|  |
| --- |
| Quinn (1989) argues that would-be counterexamples like the Bathtub case involve a misunderstanding of the claim that the distinction between doing and allowing harm is morally significant. This claim should be understood as more about moral justification than about other forms of moral evaluation. Quinn thinks that the distinction between doing and allowing is morally significant not because there is some kind of intrinsic disvalue attached to doing harm, but because doing and allowing harm run up against different kinds of rights. On Quinn’s view, the right against doing harm is stronger in that it takes much more to defeat or over-ride it. Thus much stronger considerations are needed to justify doing harm than to justify merely allowing harm (other things being equal). Suppose doing harm is much harder to justify than merely allowing harm (other things being equal). An unjustified killing and an unjustified letting die may still be equally bad. Quinn illustrates this with an example: You have a right of privacy that the police not enter your home without your permission. This right is easier to defeat than your right that other ordinary citizens not enter your home without permission. Nonetheless, unjustified break-ins by the police are, if anything, morally worse than unjustified break-ins by ordinary citizens. Quinn claims that this is because “moral blame for the violation of a right depends very much more on motive and expected harm than on the degree to which the right is defeasible” (Quinn 1989, 290) |
| Quinn（1989）認為，像浴缸案這樣的潛在反例涉及對行為和允許傷害之間的區別在道德上具有重要意義的說法的誤解。這種說法應該被理解為更多的是關於道德正當性，而不是其他形式的道德評估。奎因認為，做和允許之間的區別在道德上具有重要意義，不是因為造成傷害存在某種內在的不平等，而是因為做和允許傷害會遇到不同類型的權利。在奎因看來，反對傷害的權利更強，因為擊敗或超越它需要更多的東西。因此，需要更有力的考慮來證明傷害的合理性，而不是僅僅允許傷害的合理性（在其他條件相同的情況下）。假設傷害比僅僅允許傷害（其他條件相同）更難證明其合理性。一個不合理的殺戮和不合理的讓死亡可能仍然同樣糟糕。奎因舉了一個例子來說明這一點：你有隱私權，員警在未經你允許的情況下不得進入你的家。這項權利比你讓其他普通公民未經許可不得進入你家的權利更容易被打敗。儘管如此，員警不合理的闖入，如果有的話，在道德上比普通公民的無理闖入更糟糕。奎因聲稱，這是因為「侵犯一項權利的道德責任更多地取決於動機和預期的傷害，而不是權利不可剝奪的程度」（Quinn 1989，290） |

Thinking Process

Thinking Process

|  |
| --- |
| (i) Consider the distinction between cases where an agent intends the upshot and cases where she does not. If you drive your car into someone’s body, without realizing it, or because you were trying to avoid killing a larger number, and she dies as a result, you undoubtedly killed her, even if you did not intend her death. Conversely, someone may intentionally allow a child to drown in order to inherit his fortune.  (ii) It tends to be easier to avoid killing than to avoid letting die, but this is only a tendency. Sometimes saving is easier than not killing. It is easy to throw a life preserver, and it may be difficult to refrain from killing someone who is threatening one or who has treated one appallingly. There are even cases where it is physically difficult to avoid killing; as for example, where one has to hold tight to a tree to prevent one’s (light) vehicle whose brakes have failed from running into a pedestrian.  (iii) Sometimes the terms ‘making’ and ‘allowing’ are used to suggest the difference between making certain and making possible or probable. For example, in discussions of the problem of evil, people sometimes say, “Well, God didn’t actually make the murder occur. He just allowed it to occur.” This is best understood as a distinction between raising the probability of murder to 1 from something less than 1, on the one hand, and raising the probability of murder from 0 to something higher but still less than 1. This is a morally significant distinction but it is not the distinction between doing and allowing. An agent can kill without guaranteeing death. For example, by adding small quantities of poison to her victim’s meals she may bring about the death, even though there was a 20% chance that the poison would not kill her. On the other hand, an agent might guarantee the demise of a plant by failing to water it in a situation where she is the only one who can do so.  (iv) Finally, the distinction between doing and allowing harm is sometimes thought to have, as part of its conceptual content, a moral element. This thought is rarely made explicit, but the way people are inclined to classify cases suggests that they are guided by it. There are two main difficulties with this way of drawing the line. Firstly, if it is true by definition that killing is worse than letting die, then the question of whether killing is worse than letting die is settled in a trivial, circular, uninteresting way. Secondly, there are obvious counterexamples to this crude account—morally appalling cases of letting die—failing to feed one’s children—and morally acceptable cases of killing. We have no hesitation talking of killing in self-defense. |

Case Study

|  |
| --- |
| However, suppose that the youngest son of a King squanders his inheritance and begs his elder brother, the new King, for food. The new King refuses and the younger brother starves to death. If the elder brother had never existed, the younger brother would have inherited the throne and would not have starved to death. Yet, it is clear that the new King merely allows his brother to die and does not kill him (Kagan 1989, 96). |
| 然而，假設國王最小的兒子揮霍了他的遺產，並乞求他的哥哥，新國王，作為食物。新國王拒絕了，弟弟餓死了。如果哥哥從未存在過，弟弟就會繼承王位，也不會餓死。然而，很明顯，新國王只是允許他的兄弟死去，並沒有殺死他（Kagan 1989，96）。 |
| For in the classic cases of merely allowing harm, the harm would not have occurred if the agent had acted differently. Suppose I watch Maude drown. If I had reacted differently, if I had not refused to save her, then she would not have drowned. Thus this revised test still fails to capture the intuitive distinction (Kagan 1989, pp. 97–98). |
| 因為在僅僅允許傷害的經典案例中，如果代理人的行為不同，傷害就不會發生。假設我看到莫德溺水身亡。如果我的反應不同，如果我沒有拒絕救她，那麼她就不會淹死。 |

Rebuttal

|  |
| --- |
| Counterfactual accounts may be used to support the claim that doing harm is worse than allowing harm on the grounds that, on such accounts, allowing harm is simply a matter of not interfering or letting nature take its course. The underlying thought seems to be this: if something bad happens when you do not exist (or are not present or are unable to exercise your agency) then you aren’t responsible for it. If we turn our attention to another world where you do exist (or are present or able to exercise your agency), but which is otherwise exactly like the first, it seems that your contribution to, and thus your responsibility for, the upshot is the same. Thus we should not hold you responsible in the second case either. |
| 反事實的說法可以用來支持這樣一種說法，即造成傷害比允許傷害更糟糕，理由是，在這種情況下，允許傷害只是一個不干涉或讓自然順其自然的問題。潛在的想法似乎是這樣的：如果你在你不存在（或者不在場或無法行使你的能動性）時發生了不好的事情，那麼你就不對它負責。如果我們把注意力轉向另一個你確實存在（或存在或能夠行使你的能動性）的世界，但在其他方面與第一個世界完全相同，那麼你對結果的貢獻，以及你對結果的責任，似乎是一樣的。因此，在第二種情況下，我們也不應該追究您的責任。 |

Counter Argument

|  |
| --- |
| Bennett (1995) argues that this is a mistake. If some bad upshot occurs when you do not exist or cannot exercise your agency, then you are not responsible for it. Your agency is not involved and the bad upshot’s occurrence implies nothing about the morality of your behaviour. But this is simply not true in the other cases. In these cases, you could have prevented the bad upshot and did not. The bad upshot is a consequence of how you exercised your agency and does have implications for the morality of your behaviour. “ Only a muddle could lead anyone to think that ‘I could have prevented it, but I did not’ is significantly like ‘I had nothing to do with it’” (Bennett 1995, 119). |
| 貝內特（1995）認為這是一個錯誤。如果在你不存在或無法行使你的代理權時發生一些糟糕的結果，那麼你不對此負責。你的機構沒有參與其中，壞結果的發生並不意味著你行為的道德性。但在其他情況下，情況並非如此。在這些情況下，您可以防止不良結果，但沒有。糟糕的結果是你如何行使你的代理權的結果，並且確實對你行為的道德性有影響。“只有混亂才能讓任何人認為'我本可以阻止它，但我沒有'，這與'我與它無關'非常相似”（Bennett 1995，119）。 |

Thinking Process

|  |
| --- |
| Both Philippa Foot and Warren Quinn attempt to defend the moral relevance of the doing/allowing distinction by connecting it with a moral distinction between positive and negative rights  Foot (1978, 1984, 1985) argues that the difference between doing and allowing harm is at heart a difference in the agent’s relationship to a harmful sequence. We are able to pick out the sequence leading to a harmful upshot. Foot distinguishes between   * initiating (setting the harmful sequence going); * sustaining (keeping the harmful sequence going when it would otherwise have stopped); * enabling (removing some barrier which would have brought the harmful sequence to a halt) and * forbearing to prevent (failing to take some action which would have brought the sequence to a halt).   Initiating and sustaining both count as doing harm; enabling and forbearing to prevent are ways of merely allowing harm. |
| 菲利帕·富特和沃倫·奎因都試圖通過將其與積極和消極權利之間的道德區別聯繫起來來捍衛行為/允許區別的道德相關性 |

|  |
| --- |
| Foot (1978, 1984, 1985) argues that the moral relevance of the doing /allowing distinction rests on a distinction between positive and negative rights. Negative rights are rights against interference whereas positive rights are rights to aid or support. Negative rights are, in general, stronger than positive rights.  it typically takes more to justify an interference than to justify the withholding of goods and services.  violation of a right of non-interference must involve doing, rather than merely allowing, harm. (Foot, 1984, 284) |

|  |
| --- |
| Warren Quinn (1989) shares Foot’s view that the doing/allowing distinction rests on the difference between positive and negative rights, but offers both an alternative analysis and a deeper defense of the claim that negative rights are stronger than positive rights.  Quinn treats the action/inaction distinction as fundamental to the analysis of the doing/allowing distinction. On Quinn’s view, an agent is positively relevant to a harmful upshot when his most direct contribution to the harm is an action, whether his own or that of some object.  His relevance is negative when his most direct contribution is an inaction, a failure to prevent the harm. An agent’s most direct contribution to a harmful upshot of his agency is the contribution that most directly explains the harm. One contribution explains harm more directly than another if the explanatory value of the second is exhausted in the way it explains the first. |

|  |
| --- |
| The key difference for Quinn is between cases where the agent produces the result by an action and cases where she produces it by an inaction—pushing someone’s head under water or refraining from throwing a life preserver.  your relevance to a death can be positive, **you can kill**, in other words, even though you don’t act. This happens, for example, *when you are on a train headed towards some drowning victims you wish to save when you notice someone tied to the tracks ahead of you. You can stop the train but you choose not to in order to reach your destination.* Quinn believes that **you kill in this case, because the train acts as your agent, taking you where you want to go, and crushing the person tied to the tracks in the process**.  **On the other hand, if you had chosen not to stop the train for some other reason but you would have not minded had someone else stopped the train, then your failure to stop the train would not have constituted a killing.** |

|  |
| --- |
| To say that one has a negative right against being harmed is to say that it is (at least, prima facie) wrong to  harm one unless one wishes to be harmed. It is crucial that we add the phrase “unless one wishes to be harmed”, since without it, the precedence of negative rights wouldn’t give the victim any special say about his own body, because it would be just as wrong to harm him even if he asked to be harmed, and it would be wrong for him to harm himself.  So, the crucial thing is that the victim has some sort of a say about what happens to himself(i.e., others are morally bound to respect his wishes with respect to his body to a certain extent). |
| 說一個人對受到傷害有消極的權利，就是說傷害一個人是錯誤的，除非一個人希望受到傷害。至關重要的是，我們要加上「除非一個人希望受到傷害」這句話，因為沒有它，消極權利的優先地位就不會給受害者任何關於他自己的身體的特殊發言權，因為即使他要求受到傷害，傷害他也是錯誤的，傷害自己也是錯誤的。  因此，至關重要的是，受害者對自己發生的事情有某種發言權（即，其他人在道德上有義務在一定程度上尊重他對自己身體的意願）。 |