



Book Review

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Fiona Woollard, *Doing and Allowing Harm*

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- Jacob Blair

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Fiona Woollard's recent book, *Doing and Allowing Harm*, is an impressively rigorous defense of the Doctrine of Doing and Allowing (DDA). Woollard understands DDA (a central component of common sense morality) as the claim that other things being equal, *doing* harm is harder to justify than *allowing* harm: the personal cost that would permit me to allow a certain harm to befall a person may not be enough to permit me to do that same harm to that person. For example, I'm seemingly permitted to allow a child to drown if rescuing him results in the loss of my own life. But I wouldn't be permitted to push the child into a pond, let's say (whereupon he would drown), if that is the only way to save my own life.

Anyone seeking to provide a robust defense of DDA must fulfill two tasks: (1) clearly describe the difference

between doing and allowing harm and (2) show how that difference is morally relevant; show, for example, how that difference between doing and allowing harm warrants the view that the former is harder to justify than the latter. Woollard, in Part I, seeks to fulfill task (1). Building off of the work of Philippa Foot and Jonathan Bennett, Woollard provides a descriptive analysis of the *nature* of the distinction between doing and allowing harm. Part I also includes a helpful discussion on the complex issue of actively withdrawing life saving aid (does removing a safety net from underneath a person who is free falling or disconnecting someone from a respirator count as doing or allowing harm?).

Woollard, in Part II, seeks to fulfill task (2). Here Woollard gives a different (though seemingly equivalent) characterization of DDA: roughly, a prima facie principle that both prohibits harm doing and permits harm allowing. Building off of the work of Warren Quinn and Frances Kamm, Woollard argues that DDA must be true if anything, including our bodies, is to genuinely belong to us. In my view, this is the most convincing aspect of the book. What she says here is quite plausible and seemingly consistent with other descriptive analyses of the doing v. allowing distinction.

In Part III, Woollard discusses how DDA *doesn't* entail that we are *always* permitted to allow others to suffer harm. She argues that we are normally required “to make substantial one-off sacrifices to save strangers when personally involved in an emergency...” (p. 170). For example, assuming I won't lose my life in the process, I'm required to save a child from drowning even at significant cost to myself. For while the sacrifices in question can be severe (say I break my arm in the course of rescuing), such emergency type situations rarely occur if at all. We are also required “to make non-trivial regular contributions in response to ongoing need” (p. 170). I'm required, for example, to consistently contribute relatively small portions of my income to organizations that help alleviate poverty. For the contributions, while frequent, are not severe when considered individually. Both of these requirements are compatible with DDA in that neither of them entail that nothing genuinely belongs to me; neither of them, for example, permit others to use my body *such that my use of (authority over) my body is sufficiently undermined*. Part IV is an assessment on whether two prominent ethical theories (Scanlonian Contractualism and Brad Hooker's Rule Consequentialism) can incorporate her defense of DDA. Woollard concludes that both theories can.

In what follows, I outline in more detail Part I and Part II, which comprise the core of Woollard's defense of DDA. I then revert back to Part I and raise three concerns regarding her descriptive analysis. More specifically, I argue that Woollard's use of the notion of 'normal presuppositions' (this pertains to my first concern) as well as her account of the nature of dependence within any harmful sequence, while admittedly not an exhaustive account (this pertains to my second and third concerns), seemingly leaves her unable to

account for some clear cases of doing harm. Whatever the merits of these concerns, Woollard's book will be stimulating for anyone interested in either normative or applied ethics. I also think her book is a fine example of how to do analytic philosophy and for that reason alone is well worth reading.

1 Doing V. Allowing: The Descriptive Analysis

Woollard begins with Foot's claim that any harmful upshot is the result of a preceding sequence or chain of events (for Woollard, however, a sequence is not to be seen as a spatiotemporally continuous causal chain). Call such a sequence a harmful sequence. Whether a person does harm (i.e. is the agent of harm or primarily responsible for it) or allows harm is determined by his relationship to this harmful sequence. Whether I do harm or allow it, a fact about my behavior will be relevant to the harmful upshot. This means that the upshot will depend in some way on my behavior, though the dependence is not simple counter-factual dependence. Is a fact about my behavior relevant in that it's a part of the sequence leading to harm or rather in that it's a mere condition for the existence of the sequence but not part of it? A fact about my behavior will be part of a sequence if and only if it and all of the facts *through* which it's relevant are substantial facts: facts that "tell us of some change or addition to the world" and thus suitable to be a part of a sequence (p. 29). If a fact is either positive (one that tells us what is the case) or negative (one that tells us what is not the case) but contrary to our normal presuppositions, then the fact is substantial. Non-substantial facts are negative facts that are not contrary to our normal presuppositions. I do harm if and only if a fact about my behavior is part of a sequence leading to harm. I allow harm if and only if no fact about my behavior is part of the sequence leading to the harm, though a fact about my behavior will be a mere condition of the sequence itself (pp. 21–35).

To illustrate Woollard's account, consider the following sequence:

Push: Y is inside a car that stands on top of a slope. X pushes the car; it rolls down the slope and over a steep cliff. The car hits the ground and Y dies (p. 3)

The relevant fact about X's behavior (the fact about X that makes X relevant to the harmful upshot) is that X pushed Y's car. The fact that X pushed the car is relevant to the harmful upshot only because this fact is relevant to the fact that the car rolled down the slope and over the cliff, which is relevant to the harmful upshot. X's behavior is relevant only *through* the intermediary fact that the car rolled down the slope and over

the cliff. Put differently, that Y's car hit the ground (fact C) depends on X pushing Y's car (fact A), but only because fact C depends on the fact that Y's car rolled over the cliff (fact B), which depends on fact A. That X pushed the car, and that the car rolled over the cliff are both positive and hence substantial facts. X's behavior then is part of the sequence leading to Y's death. X has thus done the harm of Y's death. Now consider:

Stayback: Y is inside a car that is rolling down a slope at the bottom of which is a steep cliff. X is capable of moving a large rock in the path of the car, which would stop its momentum. X fails to move the rock and the car falls over the cliff. It hits the ground and Y dies (p. 3).

The relevant fact about X's behavior is that X refrained from moving the rock into the path of the moving car. This is relevant to the harmful upshot *through* the intermediary fact that there was no rock in the path of the car to stop its momentum. That X *refrained* from moving the rock and that there was *no* rock in the path of the car to stop it are both negative facts. The former is a fact about what X didn't do; the latter is a fact about what wasn't present. These negative facts qualify as non-substantial facts. No part of X's behavior, then, is part of the sequence leading to Y's death. X thus allows the harm of Y's death. Allowing harm, however, does not require that one refrain from acting. Consider:

Rock: Y is inside a car that is rolling down a slope at the bottom of which is a steep cliff. The car is rolling towards a rock large enough to stop its momentum, but X removes the rock before the car can strike it. The car goes over the cliff. It hits the ground and Y dies (p. 9).

The relevant fact about X's behavior is that X pushed the rock out of the path of the moving car. This is a positive and hence substantial fact; however, this is relevant to the harmful upshot through the negative intermediary fact that there was no rock in the path of the car to stop it. X thus allows the harm of Y's death.

Things become more complicated when we consider sequences that involve certain negative facts. Say an actor fails to show up for a performance, the result of which the audience feels extreme disappointment. Intuitively, the actor has done harm. However, that he refrained from showing up is a negative fact about his behavior. The relevant fact about the actor's behavior, though negative, runs contrary to our normal presuppositions, our background assumptions that are assumed to be true. It's quite surprising that the actor failed to show up, as it's normally expected that actors will not be absent from their performances. Thus this particular fact is a substantial fact. Furthermore, the relevant intermediary fact is that the performance was cancelled, a positive fact. Thus we have an explanation of how the actor does the harm of the audience feeling disappointment. As a further example, Smith walks into Jones' house and activates a device that sucks out all of the oxygen from the

air. Smith who is donning an oxygen mask is unscathed but Jones dies. Intuitively, Smith does harm but the relevant intermediary fact is negative: there is no oxygen in the air. However, that there is an absence of oxygen runs contrary to our normal presuppositions (pp. 34–5 and 57–61).

Finally, consider a variant on *Rock*. This case is the same as the original except the fact that the rock *belongs* to Y. Y has positioned the rock so that it will stop Y's momentum in the event that Y's car rolls down the hill. Here X does harm to Y. The fact that the rock is not in the path of the car is a negative fact that is *not* contrary to our normal presuppositions. However, this is a *relatively* substantial fact, and hence part of the harmful sequence. A fact is relatively substantial if and only if it's a fact about the absence of a barrier to harm such that either (1) the barrier belongs to the victim or to a third party who has legitimately authorized that the barrier protect the victim or (2) the victim has a non-need based claim to the barrier. There's more to be said regarding the details of this but suffice it to say that the barrier in the variation of *Rock* fits this definition. The barrier to harm is of course the rock, which is owned by Y, the victim (pp. 62–79).

2 Doing V. Allowing: The Moral Significance

Essential to Woollard's defense of DDA are the notions of causal and normative imposition as well as belonging. I am causally imposed upon by an agent just in case there is "a chain of substantial facts leading from the agent's behavior to an effect on something that belongs to" me (p. 101). The agent's behavior intrudes upon what belongs to me. I am normatively imposed upon by an agent just in case I am morally required to meet the needs of the agent by means of what belongs to me.

"To say that a resource belongs to a person is to say that it is currently his or hers in a way that gives that person a privileged status over the current use of the object" (p. 106). More specifically, X belongs to me only if I have a right to possess X. This is a claim right against others that they not interfere with (take, use, alter, destroy) X without my consent. "If other people are just as free to drive a car as I am, if they are permitted to take it away or take it apart whenever they need to [or whenever it would be for the greater good], it is not really my car" (p. 106). Now even if others are required to refrain from interfering with my car, it's still not genuinely *mine* "if I have to check whether anyone needs it more than me before I can drive it to work" (p. 109). X belongs to me, then, only if I have a right to use X: a permission to use X in accordance with my interests. That is, X belongs to me only if I am not required to let another person use X – *such that my use of*

(*authority over*) *X is sufficiently undermined* – whenever that person needs it more. It may be thought that the case where I am required to save the drowning child is a counter example to this claim. For here is a case where my body clearly belongs to me but I *am* required to put my body at the use of the child. For Woollard, however, letting the child use my body in this case doesn't undermine my ability to use it in any substantial sense. One reason for this is that this is a one-off case, unlikely to happen again.

Plausibly, my body belongs to me (note that Woollard builds a case for this in the last chapter). My body belongs to me only if (1) others are required to refrain from interfering with it without my consent i.e. causally imposing on me with respect to my body and (2) I'm not required to let others use my body for their purposes when doing so results in a substantial undermining of my ability to use my body i.e. I'm not to be normatively imposed upon in this way with respect to my body. (1) and (2) are true only if DDA is true. Why? DDA *just is* a prima facie moral principle that not only obligates us to refrain from doing harm, which involves causal imposition, but also permits us to allow harm when preventing harm would mean that we are normatively imposed upon in a certain way; when preventing such harm would result in our inability to use what belongs to us. If there is no DDA, there's no basis for (1) and (2). So, DDA is true.

3 Three Concerns with Woollard's Descriptive Analysis

I will now address three concerns I have with Woollard's descriptive account of the doing/allowing distinction. Here is the first concern. There are some cases of intuitive harm doing (e.g. the actor case and the Smith and Jones oxygen case) that are perhaps explained by the presence of facts that are contrary to our normal presuppositions. However, it seems that if the contexts of these cases are slightly altered, in non-outlandish ways, some apparent counter examples arise. Consider the following case:

Brake Cable: A woman is fed up with the car thieves in her neighborhood. She decides to remove the brake cable from her car. A thief steals the car. Unable to brake, the thief loses control going down a steep hill. The thief crashes the car and dies (p. 82).

Intuitively the woman has done harm. And what is supposed to explain this is the negative fact that runs contrary to our normal presuppositions: there was no brake cable in place. But imagine a case where not only is it a regular occurrence that cars are stolen, but it's also a regular occurrence that brake cables are removed.

Unfortunately, such a practice has not been much of a deterrent for some time now. The reckless thieves know full well that they could (or will) take a car that has no brakes. But it's still worth the risk. In this case, assuming a thief crashes and dies on account of not having brakes, it would seem that the woman has allowed harm rather than done it. But this seems to misclassify the case.

Or imagine a brutal warzone that has for several years seen the presence of a certain type of bomb. It's a fuel-air explosive that along with its initial blast sucks out oxygen from the surrounding atmosphere (these explosives, by the way, are not uncommon weapons for militaries to have and use). The context is such that it's unfortunately not an uncommon or surprising occurrence to be the victim of one of these bombs, to die due to a complete absence of oxygen. Say I detonate such a bomb and people suffocate. I am relevant to the harm through the negative fact that there is no oxygen in the air. And given the context, this negative fact is not contrary to normal presuppositions. Thus I merely allow harm. But this seems to misclassify the case. I seemingly do harm regardless of the expectations of others or what counts as surprising or unexpected.

A second concern with Woollard's descriptive account is as follows:

Landslide: Y is inside a car that stands on top of a steep slope. At the base of the slope is a large rock. This rock can be seen as a barrier that stands between Y's car and the edge of a steep cliff. X pushes Y's car. The rolling car triggers a significant landslide that washes away the rock. The car carries down the slope and over a steep cliff. The car hits the ground and Y dies.

The fact that the car rolls off the cliff depends on the negative fact that there is no rock present to stop the car. The fact that there is no rock present depends on the fact that the landslide washed it away. The fact that the landslide washed it away depends on the fact that car began to roll down the slope. And this latter fact depends on the fact that X pushed the car. The absence of the rock makes it so there isn't a chain of substantial facts that connects X's action with the harmful upshot. Furthermore, that there was no rock doesn't seem to be contrary to normal presuppositions. It's not any more contrary than the absence of the rock in *Rock*. Similarly like in *Rock*, the rock in *Landslide* doesn't belong to Y, and it's not clear that Y has a non-need based claim to it. Thus it would seem that X merely allows harm. But this seems to be a clear case of X doing harm.

It could perhaps be replied that in *Rock*, X's behavior is relevant to Y's death solely through the absence of the rock (p. 30). That is, the *only* fact through which X's behavior is relevant to Y's death is a negative fact. But this isn't the case in *Landslide*. X's behavior is relevant to Y's death through the absence of the rock, yes; but also through the positive facts of the car rolling down the slope and the land slide being generated.

This possible reply, however, seems to turn some clear cases of allowing harm into cases of doing harm. Consider the following:

Impoverished Village: I learn that, due to a misunderstanding, my accountant is about to sign away 10% of my income to a starving village. This money would save the lives of those villagers for the foreseeable future. I call my accountant to cancel the transaction and the villagers die as a result (p. 9).

Intuitively this is a case of merely allowing harm to come to the villagers. This can be explained by the fact that I am relevant to the harm through the negative fact that the villagers have *no* money for food. But am I relevant to the harm solely through this negative fact? We can seemingly imagine cases where I'm not. For example, it's reasonable to suppose that my phone call leads to certain positive facts, say for example, my accountant notifying the bank and someone at the bank making certain computer inputs (or at the least my accountant making certain computer inputs). Here the absence of money is not the only relevant intermediary fact between my action and the harmful upshot. So according to the possible reply, I have done harm to the villagers. But this doesn't seem right.

Woollard has suggested to me that this objection overlooks an important difference between *Rock* and *Impoverished Village* (both are cases of allowing harm) on the one hand and *Landslide* (a case of doing harm) on the other. In *Rock*, had the absence of the rock not depended on X's behavior, Y's death would not depend on X's behavior either. And in *Impoverished Village*, had the absence of the money not depended on my behavior, the deaths by starvation wouldn't have depended on my behavior either. It's in this sense, then, that the agent's behavior in *Rock* and *Impoverished Village* is relevant to the victim's death solely through a negative fact. But this isn't the case in *Landslide*. Had the absence of the rock not depended on X's behavior (say because someone else moved the rock last minute), Y's death would still depend on X's push.

In response to this, however, consider a paradigmatic case of doing harm. Smith kills Jones by stabbing him in the heart. We know from Jonathan Schaffer that the death of Jones depends on the fact that there is *no* blood flow to his brain, which depends on the fact that there is *no* blood flow through his right ventricle, which depends on the fact that his heart has been pierced, which depends on Smith's stabbing. Smith is relevant to Jones' death through intermediate negative facts. And yet here, like with *Rock* and *Impoverished Village*, it seems that had the absence of the blood flow through the right ventricle not depended on Smith's behavior, Jones' death would not depend on Smith's behavior either. In any event, this case resembles the oxygen case mentioned earlier. It thus could be mentioned that the absence of the blood flow is a negative fact that is

somehow contrary to our normal presuppositions. This response may seem satisfactory for those who are comfortable with the idea that distinguishing between doing and allowing harm can make reference to background assumptions about what counts as normal or expected. But, again, it's not clear that Woollard's account can explain how a stabbing is a case of doing harm in a context where stabbings are a regular occurrence. And the negative facts in the stabbing case don't seem anymore contrary to our normal presuppositions than the negative fact in *Rock*. I conclude that at the least more needs to be said concerning the adequacy of thinking about doing and allowing harm in terms of chains of substantial or insubstantial facts.

The third and final concern about Woollard's descriptive analysis is as follows. Recall that whether I do harm or allow it, the harmful upshot is supposed to depend on my behavior in some relevant though non-counterfactual sense. Say I point my gun at Smith, pull the trigger, and Smith falls dead as a result. I have done Smith harm and Smith's death depends on my action even though someone else would have shot Smith dead had I decided not to. However, Woollard claims:

“...we might expect there to be some kind of counter-factual dependence between the first relevant fact and the intervening chain of facts leading to the upshot. Suppose we claim that fact A is relevant to Upshot, U, through facts B, C, and D. A occurred so B occurred so C occurred so D occurred so U occurred. It does not seem that we have identified A as the relevant fact if B, C, D, and U – and all other intervening facts – would have occurred just the same even if A had not. A relevant fact must make some difference to how the upshot occurred” (p. 48).

It seems that A is relevant to U only if there is some counterfactual-dependence between A and some intermediary fact within the sequence that connects A and U, even though it's strictly speaking not between A and U per se. What Woollard has said here falls within a discussion about how to pinpoint relevant facts about behavior. Say I'm sitting at a table and a vase placed right next to me, and too close to the edge, falls to the ground and breaks. I see that it's about to fall but I do nothing. What is the fact about my conduct that makes me relevant to this upshot—the vase breaking? There are at least two options: either that I did not move or that I failed to catch it. For Woollard, the relevant fact about my behavior is the latter and not the former. No matter how I'm relevant to the upshot, I must be relevant to the upshot *through* the intermediate fact that was nothing to prevent the vase from hitting the floor. Suppose then that the sequence leading to the upshot is as follows: the vase falls, I do not move, there is nothing to prevent the vase from hitting the floor, the vase hits the floor and breaks. There is no counterfactual dependence between the fact that I do not move and the fact that there is nothing to prevent the vase from hitting the ground. For had I moved it wouldn't follow that there

would be something to prevent the vase from hitting the ground. Had I caught it, however, there would be something to prevent the vase from hitting the ground.

For Woollard, say we have A (a relevant fact about an agent's behavior), B (the intermediate fact through which A is relevant to U), and U (the harmful upshot). B counter-factually depends on A, and U counter-factually depends on B. This is both necessary and sufficient for U to depend in *some sense* on A. It does not follow, however, that U *counter-factually* depends on A. Where there's counter-factual dependence, there's dependence in some relevant sense. But it's not the case that where there's dependence in some relevant sense, there's counter-factual dependence (pp. 47–49).

If what I have said so far is correct, I'm not sure how pre-emption type counter-examples can be avoided. Consider the sequence that consists in me shooting Smith dead. Presumably, there's an intermediate fact within that sequence that counterfactually depends on my action. Say the sequence is the following: I fire my gun at Smith, the bullet leaves the barrel, the bullet hits Smith, and Smith dies. Seemingly the relevant fact about my behavior will involve some action of mine involving a gun. It turns out that Jones had set up a mechanism so that he could remotely fire my gun at the exact moment that I would have in the event that I decide not to. It would seem then that the bullet leaving the barrel is not counterfactually dependent on my firing my gun at Smith.

In *Push*, the sequence is something like the following: I push Y's car down the slope, Y's car rolls off the cliff, Y's car hits the ground and Y dies. Seemingly the relevant fact about my behavior will involve some action of mine involving Y's car. It turns out that had I not pushed the car hard enough to make it roll down the slope, or had I not pushed it at all, Jones would have given it a sufficiently hard push. It would seem then that the car falling off of the cliff is not counter-factually dependent on my pushing Y's car down the slope.

The concern can be stated as follows. In both *Push* and the gun case, I clearly have done a particular harm. I have done harm though only if a fact about my behavior is relevant to the harmful upshot. And, presumably, a fact about my behavior is relevant to the harmful upshot only if there is some counter-factual dependence between my behavior and the chain of facts that lead to the harm. Or put simply, between my behavior and the relevant intermediate fact of the sequence. But there is no such dependence in either sequence. I thus seemingly don't do harm in either the *Push* or the gun case.

Woollard has suggested to me that any harmful sequence (including of course those found in the *Push* and the gun case) is much more complex than how they are typically described. For example, we can zoom in to the

sequence of the gun case and see that it consists in something like the following: my finger moves, pressure is put on the trigger, the trigger moves back, the trigger is fully pushed back...etc. In fact, we'll always be able to zoom in to a sequence and find some intermediate fact that counter-factually depends on the relevant agent's behavior.

I suppose that this is possible. But I'm inclined to think that the complexity of any sequence can be matched with the complexity of any pre-emption mechanism. The more elaborate description of the sequence, the more elaborate description of the preemption mechanism. It seems it's the nature of a sequence itself no matter how complex that makes it prone to preemption type cases.

Could it be that an agent can be relevant to a particular upshot without any sort of counter-factual dependence between his behavior and the sequence in question? I do not propose to give an account of relevance (i.e. an account of what it is for facts to depend on one another such that they form a sequence). I'm inclined to think, however, that the answer is 'no'; at least on the assumption, which Woollard shares, that sequences are not spatiotemporal causal sequences.

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