

To my Mother and the memory of my Father

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PROBLEMS IN THE MORALITY

OF

KILLING AND LETTING DIE

by

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ABSTRACT

In this dissertation I consider whether it would be permissible to kill someone to remove him from someone else's body when his presence there provides him with life support. I focus on cases where the supporter began to provide support voluntarily but is unwilling to continue and the threat to him in supporting is less than death. My aim in doing this is to (a) provide a first step for a discussion of abortion and creation of people, and (b) throw light on the distinction between killing and letting die.

I first describe cases and lay out basic assumptions. In the course of doing this I consider the view of rights as side constraints. I argue that it may diverge from a goal maximizing view which has been suggested as extensionally equivalent to it and that a goal maximizing view with an emphasis on the self may more accurately predict some of our moral judgments.

After considering some objections to killing in the life support cases, I consider an argument of J.J. Thomson's for the permissibility of killing in such cases. I elaborate on a criticism of her argument, consider different views of when unwilling use of a person is morally objectionable, and classify the sorts of justifications which could be offered for using someone. I then present four objections to the criticism of Thomson's argument, one of which examines in some detail what happens when stronger reasons justify doing what weaker reasons do not justify. I conclude that the objection to Thomson's argument for the permissibility of killing holds up but that it itself doesn't show that killing is impermissible.

I next consider Thomson's discussion of cases where it is agreed someone may be killed, because I discern in them an attempted defense of her original argument. I examine these other cases in

detail and discuss the significance of our having a prior claim to a body/property that someone who threatens us is using. I conclude that these other cases do not provide a defense of her argument for the permissibility of killing. Finally, I present another criticism of her argument which shows that it (a) predicts that we may kill when we may not, and (b) assimilates the justification of killing in cases which should be kept separate.

I consider one more attempt to defend Thomson's argument, based on the view that killing and letting die are morally equivalent, *per se*. I consider in detail how to construct comparable kill and let die cases and isolate two competing principles for generating such cases. I apply four tests to kill and let die cases constructed according to one of the principles and conclude that each test shows that a killing is not morally equivalent to a letting die in these cases. I also conclude that neither of the two principles generates kill and let die cases which are useful in showing that Thomson's argument for the permissibility of killing is correct.

I then present an argument (the Justice Argument) to show that in cases where the person supported would have died if he hadn't been supported killing to detach him from an unwilling supporter is never unjust, even if it is not always permissible. I discuss factors which might make killing impermissible, even if not unjust. I argue that a right can be overridden even by the pursuit of an impermissible goal, and that sometimes it is permissible to defend oneself against someone we are responsible for having made a threat to oneself. I conclude by considering two major implications of the Justice Argument: (1) It is sometimes not unjust to kill innocent people who are not even innocent threats. (2) The Justice Argument provides evidence that in virtue of properties it necessarily has, letting die is not morally equivalent to killing, *per se*. It also suggests a new method of showing this. In an Appendix I outline an argument based on these findings to show that killing is not morally equivalent to letting die, *per se*. This argument provides some justification for deriving the right not to be killed from a more basic right and shows us which one of the two competing principles for generating comparable cases is correct.

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V/

INTRODUCTION

A certain sort of justification of abortion¹ starts by assuming, for the sake of argument, that the fetus is a person, and takes note of the fact that the woman who carries the fetus in her body is providing life-sustaining support for the fetus, in virtue of this residence in her body. This justification of abortion considers these facts and suggests that we might be able to decide if abortion is permissible, even assuming that the fetus is a person, if we consider what we may do in other situations where people are receiving life-sustaining support from other people. The most obvious of these other cases are ones where someone, who was about to die, is rescued by being attached to another person whose body then provides him with what he needs for life and could not provide for himself. These are life-saving situations, of a certain sort. Since one question in the abortion discussion is whether we may kill the fetus to remove it from the woman's body, one question we would want to ask about these life-saving cases would be whether we may kill the person who is attached to his supporter, in order to remove

¹Presented by Judith Jarvis Thomson in her article, "A Defense of Abortion," Philosophy of Public Affairs, vol. 1, no. 1 (Fall 1971), pp. 47-66; reprinted in Cohen, M., et al. (eds.), The Rights and Wrongs of Abortion (Princeton, N. J.: Princeton University Press, 1974), pp. 3-22. All references are to the latter volume.

him from this other person's body.¹

Making use of these life-saving cases as analogies to the abortion situation implies that we either ignore, deny, or defer consideration of, the differences between the abortion case and the life-saving cases. Among these differences are the fact that the person we would kill in an abortion did not exist prior to being inside the woman, his residence is continuous with his creation, and, of course, he was not saved from a prior threat to his existence by being attached to the woman. Indeed he never faced the threat of death prior to being in the woman. But even if we think, as I do, that we must consider the significance of these differences and make our arguments take these differences into account,² it would be helpful in deciding whether we can kill in abortion to see if we can kill in the life-saving cases.

In addition, consideration of the life-saving cases will bear on questions raised in recent bio-medical ethics literature as to whether we may detach people from life-support systems, of a mechanical, not human, sort. Again, differences between cases where life-support systems are mechanical and where they are not, will be important. Nevertheless, the discussion of mechanical life support systems will be helped by a decision about those cases where life-

¹Consideration of such life-saving cases is the procedure Thomson follows.

²I have discussed these issues (in a way I can not still completely agree with) in "Abortion: A Philosophical Analysis," Feminist Studies, '1 (1972) 49-63.

support systems are human, as in the life-saving cases described above.

This dissertation is an attempt to analyze life-saving cases as described above and see if killing to detach the person from someone else's body is permissible. In order to answer the question I first set out in more detail the cases I shall be concerned with and consider some arguments against the permissibility of killing. I do this in Chapter 1. In Chapter 2 I consider arguments in favor of killing. Among them is an argument presented by Judith Jarvis Thomson to which I devote particular attention. I present her argument and a criticism that has been made of it. I conclude that her argument does not show that we may kill to stop life saving support. But I also conclude that the criticism does not show that we may not kill. In Chapter 3, I consider three other arguments for the permissibility of killing in life-saving cases suggested in Thomson's papers.¹ In the course of doing this I present a new criticism of her first argument (i.e., the argument discussed in Chapter 2). In Chapter 4, I focus on the third of the three additional arguments and examine its connections with the question of whether it is morally worse to kill than to let die. I discuss one common suggestion

¹Ibid. and "Rights & Deaths," Philosophy and Public Affairs 2, No. 2 (Winter 1973), reprinted in Cohen, M. et al. (eds.), The Rights and Wrongs of Abortion (Princeton, N. J.: Princeton University Press, 1974), pp. 114-127. All references are to the latter volume.

as to how we could determine if killing is morally worse than letting die, and how this bears on knowing if killing is permissible in our life-saving cases. On the basis of this discussion I conclude that Thomson's additional argument for the permissibility of killing in a life-saving case is inadequate. In Chapter 5 I offer an argument for the claim that killing to terminate life support is not unjust, though it may sometimes be impermissible.

CHAPTER I

In this chapter I will describe in greater detail the life-saving cases of interest to us and set forth certain claims and points of view that I will assume to be correct without further argument. Then I will present, and argue against, three reasons offered for why killing is impermissible in the cases of interest to us. Finally, I will present a fourth objection to the permissibility of killing in the life-saving cases.

A. Throughout the following discussion I will, primarily, be concerned with whether it is permissible to kill in the following case, Case A. Case A involves three adults, X, Y, and Z. Y has done nothing to harm Z and made no agreement to help him. Z is unconscious and on the point of dying due to some natural cause. He is in this state through no fault of his own or anyone else. Z does not desire to die nor is it in his interest to die. As Y observes Z in his predicament X observes them both. X and Y know the following before they act in any way toward Z:

(1) Z is both a good deal younger than Y and has led a far less rich life up to this point than Y has.

(2) The only way Z's life can be saved is by Y placing Z inside his body. In saving Z's life, Y can be conceived to be helping Z retain something that is his own that he was about to lose, namely, his life.

(3) After a nine month period inside Y, Z can be safely removed by a procedure, referred to henceforth as Procedure 1, having survived the innocuous, unconscious months of residence in Y well.

(4) Once Z is inside Y there is only one way to remove him before a nine month period. This way is to kill him, painlessly and without his knowledge. We may imagine that his death is achieved by direct assault on his body and even that it is an essential part of the means of removing him, i.e., if he does not die he cannot be removed. That is, we can imagine that neither assault nor death is avoidable, if he is to be removed, and they are not merely necessary concomitants of procedures which are the means of removing him. I shall refer to this way of removing Z as Procedure 2.

(5) The killing of Z would have to be accomplished by the third party, X, if Procedure 2 is to be safe for Y.

(6) There is no reason to think that if Z is saved and removed via Procedure 1, he will not go on to lead a long and normal life, nor that Y, if Z is removed via Procedure 2, will not go on to live as long and normal a life.

(7) As I imagine the case, certain things will certainly happen if Z is placed inside Y and he is not removed via Procedure 2. These are: (a) Z being present in Y's body for 9 months and removed via Procedure 1, and (b) the use of the output of Y's bodily organs by Z's body for life support and life saving purposes. I

take life saving to be a subcategory of life support. That is, life support may be present even when the person in residence does not need to remain in residence except possibly because the means of removal are not safe for him. It is possible, in such a case, that if he is in residence the person requires that the organs of the person in whom he resides provide him with life-sustaining material, but once safely outside he has other means of survival, and he could be removed at any time if not that the means of removal were unsafe. In contrast, a life-saving use of organs is going on in cases where residence would still be required because of the life-support it provides, even if removal procedures were safe. In this case, the person would die if not for residence. Case (A) is imagined to be such a case. (Cases may exist where the use of organs starts off as life-saving and turns into non-life-saving life support.)

(a) and (b) represent what will certainly happen in Case (A). As I imagine Case (A) there are also some things which, it is left open, may happen. These are: (c) discomfort and additional tasks for Y due to the presence and/or removal of Z via Procedure 1; (d) ill health for Y as a result of Z's presence and/or removal via Procedure 1; (e) Y's death as a result of Z's presence and/or removal via Procedure 1.

If Y's foresight, or responsibility for foresight, prior to attaching Z, to these things happening, or the possibility of their happening, is of any significance in discussing Case (A), it would be

necessary to describe exactly what Y does foresee. For the sake of flexibility, I shall assume that before deciding to put Z in him, Y foresees whatever, in fact, turns out to be the case. So, for example, if Z's presence causes great pain, Y will have foreseen this.

This completes the description of what both X and Y know about the situation. Knowing all these things, Y places Z in her body in order to save his life. Before the 9 month period is over, Y decides that he no longer wants to face any or all of (a)-(e), so he wants Z removed. (Henceforward, I will refer to this reason for wanting Z removed, as Reason X.) In Reason X, the complaint may focus simply on not wanting to share one's body, or it may be concerned with the strenuousness of losses and effort involved in sharing one's body.

The question is, is it morally permissible for Y to have X kill Z to remove him? I am not asking whether killing Z is the best thing that can be done, only whether it is permissible.

B. I have described the case I shall be most concerned with and the question I shall try to answer. Now I will set out some assumptions for the forthcoming discussion.

Assumption (1). Persons have a prima facie right not to be unjustly unfavorably disturbed and this includes the right not to be unjustly killed. (A non-precise explication of "unfavorably disturbed" would be "worsen the legitimate prospects of, relative to what they would have been, by certain types of interventions."

This is intended to exclude situations where the person is made worse off by the relevant type of intervention but the odds were that the intervention would improve their position, not worsen it.)

Assumption (2). The types of things enumerated in (a)-(e) are not the sort that a person has an obligation to endure (or that another person has a right to (try to) make them endure)¹ as a means of helping someone else, when the only reason offered for enduring them is that the person suffering the losses will be better off, even having suffered them, than the person whom they benefit would have been had the losses not been suffered. For example, if A will lose his life if B does not give up his leg, B does not therefore have to give up his leg. (Many factors may be involved in calculating who would be better off than whom, including how people's pasts compare. We might include people's pasts because we would want to decide who will be worse off on the basis of the "look" of an entire life. The

¹The distinction is drawn here between what someone has an obligation to suffer and what another person may permissibly make him suffer or try to make him suffer. For example, you may have a right to run across a field to escape a threat to yourself, even though this means crushing a person underfoot as a concomitant. But this does not mean that the person underfoot has an obligation to let you crush him; they may try to stop you. This shows that sometimes we have a right to make someone endure something, even though they have no obligation to endure this as a sacrifice for us. Assumption (2) claims that, unlike the Running-Across-the-Field case, in Case (a) it is true, both that we have no obligation to endure any or all of (a)-(e) just to save a life, and that no one has a right to impose the burden on us.

For purposes of this discussion, I shall not distinguish carefully between making efforts (involving acting) and enduring hardship or suffering losses (where this does not involve acting).

calculation, if it includes the "look" of an entire life, and if it could be carried out precisely, would, no doubt, be very complex.) Another way of putting this is that the objective comparative value of the losses of the two people, regardless of how it is calculated, is not what determines what rights the people involved have. Preventing the worst from happening (where the determination of what is worst may include calculations of how many violations of rights will occur)¹ is not what determines what rights the people have. Assumption (2) is in keeping with the theory that the rights of people are constraints on our acting, even to help keep other people's rights from being violated. This sort of constraint theory is presented in the work of Robert Nozick. What is supposed to underly this view (as expressed by Nozick) is the fact that people are separate from each other, and cannot be used merely for each other's benefits. It yields the implication that, "the last person on line" is always protected from being used for other people's sakes.

In presenting Assumption (2) I spoke of someone not having a right to use another person (and now I have associated it with the view that the latter person has a right not to be so used.) A usual implication of the view that we have no right to do something is that it would be wrong to do it, and the view that others rights

¹See Robert Nozick, Anarchy, State and Utopia (New York: Basic Books, 1974), pp. 28-29.

should be constraints on our acting, implies that it would be wrong for us to act in violation of these rights.

But there may be cases where it would not be wrong for someone to violate someone's rights. And I do not mean this merely in the sense that his right is overridden, so that he has no right to complain even if he ought to be compensated. I mean that the violator can be punished for his actions, and yet it is what he ought to have done. These cases could involve using the person to help others. We might create such a case if we imagine that the people who want to put a dying person into someone else's body in order to save the first person's life are the very same people who are responsible for having made the first person deathly ill. It might be argued that in this case the people violate the supporter's rights and yet they do the right thing in using one person to help their original victim.

Or consider Case (X): Suppose I have set a bomb going, in order to kill five people, when I had no right to do this. Before the bomb is about to go off I have a change of heart and want to stop the bomb from going off. The only way to do this is to kill a sixth person, i.e., his death is a means to stopping the bomb from killing the other five. This sixth person wouldn't have died otherwise. Whether I kill the sixth or not I will be a killer, either of five people or of one. May I kill the sixth?

If the case were the same in all respects except that I am not the person who set the bomb --call this Case (Y)--may I kill the sixth person to save the five?

Suppose that I may, and even should, kill in Case (X), but not kill in Case (Y). Then Case (X) will be a case where I still have no right to kill the sixth person, I may be punished for it, but it is right that I kill him nevertheless.

What are the implications of these decisions in Case (X) and (Y)? I will now discuss 4 of them.

(1) Constraint theory says that because people are separate their rights are constraints on our actions. In Case (X) the sixth person is just as separate from the five as in Case (Y), he still has all his rights not to be used, as he does in Case (Y). So, constraint theory of rights should predict that we can't kill the sixth person to save the five in either Case (X) or (Y). Yet, if we can kill in Case (X) this means that the person's rights are not constraints on our action.

(2) Nozick suggests a possible translation of a side-constraint view into a goal-without side constraint view: "One might think, for example, that each person could distinguish in his goal between his violating rights and someone else's doing it. Give the former infinite (negative) weight in his goal, and no amount of stopping others from violating rights can outweigh his violating someone's rights."¹ Nozick only says "one might" think that such a view was

¹Ibid., p. 29.

possible, he doesn't actually support it, but he only rejects it because it is "gimmicky," contains indexicals and gives a goal infinite weight. He doesn't say that the translation doesn't capture the intent of the rights-as-constraints view.

This translation involves a person giving infinite negative weight in his goal to his violating rights. If this means that on each occasion when he is faced with violating rights he gives infinite negative weight to doing it, then this translation of the constraint theory will, like the constraint theory itself, imply that we cannot kill in Case (X). But if giving infinite negative weight to his violating rights implies that he must minimize the number and significance of rights he violates, then the translation would imply that I can kill in Case (X). So the prediction of the translation wouldn't coincide with the prediction of the constraint theory. If Nozick would accept that one can kill in Case (X), and the latter interpretation of the translation accurately transmits the intent of Nozick's view, then his morality would not so much be a rights-as-constraints morality as a morality which calls for each person to make himself as non-guilty of as many rights violations as possible, even if the means to this involves violating some other rights.

At the least, two interpretations of the role of the self in this morality are possible. One comes closest to what Parfit has called the agent-relative morality, i.e., in virtue of what I have done (set the bomb) I have certain responsibilities toward the five

people that someone else doesn't have. Therefore I may have a reason for doing something that it would be wrong for someone without the reason to do. Someone else has an obligation not to kill and they do not have, without the source of obligation stemming from wrongdoing (setting the bomb), a countervailing duty to point to as a reason for not performing their duty to refrain from killing. (Although this reasoning seems to make sense, it also seems odd that someone who is not guilty of setting the bomb cannot simply choose to help the five people, in the same way I, who have set the bomb, can.)

Another interpretation of the role of the self in the morality suggested by the second interpretation of the translation of constraint theory, is what might be called agent-centered, as opposed to agent-relative morality. It says that my focus is on my own moral record, my goal should be to have as little blood on my hands as possible, and therefore I must reduce the number of people whose rights I violate.

(3) The conclusion that I may kill in Case (X) opens up possibilities for what certain people can do in a wide-range of situations. For example, suppose Hitler has sent 200 people to go to the gas chambers. Before they are in, he has a change of heart, but the only way he can save them is by sending 100 other people in another part of the country to a gas chamber. Had Hitler read a book on a constraint theory of rights, he might conclude that he couldn't use the 100 to save the 200. But, perhaps he can.

If he can, then, in general, people who do something wrong can do things to undo or forestall the consequences of the wrong, that other people cannot do. This is true even though they will still be violating some rights, and even if third parties and rights enforcers may have to come to the aid of those whose rights he wants to violate in order to stop his violation of other people's rights. Likewise, a company that has violated some people's rights by discriminating against them, may be able, on this view, to violate the rights of other people, in order to compensate the original victims. The fact that they can do this, does not mean they aren't still violating rights, it doesn't mean they shouldn't be punished for what they do, or that a government can condone such violations of some people's rights in order to help the original victims.

(4) The problem raised here is essentially that someone's (M's) rights seem to fade out of the picture once the person who is going to violate his rights has already or will have violated more people's rights than would be violated if M's are. The seeds of this problem lie hidden in another.

Foot¹ holds that the duty not to kill is stronger than the duty to save life. When someone has a choice between killing and

¹Philippa Foot, "The Problem of Abortion and the Doctrine of Double Effect," Oxford Review, No. 5 (1967); reprinted in Rachels, J. (ed.), Moral Problems (New York: Harper & Row, 1971), pp. 29-41.

letting die he should let die.¹ But when we have a choice between killing and letting die we may kill the lesser number. Foot does not see any problem with or feel the need to explain why we, who have set upon the way of violating a negative duty to some people are thereby allowed to violate our negative duty to others. She does not mention either (a) responsibility for those we will have killed, or (b) minimizing the blood on our hands. Just, so long as we are going to have to do something wrong, do the least possible wrong.

The cases Foot uses to show that we should kill the lesser number include the Trolley case. Thomson reanalyzes the Trolley case² to show that someone who would only be letting die, if he did nothing, e.g., an innocent passenger on the trolley, may still swerve the trolley so that it kills fewer people. So it is not a question

¹Interestingly, although she thinks conflict situations show which duty is stronger, she thinks that refusing minimal aid in order to have someone die is just as morally objectionable as killing in order to have someone die. She makes this point in "Euthanasia," Philosophy and Public Affairs, 6, no. 2 (Winter 1977), pp. 85-112. This implies that the act and omission can be equally objectionable, and yet the duty to avoid one stronger than the other. (Note: if we would kill rather than let die, our motive in killing would be to avoid letting die, just as our motive in letting die would be to avoid killing. If we kill the person will die because we use him as a means to avoiding letting die. But if we let die rather than kill, even if the cause of the death of the person who is left to die is that someone is using him as a means, the ultimate reason why he dies will be that we could not kill someone else, not that we use him in order to avoid killing. So, if we let die rather than kill the ultimate reason for the death of no one will be that we use them as a means.)

²Judith Jarvis Thomson, "Killing, Letting Die and the Trolley Problem," The Monist, 59, no. 2 (April 1976), pp. 204-17.

of choosing between killing and killing for this person, and yet he may kill. But, she claims, the innocent passenger may not kill just anyone in any way in order to save those on the track. For example, he may not shoot an innocent bystander. In essence, she claims, the person who swerves the train may kill because this killing does not involve violation of anyone's rights. This is because we do not have the right not to have the same threat as would attack others deflected to us. We do have a right not to have other things done to us which will cause someone else to be saved. Her analysis implies (a) both the person who would be the killer (the Trolley man), and the person who would only let die, may kill, because the killing violates no right in this case, and perhaps (b) both the killer and the one who would let die if he did nothing, cannot kill anyone in just any way, i.e., they cannot shoot a bystander to stop the trolley. This would mean that once we were about to do something wrong, violate someone's rights, we could not do just anything that would minimize the amount of wrong done. (Foot's conclusion that we can do what we must to minimize the amount of wrong done would be wrong, as well as her emphasis on the difference that letting die vs. killing, and killing vs. killing makes.)

On Thomson's analysis of the Trolley case, someone who would kill need not be able to violate rights other people cannot violate. So the problem of killers being able to do more than others to correct the wrong would not arise. But if we may kill in Case (X),

and not in Case (Y), then, while an innocent passenger on the trolley may not be able to shoot the bystander to stop the train, the trolley man could. So he may be able to violate rights that someone else can't. This case would not involve merely redistributing a threat to the sixth person that would have gone to the other five.¹ This means that Thomson's analysis of the reason why we may swerve the trolley, while it would show that swerving the trolley is not an instance of violating some people's rights to help others, would not show that there weren't indeed cases where we could choose to violate the lesser number of rights.

For purposes of the following discussion I shall assume that it is wrong, as well as a violation of his rights, to require the person in our case to aid someone with the use of his body. I shall therefore ignore the question of why it can be right for the original culprit to violate a person's rights to prevent the violation of someone else's rights.

¹Note that the fact that the passenger who would only let die may not shoot the bystander but the person who would kill with the trolley may shoot the bystander, does not indicate a difference between killing and letting die. It is only if someone failed to do what would save five people from death and then could not kill to make up for doing this, that we could say that killing differs from letting die. That is, it is only if, e.g., someone who deliberately failed to stop the bomb, which they hadn't set (call this Case (Z)), could not kill the sixth person to save the fifth about to be killed by the bomb, but we could kill in Case (X), that a difference between kill and letting die would show up.

Assumption (3). Y does not have an obligation to attach Z to himself, nor would he be obliged to begin to suffer any or all of the other losses represented by (a)-(e) (including the losses involved in removal of Z) just for the sake of saving Z's life.

It is possible that Assumptions (2) and (3) are not true. I am assuming that they are true, because my primary aim in discussing Case (A) is to see whether one may kill to avoid making the efforts that it is agreed one needn't make just in order to save someone's life, regardless of what these efforts are. My primary aim in discussing Case (A) is to see what relationship holds between whatever it is that one needn't start to do for the sake of saving someone's life and what one may kill to stop doing. All that is important for my discussion of Case (A) is that we not be able to argue that killing is impermissible because we would be obliged (to begin) to give the support in question just in order to save someone's life. The question in Case (A) then becomes, whether Y, who has already attached Z to himself, can have him killed in order to avoid going through with any or all of (a)-(e), on the assumption that he didn't have to start any or all of (a)-(e) just to save Z's life.

In addition to these assumptions I shall adopt the following points of view: (a) that a person's body can usefully be analogized to a piece of property that they own; so that if you stand on top of somebody they can tell you to get off their property, no trespassing, etc. I do not think it is appropriate to say that

someone owns their body (or their life, or their children). I think it is appropriate to say someone's body is their own and they have rights with respect to it because it is their own that are at least as strong as the rights they have with respect to the things they own.¹ Since it is the rights they have with respect to their body that are of real concern, I shall not pay much attention to the distinction between someone owning their body and its being their own and their having rights with respect to it.

I recognize that this point of view has its oddities and is not acceptable to many people. Nevertheless I do not think adopting another point of view would alter the conclusions of this discussion.²

¹Their children are their own and they have rights with respect to them because they are their own, but they do not own them and do not have all the rights they have with respect to their property.

²Lila O'Driscoll in "Abortion, Property Rights, and the Right to Life," The Personalist, (April 1977), pp. 99-114 has argued that we can be called on to sacrifice a great deal of non-bodily property to save someone else's life (or at least that they can take this property) but that no such demands can be made on our bodily property, because of the particular role that the body plays in the formation of personal identity and self-respect. Although I disagree with the reasons O'Driscoll presents for thinking our bodies cannot be shared with others against our will (e.g., even if the body, unshared, plays a large role in forming a sense of personal identity this does not mean that once formed, the sense of identity would be lost if the body is shared, even involuntarily, nor that self-respect is lost if sharing is justified, albeit involuntary), I am not opposed to separating off use of the body from other types of sacrifices in such a way that arguments for the permissibility of requiring taxation in order to aid others, for example, need not imply the falsity of Assumption (3).

The second point of view I shall adopt is that of treating someone's life, or the rest of his life, as if it were something he owns, something that can be possessed by him, something that belongs to him. The fact that the rest of their life is not in existence yet does not mean that we cannot conceive of it belonging to him, in the way potential products can belong to people. I shall also treat the person himself as something that can be owned by himself, or belong to himself. So when a person is killed we can see this as comparable to the loss and/or destruction of something that is the person's own thing--the loss of future life, the destruction of himself. The distinction between destroying the possessor and the thing possessed will become blurred.

C. I have now set out Case (A) and some Assumptions and points of view I shall adopt in the discussion. I will now begin to consider the question of the permissibility of killing Z. First, I will eliminate certain possible arguments for the impermissibility of killing Z. I will argue that the mere fact that aid is begun voluntarily with foresight to what must be suffered, does not give a commitment to continue to aid. The fact that we foresaw that someone would be better off if aid continued, also does not give a commitment to continue. Nor does the fact that we voluntarily introduced someone into our bodies and they would be the one to be moved if they didn't continue in residence. I will claim that any argument for the impermissibility of killing which also implies that it is impermissible

to refuse to go on making additional donations of aid, will fail, because we would not have to make additional donations of aid in Case (A). I conclude that only an argument which objects to killing because it involves something other than the failure to continue support, has a chance of being correct.

(1) The first suggestion for the impermissibility of killing Z is that because Y began, under no coercion, intentionally, to give aid for a certain purpose and all of the losses to him he now wants to avoid were foreseen by him as necessary, either as means or concomitants to accomplishing his purpose, therefore he is under an obligation to continue to give aid that he didn't have to begin giving. If he must give aid, then he certainly can't kill to stop giving it.

Note that this is an argument for the impermissibility of killing which would also apply to the impermissibility of stopping aid, even if it didn't involve killing, i.e., this argument would also not allow us to refuse to give further donations of aid. That is, if the continuation of aid weren't a question of not stopping the support, support which will continue if we don't stop it, but, instead, were a question of performing separate acts to keep the aid going, this argument would also require us to do the acts to keep the aid going.

But this argument is inadequate. The fact that someone intentionally began to suffer losses for the purpose of reaching

a goal, with the sort of foresight noted, does not, by itself, give a commitment to continue. (It certainly is not the same as promising to continue to suffer losses.) For example, someone may start to donate money to a worthy cause recognizing that it will mean a deep financial burden for him to continue. The person who is helped had no other offers of help, still has none and would not have had any. The helper decides after a while that he can't bear the burdens he thought he could. If help stops, the person helped would be no worse off than he would have been if the help had never started. Furthermore, the person helped never had any expectations the help would continue. In this case the helper may stop making payments.

The factor of intentionally beginning, with foresight to consequences to oneself, may bear on whether one is bound to continue, but other factors besides it alone will have to be present to yield the conclusion that one is bound to continue. People may (and often do) try to help others but find the experience too much for them and then stop. Of course, people may make all sorts of arrangements: they may make promises; they may make contracts to continue and they may agree to the option to not continue. One might even construct a utilitarian argument for people being allowed the option to stop aiding on a project once they start; i.e., they are more likely to at least try, and perhaps go through with it, if they know for sure that they can change their minds. But there are no agreements to continue in Case (A) and the option not to continue needn't rest on

utilitarian considerations. Of course, in cases where there is never any intent to go through to the end of a helping project, not even an intent to try to, where one only plans to offer a little bit of one's services for what good they do regardless of whether something greater is achieved or not, one's voluntarily starting also need not give rise to an obligation to continue. Sometimes it is possible to just offer so much and no more. And it is the claim here that the same holds true where there is an initial intention to complete a project: the initial intention, the voluntary starting, and the foresight to losses to be suffered, do not, by themselves, involve a commitment to continue or bind us to continue.¹ (Whether we can or cannot stop aid will depend to a great extent on whether the person we started to aid will be worse off if we stop than he would have been if we hadn't begun. I shall discuss this factor in greater detail below.)

The second suggestion is that an obligation to continue to aid, and hence an obligation not to kill, arises simply--without consideration of other factors--because one voluntarily started support with foresight to the fact that the person would be better off

¹Note that it is possible for someone to have as his aim or purpose in acting the rescue of another person without at the same time having ever intended to complete the rescue: the aider might not have decided whether he will put up with all he foresees will happen to him if he goes through with the project, but have begun the saving anyway, leaving it to his later mood to decide whether to continue.

if one continued support than if one stopped, or that they will be worse off if one stops than they were when one was supporting them.

But this argument is inadequate too. If Assumption (3) is correct one doesn't have to provide someone with something just because they will be better off with it. Nor, when one's services provide someone with something, is one therefore obligated to also provide for their continued possession of that thing if they can't retain it by their own efforts. So if the situation Y faced were one of giving Z support in installments Y needn't start the next installment just because Z would be better off with it or because they have already received aid to retain that for which they need further support.

The third suggestion is that we can account for the impermissibility of killing by noting that Y voluntarily introduced Z into his own property and it is Z who will be disturbed in being removed. But this will also not do. Bringing someone into one's residence for a purpose does not mean that one can't have the person moved in order to get them to leave before the purpose is achieved. We don't have to move our house from under someone we have invited in, we can get them to leave our private property, though of course not necessarily always or by any means. For example, someone does not have a right to stay on our property forever, just because we brought them in willingly, for an end still unaccomplished, even though it would be beneficial for them to stay, and even though we have to

move them to get them out. If we can remove them safely and they are no worse off for the experience than they would have been if we hadn't brought them in, we may remove them.

As noted above, the first two suggestions for the impermissibility of killing would also be arguments for the impermissibility of refusing to give further donations of aid. Some services and objects can be divided into small quantities before being given, so that providing continued service or use requires separate acts of donation. In these cases, to stop aiding one simply does not perform the next act donating services. But another way to stop benefits is by interfering with a continuing flow. Any argument against killing, like the first two suggested above, which also implies that we must make additional donations of aid, is wrong because we don't have to make additional donations. In the light of this, an argument for the impermissibility of killing may try to distinguish between cases where we have to stop a flow of benefits and ones where we refuse further donations, consider only the former to be killing, and argue only against it.

D. The fourth suggestion for the impermissibility of killing makes use of this distinction between stopping a flow and making separate additional donations. It is as follows: Because some act must be performed to interfere with a flow of benefits and the consequence of this is death, we have an obligation not to interfere with the flow of benefits, even if this means requiring continued residence in someone's body.

This description of an interference is milder than what takes place in Case (A), since in the latter case death is not merely the unintended consequence of stopping support, it is the means of stopping it and comes as a result of an assault on Z. So, those who make the above claim would find it impermissible to detach Z, even if his death were not a means to detachment, or did not result from a direct assault on him. Since some may be willing to argue against even this sort of interference it will be useful to describe cases other than Case (A) that the fourth objection applies to.

First, there are cases like Case (B), which I shall imagine to be just like Case (A), except that removal of Z prior to a 9-month period inside requires that X pull out a plug leading from Y's body to Z's, with the consequence that Z dies. In Case (B) not only is Z's death not intended, but it is the consequence of direct manipulation of something that belongs to Y, not of an attack on what belongs to/is Z (his person), as in Case (A).

Death can occur as a consequence of "pulling a plug" in Case (B) either because (1) remaining in Y's body is causally involved in providing something which Y needs to stay alive, and so detachment from the body leaves the field open for the cause of death to move in, or because (2) the procedure of cutting the link itself has a fatal effect on Z, e.g., there is trauma of detachment. In the case of category (1) there are further sub-alternatives:

(a) what is being provided by continued residence protects Z from that which originally threatened him before he became attached, e.g., if he had a kidney disease which would take over again if he were unplugged from Y, or (b) what is being provided by continued residence protects Z from some new threat that has replaced the one he had before he was brought in, e.g., if there is a disease in the environment ready to attack Y if he leaves Z, or if residence in Z, while making him immune to the threat he originally faced, has created some new dependence on something in Y's bloodstream. In these latter cases Z would die of a cause quite different from the original threat, since the original threat is imagined to have been eliminated by attachment.

All these cases are imagined to be ones involving life-saving use of the organs of Y, as opposed to non-life saving life-support use of the organs. (See p. 6 for the distinction between life-saving and non-life saving life support.) Pulling the plug results in death in cases in Category (1) because there is, what I call, Actual Life Saving Need (ALSN) at the time of detachment. The ALSN cases could include ones in which someone will die if they are detached, because they need residence, even though they had no original need to be attached to save their life. That is, by being attached they were made dependent on attachment for their life. Cases in which the person who is attached needs the resources provided for his life by residence, while he is in residence, but

could live outside the body at any time if a safe removal procedure were available (so-called viability situations) are not ALSN cases. Here there is a life-support need, but not a life-saving need. Both ALSN and viability cases are sub-categories of Actual Life Need cases (ALN). Cases in which there is no ALSN will have death as a consequence of pulling the plug only if the procedure of removal itself has death as a consequence, e.g., trauma of pulling the plug. Excluded from ALN cases are ones where residence provides nothing except a way to avoid the removal procedures, which themselves cause death. Cases in which there is no ALN may however be ones which we can describe as Historical Life Need cases (HLN). These will be cases in which someone was in need of the original attachment to save their life, but they no longer need the residence. ALN cases may also be HLN cases. It is also possible to imagine cases in which there is ALSN, but the only way to detach someone involves a procedure which will itself cause their death, quite independent of the effects of not being attached and getting support, e.g., if death comes as a result of trauma of pulling the plug, though it would have come anyway as a result of not getting the support.

Pulling the plug cases as usually discussed involve an ALSN at the time of detachment, with death resulting from failure to receive support, not because of some trauma of the removal procedure itself. Furthermore, in these cases as usually discussed, the need which residence satisfies is caused by the same original threat which

caused the need for the original attachment. This is how I shall imagine Case (B).¹

Pulling the plug cases can be distinguished from cases where we simply remove something of one's own that provides protection against a fatal threat for someone else. In the former case we interfere with some life-sustaining process -- a process which, while it may be the product of what is our own, is not actually what is our own -- in, or as a means to, taking away what is our own, or getting control over what is our own. In the latter case we directly remove our own thing, without interfering with some life-sustaining process. The effect of this, however, is that a fatal threat, which would not otherwise have appeared at this time, confronts the person from whom we take what is our own. It is possible that those who object to killing in Cases (A) and (B) will also object to removing what is our own thing in this sort of case.

Finally, while "pulling the plug" cases could conceivably cause death by way of trauma due to the procedure of removal, to remain a "pulling the plug" case this trauma would have to be conceived as not involving a direct attack on the body of the person being detached. For example, there may be cases in which we have to use an acid to cut the connection between the supporter and

¹Recall that as described, Case (A) is also an ALSN, and hence an ALN, case.

the person supported, and the acid, unavoidably, is poured over the body of the person who is to be detached, causing his death. These are not "pulling the plug" cases, as I imagine the latter. Those who object to pulling the plug, for the reason offered by the fourth suggestion above, will find this other type of case objectionable too. To represent this type of case, I shall use Case (C), which is like Case (A) in all respects except that the death of Z results from the procedure of removal because of an attack on his body, e.g., a solution is injected which will trigger his removal, but causes his death by directly interfering with his respiration. In this case, unlike Case (A), death is not a means to removal, only a foreseen and unintended consequence of the means to removal.

As noted, the fourth objection to killing in Case (A) seems also to be grounds for objecting to what we do in Cases (B) and (C). But it isn't clear that what we do in these other cases is killing. For example, disputes have arisen over whether interference with the flow of benefits as described in Case (B) is even a killing, let alone if it is a permissible killing. Those who have argued that it isn't a killing have also argued that it is permissible, even if what goes on in Cases (A) and (C) isn't permissible. J.J. Thomson and B. Brody agree that it is a killing, but disagree about whether it differs morally from not saving a life. Philippa Foot suggests¹ that

¹Foot, "Euthanasia," p. 101.

when death is a consequence of the termination of life-saving support, we may call it a killing, but it won't have any more moral significance than leaving someone to die, when it is done by those who gave the aid to begin with. She doesn't explain why this is so. James Otten¹ provides criteria for killing and letting die which denies the title "killings" to cases where we pull the plug on a person who will then die of the reappearance of a threat from which attachment rescued him temporarily.

I shall assume that "pulling the plug" is a killing, omitting detailed arguments for this conclusion at this time.² I shall merely note the following: (1) If someone is plugged into a life-saving support system and someone, who had nothing to do with attaching him to the system and has no rights in the matter at all, deliberately unplugs him, this will count as an impermissible killing even though the victim dies of the same (pre-existing) cause that originally threatened him. We can hold that the fact that

¹James Otten, "Even If One Were Letting Another Innocent Person Die," Southern Journal of Philosophy, 14 (1976), 313-22.

²I have discussed the problems with Otten's analysis in particular elsewhere.

someone would die-if we unplugged him does not necessarily give him a right to stay plugged in, without also holding that people do lose the right to remain plugged in just because they would die (of reappearance of previous threats) if they were unplugged.

(2) The person whose support system helps someone else can claim rights over his system that the 'unplucker' in (1) cannot. This may have something to do with making his unplugging being a permissible killing, but it isn't clear that this makes his unplugging not be a killing at all. (3) I wish to assume that pulling the plug is a killing because, while even with this assumption it may turn out that Cases (A), (B), and (C) should be treated differently, I do not wish to draw a sharp line between them to begin with. I do not want to try to find a solution to one case that would not apply to the others. (4) I do not even wish to deny that simply removing something of one's own that is protecting someone can be a killing. Suppose a third party, without permission and no rights to a coat, deliberately took the coat away from someone, because he knows this will certainly leave the person open to a fatal germ in the air. I don't think it is unreasonable to call this a killing. It may be permissible for the owner of the coat to remove it, but this may only mean it is permissible for the owner to kill, not that he isn't killing at all. What seems to be important in deciding whether a killing is taking place, in both the unplugging case and the coat removal case, is that something which would not

have presented a threat to someone's life at time t , does present a threat at time t , because of some act that was done. The fact that the threat is the reappearance of a previously existing one need not mean that a killing is not going on, and, as is shown by (1) above, it does not mean that the killing is morally insignificant.

(5) So, I shall assume that those who object to killing in Case (A) also object to what is done in Cases (B) and (C), that all these cases involve killings, and the the objection to killing raised in the fourth Case (A), applies to Cases (B) and (C) too. However, since the killing in Case (A) may seem to be the most objectionable, I shall assume that we have shown the permissibility of killing in Cases (B) and (C) if we can show it is permissible in Case (A), but I will not assume that we have shown the permissibility of killing in Case (A) just because we have shown it to be permissible in Cases (C) and (B).

I have presented the fourth objection to killing in Case (A) and considered what sorts of cases it applies to besides Case (A). I have also noted that it does not apply to cases where we must decide if it is permissible to refuse to make another donation of aid. The fourth objection to killing, in effect, focuses on the fact that it is necessary to kill in order to stop aiding. Objections (1), (2), and (3) objected to killing, but not because we had to kill, *per se*. They objected to killing because it would have interfered with an obligation to have residence and support continue for other reasons.

It is the concern over the fact that we must kill, expressed in the fourth objection, that I take to be the crucial objection to terminating support in Case (A). It is the attempt to justify this killing that I will deal with in the next Chapters.

CHAPTER II

In this chapter I will present arguments for the permissibility of killing in Cases (A), (B), and (C). I argue that rather than justify killing in these cases on the grounds of simple self-defense, we should consider what difference it makes to our right to kill that someone who threatens the supporter is using what belongs to the supporter, while they are a threat to him. I consider Thomson's views on this question by considering cases she deals with and indicating what she takes them to show. I pay particular attention to her major argument, i.e. that we may kill to prevent someone from using our body, because he has no right to use it, even to save his life. I then present a criticism of this argument made by Brody. The criticism is that the fact that someone has no right to use our body, even to save his life, does not mean that he has no right to use it rather than be killed. Before considering the merits of this criticism, I argue that Thomson and Brody, despite their differences could share the view that use of someone's body needs to be justified, and if it isn't justified something wrong/unrightful is going on. I analyze this view, contrast it with another view, and argue that voluntarily introducing someone into one's body does not justify his continuing in residence. I argue that because this is true, Thomson's argument

for the permissibility killing applies to cases we are interested in, where there is no injustice in the initial cause of residence, as well as to cases where injustice is the initial cause of residence. I note that Brody and Thomson differ as to whether avoiding killing justifies residence, but I argue that it is reasonable to think they agree that we must consider the nature of the means of removal before deciding whether residence should or should not continue. In order to see if Thomson's argument withstands Brody's criticism, I then see if Brody's own argument can be shown to be incorrect. I consider four criticisms of his argument, and argue that they do not succeed. I conclude, however, that his criticism does not show that we may not kill, only that Thomson's argument does not show that we may kill.

A. The first proposal for the permissibility of killing in Cases (A), (B), and (C) is that we can defend our own property when it is threatened by someone, even if this person is an innocent, passive threat, at least when only the person who threatens us suffers as the result of our defense.¹ Z is a threat to Y, albeit an innocent, passive one; the threat he presents is, at the very least, continued residence in Y, and possibly other losses, if he remains or is removed by Procedure 1.

¹A clearly less defensible view would be that we can protect our own territory even if this means we harm an innocent bystander (i.e. a non-threatening person).

If we used this argument and defend the killing of Z simply on grounds of the permissibility of self-defense against passive innocent threats, we would have to deal with all the problems raised by self-defense arguments. Among them are: (1) what sorts of action are permitted in response to a threat of a certain size, i.e., how large need the threat be in order to merit killing in self-defense, and when must one undergo a loss rather than defend oneself, because the only defense available against the threat is too strong; (2) are we allowed to intend someone's death in order to defend ourselves? (3) what can a person do for himself and what can someone else (the community's rights enforced or his agent) do for him? (4) what do the innocent threat and his agent have a right to do in return? (5) what acts make a person responsible for the threat to himself and does this responsibility always limit his right to self-defense?

B. Rather than carry on with the approach suggested in A, I shall see if Cases (A), (B), and (C) have special characteristics which make them different from ordinary situations in which self-defense questions come up.

Cases (A), (B), and (C) differ from standard innocent threat cases at least in the respects that (a) the person who presents the threat does so while on the property of the person to whom he presents the threat, and (b) the threat that the person in residence presents itself involves the use of the other person,

i.e., being in his property, being in his body is a threat which the resident presents. So we should see if the fact that there is use of what belongs to someone makes a difference as to what can be done to the innocent threat.

The fact that someone who threatens us is using what belongs to us is a factor emphasized by Thomson. She discusses a case in which a baby is expanding at a rapid rate while he is on the property belonging to the person whose life is threatened by the expansion.¹

Thomson claims: (1) if the person were threatened on property which belongs to neither him nor the baby, the person could, simply on grounds of ordinary self-defense (as in A above) attack the baby, thereby killing it. But, she claims, it is not clear that a community rights enforcer would also have the right, let alone the obligation to attack the baby, rather than let the person threatened die. The justification she gives for this view is that neither the baby nor the threatened person is at fault. (The implied justification, in the light of her later discussion, is that neither the baby nor the person threatened has more of a right to be where they are than the other.) (2) Thomson claims that when the baby is expanding on the property of the person whose life is threatened by the expansion, a rights enforcer may, and should, attack the baby. In justification for this conclusion all Thomson says immediately is that it makes a difference that the

¹Reference to cases used below are to "A Defense of Abortion."

baby is in the house belonging to the person who is threatened.

To clarify and expand on the issues raised by the Baby Case Thomson presents another case in which someone has innocently found a coat and put it on because he needs it to survive. It is then discovered that the coat is mine. If we take it away from the other person he will die because he is again exposed to the threat against which the coat protected him. If we don't take the coat away I will die. The question is, may a rights enforcer take the coat away to return it to me. Thomson says yes. The justification she gives is that we have a prior claim to the use of what belongs to us.

Thomson presents a 3rd case to emphasize the role of the use of what belongs to someone. It involves the use of someone's body: someone is kidnapped for the purpose of plugging a violinist into him in order to save the violinist's life. The violinist is saved because he gets to use the other person's kidneys when his own have failed. The first question raised is whether the violinist can be unplugged by the person supporting him, even when he will die if he is unplugged, though the person supporting him will not die if the violinist remains attached. She thinks the violinist can be unplugged,¹ even though the person giving support will suffer

¹Throughout her discussion of these issues, in "A Defense of Abortion" and in "Rights and Deaths," Thomson deemphasizes (and in the latter paper explicitly argues against) a moral distinction between unplugging and other forms of killing, such as, for example,

losses far less than death if support were to continue. She argues for this conclusion on the grounds that we needn't let our body be used, and we needn't suffer other losses even far less than death, in order to save someone's life. It is not only that we needn't sacrifice our lives for other people's sake.

She claims that no one has the right to use our body in the way the violinist uses the other person's body, even if he needs it for life itself. The only way for him to get a right to it is for us to give it to him and we needn't do this. The right to life, whatever it is, does not give the right to use of whatever it is you absolutely need in order to stay alive.¹ So it would be wrong, she claims, to let the violinist stay against the wishes of the person supporting him, because the violinist would then be where he

direct killing (which she describes as involving a direct assault on the person with the intention that they die). While she says in her second paper, that the violinist may be directly killed, she speaks only of unplugging in her first paper.

¹The claim that no one gets a right to use our body when the only reason they have for using it is that they need it to save their life is involved in Assumption (2). There is some difference between "only reason" and "even if," which I shall return to. (p. 4). While Thomson uses a claim like Assumption (2) to argue for the permissibility of detaching the violinist, she seems to believe that it would sometimes be indecent not to save a life, even with the use of one's body and that we oughtn't to fall below the level of decency in our behavior. Not falling below the level of decency is, however, distinguished by Thomson, from having an obligation which gives the violinist a right to our services. Thomson does not claim that we have no obligation to do anything, however minor, to save someone's life; but she also doesn't claim that we do have such an obligation.

has no right to be even in order to save his life. The body (like the house in the Baby Case and the coat in the Coat Case) belongs to someone and they have a prior claim to it, even if its being used by someone else, who needs it for life itself, will not result in the death, or even grave injury, of the owner.

Thomson notes that there may be agreement that your right to life does not include the right to use someone else's body in order to save your life, yet some may still argue that the right to life does include the right not to be killed and detaching the violinist, or directly attacking him, is killing him. To this she responds that the violinist can be killed by the person supporting him because: (a) if he is not killed he will be left to use the other person's body and we agreed that he has no right to use the other person's body even if he needs it for life itself; he will wind up getting what he has no right to even if he needs it for life itself. To put the matter the other way around, the person supporting the violinist will wind up in a position he had no obligation to be in even if it saves the violinist's life, i.e., the position supporting the violinist in his body.

(b) if we do kill the violinist to prevent his using what he has no right to use even if he needs it for life itself we do not deprive him of anything to which he has a right, since he has no right to the use of the other person's body, even if he needs it for life itself, and this is what we deprive him of. The killing is not unjust and is

permissible because we do not deprive him of anything to which he has a right when we kill him. Therefore, his right to life is not violated, since the only reasonable way to construe this right is that it prohibits unjust killings.¹

We can summarize the argument (call it Argument I) in the violinist case in 3 steps: (1) Greater need alone does not give a right to the use of another person's body even if the need is for life itself. (2) But allowing the violinist to remain using the body (by not killing him to remove him) is to let him use what we agreed in (1) that he does not have a right to use even if it would save his life. (3) The supporter may kill the violinist because he thereby prevents the violinist being where he has no right to be even if it saves his life and so he does not deprive him of something to which he has a right, i.e., he does not violate his rights.

Thomson claims separately that a third party rights enforcer has a right to kill the violinist when the person supporting the violinist cannot do the killing himself.

¹It is not immediately clear in Thomson's discussion that she thinks, as I have here represented her as thinking, that the right, which she thinks someone has, not to be unjustly killed is not violated simply because the violinist has no right to the use of the body to have his life saved. She first merely says (p. 13) (a) he has no right to the body so if we deprive him of this we do not violate his rights and (b) if he is killed he is not killed unjustly so his right not to be killed unjustly is not violated. That is, it is not at first clear whether (b) follows from (a). But she then (p. 13) to buttress (b) asks--"is abortion unjust killing," and the answer deals with whether the fetus has a right to the use of the woman's body. This makes clear that she thinks (b) follows from (a).

Argument I, if it succeeds, assimilates the permissibility of not beginning to give life support aid with terminating it by killing.¹

In summary, I suggested that since the person who presents a threat to Y and who Y wants to have killed in Cases (A), (B), and (C) is in residence in Y, we should see what difference this makes to the permissibility of killing, over what Y's rights are vis a vis an ordinary threat who does not reside in him. I presented the views of Thomson on this question. These are: (1) when the threat to my existence is in me or what belongs to me, as opposed to just coming at me, a third party can help defend me by killing the threat. (If the threat weren't coming from my property, the third party's

¹In "Rights and Deaths," Thomson returns to the violinist case and presents what can be construed as an addendum to her first argument but is really another argument in itself (call it Argument II). It seeks to emphasize the assimilation of not saving life with terminating life support by killing--either pulling the plug or direct attack--more directly. The second argument may be summarized as follows: (1) If I begin to let someone use my body to save their life, I am doing something that I needn't do, and that they have no right that I should do. (2) If I allow someone to remain in my body in order to save their life I am doing the same thing as is referred to in (1). (3) If I fail to begin to save someone's life I do not aid and hence I let him die. (4) If I fail to continue to save someone's life by terminating support I kill him--either because pulling the plug is killing or because I must attack him directly in order to, or in the process of, terminating aid. (5) The fact that I kill the person is not a barrier to my discontinuing support, if leaving him to die is permissible, because there is no significant moral difference between killing and letting die and it is the same position that I avoid being in by both killing and letting die. I discuss this second argument later.

rights might differ, though I could defend myself against the threat to my life.) (2) when I need what is my own to save my life and someone else also needs it to save his life, I have preference to its use. I or a third party can take what belongs to me away from the other person even if this results in his death. (Presumably, if it weren't my own thing, we couldn't do this.) (3) I have preference to the use of what is mine even if my need for it is much smaller than someone else's. For example, someone does not have a right to use my body even when they need it to save their life and all I need it for is in order to have my body to myself. (Presumably, if it weren't my body, and both I and someone else needed to use it, the one with the strongest need would have the preference.) So, because it is my body and I needn't give someone who needs it for life permission to use it, the fact that the person threatening me has a need to use my body will not give him a right to stay. And this fact, that he has no right to use my body even to save his life is supposed to be the reason why we (I and a third party) can kill him to stop his using my body.

These points can be whittled down to two major points:

(1) Thomson argues that what third parties may do to help me might depend on whether or not someone's harming me involves use of what's mine. Once there is some use of what's mine--or, perhaps, only a threatened use of what's mine--third parties can do for first parties what first parties can do for themselves for defense

purposes; (2) the reason both first and third parties can kill when my body is being used, even when the person using it needs it for life, is that the person who would be killed has no right to the use of my body even if it saves his life. (This is the conclusion of Argument I.)

C (1) I will refrain, at present, from looking more closely at Thomson's cases and what they show about the role played by someone using something of mine. (I examine the cases more closely in Chapter 3.) Rather, I will focus on Argument I directly, since it seems possible that we can apply Argument I to the cases of interest to us. I will first set out Thomson's claims and argument more schematically. I will then consider an objection to the argument.

Thomson says: (1) I have no obligation to give the use of my body even if it saves a life.

(2) The violinist has no right to its use, even if this saves his life.

(3) No one has a right to require me to let him use my body, even if this saves his life.

(4) It would be wrong for someone to require me to let him use my body, even if this saves his life.¹

¹I have discussed the distinction between (3) and (4) in Chapter 1. In keeping with what I said there, it is possible that, at the least, it would not be wrong for those very people who caused the violinist's kidneys to fail to attach him to me. I shall however assume (4) is correct in this case.

(5) I have a just prior claim to my body, even if someone else needs it for life. (I shall interpret this in a limited fashion, so that it doesn't mean that I can kill someone to stop their using my body, but only that if they aren't using it yet, they can't start to use it. This makes it possible for it to be a reason for why we can kill, instead of involving the assumption that we can kill.)

(6) The right to life doesn't imply a right to have whatever one needs for life.

(7) The right to life doesn't imply the right not to be killed, it only implies a right not to be killed unjustly. (Problems arise with this claim. It is unjust to violate someone's right. If the person's right is not "the right not to be killed," but "the right not to be killed unjustly" then we must claim "It is unjust to violate the right not to be killed unjustly" and this is redundant. This means (1) that, contrary to what Thomson says, rights should be expressed without "unjust" in them, and (2) it would be better to say that a right not to be killed can be overridden, so that it would not be unjust to kill, rather than that there is no right to life in the sense of no right not to be killed. For the time being, however, in examining Thomson's Argument I I will continue to use her claim [7].)

(8) It won't be unjust to kill because (a) injustice comes when we deprive someone of what he has a right to (violate his right to it), (b) if we kill we won't be depriving him of what he has a right to

(violating his right to it), (c) since (1) we agreed he has no right to use of my body, even if it saves his life. So, if we deprive the violinist of this we are not depriving him of what he has a right to, and (2) killing does not violate his right not to be killed, since he has no such right (7) above). He only has a right not to be killed unjustly and we do not violate this right because we kill not unjustly if we don't deprive him of use of a body he has a right to.

There are two ways of viewing this argument: one says that if we do kill we don't deprive someone of what he has a right to. The other way says, that if we don't kill he gets what he has no right to (my body).

Brody makes the following sort of criticism of Thomson's first argument.¹ (He just seems to ignore the second argument, though it is in the second argument that the emphasis he places on the distinction between killing and not saving a life is dealt with directly by Thomson.) He says, we can agree that someone does not

¹Baruch Brody, Abortion and the Sanctity of Human Life (Cambridge, Mass.: M.I.T. Press, 1975). What I shall present is a criticism suggested by Brody's criticism. It is more limited than Brody's entire criticism, in that it doesn't aim to show that killing is impermissible, but only that Thomson's argument doesn't show that killing is permissible. I shall ignore the part of Brody's criticism which aims to show that killing is impermissible because I do not think it is correct. Having made this clear, I shall continue to refer to the criticism as Brody's criticism, argument, etc.

have the right to continued use of someone else's body merely because this is necessary to save the first party's life. But this does not mean that someone cannot have a right to continued use of someone else's body for some other reason. One such reason might be that neither the supporter nor anyone else has the right to kill the resident to remove him. So, he has a right to stay, because no one has a right to kill to remove him.

To expand on Brody's point: Thomson says "we needn't support someone even if they need it for life itself."

Brody's point is that we must agree to this only if it means that the fact that someone's life will be saved is not a sufficient reason for our having to support him, i.e., we needn't support someone merely in order to save their life. This can be interpreted to imply that we needn't support someone merely in order to save their life or for obviously equal or less weighty reasons.

In agreeing to "we needn't support someone even if they need it for life itself" we do not agree that we needn't support someone if their life is being saved, in the sense that we can kill when support has the effect of saving their life. We needn't support them merely in order to save their life, but that it saves their life doesn't necessarily mean we can kill to stop doing it, since we may have to support them as the alternative to killing them.¹

¹In fact, we may think the person has to be supported because support saves his life, in the sense that his ALN need

Furthermore, agreeing to "we needn't support someone merely in order to save their life" is not the same as agreeing "I needn't do something even in order to save someone's life" if the use of "even" involves our agreeing that saving the life would be the weightiest possible reason for supporting someone. This would commit us to agreeing that "someone has no right to the use of the body, all things said and done" and that, therefore, he has no right to be there even rather than be killed. But avoiding killing may be an ever weightier reason than saving life, so the phrasing of our agreement that we don't think he has a right to be there merely in order to save his life, shouldn't be such as to commit us to the view that he has no right to be there for any other reason.

As noted, on one interpretation, the phrase "I needn't support someone in my body, even to save his life," is taken to:

(1) point out an effect of staying in my body, imply that it is the strongest possible reason that could be offered for requiring me to support someone in my body, and note that it is not a sufficient reason, and therefore (2) indicate that it is decided that there is

makes detaching a case of killing, necessarily. This still doesn't mean that he is supported merely in order to save his life. To say that we may have to support him in order to avoid killing him (rather than saying we may have to support him rather than kill him) is misleading if the image conjured up is like that when we swerve a car in order to avoid crashing into someone. Here we were on our way to killing someone and we must do something which interferes with this. Or: I must sit on my hands in order to avoid strangling someone. Here, sitting on my hands interferes with my doing something else.

no reason why I need to support someone in my body, i.e., I simply need not support someone in my body.

On this interpretation, agreeing that "I needn't support someone in my body, even to save his life," commits one to agreeing that there is no other reason which could justify support. Brody obviously does not agree with this interpretation. If this is the only interpretation, then he may legitimately argue that it is not immediately clear why we must agree to it if we agree that we need not support someone merely in order to save his life.

It seems to me that there is another interpretation of "I needn't support someone in my body, even to save a life," according to which it: (a) indicates one particular reason for the sake of which I needn't support someone in my body, and (b) emphasizes (by the use of "even") the great significance (but not necessarily the ultimate significance) of the reason which is insufficient to justify support.

This interpretation makes "I needn't support someone in my body, even to save a life," equivalent to saying: "I needn't support someone merely in order to save a life, even though this is a very strong reason." This interpretation is consistent with our saying: "I needn't support someone, even in order to save their life, but I may have to support them rather than kill them. But because this latter interpretation may not be the natural one, I will try to speak of someone not having to support someone merely

in order to save their life, where this implies he needn't do it for equal or lesser reasons.

The following are implications of Brody's point: (1) The supporter may have an obligation not only not to kill, but also to go on supporting. That is, he may have to support rather than kill; (2) It is agreed to be impermissible for outside parties, the law, etc. to decide to allow residence in one person's body to continue merely to save another person's life. But it may be permissible to allow residence to continue because it is decided that it is impermissible for anyone to kill to remove the resident. Outside parties would not be doing what it was agreed it is impermissible for them to do, if they decide that someone has a right to stay in someone's body because we may not kill him to remove him.¹

Deciding that he has to stay because we can't kill is to offer a reason for staying quite different from saving his life. So, if the person remains in the other's body because we may not kill him, he will, in fact, not acquire a right to the use of the person merely to save his life. If we agree that acquiring a right to stay merely to save his life is wrong, this does not mean it is wrong that he acquires a right to stay when our aim is to avoid killing.

¹I use "we may not kill" to mean "no one may kill, not the supporter himself, or anyone else." I do not mean merely that we decide that third parties cannot kill, but the supporter himself may kill. I shall continue to use this expression in this way.

All this will be true even if he receives life-saving support as a consequence of his staying attached, since it is not for the sake of receiving this support that he is being allowed to stay.

It may be true that if we cannot kill someone he will get a right to something which some other reason (i.e., desire to save his life) does not give him a right to. But this does nothing to show that this reason (i.e., that we can't kill) does not give him a right to it. There seems to be a slip in Thomson's argument: It is agreed that we needn't keep someone in our body merely for the purpose of saving their life. But agreeing to this may lead to the mistake of thinking that, because someone has someone else in their body and the effect of this is that the latter's life is saved, therefore the supporter must be doing something he needn't be doing. But doing something which has the effect of saving a life is different from doing something merely in order to save a life. If we agree that the purpose of saving a life is inadequate justification for residence in the body, this only shows that residence which has the effect of saving a life is not justified if it is required for the purpose of saving a life, but it may be justified for some other reason. If doing something for Reason 1 is doing what we needn't be doing, and if that is the only reason possible, then we needn't be doing that something. But if we do that something, whose effect is mentioned as a reason for doing something in Reason 1, for Reason 2,

we won't necessarily be doing what we needn't be doing, if Reason 2 is adequate justification. So, the fact that if we can't kill, the supporter will do what we agreed he needn't do for one reason, does nothing to show that he oughtn't to do it for another reason. It is possible that the reason (e.g., no killing permitted) which justifies continuing residence would justify it only because continuing residence saves a life. That is, it is possible that if the person were going to die soon anyway, despite residence, it would make no difference if we killed him or not. Even if this were true, we still could not know that we were doing what we agreed we needn't be doing. For continuing the residence, because of the life-saving effect, is different from continuing it for the sake of the life-saving effect.

We can summarize Brody's criticism of Thomson's first argument as follows: Argument I says that we can kill in order to remove someone from another person's body, because we do not have to let someone use our body even if it saves his life. But Argument I is wrong, because while we can agree that we need not let someone use our body merely to save his life, this does not mean that we may not have to let him use our body rather than kill him. We may have to do something rather than kill someone, something that we wouldn't have to do rather than not save someone.

Having presented and elaborated on Brody's basic point I will now see how it fits into a more systematic attack on Thomson's argument.

Thomson's argument says that we may kill because it was agreed that the resident has no right to use of my body, even if it saves his life, so if we kill him we are not violating his rights, not depriving him of what he has a right to. The attack begins: we didn't agree the person has no right to use your body, only that he has no right to use it merely in order to save his life. Therefore he may have a right to use the body rather than be killed. There might be an attempt to continue the attack as follows: So, if we kill we may be taking away what he has a right to (use of the body), therefore killing may be unjust.

This continuation, however, would be circular, since, presumably, the reason why the person would get the right to use of the body is that killing to remove him would be unjust. That is, knowledge that the killing is unjust would have to precede the conclusion that he had a right to use of the body, and not follow from it.

So, if we want to make use of the possibility that someone has a right to the body rather than be killed, we must be prepared to first say why killing would be unjust.

We might say (1) He would lose his life which he has a right not to be deprived of, and therefore killing would be unjust. The implication of this would also be that he gets a right to the use of the body, because we can't kill him.

Thomson's counter to this might be: (2) But it was agreed that he has no right to the use of the body, therefore, he can't have a right not to have his life taken away, therefore we can kill without injustice. (That is, it can't be unjust to kill because the supposition that it is unjust implies what we know to be false, i.e., that he has a right to use of the body.)

The response to (2) would be (as above) (3): we didn't agree that he had no right to use the body, only that he had no right merely in order to save his life. He may have a right to stay for other reasons, and one of these may be rather than be killed, i.e., rather than violate a right not to be killed. So this supposition that it is unjust to kill does not conflict with what we agree is true.

Thomson's alternative response to (2) might be: (4) (a) he has no right not to be killed (Claim 7) only a right not to be killed unjustly, and (b) we know the killing wouldn't be unjust, so we wouldn't be violating his right.

Continuing to accept Claim 7, the question then is, how do we know the killing wouldn't be unjust. That is, even if there is no right not to be killed, only a right not to be killed unjustly, not all killings are not unjust. We would violate someone's right not to be killed unjustly if we did kill unjustly. So we must show that killing would not violate the supposed right not to be killed unjustly.

As noted, Thomson's grounds for the killing not being unjust were that it wouldn't deprive the resident of the use of the body to which he had a right, since he had no right to its use. Given the possibility--if we can show that killing is unjust and this is not out of the question so far--that the resident has a right to its use rather than be killed, Thomson's argument for killing not being unjust could be only that he has no right to the use of the body merely in order to save his life.

In response to this we should focus on how misleading it is to simply say that killing would not be unjust so long as we deprived someone of what he had no right to independent of any possible right he got because we could not kill. Suppose I have no right to an apple in my possession. We cannot show that killing me to get the apple back is not unjust by arguing that I have no right to the apple. Because the apple is such a small gain at the price of killing, killing would be unjust and I acquire a right to keep the apple if the only way to take it away from me is to kill me. Likewise, it is not clear from what Thomson says that we wouldn't be violating someone's right not to be killed unjustly just because we kill him in order to stop him using what he has no right to use merely in order to have his life saved. And if it is unjust, then he would get a right to use of the body rather than be killed.

If we drop Thomson's view that someone does not have a right not to be deprived of life (only a right not to be deprived of it unjustly), it is also not clear why we can say that someone may

be killed without injustice simply because he will lose use of the body to which he has no right merely in order to save his life. Someone's right not to be killed may be overridden (and so we would not kill him unjustly) but we do not show it is overridden by either assuming it is or by arguing as though the right did not exist. We can distinguish between two types of arguments via analogies: Suppose someone has no right to the apple he holds and no right to the banana he holds. In order to take away the apple we must also take away the banana. In this case we may truly argue that we can take away the apple because in doing so we do not deprive him of anything to which he has a right. But suppose someone has no right to the apple he holds but he does have a right to the banana he holds. In order to take the apple away I must also take the banana away. In this case we cannot give as an argument for taking the apple away that doing so does not involve taking away anything he has a right to. It is possible that we may take the apple and banana away, i.e., his right to the banana may be overridden by the goal of taking the apple away, so when we take away the banana we can say we do not violate his right to it. But we cannot give as a reason for the right being overridden (a) that it is overridden or (b) that it doesn't exist, so that there is nothing to stand in the way of taking the apple. Likewise, we can't say that he can be killed simply because he has no right to the apple in order to save his life, since this doesn't show, on the face of it, that his right not to be killed is

overridden by the need to get the apple, rather than that the person acquires a right to hold onto the apple so long as the alternative is killing him to take it away.

D. I have tried to present Brody's point in as strong a light as possible by fitting it into a systematic argument against Thomson. I will put off dealing with the merits of Brody's criticism. Instead, in this section I will first try to make clear why Thomson's Argument I, which is developed in response to a case where someone is kidnapped in order to help someone else, is applicable to the cases we are concerned with, where someone voluntarily began to aid someone. The reason for not doing this before presenting Brody's criticism was that, in the course of showing how Thomson's argument applies to our cases, I also show the extent to which a certain type of perspective could be behind positions as diverse as Brody's and Thomson's. This perspective is that the use of someone's body requires justification and something wrong is going on if there is residence without justification. I argue that this perspective is correct. (The attempt to show that it is correct is, in part, justified by the role it plays in a later discussion of Brody's criticism. In that discussion I argue that when certain types of justifications for residence are given, it is important not to lose sight of the fact that something wrong is still going on.)

I will suggest that one might take the position that Argument I does not apply to the cases we are interested in because:

(a) there is no injustice involved in putting Z into Y, and (b) there is some other source for Z's right to stay besides his having a need to have his life saved. I argue that the absence of an injustice in the origins of residence does not mean that continued residence against the will of the supporter is not wrong/unrightful, and of legitimate concern to both the unwilling supporter and a rights enforcer. This is because continued residence in another person's body requires justification if it is not to be wrong/unrightful, and mere absence of injustice in the origin of residence is not justification. I argue that the fact that the supporter voluntarily introduced the person, or that he was introduced accidentally, is also not by itself justification for continuing residence. If justification for continuing residence is needed and there is no justification for continuing residence peculiar to cases where residence is voluntarily begun, we may apply Argument I to the cases of interest to us. I argue that residence in someone's body requires justification both because a person has rights to his body and because people should not be where they have no right to be. I claim that the view that residence which does not result from injustice may be of concern to a right's enforcer need not conflict with the view that correction of events which result from injustices should be of even greater concern.

(a) Ordinarily, much is made of the distinction between using a person and not using them. The distinction revolves around

whether someone intentionally causes something to happen to someone else for some end. But, as a matter of terminology, it seems appropriate to employ the word "use" when someone merely resides in someone's body. That is, it is appropriate to say that someone is using someone else's body when he resides in it, even if no end is served by his residence and no one placed him there. For example, someone who was blown into someone else's body by a gust of wind, and who, while they remain, receives no benefit from residence at all, can still be said to be using the other person's body. This means that someone (the person occupied) can be said to be used even if no one intends that he be used and only simple residence (not benefit from it) is involved.

However, this point could be taken to be merely a matter of terminology. That is, the fact that we could call all these cases "using people," would not necessarily affect the moral distinction that is usually made between cases in which bad things happen to people because other people did something with the intention that these bad things happen to them, and cases in which bad things happen to people, e.g., by accident. We might employ use-S (use-strict) for the former cases and use-L (use-loose) for the latter, as a matter of terminology. And someone might argue that only use-S's are morally significant wrongs.

The moral (as opposed to terminological point) that I wish to make about the need for justifying presence of one person

in another's body (or property) is that there can be something morally wrong with a use-L (i.e., there can be something wrong with residence when there is no injustice in its cause and hence no use-S.)

An alternative point of view can be made clear if we contrast a case like the kidnapped violinist with a case where the wind blows someone into residence into another person's body. The case of the violinist might be taken to imply merely that it is wrong for someone to require one person to carry another person just for the sake of helping the latter. If we take "use" to apply to simple residence, with or without benefit to the resident, regardless of how or why he came to be in residence, then this narrow interpretation does not condemn uses-L of a person's body. Furthermore, this narrow interpretation of the violinist case does not merely mean to make Brody's point again. It does not say that allowing residence rather than kill makes residence alright. This would be a case, if not being able to kill were adequate justification for residence, where residence is not wrong because a justification has been given for requiring it. The narrow interpretation of the violinist case says that if the residence is not the result of forced human intervention we cannot conclude that there is something wrong with the residence, in a sense which would make us have to look for a justification for it at all. The presence may be undesirable to the person who is intruded into; it may even call for

attention by a rights enforcer, if a rights enforcer is obliged to rescue anyone in distress regardless of cause. But to the extent that a right's enforcer's primary function is to enforce rights, it does not present him with the same sort of primary concern that unjust acts do. So, it is consistent with one reading of the violinist case that continuation of a residence which was begun by a gust of wind involves nothing prima facie wrong, so long as it is not continued for any illegitimate reason, such as using someone to get benefits for the person in residence.

Such a narrow interpretation would be supported by the fact that while it can be claimed that people have a right not to be used merely as means, e.g., injured by other people as a means to the latter's end, it cannot be claimed that people have a right simply not to be in an injured state (e.g., as the result of an act of nature). It can be claimed that people have a right that someone else not put them into a certain bad state, or interfere with a good state, but not that people have a right not to be in that bad state, or to remain in that good state. So, if the wind harms you, your rights have not been violated. This same critique could be made of the view that people have a right to have their property occupied as they see fit; it is not true, at least in the sense that one has no right that the wind not blow a rock onto one's property when one doesn't want it there. Thomas Nagel seems to make a point like

this. For example,¹ he criticizes an inclination he sees in Nozick to base a strong right by people to non-interference from other people, on the value of being able to direct one's own life. Nagel notes that we have no right that bad things not happen to us. We also do not necessarily have a right that others help us to prevent people's interference with us. Yet claims for rights such as these, as much as the right that people not interfere with us, would seem to follow from a concern, such as Nozick argues from, for keeping control over one's own life. It is only the right that others not interfere with us that we can claim to any great degree according to Nagel.² Additionally, Harman³ remarks on a comment of Nagel's to the effect that if a natural calamity occurs we do not think that anything morally wrong has happened.

¹In his review of Nozick's Anarchy, State, and Utopia, "Libertarianism Without Foundations," Yale Law Journal, 85, No. 1 (Nov. 1975), pp. 136-149.

²Nagel leaves open the possibility that we do have a strong right to some kinds of aid. He does not say in the article, whether we have a stronger claim to aid when it is used to stop unjust interference by another person than we have when it is used to stop harm from natural forces.

³In "Moral Relativism Defended," Philosophical Review, 84 (1975), pp. 3-22.

This view, that people have no right to be in a certain state, and only certain causes of harm make harm morally wrong, suggests the narrow interpretation of the violinist case described above: There is something wrong if someone is forced by another person to share his body against his wishes. This does not mean there is something wrong, in the same sense, if someone's resources are not being disposed of as he would wish, or if his territory is not being occupied as he would wish, when no impermissible human intervention has caused this, and the reason for allowing continuation of the presence does not involve using-S the person. Someone being occupied unwillingly is a wrong of concern to a rights enforcer when there was a violation of rights in introducing the resident or, perhaps, if there is interference with the exercise of a right the supporter is agreed to have to try to remove someone (e.g., when the removal would be harmless for all concerned). But if, for example, a gust of wind brought someone in, no one interferes with the exercise of the agreed right of removal, and it is only that the owner of the property is physically unable to make use of the means of removing the party, there is nothing wrong of concern to a rights enforcer in the fact that the unwanted person remains in residence.¹

¹Proponents of such a narrow interpretation may hold that the owner of private property can remove the other person if he can do this safely. (One could not remove someone just for being on

In summary:

I have said that despite the fact that we can call all residences in people uses of them, some may hold that only uses involving injustice involve something morally wrong of concern to a rights enforcer. The grounds for this is that people have a right not to be interfered with by others, but not a right that accidents not befall them or that their property be disposed of as they prefer.

This view says that since we do not have a right to have our property be in the condition we desire it to be in, only a right not to have someone require the entrance or interfere with agreed means of removal or require continued residence for improper motives, there is no right not to have a person in one's body. If the person is there when the rights-violating factors aren't present, there is no problem of primary significance to a rights enforcer in the continued residence. I have allowed that such a view may be

public property). This means that even on the narrow view, the fact that there is nothing wrong with the person remaining against the will of the owner, doesn't mean that they have a right to stay. Proponents of the narrow interpretation may even say that the other person may not resist safe removal. But if the owner and his allies cannot remove the party, there is no inappropriate residence of concern to a rights enforcer in things staying as they are. If there is no injustice in their staying there (because no one forces the owner to keep him for some improper motive), and there is no right simply not to have him there (since we do not have a right to have our property be in the condition we desire that it be in, but we only have rights against acts of other people making it as we don't desire), then what could be morally wrong in his remaining without further justification?

consistent with the right of the owner to remove someone who is in residence, even if the latter wants to stay, if the procedure is harmless. But still this would not mean that anything wrong of concern to a rights enforcer is going on.

If I wake up in the morning with someone inside me, and I know the wind blew them in, and no one else knows about my situation, and I can't manage the safe removal procedures, there is nothing wrong of concern to a rights enforcer in the situation. It may be distressing as a situation for me, but not anything morally wrong or inappropriate. It is as if a tree had fallen on me: this is distressing, but not inappropriate or wrong.

A proponent of the narrow interpretation may argue further as follows: Thomson says we may kill to remove the violinist from the supporter's body because he has no right to be there even to save his life. But perhaps we can kill someone who has no right to be there even to save his life only because (a) another person acted to save his life by attaching him to the supporter, and (b) this was unjust, since saving his life is no justification for doing this. If someone were introduced into another person's body by a gust of wind there would be no injustice and nothing wrong going on. So maybe (1) the supporter could not kill, even if the need to have one's life saved is no justification for residence, and (2) a rights enforcer need have no interest in killing. It may be true that the person who

is in residence as a result of the gust of wind has no grounds for being there, i.e., his need for life-saving support doesn't justify his residence and being plummeted in by accident doesn't justify his residence. But this is not grounds for killing because his residence doesn't need to be justified in order for there to be nothing morally wrong with it; it is not a violation of someone's rights that accidents befall them or that their property isn't disposed of as they would like.

In summary, on the narrow view it is only the actions or omissions of people whose acts and omissions decide if residence starts or stops that require justification, not residence itself, in order for something wrong/unrightful not to occur.

(b) Both Thomson and Brody find it necessary to look for reasons which will justify residence. They might do this only because they are concerned with whether someone who either forces residence to begin with or requires that it continue has adequate reason for doing this. But concern for finding justification for residence may also indicate another view, a view which implies that there is something *prima facie* in need of justification when a person is present on someone else's property, if at any point in time he is there against the will of the owner. It implies that use-L can be morally wrong. It implies that if someone doesn't enter by an act of injustice, but, e.g., by an accident, we do not say nothing is

wrong in his being there. (Note that even if there were nothing wrong with his being there, this would not mean that there was a right on his part to stay; there may be nothing wrong with his being there because the owner is simply refraining from exercising his right to remove the resident.) The presence can be illegitimate and inappropriate and the proper concern of a rights enforcer, even if the entrance is accidental. The fact that the situation can be of concern to a rights enforcer need not mean that he can do something about it -- a separate argument is required to show that something can be done about it. A situation can be wrong, inappropriate and yet there be a justification for not ending it. But if a justification can be found for not ending it, this will mean that a wrong unrightful situation cannot be corrected.

The view that a rights enforcer should be concerned when two people's boundaries overlap against the wishes of one of them, even if injustice is not involved in the cause but only accident, need not mean that the rights enforcer can always act on the side of the person imposed on.

In discussing the simple self-defense argument (p. 38), I noted that it was a possible view that when two innocents were involved the person imposed on could try to stop the other, but the innocent threat could defend himself even by attacking the person who

is defending himself. I take this to imply that the person originally threatened does not have a right to have the other person stopped at whatever expense to the innocent threat he is himself allowed to try to cause. So a rights enforcer should, on this view, remain neutral when, e.g., it is a question of killing the innocent threat. But the imposition can still be of concern to a rights enforcer and if a perfectly innocent procedure for stopping the threat is available, then he should side with the person being imposed on.¹ If a rights enforcer may always side with the person threatened, and he could not kill, then it would be because no one, not even the first party, could kill.

Whether there is a difference between the case where the innocent threat comes at you and where it is in residence in you, as to what a rights enforcer can do is discussed in Chapter 3. At this stage I am only concerned to show that boundary crossings resulting

¹It is of some importance that, at least when the removal or deflection procedure is innocent, all right is on the side of the person to be imposed on. This is because later I will argue that when the procedure involves taking only what the innocent threat would get from imposition, even if this involves killing, all right is also on the side of the person imposed on, so a third party should act when ALN satisfying residence is wrong. This will mean that it is not only not unjust to try to remove/deflect the threat, but proper that they be removed/deflected.

from accident can be of concern to a rights enforcer in a way simple misfortunes also caused by accidents are not.

This view that residence on private property requires justification implies that simple absence of injustice in the cause of residence does not make residence legitimate, let alone give someone a right to stay on. But this view need not be associated with a supposed right to have one's property be in a state one wants it to be in, where this implies a right not to have rocks or people blown in.

In giving an explanation of this view, it is important to note the distinction between having unwanted people and unwanted objects on one's property: if a rock is blown in, it does not in fact seem correct to say that there is something morally inappropriate with its being there, something that should prompt the attention of a rights enforcer (except possibly in his role as simple distress reliever). But if a person is blown in, it seems quite appropriate to say that there is a prima facie morally inappropriate situation in his unwanted residence. Given the fact that a person has a claim to his private property in both cases, this seems to indicate that the crucial factor in distinguishing the cases is the moral inappropriateness of people being where they do not have a right, or are not at liberty, to be. It indicates, further, that they get this right when on private property only if there is justification for their residence, because the owner gets preference when it comes to the use of their

own things.¹ Absence of injustice in how they get there, and the fact that they came to be there accidentally, do not provide the necessary justification. It is only people, not inanimate objects, of whom it makes sense to say that a right/liberty they lack to be somewhere can make it inappropriate (in a morally significant sense) that they are there. Rocks do not have rights to be in one

¹The view that justification is needed to make the use of what belongs to someone else morally unobjectionable, could be much narrower than the view that someone gets preference in the use of their own things, depending on how "preference" is interpreted. Justification (and owner's preference) might only mean that an adequate reason must be given by a non-owner to have his use of someone else's object justified, whereas the owner needs no reason at all (i.e., no justification besides ownership) to have his own object, when no one else has a reason for having it. But "preference" need not mean that if both owner and non-owner have the same reason for the use of an object, the owner has first option on having it. The reference to owner preference, on the other hand, might be taken to mean, at least, that when equally weighty reasons for use are given, the owner has preference. The notion of preference might be further strengthened in the owner's favor as follows: the ownership adds its own weight to any given by the owner's (other) reasons, in a match against the non-owner's reasons, so that even with a less weighty reason the owner has preference. Thomson brings up "prior claim" to what is ours in discussing the Coat Case, where the reasons are equal on both sides (i.e., both owner and non-owner need the coat to save their life), so this might coincide with a second notion of preference. In her discussion of the body in the violinist case, the "owner" has a weaker reason than the non-owner, and the owner's preference would involve the stronger notion of "preference." (As Thomson uses "prior claim" it is not clear if this refers to: (a) a preference, whether strong or weak, which we have, even if our thing is, finally, justifiably used by someone else against our wishes, or to (b) our, in fact, finally having the right to use the object as we see fit.) I shall discuss the notion of prior claim further in Chapter III.

particular place as opposed to another, because they are not the repository of rights at all, and no absence of rights to be someplace makes it inappropriate for them to be there. People can have rights and liberties posited of them, and because they can have rights and liberties it is legitimate for them to be only where they have the right or liberty to be, unless the owner is responsible for their continued presence (without necessarily having given them a right to be there). So, the fact that it is a person who is blown in (a) makes continuance of presence a matter of concern for the rights enforcer, and (b) makes residence inappropriate, from the point of view of both the person in residence and the person who is occupied. It does not befit a person to be where they have no right to be, any more than it befits the person occupied to be occupied unwillingly, in the absence of justification. (One might go even further and claim that it befits a person to accept responsibility for preventing the harm he would cause even if he is not morally responsible for being the cause of the harm. (Even though he couldn't be punished for it.) This would imply that accidental boundary crossings are not only problems of concern to a rights enforcer but that a rights enforcer can act against the threat rather than remain neutral.)

I place emphasis on prima facie wrongness/inappropriateness of residence, and associate it more closely with unjust acts and states than with merely distressing or unfortunate events. (An un-

just state of affairs would be the one where someone is kidnapped to be used to help the violinist; a prima facie wrong/inappropriate state of affairs would be one where someone is blown into someone else's body and remains there; an unfortunate state of affairs is one where a tree accidentally falls on someone or a rock blows into someone. (Both the inappropriate and unfortunate state of affairs can cause someone else's life to be saved.)

One of the reasons I emphasize these distinction is that I do not wish to argue that in determining what actions we may take, we do not care whether or not someone comes to be in a situation which is bad for them as a result of injustice. For example, the claim might be made that if someone is dying we wouldn't care, in deciding whether to help, whether they came to be in this condition because of an injustice or an accident. Or, if two people were on the point of death, we wouldn't decide who to help on the basis of whether the origins of the problem of one involved injustice while the origin of the problem of the other did not. I think it is quite possible that we ought to decide how to act on the basis of whether an injustice causes the problem. It is because I think more may have to be done to relieve an injustice, that I have argued for the view that a wrong/inappropriate residence has more in common with an unjust residence than with a mere unfortunate occurrence. If we decide whom to help on the basis of an injustice in the cause of the problem, we may

also decide whom to help on the basis of a wrong/inappropriate situation in the cause of the problem. But drawing together unjust and inappropriate residence is not incompatible with the view that correcting for injustice is still the most important.¹

In summary, I have argued that the narrow interpretation of the violinist case is incorrect. Residence in another person's body (not merely forced entry) requires justification. Continuation of residence can be wrong, and of concern to a rights enforcer, in the way simple misfortune is not, if there is no justification for it. Adopting this point of view need not commit us to saying people have a right not to be harmed by acts of nature, and it does not commit us to the view that injustice in the cause of harm is not of greater significance than other wrongs.

(c). Given that continuation of residence calls for justification we must consider the sources of its justification. I will (re)argue

¹Since first discussing the question of how to treat cases which differ on the basis of the injustice or non-injustice in their causes, I have learned that both Thomas Scanlon and Thomson also discuss whether an injustice in the cause makes a difference. I have discussed this in detail elsewhere. Furthermore, Nozick notes that there is a tendency to disapprove of one person benefiting at the expense of someone else's misfortune. But, in keeping with the distinction between unjust, inappropriate and unfortunate occurrences I think that we shall be able to rectify unjust and inappropriate occurrences, by eliminating their consequences (e.g., eliminate the benefit someone gets from the occurrences), even though we cannot "rectify" the unfortunate occurrences by eliminating their consequences.

that deliberately introducing someone into one's residence or body, does not by itself, justify their continuing stay. I claim that this fact implies that Thomson's Argument I is relevant to the cases of interest to us, because it eliminates the possibility that there is some other reason, peculiar to our cases, why the person has a right to residence, even if they don't have a right to it because they need it for life. I note that Brody and Thomson disagree about whether avoiding killing justifies continuing residence. I give a more general characterization of the types of reasons which can justify residence. I claim that it is reasonable to think that both Thomson and Brody agree that sometimes consideration of the means of removal may lead to someone getting a right to remain in residence.

Having concluded that the need to save one's life does not give one a right to reside in another's body, Thomson also concludes that one does not acquire a right to reside simply because one falls in by accident (her seed case). She discusses incompletely what would be true if one's act caused someone to be brought in or if one intentionally brought someone into one's body. (She confuses matters a bit by introducing a case where we create a situation someone else can act to take advantage of, i.e., we leave a window open and a burglar enters our property. Certainly, here there is no right on the burglar's part to reside in our house, despite the fact that we left the window open. But someone may argue that the burglar has no right

to reside only because the burglar made the illicit entry himself, he wasn't brought in.)

I have already noted, but it bears repetition at this point, that it doesn't seem that any form of entrance onto private property, by itself, uncombined with other factors, will give someone a right to remain against the will of the person whose property it is, not even a right to try to remain. (However, the manner of entrance in combination with other factors may make a difference in whether someone has a right to remain in residence.) For example, the person who is on the property may have been deliberately brought in, may be present legitimately for as long as efforts, which are the responsibility of the person who brought him in, are not successful in removing him, and still have no right, in virtue of manner of entrance alone, to go on staying. Responsibility for presence may mean responsibility for concomitants of presence, but this responsibility doesn't mean one necessarily can't act to terminate the concomitant. An implication of this, and one that both Brody and Thomson would probably agree with is that, at a minimum, if there were no injury to the person removed involved in removing him from someone's body, he could be removed even if he wanted to stay and had been intentionally brought in by the person whose body it is. On the other hand, all this does not mean that your intentionally introducing someone may not (1) alter the obligations a rights enforcer has to aid you in this legitimate removal, if you can't accomplish it yourself,

and (2) alter what you can do to the person in order to remove him. The person may have no right to remain, but if you have introduced him you may have no right to demand someone else's help in getting him out. If the person will be worse off than he would have been if you had never introduced him, you may not be able to remove him.

In addition, we can point to another difference between the case where someone is intentionally brought in and the case where they are blown in: Bringing someone in voluntarily may not by itself give the person a right to continue in residence, or resist removal, but the owner, in virtue of his responsibility for introducing the person, and independent of whether other people prevent him from removing the person, cannot complain that the residence is a wrong, illegitimate, inappropriate. Roughly, if we can account for the presence by the deliberate introduction of the resident by the owner of the property the continued presence is no longer inappropriate, because it is the responsibility of the owner. (If removal is safe to all concerned and could be effected by the owner, but he is interfered with, then the residence may become a wrong, and even unjust.) Therefore, I shall distinguish between wrong and merely unrightful residences. The wrong residences are ones where there is no justification for residence to begin with, the residence is inappropriate while it lasts, and there is also no right that it continue. Unrightful residences are ones where the owner is responsible for the

residence beginning, but is unwilling to have it continue, but it is not inappropriate while it lasts, -- so long as the reasons it lasts have nothing to do with interference with the right to remove, -- though the person in residence still has no right to continue in residence, and no justification has been given for their continuing residence.

I have argued that continued residence in someone else's body requires justification if something wrong/unrightful is not to be going on.¹ Absence of injustice in the cause of presence is also not enough. I have now argued that continuation of presence is also not justified simply by the person having been deliberately introduced.

This point makes clear why Thomson's Argument 1 applies to cases where someone has deliberately introduced someone into their body. It might be argued that Argument 1 does not apply to the cases of interest to us for the following reasons. It might be granted that justification is needed for residence not to be wrong/unrightful, and

¹Something unrightful could be going on even if it was justified: justification for residence could be present simply if the owner wanted it to continue, but because this needn't involve giving the resident a right to stay (merely permission) the residence would, strictly speaking, be unrightful. Use of "unrightful" would not have the function of a complaint. Since I shall be dealing with cases where the owner doesn't want the resident, I shall assume there is no justification via permission. (I discuss the possible difference between a right and a permission to stay in Chapter V.)

also granted that justification is not provided by either (1) absence of injustice in the initial cause of residence, or (2) the need for life-saving support. But, if deliberately introducing the person justifies his continued residence, giving him a right to stay on, then we could not kill to remove him. Thomson's Argument I would be irrelevant because even if the need for life didn't give him the right to residence, having been deliberately introduced did. But, I have argued, deliberate introduction does not give a right to remain in residence so Thomson's argument for the permissibility of killing is applicable to the cases of interest to us.

I have presented an account of the need for justification for presence in someone's body that does not conflict with any of Thomson's or Brody's arguments. They both could agree that there is something wrong/unrightful going on if residence is not justified. But, obviously, the basic particular difference that divides the position of Brody and Thomson on justification of continuing residence is whether having to avoid the killing required for removal is a justification and one which gives a right to reside.

I will now try to give a somewhat more general analysis of the possible alternative grounds for justifying continuing residence. This will show that despite the differences between Thomson and Brody as to whether avoiding killing justifies residence, it seems reasonable to think that they both agree that consideration of the means of removal is part of deciding if residence is justified.

We might distinguish between 3 sources of the permissibility of continuing residence: (1) What I shall call positive right, e.g., need, or responsible-making action by which, it could be suggested, we become obligated to let someone stay. The factors which give a positive right precede, or are present at, the time of residence, before we have to make the decision about continuing residence. (2) Decency, where there is no right or obligation, but nevertheless we should let someone stay, and (3) Negative right - they get a right to stay because we are not allowed to employ the procedures for removal.

One interpretation of Thomson's argument (discussed in Chapter III) allows that a right to stay can stem only from factors noted in (1). In particular, if there is no right to stay independent of consideration of the means of removal, consideration of the means can't provide it. This approach would make it impossible to say that although voluntarily introducing someone would not, by itself, give them a right to stay, yet this factor in combination with the fact that the removal procedure would make the person worse off than he would have been without attachment would provide grounds for his right to stay. It is also difficult to see how this approach would handle cases in which someone would have a right to stay if he needed it to save his life, but in actuality he has no positive right to remain because he doesn't have an HLN/ALN. For example, suppose the need the person

actually has is not strong enough to be the source of the right to stay, because, e.g., the only need the person has is for support to cure his headache. Suppose someone does have a right to the support in question in order to save his life. If the means of removal requires killing the person, and we ignore the nature of the means of removal in deciding whether the person has a right to support, don't we thereby fail to allow someone to use our bodies to save his life when we are required to do this? Whenever Thomson speaks of the favor we do someone in allowing him to stay in residence -- a "favor," on her assumption that we aren't required to support -- it is always because we save his life by some causal process which occurs while he is present, not because we spare him from removal-by-killing. But it would seem that not killing someone, at the very least, is a requirement if saving his life is a requirement. Failure to consider negative rights ((3) above) as a contributing factor to the right to stay would make us negligent, if saving a life by body support were a duty.

Someone very firmly committed to settling the question of the right to stay independent of consideration of the means of removal required, even if someone had a right to have his life saved by residence, might counterargue along the following lines: if there is no positive source of a right to stay, as well as no positive source of a right to be there to start with (e.g., no original need to have one-

self saved accounts for the original presence), then sparing someone from being killed should not be given as much weight as saving someone to begin with. This is because some penalty should carry over from the fact that the problem of keeping the person in residence if we don't kill arises because of an initially unjustified residence. (The same argument might be made against a right to stay based on a need for life-saving support which develops only once the person is attached, when the original presence was not justified.) The question of whether the duty to save a life via support would straightforwardly imply the duty not to kill is really the question whether the fact that a residence is judged to be wrong, except possibly because we may not be able to kill to stop it, makes any difference to how we can act.

A different, and more reasonable, interpretation of Thomson's Argument I would make consideration of the means of removal a proper part of deciding whether residence is justified. So, even if the need they actually have (e.g. for headache relief) does not give them a positive right to stay, if they had a right to have their life saved by the use of the body in case they had HLN/ALN, this would give them a right to stay rather than be killed. Therefore, if it isn't exactly clear how not having to save someone's life with the use of one's body speaks to the question of the permissibility of killing to remove them from the body, it would seem to be clearer that having

to save makes killing to remove impermissible.

So it is reasonable to think that both Thomson and Brody agree that the right to stay may arise negatively, even though they differ on whether it in fact does arise negatively when we needn't let our body be used to save a life.

To summarize the most important points of the previous discussion: I have shown that residence in an unwilling supporter is prima facie wrong/unrightful, and stands in need of justification. I claimed that justification for continued residence is not provided by the fact that residence was deliberately begun by the supporter himself, and this fact means that Thomson's Argument I is applicable to cases (A), (B), and (C), as well as to her violinist case. Finally, I noted that while Thomson and Brody differ as to whether avoiding killing can justify continued residence, they can be taken to agree that consideration of the means of removal is a necessary part of deciding whether residence is justified.

E. I will now return to consider the merits of Brody's type of criticism of Thomson's Argument I. I will present 4 criticisms of the Brody-type position (henceforth BTP) and argue that none of them succeeds. In particular, I will show the following: (1) it is not correct to criticize the BTP on the grounds that requiring residence rather than kill just is the impermissible act of requiring residence in order to save a life; I will argue that it is not

correct to identify requiring residence rather than kill with requiring residence to save a life, since one may be in favor of the former, in order to avoid negative characteristics that are present only in killing, but not present in letting die. I also argue that it is not Thomson's intention to equate saving a life with supporting someone rather than kill him. What she means by efforts we needn't make, even to save a life, are efforts we needn't make even to provide ALN-satisfaction; (2) it is not correct to criticize the BTP on the grounds that the claim that we needn't allow residence in order to save a life implies that no one has any right to life if the effect of the supposed right is that someone gets a right to the life-saving residence. I will argue that the evidence for the claim that we need not support someone in our body merely to save a life, does not imply that it is impossible that a right not to be killed could lead, as one of its consequences, to a right to get life-saving support; (3) it is not correct to criticize the BTP on the grounds that it is as objectionable to use someone to prevent a killing as to use someone to save a life. I will argue that there is a difference between (a) using someone to prevent a killing and (b) someone being used because we cannot kill. The latter can be permissible, even if the former is not; (4) It may be correct to criticize Brody for not emphasizing that someone can wind up, all things considered, doing what he needn't do, not all things considered, but this does not show that avoiding a killing is an improper reason for someone having to do, all things considered, what he needn't do, not all things considered. I will argue that, if we

modify Thomson's argument somewhat, we can show that giving a different reason (i.e. can't kill) for requiring support does not mean that the supporter is not doing what, not all things considered, he needn't do (i.e. supporting someone merely in order to save a life.) I argue that when we cannot use the means necessary to stop something wrong going on, the wrong continues, even if it is right that it continues. I then argue that it may sometimes be right that we don't stop a wrong. In particular, I show that just because we needn't support someone merely in order to save his life, this does not mean that we needn't support someone merely in order to save their life rather than kill him.

(1) The BTP depends on its being true that deciding to keep someone in one's body, as an alternative to killing him, is not itself only a straightforward instance of saving someone's life. If having to keep someone in one's body, because one is not allowed to kill, is just an instance of having to keep someone merely in order to save a life, then one might say that the reason the person gets a right to stay is that we wanted to save his life. Since this is what we all (including Brody) agreed was an inappropriate reason for allowing someone to be in residence, the BTP would fall through.

But this argument against the BTP will not work. Even if not removing from residence is an instance of saving a life (by saving from death-by-killing), it is more than that, and so long as the reason we want to avoid killing points to these additional factors, we will not be letting the person stay merely in order to save his life.

For example, the reason we want to avoid killing may not be because it is saving a life, but rather because we wish to prevent a certain relationship between two people from occurring. This relationship is one where one person deprives another of their life. The same people who are concerned with not killing, need not be concerned with saving the life of the person when it is a question of beginning attachment. Seeking to avoid a certain type of relationship is not merely a case of seeking to save a life, even if a life is saved in the process.

Furthermore, note that we should distinguish between when a life is saved and when it is spared. If I decide not to kill someone, I will have spared their life, not saved it, unless I am also providing ALN-satisfying support. But, if a prohibition on killing, or those who institute such a prohibition, is what stops someone from killing, then it or they have saved a life, since they rescue it from some fatal event that would otherwise have occurred. If the supporter in a non-ALN case does not kill, because of a prohibition on killing, he does not save a life, even though a life is saved (by the prohibition). The fact that he continues to give non-ALN support, because he doesn't kill, doesn't make him a life saver, though it makes him the one who bears the burden of saving a life. Those who, in instituting the prohibition on killing, save a life, do not necessarily do it in order to save a life. As noted above, they may do it not merely to have a life continue, but to see that it doesn't end in a certain way i.e. by killing.

When Thomson says that if a killing doesn't take place, then the supporter will wind up saving a life, she doesn't seem to be referring to his winding up saving someone from the death-by-killing. Rather, she is still referring to their winding up satisfying the ALN, e.g. the kidney deficiency. Keeping-in-residence-because-avoiding-killing is not what she is straightforwardly referring to as "saving a life," and the correctness of her argument should not depend on it being the case that keeping someone in residence rather than kill him just is saving his life. In the first place, her strategy in constructing the violinist example seems to be to have someone actually doing something we would have no doubt about calling "saving a life." One way of providing this is by giving a case where someone gets something they needed before they ever became attached, i.e. supplies from someone else's body. If Thomson's claim that we may kill, because if we don't the kidnapped person will wind up saving a life, were based on the view that having to keep the person rather than kill him is itself straightforwardly an instance of saving a life, then, even in cases where there was no ALN -- where e.g. the person gets nothing from residence except avoiding the procedure of removal -- a life would be being saved if we refrained from killing. Furthermore, in non-ALN cases we would be saving a life if we refrained from killing only once we did consider killing and refrained from it. In the violinist case the life saving is taking place prior to any decision to refrain from killing.

If what Thomson meant by "his doing what we agreed he needn't do," and "his carrying someone merely to save his life," were the supporter keeping someone in his body because he cannot have him killed, the permissibility of killing would be the consequence of just working out a definition. This is so because wherever "saving a life" occurred we could substitute "carry-someone-because-refraining-from-killing," so not (saving) would = not (carry-because-refraining-from-killing) = to kill; if "I needn't aid merely to save someone's life" just means I needn't carry-because-refraining-from-killing, then it follows as a matter of definition that I may kill.¹

¹In getting clear about Thomson's cases and Argument I, it is important to distinguish both her Argument I and an argument for killing based on definition (as described above), from two other kinds of arguments. First, an argument such as the following: (a) something is (or will be) happening that we already agreed needn't happen, and (b) we may kill to stop what needn't happen, as well as not aid to avoid what needn't happen, because (c) killing and not aiding are morally equivalent. In this argument, a claim about the moral sameness of killing and not aiding, (c), stands in the relation of evidence to a conclusion, (b). It does not stand in the relation of a definition (i.e. that not killing just is aiding) to its implication. Furthermore (c) makes reference to moral sameness, not strict identity, and this sameness has to be argued for. The fact that Thomson's second paper has a claim which functions like (c) would be further evidence that the definitional argument [that killing just is not (aiding in order to save a life)] is not hers.

The second type of argument to contrast with both Thomson's Argument I and the definitional argument, can be described as the two-sides of a coin argument. It involves the claim that not killing just is aiding and not aiding just is killing because an ALN-satisfying system (aid) continues if there is no killing and ending the support (aid) is the means of killing. There is no need for a definition here, to the effect that aiding is carrying-because-refraining-from-killing, because "aiding" refers to an ALN-support system, which is straightforwardly an instance of aiding.

The possible confusion over whether acquiring a right to continued residence rather than being killed is, by definition, merely a case of being saved, may have its source in the fact that Thomson shifts between ALN and non-ALN cases in her discussion. First, she contrasts what one may do to someone who threatens the life of another person, when both are on property which belongs to neither of them, with what one may do to the threatening person when he is on property which belongs to the person threatened. From this the logical transition would be to want to know what one may do when (a) the threat presented by someone in one's residence is non-fatal, and (b) the threatening person would lose his life if he is evicted. But to consider the question of non-fatal threats, Thomson shifts to cases where one person provides ALN support to another, whereas the original case just involved residence without ALN support. So when she answers, in the latter case, that "I need not even suffer a loss less than life, even to save a life," the implication might be that this conclusion is meant to apply straightforwardly to the extensions of the original case, where there was no ALN, and where "saving a life"-- in lieu of any other appropriate interpretation -- might be taken to refer to not evicting the person. Hence, the possible equation of "I needn't suffer residence merely to save a life," with "I needn't suffer residence merely to avoid a killing." This shifting between ALN and non-ALN cases may also give the impression that, on the basis of a conclusion in ALN cases, one has also shown that killing to evict is permissible when there is no ALN being satisfied and residence by

another person presents a non fatal threat.

In summary, I conclude that it is both not correct and not Thomson's claim in Argument I, that the desire to refrain from killing is only an instance of the desire to save someone's life. This is true, even when the consequence of not killing is that the supporter does save someone's life. I showed that this equation is not correct, by arguing that one may be concerned about properties peculiar to killing someone. I showed that this equation is not what Thomsons means, by noting that she points to ALN-saving processes as the life saving aid in question, and that her argument is not meant to be one that is true by definition.

(2) There is yet another construal of Thomson's first argument which would make the conclusion that we can kill a matter of definition, and so defeat the BTP. Thomson says (and Brody agrees) that a person's right to life does not imply that he has a right to get support he needs to save his life. One possible construal of this is that a person has no right to life which would imply that he has a right to whatever support he needs to keep his life. This is meant in the sense that he has no right to life, if this supposed right implies a right to support he needs to keep his life. This construal would imply -- quite straight-forwardly -- that a person has no right to life in the sense of a right not to be killed, when his not being killed would give him a right to remain where he gets the support which has the effect of keeping him alive. This is because, in virtue of having a right to life (a right not to be killed) he

would acquire the right to what he needs to keep him alive. So, on this construal, it seems that he cannot have the right not to be killed, if it is true that his right to life does not imply that he has a right to life support. Formally, we may represent this interpretation as follows: where p = right to life; q = right to get life-support, then $\neg(p \rightarrow q) \rightarrow [(p \rightarrow q) \rightarrow \neg p]$.

This construal of the claim that both Brody and Thomson agree to, makes it seem that the question of whether we may kill, (i.e. whether there is no right to life, in the sense of no right not to be killed) is settled once we know that a consequence of having this right is getting life-saving support.¹ But this construal is incorrect.

The claim that Brody and Thomson agree to is only based on the intuition that we needn't give some types of aid in order to save a life. Perhaps there is a right to life which involves not being able to kill, even if a consequence of this right is that someone gets a right to use a life-supporting system. For there is a difference between: (1) denying that a right to life, just in virtue of what it is, will give someone a right to get aid for the sake of saving his life, and (2) denying that a right to life can lead, as a consequence of its enforcement, to a right to life support, gotten not for the sake of saving a life, but as a consequence of avoiding killing. (Analogously, my being an official in government may not,

¹As we shall see in Chapter V this conclusion, or something very much like it, is true. But the proper derivation for it is not the one described above.

in itself, imply that I have a right to something for the sake of improving my image. But this does not mean that it must be false that I am a government official, if a consequence of some part of my job is that I get a right to something which improves my image.) It may turn out to be true that any interpretation of "a right to life" which has the effect that someone gets a right to life-saving residence, must be incorrect. But to prove this we must show more than that we needn't allow residence just in order to save someone's life.¹

Therefore, it is not correct to criticize a BTP on the grounds that the claim that we needn't allow residence just in order to save a life, itself, implies that no one has any right to life which has the effect that someone gets a right to life-saving residence. The evidence for our not needing to support in order to save does not support the implication. There may not be a specific right to get life-saving support, but this does not mean that there can be no right of which the right to support is a consequence.

(3) A third suggested criticism of a BTP agrees that deciding to let someone's body be used rather than have a killing, may not exhibit the fault of using someone merely in order to save someone else.

¹Another way of putting this point is that a right to life does not necessarily lead to a right to have the life-saving support -- if a right to life necessarily implied that we had to support someone to save his life, it would imply that we had to support him for the sake of saving his life. But this does not mean that a right to life cannot lead to a right to have life-saving support.

But, it does exhibit an equally objectionable fault, i.e., deciding to use someone in order to prevent someone else from being killed. This criticism is based on the following assumption: if A will be killed by B, it is not permissible to put D inside C, even if this is the only means of preventing A from being killed.

In answer to this objection we can note the following: Saying that someone is allowed to stay inside someone else in order to avoid a killing increases the tendency to think that what is going on, if we are not allowed to kill, is that remaining attached is causally involved in, has as its consequence, preventing a killing. But, actually close to the reverse is true, i.e., the person remains attached because we cannot kill. The proper analogy to the order in which things happen in our cases, is not the case involving A, B, C, and D noted above, but the following one: We cannot have B kill A, in order to remove D from C. In both cases C supporting D means that A is not killed, but in the second case, it is not true that C is being used to help prevent A's killing.

In summary, having to keep someone in residence, because we have to obey a constraint on our acts, is different from having to keep someone in residence in order to achieve some end. There is a difference between someone being used because we can't kill and using someone to prevent a killing. The former can be permissible when the latter is not. So this criticism of a BTP attempts to assimilate two different types of cases, and fails.

(4) The fourth objection to Brody depends on distinguishing between whether (a) third parties, who decide that residence must continue because killing is impermissible, are doing anything already agreed to be wrong; and whether (b) the supporter is doing what it was agreed he needn't be doing, as a result of the decision. In discussing Brody's objection to Thomson I noted that an implication of Brody's objection is that when third parties decide that the person must remain in residence, because it is impermissible to kill, they are not deciding to use a person merely for the sake of saving someone else's life. So they do nothing that both Thomson and Brody have agreed it is wrong to do; they offer no reason for residence which Thomson and Brody agree is inadequate.

But Thomson's argument can be taken to exhibit a concern not merely with whether those who decide removing is not permitted, do so for a reason we have already agreed is wrong. With appropriate modification, her argument can also be taken to be concerned with what the consequences of this decision are, namely, whether, because of their decision, the supporter winds up doing what we agreed he needn't be doing. What we (Brody and Thomson) agreed he needn't be doing is supporting someone merely in order to save the latter's life.

The fourth objection to a BTP is based on the following modification of Thomson's argument: Thomson, to the extent that her claim is agreed to by Brody, says that we can kill to stop the support because the person needn't support in his body, merely in order to save a life. To this Brody answers that just because he needn't support merely

in order to save a life, this does not mean that he needn't support rather than kill. Thomson's argument isolates supporting as what we do, and "merely to save a life," as a reason why we needn't do it. Brody just says that there may be another reason why we must do it (i.e. support). The modification of Thomson's argument isolates not "what we needn't do, (i.e. support), merely to save a life," but rather "what we needn't do" (e.g. support merely in order to save a life). "What we needn't do" refers not only to support, but the reason for it. Using this modification, objection 4 argues that it is permissible to kill, because: (1) if we do not kill, the supporter will go on doing what it is already agreed he needn't do, and (2) in doing what he needn't be doing (e.g. supporting merely in order to save a life) he will be doing something (supporting) which he needn't do, merely to save a life. The supporter continues to be used merely in order to save someone's life in the violinist case, he continues to do what he needn't do, even if the reason for the decision which results in this, is that he must continue to support someone rather than kill, and not that he must continue to support someone in order to save their life.

A possible answer to his fourth objection is that the person does not, in fact, do what it is agreed he needn't do, if it is decided that he must continue supporting rather than kill. For example, it might be argued that if it is alright for 3rd parties to decide that residence must continue, rather than have a killing, it is alright because the supporter needs to carry someone, rather than kill him, i.e. this is something he needs to do, not something we already agree that

they do not need to do. Such a counterargument would show how the decision which 3rd parties make, is related to what the supporter needs to do.

Above, in filling out Brody's point I presented another way in which someone might counterargue against objection 4. I showed the relationship (or rather, the lack of it) between what one needn't do and what one needs to do. The point of that discussion was to show that the supporter might need to carry someone rather than kill him, so he wouldn't be doing what it was already agreed he needn't be doing if the reason why he was required to support was to avoid a killing.¹

I will now argue that both these ways of counterarguing against the fourth objection to Brody's position are to some degree

¹In that discussion I said that just because the supporter winds up doing something (supporting) which has an effect which wouldn't itself be a sufficient reason to justify what the person is doing, this doesn't mean he is doing what we agreed he needn't be doing, since what we agreed was that he needn't do something merely for the sake of this insufficient reason. This means that it will not be sufficient, in order to show that he is doing what he needn't be doing, if we don't kill him, to point to the fact that, if we don't kill, then the supporter will (1) be doing what we agreed he needn't do for an inadequate reason, i.e. he will be doing what he needn't do merely to save a life, and the supporter will (2) be doing what has an effect, which when pointed to as justification for residence, is inadequate to justify residence. It can be true that he will do what he needn't do for the sake of saving a life, and also have the effect of saving a life, i.e. he supports with his body with the effect of saving a life, and he needn't do this merely for the sake of saving a life, but this doesn't mean he is doing what we agreed he needn't do, since what we agreed he needn't do is supporting in his body merely for the sake of saving a life. Analogously: if I needn't go to the store merely to make my father happy, this doesn't mean I needn't go to the store to make the king happy, even if my going will have the effect of making my father happy.

inadequate. I will argue that, contrary to their claim that the supporter wouldn't be doing what it was already agreed he needn't do, he may still be doing something it was already agreed he needn't do, at least on one level, even if he is doing what he needs to be doing, at another level. I will argue that this can occur in cases where the reason proposed to justify doing something, a reason which we have not already agreed is inadequate, is a negative reason. So, even if we need to support rather than kill, this doesn't necessarily mean that we aren't, in supporting, doing something else which we needn't be doing.

We can agree that the fact that we do what-we-needn't-do-for-a-certain-reason, doesn't show that we are doing what we needn't do. But, this, in turn, does not show that we are, therefore, not doing what we needn't do, i.e., supporting merely for the sake of saving a life. We can agree that the decision, which results in our doing what-we-needn't-do-for-a-certain-reason, does not itself decide that we ought do what we are doing for that inadequate reason. But, this also does not show that we are, therefore, not doing what we needn't do, i.e. supporting merely for the sake of saving a life. In short, while supporting with the effect of saving doesn't necessarily mean someone is doing what it is agreed they needn't do, the fact that they remain supporting because of a decision made for reasons other than that they save the life, leaves it open that at least one of the things they are doing is what they needn't do.

To show this I must examine further how the decision to allow residence rather than kill affects whether: (1) the wrong of

"residence merely for the sake of saving someone's life" -- as opposed to the wrong of "our decision to allow residence merely for the sake of saving a life" -- takes place, and whether: (2) some other wrong takes place. I will present two views on this issue. I argue that the second view, is correct. I argue that the second view allows that the supporter is still doing something he needn't be doing, but it also allows Brody to make his point against Thomson. This is because, if we describe what the person needn't be doing as "supporting merely in order to save a life," he may need to support merely in order to save a life rather than kill.

The first view of how the decision (to allow residence rather than kill) affects whether something agreed to be wrong is going on, is based on the following position: the reason which prompts the decision not to interfere with a chain of events, which was started -- or even which will start -- for a different reason, is the reason which explains why the events take place. In Thomson's violinist case, a kidnap merely for the sake of aiding someone initiates the residence. According to this first view, the fact that the reason residence continues is to avoid killing, makes it the case that continuing residence does not involve the use of someone merely for the sake of saving someone else.

On this view, whenever there is any legitimate reason for a person's not being able to defend himself against what is, initially, correctly described as his being used illegitimately for someone's sake, the situation will automatically turn into one where there is no longer

any illegitimate use of anyone occurring. This is because the losses they suffer will occur for a different reason, namely the reason which made retaliation impermissible. This first view would lead us to conclude that there is nothing which we have already agreed is wrong, going on, if the support continues rather than kill. I call this view the redescriptionist view, since the description of what is going on changes so radically.¹

Now, for the second view of how the decision (to allow residence rather than kill) affects whether something agreed to be wrong is going on. This view is consistent with Brody's position, i.e. what is important in arguing against Thomson, is to show that the reason for someone's getting a right to stay is not the desire to save his life, but the desire to avoid a killing. But according to the second view, the fact that the reason he stays is to avoid a killing, does not mean that what we agreed to be wrong is not going on. If the events we do not interfere with are, e.g., the result of a kidnap merely for the sake of aiding, an illegitimate use may also be occurring. Here there is no automatic redescription of what is occurring as in the first approach.

This non-redescriptionist approach seems more in keeping with how we would actually speak of what is going on. For example, if we

¹On this view the cause of someone's death can be the procedure started in order to use him, but the reason he dies is supposed to be the reason why we decide not to take the steps that could have saved him.

could not kill the violinist, the kidnapped person could say, "It is allowed that I be occupied merely for the sake of saving the violinist's life, because you are not permitted to kill." He still thinks of himself as being occupied merely for the sake of saving the violinist's life, the original intention behind his situation.

When the decision to use the person, which leads to the presence of the cause of his death, comes after the decision that we cannot intervene because we may not kill, matters seem even more clear. For example, suppose we must just stand by when we know a person will be used to save someone's life. A third party then does start to use someone to save someone else's life. It would be very odd to say that the person who is used, is not doing what he needn't do, i.e. is not supporting someone in his body merely for the sake of saving a life, just because he wouldn't be doing it if we hadn't decided before-hand that we could not intervene. Likewise, suppose someone is being strangled without adequate justification and it is impermissible for us to intervene by killing the murderer. It would be wrong to say that the person isn't suffering in a way he needn't suffer, just because it is right that he suffer rather than have us intervene by killing.

The point I am making can be summarized most simply as: when something wrong (or unrightful) is going on, e.g. doing something without proper justification, and we can't correct it, because there is something impermissible about the only means of correction, the wrong (or unrightful) event continues to go on, even if it is right that the wrong (or unrightful) event continue to go on.

It will be useful to have some terminology which expresses the fact that something wrong/unrightful is still going on, even if its going on is justified. I employ the notion of All Things Considered (atc), and Not All Things Considered (nadc) for this purpose. I say that if we may not kill the person, then the supporter has to do, and is doing, atc, what he needn't do, nadc. These terms, atc and nadc, in context, work as follows: In the violinist case (1) nadc (i.e., independent of considering that we'd have to kill the resident to remove him), the supporter needn't support the resident, since there is no reason for his supporting, aside, possibly, from the fact that it is impermissible to kill; (2) nadc, he needn't support someone merely in order to save a life; (3) it is nadc wrong that he is supporting someone, because the reasons offered for the support are inadequate, i.e. residence is nadc wrong; (4) it is nadc wrong that he is supporting someone in order to save him; (5) if killing is impermissible, then atc (i.e. in particular, considering the fact that we must kill to remove someone), he has to support someone, i.e., residence which is nadc wrong is atc right; he needs to do, atc, what he needn't do nadc; (6) If killing is impermissible, then, atc, he needs to support someone merely in order to save him; (7) if killing is impermissible, then, atc, it is right that he is supporting someone; (8) if killing is impermissible, then, atc, it is right that he is supporting someone merely in order to save his life; (9) if killing is impermissible, he must, atc, support someone rather than kill him; this is something he needs to do. (10) It is a wrong, both atc and nadc, that he is

supporting someone merely in order to save his life. If killing is impermissible, then it is not wrong atc that he is supporting someone in order to save his life, but his supporting someone in order to save him is a wrong. That is, it is right atc, that the wrong exist, but it is still a wrong (atc and natc) which exists. When I say that the residence is right atc or wrong natc, I mean that its existence is right or wrong. When I say residence is a wrong, this does not refer to its existence at a certain point in time.

Suppose there is no kidnap but, e.g. an accidental placement in the body. In keeping with what I said above, (P.69) there is something wrong with a presence having this sort of beginning too, because it is unjustified. Therefore, even if the reason we give for a right to stay atc -- that we must avoid killing -- is correct, the supporter will continue to do what it is natc inappropriate that he do; a wrong which is uncorrectible, given the only means available for correcting it, is still going on. In the case of voluntary introduction, since there is no inappropriate origin for residence, but only no positive right to continue to stay, there is (at least) a natc unrightful residence taking place, i.e. residence without positive justification continues, if we may not kill to stop it. If we may not kill to stop it, it is right that what is natc unrightful (i.e., something whose existence is natc unrightful) should exist.

The difference between the non-redescriptivist approach and the redescriptivist approach points up an oversimplification in the previous discussion about the way in which reasons which are

thought to be stronger than other reasons, can justify doing what the weaker reasons cannot. It will not always be correct to say, when someone does something for one reason, when they needn't do it for another reason, that they need to do atc, and are doing, what they needn't do natc (where "what they needn't do" refers to doing something for a reason which doesn't justify it). For example, suppose I need not go to the store merely to please my father, but I need to do it to save a life (even if it also pleases my father). If the reason I wind up, atc, going to the store, is to save a life, this doesn't mean that I still am doing, atc, what I needn't do natc.

The new reason justifies going to the store in such a way that there is no wrong going on which it is right should continue. So justifying doing something (e.g. supporting) for a stronger reason may or may not result in a wrong continuing. If we could justify the person supporting the violinist by saying he made a contract to do this, this stronger reason (vs. the supposedly stronger reason, we can't kill) would not result in a wrong still continuing.

Note that there can be two things which are wrong natc:

(1) having to support someone/go to the store. (Because there is not a sufficiently strong reason, natc, to justify it.) and (2) Having to support someone in order to save a life/go to the store to please my father. In the cases where we may not interfere with what is, natc, wrong, someone winds up doing what is natc wrong in both sense (1) and (2) of natc. In the cases where I have to go to the store to save a life and this has the effect of pleasing my father, someone

winds up doing, atc, what is natc wrong only in sense 1. It is doing, atc, what one needn't do natc in sense (2), which is important for Objection 4. Futhermore, it is only if someone is doing what he needn't do, natc in sense (2) that something wrong/unrightful is continuing. (I shall refer to these two senses of natc, as natc¹ and natc² when occasion calls for the distinction.)

One of the functions of noting that what is natc wrong/unrightful is going on, is to emphasize that, if the means of ending it were innocuous, then something ought to be done to end it, and we should be concerned to find an alternative means to end the residence. We might also be concerned to make a world where people do not need us to go the store to save a life i.e. a world where the stronger reason does not exist. But, if life saving justifies our going to the store, we are not concerned with the need for it not existing because there is something wrong/unrightful taking place when I go to the store to save a life. [Even when we (justifiably) override someone's rights for a great cause, there is not something wrong going on, in the way something wrong goes on, when we can't interfere to stop a wrong.]

In the earlier discussion of the role of stronger reasons there was, at the very least, a failure to distinguish cases in which a(proposed) stronger reason would initiate doing something and where it is merely a reason for not interfering with continuation of something. Pointing to someone winding up doing something (supporting) which it is agreed another reason does not justify, and even pointing

to the effect of doing it as the effect which isn't sufficient to serve as a reason for requiring that it be done, doesn't show that he needn't do it for a better reason. But it also doesn't show that we are not doing what we needn't be doing at a natc² level. This is because it doesn't distinguish cases where the stronger reason is merely a negative reason (i.e. we can't stop the process), from cases where the stronger reason is a positive (initiating or maintaining) reason. When the stronger reason is a negative reason, there is a wrong going on if we don't intervene. When the stronger reason is a positive reason there is no wrong going on.

Use of "doing what he needs to do atc" and "doing what he needn't do natc," helps us to distinguish between two senses of "if we don't kill he will wind up doing what he needn't do": (1) not allowing killing will be wrong. (This implies that atc he needn't support in order to save and he needn't support rather than kill); (2) if you don't kill, something wrong, independent of the possible wrong of not killing, will occur. (This implies that he is doing something he needn't do natc².) It is only sense (2) which can serve as an argument for killing being alright. In fact, we can see the point of Objection 4 as: Why should one have to continue doing, atc, what one needn't do, natc². That is, why should it be right that some wrong/unrightful situation continues? Why should it be impermissible to kill to stop someone doing what he needn't do, thereby making it the case that they need to do it.

To the extent to which Brody deals with the supposedly stronger reason for continuing support -- we aren't allowed to kill -- as if it were a positive reason, rather than the negative reason it is, to that extent will he: (1) overlook that there is a residence going on whose existence is, at least, natc² wrong/unrightful, and which serves as an argument for the permissibility of killing, and (2) interpret the claim, "if we don't kill he will wind up doing what he needn't do," as a characterization of not killing which assumes that killing is alright, instead of as a reason for why killing is alright.

I have argued that: (a) the person would continue to do what he needn't do natc (where what he does includes the reason for which he needn't do it and also where it doesn't, i.e. "support in order to aid" and "support"), and (b) a wrong/unrightful scenario would continue, if killing is not permitted. I argued that this happens even if not killing is a stronger reason for having to support than saving a life. I argued that this is not true in all cases where the stronger reason justifies doing something that a weaker reason doesn't, but is true where the stronger reason is a negative (as opposed to a positive) reason.

But, does the fact that what is wrong/unrightful, except possibly because we cannot kill to stop it, i.e. what is wrong/unrightful natc, (the existence of the wrong/unrightful scenario) is going on, show that we can kill to remove the resident, as Objection 4 says?

The answer to objection 4 is not that the person doesn't, at all, do what he needn't do, but that sometimes it can be right atc

that the person does what he needn't do natc. More is needed to show that killing is permissible, more is needed to show that it is wrong to decide the person must stay in residence rather than kill him, than that something we agree to be a wrong will continue if we don't kill. The fact that we needn't support someone merely in order to save his life, does not mean that we may not have to support someone merely in order to save his life, rather than kill.

Nor is this view unusual. There are many cases where a wrong continues to happen but we cannot kill to stop it from happening, because it would be wrong to kill, even to correct a wrong that will continue if it is not corrected. There are many cases where people will continue to do what there is no positive justification for their continuing to do, but there cannot be a killing, because the killing, itself, is inadequately justified by the fact that other events, lacking positive justification, will continue if we do not kill. The existence of a wrong/unrightful scenario becomes right, in the sense that we must tolerate it, because we may not kill to stop it.

Furthermore, one consequence of moral theories which emphasize the role of side-constraints on action, is that a heavier burden usually falls on justifying the correction of an evil by an evil, than on leaving the first evil uncorrected. This is true even when the event to be corrected is equal to or worse than the corrective event. So, e.g. suppose A will be killed as a consequence of some plan to save B, unless we employ a plan to save A from her fate. This plan causes C's death. We cannot correct A's fate, if this means killing C.

There was a constraint on killing A, as there is on killing C, but the last link the constraint chain is the hardest to justify breaking. (This may be because it makes direct reference to the previous links in the chain as things for the correction of which we may not do something to someone, i.e. it encompasses, provides a directive for, the very situation we are in.) The constraint is especially strong when we want to kill someone as a means. It says we may not violate his rights, even if we do this to protect someone else's rights. So we may not be able to kill the resident even to protect the rights of the supporter.¹

A reason must be given for thinking that the case of the violinist is not one of the cases where killing to correct a wrong/unrightful scenario is not permitted. Perhaps there is something significant about the particular events which will continue to happen if there is no killing in this case, or perhaps there is some further aspect of the fact that a need for life-support does not give a right to residence, or perhaps there is some combination of these, which provides the reason why we can kill. Otherwise, we must go back to dealing with self-defense arguments, complemented (or not) by the fact that the threat occurs while on one's own territory, to provide the missing link between something wrong or not justified by a positive reason happening, and the permissibility of killing to stop it.

¹Elsewhere, I have discussed possible explanations for why the last person in line is always protected on constraint views.

In summary, Objection 4 says that someone may wind up doing what it is agreed he needn't do, even if the reason for our decision requiring him to support is to avoid a killing, and not to save someone's life. We may kill, because otherwise the supporter will wind up doing what he needn't do. I noted responses to this objection, the aim of which was to show that the supporter won't be doing what we agreed he needn't do, if we don't kill. These responses were the following:

(1) He isn't doing what we agreed he needn't do, because he may need to avoid killing and our decision reflects this. (2) His not needing to support someone merely in order to save him, does not show that he may not have to support him rather than kill, even if an effect of this is that he saves him. I argued that these responses do not show that the person isn't doing what it is agreed he needn't do, at the same time that he is doing something it is not agreed he needn't do. To show that the person is doing what he needn't do, I discuss two views on how the decision that a person must maintain a position, because we may not kill, affects whether he continues to do something for the sake of the goal which initiated his position. On one view, the person does something only for the sake of the reason which motivated the decision that he must continue supporting. I argue that the correct view is the one on which someone does continue to do what it was agreed he needn't do. If we cannot do what is necessary to stop his doing what he needn't do, then it is correct to say that he needs to do, atc, what he needn't do, natc. (It is not correct to say that

he doesn't, at all, do what it was agreed he needn't do.) This amounts to saying that, if we cannot correct some wrong, it is right that the wrong continue. The point of objection 4 is: why should one have to continue doing, atc, what one needn't do, natc? Why should it be right that some wrong/unrightful situation continues? Why should it be impermissible to kill to stop someone from doing what he needn't do? I argued that the answer to objection 4 is not that the person doesn't, at all, do what he needn't do, but that sometimes it can be right, atc, that the person does what he needn't do, natc. More is needed to show that killing is permissible, than that something wrong/unrightful will continue if we don't kill, or that the person will wind up doing what he needn't do natc.

F. I conclude that Thomson's argument, as it stands, does not make clear why we may kill. The particulars of a justification of killing are still needed. I will now argue that it is also true that the BTP does not give a justification for not killing. I will show that a BTP is even true of cases where we agree that it is permissible to kill. I conclude, therefore, that these two arguments leave us without a justification for either killing or not killing.

Brody argues that giving as a reason for the right to stay in residence, that we cannot kill to end residence, is not the same as giving as a reason for the right to residence, that residence will save someone's life. But the truth of this claim does not justify our not killing rather than killing. It only tells us that this reason

for allowing residence is not the particular wrong reason which Thomson identifies, i.e., this reason does not try to justify using someone's body merely to save a life. It is still quite possible that this new reason for allowing residence is also a wrong reason. (For example, if killing were justified, then avoiding killing would not be a reason for allowing residence to continue, and it would be wrong not to permit killing.) To show that one reason is not identical with one wrong reason is not to show that it is a right reason. Likewise, to say that killing might be unjust therefore we would have to support someone, doesn't show that killing is unjust.

An additional way to show that a BTP doesn't prove that avoiding a killing is a justification for continuing residence -- one way to show that a BTP doesn't prove that we can't kill to stop life-saving support -- is to show that it applies to cases where even Brody would say that killing is permissible. And, indeed, a BTP does apply to cases where Brody himself would say that it is permissible to kill. Consider Case (D): Z has deliberately put himself into Y, for the purpose of saving his own life. Z, is, therefore, a guilty aggressor. Y will not die if Z remains. Z, however, will die if he is detached prematurely. Suppose a pacifist argues that one may not kill Z, even in self-defense. (Because of the correctness of a policy of non-resistance to evil, minimization of total number of killings, or some such reason.) This pacifist can note that if Y, or someone who would act on his behalf, is not allowed to kill, because killing is wrong, then, although Z is allowed to remain in Y, and although he will

benefit from the presence, he gets to stay only because we can't kill, not merely in order to save his life. So, in this case also, the reason for letting the person stay is not to use the supporter to save someone else's life. But Brody would allow Case (D) to be a case where Y could legitimately defend himself by killing Z, or by having Z killed by a third party. Therefore, showing that we can offer "avoiding a killing" as a reason for continuing residence, and showing that this reason is different from merely wanting to save a life, will not show that we can't kill.

Clearly then, the truth of Brody's description of what would be going on in Thomson's case if we gave "we can't kill," as a reason for continuing residence, need not rule out the permissibility of killing in Thomson's case, any more than it rules out killing in Case (D).¹ And, in fact, Brody does not claim that his point concerning the difference in reasons, itself, rules out killing in Thomson's case. (It only shows that Thomson's argument isn't sufficient to justify killing.) He realizes that to show that killing is, in fact, impermissible, one must show that in this particular case, killing is not justified. He argues that killing is impermissible because we can't justify killing an innocent, passive threat. I shall not argue against this view here. My only concern has been to show that a criticism of

¹ Furthermore, from Case (D), we can also tell that Brody's justification for not killing is not based on attaching overriding value to minimizing the total number of killings. For, if he wanted to minimize killings he would be against permitting killing in Case (D).

Brody's, which shows that Thomson's Argument I, as it stands, is insufficient, does not show that killing is impermissible.

I began this Chapter by considering two arguments to justify killing: (1) simple self-defense, and (2) Thomson's Argument I. I did not conclude that simple self-defense was inadequate, but I abandoned it, at least temporarily, to consider Thomson's Argument 1. This Argument says that we can kill to stop supporting someone in our body because we needn't support in this way merely to save someone's life. I focused on Thomson's argument because it was an attempt to make use of the fact that the person to be killed, unlike the standard innocent threat, is using what is mine. I then presented Brody's criticism, i.e. showing that someone need not support someone merely in order to save a life does not show that he need not support for a different reason i.e. rather than kill. I argued that Thomson's Argument I applies to cases where there is no injustice in the way the person is introduced into someone else's body. I also showed the degree to which Thomson and Brody could share a common perspective that residence in someone's body must be justified. I then considered 4 objections to Brody's argument. I concluded that his criticism is successful against Thomson's Argument I, as it stands and even against a modification of it.¹ Brody's criticism shows that Thomson's

¹By "as it stands" I mean, e.g., that it is not presented in combination with the explicit premise that there is no morally significant difference between killing to terminate support and letting someone die to begin with. By "modification" I mean the way Objection 4 to Brody's argument modifies Thomson's argument.

Argument I does not show how we can justify the leap from the premises:

(1) I needn't share my body merely to save a life, and (2) If there is no killing, then I will do what it was agreed I needn't do merely in order to save a life, to the conclusion: I may kill to end someone sharing my body. Brody's criticism shows that she does not justify the leap because (a) she does not show how not having to support for one reason (to save a life) bears on not having to support for another reason (to avoid killing), and (b) she does not show why we can kill to correct situations the existence of which are wrong/unrightful, at least natc. She does not show this, because she does not show why we cannot be required to, e.g., support merely in order to save a life, rather than kill, even if we need not support merely in order to save a life.

Since Thomson's Argument I, as it stands, seems to be insufficient to justify killing in the cases of interest to us, we must consider other ways in which killing can be justified. These other ways may, or may not, use premises (1) and (2) (above) of Thomson's Argument I to reach the conclusion that we may kill.

CHAPTER III

In Chapter II, I argued that the basic principle at the heart of Thomson's Argument 1, was that it is not unjust to kill the violinist "because he has no right to be there merely in order to save his life." I presented a criticism based on one that Brody presents, which asks why, if we agree that he has no right to be there merely in order to save his life, this should mean that he has no right to be there rather than be killed. That is, if we needn't support someone in our body for one reason, why should we think that this shows that we needn't support him for another reason.

One answer which Thomson suggests to a Brody-type argument is made in her second paper "Rights and Deaths." The crux of this response is as follows: If I needn't do something merely in order to save someone's life, I needn't do it rather than kill him to stop doing it, because there is no significant moral difference between killing someone and letting him die, when all other factors besides killing and letting die are held constant. I will not discuss this suggested response in detail here. This is in part because I think Thomson's analysis of the question of whether killing is morally more objectionable than letting die is inadequate. But also because cases which I will present below in connection with further consideration of Argument 1 indicate that it is either (a) not true that there is no moral significance to the difference

between killing and letting die, per se, or to the presence of killing as opposed to letting die, in which case Thomson's response to a BTP would be wrong, or (b) there is some other morally significant difference between the cases where we do not start life support and where we kill to terminate it, in which case Thomson's response to a BTP would be insufficient.

In this chapter I will present three different ways, in addition to discussing whether killing is morally equivalent to letting die, in which Thomson's papers suggest that we might try to answer a BTP by showing that killing in the violinist case is justified. The first is simple self-defense. The second and third ways involve defending the particular thesis that if we needn't do something in order to save a life then we needn't do it rather than kill to stop doing it. In particular, the second involves the claim that killing is nothing but a denial of life supporting aid and therefore is permissible. The third is that we may deduce the permissibility of killing in the violinist case, because we needn't support someone in our body even to save their life, from the permissibility of killing in other cases. I examine in detail why killing is not unjust in these other cases and I examine the role of "it's mine" in making killing permissible. I claim that all these three approaches are inadequate to justify killing in the violinist case. The failure of these approaches leaves Thomson's claims about when we can kill unproved. It does not show them to be wrong, however. I then consider exactly when Argument I predicts

that killing is not unjust and is permissible. I show that at least some of its claims about when killing is not unjust and when it is permissible are wrong. I conclude that these counterexamples show that it is not always permissible to kill to stop use of what we wouldn't have to give (either as a matter of right or decency) merely to save someone's life, I claim that this is because the cases show that either (a) the fact that a killing takes place makes a morally significant difference, and we must do more to avoid killing than to avoid letting die, or (b) because some other factor besides the presence of killing -- though perhaps still reflecting on whether killing differs from letting die per se in a morally significant way -- is present when we kill to stop support and is absent when we let die to begin with.

A. The first additional way suggested by Thomson to justify killing in the violinist case is simple self-defense.¹ At one point in "Rights and Deaths" she defends killing on the grounds of simple self-defense, not making reference to the peculiarities of the violinist case in particular. She discusses the permissibility of intentionally killing "innocent" children -- the case she gives involves active children -- who are threats. She suggests that when someone in one's body is an innocent threat to us we may

¹Sometimes Thomson just seems to assume that the violinist case presents intuitively clear case of permissible killing and no justification is needed.

likewise kill, even intentionally. This sort of defense raises all the questions I have discussed in Chapter II, in particular how we decide how large a threat must be before we allow killing in self-defense. It does not emphasize the fact that one's own property is being occupied by the threat, that the threat is benefiting from this residence, and it does not give a crucial role to the principle at the heart of Argument I i.e. that one needn't support someone merely to save his life. I will put aside discussion of the simple self-defense argument to see if something better can be found.

B. The second additional argument suggested by Thomson's papers claims that we may kill when killing just consists in stopping aid which we needn't give even to save a life: we are only taking away use of what belongs to us in doing this, and the person dies because of lack of support (not trauma of removal). The trouble with this argument, in addition to the fact that we are not told why taking away use of what is our own is not impermissible when it does lead to someone being left open to a threat of death, is that it does not apply to cases where we directly attack the person who is getting life support and kill him in order to remove him. Thomson is willing to allow that a direct assault on someone with death intended as a means (not mere detachment) is permissible. The defense of killing in this way could not depend on the factors emphasized in this justification of killing.

C. The third additional way suggested by Thomson's papers to justify killing in the violinist case is to simply deduce the right to kill in that case by proper steps from cases where there is assumed to be no doubt that one can kill. I will present a detailed analysis of these other cases which Thomson presents in her first paper ("A Defense of Abortion") and the transitions between them. I claim that this analysis shows that such a deduction is suggested, but that it fails.

Thomson tries to show that in some cases the fact that someone is using what is mine gives rise to a right to kill him when this right would not exist if he were not using what is mine. In particular, when a threat of a certain size by itself would not give a rights enforcer a right to kill, the fact that the threat occurs to someone by way of the use of what is his will give a third party a right to kill. From these cases where we are supposed to agree killing is permissible, Thomson tries to show that we can kill in the violinist case. Argument I merely asserts that when someone has a prior claim to his body, even when someone else needs it for life, we may kill to stop the use of it. It seems to me that the cases she presents and the transitions between them indicate that she tries to show that we can kill to stop use of the body to which we have a prior claim, even if someone else needs it for life, because in other cases where it is agreed that we can kill, the reason we can kill is that someone has a prior claim to what belongs to him, even if someone else needs it for life. Since the cases

from which she wishes to deduce the permissibility of killing in the violinist case are not exactly like the violinist case - in particular they differ with respect to the size of the threat facing the person - she must isolate some factor which makes killing permissible in those cases which they do share with the violinist case. So in looking at the other cases it will not be sufficient to see whether killing is permissible there. If they are to be evidence for the permissibility of killing in the violinist case, we must see what principle permits us to kill in those cases. In particular, I claim that these other cases are supposed to be taken as evidence for the view that when we know that we needn't support the violinist in our body solely to save his life, we then also know that we needn't support him rather than not kill him. These other cases are supposed to be evidence for this, because these other cases are ones where we agree that killing is permissible and in these other cases the fact that we needn't do something solely in order to save someone's life is what implies that killing is permissible.

I will argue (1) that the difference which Thomson claims reference to "it's mine" makes to the permissibility of third party killings in the Baby Case, depends on more than "it's mine." Rather, it depends on someone having a non-overridden prior claim to the use of what belongs to him. (2) Someone might have a nonoverridden prior claim to what is his, without this making the difference to the permissibility of third party killings in the

Baby Case that Thomson suggests it has. It is quite possible to argue that having a non-overridden prior claim to something, even if someone else needs it for life, gives us a right to kill someone to stop his using it, without also arguing that the fact that someone is using what we have a non-overridden prior claim to allows third parties to do more in our defense than they could do when we are attacked by someone who isn't using what we have a non-overridden prior to. "It's mine" may make a difference to whether we have a non-overridden prior claim, without either it or the non-overridden prior claim making a difference to whether a third party can kill to help. (3) Someone can come to have a non-overridden prior claim to what is his in different ways. I claim that the situations in which someone has a non-overridden prior claim (henceforth NOPC) are different in the Baby and Coat Cases than they are in the violinist case. (4) I argue that even if the owner has a non-overridden prior claim to what is his when someone else needs it for life, this does not mean that he has a right to kill to stop use of what is his. So, showing that a NOPC exists will not show that a right to kill exists. In particular, pointing to the permissibility of killing in the Baby and Coat cases, where the owner has a NOPC, even if the non-owner needs it for life, is insufficient evidence for the permissibility of killing in the violinist case where there is also a NOPC. I argue that this is because killing in the Baby and Coat Cases may be permissible, at least in part, because of the size of the threat

which residence/use presents. Whether or not presence on my residence contributes to making a difference in how a third party can respond to the threat to me, the fact that he can respond to the threat by killing may be due to the size of the threat involved i.e. death. It is possible that if the threat presented by use of what belongs to me were lower, it might still be enough to give a NOPC, but not enough to merit my responding by killing. I argue that there is a tendency to think that the permissibility of killing in the Baby and Coat Cases shows that killing in the violinist case is also permissible because (1) In the Baby and Coat Cases the particulars of the situation are that a NOPC to the use of something exists when a threat which is agreed to be sufficient to merit the response of killing is present. (2) In addition, because the threat which leads to a NOPC in the Coat Case is one which it is agreed is sufficient to merit killing, there is a tendency to change the procedure on the basis of which we decide whether we may kill, from NOPC being added to the threat, to NOPC being used alone. This may give the impression that the permissibility of killing is due simply to someone having a NOPC, as opposed to being crucially dependent on the size of the threat which helps give rise to the NOPC. I conclude that on the basis of the evidence of the other cases, we cannot assume that there is a right to kill to stop use of the body just because there is a NOPC to the body when someone else needs it to save his life. One must show that the threat of the use of one's body, like the threat of death, merits the defense of killing.

I will begin by examining in more detail each of the cases which Thomson presents and also those her discussion suggests. I have arranged the cases in a logical order which makes clear the deduction I claim can be discerned.

The first case Thomson presents is the Baby Case (henceforth BC1). In this case a baby and another person are both in a house, which belongs to neither. The baby is expanding rapidly and threatens to crush the other person to death. Thomson claims that the person threatened (the first party himself) can kill the baby simply on grounds of self-defense. But, possibly, a third party -- both ordinary third parties and rights enforcers -- should abstain from choosing sides, because both the baby and the person threatened are innocent.

In a second Baby Case (BC2) suggested by Thomson, the baby expands in a house belonging to the person fatally threatened by the expansion. The person threatened can say of the house "It's mine." Thomson claims that this makes a difference to what a third party may do. He may kill. It also makes a difference to what a rights enforcer ought to do. He ought to kill the baby to protect the owner.

I note the following about these cases: (1) If either (a) a third party/rights enforcer could/should kill in BC1, or (b) he still may not kill in BC2, "it's mine" would not make the difference that Thomson claims it does. (2) If Thomson is right and a first party can kill in BC1 and "it's mine" makes a difference

to what a rights enforcer can do, "it's mine" will also make a difference to what the first party can do, in the following way: If a first party could kill even when he couldn't say of the house "it's mine," but a rights enforcer couldn't, this means that the baby, if he could, would have a right to defend himself against the self-defensive threat presented by the first party protecting himself. This means that the person would have a right to try to kill the baby, but he would not have a right to his death, if that was what was necessary to stop the life-threatening expansion. If a rights enforcer should side with the first party, this means the Baby has no legitimate grounds for responding to any attack on it (except possibly, the Hobbesian one.) So, if "it's mine" makes a difference to what third parties may do, it also makes the position of the first party stronger, even if there are no third parties around to help him.

(3) (a) In discussing BC2 Thomson emphasizes the fact that "it's his house." But "it's being his" (or "it's mine," being the general title of the thesis) would not make the difference she claims it does, if it were his, but despite this, the Baby had as much right to it as he did, at least at that time. It seems what must make the difference is that the owner has a non-overridden prior claim (NOPC) to what is his, with respect to the baby. That is, if the owner had a prior claim to what is his, because it was his, but this prior claim were overridden by e.g. the baby's need to be present, then it

wouldn't make a difference between BC1 and BC2 that the house belonged to the person threatened. "It's mine" may give someone a prior claim, but there must be a NOPC in order for "it's mine" to make a difference to what a third party can do.

(b) Furthermore, to the extent that we wish to point to a NOPC as a reason for the permissibility fo killing the Baby, as a reason for removing him from the house, we should not use "NOPC" simply to mean that the owner has a right to have his house to himself and so has a right to have the Baby removed. Sometimes it seems as though Thomson uses "having a just prior claim" to mean that the owner has a right to have what is his taken away from someone else or has a right to have the non-owner removed, i.e. she uses it as if it meant that he has a right to have what is his, even if it means taking it away/removing someone who already is using it. Sometimes, she applies prior claim to situations where the question is whether someone else has a right to start to have what belongs to someone else, i.e. she says the owner need not give what is his because he (the owner) has a just prior claim to it. (Or, what amounts to the same thing, he need not let continued use just because someone else needs it.)

I shall use NOPC, in such a way that it does not assume that if someone has what is mine it can be taken away from them, even if I wouldn't have to give it to him to start with and even if the reason he can continue to have it is not merely that he needs

it. I use NOPC to mean that when what is mine (as opposed to manna from heaven) is not in my, or anyone else's, possession, then if it is to be given to someone, it is to be given to me. I call this the distribution sense of NOPC.

(c) We may consider how there comes to be a NOPC in the BC2. A tentative suggestion is that since (1) the house belonging to the person ("it's mine") gives him a prior claim to it, and (2) the baby who is/would be in the house has no need, to start with, to be there (i.e. no HLN or any other need satisfied by coming into the house), and (3) the baby would present a fatal threat to the owner if he was in the house, therefore, (4) the owner's prior claim is not overridden and he has a NOPC. That is, if someone who didn't need to use your house would present a fatal threat to you if they did use it, he has no right to start to use it. I say this is a tentative suggestion of how the NOPC comes to exist in this case and I will return to the question below.

(4) According to Thomson, the BC2 shows that "it's mine" (via having a NOPC) makes a difference to whether someone (a third party) can kill. Even if this is true, we should carefully distinguish between (1) "it's mine/NOPC" makes a difference to whether someone can kill, and (2) "it's mine/NOPC" is the reason for the permissibility of someone (e.g. third party) killing. So far as Baby Cases 1 and 2 show, the reason the third party can kill in BC2 is that the house belongs to the person, he has NOPC to it and the

baby presents a fatal threat to him. "It's mine" may make a difference, but "it's mine + (added to) fatal threat" is what makes the killing permissible, so far as BC1 and 2 lead us to believe. We already (assume we) know that the first party in BC1 could kill in response to the fatal threat, and in BC2 the third party gets the right to do what the first party could do, to the same threat.

(5) I said that Thomson claims that "it's mine" makes a difference to whether a third party can kill in the Baby Cases. I said it would be better to think of her as saying that having a NOPC makes a difference to whether a third party can kill in the Baby Case. I suggested how it is that "it's mine" would contribute to giving someone a NOPC.

It is important to note that in all this two separate questions are being raised: (A) Does (and how does) "it's mine" give someone a prior claim and a NOPC; and (B) Does having a NOPC make a significant difference between the two Baby Cases as to what a third party can do. It is possible to believe "it's mine" contributes to someone having a prior claim and a NOPC, without believing that a third party can act any differently in the two Baby Cases. For example, someone might believe the answer to (A) is Yes and believe the answer to (B) is No, because they believe that a third party may respond to an attack on the person in BC1 by killing the Baby just as he may do in BC2. A fatal attack on someone, regardless of whether the attacker is an innocent

threat, should put a rights enforcer on the side of the person attacked. Or someone, might believe that if a third party could not kill the Baby in Case 1, when he presents a fatal threat, there is nothing else that the baby could do in addition to threatening death (including residing on someone else's property) which would raise the ceiling on what a rights enforcer could do to him in the way of a response.

So it is possible to believe the answer to (A) is Yes, and the answer to (B) is No. (It is even possible to believe, (C) that a rights enforcer gets a right to kill someone in order to stop his using what the owner has a NOPC-to,-even-if-someone-else-needs-it-to-save-his-life, without also believing that the answer to (B) is Yes, so long as one believes that (B) is false because the rights enforcer can also kill in Baby Case 1.)

In summary, I have argued that the claim that "it's mine" makes a difference to my having a prior claim and a NOPC to what is mine, is separate from the claim that use of what's mine will increase what a third party can do in my defense when I am under attack. I have argued that if "it's mine" were to make a difference to what a third party can do, it would be because there is also a NOPC. If having a NOPC made a difference this would only mean that the NOPC in combination with the fatal threat, gave a third party the right to do what a first party could, even when no one was using what he had a NOPC to. I considered how we could explain that the owner had a NOPC, and I specified the meaning of NOPC in such a way

that it did not assume that someone could take away from someone else what he had NOPC to. It only means that if distribution of what belongs to someone is in question, the owner should get it.

This third case Thomson presents is the Coat Case. In this case someone has (innocently) put on my coat. We both need it to save our lives. Thomson claims that a rights enforcer may take away the coat from the other person and give it back to the owner, because the owner has a just prior claim to it.

Thomson sees the Coat Case (henceforth CC) merely as additional support for her conclusion in BC2. She doesn't note that it is in any significant way different from BC2. But given the suggestion for how the owner comes to have NOPC in BC2, it may, at first, seem that it would be more difficult to justify the owner having a NOPC in the CC. This is because in the CC the non-owner needs the coat to save his life to begin with. In the BCs the baby had no original need to save his life by the use of the house. Greater need would provide greater justification and greater justification for use might make killing more difficult.¹

But on second view, it may seem that there is no significant difference between the cases, since the baby in BC1 winds up

¹While this suggested relation between greater need/greater justification for use, and greater difficulty in justifying killing seems plausible, we shall see that it is not true. In Chapter 5, I show that the greater the need/the greater the apparent justification for use, the easier it is to show that killing is not unjust in cases of interest to us.

having a need to stay in the house, a need which is a matter of life and death, given that the only way to remove him is to kill him.

The fact that Thomson sees the Coat Case as merely additional support for BC2, implies that she sees the question of the owner's NOPC being decided in the Baby Cases and in the CC in a situation where both owner and non-owner have equal needs to what belongs to one of them i.e. it is a matter of life and death for both. The fact that the baby's life need to stay in treated like the ALN need in the CC supports the view that the fact that no need was present to begin with is not of significance in deciding what should be done in the case where killing is necessary to remove someone. This is in keeping with what I said in Chapter II. I noted that whereas Thomson's paper raises the question of whether we can kill to stop doing what we needn't do to save a life, there was another question which might be raised, namely, whether we might be able to kill to stop doing what we would have to do if someone needed it to save his life when someone doesn't actually have a HLN/ALN need that serves as a positive reason. The conclusion was that negative reasons count as well as positive reasons. The fact that the Baby's life need is treated in this respect like an ALN, may lead us to overlook the fact that there is ALN satisfaction in the Coat Case and none in the Baby Cases.

This suggests that the analysis provided above of how the owner comes to have a NOPC in the BC2 was insufficient, since it did not weigh a life need of the baby against the fatal threat

he presents to the owner. Since our notion of NOPC involves deciding how we would distribute the use of the house to start with, but the life need of the baby only arises when the means of removing him come into the picture, it seems that the permissibility of third party killings may depend on figuring out if a NOPC would have existed if the baby had had an ALN before entering. Once we consider the baby's life need, we see the owner's NOPC as arising because (1) the owner has a prior claim to what is his, and (2) the fact that the baby would need to be there to save his life (if he had HLN) would not override the owner's claim, if the baby's presence would cause the death of the owner.¹

Likewise in the Coat Case the owner has a NOPC because (1) it's his coat and so he has a prior claim to it, and (2) the

¹I am assuming only that the NOPC is a necessary condition for the permissibility of killing, not a sufficient one, in the sense that if we had to save someone -- take in the baby -- when he presented a fatal threat -- we couldn't kill him to remove him when he had no HLN/ALN, and if we didn't have to save him in these conditions, then maybe we can kill. I am not saying that we can kill because we needn't save. This is the question still to be decided. Furthermore, one should not confuse the two senses in which someone might claim that a NOPC is a necessary, if not sufficient condition, for the permissibility of killing. The sense intended here is that if we had to save i.e. if the owner's prior claim were overridden by the other person's life need, even when they presented a fatal threat, we could not kill to stop the use of the thing in question even if there is no actual ALN. This is to give the negative reason as much weight as the positive one would have had. The second sense in which someone might claim that NOPC is a necessary condition for the permissibility of killing is the one represented by the claim that the third party could not kill in the Baby Cases if the owner did not have a NOPC i.e. it is what distinguishes the BC1 and BC2.

HLN/ALN of the non-owner will not override the owner's claim, when the owner also needs the coat to save his life. So, in both Coat and Baby cases "it's mine" does make a difference to who has a prior claim and a NOPC to something. If the coat belonged to neither person and they both had an equal need to have it, it would be a toss up to who should get it.

One apparent significant difference between the Coat and Baby Cases--the apparent absence of life need on the part of the baby--was found to be non-existent. But there are other differences between the cases.

(1) "It's mine" was not necessary for first party killings in the Baby Cases. But it is important for first party as well as third party killings in the CC. After all, if the coat did not belong to the person, and he did not have a NOPC to it, he himself, let alone a third party, would not have a right (outside perhaps, of a Hobbesian right) to take it away from the person who put it on. So, if killing is permissible, "it's mine," via a NOPC, will play a part in making it so in the Coat Case.

This difference between the Coat and Baby Cases is due to the fact that in the Baby Cases the threat against which the first party can defend himself (death) comes by way of imposition on the person himself, whereas in the Coat Case the threat against which he can defend himself results from his being deprived of his coat.

(2) Reclaiming sole possession of the house involves an attack on the baby, with his death as a consequence. Reclaiming

the coat involves no attack on the person, one takes away the coat and the person dies as a result of the threat from which the coat protected him. For reasons given in Chapter II I do not wish to claim that this is not a killing. Still it is different from an attack.

(3) In the CC, because of ALN satisfaction, the non-owner who dies if the coat is taken away, loses only the benefit he gets from having the coat (given that he wouldn't have been alive without it.) In the Baby Cases, because there is no ALN the baby who dies does not lose any benefit he got from being in the house.

(2) and (3) may make it easier to conclude that a third party can take away the coat than that the baby can be killed. (Here I will not say why this is so, e.g. why losing only the benefit of use of the coat makes taking it away easier, only that it may be so.) On the other hand (1) may make it easier to conclude that the Baby can be killed, than that the Coat can be taken away. In conclusion, while I think it is possible to argue that when two people's lives are at stake (as opposed to some less but equal loss confronting both) ownership ("it's mine") should not matter, I will assume that Thomson is correct in thinking that in the CC as she describes it, the owner of the coat has a NOPC (in the distribution sense that I described above) even if the other person needs it to save his life. I will also assume that a third party/rights enforcer can take away the coat.

But what happens if we modify the case somewhat, so that it becomes more like the Baby Case? Suppose we modify it as

follows: (1) we have to attack him to get the coat away and this attack kills him. That is we make it more clearly a killing. Suppose first and third parties can kill in this case also. (The justification which might be given for taking the coat away originally, namely, we're only taking away what belongs to someone else, will not be available when there is a direct attack, so a different justification would have to be found.) What happens if we modify it further as follows: (1) we eliminate HLN/ALN satisfaction, so that the other person having my coat provides him with no benefit at all. It is just stuck to him, and (2) we have to attack him to get the coat away and this attack kills him. Because there is no HLN/ALN satisfaction he does not lose only the benefit of having the coat. In this second modification of the CC, the owner would still have a NOPC (in the distribution sense, i.e. if the coat were in the hands of neither party and if the owner needed it for life the rights enforcer should give it to him.) Eliminating the ALN would not give the non-owner any greater right to it when distribution is at issue, than he had when ALN was present, reducing his need does not put him in a stronger position. If, as in the Baby Cases we decide NOPC by transforming the life threat of being killed into a hypothetical HLN/ALN, this just leaves the two people in the same position they were in with respect to NOPC in the original Coat Case, i.e. the owner still has NOPC.

Despite the owner having a NOPC to something which he wouldn't have to give someone even if the other person needed it to

save his life when the owner also needs it to save his life, it does not seem that anyone can kill the nonowner to get the coat back to the owner who needs it to save his life, in this modified case. That is, if someone, whose life is not being saved, innocently is in possession of what belongs to us, and what we need to save our lives, no one may kill him to get it back to us, even if it is something we would not have to give the other person when he needed it to save his life and we needed it to save our life. This is the first clear instance we have come across where the owner has a NOPC when the other person needs it for life, and yet we may not kill to take it away from the other person. (In the Baby Case, where there is no ALN satisfaction, as in the modified Coat Case, we may nevertheless kill. Once again, the difference seems to have something to do with the threat of death coming from imposition as opposed to deprivation.)

In summary, the Coat Case differs in certain respects from the Baby Cases. In particular, since it involves the threat of death via deprivation and not imposition (a) NOPC is necessary for both first and third party killings, and (b) no one can kill the user in a modified Coat Case in which the owner has NOPC (when someone else needs the coat for life) but the actual non-owner user gets no ALN-satisfaction. The Coat Case (unmodified) probably does not differ from the Baby Case, in so far as how the owner having a NOPC is to be explained, i.e. negative and positive sources of the non-owner's claim to use what does not belong to him are given equal weight.

The next case Thomson presents is the violinist case, in which someone is kidnapped so that a dying violinist may be put inside him, in order to save the violinist's life. The only way to remove the violinist is to kill him. If the violinist stays, the person whose body is used loses only sole use of his body for nine months, i.e. neither his life nor health are threatened. Thomson claims that both first and third parties (including rights enforcers) may kill to stop residence.

In discussing the Coat Case we, at first, suggested that it might be more difficult to justify killing and the owner having a NOPC in that case than in the Baby Cases, because the original need of the person for the coat was greater than the baby's original need. On second view, we suggested there was no such difference. But the violinist case does seem to be a case (and is intended to be seen as such by Thomson) where it may be more difficult to justify killing and more difficult to justify the owner's NOPC. It may seem to be harder to justify the owner's NOPC and the permissibility of killing because the person whose body is being used will not die if the violinist stays, but the violinist will die if he is removed.

Yet, still, according to Thomson, the "owner" of the body does have a NOPC to it, even if the violinist needs it for life itself, e.g. he needn't start to give support. And, again, "it's mine" gives a prior claim and contributes to a NOPC when someone

else needs it for life itself. In contrast, if the body that both the violinist and the other person needed to use were a third body, belonging to neither of them, the person with the strongest need would get to use it.

In the violinist case, the non-owner has HLN and ALN. I shall assume that his death would result from a direct attack on him, since Thomson explicitly denies the significance of the difference between detachment and an attack on an innocent threat resulting in death, even if we intend the death of the person. The threat (use of their body) against which the "owner" defends himself comes about by way of imposition, as in the Baby Case, not by deprivation, as in the Coat Case.

One question is whether first and third parties can kill in this case. Thomson claims they can. As noted, the reason she explicitly gives for this conclusion is that the person whose body it is is not obligated to give its use solely because the other person needs it for life and the "owner" loses only sole use of his body for nine months. That is, to use our formulation, she explicitly says it is not unjust to kill because the owner has NOPC.

The adequacy of this reason, which she explicitly gives was thrown into doubt by Brody's criticisms, discussed above, i.e. his question was why, because we needn't save someone's life with our body, this is a reason to think we can kill him to stop his use of it. Our point in discussing the other cases which Thomson

presents was to see whether these other cases support the claim that NOPC when someone else needs to use what is ours to save his life, is a reason for the permissibility of killing. So the question we are interested in is whether we can decide if killing is permissible in the violinist case on the basis of the (assumed) permissibility of killing in the Baby and Coat Cases. More specifically, we are interested in whether the permissibility of killing in the other cases shows that the presence of owner's NOPC to something even when someone else needs to use it for life itself, is a sufficient reason for the permissibility of killing in the violinist case.

In the other cases a NOPC to something, even if someone else needed it to save his life, was present, and because of it (it was claimed and we assumed agreement), in one way or another, someone was able to kill, i.e. in the Baby Case a third party got the right to kill because the owner had a NOPC. In the Coat Case, both first and third parties get a right to kill only because the owner has a NOPC [i.e. if the coat didn't belong to the owner and he didn't have a NOPC (in the distributive sense) no one could take the coat away to give to him.] There seems to be a constant conjunction of NOPC and a right to kill in those cases: when NOPC is not present, someone loses the right to kill, and when it is present, someone has a right to kill. In the violinist case, we also have a NOPC. Can we kill the violinist because of it?¹

¹Note that if a third party can kill in the violinist case because the "owner" has a NOPC, and yet he cannot kill in BCl,

Our claim is that it is an open question, on the basis of previous cases, whether we can kill in the violinist case. The crucial insight behind this claim is that it is possible that some threats are large enough to give an owner a NOPC (in the distribution sense) to his thing when someone else needs the use of it for life saving purposes, but not large enough to give a right to kill. For example, I have a NOPC to my \$1,000 even if someone else needs it for life. But if someone has innocently come by my \$1000 (whether or not he needs it for life in the sense that he has ALN) no one has a right to kill him to get it back to me. Since, in both Baby and Coat Cases the threat to the owner was death (a larger loss than mere use of one's body for nine months) we cannot be sure, on the basis of the previous cases, that the permissibility of killing does not depend on this particular size threat being present. The facts that (a) this threat of death may contribute to someone having a NOPC, that (b) the threat of death by itself without NOPC, will not give rise to the permissibility of some killings and that (c) killing is permissible when there is a threat of death and a NOPC, do not mean that any threat which gives rise to a NOPC will also give rise to a right to kill via the presence of a NOPC.

All this will become clearer, and we will see how the slip from the owner's NOPC to what is his even if someone else needs it for life, to a right to kill, comes about, if we examine more closely

Thomson's argument leads to the seemingly odd conclusion that a rights enforcer may protect us from having our bodies used against our will, even though he cannot protect us from the threat of death.

what we mean when we say that "someone can kill in the Coat and baby cases because there is a NOPC."

(1) In Thomson's discussion she moves from the first Baby Case, where the threat of death appears by itself, to the second Baby Case where "it's mine" was added to the presence of a fatal threat, in order to give a third party a right to kill. It was not "it's mine" alone which was supposed to make third party killing permissible, but "it's mine + threat of death." To say of Thomson's discussion that it shows that the third party could kill because "it's mine" is misleading, if it leads to taking part of the reason for the permissibility of killing for the whole reason, where this whole reason includes the threat of death.

I said that for "it's mine" to make a difference between first and second Baby Cases it would have to give rise to a NOPC. I considered how someone comes to have a NOPC to his house in the Baby Case 2. Showing how they did have a NOPC itself involved considering that the owner should face a fatal threat if the baby did use his property. That is, if the baby presented no threat to the owner, except the loss of sole use of his house for a while, it is possible that the owner would not have NOPC. We considered the threat to the owner in determining whether there was a NOPC. But the overall logic of showing that the third party could kill in the BC2 when he couldn't kill in the BC 1 was still to show that NOPC when added to a fatal threat gave rise to a third party right to kill. (The threat of

death alone gave rise to the first party's right to kill.)

(2) If we used the same overall logic in arguing for the permissibility of killing in the Coat Case as we used in the Baby Case we would show how the owner had a NOPC and add this fact to the threat of death to show that we can kill. (In the Coat Case, NOPC is necessary¹ for both first and third party killings as explained above.)

(2a) So first we would consider how to explain the existence of a NOPC. The NOPC in the case of a coat, unlike in the case of a body, probably wouldn't exist if the threat to the owner were merely the loss of sole use of the thing itself, if the other person needs it for life itself. (That is, in the case of the body, simply losing sole use of it would give a NOPC, but simply losing sole use of a coat wouldn't.) The owner would only have a NOPC (in the distribution sense) when the other person needs it for life if a further threat to the owner accompanies use, besides mere use.

The actual threat in the Coat Case is the threat of death. (By this I do not mean to deny that some other threat associated

¹"Necessary" both in the sense that if we had to save someone we couldn't kill him, and also in the sense that if we didn't have a NOPC to the coat and faced the same threat from the other person's use of the coat, by way of deprivation (i.e., we would die if we didn't get the coat), we couldn't kill him.

with the use of the coat would not lead to a NOPC. Quite the contrary, as will become clearer.) So the use of his coat, added to the threat of death yields a NOPC, even if the other person needs it for life. Recall, the overall logic of the Baby Case was (a) NOPC, even if the other person needs it for life + (b) threat of death yields (c) third party's right to kill. The logic we have just described -- and which may also describe the logic of NOPC in the Baby Case -- is (a) "It's mine" + (b) threat of death yields (c) NOPC, even if someone else needs it for life.

(2b) If we followed the overall logic of the Baby Case in the Coat Case to establish a right to kill we would add NOPC, once established, to the threat in the case (death) to get the right to kill, i.e., NOPC, even if someone else needs it for life + threat of death, yields right to kill.

But this procedure may seem redundant, because the same threat of death was already used to determine that there was a NOPC. That is, we are already aware of this factor in the situation. This factor may have two functions, i.e. (a) as a source for a NOPC and (b) simply as a threat, but if we are already aware of it in one function, it might be suggested, that we can condense the decision procedure. So, instead of using the model NOPC (even if someone needs it for life) + threat of death yields right to kill, we may simply use NOPC (even if someone needs it for life) yields right to kill.

That is, the suggestion is that: In the Baby Cases we have (a) NOPC (even if someone needs it for life) + threat of death yields rights to kill (to a third party). To determine NOPC in the Coat Case we have (b) "It's mine" + threat of death yields NOPC even if someone needs it for life. (Henceforth, I shall assume, "even if someone needs it for life" is included in NOPC, unless otherwise mentioned.)

To apply the Baby Case model in the Coat Case would seem to involve a redundancy, i.e., the threat of death appears twice.

(c) NOPC + threat of death yields right to kill
 ↑
 (threat
 of
 death +
 "it's mine")

So we could eliminate consideration of the threat of death where it stands separately, leaving us with:

(d) NOPC yields right to kill.
 ↑
 (threat
 of
 death +
 "it's mine")

From this, the further condensation:

(e) NOPC yields right to kill

may suggest itself. In part, there is a tendency to suggest this further condensation because we still have in mind the overall logic of the Baby Case, where it didn't really matter how a NOPC to what

was ours came about, i.e., what threat size leads to a NOPC, because in any case we shall be adding the NOPC to the threat of death considered separately (since it was separate in Baby Case 1). If we forget that we will not be adding the threat separately just because we think it already appears in how NOPC comes to exist, then we will leave explicit mention of it out of how NOPC comes about, also.

The switch in overall logic from (a) to (e) is innocent enough in the Coat Case, because we know that the threat which produced the NOPC is the threat of death, so we are not likely to make the mistake of taking the general category "NOPC", independent of the factors through which it arises in the particular case, as the reason which justifies killing. The Coat Case does not show that we can kill in any case where there is a NOPC, only that we can kill where there is a NOPC, because there is a threat of death to the owner in the other person's using it. That is, we can kill because he has NOPC in a situation where the threat of death is involved. A Coat Case, in which we have to decide whether we can kill when the threat presented by the use of what is ours, by itself, is so small that it must be combined with the additional threat in the case, to give a NOPC, may seem deceptively like cases in which we decide whether we can kill by looking only at NOPC, where the mere use of what is ours is large enough to give a NOPC. It appears that we do not add the weight of the threat of death to the NOPC to see if killing is permissible, but only consider NOPC, in both cases. But in the former (Coat Case)

Cases, where first party killing can arise simply from the presence of the threat, and hence where the significance of the fatal threat stands out alone.) Using the shorthand "NOPC yields right to kill" will be innocent enough when there is evidence that the threat which produces the NOPC, e.g., threat of mere use of the body for nine months is, like the threat of death, significant enough to merit killing (alone or in combination with NOPC). But it is dangerous to substitute NOPC (the category) when we don't have evidence that the threat which produced it is large enough (alone or in combination) to merit killing. And this is what is the case with the use of the body, so far as we know from Thomson's discussion. It isn't that the threat of the use of the body isn't large enough to merit killing. It is just that Thomson never gives us evidence to believe that it is large enough to merit killing. The previous cases don't supply the evidence, since they only deal with the fatal threat. The only other evidence that use of the body for nine months is a large enough threat to merit killing that Thomson suggests is that we needn't let someone use our body merely in order to save his life, i.e., we have a NOPC. But whether this is in fact evidence that we can kill is what is at issue. We were trying to see, on the basis of the previous cases, and in the light of Brody's criticism, if having a NOPC was evidence for the permissibility of killing. But there is no evidence from the previous case that whenever we have a NOPC, regardless of the size of the threat through which it arises, that we have a right to kill.

Therefore, we fail in our aim to deduce from previous cases the correctness of the principle that when you have a NOPC to your body, then it is not unjust to kill to stop use of the body. Equally, we fail in the aim of showing, on the basis of previous cases, that it is not unjust to kill to stop use of our body for nine months.

In summary: I have argued that "It's mine" may make a difference to the permissibility of third party killing in the Baby Case, but that whether it does or doesn't is independent of whether "it's mine" makes a difference to having a prior claim. In both Baby and Coat cases "It's mine" would be, or is, a significant element in the permissibility of killing (third party killing in the Baby Case, first and third party in the Coat Case), only if it is associated with a NOPC to what is mine. Further, if "it's mine" does make a difference, the permissibility of third party killing will be based on a NOPC being added to the fact that a threat of a certain size (death) is present. (The latter, by itself, gives first parties the right to kill, or to try to kill, in the Baby Case.) Because in the Baby and Coat Cases, the NOPC to what is mine itself arises in a situation where something is mine and the size of the threat is death, there may be a tendency to derive a right to kill from NOPC by itself, rather than NOPC + threat of death. But a NOPC, which may be a necessary condition for these killings, may arise via a threat not large enough to make killing not unjust. So it is possible that the particular size of the threat is important in determining if killing

is not unjust, not merely the fact that we have a NOPC. Therefore, we must check to see if the size of the threat (in conjunction with the use of what's mine or not) is sufficient to permit killing, as well as whether it leads to a NOPC. The fact that in the Baby and Coat Cases, with their particular threats, a prior claim and a right to kill appear simultaneously, does not mean that a right to kill which did not otherwise exist would always appear when a NOPC did. In the violinist case, "it's mine" is supposed to lead to a right to kill just in virtue of there being a NOPC. The previous cases do not support the notion that all NOPCs give a right to kill. Further, it is the threat of use of the body, not death, which gives rise to this NOPC, so the previous cases are not direct evidence that the threat of use of the body is sufficient to merit killing. And finally, consideration of the principle, "if we have a NOPC to something when someone else needs it for life, then we may kill" is not evidence for the use of the body meriting killing, since it is this principle which we are trying to prove.

The primary point in this discussion has been that on the basis of previous cases, we have no reason to think that killing is not unjust when the threat presented is less than death. This is because previous cases do not show that whenever there is a NOPC, even if someone needs it for life, there is a right to kill and they do not show, in particular, that when there is a NOPC and a threat of the use of one's body, that killing is not unjust.

(D) A BTP against Thomson's argument did not show that we could not kill in the cases where Thomson's argument says we can kill. It only showed that Thomson's Argument had not shown that or why we could kill. We failed to deduce the non-injustice of killing in the violinist case from the non-injustice of killing in previous cases, and we failed to show that these cases provide evidence for the principle that if one needn't support someone in one's body, merely in order to save his life, it is not unjust to kill to remove him. Like the BTP, the failure to have evidence from previous cases, does not show that we may not kill in the cases in which Thomson's Argument says we can kill. It only shows that we have not yet been given evidence for thinking that we can.

I will now present cases where, I claim, it is clear that we may not kill, and yet Thomson's Argument I predicts that we may kill. These cases extend further the insight which led us to question the validity of the deduction via previous cases, i.e., that there may be cases where the owner's losses are great enough to give a NOPC, and yet not great enough to permit killing. Because Thomson's Argument I predicts that we can kill when we can't, we cannot trust its prediction about the violinist case. Unlike Brody's criticism, which does not entail that Thomson's argument ever actually predicts that we can kill when we can't, -- only that it doesn't explain why we can kill, even if we can, -- this new criticism of Thomson's Argument shows that it predicts that we can kill when we can't.

I will first reexamine Thomson's Argument I, to see when it predicts that we may kill. I will argue that while the use-of-body cases that Thomson employs to illustrate her argument involve ALN-satisfaction, Argument I predicts that killing is not unjust in non-ALN cases also. I consider two interpretations of her Argument, both of which predict we can kill in non-ALN cases, as well as ALN cases, and I give reasons for choosing one as the correct interpretation. I argue that Thomson's Argument I predicts that killing is not unjust, for the same reasons, in body support cases where not only may the reasons for the non-injustice of killing differ, but where our decision about whether killing is not unjust may also differ.

I then argue that the Argument applies not only to non-ALN cases but to cases not involving bodily support. I claim that because it applies to non-ALN cases where far less effort is involved than the use of someone's body, it predicts that killing is not unjust when it is unjust. I then discuss Thomson's claim that killing may be not unjust and still be impermissible because it would be indecent not to help someone. I show that even with the addition of the Decency Constraint, Thomson's Argument I still predicts that killing will be permissible in (a) non-ALN cases where it will be unjust, and hence also impermissible, and (b) in ALN cases where it will be impermissible, even if not unjust.

These are cases where it is permissible (just and not indecent) not to begin aid and yet one may not kill to terminate aid.

I then consider the significance of the cases which are counterexamples to (Thomson's Argument I + the Decency Constraint). I claim that they indicate either (a) the presence of killing is not morally equivalent to the presence of letting die, per se, and that the fact that a killing is involved in terminating support makes a difference, or (b) that some other factor besides the presence of killing (which might be some factor which can be isolated from the definition of killing and introduced into a non-killing letting die case) is present when we kill, which differentiates between not starting aid to begin with, and stopping support. (If the factor is one which can be isolated from the definition of killing (or bears a significant resemblance to a characteristic in the definition of killing) then the truth of (b) will show that killing is not morally equivalent to letting die, per se, even if the presence of killing is not, per se, what makes a difference to what we can do.) Because the countercases show either of these two things, I argue that Thomson's response to Brody's criticism of her, to the effect that killing is not morally significantly different from letting die, when all factors are held constant, will not be an adequate reply, because it either is (a) wrong, or (b) insufficient.

1. As described above, the core of Thomson's argument is that it is not unjust to kill the violinist to stop the use of the

other person's body because the violinist has no right to use the other person's body merely in order to have his life saved.

The "because" in this argument is that of justification, i.e., it is supposed to provide us with a reason, an explanation for why we may kill the violinist. But it also implies a prediction as to when we can kill. It may predict successfully even if it does not provide an adequate explanation of why we can kill, e.g., even if it does not answer a BTP. Argument I predicts that we can kill someone to stop their use of the body, when they have no right to use it merely to save his life.

The violinist case Thomson uses to illustrate her principle involves ALN satisfaction, i.e., the violinist needs kidney support and his life is being saved by ALN satisfaction. But Argument I itself does not require that the cases to which it applies be ALN-satisfaction cases, i.e., Argument I does not say: "It is not unjust to kill to stop the use of the body because (when) someone has no right to use the body, merely in order to save his life and the body is saving his life." Argument I does not include the second conjunct.¹

¹In Chapter 2 I discussed why an objection to a BTP was incorrect. I said that supporting because one does not kill is not what Thomson takes to be a straightforward instance of saving a life. So when she says we can kill because we needn't support merely to save a life, it is not taken to be a straightforward instance of merely saving a life that we support because we do not kill. By saving a life Thomson can be taken to mean support providing ALN-satisfaction. I also said that the use of a case where ALN-satisfaction is

According to the most faithful interpretation of Argument I, (a) it applies to cases where someone is using someone else's body, but he does not get ALN-satisfaction. In fact, he may get no benefit from residence at all; (b) we decide if we can kill by seeing if someone is using what he would have no right to use, even if he had an ALN, even when he doesn't have an ALN.¹

actually going on, helps the assimilation between not starting support and keeping it going, which Thomson is eager to encourage, i.e., it makes clear that the person who starts support and the one who doesn't stop are both doing the same thing, i.e., saving a life. But this does not mean that the interpretation of Argument I which claims that it applies to non-ALN satisfaction support cases is not a fair interpretation of the Argument itself. So far as Argument I is concerned, all that is important is that we are doing what we needn't do (supporting) merely to save a life (i.e., merely to provide ALN-satisfaction). Understanding that "saving a life" (one of the terms in Argument I), means "providing ALN-satisfaction" does not mean that Argument I requires ALN-satisfaction to be going on in the case to which it applies. It is only in Argument I (discussed in detail in Chapter IV) where it is part of the argument that the person who starts support and the one who continues it, wind up doing the same thing -- providing ALN-satisfying support -- that ALN-satisfaction going on is necessary. So long as she is discussing Argument I, the use of a case where ALN-satisfaction is going on, is, strictly speaking, irrelevant to the Argument.

¹An alternative interpretation of Argument 1, would be that it predicts that we can kill someone to stop his using someone else's body, simply because (when) he has no (positive) right to be there, even supposing he would have a right to be there if he did have ALN. This interpretation is derived by taking the emphasis in Argument I to be on the fact that whatever reason the person actually has for being there, e.g., headache relief, is not strong enough to give him a (positive) right to be there, i.e., it takes the emphasis of Argument I to be that killing is permissible when the person has no (positive) right to be there. On this interpretation, the clause "merely to save his life" (and more so the original "even to save his life") only indicates a very great reason which does not give a positive right to be there, and which, therefore, can serve as an indicator of the fact that all lesser reasons will not give a right to be there. The permissibility of killing when someone who gets

So, if the violinist got only headache relief from being in the other person's body, he would still be using what he had no right to use, merely to save his life, and so, according to Argument I, we may kill him to stop his using it. Argument I therefore predicts (a) that killing will be as non-unjust in non-ALN cases as in ALN-cases, where the efforts we seek to terminate are equally strenuous, and (b) that killing will be not unjust, when it is, for the same reasons in ALN and non-ALN cases.

My first claim is that (a) in some body support cases, where the efforts we seek to terminate are equally strenuous, we will be able to give an argument to clearly show that killing in ALN-satisfaction cases will be not unjust, but we will not be able to show clearly that killing in non-ALN cases will be not unjust. The

headache relief is in our body, has nothing to do with whether we would have to let him stay in our body if he had HLN. On this alternative interpretation of Argument I, not only would the Argument predict that killing was not unjust in non-ALN cases, but it would predict that it was not unjust even if the person would have had a right to use the body to save his life, when he in fact has a lesser need, e.g., headache relief, and so in fact has no positive right to be there. I have already (Chapter II) suggested that one might make an argument for treating cases in which what originally brings a person to use someone else's property provides no justification for his using it, differently, in virtue of the unjustified origins. But, I concluded, it is more charitable to assume that if (suppose) we would have to save a life by the use of our body, then we could not kill to remove, even if the person's positive reason for residence was only headache relief. That is, if he has no ALN, consideration of the hypothetical ALN-need and what it would require from us, will serve as the basis for a negative reason for the right to stay, and hence for the injustice of killing. This would rule out the second interpretation of Thomson's argument. I shall ignore this interpretation henceforth.

second claim is that (b) the explanation of why killing is not unjust in ALN cases will differ from the explanation of why killing is not unjust in non-ALN cases. I shall present a defense of these claims in Chapter V.

I have argued that Argument I applies to non-ALN as well as to ALN cases where body support is involved. I have argued that Argument I predicts that killing to stop body support will not be unjust so long as body support is something the person would have no right to merely to save his life, and the person will have no right to it to save his life, even when it, in fact, doesn't save his life. I argued that contrary to what Argument I predicts, there may be body support cases where killing is unjust if there is no ALN-satisfaction but not unjust if there is ALN-satisfaction, and that the explanation of the justice of killing in ALN and non-ALN-satisfaction cases will differ.

2. As noted, I have argued that Argument I applies to non-ALN as well as to ALN cases, where the body is used. I will now argue that Argument I applies to cases where the body is not being used.

Argument I specifically refers to the use of the body, since it is developed in the context of the violinist case. But the only reason given for why we can kill to end use of the body is that it is something which the violinist has no right to use merely to save his life. This Argument should, therefore, predict that it will not be unjust to kill to stop the use of whatever (not just the body)

the person has no right to use merely in order to save his life.¹

If we combine the two points I have made about when Argument I predicts that killing is not unjust, i.e., (1) when there is no ALN as well as when there is ALN, and (2) when someone is using whatever I needn't give him merely to save his life, as well as when they use the body, we can see that Argument I predicts that killing will not be unjust in the following type of case: I do not have to give someone my \$1,000 merely to save his life. He has no right to have my \$1,000 given to him, even to save his life. Someone innocently comes to have my \$1,000 against my will. It does not save his life, in fact it provides him with no benefit at all. It is merely stuck to him, and the only way to get it back is by killing him. Argument I predicts that it is not unjust to kill him to get back my \$1,000, because he has no right to it even to save his life.

My third claim (c) is that, contrary to what Argument 1 predicts, it would be unjust to kill in this non-ALN \$1,000 case. A proportional theory of retaliation² would rule out such strong measures

¹This point, in combination with the alternative interpretation of Thomson's Argument 1 rejected above (pp. 154-5), leads to the conclusion that one can kill someone who is using anything of ours, e.g., our coat, when he has no (positive) right to use it. While killing in such cases would be unjust, and Thomson's argument, correctly interpreted, does not seem to me to imply this, I have recently heard someone give just this sort of case as an implication of, and hence, a reductio ad absurdum argument against, Thomson's argument.

²Sanford H. Kadish, "Respect for Law and Regard for Rights in the Criminal Law," 64. California Law Review, July 1976, pp. 871-901.

as killing to regain the \$1,000, and would require that the injured party suffer his loss if there are no less drastic means of correcting it than killing the innocent threat. So the claim is that the \$1,000 non-ALN case is one in which Argument I predicts that killing would be non-unjust in both \$1,000 non-ALN and ALN cases when it will be unjust in \$1,000 non-ALN cases.

3. Thomson says that Argument I shows when killing is not unjust. She says that sometimes it would be wrong to kill to stop the use of what is ours, even if it wouldn't be unjust, because decency, if not someone else's right, would demand that we let someone use what is ours. So, killing should be impermissible even if not unjust in some cases.¹

I claim that the conjunction of Argument I with (what I shall refer to as) this Decency Constraint, will still predict that we can kill in cases where it is both unjust and impermissible to kill. The argument to show this is as follows:

¹It is possible to argue that we should distinguish between the indecent and the non-unjust but impermissible. That is, some acts could be non-unjust and indecent and yet permissible; the non-unjust and impermissible acts, while they are indecent, are more than indecent. This is, in fact, that notion of impermissible but not unjust I will use in Chapter V. For purposes of this discussion I will assume the indecent and impermissible to coincide.

Thomson does not think that there is anything about killing to terminate life-saving support which makes it significantly morally more objectionable than not starting support to begin with. The evidence for this claim is: (a) if she thought there were some significant difference she would have considered it as a possible objection to her Argument I, but she doesn't, and (b) she explicitly argues in a second paper ("Rights and Deaths") that there is no significant moral difference between killing and letting die, per se. Therefore, cases in which she can decide that killing is not decent, even if it is not unjust, should involve efforts which will be such that it would also not be decent to refuse to start to make them to save someone's life.

But my fourth claim (d) is that there are cases where it would be permissible, i.e., both not unjust and not indecent, to refuse to begin life support, and yet impermissible -- either because it is unjust or because, while it is not unjust it is impermissible for some other reason -- to kill to stop providing the life support. That is, the efforts involved may lead to a NOPC to use of what belongs to us, but not to a right to kill to stop use of it by someone else.

For example, it is permissible¹ to refuse to give \$1,000 to save someone's life, but not permissible (because unjust and indecent) to kill him to get the \$1,000 back when he is not getting ALN

¹In this case, both not unjust and not indecent.

support from it. Furthermore, the fifth claim (e) is that even if, ignoring the point made above, we were to require the presence of ALN-satisfaction¹ in the cases to which Argument I is meant to apply, we would still find cases where it is impermissible to kill to stop efforts even if one didn't have to start them to save a life to begin with. For example, it is permissible -- in this case not unjust and not indecent -- to refuse to give someone \$1,000 to save his life, but it is not permissible (though not necessarily unjust) to kill him to get back the \$1,000 if it is saving his life.²

Finally, Argument I claims that if killing is not permissible in either of the ALN or non-ALN cases where less than body support is involved it will not be permissible in the other. But I claim (f) that this is not true, i.e., there will be ALN-satisfaction cases where killing is permissible (for example, not unjust and not indecent) when killing will be impermissible in non-ALN-satisfaction cases. (Again, the reason why this is so will be discussed in Chapter V.) That is, there will be cases where the efforts someone will

¹And even HLN prior to entry, i.e., there is no mere addiction to body support once support is begun.

²I will present my reasons for putting the \$1,000 ALN case in the category of impermissible but not unjust cases, in Chapter V. I think killing in this case is impermissible whether we take the indecent to coincide with the impermissible, or if we think there must be more than indecency to account for the non-unjust also being impermissible.

undergo if they do not kill will be great enough to make killing in ALN-satisfaction cases permissible, but still unjust in non-ALN cases.

The \$1,000 cases, both ALN and non-ALN, indicate that Thomson's Argument I (even with the Decency Constraint) predicts incorrectly when it is permissible to kill, both when it is not unjust to kill (\$1,000 non-ALN case) and when it is permissible to kill (\$1,000 ALN and non-ALN cases). It will be the case that one needn't -- both as a matter of right and of decency -- start to do something, even to save someone's life and yet it will not be permissible -- unjust or otherwise impermissible--to kill to stop doing it.

In summary, I have argued that: (1) Argument I predicts that killing will not be unjust in non-ALN cases when it is not unjust in ALN-satisfaction cases involving the same losses to the person who supports in his body. It also predicts that the explanation for the non-injustice of killing will be the same in both these types of cases. I claimed that (a) the non-injustice of killing would be clearer in ALN satisfaction cases than in non-ALN body support cases and (b) that the explanation of the non-injustice of killing in ALN and non-ALN cases would differ; (2) Thomson's argument predicts that killing will not be unjust in cases involving losses far less than use of someone's body, and, again that, killing in non-ALN and ALN

cases with these lesser losses will be equally just or unjust and for the same reasons. I claimed that (c) in some non ALN satisfaction cases killing will be unjust (e.g., \$1,000 non-ALN case), even when it is not unjust in the comparable ALN satisfaction case; (3) Thomson's Argument I + Decency Constraint predicts that killing is permissible (not unjust and not indecent) in cases such as the \$1,000 ALN and non-ALN cases. I claimed (d) that killing was not permissible in the \$1,000 non-ALN case or (e) in the \$1,000 ALN case. I also claimed (f) that when killing in some ALN cases will be permissible, it will not be permissible in the comparable non-ALN case.

So Argument I makes incorrect predictions about the non-injustice of killing and about the explanation for the non-injustice of killing.¹ Argument I + Decency Constraint makes incorrect predictions about the permissibility of killing and about the explanations of the permissibility of killing.¹

4. I noted above that the response Thomson makes (in "Rights and Deaths") to a BTP, involves the claim that there is no significant moral difference between killing and letting die, per se. (She takes this to mean that when all factors besides killing and letting die are held constant, then there will be no difference between cases where we

¹By "predicting incorrectly the explanation for the non-injustice (and permissibility) of killing" I do not mean to point to the sort of failure that a BTP draws attention to, but rather that the Argument predicts that the same explanation will be available for ALN and non-ALN cases.

kill and those where we let die. That is, Brody argued that we had no reason to think that just because we didn't have to support someone rather than let him die, that therefore we didn't have to support him rather than kill him. Thomson's answer is that whatever we needn't do rather than let someone die, we needn't do rather than not kill someone, since there is no morally significant difference between killing and letting die, per se.

The \$1,000 counterexamples, because they involve losses one wouldn't have to suffer to begin with, rather than let someone die, but do involve losses one would have to suffer rather than kill someone to stop suffering them, seem to indicate either that: (a) killing is not morally equivalent to letting die, per se and the presence of killing rather than letting die, makes a difference or (b) some other factor in the case where we kill to stop efforts, besides killing per se, is present, which differentiates the killing case from the letting die case, in a morally significant way.¹

¹I do not wish to exclude the possibility that this additional factor, which could be present in the absence of killing, does still reflect on whether killing, per se, differs morally from letting die, per se.

The truth of either (a) or (b) will show that Thomson's response to Brody is either (1) wrong, in case (a) is true, or (2) insufficient, in case (b) is true, since she would have to show that some other factors besides killing, per se, would not make it necessary for us to avoid killing, when we could let someone die to begin with. That is, she would have to show that "all things are equal," besides the difference of killing and letting die.

Suggestions for a difference between the killing and letting die, aside from killing per se, in these cases are (1) interest in the occurrence of the cause of death in the killing case, while it is absent in the case where we let some die to begin with; (2) using the person as a means to avoiding making the efforts present in the killing case, absent when we let some die rather than save him, to begin with. When we do not give aid to begin with (e.g., if we refuse to give aid in the violinist case and he is not attached) out of concern for the efforts it would cost us, we do not care whether the cause of the person's death takes place¹ (or

¹Except as a sign of the fact that we have not aided. By this I mean, that if we were asleep during the period when the decision whether losses would be inflicted on us to save someone was made and acted on, would be to see if the cause of the other person's death had occurred. Since we were the only one who could have helped him (suppose), if he is dead or the cause of death occurred, then we know we were not used.

whether the person dies), we do not use his death or its cause, as a means to any end we have. But, if we have to attack and kill the person in order to avoid continuing to make efforts, we will have an interest in the cause of his death (our attack) occurring, and we will have an interest in using him as a means to our liberation.

In order to see whether these factors (a) and (b) make or contribute to making it impermissible to terminate the same efforts we could refuse to start, we should separate them from the factor of killing, per se. We can do this by constructing a case where we have an interest in the occurrence of the cause of death or see the person's death as a means to ending our efforts, but where we let him die instead of killing him. For example, suppose someone is in my body (or using my \$1,000) and, as the result of some event for which I am not responsible, a fatal germ attacks the person inside me (or using my \$1,000). If I do nothing he will die and I will have my body (or \$1,000) back to myself. All I must do to save him from the germ is warn him of its presence, and he will take action. That is, the effort involved in saving his life from this threat of the germ (regardless of whether it costs me use of my body or use of my \$1,000 to save his life from another threat) will be miniscule---just the amount that someone might be required to give, if he had to give anything. If I fail to warn him, I let him die.

I do not kill him. If I fail to warn him, I would do it in order that the germ be present and kill him, so that I may have what is mine for myself. (To distinguish this letting die/not aiding case from the case where we do not give life saving aid to start with simply to avoid the effort, as in a case where we refuse to let the violinist come into our body to begin with, I shall refer to this new case as the Best Not-Aid Case (BNA).)

5. Finally, while I claim that the \$1,000 cases show that Thomson's Argument I (a) predicts that we can kill when we can't, and is therefore (b) unreliable as an indicator of when we can kill to stop our efforts, I do not claim that we cannot kill in the violinist case.

I began this chapter by considering alternative defenses for the permissibility of killing in the violinist case, and in particular defenses for the status of "because I needn't do it merely to save a life" as an indicator of when killing is permissible. I by-passed simple self-defense arguments and considered arguments justifying simple detachment as inapplicable to cases where we kill by

attacking. I considered how we might deduce the non injustice of killing in the violinist case and the indicator status of "because I needn't do it merely to save a life," from other cases in which killing was not unjust. This deduction failed. Finally, I have argued that the \$1,000 ALN and non-ALN cases indicate that "because I needn't do it merely to save a life," even in conjunction with a Decency Constraint, is not, at least by itself, an indicator of when killing is either not unjust or permissible.

CHAPTER IV

In Chapter II I distinguished two arguments that Thomson presents to justify killing in the violinist case (Arguments I and II). In the last chapter I noted that, in response to Brody-type objections, Thomson denies the moral significance of the distinction between killing and letting die, when all other factors besides killing and letting die have been equalized as far as possible. This notion is at the heart of Argument II.

Having ignored Argument II in the last chapter -- because \$1,000 ALN and non-ALN cases cast doubt on the proposed equivalence of killing and letting die -- I wish to return to it with the following aims: Thomson relates Argument II to the by-now standard approach for deciding whether killing is morally equivalent to letting die, *per se*, viz. substituting killing and letting die in equal contexts, and deciding whether they were each equally morally objectionable. I will examine how the violinist case differs from standard cases used to show killing and letting are morally equivalent, *per se*, and, in some detail, consider how problems in following the prescription to substitute killing and letting die in equal contexts creates problems for arriving at a conclusion that killing is morally equivalent to letting die, *per se*, from substitution in equal contexts.

Thomson claims that killing in the violinist case is permissible. The evidence she presents for this is: (a) the very case

itself, i.e. the "obviousness" that killing in this case is as permissible as letting die. Since this very case is in dispute, this evidence is of dubious value; (b) kill and let die cases in which we (supposedly) make all factors other than killing and letting die the same (as far as this is possible). These cases are supposed to be ones in which a killing is morally equivalent to a letting die, and all other factors besides killing and letting die are held equal (whatever exactly this means). These cases are supposed to show (1) that in all other cases it is not the presence of killing or letting die, per se, which makes a difference to the moral value of what we do,¹ but rather other differences between the killing and let die cases. They are also supposed to show (2) that killing is morally equivalent to letting die, per se. [(2) is supposed to account for (1)].²

Regarding these cases (referred to as comparable cases), I should note that if they do indeed provide the general conclusions that the presence of killing, rather than letting die, never makes a significant moral difference, and that killing is morally equivalent

¹I take "do" to refer to both acts and omissions, without implying that there are acts of omission.

²When I say killing is morally equivalent to letting die, in the context of a discussion of a particular set of cases, I mean that a killing is morally equivalent to a letting die. When I say that killing is morally equivalent to letting die, not in the context of a discussion of a particular set of cases, I mean that in all cases where factors other than killing and letting die are held constant a killing is morally equivalent to a letting die. If the latter is the case, then this implies that killing is morally equivalent to letting die, per se.

to letting die, per se, they should differ from a case like the following one: We may say that it is not more objectionable to kill a murderer than to let him die, and in this case, a killing and a letting die will be morally equivalent. However, the equivalence may derive not from any equivalence of killing and letting die, per se, but from the fact that we are dealing with a murderer. The nature of the object we are dealing with eliminates significant differences between conduct. This is not the kind of case which can be used to show that killing in other cases, and letting die in other cases are morally equivalent. This case only shows that a killing is not necessarily more objectionable than a letting die, independent of special factors (such as that we are dealing with a murderer.) Since Thomson concludes that killing to stop support is unobjectionable, not merely that it is not necessarily objectionable, showing that a killing is not necessarily more objectionable than a letting die will not be sufficient for her purpose.

So, the thesis of those who rely on so-called comparable (kill and let die) cases, to show that killing is morally equivalent to letting die, per se, is that, if we find a killing is not more objectionable than a letting die, in cases where all other factors are constant, and these factors do not involve special factors, then this implies (a) that the presence of killing, per se, as opposed to the presence of letting die, per se makes no moral difference, and this implies (b) killing is morally equivalent to letting die, per se.

I have described the thesis so that it makes reference to cases (plural). Those who have made use of comparable cases have tended to rely on a single instance where (they thought) a killing and a letting die were morally equivalent, in order to show that killing is morally equivalent to letting die, per se. But if we do not require a test for moral equivalence of a killing and a letting die in more than one case, it will not be clear that the factors in the one case we do use do not constitute special factors -- even if not so obviously special as that the person involved is a murderer -- in the presence of which a killing and a letting die are morally equivalent. This point will recur at various points in the discussion.

Examples of kill and let die cases thought to be comparable cases by Thomson and others are:

P1: John puts arsenic into Mary's coffee because he intends her death.

P2: Susan puts arsenic into her coffee by mistake. Jim sees this but fails to warn Susan when there is no effort to speak of in doing so, because he intends that Susan die.

Also:

S1: Ike walks across a field. Unbeknownst to him a baby lies under foot, whom he crushes to death.

S2: Joe walks across a field. Unbeknownst to him, a baby behind the bush needs minor life saving assistance. The baby dies without the help.¹

¹Similar cases presented with the aim of suggesting that a killing is morally equivalent to a letting die, may be found in unpublished work I did in 1971-72 for G. Dworkin.

Thomson claims that what happens in P2 is just as morally objectionable as what happens in P1. And what happens in S1 is not any more morally objectionable than what happens in S2.

Note that in order for cases P1/P2 to be relevant to cases in which we kill to terminate support or let die to begin with, they must bear on a killing and a letting die being equally unobjectionable, as well as equally objectionable. That is, they must bear on the moral value of a killing and a letting die being always the same -- objectionable or unobjectionable -- in comparable cases.

It might also seem that in order for cases P1/P2 to be relevant to deciding whether killing to terminate life support is permissible when letting someone die rather than attach him to our body would be permissible, they must be taken to indicate not only the equal moral objectionableness or unobjectionableness of a killing and a letting die, but their equal permissibility, in case moral unobjectionableness/objectionableness, and impermissibility/permissibility can diverge. That is, if letting die is as objectionable as killing, but killing is impermissible when letting die isn't, we will not have evidence that killing is permissible in order to avoid being in a position it would be permissible to avoid by letting die.

I will argue that comparable cases need not show that letting die is impermissible when killing is impermissible, in order for them to be relevant to showing that killing to terminate support is permissible when letting die to begin with is permissible. Before doing this (and as an aid to doing this) I will first discuss the particular

thesis that a killing and a letting die might be equally morally objectionable and yet one be impermissible and the other permissible.

For purposes of clarity I shall introduce the following terminology: When I say that a killing is morally objectionable or unobjectionable, I shall say that I am referring to its moral value (negative or positive). Moral value might be thought of as a scale with a cutting off point on it, separating objectionable from unobjectionable. Within these two realms there will be differences in degrees of objectionableness or unobjectionableness which will also indicate differences in moral value. When I speak of the moral equivalence of a killing and a letting die I shall mean equivalent moral value.

A specific killing or letting die will have a definite place on the scale of moral value, being located either in the region of objectionable or unobjectionable. But what about killing and letting die, per se? If we say letting die is less objectionable per se than killing, per se (and so its moral value differs) are we committed to letting die being locatable in the region of objectionable things? If we do not want to be committed to placing e.g. letting die, per se in either the region of objectionable or of unobjectionable things, we can think of the properties which contribute to the objectionableness of something -- when something has enough of them this is what puts it in the objectionable region -- and say that the moral value of letting die differs from that of killing, per se (i.e. is it not morally equivalent to killing, per se), if it has fewer of these negative

properties. This allows us to say that letting die differs in moral value from killing, per se, even if we don't locate it in a region of objectionable/unobjectionable things.

When I say that a killing is permissible or impermissible, I shall say that I am referring to its permissibility status.

Given these locutions, we can restate the problem raised above in the following way: if moral value diverges from permissibility status, the fact that letting die in P2 has the same moral value as killing in P1, will not necessarily preclude letting die having a different permissibility status. And if we are concerned with permissibility of killing to terminate life support, showing that killing and letting die have equal moral value will not show that killing is permissible when letting die is.

It might seem that it is an untenable position to claim that a letting die has the same moral value as a killing, and yet has a different permissibility status. It might seem that any property of letting die that would make it permissible when killing is impermissible would be evidence that killing has a different moral value from letting die. But on the view being considered here, it is possible for two acts (or an act and an omission) to be equally morally objectionable (have the same moral value) and yet one be permissible and the other impermissible. For example, someone might claim that letting die in P2 was as objectionable as killing in P1, but someone always has a right to do with his own resources what he wants, so long as he doesn't harm someone else. This makes not aiding permissible, but killing

impermissible. So, the factor making for the permissibility of the omission would not necessarily serve as an indicator of the moral inequivalence of killing and letting die, unless it could specifically be shown, at least sometimes, that the property which makes letting die permissible also makes it less morally objectionable.

Note that it is consistent with this view (and I shall assume that it is in fact part of the view) that an act or omission can be assumed to be morally objectionable if it is impermissible, even though the fact that it is permissible does not mean that it is less objectionable than an impermissible act/omission. That is, a necessary condition for the impermissibility of an act/omission is that there be something morally objectionable about it. Doing something morally objectionable, e.g. letting die in P2 might not be impermissible, but certainly doing something that is morally unobjectionable would be permissible. Moral objectionableness would be a necessary but not a sufficient condition of impermissibility.¹

I do not wish to defend or put it forth as my own view that equally objectionable acts/omissions can diverge in permissibility status. However, it might be argued for, and if it were true, then showing that letting die is permissible when killing is not would not be sufficient to show that killing and letting die are not morally equivalent. It would be easier to show that killing and letting die, per se, differ morally, if we could take difference in permissibility

¹Where p = moral objectionableness, and q = impermissibility, $\neg(p \rightarrow q)$, but $(\neg p \rightarrow \neg q)$.

status to indicate difference in moral value. But, in order to protect my discussion of the question whether killing is morally equivalent to letting die, per se, from an objection based on the divergence of moral value and permissibility status, I shall adopt the more difficult course of seeing if there is a difference in moral value between killing and let die, per se, where the difference in permissibility status is not taken to be an automatic indicator of differences in moral value.¹

Having discussed the thesis of the divergence of moral value from permissibility status, I wish to return to the claim to which it gave rise. This claim was that it would not be sufficient to show that killing and letting die were of equally objectionableness in P1/P2, if P1/P2 was to be relevant to showing the permissibility of killing to terminate support. We would have to show that killing and letting die were equally impermissible in P1/P2.²

¹Note that if (a) there is a divergence between the permissibility status and the moral values of killing and letting die, and (b) killing were shown to be unobjectionable when letting die was, in addition to letting die being shown to be objectionable when killing was, then trying to show the moral equivalence of killing and letting die, will not necessarily broaden the range of impermissible things: it may reveal that some things we do (letting die) are more objectionable than we thought, while not changing their permissibility status, but it may also show that some things (killing) we thought objectionable and impermissible are not morally objectionable and are permissible.

²So the claim is both that unequal permissibility status will not indicate that killing is morally more objectionable than letting die, and showing that letting die is as morally objectionable as killing will not show that the two have the same permissibility status.

The claim is wrong, i.e. it is not necessary that P1/P2 show the equal impermissibility of killing and letting die. Suppose it could be argued that (1) killing and letting die were equally morally objectionable in P1/P2, but (2) not equally impermissible. (Suppose, e.g. someone has a right to do with his own resources what he wants, so long as he does not harm someone else, and this makes not aiding permissible, but no less objectionable.) Suppose that equal moral objectionableness in cases P1/P2 showed, at least, that killing to terminate life support was as morally objectionable or unobjectionable as letting die to begin with, (i.e. it had the same moral value). Suppose further, that letting die to begin with is not morally objectionable, given the size of the effort involved. Therefore, killing would not be objectionable. Now, if (as described above) objectionableness is a necessary condition for impermissibility, even if not a sufficient condition, then, showing that killing was equally unobjectionable to letting die would be enough to show it was permissible, when letting die to begin with was, even if it could be argued that moral value and permissibility status could diverge.

This means that Thomson need not be committed to the view that killing is permissible when letting die is, in cases where she thinks they are equally objectionable, in order for these cases to be evidence that killing is permissible when letting die is permissible, when letting die and killing are equally unobjectionable.

In summary if we find that letting die is as morally objectionable as killing in P1/P2 even if it isn't impermissible to let die

when it is impermissible to kill, we may be able to conclude (1) that killing to terminate support has the same moral value as letting die to start with and (2) that it is permissible when letting die to start with is.

So far, I have claimed (1) that if consideration of P1/P2 is to be relevant to a decision about the permissibility of killing to terminate support these cases must support the conclusion that killing is as unobjectionable as letting die, not only that letting die is as objectionable as killing, and (2) on the assumption that permissibility status may diverge from moral value, P1/P2 need not show that killing and letting die always have the same permissibility status in order to be relevant to a decision about the permissibility of killing to terminate support.

I now wish to point to an additional requirement that must be met if P1/P2 are to be relevant to showing that killing to terminate support is permissible when letting die to begin with is permissible: we must show either that (a) the killing and letting die to begin with in the violinist cases are constructed along the same lines as those comparable cases, where a killing and a letting die are supposed to be equally objectionable, or we must show (b) that even if the cases are constructed along different lines, they share all factors, besides killing and letting die. If we know that either (a) or (b) is true, and comparable cases like P1/P2 do show killing is morally equivalent to letting die, per se, then, we can plug the equal factors (killing and letting die) into equal contexts in the violinist (kill and let die

cases, with the expectation that a killing and a letting die in these latter cases will both be unobjectionable and permissible. As shown above, Thomson concludes that a killing to stop support in the violinist case is unobjectionable and permissible, not merely that it is not necessarily objectionable and impermissible. To reach this conclusion via the evidence of cases like P1/P2 she would have to show both that killing and letting die, per se, are morally equivalent, and that the contexts in which they are placed are equal contexts.

In Argument II Thomson emphasizes that the person who wants to kill to terminate support is, in supporting someone with the effect of saving his life, doing the same thing as the person who would begin life support. That is, she emphasizes that the position -- supporting someone with the effect of saving his life -- which both the person who wants to kill and the person who would let die want to avoid -- are exactly the same. The fact that she does this, as well as point to cases P1/P2, and conclude that killing is permissible in the violinist case, implies that she believes (1) in cases where we avoid being in the same position, regardless of whether we avoid by killing or letting die, all factors aside from killing and letting die are equal, and (2) killing is shown to be morally equivalent to letting die, per se, by the use of cases like P1/P2. So, therefore, (3) killing in the violinist case is as permissible as letting die to begin with, because it is an instance of placing moral equals in equal contexts. If she did not believe (1), but did introduce killing and letting die as factors already shown (via cases like P1/P2) to be morally equivalent,

per se, there would be no reason to think that a killing was as permissible as a letting die to begin with in the violinist case. That is, if there were some difference in the cases besides killing and letting die, this might make killing impermissible. (Henceforth, I shall refer to the violinist kill and let die cases as the matrix kill and let die cases, in recognition of the fact that the same exact position serves as a matrix around which the two routes to avoid this position, killing and letting die, gravitate.)

In summary, it seems fair to say that Thomson accepts the (supposed) conclusion of the comparable cases P1/P2 that killing is morally equivalent to letting die, per se,¹ and sees the cases in which we kill the violinist or leave him to die to begin with as, like P1/P2, providing us with comparable cases, where all factors besides killing and letting die are the same.²

So, it seems fair to interpret Argument II as follows: (1) killing is not morally more objectionable than letting die, per se. (2) We can let die rather than be in a certain position saving the violinist's life. (3) Therefore, we may kill to avoid being in the same position.

¹At least in this paper. She alters her position in a later paper, "Killing, Letting Die and the Trolley Problem."

²The question how both P1/P2 and the violinist kill and let die cases can be comparable kill and let die cases, i.e. ones where everything besides killing and letting die are the same (to the extent that this is possible), will be discussed below.

Section II

It is the relationship between the matrix kill and let die cases and P1/P2 which I now wish to examine. Before proceeding however, I wish to deal with one immediate objection to equating killing to remove someone from the position which provides ALN satisfaction with letting die to avoid having someone in this position. It can be argued that this procedure relates killing only to the position of supporting someone and not to any state which preceded the support. For example, if the supporter had voluntarily introduced someone who didn't have HLN, but acquired ALN while in residence, the supporter could not have then killed, even if they could have let someone die rather than start to support them. The state prior to residence must be considered in order to decide if we can terminate residence, at least sometimes. This means that the simple formula suggested by Argument II will be inadequate.

However, the fact that we have to consider the condition prior to residence, does not mean that this has anything to do with killing, as opposed to letting die, being necessary to avoid residence. For example, if we have made someone dependent on us who had no need to be attached to begin with, we would also have to give additional aid, in the form of additional doses of support by separate acts. Otherwise the person would be worse off than he would have been if we had never started support. He would have a right to get support which does not depend on any objection to an act which kills to terminate support. Thus, if we wish to deal with an objection to killing that does not

depend on the objection from non-HLN states prior to residence, we should restrict the discussion to cases where there was HLN before residence was begun. In what follows I shall assume Argument II is being applied to such a restricted range of ALN support cases.

I said that P1/P2 are taken as representative of the Comparable cases showing killing to be morally equivalent to letting die, per se. I also said that the idea behind Argument II was to take this conclusion, and use it in the violinist case. The prerequisite to reaching this conclusion, assuming P1/P2 are the sorts of case which can yield a decision about whether killing is morally equivalent to letting die, per se, is to show that killing is as objectionable or unobjectionable as letting die in these cases. So we need to render judgment and test this judgment.

Recall that substituting a conclusion that killing is morally equivalent to letting die per se in the violinist cases would yield the conclusion that a killing is as permissible as a letting die, only if all factors besides killing and letting die were also the same. If they are the same, the matrix kill and let die cases would seem to be comparable cases just as much as P1/P2 are assumed to be. However, we must ask whether these cases are constructed according to the same principles as P1/P2, and, if we answer this question in the negative we must analyze the significance of this difference. To know if the violinist kill and let die cases are constructed according to the same principles as P1/P2 we must know what principles of construction are at the base of P1/P2. Therefore, I will examine the construction

of comparable cases, and see if, in these constructions, a killing and a letting die are equally morally objectionable or unobjectionable.

I will first make clearer what I mean by the construction principles (CPs) of P1/P2. I set out 5 characteristics which P1/P2 and S1/S2 require to be equalized, and 4 characteristics which they do not require to be equalized.

A. By Construction Principles (CPs) of P1/P2 I mean the rules by which we construct cases P1/P2 and cases like them, that is the principle for determining what factors in P1/P2 are equalized in order to make them comparable kill and let die cases. (Comparable cases being those which are supposed to be able to tell us whether or not the presence of killing, as opposed to letting die, makes a moral difference, in general, and whether or not killing is morally equivalent to letting die, per se.) Cases that are like P1/P2, but not identical with them, are cases which (a) are constructed according to the same principle determining what factors must be equalized in each case and yet (b) do not have the same factors equalized in exactly the same way as in P1/P2. For example in P1/P2 the intent to have the person die is present in both cases, so we may conclude that intentions should be equalized according to the CP of these cases. However, cases without the intention to have the person die may also be constructed according to the CP of P1/P2, because they leave out intention in both cases, i.e. they equalize for this factor by omitting it in both cases.

Some of the things to note on the basis of P1/P2 are the following: (1e(equalized)) the intention should be the same (2e) the

motive for killing should be the same, e.g. merely to have the person die (or in a case other than P1/P2 constructed according to the same CP, intent to have their money, for example.) (3e) Degree of knowledge of what we are doing, killing or letting die, should be the same in both cases. (4e) P1/P2 make the efforts involved for the person who would aid as well as the efforts the killer would have to make rather than kill small. Therefore, the efforts involved should be the same.¹

(1d(differences)) the CP of P1/P2 does not equalize for a death being caused by a killing in both cases. That is, the CP does not insist that we compare letting someone die whose death is caused by a killing done by a person with a person killing someone. It is possible that it would be objectionable to let someone die if they were being killed by another person, but it would be unobjectionable to let someone die if they were dying of natural causes. If this were so, then letting die would be just as objectionable as killing when what will happen is that someone will be killed by another person. This would show that one way of dying is worse than another, and it is just as bad not to prevent it, whether by killing or letting die. In the violinist case, if we do not aid to start with, the violinist would die of natural causes. It is possible, therefore for someone to argue that killing in the violinist case is objectionable when letting die to start with is not, but not because killing is more objectionable than letting die, per se, but rather because dying by being killed is worse than dying

¹An additional point of equalization is derived from (2d)below.

from natural causes.¹ I shall assume for purposes of argument that one way of dying is not worse than another, and the failure to equalize for the ways of death in P1/P2 (and in the matrix cases) is no problem. (2d) The CP of P1/P2 does not require that because the person we let die is on the point of death, the person we kill should also be on the point of death. That is, it does not require that the person is in the same position when we decide to kill and let die. Rather we do equalize in the kill and let die cases by seeing to it that whether we kill or let die makes a difference between life and death in both cases. That is, if we don't kill, the person will go on living (i.e. the person we would kill is not on the point of death anyway); and if we do aid the person will go on living, and if we don't he will die. (We can consider this to be (5e).)

(3d) Equalization of all factors besides killing and letting die in P1/P2 does not involve the person avoiding being in exactly the same situation if he kills or lets die. (This equalization does occur in the matrix kill and let die cases.) That is, the killing case which is comparable to letting someone die according to the CP of P1/P2 does not involve us killing someone, when the alternative to killing is aiding someone (even with a minimal amount of effort) to the extent of saving his life. (The alternative to refusing life-saving help

¹This ties in with the point discussed in Chapter 1, whether we have a greater obligation to stop problems arising from injustice than problems not arising from injustice.

in the letting die case, is, however, aiding someone, even minimally, to the extent of saving his life.)¹

(4d) the CP of P1/P2 cases does not equalize for the function of the efforts which would be made as the alternative to killing or letting die. If we do not let die then we provide benefits for someone which he would not have had if we hadn't come on the scene. In addition, if we do let someone die, that person loses out only on what he would have had via our help, i.e. the rest of his life. [The rest-of-his-life is, then, only the "rest-of-his-life-via-our support (via us)"]. But in P1/P2 if we do not kill we do not provide someone with a benefit he wouldn't have had if we hadn't come on the scene. And if we do kill the person does not lose out only on the life-he-would-have-had-via-us.

In other words, while the CP of P1/P2 requires that the size of efforts involved in avoiding killing and aiding be the same, it does not require that the function of these efforts be the same; e.g. the CP does not require that life-support with benefits over prior prospects be provided or that the character of what someone loses out on be the same. (That is, the character of what he loses in the kill case is not rest-of-his-life-via-us.)

¹Note that if a CP for comparable cases did require equalization of situation avoided, the life-saving aid given as an alternative to killing would have to arise as the alternative to killing, if it was to have the same genesis as the life saving aid which is the alternative to letting die. In other words, the life saving aid would have to arise as the way of our avoiding killing someone who was not already dependent on us for lifesaving aid. Neither P1/P2 nor the violinist case meet this requirement.

If the CP were to equalize for function of efforts and character of loss we would need to construct a comparable kill case which stands to letting die, as the matrix killing case stands to the matrix let die case. Thus, the comparable killing case to P2 would be: killing someone, solely because we want to have him dead, when we are already providing him with life-saving assistance at very minimal cost to ourselves. In this case, if we do not kill, the person will receive the benefits of our life-saving aid he would not have received had we not come on the scene; if we do kill he will lose out only on what he would have had via our help, the rest-of-his-life-via-us.¹

In summary, I have noted that the CP of P1/P2 exhibits concern for equalizing for (1) intention, (2) motive, (3) degree of

¹Note that equalizing for function and character of loss in the killing case would make it impossible to also equalize for the fact, mentioned in (3d) above, that the alternative to killing involves aid which arises in the attempt to avoid killing. To equalize in (4d), the aid (or the plan for it) which saves someone's life would have to precede the decision not to kill, and the aid would have to be tolerated, as opposed to killing. This is because, when we save someone's life as the alternative to killing, when this aid arises as the alternative to killing, we avoid making the person worse off than he was before we came on the scene. (The exception to this is when the person we would kill was someone who was on the point of death anyway. Then winding up giving him life support as the way to avoid killing him would make him better off. But in this case, the difference between killing and not killing, considered independent of what we would have to do to avoid killing, would not involve (2e), i.e. that whether we kill or not makes a difference between life and death.) However, when we tolerate supporting someone rather than kill, we make the person better off than they would have been if we hadn't come on the scene. Analogously, this is the difference between swerving to avoid killing an innocent bystander [with the result that the person (somehow) becomes dependent on us for life-saving help] and swerving to avoid killing someone who is already getting life-saving help from us (so that he goes on getting the help.) In one case we have to avoid imposing on someone who is not already imposing on us, in the other case we avoid imposing on someone who is already imposing on us.

knowledge, (4) size of efforts, and (5) that what we do (kill or let die) makes a difference between life and death. It does not exhibit concern for equalizing (1) same type of death in kill and let die cases, (2) person we kill and let die both being in the same position when we have to decide to kill or let die, (3) avoiding being in the same exact situation, situations which would come to exist in the same way in kill and let die cases. That is, situations where we do something which arises as the alternative to both killing and letting die. (4) That the person who is killed or let die loses out only on what he would have gotten via our efforts, and what we would do as an alternative to killing or letting die being something which offers a benefit to the person which would not have been provided if we hadn't come on the scene. (That is, there is no equalization for character of loss or function of efforts.)

We can conclude from this analysis: the claim that P1/P2 are equally morally objectionable involves denying not only that it makes a difference whether we cause someone's death or not,¹ but also involves denying that the absence of factors noted in (1d-4d) in the killing cases will make a difference to the moral value of a killing as opposed to a letting die. Accordingly, the facts that the person we kill loses out on more than he would have gotten via our support, and that he is worse off than he would have been had we never come on

¹Here, and throughout, I assume that letting someone die does not cause a death, but killing does. I take this to be a difference derived from the definitions of killing and letting die.

the scene is supposed to make no difference to the moral value of a killing as opposed to a letting die, according to the CP of P1/P2.

Section III

I will now consider cases which differ from P1/P2 in certain particulars, but which are still generatable from the CP of P1/P2. They equalize for types of factors this CP says should be equalized for, but the particular ways in which they are equalized is different.

I will pay particular attention to kill and let die cases where (a) there is no intention to have the person die, and (b) where the efforts required to aid and to avoid killing are equal, but unlike in P1/P2, are large.

The first set of cases which are derivatives of P1/P2, and hence comparable cases are P1b/P2b: These cases involve someone intending another person's death, but the effort required to avoid killing or letting die are large. P1b: I kill with the sole intention that someone die, but to avoid doing the act which would kill I must pay \$1,000. P2b: I don't aid, with the sole intention that someone die, but aiding would cost me \$1,000. (That is, in both cases, the cost is high but the person does not object to the cost of not killing or of not letting die; he does what he does independent of considerations of the cost of doing the alternative.)

If P1/P2 are comparable cases and show not only the equal objectionableness of a killing and a letting die, but also that killing and letting die are morally equivalent, per se, then it should be

just as unobjectionable to refuse to pay in P1b as in P2b.

On the basis of factors that we have so far decided P1/P2 require that we equalize in order to produce comparable cases, the following cases should also be comparable kill and let die cases. Thus, if killing is morally equivalent to letting die, per se, and these cases are truly comparable cases (i.e. cases which hold all factors besides killing and letting die equal in such a way that if killing is morally equivalent to letting die, per se, these cases will show it) killing should be just as unobjectionable as letting die in these cases. The only ways the new cases may not be comparable cases are if they do not faithfully follow the CP of P1/P2 or if the CP of P1/P2 does not provide comparable cases.

P3: I prefer not to spend \$100, rather than do an act which I know will kill someone, simply because I don't want to spend the money. I have no interest in the person dying. (E.g. I must spend \$100 in order to drive on a route other than the one where there is someone I will run over.)

P4: I prefer not to give \$100 to save someone's life. It's not that I have an interest in the person dying, but that I merely don't want to give away my money.¹

¹The person in both these cases who doesn't want to give the \$100 would have one type of interest in the death occurring. This is interest in the death occurring as a sign that he has not aided or refrained from killing. I shall assume that this sort of interest is morally different from an interest we have in the occurrence of something when it is causally necessary for our goals. I shall restrict use of "having an interest in," to the latter.

In both cases my motive is to avoid the loss of my \$100 and in neither case do I intend the death. Furthermore, the cases are equalized so that the person who doesn't want to lose the \$100 does not seek to retain the money by using the person to be killed/let die as a means to this end. That is, we don't kill someone in order to keep our \$100, and we do not let someone die (by refusing minimal assistance) in order to keep our \$100, where his death would cause us to keep our \$100.

Likewise, on the basis of factors we have so far decided that P1/P2 require us to equalize in order to produce comparable cases, P5 and P6 should be comparable kill and let die cases:

P5: I don't want to spend \$100 in order to avoid putting myself in a position where an act of mine will kill someone, an act which it will be too late to avoid when the time actually comes to act. (For example, I don't want to spend \$100 to put a safety latch on the rifle I will use.)

P6: I don't want to spend \$100 in order to avoid missing an opportunity to aid someone, where the efforts involved in actually aiding the person would be minimal. (For example, I don't want to spend \$100 to have someone look out for people in distress I might be able to help.)

There are at least two possible grounds for objecting to the conclusion that the CP of P1/P2 implies that killing and letting die in P3/P4 and P5/P6 are equally unobjectionable, if killing and letting

die in P1/P2 are equally objectionable.

The first objection is that suggested by Michael Tooley,¹ who could argue that P3/P4 are not comparable cases because only cases involving small efforts to avoid killing and letting die can be comparable cases. This is because we needn't make large efforts to save someone's life. According to Tooley, the CP of P1/P2 calls not only for equal efforts involved, but small efforts. So, if letting die is not objectionable in P4, this does not mean that killing rather than spending \$100 is also unobjectionable.

This suggestion of Tooley's seems wrong. Restricting the equal efforts to small ones seems arbitrary since the mere fact that we may have to do more rather than kill than we have to do rather than let die, may indicate a morally significant difference between killing and letting die. So cases involving larger efforts may be comparable cases, but they may just indicate that killing and letting die are not morally equivalent, per se.

The second suggestion as to why P3/P4 and P5/P6 are not comparable is as follows: There is a factor present in the killing cases which is not present in the letting die cases, a factor which may account for our having to pay \$100 rather than kill, even if killing is morally equivalent to letting die, per se. This additional

¹Michael Tooley, "Abortion and Infanticide," Philosophy and Public Affairs 2, no. 1 (Fall 1972); reprinted in Cohen, M. et al. (eds.), The Rights and Wrongs of Abortion (Princeton, N. J.: Princeton University Press, 1974), pp. 52-84.

factor is presence of an interest in the occurrence of the cause of death. (Note that having an interest in the occurrence of the cause of death is different from causing the death or having an interest in the occurrence of the death itself.) I will go into some detail in examining this suggestion as to why P3/P4 and P5/P6 are not comparable. I will do this not merely for the sake of deciding if these cases are comparable according to the CP of P1/P2 but also because it will help us to see what the rationale behind the CP of P1/P2 is.

When we let die in P4, because we do not want to spend the \$100, we have no interest in the occurrence of the cause of the other person's death (except, as noted in the footnote above, as a sign). But when we kill rather than spend the \$100, we do have an interest in the occurrence of the cause of death, if only because the cause of death, our act, is what we must do rather than pay the \$100. We do not have an interest in the occurrence of the cause of death (our act) because it is the cause of death, but nevertheless it is the cause of death and for some other reason, we have an interest in its occurring.

Since, by definition, all killings involving voluntary acts will involve the actor having an interest in the occurrence of the cause of death--since he chooses to have the act occur--there should be no killing cases (involving voluntary acts) comparable to cases where we let someone die simply out of a desire not to make the efforts.¹

¹Interest in the cause of death is not strictly speaking, part of the definition of a voluntary act which kills. But it is an implication of the definition, and I shall not distinguish between

And since no letting die case can involve having an interest in the cause of death merely as the flip side of making efforts to aid¹ in the way in which killing in P3 involves having an interest in the cause of death as the flip side of making efforts, there will be no let die case which is comparable to killing in P3.

So, the suggested objection is, that if it is part of the CP of P1/P2 to equalize for interest in the occurrence of the cause of death, the CP of P1/P2 will not necessarily imply that we need make only the efforts to avoid killing that we have to make rather than let die, in cases like P3/P4. This is because in P3/P4 there is no equalization of interest in the occurrence of the cause of death.

We might show that the CP of P1/P2 does imply that we should equalize for interest in the cause of death by showing that in other cases, where letting die and killing cases can share the same sort of interest in the occurrence of the cause of death, the CP of P1/P2 would select these as comparable cases over cases where the interest wasn't equalized. For example, consider:

P7: I set a gas going because it will save my life, foreseeing, but not intending that it will kill someone else.

these two. Furthermore, interest in the occurrence of the cause of death is not a necessary feature of killing cases where e.g., (1) inanimate objects kill, or (2) someone involuntarily causes the death.

¹Because the alternative to not aiding is not causing the death.

P8: I refuse to give minimal aid in order to stop a gas from going off (when I have no part in setting it to go off) because the gas will save my life, though I foresee that it will kill someone whom I do not intend to kill.

P9: I fail to aid someone in a minimal fashion because I am busy setting off a gas that will (a) save my life, and (b) not harm the other person.

If the CP of P1/P2 requires that intending the death be equalized between kill and let die cases, it makes sense to think that intending the cause of death should also be equalized. If so, then P7/P3, rather than P7/P9 are comparable cases according to the CP of P1/P2. (P9 is a case where I fail to aid but do not have an interest in the occurrence of the cause of the other person's death.) P7/P8 should be equally objectional or unobjectionable if P1/P2 shows that killing and letting die are morally equivalent.

P7/P8 show that equalizing a type of interest in the cause of death which both killing and letting die cases can share, is important for producing comparable cases according to the standard of P1/P2. Therefore, these cases may suggest that interest in the cause of death of the sort present in P3 is a factor, which if not equalized, would result in non-comparable cases.

I now wish to consider an argument against the view that interest in the cause of death in P3 makes it a non-comparable case to P4. This argument will show that the fact that the CP of P1/P2

would select P7/P8 as comparable cases does not show that P3/P4 are non-comparable. Furthermore, this argument will help to make clearer a general principle at the heart of the CP of P1/P2 because it will help explain why the CP of P1/P2 does not equalize for the factors described above (pp. 185-6).

This argument against is as follows: the interest in the cause of death in P7/P8 is of a sort which is not necessarily present in a killing case. Now, some sort of interest in the cause of death is, by definition, always present in a killing case involving a voluntary act. The view, then, is that interest in the occurrence of death of a sort which can only be present in a killing case (e.g., interest in it as the flip side of avoiding efforts required to not kill, as in P3), should, like the general property of having some sort of interest in the occurrence of the cause of death, be taken as a definitional property of killing.

The justification for this is that if we could not have a kill case which duplicates "the situational characteristics" of a let die case, without introducing this version of a definitional property of killing, though it cannot also be given to the let die case, we must tolerate the difference in the cases. By "situational characteristics" I mean goals or attitudes called for by the situation. For example, in cases like P7/P8, the sort of interest in the cause of death which is present, must be present in both kill and let die cases if both are to be cases of doing something so that something which is

a cause of death and will occur and our goal will be achieved. Some sort of interest in the cause of death is dictated by the definition of killing, but the specific interest in both P7/P8 comes about because of the "situation" of seeking to achieve a goal by assuring the occurrence of the cause of death. In P3/P4 interest in the cause of death is not necessary in the let die case, but it is in the kill case, if we are to have a situation in both cases where we avoid efforts which arise as the alternative to doing something (killing or letting die). So P3/P4 and P7/P8 can both be comparable sets of cases according to the CP of P1/P2. P7/P8 need not be evidence that P3/P4 are not comparable cases according to the CP of P1/P2.

Tolerating differences in cases necessary to create the same situation with a kill and a let die factor is justified, furthermore, by a more general account which can be given of the CP of P1/P2. The CP of P1/P2, we can see upon further consideration, really is recommending that to construct comparable cases we equalize around the definitions of killing and letting die. That is, if we want to get cases which hold all factors besides killing and letting die equal, we should take one case (either the kill or let die case) and equalize the second case for all factors which surround the definitional properties of killing or letting die in the first case, leaving all the definitional properties of killing or letting die in the second case intact. So, for example, suppose we start with the case in which we let die rather than spend \$100 (P4). That someone would have been saved by the \$100 (our

effort), and will lose out on only the benefit they would have gotten if they had been saved, are definitional properties of letting die, so we needn't worry about equalizing for them in the kill case. (Note that these are among the properties we have already noted (pp. 185-6) that the CP of P1/P2 does not equalize for.) We do have to equalize for avoiding the efforts as the alternative to letting die. So in the comparable kill case we must avoid efforts as the alternative to doing the act which kills, where killing will necessarily involve some interest in the cause of death. Or, if we start with the killing case (P3), we must equalize for avoiding efforts which in the let die case will be efforts we would make as the alternative to letting die. This is because the efforts lie in the context of the definitional properties of killing. We do not have to equalize for interest in the cause of death, if creating the situation of avoiding efforts in a let die case doesn't itself call for interest in the cause of death. This is because interest in the cause of death is among the definitional properties of killing, it is not a property in the context of killing.

If we accept this general principle, which I call the principle of Contextual Equalization, as a correct description of the way the CP P1/P2 tells us to get comparable cases, we can explain why the factors noted above (pp.185-6) the ones that the CP of P1/P2 does not equalize for. So the fact that the CP of P1/P2 does not require that we equalize for those factors is evidence for the claim that contextual equalization is the rationale of the CP of P1/P2.

To repeat: Let die, by definition, will involve the person who is not saved losing out only on what he would have gotten via the support. If we want to compare let die with kill in some case by holding all factors equal besides kill and let die one approach is to take a let die case as a model and construct a context for the kill case that equalizes for all the same factors that "surround" let die in the let die case. This, then excludes concern for equalizing any factors that are involved in the definition of letting die and hence which are not part of the context ("not surrounding") let die. Such an element would be the fact that the person loses out on only what they would get via the efforts of the person who lets die. Likewise, it is, by definition, true that the efforts we make as the alternative to letting die will have the function of providing life-saving aid which benefits the person over the condition he would have been in if we hadn't been on the scene. Therefore, according to the contextualist approach we need not give these characteristics to the efforts we make rather than kill.

The contextualist approach to getting all things equal besides kill and let die flows quite naturally from considering the origins of our concern with kill and let die cases. We start off by asking "what is the difference between killing someone and letting someone die?" We may imagine that the same person is involved in both cases. Adopting a principle of normality, we do not add peculiar characteristics to the person when these are not necessary to our

imagining the performance of an act or omission. So when we imagine killing the person, presumably, we imagine killing an ordinary, healthy, non-dependent person. But once we consider the problem of letting die, we must give the person a characteristic, e.g., his being on the point of death, not called for in order to kill him, just in order to make it possible for us to let him die. It is this characteristic that makes it the case that if we let die he loses out only on what he would get via our efforts. It seems quite natural then to compare this case with a killing case where someone does not lose only what he would get from our efforts, because we have not introduced any non-definitional special conditions in either kill or let die cases.¹

The contextualist approach starts, as noted, with the assumptions that there is a killing (without adding any special factors auxiliary to the definition of killing) and that there is a letting

¹This discussion has only offered a way of explaining the procedure which lies at the heart of the CP of P1/P2 so as to make it possible to see what all the cases generated by the CP of P1/P2 have in common. It does not give us a reason for contextually equalizing, in the sense that this reason would also explain why it would be wrong to try to equalize for a property (such as the specific sort of interest in the cause of death as the flip side of making efforts which is present in P3) which follows from the definition of killing.

Such an argument can, indeed be given, I think, but I will present it elsewhere. This is because presenting the argument now would defeat an important purpose of this Chapter, namely to show that one can argue that the directive "equalize all things besides kill and let die" in order to create comparable cases, is ambiguous, i.e., that it may lead us to generate different types of cases as comparable. It is only when we consider more carefully, as I do elsewhere, what a comparable case is supposed to do for us and what would interfere with its doing this, that the reason for contextual equalization will become clear.

die (without adding any special factors auxiliary to its definition, where its definition does call for us to deal with a person who is on the point of death) and equalizes for all other factors apart from those in the definitions of killing or letting die.

There is, however, another approach to producing comparable cases, which might be suggested. I call this approach cross-definitional equalization, because it tells us to equalize for as many factors in the definitions of killing and letting die (as well as as many factors in the contexts of these definitions) as possible, without causing the killing and letting die cases to cease being killing and letting die cases. (So, cross-definitional equalization includes contextual equalization.) Cross-definitional equalization takes the directive to find out if killing is morally equivalent to letting die, per se by constructing cases which are alike in all respects except that one is a killing and one a letting die, to mean that we should construct cases which are alike as possible, while still remaining kill and let die cases. Since it is possible to give some of the definitional properties of letting die to the killing case (though of course it is not possible to give these properties to the definition of killing itself), this should be done. For example, letting die has, by definition, the property that the person who is left to die loses out on only what he would have had via our aid. This property can be given to a killing case without making it a non-killing. For example, if we kill someone who is already receiving

life saving aid from us. Likewise, once we see fit to equalize for definitional properties of killing and letting die, we can judge a letting die case to be non-comparable if it lacks a definitional property had by the kill case, when we can construct other kill and let die cases which do give to the let die case a version of this particular definitional property of killing. For example, if (A) interest in the cause of death must be present in kill case P3, but it cannot be present in this form in a let die case, but (B) P7/P8 provide us with cases where interest in the cause of death is equalized, then P3/P4 are non-comparable according to the principle of cross definitional equalization.

According to the promoter of the CP of cross-definitional equalization, if (1) killing and letting die are equally objectionable in P7/P8, and (2) it is because there is an interest in the occurrence of the cause of death, regardless of the particular form that this interest in fact takes, that the killing and letting die are in fact objectionable, then (3) we shall have evidence that in P3 it is interest in the cause of death as opposed to the presence of killing, per se, that is morally significant. (If the particular form that interest in the occurrence of the cause of death took in P7 is what was morally significant, then this would not bear on whether the form that interest came in in P3 was morally significant.)

The motivation for cross definitional equalization need only be the desire to have kill and let die cases which are as

similar as possible. But an additional impetus for the move to cross-definitional equalization may be the view that some killings are impermissible, when letting dies are permissible, not because they are killings, but only because they involve killing a different type of person than we let die. According to this view, if it is permissible to kill the type of person who is always involved in letting die cases, e.g., one who would lose only what he would get via us, then this should show that killing is no worse than letting die. Therefore, this view is that it is unfair to decide if killing is morally equivalent to letting die, per se, in a situation where only killing and not letting die takes as its object something (i.e., a person who will lose more than what he would get via us) which makes what is done objectionable.

How would the CP of cross-definitional equalization rate the specific cases we have considered so far? According to the CP of cross-definitional equalization, P3/P4 and P1/P2 would not be comparable cases.¹ (Since the person in the kill cases will lose more than he would get via us, and in P3 there is interest in the cause of death and none in P4.) Moreover, because there is an interest in the cause of death when we kill to terminate support but none when we let die to begin with, matrix kill and let die cases are not comparable

¹This means that "comparable cases" is CP-relative, i.e., there may be comparable ₁, comparable ₂ . . . comparable _n .

according to the CP of cross-definitional equalization.¹ This means that killing could be morally equivalent to letting die, per se, and yet the killing would not be as morally objectionable as letting die to begin with. Furthermore, if the matrix killing involves using someone as a means to our end, or intending someone's death as a means to our end, when matrix letting die does not involve this, this will be an additional reason why they are not comparable according to the CP of cross-definitional equalization (as well as that of simple contextual equalization). In summary, these inequalities mean that--contrary to the implication of Thomson's emphasizing "seeking to avoid doing the same exact thing"--avoiding the same exact position does not entail that there are no factors present in the kill case that are not present in the let die case, besides killing and letting die, which might make one unobjectional and the other objectionable, even if killing is morally equivalent to letting die, per se.

The matrix kill and let die cases would, however, be equalized for the following factors: (1) the person losing only

¹This difference in cases would also make them unequal on the principle of contextual equalization alone, since interest in the cause of death demanded by the situation in matrix killing could be duplicated if the situation in the let die case were other than in matrix let die, e.g., if the let die case were one where we let someone die because we intend the occurrence of the cause of his death for the sake of the benefit it will bring us. (Recall it is P3/P4, not matrix kill and let die which are comparable cases according to the principle of contextual equalization.) This means that the matrix kill and let die cases do not place the same situational demands on what factors should be present.

what he would get, if he is killed or let die, (2) the efforts we make rather than kill or let die provide support and life-saving aid, (3) the person is no worse off if we kill or let die than he would have been if we had never come on the scene, and (4) we have an interest in the person losing only what he would get via us, in order to avoid making efforts which benefit him. Despite their not being perfect, the matrix kill and let die cases are more comparable, according to the CP of cross-definitional equalization than P1/P2 and P3/P4.

I have considered two standards by which to measure "comparability," contextual equalization and cross-definitional equalization (which includes contextual equalization). A third standard, in addition to these two, by which to judge whether cases are comparable is to judge whether the cases are about doing different things (killing and let die) to someone who is in exactly the same situation. According to this standard matrix kill and let die cases are not comparable, since they do not both involve dealing with someone who is already getting life support.

Concern for cross-definitional equalization (as well as the third standard and simple contextual equalization), would lead us to conclude that BNA¹ and matrix killing are comparable cases,

¹Recall, that BNA is the case in which someone who is receiving life support is attacked by a fatal germ, and requires minimal additional assistance from us to ward off the germ. If we refuse to give the minimal aid, it is in order that the germ, which will cause him to be detached as well as kill him, can detach him.

but matrix killing and letting die are not comparable cases.¹ All the equalization which was present in the matrix kill and let die cases is present in BNA and matrix killing, including equalization for interest in the occurrence of the cause of death, and equalization for being about a person in the same situation.

Like the matrix kill and let die cases, matrix kill and BNA cases are constructed according to principles other than the CP of P1/P2. The thesis of cross-definitional equalization is that even if letting die is not so objectionable as killing in P1/P2, and the cases constructed according to the CP of P1/P2 do not provide instances of equally objectionable or unobjectionable killing and letting die, this need not mean that killing and letting die will not be equally objectionable/unobjectionable in cases constructed according to the CP of cross-definitional equalization. Furthermore, the thesis maintains that these other cases are the ones capable of showing that killing is morally equivalent to letting die, per se, for if cross-definitional equalization does provide truly equal contexts and we do get equal moral value for killing and letting die in these cases,

¹There is a further reason why matrix kill and let die cases are not comparable cases, which I shall not enter into in detail here. Briefly, this is that, as it turns out, a decision about the permissibility of letting die has a role in an argument for the permissibility of killing. But comparable cases should be such that we can decide on their permissibility independently, or at most, can use the decision in one case as a sign for the permissibility in the other case, once we already know if killing is morally equivalent to letting die, per se.

this must (so the claim goes) mean that killing and letting die are morally equivalent per se. According to the CP of cross-definitional equalization (as well as the third standard) it is BNA and matrix killing, not P1/P2 that should be the basis on which we decide if killing is morally equivalent to letting die, per se.

In conclusion, in suggesting three different standards by which to construct comparable cases, all suggested by the directive of "holding all factors besides killing and letting die constant, as far as possible," I have shown that this directive is ambiguous. This is because one could use this directive to justify use of any of the CPs, and yet at least two of them (cross-definitional equalization and simple contextual equalization generate different cases as comparable).

Section IV

I began this chapter by putting forth an interpretation of Thomson's argument according to which matrix killing is permissible, when matrix letting die is, because (a) killing is morally equivalent to letting die, per se, and (B) all other morally significant factors besides killing and letting die are the same in the matrix kill and let die cases. I said that (a) was supposed to be shown by examining comparable cases--ones Thomson presents as those constructed according to the CP of P1/P2--and seeing that the killing and the letting die in those cases are of equal moral value.

I have not, however, yet tested to see whether our judgments about cases considered comparable according to the CP of P1/P2 do yield the same judgments about a killing and a letting die, I will now present four types of tests to determine whether the kill and let die cases generated by the CP of P1/P2 are instances of killing and letting die which are (a) equally permissible/impermissible (have equal permissibility status) and (b) equally morally objectionable/unobjectionable.

Test (1): Can John, in P1, who put the poison in the cup and killed Mary, be required to make efforts, if possible, to resurrect her? If he can, can Jim in P2, who failed to warn Susan of the poison in her coffee, be required to make the same efforts?¹ If he cannot, for some size effort which can be required of John, what does this indicate?

We must evaluate the results of Test (1) in the light of the distinction I noted above between those who say P1/P2 shows (a) letting die is just as morally objectionable as killing, but letting die is permissible even if killing isn't, and those who say (b) that killing and letting die are equally objectionable and equally impermissible.

¹We can imagine that John did not also fail to aid Mary by not warning her of the poison in her coffee (e.g., he fainted after putting the poison in), so that there is only one wrong done in each of the kill and let die cases.

If letting die is permissible, then differences in the efforts which can be required post-omission, may not tell us anything about whether the letting die is morally less objectionable than the killing.¹ This is because we may not be required to make efforts after doing what it was permissible for us to do, even if what was permissible was just as morally objectionable as what was impermissible. So killing and letting die in P1/P2 might still be equally as objectionable, and yet, if letting die is permissible and killing is not permissible, after-the-fact efforts may be unequal.

If both letting die and killing are impermissible, then unequal after-the-fact-efforts would show that letting die in P1 was not as morally objectionable as killing in P2. If we made both letting die in P2 and killing in P1 illegal and yet we attached stiffer penalties to P1 and P2, this would indicate that we considered one more morally objectionable than the other. Therefore, killing and letting die could both be impermissible and yet different efforts

¹That is, whether letting die in that particular case is less morally objectionable than killing in that particular case. (Note that a final decision about the equal objectionableness of the killing or letting die (if that is the decision) may be the result of (a) differences between killing and letting die, per se, being overridden, or (b) of there being no difference per se between killing and letting die. If the former were the case, the differences between killing and letting die, per se should show up in our judgments about other cases involving killing and letting die. Those who have used P1/P2 as comparable cases, have held (1) that the killing and letting die are equally objectionable, and (2) that they are equally objectionable because killing and letting die are morally equivalent, per se.)

could be required of John and Jim. But if different efforts were required this would indicate that it is less objectionable in one case to fail to do what it is impermissible to fail to do, than it is to do what it is impermissible to do in the other case.¹ Note that if it were true that we didn't have to make large efforts to help someone, the upper limits on these efforts wouldn't determine the upper limit on efforts we could be required to make to compensate for not having given the minimal assistance that we had to give in the first place. Some² have held that we needn't make large efforts to avoid either killing or letting die, but if we refuse to make minimal efforts to avoid either, we will have done something objectionable and the efforts involved in the penalty for having done something objectionable may be much greater than the efforts we had to make rather than do the objectionable thing in the first place.

Thus, differential results in Test 1 show either that the letting die is not impermissible when the killing is impermissible or that the letting die is not so morally objectionable as killing.

Derivatives of Test (1): In P1 as described above John does not also fail to give minor aid to Mary immediately after having

¹ Thus the fact that one had Good Samaritan laws wouldn't necessarily mean that one thought a killing and a letting die were equally objectionable morally.

² For example, Bruce Russell, "On the Relative Strictness of Negative and Positive Duties," American Philosophical Quarterly 14 (April 1977), pp. 87-97.

done the act that will kill her. But let us now suppose, along with Thomson, that John does also fail to provide minor aid after doing the act which kills. In the course of arguing for the claim that P1/P2 are equally morally objectionable, Thomson says the following: Just because John, who killed, also did not give minor aid, we do not think he did something more objectionable than Jim, who only did not give minor aid. That is, she claims that John's killing has the same moral value as Jim's letting die ($x=x$), and also that $2x$ (John's killing and John's letting die) is not of greater (negative) value than x . (This is a rebuttal to the view that even if killing is morally equivalent to letting die, the killer does a worse thing than the person who lets die because he does two wrong things rather than one.)

Using Test (1), it does seem that we would not increase John's maximum required efforts (after-the-fact) if, after knowing that he is the killer, we also found out that he failed to make small efforts to aid. So, if the letting die is as morally objectionable as the killing, then, by the measure of Test (1) Thomson is right to say that John's kill and John's letting die is not of greater (negative) weight than Jim's letting die.

But note that if, knowing that Jim (in P2) failed to aid in some minor way, we found out afterwards that he also put the poison in the coffee, it does seem that we would increase the efforts required of him to bring his victim back to life. Since it would be

contradictory to believe that the combination of killing and letting die is not of greater weight than just letting die in John's case, but killing and letting die is of greater weight than just letting die in Jim's case, the solution is as follows: (a) the killing differs in either moral objectionableness or permissibility from the letting die, (b) the greatest efforts which can be required after-the-fact are already required for the person who kills, so that adding let die to kill (in that specific order) does not increase the efforts required, and (c) the efforts demanded for letting die are lower than those for killing, since adding killing to letting die (in that specific order) does increase the efforts demandable.

So, in Thomson's attempt to show that the person who kills doesn't do anything more objectionable than the person who lets die simply because he does two objectionable things, rather than one, she provides us with a way to show either (1) that the killing is not morally equivalent to letting die, or (2) that it is not permissible when letting die is permissible. The way to show this is to note the significance of the order in which we find out that the same person both lets die and kills.

The following two points could be made in rebuttal of Test

(1): (1) If the person who only lets die does indeed have to make fewer efforts to correct his objectionable behavior than the person who kills, it is only because the person who lets die (but not necessarily the person who kills) is always in the position of having

an "accomplice." This accomplice either is the person who will have initiated the cause of death, or else whatever natural occurrences initiates the cause of death. It is right, therefore, that the person who lets die only share the efforts demandable. So, lesser burdens assigned after-the-fact, need not imply that a letting die is morally less objectionable than a killing. (This rebuttal also predicts that when the person who lets die is also the killer, the burden of efforts on him goes up. This is because there is no longer an accomplice.)

The second point in rebuttal to Test (1) is as follows:

(2) Unlike 2 joint killers who act together, the person who lets die does so after his accomplice has done his part, and perhaps this should also reduce the burden on him, even if what he does is as morally objectionable as the person who kills.

Neither of these two points seems adequate. So far as (2) is concerned, if one of two killers started the murder and the second finished it (both steps being necessary for the person to die), it seems that the second killer might have even greater responsibility for compensating for what is done. He actually completed the killing. Therefore, unless the killing is either more morally objectionable than the letting die, or impermissible when the letting die is permissible, letting die after someone else has initiated the threat should result in the heavier burden of after-the-fact penalty being placed on the person who lets die. So far as (1) is concerned: If

one of two joint killers is not available for carrying out compensation (e.g., he is dead), the one that is available can be required to carry the entire weight of compensation. What someone did (participating in the killing) can give high the highest responsibility for compensating for what was done. Thus, unless the killing and the letting die in P1/P2 are differentially objectionable or permissible, the following should be true: (a) when the person who initiated the cause of death is available for carrying after-the-fact burdens, the burden is at least split equally between him and the person who let die, and (b) if the "causing accomplice" is not available for carrying burdens, e.g., he is sick or nature is the "accomplice," the same burden that is given to the killer whose accomplice is also unavailable for carrying burdens, should be given to the person who let die.

I call tests applied after someone has done the thing which it is claimed is equally morally objectionable/impermissible, second level tests. They contrast with first level tests, which involve seeing what efforts a person must make to avoid killing or letting die, before he has done what will make him a killer or a person who has let die.

I will now consider, in more detail, whether first level tests show a difference between the efforts required for kill and let die in cases constructed according to the CP of P1/P2.

Test (2): T(1): I am walking along in the field, innocently, non-negligently etc., and, as I am about to take a step, I notice a baby underfoot whom I will kill if I take the step. I have just had leg

surgery. If I step back precipitously, the only way I can, I will break my leg. Must I do this rather than kill?

T2: I am walking along in the field, innocently, non-negligently, etc. Someone calls out to me that a baby across the field is dying and I alone can save him. Doing so requires me to run and break my leg, which is weak after surgery. Must I do this?

If we must suffer the injury in the kill case and not in the let die case, this shows that the CP of P1/P2 fails to generate a kill and let die case in which letting die is as morally objectionable as killing. It is not only impermissible not to suffer the loss rather than kill, it is morally objectionable not to do so.

If we must suffer the injury in the kill case and it would be objectionable not to, but it would be unobjectionable to refuse to suffer it in the let die case, this will either be because (1) killing and letting die, differ morally, per se, or (2) because there is some other difference between the cases besides any that would bear on whether killing differs morally from let die per se. If (2) were true then the CP of P1/P2 would not generate comparable cases (i.e., cases which we can use to tell if killing is morally equivalent to letting die, per se). Candidates for these differences include (a) interest in the occurrence of the cause of death (aside from causing it) present in T1 but not in T2, and (b) the fact that the person who is killed loses more than he would get via support from the person

who kills.¹

If we assume that the CP of P1/P2 does generate comparable kill and let die cases, then, the claim is that before-the-fact efforts tests do show that killing per se and letting die per se differ morally. If I do not have to avoid letting die by making certain efforts and it is not objectionable for me not to avoid it, but I have to avoid killing and it would be objectionable for me not to avoid it, this shows that a kill and let die differ in moral value, per se. Note the procedure involved here: we do not merely see the situation as a whole, i.e., say that it is not objectionable to (refuse to break a leg rather than let die), but it is objectionable to (refuse to break a leg rather than kill). We analyze the case as showing that the moral value of let die, per se differs from that of killing, so it isn't objectionable not to break a leg to avoid doing it, when it is objectionable not to break a leg to avoid killing. (Recall: A given letting die may be objectionable or unobjectionable. If it is objectionable it may still be less objectionable than a killing in a comparable case. We do not need to conclude that letting die, per se is morally unobjectionable. If we assume that letting die, per se has a negative value of some sort (so that per se it is morally objectionable) we only need to conclude that letting die is less

¹Note that I do not wish to foreclose the possibility that the interest in the cause of death could reflect on whether killing is morally equivalent to letting die or not.

objectionable, per se than killing per se, in order to say it has a different moral value. But we may not think that it is correct to say that letting die, per se, aside from a particular letting die, falls in the category of things which are objectionable and saying it is less objectionable than killing, per se, seems to imply that it is objectionable to some degree.¹ If we do not assume that letting die, per se, has a negative value, we could still say that it has fewer of the negative properties which make for objectionableness than killing, and in this way, without locating it in the region of objectionable or unobjectionable, say that its moral value differed from killing, per se. It is in this sense that I take Test 2 to show that letting die differs in moral value, per se from killing, per se.)

In opposition to this conclusion we might argue that T1/T2 only indicate a difference resulting from the fact that not killing is a duty and letting die is not a duty, per se. That is, one might reason as follows: Although letting die and killing are morally equivalent, per se, two things can be morally equivalent per se and yet we may have a duty not to do one but no duty not to do the other.²

¹If we represented the things on an objectionableness scale--that went from 0 (which would be identical with at least some unobjectionable things) to 100--then we could say letting die was less objectionable without implying it was objectionable at all. But I have used a scale of moral value that can itself be divided into objectionable and unobjectionable regions.

²This is the claim which gives rise to the original distinction between those who say letting die in P2 is as objectionable as killing in P1, and they are therefore, both impermissible, and those who say that they are just as objectionable but one is permissible and the other isn't.

We have a duty not to kill, but letting die is always permissible (barring special agreement to aid). We have no duty to aid. Therefore, we needn't make large efforts rather than let die. That is, even if letting die rather than break a leg is unobjectionable (not only permissible) when killing rather than break a leg is objectionable, this only reflects the fact that it isn't objectionable to refuse to make efforts to avoid what it is permissible to do. If we have no duty not to do something, then it is unobjectionable not to make great efforts to avoid doing that thing. But, it is our duty not to kill, so it is morally objectionable not to make efforts to avoid killing. Therefore, differences in efforts required and differences in efforts considered morally objectionable to refuse, indicate only that not letting die, per se, is not our duty when not killing, per se, is. It does not indicate that letting die and killing per se are not morally equivalent.

The claim I shall now argue for is that this reasoning is improper: (1) we can decide that not to make the effort is morally objectionable or unobjectionable without considering whether letting die is permissible or not a duty. For example, suppose letting die is always permissible, it is never a duty not to let die. Then it is permissible in P2. Suppose, too, that we decide that it is morally objectionable to refuse to do very little to save the person, regardless of whether or not it is as objectionable as killing. (It would not be argued in P2 that it is not objectionable to refuse minimal

aid because it is not objectionable to refuse aid which it is permissible to refuse.) Therefore the objectionableness or unobjectionableness of refusing aid can be determined independent of the permissibility of refusing aid/lack of a duty to aid. If refusing aid rather than saving a life could be objectionable, even if saving a life is not required, then if refusing aid is not objectionable this indicates, at least, that letting die, per se, is not objectionable enough to merit avoiding it by the effort in question. Also, given that somewhat lower efforts are also not required, it is not objectionable enough to merit avoiding it by somewhat lower efforts. If we decide in T2 that it is unobjectionable to refuse to sustain an injury in order to aid, but it is objectionable to refuse to sustain the injury rather than kill, we decide then, independently of the claim that letting die is always permissible and never a duty.

(2) Furthermore, we can decide that it is objectionable to refuse to make the effort rather than kill, without considering that not killing is a duty. This is noted in response to those who would say: It might be granted that we decide that not spending \$1,000 rather than let die is not objectionable, independent of being committed to the view that letting die is always permissible. But it is possible that it is objectionable to not spend \$1,000 rather than kill only because it is our duty not to kill. (This claim implies that efforts which it is objectionable to refuse are greater merely because it is our duty to avoid the act.) Thus, it might be claimed, that if the

unobjectionableness of refusing \$1,000 rather than save is independent of the permissibility of letting die in general, the objectionableness of refusing \$1,000 rather than not killing may still be independent of any difference in moral value between killing and letting die, per se, since it would only reflect on the fact that not killing is a duty, not on the degree of objectionableness of killing. We would then know that letting die, per se wasn't objectionable enough to make refusing to avoid it objectionable, but we wouldn't know that killing differed in moral value from letting die, per se.¹

This argument seems untrue. First, if the efforts we must make rather than kill did not reflect at all on the moral objectionableness of killing per se, then not killing wouldn't even be a duty. Having a duty to refrain and moral objectionableness may diverge such that we have no duty to avoid what is morally objectionable, but they may not diverge such that the unobjectionable is something we have a duty to refrain from. Second, the above argument depends on avoiding

¹Note that if the efforts required to avoid one act vs. another could differ simply because it was our duty to avoid one act and not the other, though the two were equally objectionable acts, it is also possible that the efforts required to avoid each of two acts can be equal and yet the two acts be unequally objectionable. This is because it might be our duty to avoid one, but not our duty to avoid the other. (That is, just in virtue of their degree of objectionableness, it would be more objectionable to refuse to make efforts to avoid one than the other, but it happens to be our duty not to do the less serious one.) This would mean that equally objectionable results from placing entities in equal contexts (i.e., equally high efforts required to avoid the acts) would not necessarily mean that the entities were morally equivalent, per se. This is a possible objection to the methodology behind the use of comparable cases.

the injury rather than not killing being as unobjectionable as avoiding the injury rather than saving a life, if killing is considered independent of there being a duty not to kill. Duties, however, are sometimes overridden, if the efforts required to fulfill them are too great. In particular, of two duties, one may be overridden and the other not by the fact that the efforts involved in avoiding violating our duty are too great. That is, it would be objectionable to refuse to make efforts to do x, but not objectionable to refuse to make efforts to do y, where both x and y are duties. If one duty is overridden and the other isn't, by the same size effort, we would know that x involved the more objectionable act (or omission). Since they are both duties, the difference in objectionableness of refusing to make the efforts must indicate, not that one is a duty and the other isn't, but the relative moral value of the two acts/omissions, per se.

Therefore, the fact that in T1, the desire to avoid injury does not override the duty not to kill is evidence that killing, per se, is objectionable enough to make it, in turn, objectionable to avoid the injury rather than not kill, independent of its being a duty not to kill. But if killing is objectionable enough to have to make the efforts, this means that it differs from letting die in moral value, per se, since it was granted that letting die was not sufficiently objectionable (if it was objectionable at all, per se) to have to avoid by making the efforts, in question, or even somewhat lower

ones.¹

In summary, if the cases generated by the CP of P1/P2 are comparable, Test (2) shows the unequal moral seriousness of killing and letting die, per se, because (1) We can decide on the objectionableness of not making large efforts rather than letting die independent of considering whether letting die is permissible (as is done in P2, when it is said that letting die is morally objectionable, even though it is permissible). So, if refusing to make efforts rather than let die could be morally objectionable even if letting die were permissible, it's not being objectionable indicates (at least) that letting die, per se, is not so morally objectionable that not making the efforts to avoid it is objectionable. (2) Having to make the efforts rather than kill, but not rather than let die, does not indicate merely that killing is a duty and not letting die isn't, since duties can be overridden by the size of efforts necessary to carry them out, and if they are not, it is because the act is objectionable enough so that it would be objectionable not to make the efforts to avoid it. But then (1) and (2) show that killing differs from letting die, per se, in moral value, since letting die was not so objectionable that not making the same or somewhat lower efforts to avoid it is objectionable.

¹I mention the somewhat lower efforts in case it might be thought that it is the combination of the objectionableness of killing and the fact that it is a duty that makes undergoing the particular efforts in question necessary.

I conclude that our decision that efforts should be made to avoid killing but not letting die in T1/T2 reflects on the relative moral value of kill and let die, not on the fact that letting die is permissible, but that there is a duty not to kill. We think it acceptable to refuse injury rather than not let die, but we think it unacceptable to refuse injury rather than avoid killing because letting die differs in moral value from killing, per se.

The above discussion involved the assumption that letting die is always permissible. Suppose letting die is not always permissible. For example, suppose it is impermissible in P2. One way to account for this is that (a) whatever factor counts in favor of the permissibility of letting die is overridden by (b) the smallness of assistance required, (c) the consequences of not aiding (death), and (d) the bad motive involved. So, e.g., we weigh (b), (c) and (d) against (a) and find that letting die is impermissible. Letting die may not be impermissible for the same reasons as killing is impermissible, but it would still be impermissible. In a case involving \$1,000 aid we would weight the \$1,000 and the consequence of death against the factor making for the permissibility of letting die, and the factor would not be overridden. Since it has not been agreed that letting die is always permissible prior to our deciding that we needn't spend the \$1,000, what we do in deciding if it is permissible is see how morally objectionable we think it is to fail to give the aid.

So, if we use the moral objectionableness of refusing to give aid to decide if not giving aid is permissible, we cannot use the permissibility of refusing to give aid to decide the moral unobjectionableness of not giving aid. The (im)permissibility depends on the moral objectionableness/unobjectionableness, not the other way around.

Likewise, if killing, per se, is not always impermissible (i.e., if the duty can be overridden), we can decide on the permissibility of killing as opposed to sustaining an injury, by seeing how objectionable it is to kill rather than suffer the injury. Therefore, the objectionableness of not sustaining the injury to avoid killing would be decided independently of the impermissibility of killing. We use the moral objectionableness of refusing the efforts to decide whether killing is permissible or impermissible in the particular case (i.e., if the duty is overridden or not). Thus, the moral objectionableness of refusing the efforts does not depend on the impermissibility of killing.¹

If we decide letting die rather than sustaining injury is permissible but killing rather than sustaining injury isn't, this is because we have decided that doing the first wouldn't be morally objectionable, but that doing the second would be. And this in turn means letting die, per se, differs in moral value from killing, since we can make fewer efforts rather than let die, even though it is not

¹This point is also implied by the earlier remarks on the fact that duty can be overridden.

known that letting die is always permissible. We don't have to sustain the injury and it is unobjectionable not to sustain the injury, not because letting die is always permissible, but because it differs in moral value from killing, per se.

In conclusion, the cases T1/T2, generated by the CP of P1/P2 do not provide instances of equally objectionable killing and letting die. Furthermore, if these are comparable cases we can conclude that the objectionableness of refusing to make efforts rather than kill or let die is a response to neither a difference in permissibility/duty between killing and letting die, but to their different moral value, per se.

The results of Test (2) imply that if letting die in P2 were as morally objectionable as killing in P1, it would be because factors override the moral difference between killing and letting die, per se. So even if P1/P2 were equally as objectionable¹ and P1/P2 provided comparable kill and let die cases, this would not mean that killing and letting die were morally equivalent, per se.

The third type of test for whether cases generated by the CP of P1/P2 yield cases in which killing and letting die are equally objectionable or unobjectionable/equally permissible or impermissible involves situations where there are conflicts or choices between

¹Recall, that the assumption that they were both impermissible and yet Test (1) still differentiated between them was meant to show they weren't equally objectionable.

allowing a killing or a letting die to occur. (The previous tests involved deciding about a killing and a letting die that occurred in two separate cases.) In conflict or choice tests, the prospect of killing or letting die occur in the same case.

Test (3): T3: Susan knows that at some point in the future she may face the following situation: She is walking across the field. By taking her next step she will (unknowingly) step on and crush a person underfoot. She can refrain from taking the step with no bad consequences to herself. Also, by failing to snap her fingers at the next moment she fails to rescue a dying baby in the field. She cannot both stop her next step and snap her fingers at the same time. There is a computer which she can program now so that it (1) can detect situations of this sort when she cannot and (2) can tell her which act to do in the situation, given that she will program it, with her decision, about what to do. If she chooses to prevent the killing rather than the letting die, what will this show?

It may only show that letting die is permissible when killing isn't, and we must see to it that a person gets what he is owed (not to be killed) before he gets what he isn't owed (aid). If both minimal aid and not killing are required, then what we do in the conflict case should indicate whether the killing is morally more objectionable than the letting die. This in turn, will show (a) either that killing is not morally equivalent to letting die, per se, or (b) that cases generated by the CP of P1/P2 are not comparable cases, and that

there is some inequality accounting for the decision to avoid the killing rather than avoid the letting die.¹

Note that conflict cases may indicate whether it is more important to avoid a killing than a letting die, when efforts tests (such as Tests 1 and 2) might not. This is because it is possible that one would have to do as much to avoid one act as another, when each is considered in isolation, and yet when we have to choose to avoid one rather than the other our rating of their moral value exhibits itself.

The fourth test for checking if the cases generated by the CP of P1/P2 are cases in which a killing and a letting die are equally objectionable or unobjectionable/permissible or impermissible, involves (a) altering the motives of the person who kills or lets die towards the person who is to be killed or let die, from bad or

¹Recall that Thomson presents separate cases, ones I have described above (p.171) as S1/S2 involving the following killing and letting die situations: (a) the person who steps down while innocently walking along, unbeknownst to him kills someone, (b) a person, as he walks along, unbeknownst to him fails to save someone's life. Thomson asks: "Is what is done in one case (killing) worse than what is done in the other (letting die)," implying that the answer is no. But if the person would choose to prevent his killing rather than his letting die via a computer as in Test (3) this indicates either (a) killing is impermissible when letting die isn't or (b) the killing is more morally objectionable than the letting die (which in turn means either that killing is morally objectionable than letting die, per se, or the cases generated by the CP of P1/P2 are not comparable. While it may be true that a person in S1 and S2, who does what he does unknowingly in both cases, has the same moral standing, this need not mean that if he knew what was going to happen he shouldn't prefer S2 to S1 and be blameable for not preferring S2 to S1.

indifferent motives to benevolent ones, and (b) altering the consequences of the killing or letting die from negative to positive for the person killed or let die.¹

T4: Someone is dying a terrible death. It would be a benefit to him to die immediately, but he doesn't want to die. In such a situation (a) I may not kill them in order to benefit him; (b) I may permissibly refrain from giving (even minor) aid which would keep him alive, in order to benefit him, even though he wants to go on living and hence wants to be aided.²

These kill and let die cases involving beneficent motives indicate that letting die can be morally unobjectionable (as well as permissible), when killing in the comparable case (according to the CP of P1/P2) is morally objectionable, and impermissible.

Furthermore, if the kill and let die cases involving beneficent motives are comparable, they would show that there is some difference between killing and letting die, per se, which makes benefits which can be achieved by either relevant only to the unobjectionableness of one of them (letting die). There is something wrong with killing which makes it morally objectionable to use it as a route to

¹These cases are suggested by Philippa Foot in her paper "Euthanasia."

²It would be permissible and also not morally objectionable to do this. Note that in this case my intent is to benefit the person. My intent is not merely that I not be involved in promoting some situation (his being alive) which I think is wrong.

achieving a good end. If it is not objectionable to refuse minimal life saving aid for a good motive, but it is objectionable to kill for a good motive, this indicates that letting die, per se, is not so morally objectionable a thing that we can't do it as a means to something good, but killing is so morally objectionable, per se, that we cannot do it as a means to something good.¹

It might seem that a further interpretation of the results of Test (4) is the following: The duty not to let die (if there is one) can not be so strong as the duty not to kill, even when aid is very minimal. For, if a desire to promote someone's welfare cannot override someone's right not to be killed, the desire to promote someone's welfare shouldn't be able to override the right to minimal aid, if the right to minimal aid were as strong as the right not to be killed. But if we needn't aid in T4(b), we can conclude that when the motive for not aiding is malevolent rather than beneficent there is also no right to have even minimal aid.

However, this interpretation seems incorrect. If the grounds for having a right to minimal aid were, in part, that the consequences of not getting aid are bad, then if the consequences are good² there

¹It does not indicate (only) (a) that not killing is a duty and letting die never is, since letting die could be objectionable even if it isn't a duty not to let die, and the duty not to kill could be overridden by a good motive (as e.g., the duty not to lie might be), if killing, per se were less objectionable a thing to do.

²Even though they are not desired by the beneficiary (i.e., the person who dies).

would be no right to have the aid. It could be consistent with not having a right to minimal aid in T4(b) that one has a right to minimal aid (and as strong a right as not to be killed in P1). We would have to find some other way besides pointing to T4 to show that there was no right or not as strong a right to the minimal aid when the consequences for the person who would die are bad. What T4 shows is that the objection to killing in P1 would arise from at least some different source than objections to not aiding in P2, since T4 shows that killing has some property which makes it more objectionable than letting die (if T4 involves comparable kill and let die cases).

In short, the four tests show that cases generated by the CP of P1/P2 are not instances of killings and lettings die which are equally permissible/impermissible, or equally objectionable/unobjectionable. Therefore they do not show that the presence of killing and the presence of letting die are morally equivalent, *per se*, or that killing is morally equivalent to letting die, *per se*. Therefore, we could not yet follow the plan suggested by Thomson's argument, of taking killing and letting die, which we know to be morally equivalent, *per se*, and put them in the equal context said to be provided by the matrix kill and let die cases, so as to get the conclusion that killing to terminate life support is as permissible as letting die to begin with.

Still, the tests were applied to cases generated by the CP of P1/P2, *i.e.*, by the procedure of contextual equalization. We have

already examined an alternative procedure suggested for producing equalized cases, i.e., cross-definitional equalization (taken to include contextual equalization also). Perhaps the CP of P1/P2 did not generate equalized cases, perhaps some factor besides killing and letting die, per se, introduces a moral difference in the cases, and that is why they do not provide a killing which is morally equivalent to a letting die. Perhaps we should use cases equalized according to the CP of cross-definitional equalization, in order to get cases where a killing is morally as objectionable/unobjectionable as a letting die, and perhaps these cases will show that (a) the presence of killing is morally equivalent to the presence of letting die, and (b) killing is morally equivalent to letting die, per se.

Section V

I will now consider cases equalized according to the Construction Principle of cross-definitional equalization and see how we could use our judgments about a killing and a letting die in these cases to test whether the presence of killing is morally equivalent to the presence of letting die, per se, and if killing is morally equivalent to letting die, per se.

I will review which kill/let die cases are more and most equalized according to this CP. I claim that unequal judgments about the objectionableness of a killing and a letting die in the most equalized cases are due to differences of moral significance between

killing and letting die, per se.¹

I characterize these differences as either (a) morally positive properties of letting die, which killing lacks, or (b) morally negative properties of killing which letting die lacks. (I claim that any negative property of prohibiting letting die may be analyzed so that its presence means either that letting die has some positive property or killing has a negative property.)

I note, that the comparable cases generated according to the CP of cross-definitional equalization are supposed to show not only that any difference in judgment is due to a difference between killing and letting die. They are also supposed to show that if there is no difference in moral judgment, this means there is no difference between killing and letting die, per se. I consider how these cases, equalized according to the CP of cross-definitional equalization are supposed to be used to show the latter. I claim that it is not enough to use one specific set of cases, with definite values assigned to such factors as efforts, motive, etc.² We must vary the value assigned to the variables in these cases, to be sure the unobjectionableness of a

¹In this discussion I shall assume what was shown above, i.e., that a difference in the size of efforts which it is objectionable for us not to make rather than kill and let die, indicates not (only) that killing and letting die differ in their status as duties, but in their moral value, per se.

²Although one such case, where there is a difference in judgment about the killing and letting die would be enough to show there was a difference between killing and letting die per se.

killing is not dependent on the presence of a factor which is unnecessary for the unobjectionableness of a letting die. I then distinguish between the variables and the constant, and argue that there are reasons for having certain constants.

I shall then argue that if judgments are found to be the same in these cases, and if we can conclude that killing is morally equivalent to letting die per se, this will not help those who have argued that a killing is morally equivalent to a letting die in P1/P2 and cases generated by the CP of P1/P2.

Moreover, the results of the cases generated by the CP of cross-definitional equalization are of no use in judging whether matrix killing is permissible when matrix letting die is. I argue that this is so, because we would have to know whether killing is permissible in the matrix kill case before we knew that killing was morally equivalent to letting die, per se, via the use of equalized cases. We could then compare killing immediately with letting die to see if it is permissible when letting die is. Therefore, (1) use of our findings from cross-definitionally equalized cases would be redundant, and (2) without a prior judgment about the permissibility of matrix killing we could not reach a judgment about whether killing is morally equivalent to letting die, per se.

If we do not know that killing is morally equivalent to letting die, per se, the permissibility of matrix letting die cannot be a sign for the permissibility of matrix killing, no matter how

equalized the cases are. Therefore, if our intuitions fail us about the permissibility of matrix killing we must provide an argument, one which does not need to assume that killing is morally equivalent to letting die, in order to show that the killing is indeed permissible. Furthermore, this need not imply that killing is morally equivalent to letting die, per se, so it allows us to see if a killing is permissible when a letting die is, even if killing is not morally equivalent to letting die, per se.

I indicated that according to the CP of cross-definitional equalization, the matrix kill and let die cases were more equalized, in some respects, than were P1/P2, and that therefore they differed from P1/P2. In particular (and as opposed to P1/P2), the person loses only what he would get via support in both kill and let die cases. Furthermore, what he loses would have been a benefit over the condition he would have been in if the supporter hadn't come on the scene. There is an interest in his losing only what he would get via the support. The effort required as the alternative to killing and letting die have the same function, i.e., saving someone's life. Killing and letting die are done for the same purpose, avoiding efforts.

There was, however, an inequality of interest in the occurrence of the cause of death, and an interest in using the person's death as means to some end. This inequality is not present in P1/P2. There is, furthermore, the inequality that the person killed is made worse off than he would have been if not killed (even if not worse

off than he would have been if he hadn't been supported and then killed), whereas the person who is left to die is not worse off than he would have been. In addition, the efforts we wish to avoid do not arise as the alternative to killings (while they arise as the alternative to letting die). Rather they pre-exist the question of killing. In the kill case, we avoid making efforts by killing and killing is the cause of the end of efforts. However, in the let die case, letting die does not merely allow a cause of the avoidance of efforts to exist, it just is the avoidance of efforts.

I said that better equalization, according to the CP of cross-definitional equalization, was provided by BNA and matrix killing. Here we had all the equalization of matrix killing and letting die, and in addition, (1) intention that the cause of death occur, and (2) intention that the person die as a means of ending great efforts, and (3) the large efforts that we wish to avoid exist prior to the decision on whether to kill or not aid in a minimal way, i.e., someone is already being support in both cases.¹

¹Since I imagine that in BNA the efforts we are already making equal the ones we want to terminate by killing, giving the minimal aid in BNA will make the total aid in question slightly higher than in the killing case if we don't kill. We may lower the "internal aid," the support already being given, to equalize total support in question in both kill and let die cases. We should be careful not to increase the amount of additional aid needed to combat the germ, since the more weight we shift from the "internal aid" to the "external aid," the more likely we will have a case where someone wishes to avoid making the "external efforts" for their own sake, and not merely in order to stop the internal efforts. If this happens we once again do not have a let die case where the person intends the occurrence of the cause of death in order to stop having to make efforts. That is, if

Any difference in moral objectionableness between the matrix killing and BNA are due to differences between killing and letting die, per se. If there is a difference in permissibility or objectionableness between BNA and killing to terminate life support, this may mean that killing has some negative characteristic let die lacks or let die has some positive characteristics which killing lacks.¹

they only want to stop the "external efforts," they have no need for the person to die, or for the cause of their death to occur, except as a sign that they didn't aid, minimally.

¹It may also mean that not permitting letting die in BNA has something objectionable about it, which prohibiting matrix killing doesn't have. But this property, which not permitting letting die has, and which serves as a reason for permitting letting die, may reflect on whether killing differs morally from letting die, per se. That is, if preventing a killing in a killing case had this property, and in the killing case this property was not a sufficient reason for allowing the person to kill, the fact that the property was sufficient for allowing letting die in a comparable case would indicate that killing differed from let die, per se. That is, a certain property would be enough to make a letting die permissible/unobjectionable, but it wouldn't be enough to make a killing permissible/unobjectionable.

The negative property of not permitting letting die in BNA which I have in mind is that it would be objectionable to require someone to help someone else harm him. In the matrix kill case, not killing, itself, does not help someone harm the supporter, though if we do not kill, the supporter will be left helping someone to harm him (by saving the life which imposes a burden on him). But a killing case could be constructed in which our not killing, itself, helps someone harm us. Suppose, someone was harming me, but not to such an extent that I could kill him to stop it. In order not to kill him I have to make a minimal effort which requires me to step on a button, and stepping on this button happens to also help the person continue to harm me, by making him stronger. In this case, we could say that not killing, itself, involved me helping someone to harm me. However, this wouldn't be reason for the permissibility/unobjectionableness of my killing. Whereas this factor would be a reason for the permissibility/unobjectionableness of letting die in a comparable case. So, even though the factor of helping someone harm us is present only in BNA and not in matrix killing, we should take the fact that it is a reason

As noted above the suggestion may be made that if the matrix kill and let die cases or BNA and matrix kill cases provide better instances of equalization according to the CP of cross-definitional equalization it may be that these cases should be used to get instances of a killing which is morally equivalent to a letting die, and to see if killing is morally equivalent to letting die, per se.¹

The first thing to note in discussing how these cases should be used to find out if killing is morally equivalent to letting die, per se, is to note that the phrase "these cases" is ambiguous. It may mean the specific BNA or matrix kill/let die cases involved in the

for the permissibility/unobjectionableness of letting die as indicating either that killing has some negative property which letting die lacks or that letting die has a positive characteristic which killing lacks.

¹I said above that any differences between BNA and matrix killing will be due to differences between kill and let die, per se. So, if the cases differ in the objectionableness of a killing and a BNA this will show that killing differs from letting die, per se, morally. But this is not the same as saying that if killing and letting die differ morally, per se, these are cases that will show it. For example, they may be so constructed as to compensate for some morally significant difference between killing and letting die. If these cases conceal some differences between killing and letting die, then they will not tell us if killing is morally equivalent to letting die, per se, even though they may tell us if killing is not morally equivalent to letting die, per se. But what is called for in comparable cases are cases which will equalize for all properties besides killing and letting die in such a way that (1) a difference in judgment about the cases is due to a difference between kill and let die, per se, and (2) differences between kill and let die are not concealed. Those who suggest that we use BNA/matrix kill as comparable cases must think they provide both (1) and (2).

violinist case, i.e., the ones involving body support. These I shall refer to as BNA(s)(specific), matrix(s) kill and matrix(s) let die. BNA(s) is a particular case which exhibits certain construction principles which require equalization of certain factors. By it being a particular case--rather than a type of case--I mean that the efforts involved are bodily support efforts. If we ask if killing in the matrix(s) case is as unobjectionable as letting die in BNA(s), we want to know if, with this effort involved, the two are equally unobjectionable.

But "these cases" may refer to other BNA, matrix kill and let die type cases, where the efforts are not bodily support efforts. There are other cases which have the same CP but different values attached to such things as efforts. I refer to all cases generated by the CP of cross-definitional equalization, with different values attached to variable factors,¹ as BNA(t)(type), matrix(t) kill and matrix(t) let die cases.

Pointing to one case where a killing is as unobjectionable as a letting die does not necessarily give us any evidence that killing is morally equivalent to letting die, per se. There may be particular explanations for why killing is as unobjectionable as letting die in this one case, explanations having nothing to do with equals being placed in equal contexts. Indeed factors, aside from kill and

¹Just which factors are variable factors I discuss below.

let die may be unequalized. But even if we have one case where killing and letting die are placed in equal contexts (whatever these are) and the particular killing is as morally unobjectionable as the particular letting die, we also shall not have shown that killing is morally equivalent to letting die per se. We must, at least, vary the factors which should be varied in both kill and let die cases equally to see if moral equivalence holds up. For example, BNA(s) and matrix(s) killing, as particular cases may not be equally unobjectionable. Moreover, it is not necessarily only one parameter that we must vary to see if killing is morally equivalent to letting die, per se. If a difference did not show up between killing and letting die as we varied efforts involved, it might show up as we varied another factor equally in both kill and let die cases. By relying on one specific case, where those factors which may vary equally are given a fixed value, we run the risk of missing a moral difference between killing and letting die. This is because one particular value given to a factor may be necessary to make killing unobjectionable, even though it may not be necessary to make letting die unobjectionable, even if the factor is present equally in both kill and let die cases. However, if killing is morally equivalent to letting die, per se, the factors necessary to make killing morally unobjectionable should also be necessary to make letting die unobjectionable in comparable cases. If a difference in moral objectionableness of a killing and a letting die shows up when we vary certain factors equally, then killing

is not morally equivalent to letting die, per se.

Which factors must vary their values? I noted that matrix(t) killing and BNA(t) describe cases where we kill someone to stop life support, regardless of the size of the efforts involved, and where we refuse minimal aid in order to stop life support, regardless of the size of efforts involved. So size of effort should be allowed to vary equally in the kill and let die cases. Indeed the value of all factors should be allowed to vary equally, except (1) those that are necessary to make a killing case have as many of the definitional properties of letting die as it can have without it ceasing to be a killing and (2) those that are necessary to make a letting die case have as many of the definitional properties of killing as it can have, without it ceasing to be a letting die. In other words, everything should vary equally so long as doing this does not violate the construction principle of the cases, cross-definitional equalization.¹

Requiring that the person in all the kill and let die cases lose only what he would have gotten via the support--henceforth I shall refer to this as requiring equalization of object lost--restricts the range of object lost and the type of person killed--one who is being provided with life support. It is important to see that this is not an artificial, ad hoc restriction, such as restricting the size of

¹In discussing the cases generated by the CP of P1/P2 in addition to P1/P2 and testing to see if a killing was morally equivalent to a letting die in those cases, we were in effect, varying the variables of that CP.

efforts involved would be. The restriction on object lost and type of person is not ad hoc because it duplicates a characteristic which is a necessary part of letting die. If it were ad hoc, we would have to also consider cases where, in being killed, someone loses more than what he would have had via support. It would be ad hoc, so far as the CP of cross-definitional equalization, if we restricted the objects lost of both killing and letting die, when there could be cases of both killing and letting die with a different type of object lost. But it is not as if letting die could involve someone losing out on more than what he would have gotten via the aid. There are no kill and let die cases constructed according to the CP of cross-definitional equalization where the object lost is other than what they would have had via us, because there is no such let die case. If letting die always has a characteristic which a killing case can be given, killing should always be given it, according to the CP of cross-definitional equalization.

Restrictions which could be eliminated and yet we would still have kill and let die cases which are cross-definitionally equalized are ad hoc, even if the restrictions are applied equally. A conclusion of moral equivalence of a kill and a let die in cases so restricted need not mean that a killing will be morally equivalent to a letting die in other cases where all factors are held equal besides killing and letting die.

In summary, I have described how BNA and matrix kill cases should be used according to the CP of cross-definitional equalization to find out if killing is morally equivalent to letting die, per se. The values of variable should be varied equally, results with one set of values will not be enough to tell if killing is morally equivalent to letting die, per se, even assuming that cross-definitionally equalized cases are suited for the purpose of finding this out.

It should be noted that even if we could show that a killing is morally as objectionable or unobjectionable as a letting die in cases more equalized according to the CP of cross-definitional equalization, this would not help those who recently have pushed the claim that killing is morally equivalent to letting die, per se. These philosophers are concerned with a killing and a letting die being just as objectionable/unobjectionable in cases where there is no equalization other than that represented by P1/P2. As we have shown by our discussion of the CP of P1/P2, it is a point of cases like P1/P2 not only to deny the significance of the fact that someone causes a death, as opposed to allowing it to occur,¹ but also to deny the significance of differences between killing and letting die cases based on the following considerations: (1) whether or not what the person loses out on is what he would have gotten via support of the person who kills or lets die; (2) whether the person who doesn't aid or does kill

¹That is, it is the fact that a decision in either case makes a difference between life and death, that counts.

would have wound up supporting and benefiting someone over the prospects the latter had. Those who introduced cases P1/P2 originally wanted to show that a killing and a letting die, in those particular cases, were equally objectionable, and that the objectionableness of killing and letting die in other cases will not be affected by the differences noted in (1) and (2).

One way of reading this attempt to equate killing and letting die is that it is the state of the person whose life our decision concerns that is important. What counts is whether they are alive or not, not whether they have their life via our efforts or via other efforts. Concern with the state of the person in terms of benefits/harm to him simply focuses on whether the person would have his life or not, thereby ignoring whether he would have it via us or not via us.

On this view, looking at matters from the side of the person who acts: It will be insignificant that in one case an effort produces a benefit over prior prospects and in another an effort prevents a worsening over prior prospects. It is the efforts involved, simply (their size), that is considered, not their function with respect to prior prospects.

So, according to this approach it is the person dead or alive, and the degree of effort involved for the person who acts, that are the bases on which we decide the permissibility of killing and letting die. On this view, what I have described as equalization

of what the person loses and equalization of the function of efforts becomes superfluous. In summary, the usual aims of those who have used P1/P2-type cases to show a killing is morally equivalent to a letting die, and killing is morally equivalent to letting die, per se, are not at all served by considerations of matrix(t) kill or BNA(t) cases, these being the cases generated by the CP of cross-definitional equalization. Behind the attempt to show there is no difference between killing and letting die has been the specific goal of showing that it is just as objectionable to not aid someone as it is to interfere with someone who is just an ordinary passer-by, i.e., specifically not just a person we are already aiding. Showing that a killing is as morally unobjectionable as a letting die in cross-definitionally equalized cases but not in P1/P2, runs directly counter to the aims of those who have made use of P1/P2.

The primary question, however, is how useful the results derived from the use of cross-definitionally equalized cases will be in our deciding if matrix killing will be permissible, when matrix letting die is permissible. Recall, that we began by saying that a reasonable interpretation of Thomson's Argument II was that the killing to terminate support is permissible because (a) letting die to begin with is permissible, (b) all factors besides killing and letting die are the same in the matrix kill and let die cases, and (c) there is no moral difference introduced by killing and letting die. The conclusion that killing is morally equivalent to letting die, per se,

or that the presence of killing is morally equivalent to the presence of letting die, per se, was to be used to show that a killing is morally equivalent to a letting die.

Now if we overlook the fact that (b) is not true of the matrix cases¹ and we suppose the cross-definitional equalized cases can show us whether killing is morally equivalent to letting die, per se, there are still major problems with using BNA/matrix kill cases, to reach a conclusion about the permissibility of killing to stop life support. The problems are as follows:

(1) The original strategy was to find out that killing is morally equivalent to letting die, per se in order to then put these equals into the (supposedly) equal contexts of matrix kill and let die cases, to get the equal permissibility of a killing and a letting die. If we use BNA and matrix kill cases to see if killing is morally equivalent to letting die, per se, we would decide this by rendering judgment on the moral value of killing in the matrix(s) killing case, as well as in other matrix(t) killing cases. So, it would be redundant to use the conclusion, that killing is morally equivalent to letting die, per se, to arrive at a judgment about whether matrix(s) killing is permissible, since we would have had to use this judgment to reach the conclusion. If we already had the judgment about when killing to terminate support was permissible, and there is no problem

¹There is interest in the cause of death and/or use of the person as a means which is absent in not starting aid to begin with.

about our knowing when matrix letting die is permissible, we could have just compared our judgments in matrix(s) kill and let die cases immediately, to see if killing is permissible when letting die is, without having to know whether killing is morally equivalent to letting die, per se.¹

(1) Implies (2): The use of either BNA/matrix killing cases to show that killing is morally equivalent to letting die, requires us to reach a conclusion about the permissibility of matrix(s) killing, which is just what is in dispute. How are we to know that matrix(s) killing is permissible. Even if we know that (1) matrix(t) killing is more like matrix(t) let die than P1 is like P2, and (2) that we can matrix(t) let die or BNA(t), we still will not be able to tell when we can kill in the matrix(t) cases or, in particular, if we can kill in the matrix(s) kill case, since we do not know that killing

¹However, if we already have a judgment that matrix(s) killing is not permissible when matrix(s) letting die is permissible, it might be suggested that if we wanted to find out whether this was because killing differed from letting die, or because of some other inequality between the cases, then comparison of (a) BNA(s) with matrix(s) kill, and (b) BNA(s) with matrix(s) let die would be useful. That is, the comparison in (a) involving cases which are equalized for interest in the cause of death/using someone as a means, would show us if the moral difference between matrix(s) kill and let die cases was attributable to a moral difference between kill and let die, per se. The comparison in (b) would show us whether a difference in moral value was produced by the addition of interest in the case of death/using someone as a means. Note that difference in moral value due to interest in the cause of death/use of someone as a means, may not make letting die in BNA impermissible (even if it makes it more objectionable), but it might have this effect when a killing is involved.

is morally equivalent to letting die, per se. We are supposed to be in the midst of using the BNA/matrix kill cases to find this out. The objectionableness of letting die in a comparable let die case cannot be a sign for the permissibility of killing, unless we know that killing is morally equivalent to letting die, per se. This role of being a sign is essentially the one Argument II gives to the unobjectionableness of matrix letting die.

If we cannot use the unobjectionableness of letting die as a sign for a decision on matrix(s) killing, until we know that killing is morally equivalent to letting die, per se, we cannot know the latter until we have a decision about matrix(s) killing and other matrix(t) killings, and our intuitions are in dispute about matrix(s) killing, then we will have to look for a reason for the permissibility or impermissibility of killing in the matrix(s) kill case in the form of an argument for its permissibility. Once we have this argument we won't need to consider if killing is morally equivalent to letting die, per se, to see if matrix(s) killing is permissible when matrix(s) letting die is.

Answering "why" we can kill by giving an argument will be very different from pointing to another act (or omission) which, it is agreed, we may do in a similar context and saying that because we can do that act (or omission) we can also kill. As noted, this is to use the second act (or omission) as a sign for the permissibility of killing. But doing this would not give us an explanation of, argument

for, the permissibility of killing even if we did know that killing and the other act (omission) were morally equivalent entities, per se. And, certainly, using the sign does not give us an explanation for why we can do the other act (or omission). An argument for the permissibility of killing might even do the latter.

Furthermore, an argument would explain why killing is permissible (or impermissible), independent not only of knowing whether killing is morally equivalent to letting die, per se, but independent of whether killing is morally equivalent to letting die, per se. That is, an argument may show that killing is permissible when letting die is, in certain cases, without implying that, therefore killing is morally equivalent to letting die, per se or that the presence of killing is morally equivalent to the presence of letting die, per se.¹ This is because the factors referred to in the argument for permissibility may be present in some kill cases and not in others, although letting die in the let die case used for comparison is still permissible.

In the next chapter I will attempt to provide an argument for the permissibility/unobjectionableness of killing in the matrix(s) case, which will also bear on the question of why matrix letting die is unobjectionable/permissible.

¹It may also show that a killing is permissible when a letting die is, even if it would continue to be preferable, in just those very cases to have a letting die, rather than a killing.

In summary, I have shown how cases equalized according to the CP of cross-definitional equalization would be used to see if killing is morally equivalent to letting die, per se (assuming these cases can show it). But, I have argued, if we can do this, we won't need to, at least not in order to know if killing in the violinist case is permissible when letting die is. This is because if we can go through the various matrix(t) kill and BNA(t) cases, we will already know if killing is permissible in matrix(s) killing. And if we don't know if killing in the matrix(s) case is permissible, we won't be able to know if killing is morally equivalent to letting die, per se, by using the matrix(t) and BNA(t) cases. If we don't know if killing is morally equivalent to letting die, per se, we can't use it to find out if killing is permissible in the violinist case, and the permissibility of letting die will not be a sign for the permissibility of killing. So, we will need an argument for the permissibility of killing.

CHAPTER V

In this chapter, I will present an argument (The Justice Argument) which, I claim (1) makes the best use of the factor which Thomson emphasizes, namely that we needn't support someone in our body merely in order to save their life, and (2) shows that killing is not unjust in any case (regardless of how residence is begun) where (a) we can say of the efforts being made that we needn't have made them merely in order to save someone's life, (b) there are no other grounds for residence, except possibly because there is something morally objectionable about killing, and (c) where the person supported receives ALN-satisfaction from the efforts. Killing may still be impermissible in some of these cases even if it is not unjust. The primary aim in presenting this Justice Argument is to show how one might recast Thomson's argument and make a stronger case using the same significant premise she uses. If one is to use the factor Thomson emphasizes, it is the Justice Argument, not the one she presents, which has the best chance of being correct.

The intuition behind this argument is that if you have no right or permission to use something, losing the benefit of having it cannot, as a matter of justice, stand in the way of your losing the use of that thing. This is true, even where the benefit you will lose is the continued retention of what belongs to you. Furthermore, there is no injustice in someone using the object you

retain, i.e. directly manipulating it, destroying it, in order to eliminate or compensate for the state which makes existence of the object possible. The existence of this state was not justified by its making the existence of the object possible, nor by any other right or permission the person who will be deprived had to have the state exist. When nothing justifies residence (the state), aside from, possibly, killing being impermissible, the benefit of residence can be classified as an ill-gotten gain, and use of it to correct the state which made it possible will be an instance of a principle which should find its place in our views on corrective justice, and in our views on the correction of illegitimate, if not unjust states. When something does justify the existence of the state, the benefit of it may not be an ill-gotten gain, strictly speaking, but it may still not be unjust to destroy it in order to eliminate the state.

I

I will first present the Justice Argument for cases where the supporter is not responsible for the presence of the resident, and is, in fact, unjustly forced to start supporting. I will divide the argument for this sort of case into two parts. The first part shows that killing is not unjust when the only objection to removal is that killing is unjust, the second part argues the killing is not unjust even when there are non-justice objections to ending residence.

I shall present the Justice Argument employing the use of someone's body for 9 months, but the argument will apply to use

of anything of ours whose use we needn't give merely in order to save a life. As noted, I will first argue for the justice of killing in cases like the violinist case where the person whose body is used is clearly not responsible for the introduction of the person who uses their body. I claim that to show that killing is not unjust in this case the best strategy is to argue as follows:

(1) Residence in the body is unjustified, except possibly by the fact that we can't kill to stop it.

That is, we are in the position of having found no other reason which justifies use of the body--not the violinist's ALN-need, nor the means of entry--and then someone suggests "we can't kill to remove him and therefore continued residence is justified." We have not yet decided that, in fact, we can't kill; it is a suggestion put forth that we must consider. So, all things considered (atc), possibly, the violinist will have a right to stay in the body. But, consideration of all factors besides the import of killing (i.e. not considering all the factors, not all things considered (natc)) he is not known to have a right to be in residence.

(2) So we must see why we can't kill, we must see what is wrong with killing.

(3) Usually, it is said that killing is wrong because it would be unjust, i.e. it is wrong to kill because someone has a right not to have his life taken away. So we must first see if killing is unjust.

(4) The claim (of this argument) is that it is not unjust to kill the violinist. So, that the killing would be unjust cannot be a reason for not killing, and hence cannot be a reason justifying residence.

To show this, I will first assume (for the sake of argument) that there are no other reasons why residence might be justified, aside from killing being unjust, and show that, on this assumption killing is not unjust. Then, I will assume that there is some other reason why residence is justified, having to do with the killing having negative characteristics aside from its being unjust. (I do this in 5.) I will show that on this assumption killing is also not unjust. So given that (A) the only objections to removal (i.e. the only reason residence might be justified) have to do with killing and (B) that the objections to killing fall into 2 categories: (a) injustice and (b) non-justice negative characteristics, showing that killing is not unjust when there is and isn't a non-justice objection to removal will be sufficient to show that killing is not unjust. (That is, I show that killing is not y when it is not z and I, show that killing is not y when it is z, when only y and z are objections to removal.)

First, assume there are no other justifications for residence (i.e. no objections to removal) besides the injustice of killing. Then, the Justice Argument says that it is not unjust to take the violinist's life away, deprive him of the rest of his life, because (1) it is not unjust to eliminate the benefit (e.g.

continued life), (2) of a state (e.g. residence in the body) whose existence (a) is not justified by the production of the benefit, nor (b) by anything else we know of nature (3) in order to eliminate or compensate for the state. I shall refer to (1), (2), and (3) as the Corrective Principle. When the state we seek to eliminate is unjust I suggest that the principle should be part of our views on corrective justice. In the particular case where the residence is begun through an injustice, i.e. the person is kidnapped, killing the person in residence is a matter of correcting/compensating for an injustice, and so killing should be considered a matter of corrective justice. By corrective justice I mean that part of justice which concerns itself with undoing or compensating for unjust states. I do not wish to suggest that there is a well-worked out theory of corrective justice to which I can safely refer, nor that the Corrective Principle should constitute the whole of a suggested theory of corrective justice. I only wish to suggest that it makes sense to think that the Corrective Principle should be a part of our views on corrective justice.

In cases where the supporter is not responsible for the presence of the resident but there is no injustice involved in residence, the residence is merely a wrong of some sort. I recommend that the Corrective Principle should be part of our views on the correction of wrongs. In these cases killing will not be unjust. (In the following discussion, to make clear that the Justice Argument applies to cases where residence is not begun by injustice,

I shall often refer to residence as a wrong.) In all these cases-- both where residence is originally unjust and where it isn't--apart from the possibility that the killing is unjust, the benefit is an ill-gotten gain. That is, it is, at the very least, an ill-gotten gain, natc. The fact that someone will lose an ill-gotten gain if residence is ended, cannot, as a matter of justice, make removal impermissible, i.e. it cannot make the benefit a non-ill-gotten gain atc.

To elaborate on (1), (2) and (3) above: The violinist's right not to have his life taken away is overridden, because (1) what we deprive him of in taking away his life is (a) only what he wouldn't have had but for the residence, i.e. he would have been dead if not for it, and (b) what is made possible by something for which residence is causally necessary, i.e. the rest of his life, is made possible by his being alive now, and his being alive now is causally dependent on the residence.¹

¹I speak of the residence being causally involved in the life being saved because this seems to be a characteristic distinguishing our case from cases where the person would also not be alive if not for something wrong being done to someone else, and yet the Corrective Principle does not apply. For example, if it were not for the fact that A was mugged by a criminal, that criminal would have mugged B. So B is alive now only because A is dead. B had no right to have A die in order to save his life. Yet if it were possible to resurrect A by killing B, we could not do this. It is not sufficient for the application of the Corrective Principle described above that someone would not have had something good if something unjust had not happened to someone else. The injustice done to someone must be a cause of the benefit to the other person. I shall elaborate on this below.

To elaborate on (2): So far as we know, the residence is unjustified and hence illegitimate. (So far as we know, it is also unjust, given that kidnap was used in its origins.) We are in the process of looking for reasons why it is legitimate. So what we deprive the resident of is an ill-gotten gain, at least natc. In particular, so far as (2)(a) is concerned, we know that the existence of the state is not justified by the production of the benefit, because we know that we may let die rather than start the residence which will produce the benefit of extended life, i.e. we know that we needn't support in the body merely in order to save a life.

So far as (2)(b) is concerned: We have assumed that there are no other objections to removal apart from the injustice of killing. We have no reason to believe anything else justifies residence. We are in the process of looking for reasons.

So far as (3) is concerned: We deprive the resident of his benefit (continued life) in order to eliminate the illegitimate source of the benefit. If we were using it for some other purpose this might involve an injustice to him. This is because the life we take from him is his own, so that he has a claim to it. This claim must be overridden, and it is overridden (because in depriving him of his life we deprive him only of the benefit of residence) by the need to correct a state which is not justified by the fact that it provides for his retaining his life (nor by any other right he has to it, nor by anything else that we know of). It can be inappropriate to be in possession of what belongs to us, if the means of having it

are wrong, and the wrong can be corrected by taking away what belongs to us. But, just because his ownership claim is overridden for this reason, does not mean it is overridden for other reasons.

Overriding his claim can be seen as a weighing process. In deciding we needn't do something merely in order to save someone's life, we are weighing letting one person die, against using the other person as a cause of the former's continued existence. What the Justice Argument (given above) does, in saying that killing is not unjust is to eliminate the particular way death comes about (letting die) from the weighing process. That is, it is right not only that someone should be left to die rather than that someone else should carry them in their body to save them, it is also right that one person be dead rather than the other be the cause of their existence by carrying them in their body, even if the means to this is killing, at least if there is nothing wrong with killing aside from the question of its justice. The argument says that one thing that cannot be wrong with killing is that it is unjust that one person's life will be eliminated in order to stop the residence. But when we weigh letting the person die against other efforts besides residence in someone's body, it may not be decided that it is right that they be left to die. Whatever these efforts are, with respect to them, not only will it be wrong to (a) apply the Justice Argument, even if these efforts are providing life-support, but it may also be wrong to (b) kill the person who is being supported in someone's body, if we kill for the sake of stopping the lesser efforts, not for the sake of stopping the body support.

Furthermore, if the wrong which caused the person to be alive when he would otherwise have been dead is not correctible by killing the person, we may not kill him merely because he came to have his life by inappropriate means.¹ He may have come to have his life inappropriately but it wouldn't be inappropriate for him to go on having it. Thus, the Corrective Principle does not say that we may always put a person back into the position he would have been in but for the wrong which caused him to be in his present position. It is having the prior claim that makes the specific purpose for which we kill important. If what we had to take away from someone was something that (a) did not belong to them prior to their being in possession of it, and (b) was something they came by solely in virtue of the illegitimate residence, then they would have no claim to it at all that needed to be overridden. Because of this we might take the thing away from them without having to give any reason at all. Our right to take it away wouldn't be tied to any particular purpose for which we took it away.

This completes the discussion of (1), (2) and (3) of the Corrective Principle. Before continuing with the presentation of the Justice Argument I will examine the Corrective Principle in more detail. First, I shall re-emphasize that it applies to cases where

¹Note that we would still have a principle of correction--though not the specific one I refer to in the Corrective Principle--if we kill someone who is in residence in our body and is having his life saved, in order to correct for some injustice unrelated to residence in our body. This would be to use the benefit of one wrong in order to correct another wrong. I would suggest that this sort of principle of correction is more debatable than the Corrective Principle.

what belongs to someone is in question. I will then examine in more detail some issues about the relation between residence and the benefit which Part (1) of the Corrective Principle raises.

I have said that the fact that the person has a prior claim to what is taken away from him accounts for the importance of the purpose with which we kill him. I now wish to emphasize that the Corrective Principle involves applying a more general principle, i.e. the benefit of a wrong can be used to correct the wrong specifically to cases where the benefit is possession of what is ours already. In particular, the application of the Corrective Principle to the violinist case extends a part of our views on correcting injustices--namely that ill-gotten gains can, without injustice, be eliminated in order to eliminate the unjust means of their existence--to cases where the ill-gotten gain is retention of what belongs to someone. Ordinarily such removal of ill-gotten gains to correct their unjust origins is done in situations where the ill-gotten gain is not continued retention of what belongs to someone, but retention of something someone has no prior claim to, and which they first come to have any relationship with via illegitimate means. In these latter cases, it is clear that there is no injustice to the person from whom we take the entity in order to correct the state. The Justice Argument extends the principle to cases where there is a prior claim to the object the retention of which is the ill-gotten gain. It claims that the prior claim does not override the weight of the Corrective Principle relating to the use of ill-

gotten gains for a specific purpose. It claims that it can be just as inappropriate to have what belongs to us as to have what doesn't belong to us.

Above, I noted that the Corrective Principle does not apply in all cases where one person enjoys a benefit he would not have had but for an injustice to another. I distinguished between cases in which someone or something done to someone can be said to cause another person's life to be saved and cases where this cannot be said. In the cases of interest to us the residence is causally productive of the life, i.e. there is some input into the life process. In other cases someone may not die only because something wrong/inappropriate or unjust happens to someone else, but what happens to the latter person is not causally productive of the person's life. For example, to use the case given above, if the only reason I fail to be killed in a mugging is that the mugger is busy with someone else, this doesn't mean that the other person is a productive cause of my existence. We must beware of seeing all cases where someone benefits as he would not otherwise have benefited, to the extent of retaining his life, as situations where we can kill the person benefited in order to save the person wronged. So, in the mugging case, if the only reason I fail to be killed in a mugging is that the mugger is busy with someone else, this doesn't mean I can be killed if only this will save the victim's life. There are various degrees of intimacy and dependence between a life and the event without which it would not exist, and these different degrees

may make a difference as to whether we can kill someone to wipe out the wrong without which they would not exist.

While a causal role seems necessary, it is important to note that the Corrective Principle can come into play even in situations where the efforts of one person are not completely causally responsible for the existence of the benefit. This means, in part, that the efforts need not create the object which will be destroyed nor need the efforts be causally sufficient for its continued existence, in order for the Corrective Principle to apply.

In the violinist case, the residence does not create the person. The person existed before residence and is having his life retained. Furthermore, while the residence is causally productive, it is not the only input which keeps the person alive, i.e. some of the person's own bodily processes must be functioning in order to make use of the input residence provides. So, at the time when we do provide the input we are necessary and not sufficient conditions for his being alive at that time.

The intuitive basis of the problem which this latter point presents for the justice of killing is as follows: If both I and someone else are jointly responsible for the existence of something (each person is necessary, neither is sufficient and both are jointly sufficient, suppose) then it seems that to destroy that thing for my sake is to rob the other person of what he also has a claim on. This claim arises not in virtue of his ownership of the

thing, since, as the Corrective Principle implies, my supporting the thing may overrule his claim of ownership. His claim, rather, arises in virtue of his also being the cause of the existence of the thing, and this additional cause being a perfectly appropriate one.¹

The solution to the problem presented by joint sources of the benefit seems to be that the parallel drawn between cases where two people both produce or contribute to maintaining the existence of something, and the life support cases of interest to us, is not correct. This is because the former cases involve someone who provides the appropriate part of the cause (1) doing something they wouldn't otherwise do, (2) making efforts which could have been employed elsewhere profitably, and (3) losing time and effort if the product of their input is destroyed, so that they will prefer that

¹Note that this problem of multiple sources for the existence of something would not arise for killing someone at a certain time if we were totally causally responsible for its existence at that time. The fact that if they weren't killed then they would go on to support themselves, at a future time would not create the problem. One might think the problem does also arise in such a case because the life we would deprive the person of--seen as "the rest of their life"--will have multiple sources, i.e. what we do now and what they will do later. What is important to remember is that the product of what they will (would do) later does not yet exist. So we are not depriving them of what is their product. Similarly, on a social scale, we do not say that we may not eliminate what is now totally the product of slavery in order to eliminate slavery because it would eventually be sustained by non-slave labor. What is significant is that the appropriate (non-slave) source has not yet produced anything. So, it is sufficient (even if it isn't necessary) for the Justice Argument to work that we are producers of the rest of someone's life in the sense of making it possible that he have a future because of our totally sufficient causal role now. It is not necessary that we would be productively involved in the rest of his life at each of its stages in order that killing now be not unjust.

they had never done what was involved in providing their input. But in the life saving case the person whose life is being saved (who is supposed to be comparable to the person providing the appropriate part of the cause) (1) does nothing more than what he would ordinarily do, i.e. his body functions to the extent to which it can; (2) he would not have chosen that his body do otherwise than this, even if he had known that the product would be destroyed, (3) if the product is destroyed it is not true that he will lose time and effort, so that he will wish that he had never expended it. Wishing that he had never expended it would mean that he wishes he had died earlier than he will die, and this isn't so. A more appropriate parallel to the roles of the supporter and resident in the life saving cases might be found in the following case: The partial source of the continuing existence of A's house is B's inappropriately acquired labor, assuming the amount of this labor is more than B would have to donate to save A's house. The other source for maintaining the house was the ordinary position and functioning of its heating system, i.e. B couldn't have melted chemicals if the heat hadn't been on. There are no out of the ordinary efforts on A's part, nothing A would have done differently with his house's heating system if it hadn't been used to help maintain the house, and no loss to A in the heating process having contributed to the maintenance of the house. In this case, A's contribution to preventing his house from collapsing is not the sort that would give him a claim to his house if his claim is to be based on his

role in maintaining it. So that if we wanted to destroy his house to compensate B for his labor, A cannot claim that we deprive him of what he has a claim to on account of his (or what belongs to him) being a cause of the house's existence.¹

In summary, I have argued that it is not unjust to use the benefit of a residence which is unjustified--except possibly because destroying the benefit would be unjust--in order to eliminate the residence. I have argued that doing this in cases where the residence is an injustice to begin with should be seen as involving part of our views on corrective justice. I said that the Corrective Principle which justifies correcting wrongs by using their benefits applies when the benefit is retention of what belongs to someone as well as when it involves eliminating what doesn't belong to someone. It can be just as inappropriate to have what belongs to us as to have what doesn't belong to us, when the means of our having it is wrong

¹What may also bear on making the violinist case different from cases where two people combine resources to save something, is the problem of marginal utility. That is, the claim that someone has to the product of joint efforts may not vary according to the amount of effort contributed, but, rather, according to the need for each individual's services. When two people have equal need of each other, not only in the sense of each playing an equally necessary role in producing some end-product, but in terms of each having an equal need to produce the end-product, then the claim of the two parties to the output may be equal. But when the need of one party to produce the output is greater than the other, and hence also his need for the services of the other is greater than the latter's need for the former, the person whose services are in greater demand may have a greater claim on the output as a function of their input. This need not mean that the person whose efforts are in greater demand would come to own the thing they work on in virtue of their efforts. But it may mean that anything which is a consequence of making input efforts will accrue to him. I believe that most of what has been said about the Corrective Principle, including the problems of multiple causes and its solution apply to the correction of social injustices and wrongs also, but I will not go into detail on this matter here.

and it is possible to eliminate the wrong means by use of what belongs to us. I have argued that we can take away what belongs to someone that they get via illegitimate means, only for very specific purposes, and this contrasts with what we can do to what they have that doesn't belong to them and that they gets via illegitimate means. I have argued that while residence must be a cause of the benefit, rather than just something without which the benefit would not have existed, the Corrective Principle applies even when residence is not a sufficient cause of the existence of the benefit. This is because of the particular role that what belongs to the person plays in producing the benefit, i.e. it merely continues to function in the way it ordinarily does. If the claim of ownership does not give the person a right not to have what belongs to him taken away (that is, if it is overridden in order to eliminate the residence), a claim arising from the input that the person or what belongs to him contributes to producing the benefit will not stand in the way of using what belongs to him to eliminate the residence.

Above (p. 253) I said that to show that killing to remove the violinist is not unjust, we would first assume (for the sake of argument) that there are no other reasons why residence might be justified, aside from killing being unjust, and show that, on this assumption killing is not unjust. Then we would assume that there is some other reason why residence is justified, having to do with the killing having negative characteristics, aside from its being unjust. We would show that on this assumption killing is

also not unjust. We have done the first part of this in Step IV.

(5) The Argument presented in I-IV says that so long as residence is illegitimate, except possibly because killing is unjust, killing will not be unjust, i.e. what would not make an otherwise illegitimate residence legitimate is the injustice of destroying the benefit of the illegitimate residence, in order to eliminate the residence, since doing this will not be unjust.

But there may be other reasons why killing is wrong besides its being unjust. So, the reason killing is wrong may not be that it is unjust (i.e. the person's right to his life can be overridden) and yet it can still be wrong to kill him. For example, killing can be wrong because (1) it is gruesome, or because (2) it involves destruction of something very valuable, regardless of whether anyone's right not to have this valuable thing destroyed or taken from him is overridden.¹

We must now do the second part of what we said we would do, in order to show that killing is not unjust. That is, we must show that killing is not unjust even though there are non-justice objections to killing.

¹Note that if this latter factor does lead to a prohibition on killing to stop support when (a) leaving the same valuable thing to be destroyed does not give rise to a prohibition on refusing to start support, and (b) merely keeping the valuable thing in existence is not a reason for continuing support, it will be some factor about destroying the valuable thing which will make the difference.

In general, someone's right to life can be overridden, and it can still be wrong to kill him. Furthermore, it being wrong to kill need not, in general, change the fact that his right to life is overridden. When, e.g. we find out that it is wrong to kill, after having decided that his claim to his life can be overridden for a specific purpose, it may be that it is right that he go on living, but not because his right not to be killed is not overridden. To put the matter even stronger, someone's right to life can be overridden, and it still be impermissible to kill him. Also, it being impermissible to kill need not change the fact that his right to life is overridden. This means that the non-justice objections to killing are so strong that killing is impermissible even if it is not unjust. I distinguish between the killing being merely wrong (e.g. indecent) and it actually being impermissible (forbidden, prohibited).

Consider an analogy: Someone owns a hat. He has a right not to have it taken away from him. (Assume) his right is overridden only in an extreme emergency. We are about to take away his hat to stop such an emergency, when we discover that stopping the emergency will result in a great commotion. This commotion does not involve committing any injustices. Nevertheless, we decide that it is impermissible to stop the emergency at the price of the commotion. But if we do the impermissible thing and stop the emergency by taking his hat away we have not committed an injustice against the person whose hat it is. His claim is still overridden by our acting to stop the emergency, even if the problem of creating the commotion is not overridden by its being part of the attempt to stop the emergency.

In other words, it seems that the goal which justifies overriding someone's rights may be a goal which we are prohibited from seeking; it does not lose its ability to outweigh the rights because it is prohibited. This position is specifically meant to say more than that it may be indecent to do what it is not unjust to do. It says that (a) it may be impermissible to do what it is not unjust to do, and (b) doing what it is impermissible to do may involve no violations of someone's rights, even if it involves overriding someone's rights.¹ It will be important to get clearer about when something which is not unjust, but which involves rights being overridden is impermissible, as opposed to merely morally objectionable (wrong) but not impermissible. It is also important to know how many cases of impermissible even-if-not-unjust killings to terminate life support there are and how objectionable they are in comparison to unjust killings in order to know what sort of an impact on action the correctness of the Justice Argument has.

¹A possible objection to this latter point is that someone has a right not to have his rights overridden for the sake of ends which are prohibited for any reason. (That rights are so important that they should not be needlessly sacrificed, and acting contrary to someone's rights for a prohibited goal is to sacrifice them needlessly.) If this were true, then it would still be possible to say that some acts which are impermissible violate no rights, but these cases would be limited to those in which there is no question of anyone's rights being affected in any way (not overridden, nor violated etc.). It would become impossible to say of cases in which we decide we do not violate rights because we may override them, that it was nevertheless impermissible to override them, without also committing oneself to denying the previous conclusion, that it wasn't unjust to override them. I shall return to this point below.

I will deal with these questions at a further point.¹ At this point I am still concerned with seeing if it is true that killing in the matrix kill case is not unjust, even if it is impermissible.

I say that in general it is true that if a right to something is overridden, the fact that we are not at liberty to act anyway, does not mean that the right would not still be overridden if we did act. But what holds, in general, may not hold in the violinist case. That is, if there are reasons having nothing to do with the injustice of killing (non-justice reasons) for the impermissibility of killing (such as (1) and (2) above, p.266), the violinist's staying in the body will be justified, residence will be legitimate atc. The question is: if we violate the prohibitions on killing arising from, e.g. the gruesomeness of killing or the fact that it involves the destruction of something valuable, and kill anyway, will we also be doing what is unjust to the person we kill? The question may arise in this case, even when the answer was "No" in the hat case, because (a) if we can't kill for non-justice reasons his residence becomes justified/legitimate, and (b) the life we would destroy is made possible (in the sense described above, p.255) by this now-legitimate residence. If the life we would take away is not the benefit of an illegitimate cause, we would not be removing an ill-gotten gain/the benefit of some

¹I am indebted to Joshua Cohen for emphasizing the importance of dealing with this issue.

illegitimate state of affairs, in order to correct an illegitimate state of affairs. If we do not take away only the benefit of an illegitimate state to correct this state, the particular corrective theory described above which is what was said to make killing not unjust, will not apply. Will it then, not only be wrong (for non-justice reasons) to kill, but also unjust?

Note that if killing is unjust he would have a right to residence--where use of "a right" is restricted to cases where violation of a right would be an injustice. That is, from a non-justice justification for residence--which could not be said to directly give a right to reside, but rather, only make residence justified/legitimate in the sense that we must tolerate it at the pain of doing something wrong--we would derive a right (a matter of justice) to stay. This right would be derived via the injustice of killing, because if it is unjust to kill then the person must stay in residence as a matter of justice.

The claim I will argue for now is that when the reasons for the legitimacy of residence have nothing to do with what is owed the person who resides in the body as a matter of justice (i.e. the reasons are, e.g. gruesomeness or destruction of a valuable thing), then (1) killing to remove him won't be an injustice to him, even if it is impermissible, and (2) he will not have a right to residence (where "right" is used as described above).

The argument given in (4) above, said that the fact that someone will lose the benefit of an illegitimate state of affairs

could not, as a matter of justice, be a reason for not correcting this state of affairs. We can argue for the new claim in the following way: The illegitimate/unjustified character of the state is a sufficient, but not a necessary conditions, for killing not to be unjust. It is not necessary, in order for destruction of what wouldn't have existed but for the residence not to be unjust, that the state of affairs be illegitimate, all things considered, only that the reasons which are initially successful in making residence legitimate (i.e. non-justice reasons) do not themselves make it the case that the person is owed residence as a matter of his rights or of permission given to him. For, if he does not have a right or permission to be in residence, he will not have a right to the benefit of residence and if he has no right to the benefit it will not be unjust to take it away. So, if non-injustice reasons for not killing do not directly give a right or permission to reside killing will not be unjust, whether there are non-justice objections to killing or not. The fact that (a) producing the benefit does not by itself justify residence, and (b) the person in residence has no other source for a right or permission to reside, is enough to make destruction of the benefit in order to eliminate residence, not unjust.

The crucial points, then, in arguing for the claim that killing will not be unjust if non-justice reasons are the first reasons found to justify residence, are that the fact that his residence must be tolerated for non-justice reasons does not directly

give the violinist a right to residence and it also does not give him permission to reside, in the sense that having this implies that there is nothing wrong going on when the person resides. Both these points seem to be correct. The first is true just in virtue of a non-justice reason not being the sort of thing that can by itself, directly, give rise to a right. The second point is also true for reasons which will be made clear below. Let us assume that both these points are true, then, from this we can conclude that the fact that he benefits from residence which he still has no right or permission to have means that he still has no claim to the benefits of the residence which is not overridden by the goal of ending his being where he has no right or permission to be. This is true even if this goal is overridden by the need to avoid certain non-justice negative features of killing.

I have distinguished between (a) someone not having a right to reside and (b) someone not having permission to reside.

I have already given a reason to think that non-justice objections do not directly yield a right to residence. It remains to show why non-justice objections do not give permission for residence. I will now do this. If someone has a right to reside they will have a right to keep certain benefits of residence, not all. Among the ones they do have a right to keep is their life. (More on when we can keep benefits of residence we have a right to below.) I wish to claim that if the right to reside and permission to reside are indeed different, then if someone has no right to

residence, but only permission to reside, they may still have a right to keep the same benefits of residence as the person who has a right to reside. In particular they have a right to keep their life. Cases in which the owner has given someone permission to use his property or is responsible for someone being there and does not take whatever action is permissible to remove them, do seem to be cases in which the person in residence has a right to keep certain benefits of residence. For example, if the supporter allowed the violinist to come in and stay until the latter's kidneys were healthy again, it would be correct to say that the violinist has a right to keep the benefits of residence. Yet it does not seem correct to say, looking back on the time when he was permitted to be in residence, that he had a right to reside or was given a right to reside. Being given a right to reside does indeed seem to be different from being given permission to reside. The former implies that the person who now has the right can stand on his own in claiming residence. That is, he can defend his claim against others, in his own right. The person who can only point to a permission to use what belongs to someone else must continue to make reference to the pleasure of the owner. Furthermore, the non-owner who has been granted a right by the owner stands on an equal footing even with the owner with respect to use of the property for however long the right exists; he can make claims even against the owner. The person who has been granted permission to use the property has not been granted equal status with the owner with respect to use of the property; he cannot argue against the owner's revoking permission at will.

If this difference between having a right and having permission is real, and having only permission to use something can nevertheless give someone a right to keep the benefits of what they use, then there would be cases where even without a right to residence one would have a right to keep the benefits of residence. Not having a right to residence would be a necessary, but not a sufficient condition for not having a right to the benefit of it.

The crucial factor, which distinguishes cases where there is (only) permission to reside and cases where there is only toleration of residence because of non-justice objections to terminating it, is the fact that in the latter case the benefit is the result of a wrong, albeit a wrong which it is right should continue. In the permission case, there is no wrong which we must tolerate. Another way of putting this is that where we tolerate residence, there is no positive reason which justifies residence, only a negative one, while in the permission cases there is a positive reason.¹ Therefore, non-justice objections if killing do not directly yield permission to remain in residence, nor do they directly yield a right to reside. Therefore, the person still has no right to the benefit which is not overridden by the goal of eliminating residence, even though this goal is itself overridden. Therefore, non-justice objections to killing do not make killing unjust.

¹See Chapter II, for the distinction between positive and negative reasons.

In summary, I have argued that while there may be a difference between having a right and having permission to reside, in both these cases there is a right not to have the life terminated in order to stop residence, but when there is only toleration of a wrong there is no such right not to have the benefit of residence taken away, and so taking away the benefit is not unjust.

Justice and non-justice grounds for the impermissibility of killing, therefore, run on two different tracks: the fact that it would be unjustified for non-justice reasons to kill in order to correct residence, does not affect our judgment of what it is not unjust to do in order to correct residence. This means that it can be unjustified to seek a certain goal, yet it can be not unjust to achieve it by employing means which would ordinarily involve injustice to someone (e.g. killing). As noted above, a goal need not be justified, atc, in order for it to make these means to it not unjust. I said above (p. 258) that it was only with respect to a certain goal or when weighed against a certain other factor that the right of the person not to be killed was overridden. This remains true. Only, it is also true that it need not be legitimate to achieve the goal atc. in order for it (the goal) to legitimately override someone's right to life. Applying this argument to actual cases of interest to us should help to make this argument clearer. In addition, if we introduce a variation on our original life support cases it will show (a) that not all the benefits of being where we have a right or permission to be are benefits we have a right to retain, and (b) sometimes, even if the goal we seek to

achieve is unjust--not only wrong and impermissible--it will not be an injustice to the person who is killed that he be killed for the sake of that goal.

So consider Case (E): In Case (E) John introduces Mary, who is dying, into my body against my will. In addition to having her life saved by this support Mary also gets other benefits of being in my body, e.g. a steady supply of food. Removing Mary involves both killing her and taking the food away from her. Suppose society decides that both killing her and taking the food away from her--each, individually--are impermissible for non-justice reasons (for example, it would be destroying a valuable life and valuable food).

Case (E) is a case where it is right (atc) that a wrong (residence) should continue, so the benefits of this residence (life and food) cannot, strictly speaking, be considered ill-gotten gains. The question is, if I kill and/or take away the food won't it be unjust, since these are not ill-gotten gains, and therefore doesn't Mary have, atc, a right to stay in residence because killing is unjust and taking away the vegetables is unjust.

The answer is no. The legitimacy of residence, since it arises from negative non-justice reasons against killing and taking the food away, does not directly give Mary, a right or permission to stay in residence. It also does not directly give her a right to the life or food which is not overridden by the goal of eliminating residence. In particular, if we decide that it is

that the right to life is not still overridden by the pursuit of the goal (so that killing would not be unjust, even if impermissible) because the reason why the goal is overridden does not result in the person having a (stronger) right to the benefits than they had before the goal was overridden. Only a stronger right might make it true that the goal does not override the right.

The further point to note about the case is that even if Mary had a right to be in residence, derivable directly from the legitimacy of her being there, taking away the food from Mary would not be unjust. If the food is not Mary's to begin with (unlike her life) then she has no claim to it, merely because it is the product of her being where she has a right (or permission) to be. It is only if Mary had a right or permission to be in residence in order to get food that she would have a right to the food. This shows that as noted above (p.272) one only has a right to keep certain of the benefits which are derived from a position which one has a right or permission to be in. If Mary had a right to be in residence it would be unjust to remove her, simply because she has this right. She would also have a right to the benefit which is retention of what she already has a prior claim to (i.e. her life and anything else which is hers) it would be unjust to take away these benefits from her. In general, at the least, the person has a right to any improvements to what belongs to him which cannot be detached from the thing itself, which result from being where the person has a right or permission to be. The right to reside need not be the specific

right to reside for the purpose of the improvement of what belongs to him in order for the person to have a right to keep the improvement.

In Case (E) Mary has no right or permission to reside, and residence is a wrong which it is, however, right to have continue. But in some cases Mary may have no right or permission to reside, yet residence is not a wrong whose existence we must merely tolerate because the means of ending it are unacceptable. The claim is that, even in these cases it will not be unjust to kill Mary and take away the food in order to remove her. For example, consider case (F) which is like Case (E) except that I have an obligation to John to put Mary on my property in order to save her life. Therefore, to remove Mary would be an injustice to John. Her

¹I have said that a right (or permission) to be there does not necessarily change what Mary's rights are vis-a-vis food from what they were when she didn't have a right to be there, but a right to be there would change the right of Mary with respect to her life. This might suggest that the fact that a non-justice justification for residence doesn't imply that taking the food away is unjust need not mean that a non-justice justification for residence also doesn't imply that killing is unjust. But: Some sort of right or permission, e.g. the right to be there in order to get food, is necessary to give Mary a right to the food when it wasn't hers to begin with. Likewise, some sort of right or permission of Mary's--even if not the right to be there in order to have her life saved--will be necessary to make taking away her life unjust. A more specific right is needed in the case where the food is not owned by Mary because there are no background rights (i.e. stemming from the ownership by Mary) in that case to give Mary a right to the food, the violation of which could be unjust. The fact that one case needs a specific right to residence in order to get food has nothing to do with whether some sort of right or permission to reside is necessary for it to be unjust to kill Mary.

residence is not merely a wrong which cannot be corrected, it is a just state of affairs. Yet even in this case killing Mary would not be unjust to Mary, though it would be unjust to John. This is because in order for the Corrective Principle to fail to generate the Justice Argument Mary must have a right or permission to reside, and she does not have this just because John has a right that she be in residence.¹ So if I destroy the benefits of a residence which she has no right or permission to have, she doesn't lose anything to which she has a right, which is not overridden by the goal of eliminating residence. Eliminating the residence will be an injustice (to John) and yet this injustice does not change the fact that if Mary has no right or permission to reside then taking its benefit away from her in order to eliminate residence will not be unjust to her. The justice of doing something to one person is not affected by its constituting an injustice to the other person. It is possible for someone's rights to be overridden for a purpose which will constitute an injustice to someone else.

In summary, I have argued that in cases where there is a non-justice objection to killing which justifies the continuation of residence, it will still not be unjust to kill to stop residence, even if it is impermissible to do so. This is because toleration of

¹On the point that my promise to John to do something for Mary does not give Mary, but only John, a right that I do it, see David Lyons, "Rights, Claimants and Beneficiaries," American Philosophical Quarterly, Vol. 6, No. 3 (July 1969).

the wrong of residence, does not give the resident either a right or permission to residence. It is only having a right or permission to residence which gives one a right to keep certain, not all, of the benefits of residence. If having to tolerate residence rather than do something impermissible (but not unjust) to end residence does not give a right or permission to stay, then the resident still has no right to the benefit of residence which is not overridden by the application of the Corrective Principle to eliminate the residence. This is true even though achieving the goal of eliminating the residence is overridden by the non-justice objection to killing. This means that a goal can be impermissible and still override someone's right to life. I extended this conclusion to cases where pursuing the goal involved an injustice to someone other than resident, i.e. cases in which residence is not a wrong we must tolerate but a just state of affairs. So long as someone having a right to have another person in residence does not give the latter person a right or permission to reside they will have no right to the benefit of residence which is not overridden by the goal of eliminating residence.

(6) The preceding parts of the Justice Argument were concerned with cases where (1) the person whose body was occupied was not responsible for the presence of the person inside him (and had not given permission for the residence to begin), and (except for Case (F)) where (2) there was an injustice done to the person who is occupied in kidnapping him. I shall now argue that even where (a) the

person whose body is occupied is responsible for the presence of the person inside him, and/or (b) there was no injustice which resulted in the person who is occupied being occupied, it will not be unjust to kill the person to remove him. I will argue that since the person has no right (or permission) to continue in residence and his continuing existence is a benefit of this residence, it will not be unjust to eliminate the benefit of a state the person has no right or permission to have exist in order to eliminate the state. I will argue that responsibility for introducing someone will sometimes make a difference to the justice of killing, but, in itself, responsibility for (a) saving someone's life and (b) making them a threat to oneself in the process of saving their life, will not make it unjust for us to then kill him.

(a) It was argued above that deliberately introducing someone into one's property does not, by itself, independent of other considerations, give the person a right to go on being in residence. (Nor does it indicate permission granted for the person to go on staying in residence, if there is agreed to be a difference between getting a right and a permission.) So if removal were perfectly innocuous for the resident he could be removed.

(b) In our Cases (A), (B) and (C),¹ there is no other ground for the justification of continuing residence besides the

¹These are the cases we began with and are primarily concerned with deciding. For a description of these cases see Chapter I.

possibility that killing to remove is wrong (for justice or non-justice reasons). As in cases where residence is not voluntary on the part of the supporter, need to have one's life saved is not sufficient by itself for requiring that residence continue.

(a) and (b) imply that the person has no right/permission to go on staying except possibly because killing to remove would be wrong.

(c) We have shown in cases where residence results from an injustice, that if killing is not wrong because it is unjust it will not be unjust to kill, even if killing is wrong for non-justice reasons. That is, if the reason why killing is wrong is not that it is unjust, killing will not be unjust. So in order to show that killing in cases where the supporter voluntarily began support is not unjust we must only show that the reason why we decided that killing is wrong (if that is what we decide) is not that it is unjust.

(d) The person's continuing in existence is the benefit of the continuing residence. That is, there continues to be ALN and the residence is causally involved in producing the benefit of continued existence.

(e) Therefore, the same argument applies in cases where residence is voluntarily begun by the supporter as applies in cases where the resident is forced upon him. That is, we may kill the violinist to remove him without injustice because it is not unjust to eliminate the benefit of a state which the person has

no right or permission to have exist, in order to eliminate that state. So killing will not be unjust.

The fact that the same argument applies for the non-injustice of killing in these cases where the supporter voluntarily begins residence, as in the cases where residence is forced upon the supporter does not mean that the supporter's responsibility for introducing the resident will never make a difference (or does not make a difference so far as the weight of non-injustice objections to killing). For example, if someone who had no need to be introduced was introduced, and became dependent for life-support, then it would be unjust to kill to remove him. But in such a case it would also be true that the person had a source for a right to stay independent of the fact that removing him would involve killing him. That is, the person who is responsible for giving him a need (which he wouldn't have had otherwise and with which, if it goes unfulfilled, he will be worse off than he would have been otherwise) would have to meet the need, even if the person became detached by an act of nature but the need remained. So in this case, where responsibility makes killing unjust--and unlike our cases--it is not true that there is no other source for a right to stay besides there being something wrong with killing.

In yet another case, the supporter voluntarily introduced someone who does not receive any benefit from residence, i.e. he does not become dependent on life support. This resident has no right to stay on in residence, aside from the fact that killing is

necessary to remove him, and yet it would be unjust to kill him. This is because in killing him to remove him the supporter would be responsible for his losing his life when he would not have lost it if the supporter had not attached him to begin with. In this case it is the fact that (1) the person would lose his life when he wouldn't otherwise have died if he hadn't been brought in, and (2) the supporter was responsible for introducing him that makes killing unjust. But in the cases of interest to us, we kill someone who would have lost his life even if he had never been brought in. (It would be too broad to say that the killing would be unjust because the person would be worse off if he is killed than he would have been if he had never been introduced by the supporter, since someone could be made worse off in ways that wouldn't account for the injustice of killing. For example, it may be worse to die in one way rather than another, and yet if someone would have died in the better way if they hadn't been introduced it still wouldn't be unjust to kill them using the worse way.)

It is the fact that the supporter is responsible for residence in each of these cases that helps make killing unjust. Killing would not necessarily be unjust if everything were as it is in these cases, except that the supporter was not responsible for introducing the resident. This is to say, for example, that the non-injustice of killing in ALN satisfaction cases, where residence is begun against the will of the supporter, does not depend on there being HLN. Someone can be worse off if they are killed to be removed

than they would have been if they had never been inside the other person's body--worse off in a way that could affect the justice of killing if the supporter were responsible for introducing them--and it still not be unjust to kill when the supporter is not responsible for introducing them. This is because getting ALN satisfaction as a consequence of being plummeted into someone, where being plummeted in also gives rise to the need for ALN satisfaction, is to be provided with the benefit of having the ALN satisfied. One is provided with the cure at the same time as the disease, when one could have just gotten the disease without the cure. Providing this benefit (cure) is not something the supporter must do, i.e. if the person were plummeted in, giving rise to ALN, but there was no automatic satisfaction provided for the ALN, the supporter wouldn't have to start to provide it, even though the resident will be worse off if it isn't provided than he would have been if he had never been plummeted in. So if he has no right to residence and the ALN satisfaction is a benefit (even if not a benefit in comparison to the state the person would have been in if he hadn't been plummeted in), we may, without injustice, kill to remove him.

Note that the supporter's responsibility for starting support may make killing unjust even if he would be killing someone whose life he had previously saved. Helping someone to retain his life, someone who would not have been alive now if we hadn't helped, does not, in itself, give us a right to now make them no

worse off than they would have been if we hadn't helped them then (i.e. dead). Suppose we save someone's life by carrying him in our body and safely detach him ending the process. Suppose further that we reintroduce him into our body when he had no need to be in residence, and we then want to have him killed in order to remove him. Killing in such a case would be unjust. We are responsible for introducing the person when he had no need to be introduced and if we kill him we shall be making him worse off--in a way which would affect the justice of what we do--then he would have been if we hadn't acted.

If it is true that having saved someone's life does not, in itself, give us a right to kill someone, thereafter, it is also true that having saved someone's life, by itself, does not mean that we are prohibited from killing them. And, in particular, when the ALN-satisfying residence we wish to terminate is unavoidably continuous with the time in residence which we voluntarily donate to save someone's life, we may kill without injustice to stop the residence. The following is evidence for the claim that helping someone retain something need not mean we cannot later take it away. If I help someone retain possession of his gun and then he tries to shoot me with it, I may take it away. Even in situations where the person becomes a threat to me solely in virtue of my own actions (not theirs) which help him retain something, I may take away what I helped him retain, in order to stop the threat to myself. At least when they lose no more if I do this than that which I helped

them retain.¹ For example, if I help someone retain his apple, foreseeing that his having his apple will unavoidably result in his emitting harmful rays in my direction, I may help him retain the apple and still take it away from him in order to defend myself against the threat that his having it presents. This is a case where I may be responsible for making someone a threat to me, they will be worse off if I defend myself against them than they would be if I didn't, and yet I may defend myself in the same way anyone else could, since the threat arises as part of my attempt to benefit someone and what they lose if I defend myself is just the benefit they wouldn't have had if I hadn't made the attempt.

This shows that in the cases of interest to us, the fact that (1) we voluntarily began to help the person who retains his life, and (2) the unavoidable consequence of using the only means available for helping him retain his life, puts him in a situation where he is a threat to us, need not mean that we cannot kill him to remove him. In particular, it need not mean that we cannot respond to the threat of continued residence and make use of the fact that it produced the benefit of continuing life, as we do in

¹This clause is meant to guard against (1) my giving someone something that makes them a threat against me, and (b) then defending myself against the threat in such a way that they are worse off than they would have been if I had never given them the thing. Possibly, we need not even take this precaution if our duty to help someone retain what is theirs (vs. give them something new) is so strong that we have no option but to do it. If this were so, then we could respond to the threat they present even if they would lose more than what we helped them retain.

the Justice Argument.

Note that the case involving our returning someone's apple to them is meant to be analogous to non-ALN cases; that is the threat presented to us by their having their apple is not involved in helping them retain it. In such cases, we can defend ourselves against the threat in the way anyone else (who hadn't returned the apple) could, for the reasons given above. This means we have to decide what sort of response is merited by the particular threat. What we couldn't do is (a) take away the apple in order to compensate ourselves for the efforts we gave voluntarily; or (b) take the apple away as if it were the benefit of losses we have not agreed to suffer, since it is not the benefit of these efforts. In ALN cases, however, we cannot only respond to the threat presented by the continuing life in the way anyone else who hadn't helped someone retain his life could. We can respond as the Justice Argument says we can, since the continuing life is the benefit of the continuing losses we suffer. (As in non-ALN cases we could not kill in order to compensate ourselves for the efforts we have already given voluntarily.) The apple case most directly shows that voluntarily helping someone retain their life, need not mean that we cannot kill in cases where residence voluntarily given satisfied ALN and the remaining unwilling residence is not needed for ALN satisfaction. In such a case, unlike the cases where ALN satisfaction continues, we will need an argument not dependent on the Correction Principle to actually justify killing, given that

responsibility for having saved the person does not mean that killing is prohibited. We cannot say that killing is not unjust because we are eliminating only the benefit of unwilling residence, since the benefit was the result of that part of residence which was given willingly.

I have argued that it will not be unjust to kill in ALN cases where the resident was introduced voluntarily, in order to stop residence which involves efforts we wouldn't have to make merely in order to save someone's life. It is true, however, that if we kill in such cases what we do will not fall under a concern for corrective justice. This is because, if the residence continues when no one has forced the residence on us and no one interferes with our terminating it, there is no injustice in its continuing. Still, the residence against the will of the supporter is unrightful. (See Chapter II) It is unrightful for the resident to be where he has no right to be or has no permission to be, even if his presence is explained by his having been introduced by the supporter and even if his continuing in this unrightful situation is justified by our having to tolerate his presence rather than use the means necessary to remove him. In arguing as I have that the corrective principle makes the killing not unjust in cases where residence is voluntarily begun, I have, then, really been arguing that the same corrective principle which makes it not unjust to use the benefit of an unjust residence to eliminate the injustice, makes it not unjust to use the benefit of an inappropriate residence to eliminate the inappropriate residence.

It is important to note that both in cases where residence starts as the result of an injustice and where the supporter is responsible for starting support, the use of the Corrective Principle not only makes trying to kill not unjust it makes acquiring the death of the resident not unjust. This means that when there are non-justice objections which make killing impermissible, the resident has no legitimate grounds for self-defense (aside from Hobbesian ones). When the person is to lose only the benefit of the efforts he has no right or permission to have, he has no grounds of appeal. This makes it right that a third party rights enforcer should side with the supporter, if he sides with anyone; when the resident could be removed without losing anything and when he could be removed by losing only the benefit of residence the rights enforcers should side with the supporter, if he sides with anyone. In cases where the supporter is not responsible for introducing the resident, the rights enforcer must help the supporter. When the supporter is responsible for residence, the rights enforcer might argue that he is under no duty to help. Since the supporter foresaw what would happen and went ahead with supporting anyway, he should now shoulder the burden of fixing his situation. Third parties, even rights enforcers, might well argue that they should not be held responsible for helping people out of messes when the latter go into a situation voluntarily and fully aware of possible consequences. The rights enforcer may help, but he need not. (What might weigh against this, is that because the supporter was trying to save someone's life, his

useful attempt should put the rights enforcer under an obligation to help him if he decides to stop the efforts.) Furthermore, in cases where the supporter voluntarily introduced the resident, non-justice objections to killing may weigh more heavily than in cases where residence is not voluntarily begun. That is, if there are negative qualities to terminating support that were not present if we let it die to begin with, when we decide whether to begin support we must consider that terminating it will involve these additional negatives. If there is no good reason for risking these additional negatives we may be penalized for making it necessary that these additional negatives occur. The penalty may be that greater efforts have to be suffered on our part before we are permitted to overlook the non-justice negatives, and kill. (Again, the fact that there is a useful reason, e.g. trying to save someone's life, for risking these additional negative factors, might argue against a penalty.) This entire discussion of when a rights enforcer should help end support is only meant to be suggestive not definitive.

In summary, I have argued that killing to remove someone from residence in a case where the supporter willingly introduces the person, is not unjust: This is because the person will still only be losing the benefit of a position he has no right (or permission) to remain in, except possibly because killing is wrong. I have argued that responsibility for introducing someone will sometimes make a difference to the justice of killing, e.g. when the person who would be killed was not in any danger of losing their

life prior to being introduced. (When the supporter is not responsible for residence, absence of HLN will not affect the application of the Corrective Principle in ALN cases.) The justice or injustice of killing will not, however, follow merely because we are responsible for having helped the person retain his life or because we are responsible for making the person a threat as the unavoidable consequence of helping him retain his life. In HLN but non-ALN cases the supporter who is responsible for introducing the resident can respond to the threat in the way anyone else could. In ALN cases, the Corrective Principle will apply. To justify killing on the basis of the corrective Principle in ALN cases where we are responsible for residence will not, however, involve correcting for an injustice; only for an unrightful residence. Whenever the Corrective Principle justifies killing there will be no right of self-defense on the part of the resident, so the rights enforcers should side with the supporter in the matter of removal, if they side with anyone. While killing by first or third parties in ALN cases where the supporter is responsible for residence will not be unjust, a rights enforcer may have no duty to aid, and non-justice objections to killing may count more heavily against the permissibility of killing.

I have argued that killing to stop residence in cases where residence is begun against the will of the supporter and also where it is begun voluntarily by the supporter as in Cases (A), (B), and (C) will not be unjust. If this is correct, what is its significance?

At minimum it shows that killing in these cases cannot be murder and it cannot be treated like killings which involve violations of people's rights.¹ No one's rights are violated in the killings in Cases (A), (B) and (C), and so protests, protections, prohibitions and punishments reserved for violations of people's rights would not be applicable to these cases. Furthermore, if the most serious moral objection which can be lodged against an act (or omission) is that it involves violating someone's rights, killing in Cases (A), (B), and (C) could not be among the most morally objectionable acts.

In addition, I will argue at a later point that the Justice Argument, in particular, is significant because it is necessary in order that some killings be not unjust. That is, there are cases which are in every way like some cases in which we end life support without injustice except that there is no life saved by the support, and killing in these cases will be unjust.

The question still remains of whether any or all killings which are not unjust are also (a) permissible and (b) not morally objectionable. If all the killings which, I have argued, are not unjust are, nevertheless, impermissible--that is, prohibited and not merely objectionable but not prohibited--the fact that they are not

¹For example, going up to a stranger on the street and shooting him dead.

unjust will not have much influence on our actions. At a later point, I will argue that (a) some killings which are not unjust are nevertheless impermissible, and (b) some killings which are not unjust are permissible though morally objectionable, and (c) some killings which are not unjust are permissible and not morally objectionable. I will attempt to provide some tentative suggestions as to why some killings which are not unjust are nevertheless impermissible, and not merely objectionable and exactly what role the non-injustice of the killing plays in deciding that a killing is permissible. I mention these questions now only to note that they do arise. They will be dealt with later, when more of the details necessary for a discussion will have been made available by the analysis of other issues.

II

I will now make clear some of the more general implications of the Justice Argument. Among these implications are: (A) "Because I needn't do it merely in order to save his life," has a more crucial role to play in the non-injustice of killing in ALN cases than in non-ALN cases. This turns out to mean that the efforts for the sake of which we may, without injustice, kill is higher in non-ALN cases than ALN cases. (B) It is not unjust to kill some Innocent Beneficiaries even though they are not Innocent Threats.

A. The Justice Argument shows that (1) "Because I needn't do it merely in order to save his life" indicates that we can kill without injustice when (a) we are making efforts we need not make

merely in order to save someone's life, (b) the efforts we are making produce ALN satisfaction, and (c) the person who benefits from the efforts in question has no grounds for having them done for any other reason, except possibly because it is wrong to kill. The Justice Argument also shows that (2) "Because I needn't do it merely in order to save his life" plays a significant role in explaining why killing is not unjust because the Corrective Principle says that it will not be unjust to the beneficiary to eliminate the benefit of what we need not do, in order to stop doing it. If I need not do something merely in order to save someone's life, then the fact (1) that I am saving their life or (2) that killing would not be permitted if saving were required, will not be reasons why I must continue the efforts. If the resident has no other grounds for having the efforts made, except possibly because killing would be wrong, then I can take away the benefit of the efforts without any injustice. But life will be the benefit of residence only in ALN-satisfaction cases. So only in ALN cases will killing consist in taking away only the benefit. "Because I needn't do it in order to save his life" tells us that we need not do something merely to produce that benefit which must be the benefit of residence if the Corrective Principle is to apply.

If there was ALN-satisfaction but the efforts which were causing the life to be saved were ones we had to make merely in order to save someone's life, then the benefit could not be used to stop the efforts. The person would have a right to residence and to

the benefits of it.

If there was ALN-satisfaction and we did not have to make the efforts merely in order to sustain the life, but the beneficiary had a right to the efforts for some other reason, then it would also be unjust to kill.

Finally, if there were no ALN-satisfaction (as is the case in non-ALN cases), then we would be taking away more than the benefit of the efforts, since the efforts do not provide life support. The Justice Argument does not say that we can take away what is not the benefit of efforts. It might still be true that (1) we would be doing what we need not do merely in order to save a life, and (2) the person may have no other right to have these efforts made, aside possibly because to stop them would involve an injustice, but the fact that we are doing what we need not do merely in order to save a life would not be an automatic indicator of when killing would not be unjust. At least, not according to the Justice Argument, since we would not be removing only the benefit of residence. It would certainly not be a question of using an ill-gotten gain to eliminate the state which produced it.¹

¹Note that even if there were no ALN satisfaction as the result of these efforts, the life of the person in residence might be an ill-gotten gain because, e.g., it is being saved by the illegitimate use of some third person via a long-distance hook-up. But if it cannot be used to correct the wrong which produces it, it cannot be used merely because it is the ill-gotten gain of that other state, to correct the state which does not produce it. At least not according to the Justice Argument.

Killing in non-ALN cases might still be not unjust even if it would not be the Justice Argument which determined that it was not unjust. For example, sometimes a person's right not to be killed is overridden simply because he has a sufficiently bad effect on other, and/or is where he ought not to be while having this bad effect. But to decide if his right not to be killed is overridden in non-ALN cases we must weigh (a) one person being dead against (b) the bad effect to someone else which this person would produce (where this bad effect is not causally involved in sustaining the first person's life). The fact that the effect that the resident would have involves losses to the supporter equal or greater than he would have to make to save someone's life may remove one factor that could stand in the way of killing, i.e., if we had to aid we could not kill. But we would have to give some argument in addition to the one based on the Corrective Principle to explain why exactly the effort we need not make even to save someone's life is the effort in defense of which it is not unjust to kill.¹ And, in fact, it seems that the \$1,000 non-ALN case is an example of a case where it would not be unjust to refuse to make the efforts involved, in order to save someone's life, but it would be unjust to kill someone in order to get back the \$1,000. In the \$1,000 ALN case, it would not be unjust to kill (according to the Justice Argument). The difference between ALN and non-ALN cases

¹ Thomson's Argument not only omits reference to satisfaction of ALN as crucial, but implies that in non-ALN cases doing what we need not do merely in order to save a life is grounds, by itself, for killing.

indicates that the claim that "we needn't make efforts rather than kill which we wouldn't have to make rather than let die"--is not what should lie at the heart of Thomson's argument. If it were correctly described as being at the heart of Thomson's argument then not only would killing in ALN cases be permissible (as well as not unjust) whenever they involve efforts as large as we would not have to make rather than let die, but the efforts we could permissibly and justly avoid by killing in ALN and non-ALN cases would be the same. Neither of these two implications holds. In particular, in non-ALN cases the efforts we need not make rather than kill seem to be larger than those which we both (a) need not start to begin with in order to save someone's life, and (b) larger than those which we may, without injustice, kill to terminate in ALN satisfaction cases.

If we see the Corrective Principle as lying at the heart of Thomson's argument, however, this allows us to explain the non-injustice of killing in all ALN cases where we are making efforts it would not be unjust to refuse to give rather than let die, it does not require us to say that killing is permissible in all these cases, and it does not require us to say that killing in non-ALN cases is not unjust or permissible whenever efforts are such that we need not make them merely in order to save a life.

In addition, the difference between the ALN and non-ALN cases indicates the following: (a) The large size of the loss we seek to defend ourselves against is not the only factor which makes killing not unjust. Losses, in the form of efforts, may only be

large enough so that we would not have to suffer them to save someone's life in order for the relation holding between the efforts-as-cause and the life-as-benefit, to give rise to the non-injustice of killing. So the size of the loss to one party if we do not kill is not all that is involved in making killing not unjust. The relation ("causally dependent on") holding between what is taken away and the efforts is also important in determining the non-injustice of killing. (b) People speak of someone's right to their body being in conflict with someone else's right to life. It is fair to describe both ALN and non-ALN cases as ones where this conflict exists. Yet in, e.g., the \$1000 ALN and non-ALN cases we may resolve the conflict differently. Again, the function that the body performs with respect to the other person's life will make the difference. (c) It may well be easier to justify killing the person who has his life saved as a result of efforts he had no right or permission to have in order to stop the efforts than it will be to justify killing a third party who is guilty of forcing one person to support the other, if killing him would end the support. This is because if he were killed he would be deprived of more than the benefit of efforts he had no right or permission to have, since he is self-supporting.

In summary, I have explained the significance in ALN cases of the fact that the efforts I kill to terminate are efforts which I need not make merely in order to save someone's life. I have also indicated why this fact is not of equal significance in non-ALN cases.

B. The argument for the noninjustice of killing in non-ALN cases (vs. ALN ones) must involve deciding if it is not unjust to kill someone who is morally innocent (i.e. he didn't introduce himself into residence) but who has a certain bad effect on someone, i.e. someone who is an Innocent Threat. The Justice Argument for ALN cases has been applied in cases where the beneficiary of efforts is also an Innocent Threat. That is, he has the bad effect of causing the efforts from which he benefits to continue, i.e., he is innocently causally involved in producing the threat of continued efforts to the supporter. (The innocent beneficiary of the efforts causes the efforts to continue by staying alive and, therefore, remaining in residence. Indeed, not only does he cause the efforts to continue, but it is in virtue of the benefit of the efforts itself (continued life), not something else, that the efforts continue. And these efforts (residence) in turn provide the benefit. It is a feedback mechanism: efforts lead to benefit leads to efforts.) But the Justice Argument does not necessarily require that the cases to which it is applied involve a beneficiary who is also a threat. The Argument only hinges on the person losing the benefits of efforts he has no right or permission to have; it does not require that he cause the efforts to exist.

This means that the Justice Argument opens up the possibility of further broadening the range of people it is not unjust to kill. That is, we may not only kill aggressive threats and innocent threats, but also innocent beneficiaries of threats, who

are not themselves innocent threats.¹

III

Having made clear some general implications of the Justice Argument I will now make clearer what the Justice Argument implies and what it does not imply about particular cases. I will first consider why killing in certain ALN cases (e.g. \$1000 cases) should be impermissible and objectionable, even though it would not be unjust. I then provide reasons for why killing will be unobjectionable in some ALN cases when it is unobjectionable to let die to begin with, though it is not unobjectionable to kill in non-ALN cases.

In the \$1000 ALN case, the conclusion of the Justice Argument is that it is not unjust to kill. But I have said that it is both impermissible and objectionable to kill in this case, while it is both permissible and not objectionable to refuse to give \$1000 in aid. This means that negative characteristics present when we kill, but absent when we refuse to start life saving aid to begin with, must (at least, in part) account for the fact that it is not objectionable to refuse to start \$1000 aid to begin with, but it is objectionable to kill to stop it. These negative characteristics may be characteristics due to the presence of killing per se, or they may be characteristics which would be shared by the BNA case. (Recall, that this is the case in which I

¹I believe we could extend this point to areas of social justice also.

refuse to give a small amount of aid which is required to prevent the person I am already supporting from getting typhoid. I refuse in order that the disease shall kill him and remove him from me.)

A list of such factors would include: (1) Interest in the occurrence of the cause of death of something of great value (a person's life).¹

(2) The weight of the person's having a right not to have their life taken away, even though it is overridden.

(3) Responsibility for causing the loss of something of great value. (This is a characteristic present only in the killing, not in the BNA case.)

(4) Making someone worse off than they would have been without our act when it is not unjust to do this. (This is a characteristic present only in the killing, not in the BNA case.)

(5) Intrusion into the private sphere of a person when it is not unjust to do this. (By this I do not mean messiness, but interference, even if it is very clean.) (This is a characteristic present only in the killing, not in the BNA case.)

(6) (If we use the person as a means to stop the residence
Treating the person as a means.

¹I note that something of value is involved. This is because it may be true that it is of no consequence whether we have an interest in the occurrence of the cause of the destruction of something of no value. This is because whatever we do, or whatever attitude we have toward what is of no value, may be of no consequence. But once we are dealing with what is of some value, whether we do one thing or another to it, or have one attitude or another to it, may be of great significance.

If we want to find out whether (a) the factors only present when killing is present make killing objectionable when letting die to begin with isn't objectionable, or whether (b) the factors which can be present in BNA cases also account for the difference, we should do the following:

(1) Compare BNA with the matrix killing. If they are equally unobjectionable or objectionable, then we will know that if the presence of killing is of no moral significance. Note that if the presence of killing in this case does not make a moral difference, this need not mean that killing does, not differ morally from letting die, per se. But it does mean that factors such as causing the death will not make a moral difference.

(Note that we leave it open that BNA is permissible when matrix killing isn't and yet that they are equally morally objectionable.)

(2) Compare BNA with letting die to begin with. If BNA is more objectionable than letting die to begin with (even if it is not impermissible when letting die to begin with is permissible) this means factors such as interest in the cause of death/using someone as a means, make matrix killing morally objectionable when letting die to begin with isn't.

Note the following: (1) It is possible for BNA to be less objectionable than matrix killing and also to be objectionable when letting die to begin with is not objectionable. In this case, both factors present only because killing is present and factors present

independent of the presence of killing would make killing morally objectionable when letting die to begin with was not objectionable.

(2) For those who think that an act (e.g. matrix killing) and an omission (e.g. BNA) can be equally morally objectionable and yet only the act be impermissible, the fact that the killing was more objectionable than letting die to begin with could indicate that the killing was also impermissible. As a matter of fact, I have said that the killing in the \$1000 case is both morally objectionable and impermissible, and this may be due to factors which killing alone introduces or to factors present also in BNA cases.

I said that factors (1)-(6), which are present in the kill case alone or also in BNA might only account in part for the objectionableness and impermissibility of killing in the \$1000 ALN case because there may be another reason for the impermissibility of killing. This reason is that it seems inappropriate to take advantage of the fact that someone has a greater need for support to begin with, as is true in ALN cases where there was HLN, in order to make killing permissible when it wouldn't otherwise be permissible. The significance of this point is made clear by comparing ALN with non-ALN cases.

In the \$1000 non-ALN case it will be unjust (and therefore impermissible) to kill, because the efforts the supporter would make are too small to justify killing in order to end them. In the \$1000 ALN case it is not unjust to kill. In general, killing is likely to be just more often (i.e. when lower amounts of effort to

the supporter are involved) in ALN than in non-ALN cases, given the two different types of arguments for the non-injustice of killing that have to be given in ALN and non-ALN cases. Even if factors (1)-(6) listed above did not distinguish ALN killing from not starting aid to begin with, it might still be impermissible to kill in the ALN case because it is impermissible in the non-ALN case. In general, there may be a reluctance to distinguish between ALN and non-ALN cases because distinguishing between the cases means that we take advantage of the fact that someone (a) had a greater need for support, when factors other than need to avoid being killed are considered and (b) was either originally worse off in life (i.e., they had HLN) or came to be worse off. The latter occurs in cases where ALN need first arises upon residence. The person has the misfortune not only to be in residence, but also to have become dependent for life support. In the non-ALN case he only has the misfortune of being in residence, so the ALN person is worse off than the non-ALN person. It seems inappropriate to let the permissibility of killing go along with the non-injustice of killing in the \$1000 ALN case because it seems discreditable to make the permissibility of killing in some cases (i.e., those where the efforts involved wouldn't make a non-ALN killing not unjust) depend on the person's being worse off and in greater need than someone else.

Furthermore, and closely related to the previous point, there may be a reluctance to distinguish between ALN and non-ALN cases, and to let the permissibility of killing follow on the non-injustice

of killing, because it seems odd that (a) when two people have equally strong reasons for residence, and hence equally strong excuses for residence, it should be easier to justify killing one rather than the other, or (b) when one person has a stronger reason for being in residence than another, and hence a stronger excuse for being in residence, it should be easier to justify killing the one with the stronger reason.

So far as (b) is concerned, in the ALN cases the resident has a stronger positive reason and hence excuse, than the person in non-ALN cases. He either had a stronger need for residence to start (where there was HLN) or he gets benefits from residence (where ALN need started when residence started). These reasons are not strong enough to justify residence, but they are still stronger than that present in non-ALN case. In the non-ALN cases there is no positive need for residence that could serve as an excuse for residence.

So far as (a) is concerned, I argued that it may be right to equate negative and positive reasons for residence, so that need to avoid being killed in removal is as strong an excuse for residence as HLN/ALN. Seen in this light the ALN and non-ALN people have equal excuses for residence, even if HLN people had a greater excuse for residence to begin. So, in the ALN cases the positive excuse for residence is stronger than in non-ALN cases; and at the very least the complete excuse for residence is equal to that in non-ALN cases. Yet, if permissibility followed non-injustice, it would be easier to kill in ALN cases than in non-ALN cases. That is in cases where lower

efforts are demanded of the supporter, killing will be not unjust in ALN cases and unjust in non-ALN cases.¹ In these cases where efforts lost are lower, it is easier to argue that killing is not unjust as the excuse provided by a positive reason becomes stronger because (a) as the need for residence gets stronger (at its strongest it is the need for life itself) the person killed is more likely to lose only what he would get from residence, and yet (b) the positive need does not, however strong it is, justify residence. When someone needs residence for life support he has the strongest grounds for being there, but he is only then, as opposed to when he has a lesser need, in a position where he would lose only what he receives via the wrong/unrightful residence, if he is killed. His strong positive need pulls in the direction of our not being able to kill, when it is seen as an excuse, and yet it also pulls in the direction of making killing not unjust when it wouldn't otherwise be so.

It seems odd to be able to kill someone who is in a position he would have a stronger reason for being in to begin with (even though the reason does not justify his being in the position) when we could not kill someone (in non-ALN cases) who is in the same position with less reason for being there to begin with, given his lesser (positive) need for residence. It seems odd that the person with ALN and, hence, with the stronger positive excusing condition,

¹Recall that in non-ALN cases, as the threat value to the supporter goes down, the non-injustice of killing is likely to disappear, whereas in ALN cases, the grounds for the justice of killing doesn't diminish as the threat size goes down, so long as it doesn't go down below what we wouldn't have to tolerate merely in order to save someone's life to begin with.

and with at least equal need, positive and negative excusing conditions taken together, should have a mark against him in virtue of these characteristics, even if his having ALN does not constitute a mark in his favor.

In the light of these two points, it is worth emphasizing that while it may be a ground for the impermissibility of killing in some cases that it is distasteful to base the permissibility of killing on someone's greater need, this does not alter the fact that the non-injustice of killing does indeed depend on the greater need, at least in some cases (namely those where killing in non-ALN cases involving comparable efforts lost will be unjust). The non-injustice of taking away something from someone depends on whether he has it appropriately; if someone is not beholden to improper sources in order to have what he has, we are more limited in what we can, without injustice, do than when there is something wrong with how someone comes to have something. In non-ALN cases the person does not have his life by the inappropriate means we wish to eliminate; in the ALN case he does.

I will add the last two points--(1) greater need/worse off

and (2) equal or stronger excuse--to the previous six as factors which, I suggest, account for a killing being morally objectionable and impermissible in some cases (i.e. those where the efforts to the supporter are relatively low), even though the killing would not be unjust.

It seems that a killing in the \$1000 ALN case would not be unjust, yet it is not only indecent (morally objectionable), it should be impermissible. So while the Justice Argument shows that killing in this case would not be a violation of anyone's rights, it does not show that it should be allowed. In suggesting that the eight factors discussed above make killing impermissible in some cases where it would not be unjust, I am suggesting that one can weigh (1) the fact that someone will lose something very valuable (their life) and (2) that the things noted by the eight factors will occur, against (1a) the smaller loss to the supporter and (2a) the fact that it would not be unjust to kill, and conclude that it is impermissible to kill. This means that there can be cases where it is impermissible, for non-justice reasons, to correct an unjust state of affairs by means which are themselves not unjust. Correcting the injustice does not have priority even when doing so involves no other injustice. Despite the fact that the correctness of the Justice Argument does not imply that killing is permissible in all ALN cases where efforts are such that it would be unobjectionable and permissible to let die to begin with, I suggest that some killings will be permissible solely because of the correctness of the Justice Argument. So the Justice Argument not only shows that killing in ALN cases does not have

whatever gravity is attached only to injustices, it also makes killing permissible in some cases where it wouldn't otherwise be so. That is, I suggest that killing will be both not unjust and permissible in some ALN cases, while it will be unjust and impermissible in non-ALN cases involving comparable efforts on the supporter's part.

The reasons why killing is permissible in these ALN cases include characteristics of the case which are also present in the ALN cases where killing is not permissible, even though it is not unjust.

By implication, therefore, these characteristics are among those outweighed by the negative factors in cases where killing is impermissible, even if not unjust. I enumerate some of them now, because I shall now be discussing cases where they help to effectively outweigh the negatives involved in the killing.

These characteristics mitigate some of those negative factors which I said were present when we terminate support, but are not present when we refuse to begin life support to start with. They mitigate these factors by giving a moral justification for their presence. For example, when we cause or have an interest in the occurrence of the cause of death, interfere with the person etc., we nevertheless do it to someone who does not have their life by appropriate means, and for the purpose of correcting unjust/unrightful situations. The fact that we use the person as a means and that treating him merely as a means is ordinarily morally wrong, should be weighed against the fact that our action can also be interpreted as treating him in keeping with respect for his nature as a person: this is not only because the killing is not unjust, but because another implication of his nature as a person besides his right not to be treated merely as a means seems to be that his life should not be lived improperly at the expense of others. When we kill in order to stop the improper support, we therefore, not only show a concern for the welfare, rights and nature of the supporter, we also are concerned with eliminating a status not befitting the dependent. (Kant did not think it odd to say that we owe it to the guilty to punish them, in recognition of their nature as persons. Likewise, if someone is where he oughtn't to be, or receives support in ways he oughtn't to, or is a part of a situation in which he has

harmful effects, it may be that what befits him as a person is that others take action against him, even if he is morally innocent.)

These characteristics of the case may mitigate the non-justice negative factors present when we terminate support. But, as noted, they do this in cases where killing is not permissible (e.g. \$1000 ALN case) as well as in cases where it is. The additional factor, which when added to those which mitigate, actually outweighs the non-justice anti-killing factors to make killing permissible is the size of the efforts demanded of the supporter in any given case. When the efforts involved get larger, but are still less than what must be present to make a non-ALN killing not unjust, we weigh the non-justice negatives of terminating support against the efforts involved, and because killing is not unjust in these ALN cases, we will decide that killing is permissible. In particular, I suggest that when we reach a certain effort level, it is not objectionable to take advantage of the fact that killing is not unjust in these ALN cases. We may ignore the tendency not to distinguish between ALN and non-ALN cases, we may ignore the distaste associated with treating a person of greater positive need more harshly, and judge that killing is permissible.

In particular, in the cases we are concerned with where months of body support is involved, given that the reason for killing is the desire to avoid these efforts, killing would seem to be permissible, as well as not unjust.

In summary, I have presented two sorts of reasons to account for the impermissibility of killing--without injustice--to

terminate support, when efforts are low but still greater than we would have to give, either from decency or duty, rather than let someone die. These reasons were (1) avoiding non-justice negative characteristics of terminating support, present in BNA killing and/or killing cases, and (2) the fact that having the permissibility of killing coincide with the non-injustice of killing would involve taking advantage of the fact that someone was in the worse of two states, in order to treat them more harshly, even though they had an equal or greater excuse for residence than someone we could not remove. I argued that these non-justice objections to killing--the first sort being present in non-ALN as well as ALN cases, the second only in ALN cases (and tending to make us not distinguish between the permissibility of killing in ALN and non-ALN cases)--did not make killing unjust in ALN cases such as the \$1000 case. This is because the non-injustice of the killing depended on how the person came to have a benefit and the purpose for which we want to eliminate it. Having given reasons why killing may be impermissible in ALN cases when it is not unjust, I then presented reasons why killing would be permissible in some ALN cases when it wouldn't be permissible in non-ALN cases. Some of these reasons, those which mitigate the non-justice negative objections to killing by giving them a legitimate role, are present in cases where killing is still not permissible. What helps outweigh the non-justice negatives, and lets us take advantage of the fact that killing would not be unjust, is the size of the efforts. That is, there will be a range of efforts

which are large enough so that they make killing both not unjust and permissible in ALN cases, even though they are not large enough to make killing just or permissible in non-ALN cases. I concluded that our cases, where simple body support is involved are of this sort, and therefore killing in these cases is permissible.

IV

I now will discuss some of the possibilities for further research raised by the approach I have taken to killing in ALN-support cases.

I have argued that for some range of effort levels, killing to stop these efforts will (1) be not unjust in ALN cases when it is unjust in non-ALN cases and (2) be morally unobjectionable or permissible when it will be morally objectionable and impermissible in non-ALN cases. I believe that consideration of these differences between ALN and non-ALN cases will, first of all, provide us with a new way to show that killing, per se is not morally equivalent to letting die, per se. This is because what makes the difference between the injustice and/or objectionableness of killing in non-ALN cases and the non-injustice and/or unobjectionableness of killing in ALN cases is the addition to the ALN case of a property which belongs to all let die cases--and all not-aiding cases--by definition, i.e., that the person will lose only what he would get via support. That is, a definitional property of letting die, but no definitional property of killing, is evidence for the non-injustice/unobjectionableness of a killing.

In order for this fact to bear on the question of whether killing is morally equivalent to letting die, per se I think we would have to show that (a) this definitional property of letting die is evidence for non-injustice/unobjectionableness on its home ground also, i.e., is evidence for the non-injustice/unobjectionableness of letting die, and (b) that letting die has no properties peculiar to it which killing does not share which are evidence for injustice/unobjectionableness.

In order to show (a) it seems to me that one would first have to show that a "difference in the context" provided by the ALN killing case and the let die case for the definitional property in question is not significant. The difference in context which seems crucial is the following: in the ALN kill case the person loses only what he would have gotten via support it is already agreed he has no right to have merely in order to save his life. In the case where we want to see if the fact that someone loses only what he would get via support helps determine the right to let die, it is not already agreed that he has no right to support in order to save his life.

I suggest that in order to show that this difference does not rule out that "losing only what he would get via support" is evidence for the unobjectionableness of letting die we must examine the significance of there being no right to the use of support prior to whatever is the final decision on the issue in question, whether this is "can we kill" or "can we let die." If the fact that the person would lose only what he would get via support he had no prior claim to¹ is evidence for (1) the unobjectionableness of letting die and/or (2) the superior strength of a right not to be deprived of what one would have via a source one did have a prior claim to, then we would have reason to think that (1) the right not to be killed is stronger than a right (if such exists) to have one's life saved and that (2) "losing only what he would have gotten via support" is evidence for the non-objectionableness of letting die as well as of ALN killing.

Consideration of the presence or absence of a prior claim to the source of continuing life would, I believe, also show how a right not to be killed is dependent on a more fundamental right to one's body. This dependence would in turn reveal that the most basic right(s) we have is not necessarily the most important/stringent right we have.²

This attempt to deal with the "difference in contexts" would be one step in showing that "losing only what we would have gotten via support" is evidence for the non-objectionableness of letting die. We

¹I use "prior claim" to mean claim prior to our final decision about whether someone has a claim.

²See Appendix

might also have to deal with the general problem that just because a definitional property of an act/omission is evidence for the non-objectionableness of another act/omission, this need not, in general, mean that the definitional property has this same role on its home ground.

In summary, I have suggested that consideration of ALN killing cases will (1) help provide a new way of arguing for the claim that killing and letting die are not morally equivalent per se and (2) illuminate the relation between a right not to be killed and a right to one's body, and (3) help us in developing a procedure to tell when a definitional property of one factor, which is evidence for unobjectionableness in one context is also evidence in another context.

In addition, I believe consideration of ALN cases will help us decide which procedures to use in constructing comparable cases. In particular it will eliminate cross-definitional equalization as an acceptable approach to constructing cases to be used in seeing if acts/omissions are morally equivalent per se. This should be so for two fundamental reasons: (1) If a definitional property of one act/omission is evidence for the unobjectionableness or objectionableness of acts/omissions, introducing it into the context of the case involving the other act/omission will just conceal the difference per se of the two acts/omissions. It may make the presence of one act/omission rather than another morally insignificant without this meaning that the acts/omissions are morally equivalent, per se. (2) If the definitional

property of one act/omission is not evidence for unobjectionableness on its home ground but only outside its home ground introducing it there will conceal the fact that different reasons are required to make one act/omission unobjectionable than are required to make the other act/omission unobjectionable, and hence conceal that the acts/omissions are not morally equivalent. The possibility that the same factor can play different roles, e.g., a purely definitional role or a role as evidence for (un)objectionableness, in cases involving different acts/omissions should alert us to the need to specify not merely equal factors, but equal role for equal factors, in constructing comparable cases.

Conclusion

In conclusion, examination of cases in which people provide other people with life saving support serves at least five general functions: (1) It shows how far "it's mine" provides protection for a person whose body is used. But the fact that the person who will be killed can say of his life and his body that "it's mine" does not mean that his right not to have them used is not overridden. (2) It served as the opportunity to consider a principle which it seems ought to be part of our view of corrective justice and see how it extends to include removal of things that belong to people. (3) It leads to consideration of contrasting cases, the ALN and non-ALN cases, which I have said (a) make clearer the different roles that losses suffered (efforts made) play in

justifying killing, depending on the function the losses/efforts have, and (b) throws light on when non-threatening individuals can be killed. (4) The contrasting ALN and non-ALN cases can also, I have suggested, serve to isolate the effect of definitional properties of killing and letting die, and provide a new technique for seeing whether killing differs morally from letting die, per se. That is, a suggestion for further investigation has been that rather than compare comparable kill and let die cases, we compare two killing cases, to one of which a definitional property of letting die has been added. If the definitional property of letting die makes a difference to the permissibility of killing then we know that a definitional property of letting die, but not of killing, is evidence for the moral permissibility of acts, and this, at least, suggests that letting die differs morally, per se, from killing. (5) It helps us understand more about the principles for constructing comparable cases.

APPENDIX

In order to make clearer some of the details of a discussion which would show that a definitional property of letting die is evidence for the unobjectionablness of acts and omissions, I will now present such a discussion insofar as it bears on whether a definitional property of letting die is evidence for the non-injustice of acts or omissions. Parallel conclusions can be drawn from parallel arguments for the claims that (a) a definitional property of letting die provides evidence for the moral unobjectionablness of letting die, per se, and (b) that killing and letting die differ in moral objectionablness, per se.

If the efforts required for the non-injustice of killing in non-ALN cases is greater than is required in ALN cases, three possible conclusions to be drawn from this are: Conclusion 1: (a) the person we kill in the ALN cases would lose only what he would retain via support, (b) losing only what one would retain via support is a property present in all let die cases, by definition,¹ (c) if this factor makes killing not-unjust when it would not otherwise be so (i.e., when it would be unjust in some non-ALN cases, even though in both the ALN and non-ALN cases the efforts we would kill to avoid are (1) the same size and (2) efforts someone has no right to have merely in order to save his life), this means that a definitional property

¹It is also a definitional property of all not aiding cases.

of letting die is evidence for the non-injustice of an action, while a definitional property of killing is not.

Conclusion 2: Since losing only what he would have gotten via support is a definitional property of letting die, it is also evidence that letting die itself is not unjust.

So, if we had to justify that which we have been assuming all along, namely that we can let die to begin with (at least when efforts involved are of a certain size) part of the justification would be that the person would lose only what he would get via the support. This is not to say that it is conclusive evidence that letting die (or any not aiding) is non-unjust. If it is not conclusive evidence, then it is not evidence that not aiding is always not unjust. Note that in the case of killing, the presence of the definitional property of letting die is conclusive evidence for the non-injustice of killings. That is, all killings in ALN (versus non-ALN) cases as described above will be not unjust. This difference in the degree of evidence the definitional property provides will be discussed below.

Conclusion 3: If the definition of letting die provides evidence for the non-injustice of letting die, when killing does not provide evidence for the non-injustice of killing, then letting die, per se, differs from killing, per se, so far as there is more evidence for its non-injustice, per se, than for the non-injustice of killing, per se.

B. 2. Are these three possible conclusions correct?

One ground for objecting to Conclusions 2 and 3 is as follows:

I have so far identified the definitional property of letting die which is evidence for the non-injustice of killing, in cases where the efforts are ones the person has no right to have merely in order to save his life, as "losing only what he would have had via the efforts." But we should consider that this definitional property has no effect at all on changing unjust killings into non-unjust ones in cases where the efforts are ones the person has a right to have in order to save his life. The fact that he will lose out on having only what he would have gotten via the efforts is no reason for thinking killing is not unjust when he has a right to the effort. So it seems natural to suppose that it is only in cases where we already know that the person has no right to the aid in order to save his life that losing only what he would get from that aid is evidence for the non-injustice of an act or omission which makes the aid not occur. But if this were so, we would not need the evidence, since we would already know that it was not unjust to not aid. Further, in cases where we already know the person has a right to aid, the fact that he would lose only what he would get via aid if we did not aid does not mean it is not unjust not to aid. But in cases where our aim is to decide whether we can let die to begin with, i.e., in cases where we do not already know that the person has no right to the aid, we do not know that the person would be losing only what he would get from aid he has no right to, since we are just in the process of deciding if he has a right to the aid. Since, in the killing cases it is losing only what he would have had via efforts he had no right to that makes a difference, we have no reason to think

"losing only what he would get via efforts" by itself, in the case of letting die to begin with, is any evidence for the non-injustice of letting die. And so, we have no reason to think that there is more evidence for the non-injustice of letting die, per se, than for the non-injustice of killing, per se (Conclusion 3).

This argument against Conclusions 2 and 3 rests on the fact that in the ALN killing case we assume that we have already determined that we may let die to begin with--so the person has no right to support merely in order to save his life. But, in the let die case, "losing only what he would get via support" is supposed to be involved in determining that we may let die to begin with.

The strategy for showing that this argument is incorrect is, essentially to show that (a) in cases where there is a prior right to that which can save a life, for reasons other than that it can save a life, the person has a stronger right not to be without its product (i.e., his life being saved) than in cases where there is no prior claim to it; and (b) in the case where we kill an unsupported person he will have a prior right to that (his body) which produces his continuing life so he will have a stronger right not to be without the life that comes via his body than someone else would have not to be without the life that comes via a body they have no prior claim to. This means that the fact that "the person would lose out on only what he would get from a source X" would be evidence for the non-injustice of letting die, where X is someone else's body and he has no prior claim to its use but not evidence for the non-injustice of killing, where X

is the person's own body. (c) So the right not to be killed will be stronger than the right to get life supporting aid when there was no prior right to the support. This will be so for the same reason as it is worse to refuse life saving support to someone who has a right to our aid for reasons independent of life-saving than it is to refuse life-saving support to someone who has no prior right to our aid.

1. First, note that in the case of letting die to begin with we know that the person who is not aided will lose out on what he would get from efforts he-has-no-right-to-except-possibly-because-we-cannot-let-him-die, just as in the ALN-killing case we know the person killed will lose out on only what he would have gotten from efforts he-has-no-right-to-except-possibly-because-we-cannot-kill-him; that is, in both these cases the person has no claim to the efforts prior to the final decision. The person in the ALN-killing case, who has no right to bodily support merely in order to save his life, might have gotten a right to the support because we could not kill, i.e., all things considered, he might have had the right. We decided that all things considered he does not have the right, in part, because he loses only what he would have gotten from efforts he has no right to not all things considered. It is only at the not-all-things-considered level, prior to our decision about the act in question, that absence of a right is required, in order for us to decide if there is a right to support all things considered, or if there is a right to kill. Likewise, it may be claimed in the let die case, it is the absence of any right to the efforts, other than a right that may come because it is

impermissible to let die, that is necessary, in order for us to make use of the fact that the person would lose only what he would get via the efforts as evidence for the non-injustice of letting die. We can argue for this claim as follows:

A. In contrast to the ALN-killing case and standard let die cases where there is no prior claim to the aid from the other person are cases in which (a) we kill someone who is self-supporting and (b) it is a question of providing life support for someone via efforts he already has a right to for reasons other than to have his life saved. Consider first a case of (b). Suppose we had promised to lend someone a coat. At the time we promised this person had no life support needs. Events change and he finds that having the coat will save his life as well as fulfill his original needs. In this case the person had a prior claim to our coat, and if we do not give him the coat, now that he needs it for life also, we will, at the very least, be violating the right he had to have us keep our original promise, even if he had no right to have us save his life, per se. Furthermore, suppose we had to choose to which of two dying people to give one of our 2 coats (coat A and coat B). We cannot give both coats away in time to save both people. Suppose we had promised coat A to one of the people, for reasons other than to save his life, but had not promised coat B to anyone. We should choose to give a coat to the person who has the prior claim to it. His claim is stronger, whether or not we believe the other dying person would have the right to coat B simply in virtue of his need. The fact

that the person in being denied the life-saving aid loses out only on what he would have gotten via us is not evidence for the non-injustice of not aiding because of the existence of the prior right, the violation of which would be an injustice.

B. It is possible to analyze cases of type (a), where we kill someone who is self-supporting as cases where the person who is killed has a prior claim to the source of what he loses out on, what we would deprive him of. That is, (1) he has a claim to his body, independent of there being any question that the denial of this claim will involve his losing his life and (2) if we kill him he loses out on, we deprive him of, his life which is the product of the functioning of that body.

If the final claim to aid is weaker in letting die cases where there is no prior claim to the source of life than it is in cases like (b) above, and if the prior claim to the source of life is at least as strong in a case like (a) as it is in a case like (b), then the final claim to aid would be weaker in letting die cases where there is no prior claim than the claim not to be killed is in non-ALN killing cases.¹ This means that even if there is a final right to life-saving aid in some cases where there was no prior claim to aid, this might well be weaker than the right not to kill an unsupported person in a comparable case.

¹To show that the right not to be killed is stronger than the right to have aid one has a prior claim to, one would have to show that the latter prior claim was not as strong as the claim to one's body.

This need not mean that we cannot override the right not to be deprived of the product (life) of a source (body) which it is agreed, independent of a decision as to whether we may kill, that we have a right (claim) to.

This analysis of the strength of the right not to be killed of the unsupported individual vis-a-vis the strength of a right to aid (if the latter exists finally) involves deriving the right not to be killed from a more basic right: i.e., a right to one's body for reasons other than that without it one would die. The alternative to deriving the right of the ordinary non-supported person not to be killed from a more basic right is to say that people have a right not to be killed even if they do not have a right to their bodies for reasons other than without them they would die.

It is important to note that it is no argument against deriving a right not to be killed from a right to one's body that the former might be more valuable than the latter or is the most valuable part of the latter. This is because (1) the more basic/general right from which the right not to be killed is derived may be less important than the right that derives from it, and (2) that the more basic/general right might be overridden without it being permissible to override the right derived from it. So, we might be able to use a person's kidney, thus overriding a right to his body that he has for reasons independent of the fact that he would die without his body. This would not mean that we could kill him, since his going on living is more important than his losing a kidney. (Likewise, someone's right to his body may

be overridden in that we can order him to work (slavery), and yet his right to the product of his labor might remain, even though the only reason he has a right to the product of his labor is that he has a right to the body which produces it.) Analogously, someone may have a right to the diamonds produced on a plot of land only because he had a right to the land. Yet we may be able to override his property right and use his land, while still not being able to take away the diamonds. This is because the diamonds are more valuable than the land itself. The most valuable right we have, and the one it is most difficult to override, need not be the most basic right we have. We may have one right only because we have a more basic right and yet we can override the latter and not be able to override the former.

The claim to aid where there is no right to the aid prior to a decision about a final right will be weaker than a right not to kill the unsupported person. This is because the latter person has a prior right to the source of the life he would lose out on. When we speak of "someone losing only what he would get via support," in let die cases, most of the cases we in fact are talking of are ones where there is no right to aid prior to a final decision. It is because this is true, and because (1) "losing only what he would get via support" is a definitional property of letting die, and (2) a prior claim to the source of the life one would lose out on gives one a stronger right not to lose out on that life, that "someone losing only what he would get via support" is evidence for the non-injustice of letting die, per se. Evidence which is lacking for killing, per se. This means

that the objection to Conclusion 2 and 3 based on the claim that the fact that someone will lose only what he would get via the aid cannot be evidence for the non-injustice of letting die unless we already know that the person has no final right to the aid, fails. So this objection to concluding that this definitional property of letting die is evidence for the non-injustice of letting die because it is evidence for the non-justice in killing cases, fails.¹

The argument against the objection has shown us an important step in arguing for the view that the right of a person not getting ALN support not to be killed is stronger than someone's right to life saving aid. This step is to show that the right of a person who has a prior claim to aid not to lose out on the benefit of having the aid (life) is stronger than the right not to lose out on the benefit of having the aid of someone who has no prior claim to the aid.²

¹Elsewhere, I have dealt with another objection to deriving the conclusion that a definitional property of letting die is evidence for its non-injustice/unobjectionableness because it is evidence for non-injustice/unobjectionableness of other acts/omissions. So the conclusion that it is evidence should be considered tentative.

²Though I will not go into detail at this point, I believe focusing on the issue of the prior claim may be more successful in showing that a claim to aid is weaker than a claim not to be killed than an alternative argument. The latter just consists in arguing that someone has no right to aid but he does have a right not to be killed. Those who deny that there is no right to aid will not be convinced by the mere assertion that there is none. But if they grant that (a) there is a prior claim to one's body and (b) cases in which we have a prior claim to aid are ones where we have a stronger right to aid for life support than ones where there is no prior claim to the aid, then they should grant that even if there is a right to aid without a prior claim to support (i.e., a right to aid in standard cases where the question arises) it will be weaker than a right not to be killed.

I have argued that it is because "losing only what he would get via support" is usually associated with not having a prior claim to the support, that it can be evidence for the non-injustice of letting die.

"He would lose out on having only what he would get via efforts he is not known to have a right to prior to the decision about whether we can kill or let die," is a property of the letting die case, which could be claimed to be evidence for the non-injustice (as well as non-objectionableness, as we can also show) of both letting die and killing. The addition of the description of the efforts as ones he has no prior right to, -- which is not a definitional property of letting die -- to the definitional property of letting die -- his losing only what he would have gotten via support -- still means that a definitional property of letting die is evidence for the non-injustice (and as we can also show, the non-objectionableness) of a killing, since it is a necessary part of a condition which suffices as evidence. So, even if we took this newly characterized property as evidence for non-injustice (and unobjectionableness), the definitional property would still also be evidence for non-injustice of killing and of letting die.

We might, on the other hand, say that "losing only what he would have gotten via the efforts" suffices in itself as evidence in situations appropriately described, i.e., where there is no prior right (i.e., no right prior to the decision in question) to the efforts.

Either way, the argument proposed does not show that a definitional property of letting die (lose only what he would have gotten via the efforts) is not evidence for non-injustice of killing and letting die itself.

b. The type of argument given here in opposition to one objection to Conclusions 2 and 3 has the same form as that used in the Justice Argument. That is, it emphasizes that we decide whether someone has a right to something (not to be killed, to be aided) in part by reflecting on the fact that, independent of the possibility that his right stems from the injustice of killing or not aiding, they have no grounds for a right. It is an implicit criticism of (1) those who say, in the case of killing, "You can't argue that we may take away the product of the residence, because that assumes he has no right to be there, but he may have a right to be there, and then his losing out only on the product of it would not at all be evidence that he can be killed," and (2) those who say in the case of letting die, "he may have a right to the support because he needs it, and so in losing out on only what he would have gotten via the support, he loses out on what he had a right to, so losing out on the product of the support is no evidence that we can let die." The criticism it offers of these positions is as follows: (1) It is those who put forward these positions who fail to take seriously the possibility that there is no right, all things considered, not to be killed or to have aid. The argument I present does not assume there is no right all things considered. (2) They fail to consider whether the situation which exists prior

to a final determination that there is a right or not (i.e., the situation not all things considered) itself helps determine that there is no right all things considered.

The argument I have presented emphasizes, as in the Justice Argument, that it is important to distinguish between the rights that are reasons why we may not do something, and so exist prior to the decision that we may not do something, and the rights that, in effect, just report that we may not do something, and so are not reasons in the same sense for why we cannot do it. The first right is a reason at a different level than the second right. So, e.g., if someone had a right to my chair because I promised it to him, quite independent of his needing it to save his life, then refusing to give it to him, if this consisted in his being left to die, would be wrong, at least because it violated his right to have us keep our promise. That is, it would consist in our violating a different right that he had than the right not to be left to die. If the person having a right not to be left to die exists in its own right, i.e., if it does not depend on violating any other of his rights, it will not exist because doing so would violate a right not to be left to die. Still, letting die might be said to be impermissible because it involved violating the person's right not to be left to die. That is, pointing to this right does not give the reason why we decided there is a right to aid; it reports the particular failure which characterizes letting die, i.e., letting die violates a right. Pointing to this right does not give a reason for impermissibility; it characterizes it. The reason for

the impermissibility will be whatever grounds we had for deciding that he had a specific right not to be left to die.

The above discussion has attempted to emphasize the similarity between the case where we kill the person who gets ALN-support and the case where we let someone die who has no claim to the aid except, possibly, because he will die without it. In both cases there is agreed to be no right to the support prior to the final decision about the efficacy of the final grounds offered for such a right. But it should be noted that there is a significant difference between the two types of cases. It is the following: When we know that the person who receives ALN support has no right to the support, except possibly because it would be unjust to kill him, we always also can know (according to the Justice Argument) that it will not be unjust to kill him, i.e., we can know there will be no final right not to be killed and no final right to be in residence. But in the case of letting die, it is possible that even though someone has no prior claim (i.e., no claim all things not considered) to aid, that he will have a final right to aid. That is, the fact that he loses only what he would get from what he has no prior claim to does not mean he will not wind up having a right to the aid, even if it is evidence for his not having a right to it. That is, it is an element on the side of his not having a right to aid, an element on the side of the non-injustice of not aiding, but there may be factors on the other side which outweigh this element.

We can account for the divergence between the letting die case and the killing in the ALN case in the following way: In the letting die case where there is no prior claim to support, this means that reasons (actually present) other than the need to have his life saved are not sufficient to give him a right to aid. In the ALN killing cases there is (by assumption) no prior claim to aid even when there is a need to have his life saved. Because killing involves removing the benefit of aid which one has no right to in order to have one's life saved, the person has no right to the aid rather than be killed. There is no injustice in removing this benefit. If it was only decided in the ALN-kill case that the person had no right to the support in order to save his leg but it had not been agreed he had no right to it to save his life it would not necessarily be not unjust to kill him to stop support. This is because he might have a right to aid in order to save his life (i.e., a right prior to a right not to be removed by killing) and then we could not take away the benefit of the aid. In the case of letting die, where we have not yet decided if he has a right to aid in order to save his life, it is always possible the final right to aid in order to save his life exists, even though there is no final right to aid in the ALN-kill case. A final right could stem from a need stronger than the one which fails to give a prior claim, but a final right cannot stem from our inability to take away the benefit of the life-saving aid.

The fact that a final right to aid is not ruled out by the absence of a prior claim to aid does not mean that such a right exists.

And even if such a right did exist, I have argued above, it would be weaker than the right of the unsupported person not to be killed since the right not to lose the benefit of what one has a prior right to will be stronger than the right not to lose the benefit of what one has no prior right to, at least when the same loss is involved.

Glossary

ALN - Actual Life Need. ALN cases are those in which a person is receiving life support at the time when the question of killing him arises.

ALSN - Actual Life Saving Need cases. ALSN cases are those in which a person is receiving life support at the time when the question of killing him arises and he would die without this support even if the procedure used to terminate support did not itself kill him. ALSN cases are a subcategory of ALN cases.

atc - all things considered.

BNA - Best Not Aid case. This refers to a case where we are already providing someone with life support, but his life is threatened by a new threat. In order to save him from this new threat we need only do something very minimal. We refrain from doing this in order to have him die so we can stop supporting him.

BTP - Brody type point. This refers to the objection to Thomson's Argument I which says that just because we needn't support merely in order to save a life this does not mean we needn't support rather than kill.

HLN - Historical Life Need. HLN cases are those involving someone who would have died if he hadn't begun to receive life support from someone.

natc - not all things considered

NOPC - Non-Overridden Prior Claim. We may have a prior claim to something vis a vis other people but other factors can override this. If they do not, we have a non-overridden prior claim.

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