

INTRODUCTION:

Helen Frowe has recently objected to Michael Tooley's famous Moral Symmetry Principle, which is meant to show that in themselves killing and letting die are morally equivalent. I argue that her objection is not compelling but a more compelling objection is available. Specifically, Tooley's rebuttal of a proposed counter-example to his Moral Symmetry Principle has two problematic implications. First, it undercuts the very principle itself. If we reject the proposed counter-example, then, by Tooley's own lights, any instance of the Moral Symmetry Principle will actually demonstrate that killing and letting die are not morally equivalent. Second, it commits us to the view, which Tooley wishes to avoid, that we are just as obligated to refrain from doing wrong as we are to prevent others from doing the same. I end with a brief discussion of a more general concern regarding Tooley's basic strategy. My focus here is quite narrow. My claims, if plausible, only show that the Moral Symmetry Principle cannot serve as a basis for the view that killing and letting die are morally equivalent.¹

KILLING, LETTING DIE, AND THE MORAL SYMMETRY PRINCIPLE:

Michael Tooley claims that there is no morally relevant difference between killing and letting die. An act of killing, in itself, is morally equivalent to an act of letting die, in itself.² This is supposed to follow from the Moral Symmetry Principle:

Let C be a causal process that normally leads to outcome E. Let A be an action that initiates process C, and B be an action that stops process C before outcome E occurs. Assume further that actions A and B do not have any other morally significant consequences, and that E is the only part or outcome of C which is morally significant in itself. Then there is no moral difference between performing action A, and intentionally refraining from performing action B, assuming identical motivation in the two cases (Tooley 1994, p.104).

¹ To be sure other writers even before Frowe have criticized the Moral Symmetry Principle. The most detailed criticism comes from Richard Trammell (1976). It seems to me that Tooley has adequately defended himself against Trammell and others. See Michael Tooley (1983, pp. 196-241). The exception is an objection by Philip Devine (1978). My objection builds on his.

² I use "act" here in a broad sense to mean any intentional behavior. Thus to refrain from an act is itself an act.

Tooley illustrates this principle with the following thought experiment:³

Poisoned Whiskey: Two sons decide, independently of one another, to kill their nasty but wealthy father. The one puts some poison in his father's whiskey, and is discovered doing so by his brother, who was just about to do the same thing. The latter then allows his father to imbibe the deadly drink, and refrains from administering the antidote which he happens to have (Tooley 1994, pp. 103-104).

(A): the act of poisoning the whiskey — which initiates (C): the causal process resulting in (E): the father's death — is morally equivalent to refraining from (B): warning the father or administering the antidote. The first brother killed his father and the second brother let him die. But intuitively both behaviors are equally objectionable. Tooley's main argument can be put like this. Since the Moral Symmetry Principle is true, *any one* instance of it will be one where we *intuitively judge* that (A) [the act that leads to harm] is morally equivalent to refraining from (B) [the act that would have prevented the harm]. Both (A) and the refraining from (B) will intuitively warrant the same moral evaluation. And so it follows that *any one* instance of the Moral Symmetry Principle, where (E) = someone's death, will be such that we will *intuitively judge* that the killing [this would be (A)] is morally equivalent to the letting die [this would be the refraining from (B)]. And since this is true, it follows that an act of killing, in itself, is morally equivalent to an act of letting die, in itself.

Tooley straightway discusses a possible counter-example to the Symmetry Principle:

Tortured Child: In order to induce his captive to divulge important military secrets, a soldier pushes a child's head under water, which will immediately lead to extreme pain and suffering, though not death as the child will be periodically pulled up. The soldier does not enjoy doing this but his patriotism is motivating him. Furthermore, he will relent just in case the secrets are divulged. The captive, also out of sheer patriotism, does not break and refuses to divulge the secrets (Tooley 1994, pp. 104-105).⁴

³ My exposition of Tooley is indebted to Frowe (2010, pp. 48-54; especially, p. 50).

⁴ This is a variation of the case Tooley mentions; it incorporates to some degree Frowe's (2010) gloss on it. The original example comes from Philip Devine (1978, pp. 96-97).

Tortured Child is supposed to show that it is false that any one instance of the Moral Symmetry Principle is such that we will intuitively judge that (A) is morally equivalent to the refraining from (B). For, intuitively the soldier's torturing is worse than the captive's refraining. Likewise it is meant to show that the Moral Symmetry Principle is false. For if this principle were true, then we would intuitively judge the behaviors of the soldier and captive to be equally objectionable.

Tooley denies that *Tortured Child* is a genuine instance of the Moral Symmetry Principle, and hence a counter example. The Moral Symmetry Principle holds that:

it is as wrong intentionally to refrain from interfering with a causal process leading to some morally significant result as it is to initiate the process. It does *not* assert that it is as wrong to refrain from *preventing someone else* from initiating [or sustaining] a causal process as it is to initiate it oneself (Tooley 1994, p. 105).⁵

So, according to the Moral Symmetry Principle,

- (1) Initiating a causal process oneself is morally equivalent to
- (2) Intentionally refraining from interfering with a self-sustained causal process

What is not morally equivalent to (1), however, is

- (3) Intentionally refraining from *preventing someone else* from initiating (or sustaining) a causal process.

The captive refrains from *preventing someone else* (i.e. the soldier) from sustaining a causal process of torture. The captive - in contrast to the second brother in *Poisoned Whiskey* - does not refrain from interfering with a self-sustained causal process.

⁵ It could also be objected that holding the child's head under water is morally significant in itself, even if it does not lead to extreme pain and suffering. In other words, it is not the case that E (extreme pain and suffering) is the only part or outcome of C (holding the child's head under water) which is morally significant in itself. But if this is the case, then seemingly *Poisoned Whiskey* would not be an illustration of the Moral Symmetry Principle. For, ingesting poison administered to you by another, and having that poison course through and harm the body seems morally significant even if it does not lead to death.

Why think that (1) is not equivalent to (3)? Tooley states:

...if intentionally refraining from preventing someone else from doing something and doing it oneself are morally equivalent actions, then preventing someone else from doing something and intentionally refraining from doing it oneself are also morally equivalent actions. But...the mere fact that when one prevents someone else from doing something one is *interfering with someone's action*, whereas when one merely refrains from doing something oneself one is not, is a morally relevant difference (Tooley 1994, p. 105).⁶

If (1) and (3) are equivalent, then prima facie the converse of both (1) and (3) are equivalent. But to stop a person from initiating (or sustaining) a causal process involves interfering with that person's actions. Whereas merely refraining from undergoing an action obviously does not. Accordingly, the converse of both (1) and (3) are not equivalent. Tooley goes on to say that cases like *Tortured Child*, rather than impugn the Moral Symmetry Principle, merely highlight the fact that our obligations to refrain from doing wrong ourselves are stronger than our obligations to prevent others from doing wrong. I take it, then, for Tooley, (1) and (3) are not equivalent on the further grounds that their equivalence entails that we are just as responsible for refraining from wrongdoing as we are to prevent others from doing the same (Tooley 1994, p. 106).

REPLYING TO TOOLEY

One can object to Tooley by arguing that (2) and (3) are morally equivalent. Helen Frowe, for example, states that '...if (1) is equivalent to (2) [as Tooley assumes] and (2) is equivalent to (3), then (1) must also be equivalent to (3)' (Frowe 2010, p. 54). And if (1) is equivalent to (3), then *Tortured Child* indeed is a counter example. Frowe outlines two cases that illustrate (2) and (3) respectively (Frowe 2010, p. 53):

Stroller 1: Smith intentionally pushes a baby's stroller, which then freewheels down a hill where it will land in the lake if not stopped. Jones refrains from stopping the stroller.

Stroller 2: Smith intentionally pushes a baby's stroller across a flat park. If not stopped, Smith will push the stroller into the lake. Jones refrains from stopping Smith.

⁶ Emphasis mine.

Frowe claims that if (2) and (3) are not equivalent, then counter-intuitively Jones' inaction in *Stroller 2* is somehow less objectionable than (not on a moral par with) Jones' inaction in *Stroller 1*. That Jones would have to interfere with Smith's action, that is, Smith's autonomy in *Stroller 2* seems irrelevant given the wrongness of Smith's action. Likewise, the behavior of Smith and Jones in *Stroller 1* would be morally equivalent and yet somehow the behavior of Smith and Jones in *Stroller 2* would be morally in-equivalent. Furthermore, it is odd that Tooley, who 'sees no difference between letting a person die and killing a person, [would] want to draw such a fine-grained distinction as that between inaction when a [stroller] is deliberately freewheeled into a lake, and inaction when a [stroller] is deliberately pushed into a lake...' (Frowe 2010, p. 54).

Frowe has highlighted some tensions in Tooley's view. And I take it that Frowe's general point is correct: the Moral Symmetry Principle has problematic implications. Regarding the particulars of her account though, it seems Tooley can respond to Frowe's charge of irrelevance and counter-intuitiveness by saying the following. Since (1) and (2) are equivalent and (1) and (3) are not, it follows that (2) and (3) are not equivalent as well. Importantly, (2) and (3) are not equivalent for largely the same reason that (1) and (3) are not equivalent, a reason that is not adequately addressed by Frowe's two Stroller cases. That is, if (2) and (3) are equivalent, then *prima facie*, the converse of each would be too:

(2*) One interfering with a self-sustained causal process

Would be equivalent to:

(3*) One preventing someone else from initiating or sustaining a causal process

But if (2*) and (3*) are equivalent, then our obligations regarding (2*) and (3*) would be equally stringent. That is, whenever everything else is equal, an obligation to actively do what is right ourselves (for example, stop a freewheeling stroller or administer an antidote for poison) and

an obligation to prevent *someone else* from doing wrong (for example, stop someone from pushing a stroller into a lake) will always be equally stringent. But Tooley seems to deny (or could deny) this from the outset. By denying this Tooley could be saying one of two things. He could be saying that *there are cases* where everything else is equal and yet one's obligation to do what is right is stronger than one's obligation to prevent someone else from doing wrong. Or he could be saying that in *every case* where everything else is equal one's obligation to do what is right is stronger than one's obligation to prevent someone else from doing wrong. I suspect he is saying the latter. This is not to say that one never has an obligation to prevent someone else from doing wrong. Jones in *Stroller 2* had an obligation, even seemingly a strong obligation, to stop Smith. The claim, however, is that this obligation is not as strong as Jones' obligation in *Stroller 1*. But what about Frowe's claim that intuitively the obligation of Jones in *Stroller 1* is just as strong as the obligation of Jones in *Stroller 2*? It seems to me that Tooley could plausibly deny having this intuition; or if he did acknowledge the intuition, he could plausibly say that it is simply mistaken. This is because of his prior commitment to the principle that we are not 'just as responsible for [preventing] the [wrong] things that other people do as we are for the [right] things we do ourselves...' (Frowe 2010, p. 55). A prior commitment to this principle will seemingly affect how one reads *any* pair of cases like the two Stroller cases. So it seems Tooley is able to 'dig his heels in' and maintain that the inequivalence of (2) and (3) still follows from his main claims despite the fact that some may share Frowe's intuitions regarding the two Stroller cases.

I think a stronger objection can be leveled against Tooley. Assume plausibly that the moral significance of interfering with a person's actions is the fact that that person's autonomy is infringed. It seems that were Jones to act in *Stroller 1*, Smith's autonomy would be infringed in essentially the same way as it would be were Jones to act in *Stroller 2*. In both cases, Jones would

be interfering with what Smith planned to do. The very same factor that is supposed to distinguish one case from another is found in both cases.

Similarly, say the second brother in *Poisoned Whiskey* were to provide the antidote and thereby interfere with the existing causal process of poisoning. Would not he be thwarting what the first brother planned to do, would not he be interfering with his autonomy? He would after all be preventing his father from being poisoned *by* the first brother. It could be said that the first brother set in motion a self-sustained process of which he is no longer a part. To stop this is not to prevent the first brother from poisoning the father, rather it is simply to prevent the father from imbibing poison. But this makes it sound like *both* brothers in *Poisoned Whiskey* merely let their father die from a certain process. It is odd to say that if the father drinks the whiskey, then the first brother killed him and yet also say that if the second brother provides the antidote, he did not stop his brother from killing their father.

If what I have said thus far is plausible, then it seems we are left with the claim that if (1) and (2) are equivalent, then we are just as responsible for our behavior as we are for the behavior of others. Consider again:

- (1) Initiating a causal process oneself
- (2) Intentionally refraining from interfering with a self-sustained causal process [already initiated by an agent]

Assume along with Tooley that (1) and (2) are morally equivalent. It seems to follow, as Tooley has pointed out, that refraining from initiating a causal process (for example, refraining from dropping poison into a drink) is equivalent to interfering with a causal process already initiated by an agent (for example, by administering an antidote), which again is to impinge on that agent's autonomy; to prevent that agent from having his actions come to fruition. And if these are morally equivalent actions, then our duties vis-a-vis these actions are morally equivalent. So then, if the

Moral Symmetry Principle is true, we have just as stringent a duty to thwart or mitigate the wrongdoing of others as we do to refrain from doing such things ourselves.

We can also say that Tooley is in a dilemma. The first horn states that if Tooley denies that the behavior of the captive and the soldier are morally equivalent in *Tortured Child*, then he has to also deny that the behavior of both brothers in *Poisoned Whiskey* are morally equivalent. This is because the second brother, were he to intervene, would be infringing the autonomy of another agent just as much as the captive would, were he to intervene. If the factor of autonomy makes for moral in-equivalence in *Tortured Child*, then it would seem that it would also make for moral in-equivalence in *Poisoned Whiskey*. In fact any instance of the Moral Symmetry Principle — like *Poisoned Whiskey*, where there is a self-sustained causal process set in motion by an *agent's action*, and an inaction that involves not interfering with this process — is by Tooley's own lights, a case in which the action and inaction are *not* morally equivalent. Thus it is difficult to see how the Moral Symmetry Principle is supposed to show the moral equivalence of killing and letting die. On the second horn, if Tooley claims that the captive, were he to intervene, would *not* undermine the soldier's autonomy, then Tooley no longer has grounds for denying that *Tortured Child* is a counter example to the Moral Symmetry Principle. Tooley seems forced to admit that *Tortured Child* is an instance of the Moral Symmetry Principle and one where we intuitively judge that (A) [the act that leads to harm] is *not* morally equivalent to (it is more objectionable than) refraining from (B) [the act that would have prevented the harm].

In an effort to maintain the in-equivalence of (2) and (3) [and also the in-equivalence of (1) and (3)], Tooley could refer back to the stroller cases and note that the degree of autonomy subversion in *Stroller 1* [which illustrates (2)] is less than the degree of autonomy subversion in *Stroller 2* [which illustrates (3)]. In *Stroller 1*, for example, where in a certain sense Smith has completed an action, the degree of autonomy subversion, were Jones to intervene, is less than the

degree of such subversion is *Stroller 2*, where Smith is in the process of carrying out an action. Likewise, the degree of autonomy subversion carried out by the second brother in *Poisoned Whiskey*, were he to intervene, is less than the degree of such a subversion were he to somehow interfere with an ongoing action of the first brother (and likewise less than the degree of such a subversion were the captive to interfere with the ongoing action of the soldier). So, (2) and (3) are not equivalent because of their different degrees of (would be or potential) autonomy subversion. And (1) and (3) are not equivalent because (1) has no amount of autonomy subversion.

But, in response, if autonomy subversion alone (regardless of degree) is the sufficient factor to show the in-equivalence of (1) and (3), then we seem to also have the in-equivalence of (1) and (2). For, while (1) has no amount of autonomy subversion, (2), again, does involve a certain degree of (would be or potential) autonomy subversion. Of course Tooley can deny that autonomy subversion alone (regardless of degree) is the sufficient factor to show the in-equivalence of (1) and (3). Rather, it is autonomy subversion of a *certain high degree* that establishes the in-equivalence of (1) and (3). This certain high degree of autonomy subversion is found amongst Jones in *Stroller 2* (were he to intervene) as well as amongst the captive in *Tortured Child* (were he to intervene).⁷ However, the degree of autonomy subversion by the second brother in *Poisoned Whiskey* (were he to intervene) as well as that of Jones in *Stroller 1* (were he to intervene) is simply not sufficiently high to establish the in-equivalence of (1) and (2).⁸ However, this response strikes me as especially strained and ad hoc. Tooley seemingly needs to claim that were the second brother to supply the antidote, he would not in any significant sense prevent the first brother from poisoning their father.

⁷ Recall that Jones in *Stroller 2* and the captive in *Tortured Child* each illustrate (3): Intentionally refraining from *preventing someone else* from initiating (or sustaining) a causal process.

⁸ Recall that the second brother in *Poisoned Whiskey* and Jones in *Stroller 1* each illustrate (2): Intentionally refraining from interfering with a self-sustained causal process [already initiated by an agent].

Or, put differently, by refraining, the second brother does not fail to prevent the first brother from killing their father. But I have mentioned above (p. 7) how this response seems inadequate.

A MORE GENERAL WORRY

A more general worry is the fact that in grounding the moral equivalence of killing and letting die in the Moral Symmetry Principle, Tooley is essentially adopting what has been called the Contrast Strategy. This strategy is a way of determining whether a particular factor (for example, a motive or consequence of an act) or distinction (for example, doing vs. allowing harm) has moral significance. The strategy involves evaluating a (any) pair of contrasting cases that are identical except for the particular factor or distinction in question. The relevant factor or distinction has moral significance if and only if we intuitively judge that the two cases warrant different moral evaluations (Kagan 1988; Howard-Snyder 2002; Woollard 2012). For Tooley, any one instance of the Moral Symmetry Principle will provide an appropriate pair of contrasting cases for us to examine. And, as was mentioned above, such an instance (where (E) = someone's death) will be one where we intuitively judge that the killing is morally equivalent to the letting die.⁹ Because Tooley assumes the Contrast Strategy, he implicitly makes the following claim, call it 'Tooley's claim':¹⁰

If (and only if) any one instance of the Moral Symmetry Principle is one where we intuitively judge that the killing is morally equivalent to the letting die, then it follows that, in fact, an act of killing, in itself, is morally equivalent to an act of letting die, in itself.

⁹ While it seems that for Tooley, any instance of the Moral Symmetry Principle (where E = someone's death) will provide a pair of cases that are identical save for the fact that one involves a killing and the other a letting die, it is not clear that any pair of cases that are identical save for the fact that one involves a killing and the other a letting die will be an instance of the Moral Symmetry Principle. It seems that Tooley wants the cases to be identical in certain constrained ways. (E), for example, can be the only morally relevant outcome.

¹⁰ See pg. 2 above where I essentially include this in my description of Tooley's main argument.

Shelly Kagan, in the context of arguing against the Contrast Strategy in general, has raised serious doubts about the truth of this claim.¹¹ I briefly discuss three of those doubts. First, ‘Tooley’s claim’ problematically assumes that our intuitions are sufficiently accurate and reliable so as to deliver the correct verdict (Kagan 1988; Woollard 2012). It could be, for example, that in *Poisoned Whiskey* (and other cases like it) there is a moral difference between the particular killing and the letting die; it is just that we are unable to intuitively detect it. This seems especially true when other moral features of a case, though equalized, can warp and blur our intuitions, for example, the two brothers, motivated in large part by greed, both decided to kill their own father (the second one of course did not have to). So it is not clear that intuitively judging that a particular killing and letting die are morally equivalent is sufficient to show the more general conclusion that in fact an act of killing, in itself, is morally equivalent to an act of letting die, in itself. Second, assume that our intuitions are reliable and accurate and that we in fact see that there is no moral difference between the particular killing and letting die in *Poisoned Whiskey*. Both are equally objectionable. But, contrary to what Tooley seems to assume, it is not obvious that it follows from this *one* instance that *every* conceivable instance of the Moral Symmetry Principle [where (E) = someone’s death] would be one where the particular killing and letting die are equally objectionable (or otherwise morally equivalent), which is what Tooley would be required to establish were he to show his more general conclusion. Surely, if there is an instance of the Moral Symmetry Principle where the particular killing and letting die are *not* equally objectionable (I suggest one below), then it is not clear why we should think that the Moral Symmetry Principle establishes the moral equivalence of killing and letting die. Furthermore, to claim that the Moral Symmetry Principle is true and therefore guarantees that any appropriate instance will be such that the particular killing

¹¹ Kagan does not directly address the Moral Symmetry Principle nor what I have called ‘Tooley’s claim’. Certainly though what he has said applies to them. Kagan (1988, pps. 6-8; 10-13; 18-20).

and letting die will be equally objectionable (or otherwise morally equivalent) seems to beg the question.

How can it be that the two acts in *Poisoned Whiskey* are morally equivalent and yet it *not* be the case that killing, in itself, is morally equivalent to letting die, in itself? Here is a possible and not implausible answer that Tooley has not ruled out. Killing and letting die are not morally equivalent in the following sense: there is some bad feature or moral disvalue that is essential to any act of killing that is not essential to any act of letting die. Note that while this disvalue is not essential to an act of letting die, it could still be true of a particular case of letting die (Quinn 1989, p. 289).¹² If this is correct, then while it may be the case that, for some reason, this disvalue is true of the particular letting die in *Poisoned Whiskey* (making it so it and the particular killing are equally objectionable) it would not follow that the disvalue is essential to the particular letting die. And even if, for some reason, every instance of the Symmetry Principle was such that the particular killing and letting die are equally objectionable, it would not follow that moral disvalue is essential to the particular letting die. So it is not clear that ‘Tooley’s claim’ is true. Correctly intuiting that a particular killing and letting die are morally equivalent (for example, equally objectionable) in a particular instance of the Moral Symmetry Principle does not entail that in themselves, killing and letting die are in fact morally equivalent.

Finally, consider the following case inspired by Kagan (1988, p. 7):

Two Boats: Smith who is headed to the north beach at a normal speed has his boat on cruise control. He notices that a swimmer, who has the right to be where he is, is directly in his path. If he veers off to the side though he’ll hit rocks and thereby greatly damage his boat. He decides to keep his boat on course and thus hits and kills the swimmer. Jones who is headed to the west beach notices that he could rescue the swimmer from Smith’s oncoming boat. If he does this though he too will hit rocks and greatly damage his boat. He decides not to rescue the swimmer.

¹² This is Frances Kamm’s idea as explained by Quinn.

This case strikes me as an instance of the Moral Symmetry Principle. Importantly, should Jones rescue the swimmer, he would seemingly not in any sense undermine Smith's autonomy. Thus this is different than *Tortured Child*. Furthermore, it seems that many would have the intuition that what Smith did was *worse* than what Jones did (or did not do). The number and strength of intuitions that would yield this verdict strike me as roughly the same as the number and strength of intuitions that would yield Tooley's verdict in *Poisoned Whiskey*¹³ The point here is not to show that killing and letting die are in fact morally in-equivalent. Rather, the point is to call into question the truth of 'Tooley's Claim'. If 'Tooley's Claim' is true, then we seem to have a contradiction: an act of killing, in itself, is both morally equivalent to and not morally equivalent to an act of letting die, in itself (this because of the intuitive results of both *Poisoned Whiskey* and *Two Boats* respectively).

Throughout most of this paper, I have tried to rebut Tooley on his 'own turf' by not attacking the Contrast Strategy per se (and Frowe has seemed to have done the same). I concluded by raising some concerns about Tooley's use of that strategy. I am inclined to think that any account of the moral relevance (or irrelevance) of the difference between killing and letting die that has any hope of being compelling must first give a plausible *descriptive* account of both what it is to do the harm of death (i.e. kill) as well as allow the harm of death (i.e. let die). And then from there, show how that descriptive account yields a morally relevant (or irrelevant) difference between killing and letting die.¹⁴

¹³ If one does not agree, perhaps more ingenuity could craft the example in such a way that it would. The main point is that it seems that one *could* come with up an instance of the Moral Symmetry Principle that would yield intuitions that are contrary to those in *Poisoned Whiskey*.

¹⁴ I have merely echoed other writers here, for example, Woollard (2012). For a good overview of prominent descriptive accounts of the distinction see Howard-Snyder (2002). Note that some writers doubt that it is possible to give a *purely* descriptive account of killing and letting die, one that is divorced from evaluative concepts. Thanks to an anonymous referee here.

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