Against the Worse Than Nothing Account of Harm: A Reply to Immerman

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Abstract

The counterfactual comparative account of harm (CCA) faces well-known problems concerning preemption and omission. In a recent article in this journal, Daniel Immerman proposes a novel variant of CCA, which he calls the worse than nothing account (WTNA). According to Immerman, WTNA nicely handles the preemption and omission problems. We seek to show, however, that WTNA is not an acceptable account of harm. In particular, while WTNA deals better than CCA with some cases that involve preemption and omission, it has implausible implications in other similar cases – cases that, moreover, pose no problems for CCA.

Keywords

harm – counterfactual comparative account of harm – worse than nothing account of harm – preemption – omission

1 Introduction

One of the most popular views of harm is the counterfactual comparative account:
The Counterfactual Comparative Account (CCA)
An event harms a person if and only if she would have been better off if the event had not occurred.1

CCA has numerous virtues – it is simple, elegant, and has intuitively plausible implications in a wide range of cases. Unfortunately, it also faces several problems. One of the most-discussed ones concerns preemption. Consider this case:

Dark Knight: Bobby Knight gets mad at a philosopher, Phil, in response to a perceived slight. So he chokes Phil. ... If he hadn’t, he would have dismembered Phil.

HANNA 2016, 263

Intuitively, Knight’s choking of Phil harms Phil. CCA problematically implies that it does not, however, since Phil would have been even worse off if Knight had not choked him.

Dark Knight seems to involve preemptive harm – a harmful event preempting another harmful event. CCA has counterintuitive implications also in some cases that apparently involve preemptive benefit – a harmless, and even beneficial, event preempting another beneficial event. Consider this case:

Night Golf: Batman gives Robin tickets to a night golf tournament, which makes Robin very happy. If Batman had not done so, he would have given Robin tickets to a day golf tournament, which would have made Robin even happier.

Intuitively, Batman’s giving Robin tickets to the night golf tournament does not harm Robin. Since Robin would have been even better off if Batman had not performed this action, however, CCA implies that it does harm Robin.

In a recent article in this journal, Daniel Immerman proposes a novel solution to the preemptive harm and benefit problems (Immerman 2022). Immerman suggests that we reject CCA and instead endorse another counterfactual comparative view, which he calls the Worse Than Nothing Account.2

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2 While Immerman regards his view as an instance of what he calls ‘CCA,’ that is because he uses ‘CCA’ to refer to the fairly broad view that harm should be understood in terms of counterfactuals (2022, 26). We shall instead follow the standard convention of using ‘CCA’ to refer only to the specific view formulated at the outset (which Immerman calls ‘the worse than the alternative account’ (2022, 30)).
This view, which unlike CCA covers only actions and not events in general, can be formulated as follows:

The Worse Than Nothing Account (WTNA)

An agent's action harms a person if and only if she would have been better off if the agent had done nothing at all.

In *Dark Knight*, since Phil would have been better off if Bobby Knight had done nothing at all, WTNA has the intuitively plausible result that Knight's action harms Phil. And in *Night Golf*, since Robin would not have been better off if Batman had done nothing at all, WTNA has the intuitively plausible result that Batman's action does not harm Robin. Similar remarks apply to many other preemption cases. This is an important respect in which WTNA is more plausible than CCA.

Immerman argues that WTNA also deals better than CCA with cases that involve omission (Immerman 2022, 40–42). Consider this case (see Bradley 2012, 397):

*Golf Night*: Batman purchases a set of golf clubs with the intention of giving them to Robin, which would have made Robin happy. The night before he is to meet Robin, however, Batman decides to keep them for himself. If he had not made that decision, he would have given the clubs to Robin the next day.

Many people find it intuitive that Batman's decision does not harm Robin, despite the fact that Robin would have been better off if Batman had not made it. This intuition conflicts with CCA. WTNA, by contrast, has the more plausible implication that Batman's decision does not harm Robin, since Robin would not have been better off if Batman had done nothing at all.

As Immerman acknowledges, WTNA immediately gives rise to some questions. First, what exactly does an agent's doing nothing amount to? (For example, does it require the agent not to move at all?) While Immerman does not say much about this issue, he indicates that even at the general and intuitive level at which he has stated WTNA, it should be sufficiently clear what the account entails in specific cases (Immerman 2022, 29, fn. 10). Second, what should proponents of WTNA say about the harmfulness of non-actions, such as earthquakes? In response, Immerman sketches, among other things, a WTNA-inspired view about non-actions that appeals to the relevant non-agent's (for instance, an earthquake's) doing nothing at all to the person (Immerman 2022, 37–40).

The purpose of this paper is to argue that, even granting Immerman his responses to those questions, WTNA is a deeply problematic account of harm.
In particular, we shall argue that while, as we have seen, WtNA avoids the problems that CCA faces in some cases that involve preemption and omission, it faces even more serious problems in various other preemption and omission cases – cases that, moreover, pose no problems for CCA (sections 2–4). We are inclined to think that this provides sufficient reason to reject WtNA, but even someone who denies that should acknowledge that it is a serious challenge for the view, and that CCA’s advantages over WtNA in the cases we shall present constitute an important factor in the overall assessment of the two accounts. We shall conclude by suggesting an explanation of why WtNA may initially seem promising even though (in our view) it ultimately fails (section 5).

2 Preemptive Harm

Again, WtNA fares better than CCA in *Dark Knight*. But consider this variant of the case:

*Dark Knights*: Phil meets Bobby Knight on campus and asks him for the way to the library. Annoyed that Phil talks to him, Knight chokes Phil. Had he not done that, he would have told Phil to go to the building to the left, where the library is in fact located. If Knight had not done anything at all, however, Phil would have gone into the building to the right. There he would have met Bobby Knight’s equally aggressive brother, Billy Knight, who would have choked him.

It seems clear that Bobby Knight’s choking of Phil harms him. This verdict accords with CCA, since if Knight had not choked Phil, Phil would have been better off. It conflicts with WtNA, however, since if Knight had done nothing at all, Phil would have been just as badly off. Thus, on WtNA, Knight’s choking of Phil counterintuitively counts as harmless.

This version of the preemptive harm problem is arguably even more serious than the version that CCA faces.³ Even though the claim that Knight’s choking of Phil is harmless in *Dark Knight* is counterintuitive, it is not entirely indefensible; after all, the choking does leave Phil significantly better off than he would

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³ It is debatable whether *Dark Knights* is strictly speaking a case of preemptive harm, rather than some nearby phenomenon – especially since Billy Knight would not have choked Phil even if Bobby Knight had not. We shall set this issue aside, however, since it does not affect the seriousness of the problem for WtNA. Analogous remarks apply to our other cases in sections 2 and 3.
otherwise have been, which provides at least some intuitive support for thinking that it is beneficial rather than harmful. In *Dark Knights*, by contrast, it is hard to think of any intuitive reason to deny that the choking is harmful. For one, in this case, the choking leaves Phil much worse off than he would otherwise have been. Moreover, the possible worlds in which Phil is just as badly off as a result of something else – i.e., those in which Bobby Knight does nothing whatsoever in response to Phil’s question – are, on a natural understanding of the case, very far away. (For instance, we can realistically assume that if Bobby Knight had neither choked Phil nor told him the way to the library, he would have walked Phil to the library; and that if he had done none of these things, he would have walked Phil to the building to the right but agreed with his brother to leave Phil alone; and so forth.) It is hard to see why Phil’s well-being in those faraway worlds should be relevant to whether he is in fact harmed.4

The following case has a similar structure:

*Dark Night*: Robin, who is very afraid of the dark, wakes up in the middle of the night. He walks into Batman’s room, hoping that Batman will be there and comfort him. Instead, however, Batman makes Robin terrified by screaming at him in the dark in an extremely scary voice, pretending to be the Joker. If he had not done so, he would have comforted Robin. Given Robin’s fear of the dark, the only thing that would have left Robin equally badly off as what Batman actually did is Batman’s doing nothing at all. Had Batman done nothing at all, Robin would have been terrified by the thought that Batman is not even there.

It seems clear that Batman’s screaming at Robin harms him. This is also what CCA yields, as Robin would have been better off if Batman had not performed this action. On WTN, however, Batman’s action is harmless, since Robin would not have been better off had Batman done nothing at all. Here too, then, intuition clearly favors CCA over WTN.

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4 Immerman (2022, 44–45, fn. 30) briefly considers a case that resembles *Dark Knights* in some respects, and finds it acceptable to say that the relevant action in that other case is not harmful. However, he apparently supposes neither that the benign alternative in his case (corresponding to Knight’s telling Phil to go to the building to the left) is what the agent *would* have done if he had not performed his actual action, nor that the agent’s doing nothing is modally far away. When those suppositions are made, it seems clear that the actual action *is* harmful in cases like *Dark Knights*. 
3 Preemptive Benefit

WTNA also faces a version of the preemptive benefit problem. Consider the following case:

*Birthday Night:* Batman wants to give Robin some golf clubs for his birthday, but does not know very much about the subject. Thus, the night before Robin’s birthday, he asks Catwoman, a golf expert, for help. Catwoman recommends that he give Robin an excellent set of golf clubs, which Batman does, leaving Robin very well off. If Catwoman had not made that recommendation, she would have told Batman to give Robin some cheaper golf clubs, which would have left Robin much worse off. If Catwoman had not done anything at all in response to Batman’s request for help, however, Batman would have bought an absolutely fantastic set of golf clubs for Robin as a result of his ignorance. That would have left Robin even better off than he in fact is.

Intuitively, Catwoman’s recommendation does not harm Robin. CCA accords with this verdict, since Robin would not have been better off if she had not made it. WTNA does not, however, since if Catwoman had done nothing at all in response to Batman’s request, Robin would have been (even) better off than he actually is.

As with the preemptive harm problem, this version of the preemptive benefit problem is arguably even more serious than the one that CCA faces. Since Robin would have been better off in *Golf Night* if Batman had not made his decision, there is at least some intuitive support for thinking that the decision is, after all, harmful. In *Birthday Night*, by contrast, it is hard to see any kind of intuitive reason to think that Catwoman’s recommendation harms Robin. At least this is so if we assume, as we are free to do, that the world in which she does nothing at all in response to Batman’s request is fairly remote – we can stipulate, for instance, that if she had recommended neither the excellent nor the cheaper clubs, she would have recommended some even cheaper clubs, etc.

4 Omission

As we have seen, CCA apparently overgenerates harm in omission cases like *Golf Night* (section 1). Omission is a problem for WTNA as well, although the problem here is not overgeneration but undergeneration of harm. Consider this example:
**Car Night:** The Joker wakes up in the middle of the night and finds himself in the driver’s seat of a car that is heading toward Batman at high speed. The Joker considers whether to steer away to avoid colliding with Batman, but instead decides to do nothing. As a result, Batman is run over, which causes him serious pain and discomfort. If the Joker had not made this decision, he would have steered away and Batman would not have been hit.

The Joker’s decision to do nothing intuitively harms Batman. However, if the Joker had done nothing at all, Batman would still have been run over in exactly the same way, and thus would not have been better off. For this reason, WtNA implies that the Joker’s decision does not harm Batman. CCA straightforwardly avoids this problem, since Batman would have been better off if the Joker had not made his decision.

Immerman does discuss a relevantly similar case, in which the agent adopts a dog and then neglects caring for it (Immerman 2022, 42). Immerman acknowledges that WtNA classifies the agent’s neglect as a “failure to benefit” rather than a harm, but apparently takes this to be acceptable, as it is consistent with WtNA to claim that the relevant action is nonetheless _morally bad_. While Immerman apparently takes this to be a satisfactory response to the problem for WtNA, we disagree. First, even if one grants that the Joker’s decision is morally bad, it clearly seems to be harmful too. This verdict still contradicts WtNA, whatever further claims we make about its moral status. Second, if Immerman’s response does help WtNA to avoid these problems, there seems to be no reason to think that proponents of CCA could not avoid the preemption and omission problems in a similar way; i.e., by claiming that even though the relevant action in, e.g., _Dark Knight_ is harmless, it is still morally bad (and that even though the relevant actions in cases like _Night Golf_ and _Golf Night_ are harmful, they are not morally bad). Thus, if Immerman’s response is successful, it risks robbing WtNA of its main advantages over CCA. Third and finally, it is questionable whether all intuitively harmful decisions to do nothing really _are_ morally bad. One kind of case in which this might not be true is one in which a subject seems to harm herself by deciding to do nothing. To illustrate, in _Car Night_, we can imagine that Batman has the chance to run away from the car, but instead decides to do nothing and stands still. While this decision intuitively harms Batman, it is very doubtful whether it is _morally_ objectionable – at least unless we make the strong and controversial assumption that we

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5 Indeed, perhaps what the Joker in fact does – deciding to do nothing – should itself be counted as doing nothing. If so, it follows trivially that Batman would not have been better off than he actually is if the Joker had done nothing.
always have a moral “duty to ourselves” to avoid harm being done to ourselves. Thus, with respect to Batman’s decision to do nothing, the problem for WTNA remains, and the attempt to rescue it by claiming that his decision is nonetheless morally bad does not seem promising.

5 Concluding Remarks: A Diagnosis

We have argued that WTNA faces versions of both the preemption problem and the omission problem – versions, moreover, which are arguably even more serious than the ones that CCA faces. We shall end by suggesting a more general explanation for why WTNA thus fails, despite the fact that it has intuitively attractive implications in many other cases.

In our view, a very plausible idea about the nature of harm is that harming someone is closely connected to negatively affecting their well-being (see further Johansson and Risberg (2022)). To illustrate, one intuitive reason why Knight’s choking of Phil harms him in Dark Knight is precisely that it seriously negatively affects Phil’s well-being. A promising explanation for why WTNA succeeds in this case thus seems to be that if Knight had instead done nothing, Phil’s well-being would not have been affected at all (neither negatively nor positively). More generally, it is often true that if an agent does nothing, it will not lead to any impact on the relevant person’s well-being – and in such cases, WTNA usually has plausible implications.

The problem is that there are also cases in which the agent’s doing nothing would lead to an impact on the relevant person’s well-being – and these are precisely the cases in which WTNA struggles. In Dark Knights, for instance, it is true that if Bobby Knight had done nothing, Phil’s well-being would have been seriously negatively affected by Billy Knight’s action. For this reason, WTNA implies that Bobby Knight’s actual action – i.e., choking Phil – harms Phil only if it leaves him even worse off than he would have been if Billy’s action had negatively affected his well-being. And this implication seems false – a more plausible view is that Bobby’s action harms Phil (precisely because it negatively impacts his well-being), even though it is true that if Bobby had done nothing, then Billy’s action would have harmed Phil instead. Similar remarks apply to Dark Night, the other case we used to illustrate the preemptive harm problem for WTNA, and parallel ones apply to Birthday Night, which illustrates its preemptive benefit problem.

With respect to the omission problem for WTNA, the details depend on how exactly the notion of an agent’s doing nothing is understood. But a natural idea is that the problem arises because there are cases in which the agent’s
doing nothing *itself* negatively impacts a person's well-being level, and thus harms them.\(^6\) *Car Night* illustrates this: it seems that the Joker's decision to do nothing seriously negatively impacts Batman's well-being (and thus harms him), since it results in him being run over by the car. WTNA implies that this decision is harmless, however, because it implies that deciding to do nothing harms a person only if it leaves her worse off than if the agent had done nothing. Clearly, the Joker's decision does not satisfy that condition.

As an account of harm, WTNA might not be worse than nothing. But in view of the points made in this paper, it does seem to be a deeply problematic account – and one that is also worse, in several crucial respects, than CCA.

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\(^6\) If an agent's doing nothing is not an event but merely the absence of one, and mere absences cannot influence one's well-being, then doing nothing of course cannot influence one's well-being. If so, this explanation would have to be slightly revised. But nothing hinges on these details here. (It is also worth noting that whatever one thinks that doing nothing amounts to, a *decision* to do nothing – which is undeniably an event – can clearly influence one's well-being.)
References


