate friend of RT cannot show why the parity requirement does not apply. That is, if doing and allowing harm merit different moral evaluations, then the failure to explain why doing and allowing benefit do not merit opposite parallel moral evaluations to doing and allowing harm is a failure to be reasonable. Kagan thinks the moderate fails this requirement and considers this failure a bar to reasonable support of RT. Not only objectors to RT, like

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Kagan, but also supporters assume parity. Jeff McMahan states that once we have an account of DT that works for doing and allowing harm, we can generalize to an account of doing and allowing benefit in a straightforward way. McMahan is confident it would not be difficult to satisfy the parity requirement.

The Interference-Dependence account of RT cannot be generalized in the straightforward way McMahan anticipates and Kagan thinks is reasonable. The Interference-Dependence account of RT does not satisfy the parity requirement. I know of no account of doing and allowing that does satisfy the parity requirement. I know of no claim that commonsense morality satisfies the parity requirement. In the face of widespread failure to satisfy the parity requirement and the criticism of supporters of RT for failing to satisfy the parity requirement, we should ask if there are reasons to think the parity requirement is incorrect or inapt.

I argued in Chapter Six for the distinction between distributable and non-distributable goods. I have also argued that RT is best seen as a moral principle that applies to non-distributable goods. Non-distributable goods are those goods that cannot be transferred from one person who possesses them to another person. So, some goods are goods with which the possessor has a relationship that no one else has. That relationship is the basis for the presumption that an individual knows best how what to do with the goods he or she possesses.

If the possessor of the good of being alive is related to that good in a way that no other person is, then there are things the possessor can do to that good or know about that good that others cannot do or know. It might be that possessors of a good

or can do or know more easily than others can do. So, if Al possesses the good of being alive, Al has a relation to that good that Bert does not have. Bert can harm Al by interfering with Al’s possession of that good. But any way that Bert can benefit Al is not by interfering with Al’s possession of that good. Bert can benefit Al by preventing some threat from coming to pass and interfering with Al’s possession of the good of being alive; Bert can benefit Al by providing Al with some distributable good that allows Al to maintain possession of the good of being alive. If Al is starving Bert can give him food; if Al possesses the skill of playing the lute, Bert can provide Al with the good of a lute-string so that Al can experience the pleasure of playing a Baroque-era lute composition. But Bert cannot exercise the skill of playing the lute for Al. Only Al can exercise his skill at lute playing. There is an asymmetry in our possibilities for doing harm and benefit.

There might be some cases in which an agent can perform an act that provides a patient with a non-distributable good that would constitute interference, and so would do benefit. So I do not say there are no cases in which an agent can do benefit to a patient in the same sense in which an agent can do harm to a patient. What seems plausible to me is that the instances in which an agent can do harm outnumber the instances in which doing benefit is possible. It is more often possible to benefit one another by providing some good than it is to do benefit in the way that one can do harm.

That there is an asymmetry in the sorts of harms and benefits we can do is plausible. This asymmetry would explain why commonsense morality does not
satisfy the parity requirement. One result of this response to the parity requirement is that RT appears to apply to a more limited scope of cases than some supporters of commonsense morality think. RT seems especially to apply to non-distributable goods; it is unclear if it also applies to distributable goods.

There is a promising feature of the theory of value to which I appealed in response to Shelly Kagan’s extremist’s argument against the Interference-Dependence. The theory of value to which I appealed is a development of Thomas Hurka’s recursive theory of value. According to the recursive theory, there are base goods, such as knowledge, pleasure, and achievement that have intrinsic value, and contribute to the value of states of affairs in which they occur. In addition to the base goods having intrinsic value, Hurka argues for a recursive notion that promotive attitudes toward the base goods are also intrinsically good. Promotive attitudes are attitudes that promote the increase of the base goods and decrease of base evils. So, if knowledge is a base good, then the attitude of loving knowledge is also intrinsically good.270

I have argued that the recursive relation of promotive attitudes also holds for the possession of intrinsic goods. That is, if being alive is intrinsically good, then possessing the good of being alive is intrinsically good. If experiencing pleasure is intrinsically good, then possessing one’s body and mind so as to experience pleasure is intrinsically good. It is intrinsically bad to interfere in the possession of the intrinsic good of being alive, by killing. If it is intrinsically good to experience pleasure, then it

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270 See Hurka (2001). I have labelled these attitudes ‘promotive attitudes,’ not Hurka.
is intrinsically bad to interfere in the intrinsic good of experiencing pleasure by assault and torture.

I have argued that the mere possession of something that is intrinsically good is also intrinsically good. If this is so, then the possession of something intrinsically good is a reason not to interfere. These are underdeveloped ideas about intrinsic goods and the claim that possessing an intrinsic good is itself intrinsically good. They seem to fit naturally with the Interference-Dependence account of doing and allowing.
Abbreviations

APQ: American Philosophical Quarterly.
JVI: Journal of Value Inquiry.
PPA: Philosophy and Public Affairs.
PPQ: Pacific Philosophical Quarterly.
PPR: Philosophy and Phenomenological Research.
PQ: The Philosophical Quarterly.
PR: Philosophical Review.
PS: Philosophical Studies.


Peterson, Martin. 2007. Are Persons Mere Containers for Well-Being? American Philosophical


