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Negative Duties, Positive Duties, and the "New Harms"*

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A central question moral and political philosophers have asked in recent decades is whether well-off people have moral duties to aid those deprived of basic necessities and, if so, how extensive these duties are. No one disputes that people have duties not to harm others; these so-called negative duties are about as well established as any moral duties could be. But the very existence of "positive" duties to render aid is controversial, and even among those who concede their existence the nature and extent of such duties is disputed. A critical concern is that once we admit duties to aid into the moral realm they threaten to take over and invade our lives: it is hard to draw a line that will prevent them from becoming relentlessly demanding. When we think of all the people in the world who lack basic necessities and of how much the reasonably affluent could do to help them, the slippery slope looms before us. Peter Singer made this clear in "Famine, Affluence, and Morality," if it had not been clear before, arguing for what seemed to many like inhumanly demanding duties of the rich to aid the poor.[1] But Singer was not alone, and his essay would not have resonated as it did had it not tapped into deep concerns—on the one hand, about the extent of our responsibilities to relieve poverty and suffering; on the other hand, about the intrusive consequences of admitting such responsibilities for our ability to live our daily lives as we see fit.

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1. Peter Singer, "Famine, Affluence, and Morality, *Philosophy & Public Affairs* 1 (1972): 229–43. Singer has since weakened his proposals considerably, and in the interest of seeing these problems solved he has focused on pragmatic approaches that might convince ordinary people. See, e.g., Peter Singer, *One World: The Ethics of Globalization*, 2nd ed. (New Haven, CT: Yale University Press, 2002), chap. 5, 194, and, especially, *The Life You Can Save: Acting Now to End World Poverty* (New York: Random House, 2009), 148–72.

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Both common sense (of which we have, of course, reason to be deeply suspicious) as well as widely accepted philosophical approaches tell us that a reasonable morality cannot require us to make very large sacrifices to our own well-being—that such requirements impermissibly infringe our autonomy and our ability to live our lives as *our* lives. This critique has commonly formed part of an attack on utilitarianism and consequentialism, but it exerts influence beyond these moral theories. Now one thing that gives this position—what Liam Murphy has called "the over-demandingness objection" to duties of aid or beneficence[2]—its persuasive power is the implicit contrast with our "negative" duties not to harm people. Although we have at most limited or imperfect duties to aid people, the argument goes, we have strict or perfect duties not to harm them. And one thing that gives this position its persuasive power is the suggestion that not harming people is for the most part straightforward and easy. Don't kill people, don't rape them, don't attack them, don't rob them: if you follow these simple and indisputable rules, you are doing what you ought to do and cannot be faulted; at least you have fulfilled your obligations.

Yet over the past few decades, something has changed. We see—or, in many cases, others inform us in no uncertain terms—that our most humdrum activities may harm people in myriad ways we have never thought about before. And because these activities are seamlessly woven into our normal routines, ceasing to engage in these "New Harms" is not at all easy—not simply a matter of refraining from things we never would have dreamed of doing in the first place, like killing and raping and robbing. Not harming people turns out to be difficult and to require our undivided attention.

The moral contrast between not harming people and helping them may once have seemed sharp, but it no longer does. Although on some views minding your own business is all a person is morally required to do, even this apparently modest injunction now turns out to be almost impossible. Over the past few decades, but especially in the past few years—with economic, environmental, and electronic globalization rapidly increasing; near consensus about the threat of severe climate change, whose effects will be felt most by the world's poorest people; knowledge that the provenance of products we use every day is compromised in a variety of ways; and, finally, the growing impossibility of remaining ignorant of these phenomena—we have learned how our ordinary habits and conduct contribute to harming other people near and far, now and in the future. The model of harm underlying the classic formulation of the harm principle—discrete, individual actions

2. Liam Murphy, "The Demands of Beneficence," *Philosophy & Public Affairs* 22 (1993): 266–92, 268.

with observable and measurable consequences for particular individuals—no longer suffices to explain the ways our behavior impinges on the interests of other people.

Turn off the lights. Use compact fluorescent bulbs (even if they produce an ugly glare). Drive a small, fuel-efficient car. Drive less. Take public transportation. Don't fly unless you really need to (no more trips to international conferences, no more exotic vacations). Turn down the thermostat in winter. Turn off the air-conditioning in summer. Make sure your appliances are energy efficient. Take cooler showers. Eat local (except sometimes; find out when).[3] Don't eat factory-farmed meat; leaving aside harm to animals, producing it is not energy efficient. Don't buy Chilean sea bass, or salmon, or . . . (fill in the blank, depending on which sea food is overfished at any given time).[4] Don't drink bottled water—the energy costs of producing and transporting it are wasteful (leaving aside that only 14 percent of bottles are recycled). Don't use plastic bags (not paper bags either!).[5] Recycle. Compost. Don't use chemical fertilizers on your lawn; better still, get rid of your lawn.[6] In this new world in which we find ourselves, "each bite we eat, each item we discard, each e-mail message we send, and each purchase we make entails a conversion of fossil-fuel carbon to carbon dioxide," with possible deleterious consequences for others and for the globe.[7]

Apart from the environmental consequences of our actions, which disproportionately affect poor people, other kinds of harms also loom. Don't buy clothing made in sweatshops. (Find out which those are.) Was your oriental rug knotted by eight-year-olds? (Find out.) Do you own stock in a company that exploits its workers? (Find out.) Is the coltan in your cell phone fueling wars in the Congo? Leif Wenar explains how Western consumers may "buy stolen goods when they buy gasoline and magazines, clothing and cosmetics, cell phones and laptops, perfume and jewelry."[8] These harms result from flaws in the international system of global commerce, which allows corrupt dictators in resource-

3. See Roberta Kwok, "Is Local Food Really Miles Better?" Salon.com, June 24, 2008.

4. See, e.g., Mark Bittman, "Loving Fish, This Time with the Fish in Mind," *New York Times*, June 9, 2009. Despite the title, the article focuses less on harms to fish than to the environment.

5. For comparison of the drawbacks of plastic and paper bags (each bad in its own way), see, e.g., Skaidra Smith-Heisters, "Paper Grocery Bags Require More Energy than Plastic Bags," Reason.org, April 17, 2008; and "Paper versus Plastic: The Shopping Bag Debate," blog.greenfeet.com, n.d., http://blog.greenfeet.com/index.php/paper-vs-plastic-the-shopping-bag-debate/reducing-your-footprint/121.

6. See, e.g., Elizabeth Colbert, "Turf Wars," *New Yorker*, July 21, 2008.

7. John Peterson, "A Green Curriculum Involves Everyone on the Campus," *Chronicle of Higher Education*, June 20, 2008, A25.

8. Leif Wenar, "Property Rights and the Resource Curse," *Philosophy & Public Affairs* 36 (2008): 2–32, 2.

rich countries to profit hugely at the expense of their impoverished citizens.

Every bite we eat! Every purchase we make! To not do these things, to know what not to do, to know what to do instead, all this can encroach on our autonomy at least as oppressively as any duties of aid or beneficence. Thomas Pogge conceives of "human rights narrowly as imposing only negative duties," in order to keep his argument for human rights "widely acceptable."[9] His rejection of positive rights as elements of human rights may seem surprising; one might think a progressive, humanistic philosophy of human rights would embrace protecting the vulnerable even when it is not our fault they are vulnerable. Leaving that issue aside, however, the question is why negative duties have been seen as more "acceptable" than positive duties, and whether they will remain so once central features of the New Harms are properly understood.

My aim in this article is to make some progress toward answering these questions. What accounts for the difference in our attitudes toward would-be negative and positive duties?[10] How does globalization change the way we *do* affect distant people (for the worse) or can affect them (for the better)? How should these changes affect our attitudes and our moral responsibilities?

Section I of this article examines psychological responses and attitudes related to our capacity for acting, or omitting to act, in the world. The point is to help explain why we feel responsible when the effects of our actions, or our omissions, are near and visible to us—and why we do not feel responsible when they are distant.

Sections II–V explore apparent disanalogies or asymmetries between would-be negative and positive duties. Since my thesis is that the moral contrast between negative and positive duties is much less sharp than we have thought, such asymmetries could undermine my conclusions. In fact, I argue, at least one of these asymmetries confirms the commonsense view that negative duties take priority over positive duties (Sec. II). But another asymmetry suggests the opposite conclusion (Sec. III). Section IV explores a third possible disanalogy—one that, I argue, is illusory.

Section V considers the question of demandingness, which has already reared its head in this discussion and which has seemed to many to be a defining difference between negative and positive duties. I chal-

9. Thomas Pogge, "Recognized and Violated by International Law: The Human Rights of the Global Poor," *Leiden Journal of International Law* 18 (2005): 717–45, 720.

10. I use the term "would-be" in order not to beg the question of whether there is in fact a duty in either the negative or positive case. In what follows the qualifier is often omitted but should be understood.

lenge this view, resting my argument partly on the idea that the extent of a person's duty depends on demandingness, among other things.

Conjoined with the recognition that negative duties can be as demanding as positive duties, we might be left with a depressing conclusion: that it is too much (either empirically or normatively or both) to expect people to refrain from contributing to the New Harms, or to relieve widespread suffering. In Section VI, I counter this conclusion by arguing that it is perfectly legitimate—indeed desirable—to make it easier for people to fulfill their would-be duties, negative or positive, and I make some suggestions about how to achieve this objective. Section VII provides some concluding reflections on why the distinction between negative and positive duties is overrated.

I. CAUSALITY AND PSYCHOLOGY

Central to the classical picture of harm on which the primacy of negative duties depends is "the idea that individuals are primarily responsible for the harm which their actions are sufficient to produce without the intervention of others or of extraordinary natural events."[11] Two elements are important. One is that an individual's action is sufficient, without the acts or interventions of other people, to cause harm.[12] The other is that the harmful effects a person's action produces are generally near and immediate. My fist comes into contact with your nose (and breaks it); my car runs you over (and crushes your leg).

This causal picture less accurately reflects the mode of individual agency increasingly prevalent in the world today than it does to classic torts, for example. In the cases I am concerned with here—what I call the New Harms—no individual's action is *the* cause of harm; an individual's action makes at most a causal contribution to an overall effect that may be large and significant. Samuel Scheffler has described concomitant changes in what he calls the phenomenology of agency that apply to these kinds of cases. Individuals may not be aware of the contribution their act makes, they have little or no control over the larger processes, and it is difficult to get information about these processes and equally difficult to avoid participating in them.[13] Psychologically or phenomenologically, "the primacy of near effects over remote effects means that we tend to experience our causal influence as inversely

11. H. L. A. Hart and A. M. Honoré, *Causation in the Law*, 2nd ed. (Oxford: Clarendon, 1985), lxxx.

12. Of course every event is the effect of a concatenation of many prior events and conditions, including human actions. Which one we pick out as the cause depends on context, our interests, and what is unusual or departs from the routine. See Hart and Honoré, *Causation in the Law*, 64 ff. for further discussion.

13. Samuel Scheffler, "Individual Responsibility in a Global Age," *Social Philosophy and Policy* 12 (1995): 219–36, 233.

related to spatial and temporal distance."[14] Our immediate influence on our surroundings seems real to us in a way that our remoter effects do not. And since with the New Harms an individual's actions do not produce palpable, immediate, visible effects, one is likely to feel no regret, no guilt, no shame, and no drive to act differently.

These psychological states—or perhaps we should say the absence of them—resemble our mind-sets when we do not aid those whom we could aid. As Scheffler puts it, "we experience our omissions as omissions only in special contexts."[15] If I fail to jump into the pond to save the drowning child before me, or if I do not intervene when I witness a mugging on the subway, I am likely to "experience" the omission. But I will not ordinarily experience my failure to aid starving children a half a world away as an omission, much less as a failure. Ordinarily, I will *have* no experience.

Lacking the relevant psychological states, people do not "feel" they are doing anything wrong when they contribute to the production of New Harms, just as they do not feel guilty when they fail to aid the distant poor; changing behavior is correspondingly more difficult. I return to these points toward the end of this article.

II. THE MORAL PRIORITY OF AVOIDING HARM OVER HELPING

It is widely believed that duties not to harm are more stringent than duties to aid. One basis for this belief is that one who harms another makes that person worse off than she would have been had the agent not done what he did, while one who fails to aid does not make someone worse off in this way. In light of this difference, some assert a kind of existential claim: you are liable for making the world worse than it would have been had you not acted in a way you are not liable for failing to making the world better. Something like this point seems to underlie the view that, as Scheffler puts it, "individuals have a special responsibility for what they themselves do, as opposed to what they merely fail to prevent."[16] This outlook comes in various strengths: in the strongest version, you have no responsibility for not making the world better; in weaker versions, you are responsible but not to the same degree as if you had made someone worse off. A view of this kind is central to Robert

14. Ibid., 228.

15. Ibid., 227.

16. Ibid., 223. The locus classicus for this view can be found in Bernard Williams's essay, "A Critique of Utilitarianism," in *Utilitarianism: For and Against*, ed. J. J. C. Smart and Bernard Williams (Cambridge: Cambridge University Press, 1973), 93–100. See Sec. IV for further discussion.

Nozick's claim that the state may prohibit people from harming others, but it may not require them to aid others.[17]

There is much room for disagreement about this fundamental existential claim, especially in its strongest forms: that people are not morally required to aid others or that the state may never force them to do so.[18] Yet one version of the asymmetry claim seems difficult to deny. Having harmed a person always provides a reason to rectify her plight over and above any other reasons one has. Think of the proverbial drowning child in the pond. Most people agree that the bystander ought to wade in to save the child. Yet few would deny that the reason to intervene intensifies if the bystander is no mere bystander but has pushed the child into the water. Even if the act is not intentional but accidental, we are strongly inclined to believe the agent has a greater responsibility to act than does the innocent bystander. And it is not unusual for a person to feel guilty for having harmed another even if her behavior is faultless.

In one sense at least, then, it seems incontrovertible that harming is worse than not aiding—or, in other words, that negative duties are more stringent than positive. However strong the reasons to alleviate a person's suffering, a person has an additional reason to do so if she has had some role in bringing that suffering about. Thus, other things being equal, duties not to harm are more stringent than duties to aid—they provide a further reason to act over and above any one might have in the absence of having contributed to the harm.

But nothing in this argument tells us how *much* stronger negative duties are than positive duties. True, having reasons x and y for acting provides more push than having reason x alone. But if x is itself a very strong reason, then y may not add much additional force to it. It begs the question to assume that reasons for helping (x) are weak relative to reasons for not harming (y).

III. EFFICACY

For most of human history it was probably difficult either to harm or to help people far from one's community. No doubt a story can be (and probably has been) told about the evolutionary and social repercussions of this fact. Things began to change significantly with the advent of

17. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), passim; see especially 181–82, where Nozick discusses the medical researcher who synthesizes an important drug out of easily available materials. According to Nozick, he has no responsibility to make the drug available to those who need it because his actions have not made anyone worse off (since he has not made any resources more scarce).

18. Disagreement, although perhaps not argument. The disagreement seems to be of the brute variety: certainly one cannot prove that we have, or do not have, positive duties.

global trade and colonialism, which increased human interaction and brought products from faraway places. With it came a growing awareness of the effects of seemingly innocent actions on distant people. For example, starting in the early 1790s more than 300,000 English people (out of a total population of only 8 million) participated in a sugar boycott in an effort to abolish the slave trade.[19] So neither the New Harms nor awareness of them are entirely new.

Still, they exist today on an unprecedented scale. And it might be thought that, considering the matter in terms of an individual's power to make a difference in the world, there is an asymmetry here between negative and positive duties, one that tells in favor of fulfilling positive duties to aid over negative duties not to harm. It might be argued that the effects of an individual alone refraining from the New Harms are negligible or nil, while, on the other hand, one can through one's aid single-handedly make a significant difference to someone's well-being. If this argument is right, then, other things being equal, an individual might have more reason to give aid—to fulfill a would-be positive duty—than to fulfill a negative duty by avoiding participation in a new harm.

The reasoning underlying the argument is as follows. For a given unit of effort or money, a person can be more certain that her aid (say $100 sent to Oxfam) will help someone than she can be sure that the equivalent amount (e.g., $100 saved in carbon emissions) will avoid harm. So, other things being equal, she has more reason to give aid than to reduce use of fossil fuels. If this argument is sound, then perhaps we should not be burdened to consider what we buy, eat, or otherwise consume in the way I suggested at the beginning of this article. For, it might be said, people do not have duties to refrain from engaging in harmful practices unless doing so would make a difference to the outcome. And acting alone individuals do not have good reason to think they can make a difference.

To appreciate the force of this objection, we must explore two possible lines of argument. The first, taken up in the remainder of this section, explores the causal claim that in fact individual attempts to aid in such cases are more efficacious than individual attempts to avoid harm. The second, explored in the next section, asks whether making a difference to the outcome is the only relevant consideration. It examines the rejoinder that it is wrong to participate in harmful activities irrespective of whether one's own conduct makes a difference.

Do I—living in a safe American suburb far from the frontlines of global poverty—have more reason to give $100 to Oxfam or Doctors without Borders than I do to cut my carbon emissions by $100 or to

19. See Adam Hochschild, *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves* (Boston: Houghton Mifflin, 2005), 192–96.

refrain from buying $100 worth of products made in sweatshops—on the grounds that the former acts are more likely to make a difference than the latter?[20] Answering this question requires facts both about the efficacy of aid and the efficacy of refraining from harm, neither of which is easy to come by. Begin with the question of the efficacy of a person's aid dollars. In recent years, critics, including many former insiders in the world of international aid, have challenged the effectiveness of humanitarian assistance in the form both of disaster relief and long-term efforts to improve well-being among the world's poorest people. The titles of their books speak for themselves: *The Road to Hell*, *Lords of Poverty*, *Famine Crimes*, *Condemned to Repeat?*, *Aid as Obstacle*, *The Dark Sides of Virtue*, *Dead Aid*.[21] As Garrett Cullity explains, the central charge is that large-scale aid programs "damage the local economy and pauperize the 'target population'. . . . The effect is to create aid-dependent economies in which the task of developing economic self-sufficiency has been made much harder than it was before."[22] Aid programs can disrupt traditional institutions, undermine incentives to work, erode recipients' self-respect, and encourage corruption by local governments. Organizations can also fail in more obvious ways: their goods may simply not reach those they are designed to help; they may spend excessively on administrative costs. As William Easterly recently put it, Singer's metaphor of the drowning child is flawed: first, because we cannot directly save the malnourished child on the other side of the world—we must work through intermediaries, and the question is how they can be made accountable; second,

20. The comparisons are not easy to draw, since refraining from harm, as by using less energy, serves some of the agent's interests and to that extent should not be counted as a cost to him. In these cases, the cost to some of our interests (sweltering without air-conditioning, giving up the cherished gas-guzzler) is offset by gains to our economic interests. But not all cases possess this feature, and in any event people do consider many of the demands required by not contributing to global harms a sacrifice to their interests. For present purposes, we can subtract whatever benefit people derive by refraining from harm and consider only the net cost to them.

21. Michael Maren, *The Road to Hell: The Ravaging Effects of Foreign Aid and International Charity* (New York: Free Press, 1997); Graham Hancock, *Lords of Poverty: The Power, Prestige, and Corruption of the International Aid Business* (London: Mandarin, 1991); Alex de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (London: Africa Rights and the International African Institute, 1997); Fiona Terry, *Condemned to Repeat? The Paradox of Humanitarian Action* (Ithaca, NY: Cornell University Press, 2002); Frances Moore Lappé and David Kinley, *Aid as Obstacle: Twenty Questions about Our Foreign Aid and the Hungry* (San Francisco: Institute for Food and Development Policy, 1980); David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton, NJ: Princeton University Press, 2005); Dambisa Moyo, *Dead Aid: Why Aid Is Not Working and How There Is a Better Way for Africa* (New York: Farrar, Straus & Giroux, 2009).

22. Garrett Cullity, *The Moral Demands of Affluence* (Oxford: Clarendon, 2004), 39. Chapter 3 of Cullity's book provides an excellent analysis of the issues.

because although it is clear what to do to save the drowning child—and we need only act once—it is not obvious how to alleviate chronic poverty and the malnutrition and disease associated with it.[23]

Nevertheless, throwing up our hands and concluding that we can do nothing to improve conditions of poverty, disease, and ignorance is not justified. In the past few years a cottage industry has emerged concerned with how to make aid work. Nobel-Prize winning microfinance guru Mohammed Yunus and *New York Times* columnist Nicholas Kristof have advanced our understanding and disseminated ideas about effective approaches. A young organization called GiveWell engages in research on the effectiveness of both international and domestic programs.[24] Aid Watchers, a project of New York University's Development Research Institute, is "based on the idea that more aid will reach the poor the more people are watching aid."[25] Most of aid's detractors have proposals for alleviating world poverty, even while they are harshly critical of many existing approaches.

Nothing is foolproof. Evaluating charities based on the proportion of their costs dedicated to administration sounds plausible, but is not always reliable.[26] Microfinance is often effective but not always; it must be monitored. "There is no generic thing that works," says Easterly.[27] But only willful ignorance could allow the conclusion that we can make no difference at all to the well-being of distant strangers, or that there are no means of judging how best to do so. The inconvenient truth is that figuring out what works takes effort—another face of the demandingness of positive duties.

What about refraining from contributing to harm? It may seem that the probability of making a difference is less than in the case of individual aid. If I am careful in how I allocate my donations, it seems

23. Diavlog between Peter Singer and William Easterly, bloggingheads.tv, December 24, 2009, at http://www.bloggingheads.tv/diavlogs/24804. Easterly, an economist at New York University, is author of *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (New York: Penguin, 2006), which has received much attention.

24. See the GiveWell Web site athttp://www.givewell.net/.

25. See the Aidwatchers Web site at http://aidwatchers.com. Easterly directs this organization. Another blog, Good Intentions Are Not Enough, offers the views of a former disaster relief worker. These blogs link to other useful sites. The Center for Social Innovation at Stanford University publishes the *Stanford Social Innovation Review*, online at http://www.ssireview.org/. *Charity Navigator* assesses the financial health of over 5,400 American charitable organizations, providing information about how contributions are allocated and comparing organizations with similar missions.

26. Singer on bloggingheads.tv; Saundra Shimmelpfennig, "Charity Ratings Based on Administration Costs Can Do More Harm than Good," at Good Intentions Are Not Enough, May 20, 2009.

27. See bloggingheads.tv/diavlogs/2484.

probable that I can actually help a small number of people, but it is hard to imagine that my solitary refusal to use plastic grocery bags will make any contribution to slowing climate change or that my refusal to buy sweatshop-made clothes will alleviate worker exploitation even a little bit.

But is this right? We have reason to distrust the intuition that our behavior, because it constitutes only a tiny fraction of the whole effect, makes no difference. In the first place, since aggregate effects are a function of individual actions (carried out within a framework of institutions and policies), it would seem that tiny individual changes will have at least tiny effects on the outcome.[28] Moreover, people bring about change in other ways than by direct reductions in harm. Driving a fuel-efficient car or carrying reusable bags to the supermarket are publicly visible acts; through them a person can set an example or fuel a trend that others may imitate, whether out of conviction or conformity. The power of fashion, the desire for approval and avoidance of shame, pride in living up to one's principles, the effects of "tipping points"—via such psychological and social processes actions with negligible direct effects can nevertheless produce widespread changes in behavior over the longer run. And the belief that one's own conduct makes a difference is a potent and probably adaptive human trait.

This discussion is inconclusive for at least two reasons: first, because the facts about what does harm and what does good are hard to come by; and, second, because the kinds of behavior in question (possible contributions to harm, possible contributions to good) are so heterogeneous as to defy subsumption under an abstract general principle. Perhaps the most we can say at this stage is that it seems likely that, per unit of human effort (measured in dollars, or some other way), we are more likely to make a difference by giving aid than we are by refraining from contributing to harm.

It is difficult to entirely bracket the efficacy question, especially when we include indirect effects of our behavior such as setting an example or fueling a trend. Yet there are other moral reasons to refrain from participating in harmful activities, beyond any direct or indirect material effects a person's actions may have.

IV. INTEGRITY

In reflecting on such reasons, it appears that the harmful activities we are mainly concerned with divide into two types. One includes the kinds

28. "It is not enough to ask, 'Will my act harm other people?' Even if the answer is No, my act may still be wrong, *because* of its effects on other people. I should ask, 'Will my act be one of a set of acts that will *together* harm other people?' The answer may be Yes. And the harm to others may be great. If this is so, I may be acting *very* wrongly" (Derek Parfit, *Reasons and Persons* [Oxford: Clarendon, 1984], 86).

of environmental harms epitomized by the threat of climate change. Such harms are essentially aggregative: there is nothing intrinsically harmful to the environment or other people in burning fossil fuels; the harms depend on the joint effects of many people's actions. By contrast, other kinds of harms—buying products whose manufacture exploits workers or that deprive owners of their rightful property—involve actions that are wrong in themselves, irrespective of what others do. Although the commercial practices under scrutiny would not exist without the participation of large numbers of people, each individual act of theft or exploitation is wrong.

The distinction between intrinsic and essentially aggregative harms affects the moral reasons to refrain from participating in harmful activities. Consider a person who chooses not to eat meat because he believes killing animals is morally wrong.[29] I believe most people would agree that his choice is appropriate, even if his conduct does not significantly affect the lives and well-being of any animals and irrespective of whether other people eat meat or not. Although I have no control over what other people do, the agent may say, I can at least control what *I* do, and I choose not to contribute to these wrongs. This reasoning might be applied both to individual and aggregative harms, but intuitively at least it seems to hold more sway in the former case, where it can plausibly be argued that the wrongfulness of my conduct does not depend on what others do.

The decision to refrain from acts complicit in aggregative harms arises from different reasoning. Imagine an agent employing the categorical imperative, who will perform only those actions she would be willing to allow everyone to perform. Since allowing everyone to consume energy at the rate consumed by the average American leads to disaster, she concludes that it is unfair for her to consume at that rate. The vegetarian's decision not to eat meat, by contrast, is not dependent in this way on fairness.

Recall that the point of this discussion was to consider possible asymmetries between negative and positive duties. In the last section, I considered the following argument:

1. In the kinds of cases we are considering, an individual acting alone can be more certain that her aid will be effective than that her refraining from harm will be effective.
2. Therefore, per unit of effort (measured in dollars or some other way), an individual has more reason to give aid than to refrain

29. For those who believe that animals' interests should not count in a serious way in our moral reflections or calculations, this example can be seen as an analogy; for those who think animals' interests should count, it's simply another relevant case.

from harming.

3. Therefore, from the point of view of efficacy, duties to refrain from contributing to the New Harms are, other things being equal, weaker than duties to give aid.
4. And, in absolute terms, since refraining from harm is not effective in these cases, the duty to avoid harm is weak or nonexistent.

I concluded that the empirical claim in the first premise might be correct; if so, this argument—which only concerns efficacy—cannot be faulted. Now I want to ask whether causal efficacy in bringing about a desired result is the sole criterion by which to judge whether one ought to refrain from participating in harmful activities.

The answer is no. Another reason is simply to do the right thing, irrespective of effectiveness. In the case of aggregative harms, doing the right thing involves an appeal to the unfairness of acting inconsistently with how one thinks others ought to act. With intrinsic harms (like eating meat, according to the moral vegetarian's view) it's not a matter of unfairness but something we are inclined to describe as acting on principle.

We possess rich linguistic resources to describe what is objectionable even where one's behavior makes no difference to the outcome. We talk about the expressive or symbolic meaning of a person's conduct, about personal integrity, or about "participating in" or being "complicit" in harmful activities. Yet these ways of talking—all of which bypass questions of efficacy—raise further questions about the distinction between negative and positive duties.

The assertion that one should do the right thing even if it has no effect in the world might appear to require support. The question was famously discussed by Bernard Williams in "A Critique of Utilitarianism."[30] Williams offers two examples in which a person confronts the choice about whether to perform a harmful action; if he does not, someone else will do it instead, or worse. I shall focus on the first of Williams's examples, which bears more closely on the cases of interest here. George, a new chemistry PhD, is offered a job working in a lab that does research in chemical and biological warfare. George opposes chemical and biological warfare, but he needs a job (and jobs are hard to come by in his field), and he knows that if he refuses the position someone else will take it instead.[31] Utilitarians, Williams charges, conclude that George may take the position; they wrongly fail to consider

30. Williams, "A Critique of Utilitarianism," 97–100.

31. In Williams's version of the example, the person waiting in the wings lacks George's scruples "and is likely to push along the research with greater zeal than George would" (Ibid., 98). This detail (which would give George more reason to take the job) does not apply to the cases I am interested in, and I shall ignore it.

the idea "that each of us is specially responsible for what *he* does, rather than for what other people do. This is an idea closely connected to the value of integrity."[32]

In this case, as with the New Harms, the actions George would engage in are linked only indirectly—via the acts and interventions of many other people, as well as other causal processes—to harmful consequences. Of course, the link is more direct in Williams's example: whereas George's research could and would be carried out by some other people (ust how many it may be difficult to say, but probably no more than hundreds or a few thousand at most), the harmful consequences of buying goods made by exploited workers or using plastic bags involve hundreds of thousands or even millions of people. And the typical consumer is less responsible for the ensuing harms than George is; the sweatshop owner and/or the authority setting labor standards bear more responsibility for bad labor practices than the buyer.[33] Partly as a result of such differences, the harm done by any one individual in the cases of New Harms is smaller than that done by any single person in the Williams's case; correspondingly, less blameworthiness attaches to the former than the latter. But Williams's central point nevertheless applies, and it helps explain the intuition that one ought to refrain from doing harm even if one's behavior makes no difference to the outcome: I am especially responsible for what I do, not what others do.

Yet, in his interpretation of this dilemma, Williams makes a deep and powerful assumption. In being responsible for what I do, am I also responsible for what I do *not* do? Williams thinks not; in attacking consequentialism, he draws a sharp line between those things "that I allow or fail to prevent" and those things "that I myself, in the more everyday restricted sense, bring about."[34] It follows that—according to commonsense moral thought, in Scheffler's phrase—my duty to avoid harmful activities is stronger than my duty to engage in the equivalent quantity of "helpful" activities and that negative duties "constitute a greater constraint on one's pursuit of one's own goals, projects, and commitments" than do positive duties."[35] The metaphor of the carbon footprint is apt: do not leave the earth worse than you found it, even if you do not leave it better.

Now one might object to this interpretation of our responsibilities,

32. Ibid., 99.

33. Who is responsible for environmental harms? In a democratic society the people are accountable, but the people's representatives, who have the opportunity to pass laws and enact policies, are more accountable.

34. Williams, "A Critique of Utilitarianism," 99. See also Scheffler, "Individual Responsibility in a Global Age," 223.

35. Scheffler, "Individual Responsibility in a Global Age," 223.

biased as it is in favor of negative duties, without embracing consequentialism—and I believe that we should. A concern with integrity, or with the expressive function of one's conduct, need not exclude responsibilities to make the world better. But to avoid falling down the slippery slope—so that we are responsible for everything we fail to (try to) prevent—it will be necessary to draw a line between those things we ought to try to prevent and others for which we are not responsible or less responsible. There are a variety of ways one might draw this line, each with its own strengths and weaknesses.

One plausible approach would treat negative and positive duties analogously. A natural way to understand the extent of our negative duties is to say that we should do our fair share of harm avoidance. Ideally, I should not buy products that involve the exploitation of workers or the theft of others' rightful property; if I refrain from these activities, I am doing my share by not contributing to the harmful consequences that ensue from such behavior. In the case of climate change, one might argue that, for example, an American citizen should reduce his carbon footprint to the amount that, when multiplied by the population of the United States, would be sustainable. An analogous account might be offered in the positive case: we are not duty bound to do everything we could do to help those in need, only our fair share, understood perhaps as the amount that, when multiplied by the population of the United States (or whatever unit is appropriate), would appropriately relieve need.[36] Thinking in terms of integrity, participation, complicity, and the like, a person might say: "I am not responsible for how others live their lives, only for how I live mine. And I think it would be unconscionable not to give away 10 percent of my income."[37] There is no reason why a concern with integrity must ignore our positive responsibilities—it need not draw a sharp line between what we bring about directly and what we allow or fail to prevent.

It is worth noting that a criticism of duties to aid often made in this context applies as well to this understanding of the extent of our duties not to harm. It is sometimes said that, since many people will not do their fair share in giving aid, I ought to do more. And this kind of reasoning again raises the specter of the slippery slope toward onerous duties. Similarly, it might be said that, since many people will not reduce their harmful behavior as much as they should (if at all), to compensate I ought to reduce mine even more than "my share." I shall not try to solve this problem here except to say that whether we resolve the issue

36. See Murphy, "The Demands of Beneficence."

37. Note that talking about "how to live" rather than "what to do" is less likely to lead to negative/positive confusion.

via the notion of a fair share or some other way, there is no reason why the negative and positive cases should not be treated analogously.

V. DEMANDINGNESS

Let me summarize the conclusions reached so far. I have examined three possible asymmetries between negative and positive duties. First was the idea that not harming takes priority over helping. I argued that this is nearly self-evident, since in any case where suffering ought to be alleviated, one who has contributed to causing the suffering has an additional reason to alleviate it over one who has not so contributed. But having an additional reason does not imply that one who has not contributed to the harm has no reason, nor does it settle how strong that reason is.

Second was the question of the relative efficacy of avoiding harm or giving aid in the kinds of contemporary global cases we are interested in. Ironically, despite the voluminous critiques of aid, it seems plausible (although by no means certain) that a solitary individual can make more difference by giving aid than she can by avoiding participation in harmful activities.

Third was the argument from integrity, as one might call it, which appeals to moral factors apart from efficacy as a basis of responsibility. This argument has traditionally contained a bias in favor of harm avoidance rather than aid giving. But there is no justification for the bias, and we should conceive integrity in a way that is neutral between acts and omissions.

The upshot of the argument so far is something of a draw. The first point suggests that negative duties take priority, the second appears to give the edge to positive duties, and the third results in a tie.[38]

The final possible asymmetry I wish to examine has loomed especially large in recent philosophical discussions of positive duties, playing a central role in skepticism about their existence and extent. This is the problem of demandingness, which I referred to at the beginning of this discussion and which has been crucial in motivating my thinking here. Given the enormous quantity of suffering in the world, it has seemed necessary to most moral philosophers to limit what can reasonably be demanded of ordinary human beings in the way of aid or positive duties. Warding off an onslaught of negative duties, by contrast, has not seemed pressing.

Why not? The classic harms negative duties prohibit—killing, rob-

38. This is, of course, an artificial accounting. It is impossible, in theory, to say how much contribution to creating the harm adds to one's duty. And there is no general answer to the question how much more one can help by acting than one can avoiding harming by refraining from acting; the answer will depend on the details of specific cases.

bing, raping, and the like—are in an important sense easy to avoid for most people. In any case they raise no line-drawing or slippery slope problems. (You mean I have to avoid killing this person and that person and the other person and all the other people too?) Positive duties have such problems built in. How much of my money, time, and effort must I expend to help all those in the world who suffer greatly and could benefit from my help? There is no simple answer. But this feature of positive duties has been a central reason why they are controversial—why many people have thought they are at best imperfect, secondary, or even nonexistent.

One question is whether their relative undemandingness is part of the reason only negative duties have been thought strict or perfect—whether, in other words, the extent of an agent's duty, negative or positive, is partly a function of the costs of compliance with the duty. At first sight the answer appears to be no. Most people would agree that a cost of $10,000 lessens Emma's responsibility to aid the homeless. But even if James will lose $10,000 if he does not kill his uncle, we do not think this weakens his duty not to kill his uncle.

How, then, is demandingness relevant to duty? One could hold that rightness and wrongness are determined independently of costs to the agent and that a person's blameworthiness should not take into account the costs of compliance. I know of no one today who endorses such an unforgiving view. A more moderate (but still fairly strict) approach, advanced recently by Robert Goodin, accepts the independence of rightness and wrongness from considerations of cost but figures the costs of compliance into blameworthiness.[39] At the other end of the spectrum is the view that rightness and wrongness are a function of costs to the agent, among other things. Richard Arneson takes an intermediate position, arguing that rightness and wrongness are independent of cost but that moral obligation or duty—which he equates with liability to punishment and which is therefore also tied to blameworthiness—depends on judgments of cost and sacrifice.[40]

These are complex questions I cannot fully resolve here. But whether demandingness figures into moral rightness or only into all-things-considered judgments of praise and blame, reward and punishment, is, I believe, ultimately not important; it's a distinction with only a theoretical difference. Here are some reasons why.

39. See, e.g., Robert Goodin, "Demandingness as a Virtue," *Journal of Ethics* 13 (2009): 1–13. For a different typology of views than the one I offer here, see Samuel Scheffler, "Morality's Demands and Their Limits," *Journal of Philosophy* 83 (1986), 531–37.

40. Richard Arneson, "Moral Limits on the Demands of Beneficence," in *The Ethics of Assistance: Morality and the Distant Needy*, ed. Deen K. Chatterjee (Cambridge: Cambridge University Press, 2004), 51–56.

First, even in the classic cases of immediate physical harm, we do in fact acknowledge considerations of cost as relevant to determining what it is reasonable to expect the agent to do or refrain from doing—and this latter is perhaps the core notion of duty. Duress and necessity are defenses that mitigate a person's guilt even in violent crime.[41]

Second, murder and mayhem may in fact mislead us about the relevance of demandingness to determining duty. With other kinds of harms (usually unintentional) such as those treated in tort law, cost to the agent enters directly. The Hand Test, crafted by Judge Learned Hand in *U.S. v. Carroll Towing Co.,* established the rule that the agent is liable for damage only when the burden of taking adequate precautions to prevent it is less than the probability times the gravity of the harm to the victim.[42] These kinds of cases might be a useful model for understanding duties arising from the New Harms.[43]

Third, the classic harms reflect the fact that, for most of human history, a person could harm only those at close range. We may speculate that, as a result, humans evolved to feel revulsion at the thought of such acts—whether their own or others'. But revulsion did not extend to the New Harms, which came into existence on a grand scale only recently.[44] Absence of revulsion in these cases resembles our lack of distress at the suffering of distant people whom we do not aid.

Finally, the suggestion that our responsibilities can be parsed into simple and determinate duties is highly misleading at best. There is no plausible moral theory that can decide, or any other credible way of determining, what a person is morally obligated to do, or refrain from doing, with any kind of precision. Whatever view one takes of the relevance of demandingness to determining abstract rightness or wrongness, or personal duty, every plausible theory finds a way to justify, excuse, mitigate, or mute criticism of the conduct of those who fall short as a result of morality's demands—and this is, in effect, a way of taking back with one hand what one has offered with the other. A theory that directly incorporates demandingness denies that those who fail to do

41. For further discussion, see Judith Lichtenberg, "How to Judge Soldiers Whose Cause Is Unjust," in *Just and Unjust Warriors*, ed. David Rodin and Henry Shue (Oxford: Oxford University Press, 2009), 118–22.

42. *U.S. v. Carroll Towing Co.,* 159 F.2d 169 (2d Cir. 1947).

43. But there are differences. Instead of the probabilistic character typical of torts (harms are more or less likely, not certain), we have the fractional contribution any individual's conduct makes to the harm.

44. This is consistent with the sort of account given by Scheffler, described earlier. One might ask whether our psychological reactions themselves have moral significance—whether the fact that people are relatively unfazed by the distant effects of their actions must be factored into moral judgments. I think the answer is that they are relevant to judgments of blameworthiness and character but not directly to judgments of right or wrong action.

or refrain from doing what is overly demanding have done wrong. A consequentialist theory that identifies wrongness with any action short of the optimific will claim that those who have not done the optimific act have strictly speaking done wrong. But it may deny that they should be punished, or even that they have violated their duties (as Arneson does).

Another strategy bypasses the question of whether such people have done wrong or violated their duties but notes that in any case the language of duty and obligation can be useless or even counterproductive when the duties alleged far outstrip ordinary people's motivations to comply with them.[45] The question from this point of view is just where we should set the bar: not so high that it discourages people from taking morality seriously because they feel they have no hope of meeting its demands, not so low that it makes no significant demands and thus defeats a (perhaps the) central purpose of having a morality—to motivate people to behave better than they would in the absence of its dictates.[46]

These and earlier considerations support the conclusion that, whatever answer we settle on with respect to the relevance to duty of demandingness per se, negative and positive duties should in this respect be symmetrical. If costs to the agent count, they should count in determining both negative and positive duties; if costs do not count, they should count in determining neither.

VI. MAKING IT EASIER TO DO THE RIGHT THING

If my argument is right, negative duties—duties not to harm—are more demanding than has usually been thought, and in this respect they resemble positive duties to render aid. That, of course, does not settle the question of just how demanding they are and where to set the bar of moral obligation. There can, of course, be no general answer to this question.

Moreover, we have competing ethical interests that pull in opposite directions when we try to set the bar in particular cases. One interest is in developing human character, and judging it. For this purpose the demandingness of morality is an aid, not a drawback, helping to separate the wheat from the chaff: we want to set the standard above the norm, in the hope of persuading people to excel and to single out the virtuous. A separate interest is the desire to alleviate human suffering. If this is our aim, we have no reason to set the bar especially high; on the contrary, we want to make it easier for people to do what is right, and we should

45. See Singer, *One World*, 191–92.

46. See Goodin, "Demandingness as a Virtue"; and Arneson, "Moral Limits on the Demands of Beneficence."

embrace whatever legitimate means are at our disposal to render right action as painless as possible.

Now in fact we care about both—human character and the alleviation of suffering—and so we can find ourselves in conflict. When these aims clash, I believe the latter should take priority. But I also believe that the conflict is more theoretical than practical, because wherever we set the bar there will remain plenty of tests of human character.

We have a practical moral interest, then, in making it less painful or costly for people to alleviate others' suffering, whether by refraining from participating in harmful activities or by providing assistance to them. But for these purposes the concept of duty is a double-edged sword. In its favor: we do not want people to think that their responsibilities toward achieving the objective of reducing suffering (whether by refraining from harmful activities or by giving aid) are merely optional, that altering their behavior is nice to do but perfectly all right not to do. On the other hand, duty-talk, I fear, is dreary and old-fashioned, Victorian-sounding—and it's possible that exhorting people to do their duty is not the best way to get them to do it. The truth about what works best is, of course, an empirical question.[47]

Equally important, much avoidable suffering in the world could be remedied without great cost to those who would have to act or refrain from acting. To the extent that our aim is to relieve suffering (rather than to sort people into the good and the bad), we should take advantage of this fact. A crucial condition of keeping the costs—whether material or psychic—to individuals low is that they act, or refrain from acting, as part of a collective effort rather than as isolated individuals.

Acting collectively diminishes costs for individuals in several ways. Suppose, for example, a city prohibits the use of plastic bags in supermarkets and chain pharmacies, as San Francisco recently did.[48] The policy immediately relieves the individual of two kinds of effortful action. We might call one the research cost: the time and effort required to learn whether a given sort of activity is in fact harmful and ought to be avoided and what conduct ought instead to take its place. Given the complexity and uncertainty governing the effects of our everyday behavior in the contemporary world, research costs—largely a matter of that most precious commodity, time—can be daunting. The other cost is the exertion, or mindfulness, it takes to avoid or break a habit that

47. It is also distinct from the further question of the relationship between what people's duties are and what it is practical or effective to announce is their duty. Those who think publicity is a necessary part of a moral theory will insist that what cannot be announced as duty is not duty; but not everyone will agree. I leave this question open here.

48. Charlie Goodyear, "S.F. First City to Ban Plastic Shopping Bags," *San Francisco Chronicle*, March 28, 2007.

may be convenient for one or another reason. When laws or policies take effect requiring our compliance, research and mindfulness costs diminish. It may take time for people to become habituated to the new—to remember, for example, to bring their bags to the store or to turn down the thermostat. But when change is required by law, policy, or even social approval, individuals more easily alter their behavior.[49] Changing the background conditions against which people act—through law, public policy, and the changing behavior of others—is an essential ingredient to lowering the costs for individuals to comply with norms. Altering what is available—both in the material sense and in the psychological sense of being salient to consciousness—changes both the social infrastructure and the psychological landscape.

It does so not only by reducing research and mindfulness costs. What and how people consume signals information about their status and identity. What kind of car a person drives is in our society perhaps the best example. If SUVs become unfashionable for environmental reasons, then not having one does not relegate a person to the outer circles of those groups he cares about; putting the point positively, if going green becomes trendy, that gives many people an incentive to drive a fuel-efficient car.[50]

Acting collectively can also provide a sense of solidarity with one's neighbors or fellow citizens. And it allows people to see their efforts successfully realized, providing satisfaction over and above knowing they have (ineffectively) done the right thing or made a tiny difference. Collective action also takes the appropriate form, since the harms in question result from the aggregation of many small individual acts occurring within established institutions and is best addressed through coordinated behavior within reformed institutions.

VII. "NEGATIVE" AND "POSITIVE"

There is something paradoxical about the negative/positive duties controversy. On the one hand, once we recognize that we have harmed someone, we feel bound to do something to compensate for or alleviate the harm we have caused—more bound than if we had not harmed the

49. "As much as 45 percent of what we do every day is habitual—that is, performed almost without thinking in the same location or at the same time each day, usually because of subtle cues," according to studies reported in Charles Duhigg, "Warning: Habits May Be Good For You," *New York Times*, July 13, 2008. The article describes the use of advertising strategies in public health campaigns to change habits such as smoking, drug use, and sanitation practices.

50. For elaboration of these arguments, see Judith Lichtenberg, "Consuming Because Others Consume," *Social Theory and Practice* 22 (1996): 53–72; reprinted in David Crocker and Toby Linden, eds., *Ethics of Consumption: The Good Life, Justice, and Global Stewardship* (Lanham, MD: Rowman & Littlefield, 1997).

person. At the same time, accusations of harm often make people defensive ("It's not *my* fault . . .") and inclined to dispute the allegation. On the other hand, absent the implication that someone else's suffering is our fault—the result of what we have done—we may feel less moral pressure to alleviate suffering. But it is also possible that by not being put on the defensive we might act more freely, perhaps out of a kind of noblesse oblige.[51]

In any case, the significance of the distinction between negative and positive duties is exaggerated. The most important reason I have examined here concerns demandingness. Much of the moral force of negative duties rests on their being easy to satisfy, and this is central to their image as being, in Pogge's words, "widely acceptable." As we come to appreciate their onerousness, their acceptability is likely to decline. If we fail to recognize their demandingness, these negative duties will be largely ignored, just as positive duties are ignored.

Eroding the distinction between negative and positive duties has a venerable history. In *Basic Rights*, Henry Shue argued for the moral equivalence of certain basic moral rights—security rights and subsistence rights.[52] Shue shows that, although we have traditionally thought of the first as "negative" and the second as "positive," the duties that correlate with both types of rights are both "negative" and "positive." For this reason, negative rights demand more than has traditionally been thought, and positive rights may demand less.

Another point of vulnerability for the distinction concerns the baseline for determining harm. To harm someone is to make him worse off. But worse off than what? We typically think: worse off than he would have been had you not done what you did. In classic cases of harm, we know what this means: if you had not run me over, my leg would not be broken. In the case of complex events occurring over long periods, we cannot say what would have happened if a different course had been taken. We do not know where people would have been in the absence of colonialism, for example, because we do not know what would have happened in its stead. When the baseline becomes impossible to establish, the very notion of harm and thus the idea of a negative duty becomes obscure.

From the fact that not harming people can be as demanding as helping them—or more so—some will conclude that our negative duties are less stringent than we have been in the habit of supposing. That, I believe, is a mistake. It may turn out to be useful to deemphasize the language of duty, but the breadth and depth of remediable suffering

51. This is not an entirely attractive motive, but perhaps that doesn't matter.

52. Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2nd ed. (Princeton, NJ: Princeton University Press, 1996).

in the world leaves no room for doubt about the need for significant changes in our habits and behavior. We need to refrain from doing things we have been doing and begin doing things we have not been doing.