

Killing, Letting Die, and Withdrawing Aid*

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INTRODUCTION

The concepts of killing and letting die are not evaluatively neutral. Yet their use, while reflecting certain moral beliefs, is nevertheless governed primarily by empirical criteria. This is in part because they both exemplify broader categories that are clearly defined largely if not exclusively in nonmoral terms. Thus killing is an instance of *doing*, or directly causing an event to occur, while letting die is an instance of *allowing* an event to occur. Because our use of the concepts of killing and letting die is both largely governed by empirical criteria and expressive of certain moral beliefs, the uncovering of the empirical criteria is particularly important. For, since the empirical criteria determine a way of applying the concepts that we recognize as having moral significance, it seems that the criteria themselves must have moral significance. Mapping our use of the concepts helps to reveal the contours of commonsense morality. Discovering the criteria for their use helps to reveal the deeper foundations of that morality.

One of the aims of this article is to contribute to the identification of the empirical criteria governing the use of the concepts of killing and letting die. I will not attempt a comprehensive analysis of the concepts but will limit the inquiry to certain problematic cases—namely, cases involving the removal or withdrawal of life-supporting aid or protection.¹ The analysis of these cases will, however, shed light on the criteria for distinguishing killing and letting die in other cases as well.

My overall aims in the article are partly constructive and partly skeptical. I hope to advance our understanding of the nature of the

* I have been greatly helped in writing this paper by comments on earlier drafts by Heidi Malm, Shelly Kagan, Michael Gorr, and Nancy (Ann) Davis and by discussions with Robert McKim.

1. I will use the terms 'withdrawal' and 'removal' interchangeably. Later, however, on p. 256, I will draw a distinction that might be articulated by distinguishing between withdrawing and removing (see n. 15 below).

distinction between killing and letting die. This, I believe, will enable us to defend the moral relevance of the distinction against certain objections—in particular, objections that claim that the distinction fails to coincide with commonsense moral intuitions. Yet I will suggest that, as we get clearer about the nature of the distinction and the sources of its intuitive appeal, it may seem that the intuitions it supports are not so well grounded as one could wish.

WITHDRAWING AID

Let us assume, as I have suggested, that the distinction between killing and letting die exemplifies the broader distinction between doing and allowing. How should the broader distinction be analyzed? Perhaps the most influential analysis is the one advanced by Philippa Foot. Focusing specifically on doing harm and allowing harm to occur, Foot contends that the relevant distinction is between, on the one hand, initiating a threatening sequence of events or keeping it going and, on the other hand, allowing a threatening sequence that is already in train to continue.² She then distinguishes further between two ways of allowing an existing sequence to continue, one of which involves “forbearing to prevent” the sequence from continuing while the other involves “the removal of some obstacle which is, as it were, holding back a train of events.”³

Two points about Foot’s analysis should be noted. First, Foot’s distinction does not coincide with the distinction between action and inaction, or that between action and omission. She notes that “the first kind of allowing requires an omission, but there is no other general correlation between omission and allowing, commission and bringing about or doing.”⁴ This, I believe, is right—at least as regards the claim that there is no correlation between allowing and inaction. Consider the following example.

The Aborted Rescue.—Two persons are in the water when one begins to drown. The other attempts to haul the drowning man to shore but the latter, in a panic, begins to claw and encumber his rescuer in a way that threatens to drown him as well. To extricate himself from this peril, the erstwhile rescuer has to push

2. Philippa Foot, “The Problem of Abortion and the Doctrine of Double Effect” in her *Virtues and Vices* (Oxford: Basil Blackwell, 1978), p. 26. Also see her “Morality, Action, and Outcome,” in *Morality and Objectivity*, ed. Ted Honderich (London: Routledge & Kegan Paul, 1985), p. 24, and “Killing and Letting Die,” in *Abortion: Moral and Legal Perspectives*, ed. Jay L. Garfield and Patricia Hennessey (Amherst: University of Massachusetts Press, 1984), pp. 178–80.

3. Foot, “The Problem of Abortion and the Doctrine of Double Effect,” p. 26.

4. *Ibid.*

the drowning man off and swim away from him while the drowning man goes under.

The erstwhile rescuer clearly does not kill the other man when he leaves him to drown. He merely lets him die, or fails to save him (for there was some possibility that, had he continued to try, he might have succeeded in saving him). Yet in order to allow the drowning man to die, the erstwhile rescuer had to *do* something—namely, actively prevent the drowning man from trying to save himself at his rescuer's expense.⁵

The second noteworthy point is that Foot believes that the distinction between killing and letting die exemplifies her broader distinction only imperfectly. For she believes that there are certain cases in which one kills by allowing a threatening sequence to continue. The example she cites is:

The Involuntary Donor.—One has been involuntarily hooked up to a patient with a normally fatal disease who can survive only if he continues to draw life-support from one's body for a number of months. If one removes the tubes connecting one's body to his, he will die. One removes the tubes.⁶

Since what the agent does in this case is to withdraw a barrier that stands in the way of the patient's death, Foot's distinction implies that this is a case of allowing harm to occur. Thus she describes it as a "refusal to save a life."⁷ Yet she also says that the agent who removes the tubes kills the patient who is thereby removed from his source of life-support. But this, she writes, shows only "that the use of 'kill' is not important: what matters is that the fatal sequence resulting in death [i.e., the disease] is not initiated but is rather allowed to take its course."⁸

Since, however, this is a case in which, according to Foot's own distinction, the agent allows the patient to die, Foot here commits herself to the position that the agent both kills the patient and allows him to die—indeed, that the agent kills the patient by allowing him to die. I believe that this is a mistake. To refuse to save a life is not normally to kill. The exceptions are cases in which the act of killing has the death of the victim as a delayed effect which the agent could prevent during the period between the performance of the act and the occurrence of the effect, but does not. In cases of this sort, in

5. See the similar case presented by H. M. Malm in her "Killing, Letting Die, and Simple Conflicts," *Philosophy and Public Affairs* 18 (1989): 254–55.

6. This is the well-known case introduced by Judith Thomson as an analogue of abortion in "A Defense of Abortion," *Philosophy and Public Affairs* 1 (1971): 47–66. Foot's reference to it is on pp. 184–85 of "Killing and Letting Die."

7. Foot, "Killing and Letting Die," p. 184.

8. *Ibid.*, p. 185.

which the victim requires saving because of something the agent has previously done, the agent both kills the victim and allows him to die—both kills him and fails to save him from the effect of the earlier act. Clearly, however, the case of the Involuntary Donor is not a case of this sort. If it is—as it certainly seems to be—a case of allowing the patient to die from a preexisting threat, then it is not also a case of killing. I suspect that Foot acquiesces in the claim that the agent in this case kills the patient because removing the tubes is an *act* that leads immediately to the patient's death. Thus, if we ignore the background conditions, this seems more like a killing. But, as we have just noted, Foot herself is aware that there are cases in which one can let another die only by vigorous action that results immediately in the person's death.

One critic of Foot's distinction is Warren Quinn, who argues that the distinction between action and inaction has a critical role in defining the broader distinction of which the distinction between killing and letting die is one exemplification. "Harmful positive agency," he writes, "is that in which an agent's most direct contribution to the harm is an action, whether his own or that of some object [that he intends to manipulate for some purpose]. Harmful negative agency is that in which the most direct contribution is an inaction, a failure to prevent the harm."⁹ Quinn then goes on to suggest that certain cases may require "special amendments" to his definitions, citing as the only examples cases involving "the active *withdrawal* of aid."¹⁰ Of these he writes that "harm comes to someone because you decide to act rather than to do nothing."¹¹ Thus it seems that, by his definitions, one's agency must be positive in these cases since one's most direct contribution to the harm is an act rather than inaction. But his next sentence is: "But because your action is a certain kind of withdrawing of aid, it naturally enough seems to count as negative agency." This seems right: intuitively, one's agency *is* negative in at least some of these cases.

How can Quinn's definitions be modified to accommodate these cases? As noted, Quinn mentions these cases in the context of conceding that the definitions may require "special amendments." But the amendments are never made and the cases are left hanging as counterexamples that cannot obviously be accommodated without giving up the basic idea behind Quinn's way of drawing the distinction. Certain cases of actively withdrawing aid seem to present a fundamental challenge to all accounts of the relevant distinction, such as Quinn's, that focus essentially on the distinction between doing and not doing, or action and inaction.

9. Warren S. Quinn, "Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing," *Philosophical Review* 98 (1989): 301–2.

10. *Ibid.*, p. 302.

11. *Ibid.*, p. 303.

How, then, is the relevant distinction to be drawn? Is Foot's analysis the right one? I believe that it too is defective and that, like Quinn's proposal, it is undermined by cases involving the active withdrawal of aid or protection from a threat. Consider:

Respirator.—A person is stricken with an ailment that would normally be fatal but is given mechanical life-support to sustain him until the condition can be cured. While the patient is on a respirator, his enemy surreptitiously enters the hospital and turns the machine off. The patient dies.¹²

Since the agent in this case simply removes a barrier that is, as it were, holding death at bay, his action falls on the negative side of Foot's distinction. It counts as allowing harm to occur rather than doing harm. If we believe, with Foot, that her distinction marks an intuitively morally important difference, then I think that we must conclude that it misclassifies this case. If we believe, as I have suggested we should, that the distinction between killing and letting die exemplifies the broad distinction that she is trying to capture and derives its moral significance from that broader distinction, then Foot's distinction classifies *Respirator* as a case of letting a patient die and suggests that there is a presumption that the agent's action is less objectionable than it would be in an otherwise comparable case involving killing. But it is more natural to describe this as a case of killing; and we certainly evaluate it as such.¹³

Another case of this sort is:

Burning Building.—A person trapped atop a high building that is on fire leaps off. Seeing this, a firefighter quickly stations a self-standing net underneath and then dashes off to assist with other work. The imperiled person's enemy is, however, also present and, seeing his opportunity, swiftly removes the net so that the person hits the ground and dies.

12. Compare Shelly Kagan, *The Limits of Morality* (Oxford: Oxford University Press, 1989), p. 101.

13. In fairness to Foot, it should be noted that she focuses (in "The Problem of Abortion and the Doctrine of Double Effect") her initial discussion on the contrast between doing and allowing in the first of her two senses—i.e., allowing as "forbearing to prevent." *Respirator*, however, is a case involving allowing in her second sense—allowing as "enabling." Thus, if her claims about the contrast between doing and allowing were restricted to comparisons between doing and allowing in the first sense, *Respirator* as a counterexample might miss its target. But in the later paper ("Killing and Letting Die," p. 185), she contends that the agent's action in *Involuntary Donor* is "completely different" from normal instances of killing since "the fatal sequence resulting in death is not initiated but is rather allowed to take its course." Since *Involuntary Donor* is a case involving enabling rather than forbearing to prevent, this passage shows that she intends her claims about the contrast between doing and allowing to apply to both forms of allowing.

Here too Foot's distinction implies that the agent merely allows his enemy to die by removing a barrier to a threat. Yet again it seems more natural to describe this as a case of doing harm rather than allowing harm to occur—of killing rather than letting die—and we certainly evaluate it as such.

It is significant that the cases that resist assimilation into the categories established by both Foot's and Quinn's distinctions are all cases involving the active withdrawal of aid or protection against a threat. Foot's distinction locates all such cases on the negative side of the divide, classing them as instances of allowing harm to occur or, in cases in which the harm is death, as instances of letting die (provided, of course, that I am right that the distinction between killing and letting die exemplifies the broader distinction). Yet at least some of these cases seem to belong on the positive side; they are cases of killing rather than letting die. Quinn agrees with the implications of Foot's distinction, saying that cases of withdrawing aid should be classified as instances of negative agency. Yet his distinction seems to class them all as instances of positive agency. Other writers have, moreover, thought that they *should* be classed as instances of doing harm rather than allowing harm to occur, or as cases of killing rather than letting die. Frances Myrna Kamm, for example, explicitly claims that "a case in which one removes a barrier to the cause of death [is] a killing, not a letting die."¹⁴

A review of the cases we have considered so far should convince us that all of these views are mistaken. For some cases of withdrawing aid or protection are cases of killing, while others are cases of letting die. As we have just noted, the agent's withdrawal of the patient's life-support mechanism in *Respirator* seems a clear instance of killing, as does the agent's removal of the protective net in *Burning Building*. By contrast, the rescuer's withdrawing his aid to the drowning man in the *Aborted Rescue* is uncontroversially an instance of letting die. And, though this may seem less obvious, disconnecting oneself from the patient for whom one has been involuntarily providing life-support is also best understood as allowing the dependent patient to die of the disease from the effects of which one has been protecting him (albeit involuntarily).

What is the basis of our classing some of these cases as killings and others as instances of letting die? One suggestion is that whether an act of withdrawing aid or protection counts as killing or letting die depends on whether the barrier to death that one removes is a barrier that one has oneself provided. Thus it might be argued that, in general, if one withdraws a barrier that protects a person from death, one's

14. Frances Myrna Kamm, "Harming, Not Aiding, and Positive Rights," *Philosophy and Public Affairs* 15 (1986): 310, n. 5.

action counts as letting the person die if the barrier is one that one has oneself interposed or provided, whereas it counts as killing if the barrier was not interposed or provided by oneself.¹⁵ If, in other words, one temporarily intervenes to block a threat and then withdraws, one simply allows the threat to continue, thereby allowing its victim to die. Withdrawing one's own previous aid or protection simply nullifies one's initial intervention: the net effect is tantamount to nonintervention (apart from any benefit that the initial intervention may have provided). But to remove a barrier that exists independently of anything one has done is totally unlike nonintervention. While in many cases it may be infelicitous to characterize action of this sort as creating a threat, since the threat already exists but is blocked, it is relevantly like the creation of a new threat in that the victim would have been entirely safe independently of any intervention by oneself.

I believe that this suggestion is on the right track. It gives what seem to be the right descriptions in the Aborted Rescue, Involuntary Donor, Respirator, and Burning Building cases. Nevertheless, it is, as it stands, too crude. For consider:

The Pipe Sealer.—An earthquake cracks a pipe at a factory, releasing poisonous chemicals into the water supply. Before a dangerous amount is released, a worker seals the pipe. But a year later he returns and removes the seal. As a result, numerous people die from drinking contaminated water.¹⁶

In this case the worker removes a barrier or protection against a threat that he himself has provided. Yet clearly he does not merely allow the victims to die but instead kills them. Thus the suggested ground for distinguishing between cases involving the withdrawal of aid or protection must be refined.

It seems that what makes the pipe sealer's action an instance of killing is that, although he removes a protection that he himself has provided, the barrier that he has created was both complete and self-sustaining, requiring no further contribution from him in order to keep the threat at bay. Indeed, because the barrier he interposed was operative, complete, and self-sustaining, it may seem appropriate in this case to say that the threat was not merely blocked but eliminated.

15. One might articulate this suggestion by drawing a distinction between withdrawing and removing. Withdrawing might be understood as a subspecies of removing in that removing aid, protection, or, more generally, a barrier counts as an instance of withdrawing only if the agent who removes the aid, protection, or barrier is also the agent who provided it. Given this understanding of the terms, the suggestion in the text is that, while withdrawing life-supporting aid or protection counts as letting die, all other instances of removing life-supporting aid or protection count as killing. I have not adopted this use of the terms in the text because the dictionary recognizes a sense of withdrawing such that one can withdraw what one has not oneself provided.

16. I owe this case, and the objection it raises, to Heidi Malm.

If so, his action in removing the barrier he interposed may be said to have created a new threat rather than merely unblocking or releasing an existing threat. In this respect his action is analogous to that of a person who rescues a drowning man from the water but then throws him back—a clear case of killing, in contrast to the action of a person who merely abandons an attempt at rescue, as in the Aborted Rescue.

Now contrast the case of the Pipe Sealer with a variant of the classic tale of the little Dutch boy.

The Dutch Boy.—A little Dutch boy, seeing that the dike is beginning to crack, valiantly sticks his finger in the crack to prevent the dike from breaking and flooding the town. He waits patiently but after many hours no one has come along who can help. Eventually succumbing to boredom and hunger, the boy withdraws his finger and leaves. Within minutes the dike bursts and a flood engulfs the town, killing many.

Whereas it seems clear that the pipe sealer causes rather than merely allows the poisonous chemicals to be released into the water supply, it is equally clear that the Dutch boy merely allows rather than causes the town to be flooded. Thus, while the pipe sealer kills the victims of the poison, the Dutch boy merely lets the inhabitants of the town die, or allows them to be killed. Yet both remove or withdraw a barrier that they themselves have provided. The difference seems to be that, while the barrier provided by the pipe sealer is complete and self-sustaining, the protection provided by the Dutch boy is, when withdrawn, still in progress and requires further and indeed continuous contributions from the boy to be sustained. This suggests that the original proposal should be refined in the following way: when an agent withdraws aid or protection from a lethal threat that he has not himself provided, or when he withdraws aid or protection that he has provided but which was complete and self-sustaining, his action counts as killing; but when an agent withdraws aid or protection that he himself has provided but which requires further contributions from him to be effective, then his action counts as letting the victim die.

This way of distinguishing between different instances of withdrawing aid or protection appears to follow our general sense of linguistic propriety in classifying instances of doing and allowing rather than merely following our moral intuitions about the different examples. Thus the pipe sealer does not allow the poisons to escape but instead releases them, whereas the Dutch boy does not cause the flood but merely allows it to occur. The same descriptions would be appropriate even if each's action were expected to have good consequences rather than bad. Yet this proposal yields the intuitively correct classifications of all of the cases so far considered. In Respirator and Burning Building, each agent removes a barrier that was provided by someone else and

each seems intuitively to be guilty of killing. In Pipe Sealer, the agent removes a barrier that he himself has provided but which was complete and self-sustaining; he too seems to be guilty of killing. But in the cases of the Aborted Rescue, the Involuntary Donor, and the Dutch Boy, each agent withdraws aid or protection that he has himself provided but which is in progress and requires more from the agent to be finally effective. In these cases it seems clear that the agents merely allow people to die and are not guilty of killing.

OPERATIVE AND AS-YET-INOPERATIVE AID

The proposed way of distinguishing among cases of withdrawing aid or protection seems thus far to account quite well for our intuitions about how certain cases should be classified. There is, however, a further range of cases to which the proposal may not seem to apply or to which, if it does apply, it may seem to give the wrong answers. Consider, for example, the following case cited by Jonathan Bennett:

The Impoverished Village.—One is threatened with a 10% loss of income but can recover this sum by pressing a claim against a trust fund. If one does not press one's claim, the fund will be used to save the lives of people in a remote impoverished village. One presses one's claim.¹⁷

In Bennett's view, the agent's action in this case falls on the positive side of the relevant positive-negative distinction, which he draws in a way that is different from the proposals of Foot and Quinn. According to Bennett, if an event occurs because one has moved one's body in one of the few ways that would have resulted in the occurrence of that event, one is positively instrumental in its occurrence. If, by contrast, most of the ways in which one could move one's body at a given time would all result in the occurrence of some event, and if one moves one's body in one of those ways, then one is negatively instrumental in the occurrence of the event. Bennett claims that, with few exceptions, killing involves positive instrumentality, while letting die involves negative instrumentality.¹⁸

17. Jonathan Bennett, "Morality and Consequences," in *The Tanner Lectures on Human Values*, vol. 2, ed. S. McMurrin (Salt Lake City: University of Utah Press, 1981), p. 89.

18. Bennett's exceptions are "positive lettings die, such as letting a climber fall to his death by cutting his rope, or letting a terminal patient die by unplugging his respirator," and "negative killings, such as killing your baby by not feeding it. . . . In these cases," he claims, "the very same conduct is both a killing and a letting die" (*ibid.*, p. 70). As will become evident, I would challenge the first and third of these classifications. It is perhaps revealing that it seems implausible to class the agent's action in *Impoverished Village* as an act of killing.

Bennett argues that comparing Impoverished Village with another, similar case shows that the broader positive-negative distinction is devoid of moral significance. The other case is:

The Impoverished Village 2.—If one were to donate 10% of one's income one could save the same number of lives in the same village. One does not do this.

Since in Impoverished Village 2 one is negatively instrumental in the deaths of the villagers (i.e., one lets them die) while one is positively instrumental in their deaths in Impoverished Village, there should be a detectable moral difference between one's action in the two cases if the positive-negative distinction is morally significant. But Bennett contends that there is no discernible moral difference. To emphasize the point, he presents one further instance of positive instrumentality:

The Impoverished Village 3.—Having given one's accountant full power of attorney, one learns that because of a misunderstanding he is preparing to sign away 10% of one's income to be sent to the village. One phones to instruct him not to do it.¹⁹

Again, although Impoverished Village 2 and Impoverished Village 3 differ with regard to Bennett's positive-negative distinction, it is hard to believe that there could be an important moral difference between them.

This same form of argument appears in the more recent work of Shelly Kagan.²⁰ Kagan is concerned to attack the idea that there is a special constraint against doing harm that does not apply to allowing harm to occur. He presents a series of cases intended to show that the constraint against doing harm prohibits forms of behavior that commonsense morality accepts as permissible—an especially damaging form of objection. Beginning with a case in which it seems plausible to suppose that doing harm is forbidden, he progresses by a series of seemingly trivial alterations to cases in which it seems that what the agent does is permissible. Here is the series of cases.²¹

Abdul.—Food is being sent to the starving inhabitants of a remote village but Abdul intercepts the supplies and steals them.

Abdul 2.—A check that can be used to buy food is on its way to the village but Abdul intercepts and steals the check.

Abdul 3.—Abdul himself writes a check and mails it to the village. Later, however, he intercepts the check and tears it up.

Abdul 4.—Abdul writes a check for the village and gives it to a friend to mail. A moment later he changes his mind and asks the friend to return it to him.

19. *Ibid.*, p. 91.

20. Kagan, *The Limits of Morality*, pp. 106–11.

21. *Ibid.*, pp. 106–7.

In each of these cases, Kagan claims, Abdul does something that prevents aid from reaching its intended beneficiaries. He interferes in a sequence of events in such a way that people die who would not otherwise have died. He therefore violates the constraint against doing harm. Yet commonsense morality holds that what Abdul does in Abdul 3 and in Abdul 4 is permissible. Thus, Kagan concludes, the idea that there is a constraint against doing harm is excessively restrictive and cannot account for our intuitions.

Bennett's argument depends on the assumption that the agent's action in both Impoverished Village and Impoverished Village 3 is properly located on the positive side of the relevant distinction—that is, that his action is an instance of doing harm, or killing. Similarly, Kagan's argument depends on the assumption that Abdul's action in both Abdul 3 and Abdul 4 counts as doing harm. How does the way I have proposed of drawing the relevant distinction classify these cases? In each of these cases, the agent withdraws aid that he has himself provided (for even in Impoverished Village the money in the trust fund rightfully belongs to the agent); yet the aid seems to be self-sustaining, since no further action on the part of the agent is required for the aid to block the threat that the starving villagers face. Thus in each case the villagers would not die if the agent were simply to drop dead. These considerations suggest that my distinction counts these cases as instances of killing and that it is correct to do so.

This, however, would be a mistake. Intuitively, the agent in each of these four cases (i.e., Impoverished Village, Impoverished Village 3, Abdul 3, and Abdul 4) seems merely to let the villagers die. In each case there is an antecedent threat to the victims the existence of which is independent of any action by the agent. The agent then initiates a process that, if continued, would eventually block or eliminate the threat. But before this process intervenes to eliminate the threat, the agent acts to abort it. Intuitively we regard this as an instance of allowing a preexisting lethal threat to continue—that is, as an instance of letting die. It is true that, in this case, the agent does begin to intervene to eliminate the threat but then withdraws his intervention before it becomes effective. But, while stopping oneself from intervening may be an active form of nonintervention, it *is* a form of nonintervention. In more figurative terms, preparing a barrier to interpose between onrushing death and its potential victim but then withdrawing the barrier before it blocks death's path amounts to no more than allowing death to pass.

I believe that the way I have proposed of drawing the relevant distinction captures this. For, while in each of these cases the villagers do not depend on further *action* by the agent, they do depend on further aid or protection from the agent, for the aid that the agent has provided has not yet become operative. These cases should therefore

be classed with the earlier cases involving withdrawing aid that I have identified as cases of letting die, and for the same reason: namely, that the victims are still dependent for their survival on aid from the agent that the agent fails to provide. The unifying thought here is this: if a person requires or is dependent for survival on further aid from or protection by an agent, and if the person dies because the agent fails to provide further aid or withdraws his own aid either while it is in progress or before it becomes operative, and if the agent is not causally responsible for the person's need for aid or protection, then the agent lets the person die.

The distinction that I have drawn therefore yields what I believe is the intuitively correct classification of the cases cited by Bennett and Kagan involving the withdrawal of one's own as-yet-inoperative aid. Since these cases turn out to be cases of letting die, they do not, as Bennett and Kagan claim, undermine the claim that the relevant positive-negative distinction is morally significant. Rather, they undermine the ways in which Bennett and Kagan believe that the distinction should be drawn. Or, to be more precise, they show that the distinctions on which Bennett's and Kagan's arguments depend do not coincide with the distinction that that underlies our commonsense moral intuitions.

It might be suggested, as an alternative to my proposal, that it is whether aid is operative or as-yet-inoperative that determines whether the withdrawal of aid counts as killing or letting die and that who has provided the aid that is withdrawn is irrelevant. Focusing on whether the aid is operative or inoperative might be thought to restore plausibility to the distinction proposed by Foot, since it might be held that, while to remove operative aid is to create a threatening sequence where none existed, to remove as-yet-inoperative aid is to allow a threatening sequence to continue.²² I believe, however, that matters are more complicated than this. For there are cases involving the withdrawal of operative aid that are clearly cases of letting die and cases involving the withdrawal of as-yet-inoperative aid that are clearly cases of killing. The cases of the Aborted Rescue, the Involuntary Donor, and the Dutch Boy are all cases of the former sort, while Burning Building is an example of the latter.

What does seem true is that, if aid or protection against a lethal threat is both operative and self-sustaining, withdrawing it appears to count as killing irrespective of whether the person who withdraws it is also the person who provided it. But, when aid that is as-yet-inoperative is withdrawn, it seems to make a difference to whether this counts as killing or letting die whether the person who withdraws it is also the person who provided it. Thus compare Burning Building with:

22. This was suggested by Heidi Malm.

Burning Building 2.—A person trapped atop a high building that is on fire leaps off. Seeing this, a firefighter quickly stations a self-standing net underneath. But he then immediately notices that two other persons have jumped from a window several yards away. He therefore repositions the net so that it catches the two. The first jumper then hits the ground and dies.

In this case, it seems absurd to say that the firefighter kills the one; rather, he merely allows him to die. A similar contrast is evident in the comparison between, on the one hand, Abdul and Abdul 2 and, on the other, Abdul 3 and Abdul 4.²³

In cases in which aid is operative but ongoing rather than self-sustaining, it is less clear that it matters whether the person who withdraws the aid also provided it, but there is some support for the claim that it does. Consider:

The Involuntary Donor 2.—The same as Involuntary Donor except that it is a person who wanders in off the street who removes the tubes so that the patient dies.

and

The Dutch Boy 2.—The same as Dutch Boy except that it is the Dutch boy's father, annoyed because his son is late for dinner, who yanks the boy's finger out of the dike.

In both of these cases the agent who terminates the aid or protection is not the person who has been providing it. And in both it seems natural to say that the agent kills the victims rather than merely allowing them to die.

It seems, therefore, that various factors are relevant in determining whether an instance of withdrawing aid or protection from a threat counts as killing or letting die. Among these are whether the person who terminates the aid or protection is the person who has provided it, whether the aid or protection is self-sustaining or requires more from the agent, and whether the aid or protection is operative or as yet inoperative. Thus matters are already quite complex. In the next section, I will introduce further complications.

PROBLEM CASES

It might be objected that Burning Building and Burning Building 2 do not differ only with respect to whether the person who terminates the aid is also the person who provided it. For in Burning Building the agent acts with malice and intends the death of the victim, whereas the agent in Burning Building 2 is motivated by reasons of beneficence to move

23. It is not clear that in the first two cases Abdul kills the villagers. He may neither kill them nor let them die, perhaps because the causal connection between his action and their deaths seems too remote to warrant the claim that he kills them.

the net and does not intend the death of the victim. Comparable claims might be made with regard to the comparison between Involuntary Donor and Involuntary Donor 2. And this may suggest that our inclination to class Burning Building and Involuntary Donor 2 as cases of killing is not a response to a way in which these cases differ from their counterparts in terms of a broader distinction between doing and allowing but simply reflects a tendency to label as killing any acts with lethal consequences of which we strongly morally disapprove.

Some theorists have, indeed, held that in some cases our moral beliefs directly determine whether the withdrawal of a barrier to death counts as an instance of killing or letting die.²⁴ But, while I concede that our moral intuitions do exert an influence on our classificatory impulses, I believe that this is an influence that should be resisted. For there is a distinction between killing and letting die which, like the broader distinction it exemplifies, is based on nonmoral criteria—though it nevertheless has moral significance. Because the distinction normally has moral significance, we are disposed to identify particularly objectionable instances of letting die as acts of killing. But this is a result of our failure to bear in mind that the relevance of the distinction between killing and letting die may sometimes be overshadowed by other factors (e.g., when a letting die that is intentional and malicious is compared to a killing that is a side effect of benevolently motivated action) or that there may be contexts in which the distinction between killing and letting die lacks its normal significance.²⁵ (I will return to these matters in the penultimate section.)

Having said this, I am aware that there is a challenge that remains to be met. It is based on such cases as the following:

Burning Building 3.—A person trapped atop a high building that is on fire leaps off. Seeing this, a firefighter quickly stations a self-standing net underneath and then dashes off to assist with

24. Anthony Wozzley, e.g., claims that “I allow something to happen if I do not put in the way an obstacle which would prevent its happening or if I remove an obstacle which is now preventing its happening” (“A Duty to Rescue: Some Thoughts on Criminal Liability,” *Virginia Law Review* 69 [1983]: 1295). Thus, he notes, a doctor who turns off a patient’s life-support system merely allows the patient to die. Wozzley stipulates, however, that, for the removal of an obstacle to death to count as allowing a person to die, the removal must be done legitimately. Thus if a patient’s life-support system is turned off “against the declared wishes of parents or guardian,” or “by somebody who has no authority in the case at all, e.g., an enemy agent or a hospital orderly,” then this instance of removing a barrier to death counts as killing rather than allowing to die (p. 1297).

25. On this latter possibility, see Francis Myrna Kamm, “Killing and Letting Die: Methodological and Substantive Issues,” *Pacific Philosophical Quarterly* 64 (1983): 297–312, and “Harming, Not Aiding, and Positive Rights”; Shelly Kagan, “The Additive Fallacy,” *Ethics* 99 (1988): 5–31; and H. M. Malm, “Directions of Justification in the Negative-Positive Duty Debate,” *American Philosophical Quarterly* 27 (1990): 315–24.

other work. A second firefighter sees that two other persons have also jumped from an adjacent window. He therefore moves the net over to catch the two, with the consequence that the first jumper hits the ground and dies.

The Involuntary Donor 3.—The same as in *Involuntary Donor* except that it is a doctor acting at the donor's request who removes the tubes connecting the donor to the dependent patient.

These cases appear to be counterexamples to my proposed way of distinguishing among cases of withdrawing aid. In *Burning Building 3*, the agent withdraws a self-sustaining though as-yet-inoperative barrier that someone else has provided. So my proposed distinction should classify it as a case of killing; but intuitively we regard it as a case of letting die. It is hard to believe that the firefighter in *Burning Building 3* kills the falling person while the firefighter in *Burning Building 2* merely lets him die, especially if this alleged difference is thought to make a moral difference. In *Involuntary Donor 3*, the agent terminates operative aid that is being provided by someone else (the donor). Hence my proposal should classify it as a case of killing; yet it too may seem to be a case of letting die. Again, it is hard to believe that the doctor in *Involuntary Donor 3* kills the patient while the donor in *Involuntary Donor* merely allows him to die, especially if this alleged difference is thought to make a moral difference.

Perhaps one could try to defend my proposal by claiming that these two most recent cases are in fact cases of killing that we are mistakenly disposed to regard as instances of letting die because we believe that what the agent does in each case is permissible in the same way that it would be if it were done by the person who provided the aid that is terminated (as is the case in *Burning Building 2* and *Involuntary Donor*). I think, however, that this is the wrong response. These cases show that my proposal requires further refinements.

When a person withdraws aid or protection from a lethal threat that is either in progress or as yet inoperative, it is not strictly necessary in order for his action to count as letting die that he should be the very same person who provided the aid or protection. In some cases of this sort, the agent who provides the aid or protection acts in a capacity that is role-based. Indeed, it may be his occupancy of the role that makes his provision of aid or protection possible. In cases in which an agent provides aid or protection against a lethal threat not in his capacity as an individual but in his capacity as the occupant of a role, the withdrawal of that aid or protection by his partners or successors in the role he fills will count as letting die. This is because we interpret the provision of aid in these cases as an act by a person-in-a-role; if the action is undone by a different person occupying the same role, we regard individual identity as irrelevant. This, I believe, is what

allows us to regard the second firefighter's action in Burning Building 3 as an instance of letting die.

Suppose the second firefighter in Burning Building 3 is accused of killing the first jumper. His accuser might argue as follows: "You didn't let him die; for he was quite safe independently of you. It's not as if you were saving him but then withdrew to save the other two instead. Rather, you killed him in order to be able to save the other two." It seems to me that the firefighter could appropriately respond that "it's not true that the jumper would have been safe if not for me. If it looked as if he would be safe, that is because *we*, the team of firefighters, were there in our role as firefighters. When the first firefighter placed the net under the first jumper, he was fulfilling the requirements of his role. When I moved the net, I was fulfilling the requirements of the same role. It makes no difference which individual does what when they are all acting in a role-based capacity. If I had moved the net out of malice, then of course I could be accused of killing—not because my action would have been wrong (though it would have been) but because I would then have been acting in my capacity as a private individual and not in the role of a firefighter." This seems a cogent reply.

Involuntary Donor 3 requires a different response. To understand why this is a case of letting die rather than killing, we must distinguish between the decision to withdraw aid and the execution of that decision. What is important, in determining whether an act of terminating aid or protection counts as killing or letting die, is who decides to terminate it, not who physically implements the decision. In Involuntary Donor 3, it is the person who has been providing the aid who decides to terminate it. And it is this fact, together with the fact that the aid was in progress rather than self-sustaining, that makes this a case of letting die. When the doctor removes the tubes, he acts as an agent whose principal is the donor herself. His action thus counts as action by proxy, or vicarious action, on behalf of the donor.

These two refinements should be read back into the earlier claim that it makes a difference, in cases of withdrawing aid, whether the person who withdraws the aid is also the person who provided it. We see now that this was only a crude approximation to the truth. Doubtless there are other subtle refinements that are necessary but which I have overlooked.

There is one further matter that should be addressed in this section. I have argued that the removal of aid or protection that is both operative and self-sustaining counts as killing irrespective of whether the person who terminates it is also the person who provided it, but that the termination of aid or protection that is operative but *not* self-sustaining, in that it requires more from the agent, counts as

letting die if the person who terminates it is also the agent who has provided it.²⁶ Thus the question whether aid that an agent has provided is self-sustaining or whether it requires more from the agent is a critical question; yet the relevant notions here are vague, and this can lead to uncertainties about how certain cases should be classified.

Return to the case I have called Respirator. In this case the agent terminates life-supporting aid that he has had no part in providing. Hence his action counts as killing. This seems intuitively right; and it would seem right even if the agent did not have a discreditable motive but intended his act as an instance of euthanasia—that is, an act intended to benefit the person who dies. Now consider:

Respirator 2.—A person is stricken with an ailment that would normally be fatal but is given mechanical life-support to sustain him. Eventually, however, the doctor who ordered that the patient should receive life-support concludes that the patient will never regain consciousness and so turns the respirator off.

Many people regard this as a case in which the doctor lets the patient die.²⁷ And the fact that the doctor was himself responsible for providing the aid he discontinues supports this assessment. Other people, however, have doubts and suspect that the act of turning off or disconnecting a life-support machine must always count as killing.

Perhaps this uncertainty derives from a lack of clarity about whether or not a life-support machine counts as a self-sustaining form of aid. Clearly the provision of a life-support machine does not require continuous intervention and effort in the way that hauling a drowning man to shore or keeping one's finger in the dike does. Compared to these forms of aid or protection, the provision of a life-support mechanism seems a relatively self-sustaining form of aid—hence the temptation to call its withdrawal, even by its provider, an act of killing. Yet a life-support machine requires monitoring and maintenance, and keeping it functioning draws continuously on the provider's resources and exacts opportunity costs from him. In these respects it falls far short of being self-sustaining in the way that, for example, the pipe

26. Here and elsewhere one should read in the refinements suggested above.

27. See, e.g., George P. Fletcher, "Prolonging Life: Some Legal Considerations," *Washington Law Review* 42 (1967): 999–1016, reprinted in Bonnie Steinbock, ed., *Killing and Letting Die* (Englewood Cliffs, N.J.: Prentice-Hall, 1980), p. 50. Others have objected to this classification of Respirator 2 on the ground that it is "structurally similar" to Respirator, which seems a clear case of killing. Shelly Kagan, e.g., suggests that the similarity challenges the idea that the intuitive difference between the two cases can be explained by appealing to the claim that one is a case of killing and the other a case of letting die (*The Limits of Morality*, p. 101). Also see Christopher Boorse and Roy A. Sorensen, "Ducking Harm," *Journal of Philosophy* 85 (1988): 126.

sealer's patch is; hence the temptation to call its withdrawal by its provider an instance of letting die. (Note that it seems appropriate to describe what the doctor does in Respirator 2 as *discontinuing* the patient's life-support—implying that he—the doctor—would otherwise be continuing it. It would, by contrast, be inappropriate to describe what the agent does in Respirator in this way.) If I am right that whether the withdrawal of operative aid or protection by its provider counts as killing or letting die depends on whether the aid is self-sustaining, then it should not be surprising that vagueness as to what kinds of aid count as self-sustaining should lead to the sorts of taxonomical and moral uncertainties that surround cases involving the termination of mechanical life-support.

I have argued that whether or not life-supporting aid or protection is self-sustaining is only one of a number of factors that may determine whether an instance of withdrawing aid counts as killing or letting die. And, just as there may be uncertainty about whether or not aid or protection is self-sustaining, so there may be uncertainty about other factors—for example, about what counts as having provided aid or protection, whether aid is operative or as yet inoperative, when action is role-based or who qualifies as an occupant of a role, and so on. If I am right that all of these various factors have to be taken into account, then the full analysis of the distinction between killing and letting die (which I will not endeavor to give here) will be complicated, messy, and seemingly ad hoc. Moreover, since there may be vagueness or uncertainty about certain relevant factors, and since the various factors may be present in different combinations and to different degrees in different cases, we should expect that there will be numerous cases that we are uncertain how to classify or that we disagree about how to classify.

It is, perhaps, surprising that what most people have taken to be simple, basic distinctions (doing and allowing, killing and letting die) should turn out to be complex and multifaceted. This confusion is, I think, readily explicable. Our intuitions about killing and letting die are indeed based on considerations that are relatively simple, as I will suggest in the final section. But, because of the unruly complexity of reality, it is often difficult to determine what these considerations imply about the classification of a particular case. Thus, while there are clear paradigm cases of killing and letting die in which the relevant considerations appear in relatively pure forms, there are also numerous gray areas in which these same considerations are more difficult to discern or interpret. We have, nevertheless, somehow evolved unexplicit rules for the classification even of most of the cases in the gray areas. But, because the function of these rules is to sort a welter of diverse and heterogeneous cases into two apparently simple categories, the

rules are necessarily intricate, involving distinctions that are subtle and nuanced.

IMPLICATIONS FOR ABORTION

If my proposal for distinguishing cases of withdrawing aid that count as instances of killing from those that count as instances of letting die is correct, this will have important implications for the moral problem of abortion. It is often claimed that the morality of abortion cannot be decided simply by weighing the interests (if any) of the fetus against those of the pregnant woman on the ground that performing an abortion involves forms of action that are inherently morally objectionable while the nonperformance of an abortion does not. In particular, abortion is said to involve killing, and perhaps intentional killing, while the nonperformance of an abortion merely involves foreseeably but unintentionally allowing the pregnant woman to be harmed or, in the worst case, to die.

It cannot reasonably be denied that some abortions kill the fetus. These are abortions in which the procedure itself injures the fetus's body in a way that directly causes its death. But abortions need not be, and sometimes are not, carried out in this way. To achieve the aim that most women have in aborting a pregnancy, all that is necessary is that the fetus should be removed from the woman's womb, and this can be done without mangling or damaging the fetus's body in a way that causes its death.²⁸ Let us call abortions that are carried out in this way "merely extractive abortions."

A merely extractive abortion involves the active withdrawal of life-supporting aid from the fetus. It is important to notice, moreover, that the aid that is terminated was, though operative, not self-sustaining but required continuous provision. Hence it is appropriate to describe a merely extractive abortion as the discontinuation of life-supporting aid to the fetus. I have argued that the discontinuation of ongoing life-supporting aid by the person who has been providing it counts as allowing the dependent person to die. Therefore when a pregnant woman has a merely extractive abortion, thereby withdrawing life-supporting aid that she herself has been providing to a fetus, she does not kill the fetus but merely allows it to die.

There are three rather obvious objections to this claim. I will attempt to answer each in turn. The first and perhaps most obvious objection is that, even if we concede that withdrawing aid in progress that one has oneself been providing counts as an instance of letting die, the agent who performs an abortion is typically not the pregnant woman herself but is instead her doctor. Since the doctor terminates

28. Compare Sissela Bok, "Ethical Problems of Abortion," in *The Problem of Abortion*, ed. Joel Feinberg, 2d ed. (Belmont, Calif.: Wadsworth, 1984), pp. 189–90.

life-support that someone else has provided, he kills the fetus rather than lets it die.

To answer this objection we need to recall the second refinement of the proposal made in the previous section. There I contended that what is necessary for the withdrawal of aid to count as an instance of letting die is that the withdrawal should occur as the result of a decision taken by the person who has provided it. It makes no difference if the actual implementation of the decision is done by proxy, or through an agent. Thus, provided that a merely extractive abortion is undertaken at the initiative of the pregnant woman herself, she and the doctor through whose agency she acts allow the fetus to die.

The second objection is that even a merely extractive abortion is an instance of doing something that results in the fetus's death—namely, actively removing the fetus from the environment that supports its life. Hence it is odd to describe it as merely allowing death to occur.

This objection has also already been answered. As cases such as the Aborted Rescue and the Dutch Boy show, it is often necessary to do some quite specific act in order to let a person die.

The third and final objection is more interesting and will take longer to answer. The source of this objection is Philippa Foot, who argues that, in order for one to allow a person to die, there must be some preexisting threatening sequence of events that one fails to arrest or to which one removes some barrier by which it has been blocked. But in the case of a merely extractive abortion, there is no threat to the fetus which the abortion allows to continue by failing to arrest it or by unblocking it. Foot therefore concludes that the abortion itself “originates the sequence which ends in the death of the fetus, and the destruction comes about ‘through the agency’ of the mother who seeks the abortion.”²⁹ A merely extractive abortion is, therefore, an act of killing rather than an instance of allowing the fetus to die.

This objection appeals to Foot's analysis of the broader distinction between doing and allowing, which I have rejected. Yet, while I have rejected her claim that unblocking or releasing a preexisting lethal

29. Foot, “Killing and Letting Die,” p. 185. Foot's argument takes the form of a reply to Judith Thomson's argument for the permissibility of abortion (“A Defense of Abortion”) that appeals to the analogy between an abortion and the case of the Involuntary Donor. Foot rejects the analogy on the ground that, while there is a preexisting threat (i.e., the disease) from which the agent in Involuntary Donor removes the victim's protection, there is no preexisting threat in the case of an abortion. There are other failures of analogy besides this—e.g., that the donor in Involuntary Donor is not responsible for the patient's need for aid while a pregnant woman may be partially responsible for the fact that the fetus requires her aid; that the patient in Involuntary Donor is a stranger to the donor while the fetus is the pregnant woman's biological offspring (except perhaps in certain cases of in vitro fertilization); and so on. (I discuss this in a book provisionally entitled *Killing at the Margins of Life* [New York: Oxford University Press, in press].)

threat always counts as allowing death to occur, I have not repudiated the assumption of her analysis that is most relevant here—namely, the assumption that in cases of allowing a person to die there must be a preexisting threatening sequence to which the victim's death may be attributed. This assumption may seem obviously correct, but I believe it can be successfully challenged. For there are cases in which, although an individual is not *under threat*, in the sense of being threatened by a clearly distinguishable and perhaps deviant sequence of events that is leading to his or her death, the individual may nevertheless be naturally dependent on assistance or aid from others in order to survive. We might say that, in these cases, the individual is under a *latent* rather than an active threat of death. The notion of a latent threat captures the fact that there is a sense in which anyone who is chronically unable to satisfy his or her essential needs without assistance from others is threatened by his or her own helplessness and dependency. In these cases, the threat does not stand out as a distinct causal sequence since it is a chronic condition—in the case of the fetus, one that is a natural and universal condition of that stage of life.

Foot herself supplies what I believe to be the best counterexample to her own assumption. "The fetus," she writes, "is not in jeopardy because it is in its mother's womb; it is merely dependent on her in the way children are dependent on their parents for food."³⁰ If parents fail to feed their baby, they do not create a threat or initiate a threatening causal sequence; hence they do not, by her definition, kill the baby. This is clearer than in the case of abortion, in which the pregnant woman, or her agent, does something to the fetus that brings about its death. By contrast, parents who fail to feed their baby do not do anything to the baby at all; they simply allow its basic needs to go unmet. Yet, as Foot notes, the baby is not threatened by a preexisting sequence of events; hence the parents cannot, by her definition, be said to allow it to die. But the failure to feed one's baby, so that it starves, is either to kill it or to allow it to die. And, unless the parents take action that prevents others from feeding the baby, it seems clear that what they do is to allow death to occur. Therefore it is not necessary in order to allow someone to die that the victim should be antecedently threatened by some distinct sequence of events.³¹

30. Foot, "Killing and Letting Die," p. 185.

31. Warren Quinn has also objected to Foot's assumption that one can let a person die only if the person is already faced with a threatening sequence of events. He cites as a counterexample a case in which one's elderly neighbor freezes to death because one is called away to an emergency and thus fails to fuel his furnace as one customarily does (p. 298). It is not clear, however, that this counterexample succeeds, since it might be argued with some plausibility that the freezing weather constitutes the threatening

There is, of course, a temptation to say, as Foot in fact says, that parents may murder their baby by allowing it to die of starvation.³² If this assumes that only killing can count as murder, then I would suggest that the reason we are tempted to class the failure to feed one's own baby as a case of killing is that we regard the failure to feed one's baby as morally comparable to typical cases of killing. In short, the categorization is being influenced by moral considerations, as is evidenced by Foot's choice of the term "murder." But this is a mistake. The reason that the failure to feed one's own baby is at least as wrong as typical instances of wrongful killing is not that it is an instance of killing but is instead that it involves the violation of a special duty to care for one's own children.

The claim that there is no threatening sequence that is allowed to continue when parents fail to feed their baby might be challenged by the suggestion that the threatening sequence which the parents allow to continue is the gradual impairment of the baby's functions from lack of nourishment. By allowing this threatening sequence to continue, the parents allow the baby to die.³³ While this challenge concedes that the failure to feed one's baby is a case of letting die, it supports Foot's assumption that letting die requires a preexisting threatening sequence. It therefore challenges my claim that a merely extractive abortion merely lets the fetus die, since the gradual impairment of the fetus's functions might also be identified as a threatening sequence in the case of abortion and in that case the sequence may seem to be caused directly by the abortion itself.

This challenge does not, however, refute the claim that there can be cases of allowing harm to occur in which there is no preexisting threatening sequence. For suppose that it is right that the gradual impairment of the baby's functions is a threatening sequence that the parents allow to continue. The impairment of the baby's functions is also itself a harm. Moreover, it is a harm that the parents have allowed to occur. But, in allowing it to occur, the parents did not allow some preexisting threatening sequence to continue. This, therefore, is a case of allowing harm to occur in which there was no preexisting threatening sequence. Since there clearly can be such cases, it is reasonable to include failing to feed one's baby, and merely extractive abortions, among them.³⁴

sequence from which one fails to protect the victim. This raises difficult questions about the individuation of causal sequences that are best avoided here.

32. Foot, "The Problem of Abortion and the Doctrine of Double Effect," p. 26.

33. This challenge was posed by Heidi Malm.

34. Earlier I noted that there may be grounds for claiming that the parents kill their baby by failing to feed it if, in addition to not feeding it themselves, they take action that prevents others from feeding it. It is worth noting that, prior to the time

GENERAL REFLECTIONS

I have argued that certain cases of withdrawing aid or protection count as acts of killing while others count as instances of letting die. This does not, however, imply that all instances of withdrawing aid that let the victim die must be morally just like other instances of letting die, if other things are equal. It is possible, for example, that letting a person die by actively withdrawing aid in progress is generally more objectionable than letting a person die by simply failing to intervene at all to arrest a sequence of events by which he is threatened. We may feel that letting a person die by withdrawing aid in progress is more like killing than simple nonintervention is (perhaps because withdrawing aid may involve action, or because releasing a threat that has been blocked is more like initiating a threat than simply failing to block a threat is).

Similarly, killing by withdrawing aid or protection may seem generally less objectionable, and perhaps more like letting die, than killing by initiating a lethal threat, other things being equal. There are certainly precedents for drawing a moral distinction in this way between different ways of killing. It has been plausibly suggested, for example, that we distinguish morally between killing via the creation of a lethal threat where none previously existed and killing via the redistribution or redirection of a preexisting threat, holding that the latter is less objectionable than the former, other things being equal.³⁵ Some have, moreover, sought to explain the plausibility of this distinction between ways of killing in a way that resembles standard explanations of why letting die is in general less bad than killing.³⁶ And just as killing via redistributing a threat may be less bad than killing via the creation of a threat because the former has more in common with letting die than the latter, so killing via withdrawing aid may be less bad than killing via the creation of a threat for much the same reason.

at which the fetus becomes viable, there is nothing a pregnant woman can do that could prevent others from providing the support she withdraws in having a merely extractive abortion, for the simple reason that no one else can provide what the fetus requires. After viability, the claim that a merely extractive abortion involves only letting the fetus die assumes that no further steps are taken to prevent the fetus from surviving.

35. See, e.g., Judith Thomson, "The Trolley Problem," in her *Rights, Restitution, and Risk*, ed. William Parent (Cambridge, Mass.: Harvard University Press, 1986).

36. Eric Mack, e.g., argues that "when generally perilous and inevitably injurious forces confront a person such that, no matter how that person acts, some nonaggressor(s) will be injured, the antecedent perilous forces bear the predominant causal responsibility for the subsequent injuries" ("Three Ways to Kill Innocent Bystanders," *Social Philosophy and Policy* 3 [1985]: p. 17). In other words, responsibility for the harm is traced, as it is in cases in which one fails to arrest a harmful sequence, to the preexisting sequence of events rather than to the agent.

These claims are, of course, speculative; and limitations of space preclude a thorough defense of them here. But they suggest a conclusion that I believe to be true. This is that, because the distinction between killing and letting die is not a simple distinction, but is, as I noted earlier, based on a variety of subfactors, it is not the case that all instances of killing differ morally from all instances of letting die in exactly the same way, at least with respect to the difference that is marked by the distinction between killing and letting die. Instead, rather than distinguishing two simple and opposed categories, the distinction between killing and letting die marks a rough division along a spectrum of cases. Within each of the two subspectra, there are yet further morally relevant subdivisions.³⁷ Cases at opposite ends of each subspectrum are maximally dissimilar in terms of the empirical criteria for distinguishing between killing and letting die. If other things are equal, cases at these extremes will also be maximally different morally. By contrast, cases at the near end of each spectrum, where the two subspectra begin to converge, may differ very little in terms of the relevant empirical criteria. In comparisons between these cases, not only are our taxonomical intuitions likely to be weak or confused but also the moral differences are less easily discernible.³⁸

It is also important to note that there are, in commonsense morality, numerous factors that may affect the moral status of a course of conduct that has lethal consequences other than the distinction between killing and letting die. The most commonly noted among these further considerations is whether a person's death is an intended effect of an agent's action; but there are others as well. The relevance of these

37. The image of the spectrum should not be interpreted too literally. It should not, e.g., be understood to imply that cases can be ordered along a single dimension.

38. The following cases illustrate this point. Both are variants of *The Aborted Rescue*. In the first case (suggested by Shelly Kagan as an objection to my proposal), the rescuer of a drowning man is exceptionally tall and is able to perform the rescue by carrying the drowning man on his shoulders, above the water. In this variant, there is no threat to the rescuer. Nevertheless before he reaches the shore he wearies of the effort, drops the drowning man back into the water, and wades to shore, leaving the victim to drown. In the second case, the rescuer carries the drowning man onto dry land but immediately regrets his action and heaves him back into the water. This is clearly a case of killing. Kagan believes that the first case is also a case of killing. Surely there is little to distinguish the two cases morally (except, perhaps, that the rescuer's motives and intentions are presumably more discreditable in the second case). Yet my analysis commits me to the view that the first case is an instance of letting die, since it involves the withdrawal or discontinuance of aid in progress by the person who has been providing it. I remain convinced that this is in fact right. The difference between the two cases that makes the one a case of letting die and the other an instance of killing is that in the first case the victim requires further aid from the rescuer in order to survive while in the second he does not. Yet the cases are otherwise so similar that it is not surprising that we evaluate them similarly (and hence, perhaps, are inclined to think that they must both count as instances of killing).

other nonconsequentialist factors for present purposes is that they may interact in complex and perhaps as yet unidentified ways with the fact that an act is one of killing or letting die to determine the overall moral status of an agent's conduct. The presence (or absence) of a certain factor or combination of factors may outweigh, alter, or even nullify the significance of considerations deriving from the distinction between killing and letting die.³⁹

These two facts—that the relevance of the distinction between killing and letting die may vary depending on where a particular case of killing or letting die lies along its subspectrum and that the presence of other factors may outweigh or otherwise affect the significance of the fact that an act is one of killing or letting die—together indicate that an ethical theory that aims to unify and systematize the intuitive elements of common moral thought will have to be quite complex. Such a theory cannot consist of simple principles of the sort that have hitherto been thought to capture the central elements of commonsense morality—for example, the principle that there is an agent-centered or deontological constraint against killing (or, more generally, doing harm) that does not apply to letting die (or allowing harm to occur), or the principle that there is a constraint against intentional killing or letting die (or intentionally harming or allowing harm to occur) that does not apply to unintended killing or letting die (or unintentionally harming or allowing harm to occur).⁴⁰

The recognition of these facts may also help to explain how it can be that in certain comparisons the difference between killing and letting die may seem to make no intuitive difference. In these instances, the cases of killing and letting die that are being compared with one another may be relevantly similar, lying near the intersection of the two subspectra. Or the significance of the difference between killing

39. See Kamm, "Killing and Letting Die," and "Harming, Not Aiding, and Positive Rights"; Kagan, "The Additive Fallacy"; and Malm, "Directions of Justification in the Negative-Positive Duty Debate."

40. Kagan attacks commonsense morality by arguing that neither the idea that there is a constraint against doing harm nor the idea that there is a constraint against intending harm is capable of accounting for commonsense intuitions (*The Limits of Morality*, esp. chaps. 3 and 4). Eric Mack, whose concern is to defend commonsense intuitions, reviews and rejects a series of simple doctrines taken individually. He considers the doctrine that doing harm is worse than allowing harm to occur, the doctrine that intentionally causing harm is worse than causing harm voluntarily but unintentionally, and the idea that causing harm in self-preservation is less defensible than causing harm in self-defense. He finally settles on a doctrine based on the distinction between creating a threat and redistributing an existing threat (see his "Three Ways to Kill Innocent Bystanders," and "Moral Rights and Causal Casuistry," in *Moral Theory and Moral Judgments in Medical Ethics*, ed. Baruch Brody [Dordrecht: Kluwer, 1988], pp. 57–74). If what I have claimed is correct, however, commonsense morality has a structure that is far more complicated than either of these writers recognizes, so that it cannot effectively be attacked or defended in these ways.

and letting die may simply be outweighed by, or even perhaps nullified by, the presence (or absence) of other factors. In many cases, both these things may be true.⁴¹

The range of factors that influence our moral judgments may be very great and may include factors the significance of which we have not yet identified. One often finds that there is broad intuitive agreement that there is a moral difference between two cases even when we are unable to discern the source of that difference. Our intuitive moral discriminations are, on these occasions, sensitive to nuances so subtle as to elude identification.

Consider, for example, the following familiar case.

The Tactical Bomber.—A pilot fighting in a just, defensive war can significantly enhance the prospect of victory by his country by destroying an enemy munitions factory. But, because the factory is located in the center of a city and because his country lacks the capacity for precision bombing, he foresees that his bombing the factory will have as an unintended effect the killing of civilians. He can also reasonably predict that the benefits that the bombing will achieve, even when assessed impartially, and giving due priority to the interests of the innocent over those of the noninnocent, will greatly outweigh the harms inflicted on the civilians. He bombs the factory.

Most people believe that the Tactical Bomber acts permissibly. Indeed, anyone who condemns his action would seem to be committed to at least a contingent form of pacifism, since the conditions of this case exemplify the nature of modern warfare. In virtually all cases, modern warfare inevitably involves harm to civilians, usually on a massive scale. Because most of us believe in the possibility of a just modern war, we had better be able to defend the intuition that the Tactical Bomber acts permissibly.

Yet, given the relevance of the factors cited, it should be quite surprising that we find the Tactical Bomber's action permissible. He kills his victims rather than letting them die. He kills them, moreover,

41. One comparison in which the distinction between killing and letting die appears to have no intuitive significance is suggested by the discussion in the previous section. When we compare a merely extractive abortion with an abortion that kills the fetus in the process of removing it from the womb, it may be difficult to detect a significant moral difference between them, except perhaps a contingent difference in the amount of pain that is caused to the fetus. (Hence even if I am right that a merely extractive abortion does not kill but merely lets the fetus die, the problem of abortion would not be solved by switching to the exclusive use of merely extractive abortifacient techniques.) Perhaps we fail to discern a difference in part because letting die by actively withdrawing aid is more like standard cases of killing. Or perhaps it is because the distinction between killing and letting die loses its ordinary significance in cases in which neither involves a serious harm, as I would argue is the case in most instances of abortion. (See my *Killing at the Margins of Life*.)

through the creation of a new threat rather than through the redirection of a preexisting threat or through the removal of a barrier provided by someone else. And, although it seems that he kills them unintentionally, their deaths occur as it were en route to the good effect rather than being a further effect of the production of the good. These factors normally combine to produce an act that is impermissible, as is illustrated by another familiar case that was first introduced in Foot's seminal paper.

The Poison Gasser.—"There are five patients in a hospital whose lives could be saved by the manufacture of a certain gas, but . . . this inevitably releases lethal fumes into the room of another patient whom for some reason we are unable to move."⁴² An agent manufactures the gas.

This case appears to have the same structure as that of the Tactical Bomber. The Poison Gasser kills by creating a new threat, he kills unintentionally but en route to his intended good effect, and the expected good effect of his action impartially outweighs the bad.⁴³ Yet intuitively we condemn the Poison Gasser's action.

The comparison between Tactical Bomber and Poison Gasser illustrates the claim that there are instances in which we intuitively discern an important moral difference between cases but are unable to determine what the difference is. Perhaps, in this comparison, the relevant difference is that the Tactical Bomber acts in self- and other-defense whereas the Poison Gasser's act is one of self- or other-preservation. Or perhaps it is that we feel that ordinary restraints that apply in the case of the Poison Gasser are relaxed or weakened in the context of war. Or perhaps we feel that what the Tactical Bomber does is permissible because we believe that even many civilians in a

42. Foot, "The Problem of Abortion and the Doctrine of Double Effect," p. 29.

43. It is perhaps worth noting that the two cases under discussion combine to cast doubt on a proposal recently advanced by Francis Myrna Kamm. Kamm defends what she calls the Principle of (Im)permissible Harm (PI/PH): "It is permissible to cause harm to some in the course of achieving the greater good of saving a greater number of others from comparable harm, if events which produce the greater good are not more intimately causally related to the production of harm than they are to the production of the greater good" ("Harming Some to Save Others," *Philosophical Studies* 57 [1989]: 232). The PI/PH does not permit (though, given its form, it also does not forbid) the action of the Tactical Bomber, since the event (the bombing) that produces the greater good (victory in a just war, which will presumably save innocent lives) is more intimately causally related to the production of the harm (the killing of civilians) than it is to the production of the greater good. The PI/PH does, however, permit the action of the Poison Gasser, since the event (the manufacture of the gas) that produces the greater good (saving the five) is at least as intimately causally related to the production of the production of the greater good as it is to the production of the lesser harm (killing the one). These claims seem true on any measure of causal intimacy. Thus the PI/PH gives the intuitively wrong answer in both cases.

country that is fighting an unjust war are not fully innocent, while the victim in Poison Gasser clearly is. (This latter suggestion draws support from the fact that we would be more reluctant to endorse the Tactical Bomber's action if the unintended victims of his action were civilian citizens of a neutral country, or citizens of the bomber's own country.) The important point, however, is that *something* is at work here that causes us to distinguish morally between these cases. Before we can learn much about the significance of the distinction between killing and letting die from comparisons between cases, we must locate and identify the various other factors that influence our intuitive reactions and attempt to determine how the distinction between killing and letting die interacts with these factors to determine the morality of a course of action.

CONCLUSION

Does the foregoing discussion of cases that involve the withdrawal of life-supporting aid reveal anything about the plausibility of distinguishing morally between killing and letting die? In closing, I will consider one possible conclusion one might draw.

The proposal I have advanced for distinguishing between instances of withdrawing aid that count as killing and those that count as letting die follows a central intuition behind the distinction between killing and letting die. This intuition may be articulated in rough and general terms as follows. If the situation is such that a person will live in the absence of any further intervention in his life by a certain agent, then, if the person nevertheless dies, the agent has killed him. In these cases, we identify the agent's intervention as the primary cause of the person's death. If, by contrast, a person dies who would not have lived without some present or future intervention in his life by a certain agent, and if the agent neither caused the person's need for aid nor caused a further, independent threat to his life, then the agent has let the person die. In these cases, we trace the cause of the person's death to conditions that are independent of any intervention by the agent.

In short, the fundamental intuitive difference between killing and letting die is that in cases of killing we assign primary causal responsibility for a person's death to an agent's intervention in the person's life, whereas, in cases of letting die, primary responsibility for the death is attributed to factors other than any intervention by the agent. It has to be conceded, of course, that there are analyses of the concept of causation that allow that the failure to prevent a death can count as the cause of the death. According to these accounts, the cause of an event is whatever positive or negative condition of the event is of most interest to us, perhaps because it explains why the event occurred in these circumstances but not in other relevantly similar circumstances, or because it is a factor that we can manipulate in order to bring about

or suppress this type of event in the future, or perhaps for other reasons.⁴⁴ Accounts of causation of this sort clearly reflect certain dispositions of ordinary language and may be no less defensible than the core notion of causation as an active force. But our moral intuitions have been shaped by the latter. Thus even when we recognize the causation of death by omission, we evaluate it differently from the causation of death by active intervention.

Suppose that this is right—that our tendency to distinguish morally between killing and letting die as well as our tendency to distinguish morally within the two categories themselves both reflect a concern with the form and degree of an agent's causal responsibility for a person's death. We should ask whether these considerations are really sufficiently important to support the full moral significance that we attribute to the distinction.

Our aversion to being causally implicated in the death of an innocent person shows up in contexts in which its rationality is open to question. It influences us, for example, in cases in which killing an innocent person would not be worse for that person—for example, in the well-known case devised by Bernard Williams in which a military officer who is about to have twenty innocent persons shot offers to free nineteen of them if a bystander agrees to kill the remaining one.⁴⁵ It also lies behind many people's reluctance to accept voluntary euthanasia in cases in which it is clear that death for the person concerned would not only not be a harm but would also be a benefit.

The aversion further manifests itself in cases in which one kills an innocent person but in which one cannot be held responsible or blamable for doing so. Again, a case of Bernard Williams's illustrates this point.⁴⁶ If a person who is driving carefully and alertly runs into a small child who has darted unexpectedly from behind a parked car, we expect the driver to feel an agonizing form of regret that other passengers in the car will not feel, even though the driver is not at fault because there was nothing that he or she could have been expected to do to avoid the accident. The aversion even extends to cases in which one is causally implicated in the killing of an innocent person but in which not only is one blameless but also one's causal role is not even that of agent. If, for example, one is blown off a rooftop by a sudden gust of wind so that one falls on and kills an innocent bystander,

44. See Joel Feinberg, *Harm to Others* (New York: Oxford University Press, 1984), esp. pp. 171–86. And compare Bart Gruzalski, "Killing By Letting Die," *Mind* 90 (1981): 91–98, and "Death by Omission," in Brody, ed., pp. 75–85.

45. Bernard Williams, "A Critique of Utilitarianism," in *Utilitarianism: For and Against*, by J. J. C. Smart and Bernard Williams (Cambridge: Cambridge University Press, 1973), pp. 98–99.

46. Bernard Williams, "Moral Luck," in his *Moral Luck* (Cambridge: Cambridge University Press, 1981), p. 28.

one will again feel an acute form of regret that a mere observer of the incident would not.

When we reflect on these cases, we may find that our intuitive responses, while deeply ingrained and difficult to repudiate, nevertheless strike us as primitive or atavistic impulses that critical moral thinking might enable us to rise above. On reflection, the importance we intuitively attribute to mere causal responsibility for a death may seem excessive. Similarly, the significance that we attribute to differences in the form and degree of causal responsibility for a death when we distinguish between killing and letting die may also seem excessive.

More generally, it is difficult to believe that the way in which an agent is instrumental in the occurrence of an outcome could be more important than the nature of the outcome itself. Consider the value of an entire human life—of all the good that the life contains. Now suppose that one must choose between killing one person to save two and allowing the two to die. Is it really credible to suppose that how one acts on that single occasion matters more in moral terms than the whole of the life that will be lost if one lets the two die rather than killing the one?

Doubtless this poses the question in terms that are excessively crude. It nevertheless helps to make vivid a particularly acute dilemma. One of the aims of moral theory is to illuminate the considerations that underlie our common moral intuitions. Yet it may happen that these deeper considerations, when exposed, seem not to be especially cogent or compelling. When this happens, we face a choice between retaining intuitions that are apparently ungrounded and abandoning them. Yet the intuitions may be central to any morality that we could bring ourselves to accept—indeed to any system of norms that we could genuinely recognize as a morality at all. I think it possible that a dilemma of this sort arises with our intuitions about killing and letting die.