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Developing a Counterfactual Comparative Account of Harming by Omission

The counterfactual comparative account of harm is one of the most immediately intuitive accounts of harm in recent literature, but it faces a few objections. Common objections involve the implausible results the account yields in preemption, non-identity and omission cases. I will investigate whether any alternative accounts can explain our intuitions about harm without being vulnerable to these objections. I will also try to determine whether the objections can be overcome by the counterfactual comparative approach. Finally, I will attempt to develop a counterfactual account of a specific sort of harming – harming by omission – as a means of responding to what I take to be the most serious objection to the counterfactual comparative account: that it yields the wrong judgments in cases involving omissions. Ultimately, I propose that what makes an omission a harm is tied to the notion of what *ought* to have occurred.

The Counterfactual Comparative Account of Harm

When trying to develop an account of what it is for some action (or other entity) to harm someone, it makes sense to first consult our intuitions about harm. An intuitive way of understanding a harm is to think of it as an event that causes a decrease in one's well-being. The counterfactual comparative account of harm understands harm in this way. The counterfactual account of harm is comparative in that it compares the harmed person's well-being after the act that harms them with the well-being they would have had if the act had not occurred. Below is

one formulation of this account, based on the version given by David Boonin in his book *The Non-Identity Problem and the Ethics of Future People* (2014, 52):

A's act harms B iff A's act makes B worse off than B would otherwise have been.

It seems correct to consider this both a necessary and sufficient condition for harm. It is sufficient to consider some event a harm if it causes a decrease in someone's well-being (relative to what their well-being would otherwise have been). Note that this does not entail that the event's long-term effects must be harmful. Take the case of a pediatrician who vaccinates a child against a disease; in this case, the pediatrician harms the child by causing him pain in order to give him immunity to a disease, which may make him better off in the long run. It is also necessary for an event to harm someone that the event causes a decrease in that person's wellbeing; if the event has no negative effect on the harmed person, it is difficult to see how it has harmed her.

Accepting such an account has a number of important advantages. First, the counterfactual comparative account agrees with most of our intuitions about harm. It should be fairly uncontroversial that this is true. We tend to think that if someone is harmed by some action or event, they have been made worse off in some way because that action or event occurred. For example, suppose someone kicks you in the shin, causing you pain. Because this pain causes a decrease in your well-being, their kick makes you worse off than you would have been had it not occurred. The counterfactual comparative account thus entails that the kick harmed you. One intuition that this account fares especially well by is the feeling that harm involves an active change from a better state to a worse one. As Robert Northcott says, the difference between harm and badness is that "harm carries an active connotation" in that harm is something that is done to someone, and it is caused by something (2015, 147). Furthermore, he claims that "implicit in the

active connotation is the notion of *change*, from a non-harmed or pre-harm state to the harmed or harmful one" and that the fact that harm involves the notion of change is a good reason to accept a comparative account of harm over a non-comparative one (2015, 147). A non-comparative account of harm usually characterizes harm in terms of the state that it leaves the harmed person in, rather than a comparison between their pre-harm and post-harm well-being. Non-comparative accounts accommodate the idea of change in the limited sense that they acknowledge that harm is an event that caused someone to be in a harmed state. However, they do not take into account the state that a person was in prior to the harm. I later discuss how this can present a problem for a non-comparative account when I examine Harman's account of harm. Northcott also thinks that it is important to highlight the role of causation in harming.[1] Thus, he endorses the view that to harm someone is to cause a decrease in their well-being (2015, 148). Below, I will discuss some objections to the counterfactual comparative account based on the counterintuitive results it yields in certain cases. In later sections of this paper, I will offer some potential responses to these objections.

Second, it does not rest on accepting any specific account of well-being. The counterfactual comparative account of harm is neutral with respect to which things increase or decrease well-being. It simply states that a harmful event is one that causes a decrease in a person's well-being, whatever that consists in. As Bradley says, this axiological neutrality would allow proponents of different theories of well-being to agree about what is required for something to count as a harm even if they disagree about which specific things count (2012, 394). This is desirable because harm should be a concept able to stand on its own; an account of harm that claims that to harm someone is just to cause her pain or the absence of pleasure relies

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[1] Several other philosophers also endorse a causal understanding of harm, including Elizabeth Harman (2009, 139) and Judith Jarvis Thomson (2011, 449).

on the acceptance of a hedonistic theory of well-being. Those who do not accept such a theory of well-being will not find this account useful or correct, yet most non-hedonists still clearly have and use the concept of harm. So, given the universality of the concept of harm, an adequate account of harm should explain what harm is in a way that is compatible with any theory of well-being. The counterfactual comparative account does exactly this; it defines a harm as an event that makes someone worse off than they otherwise would have been, no matter what things are intrinsically good or bad for a person.

Finally, as Ben Bradley points out, the counterfactual comparative account "has explanatory power" (2012, 397). If our account of harm were merely list of harmful events, it would be either impossibly long or woefully incomplete. But the counterfactual comparative account provides a "unified account of harms and benefits" (Bradley 2012, 397). It not only tells us *what* counts as a harm but *why* it does, in a way that we can apply to new instances of harm.

Objections to the Counterfactual Comparative Account

There are, however, some objections to the counterfactual comparative account of harm. One objection sometimes raised against the account relates to the non-identity problem. Here is the problem, as laid out by Bradley:

Suppose Mary is contemplating a pregnancy. If she becomes pregnant now, she will conceive a child, Jane, who will have a painful disease. If she waits a few months to conceive, she will conceive a different child, John, who will not have that disease. In that case, Jane would never come into existence at all. Mary chooses to conceive Jane. Jane lives a good life on the whole, despite the pain she endures from her disease; but due to all that pain, her life is much

worse than the relatively pain-free life John would have had if she had waited. It seems Mary acts wrongly, and the wrongness of her act is explained by the harm her act inflicts on Jane (Bradley 2012, 398).

Initially, it does seem plausible to say that Mary has harmed Jane in this case, by bringing her into existence with a painful disease. However, the counterfactual comparative account of harm does not yield this result. Recall that it says that an event harms someone only if it makes them worse off than they would have been if the event had not occurred. Under this account, Mary did not harm Jane because she is not making Jane worse off than she would otherwise have been; if Mary had waited to ensure that her child would not have the disease, then she would have had John instead of Jane. So, the only way that Jane could have existed is *with* the painful disease. And given that Jane's life is on the whole worth living, i.e. her overall well-being is positive, Mary has not made her worse off by bringing her into existence and thus has not harmed her. Those who think that Jane has been harmed by being brought into existence will see this result as a problem for the counterfactual comparative account.

Another objection to the account is that is yields the wrong results in cases of preemption (Bradley 2012, 397). Imagine that a person walks out into the road and is hit and killed by a car a second before he would have been hit and killed by a bus. Most people have the intuition that the car harmed the person. However, according to the counterfactual account, it doesn't. If he hadn't been hit by the car, he would have been hit by the bus a second later, so the car didn't make him worse off than he otherwise would have been. This is a clearly counterintuitive result that appears to show that the counterfactual account fails to account for certain cases of harm.

Finally, the counterfactual account counts cases of omission as harmful, even when they don't seem to be (Bradley 2012, 397). For example, if you are hungry and I do not buy you

lunch, I have made you worse off than you would have been if I had bought you lunch instead. Still, it does not seem that I have harmed you by not buying you lunch; I have simply failed to benefit you. Because the counterfactual account simply counts anything as a harm that decreases one's well-being, it cannot differentiate between cases of harming and cases of failing to benefit.

Faced with these objections, it is worth considering whether any other accounts of harm have similar advantages to those of the counterfactual account without facing these objections.

Other Accounts of Harm

I will examine four alternative accounts of harm, one comparative, two non-comparative, and another that does not fit neatly into either category, that have the potential to respond to some of the above objections.

One comparative account that Boonin considers, and ultimately discards, is the temporal account of harm. He states the account as follows.

If A's act harms B, then A's act makes B worse off than B was before A's act (2014, 57). This account compares the well-being a person has before the harm with their well-being afterwards. This seems to share many of the benefits enjoyed by the counterfactual account. It is compatible with any account of well-being, provides an explanatory account of harm and benefit, and, at least initially, seems fairly intuitive. If I kick you in the shin, I make you worse off after the kick than you were before my kick.

It also doesn't fall victim to the objection from preemptive harm. Recall the example above, in which a person is hit by a car right before they would have been hit by a bus. While this example is not identified as a harm by the counterfactual account, it is identified as a harm

by the temporal account. Being hit by the car clearly makes him worse off than he was before being hit, so it harms him.

It might have a response to the omission case; when I don't buy you lunch, I do not make you worse off than you were prior to my omission. But this is a complicated response, since any time I am not buying you lunch might count as an omission to do so. If we restrict our judgments to consider only the time at which I decide not to buy you lunch, this is also problematic since it may not have been a conscious decision on my part – it may not have occurred to me to buy you lunch. So, while this account *might* be able to resolve the omissions objection, it doesn't clearly do so.

It also does not solve the non-identity issue. Those who believe that Mary has harmed Jane by bringing her into existence likely do not believe that this is because Jane had a higher level of well-being before Mary brought her into existence. Before Jane existed, she had no well-being at all, so Mary's act cannot have decreased it by having her.

The temporal account seems able to deal with some of the objections leveled against the counterfactual account, but not all of them. It also seems to have some problems of its own that do not afflict the counterfactual account. Consider the following example given by Boonin (2014, 60). Suppose that A is suffering from a painful disease that, if left untreated, will cause him pain for several weeks before they recover. If B prevents the delivery of the medicine that would cure A's disease much sooner, B harms A without making him any worse off than he was before B prevented the delivery. So, while the temporal account may have similar benefits to the counterfactual account, it faces some of the same objections along with more of its own. Let's consider another potential account.

Elizabeth Harman's view is non-comparative. She claims that "an action harms someone if it causes the person to be in a bad state. Bad states are understood as states that are in themselves bad, not bad because they are worse than the state the person would otherwise have been in" (2009, 139). Bradley summarizes this view as follows.

An event harms someone if it causes the person to be in an intrinsically bad state

(Bradley 2012, 399).

This account can also provide a unified explanation of harm and is compatible with any theory of well-being, since it makes no claims about which states are intrinsically bad. However, as Bradley notes, it is not fully explanatory as it only provides a sufficient condition for harm and not a necessary condition (2012, 399).

This account doesn't face the objection from the non-identity problem, since living with a painful disease is arguably a bad state to be in and therefore Mary harms Jane. One might claim that, since Jane's life is worth living, she is not in a bad state. But I think this would be a mistake. Jane may have other good things in her life that outweigh the badness of her disease but this does not change the fact that pain is, on most accounts of well-being, an intrinsically bad state to be in. Harman seems to agree with this assessment, claiming that simply because the harmful event benefits the harmed person as well as harming them does not make the harm justified (2009, 141). So, regardless of whether Jane also experiences good things, Jane is in a bad state.

Harman's account also avoids the preemption objection. The car in the example above harms the person, since it puts him in an intrinsically bad state.[2] It does not matter that a bus

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[2] Harman counts death among the states she considers intrinsically bad (2009, 139). I will assume for the purposes of this paper that this is true, though I acknowledge that some may plausibly claim that death is a neutral state.

would have killed him if the car hadn't; it is sufficient that the car caused him to be in a bad state.

Omissions are more complicated. Assuming that hunger counts as a bad state, if I fail to buy you lunch, I have left you in a bad state but I have not caused you to be in that bad state in the first place. Therefore, I have not harmed you by not buying you lunch. So, it seems on the surface that Harman's view has no problem with this case. But this result does raise two questions. First, what does it mean for an omission to cause something? This is a difficult question, and one that I will investigate in greater detail in a later section of this paper; but for now, let's say that an omission causes a state of affairs if that state of affairs would have been prevented by doing some relevant act instead of the omission of that act. In the lunch example, I would not be preventing your hunger by buying you lunch, I would be ending it. This might be a nice thing to do, but it isn't a harm not to do it, since I didn't make you hungry. If I had locked you in my basement without feeding you and then I decided not to buy you lunch and end your hunger, I would be harming you because I had caused you to be in a bad state. Second, what does Harman's view have to say about genuine cases of harming by omission? We can modify the case so that I have just bought myself lunch and am walking home with it, and I come across you, a person visibly on the brink of starvation. You look as if you will die within the next hour or two if you don't have something to eat. I remember that my favorite TV show is on this afternoon and decide that I am far too busy to stop and give you some of my food. Have I harmed you then? It depends on what is required to say that I cause you to be in a bad state. If the cause of your death is starvation, and I did not cause you to be on the brink of starvation in the first place, then perhaps I did not cause your death. If this is the case, Harman's view would say that I did not harm you, because I did not cause you to be in the bad state you are in.

However, even if I did not cause you to be in your near-death state, I still walked past you when I could have stopped to give you some food. If I had given you food, it would have prevented your death, so it seems that I have, in some important sense, caused your death. Here, it seems clear that I have harmed you, since it would have been easy for me to prevent your death and I chose not to for my own convenience. Death is one the states that Harman considers to be intrinsically bad, so, if she believes that omissions have causal power, Harman would likely agree that I have harmed you in this case. Thus, whether Harman's account can account for genuine cases of harm by omission depends mostly on whether omissions have causal power. For now, let's assume that they do, and therefore that Harman's view avoids the objection. In a later section of this paper, I discuss the issue of causation by omission in more detail.

But there is also another objection to this account. In some cases, it appears to yield the result that you can harm a person by improving their situation. Suppose that a hospitalized patient is in severe pain. The patient's doctor administers a pain killer, which relieves some of the patient's pain. He is now in a state of moderate pain, which is still a bad state to be in but it is an improvement over severe pain. Intuitively, most people would think that the doctor has benefitted the patient. But on Harman's understanding of harm, the doctor has harmed him because she caused him to be in a bad state. The counterfactual account yields a more plausible verdict in this case; the doctor does not harm the patient because she has in fact made him better off than he would have been had she not administered the painkiller.

Another non-comparative account of harm is proposed by Seana Shiffrin. Bradley sums it up in this way:

An event harms someone iff it causes her to be in a state that she rationally wills not to be in (Bradley 2012, 400).

While this view presents an explanatory account of harm, it is inconsistent with some theories of well-being. An objective-list theorist, for example, would hold that some things just are good or bad for a person, independent of what they want. Plausibly, harm involves a decrease in a person's well-being, so the objective-list theorist would reject Shiffrin's account in favor of one that allows for a decrease in someone's well-being to be entirely separate from the state that she wants to be in.[3]

Like Harman's account, Shiffrin's view does well in preemptive cases. Assuming that the man who is hit and killed by the car would rationally prefer not to die, the car harms him. Here, again, it does not matter that a bus would otherwise have killed him; it is the cause of his death that harms him, which is a plausible result.

It also yields similar results to Harman's view in omission cases. I did not cause your state of hunger, which is presumably a state that you will not to be in, so I have not harmed you. If I had caused your state of hunger, I would have harmed you. But, as I said of Harman's account, I think that whether genuine cases of harming by omission count as harms on this view depends largely on the causal power of omissions.

In the non-identity case, it is unclear whether Jane, later in life, would rationally will not to be born with a painful disease. She might wish that she didn't have the disease but, given that her life is worth living and she could not possibly have been born without the disease, it is likely that she would prefer to exist than not to exist. One might wonder if it is possible that Jane rationally wills that she not have her painful disease without rationally willing that she not have been born. It is unclear whether she could. If her being born entails her having the disease, as the

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[3] When naming his desiderata for an account of harm, Bradley claims that the account should be axiologically neutral (2012, 394). However, he neglects to mention this when he responds to Shiffrin's view. I discuss it here because I think it is worth commenting on.

non-identity case stipulates, these two events are inseparable in reality. She might rationally will that they were not related in this way. But since they are, it is unclear whether she could rationally will that she not have her disease without being able to rationally will that she not have been born. And since her life is worth living, she probably could not rationally will that she did not exist. So, it is plausible to think that Jane could not rationally will that she not have her disease, since that would require rationally willing that she was not brought into existence.[4]

Also, since Shiffrin places no explicit restrictions on the time at which the harmed person must rationally will not to be placed in a certain state, one might try to clarify her account by trying to place such restrictions. However, if we restrict the account to say that harm is based on the will of the harmed person *at the time of the harm*, then no one can ever be harmed by being brought into existence, since no one is born able to rationally will that they had not been brought into existence. This seems somewhat problematic because most people would likely regard it as both harmful and wrong to bring someone into existence if their life would be so horrible that it was not worth living.

This also raises a related objection to Shiffrin's view, given by Bradley. This account suggests that those who are unable to rationally will that their lives go a certain way cannot be harmed (Bradley 2012, 400). So animals, babies, and those with severe mental illnesses or disabilities cannot be harmed, on Shiffrin's view. This is clearly incorrect. Bradley also notes that Shiffrin's account does not allow for cases in which a person rationally wills that they be harmed. For example, a person may rationally choose to rescue her child from a burning

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[4] I do not mean to say that this matter is settled. That would require a far more in-depth examination of what it means to rationally will something. Rather, I simply mean to demonstrate that there may be some reason to think that Jane could not rationally will A without also willing B, in cases in which A and B are inseparable.

building, knowing that she will get burned in the process, but we would not think that the burns do not harm her.

So, insofar as the non-identity problem poses a challenge to the counterfactual account of harm, it does for Shiffrin's account too. If Jane cannot rationally will that she not have her disease because that would require willing that she had not been born (and she cannot rationally will this because her life is worth living), then Shiffrin's view yields the result that Jane is not harmed by being brought into existence. But even if she can rationally will that she not have her disease without willing not to have been born, she couldn't have done so as a baby. So, she still would not have been harmed by being brought into existence. Thus, Shiffrin's view cannot explain the impulse to say that Jane has been harmed.

Neither Harman's nor Shiffrin's non-comparative accounts of harm seem to avoid all of the objections against the counterfactual account and, in fact, they seem to come with even more objections. I will examine one more account to see if this one has any more promise.

Matthew Hanser defends an account of harm that is neither clearly comparative nor clearly non-comparative. What he refers to as an event-based account is as follows.

> Someone suffers a harm if and only if he suffers a harm of some level with respect to some basic good (Hanser 2008, 442).

According to Hanser, basic goods are "those the possession of which makes possible the achievement of a wide variety of the potential components of a reasonably happy life" (2008, 440). He explains that these include mental and physical faculties, including sight (2008, 441). Presumably this would also include good health more generally. Essentially, his claim is that harm is the loss of the extrinsic goods required to gain the intrinsic goods that make a life happy,

and how great a given harm is depends on the intrinsic goods that one is prevented from accessing (Bradley 2012, 403).

So, under this account of harm, preemption is not a problem. The car hits the man and makes him suffer a harm – death. Death is a harm because it causes a person to lose all basic goods and thereby prevents him from accessing any more intrinsic goods. But Hanser's view is an account of what it is to suffer a harm, not what it is for an event to cause a harm. So, it is not clear that the preemption problem applies to Hanser's view. When the car hits the man, he suffers a harm. Considerations of preemptive harm only apply to the questions of what it means to cause harm.

The same issue applies to the omission and non-identity problem cases. While Jane is born with a painful disease that interferes with her ability to live a good life, she has never experienced anything else. She has not gone from a state of good health to a state of poor health, so she hasn't experienced the loss of any basic good. So, while she has not suffered the loss of a basic good under Hanser's view, that isn't really the question the non-identity problem is considering. Likewise, Bradley's omission objection concerns what it is to cause harm. While the counterfactual account over-generates harms by counting cases of failure to benefit as cases of harm, Hanser's view has nothing to say about harm from the causal perspective. He only considers what it means to suffer a harm. So, while Hanser's account does not obviously suffer from the same problems as the counterfactual account, this may be because it is not an account of the same thing.

Bradley has two significant objections to Hanser's account. First, the most plausible understanding of the account reduces to a comparative account. It claims that harm is the loss of part or all of some extrinsic good, but the reason that we care about these goods is that they give

us the ability to obtain intrinsic goods. Hanser confirms this when he claims that some basic goods are more important than others (2008, 444), and Bradley rightly points out that this can only be explained by the intrinsic goods they enable us to access (2012, 404). But if intrinsic goods are what are actually relevant to harmfulness, then Hanser appears just to be saying that a harm is whatever makes someone worse off in terms of intrinsic goods than they would have been without the harm, which is just the original counterfactual comparative account (Bradley 2012, 404).

Second, Hanser's account does not appear to select for all of the things that most people would consider a harm. Since no mental or physical capacities are lost, extreme pain would not count as a harm (Bradley 2012, 404). Yet most people would consider suffering extreme pain to be among the most obvious examples of harm.

Overcoming Objections to the Counterfactual Comparative Account

Since these other accounts of harm all face at least as many objections as the counterfactual account, often without providing all of the benefits of that account, it might be better to see if the counterfactual account can withstand some of the objections leveled against it.

Bradley claims that his least serious objection to the counterfactual account is the non-identity problem, since he doesn't think that Mary does harm Jane. I think this is the correct view. Since Mary could not have brought Jane into existence without Jane having a painful disease, she has not made her worse off than she otherwise would have been. Had Mary waited to conceive, Jane simply *would not have been* at all. If Jane's existence and her disease are inseparable in this way, it seems implausible to say that she was harmed by being brought into

existence, especially since her life is worth living. And if Jane has been harmed by being brought into existence even though her life is worth living, then it seems like this generalizes to everyone. Every life has some amount of pain and unhappiness in it and parents are aware of this when they conceive, yet most lives are worth living so we would not consider it a harm to bring most people into existence. Why should this not be the case for Jane? I think that the discomfort that may people feel surrounding Mary's act comes from the sense that her act was wrong, not specifically that it harmed Jane. It might very well be the case that it was wrong for Mary to conceive a child with a painful disease when she could have waited and conceived a healthy child instead but, if it is the case, the wrongness does not come from the harm she causes Jane. Therefore, it is not a problem for the counterfactual account of harm.

Bradley considers his two other objections to the counterfactual account to be more serious. The first of these objections is based on preemptive harm. Recall the example of the car killing a man a second before a bus would have killed him. It seems clear, I think, that a car that kills a person harms him in doing so. However, the counterfactual account says that it doesn't because he is no worse off than he otherwise would have been. One solution to this is provided by Boonin, who thinks that the proponent of the counterfactual account ought to bite the bullet and concede that the car does not harm the man. He considers a parallel case in which a person is trapped on a runaway trolley heading toward a brick wall. You are standing near a switch that could divert the trolley toward a different brick wall. No matter which wall he hits, he will die instantly. In this case, it seems clear that you are not harming the person if you pull the switch, since if he did not hit the second wall, he would have hit the first (Boonin 2014, 58). While the person's death itself may be a harmful event, your pulling the switch does not harm him, since it makes no difference to his well-being. Certain cases, like that of the car, might be less obviously

non-harmful but the cases seem to be analogous. So, preemptive harm may not be as serious an objection as Bradley takes it to be.

His second objection is based on omissions. This, I think, is the most significant objection to the counterfactual account of harm, and it will be the subject of the rest of this paper. Any response to this objection requires showing that a counterfactual account is capable of differentiating between harm by omission and failure to benefit. But it will also need to establish what is meant by harming by omission and restrict claims of harming by omission to the agents relevantly related to the situation, rather than holding everyone who fails to do some act responsible for the harm caused. This is what I hope to accomplish in the next few sections of this paper.

The Counterfactual Account of Omission-Harming

As I have demonstrated above, the counterfactual account of harm provides possibly the most plausible understanding of harm of the accounts I have come across. Though it faces some objections, I think it is worth pursuing solutions to these objections rather than discarding the account entirely. Using the counterfactual account as a starting point, I plan to develop a counterfactual account of harming by omission. While the counterfactual account yields some implausible consequences when applied directly to cases involving omissions, I do not think that these implausible consequences are an insurmountable fixture of trying to explain harming by omission. We may be able to combine the counterfactual account with a plausible principle that excludes situations in which it seems clear that a person is not harming anyone by not performing a certain act. I will attempt to convert an account of when actions harm into an

account of when action-omissions harm, and demonstrate the need to supplement this counterfactual account of harming by omission with an additional principle. I will then examine some potential principles appealing to each of the following: the reasonable expectations one has of an agent's behavior, the rights of the harmed individual, and the *prima facie* moral obligations of the agent. I use the most successful principle, the Obligation Principle, to put forth a normative account of when action-omissions harm. Finally, I will briefly defend this account of omission-harming against some potential objections.

Setting up CAOH

From here on, I will refer to the counterfactual account as the Counterfactual Account of Action-Harming (CAAH) to differentiate it from the Counterfactual Account of Omission-Harming (CAOH). Here is the version I will be working with:

CAAH: A's act Φ harms B iff Φ causes B to be worse off than B would have been had A not Φ-ed.

It seems appropriate at this point to explain why I am only describing when an act harms someone rather than simply when an event does, since an act is a type of event. It is not because there is some important difference between acts and events in their ability to cause harm. In fact, I think that acts are just a subset of events and that they cause things in largely the same ways as other events do. I will address later on how my account of harming by omission relates to event-omissions but for now, it will be clearer to explore act-omissions as their own category in order to see the parallels between examples.

Revising the CAAH to account for harm caused by omissions yields Counterfactual

Account of Omission-Harming (CAOH):

CAOH: A's omitting to Φ harms B iff A's omitting to Φ causes B to be worse off than B

would have been had A Φ-ed.

Note that this account implies that omissions have causal power. When we think of causation, we

typically think of events (including acts) as the types of things that can cause things. We do not

usually think of an event's non-occurrence to be the sort of thing with causal power. According

to Judith Jarvis Thomson, states of affairs, including negative states of affairs such as absences

and omissions, do have causal power (2003, 86). She thinks that what it is for something that is

not an event to cause something is for it to be appropriately related to an event that causes that

thing (2003, 87). She gives the following example of the causal power of negative states of

affairs: John is absent from a party due to illness. Marvin arrives at the party, glances around the

room, and notices that John is not there. Marvin then erupts with anger because John is not there,

which causes a commotion. In this case, Thomson thinks, John's not being at the party caused

the commotion because his absence is appropriately related to Marvin's eruption, which was the

cause of the commotion (2003, 95). Thomson claims that the nature of this appropriate relation

varies depending on the type of state of affairs concerned. Here is another example she gives to

illustrate the relation.

Suppose Bert is now in process of dancing a jig. Then the state of affairs that consists in

Bert's being in process of dancing a jig obtains now. That state of affairs might cause

something, a commotion, let us say. How does it do so? For Bert's being in process of

dancing a jig to obtain at or through a time is for an event that consists in his dancing a

jig to occur at or through that time. Then we can say: for Bert's being in process of

dancing a jig to cause a commotion is for an event that consists in his dancing a jig to cause a commotion (2003, 87).

So, Thomson thinks that causation is fundamentally a relation between events (2003, 92). Events are the sorts of things with causal power and a state of affairs such as an omission "causes" something in the way described above. To return to the example of John and Marvin, John's absence is "appropriately related" to the event that consists in Marvin's noticing that John is not there. This event causes another event (Marvin's erupting with anger), which causes the commotion. In this sense, John's absence from the party causes the commotion. Thomson's view that omissions can, in some sense, cause things to happen is in line with most people's intuitions about certain cases; my failure to water my plant causes the plant to die. On Thomson's view, this is because my omission to water my plant is appropriately related to the event that consists in my plant running out of the water it needs to survive, which causes it to die. Perhaps Thomson's view is correct or perhaps omissions cause things in a more direct way. Either way, it seems plausible to think that our intuitions are correct in leading us to believe that omissions do, at least in some sense, cause things. Now, let us return to CAOH.

In its current form, CAOH may initially seem plausible, but it has some implausible implications beyond the fact that failure to benefit is counted as harm. Suppose Lisa's child is drowning in a shallow pond in Boulder, Colorado. As luck would have it, Lisa is standing nearby and can rescue him easily. If she rescues her child, her clothes will get wet but she will suffer no other negative consequences. If she does not rescue him, Lisa knows that her child will die. She considers her choices for a moment and then decides that being a parent is difficult and expensive and that she does not want to do it anymore; she lets her child drown. CAOH implies that Lisa has harmed her child, and I believe that this is the correct judgment.

However, consider the situation of Simon. Simon lives in Australia, has never been to the U.S., and does not even know about the child who is currently drowning. It seems absurd to suggest that if Simon does not rescue the child, he has harmed him. After all, Simon does not know that the child exists, let alone that he is drowning. And even if he did know, he could not possibly save him. But CAOH appears to yield the result that Simon did harm the child. For Simon did not rescue the child. So, a proponent of CAOH would have to accept that Simon's not rescuing the child caused the child to be worse off than he would have been had he rescued him. In fact, CAOH appears to imply that *anyone* who does not help the child harms him, whether they *can* possibly do so or not. In combination with Bradley's objection that a counterfactual account of harming by omission identifies failure to benefit as harm, it seems as though CAOH sees harm everywhere. This is a significant problem with CAOH that I will attempt to solve in this essay; I will refer to it as the problem of ubiquitous harming.

A Causal Solution?

One way of responding to the problem of ubiquitous harming is to deny that Simon caused the child's death. In "Causation by Omission: A Dilemma," Sarah McGrath presents a theory that amounts to such a strategy. McGrath begins by claiming that there is reason to believe that "either there is no causation by omission, or there is far more than common sense says there is" (2005, 125). She goes on to argue that neither disjunct is acceptable. This is because those who say that there is no causation by omission cannot adequately explain our impulses to say that certain omissions do cause certain events (e.g., that Lisa's omission causes the child's death, or that John's not being at the party caused the commotion) (McGrath 2005,

128). And those who say that there is a lot more causation by omission than common sense tells us cannot adequately explain our impulses to say that certain omissions do not cause certain events (e.g., that Simon does not cause the child's death) (McGrath 2005, 128). McGrath tries to find an analysis of causation by omission that is in line with common sense. Roughly, her proposal is that we should say that a certain omission causes some event iff the omission occurs, the event occurs, and a relevant event that could have occurred instead of the omission is a "normal would-be preventer" of the event (McGrath 2005, 142).[5] What is a "normal would-be preventer?" According to McGrath, "it is normal for x to Φ iff x is supposed to Φ" (2005, 138). Some examples she gives are that it is normal for an alarm clock to go off at the set time and it is normal for people to keep their promises (2005, 138). So, my alarm clock failing to go off causes me to over-sleep because my alarm clock is supposed to go off at the set time, which would normally prevent me from over-sleeping. This would solve the drowning-child case, since you are supposed to save a nearby child from drowning, at least in cases in which doing so poses no risk to your own safety. But you are not supposed to save a child drowning on the other side of the world because you can't. You are also not supposed to buy lunch for every hungry person you come across; this would be very kind, but it would not be normal. So, McGrath's view of causation by omission would solve the problem of ubiquitous harming for the counterfactual account of harm.

But McGrath's account entails that causation by omission is normative, since it uses a normative sense of "supposed to." Her view understands causation by omission in terms of what a thing *ought* to do, though that "ought" can be supported by either the normative or descriptive

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[5] McGrath acknowledges that, depending on what an omission is, it may not be appropriate to say that an omission "occurs" but says that determining whether an omission is an event, or a state of affairs, or something else entirely is not necessary for her purposes.

facts about the situation. A person is supposed to keep their promises because it is morally right to do so, an alarm clock is supposed to go off at the set time because that it what an alarm clock is for, and it is supposed to rain in April because that is the normal weather in April. In other words, an omission causes something if the relevant event that could have occurred instead *ought* to have occurred. Though an attractive view at first glance, the claim that causation by omission is normative is a highly counterintuitive notion to most people. Causation is a concept often used in scientific literature and is intended (in most cases) to be seen as a value-neutral idea; a claim like "this ligand binds that receptor and causes the receptor to change its shape" seems like a value- or normatively neutral claim.

McGrath realizes that something along these lines might be an objection to her view, saying that someone might claim that causation is an "entirely natural phenomenon" (2005, 145). McGrath responds to this objection, citing gravity and evolution as examples of natural phenomena that people usually think of as having nothing normative about them (2005, 145). She then points out that "it was a Newtonian discovery that it is normal for two bodies to exert a certain force on each other; and it was a Darwinian discovery that it is normal for the peacock's tail to attract a mate" (2005, 145-146). She takes these examples to show that natural phenomena are, in this sense, normative.

I think this is a bit of a stretch. Most of McGrath's examples have a "that's just what they do" feel to them; alarm clocks go off at the set time, people keep their promises, and it rains in April. Why? Because that's just what these things do. But I do not think it follows that that is what they are *supposed to* do. McGrath may be committing a subtle naturalistic fallacy here. From the fact that a peacock's tail attracts a mate, she claims that it is normal for it to do so, which she tells us means that it is supposed, or *ought*, to do so. However, while it is fairly

uncontroversial that it is normal for a peacock's tail to attract a mate, it is definitely not uncontroversial that it is *supposed to* do this. McGrath uses descriptive information that we know about what things do to make the normative claim that they ought to do these things. So, while we can agree that it is normal for alarm clocks to ring at the set time and for peacocks' tails to attract a mate, this is a simple matter of statistical regularity. This does not show that this is what these things are supposed to do. And it certainly does not show that this works in the same way that the fact that humans are supposed to keep their promises works.

As a much more minor issue, it also seems problematic to me that her view attempts to create an account of causation by omission with the goal of conforming to our common-sense intuitions about omissions, but she bases the account on a proposal that seems to reject our common-sense intuitions about causation. She puts forth a view that distinguishes between cases in which an omission causes something and those in which it doesn't by claiming that causation is normative. As I have explained above, this is contrary to most people's intuitions about causation. It strikes me as odd to motivate one's account of causation by omission by claiming that it has the benefit of conforming to our intuitions about omissions, and yet fail to see it as a significant disadvantage that the account disagrees with our intuitions about causation.

But accepting McGrath's theory is not required for my purposes. An alternative method for solving the problem of ubiquitous harming would be to find a way of revising CAOH so that it does not create the problem, rather than trying to argue, against common sense, that all causation by omission is normative. My approach, therefore, is to accept that Simon's omission does cause the child's death, just like the omissions of Lisa and everyone else who fails to save him, but to maintain that whereas Lisa's omission *harms* the child, Simon's does not. Hence, the goal of the rest of this paper is to develop a principle that can supplement CAOH and determine

when an omission counts not only as a cause but also as a harm and thereby eliminate the problem of ubiquitous harming.

Modifying CAOH

The Reasonable Expectations Principle

As we have seen, it would be an unreasonable expectation to have of anyone that they help someone that they do not know needs help and/or whom they cannot help. So perhaps CAOH could be modified by a principle that considers what it *is* reasonable to expect of someone. This raises the question of what it is reasonable to expect of someone. In order to have a reasonable expectation that a person perform some act, the person forming the expectation must at least know that the agent is *able* to perform the act and have reason to believe that the agent *will* perform it. Such a reason in the case of harm might be that the agent's act can cause someone to be better off than they would otherwise have been without causing serious harm to the agent and the agent knows this. For example, whoever rescues the child from the pond will get their clothes wet, which might be uncomfortable, but there is no real threat to their safety. A principle that incorporates this notion could be something like the following, which I will call the Reasonable Expectations Principle (REP).

REP: A's omitting to Φ harms B only if B had a reasonable expectation that A would Φ. Adding REP to CAOH's condition yields the following account of omission-harming:

CAOH$_{REP}$: A's omitting to Φ harms B iff (1) A's omitting to Φ causes B to be worse off than B would have been had A Φ-ed and (2) B had a reasonable expectation that A Φ.

This account yields the correct result in the case of Simon and the drowning child. The child cannot have a reasonable expectation that Simon save him, but it would be reasonable for him to expect that Lisa, who is standing nearby, will save him. So, the account correctly implies that Simon's omission doesn't harm the child whereas Lisa's omission does. Yet, if we modify certain details, we obtain different results. Imagine that, instead of Lisa, Paul is the one nearby as the child is drowning. Paul is sitting in an electric wheelchair but he is not paralyzed. Perhaps he is test driving it for a friend or perhaps there is some other explanation – the important point is that he has no physical disabilities that prevent him from rescuing the child. However, from the perspective of the drowning child, it appears that Paul is paralyzed and unable to rescue him. In this case, the child could not have a reasonable expectation that Paul would rescue him, but, intuitively, Paul would still be harming the child if he did not get up and save him. So, while the CAOH$_\text{REP}$ does solve the problem of ubiquitous harming, it also has some implausible consequences; it implies that Paul's omission does not harm the child. Thus, we should seek an alternative solution that does not seem to yield the incorrect results about such cases.

The Ideal Reasonable Expectations Principle

But perhaps the CAOH$_\text{REP}$ is too strong, since it relies on the expectations that the harmed person has even when they do not have all of the relevant information. It might be better to consider some idealized sense of reasonable expectation that appeals to the expectations that a rational observer in possession of all relevant information would have. I propose the Ideal Reasonable Expectations Principle (IREP):

IREP: A's omitting to Φ harms B only if a fully informed, rational observer would have a reasonable expectation that A Φ.

Replacing REP with IREP yields the CAOH$_{IREP}$:

CAOH$_{IREP}$: A's omitting to Φ harms B iff (1) A's omitting to Φ causes B to be worse off than B would have been had A Φ-ed and (2) a fully informed, rational observer would have a reasonable expectation that A Φ.

Since this formulation relies on the theoretical expectations of a fully informed observer, rather than on the actual expectations that anyone has, this solves the problem presented by the example of Paul. Clearly, knowing that Paul can easily get up and save the child, it would be reasonable to expect him to do so.

However, CAOH$_{IREP}$ doesn't solve all instances of the problem of ubiquitous harming. Consider the following case. If Dave could give Karen $10 and doesn't, she is worse off than she would be if Dave had given her $10. It seems like an ideal observer *could* have a reasonable expectation that Dave will give Karen $10, since he is able to and, unless Dave is destitute himself, doing so wouldn't be too bad for him. Yet, it still seems incorrect to say that he harms her by not giving her $10.

But perhaps this expectation would not be reasonable. At the very least, it isn't *clearly* reasonable. If we stipulate that Dave is a millionaire and he knows that Karen is struggling to afford food, then it perhaps does seem reasonable to expect that he will give her $10. After all, she would be better off if he did and, since he is a millionaire, Dave's well-being probably would not be affected at all. Still, we likely would not think that he harms her but rather that he simply fails to benefit her, since most people probably believe that Karen does not have a right to Dave's money, even if she is suffering.

The Rights Principle

So, if reasonable expectations cannot serve as the basis for solving the problem of ubiquitous harming, perhaps the potentially harmed person's rights can. I will call the following principle the Rights Principle (RP).

RP: A's omitting to Φ harms B only if B had a right that A Φ.

Combining RP with CAOH produces the following account of omission-harming:

CAOH$_{RP}$: A's omitting to Φ harms B iff (1) A's omitting to Φ causes B to be worse off than B would have been had A Φ-ed and (2) B had a right that A Φ.

If we return to the case of the drowning child, it seems reasonable that the child has a right to be rescued if the only repercussion his rescuer would suffer is wet clothing. This seems especially compelling when you derive his right to be rescued from his right to life, which is appropriate in this case because he will die if he is not rescued. A similar idea is expressed by John Locke, who believed that people have a right to as much charity as they need from others in order to survive (1772, 36). Since the child has this right to life and hence the right to be rescued, omitting to rescue him when doing so would not have any negative impact on one's own well-being infringes upon his rights. Therefore, it seems that if Lisa omits to rescue the child, she has harmed him.[6]

However, something seems amiss when you introduce additional people into the situation. Suppose that a dozen people are all close enough to save the child. There does not seem to be anything that gives the child the right to any specific person's help. He simply has a

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[6] I don't mean to suggest that it is uncontroversially true that failure to rescue the child violates his rights, but I believe that I have shown that it is at least reasonable.

right to life and thus a right to be assisted, but he does not have a right to any *specific* person's assistance. The closest person to him might be the person for whom it would be most convenient to intervene, but this does not generate in the child a right to that person's help specifically. So, under CAOH$_{RP}$, it is unclear whether that person *has* harmed the child. Arguably, if there was only one person close enough to help, the child might be said to have a right against her that she rescue him because to some extent she knows that if she doesn't, likely no one will. But when there are many bystanders, it seems that the child does not have a right against any one person that they rescue him, which would be required under the CAOH$_{RP}$ in order to establish that each person harmed him. But, intuitively, it seems obvious that they each do harm the child if none of them rescue him. So, the rights principle does not always yield the correct judgments even in clear cases of harm. Thus, the Rights Principle is also unsuccessful at solving the problems of the CAOH.

The Obligation Principle

So far, I have determined that REP, IREP, and RP are all unsatisfactory principles with which to modify the CAOH to solve the problem of ubiquitous harming. But, despite the fact that RP is too strong in that it fails to identify all of the people who harm the child, it has the attractive feature that it does not yield the result that people who cannot possibly help the child have harmed him. Implicit in the concept of rights is obligation; if B has a right against A that A perform some act, A has an obligation to perform that act. This suggests to me that what unites the dozen bystanders in harming the child is not the child's right against any one of them that

they help, but that they each have at least a *prima facie* moral obligation to do so. Therefore, the final principle I will examine is the Obligation Principle (OP), which is as follows:

OP: A's omitting to Φ harms B only if A has a *prima facie* moral obligation to Φ.

Below is the corresponding account of omission-harming:

CAOH$_{OP}$: A's omitting to Φ harms B iff (1) A's omitting to Φ causes B to be worse off than B would have been had A Φ-ed and (2) A had a *prima facie* moral obligation to Φ.

Before we can evaluate the success of this final account of omission-harming, we must establish what it is for one to be morally obligated to perform an act. First, the person deciding whether or not to perform the act *must be able* to perform the act in order for her to be morally obligated to perform it. In the context of the drowning-child example, Lisa is standing near the child whereas Simon is on the other side of the world; Lisa is able to rescue the child but Simon is not. So only Lisa can have a *prima facie* moral obligation to rescue him. Second, the person must *know* that the situation they are deciding whether or not to act with respect to is occurring. In our example, Simon does not know that a child is drowning in Boulder, Colorado and, therefore, wouldn't save him even if he had the ability to get there in time to do so. These two requirements of moral obligations preserve the most attractive feature of RP: its ability to rule out omission-harming on the part of people who are unaware of the situation or unable to do anything about it. Finally, and most obviously, there must be some morally relevant characteristic of the act that grounds one's obligation to perform it. Some examples of this might be that someone has a right to your performing the act, that you made a promise to perform the act, or that someone's life or well-being depends on your performing the act.

With these requirements of moral obligations established, it is clear that the CAOH$_{OP}$ does not fall victim to the problem of Simon and the drowning child because Simon did not

know that the child was drowning and could not possibly get there to save him; therefore, he could not have had any obligation to save the child. So, this account correctly implies that Simon would not be harming the child by omitting to save him. The CAOH~OP~ is also not vulnerable to the version of the drowning child example involving Paul, the non-paralyzed man sitting in a wheelchair, because Paul sees the child drowning and is able to save him. Paul thus does have a *prima facie* moral obligation to save the child. So, if Paul omits to save the child, he *has* harmed him according to CAOH~OP~. The same is true of Lisa and the dozen bystanders. In the dozen bystanders case, since it seems that no one else in the group is in fact going to save the child, each of them has a *prima facie* moral obligation to do so; when no one does, each of them harms the child. It also has the additional benefit over RP that, though it is compelling but perhaps not clear that Lisa's failure to rescue her child violates his rights, it is much clearer that she has a *prima facie* moral obligation to rescue him. Thus, it seems that, since the CAOH~OP~ is not vulnerable to any of the challenges that plagued the previous iterations of the account, it is reasonable to regard it as an acceptable account of when omissions harm.

Objections to CAOH~OP~

Some may object to CAOH~OP~ on the grounds that it implies that harming is itself a normative concept (as opposed to merely a normatively relevant concept) whereas some might have thought that harm is a purely descriptive concept. According to this objection, accepting CAOH~OP~ would commit me to an implausible result analogous to that of McGrath's theory of causation. She is forced to accept that causation by omission, a concept usually thought of as

purely descriptive, is normative, and I am committed to accepting that harming by omission is normative.

However, I think that this objection is unsuccessful because it is in fact perfectly plausible that harm is a normative notion, since it entails the obviously normative notion of well-being. It is at least much more plausible that harm is normative than that causation in general is normative. A concept in the neighborhood of causing a decrease in someone's well-being *should* be considered a normative concept in a way that causing a plant to die by not watering it should not. McGrath's view entails that instances of causation by omission like this are normative, simply because some person or thing is normally supposed to prevent them (2005, 145). Thus, while McGrath's claim that causation is normative seems highly implausible, I believe that the claim that harm is normative does not face similar problems.

A second objection to CAOH_{OP} that has been brought to my attention is that appealing to moral obligations to determine whether a harm has occurred implies that there are no morally permissible cases of harming by omission, but it seems that in fact there are clear cases of this. Take the case of a parent who has told his child to stop running around because he might get hurt. The child continues running around and the parent sees that he is about to fall and scrape his knee. The parent could catch him but decides to let him fall to teach him to be more careful. He seems to have harmed the child by omission, but has he thereby violated a moral obligation? Common sense suggests not.

I agree that the parent in this example has not violated an all-things-considered moral obligation, though I think they have violated a *prima facie* moral obligation. It is also worth clarifying at this point that the CAOH_{OP} is intended to be an account simply of harm, and not of net (or overall) harm. The parent has arguably not caused their child a net harm; their omission

causes the child to scrape his knee but this may teach him to be safer so that he does not hurt himself in the future. In this way, the parent may have actually raised their child's well-being overall.[7] Hence, it is plausible to regard this as a case of permissible harm. But this does not change the fact that the parent has harmed their child in the short term. This also applies to other cases that involve inflicting a short-term harm to confer an overall benefit such as a pediatrician causing a baby pain with a needle for the purpose of vaccinating her against a disease. When considering the question of the permissibility of some case of harm, it makes sense to weigh the magnitude of the short-term harm against the magnitude of the long-term benefit it will confer (or the reverse, in cases that involve short-term benefits and long-term harm). But this question requires a much longer and more detailed investigation than I can go into here.

But there may be cases in which harm by omission is permissible, even though it confers no greater benefit on the harmed person. For example, suppose, to turn the usual case on its head, that a runaway trolley is heading toward one person on a track and you could pull a switch to divert the trolley onto another track that has five people on it. Here, it is clearly permissible not to pull the switch, even though this omission would harm the one person on the track. If there were no people on the second track, you would have an all-things-considered moral obligation to divert the trolley onto the empty track, saving the person on the other. But I have proposed that harm depends on an agent's *prima facie* obligations, not on their all-things-considered obligations. You might have a *prima facie* moral obligation to divert the trolley, since it will kill a person if you don't. Thus, you still harm the person on the first track by failing to divert the

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[7] Obviously, when determining whether an omission counts a net harm, there is some unavoidable vagueness as to which effects on well-being should be considered. This vagueness is present in our understanding of all causal chains of events; imagine that I roll a ball along a table and it breaks a glass, and my friend is so annoyed by this that he kicks a nearby dog, causing the dog to develop a fear of strangers and the dog bites the next stranger he sees. Did I cause the glass to break? Definitely. Did I cause the dog bite? Maybe, but most people probably would not hold me morally responsible for it. So, it is unclear how far we should follow causal chains to determine the effects of an action or omission.

trolley. However, you do not have an all-things-considered moral obligation to divert the trolley because doing so would kill the five people on the other track. So, the view that in order to harm someone by omission, one must have a *prima facie* moral obligation to act does not entail that there are no morally permissible cases of harming by omission.

Another objection is that my view is somewhat counterintuitive in that it tells us that we should understand harm in terms of moral obligation, rather than understanding moral obligation, or at least some moral obligations, in terms of harm. Typically, we think that sometimes part of what grounds a moral obligation to perform some act is that it would be harmful to someone if we did not. However, my view suggests instead that what it is for an omission to be harmful is for someone to have an obligation to act.

While I agree that it is initially counterintuitive to understand the relationship between harm and moral obligation in this way, I think that there is evidence to support this view. Recall the example of Lisa allowing her child to drown because she no longer wants the expense or inconvenience of being a parent, and compare this example to one in which a stranger is simply passing by the pond in a hurry to get to work, notices that there is a child drowning, and continues on his way without saving him. There is no significant difference between the intent of each agent here – both the stranger and Lisa act out of self-interest and allow the child to drown because it would be more convenient for them to do so. And I believe that both Lisa and the stranger act wrongly and harm the child. But it is *clearer* that Lisa harms the child than that the stranger does. It is also clear that Lisa is more strongly obligated to save her child than the stranger is. After all, Lisa is the child's mother; we usually think that parents have special moral obligations to their children, one of which is to protect them from harm. The view that harm depends on moral obligation predicts that a stronger harm-based obligation would give rise to a

clearer case of harm, as we see in this example. Alternative understandings of harming by omission are in tension with the facts about examples like this one. If harm is a purely empirical or causal notion, then we would expect the case of the stranger letting the child drown to be just as clear a case of harm as the case of Lisa doing so. Such cases support the view that moral obligation plays a role in whether we consider something a harm.

Additional support can be seen by comparing cases in which someone could easily save the child at no risk to themselves with cases in which they could get injured or die trying to save him. Compare the following two cases: (1) The child is drowning in a shallow pond and his rescuer would simply have to step into the pond and retrieve him, and (2) the child is drowning in a lake that is deep enough that his rescuer would have to swim to him to rescue him. Jason is a very weak swimmer, so weak that he might die if he tries to rescue the child in (2), but he faces no risk to his own safety in (1). We have the sense that Jason has a *prima facie* moral obligation to save the child in (1) but not in (2); we do not think that Jason has harmed the child in (2). In (2), Jason is part of the cause of the child's death, in that he is one of the people who failed to rescue him, but he is not doing a wrongful action. These examples, along with the case I have made in this paper, support my claim that it is in fact the *prima facie* moral obligation that grounds the harm, rather than the other way around.

A final objection that has been raised against my view is that it does not readily apply to event-omissions, yet event-omissions can clearly harm people. To see this, consider the following case. Frank is a farmer who relies on his crop for food and income. He plants his crops, expecting a normal season, but this year there is a drought. The lack of rain causes Frank to be unable to feed himself and his family, so it harms them. But we can hardly say that the atmosphere had a *prima facie* moral obligation to rain.

I agree, it didn't. However, I think that omission-harming is still normative in this case, since it has a direct effect on someone's well-being. Henry Sidgwick proposed two senses of the word "ought," a narrower sense and a wider sense. The narrower sense is what I have in mind when I consider human moral obligations – this sense of the moral "ought" abides by "ought implies can" (1907, 33). However, in determining whether an event-omission counts as a harm, the relevant sense is the wider one. This is the "ought" that we use when we say something like "you ought to feel ashamed of yourself" (when you have no control over this) or "the weather ought to be this beautiful every day." This sense of "ought" includes things that humans cannot bring about but that would come about in an ideal world. Ideally, it would be good if someone felt ashamed of himself after being unkind to someone, and it would be good for the weather to be beautiful all the time. So, a formulation of CAOH$_{OP}$ that is more applicable to events would be something like the following:

> The omission of an event X harms someone iff (1) the omission of X causes that person to be worse off than they would have been had X occurred and (2) X ought to have occurred.

One might object that this account seems similar to McGrath's view, which I rejected above because it appeared to be too problematic. However, I do not think that my view applies to all instances of causation by omission. On my view, an omission is a harm because it is in opposition to some sense of ought, whereas McGrath thinks that all causation by omission is normative. In fact, the above account of harm considers the causation of a decrease in well-being to be only one of the conditions required to call some omission a harm. A separate condition is that the event ought to have occurred. So, the normativity is tied to whether an omission should be considered harmful, not to how the omission caused the harm. Since harm is a normative

notion, when determining what counts as a harm, there should be some considerations of the normative components that make it a harmful, rather than a harmless, event.

Conclusion

In this paper, I have demonstrated the advantages the counterfactual comparative account of harm has over other accounts. I briefly offered some potential solutions to Bradley's objections to the account based on preemption and the non-identity problem. I have also proposed the Counterfactual Account of Omission-Harming, as adapted from the Counterfactual Account of Action-Harming. I have outlined what I believe to be the biggest problem with the CAOH: the problem of ubiquitous harming, which refers to the implication that everyone who does not prevent a harm is guilty of harming by omission, whether they could have prevented it or not. I have also investigated four possible principles that might be used to supplement the original CAOH in order to address this problem. And I have explored further issues that may arise from each of these principles. Finally, I have concluded that the best formulation of the Counterfactual Account of Omission-Harming is the CAOH$_{OP}$. This is because it does not have the implausible consequences generated by the original CAOH or the formulations that incorporated the Reasonable Expectations Principle, the Ideal Reasonable Expectations Principle, or the Rights Principle, and it holds up against a host of objections.

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