Here is a familiar moral principle:

*Doing and Allowing:* there is a more stringent duty not to inflect harm on others without their consent than there is to fail to prevent others from suffering harm without their consent.

What does this principle mean? The duties in *Doing and Allowing* are *pro tanto* or abstract duties. They play a role in considering what we are permitted or required to do all things considered. Both duties can be overridden or vitiated if the stakes are high enough.

The former duty is more stringent than the latter if it has greater weight in an assessment of what we are required to do all things considered. If this is so, it takes more to vitiate or defeat the former duty than the latter. Such duties are typically vitiated by costs either to the duty holder or to others. So the idea that the former duty is more stringent than the latter implies that the former duty will sometimes not be vitiated or defeated by costs to the duty holder or to others that would be sufficient to vitiate or defeat the latter duty, other things equal.

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Doing and Allowing, or something like it, is widely endorsed by non-consequentialists. Even many of those who reject the Doctrine of Double Effect – roughly the view that there is a more stringent duty not to intend harm than to inflict harm as a side-effect of one’s actions - accept it. Something like Doing and Allowing is also reflected in the law, and is at least implicitly endorsed by many legal scholars. The criminal law, for example, has stringent prohibitions on harming, but its prohibitions on failing to save are much more limited. The same goes for tort law, where compensation is typically owed only for harming others, and not failing to prevent harm to others. Similarly, in international law there are stringent duties on states not to wage war, but much less stringent duties on states to prevent killing.

Some doubt that the very stark contrast between doing and allowing that we find in some areas of law can be defended. Some criminal lawyers, for example, support a general duty to rescue, such as that found in France and in a few states in the US. But few people support eliminating the distinction between doing and allowing from the law altogether, for example by making the law of murder neutral between whether the defendant caused harm or failed to prevent it.

Attempts have been made to explain or defend the contrast drawn in the law between doing and allowing without appealing to any fundamental moral principle like Doing and Allowing. For example, it is thought typically harder to identify those who wrongly fail to prevent harm than those who cause it; encouraging harm prevention might do more harm than good by encouraging inept do-gooding; and prohibitions on harming might typically interfere with liberty less profoundly than prohibitions on failing to prevent harm.

Similarly, some attempt to defend something like Doing and Allowing indirectly in moral theory. For example, some might do so indirectly within a

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1 For an influential example, see A Ashworth ‘The Scope of Criminal Liability for Omissions’ (1989) 105 LQR 424.
consequentialist framework, by showing that abiding by such a principle will tend to have the best consequences overall. And some might attempt to explain away the intuition that doing harm is worse than failing to prevent it by offering debunking explanations drawing on the evolutionary advantage of believing in *Doing and Allowing*.

But such explanations are notoriously hard to vindicate. They seem at most part of the truth. They are not fully satisfying, because they do not reflect the direct grip that something like *Doing and Allowing* has on many of us, even once we become aware of the full range of arguments for our belief in *Doing and Allowing*, and its reflection in the law. Many of us feel the force of *Doing and Allowing* so deeply that we think that it would take an argument of extraordinary power to make us give it up, and we are skeptical that such an argument will be forthcoming.

I. **How to Explain *Doing and Allowing***

Yet although *Doing and Allowing* is commonly endorsed, many also feel uneasy about it. It has proved very hard to explain the principle, let alone to explain it in a way that would vindicate our intuitions, and without such an explanation it is natural to have some degree of skepticism about it. The desire to explain it, and the difficulty of doing so, also raises the difficult question what would count as an adequate explanation.

i) **Intuitions and Explanations**

A significant amount of the work on *Doing and Allowing*, and related non-consequentialist principles, involves testing variations on it by considering our intuitive response to their implications in hypothetical cases; sometimes large numbers of hypothetical cases, some of which are divorced from reality. Whilst some think that this method of reflection has significantly improved
our understanding of non-consequentialist principles, it is also a source of a
great deal of frustration and hostility in others.

I agree with the common belief that the intuitive implications of Doing
and Allowing, in both the real world, and in cleaner pairs of hypothetical cases,
gives us at least some initial reason to think that Doing and Allowing, or some
closely related principle, is true. Yet I also understand the frustration that
many have with the use of cases.

Although criticism of the use of hypothetical cases is quite widespread,
I suspect that everyone relies on them in some way or other. A principle with
abhorrent or ridiculous implications is hard to believe, simply because we
will normally have more confidence in rejecting the implication of the
principle than we will have in any argument for its truth. Take the view that
the only source of our obligations are autonomous agents. This view implies
that it is not wrong to torture non-human animals, on the assumption that
most or all non-human animals do not meet the relevant conditions of
autonomy. It is doubtful that any explanation of a view that has this
implication will be supported by an argument powerful enough to defeat the
extremely powerful intuition that doing this is wrong. This explains why
many who start out with something like the view under consideration
attempt to find a way of explaining why it is wrong to torture non-human
animals, by rejecting, qualifying or developing the view.

Some doubt the significance of our intuitions about hypothetical cases
that are unlikely to occur. But it is hard to believe that the probability of some
hypothetical case occurring is a significant factor in determining the
importance of our intuitions about it (…oh, of course, if I did find myself in
those circumstances, I would be permitted to perform such and such patently
horrific act. But fortunately I am very unlikely to do so, so that doesn’t count
against my view!). What matters is how compelling and robust our intuitions
are, as well as any reasons we have to think that they are reliable or
unreliable. The mere fact that some set of circumstances is unlikely to occur is
not a reason to think our intuitions about it are unreliable, perhaps excepting those people without much of an imagination.

The problem with the method of exploring cases in the context of Doing and Allowing, and other related principles, then, is not that the cases have become further and further divorced from reality. But there are problems. First, many of the cases presented are not intuitively compelling. Take Philippa Foot’s claim that it would be wrong to create a gas that cures five people if that would release lethal fumes into another room that would kill one person.\(^2\) I share the initial intuition that doing this is wrong, but my intuition is not very strong: the alternative view does not seem at all ridiculous, even if it is somewhat counterintuitive.

My intuition that this is wrong is also, I think, not very robust in the following sense. We typically have moral intuitions because of values or principles or ideas that we in some way accept or believe or are inclined to, and that cause us to react to cases in certain ways. If so, we should also expect our intuitions to change as our understanding of these values and principles develops, or as we come to value differently, or reject principles that we were inclined to accept before examining them. Once we do deeper theoretical work, then, we might come to see that a principle that we were inclined to, and that drove our intuition, does not seem in itself at all compelling. And when this happens we often lose the intuition, or feel that any remaining reaction that we have provides little force in supporting the principle that explains it. This is one reason to be skeptical about the significance of pre-reflective intuitions in assessing moral principles.

Furthermore, it is sometimes possible to explain why we should not trust an intuition that we have, for example when we find a compelling debunking explanation for it. It is difficult to provide a complete theory for when debunking explanations work, and I certainly don’t have one. But we

can see some compelling cases. For example, there is some reason to doubt our commonsense intuitions about the significance of choice in morality given that the phenomenology of choosing tends to obscure the idea that our decisions might be causally determined. This does not give us reason to reject the use of cases involving choice, but rather to develop cases where causal determinism is more brightly illuminated.³

As I have suggested, I would not find it difficult to give up my intuition in Foot’s case if I was presented with an explanation of this kind. I would find it very difficult, in contrast, to give up the intuition that I am permitted not to rescue a stranger’s life at the cost of my own life, or to flip a coin to decide who lives and who dies. This also suggests that there is some principle, value or idea that I am very strongly inclined to that explains the permission. And I take it that I am not alone. Of course, even principles that we are strongly inclined to may not survive critical scrutiny. Our intuitions may rest on the inclination to treat some fact as morally important that could not possibly be morally important. So even in the case I have described the intuition may not be decisive. But there is at least powerful evidence that there is some compelling moral idea that explains the intuition.

There is a more important reason why the use that is sometimes made of hypothetical cases can be frustrating. Even if intuitions about cases have a role to play in orienting our thinking about principles like Doing and Allowing, and in bolstering our confidence in their truth, intuitions have only a limited role to play in explaining a principle. One way to explain a principle is to help others to understand it. We understand a principle better by seeing what it implies, and so intuitions can play a role in explaining a principle. But there is more to explaining a principle than understanding what it implies and seeing whether we can accept it in the light of such implications.

So how are we to explain principles beyond exploring how intuitive their implications are? Some principles are non-basic – they can be derived from more basic principles. But it seems difficult to derive *Doing and Allowing* from more basic principles. This fact alone does not show that *Doing and Allowing* is false. It might be a basic principle.

Some claim that we have intuitions not only about cases, but also about principles themselves, and this seems true. Some principles are powerfully intuitive on their own: the intuition that the principle is true is powerful simply on understanding it. Furthermore, just as we have intuitions about both principles and cases, we also have intuitions about the relationship between these things. A principle that has intuitive implications might itself leave us cold, and if it does we doubt that it explains the judgements that it implies. But even a principle that seems intuitive, and that has intuitive implications in a set of cases, may not provide the best explanation for the intuitions that we have about the cases.

For example, although *Doing and Allowing* implies that it is harder to justify punishing the innocent than harming the innocent as a side-effect of the criminal justice system, it is not intuitive that this principle fully explains why this is so. This is one reason why many people find it unsatisfactory to rely solely on *Doing and Allowing* in criminal justice ethics, without recourse to further deontological principles, such as the *Doctrine of Double Effect* or the *Means Principle* - the principle that there is a more stringent obligation not to use people.

One reason why some principles don’t take much explaining is that they rely on experiences that many of us have, and that seem clearly morally important. Most of us accept the principle that there is at least sometimes an obligation to prevent others from suffering physical pain – at least when we can do so at no cost to ourselves. This principle is easy to understand. We reflect on physical pain, we find not only that we don’t like it, but also that it is bad. This gives us a reason to prevent it. And when that reason does not
conflict with any other reasons we might have either not to prevent it, or to be free not to prevent it, we conclude that we are required to prevent it.

*Doing and Allowing* is not a principle like that. It is not a principle that we immediately fully understand. That is not only because we don’t fully understand its implications. It is also because the ideas it expresses might have more than one source. My aim is to explore these different possible sources to see if they survive critical reflection.

**ii) Interests and Duties**

One suggestion is that we look for an explanation of *Doing and Allowing*, or some related principle or set of principles, in a theory of rights. It does seem powerfully intuitive that *Doing and Allowing* has something to do with rights: the right not to rescue others if doing so harms me, and the right not to be harmed by others. But although it seems true that *Doing and Allowing* has something to do with rights, this is not the right place to look to explain it. The idea that *Doing and Allowing* has something to do with rights does, though, suggest the kind of explanation we should be looking for.

Assuming that a person’s interests explain her rights, we should look for some interest that explains *Doing and Allowing*. This might be an interest of the potential duty-holder in not having certain duties, or an interest that the potential right-holder has in others having certain duties. But the view that my right that you don’t harm me is more stringent than the right that you

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5 The most prominent defender of the interest theory of rights is Joseph Raz. See, especially, *The Morality of Freedom* (Oxford: OUP, 1986). I suspect that people who reject this view do so in part because of an insufficient grasp of the range of interests that can be relevant.
don’t fail to prevent me from being harmed is too close to Doing and Allowing itself to explain why it is true. The relevant view of rights itself needs explaining.

Deeper explanations of Doing and Allowing can be agent-centered or patient-centered. Suppose that we are considering whether X has a duty to or not to v, where Y will be the beneficiary if X has this duty and abides by it. An agent-centered argument aims to explain X’s duty by showing how X’s interests explain his having or lacking this duty. A patient-centered argument aims to explain it by showing how Y’s interests explain X having or lacking the duty. Patient-centered arguments can be relational: they point to interests that people have in not being in certain relationships with others. For example, a person might demand respect, and that explains why others must take certain attitudes towards her, for otherwise these others will disrespect her.

To be clear, when we explain X’s duty to v, or lack thereof, by appealing to interests, the relevant interests include, but need not be not limited to, interests that X or Y have in X either ving or not ving. People might also have normative interests; interests in others being subject to certain duties that do not depend on whether the duty is complied with. For example, some duties are explained by the interest that people have in being in control over the duties that others have, independently of whether they perform the actions that the duties require. The duty not to affect others in certain ways without consent is an example – it is explained in part by the interest that people have in affecting the normative situation of others by deciding whether to release them from a duty they are owed.⁶

But when we reflect whether a person has a duty, we assume that if X has a duty to v, X vs. We also consider whether it is appropriate that X is not

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⁶ See, for further defence of this view, D Owens Shaping the Normative Landscape (Oxford: OUP, 2012); V Tadros Wrongs and Crimes (Oxford: OUP, forthcoming) ch.11.
under a duty to $v$ by reflecting on his not $v$ing. This is not because all of those who lack a duty to $v$ will refrain from $v$ing, or because all of those who have the duty will abide by it. But whether a person has a duty to $v$ does not depend on whether his having this duty will tend to incline him to $v$. Actual or typical psychological facts about compliance are not the kinds of thing that determine what duties we have. A person who is figuring out what duties she has is considering how it is appropriate for her to act, not how she predicts she will act. For example, it does not vitiate a person’s duty to rescue that she will be less likely to rescue if she has a duty, say because she likes the idea of being a wrongdoer.\(^7\)

A person who lacks the duty to $v$ appropriately sees herself as having the option not to $v$. We assess the plausibility of her having this option in part at least by imagining her taking it. Of course, a person who lacks a duty to $v$ may nevertheless be inclined to $v$. But even if she is so inclined, if she lacks the duty, she is free not to $v$. The question is whether the value of her $v$ing is sufficient not only to give her reason to $v$, but also to constrain her from failing to do so. And we assess that by considering the importance of her $v$ing, or not.

\[iii) \quad \text{A Sketch of Two Sources of Doing and Allowing}\]

My aim is to illuminate two different possible sources of *Doing and Allowing*, and to show that each is appealing. Together, they explain central cases that *Doing and Allowing* explains, and help us to evaluate more marginal cases. The first idea is agent-centered: it is valuable to be free from moral compulsion to pursue the most valuable end. It is less valuable to be free to pursue particular ends that one has. A principle that requires a person to prevent harm does not leave the person free to reject harm prevention as her end. A principle that requires a person not to harm others requires a person not to pursue ends that

\[^7\] See, further, V Tadros *Wrongs and Crimes* ch.12.
she has if doing so harms others. Thus a prohibition on harming others is easier to justify than a requirement to prevent harm to others.

A second idea is relational. It has to do with the interest that people have in not being involved in the plans of others without their consent, and the interest that people have in others not involving themselves in their lives without their consent. The prohibition on non-consensual harm to others is especially stringent, this idea suggests, because by harming others we involve others in our plans in a way that is deeper and direct than we would merely by failing to protect them from harm, and we involve ourselves in their lives in a deeper way.

Together, these ideas help us to understand the stringency of doing and allowing, and at the end of the essay I will make some comments about how to assess its stringency in different cases.

II. Partiality and the Value of Persons

Many people have the powerful intuition that we are permitted to allow harm to others, even when we could prevent the harm in a way that will result in our being harmed to a lesser degree.

Consider:

Rescue: Y faces a threat. If X does nothing Y will be harmed. X can prevent Y from being harmed, but if she does so she will be harmed. Y does not consent to X not preventing the harm.

Suppose that the harm that X will suffer if she rescues Y is less grave than the harm that Y will suffer if X does not do this, and all else is equal. It seems that if the difference in the magnitude of these harms is not too great, X is permitted not to prevent Y being harmed.

i) Partiality, Rescue and Harm
One aspect of an argument to support the intuitive view about Rescue has to do with the freedom that a person has to act on personal considerations. X is not required to be impartial between his well-being and Y’s in practical reasoning. She is free to treat her own well-being as decisive over Y’s. Let us call the argument that a person is permitted to treat her own welfare as decisive ‘the argument from self-preference’.

The argument from self-preference is an instance of a more general set of arguments for partiality. Roughly speaking, these arguments claim that people are permitted to treat a wider range of things as decisive because of the connection that these things have to them. They include the person’s family, friends, and projects. In some cases, a person seems not only permitted to act on reasons of partiality, she seems required to do so. A parent, for example, seems required to save her own child from drowning where the alternative is that she could rescue two children that she has no relationship with.

Whatever its merits, the argument from self-preference is insufficient on its own to support Doing and Allowing, because we need an explanation why a person is not free to treat her own well-being as decisive in comparable cases where she will cause harm to others. Without such an explanation, we have only supported a general permission to prefer one’s well-being over others, regardless of whether one does or allows harm.⁸

Consider:

_Harm for Self:_ X faces a threat. If she does nothing she will be harmed. X can prevent herself from being harmed, but if she does so she will harm Y. Y does not consent to be harmed.

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⁸ For the troubling implications of relying on partiality alone, see Frances Kamm’s response to Samuel Scheffler in Morality, Mortality vol.II: Rights, Duties, and Status (Oxford: OUP, 1996) 213-5.
Suppose that the harm that X will suffer if she does not harm Y is less grave than the harm that Y will suffer if X does this, and all else is equal. It seems that X is not permitted to harm Y.

A general argument that a person is permitted act on her preference for her own welfare over others militates in favour of X’s permission to harm Y in *Harm for Self*. To explain the intuitive contrast between *Rescue* and *Harm for Self*, then, we need something more. We need to show one or more of these things: that considerations of self-preference apply in *Rescue* but not *Harm for Self*; or that they do not apply equally in these cases; or that other considerations explain why X is not permitted to harm Y in *Harm for Self*.

Furthermore, considerations of self-preference do not apply in cases where harm to one stranger can be prevented only by harming others. But *Doing and Allowing* also has intuitive implications in that case. Consider:

*Harm for Others*: Y faces a threat. If X does nothing Y will be harmed. X can prevent Y from being harmed, but if he does so he will harm Z.

It seems wrong for X to harm Z even if the harm that Z suffers is somewhat less grave than the harm that Y would suffer were X to do nothing, as long as the difference is not too great.

Although any argument from self-preference is insufficient alone to support *Doing and Allowing*, it does seem to play an important role in supporting that principle. We can see this from the fact that it seems highly intuitive that considerations of self-preference help to explain X’s permission not to prevent Y from being harmed in *Rescue*. It seems that if X refrains from rescuing Y, X does not act contrary to reason. She has a reason to favour her own welfare over Y’s. And this seems an important part of the explanation why X is free not to rescue Y. An argument for X’s permission not to rescue Y is satisfying only if it draws on and explains why X has a reason to favour her welfare over Y’s. Only such an argument is satisfying because only such an
argument captures the role that our reasons to care about our own welfare seem to play in the judgement that X is permitted not to rescue Y in Rescue.

I begin with a general argument for the view that morality is sensitive to reasons of partiality. I then show that partiality is engaged in a more significant way in Rescue than in Harm for Self. This partly explains why X is permitted not to rescue Y in Rescue where she is not permitted to harm Y in Harm for Self. Later I will supplement this agent-centered argument with a relational argument.

ii) A General Argument for Partiality

The context for an argument for partiality is the more general idea that our moral obligations are only part of a more general set of norms and values that govern decisions what to do. A person who fully grasps all of her moral obligations, and who is fully motivated to comply with them, still faces decisions how to act. Norms and values govern those decisions. This aspect of morality itself needs explaining, and I can do no more than sketch an approach here.9

Begin with the contrast between what we are permitted to do and what we are required to do all things considered. A rough characterization of this contrast is that a person who is required all things considered to \( v \) is not free not to \( v \) whereas a person who is not required all things considered to \( v \) is free not to \( v \). A person who is free not to \( v \) can still have a decisive reason to \( v \): I may have a decisive reason to write a good paper without being morally required to do so. If so, I am free not to do what I have decisive reason to do.

A full account of our moral requirements involves at least three things: an account of the nature of the freedom that morality is concerned with; a general explanation of the importance of the realm in which we make

9 I provide some more discussion in V Tadros Wrongs and Crimes chapter 3. The next few paragraphs draw on that discussion.
decisions that are beyond the scope of morality; and an explanation why values sometimes constrain our freedom. In other words, we need an explanation of why it is valuable that there is a realm of practical reasoning that is governed by norms, where we are permitted to take decisions for ourselves unconstrained by moral requirements.

Here I focus only on one aspect of that explanation: the idea that the value of persons as autonomous agents explains the limits of morality. Here is a rough sketch of the idea. Persons are valuable because of their agential, emotional, attitudinal and judgemental capacities. One reason why these capacities give persons great value is that they make persons capable of living rich and distinctive lives through the exercise of their autonomous agency. A person’s life is distinctive because of the distinct relationships, projects, goals, attitudes, and values that constitute or direct it. A life is rich if these relationships, projects, goals, attitudes, and values are complex and sensitive to things of value. A person’s life is pursued through the exercise of her autonomous agency if it is shaped in the right way by the exercise of her agential, emotional, attitudinal and judgemental capacities.

On the view just sketched, the exercise of autonomous agency has non-instrumental value in the following sense – the value that a person’s life has non-derivatively depends on the role of the autonomous agency within it. The exercise of autonomous agency is not simply a way of securing the other values that a life has; their value non-instrumentally depends on it. This leaves open the relationship between the value of the goals that a person pursues and the value of autonomy. For example, the exercise of autonomous agency might be valuable only on condition that the goal a person pursues is valuable.

There is a dynamic relationship between facts that make a person’s life rich and distinctive and what a person has reason to value. What the person values shapes the relationships that the person forms, and the projects and goals she sets herself. These relationships, projects and goals in turn shape what the person has reason to value. For example, the fact that I value a good
sense of humour might incline me to befriend someone funny. The friendship, though, will have many dimensions that are not connected to the person’s good sense of humour, and in the course of developing the friendship I will come to value these things about my friend.

This is a particular instance of the more general idea our reason to value something does not depend simply on how valuable that thing is, but also on the connection between that thing and us.\(^\text{10}\) The standard, but compelling, example is that I have more reason to value the welfare of my child than yours even though my child is no more valuable than yours. The fact that we have developed certain connections with the world through the exercise of autonomous agency is one way in which our lives are distinct, and is one thing that shapes the appropriate responses we have to valuable facts.

When a person reflects on whether she is required to perform an action, she reflects both on the values that will be advanced and set back by the action, but also on her value as an autonomous agent. She respects her value as an autonomous agent only if she gives sufficient weight to her freedom to pursue a rich and distinctive life through the exercise of her autonomous agency. That explains why she is free to perform a range of actions, for she shapes a rich and distinctive life through the exercise of her autonomous agency only if she is free in this way. At least in normal circumstances, this will support options not to pursue the impersonally best consequences.

This draws on the idea that when we are subject to an all things considered duty to \(v\), whether we \(v\) is not our choice. Doing our duty thus does not contribute to the value of a person’s life that I have just identified. It may, of course, give the person’s life great value of a different kind, especially

if doing the duty was something that could not ordinarily be expected of the person.

The limits of a person’s freedom are set by countervailing values that militate in favour of performing the relevant action: some values not only provide the person with a decisive reason for action, they undermine the value of a person’s freedom to shape her own life through autonomous action. Where that is so it is appropriate that the person is constrained, and thus she not only has a decisive reason to act, she is also subject to a moral obligation to act.

For example, suppose that I am able to save a life at very little cost to myself but I choose not to do this. My free choice not to do this would have no value. The decision and action not to do this could not make a contribution to the value of a rich and distinctive life. The value of the autonomous decision is undermined by significance of the death of the person who is not saved. The value of the person saved thus not only gives me a decisive reason to save the person; it also supports a constraint on my failing to do so.

Now compare the following. Suppose that I am able to write a good paper but choose not to do so, and go out with my friends instead. Suppose also that the value of the paper gave me a decisive reason to stay in and write it. Respect for the value of the paper need not undermine the value of my freedom to go out with my friends. Thus a proper judgement of the value of the paper and the value of going out with my friends is that I have a decisive reason to write the paper, but I am free not to do so.

Of course, the claim that the value of freedom is undermined in the first case but not in the second is a matter of judgement. We draw these conclusions by reflecting more generally on the value of free choice and the values that would be set back by the non-performance of the actions. The value of people being free, rather than being constrained to do what is best, and the limits of that value, are basic. Given that this seems plausible in itself,
it is no objection that the value of autonomy has been assumed rather than defended.\textsuperscript{11}

### III. Agency and Responsibility

We have already seen that arguments from partiality cannot support \textit{Doing and Allowing} alone. The question is how they figure in a more complete argument for it. An agent-centered argument for that principle draws on the value of agents to show one of two things: that there are distinctive reasons to reject positive obligations, or that there are distinctive reasons to support negative obligations.

Samuel Scheffler offers one kind of an agent-centered argument for \textit{Doing and Allowing}.\textsuperscript{12} His argument aims to support the contrast between positive and negative obligations by drawing on basic facts about practical reasoning; in particular what is involved in being governed by norms. I am not completely confident about the argument he intends. This section suggests that if I have it right, we should reject it. In the next section I offer an alternative agent-centered suggestion that connects the argument from partiality to \textit{Doing and Allowing} in a more promising way.

Here is a rough schematic of Scheffler’s argument as I understand it:

\begin{itemize}
  \item[a)] To see oneself as subject to norms that one will be responsible for complying with, or failing to comply with, is to see oneself as having reason to ensure that one conforms with these norms.
  \item[b)] Ensuring that one conforms with these norms requires marshaling the resources of one’s agency, including one’s capacity for deliberation, choice and action.
\end{itemize}

\textsuperscript{11} Compare Frances Kamm’s response to Shelly Kagan in \textit{Morality, Mortality vol.II}, 230.

c) Marshaling the resources of one’s agency to ensure that one conforms with the norms that apply to one is something that one does, and not something that one merely allows to happen.

d) Therefore to view oneself as subject to such norms is already to attach special importance to having a special responsibility for what one does when compared with what one allows.

e) Therefore one has primary responsibility for what one does rather than what one allows.

f) One has a more stringent duty to avert harm resulting from one’s decisions if one will bear primary responsibility for that harm.

g) Therefore there is a more stringent duty to not to do harm than there is not to allow it.

One idea that this argument draws on is that there is some important relationship between the nature of the primary norms that govern us and the norms that govern the practices of responsibility through which we hold people responsible for failing to comply with primary norms.\textsuperscript{13} Let us call the latter set of norms ‘norms of accountability’. Norms of accountability are secondary norms in this sense: they are norms that apply to practices that are concerned with norms. Scheffler is right that there is such a relationship, though it is a matter of dispute what the relationship is. Premise f) seems to rely on the idea that the content of the primary norms that that apply to a person depend on the norms that determine whether some action or outcome is attributable to a person. I doubt that this is true.

One dimension of a theory of the relationship between primary norms and norms of accountability concerns the order of explanation between these norms. Response-dependent views aim to explain certain norms, such as all things considered duties, by the distinctive responses that are appropriate in

the case of violation. For example, some claim that wrongness is grounded in blameworthiness. On this view, conduct is wrong because it is blameworthy. The idea that the norms that apply to us are affected by norms of attribution is best understood as a development of this response-dependent idea. Though it is not completely clear, it may well be that Scheffler is sympathetic to this view, as he explores *Doing and Allowing* by focusing on the appropriate responses to the conduct the principle governs.

I doubt that response-dependent views of wrongdoing are generally right. I suspect that responses to wrongdoing, such as practices of blaming, depend on an independent account of wrongdoing, and play no role in grounding wrongness. For this reason, I also doubt that the content of primary norms depends on the appropriateness of holding a person responsible for violating the norm. That, though, is a large topic, so let us suppose that the response-dependent view is right.

A question within the family of response-dependent views concerns the relationship between a norm that applies to a person and the agential conditions that must be met for the person to be responsible for violating it. It is appropriate to hold a person responsible for violating a norm only if the action that constitutes the violation is attributable to the person as a person. This depends on the connection between the violation and central features that make the person a responsible agent.

This suggests that two things determine whether a person is responsible for some outcome. First, there must have been a norm that applies to the person. In the case of negative responses, such as blame, the response is appropriate only if there has been a failure to conform to the norm. But second, we hold a *person* responsible for the norm violation only if the violation is connected to the person in the appropriate way. This is because

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14 See, for a prominent example, S Darwall *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, Mass.: Harvard UP, 2006).
15 I defend this view in *Wrongs and Crimes* chapters 2 and 3.
the response is made to the person, and thus the failure to conform must be a failure of the person to whom the response is made. This second question is a question of attribution – a person is responsible for some action only if the action is attributable to the person in the appropriate way.

Premise f) in the argument that I attributed to Scheffler seems to suggest that the content of the norms that apply to us depends on questions of attribution. But even if the response-dependent view of wrongdoing is right, these dimensions of responsibility seem largely independent of each other. I suspect that the tendency to think otherwise results from the fact that we use the term ‘responsibility’ in two ways. We use it to refer to our duties (or the grounds of our duties) – for example parents, are responsible for looking after their children. And we use it to refer to questions of attribution. But that fact about our language only indicates that there are two dimensions to norms of accountability. It provides no indication of the relationship between them.¹⁶

We can see that primary norms are not affected by considerations that affect attribution by focusing on more standard ways in which attribution is eroded. Consider the duties that apply to those whose responsibility is diminished such as the involuntarily intoxicated. If X hits Y whilst involuntarily intoxicated, X is less responsible for the harm that he inflicts on Y than he would be were he not involuntarily intoxicated. A plausible view is that this is because the conduct is less deeply attributable to him as a person. X may thus have an excuse for failing to conform to his duty not to harm Y, and that affects the norms of accountability – it provides a reason to withhold blame. But X’s duties not to harm Y are unaffected by this. The duty not to harm Y is no less stringent in virtue of the fact that he will be less responsible for the harm that he causes if he does so. For this reason, premise f) does not seem secure.

¹⁶ See, further, V Tadros ‘Permissibility in a World of Wrongdoing’ Philosophy and Public Affairs, forthcoming.
Scheffler claims that there is a deep instability in a person who views herself as more deeply responsible for what she does than what she allows, but who rejects *Doing and Allowing*. We can now see that this is not so. A person might recognize that she has greater agential involvement in what she does than what she allows, and yet draw no conclusions about the stringency of the relevant duties. She is no different from a person who recognizes that she is less agential involvement in her involuntarily intoxicated actions, but yet draws no conclusions about the stringency of the duties that apply to her whilst intoxicated. Whilst deliberating, the latter person might rightly conclude that if she fails to reason accurately, others will have a reason not to blame her. Yet this fact has no bearing on the content of her deliberations.

Even if this doubt can be allayed, there are further doubts about Scheffler’s argument. Scheffler relies on the second order reason that we have to ensure that our actions comply with norms of individual responsibility: we not only have a reason to do what we are required to do, but also to ensure that we do what we are required to do. And we do that by ensuring that the norm figures in the appropriate way in our practical reasoning. As Scheffler notes, the reason to ensure that we comply with the norms that apply to us is a reason to do something rather than a reason to refrain from doing something.\(^17\) In the case of successfully complying with a norm of conduct, then, there is a ‘second-order doing’ – a marshaling of one’s deliberative resources to ensure the compliance.

Of course, this is not true in every case. It is not true, for example, in the case of mere conformity to the norms that apply to us – the case where we do not violate the norm, but the norm, or the facts that support it, do not figure in our practical reasoning.\(^18\) The same thing is true in cases where no deliberation is necessary to ensure that we respond to the first order reasons.

\(^{17}\) ‘Doing and Allowing’ 222.

\(^{18}\) For the distinction between conformity and compliance, see J Raz ‘Postscript’ in *Practical Reasons and Norms* 2\textsuperscript{nd} edn. (Oxford: OUP, 1999) 178-82.
that apply to us. But we can set this aside. We can at least agree that in central cases of failure to conform to a norm that applies to us, we have failed to marshal our deliberative resources in the appropriate way.

But this also implies that in every failure to conform to the norms that apply to us, there is an allowing – a failure to comply with a positive second-order norm that applies to us. When we fail to comply with a norm, we fail to marshal our resources to ensure compliance with the second order norm to ensure that our deliberative resources are engaged in the appropriate way to govern our conduct. And when we succeed, we exercise our judgement to ensure that we comply such a norm. We do so by positively exercising our agency.

Now suppose that Scheffler is right that recognizing our reasons to ensure that our conduct conforms to norms of individual responsibility is central to responsible agency. If so, this supports the idea that positive obligations – in particular our obligation to exercise our agency to ensure that we conform to our first order duties - is central to responsible agency. To see oneself as having a reason to ensure that one does not fail to comply with the obligations that apply to one, in other words, is to see oneself as subject to a very general positive duty to marshal one’s resources to govern one’s conduct in the right way.

If anything, then, Scheffler’s argument highlights the centrality of positive obligations to responsibility – we must exercise our agency rather than passively allowing our lives to be governed by unreflective decisions. Hence, if anything, the premises of Scheffler’s argument count against Doing and Allowing. Every case of wrongful doing is also a case of wrongful allowing, so we should be untroubled about extending our duties to other allowing cases.

For example, when X wrongly harms Y, X also wrongly fails to marshal her deliberative capacities to bring her actions in line with her duty not to harm Y. When X is inclined to harm Y, and fails to reflect, or fails to reflect adequately, X then wrongly fails to herself from harming others by exercising
her judgement. Insofar as our second order capacities are central to responsibility, we wrongfully allow harm others in every case where we wrongfully harm others. In the light of this, it is hard to see how our obligation to engage in second-order reasoning can underpin *Doing and Allowing*.

Finally, even if these objections can be met, it is difficult to see how Scheffler’s premises support a principle as broad as *Doing and Allowing*. Regulation of our actions by the exercise of judgement is a central part of the process through which we form and execute our plans. It is thus an intentional activity. At most, Scheffler’s premises support only a principle that restricts intentional harming, such as some version of *Doctrine of Double Effect*. Neither the harm that we bring about as a side-effect of our actions, nor harm that we allow to occur by inaction, are implicated in the second-order exercise of agency that Scheffler focuses on.

So even if there was some instability in the person who accepts that she is governed by norms, but fails to give any special significance to the harm that she intentionally inflicts, there is no obvious instability in the person who accepts that she is governed by norms, but fails to give any special significance to the harm that she inflicts as a side-effect.

Overall, I doubt that the best way to support *Doing and Allowing* is to focus on general questions of practical reasoning and responsibility: these general ideas seem consistent with a wide range of views about the content of the norms that apply to us, including consequentialism.

**IV. Ends and Restrictions**

Here I offer an alternative agent-centered argument for *Doing and Allowing* that draws on the general argument from partiality offered in Section II. The argument offered is by no means ‘knockdown’ – it relies on controversial judgements about how we should respect persons. To be clear, I don’t suggest
that this is a complete argument for *Doing and Allowing*, even if it succeeds. It is at most part of the story.

A person has personal resources: the person’s mind and body. These are contrasted with external resources, which a person might own. Personal resources have distinctive moral importance because they either constitute the person, or are deeply and intimately bound up with the person (which of these things is true of which resources depends on views about personal identity that I leave aside). There are especially strong reasons for a person to be free to use her personal resources for the goals that she sets herself.

Duties are limits on the freedom to use one’s personal resources to pursue one’s goals. They can be positive or negative. It is sometimes thought that positive duties restrict my freedom more profoundly than negative duties. Suppose that I am required to pursue some goal. One way in which this restricts my freedom is that I cannot pursue other goals that I have that make me unable to pursue that goal. If I am required to spend time and effort helping others, I am not free to do use that time and effort to pursue other goals that I have. This is one way in which positive obligations restrict my freedom.

But, as my earlier remarks suggest, negative duties also restrict my freedom in this way, and they may do so equally. If I have a duty not to bring about certain consequences, I am not free to use my personal resources to pursue goals that I have that will have those consequences. Furthermore, the effect on my ability to pursue other goals that I have might equally be affected by negative duties as by positive duties.

There is a different contrast between positive and negative duties that is more difficult to grasp, but that seems more general. Positive duties impose an end on a person in this sense: the duty that the person is under is explained by the value that she will bring about if she fulfills it. Thus, if she complies with the duty (or at least if she does so for the reasons that explain why she is under the duty) she sets a certain valuable end as her end. If she has a duty to serve the end, she is not free to reject this end as her end. We can
see this from the fact that if she reasons correctly about the values that govern her conduct, the value that supports her duty provides her with a decisive reason for action, and constrains her.

Negative duties, in contrast, restrict a person from pursuing ends that she may wish to pursue. But they do not compel a person to serve any particular end, even if the person reasons correctly. She is thus free not to use her personal resources to pursue any particular end.

The agent-centered argument for *Doing and Allowing* that I offer rests on the idea that the value of a person provides a stronger reason against having ends imposed on her than restrictions on her ability to pursue her own ends. Why might we think this is true, given that imposing a goal and restricting a person from pursuing her goals can equally affect the person’s ability to pursue ends that she sets for herself? We value people because of the rich and distinctive life that they create for themselves through the exercise of autonomous agency. This involves the person setting her own ends. Imposing end on a person seems to conflict more profoundly with the value that a person has in setting her own ends than restricting her from pursuing ends that she has set herself.

Some may, of course, doubt that the distinction between a moral principle that imposes a goal on a person and a moral principle that restricts a person’s ability to pursue her goals is important. They may think that the value that a person has in virtue of her ability to pursue a rich and distinctive life through her autonomous agency is respected simply by ensuring that she has opportunities to pursue ends that she sets herself, and there is no fundamental difference between positive and negative duties in this regard.

I have little more to offer in defending the view outlined other than to report the results of personal reflection. Indeed, I doubt that much more can be offered. We can decide between the views under consideration by focusing directly on cases like *Rescue*. Does it seem intuitively powerful that one reason why X seems permitted not to rescue Y is that if he is required to do so, the goal of rescuing Y is imposed on him, and he must thus serve that goal even...
at some very great cost to himself? Or is it just that if he is required to rescue Y, he cannot pursue other goals that he has? If it is the latter, the agent-centered argument I have offered provides no support for *Doing and Allowing*. But the former idea seems plausible.

Or we can focus directly on the general idea that the value that there is something directly significant about being compelled to serve an end, independently of the extent to which one is restricted from pursuing one’s own ends. Again, I find it plausible that we have reason to recoil from the imposition of an end on us, in the sense outlined above. But I concede that this is simply a matter of judgement, and I have no further way of persuading those who are skeptical.

V. **A Relational Argument**

Whilst I find the agent-centered argument outlined in the previous section plausible, I doubt that any agent-centered argument provides a complete explanation of *Doing and Allowing*.

i) **Involvement**

It is intuitive that the wrongness of harming a person in cases like *Harm for Self* does not rest entirely on the fact that it is difficult to justify imposing positive duties on people. And this suspicion is confirmed by the fact that it does not seem plausible that there are powerful agent-centered explanations for the wrongness of X harming Y in *Harm for Others*. I doubt that an explanation of what is objectionable about this can be derived from facts about the duty holder. For this reason, we should explore patient-centered arguments for *Doing and Allowing*.

I also doubt *Doing and Allowing* can be supported by focusing simply on the victim independently of her relationship with the wrongdoer. The victim is no worse off if she is harmed in *Harm for Others* than she is if she is
not rescued in *Rescue*. This suggests that an explanation of *Doing and Allowing* is in part based on a relational idea: something like the idea that it is distinctively objectionable for one person to involve herself in the life of another if that makes the other person worse off, or the idea that it is distinctively objectionable to involve another person in one’s own life if that makes the person worse off. X does not seem as deeply involved in Y’s life, nor Y in X’s life, if X does not rescue Y in *Rescue* when compared with *Harm for Self* or *Harm for Others*.

Once again I doubt that the importance of this relationship of involvement can be defended by appeal to independent ideas, and some might find this unsatisfactory. For example, we might think it wrong for X to harm Y because he will impose on Y; or because X will determine the course of Y’s life, and this is especially objectionable if Y’s life goes badly; or because respect for others requires us not to control how their lives go unless we have good reason to do so. But these ideas rely on the distinctive moral significance of X involving himself in Y’s life. All we can do is explicate the significance of involving ourselves in the lives of others to bring out the fact that it is intuitively attractive and explore its contours by considering reflecting on the idea itself and considering its implications.

The general view that it is objectionable to involve ourselves in the lives of others, or to involve them in our lives, in a way that harms them is amenable to different judgements about what it means to be involved. For example, whether I am involved in the life of another person has a causal dimension. But leaves vague what this means. It is not the view that causing harm is either necessary or sufficient for involvement, though that is one version of the view.

The general view also admits variations where involvement is a scalar notion. For example, some versions of the view make judgements about degrees of involvement by assessing degrees of causal contribution that a person makes to the harm that another suffers. Other versions of the view might distinguish between kinds of involvement: for example, they might
distinguish between causing harm and enabling it. Reflecting on different kinds of involvement allows us to make more particular judgements about cases by reflecting on whether the relationship between people that results from conduct in particular cases seems objectionable. My aim here is to support the general view, rather than to consider which version of it is best.

ii)  Respect, Prevention, and Promotion

One familiar doubt about the general view outlined, that involvement matters, is commonly known as the ‘paradox of deontology’. Suppose that involvement is morally important. We can prevent involvement occurring by refraining from involving ourselves in the lives of others. But we can also do so by preventing people from involving themselves in the lives of others. Given that this is so, it is not clear how relations of involvement support Doing and Allowing. If Y has a powerful interest in Z not involving herself in Y’s life in a way that harms Y, doesn’t Y also have a powerful interest in X preventing Z from doing this? And if this is so, why doesn’t the relational argument just offered equally support both a duty on X not to involve himself in Y’s life in a way that harms Y and a duty on X to prevent Z from involving himself in Y’s life in a way that harms Y?

Furthermore, the intuitive view is that our duties not to harmfully involve ourselves in the lives of others seem more stringent than our duties to prevent harmful involvement, but the importance of living without a certain kind of involvement does not explain this. And our duties to prevent harmful involvement do not seem much more stringent than our duties to prevent harm where there is no involvement: the stringency of our duty to rescue, for example, does not seem to depend very powerfully on whether we are rescuing a person from harmful wrongdoing, or from harm that is naturally

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19 As far as I am aware, the puzzle was first clearly articulated in S Scheffler *The Rejection of Consequentialism* (Oxford: OUP, 1982).
caused.\textsuperscript{20} So it may seem that involvement does not have the importance that I have attributed to it.

These ideas suggest that if involvement is important, it is not important as part of a state of affairs that we have reason to promote. But if it is not important as part of a state of affairs to promote, how is it important? I am unsure how best to answer that question. One idea draws on a view that I briefly mentioned earlier: that the interest that Y has in X having a duty not to \( v \) is not always grounded in Y’s interest in X not \( v \)ing. Y might have a non-derivative normative interest in X having a duty not to \( v \). A world in which each person has a duty not to involve themselves in others is a world in which each person’s freedom is constrained by the independence of others. That normative fact, it might be argued, is non-derivatively valuable: it is valuable even if the constraint is violated.\textsuperscript{21}

If this state of affairs is valuable, it is a value that cannot be promoted. For we can do nothing to make it true that we are subject to a normative fact of this kind. All that we can do is respond to this fact. We do so by abiding by the duty that we have not to involve ourselves in the lives of others, even if, by doing so, we do not prevent as much actual involvement as we can. The view that we have irreducible normative interests of this kind is at once somewhat intuitive and somewhat dizzying.

A second possibility draws on the distinction between respecting and promoting values. Many intrinsically valuable things do not support reasons to promote those things. For example, we primarily have reasons to respect

\textsuperscript{20} See, for example, Scanlon \textit{What We Owe to Each Other} 258, J McMahan ‘Humanitarian Intervention, Consent, and Proportionality’ and P Singer ‘Bystanders to Poverty’, both in N A Davis, R Keshen and J McMahan \textit{Ethics and Humanity: Themes from the Philosophy of Jonathan Glover} (Oxford: OUP, 2010); V Tadros \textit{The Ends of Harm} 105-8; \textit{Wrongs and Crimes} ch.9.

\textsuperscript{21} There is something similar between this idea and and Frances Kamm’s views about inviolability. See \textit{Morality, Mortality vol.II} ch.10
rather than to promote friendships, or family relationships. We can see this from the fact that our reasons to respond to friends and family relationships that we have are much more powerful than our reasons to make friends or to establish family relationships.\textsuperscript{22}

The value of non-involvement is respected if others respond to it by refraining from involving themselves in the lives of others, it might be argued. It is promoted if involvement is prevented. If our reason to respect the value of non-involvement is more powerful than our reason to promote it, the challenge of the paradox of deontology can be met.

But whilst this approach is immediately attractive, on its own it also doesn’t seem like much of an explanation – more of a clarification and restatement of the intuitive view. To support it we need to give deeper account of the value to be respected rather than promoted makes the idea more compelling. One plausible way to do this draws on the relationship between a person’s freedom to reject certain valuable goals in favour of others, and the wrongness of involving a person in one’s pursuit of those goals.

Consider the following familiar case:

\textit{Prevent and Harm}: X can prevent two people (A and B) from being wrongly harmed by others, but if he does so he will harm Y to the same degree and in the same way as A and B will be harmed if X does not do this.

\textit{Doing and Allowing} supports the view that it would be wrong for X to do this.

Now suppose that there are agent-relative prerogatives of the kind defended earlier. This view supports the conclusion that Y would not be required to save A and B, but may use his personal resources to pursue his

\textsuperscript{22} See, especially, T M S Scanlon \textit{What We Owe to Each Other} (Cambridge, Mass.: Harvard UP, 1998).
own goals. Now suppose that X is permitted to harm Y to save A and B. If so, X involves Y in the pursuit of his goal in a way that harms him. But if so, X is permitted to involve Y in his plan to serve a goal, even though Y would be permitted to reject this goal. These ideas seem in tension. Involving a person in one’s plan to pursue a certain goal has something in common with imposing that goal on her. It is not quite the same as forcing her to pursue the goal, but it has something of the flavor of that. The appropriate way to respond to the fact that a person is permitted reject the pursuit of a certain goal herself is to refrain from imposing that goal.

To fully support this view, we need a more developed account of the relationship between a person’s freedom to reject a valuable goal and the wrongness of imposing a goal on the person. It does seem initially plausible, though, that involving another in one’s plan to secure a certain goal is a way of imposing that goal on the person, and that doing this is objectionable if the person is free to reject that goal.

One attraction of this view is that it solves the paradox of deontology in a way that seems less mysterious than the first view that I considered in this Section. If Y is harmed to save A and B from being harmed, X’s goal of saving A and B is imposed on Y. This is so because Y is involved in X’s plan to save A and B. Thus it is wrong for X to harm Y to save A and B.

\textit{iii) Understanding Doing and Allowing and its Stringency}

I have suggested that there is a relationship between a person’s freedom to reject a certain end and the wrongness of involving that person in one’s plans to secure that end. Here I attempt to make some further progress in exploring that relationship. Exploring it will also help us to understand the considerations that affect how stringent \textit{Doing and Allowing} is, and also whether its stringency is scalar.

\textit{i) Thomson’s View}
A good place to start is an argument offered by Judith Jarvis Thomson against the permissibility of a bystander saving five people in a way that will kill one as a side-effect. Thomson defends a stringent version of Doing and Allowing by appealing to the relationship between the wrongness of harming others for the sake of a goal and people’s tendencies or reasons to harm themselves for the sake of that goal.\textsuperscript{23}

Her argument begins with this case:

\textit{Three Options:} A trolley is heading towards five people. X can save the five either by diverting the trolley to V or to himself.

X has three options:

\begin{itemize}
  \item \textit{i)} Do nothing, allowing the five to die.
  \item \textit{ii)} Save five killing V.
  \item \textit{iii)} Save five killing herself.
\end{itemize}

Thomson claims that if X saves the five, she must inflict the cost on herself rather than inflicting it on V. But, she also claims, X would not inflict that cost on herself.

Now compare the more standard:

\textit{Trolley:} A trolley is heading towards five people. X can save the five by diverting the trolley to V.

Thomson claims that it is wrong for X to kill V if she would not save the five at the cost of her own life in a case like \textit{Three Options}.

One question about Thomson’s view concerns her view that if X saves the five he must kill himself rather than V in *Three Options*. Not everyone agrees that X is required to do this. I don’t have any strong initial conviction either way. Thomson relies on the more general view that if I am to help others I must bear the cost of doing so myself. But the cases that she relies on to support this view involve using another person’s resources in order to achieve the relevant goal, where the intuition that it is wrong to harm a person is especially powerful. We should not draw conclusions from such cases about cases involving side-effect harms.24

More importantly, Thomson does not spell out why she thinks there is a relationship between our intuitions about *The Options* and the judgement we ought to make about *Trolley*. Though it is not completely clear, it seems that one idea that Thomson intends to rely on to establish this relationship is:

*New Golden Rule*: It is wrong to inflict a cost on a person for the sake of some goal if one would oneself be unwilling to bear that cost for the sake of that goal.

This intuition seems to Thomson’s argument because she draws conclusions about what it is permissible for X to do in *Trolley* from what X would tend to do in *Three Options*. The idea that there is a relationship between what a person is required to do and what they would tend to do in certain circumstances relies on something like *New Golden Rule*.

*New Golden Rule*, though, is hard to believe (as Thomson herself at some points seems to recognize). To see this, suppose that X is saintly, and would thus sacrifice her life for the lives of five strangers in *Three Options*.

This cannot help to justify her inflicting the same cost on V. Similarly, suppose that X would be required to sacrifice her life for the sake of five strangers, but would not do so. This cannot make it wrong for her to inflict the same cost on V. It is difficult to see what further role X’s dispositions for self-sacrifice could have for his permission to harm V in Trolley. So we can set aside Thomson’s arguments that rest on what a person would be willing to do.

This also undermines any other support that our intuitions in Three Options provides for Thomson’s view that it is wrong for X to kill V in Trolley. Suppose, as Thomson believes, that X is required to sacrifice herself rather than V if she is to save the five in Three Options. And suppose that X is also permitted to do neither thing, resulting in the five being killed. And suppose that X would thus not save the five in Three Options.

As we have seen, the last claim has no implications for Trolley. But then what follows from the first two? It would clearly be permissible for X to kill herself to save the five in Three Options. But it is obviously much easier to justify inflicting a cost on oneself for the sake of some goal than to justify inflicting a cost on others for the sake of that goal. So the permissibility of X killing himself has no implications for the permissibility of killing V in Trolley. But nor does the permissibility of X doing this support the view that killing V in Trolley is wrong. For in Trolley, X does not have the option of killing herself. Thus any intuition that we would have that X must sacrifice her life rather than V’s if she is to save the five has no implications for Trolley.

For this reason, we can set aside any intuitions we have about Three Options. Thomson also seems sympathetic to a further principle that might support a stringent version of Doing and Allowing independently of New Golden Rule:

*Infliction:* It is wrong to inflict a cost on a person without her consent for the sake of some goal if she would not be required to inflict that cost on herself for the sake of that goal.
This principle does not rely on any claims about what people tend to do, but rather on what they are required to do.

We might assess it by considering the relationship between *Trolley* and:

*Self-Harm*: A trolley is heading towards five people. V can save the five from lethal harm only by turning the trolley towards herself.

It is plausible that V is not required to sacrifice her life to save the five. Let us suppose that this intuition is sound; we have seen some reason to think that it is.

One question we might ask is what conclusions we should draw from *Self-Harm* and the truth of *Infliction*. The argument that we should conclude that it is wrong for X to harm V in *Trolley* is as follows:

1) V is intuitively not required to turn the trolley towards himself in *Self-Harm*.

2) *Infliction* implies that if V is not required to do this, it is wrong for X to inflict this cost on V.

3) Therefore, it is wrong for X to inflict this cost on V in *Trolley*.

This argument, though, is not sound.

Although premise 1) is true, most people also have the powerful intuition that it is permissible for X to turn the trolley in *Trolley*. We could thus run the argument the other way around:

1) X is intuitively permitted to turn the trolley towards V in *Trolley*.

2) *Infliction* implies that if X is permitted to do this, X would be required to turn the trolley towards himself were he able to do so.

3) Therefore X is required to turn the trolley towards himself in *Self-Harm*. 
Infliction has counterintuitive implications either in Trolley or in Self-Harm. Thomson offers no argument why we should accept the counterintuitive implication in Trolley rather than in Self-Harm.

Thomson might argue that we can find independent support for the view that V is not required to kill herself in Self-Harm. Indeed, I have supported that view earlier. But we can also provide independent support for the intuition that X is permitted to harm V in Trolley: namely that were this not so, V’s presence would prevent X from doing something that he has extremely powerful reasons to do – to save the five.

To preserve our intuitions about both Self-Harm and Trolley, we must reject Infliction. But even if we are not moved by these intuitions, I think we have independent reasons to reject it. As I noted earlier is plausible that there is an important relationship between the strength of a person’s reasons to serve a goal and the justification of harming her in the course of executing a plan to secure that goal. Suppose that I will harm a person in the course of executing a plan to serve a certain goal. It is surely relevant in justifying my act that the person affected would be required to serve that goal herself, even if doing so harmed her to the same degree. And short of that, it makes a difference that the person would have had a powerful reason to do so, even if that reason did not support a duty.

But Infliction is an especially strict version of this view. Thomson offers little support for it. How should we assess it? We could do so by considering whether it has plausible implications. One difficulty with doing this is that the relevant cases are the kinds of case that we are concerned with when evaluating Doing and Allowing. For example, Frances Kamm suggests that Infliction is false because it would be permissible for the five to put up a shield to protect themselves in a way that would result in V being killed.²⁵ But, as Thomson rightly points out, that case is so close to Trolley that our intuitions

²⁵ See ‘Who Turned the Trolley’ in The Trolley Problem Mysteries 31.
about it cannot provide further support for the intuition that it is permissible for X to kill V in *Trolley.* Still, as I have just noted the strong intuition that X is permitted to kill V in *Trolley,* but permitted not to kill herself in *Self-Harm,* might itself provide some reason to doubt *Infliction.*

Furthermore, there are ordinary and everyday contexts in which the implications of *Infliction* seem hard to accept. There are many clearly permissible things that other people do to pursue their goals in ordinary everyday life that inflict minor costs on others: think about the costs of other people driving to pursue their leisure activities. Others are not generally required to pursue any of these goals even at no cost. So it cannot be true that these people are justified in inflicting these costs on others for the sake of their goals only if they would be required to inflict those costs on themselves for the sake of those goals.

More importantly, aside from our intuitions, there are deeper reasons to reject *Infliction.* It is especially difficult to justify a requirement on me to bear costs in the service of a goal. That is partly simply because it is generally difficult to justify positive obligations, for the reasons outlined earlier. But also, if I am required to serve a goal in a way that results in my being harmed, I am very deeply involved in the harm that I suffer. I am the author of my own downfall.

It is plausible that there is a very close relationship between a person’s permission not to pursue a certain goal and the wrongness of forcing her to do so. Furthermore, it also often seems wrong to use a person’s personal resources to serve a goal in a way that will harm them where they would not be required to use their own resources at the relevant cost, though this relationship might be thought less tight. In this case too, though, the person is very deeply involved in the act that results in her being harmed. A person can refuse to participate, and refuse to have her resources involved, in a project

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26 ‘Kamm on the Trolley Problem’ 119.
that harms her. This restricts what others are permitted to force her to do, and what they may do with her personal resources.27

When I am harmed as a side-effect I am also involved in another person’s plan to serve a certain goal. But when I, or my personal resources, are not used to serve that goal, that involvement seems less deep. The person who harms me involves herself in my life. But the fact that I am not instrumental to her plan to secure her goals makes it easier to justify harming me. So whilst it is plausible that there is a close relationship between a person’s permission not to serve an end at some cost and the wrongness of using her to serve that end, the relationship between a person’s permission not to serve an end at some cost and the wrongness of harming her as a side-effect of serving that end, though important, is less close.

This helps to explain why the Means Principle is more stringent than the Doctrine of Doing and Allowing. Each of these principles draws on the idea that there is something objectionable in involving a person in a plan to secure a certain goal if the person will be harmed. But involvement is scalar. As using a person involves a person more deeply in service of an end than affecting a person as a side-effect, there is a more stringent duty not to do the former than the latter.

**ii) Three Dimensions of Stringency**

Given this account, how should we assess the stringency of harming a person as a side-effect? There are at least three relevant considerations. The first concerns the strength of the person’s reasons to secure the goal. It is easier to justify involving a person in one’s plan to secure a goal if that person has powerful reasons to secure the goal. In particular, when the person has a duty

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27 For more on this relationship, see V Tadros The Ends of Harm: The Moral Foundations of Criminal Law ch.6 and ‘Wrongful Intentions Without Closeness’ (2015) 43 Philosophy and Public Affairs 52.
to serve the goal at the relevant cost, one central objection to harming her to serve the goal can be met: she was not free to reject the goal, given that she had a duty to serve it. Short of the person having a duty, though, it is easier to justify harming a person for the sake of a goal that she has a powerful reason to serve than one that she has less powerful reason to serve.

The second concerns the value of one person being free from interference by another. There are some cases where a person has powerful reasons to secure a certain goal, but there are also powerful reasons for the person to be free to determine whether to secure that goal. This seems true, for example, where the goal concerns the person’s own welfare. I might have very powerful reasons to make my life a success. But I also have very powerful reasons to be free to determine the shape of my own life. This helps to explain why paternalistic interference is wrong, even when the interference actually promotes the welfare of the person interfered with.

The third concerns the depth with which the person is involved in the execution of the plan to serve the goal. I have suggested that using a person, or her personal resources, to serve a goal involves her more deeply in the execution of the plan to serve that goal than affecting her as a side-effect of executing that plan. For that reason, there is a more stringent prohibition on using a person than on affecting her as a side-effect. Whilst in the former case there is a close relationship between the stringency of a person’s duty to serve a goal and the amount of harm that can be inflicted on her to serve it, that relationship is less close in the latter case. As I noted, there may be other facts that determine how deeply one person is involved in another’s plan to secure a certain end, and it may be that the stringency of Doing and Allowing depends on these further facts.

**Conclusion**

Like so much of my work, this paper is disappointing. We have powerful convictions about Doing and Allowing. And I have found some sources of
Doing and Allowing that seem somewhat attractive. But given the strength of our convictions, it is natural to hope for arguments that are more compelling than those I have provided. Perhaps others will do better. I hope (but don’t expect) that in the future I will.

But suppose that we can’t do any better. In the absence of compelling arguments, some may be tempted to reject Doing and Allowing in favour of a view that is closer to consequentialism. I think that this is a mistake. There are few knockdown arguments in moral philosophy. Consequentialism is also very difficult to defend. Perhaps we just need to be satisfied with the idea that we should accept Doing and Allowing because its sources are quite attractive, and it explains powerful intuitions that we have.