THE METAPHYSICS AND ETHICS OF DEATH

New Essays

Edited by

JAMES STACEY TAYLOR

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James Stacey Taylor

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Argentina Austria Brazil Chile Czech Republic France Greece
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Published in the United States of America by
Oxford University Press
198 Madison Avenue, New York, NY 10016

Library of Congress Cataloging-in-Publication Data

The metaphysics and ethics of death : new essays / edited by James Stacey Taylor.
pages cm
Includes index.
ISBN 978–0–19–975113–6 (alk. paper)—ISBN 978–0–19–931554–3 (updf)
1. Death. I. Taylor, James Stacey, 1970–editor of compilation.
BD444.M4287 2013
128'.5—dc23
2012049467

1 3 5 7 9 8 6 4 2

Printed in the United States of America
on acid-free paper

This volume is dedicated to the memory of
R. G. Frey (1941–2012).

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Acknowledgments

AS EVEN A quick glance at this volume's table of contents shows, with the exception of myself, the contributors to this volume are among the most prominent contemporary writers on the metaphysics of death and the implications it has for issues in ethics, both theoretical and applied. As such, my primary debt is to the contributors to this volume, all of whom have been not only extremely generous with their time, but also the most agreeable contributors with whom an editor could ever hope to work.

My thanks is especially heartfelt, for this volume has been many years in the making, having been considerably delayed by disasters affecting some of those involved, including accidental death, life-threatening illness, and serious misfortunes, including the loss of houses and the destruction by flood of a personal library containing volumes once personally owned by Locke and Butler. Throughout these trying times, all of the contributors have been nothing but supportive, and for this I thank them deeply. In a similar vein, I also thank Peter Ohlin at Oxford University Press, for his constant encouragement and support, without which this volume would not exist. I could not have asked for a better and more understanding editor.

I first conceived of this volume while a Visiting Scholar at the Social Philosophy & Policy Center at Bowling Green State University in the summer of 2007, having discovered, while working on a monograph on the metaphysics of death, the absence of an anthology of this sort. I thank all at the Center for their support during the early stages of this project, and for their kindness and encouragement as it progressed.

I thank the School of Humanities & Social Sciences at The College of New Jersey for a mini-grant that covered the costs associated with reproducing Thomas Rowlandson's "The Fatal Pilot" as the cover of this volume.

I also thank my wife, Margaret Taylor-Ulizio, and daughter, Octavia, for their support and many kindnesses during this volume's long gestation.

Finally, I wish to acknowledge the help and support that was so generously given to me during this project by my former Ph.D. supervisor, Ray Frey. Just as a quick glance at this volume's table of contents reveals the prominence of the contributors, so too does it show a gap in the bioethical topics covered; there is no discussion of euthanasia. Ray was writing the essay on euthanasia for this volume while struggling with serious, debilitating, and life-threatening illness (although, as he often informed me with his characteristic humor, the topic "was still just philosophical" for him) and died before he could complete it. It is to Dr. Frey—friend, mentor, raconteur, and genuine, committed philosopher—that this volume is dedicated.

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THE METAPHYSICS AND ETHICS OF DEATH

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1

Introduction

James Stacey Taylor

"THE TRUE VOTARY of philosophy," wrote Socrates in the "Phaedo," "is always pursuing death."[1] Although it is unlikely that anyone agrees with Socrates' view anymore, it is certainly true that many people believe that philosophizing about death is helpful in addressing numerous issues that occur in life. This is reflected in the fact that in recent years there has been a significant increase in the amount of philosophical attention devoted to both the metaphysics of death and the many and varied ethical issues that are related to it.[2] This renaissance of the philosophical study of death is no doubt owed in part to renewed recognition of the intrinsic interest of its central questions. Can death be a harm to the person who dies? If so, when might she be harmed by her death—only at the time when she dies, prior to her death, after her death, or somehow eternally? Can a person be harmed or benefitted by events that occur after her death? If so, how, because she would not (*ex hypothesi*) exist at the time such events occurred? Even if a person could not be harmed by events that occurred

[1] Plato, "Phaedo," in *The Dialogues of Plato, Volume I*, tr. B. Jowett (New York: Random House, 1937), 447.

[2] Book-length treatments of these issues include Fred Feldman, *Confrontations With the Reaper: A Philosophical Study of the Nature and Value of Death* (New York: Oxford University Press, 1994); James Warren, *Facing Death: Epicurus and his Critics* (New York: Oxford University Press, 2006); Geoffrey Scarre, *Death* (Montreal: McGill-Queen's University Press, 2007); Daniel Sperling, *Posthumous Interests: Legal and Ethical Perspectives* (Cambridge, UK: Cambridge University Press, 2008); Steven Luper, *The Philosophy of Death* (Cambridge, UK: Cambridge University Press, 2009); Christopher Belshaw, *Annihilation: The Sense and Significance of Death* (Montreal: McGill-Queen's University Press, 2009); Ben Bradley, *Well-Being and Death* (Oxford, UK: Clarendon Press, 2009); Shelly Kagan, *Death* (New Haven, CT: Yale University Press, 2012); James Stacey Taylor, *Death, Posthumous Harm, and Bioethics* (New York: Routledge, 2012).

after her death, could she be wronged by them? For example, if we conclude that posthumous harm is impossible, and so believe that a person could not be harmed by her executer's breaking a promise that he made to her on her deathbed, could she still be wronged by the breaking of this promise?[3] And this renaissance of philosophical thanatology is also no doubt owed in part to an increasing recognition of the ways in which it intersects with a range of issues in both metaphysics and moral philosophy. Most obviously, the philosophical study of death is concerned with the metaphysical questions of what criteria must be met for a person to be dead, with whether a being ceases to exist at the moment of its death, and (hence) with the question of personal identity. Similarly, the question of whether death can be a harm to the person who dies intersects with the debate over whether presentism is true, while the debate over the possibility or otherwise of posthumous harm intersects with discussions over the ontological status of the dead, and with discussions concerning whether it is possible to predicate properties of nonexistent objects. And it is clear that the questions concerning the value that a person's death might have for her, the possibility of posthumous harms and benefits, and the possibility of posthumous wrongs are all tokens of the perennial questions in moral philosophy concerning what it is to harm or wrong a person. They thus hold clear interest both for persons concerned with the theoretical discussions of these issues, as well as for those concerned with their relevance to the varied questions of applied ethics. Thus, for example, the question of whether a person's death could be a harm for her is directly relevant to discussing the death penalty, whereas the questions of whether the dead can be harmed or wronged are directly relevant to (for example) archeological ethics and ethical issues surrounding the posthumous procurement of transplant organs.[4]

With the renaissance of the philosophical study of death in full swing, these are exciting times for both philosophical thanatologists and all who draw on the questions that they address in their work.[5] The essays collected in this volume, all of which are original to it, represent the state-of-the-art of each of the major

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[3] Rosalind Hursthouse takes this to be a canonical example of unjust action; *On Virtue Ethics* (New York: Oxford University Press, 2000), 36.

[4] See, e.g., Chris Scarre and Geoffrey Scarre, eds., *The Ethics of Archeology* (Cambridge, UK: Cambridge University Press, 2006); T. M. Wilkinson, *Ethics and the Acquisition of Organs* (New York: Oxford University Press, 2011).

[5] In these ways, the current discussion of philosophical thanatology is very similar to the discussions of personal autonomy and freedom of the will that blossomed in the decades following the publication of Harry Frankfurt's seminal paper "Freedom of the Will and the Concept of a Person," *Journal of Philosophy* 68, no. 1 (1971), 5–20. In both cases, the underlying issues are of perennial theoretical interest, have strong links to perennial debates in other areas of theoretical philosophy, and are both readily accessible and engaging to non-specialists. In addition to these resemblances between these issues, John Martin Fischer has also identified ways in which the philosophical debates over them are structurally similar; see his *Our Stories: Essays on life, death, and free will* (New York: Oxford University Press, 2009), 112–118.

branches of the current philosophical discussion of death: the classical approaches to philosophical thanatology, the ontological status of the dead and the value of death, the possibility of posthumous harm, and the implications of philosophical thanatology for issues in applied ethics. Given that all of these essays represent the cutting edge of their respective debates, the purpose of this introduction is to provide both the theoretical background against which they were written, as well as some indication of the classical roots of the contemporary debates of which they are a part.

This introduction is thus divided into four main sections. The first provides an overview of the classical challenge to the orthodox view that death is (typically) a harm to the person who dies that was pressed by Epicurus and his Roman follower Lucretius, together with an overview of the criticisms that this challenge faces. The second section begins by continuing the discussion of whether death can be a harm to the person who dies; it then outlines how this discussion is linked to metaphysical questions concerning the ontological status of the dead and our (putative) ability to refer to them and to predicate properties of them. The question of reference and predication that occupies the second section resurfaces in the third, for all predications of posthumous change to antemortem objects must be predications of Cambridge (i.e., relational) change. The question of whether a person could be harmed or benefitted by events that occur after her death will thus turn on the question of whether the degree of well-being that can correctly be attributed to a person can vary in accordance with changes in her relational properties. And just as philosophical and lay orthodoxy holds that persons can be harmed by their own deaths, so too does it affirm that attributions of harm and benefit to persons can be correctly made on the basis of their undergoing certain Cambridge changes—and so it holds that posthumous harms and benefits are possible. That this is so should not be surprising, not only because the view that the dead can be harmed or benefitted is so widespread, but also because the canonical argument in favor of the possibility of posthumous harm—that which has been independently developed by George Pitcher and Joel Feinberg—is simple, elegant, and (at least at first sight) persuasive. This argument is outlined and critically examined in the third section of this introduction. This section also examines the relationship that the question of posthumous harm has to both the question of whether death can be a harm to the person who dies, and the question of whether persons can be wronged by events that occur after their deaths. Examining the interrelationships between these issues paves the way for the final section of the introduction, which addresses the various ways in which the theoretical arguments of the first three sections of this volume are relevant to the practical concerns of various issues in applied ethics—especially bioethics.

I. CLASSICAL APPROACHES TO DEATH AND THEIR CRITICS

Most people think that death is (typically) a harm to the person who dies. This view has respectable historical antecedents: Aristotle, for example, held that death was the most terrible of all evils. But notwithstanding its orthodox respectability this view has been subject to serious challenges, most notably by the Greek Epicurus and the Roman Lucretius, as well as by Philodemus, Pseudo-Plato in *Axiochus*, and, as James Warren explores in his contribution to this volume, "The Harm of Death in Cicero's First *Tusculan Disputation*," Cicero in a "brief but intricate" discussion of the value of death.

Epicurus' argument for the view that a person's death cannot be a harm to her is briefly presented in his second *Kyriai Doxai*: "Death is nothing to us, since a decomposed thing is insensate, and whatever is insensate is nothing to us."[6] Epicurus' views are developed more fully in his *Letter to Menoeceus*:

> Make yourself familiar with the belief that death is nothing to us, since everything good or bad lies in sensation, and death is to be deprived of sensation. Hence the right recognition that death is nothing to us makes the mortality of life enjoyable, not by adding infinite duration to it but by removing the desire for immortality. For there is nothing to be feared in living, for one who has truly comprehended that there is nothing to be feared in not living. So one who says he fears death, not because it will hurt when it is here, but because it hurts when it is coming, talks nonsense, since whatever does not hurt when it is present hurts for no reason when it is expected.
>
> So that most fearful of all bad things, death, is nothing to us, since when we are, death is not present, and when death is present, then we are not. So it is nothing to the living and nothing to the dead, since with regard to the former, death is not, and as to the latter, they themselves no longer are.[7]

Before moving to consider these Epicurean views in more detail, four points are worth noting. First, the arguments in this introduction that are derived from Epicurus' views should be considered to be Epicurean, rather than attempts to provide accurate exegeses of the views of the historical Epicurus.[8] Second, the proponent of the Epicurean view of death need only deny that a person's death could not

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[6] Epicurus, *Kyriai Doxai*, in Graziano Arrighetti, ed., *Opere* (Turin: Einaudi, 2nd edition, 1973), 123.

[7] Epicurus, *Letter to Menoeceus*. The translation of this key passage is from David Furley, "Nothing to us?" in Malcolm Schofield and Gisela Striker, eds., *The Norms of Nature: Studies in Hellenistic Ethics* (Cambridge, UK: Cambridge University Press, 2007), 75.

[8] For such exegesis, see Warren, *Facing Death*, chapters 1 and 2.

be a harm to her; he need not deny that it could visit great harm upon others, such as those who loved her. Third, the defender of the Epicurean view of death only holds that death is not a harm to the one who dies. It is perfectly compatible with this view to hold that the process of dying might be harmful to the one who undergoes it; a lingering death from lung cancer, for example, will certainly be harmful to a person who suffers from it, in that it will adversely affect her experiences. Finally, the Epicurean view that death is not a harm to the person who dies is based on the assumption that persons cannot experience anything after their deaths.[9]

With these points in hand, it should be noted that the Epicurean argument in favor of the view that death is nothing to us can be understood in (at least) two ways: the Hedonic Variant and the Existence Variant.[10] The Hedonic Variant is based on the view that an event or a state of affairs can only harm a person if it has an adverse effect on his experiences. Thus, since a person who is dead cannot experience anything, death cannot be a harm to the person who dies. More formally, this Epicurean argument is:

1. An event or a state of affairs is a harm to a person only if it adversely affects her experiences.[11]
2. Postmortem persons cannot experience anything.

Thus, given (1) and (2):

3. An event or a state of affairs can only harm an antemortem person by adversely affecting her experiences.

Thus, from (3):

4. A person can only be harmed by an event or a state of affairs that occurs prior to her death.
5. A person's death does not occur prior to her death.

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[9] Epicureans thus forcefully reject the Democritean doctrine that corpses can experience some residual sensations; see Cicero, *Tusculan Disputations*, trans. J. E. King (Cambridge, MA: Harvard University Press, 1960), I, xxxiv, 82, 97.

[10] There are many different versions of each of these two primary interpretations. See, for example, Feldman, *Confrontations with the Reaper*, chapter 8; Kai Draper, "Epicurean Equanimity Towards Death," *Philosophy and Phenomenological Research* 69, 1 (2004), 92–114; Stephen Rosenbaum, "How to be Dead and Not Care," 121–122; Jeff McMahan, "Death and the Value of Life," in John Martin Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 233–242.

[11] On this account of harm, an event or a state of affairs must occur for it to cause harm to a person. It will thus not support the claim that the nonoccurrence of an event E could harm a person whose life would have gone better than it actually did had E occurred.

Thus, from (4) and (5):

Therefore, a person's death is not a harm to her.[12]

In contrast to the Hedonic Variant of this Epicurean argument, the Existence Variant is based on the view that an event or a state of affairs can only harm a person when he exists. Thus, since a person who is dead does not exist, he cannot be harmed by the occurrence of any event or state of affairs—and so (given the assumption that a person's death marks the first moment of his nonexistence) he cannot be harmed by his own death.[13] More formally, the Existence Variant of this Epicurean argument is:

1. An event or a state of affairs can only harm a person when she exists.

Thus,

2. An event or a state of affairs must either be contemporaneous with, or occur prior to, the time at which a person exists for it to harm him.
3. Persons are either antemortem persons (i.e., persons whose deaths have not yet occurred) or postmortem persons (i.e., persons whose deaths have occurred).
4. An antemortem person (i.e., a person whose death has not yet occurred) exists.
5. A postmortem person (i.e., a person whose death has occurred) does not exist.

Thus, from (1), (2), and (5):

6. Postmortem persons cannot be harmed by their own deaths.

And from (2) and (4):

7. Antemortem persons cannot be harmed by their own deaths.

Thus, from (3), (6), and (7):

Therefore, persons cannot be harmed by their own deaths.

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[12] This version of the Hedonic Variant of the Epicurean argument that death cannot be a harm to the one who dies is similar to that developed by Stephen E. Rosenbaum, "How to be Dead and Not Care: A Defense of Epicurus," in Fischer, ed., *The Metaphysics of Death*, 121–122.

[13] The view that a person's death marks the first moment of his nonexistence was endorsed by Joel Feinberg, "Harm to Others," in Fischer, ed., *The Metaphysics of Death*, 172. But this is controversial, as is discussed below.

A standard objection to these Epicurean arguments is that they fail to recognize that death is not an evil to persons because of what it inflicts on them, but because of what it deprives them of –and so it is no barrier to a person's death being a harm for her that she neither experiences it nor exists after it has occurred.[14] The most well-known modern proponent of this deprivation objection is Thomas Nagel, who holds that "[i]f death can be an evil at all, it cannot be because of its positive features, but only because of what it deprives us of…," going on to claim that "[i]f we are to make sense of the view that to die is bad, it must be on the grounds that life is a good and death is the corresponding deprivation or loss, bad not because of any positive features but because of the desirability of what it removes."[15] Nagel illustrates the way in which death could be bad for the person who dies by depriving him of goods that he would have otherwise enjoyed with an example "of deprivation whose severity approaches that of death": that of an intelligent man who suffers "a brain injury that reduces him to the mental condition of a contented infant," whose remaining desires can be readily satisfied by a custodian "so that he is free from care."[16] Nagel holds that even though the man would not, once he has been reduced to the status of a contented infant, mind his condition, his reduction to this state would be widely considered to be a misfortune to him. Moreover, argues Nagel, holding that this man's brain injury was a misfortune to him would be correct, for the harm that has befallen him is a result of the difference between the experiences that he *could have had* had he not been so injured and those that he actually *will* have. Thus, claims Nagel, given that a person's death would, like this man's brain injury, deprive the person who dies of the positive experiences that she would have otherwise received, death is also a misfortune to the persons who have been so deprived.[17]

In her contribution to this volume, "The Damage of Death: Incomplete Arguments and False Consolations," Martha C. Nussbaum defends a version of the Existence Variant of this Epicurean argument against both Nagel's objections to it and a series of more sophisticated examples that have been developed by John Martin Fischer in response to her previous defenses.[18] Yet despite the apparent success of Nussbaum's defenses of this variant of the Epicurean argument, they might provide only cold

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[14] This objection to the Epicurean view of the harmlessness of death is widespread. See, e.g., Feldman, *Confrontations with the Reaper*, chapters 8 and 9; Thomas Nagel, "Death," in Fischer, ed., *The Metaphysics of Death*, 59–69; L. W. Sumner, "A Matter of Life and Death," *Noûs* 10 (1976), 162, 165–166. McMahan also has a deprivation view of death's badness, but does not claim that death is bad for the person who dies; instead, he claims that the harm of death is a "quasi-impersonal" harm. "Death and the Value of Life," 240.

[15] Nagel, "Death," in Fischer, ed., *The Metaphysics of Death*, 62, 64. See also Thomas Nagel, *The View from Nowhere* (New York: Oxford University Press, 1986), 230.

[16] Nagel, "Death," 65.

[17] An Epicurean response to this argument is developed in Taylor, *Death, Posthumous Harm, and Bioethics*, 78–81.

[18] See, e.g., John Martin Fischer, "Contribution on Martha C. Nussbaum's *The Therapy of Desire*," *Philosophy and Phenomenological Research* 59 (1999), 787–792; "Epicureanism About Death and Immortality," *Journal of Ethics* 10 (2006), 355–381.

comfort to its proponents. The soundness of this version of the Epicurean argument rests on premise (5): "A postmortem person…does not exist." And this premise is only true if presentism (the view that only present objects exist) is true—and presentism is a highly controversial ontological position.[19]

What, then, of the Hedonic Variant of this Epicurean argument? Like the Existence Variant, this argument also rests on a controversial view—hedonism, the view that a person's well-being is exclusively dependent upon her experiences with pleasurable experiences increasing her well-being and painful ones diminishing it. But this view of well-being faces serious and well-known challenges. Perhaps the most persuasive of these was raised by Robert Nozick, who wrote:

> Suppose there were an experience machine that would give you any experience that you desired. Superduper neuropsychologists could stimulate your brain so that you would think and feel you were writing a great novel, or making a friend, or reading an interesting book. All the time you would be floating in a tank, with electrodes attached to your brain.[20]

With this example in hand Nozick then asks, "Should you plug into this machine for life, preprogramming your life's experiences?"[21] For most people, the answer would be "no"—a response that is often taken to indicate that something other than pleasant experiences makes a person's life go well, contributes to her well-being—and hence that hedonism is false. In a similar vein, Nagel has suggested that a person who is betrayed will still be harmed by the mere fact of this even if he never discovers the betrayal.[22] An Epicurean defender of the Hedonic Variant of the argument that death is not a harm to the person who dies will thus have to undermine the force of these anti-hedonic examples before her view can be accepted.[23] Yet even if hedonism can be successfully defended, this will not show that the deprivation-based objections to this variant of the Epicurean argument should be rejected. It is possible for a hedonist to hold that a longer life is preferable to a shorter one if the additional length of the life leads to the person living it having more pleasurable experiences than

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[19] Bradley has developed a series of objections to presentism in *Well-Being and Death*, 81–83. A version of presentism is defended at length in Craig Bourne, *A Future for Presentism* (Oxford, UK: Clarendon Press, 2006). The possible falsity of presentism might not, however, be of concern to Nussbaum, for she does not endorse the Epicurean view that death is not a harm to the person who dies, instead arguing in "The Damage of Death" that most persons' deaths are bad for them because "they interrupt their cherished projects, altering the shape of their lives."

[20] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1977), 42.

[21] Ibid.

[22] Nagel, "Death," 65.

[23] See here Nussbaum, "The Damage of Death."

she would have had were she to have lived fewer years.[24] As this is so, a defender of the Hedonic Variant of this Epicurean argument will not only have to defend hedonism, but will also have to defend a type of hedonism that precludes such a counterfactual assessment of the hedonic value of a person's life.

But perhaps things are not as bleak for such an Epicurean as they might at first appear, for it might be that neither she nor the defenders of the Existence Variant of this argument should be troubled by the challenges of the deprivationists. Although he does not believe that the Epicurean arguments establish that it is not rational to be troubled by death (although they could establish that it is not rational to *fear* death), Kai Draper argues in his essay "Epicurus on the Value of Death" that Epicurus "did not deny that death can deprive its subject of pleasure, nor did he deny that death can be comparatively bad."[25] If correct, Draper's arguments will reorient aspects of the debate, so that it is not solely concerned with being focused on the effect that a person's death might itself have on her well-being, but will also focus on the effects that thinking about it should have (or fail to have) on her attitudinal state.

II. DEATH AND THE VALUE OF DEATH

While the essays in section I of this volume advance the debate over whether or not death is a harm to the person who dies through addressing some of the most prominent arguments from antiquity concerning philosophical thanatology, those in section II carry it forward against the background of contemporary work in philosophy of time, value theory, and moral psychology.[26]

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[24] See Bradley, *Well-Being and Death*, 88–98.

[25] Kai Draper, "Epicurus on the Value of Death," this volume. A similar point is made by Stephen Rosenbaum in his discussion of the deprivationists' views in his "Concepts of Value and Ideas about Death," this volume.

[26] In addition to the Epicurean arguments outlined above that are based on the work of Epicurus, further Epicurean arguments for the view that death is not a harm to the person who dies were developed by Lucretius. See Lucretius, *De Rerum Natura*, trans. W. H. D. Rouse, revised by Martin Ferguson Smith (Cambridge, MA: Harvard University Press, 2006), 253, 265. For discussions of Lucretius' views, see Joseph Raz, *Value, Respect, and Attachment* (Cambridge, UK: Cambridge University Press, 2001), 88–99 (criticized by Warren, *Facing Death*, 93–100); James Warren, "Lucretius, Symmetry arguments, and fearing death," *Phronesis* LXVI, no. 4 (2001), 466–480; Nagel, "Death," 67–68; Stephen Rosenbaum, "The Symmetry Argument: Lucretius Against the Fear of Death," *Philosophy and Phenomenological Research*, 50, no. 2 (1989), 353–373; Charles Segal, *Lucretius on Death and Anxiety: Poetry and philosophy in De Rerum Natura* (Princeton, NJ: Princeton University Press, 1990); Feldman, *Confrontations with the Reaper*, 154–155; Derek Parfit, *Reasons and Persons* (Oxford, UK: Clarendon Press, 1986), 165–166; Stephen Hetherington, "Lucretian Death: Asymmetries and Agency," *American Philosophical Quarterly* 42, no. 3 (2005), 211–219; Jeff McMahan, "The Lucretian Argument," in Kris McDaniel, Jason R. Raibley, Richard Feldman, and Michael J. Zimmerman, eds., *The Good, the Right, Life and Death: Essays in Honor of Fred Feldman* (Aldershot, UK: Ashgate, 2006), 213–226; Frederik Kaufman, "Death and Deprivation; Or, Why Lucretius' Symmetry Argument Fails," *Australasian Journal of Philosophy* 74, no. 2 (1996), 305–312, "An answer to Lucretius' symmetry argument against the fear of death,"

While Martha C. Nussbaum defends the Existence Variant of the Epicurean argument for the view that death is not a harm to the person who dies against the criticisms leveled against it by Fischer (although she ultimately rejects this Epicurean conclusion on other grounds), Silverstein criticizes it. Silverstein's criticism of the "Epicurean View" of death has two components. First, he argues for an account of well-being that is a version of what he terms the "Values Connect With Feelings" view. On this account of well-being, something, x, could harm a person only if it could possibly affect her experiences or feelings, and where x need not be the possible cause, but only the object, of her experiences or feelings. Second, he develops a "four-dimensional (4D) framework…which allows us to claim that *temporally* distant, including future, events (states, etc.), like spatially distant events (etc.), exist, and thus are possible objects of appropriate experiences."[27] Silverstein's use of a 4D framework for understanding the temporal location of "events (states, etc.)" and his application of this to the debate over the Epicurean view of death is both complex and highly innovative, and as a result it has often been misunderstood. In his contribution to this volume, "The Evil of Death One More Time: Parallels between Time and Space," Silverstein focuses on the parallels that exist between the treatment of time by his 4D framework and the treatment of space in the 3D framework that is taken as standard. Having established parallels between these frameworks, he then argues that the 3D framework can solve apparently intractable problems that a person might face with respect to spatially located evils if one were only to employ a 0D framework for thinking about them. To show this, Silverstein notes that a 3D framework is neutral regarding space, but not regarding time. That is, the claim that "A exists" in a 3D framework will specify the time at which A exists (i.e., the time at which the claim is made), but it will not specify where, spatially, A exists at that time. A 0D framework, however, is neutral between neither time nor space. Made from within such a framework, the claim that "A exists" will specify both the time (now) and place (here, indexed to the location where the claim is made) of A's existence. Silverstein then observes that were a person A's spouse to have an affair in a town

Journal of Value Inquiry 29, no. 1 (1995), 57–64, and "Pre-Vital and Post-Mortem Non-Existence," *American Philosophical Quarterly* 36, no. 1 (1999), 1–19; Anthony Brueckner and John Martin Fischer, "Being born earlier," *Australasian Journal of Philosophy* 76, no. 1 (1998), 110–114; Ishtiyaque Haji, "Pre-vital and Post-Vital Times," *Pacific Philosophical Quarterly* 72 (1991), 171–180; John Martin Fischer and Daniel Speak, "Death and the Psychological Conception of Personal Identity," in John Martin Fischer, ed., *Our Stories: Essays on Life, Death, and Free Will* (New York: Oxford University Press, 2009), 52–54; John Martin Fischer, "Earlier Birth and Later Death: Symmetry through Thick and Thin," in McDaniel et al., eds., *The Good, the Right, Life and Death*, 189–201. Arguments similar to Lucretius' were also developed by Pseudo-Plato, Cicero, Seneca, and Plutarch. See Stephen Rosenbaum, "The Symmetry Argument: Lucretius Against the Fear of Death," *Philosophy and Phenomenological Research*, 50, no. 2 (1989), 354.

[27] Silverstein, "The Evil of Death One More Time," this volume.

that A never visited, the misfortune that this visited upon A would be impossible to capture in the 0D framework, for, owing to its absence of neutrality between either time or space, in this framework where A exists, the affair does not, and where the affair exists, A does not. But this problem can be immediately resolved by switching to the 3D framework, in which it can be held that both A and the affair coexist, even if not at the same place. From this, Silverstein argues that a similar move should be made from the 3D framework to his version of the 4D framework in addressing the putative evil of death. Thus, just as within the 0D framework, A and A's spouse's affair cannot coexist, but they could in the 3D framework, so too is it the case that just as within the 3D framework, A and A's death cannot coexist, they could within the 4D framework. And as the Existence Variant of the Epicurean argument for the view that death is not a harm to the person who dies is based on denying the coexistence of A and her death, it will be undercut by the adoption of Silverstein's 4D framework.

There are two possible lines of response to Silverstein's argument that are open to an Epicurean. She could challenge the legitimacy of adopting Silverstein's 4D framework over the 3D framework. She could do this on the grounds that, unless there is an independent reason (i.e., one that does not appeal to the former's ability to solve the "problem" of how to hold that a person's death could be a harm to her in the face of the Existence Variant of the Epicurean argument) for preferring the 4D framework to the 3D framework, Silverstein's preference for this approach is simply ad hoc. This, however, would not be an especially strong challenge to Silverstein, for he could simply offer the equivalent challenge to the Epicurean concerning her preference for the 3D framework. Alternatively, the Epicurean could continue to refine her account of well-being, and hence of what could constitute a harm to person A, in order to undercut the first component of Silverstein's argument against her view. Thus, she could argue that the relationship between some thing x and a harm that A was subject to must be a causal one, such that x caused harm to A, thus challenging Silverstein's claim that for some thing x to harm A, x need not be the possible cause, but only the object, of A's experience or feelings.

Responding to Silverstein's arguments is especially important to an Epicurean for, as Rosenbaum notes in his essay in this volume, "Concepts of Value and Ideas about Death," Silverstein engages with the Epicurean arguments using the same mode of valuation on which they are based; namely, a *concrete* mode of valuation that requires "for its applicability some concrete effect on someone, say a pain, or some other condition which is capable of being experienced at some time."[28] But, Rosenbaum argues, not all criticisms of the arguments that Epicureans offer for their

[28] Rosenbaum, "Concepts of Value and Ideas about Death," this volume.

view of death engage with it so directly, for many are based on a more abstract mode of valuation that ascribes value to propositions or facts about persons, rather than to concrete effects on them that they can experience. As such, argues Rosenbaum, not only do many criticisms of Epicurus' view of death fail to undermine it, but "substantial philosophical issues regarding death have not been adequately clarified and addressed."[29] Rosenbaum's discussion of how the abstract mode of valuation is applicable to thinking about the value of death resonates with Nussbaum's criticism of the Epicurean position, for it holds that it is this mode of valuation that grounds such comparative judgments as whether it would have been better had a certain person lived rather than died, where such "comparisons are judgments about the relative value of different life narratives."[30] Similarly, Rosenbaum's use of the distinction between these two modes of valuation critically to engage with the deprivationist objections to the Epicurean view of death resonates with Draper's discussion of Epicurus and deprivationism, while his later focus on showing how the Epicurean view is applicable to various human concerns about death is relevant to David Benatar's discussion of suicide in section IV of this volume.

Even an Epicurean, then, might accept that persons could suffer what Steven Luper terms the "mortal harm" of death.[31] But, even if it is assumed that death is unavoidable, is there any way in which such harm might be avoided? As Luper notes in his contribution to this volume, "Adaptation," theorists as diverse as Gautama the Buddha, Epicurus, and Epictetus have counseled adapting one's desires to one's situation as a means of avoiding misfortune. It is thus plausible to think that such an adaptive strategy should be explored with the aim of drawing the possible sting of death. One potential way of avoiding the possible harm of death, then, might be for a person to situate herself such that the possible life that death deprives her of would not be good for her. Yet despite the initial appeal of such an approach, Luper argues that it will be self-defeating, not only because it "[i]t amounts to denying ourselves the possibility of good life in order to rule out the possibility of a bad death," but because "it amounts to depriving ourselves of any further good life in order to rule out the possibility that death will deprive us of good life." Adapting one's desires in this way in an attempt to avoid the possible harm of death would, Luper argues, thus result in our absurdly "doing to ourselves what we want death not to do."[32]

The possibility that one could immunize oneself from possibly being harmed by one's own death by adapting one's desires resonates with Bernard Williams's

[29] Ibid.

[30] Ibid.

[31] Luper, "Adaptation," this volume.

[32] Ibid.

claim (made in the context of arguing that immortality would be intolerable for humans) that death would not be an evil for a being that lacked categorical desires.[33] Williams's claim here is not only important in the theoretical discussion of the possible harm of death, but also for those discussions of issues in applied ethics that occur "downstream" of it and draw upon it. It has been claimed, for example, that fetuses, infants, and animals do not have categorical desires. Hence, if the possession of desire by a being is necessary for its death to be a harm to it, then such beings cannot be harmed by their own deaths.[34] And, although the fact that a being's death is not a harm to it certainly does not, as Rosenbaum argues in "Concepts of Value and Ideas about Death," entail that it would not be wrong to kill it, if the deaths of such beings were harmless to them, this would have implications for moral discussions of abortion, infanticide, and the killing of animals. Given the importance of Williams's claims concerning categorical desires, it is unfortunate that, as Ben Bradley and Kris McDaniel argue in their essay in this volume, "Death and Desires," it is clear neither what Williams meant by a "categorical desire" nor which of the various roles that he ascribed to them is supposed to be definitional. This dual unclarity leads Bradley and McDaniel to explore various ways of explicating the notion of a categorical desire. This exploration leads them to the striking conclusion that categorical desires are simply red herrings in the discussion of the putative evil of death and the wrongness of killing, for "the evil of death cannot be explained simply in terms of the presence or absence of categorical desires, nor are categorical desires obviously helpful to those who wish to argue for the permissibility of abortion, infanticide or carnivorism."[35]

A discussion of whether a particular person's death was bad for her will progress on the assumption that it is unproblematic to refer to the person whose death is in question. But if one holds that the dead do not exist, such an assumption would be unwarranted if one also endorses Kripke's view "that for a proper name to refer, it must refer to something that exists."[36] In his contribution to this volume, "Kripke's Moses," Palle Yourgrau takes issue with Kripke's view, arguing that he was mistaken to believe that one can only refer to something existent. Instead, argues Yourgrau, "for there to exist a true proposition about something, that something must be a genuine (possible) object, actual or presently existing, or not."[37] Thus, because the

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[33] Bernard Williams, "The Makropulos Case: Reflections on the Tedium of Immortality," in Fischer, ed., *The Metaphysics of Death*, 71–92.

[34] See Bradley and McDaniel, "Death and Desires," this volume.

[35] Ibid.

[36] Saul Kripke, "Second General Discussion Session," *Synthese* 27 (1974), 510, quoted by Palle Yourgrau, "Kripke's Moses," this volume.

[37] Yourgrau, "Kripke's Moses," this volume.

dead are genuinely possible objects, the assumption that we can refer to them is unproblematic.

III. POSTHUMOUS HARM

Just as Aristotle held the anti-Epicurean view that a person's death could be a terrible misfortune for her, so too did he endorse the similarly anti-Epicurean view of Solon that persons could be affected by events that occur after their deaths, writing that "[f]or both good and evil are thought to exist for a dead man, as much as for one who is alive but not aware of them."[38] Although Aristotle is extremely cautious in expressing agreement with this position—and for good reason, given his account of *eudaimonia*[39]—it might be thought to be a natural one for a person to adopt who holds that death could be a harm to the person who dies. After all, if one holds that a person ceases to exist at the moment of her death, and one believes that her death was a harm to her, then it might appear plausible to hold that her death is a type of posthumous harm, that the person in question was harmed by an event (her death) that occurred after she died.[40] This view—that if one believed that death could be a harm to the person who died, then one must also believe in the possibility of posthumous harm—was endorsed by Joel Feinberg, who boldly stated that "[e]ither death and posthumous harms alike can be harms, or neither can be."[41] But to yoke the (putative) harm of death and the possibility of posthumous harm together is mistaken, for it is possible to deny that posthumous harm is possible and yet to hold that death can be a harm to the one who dies. Ben Bradley, for example, argues that while events that are alleged to bring about posthumous harm would do so retroactively, death "is bad at all those times at which things would have been going better for the victim had her death not occurred," where a person's death "is bad at a time to the extent that things would be going better for the victim at that time than they would have been had her death not occurred."[42] Thus, holds Bradley, as there is this

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[38] *Nicomachean Ethics* 1100a, 19–20 See McKeon, *The Basic Works of Aristotle*, 946–947

[39] Indeed, he wrote that the Solonic view that posthumous harm was possible might seem "quite absurd, especially for us who say that happiness is an activity." *Nicomachaen Ethics*, 1100a14. See McKeon, *The Basic Works of Aristotle*, 946. Given this, it is not surprising (and unlike the contemporary proponents of the view that posthumous harm is possible) that he placed strict qualifiers on its possible scope, writing that even though the good or bad fortunes of their friends seem to have some effect on the dead, these will be "weak and negligible" and will not "make happy those who are not happy nor to take away their blessedness from those who are" (ibid., 1100a17, 946).

[40] See, e.g., Geoffrey Scarre, "Should we fear Death?" *European Journal of Philosophy* 5, 3 (1997), 269–282.

[41] Feinberg, "Harm to Others," 174. This view is also held by Walter Glannon, "Persons, Lives, and Posthumous Harms," *Journal of Social Philosophy* 32 (2001), 132.

[42] Bradley, *Well-Being and Death*, 111.

directional difference between posthumous harms and the (alleged) harm of death, it is possible to deny the possibility of the former and yet endorse the possibility of the latter.[43]

Undoubtedly the most prominent defenders of the view that posthumous harm is possible are Joel Feinberg and George Pitcher. Like Aristotle, Feinberg begins his argument for the possibility of posthumous harm by drawing an analogy between posthumous harm and the (putative) harms that might befall someone who is alive but unaware of the thwarting of her interests.[44] If one holds that a person might be harmed by the thwarting of her interests, argues Feinberg, even if she is unaware of this thwarting, then it seems that one should hold that a person whose interests are thwarted after her death would also be harmed by this. For example, argues Feinberg, "[i]t would not be very controversial" to say that an event that thwarted a woman's interests by causing "the empire of her hopes" to collapse utterly would harm her, even if she "never learns the unhappy truth…as her friends…conceal or misrepresent the facts," leading her to die contented.[45] There "seems no relevant difference," claims Feinberg, if the empire of this woman's hopes were to collapse within a year of her death; if she was harmed in the former case, then we should say that she was harmed in the latter case too.[46] Feinberg recognizes that one might object along Nussbaumian grounds at this point and argue that, whereas there was a subject of harm in the first case, there might seem to be no subject of harm in the second. Drawing on Pitcher's arguments, however, Feinberg argues that there is a subject of harm: the antemortem person, or the woman as she was in life.[47] As it is her interests that have been thwarted, it is she who has been harmed. But this response to the Problem of the Subject raises another, more serious problem: the Problem of Backward Causation. It seems that if one holds that an event that occurs after a person's death could harm her during her lifetime, then one is claiming that "when an unfortunate postmortem event happens, then *for the first time* the antemortem person is harmed."[48] That is, it appears that if one holds that an event that occurs after a person P's death harms her as she was in life, that event would retroactively cause her to be harmed. But because the direction of causation is held to flow forward, and not

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[43] Ibid., 44. The possibility of separating the view that death is a harm to the person who dies from the view that she might be harmed by events that occur after her death was also noted by Ivan Soll, "On the Purported Insignificance of Death: Whistling before the dark?" in Jeff Malpas and Robert C. Solomon, eds., *Death and Philosophy* (London: Routledge, 1998), 30; and by Walter Glannon, "Brain Injury and Survival," this volume.

[44] Feinberg, "Harm to Others," in Fischer, ed., *The Metaphysics of Death*, 181.

[45] Ibid., 182.

[46] Ibid., 182.

[47] George Pitcher, "The Misfortunes of the Dead," in Fischer, ed., *The Metaphysics of Death*, 161–162; Feinberg, "Harm to Others," 183–184.

[48] Pitcher, "The Misfortunes of the Dead," 168.

backward, if the Feinberg-Pitcher view of how posthumous harm is possible entails endorsing such backward causation, it would be implausible. Recognizing this as a possible problem, Pitcher takes pains to explain that unfortunate postmortem events do not cause harm to antemortem persons. Instead, they simply "make it true" that the person was harmed by the event in question during his life. To elucidate this, Pitcher offers an example: "If the world should be blasted to smithereens during the next presidency after Ronald Reagan's, this would make it true (be responsible for the fact) that even now, during Reagan's term, he is the penultimate president of the United States."[49] The relationship between the postmortem harming event and the harm that it brings about, then, is not *causal*, but *conceptual*.

Yet despite the plausibility of this defense of this view against the Problem of Backward Causation, it is flawed.[50] It is certainly true that if the world were to be destroyed in the presidency after Ronald Reagan's, this would make it true that he would be the penultimate president of the United States without any need to invoke the possibility of backward causation. But this shows that the criterion for the ascription of the property of penultimacy is uncontroversial: If some thing x is the second-to-last element in a sequence, then it simply is the penultimate element in that sequence. The correct criteria for the ascription of the property "harm," however, *are* controversial. (If they were not, there would be no argument about whether or not posthumous harm was possible!) The properties of penultimacy and of harm, then, are importantly disanalogous. Thus, although it might be true that penultimacy can be correctly ascribed to entities on the basis of their conceptual relationships with a certain event (i.e., one that ends the sequence that they are in at a particular point), this does not show that harm could be similarly correctly ascribed. As such, then, Feinberg's and Pitcher's response to the Problem of Backward Causation does not preclude the possibility that the relationship between a harmful event and the harm that it brings about must be a *causal* one—and hence that posthumous harm is impossible.[51]

Noting that the Feinberg-Pitcher account of *how* posthumous harm is possible does not establish that it *is* shows only that the question of whether such harm is

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[49] Ibid., 168

[50] In addition to the objection of the Pitcher-Feinberg view of posthumous harm that is outlined below, it has also been subject to criticism by Joan C. Callahan, "On Harming the Dead," *Ethics* 97 (1987), 341–352; Julian Lamont, "A Solution to the Puzzle of When Death Harms Its Victims," *Australasian Journal of Philosophy*, 76 (1988), 202–205; W. J. Waluchow, "Feinberg's Theory of 'Preposthumous' Harm," *Dialogue* 25 (1986), 727–734. Responses to these criticisms have been offered in James Stacey Taylor, "Harming the Dead," *Journal of Philosophical Research* 33 (2008), 185–202.

[51] See James Stacey Taylor, "The Myth of Posthumous Harm," *American Philosophical Quarterly* 42, 4 (2005), 311–322; Walter Glannon, "Persons, Lives, and Posthumous Harms," *Journal of Social Philosophy* 32, 2 (2001), 138–139.

possible is still an open one. And, given the plausibility of Feinberg's thought experiment that compared the harm that was (putatively) visited upon a woman by the collapse of the "empire of her hopes" prior to her death, with what was (putatively) visited upon her by its collapse after this, one might be motivated to develop an alternative account of posthumous harm. This is the approach that Barbara Baum Levenbook takes in her essay in this volume, "Welfare and Harm after Death."[52] Alternatively, even if one accepted the interest-based account of well-being on which the Feinberg-Pitcher account of posthumous harm is based, and so accepted Feinberg's claim that the woman who died after the collapse of her enterprise was harmed by this, one could reject the view that posthumous harm is possible and attempt to account for the view that she was harmed in a way that did not commit one to holding that she would have been similarly harmed had the enterprise collapsed after her death. One might, for example, argue that she had an interest in living autonomously, and that this interest was thwarted (and thus she was harmed) when her friends deceived her about the success of her enterprise, but that this harm was not imposed upon her in the case where her enterprise collapsed after her death.

Geoffrey Scarre, in his essay in this volume, "The Vulnerability of the Dead," also defends the possibility of posthumous harm. In a manner reminiscent of both Nussbaum's account of how death could be a harm to the person who dies and Rosenbaum's distinction between concrete and abstract value, Scarre distinguishes between subjective and objective accounts of harm, with the latter lending more credence to the view that posthumous harm is possible than the former. Like Levenbook, Scarre also discusses the possibility that the dead could be wronged. Unlike the question of whether the dead can be harmed, the question of whether they can be wronged has received little philosophical attention.[53] This is unfortunate, for even if it can be established that the dead can (or cannot) be harmed, it would still be an open question as to whether or not they could be wronged. (It is possible to harm a person without wronging her—through the imposition of just punishment, for example—and it is also possible to wrong her without harming her; one might, for example, break a promise to a stranger to do x at t, but a third party does x at t for the stranger instead.) Recognizing this is important for two reasons.

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[52] Other accounts of posthumous harm include those developed by Dorothy Grover, "Posthumous Harm," *The Philosophical Quarterly*, 39 (1989), 334–353; Daniel Sperling, *Posthumous Interests: Legal and Ethical Perspectives* (Cambridge, UK: Cambridge University Press, 2008), chapter 1; Paul Griseri, "Can a Dead Man Be Harmed?" *Philosophical Investigations* 10 (1987), 317–329.

[53] Among the few persons to have directly addressed the issue of whether the dead can be wronged are Immanuel Kant, Mary J. Gregor, ed., *The Metaphysics of Morals* (Cambridge, UK: Cambridge University Press, 1996), 76; Raymond A. Belliotti, "Do Dead Human Beings Have Rights?" *The Personalist* 60 (1979), 201–210; J. Jeremy Wisnewski "What We Owe the Dead," *Journal of Applied Philosophy* 27, no. 1 (2009), 54–70; Stephen Winter, "Against Posthumous Rights," *Journal of Applied Philosophy* 27, no. 2 (2010), 186–199.

First, unless one explicitly draws upon an account of wronging in which wronging a person entails harming her, one cannot support the view that posthumous harm is possible by appealing to the possibility of posthumous wrongs. Second, because a person might be wronged without being harmed, those discussions in ethics that address the putative moral claims of the dead must focus on both of these questions, and not just the issue of whether or not the dead can be harmed.

While Levenbook and Scarre take pains to defend the possibility of posthumous harm, John Harris, in his essay in this volume, "Doing Posthumous Harm," argues that "considerations for the welfare and interests of the dead and the philosophical attention given to them are self- indulgent nonsense at best, and at worst a crime against humanity."[54] The real issue, according to Harris, is not whether the dead could be harmed, but the harms that might be imposed on the living by a failure to use biomaterials that could be taken from the dead. Harris also argues that it is "doubtful" whether the dead have any rights, as the ascription of rights to them appears to be unsupported by either the choice or the benefit theory of rights.

IV. DEATH AND BIOETHICS

Noting that persons who work on issues that draw on philosophical thanataology should address the question of whether the dead can be wronged, as well as whether they can be harmed, is especially pertinent in the context of current debates in applied ethics, where the focus is primarily on the latter question to the almost total exclusion of the former. Thus, for example, the question of whether the dead can be harmed (but not the question of whether they can be wronged) has been addressed in the context of discussions concerning the ethical obligations of archeologists,[55] biographers,[56] and even musicians, in the context of the ethics of musical interpretation.[57]

Perhaps not surprisingly, the question of whether the dead can be harmed has been especially of interest to bioethicists. This issue has taken center stage in many debates concerning the morality of various methods of posthumous organ procurement,[58]

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[54] John Harris, "Doing Posthumous Harm," this volume.

[55] See, for example, Geoffrey Scarre, "Can archaeology harm the dead?" and Sarah Tarlow, "Archeological ethics and the people of the past," both in Scarre and Scarre, eds., *The Ethics of Archeology*, 181–198; 199–216. See also Geoffrey Scarre "Archeology and Respect for the Dead," *Journal of Applied Philosophy* 20, 3 (2003), 237–249; Paul Bahn, "Do Not Disturb? Archaeology and the Rights of the Dead," *Journal of Applied Philosophy* 1, 2 (1984), 213–225.

[56] See Craig Howes, "Afterword," in John Paul Eakin, ed., *The Ethics of Life Writing* (Ithaca, NY: Cornell University Press, 2004), 245.

[57] See Peter Kivy, *The Fine Art of Repetition: Essays in the Philosophy of Music* (Cambridge, UK: Cambridge University Press, 1993), chapter 5.

[58] See, e.g., Michael B. Gill, "Presumed Consent, Autonomy, and Organ Donation," *Journal of Medicine and Philosophy* 29, 1 (2004), 37–59; Aaron Spital and James Stacey Taylor, "Routine Recovery of Cadaveric Organs

posthumous reproduction,[59] the moral status of postmortem pregnancy,[60] and the moral status of living wills.[61] It has also played a significant role in discussions of posthumous medical confidentiality,[62] the ethics of research on dead human bodies,[63] and on the ethics of historical research into the health status of historical figures.[64] And, as Rosenbaum notes in "Concepts of Value and Ideas about Death," the Epicurean view that death cannot be a harm to the person who dies is relevant to both the rationality of suicide and the justifiability of euthanasia. David Benatar also addresses suicide in his essay "Suicide: A Qualified Defense," examining it "as a response not only to the worst conditions in which people sometimes find themselves, but also to conditions that although less severe might nonetheless reasonably be judged to make life not worth continuing."[65] Benatar does not only consider the question of whether suicide might be morally permissible, but (and more strongly) whether it might ever be *more* rational than continuing to live.

In the final essay of this volume, "Brain Injury and Survival," Walter Glannon addresses the (related) questions of whether individuals with severe brain injuries survive them and how they could be harmed. For Glannon, the latter question refers not only to how the interests of such people could be affected by the actions of others while they are in these states, but also "to how they respond to the loss of or limitations in physical and cognitive functions from brain injury." As Glannon notes, this question is pertinent to Nagel's example of the intelligent man who is reduced to the status of a contented infant. As such, Glannon's discussion of these issues links the bioethical discussions with which this volume concludes back to the discussion of the classical approaches to death with which it began.

for Transplantation: Consistent, Fair, and Life Saving," *Clinical Journal of the American Society of Nephrology*, 2 (2007), 300–303.

[59] See M. Spriggs, "Woman wants dead fiancé's baby: who owns a dead man's sperm," *Journal of Medical Ethics* 30 (2004), 384–385; B. Bennett, "Posthumous reproduction and the meanings of autonomy," *Melbourne University Law Review* 23, 2 (1999), 286–307.

[60] See, e.g., Daniel Sperling, *Management of Post-Mortem Pregnancy: Legal and Philosophical Aspects* (Aldershot, UK: Ashgate, 2006), 78–82.

[61] See, e.g., John K. Davis, "Surviving Interests and Living Wills," *Public Affairs Quarterly* 20, 1 (2006), 17–30.

[62] See, e.g., Jessica Berg, "Grave Secrets: Legal and Ethical Analysis of Postmortem Confidentiality," *Connecticut Law Review* 34, 1 (2001), 81–122.

[63] See, e.g., Hazel Biggs, "Speaking for the Dead—Life in Perpetuity," *Res Publica* 8 (2002), 93–104; Dorothy Nelkin and Lori Andrews, "Do the Dead have Interests? Policy Issues for Research After Life," *American Journal of Law and Medicine* XXIV, nos. 2&3 (1998), 261–291; Mark R. Wicclair and Michael deVita, "Oversight of Research Involving the Dead," *Kennedy Institute of Ethics Journal* 14, 2 (2004), 143–164.

[64] See, e.g., M. Masterton, M. G. Hansson, A. T. Hoglund, and G. Helgesson, "Can the Dead be Brought into Disrepute?" *Theoretical Medicine and Bioethics* 28, no. 2 (2007), 137–149; "Queen Christina's moral claim on the living: justification of a tenacious moral intuition," *Medicine, Health Care, and Philosophy* 10, 3 (2007), 321–327.

[65] David Benatar, "Suicide," this volume.

CONCLUSION

The philosophy of death is an excitingly fertile field of philosophical inquiry. Addressing it can draw one into, for example, discussions of the nature of well-being, the philosophy of time, questions of personal identity, and the question of what constitutes wrongdoing. And "downstream" of these theoretical discussions, philosophical thanatology also plays an important role in the many and varied areas of applied ethics in which the questions that it addresses are relevant.

But, rich as these discussions are, they are not the only ones that concern persons interested in philosophical thanatology. One might, for example, be concerned with the question of what criteria should be adopted to determine when a person is dead. In a similar vein, a defender of the Epicurean view of death should recognize that her view that there is a simple binary distinction between a person's being dead and her being alive, with the moment of a person's death being the first moment of her nonexistence, is in need of defense. If one believes that time is continuous, for example, then, as noted by Draper, one "will want to know why we should believe that there is a first point in time at which [a person] S no longer exists," for "if time is continuous and there is a last point in time at which S exists, then there is no first point in time at which S no longer exists."[66] Moreover, because the question of whether death is a harm to the person who dies can be separated from the question of whether posthumous harm is possible, and this latter question can in turn be distinguished from the question of whether the dead can be wronged, the defender of Epicurean thanatology will need to decide how much of an Epicurean she actually is. Will she, for example, reject the claim that death is a harm to the one who dies, and yet hold that the dead *can* be wronged—or will she endorse what might be called "full-blooded Epicureanism" and reject the possibility not only of a person's death being a harm to her, but also the possibility that she could be either harmed or wronged postmortem?[67] And it is not only the Epicurean who faces questions beyond those outlined in this introduction. If one endorses the anti-Epicurean view that death can be a harm to the person who dies, then one must answer the Timing Puzzle: When is a person's death a harm to her? There are five possible answers to this question. One might adopt priorism, and hold that a person's death could be bad for her before she dies.[68] Or one might adopt concurrentism, and hold that a person's death could be bad for her at the time at which she dies—a view that has

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[66] Draper, "Epicurean Equanimity towards Death," 96.

[67] Full-blooded Epicureanism is defended in Taylor, *Death, Posthumous Harm, and Bioethics*.

[68] See, e.g., Feinberg, "Harm to Others"; Pitcher, "The Misfortunes of the Dead"; Luper, "Mortal Harm," *The Philosophical Quarterly* 57, 227 (2007), 239–251; John Bigelow, John Campbell, and Robert Pargetter, "Death and Well-Being," *Pacific Philosophical Quarterly* 71 (1990), 119–140.

clear connections with the above criticism of the binary view of death endorsed by the Epicureans.[69] Alternatively, one might endorse the view that a person's death could be bad for her after she dies (subsequentism),[70] or the view that it could be bad for her eternally (eternalism).[71] Finally, one might endorse indefinitism—the view that a person's death is bad for her but at no definite time.[72]

These, then, are exciting times for philosophers of death, and for all who address issues of philosophical thanatology in their work. It is hoped that the essays in this volume will further both this excitement, as well as the debates in which they represent some of the most forward-thinking work.

[69] Julian Lamont, "A Solution to the Puzzle of When Death Harms Its Victims," *Australasian Journal of Philosophy* 76 (1988), 198–212.

[70] Neil Feit, "The Time of Death's Misfortune," *Noûs* 36, 3 (2002), 359–383; Bradley, *Well-Being and Death*, chapter 3.

[71] Fred Feldman, "Some Puzzles About the Evil of Death," in Fischer, ed., *The Metaphysics of Death*, 305–326.

[72] Nagel, "Death." This view is compatible with subsequentism, priorism, and concurrentism.

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SECTION 1

Classical Approaches to Death and Their Critics

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What's this, Axiochus? … Where's your usual confidence, and your speeches in praise of virtue? You seem like an athlete with no heart, good in workouts and bad in the actual competition.
That's true, Socrates, you've got it right. Now that I am right up against the fearful thing, all my fine and clever arguments sneak away and breathe their last.
—PSEUDO-PLATO, *Axiochus* (probably third century BCE)

Goddess, do not be angry with me. I am well aware of everything you say. I know my wise Penelope is inferior to you in beauty and stature. After all, she is mortal, and you are immortal and ageless. Even so, I want home, I long for home all day long—to return to my own home.
—HOMER, *Odyssey*, V. 215–217, Odysseus refusing Calypso's offer of immortality

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The Damage of Death

INCOMPLETE ARGUMENTS AND FALSE CONSOLATIONS

Martha C. Nussbaum

I. "FINE AND CLEVER ARGUMENTS"

PHILOSOPHERS LOVE TO argue about things so big and deep that it seems odd to think that rational argument can reach them. Not the least of these is death. The old gentleman Axiochus, found on his deathbed weeping and moaning, tells Socrates that all his fancy arguments have flown the coop. What he quickly learns, however, is that the best is yet to come. If some familiar arguments about immortality have deserted Axiochus, that is all right, because a better argument by far, the argument of Epicurus, will soon go to work on his fear. Success follows and fear is removed—not surprisingly, because this is, after all, a philosophical dialogue.[1]

But Epicurus' argument really is a good one, so good that people have been struggling with it for thousands of years. It is one of the few parts of ancient Greek

[1] Actually, it doesn't stop there: There is a parade of arguments, Epicurean, Cynic, and Platonic, with inconsistent premises and inconsistent views of what death is. Axiochus, who can't quite comprehend the Epicurean argument, is more consoled by the Platonic ones, because they involve an afterlife.

philosophy that engages the energies of modern philosophers as astute as Thomas Nagel and Bernard Williams. Perhaps more important, it engages all sorts of people who have no tendency to admire philosophy. Teaching it—preferably along with other related arguments preserved (or possibly invented) by Lucretius—is a sure-fire way of making a class come alive.[2]

I am one of the many modern philosophers who have spent a lot of time struggling with this argument over the years, and I have found it illuminating, though ultimately flawed.[3] I have also changed my view about some aspects of it, prompted by the fine criticisms of John Martin Fischer, who focused on this topic both in a book symposium on *The Therapy of Desire* in 1999, and then, seven years later, in another symposium on my work.[4] I begin by laying out the argument and my original critique of it in *Therapy*. Next I describe the changes in my position produced by life and philosophical conversation, as Fischer has repeatedly attempted to persuade me that the argument is more deeply flawed than I have allowed. I make some concessions, but I do not abandon the main lines of my defense of Epicurus. Nonetheless, I also cling to my independent reasons for rejecting his conclusion that "death is nothing to us."

Rejecting Epicurus' argument, however, does not leave the philosopher with nothing to say on behalf of mortality. I turn next to two philosophical attempts at consolation: my own in *Therapy*, and that of Bernard Williams, in a famous article called

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[2] Epicurus, 341–271 BCE, wrote a large number of works of which only meager remnants survive: fragments of his magnum opus, *On Nature* (which had 48 books), and three letters summarizing his teachings for students who lived at a distance, these preserved in Diogenes Laertius' *Lives of the Philosophers*. For further information about his teaching, we must turn to other sources, above all the brilliant philosophical poem *De Rerum Natura*, *On the Nature of Things*, by Roman poet Titus Lucretius Carus, early to mid-first century BCE. For much more about these figures and their relationship, see Nussbaum, *The Therapy of Desire: Theory and Practice in Hellenistic Ethics* (Princeton, NJ: Princeton University Press, 1994, updated edition 2009). It is very difficult to say to what extent Lucretius is simply recapitulating Epicurus' arguments and to what extent he is supplying material of his own. The parts of the poem that deal with topics such as love, war, friendship, and politics seem the most likely to contain original material, because the treatment of these topics is thoroughly Roman. Epicurus, for example, did not approve of marriage, and Lucretius clearly does. But in the part of the poem that concerns us, the case for originality is weaker. The central argument is clearly Epicurus', because it is also stated in surviving works of his. About the ancillary arguments it is impossible to know.

[3] See *Therapy* ch. 6; "Reply to Papers in Symposium on Nussbaum, *The Therapy of Desire*," *Philosophy and Phenomenological Research* 59 (1999), 811–819; and "Replies," *The Journal of Ethics* 10 (2006), 463–506.

[4] John Martin Fischer, "Contribution on Martha Nussbaum's *The Therapy of Desire*," *Philosophy and Phenomenological Research* 59 (1999), 787–792; and "Epicureanism About Death and Immortality," *Journal of Ethics* 10 (2006), 355–381. As before, I am extremely grateful to Fischer for this long-enduring philosophical friendship and for his willingness to spend so much time on my work.

"The Makropulos Case: Reflections on the Tedium of Immortality."[5] I find them both flawed. Finally, however, these two false comforters are outdone by Lucretius, who, in an apparently minor argument, provides far more interesting reasons for reconciling ourselves to mortality.

II. "DEATH IS NOTHING TO US": FISCHER AND NUSSBAUM ON EPICURUS' CENTRAL ARGUMENT

Epicurus argues that death cannot be either good or bad for a person, and that the fear of death is consequently irrational. In *The Therapy of Desire*, I reconstructed his argument as follows[6]:

1. An event can be good or bad for someone only if, at the time when the event is present, that person exists as a subject of at least possible experience.
2. The time after a person dies is a time at which that person does not exist as a subject of possible experience.
3. Hence the condition of being dead is not bad for that person.
4. It is irrational to fear a future event unless that event, when it comes, will be bad for one.
5. It is irrational to fear death.

Most of Lucretius' energy (as he presents the fullest account of Epicurus' argument) is devoted to establishing premise 2. He painstakingly demonstrates that the person, identified as a particular composite of atoms, cannot survive death. In what follows I pay no further attention to those arguments and take it for granted that a personal afterlife has been ruled out in one way or another.

My reconstruction involves the idea of possible experience.[7] That is, I don't think that Epicurus and Lucretius make the simplistic move of saying, "What you don't know can't hurt you."[8] They make a much more sophisticated move: Something can be bad for you only if, at the time when that event occurs, there is a "you" in the world, some existing subject of at least possible experience. As Lucretius has already

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[5] In Bernard Williams, *Problems of the Self* (Cambridge, UK: Cambridge University Press, 1973), 82–100.

[6] *Therapy*, 201, where I give all the textual evidence for this reconstruction.

[7] The textual evidence is mixed on this point; some passages point to actual experience, but I follow both the most frequently attested version and the one that gives Epicurus the strongest argument.

[8] Nor do they make the question-begging move of thinking of "good or bad for…" as a matter of the subject's own subjective view of his or her life. Obviously death cannot be good or bad from the subject's viewpoint once there is no subject there, but it is not that obvious point that concerns them.

argued at great length that no subject that has a good claim to be a continuant of a person's identity survives death, he can conclude rather rapidly that death itself, the period during which a person is dead, cannot be either good or bad for the person who died. (Of course the process of dying might be bad, and nothing in the argument touches on this question. Epicureans addressed that issue in other ways, insisting that the most terrible pain can always be counterbalanced by happy memories of philosophical argument shared with one's friends. Epicurus' own deathbed letter, which survives, claimed that his pain from kidney stones and dysentery was extremely intense, but that, nonetheless, he had a net balance of pleasure over pain for this reason; he calls the day of his death "the happiest day of my life.")[9]

This is where modern philosophical criticism gets going. In a famous article, Thomas Nagel has argued that an event of which you are not actually aware, but of which you might possibly become aware, can be bad for you. His example is that of some type of betrayal, and he takes this to be an easy case on which he will easily get agreement: The person is harmed, even if he or she is not aware of the bad event. Nagel then extends these reflections to a different case: The loss of all higher mental functioning can be bad for a person, even when the damage is irreversible so that it is not possible for the person to become aware of that loss. Finally, he moves to the case of death: Death, just like brain damage, can be bad for a person, even though it is not possible that the person should ever become aware of being dead.

In *Therapy*, I accepted the first two examples—rather hastily, I now think. The betrayal example is unclear: What is bad would appear to be the actual realization, and Nagel doesn't really convince us that the possible realization is itself already a harm.[10] However, I do not intend to discuss that case further here, as it is not pertinent to what I shall say about death.

The second case is stronger, but only apparently, because what is bad is the actual state the person is currently in, which is a state of defective functioning. We don't have to rely on the possible awareness of the state as a ground for saying that the state is bad. There is a person there who right now is in a bad way.

But now let us turn to the case of death. What I said in 1994 was that it is utterly unlike the other two cases, because there is no subject in the world to which the idea

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[9] See *Therapy*, 111 n. 13 and 202 n. 9.

[10] I don't say this because I am a welfarist: I think that some things can be bad for a person even when the person doesn't think them bad, as my treatment of the second example will shortly show. Being excluded from equal political rights, for example, can be bad for a person even when the person is so thoroughly adapted to hierarchy that she does not think her condition bad. Still, the lack of political rights is a real feature of her life here and now, a condition she is actually in, a limitation on her daily functioning. Nagel doesn't do enough to show that the betrayal case is like that. (Nor does he do enough to consider the indirect effects a betrayal might have on one's life; for example, being treated differently by others. These changes might go a long way to explain the badness of betrayal.)

of a good or a bad can be attached. Nagel's examples, even if convincing on their own terms, do no damage to Epicurus' contention, because Epicurus' whole point is that after death there is no "you" there any longer. As he says with characteristic pungency, "Where death is there, we are not, and when we are there, death is not." When we judge that the predicament of the brain-damaged person is bad, our judgment is directed at the surviving damaged individual, and we are presuming that this individual is one and the same as the individual who was thriving before the accident. (As Nagel constructs the case, the person is plainly alive and functioning in lots of other ways, but just lacks higher mental functioning.)

In *Therapy*, having rejected Nagel's arguments—and having agreed with Lucretius that people are often confused when they talk about death, imagining a persisting subject who grieves at the loss, even while saying that no subject persists—I then turned to other reasons we might have for thinking death to be bad for the person who has died. The argument that most convinced me was originally made by David Furley.[11] This argument focuses on the way in which death interrupts projects that extend over time, making at least some of them empty and vain because they do not attain the end for which they were undertaken. For example, if one invests a lot of time in plans and hopes for the future, engaging in activities the whole point of which is preparatory (say, professional training), an unexpected death can make those activities vain and futile. "Our interest in not dying," I concluded (summarizing Furley) "is an interest in the meaning and integrity of our current projects. Our fear of death is a fear that, right now, our hopes and projects are vain and empty."[12] In other words, death is bad for the person who has died because of the way in which it alters the intended shape of activities the person undertook in life.[13]

Furley's suggestion is important, I said, but it needs more work. In particular, some people plan for the future more than others, while others prefer activities that are complete and self-contained. Epicurus and Lucretius are aware of this difference, and they recommend that we ought to prefer activities (such as contemplation) that appear not to involve a temporally extended structure—precisely because those activities cannot be interrupted by an event beyond our control. So more work remains to be done, I said, if we are to establish that death is bad through a focus on activities that are interruptible. For the Epicurean might always say, "So what? Death, on this account, is bad only for fools who have invested a lot in activities that death can interrupt. One can always live in a way that is immune to reversal at

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[11] David Furley, "Nothing to Us?" in Malcolm Schofield and Gisela Striker (eds.), *The Norms of Nature* (Cambridge, UK: Cambridge University Press, 1986), 75–91.

[12] *Therapy*, 207.

[13] Thomas Nagel, "Death," in Nagel, *Mortal Questions* (Cambridge, UK: Cambridge University Press, 1979), 73–80.

death." I concluded my examination of the interruption argument by saying that we need to argue about value: "We need to be told whether the way of living that death makes vain is or is not a good and rational way of living."[14]

The next stage in my argument was, then, a detailed scrutiny of activities generally taken to be valuable. I argued that most of the activities to which human beings usually attach intrinsic value do have a temporally extended structure and could, therefore, be interrupted at death. The activities involved in love and friendship, various forms of virtuous activity, all these are vulnerable to interruption by death. I can now add that the same is true of many more mundane pursuits characteristic of daily life, such as planting a garden, starting to read a long novel, etc. And there is the sheer pleasure of going on living, seeing what happens next. When the movie projector breaks down in the middle of a movie, you feel you have missed out on something. Death, similarly, cuts short the pleasant flow of life. Even if, in this case, you aren't aware of the loss, it still is an interruption of a basic and valuable project.[15]

This inquiry, I claimed, makes it plain that Lucretius is on the horns of a dilemma. Either he must include these as genuinely valuable activities—in which case he will have to take the interruption argument seriously as an argument establishing the badness of at least very many deaths—or he will continue to resist the interruption argument, but at the cost of adopting an artificially narrow account of value that will not be appealing to very many people. The position will now be not "Death is nothing to us," but rather "Death is nothing to people who live in the very odd way we recommend, not loving anyone, not caring about justice, etc." Obviously, that is a much weaker position than the one Lucretius wishes and claims to have.

I then went on to weaken the Epicurean position yet further by saying that even when an activity, such as contemplating, appears to be complete in a moment, "still, we feel that it is frequently a loss in value to the person that he or she had a life that stopped short at that moment of completion, not permitting her to pursue different future projects, or to undertake that one again."[16] After investigating this line of criticism in more detail, I concluded by returning to the issue of life's temporal structure through a consideration of Lucretius' "banquet argument,"[17] suggesting that Lucretius himself conceded, in that argument, that life has a narrative structure that contributes to its value, and that it can therefore often be interrupted by death in such a way as to diminish its value.

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[14] *Therapy*, 208.

[15] I owe this point to Geof Stone. I said something related in *Therapy*, 210, but not as well.

[16] *Therapy*, 210.

[17] *De Rerum Natura* III, 931–939.

Finally, I turned to the question of whether death can be said to contribute anything positive to human life. I shall address those contentions in section III.

That was the way I argued in my initial attempt at the question in 1994. In his 1999 piece, Fischer criticized two distinct parts of my argument. First, he sought to undermine my critique of Epicurus' main line of argument (death can't be bad for the subject if the subject doesn't persist after death) by creating Nagel-type examples that are more convincing than Nagel's original examples. Second, he criticized the consolatory claims I made in the concluding section of my argument. I address the latter group issues along with my consolatory claims in section III.

In both 1999 and 2006, Fischer tried to get me to reject Epicurus' argument more directly by supplying an improved version of Nagel's argument. In 1999, he supplied some Nagel-type examples that did not fully convince me. They did not convince me because in his examples there was still a persisting subject on the scene, albeit one who (for various invented reasons) could not possibly learn of the bad thing. One case involved simple physical impossibility: A cunning enemy named Mr. White is ready, infallibly, to prevent you from learning of the bad event that pertains to you. Still (urges Fischer), we should grant that the person is harmed. The other example also relies on physical impossibility: Fischer imagines a mother who cannot learn of her daughter's death because she is far away when the daughter dies, and she herself dies five minutes later. Still, the death of the daughter, says Fischer, harms the mother.

Interestingly, Fischer betrays Nussbaumian intuitions in his description of the case, saying, "Nevertheless, it seems to me that you have been harmed (at least for the five minutes of your continued life) by the death of your daughter." I would agree that during those five minutes it is at least plausible to think that something bad has happened to the mother, because the mother is still in the world, a subject of predicates.[18] After those minutes, the story is utterly different, because there is no mother there at all. I think Fischer ought to have deleted that revealing parenthesis, given the view he purports to defend—but the need he felt to include it indicates that he feels the pull of the consideration I raise.

Given our standoff in 1999, when Fischer returned to the issue in 2006, he did not simply repeat his examples; he did something else that I find extremely helpful. He took a large step back to consider, more generally, the structure of the "dialectical stalemates" that arise in various parts of philosophy. He offered a helpful account

[18] Saying this does not imply, of course, that the mother's five-minute ignorance is not better than five minutes of knowing of the death. It's probably better that she die not knowing of the bad event; still, it seems at least plausible to think that something bad has transpired in her life, of which she is unaware. My intuitions are not clear on this point.

of the argumentative structure of these stalemates, showed how they arise in the free-will debate,[19] and then suggested that our differences concerning Epicurus also have that structure. He concludes that neither of us should hope to prevail by simply saying, "It's obvious that one can be harmed by events after one's death," or, conversely, "It's obvious that one can only be harmed by things that occur while one is still in existence." Those moves are unhelpful and question-begging. What one can do is explore various ways of making one's own intuitions, and their salience, more persuasive, and at the same time explore various avenues of concession. Fischer does the first in his detailed restatement of his examples and his replies to other philosophers who have joined me in criticizing them. He does the second by conceding to me that very often, at least, one's judgments of the badness of death involve the illicit fiction of a surviving subject.

Let me now explore both persuasion and concession on my side. (This task is made more complicated by the fact that over time I have become even less convinced by Nagel's original examples, as I recorded above.) Let's address persuasion first. It seems to me that Fischer's examples require us to think that spatial and physical impossibility are very similar to the sort of impossibility that death creates: The dead person is very like a person who still exists, but in a different, unattainable world that cannot be known to us and cannot have knowledge of events in our world (because of its physical remoteness and other physical obstacles). I think that many people believe something like this about death, but Fischer and I have agreed to stipulate, for the sake of argument (and for the sake of pursuing Lucretius' argument), that there is no afterlife of this kind. We agree, then, that there is actually no subject there in this or any existing world who is identical with the person who died. So the situation that actually obtains at death is that of a universe in which that subject simply isn't. It seems to me that this is not very like the situation in which the subject exists, but at an unattainable distance. Moreover, this metaphysical difference in the number of entities we recognize makes a difference to the logic of predication. When we say, "How bad death is for P," we are predicating badness of a subject, namely person P, at a time *t*. And so it seems reasonable to point out that we appear to be contradicting ourselves: We have denied that P is anywhere in the universe at *t*, and yet here we are predicating badness at *t* for P. My Furley-based interruption argument doesn't do this, because it is all about what becomes of times *before P's death*, given the abruptness of the death; those times are changed in their significance, and have become futile and vain. But I don't think that this is what Fischer is saying with his two cases; I don't think he is saying that the aims and projects of the mother become futile when her daughter dies. He is making, I think, the far more contentious

[19] Fischer has spent most of his career writing on two topics—death and free will.

claim that the bad event is rightly predicated of the mother, even though there is no mother there any more to bear the predicate. And I find this puzzling. I don't think this removes our stalemate, but perhaps it sharpens it a little.

Now to concession. Just as I have already stressed that death can make a difference to the shape and value of the life that precedes it, so too, I now wish to grant, some events that happen after a person's death can retrospectively affect the person's life, as to whether its strivings were successful, or complete, achieving their intended goal. Suppose that Virgil's *Aeneid* had been burned at his death (as, in fact, he is said to have requested). Then the posthumous story of Virgil's importance for the whole history of literature, art, and thought would have been completely different. It is not implausible, I think, to view these posthumous events as altering the significance of Virgil's life of striving; that life is now rightly seen as a fantastic success, and some of that achievement consists in altering the way millions of people think about life.[20] In that way, lives have tentacles that reach out beyond themselves.

Consider a different sort of case concerning a person whom I will call Q. In one version, Q's children all die with her in a car accident. In another version, they survive and have many children of their own who make many contributions to the world. Here too, I want to say, events that happen after the person's death enrich the life retrospectively and alter its causal significance.

These cases are subtly different from Fischer's, because I am focusing on the way in which the posthumous events alter the significance, causal and success-related, of events that took place within the person's actual lifespan, but whose causal ramifications extend beyond death in ways that affect the way in which we ought to describe their significance within the person's life. There's no problem about what subject they should be attached to. When they took place (Virgil's writing the *Aeneid*, Q's having children), they were indisputably events in the life of Virgil and in the life of Q, both of whom were living at the time. It is only that they have ramifications that extend beyond the two people's deaths, and those ramifications seem to affect the way in which one should judge the achievements, in life, of Virgil and Q. That is not what is happening in Fischer's cases, it doesn't have the metaphysical oddness of those cases, but it is getting closer.

Think of putting the mother-daughter case this way: When the daughter dies—and let's suppose (removing Fischer's ambiguity) that this happens at exactly the same time as the mother's death—it may alter the success of the mother's life, if that life was aimed at leaving a chain of descent in the world that would continue on beyond her. Interpreted thus, I think that it would be correct to say that the daughter's death

[20] Of course, he never asked anyone to burn the *Eclogues* and the *Georgics*, and perhaps what I say betrays my own lack of enthusiasm for those poems, of which so many think so well.

is bad for the mother, meaning bad for a project embarked upon by the mother during her life.

Think now of a variant on Nagel's original betrayal example. To make it a death example, let us suppose that it concerns the betrayal of a dying wish; the person's wish is betrayed, and she never knows it, because she is dead before the wish is betrayed. A person's life is entirely focused on social justice, and the way she pursues that is to start a charitable foundation. She leaves all her money to that foundation and fully expects that the foundation will continue her goals and aims after her death. But her country is taken over by a tyrant who seizes all the property, including her foundation, and uses it for his own evil ends. Her money, which she arranged to be the source of good, is now being used to torture and rape innocent civilians. More harm is done with her money than if she had spent it all on herself. In this case, again, it seems at least plausible to say that the person's life is altered for the worse by what happens after her death: Her plans are made futile and vain, just as in my interruption scenario. Her life, causally aimed at good, has had its causality channeled toward evil.

Such postmortem cases will, of course, include good surprises as well as bad. And they will include some interesting complexities. Take the case of Stephen Girard (1750–1831), a wealthy banker who left much of his sizable estate to establish a boarding school (called Girard College, though it was actually a preparatory school) in Philadelphia for "poor white male orphans." (The philosopher David Hoy was actually educated at this school and is one of those persons for whom it was paradigmatically designed.) By the 1950s, the will's racial limitation began to be challenged. In the end, in 1968, Girard's will was broken by the courts, and this became a landmark case in postmortem desegregation. Today, all races and both sexes are included, and the school describes itself as having a 96 percent enrollment of "students of color"! (The gender exclusion was not legally challenged, but an inclusive policy was eventually adopted by the trustees. The economic restriction and the restriction to orphans remain in force, it seems.)

Here one might see both good and bad flowing to Girard from the court decision: good, because his money was now doing some good in the world that it would not otherwise have done, both benefiting poor African American orphans and serving as a beacon in the legal realm that set many other bequests on a more just course.[21] But one might wonder whether Girard was not also harmed by the violation

[21] In order to claim that the benefit to Girard is a case similar to those considered in Furley's analysis, we have to suppose that he had a very general goal ("do good to others," or "do good to the poor through education") of which the result was a fulfillment, as Furley considers only cases in which death thwarts (or fails) the goals that a person actually has. I am grateful to Gabriel Lear for this point.

of his will. Surely he ought not to have been permitted to make such a will. Given, however, that he was, and in the 1820s nobody was worrying about this issue, one might think that the appropriation of his money for a cause he might possibly have deplored was a kind of postmortem harm.[22] (Perhaps he would have left his money to some completely different cause rather than to an integrated school, although it is also possible that he didn't have such strong views on the topic.)[23] On the other hand, one could also make a case for the opposite conclusion: He was prevented from doing harm, and he actually did a lot of good; so he is benefited, in much the way that someone who is prevented from committing a murder might be said to be benefited. He didn't do the bad thing that he otherwise would have done.

Obviously, the investigation of postmortem benefit and harm is a complex business: It requires, among other things, figuring out what things are just and unjust, good and bad. We obviously will not get to the bottom of such questions here. We can, however, observe that courts have long recognized that the interests people have during their lives do not end at death. For example, in a case involving prosecutor Kenneth Starr's efforts to obtain notes taken by Vince Foster's lawyer before his suicide, the U.S. Supreme Court held that the attorney-client privilege is not terminated by the death of the client.[24] The Court explicit said that the rationale for the protection was that it "furthers the client's intent."

Such cases do not get us all the way to Fischer's examples, which don't rely on causal post-death influences, but maybe they give him something that makes our stalemate less grave, because I now admit that, in many cases, events that happen after a person's death can—in a special way related to the interruption argument—be bad for a person.

To summarize: I still think that Epicurus has a powerful argument that is not vulnerable to Nagel-style or even improved Fischer-style objections. But I also think that most deaths are bad for people for a different type of reason—because they interrupt their cherished projects, altering the shape of their lives.

Are there reasons to think that there is nonetheless something to be said on behalf of being mortal? I used to think there were.

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[22] My father, a lawyer whose practice focused on estates and trusts, was rather obsessed by this case, which he considered a paradigm of political correctness gone awry; though in his case, concern for the sanctity of wills could not easily be disentangled from racism.

[23] And possibly he would still have preferred the courts' diversion of the bequest to this closely related use to a situation in which they void the bequest and give the property to his heirs.

[24] *Swidler & Berlin v. U.S.*, 524 U.S. 399 (1998). The doctrine is complex: In *Eyerman v. Mercantile Trust*, 524 S. W. 2d 210 (Mo. App. 1975), a person who has the right to destroy her own house during her life was denied the right to do so under her will. See Lior Strahilevitz, "The Right to Destroy," *Yale Law Journal* 114 (2005), 781–854.

II. FALSE CONSOLATION A: YOUNGER MARTHA

In *The Therapy of Desire*, having concluded that Epicurus' argument is defective in the way I've just described, I went on to offer a kind of consolation[25]: "Our finitude, and in particular our mortality, which is a particularly central case of our finitude, and which conditions all our awareness of other limits, is a constitutive factor in all valuable things having the value for us that in fact that they have."[26] What I had in mind (using the lives of the Homeric gods as my stalking horse) was that there can be no human courage without the ability to risk death, no friendship and love of the sort we currently value without the possibility of running such risks for the sake of those we love, and so forth. More generally, human love and friendship have a temporal structure in which aging, the different phases of the human life cycle, and the possibility of loss are central structures, conditioning the particular sort of value they have.

In addition, I argued, a kind of intensity and dedication with which we pursue many of our activities "cannot be explained without reference to the awareness that our opportunities are finite, that we cannot choose these activities indefinitely many times." Quoting Wallace Stevens,[27] I concluded that "Death" is indeed "the mother of beauty." It was reasonable for Odysseus, thinking in this way, to decline Calypso's offer of immortality: For the life he loved and valued, his own life, could not exist without that choice. When he repeatedly insists that he wants his own home, what he more generally means is that he wants his own life. He finds a life with struggle and change exciting; an unchanging woman and life, however beautiful, cannot hold his interest.

It's not as if there is nothing in this argument.[28] We can indeed agree that the lives of the Homeric gods, who can easily do anything they want any time they want, do seem lacking in intensity, depth, and commitment. They can't even run a race, or show any other athletic excellence, because there is no struggle for them; they just whisk themselves away to the finish line. They also seem, I now add, to be deficient in a sense of humor, because humor (much of it, anyway) appears to be predicated on a sense of the limits of the body and the many absurdities it gets one into.[29]

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[25] *Therapy*, 225–232.

[26] Ibid., 226.

[27] And paying almost $1,000 to the greedy Stevens estate for the privilege of quoting one entire stanza of that poem, so I do not make that mistake here.

[28] But the writing now seems to me overwrought in a way that suggests that something is amiss; I'm trying to convince myself of something by over-romanticizing it.

[29] Like Williams below, I did not view this argument as one that removed the rationality of the fear of death: I thought it mitigated the badness of death, but I insisted that death "would not be the sort of value-constituting limit it is in human life, if it were a limit to be embraced with equanimity. It is better called the stepmother than the mother of beauty" (231).

As John Fischer has by now convinced me, however, the relevant things are the limit and the struggle, not mortality. One can have plenty of striving and effort in an immortal life, provided that some limits are held in place. In 1999, I agreed with Fischer, elaborating his argument by considering various ways in which a life could have narrative structure of the appropriate type without being mortal. One can imagine an immortal being struggling against all sorts of limits: pain, weakness, the bad conduct of others, poverty, injustice, athletic injury, and so forth. These are limit enough to give the virtues their point.[30] In 2006, I agreed with Fischer, further, that a condition of life's continuing to be attractive would be the possibility of "regeneration and recovery" from debilitating and painful diseases, but I also agreed with him that there are many ways of imagining all that in an immortal life. In general, I granted to him that an immortal life might have an interesting narrative shape that we could care about; as he puts it, it could be an "indefinitely extended banquet, with suitable intervals for recovery (and enjoyment of other activities)."[31] (Throughout, both Fischer and I are assuming that immortal life does not involve the sort of continual aging that leads rapidly to utter decrepitude, as depicted in the myth of Tithonus and in Swift's description of the Struldbruggs in *Gulliver's Travels*.)

I am persuaded too that most of what we value in human love and friendship does not require death, though it does require the possibility of facing adversity, overcoming difficulties, illness and recovery. We would have to say a lot more about where change figures in these lives: Will they be frozen at a particular age? If so, how will Odysseus (who expresses a preference for a normal human life cycle, aging included) respond? Should we see the absence of continual aging as involving a loss of value? Well, I don't think we need to go that far. However we imagine the life in more concrete terms, we may grant to Fischer that removing mortality still leaves most of what we value in human love and friendship in place.

I think perhaps there may yet be a *type* of intense devotion that is manifested by willingness to risk not just pain and difficulty, but death itself, for a beloved person or cause, and this type would not be present in the immortal life Fischer imagines. There may also be a *type* of valuable courage that would, similarly, be absent. That's

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[30] Gabriel Lear argues in favor of the conclusion of "younger Martha" as follows: Courage involves the thought that one faces danger because not to do so yields a life that is shameful or not worth living. In other words, the person shows that what matters is not mere life, but life of a certain sort. But perhaps this idea of "life worth living" depends on the thought that life is short: If you betray what you value, you will not have time to rebuild or display a long commitment to excellent action. The significance of any betrayal will become tiny in the course of infinite time. I see this point, but I am not inclined to agree that mere length of time wipes out the stains of the past. (We do not think the less of murders and other crimes against humanity because they were committed in the long ago past.) Clearly this issue requires more thought than I can give it here.

[31] He borrowed this image from Lucretius, not because he has any particular interest in banquets.

what today remains of my adherence to the Wallace Stevens position. I would also grant that for at least some people the prospect of death and awareness of the shortness of life supply a motivation to leave a mark on the world, and that this can in at least some cases lead to good actions.[32] But I can also agree with Fischer in being willing to forgo these special *types* of value for the same of an immortal lifespan of the sort he describes, with suitable dangers and limitations against which to strive.

III. FALSE CONSOLATION B: BERNARD WILLIAMS

If younger Martha was naïvely romantic about death, her teacher Bernard Williams offers a consolation that is all too cynical and world-weary. In 1972, invited to give a lecture in a distinguished series on the immortality of the soul, Williams announced that he was going to speak about the mortality of the soul, and why it is a good thing.[33] There are, he argues, "facts about human desire and happiness and what a human life is" from which it follows that "immortality would be, where conceivable at all, intolerable."[34]

Williams takes as the basis of his argument the story—told in Karel Capek's play and in Leos Janacek's opera of the same name—of the life and death of Elina Makropulos, *alias* Emilia Marty, Ellian MacGregor, and a number of other names, all with the initials "EM." EM was given an elixir of life by her father in the 16th century. At the time of the action she is 342, having been frozen at the age of 42 for 300 years. (Williams, who draws attention to the fact that he is delivering the lecture at that very age, insists that her problems do not stem from that age, which is a good one to be immortalized at, if any is.)[35] In the opera, however, EM finds herself frozen, in "a state of boredom, indifference, and coldness."[36] "[I]n the end it is the same," she says, "singing and silence." She refuses to drink the elixir again, and she dies. Williams argues that any immortal human life is bound to end up like that, sooner or later: "An endless life would be a meaningless one."[37]

Williams's argument is complex, but let me summarize its main points. Human desires fall into two categories. Many, if not most, are contingent on remaining alive

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[32] Not always, clearly: Lucretius not implausibly claims that wars are often motivated by a desire to achieve a kind of surrogate immortality, and there are many other bad ways in which people try to leave a permanent mark on the world.

[33] Bernard Williams, "The Makropulos Case: Reflections on the Tedium of Immortality," in Bernard Williams, *Problems of the Self: Philosophical Papers 1956—1972* (Cambridge, UK: Cambridge University Press, 1973), 82–100.

[34] Ibid., 82. Williams also thought that it was reasonable to continue to regard death as a bad thing.

[35] Ibid., 90. He adds that it is just as good an age for a woman.

[36] Ibid., 82.

[37] Ibid., 89.

(i.e., I want whatever it is I want only against the background assumption that I am going to go on living). Some desires, however, are so central to my sense of identity that they provide me with reasons to continue living; they can resolve the question of whether I am going to remain alive. Those Williams calls *categorical desires*. In order for life to be worth prolonging, a person must have at least some desires of the categorical sort.

Williams now argues that in an immortal life, one of two things would surely happen. Either the person's character would remain sufficiently continuous with that of her former self that we could reasonably think of the immortal life as that of the same person, or the life would take on such discontinuity that we would have no reason to think of it as the life of the same person. In the latter case, the idea that it is really an immortal life for that same person is merely a "fantasy," because some sort of continuity of character is essential for the idea that the self has continued to exist.[38] It is the first case, then, that ought to interest us, and Williams now argues that the nature of human desire is such that any human being would succumb to boredom in the end, pursuing the same set of character-defining projects for all eternity: "[C]ategorical desire will go away from [life] in those versions, such as hers, in which I am recognisably myself. I would eventually have had altogether too much of myself."[39]

Why, however, should one believe this? (From now on, like Williams, I will be assuming, once again, that the immortal life includes staying at some healthy and energetic age and not becoming ever more decrepit.) Surely one should not believe the conclusion just because Williams says so, and not even because there is an opera to that effect. Indeed, the opera itself provides, I think, reasons for doubt: For it is perfectly clear (especially when one bears in mind that we are dealing with Janacek, that deeply perceptive critic of his society's treatment of women) that the life of Elina Makropulos exhibits a sad pathology, just as sad and pathological as the state of a depressed 42-year-old person who is bored and tired of life. In fact, EM is depressed for a very specific reason: A beautiful and glamorous woman, she has been treated by men for 342 years as a mere object for their ego gratification. She has not found men who genuinely love her, only an endless series of narcissistic creeps.[40] I would say that we can conclude from her case not that immortality is bad, but that she needs to meet different men. Dealing with those creeps really does get boring after

[38] I note that continuity of character is not necessary for continued personal identity according to Williams's own view in this same book: In "The Self and the Future" and "Are Persons Bodies?" he defends a bodily criterion of personal identity against all mentalistic accounts. Here, then, he is talking about something narrower and more demanding than personal identity.

[39] Ibid., 100.

[40] It is surprising that Williams, a strong feminist, did not notice this point.

a while, but love is not boring. The most general conclusion we may perhaps draw is that relations between the sexes in Janacek's world were very unhealthy and needed to change.

More generally, there are so many interesting and useful things one can do in the world that immortality is about the only condition that would give one enough time to do many of them and still have some time for recreation. Consider the stressed-out lives that so many Americans have, lives that don't permit enough time to be devoted to each valuable pursuit, and that certainly don't allow much time to do many essentially frivolous things that make life more fun. If people weren't always racing against the clock, they would probably find more meaning in each thing rather than less, and they would get more sleep and in general feel good more of the time. The main cause of burnout in current life is surely too little time and sleep, not too much. So we might guess that an immortal life, far from being less fun, would actually be quite a lot more fun, as one could work in a more relaxed way and combine one's work with other pleasurable activities.

Some immortal lives would continue on in one and the same profession. Others might explore different professions seriatim. (As the human lifespan extends, second careers are already becoming more and more common.) Still other lives would try to combine two or three professions at once, moving back and forth among them as time would easily permit.[41] All of these would be possible ways of making life rich and interesting, and I see no reason why one cannot imagine these as the pursuits of a person who is recognizably one and the same in character. As I imagine successive careers for myself (as a cantor, an actress, a psychoanalyst, a novelist), I have no difficulty imagining that I would be recognizably myself in all. And I bet that my friend Williams would come to the same conclusion, even with his perhaps more exigent ideas about integrity and selfhood; he would recognize all these pursuits as pursuits done in a Martha-ish way.

If one were worried that some of one's commitments might peter out over an infinite time or generate no compelling new projects, one could always focus on the aim to promote justice in the world, an aim that is unlikely to be completely realized in history and which will therefore give our imaginary immortal being plenty of interesting and valuable occupation. (And how interesting it would be to try to promote justice in a series of different ways—as an author, an activist, a politician,

[41] Much would depend on the nature of the profession and how society rewards it; some professions might permit indefinite improvement, and in these people might persist for, at any rate, a very long if not infinite time, in order to get the satisfaction of increasing excellence; in others, one would reach a peak relatively quickly, and one might enjoy that for a while and then move on to something else. Again, if society rewards relative performance, that might lead people to persist over very long stretches, at least in the first type of profession, in order to outdo the competition; if only a specific level is rewarded, switching would become more attractive.

an artist; and in different places, moving from the United States to India, and on to Africa, and so forth, and then cycling around again, no doubt in utterly changed conditions.) Williams tends to have a rather romantic and existentialist notion of what gives life meaning, so he might try to argue that this life, devoted to an abstract ethical goal, is incompatible with sufficient sameness of selfhood (this is the argument he makes about the immortal life of intellectual inquiry), but I see no reason to agree with him. As before, there would be a characteristic way of pursuing justice that would bear the mark of that person, express that person's sense of self, and not be exactly the way that someone else would do it.

In short, Williams's argument seems to me to be less an argument than the expression of a particular temperament. Some people have temperaments like this, and these people—if they could not be treated by the new forms of therapy that would undoubtedly come into existence in the new world of immortality—might want to die, and they should be permitted to do so. Nothing, however, has been shown about the livability of immortal life. It looks better and better to me.

IV. A BETTER ARGUMENT FROM LUCRETIUS

So both younger Martha and Bernard Williams offer us specious consolations. At this point, however, another consideration arises. Remarkably, although it seems to raise characteristically modern issues, it is already present in Lucretius' poem:

> There is need of matter, so that future generations may grow. They too, having lived out their lives, will follow you. Generations before this perished just like you, and will perish again. Thus one thing will never stop arising from another. Life is nobody's private property, but is everyone's to use. (967–971)

In other words, we have to ask about the effect of our own immortality on the life of the whole world. We need to consider three possibilities: (a) Only one person becomes immortal; (b) a relatively small group of people becomes immortal; or (c) everyone becomes immortal.

If only one person is immortal and everyone else is mortal, this could lead to much unhappiness, through the sense of being unfairly singled out for an amazing benefit or having had a piece of luck that is quite inappropriate. I can imagine some people choosing to end their lives just to be living on the same terms as everyone else, especially those they love. Although I probably would not have the courage to make such a choice, I think it might be morally the right one. (Much would depend on how one's immortality came about, whether by sheer luck or by someone's unfair favor. But even in the windfall case, it seems like a benefit that one has no right to

keep.) To this moral issue one can also add the sadness and isolation of outliving all one's loved ones, which could easily blight the life of the immortal person.[42]

Still worse would be a world in which one entire group or class of humans gets to be immortal and most humans don't, a world toward which we are edging through the unequal distribution of access to medical care and the likely inequalities in access to future genetic therapies. Kazuo Ishiguru's wonderful novel *Never Let Me Go* (2005), which appeared as a film in 2010, imagines a world in which an underclass is used as organ donors for the superior class, with the result that the latter become very long-lived, though not, finally, immortal. This is obviously a horrible world, and it would be still more horrible were the superior class to be immortal.

Suppose, then, that everyone gets to be immortal. Now Lucretius' "population argument" becomes pertinent. We either have a world that gets more and more overpopulated, until nobody has enough to eat and drink, or we have a world in which nobody has children any more. The first, Malthusian alternative seems very bad. We can grant that most Malthusian fantasies about overpopulation are hysterical and inaccurate, given our growing ability to use agricultural technology to feed more people, while yet acknowledging that the carrying capacity of the earth is not limitless. So people would have to pursue the second alternative, drastically limiting the chance to have children or making all reproduction illegal. That world looks pretty bad too.[43] It lacks all sorts of valuable activities connected with relations among the generations, and it also lacks a distinctive type of freedom to which we currently attach considerable importance.[44]

Of course it is always possible that we will discover a way out, in the form of space travel à la "Star Trek." If we suddenly got access to many livable planets, it might at least postpone the problem. For now, however, I assume that this solution is unavailable.[45]

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[42] My grandmother died at the age of 104, and her three sisters, who died at 95, 101, and 103, had recently predeceased her, all mentally and physically healthy until almost the end. All of them had outlived most of their children and even some of their grandchildren. As long as the sisters were around to commiserate with one another, life was full of meaning. After the death of the other three, my grandmother longed for them, and in her last two weeks, the only time when her mind declined, she carried on imaginary conversations with them.

[43] We can study that sort of world by looking at the Shakers and other religious communities that forbid reproduction. These, however, often look less bad because they are surrounded by a society that allows members of these groups to care for children. In my childhood I was cared for by a housekeeper who belonged to the cult of Father Divine (an African American spiritual leader in suburban Philadelphia) that forbade all sexual relations; she was a very devoted friend. For a useful account of this cult and its founder, go to http://en.wikipedia.org/wiki/Father_Divine. (The ban on sex was adopted in part for Lucretian reasons, to limit the size of the group, permitting Father Divine to give economic support to all his followers; but it also existed in part to prevent trouble over his own allegedly unconsummated marriage to a white woman.)

[44] I already thought highly of Lucretius' argument in *Therapy*, 222–225, where I used the comparison to a department in which nobody retires, so no new, young people can get jobs.

[45] Interestingly, Lucretius should have thought of this one, as Epicureans believed in an infinite number of worlds.

We can add that the existing immortalized adults would be parasites on the very system that their immortality must subvert. In growing to adulthood, they have profited from the old world, from the love and care of parents, the concern of teachers and mentors; and yet, by accepting immortality, they are opting for a world in which these relationships no longer exist. If, as seems likely, the immortalized person values the history that has led her to become the person she is, she is inconsistent when she thinks so lightly of that world that she wills it out of existence.[46]

Here we do finally see that immortality would require the loss of a distinctive sort of value. And so, in a very different and less narcissistic form, the consolation offered by younger Martha about the loss of human value returns.[47] If not consoled, we can be to at least some extent reconciled to mortality by reflecting on the fact that the deaths of the currently living are a necessary condition for the perpetuation of ways of life that we greatly value, and that are perhaps central to the value we attach to living.

If those many other livable planets should turn up, however—especially an infinite number of them, as Epicurus' cosmology proposes—we might think again.

[46] See *Therapy*, 225.

[47] But I made this point as well in 1994.

3

The Harm of Death in Cicero's First *Tusculan Disputation*

James Warren

MANY PHILOSOPHICAL DISCUSSIONS of death draw their ultimate inspiration from questions and arguments found most prominently in ancient Epicurean texts, in particular the third book of Lucretius' *De rerum natura*. But there were other important ancient discussions of death perhaps inspired by those Epicurean ideas. The first book of Cicero's *Tusculan Disputations*, written just after Lucretius' great Epicurean poem, is addressed to combating the fear of death. The eventual conclusion of the book is that a proper conception of the nature of the immortal soul is the only sound basis for a properly confident attitude toward death. But at the very beginning of the work, there is a dense section of argument (§9–16) that aims to show, in 'Socratic' style, that the following two beliefs are inconsistent: (i) There is no postmortem existence, and (ii) death is a deprivation and therefore an evil. The aim in this section is to demonstrate that the now-familiar Epicurean approach to dispelling concerns about the harm of death is sufficient at least for the conclusion that, if death is annihilation, then it is not a harm. For the two speakers in the book, however, even this is too weak a conclusion: They press on to attempt to show that death is not merely *not* a harm, but can actually be a positive benefit. My aim here is to discuss the content of Cicero's argument in that early section of the book, emphasising in particular its dialectical method and the care with which it has been constructed.

First, we should note the general philosophical context of these questions in the first century BC, because this is the period not only of the composition of Cicero's *Tusculan Disputations*, but also of Lucretius' better-known Epicurean treatment of the fear of death. The years between about 55 and 40 BC were evidently a boom

period for thanatology.[1] There is good reason to think that a number of works were composed in or around that time, concerned principally or to some large extent with the discussion of the nature and value of death, many of them by writers under the influence of the most famous ancient thanatologists: the Epicureans. Why that should be is not an easy question to answer. Is it possible that death preoccupied elite minds at that time—admittedly a time of particular political and social upheaval—more than any other? Or is it simply the case that certain topics sometimes enjoy a certain vogue? In the interest of approaching answers to such questions, we might start by noting the works that probably were composed around this time. Cicero's first *Tusculan Disputation* (*Tusc.* 1), the work on which the rest of this essay concentrates, was composed in the summer of 45 BC and tackles the question of whether death is an evil (*malum*); it concludes on what we might roughly characterise as Platonist grounds that, in fact, the most plausible view is that death is something good. Cicero had himself just concluded the composition of a *Consolatio* on the death of his daughter Tullia earlier that year; this, we presume, was dedicated to a similar topic, albeit also presumably in a different style and register.[2]

There are other works that can be listed alongside Cicero's. The pseudo-Platonic *Axiochus*, a work very close in outlook to the first *Tusculan Disputation*, has been thought to belong to the first century BC even if we cannot be much more precise about its date. It is certainly a curious dialogue: a mix of Epicurean and Platonic philosophy, showing Socrates attempting to convince an old man not to fear death, which was perhaps written in a style meant to retain elements and techniques of persuasion from the tradition of consolation literature.[3] But of works securely attributable to some time around this date, there is most notably, of course, Lucretius' *De rerum natura*, the third book of which devotes its long closing section (from line 830 to the end of the book) to dispelling the fear of death. True, the dating of Lucretius'

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[1] Recent publications suggest that we are currently experiencing a similar boom period. See, e.g., the spate of recent monographs and collections of essays: Geoffrey Scarre, *Death* (Montreal, CA: McGill-Queen's University Press, 2007); Daniel Sperling, *Posthumous Interests: Legal and Ethical Perspectives* (Cambridge, UK: Cambridge University Press, 2008); Christopher Belshaw, *Annihilation: The Sense and Significance of Death* (Montreal, CA: McGill-Queen's University Press, 2009); Ben Bradley *Well-Being and Death* (New York: Oxford University Press, 2009), Steven Luper, *The Philosophy of Death* (Cambridge: Cambridge University Press, 2009); Todd May, *Death* (Montreal, CA: McGill-Queen's University Press, 2009); John Martin Fischer, *Our Stories: Essays on Life, Death, and Free Will* (New York: Oxford University Press, 2009).

[2] For the Academy's tradition of writing such consolatory works, see M. Tulli, "Der *Axiochus* und die Tradition der *consolatio* in der Akademie" in K. Döring, M. Erler, and S. Schorn, eds., *Pseudoplatonica: Akten des Kongresses zu den Pseudoplatonica vom 6.-9. Juli 2003 in Bamberg* (Stuttgart, DE: Franz Steiner Verlag, 2005), 255–271. Cicero quotes from his own *Consolatio* at *Tusc.* 1.66.

[3] See J. P. Hershbell, *Pseudo-Plato Axiochus* (Chico, CA: Scholars Press, 1981). There are recent discussions of aspects of the work in D. Furley, "Nothing to us?" in M. Schofield and G. Striker, eds., *The norms of nature* (Cambridge, UK: Cambridge University Press, 1986), 75–91; and T. O'Keefe, "Socrates' therapeutic use of inconsistency in the *Axiochus*," *Phronesis* 51, 4 (2006), 388–407.

work is not very certain, but it is most definitely a first century BC production, and it is overwhelmingly likely that Cicero had read some if not all of it.[4] The most likely publication date is some time in the mid-to-late 50s. Other works can be more precisely dated. Philodemus' *On death*, remains of the fourth book of which survive on papyri from Herculaneum (*PHerc.* 1005), is a prominent example and perhaps the longest surviving Epicurean treatment of the topic of death, despite its fragmentary state.[5] This work has been dated to around 43 BC by Kuiper,[6] an opinion supported by Momigliano.[7] Whatever the precise date, it is very likely to have been composed in the 40s, and there are strong reasons for thinking that it was composed after the assassination of Caesar in March 44 BC and during the various turmoils that followed.

One further reason for thinking that Philodemus' work is to be dated around then is to be found in the fragmentary remains of the Latin poet L. Varius Rufus, one of whose works seems to have been entitled *On death* (*De morte*).[8] Very little of his work remains, but the parallels between what we have and Epicurean themes known from elsewhere—and from Philodemus in particular—are strong enough to encourage some wider speculation. In particular, it is likely that they both included abuse of Antony in their works—hence the likely dating to the same period just after the tyrannicide—and from what we can tell from the scanty remains, both show a concern with human mortality and the irrationality of desiring luxury. The external evidence for some relationship between Varius Rufus and Philodemus is, in any case, reasonably secure. Two more papyri from Herculaneum, which have unfortunately not survived since their unrolling in the 18th century and for which we now have to rely on the *disegni* made when they were first opened, refer to Varius (Οὐάριε) in connection with the (reconstructed) names of Horace and Plotius Tucca.[9] In both cases, the name of Varius at least

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[4] See Cicero's remarks in *Ad Q. fr.* 2.9.3.

[5] For recent discussions of Philodemus' *On death* and for translations of sections of the work into English, see James Warren, *Facing death: Epicurus and his critics* (New York: Oxford University Press, 2004); D. Armstrong, "All things to all men: Philodemus' model of therapy and the audience of *De morte*" in J. T. Fitzgerald et al., eds., *Philodemus and the new testament world* (Leiden, DE: Brill, 2003), 15–54; " 'Be Angry and Sin Not': Philodemus versus the Stoics on natural bites and natural emotions" in J. T. Fizgerald, ed., *Passions and moral progress in Greco-Roman thought* (London: Routledge, 2007), 79–121; Voula Tsouna, *The ethics of Philodemus* (New York: Oxford University Press, 2007), esp. 239–311. A new text and translation is now available: W. B. Henry, *Philodemus On Death* (Writings from the Greco-Roman world number 29) (Atlanta, GA: Society of Biblical Literature, 2009).

[6] T. Kuiper, *Philodemus over den Dood* (Amsterdam: H. J. Paris, 1925), 96.

[7] A. Momigliano, "Review of B. Farrington, *Science and politics in the ancient world*," *Journal of Roman Studies* 31 (1941), 149-157, at 154.

[8] See the edition in Adrian S. Hollis, *Fragments of Roman poetry c. 60 BC–AD 20* (New York: Oxford University Press, 2007).

[9] *PHerc.* 1082 fr. 12 and *PHerc.* 253 Col. VII. See M. Gigante, "Atakta," *Cronache Ercolanesi* 3 (1973), 86–87, and "Vergil in the shadow of Vesuvius" in D. Armstrong, J. Fish, P. A. Johnston, and M. B. Skinner, eds., *Vergil, Philodemus, and the Augustans*. (Austin, TX: University of Texas Press, 2004), 85–99, esp. 85–86, where he notes that the names have also been read on at least one surviving papyrus: *PHerc. Paris.* 2 piece 279a.

is well preserved, so we have good reason to think that he was known to the Campanian Epicureans and Virgil.[10]

In short, we have every reason to believe that the concerns found most famously in Lucretius were the subject of a great deal more varied and widespread philosophical concern than the intense concentration on that great poem would suggest. It would be an exaggeration to think that Italy in the first century BC was a hotbed of philosophical interest in death, but it was certainly a place where ideas about the nature and value of death were being vigorously debated by a small band of literate, cultured, and elite writers. My modest aim in this essay is to draw attention to Cicero's intricate treatment of the thesis that death is an evil in *Tusc.* 1.9–16, in part to contrast it with the powerful but rhetorically charged and explicitly partisan account in Lucretius and also to give an example of carefully constructed philosophical dialogue in Latin.[11]

THE SOCRATIC STYLE

Tusc. 1 is a dialogue between two characters, conventionally labeled 'A.' and 'M.' A. begins with the thesis that death is an evil, which M. then shows that he must reject through a process of dialectical question and answer. Much of the rest of the book is taken up with M.'s long account of why death—which for him is the separation of the body and soul—is not merely *not* an evil, but rather a positive benefit. A degree of mystery hangs over precisely who the two discussants are. The labels A. and M. appear only sporadically in the manuscripts of the work and may well not have been present in Cicero's original. There are two common ways of reading them: *Marcus* (Cicero) and *Adulescens* (Young Man) or *Magister* (Tutor) and *Auditor* (Pupil) It is certainly true that there is not a great deal of characterisation offered for the pair, such that it might appear that the two are indeed intended to be rather generic representatives of a broadly understood teacher-pupil, adult-youth relationship.[12]

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[10] Cf. Horace *Serm.* 1.5.40: Varius travels with Tucca and Virgil; cf. Gigante, "Vergil in the shadow of Vesuvius," 87–88. Other connections are perhaps more tenuous. It has, for example, recently been argued that it is Varius Rufus who is referred to as 'Lynceus' in Propertius 2.34 alongside Virgil in a poem that alludes to various Epicurean views, particularly about death (2.34.19: 'ipse meas solus, quod nil est, aemulor umbras'). For this view, see F. Cairns, "Varius and Vergil: two pupils of Philodemus in Propertius 2.34?" in D. Armstong et al., eds., *Vergil, Philodemus, and the Augustans*, 299–321.

[11] There is a very detailed recent treatment of this stretch of text in I. Gildenhard, *Paideia Romana: Cicero's Tusculan Disputations*. *Cambridge Classical Journal,* suppl. vol. 30 (Cambridge, UK: Cambridge University Press, 2007), 207–230. However, as my primary interests in the passage differ from his, I hope that our two accounts will be in many ways complementary.

[12] For this view, see Gildenhard, *Paideia Romana*, 22–34 and 70–72.

Before moving into the argument itself, it is worth asking in what sense what follows is 'Socratic' in style, as this is how M. advertises the general approach and it seems to be an important signpost for how we are meant to read and understand the purpose of the argument. In the general introduction to the more complicated piece of dialectic that will be the main focus of our interest, at 1.8, Cicero tells us that the procedure for the discussions in the five books will follow the 'old Socratic method of speaking against another's view. For in that way Socrates thought that what is most like the truth could be discovered.' Certainly, Socrates looms large as a presence in the book as a whole, especially given that later in the book Cicero translates substantial parts of Plato's *Apology* (1.97–9 = *Apol.* 40c5–d2, d7–e1, 42a1–5), including the close of the dialogue in which Socrates famously asserts that he remains unsure whether death is preferable to continued living.[13] But there is also a case for thinking that there is a Socratic air at 1.9–16, because it might be thought somewhat different in style from what follows in *Tusc.* 1, perhaps even to the extent that it can be appropriately marked as methodologically distinct. The end of this section, at §16, is clearly supposed to be a transition to a new form of inquiry as we explicitly pass from a more dialogic style to a continuous discourse—*continens oratio*—which dominates for the rest of the book. A. agrees to this change of pace and promises from then on to ask questions only when absolutely necessary. In part, this is because A. has already accepted M.'s thesis that death is not evil and in fact might be something good; so there is no serious disagreement between them any longer. What is needed at this stage is support for and further defence of an agreed view.[14]

Clearly, therefore, A. has been brought to accept this thesis by something that has been argued in 9–16 or, rather, he has been brought to see that he *ought* to accept the thesis because of various other views he also holds. Therefore, we can make a case for there being in 9–16 a 'Socratic' conversation not just in the sense that there is some relatively rapid dialogue between two characters, but also in the sense of there being something of a recognisable Socratic elenchus. I mean by this that A. is brought to see that his original view is mistaken by means of a dialectical argument that works using premises A. accepts to show that his original standpoint in fact involves some degree of inconsistency or incoherence and therefore must be abandoned. Note in particular how M. draws A.'s attention to the fact that he has sincerely asserted conflicting—*pugnantia*—claims at 1.13. Specifically, A. is brought to accept that it is inconsistent to say that

[13] Note also 1.71 on Socrates' behaviour at his trial and then during his imprisonment.

[14] See M. Schofield, "Ciceronian dialogue" in S. Goldhill, ed., *The end of dialogue in antiquity* (Cambridge, UK: Cambridge University Press, 2008), 63–84, for more on Ciceronian dialogue.

(a) *the dead do not exist; there is no postmortem existence,*

and

(b) *the dead are wretched; death is a harm.*

These are the *pugnantia* that devil his opening attempt to claim that death makes wretched both all living people and also all who have lived and are no longer alive. Those who are no longer alive, he claims, are wretched as a direct result of their (current) nonexistence. Those who are alive are wretched in a more indirect way, as a result of the fact of their (future) inevitable nonexistence. There is also, it turns out, another possible inconsistency in A.'s position, namely an inconsistency between A.'s assessment of the dead and his assessment of the unborn, which we will come to in due course. In fact, perhaps because of an underlying confusion over this matter, it takes some time to draw out what precisely A. thinks, particularly about the as-yet-unborn, but doing so reveals the fault lines in his opinion and leads him—perhaps rather swiftly—to abandon his opening view and adopt a contrary position altogether. Indeed at 1.15, A. first admits that he has been forced to concede that the dead are not in fact wretched and within the next few lines agrees also that living mortals are not wretched either.

The most obvious text to compare with *Tusc.* 1.8 is *De Finibus* 2.2, in which Cicero tells us that Socrates thought that an important part of his approach was the careful and encouraging questioning of the interlocutor in order to elicit just what the interlocutor really and sincerely believes. In those terms, *Tusc.* 1.9–16 looks to be very 'Socratic': M. first (although in a palpably superior tone) encourages A. to come to see what exactly he thinks about this topic, using a method of questioning to make important distinctions and—most important—help A. himself to become clear about his own position. Then M. can proceed to speak against this view and attempt to instill in A. something as close as possible to the truth.[15]

It might also help to compare the opening to *Tusculans* book 2. At 2.14, A's thesis is that pain is the greatest evil, but under pressure from M. to recognise how shameful such a view really is, he abandons this extremely quickly in favour of the idea that pain is *an* evil. This weaker thesis then further encourages M. to discourse at length to persuade A. to abandon this too. The overall structure of the argument is not far from what we have in book 1, but there are important differences. Not only does the book 2 exchange happen very rapidly—within the space of only one and a half of the sections marked in modern editions (2.14–15)—but there is no sense at all that A. is

[15] Cf. Gildenhard, *Paideia Romana*, 17–21.

driven to modify and then abandon his thesis because he has been made by M. to recognise some interesting inconsistency in his views. True, perhaps he is reminded that as a good Roman he recognises dishonour as an evil that is at least as bad as pain, and such a recognition might be offered as some sign of a 'Socratic' form of refutation or elenchus, but even in those terms, it has to be admitted that it is a much thinner and less elaborate example than what we have in book 1.[16] It seems, therefore, that book 1's opening is intentionally a little different; it is the longest dialogic interchange in the work. The reason for this is not immediately clear, but a number of possibilities suggest themselves. Certainly, this is a subject on which there had already been by Cicero's date a reasonable amount of prior discussion that an author of his calibre and education would know and be able to draw upon. Furthermore, the attitude a person has toward death is in many philosophical texts, from Plato's *Crito* and *Phaedo* on, thought often to display a level of inconsistency and confusion that is particularly suitable for this kind of elenctic analysis. For example, we find in Lucretius' *De rerum natura* 3.876–878 the picture of a man who says that he is sure there is no postmortem survival, but who nevertheless reveals in his anxieties about death that he has not completely avoided the idea that he will persist somehow after the end of his life.[17] There is a similar diagnosis in the pseudo-Platonic *Axiochus* 370a4–b1: The complainant asserts that the dead have no perception, but then says that this very lack of perception will be a perceived harm.[18] Perhaps it is indeed the case that this is a subject that is a particularly fertile ground for holding inconsistent sets of beliefs or intuitions. It is perhaps in that case especially important to engage in the Socratic effort of eliciting just what a person believes as an initial step in any further therapeutic enterprise or philosophical enquiry. Certainly, A. seems not to be the most adept at complex philosophical analysis. He admits at 1.16 to finding M.'s argument 'too thorny' (*spinosiora*) and would prefer instead to hear a lengthy, uninterrupted account of the harmlessness of death. All the same, and however thorny the argument thus far, its importance is clear: It has allowed M. to uncover the confusions lurking behind A.'s anxieties about death and has allowed Cicero the author to demonstrate his philosophical and dialectical versatility before passing to a more rhetorical form of persuasion.

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[16] Note the pun at 2.14: A. is reminded that dishonour is at least as bad as pain and immediately confesses that he is ashamed (*me pudet*) to have to abandon a thesis so quickly. M. replies by saying that it would be more shameful (*magis esset pudendum*) to remain committed to it.

[17] Cf. Warren, *Facing Death*, 20–23.

[18] Note that the *Axiochus* describes this case using the terminology familiar from other Hellenistic accusations of a form of self-refutation (370a6–7: νῦν δὲ περιτρέπεις σεαυτόν); cf. 365d1–7.

THE ARGUMENT

The first step for A. and M. is to make sure that they understand precisely what A. wants to offer as his opening thesis.[19] M. swiftly extracts sufficient clarification of the bald preliminary claim that 'death is an evil' to begin a more precise inquiry.[20] The thesis that is uncovered is the following extremely general and rather surprisingly pessimistic claim:

Death is an evil to the dead and to those who have to die (to mortals).

So, M. points out that everyone is wretched (*miser*) since everyone is either dead or will die. Death is evil, then, both for those to whom it has happened and also for those to whom it will happen. Both groups are wretched (*miseri*) as a result, and as such it is implied that they cannot achieve happiness It is a standard conception that being wretched is to be contrasted with being happy or blessed (*beatus*). And as it is the latter that is supposed to be the object of our pursuit of a good life, the threat now posed by the harm of death is extremely serious. Not only on these terms is it prudent, following the ancient Solonic dictum, to 'call no one happy until he is dead,' but also, if A. is right, then there is no time whatsoever at which it could ever be true to say that someone is happy, because they are wretched as soon as they are born and will continue to be wretched throughout life and forever afterward also.[21]

If this thesis were true, then it would have interesting repercussions. It would not have much to offer for questions about the relative value of different lengths of life or of the value of suicide or other means of dying, as it seems not to differentiate between the harm of death and the harm of a life that will end—somehow or other—in death. However, it would appear to have consequences for concerns about future generations because it asserts that being a living mortal is harmful precisely because of the inevitable death to follow. In that case, it would appear to be wrong to cause anyone to come to be, as this is to cause them harm. Some of these repercussions, which are obviously still pertinent to ongoing questions in modern ethical and bioethical thought, are highlighted in the ensuing discussion. And A's thesis is sufficiently alarming that it prompts M. to ask for further clarification. M.'s

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[19] Note 1.8: 'This is how the introduction began (lit. was born)' (*ita nascetur exordium*); the metaphorical reference to birth is a nice pun given the discussion to come, particularly the question of the otherwise similarity of birth and death.

[20] Gildenhard, *Paideia Romana*, 208–209, claims that A. is led to offer this counterintuitive thesis because he is carried along 'willy-nilly' by Cicero's questions. I see no reason to think that there is anything underhand here. A. seems perfectly happy to make this clarification of his opening statement and is prepared to try to defend it.

[21] For Solon's dictum, see Herodotus 1.29–33; Aristotle *NE* I.10; Cic. *Fin.* 2.87–88.

next question expands the inquiry further by trying to be precise about who 'everyone' is. 'Everyone' here, the wretched, is glossed as 'those who have been born and those who will have been born' (*quicumque nati sunt eruntve*). A. assents to this description. In fact, M. has been very careful in the way he has phrased this gloss, particularly the reference to those who will have been born. In particular, the claim does not say that the as-yet-unborn are also *miser*, but rather that everyone who will be born *as soon as they are born and forever thereafter* will be *miser.* The as-yet-unborn are not wretched prior to their birth, in other words, but will become and remain forever wretched as soon as they are born. This seems to be a necessary and accurate restriction because A. later denies that those who have not yet been born are *miser.* The sufficient condition for being *miser* then is simply to have been born. Anyone who has been born is immediately and forever *miser*, even long after death. But this is not, of course, because being alive is a misery; rather it is because death is an evil that both the dead and living mortals are *miser.* Of course, this is just where we uncover an important asymmetry in A.'s account. Death is a harm in some sense because it is a state of nonexistence; it is also a harm to the living because it is an inevitable eventual state of nonexistence. But A. wants to be clear that simply not-yet-being is not a harm to the unborn. As becomes clearer as the conversation progresses, A. appears to be committed to a combination of three claims:

(i) *There is no postmortem existence;*
(ii) *death, postmortem nonexistence, is a harm; and*
(iii) *prenatal and postmortem nonexistence are not relevantly similar*.

These three claims ought to be familiar to anyone who has read even a small portion of the modern literature on the harm of death. One might even say that the combination of these three is what lies at the core of much of the philosophical interest in this general topic, because all three claims are independently plausible, and we might have good reasons to want to defend each of them. However, it is not easy to see how they can all three be asserted and explained consistently. In short, it is not easy to see *how* death can be a harm (ii) if there is no postmortem nonexistence (i), and it is not easy to see how prenatal nonexistence is not a harm (iii) if postmortem nonexistence is a harm (ii). We might observe at the outset that A.'s commitment to (ii) makes him rather more pessimistic than most of his modern successors, as they usually want to defend the weaker claim: (ii*) Death is sometimes or for some people a harm; this allows the reasonable thought that there are conceivable cases of a person living a life so full of suffering that we might allow death to be no harm to such a person. Nevertheless, even with that alteration, the central difficulty remains. The question to be faced is whether these three claims can be plausibly maintained

simultaneously. In fact, we might even say that the problem is simpler yet: It is the very basic problem of trying to maintain (i) and (ii) simultaneously. In this light, (iii) is an optional extra added by those who want to explicitly rule out the possibility of prenatal nonexistence turning out to be a harm for just the same reasons that death is a harm.

We need not think that Cicero was the first to consider these three an inconsistent triad, of course; the Epicureans certainly had had a similar thought before. But their reactions were different: The Epicureans thought that the most sensible conclusion was to maintain (i) but deny (ii). (The Epicureans also, we should note, deny (iii) and in fact in their 'Symmetry argument' use the idea that the two periods *are* relevantly similar as an additional reason to deny (ii).) In contrast, in the conversation between A. and M. that forms the meat of this book of the *Tusculans*, Cicero makes M. deny both (i) and (ii).

These three claims are revealed in the text in a curious order. So far, in sections 9 and 10, we have been introduced first to A.'s commitment to (ii) and then, albeit in a rather subtle way, to his commitment to (iii), which is only fleshed out in section 13. Next, we uncover A.'s commitment to (i). Sections 10 and 11 offer further clarification of A.'s view, in particular his reasons for thinking that death harms the dead and living mortals. We learn above all that his claim that death is an evil is not held out of some fear of postmortem judgment or harm. The discussion may seem overly long, even playfully so, but at least it makes perfectly clear that A. does not think that death is a harm because he has a conception of postmortem survival of a kind that might make one fear what will be experienced after death. So death is not a harm because it will be a time of terrible experiences, such as the kinds of unending tortures meted out to poor characters like Tantalus or Sisyphus. It is something of a commonplace in ancient philosophical literature on the harm of death to insist that this sort of tale is not worth taking particularly seriously. Seneca spends some time explaining that he is not so dense as to need the Epicureans' prattling (*Epicurea cantilena*) about the emptiness of fears based on traditional tales of punishments in the underworld.[22] Indeed, Cicero himself returns to this theme at *Tusc.* 1.48–49, where M. scoffs at what seems to be the Epicureans' claim to have been freed from such debilitating beliefs: What accomplishment can this be if no one seriously believed these myths in the first place? This may be unfair to at least some Epicureans. When Lucretius comes to discuss the stories of punishments meted out to Sisyphus or the Danaids, he is careful to make clear that these are in fact projections of various psychological faults endured by people during their lives, faults that contribute to and are fed by the fear of death.[23] Whether or not such stories were ever taken seriously or

[22] Cf. Seneca, *Ep. Mor.* 24.18, and Plutarch, *Non posse* 1105B.

[23] See Lucr., *DRN* 3.978–1023.

thought to be literally true by ancient audiences is rather hard to determine, but for philosophical writers, it appears to have generally been thought best to avoid resting any sort of claim about the potential harm of death solely on myths of this sort.

Here A. and M. join together in taking a swipe at this sort of story; it is far too easy to show the foolishness of such ideas and, for A. at least, they are not at all the source of his fear of death. It cannot incidentally be the case that M. thinks it is always wrong to address the fear of death by offering a discussion of the postmortem future or by means of an account of what is thought to await a soul after death. Some of the more Platonic-inspired sections to come insist on the positive nature of the postmortem state of the soul in comparison with its state in life.[24] Rather, M.'s concern is to point out that the stories that are often told about unpleasant punishments in the afterlife are seriously misguided. And because A. agrees with him in this, there is no real need at this point to spend any more time taking apart the popular myths of judgment and punishment. It is enough for now to establish that A.'s endorsement of (i) is not due to a simple-minded acceptance of the truth of false stories about what awaits a person after death. There must therefore be some other reason for his holding (i).

In section 11, M. begins to explore (i) further, and rightly so, because his primary point of attack will be the insistence that, unless we accept some kind of postmortem existence, any account of the harm of death—even a comparative account—is impossible. He asks: *Where* are the wretched dead, if they are not in Hades suffering various terrible punishments? A. answers: Nowhere. But this brief retort then prompts him to offer his first clear explanation of why he thinks that death is a harm: The fact that the dead are nowhere is part and parcel of the reason for their being wretched; *they are nowhere and are not.* That the dead are *nowhere* shows that A. believes not that the dead are somewhere other than the sort of nightmarish pictures of Hades outlined in the simple-minded myths. He has no alternative story of this sort. Instead, the thought is that nonexistence itself is the reason why death is a harm.

Now that A.'s full position has been expressed, M. can move to offer a proper set of criticisms aimed at requiring that A. abandons one of the three independent theses outlined above. M. is not at all impressed by the position A. holds because he thinks he has found a simple contradiction in the explanation for why death is a harm, that is, in A.'s particular conjunction of (i) and (ii), which makes (i) the reason for the truth of (ii). A. claims that

> the dead *are* wretched because they *are not at all.*

[24] See, e.g., *Tusc.* 1.43–47.

The principal concern is that this explanation involves a simple contradiction. It asserts that the dead are and that they are not. A. claims he does not want to say that those who are not are, but M. insists that he must at least imply this, because, as he puts it:

> For they ought *to be* if they *are* wretched (*sint enim opportet si miseri sunt*).

This assertion that nonexistence is incompatible with being wretched—or with having any state of well-being, as a matter of fact, whether positive or negative—is, of course, the central premise of the famous Epicurean argument that death is nothing to us because 'when it is we are not; when we are, it is not' (*Ep. Men.* 125). A. seems perversely to have accepted the Epicurean view that death is indeed annihilation but to have drawn precisely the opposite conclusion from theirs. M. reasonably objects, again in a dialectical fashion, that in order to *be wretched* someone needs to *be*. M. is clearly no Epicurean, but he does think that at least on this point the Epicureans are consistent (albeit mistaken about the nature of death) in a way that A. is not. This reaction prompts A. to clarify his view once again. What he thinks is *really* wretched is not to be once you have been. So death is bad, we might extrapolate, precisely because it is some kind of loss—indeed it is the loss of being at all. It is bad to be dead because then you *have stopped being* and it is bad to be mortal because *you will necessarily stop being.* We might say that A.'s view is a kind of deprivation account of the harm of death, but a very peculiar kind, for he does not account for the harm of death in terms of the ending of a life depriving a person of various goods (pleasures, positive experiences, for example), which that person would have enjoyed had they lived longer. Rather, for A., death is a harm because it deprives a person of being alive, indeed of being *tout court*.[25] This last point makes clear why A. never claimed that the unborn are *miseri* also. It is not simple not being that is bad (and that is the point of M's question here), but rather it is bad to lose existence (either to have lost it or to be about to lose it). As the unborn have not yet been, then they are not *miseri* because they do not yet have what it is bad to lose. (As we saw, M. must have suspected this earlier, because he was very careful in his initial summary of A.'s position in section 9 to reflect this important detail.)[26]

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[25] For a modern expression of a similar thought, see Barbara Baum Levenbook, "Harming someone after his death," *Ethics* 94 (1984), 407-419, at 413, although she is interested in offering an account that might distinguish the harm of murder from posthumous harm more generally. A. has nothing to say about murder.

[26] A.'s brand of pessimism also ought to be contrasted with, for example, the view of David Benatar, *Better never to have been. The harm of coming into existence* (New York: Oxford University Press, 2006), that it is harmful to come into existence, and its ancient relative, the view of Hegesias the Cyrenaic, reported at Diog. Laert. 2.93–95. Both of these views draw their conclusions from the thought that life is generally more painful than pleasant and contains more harm than good. For A., it seems that a person's life could be good in all sorts of ways, but the person is wretched nevertheless simply because of their impending nonexistence.

In his treatment of A.'s position, M. relies on a 'symmetry principle' (the notion that prenatal and postmortem periods of nonexistence are relevantly similar and are certainly similar in terms of their value). I call it a 'symmetry principle' because of Lucretius' most famous use of it at *DRN* 3.972–7 (cf. 3.832–842) where he imagines Nature holding up a mirror to demonstrate that prenatal nonexistence is a reflection of postmortem nonexistence. In its general form, this is a familiar tactic used often in Epicurean sources as a supplementary argument for the thesis that postmortem nonexistence will not be a harm on the grounds that no one would say that prenatal nonexistence was a harm. M.'s use, however, is the reverse of the famous Epicurean example. The Epicureans insist that it is true that prenatal nonexistence was not a loss and was not bad, and therefore that the relevantly similar postmortem nonexistence will not be bad and will not be a loss. Of course, if the two periods of nonexistence are symmetrical, we ought to assert the same things about the value of both. The Epicureans take both periods to be absences of harm. A., on the other hand, has asserted that postmortem nonexistence is a harm, but wants to resist the idea that this holds for prenatal nonexistence also. A. is implicitly denying the symmetry principle, and M.'s questioning has now revealed his commitment to (iii). This asymmetry is revealed most clearly when M. asks A. why, if postmortem nonexistence is bad, the similar prenatal nonexistence is not also bad.[27] For his part, he is sure that his own prenatal nonexistence *was not bad.* (Note, however, that the point is not that he is not now pained by the thought that he was deprived of time before he was born; rather, his point is that he cannot remember the time before he was born being a time when he was wretched. He was not wretched then. So the thought here conforms to the standard form of the Epicurean symmetry argument.)[28]

It is now much clearer that A. is not asserting that nonexistence per se is an evil. [29] Rather, his concern about death is driven by a concern that it involves a loss, namely the loss of existence itself; these people are wretched because they are not, although they once were (*quia non sint, cum fuerint, eo miseros esse*). (Presumably, therefore, because A. thinks that all the dead are wretched, he must also think that life is good, or that life is a sufficient condition for some goods; he does not appear to allow there to be anyone for whom death is better than continued life, since for such a person,

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[27] For other examples of this 'reverse' symmetry argument, which takes the premise that death is an evil and infers that prenatal nonexistence is also an evil, see Seneca *Cons. ad Marc.* 19.5: "If anyone pities the dead then he ought also to pity the unborn," and A. Schopenhauer, *The world as will and representation*, vol. 2, trans. E. F. J. Payne (Toronto: Dover, 1966), 466.

[28] For more details, see Warren, *Facing Death*, 57–75.

[29] Gildenhard, *Paideia Romana*, 209, refers to A.'s "sweeping, indiscriminate, and unreflected pessimism." Although it is true that for A. all living people are wretched, along with the dead, his attitude to the unborn strikes me as revealing a more considered—if certainly pessimistic—position.

no longer being—although they once were—might not be a harm.) Of course, this proposed explanation will not itself help A. terribly much, above all because of what he chooses to say has been lost and therefore constitutes the harm of death and mortality. Indeed, there are two problems he must face. The first problem is common to a number of positions related to but not identical with A.'s own. Any account of the harm of death as a kind of deprivation that accepts no postmortem existence will have to come up with some account of loss that does not require the subject of the loss to persist after death. A.'s problem is in some ways much worse because he has chosen to say that it is the very loss of existence itself (rather than, for example, the goods that we might enjoy during life)[30] that constitutes the harm of death.

Nevertheless, the overall distinction that A. wishes to draw is not difficult to grasp. In his view, it is a harm to be deprived of a life one once had, and it is therefore also harmful to be alive and subject to the imminent deprivation of a life one currently possesses. In this respect, both the dead and the currently living are harmed in a way that sets them apart from the as-yet-unborn. Since the as-yet-unborn have not yet held the possession of life, they cannot be harmed by its present or future loss. Of course, this talk about the 'as-yet-unborn' may be potentially confusing and therefore deserves some extra thought. Two models might be outlined for thinking about the as-yet-unborn. In the first, the as-yet-unborn are like the gallery or future glorious Romans shown to Aeneas in the Underworld at Virgil *Aeneid* 6.756–892.[31] These are recognisable individuals, waiting to be born and live out their destined lives. If we think in this way, then in talking about the as-yet-unborn, we are acting like someone in 200 BC referring, for example, to the as-yet-unborn Cicero: a definite person who will in fact later come to be. In that case, it might be hard to see why Cicero would not be *miser* even in 200 BC since at that time Cicero does not exist, and all that is in store for him in the future is that he will be born and then will die. If A. is prepared to say that someone is *miser* if he *will die*, then this would seem also to apply to the as-yet-unborn Cicero. Indeed, however far back in time you go, the as-yet-unborn Cicero will have been wretched, just as M. points out it is true even on A.'s preferred asymmetrical account that once born, a person will be forever wretched in the future. It is hard to see how A.'s distinction can be sustained on this model of thinking about the as-yet-unborn.[32]

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[30] See, e.g., Lucr. *DRN* 3.894–903.

[31] Compare also Lucr. *DRN* 3.776–83 where he mocks the idea of immortal souls waiting—either queuing patiently or fighting among themselves—to be embodied.

[32] Indeed, for those thinkers who do not think the living are wretched but who think that nonexistence (whether postmortem or prenatal) is a harm, then the as-yet-unborn thought of in this way might also pose a problem. Should we be trying to hurry them into existence as soon as possible (provided we do not thereby shorten their overall life expectancy)? Compare Lucretius *DRN* 5.174–80 for the argument that it is no harm never to come to be (and therefore there is no reason to think that god benefits us by allowing us to be born). Cf. D. N. Sedley, *Creationism and its critics in antiquity* (Berkeley, CA: University of California Press, 2007), 146–147.

In order for A.'s attempted distinction to stand any chance, there must be an alternative way to think of the as-yet-unborn. On this model, we do not conceive of the as-yet-unborn as people so to speak waiting to be born, live, and then die. Perhaps the talk of them being 'not yet' born—as M. does here (*nondum nati*)—encourages this way of thinking but, if so, that should be resisted. Instead, it is important for A. to insist that the unborn are unlike the dead in important ways. Roughly, the dead and the unborn both *are not*. But the dead *have been*. We might think that the unborn similarly *will be*, but that thought is potentially misleading. The unborn are not waiting to be; existence begins at birth, but before then there is no as-yet-unborn person to refer to. The crucial distinction between this view and what we might call the '*Aeneid* model' of thinking about the as-yet-unborn is as follows: We can talk about the dead in definite terms; we can refer to distinct persons. But we cannot do that for the unborn; insofar as we can refer to them at all, we do so only in general descriptive terms (my first grandchild…). Perhaps we might even object that the *Aeneid* model is only attractive when the as-yet-unborn are considered in retrospect (precisely the complicated effect produced by Virgil writing Roman history in the form of an ancient prophecy); only when Cicero has come to be might we consider it possible to wonder about his status in the period before the birth of the as-yet-unborn Cicero.

Without wanting to settle the question definitively, we might say that there are prima facie good reasons to think there is a genuine metaphysical distinction between the two that would ground A's evaluative distinction between the as-yet-unborn and the dead.[33] There are various ways in which we might characterise this distinction. Those philosophers who have been interested in denying the Epicurean symmetry argument but retaining the idea of death as a potentially harmful nonexistence sometimes offer an argument along the following lines: Earlier death is a loss because it deprives us of *goods we would have enjoyed had we died later*, but later birth is not a similar deprivation of *goods we would have enjoyed had we been born earlier* because it is senseless to think it possible for the same person to be born earlier than he/she was, although it is quite possible to think of the same person dying later than he/she will. Being born at a particular time is in this way essential to our being who we are, but dying at a particular time is not. (There are various ways of explaining this difference, based on different conceptions of what the conditions are for someone's being the particular person they are. These conditions may be biological, psychological,

[33] Cf. P. Benn, "Morality, the unborn, and the open future" in R. Le Poidevin, ed., *Questions of time and tense* (Oxford, UK: Oxford University Press, 1998), 207-219, at 208–210: "I suspect that the fact that the dead can be specifically referred to contains the beginnings of an answer to Epicurus." But R. Nozick, *Philosophical explanations* (Cambridge, MA: Belknap/Harvard University Press, 1981), 645, n.6, wonders if the unborn are worse off than the dead precisely because they cannot even be referred to.

or some combination. For our purposes, however, this particular debate can be left aside.)[34]

Whatever the likely success of the various accounts that might be given to justify a distinction between prenatal and postmortem nonexistence, the central tension in A.'s view remains. M. takes him to be inconsistent in his primary assertion that the dead (*qui non sunt*) are wretched, because he seems to be saying that something both is and is not.[35] A. tries to respond by clearing his expression of the troubling verb 'to be,' giving only subject-predicate and leaving out the verb to be (*esse*). Latin can do this without too much of a strain, as the verb to be is often omitted and simply taken to be understood and supplied by the reader or listener. But M. is having none of this and rightly so. The problem A. faces cannot be avoided simply with the omission of a troubling verb from a given statement. It is not a linguistic problem. The problem, rather, is a logical one, and therefore M. proceeds to give a brief, elementary logic revision class.

The terminology he uses is, broadly speaking, taken from the Stoic propositional logic of the Hellenistic period, but the point M. needs is very simple. In brief, he simply points out that every assertion (here Cicero tentatively offers *pronuntiatum* as a translation of the Greek term *axiōma* but says that he will find a better equivalent later if he can)[36] must take a certain form in order to be either true or false. In order to be a complete assertion, it must take the basic form 'X *is* F', because only then will it have a content that can be evaluated for its truth or falsehood.[37] So 'wretched Crassus' (*Crassus miser*) must mean 'Crassus *is* wretched' if it is to be an assertion at all. And as A. wishes this assertion to be true, whether or not he expresses the required part of the verb to be is irrelevant; it must be understood, even if it is not explicitly included. Strictly speaking, Cicero need not commit himself at

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[34] The now classic treatment of the question in T. Nagel, 'Death' in his *Mortal questions* (Cambridge, UK: Cambridge University Press, 1979), 1-10, at 8–9, remains rather tentative (see esp. 8 n.3). For a version of the distinction based on psychological conditions for personal identity, see F. Kaufman, "Death and Deprivation; Or, Why Lucretius' Symmetry Argument Fails," *Australasian Journal of Philosophy* 74 (1996), 305–312; and "Pre-vital and post-mortem nonexistence," *American Philosophical Quarterly* 36 (1999), 1–19.

[35] More recent discussion of the harm of death tends to agree that the dead do not exist. For an interesting exception, see P. Yourgrau "The dead" in J. M. Fischer, ed., *The metaphysics of death* (Palo Alto, CA: Stanford University Press, 1993), 135–156; and "Can the dead really be buried?" in P. French and H. K. Wettstein, eds., *Life and death: metaphysics and ethics. Midwest studies in philosophy* 24 (2000), 46–68, who argue that the dead "are" but do not exist.

[36] On Cicero's use and avoidance of Greek here, see also below p. 64. In his *De Fato* 1, written just the next year, Cicero offers *enuntiatio* as a Latin translation of the Greek *axiōma*.

[37] Some philosophers, notably Aristotle and the Epicureans, maintain that certain propositions, namely future-tensed contingent propositions, are neither true nor false. They appear to have been led to this view in fear of determinist consequences that might otherwise threaten. Cicero is well aware of this—to his mind, perverse—view (see esp. Cic. *De Fato* 18–19), but rightly thinks it need not be mentioned here.

this point to any position about the necessity for every proposition to be either true or false—a position that, as he knows well enough himself, was in fact denied by the Epicureans.[38] Since the point he has in his sights is just that A. wishes to hold that the assertion 'Crassus is wretched' (and what he takes to be a more innocent equivalent, 'wretched Crassus') is true, then it would be enough for M. simply to insist that a necessary condition for the truth of any assertion is that it is of the general form '*X is* F'. However M. characterises his objection, it is true that A's tactic of simply omitting the offending word is not very promising. What matters is not that his sentence includes a form of *esse* but that he is asserting that something is true of the dead while saying that the dead do not exist.

We ought to notice that because A. has opted for a rather radical account of the nature of the harm of death—that it is the loss of existence itself—this makes his account even more susceptible to the sort of concern here voiced by Cicero than some of the more recent accounts of the harm of death that similarly think of it as a form of deprivation. For example, it is possible to account for the harm of death by saying it should be conceived in comparative and counterfactual terms: A person is harmed by death just when the life they do in fact live is worse in comparison with the (longer) one they would have lived had they died later than they did. The harm, in this case, is the difference between the comparatively smaller amount of goods of life in the actual life when compared with the greater amount of goods in some possible alternative life.[39] It is difficult, however, to see how an analogous account would work for A.'s preferred explanation of the harm. One might imagine that it would be better to live longer simply because it somehow postpones or decreases the amount of harm suffered in the postmortem period of nonexistence. However, as A. appears to imagine that this period will be everlasting, there would be no sense in saying that dying a year later, for example, would lessen the extent of the period after death. There is also no suggestion, for example, that a longer life is in A.'s view in some other way less harmed than a shorter life. Indeed, because A. asserts that the harm of death, coupled with the necessity of death, in fact makes one harmed even during life, it is difficult to see how any life might be in this respect any better or worse than any other.

Elsewhere in the first book of the *Tusculans*, M. does turn to what is signaled as a position different from that outlined by A., which is more akin to the common account of the harmful deprivation caused by death. Yet even here there are some interesting and surprising aspects to the discussion that will warrant a brief

[38] See Cic. *Acad.* 2.97, *Nat. deorum* 1.70, *Fat.* 37.

[39] See, e.g., Fred Feldman, *Confrontations with the reaper. A philosophical study of the nature and value of death* (Oxford, UK: Oxford University Press, 1992), 127–156.

excursion into these later parts of the book. M. concedes for the sake of argument at 1.87 that death does deprive someone of various goods, but then asks: "But should it also be conceded that the dead 'go without' (*carere*) the benefits of life and that this is what is wretched?" The subsequent discussion in 1.87–88 rejects this possibility on the grounds of an analysis of the meaning of the verb *carere* ('to be without').[40] M. places two conditions on the appropriate use of the verb. First, he requires that some possessor be present who first has and then lacks the particular item in question. For this reason, it is inappropriate to say, for example, that living humans 'go without' horns of feathers. Second, and surprisingly, M. also insists that the subject should in some sense wish still to possess the lost item.[41] Hence, he explains, it would be using the word in a different sense (*alio modo*) to say that someone 'goes without' a fever when they recover from an illness. Most generally, the relevant sense of the verb is understood to have a 'melancholy' (*triste*) air, because it implies that someone 'had, has not, desires, searches for, wants.'[42] It is hard to avoid the conclusion that whatever the precise and proper sense of this particular Latin verb, M.'s account has introduced a further complication that is not absolutely required by his argument. Certainly, the insistence that there must be both some awareness of the loss in question and also a negative evaluation of that loss seems to narrow the possible scope of his argument to those accounts that agree that all harms must be noticed and registered by the subject as somehow harmful. A more generally applicable argument would require only that some subject persists both before and after the supposed loss and would not require in addition that the subject somehow recognises the loss and finds it harmful. Why has M. offered what looks to be a less effective argument? Most likely, he wants to attempt an argument that will be relevant for both those who think that the soul perishes at death and those who think that it persists. Certainly, at 1.88, he remarks that it has not yet been demonstrated that the soul is mortal. In that case, the additional requirement that there be some desire for what has been lost will allow M. to say that, even if our souls persist after death, they do not 'feel the need for' the goods of life; these are either no longer the sort of things that are appropriate for them to desire (just as it is senseless for a human to 'feel the need of' horns) or, even if they could desire them, they are in such a better state now they are incarnate that they will feel no residual impulse to possess what they have

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[40] See the entry in the *Oxford Latin Dictionary*, s.v. 1b, particularly for the use of the verb in periphrastic expressions meaning 'to die', e.g., *carere* + *vita* (life), + *luce* (light), + *sensu* (sensation).

[41] King's translation in the Loeb Classical Library has 'feel the need of' for *carere* throughout this section. Since M. thinks it important to explain that this is the proper connotation of the word, King is probably right that this is the sense M. has in mind, but a more neutral translation (e.g., 'go without') would make the later explicit clarification more warranted.

[42] 1.87: *habuit, non habet, desiderat, requirit, indiget.*

lost. Of course, should it turn out that souls are mortal, then it will equally be the case that the dead will not 'feel the need of' the goods of life; they do not 'feel the need of' anything since they lack all sensation.

Such a train of thought leads us next to the worry of *when* the evil of death occurs. It is indeed hard to think that death is bad when one is dead if you think that the dead do not exist. So some other account is needed; perhaps the 'is' (*est*) here must be reinterpreted in a way that will make the claim of the harm done to Crassus more comprehensible. Again, the various possibilities for such reinterpretation are relatively familiar, but can be outlined in the following broad terms. Perhaps A. should try to assert one of the following:

1. Crassus is (eternally) wretched, because there is some time when he does not exist subsequent to a time when he does exist.

Here the 'is' is interpreted tenselessly as asserting a relationship that obtains eternally.[43]

2. Crassus is wretched because he dies, but there is 'no particular time' at which he is wretched.

This approach, suggested by Thomas Nagel, insists that we should not be drawn into the game of finding a temporal location for death's harm. The Epicurean insistence that we should do so is a red herring and might distract us from the proper account of the matter at hand.[44]

3. 'Crassus is wretched' is a—perhaps misleading—way of saying that Crassus *was wretched when he did exist* because his existence was merely temporary.

This locates the harm of death during a person's life. It is not easy to maintain because it threatens to make the cause of a harm postdate its effects, but there are interesting ways in which this view might be explored further. [45]

There are, of course, familiar further moves that follow the attempt to defend any one of these options. The important thing to notice for present purposes is that A. doesn't even try any of these possibilities. Instead he caves in (*concedo*) on the

[43] See, e.g., Feldman, *Confrontations*, 154.

[44] See Nagel, "Death," 6–7.

[45] I have a longer discussion of this issue, with reference also to Aristotle's treatment of the question, in Warren, *Facing Death*, 46–55.

grounds that the dead would have to *be* in order to *be wretched.* And so the discussion moves to whether it is bad to be mortal, and the rest of the book pursues the theme by considering at greater length the nature of the soul and therefore the proper conception of mortality. Before they move on, however, M. notes that A.'s last assertion is already a significant concession: An infinite time of being wretched has (thankfully) been rejected as they are both now in agreement that it is not bad to be dead. They are now left with another potentially unstable position:

It is not bad to be dead, but it is bad to be going to die.

This is unstable in the sense that now we would need some account of what makes mortality bad that in no way relies on the thesis that being dead is bad. The Epicureans, in their arguments against a variety of senses in which one might fear death, turn this problem to their advantage. They argue that it is senseless to fear in advance something you know is not bad when present. (See Epicurus, *Letter to Menoeceus*, 125.) And since, they argue, death is not bad when present, it follows that it makes no sense to fear it in prospect. As we shall see, M. appears to use some similar line of argument in what follows. Of course, there are other ways to try to maintain the view currently under scrutiny and maintain that mortality is harmful although being dead is not. For example, one might argue that it is bad to think that life may be cut short. In brief, one might have no concerns whatsoever about being dead but nevertheless think it would be bad to die because of the idea that longer lives are, generally speaking or perhaps up to a certain limit, better than shorter lives. This is, in effect, another form of the 'deprivation' account of the harm of death: Death is harmful insofar as it may make a life less good than it otherwise might be, usually by curtailing it, but the subsequent state of nonexistence is not itself harmful.[46] Generally, however, these accounts accept that what is bad is not that one will die but that one might die *too soon.* Only if it were further admitted that it will *always* be the case that, however long one has lived already, a longer life will be better than a shorter life will it follow that mortality per se is harmful. But this is an extreme view; most people will likely agree that on reflection an everlasting life is not in and of itself desirable.[47]

In any case, it is worth noting that even A.'s new position is not novel. It can possibly be traced back to Epicharmus in the fifth century BC, although there is some

[46] M. does, it must be said, look at some of these possibilities as the book continues: cf. 1.91–94 on the length of life. Note the interesting discussion at 1.93 of whether the death of an infant is more or less pitiable than that of a young child. The infant has been robbed of a greater proportion of expected life, but has not yet formed any plans or projects to be thwarted by an early death.

[47] See B. Williams, "The Makropulos case: reflections of the tedium of immortality" in his *Problems of the self* (Cambridge, UK: Cambridge University Press, 1973), 82–100, and the reply by J. M. Fischer, "Why immortality is not so bad," *International journal of philosophical studies* 2 (1999), 257–270.

doubt about his original formulation. M., pointing out once again A.'s lack of originality, renders it as follows:

> §15: *emori nolo sed me esse mortuum nihili aestimo.*
> I do not want to die, but of being dead I think nothing.

M. here stresses that he generally does not like to translate from Greek to Latin or vice versa. He does not, however, cite the original Greek in order to keep his text as purely Latin as possible, presumably in line with the manifesto set out in the introduction.[48] The jibe about A. now adopting a well-worn position is perhaps also worth noting, as this Epicharmus quotation appears to be a favourite piece of evidence for authors keen to undermine Epicurus' much-vaunted claims of originality. Sextus Empiricus, for example, cites this same line at *Adversus Mathematicos* 1.273 to show that the Epicureans made no innovations at all in philosophy, because even their most famous ideas were stolen from earlier poets.[49]

A., who is by now perhaps weary from the close dialectical scrutiny, simply cannot see how to maintain this new position, so he gives that up too. Even this isn't enough for M. and he wants to push him further. In fact, at the close of our passage, §16, he rapidly extorts three major concessions:

(1) The time after death is not bad.
(2) Death (i.e., the moment of losing life) is not bad.
(3) It is not bad that one will die.

Concession (1) was accepted some time ago. Concessions (2) and (3) are now explicitly said to follow from it, relying on the principle we have already seen invoked by the Epicureans (*Ep. Men.* 125) that if a future occurrence is not a harm, nor should it be thought a harm in prospect. We have already seen that there are ways to resist this claim and note that perhaps longer lives are better even if what comes immediately or later after life is not a harm. Perhaps we are to note that potentially difficult ground is being skipped over in summary fashion because A. is allowed to comment that he found the last section rather tricky (*spinosiora*) and needs a bit more explanation before he will commit to its conclusions. That more lengthy explanation of the inference from (1) to (2) and then (3) is not, perhaps fortunately for M., forthcoming. Clearly, M. is trying to press on and

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[48] See Epicharmus DK B11. Diels offered his formulation on the basis of this Cicero text, effectively offering a back translation: ἀποθανεῖν <μὴ εἴ>η, τεθνάκειν δ' οὐκ ἐμίν <γα> διαφέρει.

[49] There is a rebuttal of this accusation at *M* 1.284—which strangely attributes the thought to Sophron, not Epicharmus—that claims that although others may have *said* this earlier, the Epicureans were the first to demonstrate it.

has in his sights some slightly different quarry. In fact, M. wants much more; he wants to persuade A. of the stronger thesis that death is in fact good (not that, say, it is merely indifferent). A. is keen to hear, as he believes that even if M. cannot secure this strong conclusion, it might strengthen his conviction in the weaker one they have already come to. This is the point at which the book changes from the 'Socratic' dialectical style to a longer, unbroken exposition (*continens oratio*), which takes us through to the end.[50] It is nevertheless worth remarking that the transition to this new phase is punctuated by A. still not fully committed and remaining in need of further persuasion, however eagerly he wants to believe the comforting conclusion.

CONCLUSION

Although lengthy in comparison with other 'dialogic' sections in Cicero, it could hardly be claimed that the section of *Tusc.* 1 we have been considering is a leisurely and detailed exploration of what are obviously complex metaphysical problems. On the other hand, there is also good reason to think that this section has been carefully composed with a significant knowledge and a relatively sharp awareness of the central problems to be faced—indeed, which continue to be faced—by someone wishing to deny postmortem survival but asserting the harmfulness of death. It has proven to be relatively easy to use the brief discussion at the opening of *Tusc.* 1 as an introduction to a variety of philosophical disputes that persist even now.

Cicero is clearly aware of the central Epicurean moves and is able to generate his own dialectical situation to give a forum and context for the examination and exposition of the tensions between different themes and common intuitions about death. We ought to infer, in that case, not only that Cicero is a rather sophisticated philosophical writer—indeed, a writer of rather sophisticated philosophical dialogue—when the occasion arises and the topic is appropriate to this more dialectical treatment, but we also ought to take *Tusc.* 1.9–16 as a further sign of a degree of sophistication in treating philosophical ideas that was the result of some 250 years of reflection since the first statement of the Epicurean position (a position that, no doubt, could also trace an ancestry back to earlier sources). The first century BC appears to have witnessed a genuine flourishing of discussions of this topic that was

[50] There are further structural similarities between this transition and Cicero's *De Finibus.* Note *Fin.* 2.17, at which the Epicurean Torquatus begs to be freed from the scrutiny of a dialectical examination of the Epicurean conception of pleasure and requests that Cicero continue his criticisms in a more rhetorical fashion (Cicero asks: *rhetorice nos igitur mavis quam dialectice disputare?*). What follows is described as a *perpetua oratio.* Cf. B. Inwood, "Rhetorica disputatio: the strategy of *De Finibus* II," *Apeiron* 23 (1990), 143–164. Note, however, the different audience in *Tusc.* 1. Unlike Torquatus, A. wants, in some sense, to be persuaded by the speech to come. He is not an antagonist.

perhaps not matched until the 20th century AD. Lucretius may be the best known of these first-century writers, but he ought not to be read without awareness of his own philosophical context and at the neglect of his contemporaries, Cicero in particular.

APPENDIX: TRANSLATION OF CIC. *TUSC.* 1.9–16

A. [1.9] Death seems to me to be bad.
M. To those who are dead or to those who have to die?
A. Both.
M. And it is wretched, therefore, because it is bad.
A. Certainly.
M. So, both those people to whom it has already happened that they should die, and those to whom it is going to happen, are wretched.
A. So it seems to me.
M. So no one is not wretched.
A. No one indeed.
M. And in fact, if you want to be consistent, everyone—those who have been born and those who will have been born—is not only wretched but is also wretched forever. For if you were to call wretched only those who have to die, then you would exempt none of them who is alive (for everyone has to die), but at least then there would be an end of misery in death. But since the dead are also wretched then we are born into an everlasting wretchedness. For it is necessary that even those who died a thousand years ago are wretched; in fact, everyone who ever has been born.
A. That's precisely what I think.
M. [1.10] Tell me: surely you don't get frightened by Cerberus, the three-headed dog in Hades, crossing lake Avernus, Tantalus 'worn out by thirst but touching the surface of the water with his chin'? Or the idea that 'Sisyphus rolls his boulder, striving and sweating, but to no avail'? Or perhaps even the implacable judges Minos and Radamanthus? Not even L. Crassus or M. Antonius could defend you before them nor—since your case is before Greek judges—could you call Demosthenes to speak for you. Your case is for you to plead alone on your behalf, with a huge crowd listening. Well, perhaps you are afraid of this sort of thing and that is why you think death is an everlasting evil.
A. Do you think I'm so stupid as to believe these things?
M. You don't?
A. Not at all.

M. Oh. Well that's a real shame.

A. Why? Tell me.

M. Because I could have been terribly eloquent speaking against such things.

A. [1.11] Who wouldn't, in such a case? And what need is there of refuting the portents of poets and painters?

M. Even so there are lots of books by philosophers speaking against those very things.

A. Foolishly, obviously. For who is so dumb as to be disturbed by them?

M. But if the *dead* are not in the underworld, then there aren't any people in the underworld.

A. That's just what I think.

M. Then where are they, the people you call wretched, and what place do they inhabit? For if they *are*, they can't be nowhere.

A. But I *do* think that they are nowhere.

M. So they *are not* at all?

A. Exactly. And they are nevertheless wretched precisely because of the very fact that they are not at all.

M. [1.12] Now I would prefer you to be afraid of Cerberus than to say something as badly considered as *that*.

A. What?

M. You say that the very same person *is* whom you say *is not*. Where has your sense gone? When you say that he *is* wretched, you also say that the person who is not *is*.

A. I'm not so naïve as to say any such thing.

M. What do you say, then?

A. I say that M. Crassus, for example, is wretched, because in death he lost all his fortune, that Cn. Pompeius is wretched, who has been deprived of such reputation, and that all are wretched who are robbed of life.

M. You're coming back to the same point. For they ought *to be* if they *are* wretched; but only just now you denied that those who are dead *are*. So if they are not then that can't *be* anything, not even wretched.

A. Perhaps I'm not expressing what I think. For this is what I think is most wretched of all: not to *be*, when you *have been*.

M. [1.13] What? More wretched than never to have been at all? So those who have not yet been born, they are now wretched because they are not. And we, if we are going to be wretched after death, were wretched even before we were born. But I certainly don't remember having been wretched before I was born; perhaps you've a better memory than I. I'd like to know, if you have some recollection of it.

A. Now you're poking fun, as if I were calling wretched those who have not been born, rather than calling wretched those who have died.

M. Then you do say that those *are*.

A. No. I say that they are wretched because they are not, although they were.

M. Don't you see you're saying inconsistent things? What is so inconsistent as to think not just that people who are not are wretched, but that they *are* at all? Or, when you go out of the Capena Gate and see the tombs of Calatinus, the Scipios, the Servilii and Metelli, do you think them wretched?

A. You're pushing me on this word…so, from now on, I'll not say they '*are* wretched', but just say 'wretched' because of the very fact that they are not.

M. So you're not saying 'M. Crassus is wretched', but just 'wretched M. Crassus'?

A. Right.

M. [1.14] As though it weren't necessary for whatever you state in that way either to be or not to be! Or are you entirely innocent of logic? For among the very basics this is declared: every proposition—well, that's what for now I think I shall call what is in Greek an *axiōma*; I'll use something else later if I come up with a better translation—well, a proposition is that which is either true or false. So when you say, 'Wretched M. Crassus', either you're saying 'Crassus is wretched', so that it can be determined whether this is true of false, or you're saying nothing at all.

A. Come on, then. Now I grant that those who are dead are not wretched, since you have forced it out of me that I say that those who do not exist at all cannot even be wretched. So what? We who are alive, since we have to die, are we not wretched? What joy can there be in life when day and night we have to think on the fact that any day now we have to die?

M. [1.15] But do you then understand how much evil you have discarded from the human condition?

A. How?

M. Because if death were wretched to the dead as well, then we would have an infinite and ever-lasting evil in life; but now I see the end-point and when we have made it to that then there is nothing further to fear. But you seem to me to be in agreement with the view of Epicharmus, that sharp and serious Sicilian.

A. What view? I don't know it.

M. I'll tell you in Latin, if I can, since you know I'm no more accustomed to relating something Greek in Latin than something Latin in Greek.

A. And rightly so. But what is this view of Epicharmus?

M. 'I do not want to die, but of being dead I think nothing.'

A. Oh. Now I recognise the Greek. But since you forced me to agree that the dead are not wretched, go on—if you can—and finish the job so I think that it is not wretched even to have to die.

M. [1.16] Even that is no great task. But I prefer something greater.

A. How is that no great task? And what greater things?

M. Since there is nothing evil after death, then not even death is an evil since the very adjacent time to it is the time after death which you agree contains nothing evil. For that reason, it is not even something evil to have to die; for that is just to arrive at something which we agree is not evil.

A. I want that in more detail. What you're saying is a bit too thorny and makes me agree before I can properly assent. But what are these greater things you say you prefer?

M. To show you, if I can, not only that death is not an evil but also that it is something good.

A. I don't even ask for that—but I'd love to hear it. Even if you don't manage what you're aiming for, then at least you'll manage to show that death is not an evil. But I won't interrupt you. I prefer to hear a continuous speech. . . .

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4

Epicurus on the Value of Death

Kai Draper

EPICURUS ARGUED THAT it is irrational to be troubled by one's own mortality. His aim was practical: He thought that one could overcome the fear of death by understanding why there is nothing in death to fear. Although often misunderstood, his basic position is simple. As a hedonist, he held that only pain is intrinsically bad. As a materialist atomist, he held that one's existence comes to a permanent end with death. Because he also believed that the effects of death do not precede their cause, he inferred that neither death nor its effects can be intrinsically bad for the one who dies, and on that basis, he claimed that it is irrational to be disturbed by one's own death. I am not a hedonist, but I agree with Epicurus' intermediate conclusion that there is nothing intrinsically bad to be found in death or in its consequences. Accordingly, I believe that an adequate critique of Epicurus' position on death must contest his inference from that conclusion to his final conclusion that it is irrational to be troubled by death.

As I have formulated it, that final conclusion is ambiguous. It can be understood as the claim that one ought, rationally, to avoid being troubled by death; or it can be understood as the claim that there is nothing in the nature of death (or death's consequences) that merits being troubled. It appears that Epicurus drew both conclusions. Epicurus identified happiness as the end (i.e., as the only ultimate object of rational pursuit) and the fear of death as an obstacle to achieving that end. Thus, he believed that one ought, rationally, to overcome the fear of death. He also argued that death is "nothing to us" and on that basis concluded that death does not merit fear:

> Hence, a correct knowledge of the fact that death is nothing to us makes the mortality of life a matter for contentment, not by adding a limitless time [to life], but by removing the longing for immortality. For there is nothing fearful in life for the one who has grasped that there is nothing fearful in the absence of life.[1]

Happiness is the end, and equanimity toward death is the means to that end. The means to that equanimity, in turn, is the assurance that death merits equanimity.

My interest here is Epicurus' argument to the conclusion that death merits equanimity, specifically, that it does not merit fear or dread or sadness or disappointment or some other sort of emotional distress. Although Epicurus has many contemporary critics, I believe that few of them have actually addressed that argument. The contemporary philosophical literature on the value of death is dominated by those who argue that death can be bad for its subject in virtue of depriving her of the benefits of survival.[2] The standard "deprivationist" response to Epicurus is to argue that even though neither death nor its consequences can be painful, death can deprive one of a pleasurable future and so (even on the assumption that hedonism is true) can be bad in the comparative sense of being worse than the alternative. What many deprivationists overlook, however, is that their conclusions do not by themselves undermine Epicurus' position. Epicurus did not deny that death can deprive its subject of pleasure, nor did he deny that death can be comparatively bad. He argued that because neither death nor its consequences can be intrinsically bad in the absolute (i.e., non-comparative) sense of "bad," death does not merit emotional distress.

It is not surprising that many contemporary critics of Epicurus misconstrue his position, for there are passages in his writings that *seem* to commit him to the conclusion that death cannot be comparatively bad. In his letter to Menoeceus, Epicurus proposed that "just as [the wise man] does not unconditionally choose the largest amount of food but the most pleasant food, so he savours not the longest time but the most pleasant."[3] Moreover, his "Principle Doctrines" include:

> XIX. Unlimited time and limited time contain equal [amounts] of pleasure, if one measures its limits by reasoning.

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[1] Epicurus, *Letter to Menoeceus*, in *The Epicurus Reader*, trans. and ed. Brad Inwood and L. P. Gerson (Indianapolis, IN: Hackett, 1994), 29.

[2] E.g., Thomas Nagel, "Death," in Thomas Nagel, *Mortal Questions* (New York: Cambridge University Press, 1979), 1–10; Fred Feldman, *Confrontations with the Reaper* (New York: Oxford University Press, 1992); William Grey, "Epicurus and the Harm of Death," *Australasian Journal of Philosophy* 77 (1999), 358–364; Ben Bradley, "When Is Death Bad for the One Who Dies?" *Noûs* 38 (2004), 1–28.

[3] Epicurus, *Letter to Menoeceus*, 29.

> XX. The flesh took the limits of pleasure to be unlimited, and [only] an unlimited time would have provided it. But the intellect, reasoning out the goal and limit of the flesh and dissolving the fears of eternity, provided us with the perfect way of life and had no further need of unlimited time. But it [the intellect] did not flee pleasure, and even when circumstances caused an exit from life it did not die as though it were lacking any aspect of the best life.[4]

Such passages can be read as suggesting that only quality of life matters, but even if that is the correct reading, it does not follow that Epicurus was committed to denying that death can be comparatively bad, for there can be circumstances in which survival is the means to a *qualitatively* superior life. Indeed, Epicurus was committed to the proposition that a death that prevents its subject from acquiring wisdom might well deprive that individual of the "perfect way of life."

There is, however, another possible basis for supposing that Epicurus held that death cannot be comparatively bad; for it might be supposed that he affirmed, or was committed to affirming, that because there is no time at which death can be comparatively bad for its subject, death cannot be comparatively bad for its subject. Epicurus famously argued that "death is nothing to us" on the grounds that "when we exist, death is not yet present; and when death is present, then we do not exist."[5] It is uncharitable, however, to suppose that Epicurus was arguing that because death cannot be comparatively bad for us "when we are" and cannot be comparatively bad for us "when death is," there is no time at which death can be comparatively bad for us and hence death cannot be comparatively bad for us. For it is quite obvious that an event or state of affairs can be comparatively bad for someone without being so at any specific time. To be comparatively bad for an individual I, a state of affairs S must be worse for I than the absence of S. This means that (relative to the absence of S) the costs to I of S exceed any benefits for I that S might have. (Negative benefits and negative costs count too. Thus, for the hedonist, the denial of pleasure no less than the infliction of pain would count as a cost in the relevant sense, and the prevention of pain no less than the bestowal of pleasure would count as a benefit.) It does not even make sense, however, to ask for the time at which the costs of a state of affairs exceed its benefits. In the case of most states of affairs, the relevant costs and benefits are not simultaneous, and so asking for the time at which the state of affairs is comparatively good or bad is like asking for the time at which the amount of water I drank yesterday exceeds the amount of wine I drank today. In the case of the negative benefits and costs of death, one can sensibly ask when the subject of

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[4] Epicurus, "Principle Doctrines," in *The Epicurus Reader*, 33–34.

[5] Epicurus, *Letter to Menoeceus*, 29.

death would have experienced the pleasures and pains that his death denies to him, but one cannot sensibly ask for the time at which the cost of being denied those pleasures exceeds the benefit of being denied those pains.

It is both more charitable and more reasonable, then, to suppose that Epicurus was arguing that because there is no time at which death can have any impact on its subject, death cannot be bad for the one who dies in the absolute sense of "bad." Spelled out in hedonistic terms, the argument is this: Only unhappiness has absolute intrinsic disvalue. Thus, death should not trouble us, for there is no time at which it can make us unhappy. It cannot make us unhappy prior to its arrival (for that would involve backward causation), and once it arrives, our nonexistence precludes our unhappiness.

I find no textual basis, then, to attribute to Epicurus the view that death cannot be comparatively bad. Moreover, to do so is to needlessly expose him to the charge, leveled against him by some of his critics, that he was committed to the absurd view that no one has any reason to avoid death.[6] On the other hand, if he is understood as having accepted the possibility of a comparatively bad death, then we can conclude that he was committed to the commonsense belief that if it would be to one's advantage to survive, then one has a good reason to avoid death if one can. This more charitable interpretation is also supported by Epicurus' remark that "[h]e who advises the young man to live well and the old man to die well is simple-minded, not just because of the pleasing aspects of life but because the same kind of practice produces a good life and a good death."[7] Presumably, if life is desirable, and this is why it is foolish to advise the old man to die well, then death is to be avoided. I concede, however, that there is a tension between Epicurus' unqualified claim that "life is desirable" and passages in his writings, such as those quoted above, in which he seems to suggest that for the individual who has achieved the perfect way of life, there is no advantage to survival.

What Epicurus clearly did affirm is that death cannot be bad for its subject in the absolute sense of "bad." In his letter to Menoeceus, he argued that because "everything good and bad [lies] in perception," and death is the "deprivation of perception," death is "nothing to us."[8] Notice that although the absence of pain is comparatively good and the absence of pleasure is comparatively bad, such absences are not "in perception" and hence, according to Epicurus, are neither good nor bad. This exclusion of negative goods and evils from "everything good and bad" makes perfect sense if we assume that Epicurus was using "good" and "bad" in the absolute sense of those

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[6] E.g., James Warren, *Facing Death: Epicurus and His Critics* (New York: Oxford University Press, 2004).

[7] Epicurus, *Letter to Menoeceus*, 29.

[8] This is my translation.

terms. For if hedonism is true, then although the absence of pain and the absence of pleasure are comparatively good and bad, respectively, such absences have neither absolute intrinsic value nor absolute intrinsic disvalue.

This understanding of Epicurus receives further support from the fact that other ancient Greek philosophers interested in the nature of "the good" clearly focused on the question of what is intrinsically good in the absolute sense of "good." The question for philosophers such as Aristotle and Plato was whether pleasure, or knowledge, or virtue, or something else is "the good." Neither of those two philosophers proposed that the good includes the mere absence of pain, or of false opinions, or of vice, or of something else, and this in spite of the fact that if, for example, pain is intrinsically bad in the *absolute* sense of "bad," then the absence of pain must be intrinsically good in the *comparative* sense of "good."

It might be objected that even if Epicurus used the terms "good" and "bad" to refer to things that are intrinsically good or bad in the absolute sense of those terms, he surely recognized that some things are instrumentally good or bad, and so presumably he denied that death can be instrumentally bad. Thus, inasmuch as critics such as Feldman and Bradley (1998) argue that the notion of "instrumental value" is comparative in nature, and hence that death can be instrumentally bad for the one who dies, they threaten Epicurus' position on death.[9]

Just as there is a comparative notion of intrinsic value, there is a comparative notion of instrumental (and, more broadly, extrinsic) value, and Feldman and Bradley have helped to elucidate that notion. However, I see no reason to suppose that Epicurus was interested in denying that death can be instrumentally bad in that comparative sense. Again, he believed that he could reach his final conclusion that there is no reason to be troubled by death by establishing that neither death itself nor its consequences can be intrinsically bad in the absolute sense of "bad." Moreover, it appears that Epicurus himself was committed to the proposition that death can be instrumentally bad in the comparative sense (i.e., that the consequences of survival can be better than the consequences of death), for he held both that the consequences of death are neither good nor bad for the one who dies and that the consequences of survival can be good for the one who survives ("life is desirable").

Nor can one justly accuse Epicurus of misunderstanding the nature or significance of instrumental value. He certainly thought that one's overall assessment of a choice or state of affairs must take into account both the value of that state of affairs itself and the value of its consequences. Thus, he urged his followers to consider the consequences of their choices, pointing out that we should avoid pleasures "if we get

[9] Feldman, *Confrontations with the Reaper*; Ben Bradley, "Extrinsic Value," *Philosophical Studies* 91 (1998), 109–126.

a larger amount of what is uncongenial from them," and we should pursue pains if "a greater pleasure follows for a long while if we endure the pains."[10] He did not, however, use the terms "good" and "bad" in a comparative sense to capture the fact that, for example, avoiding a pleasure can have better consequences than pursuing it and avoiding a pain can have worse consequences than enduring it. Nor was there any reason for him to do so, for "better" and "worse" are adequate to that purpose.

Still, Bradley argues that those who adopt an absolute notion of instrumental value are getting instrumental value wrong, and one might wonder whether Epicurus might be vulnerable to such a criticism. Bradley writes:

> Even more surprising is the fact that the notion of instrumental value remains misunderstood. Pojman claims that something is instrumentally good only if it is a means to something that is intrinsically good (Pojman 85); Richard Brandt claims that something is instrumentally good only if its expected results are intrinsically good (Brandt 303). Hospers writes: "The first kind of good is called *instrumental* good because the goodness or worthwhileness of these things lies in their being instruments towards the attainment of the other things which are considered good not merely as instruments" (Hospers 104–105, emphasis his). This view of instrumental value is so widely held that Gilbert Harman includes it as part of the "standard account" of intrinsic and instrumental value (Harman 796).
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> Yet it has been noted that something might be instrumentally good in virtue of causally contributing to *preventing* something intrinsically evil.[11]

After noting that Bentham and Mill recognized that something can be good in virtue of preventing evil rather than producing good, Bradley concludes that "any correct analysis of the concept of instrumental value must account for prevention value"; and this leads him to adopt a comparative analysis of instrumental value.[12]

Are all of Bradley's cited contemporaries simply overlooking the obvious? I suspect not. At the very least, it is more charitable to suppose that they are proposing an account of absolute instrumental goodness rather than comparative instrumental goodness. Something is instrumentally good in the absolute sense of "good" only if its consequences are intrinsically good in the absolute sense of good. Prevention

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[10] Epicurus, *Letter to Menoeceus*, 30.

[11] Bradley, "Extrinsic Value," 110. Bradley here cites L. Pojman, *Moral Philosophy: A Reader* (Indianapolis: Hacket, 1993); R. Brandt, *Ethical Theory: The Problems of Normative and Critical Ethics* (Englewood Cliffs, NJ: Prentice-Hall, 1959); J. Hospers, *Human Conduct* (New York: Harcourt, Brace, & World, 1961); G. Harman, "Toward a Theory of Intrinsic Value," *The Journal of Philosophy* 64 (1967), 792–804.

[12] Bradley "Extrinsic Value," 111.

value plays no role in such an account precisely because the mere prevention of something intrinsically bad (in the absolute sense of "bad") is no guarantee of the production of something intrinsically good. Preventing pain, for example, need not lead to pleasure.[13]

Is it peculiar to deny that preventing something intrinsically bad in the absolute sense of "bad" is good? It is peculiar if by "good" one means "comparatively good," but not if one means "absolutely good." Nor does the comparative notion always capture ordinary usage. It would be rather odd to say, for example, that the judge who sentences me to five years in prison has done something good for me simply by virtue of the fact that, had he not sentenced me to five years, he would have sentenced me to ten years instead. Thus, it is appears that Bradley cannot justifiably saddle his contemporary targets with a mistaken understanding of instrumental value, and I see no basis at all for supposing that Epicurus was guilty of such a mistake.[14]

In concluding that death is not an evil, then, Epicurus was not denying that it can be *better* to survive than to die; rather he was claiming that neither death nor its consequences can be intrinsically bad (in the absolute sense of "bad") for the one who dies. That claim is, I think, quite plausible. Of course, Epicurus' argument ultimately rests on hedonism, and few can stomach the consequences of that doctrine. Nevertheless, one needn't be a hedonist to agree with Epicurus that "everything good and bad lies in perception," and if Epicurus was right about that, then he can reach his intermediate conclusion without relying on hedonism. Moreover, although many[15] are inclined to think that there can be evils that do not lie in perception, the crucial question is whether those evils include either death itself or something that can be a consequence of death. I am inclined to think that, for example, moral virtue is an absolute (intrinsic) good and moral vice an absolute evil, and I am open to the possibility that neither requires perception; but death cannot cause someone to be morally vicious, and so I can still agree with Epicurus that there is nothing intrinsically bad (in the absolute sense of "bad") in death or in its consequences. Of course, many will insist that certain possible consequences of death are intrinsically bad—Nagel's examples of a wasted life, failure, and betrayal are candidates here. Nevertheless, because such evils are so rarely among the consequences

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[13] Another possible reading of Bradley's contemporary targets is to suppose that they adopted a comparative notion of intrinsic value such that the absence of pain, for example, no less than the presence of pleasure, is intrinsically good. Then the prevention of pain would have instrumental value on the accounts in question.

[14] Oddly, Bradley himself adopts an absolute notion of intrinsic goodness, and as a consequence, his analysis of the overall value of a state of affairs fails. The overall comparative value of a state of affairs is the sum of the *comparative* intrinsic value and the comparative extrinsic value of that state of affairs. Bradley mistakenly identifies the overall value of a state of affairs as the sum of its *absolute* intrinsic value and its comparative extrinsic value.

[15] E.g., Nagel, "Death."

of death, even if Epicurus were to concede that they are intrinsically bad (in the absolute sense of "bad"), he could still reach the conclusion that the consequences of death are rarely intrinsically bad for the one who dies. He could also point out that a wasted life, failure, and to a lesser extent betrayal are avoidable. By choosing well in life, one can largely ensure that death's consequences do not include any such evils.

I doubt, therefore, that Epicurus needs to make more than minor qualifications to his conclusion that neither death itself nor death's consequences can be intrinsically bad for the one who dies. Accordingly, I suspect that any serious critique of Epicurus' position on death must address his inference from that intermediate conclusion to his final conclusion that it is irrational to be troubled by one's own death. Here, it might seem that the deprivationists are poised to kill, for it is tempting to suppose that if death can be comparatively bad, then it follows immediately that it can be rational to be troubled by death. It is a mistake, however, to suppose that it is rational to be troubled by any and all comparatively bad things.[16] It is comparatively bad for me that I cannot run a mile in less than two minutes, that Donald Trump still has not supported my philosophical research with a million dollar grant, and that I am not at this moment receiving a pleasant massage as I work. However, none of those deprivations merit distress. Or suppose that I *am* receiving a massage, a wonderful massage from Bjorn at Bjorn and Sven's House of Swedish Massage; suppose further that were I not enjoying that massage, I would be enjoying an even better massage from Bjorn's even more talented partner Sven. Then my receiving a wonderful massage from Bjorn is comparatively bad—worse, because less good, than the alternative. Nevertheless, I should expect no pity if I am troubled by the comparative badness of my wonderful massage. Similarly, I should expect no pity from an Epicurean if I am troubled by dying sooner rather than later (or never at all). To die sooner rather than later is, in some cases, to receive less of a good, but less good needn't be bad in any troubling sense.

Nevertheless, I am inclined to think that the deprivationist has the resources to undermine Epicurus' position. Indeed, there may be a variety of deprivationist paths to the conclusion that under certain circumstances, it can be rational to be troubled by death. Disappointment may be a rational response to learning that an unexpected death will prevent one from receiving some good that one reasonably expected to receive[17] ; dissatisfaction may be a rational response to the realization that death will prevent one's life as a whole from being worth living[18] ; frustration may be a rational response to learning that death will prevent one from completing some valuable

[16] Walter Glannon, "Temporal Asymmetry, Life, and Death," *American Philosophical Quarterly* 31 (1994), 235–244; Kai Draper, "Disappointment, Sadness, and Death," *Philosophical Review* 108 (1999), 387–414.

[17] Draper, "Disappointment, Sadness, and Death."

[18] Kai Draper, "Epicuruean Equanimity Towards Death," *Philosophy and Phenomenological Research* 69 (2004), 92–114.

long-term project, especially if one has invested tremendous time and effort toward its completion. It appears that even in the absence of an absolute evil, certain sorts of deprivations do merit distress, and death can be responsible for such deprivations.

On the other hand, I do think that Epicurus may have reached his narrower conclusion that "there is nothing to fear in death." Given that there is no absolute evil to be found in death or its consequences, the only disadvantage to death is the fact that it deprives us of certain absolute goods. But why should the mere absence of an absolute good, unaccompanied by any absolute evil, frighten us? Suppose that I learn that an unexpected financial loss will prevent me from vacationing in Barcelona. Then disappointment might well be reasonable, but being frightened by such a misfortune would be unfitting. To sincerely say, "Not living it up in Barcelona scares the hell out of me," would be an indication that I suffer from a rather unusual phobia. Now substitute "death" for "financial loss." Why should the conclusion differ? I might be disappointed that death will deprive me of the trip to Barcelona, but my failure to receive that benefit would not be a suitable object of fear. Of course, death often deprives the one who dies of much more than a mere vacation. Nevertheless, fear seems to be an odd emotional response to the mere denial of positive benefits, however numerous or large those benefits might be.

Given the practical aims of his philosophy, reaching the conclusion that death cannot merit fear would be a significant achievement for Epicurus. He believed that many of his contemporaries were fearful of death because they thought that the dead suffer divine retribution or otherwise fare poorly in Hades. Understanding why there is nothing in death to fear, Epicurus believed, could help such persons overcome their fear of death. It is an open question, of course, whether this sort of cognitive therapy can by itself eradicate a powerful and deep-seated fear, but it does seem likely that there are persons whose fear of death would be at least alleviated should they see clearly that there is nothing in death to fear. Nor should we underestimate the scope of the problem Epicurus tried to address. Almost anyone would like to be able to say with complete sincerity, "I am not afraid of death," but I suspect that few of us can actually do that. When the prospect of being dead is vividly before our minds, most of us feel afraid; and if death suddenly becomes imminent, terror is a common response. There are many ways to be troubled by death—one can be disappointed by the news that one will die sooner rather than later; one can be dissatisfied with the fact that "life is too short"; one can be saddened by the fact that death means never again being with one's loved ones—but it seems likely that the fear of death is the most common of them all and also the greatest source of unhappiness. Thus, even if Epicurus was mistaken to suppose that it cannot be rational to be troubled by death, his aims were substantially furthered if he successfully reached the conclusion that it cannot be rational to be afraid of death.

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SECTION II

Death and the Value of Death

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For certain purposes it is possible to regard time as just another type of distance.
—NAGEL[1]

Silverstein… suggests, in his very interesting argument, that we should regard our lives in a four-dimensional framework, *treating time as we now treat space*, and concluding that temporally distant events can make a difference to the goodness of the subject's whole life *just as spatially distant ones can*, insofar as they affect its shape seen as a whole.
—NUSSBAUM (emphasis added)[2]

5

The Evil of Death One More Time

PARALLELS BETWEEN TIME AND SPACE

Harry S. Silverstein

IN SEVERAL PAPERS beginning with "The Evil of Death," I have argued against the "Epicurean View" (EV)—the view that death cannot intelligibly be regarded as an evil for the person who dies because the alleged evil lacks a subject.[3] Epicurus eloquently expresses the basic idea underlying EV in his *Letter to Menoeceus*:

> …so death, the most terrifying of ills, is nothing to us, since so long as we exist, death is not with us; but when death comes, then we do not exist. It does not concern either the living or the dead, since for the former it is not, and the latter are no more.[4]

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[1] Thomas Nagel, "Death." In T. Nagel, *Mortal Questions* (Cambridge, UK: Cambridge University Press, 1991), reprinted in J. M. Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 66, 61–69. References in the text are to the Fischer volume. (The original version of this paper appeared in *Noûs* 4, 1970.)

[2] Martha C. Nussbaum, *The Therapy of Desire* (Princeton, NJ: Princeton University Press, 1994), 211, footnote 26 (italics added).

[3] Harry S. Silverstein, "The Evil of Death." *Journal of Philosophy* 77 (1980), 401–424. Reprinted in 1993 in J. Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 95–116, 372–375 (notes). References in the text are to the Fischer volume.

[4] Epicurus, *Letter to Menoeceus*, C. Bailey, trans. In W. Oates, ed., *The Stoic and Epicurean Philosophers* (New York: The Modern Library, 1940), 31.

Rejecting EV would seem unproblematic if we could claim that something, *x*, can be bad for a person, *A*, even if *x* cannot affect *A*'s experiences or feelings—i.e., if we could reject what I have called the "Values Connect with Feelings" view, or VCF[5] ; for if *x* could be bad for *A* without having even a possible connection with *A*'s experience, then there would seem to be no reason why *x* could not entirely postdate *A*. But as I believe that some version of VCF must be accepted, I think this easy way of avoiding EV fails. The argument I have proposed against EV, then, contains two key components:

(1) a version of VCF according to which (a) the connection between *x* and *A*'s experiences need merely be *possible*, not *actual*;[6] and most importantly (b) it is not necessary that *x* be a possible *cause*, but merely that it be a possible *object*, of *A*'s experiences or feelings; and

(2) a four-dimensional (4D) framework, a framework that allows us to claim that *temporally* distant, including future, events (states, etc.), like spatially distant events (etc.), exist, and thus are possible objects of appropriate experiences.

The combination of these components allows us to say that *A*'s death is a possible object of *A*'s relevant feelings (fear, regret, etc.) and can thus intelligibly be claimed to be an evil for *A*. In short, on the basis of this combination, we can justifiably reject EV.

The concern of the current chapter is the second of these two components, the 4D framework.[7] Specifically, I want to focus on the parallels my argument brings

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[5] See Harry Silverstein, "The Evil of Death," 107ff; "The Evil of Death Revisited." In P. French and H. Wettstein, eds., *Midwest Studies in Philosophy vol. XXIV: Life and Death: Metaphysics and Ethics* (Malden, MA: Blackwell, 2000), 122–124; "'The Evil of Death' Defended: Reply to Burley." *International Journal of Philosophical Studies* 16 (2008), 569–575; "The Time of the Evil of Death." In J. Campbell, M. O'Rourke, and H. Silverstein, eds., *Time and Identity* (Cambridge, MA: MIT Press, 2010), 284, with note 2, 292–293.

[6] This allows me to accept the common view that *x* can be bad for *A* even if *A* is in fact unaware of *x* (*x*, let's suppose, is undiscovered infidelity by *A*'s spouse), a view explicitly supported by, e.g., Nagel and Levenbook. See Thomas Nagel, "Death," 61–69. Barbara Baum Levenbook, "Harming Someone after His Death." *Ethics* 94 (1984), 407–419; "The Retroactivity Problem," in J. Campbell et al., eds., *Time and Identity*, 297–308.

[7] There is also more that needs to be said about VCF and the criticisms that my version of it has received, but that is the topic of another paper.

out between the treatment of time provided by my[8] 4D framework and the treatment of space provided by the (allegedly) "standard" three-dimensional (3D) framework.[9] Unlike Martha Nussbaum, who clearly saw immediately, on the basis of my first (1980) "evil of death" paper, how central these parallels were to my argument (see her quotation above), I don't think I fully appreciated the importance of these parallels for my view until I started writing "defense" articles, the first of which was "The Evil of Death Revisited." My goal here is to provide further defense of my 4D framework, and thus of my argument against EV, by spotlighting these parallels. This further defense involves an expansion and reorganization of some of my earlier arguments—a "reorganization" to make clearer the significance of the space/time parallels—plus consideration of some additional issues. Many features of my 4D treatment of time, as well as my application of that treatment to "evil of death" issues, have provoked criticism or confusion. My overall aim is to show that (a) all of these features have parallels in the 3D treatment of space; (b) the 3D treatment of space, and the application of that treatment to issues that are spatial analogues of the temporal "evil of death" issues, are quite unproblematic and uncontroversial; and hence (c) my treatment of time, and the application of that treatment to "evil of death" issues, should be accepted as unproblematic and uncontroversial as well.

BACKGROUND: COMPARISON OF THREE FRAMEWORKS

Beginning with "The Evil of Death Revisited," I discussed my views by reference to three frameworks with three corresponding "existence" concepts: the 4D framework, whose corresponding "existence" concept I dubbed "$exists_4$"; the 3D framework, whose corresponding "existence" concept is "$exists_3$"; and a "zero-dimensional" (0D) framework—a hypothetical, "*gedanken* experiment," framework—whose "existence" concept is "$exists_0$." The following is a brief summary of these frameworks and concepts.[10]

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[8] I say "my 4D framework" rather than "the 4D framework" because I want to emphasize that I am committed only to the 4D framework as it is described and explained below (and has been described and explained in my previous "evil of death" writings); I make no claims concerning the connections or lack thereof between this framework and the increasingly complex and diverse views debated in the four-dimensionalist literature. For a brief summary of these complexities, see Ted Sider, "Précis of *Four-Dimensionalism*." *Philosophy and Phenomenological Research* 68 (2004), 642–647.

[9] Emphasis on space/time parallels has of course always been an important component of four-dimensionalism. For example, Sider notes that "[t]he spatiotemporal ontology of Russell, Smart, Quine and Lewis is a blend of separable components concerning time, persistence, mereology, and even semantics, *unified by the theme that space and time are analogous*" (Sider, "Précis of *Four-Dimensionalism*," 642; emphasis added).

[10] For a more detailed account of these frameworks, see Silverstein, "The Evil of Death Revisited," 125–130.

The 4D Framework: "exists$_4$"

This framework is neutral as regards both space and time; it abstracts from both *here* and *now*. "*A* exists$_4$" specifies neither the place nor the time of *A*'s existence. Similarly, "*A* is$_4$ asleep" does not specify where or when *A* is asleep; "*A* feels$_4$ ill" does not specify the place or time of *A*'s feeling ill; etc. In this framework, any sentence that is true anywhere at any time is true everywhere at every time. "Harry Silverstein exists$_4$", "Barack Obama exists$_4$", and "George Washington exists$_4$" are all true.

The 3D Framework: "exists$_3$"

This framework is neutral as regards space but not as regards time; it abstracts from *here* but not from *now*—*now* is built into the framework. "*A* exists$_3$" does not specify the place of *A*'s existence but it does specify the time—"*A* exists$_3$" asserts that *A* exists *now*. Similarly, "*A* is$_3$ asleep" asserts that *A* is asleep *now*; "*A* feels$_3$ ill" asserts that *A* feels ill *now*; etc. In this framework, any sentence that is true anywhere is true everywhere, but a sentence that is true at one time may be false at another—e.g., "Paul Newman exists$_3$" was true between 1/26/1925 and 9/26/2008 but is now false. "Harry Silverstein exists$_3$" and "Barack Obama exists$_3$" are both true, but "George Washington exists$_3$" is false.

The 3D framework can deal with times other than now, but only through the use of tenses, all of which are tied to *now* (the foundational "now"—present—tense is used to make claims about what happens *now*; the past tense is used to make claims about what happened *earlier than now*; and the future tense is used to make claims about will happen *later than now*). Thus, though "George Washington exists$_3$" is false, "George Washington existed$_3$" is true.

The 0D Framework: "exists$_0$"

This framework is not neutral as regards either time or space; it does not abstract from either *here* or *now*—both *here* and *now* are built into the framework. "*A* exists$_0$" specifies both the place and time of *A*'s existence—"*A* exists$_0$" asserts that *A* exists *here* and *now*. Similarly, "*A* is$_0$ asleep" asserts that *A* is asleep *here* and *now*; "*A* feels$_0$ ill" asserts that *A* feels ill *here* and *now*; etc. In this framework, a sentence that is true at one place may be false at another, just as it may be true at one time and false at another—e.g., "Lila Silverstein exists$_0$" would be true in Seattle but is not true here (assuming "here" is where Harry Silverstein is, namely, Spokane). "Harry Silverstein exists$_0$" is true, but "Barack Obama exists$_0$" and "George Washington exists$_0$" are both false.

The 0D framework can deal with places other than here, but only through the use of spatial analogues of tenses—which I have dubbed "spenses"—all of which are tied to *here* (and, like the 3D framework, it can deal with times other than now, but only through the use of tenses, all of which are tied to *now*). I stipulate (to adopt the simplest possibility) that the 0D framework has two "spenses"—the foundational "here" spense, and an "out there" ("away from here") spense, whose (present tense) form for "exists" is "exouts." Thus, though "Barack Obama exists_0" is false, "Barack Obama exouts_0" is true.

The 0D framework seems cumbersome and primitive in relation to the 3D framework in just the way that the 3D framework seems cumbersome and primitive in relation to the 4D framework.[11] And more specifically, the 0D framework faces seemingly intractable problems regarding space, problems that are resolved by switching to the 3D framework, in just the way that the 3D framework faces seemingly intractable problems regarding time, problems that (I claim) are resolved by switching to the 4D framework. Thus, consideration of the 0D framework illuminates and supports my view by showing how the 3D framework's treatment of space and relevant related issues—treatment that, as noted above, seems "unproblematic and uncontroversial"—can be viewed as resolving problems posed by a more primitive framework in just the way that, as I have argued, the 4D framework's treatment of time and relevant related issues, including the issue of the "evil of death," resolves problems posed by the more primitive 3D framework.

We can now move to the heart of the chapter, a series of arguments in defense of my view all based on the parallels between space and time.

ARGUMENT 1: ELIMINATION OF A COMMON CONFUSION

A number of responses to "The Evil of Death" claim or assume that, on my 4D framework, everything has eternal (or "timeless" or "atemporal") existence. Thus, Barbara Levenbook says, "Silverstein . . . develops a 'four-dimensional framework'

[11] For example, because the 3D framework can deal with times other than now only through the medium of tenses, it follows, as I noted in "The Evil of Death Revisited," that

> . . . when we want . . . to say that some object's existence extends from the distant past to the distant future, we can do this, in the three-dimensional framework, only by using a cumbersome, tripartite, expression referring to past [*before now*], present [*now*], and future [*after now*]—an expression such as "long has been, is now, and long shall be" (Silverstein 2000, 126, typo corrected).

> And because the 0D framework can deal with places other than here only through the medium of spenses, it of course contains an additional level of cumbersomeness.

according to which someone exists atemporally and coexists with all events . . . eternally."[12] Similarly, Steven Luper says, "Silverstein (1980) argues that we can say that dead people exist in a timeless sense of existence."[13] But though there are, admittedly, one or two passages in "The Evil of Death" that misleadingly suggest this interpretation of the 4D framework,[14] this interpretation is confused. Consider again the sentence "George Washington exists$_4$." As noted above, this sentence is always true if it is ever true—and, thus, it is true now, and will always be so. But to say that this sentence is true always, or "eternally," is *not* to say that *Washington's existence itself* is eternal or lacks temporal boundaries. Hence, the 4D framework does *not* imply that Washington has eternal, or timeless, or atemporal existence (unless this is interpreted, trivially, as meaning no more than that "George Washington exists$_4$" is always true). And a comparison with the 3D framework's treatment of space[15] provides what is surely a conclusive explanation and defense of this point. "Barack Obama exists$_3$" is true everywhere if it is true anywhere; hence, just as it is true where Obama is—the White House, let's assume—so it is true in Tokyo, at the South Pole, on the dark side of the moon, and in between the two components of Alpha Centauri. But this does not imply that *Obama's existence itself* extends throughout all space, or is "spaceless" or "aspatial"; on the contrary, it is entirely compatible with the (correct) claim that Obama is a spatial being with normal, human-sized spatial boundaries. In short, the fact that the 3D framework is "neutral" as regards space, and thus that "Barack Obama exists$_3$" does not specify the place of Obama's existence, does *not* imply that his existence has no place, or that he himself is "spatially neutral," or "aspatial," or extends throughout all space, or lacks a determinate spatial location or extension. Hence, there is nothing at all problematic about a sentence like "Barack Obama exists$_3$, but he does not exist$_3$ here"—where "here" is any of the places Obama is not (the South Pole, the dark side of the moon, etc.). In exactly the same way, then, the fact that the 4D framework is "neutral" as regards time, and thus that "George Washington exists$_4$" does not specify the time of Washington's existence, does *not* imply that Washington's existence has no time, or that he himself is "temporally neutral," or "atemporal," or extends throughout all time (and is

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[12] Levenbook, "Harming Someone after His Death," 416, note 8.

[13] Steven Luper, "Death." *Stanford Encyclopedia of Philosophy*, http://plato.stanford.edu/entries/death/ (first published May 22, 2002; substantive revision Jan. 9, 2006), 19. This assumption is also clearly implicit in Palle Yourgrau's rather acid comment: "I find it exceedingly difficult to give up my intuition that dead people simply do not exist." Palle Yourgrau, "The Dead." *Journal of Philosophy*, 84 (1987), 84–101, reprinted in Fischer, ed., *The Metaphysics of Death*, 141. References in the text are to the Fischer volume.

[14] E.g., at one point Silverstein, "The Evil of Death," says of the 4D framework that "in Quine's words, it views objects, events, etc., from all places and times . . . 'as coexisting in an eternal or timeless sense of the word' " (111).

[15] And of course what goes for the 3D framework's treatment of space goes for the 4D framework's treatment of space—i.e., both frameworks deal with space in the same way. But for simplicity of exposition, the "spatial parallels" I consider will be discussed simply from the perspective of the 3D framework.

thus eternal), or lacks a determinate temporal location or extension. Hence, there is nothing at all problematic about a sentence like "George Washington $exists_4$, but he does not $exist_4$ now"—where "now" is any time outside the temporal boundaries of Washington's life.

I conclude Argument 1 by considering the following objection:

> You argue that the 4D framework does not entail that people exist eternally. But this argument uses your artificial, ersatz, existence concept '$exists_4$'; it does nothing to support your conclusion for our *real* concept of existence, 'exists' without a subscript. And, in fact, we have good reason to reject your conclusion for that real concept. For given that the existence of George Washington is precisely what the sentence "George Washington exists" asserts, if that sentence is true eternally (as it is on your 4D framework), then how can it fail to entail that Washington's existence is eternal?

First, "$exists_4$" is not an "artificial, ersatz" concept; it is simply "exists" within, or from the perspective of, the 4D framework (and similarly, "$exists_3$" and "$exists_0$" are simply "exists" within, or from the perspective of, the 3D and 0D frameworks, respectively). Second, and more important, the objection's substantive claim (that if "George Washington exists" is true eternally, it must assert that Washington's existence is eternal) is true only if one is confusedly interpreting "exists" as "$exists_3$" rather than "$exists_4$"—i.e., only if one is viewing "George Washington exists" from the perspective of the 3D framework.[16] If "George Washington exists" means "George Washington exists *now*"—as it does in the 3D framework—then the eternal truth of "George Washington exists" would of course entail Washington's eternal existence; for to say that "George Washington exists *now*" is true at every time is just to say that Washington exists at every time, and thus eternally. (And this of course is precisely why "George Washington $exists_3$"—i.e., "George Washington exists" as this is understood in the 3D framework—is *not* eternally true.) But the whole point is that, from the 4D perspective, "George Washington exists" does *not* mean "George Washington exists now." In the 4D framework, this sentence leaves the time of Washington's existence entirely unspecified, and is thus entirely compatible with the claim that Washington's existence has a temporal extension that does not include "now"; hence, the eternal truth of this sentence does not entail that Washington's existence itself is eternal. And, again, this point is cemented by noting that a comparable, and comparably confused, objection could be raised with respect

[16] The claim would also be true of course from the 0D perspective, but for simplicity of exposition, I ignore that here.

to 3D existence claims and spatial existence, an objection that might be articulated as follows:

> You argue that the 3D framework does not entail that people exist throughout all space. But given that the existence of Barack Obama is precisely what the sentence "Barack Obama exists" asserts, if that sentence is true everywhere, throughout all space (as it is on the 3D framework), then how can it fail to entail that Obama's existence extends throughout all space?

I suspect that this "spatial" objection could be taken seriously only by someone who did not fully comprehend the possibility of a framework beyond the 0D framework, and who thus did not really grasp the distinction between "exists$_3$" and "exists$_0$"—just as, in my view, the comparable "temporal" objection could be taken seriously only by someone who did not fully comprehend the possibility of a framework beyond the 3D framework, and who thus did not really grasp the distinction between "exists$_4$" and "exists$_3$." At any rate, this "spatial" objection conflates "exists$_3$" and "exists$_0$" in exactly the way that the comparable "temporal" objection conflates "exists$_4$" and "exists$_3$." The claim that if "Barack Obama exists" is true everywhere, then Obama's existence must be everywhere (i.e., must extend throughout all space) is true only if one is confusedly interpreting "exists" as "exists$_0$" rather than "exists$_3$"—i.e., only if one is viewing "Barack Obama exists" from the perspective of the 0D framework. If "Barack Obama exists" means "Barack Obama exists *here*"—as it does in the 0D framework—then if "Barack Obama exists" were true everywhere that would of course entail that Obama exists everywhere. For to say that "Barack Obama exists *here*" is true everywhere is just to say that Obama exists everywhere, or that his existence extends throughout all space (and this is precisely why "Barack Obama exists" as this is understood from the 0D perspective—i.e., "Barack Obama exists$_0$"—is *not* true everywhere). And the crucial point is that, from the 3D perspective, "Barack Obama exists" does *not* mean "Barack Obama exists here." The 3D framework leaves the place of Obama's existence entirely unspecified, and is thus entirely compatible with the claim that Obama's existence has a spatial location some place other than "here"; hence, the fact that this sentence is true everywhere does not entail that Obama's existence is everywhere.

It seem indisputable that this "spatial" objection is confused, a confusion that can be avoided as long as one understands what "exists" does and does not mean in the 3D framework. But the argument against this objection exactly parallels the argument given above against the comparable "temporal" objection; hence, it seems equally indisputable that the "temporal" objection is confused, a confusion that can be avoided as long as one understands what "exists" does and does not mean in the 4D framework.

ARGUMENT 2: TEMPORALLY DISTANT EVILS AND SPATIALLY DISTANT EVILS

Central to EV, of course, is the idea that *A* and *A*'s death do not, indeed cannot, coexist; and the point of the 4D framework is precisely that it allows us to say that *A* and *A*'s death *do* coexist. But a likely objection at this point—indeed, an objection that has in effect actually been raised[17]—is that, given my understanding of the 4D framework as it was articulated in the argument of the previous section, the sense in which that framework allows for the coexistence of *A* and *A*'s death is not strong enough to get around EV. This objection might be expressed as follows:

> You admit—indeed, you emphasize—that in your 4D framework "*A* exists" is perfectly compatible with the claim that *A* does not exist *now*. Hence, even from the perspective of that framework, in which "*A* exists" and "*A*'s death exists" are both true, we can still correctly say "*A* and *A*'s death cannot both exist *now*"—or more generally, "*A* and *A*'s death cannot both exist *at the same time*." But if it remains the case that *A* and *A*'s death cannot both exist at the same time, then Epicurus' claim still holds—"so long as we exist, death is not with us; but when death comes, then we do not exist"—and thus his conclusion still holds as well—"death…does not concern either the living or the dead, since for the former it is not, and the latter are no more."

I suspect that this objection, like the "temporal" objection discussed in the last section, reflects a mindset that cannot get beyond the 3D framework. In any event, the objection is confused; and, again, the confusion is illuminated by considering parallel issues involving space.

Note, to begin, that the 0D framework faces seemingly intractable difficulties regarding spatially distant evils, difficulties that are precisely analogous to the 3D framework's difficulties regarding temporally distant evils. Suppose, for instance, that Sherry, who never leaves Canterbury, has a husband Gerry, who is having an affair with Mary, an affair that is occurring only in Salisbury. The claim that Gerry's affair is a misfortune for Sherry seems as troublesome from the perspective of the 0D framework as the claim that *A*'s death is a misfortune for *A* does from the perspective of the 3D framework. For in the 0D framework, from Sherry's perspective (i.e., if Sherry's location—namely, Canterbury—is "here"), Gerry's affair does not exist (because it does not exist *here*); and likewise, of course, from the perspective of the affair (i.e., if the location of the affair—namely, Salisbury—is "here"), Sherry herself

[17] See Mikel Burley, "Harry Silverstein's Four-Dimensionalism and the Purported Evil of Death." *International Journal of Philosophical Studies* 16 (2008), 563–565.

does not exist. Thus, we can say, à la Epicurus: "So Gerry's affair, a terrible evil, is nothing to Sherry, since where she is, the affair does not exist, and where the affair is, she does not exist." Now we would all agree that switching from the 0D framework to the 3D framework straightforwardly resolves this problem by allowing us to say that Sherry and the affair coexist—i.e., by allowing us to say that "Sherry exists" and "Gerry's affair exists" are both true. But this resolution faces an objection precisely parallel to that given above:

> You admit—indeed, you emphasize—that on the 3D framework, "Gerry's affair exists" is perfectly compatible with the claim that the affair does not exist *here*. Hence, even from the perspective of that framework, in which "Sherry exists" and "Gerry's affair exists" are both true, we can still correctly say "Sherry and the affair do not both exist *here*"—or more generally, "Sherry and the affair do not both exist *in the same place*." But if it remains the case that Sherry and the affair do not both exist in the same place, then the analogue to the Epicurean claim still holds—"where Sherry is, Gerry's affair does not exist, and where the affair is, she does not exist"—and thus the relevant conclusion—that Gerry's affair cannot be regarded as a misfortune for Sherry –still holds as well.

However, it seems—again—indisputable that this objection to the 3D resolution of the spatial distance problem is misguided or confused; it could only be taken seriously, in my view, by someone whose mindset could not really get beyond the 0D framework. But in exactly the same way, then, the comparable objection to the 4D resolution of the temporal distance problem is misguided or confused, and reflects an analogous inability to get beyond the 3D framework.

ARGUMENT 3: THE TIME AND PLACE OF EVILS

At the beginning of the chapter I summarized my argument against EV by saying that the combination of my version of VCF and the 4D framework "allows us to say that *A*'s death is a possible object of *A*'s relevant feelings (fear, regret, etc.) and can thus intelligibly be claimed to be an evil for *A*." But this so far does nothing to answer the question "*When* is *A*'s death an evil for *A*?" And this question on the surface seems rather troublesome—troublesome enough, indeed, that it threatens to resuscitate EV itself. For the following argument sounds plausible:

> It does not seem to make sense to say that *A*'s death is an evil for *A* after *A* dies, for A does not exist then. (And remember that "*A* does not exist after he dies" is true even in the 4D framework, just as "Barack Obama does not exist at the

> South Pole" is true even on the 3D framework.) Yet it similarly does not seem to make sense to say that *A*'s death is an evil for *A* during *A*'s life, for *A*'s death does not exist then. But if it doesn't make sense to say either that *A*'s death is an evil for *A* after *A* dies or that *A*'s death is an evil for *A* before *A* dies, then it would seem to follow that it does not make sense to say that *A*'s death is an evil for *A*.

Another indication of the troublesomeness of this question is that three philosophers who have used four-dimensionalism in attempting to counter EV—namely, Fred Feldman, Ben Bradley, and I—have given three different, and incompatible, answers to it. Feldman has argued that *A*'s death is an evil for *A* eternally, including the eternity before *A* was born[18]; Bradley has contended (roughly) that *A*'s death is an evil for *A* between the time *A* died and the time he could reasonably have been expected to die had he not died when he did[19]; and I have argued,[20] and argue again here, that the question itself should be rejected—i.e., that we need not ascribe any temporal location or extension to "*A*'s death's being an evil for *A*," that the relevant evil is, in *this* sense, "atemporal." And the expansion of this argument presented here focuses, again, on the parallels between space and time.

Turning again to the case of Sherry and her husband Gerry's affair with Mary, consider the question "*Where* is Gerry's affair a misfortune for Sherry?" Most people, I suspect, would regard this question as puzzling at best, confused at worst—and would at any rate have no quick or ready answer to it. And the reason for that, I submit, is that the question should be rejected, that it has, and needs, no answer; I would submit, that is, that the misfortune in this case has no determinate place, that it is in this sense "aspatial." It is true, of course, that Sherry has a determinate place—namely, Canterbury—and likewise that the affair has a determinate place—namely, Salisbury. But that does not mean that we must, or can, ascribe a determinate place to the affair's being a misfortune for Sherry. In short, it seems perfectly reasonable to say the following:

> Sherry is in Canterbury; Gerry's affair with Mary is in Salisbury; and that's the whole relevant truth about "where" in this case. There is no further "where" question that needs to be answered concerning the "where" of "Gerry's affair's being a misfortune for Sherry."

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[18] Fred Feldman, "Some Puzzles About the Evil of Death." *The Philosophical Review* 100 (1991), 205–227, reprinted in Fischer, ed., *The Metaphysics of Death*, 320–321. References in the text are to the Fischer volume.

[19] Ben Bradley, "When is Death Bad for the One Who Dies?" *Noûs* 38 (2004), 1–28; "Eternalism and Death's Badness." In J. Campbell et al., eds., *Time and Identity*, 271–281.

[20] Tangentially in "The Evil of Death Revisited"—see footnotes 6 and 13; more extensively in Silverstein, "The Time of the Evil of Death."

And what I particularly want to emphasize here is that such "aspatial" evils—and more generally "aspatial" properties, facts, etc.—are just what one would expect within the 3D framework. For by not specifying place, by leaving place undetermined, the framework not only allows for the truth of claims such as "*A* exists" and "*A* is asleep" where the place of *A*'s existence or state of being asleep is not here; it also provides room for claims involving properties, facts, etc. that have no determinate place at all. To give an example having nothing to do with goods or evils, consider the sentence "Barack Obama has Kenyan relatives." Obama has a determinate place—the White House, let us suppose; and each of his Kenyan relatives has a determinate place—they are all, let us assume, somewhere in Kenya. But that does not mean that "Obama's having Kenyan relatives" has, or must be ascribed, a determinate place, a determinate spatial location or extension; on the contrary, it seems clearly to be aspatial in just the way that "Gerry's affair's being a misfortune for Sherry" is aspatial.[21] And in allowing for aspatial properties and facts—as in allowing for existence that is not "here" for objects that *are* spatial—the 3D framework is to be sharply distinguished from the 0D framework. For since the 0D framework does always specify place and does not leave place undetermined, it of course cannot allow for aspatial properties, facts, etc. Thus, whereas the 0D framework, for example, can make sense of both "Barack Obama has a cold" and "Obama's having a cold is a bad for Obama," because Obama's cold, and thus its badness for him, can straightforwardly be ascribed to the place where he is, it cannot make sense of either "Barack Obama has Kenyan relatives" (for where Obama is, his relatives are not, and conversely)[22] or "Gerry's affair is a misfortune for Sherry."

The point, then—the now familiar point—is that exactly what we've said about aspatiality in the 3D framework we can say about atemporality in the 4D framework; just as the 3D framework, unlike the 0D framework, leaves the places to which its claims apply open and thus allows for aspatial properties, facts, etc.—including

[21] It is important, again, not to be misled by the fact that the sentence "Barack Obama has Kenyan relatives" is true everywhere, or throughout all space. This fact no more implies that "Obama's having Kenyan relatives" is not aspatial and does have a determinate spatial extension—an extension, namely, throughout all space—than the fact that "Barack Obama exists" is true everywhere implies that Obama's existence itself extends throughout all space. Supposing that the implication holds in the former case is just as confused as supposing that it holds in the latter case.

[22] It might be contended that the 0D framework could make sense of this claim in an unusual circumstance in which Obama and all his Kenyan relatives were gathered together in the same place—e.g., Obama flew them all to the White House to be present at the signing of a special U.S./Kenya friendship treaty. But in my view, our standard, 3D (or 4D), understanding of "Barack Obama has Kenyan relatives" is that the relevant property—"Obama's having Kenyan relatives"—is an aspatial property whether Obama and his Kenyan relatives all happen to be in the same place or not; for that's the simplest, most perspicuous way of dealing with the sentence and property in a unified way, given a framework that makes room for aspatiality. Thus, even if the 0D framework can make *its* sort of sense of "Barack Obama has Kenyan relatives" in (but of course only in) that special case, I think its sense is clearly not our sense.

aspatial evils—so the 4D framework, unlike the 3D framework, leaves the times to which its claims apply open and thus allows for atemporal properties, facts, etc.—including atemporal evils. (And just as "aspatial" with respect to the above discussion does not mean "extending throughout all space," but rather "having no determinate, assignable, place," so "atemporal" here does not mean "eternal," but rather "having no determinate, assignable, time.") Consider, for example, the claim "One of Sherry's ancestor's is Eric the Red"—a claim that, let's suppose, is true. Using the 4D framework, we should, I submit, treat "Sherry's having Eric the Red as an ancestor" with respect to time in exactly the way we treated "Obama's having Kenyan relatives" with respect to space. Sherry has a determinate temporal location or duration (a duration, let's suppose, from 1985 to 2051); likewise Eric the Red has a determinate temporal location or extension (roughly, from 950 to 1003). But that does not mean that "Sherry's having Eric the Red as an ancestor" has, or must be ascribed, a determinate temporal location or duration; on the contrary, it seems clearly to be atemporal in just the way that "Obama's having Kenyan relatives" is aspatial. And similarly, just as there are evils that are properly regarded as aspatial—evils that the 0D framework cannot adequately handle—so there are evils that are properly regard as atemporal—evils that the 3D framework cannot adequately handle. And one such evil, of course, is the evil of death. Suppose, then, that *A* was born on January 1, 1960, and will die on January 1, 2020. The appropriate response, in my view, to the question "When is *A*'s death an evil for *A*?" is the following:

> *A*'s temporal duration extends from 1/1/1960 to 1/1/2020; the time during which *A* is dead begins at 1/1/2020 and extends indefinitely from that point; and that's the whole relevant truth about "when" in this case. There is no further "when" question that needs to be answered concerning the "when" of "*A*'s death's being an evil for *A*."[23]

Argument 4: The Nature of Human Experience[24]

An objection of the following sort might be raised against the 4D framework:

> Our experience is inherently tied to *now*; and the framework that fits this experience is the 3D framework. In short, we human beings are *by nature*

[23] Near the end of "The Time of the Evil of Death" I add a minor complication to this account. But the complication primarily involves VCF, not the 4D framework, and can therefore be ignored here.

[24] Another argument for which the parallel between space and time is central is the argument against the "phenomenalist" objection, an objection I articulated in "The Evil of Death," as follows (375, footnote 15 [from 111]):

three-dimensionalists. So whatever may be said in explication or defense of the 4D framework, it is not a plausible, or even a possible, *human* framework.

A common version, or component, of this objection is the following:

> One thinks of the self that is in the present as one's *entire* self, not just a small temporal part thereof; similarly, one thinks of the friend with whom one is having coffee and who is currently telling a bad joke as one's *entire* friend, not just a small temporal part of him.[25] But this is just to say that the framework we adopt is the 3D framework, not the 4D framework.

But the obvious response to this objection is that, in whatever sense it is true that our experience is inherently tied to *now*, it is likewise inherently tied to *here*. Our immediate perceptions are tied not simply to the "now," but to the "here and now." (So, again, the parallels between space and time are crucial.) Thus, if this objection had any merit, it would show not merely that we cannot adopt the 4D framework, but that we cannot adopt even the 3D framework, that we are rather restricted to the 0D framework—and this constitutes a *reductio* of the objection.

However, a defender of the objection might respond as follows:

> Your claim that what goes for *now* goes for *here* leaves a crucial question unanswered: Why do we commonly employ (as even you four-dimensionalists concede) the 3D framework, a framework that does abstract from *here* but does not abstract from *now*? And to appreciate the force of this question, note that we do not employ what we might regard as the "reverse" framework, a framework that abstracts from *now* but not from *here*. This all suggests that *here*

A posthumous event itself, as distinct from one's thoughts about it, can never be an object of joy, suffering, etc. For it is always possible, at least in principle, that one's beliefs, hopes, etc., about the event—beliefs which mediate between it and one's joy, suffering, etc.—will turn out to be false, i.e., that the anticipated posthumous event will never take place. But since one's joy, suffering, etc., will be the same whether these beliefs are true or not, it cannot be the posthumous event itself, even where it actually occurs, which is the object of joy, suffering, etc.

For, as noted in the same footnote, "exactly the same objection can . . . be applied to spatially distant events." But as this objection is concerned more with VCF than with the 4D framework, and as I think I have said all that is necessary to refute this objection elsewhere (see especially "'The Evil of Death' Defended: Reply to Burley," 573–575), I shall say no more about this issue here.

[25] This consideration provides one of the motivations for adopting the "stage view" as opposed to the unqualified "worm view"; see Sider, "Précis of *Four-Dimensionalism*." But because the stage view is compatible, at least in some sense, with an overall four-dimensionalist view, proponents of the stage view would presumably not entirely endorse the objection I am considering here.

> and *now* are not as comparable as you've been claiming. And in fact we can even plausibly reject your basic claim that "in whatever sense it is true that our experience is inherently tied to *now*, it is likewise inherently tied to *here*." Our observation, for instance, of the stars at night would seem to be an obvious example of direct observation of spatially distant objects.

For proponents of this objection, the appeal to our observation of the stars is surely a fatally double-edged sword; for given the time—in many cases, the very long time—required for light to travel from those stars to us, it would seem that in whatever sense our observation of the stars is direct observation of spatially distant objects, it is likewise direct observation of temporally distant objects. The first part of this response, however, is more interesting. I conclude the chapter with a discussion of this part of the response and some related considerations involving this objection as a whole.

The "reverse" framework in question I shall call the 1D framework (because it abstracts from the one temporal dimension) and its correlated existence concept "exists$_1$." "*A* exists$_1$" leaves the time of *A*'s existence open, but not the place; it thus does not assert that *A* exists *now*, but does assert that *A* exists *here*. Assuming that the White House is "here," "Barack Obama exists$_1$," "Barack Obama is asleep$_1$," "Abraham Lincoln exists$_1$," and "Abraham Lincoln is asleep$_1$" are all true, because Obama and Lincoln have each not only been in, but have each been asleep in, the White House at some time or other; "Harry Silverstein exists$_1$" is true (because I once took a brief visitor's tour of the White House), but "Harry Silverstein is asleep$_1$" is false (I managed not to fall asleep during that tour); and "William the Conqueror exists$_1$," "William the Conqueror is asleep$_1$," "Julian Assange exists$_1$," and "Julian Assange is asleep$_1$" are all false, because (I'm assuming) neither of those persons ever has been or ever will be in the White House. Comparing the 3D and 1D frameworks, then, the above response initially seems correct in claiming a significant disparity between them; the 3D framework is a, if not the, "standard" framework, a framework that underlies much of our thinking, whereas the 1D framework is not. But I think it can be argued that this disparity is not as great as it seems at first glance. Consider, for example, cultures in which family or village history is of paramount importance, cultures in which the community's past and future and one's ancestors and descendants have far more significance—are regarded as far more "real"—than whatever may be happening now elsewhere in the world. It's certainly arguable that persons in those cultures typically view the world from the perspective of the 1D framework. Nor is this perspective limited to what some might characterize disparagingly as "primitive village cultures"; people in all cultures, I think, adopt this perspective for various purposes in various contexts. Consider, to take a mundane example, the various TV shows and series focusing on the history of particular towns, families (e.g., the Churchills), even specific houses or residences (e.g., Mount Vernon). And for a more serious example, consider the

conflict between Israel and the Palestinians. It is arguable, I think, that the intractability of this conflict stems in large part from the fact that each side views its position, and thus the conflict, from a 1D perspective. That is, each side focuses on the long-term history of the relevant "place"—the territory now occupied by Israel—and assesses the justification of its position almost exclusively in terms of that history. And even if we ignore the religious components of that history and consider only the traditional historical justifications for possession in terms of the time, and length of time, of prior occupation, the inevitable conclusion is that each side has an extraordinarily strong claim to the relevant territory—a stronger claim, for example, than any white person has to any part of either North or South America.[26] Hence, if one focuses exclusively on such considerations—as is natural if one adopts the 1D framework—the intractability of the conflict is hardly surprising.[27]

An implicit point here that gets us back to the original objection is that, contrary to what that objection seems to assume, we are not limited, by the "nature of human experience" or anything else, to a *single* "x-dimensional" framework. Rather, we can, and I think we clearly do, employ different frameworks for different purposes in different contexts, moving fairly seamlessly from one to another depending on which framework makes the simplest and most perspicuous conceptual sense of the relevant issues and concerns—in short, depending on which framework best serves our needs and interests at the time.[28] Hence, whatever may or may not be true about human experience, we can—and we do—employ the 4D framework in contexts where that makes the best conceptual sense. And these include not only contexts

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[26] I am quite aware that this contention is not uncontroversial. For example, one might wonder what percentage of current Israelis and Palestinians are in fact literal descendents of the relevant persons who occupied the land in question long ago; and if those percentages are small, one might then wonder whether current Israelis and Palestinians can legitimately claim a connection with those long-ago occupiers sufficient to justify an appeal to what I called the "traditional historical justifications." I make no attempt to address any such questions here.

[27] Relatedly, consider the outrage expressed by many Israelis against the portions of Obama's Cairo speech in June 2009 in which he connected the formation of the state of Israel to the Holocaust. From the 1D perspective, such outrage makes perfect sense; from that perspective, Israel's rationale arises exclusively from long-term Jewish history in that place, and has nothing to do with what is comparatively a very short—albeit horrific—20th-century episode elsewhere in the world. But that was not Obama's perspective. He was concerned with the 20th-century events—the worldwide 20th-century events—leading up to the creation of the state of Israel; specifically, it seems clear, he was concerned with the events that brought about the widespread international support for that creation without which it would not have been politically possible. And from that perspective, I think Obama's remarks were entirely reasonable.

[28] There are even occasions, occasions when all that is viewed as relevant is what is here and now, when we at least come close to employing the 0D framework. Suppose, for instance, that George and Martha's two children are spending the night with Martha's mother across town, but that George forgets this fact and asks Martha whether the children are in bed. A very typical response from Martha would be "The children are not here!" Now of course this response is not, strictly speaking, a 0D response. For from the perspective of the 0D framework, if the children are not *here*, then they simply *are not*; they do not *exist*, but rather *exout*. But the response seems clearly to be in the spirit of the 0D framework. Note, for instance, that, unlike responses such as "I have no idea" or "You'll have to call my mother to get the answer to that question," Martha's response constitutes a

involving temporally distant goods and evils, and more generally atemporal properties and facts, but contexts involving durational properties (such as serving long-term prison sentences or fulfilling multiyear contracts), identity over time, reference to past and future objects, and many others.[29] Moreover, because the 4D framework is the least primitive of the "*x*-dimensional" frameworks—it can handle everything the other frameworks can handle but not conversely—if we had to adopt a single framework for all contexts, the 4D framework is the one we would have to choose.[30]

And this brings us to what I think is a still more fundamental problem with this objection, namely, that it assumes that human experience is what it is prior to, or independent from, the conceptual framework or frameworks that inform it. The truth, in my view, is rather that (a) the conceptual frameworks we adopt largely determine not merely the structure of our knowledge but the nature of our experience, and thus (b) not merely the structure of our knowledge but the nature of our experience can and does change as our conceptual frameworks change—the first of these points being of course a basic Kantian point, the second a rather common, and widely accepted, extension thereof. And this means that, even if we are largely habituated to experience the world through the 3D framework, this mode of experience is not in any way a fixed, hard-wired aspect of human nature. We can—and to a considerable extent, I believe, we already do—experience the world through the 4D framework when that framework makes the best sense. And because in my view, as noted above, that framework makes the best—if not the only—sense in many circumstances, and as much sense as the others in all circumstances, I would not be surprised to see the 4D framework supersede the 3D framework as the "standard" framework for our experience (if, indeed, it has not done so already), just as it has already become the standard theoretical framework, the framework that structures our ways of thinking, in many areas of human endeavor.[31]

rejection of the question, a rejection very similar to the sort of rejection that would be required from the 0D perspective. Or to vary the example slightly, suppose that George does remember that the children are with his mother-in-law and pronounces, with heartfelt relief, "We have no children. Hooray!" This pronouncement could be claimed to be a 0D assertion, even in the strict sense; for from the 3D and 4D perspectives, of course, George and Martha *do* still have children, even though those children are elsewhere.

[29] For more detailed discussion of what is essentially this point, see Silverstein, "The Evil of Death," 112–116, plus the excerpt from Quine at 111 (W. V. O. Quine, "Physical Objects," typescript [read, among other places, at the Western Washington University Philosophy Colloquium, March 1978], 7–9).

[30] This is one reason that I have not been concerned with the considerable diversity among, and the technical details within, the various views that have been put forward relating to four-dimensionalism. For apart, at least, from issues of mereology—which are entirely tangential to my concerns, and which I am not qualified to judge—it seems to me that ordinary, straight-forward, unqualified four-dimensionalism in the end makes better sense of *all* the issues with which the four-dimensionalist debate has been concerned than any alternative view.

[31] These areas centrally include—but are not, in my view, limited to—certain areas of science. And of course there are some areas of science, such as string theory, where at least in some sense, the world is viewed through a *more* than four-dimensional—indeed, a *much* more than four-dimensional—framework.

6

Adaptation

Steven Luper

THE HARM THAT death does to its victim, if any, we might call *mortal harm*. If death ends our existence, as I will here assume, we are likely to incur mortal harm, even if we are lucky enough to perish while asleep, for annihilation is bad for us insofar as it deprives us of good life. But perhaps we can avoid mortal harm by suitably modifying our interests. If so, death might threaten us before we take these precautions, but it would never threaten us again.

The view that we can avoid mortal harm after modifying our interests is prompted by considerations such as the following: Suppose our desires are malleable, and that our interests are determined, at least in part, by our desires, so that, in some cases, the fulfillment of a desire benefits us (as does an event that is responsible for fulfilling the desire), while failing to fulfill a desire harms us. Then we might be able to shape our interests by changing our desires, and avoid harm to which we otherwise would be susceptible. If, for example, your heart is set on winning the Boston marathon, it seems bad for you to fail; however, if you give up that desire, or avoid it from the start, then not winning is of no concern. Let us say that someone has *adapted to* an event or state of affairs just when, by suitably configuring her desires (where 'desire' is construed broadly), she precludes its harming her. Adaptation might preclude many sorts of misfortune. Failing to win a race is not troublesome to those who are indifferent about winning. Similarly, it seems, for those who cultivate indifference to friendship, riches, and beauty, it is no misfortune to lack friends, wealth, and looks. Perhaps we can even see to it that dying will be harmless to us: by becoming disinterested about living on, and the things it makes possible.

Some ways of dealing with a threatened evil will be self-defeating, in the sense that the response is no better for us, or even worse, than the evil it prevents. For example, I could eliminate a painful ingrown toenail by cutting off my foot, and I could eliminate the danger that my prized antique automobile will one day be stolen by crushing it. If I worry about the theft because I want to enjoy my car as long as possible, it is senseless to respond by doing something that guarantees that I will have even less time enjoying my car. A way of adapting to death might be self-defeating in precisely the same way. Perhaps, however, we can adapt to the death we will undergo one day, and do so in a way that is not self-defeating. I will call this claim the *adaptation thesis*. It seems we all face the possibility of mortal harm, so it is important to know whether adaptation offers us a sensible escape. Elsewhere I have contended that it does not.[1] In this chapter, I reinforce that conclusion.

I begin with a few remarks about the historical context of the issue.

ANTIQUITY AND ADAPTATION

A great many figures in the ancient world theorized about misfortune and sought out ways to avoid it. Many of them, Socrates prominently among them, suggested that we will, or can, live well forever. Such theorists undoubtedly thought that ceasing to exist would be a grave misfortune, but they also considered it to be a misfortune we need never face. Hence, they did not have to confront the question as to whether there is a way to render ourselves invulnerable to annihilation and to the consequent loss of any sort of immortality that might otherwise be available. For Socrates, adaptation should play a role, albeit a very limited one, in the good life: We should end desires for (or attachments to) things that are not in our interests as immortals. Keeping these will only make us cling, harmfully, to our present existence and the worldly concerns to which we have become accustomed. Swapping worldly desires for those appropriate for immortals does not function to change our interests, creating in us an interest in the activities of immortals that we did not have before. According to Socrates, we have these interests all along, and we should adjust our desires simply because it is irrational not to desire what is good for us.

Ancient theorists who did not postulate any form of immortality, such as Gautama the Buddha, Epicurus the hedonist, and Epictetus the Stoic, confronted the prospect of annihilation more directly and explicitly. All three of these figures recommended adaptation as a means of living well, and in particular as a means of

[1] Steven Luper, "Annihilation," *The Philosophical Quarterly* 37, 148 (1985), 233–252; *Invulnerability: On Securing Happiness* (La Salle, IL: Open Court, 1996).

reducing our exposure to misfortune, but they were not always clear about whether and how it helps us in our confrontation with death.

Like other Stoics, Epictetus thought that, after suitable preparations, we can escape misfortune altogether. He appeared to think that adaptation is part of those preparations. In several passages of the *Enchiridion*, Epictetus advised that we not desire anything we might be unable to attain through our own efforts. Here is a characteristic example:

> If you attempt to avoid disease or death or poverty, you will be unhappy. Take away, then, aversion from all things which are not in our power, and transfer it to the things contrary to nature which are in our power. . . . For if you desire anything which is not in our power, you must be unfortunate.[2]

Nevertheless, it is not entirely clear how adaptation helps us to avoid misfortune. On one straightforward reading, Epictetus assumed that the thwarting of a desire is bad for us, either in itself or because it "disturbs" us, making us suffer; either way, the misfortune may be avoided by eliminating the salient desire. However, this reading is at odds with the position, which seems fundamental to Stoicism, that virtue is the only thing that is intrinsically good for us, while vice is the sole intrinsic evil. Or rather, this position about virtue is at odds with the claim that suffering, or thwarted desire, is *intrinsically* bad for us. It is consistent with the view that thwarted desire and suffering may be *extrinsically* bad for us—bad for us insofar as they interfere with virtue—but never intrinsically bad for us. However, this latter view undermines the claim that we can become wholly impervious to misfortune. More precisely, our vulnerability is threatened by the possibility that suffering interferes with virtue. Assuming that remaining virtuous is entirely in our control, and that we can modify our desires in any way we choose, we can avoid thwarted desires by caring only about virtue. But we do not have the power to ensure that we will not experience pain (short of suicide), as pain is sometimes the product of unavoidable illnesses and accidental injuries. If pain interferes with virtue, and those things that interfere with our virtuousness are bad for us, even if extrinsically bad, then we are at risk for misfortune. If virtuous people are altogether impervious to misfortune, it is not because they never suffer, but rather because suffering is in no way bad for them.

Like Epictetus, Epicurus also recommended that we desire little, but the latter suggested that we eliminate all desires except those that help us to avoid suffering, as the following passage makes clear:

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[2] Epictetus, *Enchiridion*, trans. George Long (Amherst, NY: Prometheus Books, 1991), II, 13.

> All such desires as lead to no pain when they remain ungratified are unnecessary, and the longing is easily got rid of, when the thing desired is difficult to procure or when the desires seem likely to produce harm.[3]

Given his position that the only thing that is intrinsically bad for us is to suffer, it seems reasonable to reconstruct his view concerning desires as follows: Although the thwarting of a desire is never *intrinsically* bad for us, it could be extrinsically bad, in that it might cause us distress. For example, if we want flowers not to wilt, their decline will cause us some degree of distress, as will our anticipation of their decline. On the other hand, that flowers wilt is not intrinsically bad for us, and it will not bother us if we lack the relevant desire. So we should avoid such desires.

Long before either of these figures lived, Gautama offered similar counsel as part of his "Four Noble Truths." There we are advised to pare down our desires, on the grounds that unfulfilled desires are the chief cause of suffering:

> This . . . is the noble truth of the cause of pain: . . . the craving for passion, the craving for existence, the craving for non-existence.
>
> This . . . is the noble truth of the cessation of pain: the cessation without a remainder of that craving, abandonment, forsaking, release, non-attachment.[4]

Theorists who advocate adaptation as an aid to living well will not necessarily advise us to apply it to death in particular. It is one thing to say that death never harms those who die, and another to say that those who die *need* never be harmed by death. The latter implies that, after suitable preparations, we will not incur mortal harm. The former implies that all such steps are pointless, as the evil against which they are directed never occurs. Hence, if we assume that death is always innocuous, as Epicurus did, it makes no sense to advocate adapting to it. (Isn't death extrinsically bad for us, if only because it thwarts some of our desires? Epicurus would demur, on the grounds that death cannot have painful effects, and on the grounds that when death thwarts a desire, it also precludes our experiencing any accompanying pain.) In view of this fact, we should not understand his recommendation that we not desire immortality as an attempt to help us arm ourselves against mortal harm. On one charitable reading, Epicurus thought that unlike death itself, which is neither intrinsically nor extrinsically bad for us, the desire for immortality and the desire not to die are extrinsically bad, because, combined with belief in our mortality, they

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[3] Epicurus, *Principal Doctrines* 26, in Jason Saunders, ed., *Greek and Roman Philosophy after Aristotle* (New York: Free Press, 1966), 55.

[4] Gautama, "The First Sermon," in Sarvepalli Radhakrishnan and Charles Moore, eds., *A Sourcebook in Indian Philosophy* (Princeton, NJ: Princeton University Press, 1957), 274.

cause us distress when we anticipate our demise. Hence he suggested, as a prophylactic, that we avoid these desires. Perhaps something similar can be said of Epictetus. He appeared to think that death is neither intrinsically nor extrinsically bad for us, despite the fact that it ends the existence of virtuous and vicious persons alike, but also that it is in some sense bad for us to desire immortality. The reason he gave is that those who desire immortality will be "disturbed," and needlessly so, as they can jettison the salient desire.[5] However, as I noted above, this advice is hard to reconcile with the assumption that suffering is a matter of indifference.

As for Gautama, we should emphasize that, unlike Epicurus, he did not think that we are harmlessly annihilated at death. For that matter, he did not think that we are harmfully annihilated, or that we are annihilated at all. Nor did he consider us to be immortal. Gautama believed that the concept of death is not applicable to us. Those who use the term 'death' presuppose that the world contains individual objects that persist over time, and that some of these, such as human beings, are living beings, and that death is the end of the persistence of living beings. Gautama rejected this presupposition.[6] There are no persisting objects, and hence no selves who either begin or cease to exist. So we should avoid saying that we will die. But we should also avoid saying that we will *not* perish; to say that we or other objects will not cease to exist is misleading, as it suggests that we will exist forever.

PRUDENTIAL INTERESTS

In arguing against the adaptation thesis, I draw upon certain assumptions about our prudential interests—about what is good for us and what is bad for us; i.e., what benefits us and what harms us. In this section, I sketch some of these.

I assume that something is *intrinsically* good (bad) for us if and only if it *is* good (bad) for us and its goodness (badness) is not derivative from or due to the goodness (badness) of anything beyond itself. Anything else that is good (bad) for us is *extrinsically* good (bad) for us. An ingrown toenail is bad for us, but not in itself: it is extrinsically bad for us. The pain it causes us is in itself, or intrinsically, bad for us.

Of those things that are extrinsically good for us, some are good only in a limited way, perhaps good in a limited context or timeframe, whereas others are overall good for us, meaning that they are good for us *all things considered*. I advocate a relatively standard view concerning when something is overall good for us. The view, called *comparativism*, says that an event or state of affairs is overall good (bad) for me just

[5] Epictetus, *Enchiridion* II, 13, and V, 14.

[6] See the discussion of the chariot and the story of Yamaka in Radhakrishnan and Moore, eds., *A Sourcebook in Indian Philosophy*, 283–284, 286–288.

when it makes my life better (worse) than it would have been had that event not occurred. For example, being poked in the eye with a sharp stick is overall bad for me because it makes my life worse than it would otherwise have been, whereas forming a friendship is overall good for me, as it makes my life better.

According to comparativism, we work out how overall good an event is by comparing how well off we are in the actual world, in which the event occurs, to how well off we are in the nearest world in which the event does not occur. How well off we are in a possible world at a time (i.e., our welfare level in a world at a time) is determined by the intrinsic goods and evils we attain there then. Or it is so determined, on the assumption that we are capable of attaining any intrinsic goods or evils in that world at that time.[7] No doubt, precision in such matters is elusive, but let us assume for simplicity that intrinsic goods can be assigned positive numerical values, that different types of intrinsic goods are commensurable, so that one unit of one such good is comparable to one unit of another, and that, similarly, intrinsic evils can be assigned negative numerical values, commensurately with other evils, and that such values correspond meaningfully to their positive counterparts, so that one unit of an intrinsic evil exactly offsets one unit of an intrinsic good. Then our welfare level at a particular time in a world is the sum of the intrinsic goods and evils we attain at that time in that world, and our lifetime welfare level in a world is the sum of the intrinsic goods and evils we attain over our lives in that world. If an event E makes our lifetime welfare level in the actual world higher than it is in the closest possible world in which E fails to occur, then E is overall good for us. We can even define E's overall value for us: It equals our lifetime welfare level in the actual world minus our lifetime welfare level in the closest world in which E fails to occur. For example, suppose that our lifetime welfare level in the actual world equals 100, and our lifetime welfare level in the closest world in which E fails to occur is 90. Subtracting this second value (90) from the first (100) tells us what E's overall value is for us: E has a positive value of 10. Accordingly, we might explain comparativism in this way:

> *Comparativism*: an event or state of affairs E is overall good (bad) for a subject S just in case E's overall value for S is positive (negative); the more positive (negative) its value, the better (worse) E is for S.

Exactly what sorts of things are intrinsically good for us is controversial. Comparativism analyzes overall goodness partially in terms of intrinsic goodness, but it is compatible with any account of the latter. Suppose, for example, that we

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[7] For a defense of this qualification, see Steven Luper, "Mortal Harm," *The Philosophical Quarterly* 57 (2007), 239–251; *The Philosophy of Death* (Cambridge, UK: Cambridge University Press, 2009).

adopt a simple form of hedonism, such as the following, as our account of intrinsic goodness:

> *Positive hedonism*: for any subject S, the one and only thing that is intrinsically good for S at time T is S's experiencing pleasure at T, and the one and only thing that is intrinsically bad for S at T is S's experiencing pain at T. The greater the quantity or intensity of the pleasure S experiences at T, the greater the intrinsic good for S at T; the greater the quantity or intensity of the pain S experiences at T, the greater the intrinsic bad for S at T.

On this view, our welfare level in a world is determined solely by the pleasure and pain we accrue in that world. Combined with positive hedonism, comparativism says that an event harms us only if, because of it, our welfare, hedonistically assessed, is lower than it would otherwise have been.

So much for my assumptions about our prudential interests. Next, I lay out an argument against the adaptation thesis.

THE CASE AGAINST THE ADAPTATION THESIS

If comparativism is correct, then being harmed may involve our enduring intrinsic evils. However, it might instead involve our being *precluded from gaining* intrinsic goods we otherwise would have had. So we cannot make ourselves invulnerable to harm merely by avoiding intrinsic evils. We must also protect ourselves from things that would take away intrinsic goods we otherwise would have. Hence the only way to ensure that death will not harm us is to so situate ourselves that the life it takes from us would *not be good for us*. To do that, we must see to it that our remaining life is bad for us, or that it is neither good nor bad for us.[8] Yet doing this to ourselves is self-defeating. It amounts to denying ourselves the possibility of a good life in order to rule out the possibility of a bad death. Worse: It amounts to depriving ourselves of any further good life in order to rule out the possibility that death will deprive us of good life. Absurdly, we would be doing to ourselves what we want death not to do.

To make the case against the adaptation thesis more concrete, let us pair comparativism with an account of welfare. We can draw upon the positive hedonist account once again. Combined with hedonism, comparativism says that it is bad for us to be precluded from gaining more pleasure, and hence it is bad to be precluded from

[8] At least, this is true on plausible assumptions about intrinsic goods; for a possible worry, see Steven Luper, "Retroactive Harms and Wrongs," in Fred Feldman, Ben Bradley, and Jens Johansson, eds., *Oxford Handbook of Philosophy and Death* (New York: Oxford University Press, 2013), 317–336.

gaining more life that is on the whole pleasant. It is not intrinsically bad for us—it is not necessarily painful not to have pleasure—but it is bad for us nevertheless. Hence proponents of positive hedonism could see to it that they will not have a bad death, but only by ensuring that further life, assessed hedonistically, would not be good for them.

Doing this is within their power. They could gravely injure themselves, for example, so as to make any further life intolerably painful. They could find some way to make themselves anhedonic, or incapable of pleasure. Hedonists could also use adaptation itself to avoid a bad death. Obviously, hedonists cannot render pleasure irrelevant to their welfare by giving up the desire for pleasure; if hedonism is true, pleasure is good for us, whether we want it or not. However, our desires affect our welfare indirectly, by influencing how much pleasure or pain we have, and there are ways of configuring our desires to ensure that, afterward, life would be devoid of pleasure, or on the whole painful. The former might involve giving up any desires the fulfillment of which might be pleasant, including the desire for pleasure. The latter might involve desires for unpleasant, unrewarding pursuits, such as digging and refilling holes, or self-mortification.

Obviously, these ascetic strategies are self-defeating. They are against the interests of hedonists. It is no good for hedonists to deprive themselves of pleasure for the sake of precluding the possibility that death will deprive them of pleasure; either way, they are deprived of pleasure, which is the last thing hedonists want. So it is clear that hedonistic comparativists must reject the adaptation thesis.

Here is a recap of the comparativist argument against the adaptation thesis:

1. Comparativism is true.
2. If comparativism is true, adaptation can succeed (making death harmless to us) only by ensuring that further life would not be good for us; that is, it can succeed only by ensuring that, over the course of any life that remains to us, we would not have more intrinsic goods than evils: Either we would lack any further intrinsic goods altogether, or the intrinsic goods we have would be matched or exceeded by intrinsic evils.
3. Adaptation is self-defeating if it succeeds by ensuring that our remaining life would not be good for us.
4. So adaptation is either unsuccessful or self-defeating.

As we just saw, anyone who accepts comparativism and the positive hedonist account of welfare must accept this argument. However, the shortcomings of the hedonist view are well known. If we replace it with a better account of welfare, perhaps we can position ourselves to resist the comparativist argument. It seems clear that the

would-be critic must reject premise 1 or 2, because 3 is unassailable. In the next few sections, I discuss three ways in which we might reject 2 without rejecting 1. Then, I consider a way to criticize 1.

THE PREFERENTIALIST RESPONSE

Can we accept comparativism yet reject 2 if we replace hedonism with a more plausible account of well-being? To answer this question, we need to consider some alternative views of welfare. In this section, I discuss a version of preferentialism—a version of the view that fulfilling our desires is good for us—and its implications about welfare and the adaptation thesis. Later, I consider whether we can reject 2 using some other account of welfare.

The form of preferentialism I have in mind says roughly that it is intrinsically good for us to get what we want, and intrinsically bad for us to get what we do not want. But what is it to get what we want? Notice that when we want something, the object of our desire can be expressed in the form of a proposition. If, for example, I desire that my lilies will grow, the object of my desire is the proposition: my lilies will grow. In general, it seems, when we desire P, we get what we want if P holds, and we get what we do not want if P does not hold. That is, we get what we want when two things come together: our desiring something P, and the truth of P. According to the following account, it is intrinsically good for us that these two things come together:

> *Simple preferentialism*: for any subject S, it is intrinsically good for S at time T that, at T, S desires P, and P is true; and it is intrinsically bad for S at T that, at T, S desires P yet P is false. The stronger S's desire for P is, the better (worse) it is for S that P is true (false).

As stated, simple preferentialism leaves open the possibility that things other than fulfilled desires are intrinsically good for us. Contrast it with the following view:

> *Exclusive simple preferentialism*: for any subject S, the one and only thing that is intrinsically good for S at time T is that, at T, S desires P, and P is true; the one and only thing that is intrinsically bad for S at T is that, at T, S desires P yet P is false. The stronger S's desire for P is, the better (worse) it is for S that P is true (false).

This version is "exclusive" because it says that the *only* thing that is intrinsically good for us at some time is getting what we want at that time. Thus, for instance, it is

incompatible with the view that pleasure is intrinsically good for us, although it implies that fulfilling the desire for pleasure is good for us.

There is one other feature of (exclusive or nonexclusive) simple preferentialism that needs clarification. Consider that things that happen at one time can make a proposition true at some other time. What would make it true that my students will graduate is the relevant graduation some years from now. Let us say that the event (if any) that makes a proposition true is its *truth maker*. Then, according to simple preferentialism, if I desire that my students will graduate, it is good for me right now that two things come together: I desire that my students will graduate and they *will* graduate. I gain this good now, even though the truth maker of the object of my desire will not occur until years pass. Just as propositions might have truth makers, they might also have falseness makers. Let us say that subject S's desire for P is *thwarted* at time T if and only if, at T, S desires P, and P's falseness maker occurs. Assuming that my students will not graduate, simple preferentialism implies that it is bad for me *now* that I desire that my students will graduate and they will not, even though my desire will not be thwarted until years go by.

Some readers will reject simple preferentialism on the grounds that it presupposes a false view about getting what we want. It assumes *conformism*, the view that our desire for P is fulfilled (unfulfilled) at time T if and only if, at T, we desire P and P is true (false). Readers who reject conformism might prefer *effectivism*: Our desire for P is fulfilled (unfulfilled) at T if and only if, at T, we desire P and P's truth maker holds (P's falseness maker holds). Elsewhere, I have argued for conformism over effectivism, but the issue can be left open here.[9] Readers who prefer effectivism might wish to replace simple preferentialism with the following account:

> *Effectivist preferentialism*: for any subject S, it is intrinsically good for S at T that, at T, S desires P, and P's truth maker holds; it is intrinsically bad for S at T that, at T, S desires P, and P's falseness maker occurs.

Let us return to our question: Can we accept comparativism yet reject premise 2 of the comparativist argument? To resist 2, we will need a way to adapt to death without making our lives worse. Does exclusive preferentialism make this possible?

Of course, any reason for rejecting exclusive preferentialism is a reason to reject any strategy based on exclusive preferentialism. And there are plenty of worries about this account of intrinsic goodness. But let us set these aside for now, and simply assume that exclusive preferentialism is correct. Even then, it does not enable us to resist 2. Given the combination of comparativism and exclusive preferentialism,

[9] Ibid.

death harms people when it precludes the fulfillment of desires they actually have, and when it precludes their forming and fulfilling desires they would otherwise have had and fulfilled. To adapt to death, preferentialists will need some strategy for preventing death from having this effect on them. In theory, the simplest strategy is to give up their desires and resolve not to replace them. But that is obviously self-defeating, as people who have no desires whatever cannot have a good life, according to exclusive preferentialism.

Although there are less drastic ways to adapt to death, all fail for related reasons. Here is a less extreme way to adapt: Instead of giving up all of our desires, we might give up just those desires the fulfillment of which death jeopardizes. On this strategy, we would limit ourselves to an array of desires that death would not thwart, a set that is, so to speak, death-proofed, or thanatized. By combining this policy with exclusive preferentialism, we appear to ensure that death is no threat. At the same time, we leave ourselves free to have some desires; by fulfilling those that remain, it seems possible for us to have a good life.

What would such death-proof desires be like? A few possibilities come to mind. The first is the desire to die, but two other possibilities are more interesting.

Imagine a desire whose object P is such that nothing I do, and nothing about my life, has any bearing on whether P is true or false. Because P's truth value is independent of me and my life, call the desire for P an *independent* desire. Such desires are easy to imagine; examples include the desire that the moon should have water on it, the desire that time travel should be possible, and so forth. When my desire for P is independent, my demise will have no bearing on whether or not P is true. So it seems that if exclusive preferentialism is correct, I can ensure that dying will not harm me by limiting myself to independent desires.

The same seems true if I limit myself to desires that are conditional on my being alive. Take, for example, the desire to be well fed if alive. I might wish to be well fed even if I do not want to live on, and will not be disappointed to discover that in the near future I will be dead. Not being well fed at a time does not appear to be bad for me if it is also the case that I will not be alive then. And other desires that are conditional on my being alive are relevantly similar: their fulfillment is not precluded by my demise.

So those who restrict themselves to these kinds of desires seem impervious to mortal harm. However, exclusive preferentialism (together with comparativism) implies that they are not. Benefit or harm is not solely a matter of whether the objects of our desires are made true or false. It also depends on whether we *have* the desires. So death can still harm those who limit themselves to independent or conditional desires—namely by causing them not to have, hence not to fulfill, any desires. Given preferentialism, having a desire whose object holds would be good for us, but that

is possible only while we are alive; according to comparativism, death is bad for us insofar as it deprives us of such goods.

Hence as exclusive preferentialists we cannot successfully adapt by limiting ourselves to independent and conditional desires. However, adapting *would* be possible if we accepted a modification of preferentialism. In many cases it is not intrinsically good for us to fulfill our desires; the modification I have in mind would take this fact into account. In particular, it is implausible to say that the fulfillment of desires that are independent or conditional on our being alive is intrinsically good for us. As Parfit pointed out, fulfilling my desire that a total stranger (whom I encounter once and never again) should be happy benefits that stranger, but it probably will not benefit me at all, and if it does, it will do so only obliquely: it will not be intrinsically good for me.[10] Surely the same is true of my desire that the Earth continue to orbit the sun, my desire that the moon have water on it, and similarly for any independent desire. I would say that the same is also true of desires that are conditional on our being alive. (But I doubt that the point generalizes to all conditional desires. Desires may be conditional on many things. For example, my desire to promote some cause might be conditional on my not later deciding that the cause is corrupt. Fulfilling desires that are conditional on some sorts of things might well be intrinsically good for us.)[11]

Suppose we accept a modification of simple preferentialism according to which it is not intrinsically good for us to fulfill desires that are independent of or conditional on our being alive. In that case we can successfully adapt by limiting ourselves to such desires. Perhaps surprisingly, however, we *still* cannot accept the adaptation thesis. The reason is this: to resist premise 2, we must do more than adapt to death. We must adapt without undermining the value of our remaining life. As it turns out, however, limiting ourselves to independent and conditional desires is self-defeating, assuming that the fulfillment of these desires is not intrinsically good for us. If fulfilling some desires is the only thing that is intrinsically good for us, but fulfilling no desires that are independent or conditional on our being alive is intrinsically good for us, then, by limiting ourselves to these, we deny ourselves the possibility of a good life.

It is now clear that exclusive preferentialism does not give us the resources we need to resist premise 2 of the comparativist argument. By adapting, by paring away vulnerable desires, preferentialists can prevent death from thwarting their desires, but death will still remove any desires that remain and prevent the development of any others. And whatever these latter desires are, fulfilling them would make their

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[10] Derek Parfit, *Reasons and Persons* (Oxford, UK: Clarendon Press, 1984).

[11] Luper, "Retroactive Harms and Wrongs."

remaining life good for them, or it would not. If it would, then death will still harm them by depriving them of this good life. If not, then adaptation is self-defeating, as it ensures that their remaining life is not good.

NEGATIVIST RESPONSE

Consider another position concerning the good, namely *negativism*, the view that nothing is intrinsically good for us. On one assumption, negativism rules out the possibility of mortal harm from the start. The impossibility of mortal harm would undermine the adaptation thesis (which says that adaptation can eliminate the threat of mortal harm) because nothing can eliminate a threat that does not exist. But if the assumption I have in mind is false, negativism positions us to offer a second response to the comparativist argument against the adaptation thesis.

The pivotal assumption is that death cannot boost the amount of intrinsic evil in our lives. Presumably, mortal harm must entail our being deprived of intrinsic goods or our being provided with intrinsic evils; the former we might call a *deprivation* harm; the latter we might call a *provision* harm. So the assumption under discussion implies that mortal harm does not exist unless it is a kind of deprivation harm. But if negativism is true, there is no such thing as deprivation harm: Nothing can harm us by depriving us of intrinsic goods if nothing is intrinsically good. Hence the assumption that death is never responsible for intrinsic evils, combined with negativism, implies that death never harms those who die, and we can reject the adaptation thesis.

However, if the assumption is false, negativism is compatible with the existence of mortal harm. Death might be bad for us insofar as it is responsible for our incurring intrinsic evils that we otherwise would not have endured. And then our question arises once again: Does adaptation supply a sensible way to avert the threat of mortal harm, or will adaptation be self-defeating, as premise 2 says? In order to answer this question, let us look more closely at negativism.

Negativists can pair the claim that nothing is intrinsically good for us with different views about what is intrinsically *bad* for us. One possibility is that pain is the sole intrinsic evil; another is that unfulfilled desire is the only intrinsic evil. We might call the former pairing *negative hedonism* and the latter *negative preferentialism*. (Some passages in Epicurus' writings suggest that he accepted negative hedonism.)

Some accounts of the good entail that nothing is intrinsically good for us and that death is never responsible for intrinsic evils. For example, both claims follow from negative hedonism. By contrast, negative preferentialism is a form of negativism that is compatible with the possibility that death is responsible for some intrinsic evils: According to negative preferentialism, it is intrinsically bad

for us to have unfulfilled desires; our present desires might themselves go unfulfilled if we perish in the near future (given conformism), so death can boost the intrinsic evil in our lives.

Negative preferentialism might get adaptationism back in business, because, in theory, we can prevent death from thwarting our desires by eliminating the ones that are vulnerable. Death will also preclude our forming and fulfilling desires, and thus deprive us of future fulfillment, but this is not bad for us, according to negative preferentialism, as having and fulfilling desires is not good for us. Earlier, I criticized thanatization as self-defeating because it excludes those desires the fulfillment of which might be intrinsically good for us. But if nothing is intrinsically good for us, as negativism implies, this criticism is moot.

So given negative preferentialism, mortal harm is possible yet may be averted via adaptation. Nor will adapting to death be self-defeating, for it results in a life that is not as bad as it would otherwise be. Hence, if negative preferentialism were correct, it would position us to reject premise 2 of the comparativist argument.

However, neither negative preferentialism nor any other form of negativism is plausible. Given negativism, the only good is extrinsic; it consists in our having less intrinsic evil. Unlike death, living on is never the means to our having less intrinsic evil. Hence the possibility of our living well is ruled out from the start. The best life we can have will not be good at all. It is merely free of evil. Life is either bad for us or it is something about which we should be wholly indifferent. A more lugubrious view than negativism is difficult to imagine. Negativism is counterintuitive for other reasons as well, such as the following: Suppose that, by pushing a button, you will endure a little more intrinsic evil such as pain than you otherwise would have, but you will also enjoy a great deal more joy, accomplish amazing things, and so forth. Negativism implies that it is best not to push the button. It implies that nothing justifies allowing ourselves more intrinsic evil than we otherwise would endure, no matter how much joy we could attain and no matter how great the accomplishments we could achieve.

I conclude that appealing to negativism does not position us to reject premise 2 of the comparativist argument after all.

ANTI-DEPRIVATIONIST RESPONSE

I have considered two ways of rejecting premise 2 of the comparativist argument. Each was consistent with comparativism, yet neither panned out. Perhaps proponents of adaptationism can do better if they reject comparativism itself. In this section, I briefly consider one alternative to comparativism.

Consider the following position:

> *Pure provisionism*: for any subject S, something is overall bad for S just when it makes the amount of intrinsic evil in S's life greater than it otherwise would have been.

It would be natural to accept this view if we also accepted negativism; if there just aren't any intrinsic goods, there could only be provision harms. We have already argued that negativism is false, so if it is our only grounds for accepting pure provisionism, we should reject both. However, isn't it possible to accept pure provisionism even if we reject negativism? Pure provisionism does not say that there are no intrinsic goods, although it does entail that, if they exist, being deprived of them is not bad for us. Is it coherent to claim that there are things that would be intrinsically good for us, yet it is not bad to be deprived of them?

I presume that a life with more intrinsic goods is, other things being equal, better than one with fewer, and a life with fewer is worse than one with more. So pure provisionism forces us to say that what precludes our acquiring good things makes life worse than it otherwise would be, yet despite this, the things that preclude our acquiring good things are not bad for us. It follows that what makes life worse than it otherwise would be need not be bad for us. Given that it has consequences like this, I doubt that pure provisionism is coherent. But for the time being, let us suppose that it is. Then we will also reject the comparativist argument against the adaptation thesis. Comparativism implies that, if other things are equal, being deprived of a good is bad for us, which is something that pure provisionism denies.

Although pure provisionism derails the comparativist argument, it may not support the adaptation thesis. The adaptation thesis presupposes that death sometimes harms those who die. Like negativism, however, pure provisionism rules out the possibility of mortal harm given the assumption that death is never responsible for intrinsic evils.

But let us assume that, contrary to this assumption, death may boost the amount of intrinsic evil we endure, and that, as pure provisionism implies, death harms us if it does this. Is the adaptation thesis viable *now*? Suppose that the only intrinsic evil death can bring about is thwarted desire. This is an evil we can avoid by thanatizing. However, we saw that thanatizing forces us to eliminate all desires whose fulfillment might be considered intrinsically good, which raises the concern that adapting via thanatization will be self-defeating. Because we rejected negativism, this concern is not moot. Given exclusive preferentialism, it is a fatal objection to the adaptation thesis.

Perhaps we can rescue the adaptation thesis by embracing some account of the good other than exclusive preferentialism. We might say, for example, that thwarted

desire is the only intrinsic evil, but various things, such as pleasure, are intrinsically good. Then we can make ourselves impervious to mortal harm by thanatizing without worsening life—without reducing the amount of intrinsic good it would otherwise include.

This scenario may seem conceivable, but I doubt that we can take it seriously. If thwarted desire is intrinsically bad for us, thanatizing forces us not to desire the goods that might contribute to the overall value of our lives. Hence, in the scenario we are imagining, adaptation is not self-defeating only if our indifference to these goods somehow fails to interfere with our acquiring them. Adaptation will succeed only if we inadvertently attain a good life that we do not want.

In any case, this defense of the adaptation thesis is built upon pure provisionism, which is an extraordinarily wobbly foundation. I have already pointed out that pure provisionism forces us to swallow the unpalatable claim that what precludes our acquiring good things is not bad for us, yet it makes life worse than it otherwise would be. Nor is this the only thing we must choke down. Suppose we say that being deprived of a good is not bad for us. To be consistent, we must also make the dubious claim that being deprived of an evil is not good for us. Now, we *can* say both of these things; we have only to replace pure provisionism with the following, stronger view:

> *Bifurcated comparativism*: for any subject S, something is overall bad for S just when it makes the amount of intrinsic evil in S's life greater than it otherwise would have been, and something is overall good for S just when it makes the amount of intrinsic good in S's life greater than it otherwise would have been.

But it is hard to see why anyone would choose this route, for three reasons. First, being stronger, bifurcated comparativism shares the flaws of pure provisionism. Second, it is wildly implausible to say that it is bad for us to increase our intrinsic evils, yet not good to avoid them, and just as implausible to say that it is good for us to increase our intrinsic goods, yet not bad to be deprived of them. Consider just two consequences of bifurcated comparativism: Being made unconscious to avoid the pain we otherwise would incur during surgery does not benefit us (because it does not boost our intrinsic goods); being made comatose, and thus being deprived of a stretch of life that would have been good for us, is not bad for us (because it does not boost our intrinsic evils). I doubt that anyone will accept those consequences. It is for excellent reasons that we prefer to be unconscious during surgery, but not while we pass through the milestones of life.

RESPONDING TO DEATH

Much of what we do is directed toward creating a better future for ourselves. We plan our careers hoping for success, we look for friends and a partner hoping to form strong, enduring relationships, and we rear our children in such a way that they will become independent adults capable of expanding our family ties. None of us welcomes the forlorn conclusion that waiting at the end of our days is a tragedy: our demise. Unfortunately, adaptation is not a reasonable way to secure ourselves against mortal harm. If there are goods other than fulfilled desires, death might deprive us of them, thereby harming us, and adaptation is powerless to preclude such harm. And even if exclusive preferentialism were true, it would not be sensible to attempt to avoid mortal harm through adaptation. For if we retain any desires whose fulfillment would benefit us, we remain vulnerable to death; if we retain no such desires, we deprive ourselves of the possibility of good life.

Is adaptation of no use to us at all, then? I do not think so. If some form of preferentialism is true, as I believe it is, then in some ways we are able to shape our own interests. It makes good sense to take advantage of our malleability to ease our encounter with mortality, even though we cannot guarantee that we will altogether escape mortal harm. We might say that death is biologically premature if it comes unusually early. Presently, the average lifespan in the United States is a bit less than 80 years, so death is biologically premature when it ends the life of a typical U.S. citizen who is 65 years old or 40 years old. In any case, none of us can reasonably expect to live much longer than 90 years, and it is best to adjust our expectations accordingly. In planning out our lives as wholes, a judicious application of adaptation can benefit us. Most of us make our existences distinctive and worthwhile by succeeding with a life plan the threads of which unify our lives over time and bind us with the lives of others. These plans must come to an end, but designing them realistically will help ensure that they do not end in failure, left uncompleted. As it is a misfortune to fail at projects that we make part of our life plan, it is best to choose endeavors that we can accomplish within a normal lifespan. In so doing, we limit our exposure to misfortune. It is also true that we will not benefit from pursuing a project if we do not take it on, but we cannot expect to accomplish anything at a time if we cannot expect to be alive at that time.

There is something else to consider as we approach the end. It would be nice if advances in medical technology enabled people to live well for significantly longer than a mere 80 or 90 years, but such advances are not yet in sight. If we live well past

the point at which death would be premature, we will face rapidly increasing suffering, a sharp decrease in physical mobility, and possibly the onset of dementia. At some point, we will not live well. Rather than allowing that to happen, it might be prudent to hasten death.[12]

[12] I thank my colleagues at Trinity for their comments about this essay, which was written in 2008 and slightly revised after that.

7

Death and Desires

Ben Bradley and Kris McDaniel

IN "THE MAKROPULOS Case," Bernard Williams argued for the importance of what he called "categorical desires" in understanding the evil of death and the unattractiveness of immortality.[1] According to Williams, categorical desires play three roles. First, there is a *psychological* role. When someone chooses to live rather than die, her choice must be explained by some categorical desire she has. Second, there is a *normative* role. Categorical desires, unlike other desires, provide reasons to continue living. Third, there is an *axiological* role. When someone dies, her death can be bad for her only if she had some categorical desire that was frustrated by her death; as it is possible to lack categorical desires, "death is not necessarily an evil."[2] According to Williams, a being who lived long enough would, at some point, lose the ability to form categorical desires; at that point, she would not choose to live, nor would she have reason to live, nor would her death be bad for her.

Subsequently, others have made additional claims about categorical desires. One striking claim is that it is impossible for fetuses, infants, and most animals to have categorical desires.[3] When combined with Williams's claims about the badness of

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[1] Bernard Williams, "The Makropulos Case: Reflections on the Tedium of Immortality," in John Martin Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993 [1973]), 73–92.

[2] Ibid., 74. On the normative and axiological roles, see also Christopher Belshaw, *Annihilation* (Montreal: McGill-Queen's University Press, 2009), 116.

[3] Ibid., 117; Jeff McMahan, *The Ethics of Killing: Problems at the Margins of Life* (New York: Oxford University Press, 2002), 183; Ruth Cigman, "Death, Misfortune and Species Inequality," *Philosophy and Public Affairs* 10 (1981), 58–59.

death, this claim entails that it is not bad for a fetus, infant, or animal to die. This in turn seems to have implications for the wrongness of killing such beings (assuming the wrongness of killing is connected to the badness of death—a controversial assumption).

Unfortunately, it is not clear what Williams means by "categorical desire." Furthermore, it is not clear, either in Williams's original paper or in the extant secondary literature, which of these roles, if any, is meant to be *definitional* or constitutive of what it is to be a categorical desire, and accordingly it is not clear whether it is a substantive thesis that some mental state fills any (or all) of these roles. For example, John Fischer says that categorical desires "implicitly answer the question of whether one wishes to remain alive."[4] Is Fischer taking the (alleged) psychological role of categorical desires as being constitutive of them? When Jeff McMahan first mentions categorical desires, he characterizes them as "those that give one a reason to continue to live in order to ensure their satisfaction."[5] McMahan appears to stress what we are calling the normative role of categorical desires, and given that this is how the technical term is first introduced, it is tempting to read McMahan as implicitly defining categorical desires as those that satisfy the normative role.[6] Mikel Burley claims that categorical desires are "those of our desires which are capable of being frustrated by death."[7] This characterization of categorical desires appeals to neither their psychological role nor their normative role, but rather to the conditions under which they are capable of being frustrated. This is a better way to define categorical desire. If we define categorical desires by appeal to the psychological, normative, or axiological role such desires allegedly play, then apparently interesting claims go trivial (given certain assumptions about desires and reasons to be set forth below). For example, the claim that one has reason to live only if one has categorical desires reduces to the claim that one has reason to live only if one has a desire that gives one a reason to live. This would make for a bad interpretation of Williams. We therefore plan, at least at the outset, to treat as substantive the claims that categorical desires play a psychological, normative, or axiological role. This is also important

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[4] John Martin Fischer, "Introduction," in John Martin Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 16. Also see Jeremy Wisnewski, "Is the Immortal Life Worth Living?" *International Journal for Philosophy of Religion* 58 (2005), 28; it is unclear whether Wisnewski defines categorical desires as those that propel one into the future, or as those that are not conditional on being alive; perhaps he takes these to amount to the same thing.

[5] McMahan, *The Ethics of Killing*, 182.

[6] Also see Belshaw, *Annihilation*, 116—though again, we cannot tell whether Belshaw means to *define* categorical desires as those that provide reasons to stay alive.

[7] Mikel Burley, "Immortality and Boredom: A Response to Wisnewski," *International Journal for Philosophy of Religion* 65 (2009), 79.

because it is even less clear that any particular sort of desire could fill all three roles, or that categorical desires cannot be had by fetuses, babies, or animals.

There is an obvious way to reject the importance of categorical desire to the badness of death: simply deny that desire plays a fundamental role in what our reasons are, or what is good for us. For example, if hedonism were true, then death would be bad for someone no matter what she desired, as long as death deprived her of more pleasure than pain; eternal life would be a good thing, even without any categorical desires, if the future always delivered more pleasure than pain. For the sake of this chapter, we set these worries aside and provisionally accept both a desire-based theory of reasons for action and a desire-based theory of well-being.

Williams does not clearly state what he takes to be the relations between desires, reasons, and well-being. According to Williams, "to want something…is to that extent to have reason for resisting what precludes having that thing."[8] This claim is much too weak to support Williams's conclusions about the badness of death and eternal life. We provisionally accept the following stronger claims: One has a reason to bring about P only if one desires that P; one has more reason to bring about what one desires more; what is intrinsically good for someone is the satisfaction of her desires; what is intrinsically bad for someone is the frustration of her desires; the satisfaction (frustration) of stronger desires is intrinsically better (worse) than the satisfaction of weaker desires.[9] We do not believe these assumptions, but without them, it is hard to see how any of Williams's claims about reasons and value could be plausible or true. We have reason to clarify these assumptions below.

1. CATEGORICAL DESIRES AS UNCONDITIONAL DESIRES

What is a categorical desire? Here is what Williams has to say:

> Many of the things I want, I want only on the assumption that I am going to be alive; and some people, for instance some of the old, desperately want certain things when nevertheless they would much rather that they and their wants were dead.…A man might consider what lay before him, and decide whether he did or did not want to undergo it. If he does decide to undergo it, then some

[8] Williams, "The Makropulos Case," 76.

[9] Luper-Foy says that it is only the thwarting of "fulfilling" desires, or desires whose fulfillment would bring a sense of satisfaction, that is bad for someone (Steven Luper-Foy, "Annihilation," in Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993 [1987]), 271–272. This distinction does not play a role in our arguments. (Recall that we are provisionally adopting a desire-satisfactionist view of well-being, rather than a view in which pleasant feelings, such as feelings of "felt satisfaction," are the primary contributors to well-being.)

> desire propels him on into the future, and *that* desire at least is not one that operates conditionally on his being alive, since it itself resolves the question of whether he is going to be alive. He has an unconditional, or (as I shall say) a categorical desire.[10]

Williams says that a categorical desire is "not one that operates conditionally on his being alive." He also says that it is "unconditional." But a desire can fail to be conditional on being alive while still being conditional on something else, and so fail to be unconditional. (One might want something on the condition that someone else is alive, for example.) Thus it would be a bad idea to identify the class of categorical desires with the class of unconditional desires. It would be better to say that S's desire that P at t is categorical if and only if S's desire that P at t is not conditional on S's being alive at t.[11] But what exactly does this mean?

If we are to identify categorical desires with desires that are not conditional on being alive, it behooves us to think about the notion of conditional desire. It would be natural to think that a conditional desire is a desire whose object is a conditional proposition. And in fact this is just what Steven Luper-Foy says. According to Luper-Foy, to say that S desires that P at t conditional on being alive at t is to say that S desires that the subjunctive conditional *if S were alive at t, then P at t* is true.[12]

But this cannot be right.[13] Suppose S desires that P at t, and that his desire is conditional on his being alive at t. Suppose S dies before t; but suppose that at the closest possible world at which S is alive at t, P at t. Then the subjunctive conditional *if S were alive at t, then P at t* is true.[14] So S's conditional desire that P at t is *satisfied*, even though S is dead, and P never actually obtains. That cannot be right. It cannot be so easy to satisfy a conditional desire. If it were this easy to satisfy one's desires that are conditional on one's being alive, suicide might often be a more attractive option than it should be. If John now wants dessert after dinner on the condition that he is not too full, his conditional desire for dessert is not satisfied if he stuffs himself

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[10] Williams, "The Makropulos Case," 77.

[11] Belshaw distinguishes desires that are conditional on being alive from categorical desires, which he says are desires that give us a reason to continue living (Belshaw, *Annihilation*, 116). This suggests that Belshaw might identify categorical desires, ones that give us reason to continue living, with desires that are not conditional on being alive.

[12] Luper-Foy, "Annihilation," 276.

[13] See Shieva Kleinschmidt, "Conditional Desires" (manuscript); Dorothy Edgington, "On Conditionals," *Mind* 104 (1995), 235–329; and Kris McDaniel and Ben Bradley,"Desires," *Mind* 117 (2008), 267–302, for more on why conditional desire is not desire with a conditional object.

[14] We assume an account of subjunctive conditionals like that found in David Lewis, *Counterfactuals* (New York: Blackwell, 1973); and Robert Stalnaker, *Inquiry* (Cambridge, MA: MIT Press, 1984), but nothing turns on this assumption.

silly before dessert time. Nor is his desire for dessert frustrated. Rather, we say that the desire is "cancelled." It is neither satisfied nor frustrated. ("All bets are off" with respect to that desire, in Williams's words.[15])

On our view of conditional desire, conditional desire relates a person to two propositions: an object and a condition.[16] A conditional desire is satisfied if and only if both its object and its condition are true. It is frustrated if and only if its condition is true but its object is false. It is cancelled if and only if its condition is false. Given our assumptions about desire and value, a satisfied desire is intrinsically good for the desirer; a frustrated desire is intrinsically bad; and a cancelled desire is neither intrinsically good nor intrinsically bad. Because a single desire may be conditional on many things, the condition of a desire will sometimes be a large conjunction. Sometimes one of those conjuncts is that the desirer is alive at some time in the future. In such cases, the desire is conditional on being alive.

We may then define categorical desire in the following way:

CD1. S categorically desires that P at t if and only if S desires that P at t on the condition that Q, where Q does not entail that S is alive at t.

A categorical desire can be satisfied or frustrated even if the desirer dies before t. A non-categorical desire that P at t would be cancelled if the desirer were to die before t.

CD1 is the most straightforward way to make sense of the notion that categorical desires are unconditional. But does the resulting notion of categorical desire satisfy the psychological, normative, and axiological roles that categorical desire is alleged to fill?

By "the psychological role" of categorical desires, we mean the causal profile of such desires, or how an agent's categorical desires interact causally with her other mental states and her outward behaviors. Williams seems to think that an agent who lacked categorical desires would thereby lack the psychological capacity to intentionally continue living.

We are skeptical about there being anything interesting to say about categorical desires and their potency to propel agents into the future, at least not at this level of generality. We explicitly mention this aspect of Williams's discussion because we are somewhat unsure whether Williams would be happy with calling *every* desire that is not conditional on being alive a categorical desire, because it is hard to believe that many of these desires could be causally relevant to life-sustaining behavior.

[15] Williams, "The Makropulos Case," 77.

[16] We defend this view in McDaniel and Bradley, "Desires."

Consider, for example, the desire that the life of a stranger whom one met on a train goes well for her. One might have this desire while believing that one will never see the stranger again and moreover have no opportunity to affect the stranger's welfare. Nonetheless, an agent might have a desire of this sort without it being conditional on her (the agent) continuing to live.[17] It is hard to see how a desire of this sort could causally motivate the agent to continue to live. This is similarly so for desires concerning matters wholly past or wholly non-contingent. Finally, there are desires that are conditional on being not alive. For example, one might desire, on the condition that one dies tomorrow, that one's spouse receives her possessions. It is hard to see how desires that are conditional on one's not being alive could help one actually stay alive. Should they be called *categorical* in Williams's sense, even though it is plausible that they are causally impotent in sustaining an agent's life?

It seems better to think of categorical desires as forming a proper subset of those desires not conditional on being alive. If so, then CD1 does not fully capture Williams's intention, and further restricting clauses need to be added to CD1 in order to do this. It would be interesting to learn that the presence or absence of these clauses would make a difference in what follows. We imagine that some philosophers might want to add the clause that the objects of categorical desires are always "objectively significant" or "meaningful goals," and by stressing this aspect of their conception of categorical desires, they might thereby make it somewhat more plausible that the presence of such desires is necessary for a good life and the frustration of such desires a factor that makes the end of a life bad.[18] We also imagine that some philosophers might believe that entertaining the object of a categorical desire requires a lot of cognitive sophistication. Perhaps a necessary condition on having categorical desires on this conception is having beliefs about the future or a concept of a self as a self.[19] On a conception according to which the possession of categorical desires requires exceptional intellectual achievement, some non-human animals (as well as some human animals) will fail to have categorical desires. None of these views about categorical desires follows from any of the definitions of categorical desire that we discuss here.

We set these complications aside in our further evaluation of CD1.

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[17] See Luper-Foy's distinction between independent and dependent goals in "Annihilation," 275.

[18] Susan Wolf, John Fischer, and Mikel Burley describe categorical desires as, at least typically, being about objectively valuable things, and not merely about, e.g., conditions for survival. (Burley, "Immortality and Boredom," 79; John Martin Fischer, *Our Stories: Essays on Life, Death, and Free Will* (New York: Oxford University Press, 2009), 89; Susan Wolf "Happiness and Meaning: Two Aspects of the Good Life," *Social Philosophy and Policy* 14 (1997), 211.

[19] One philosopher who requires this sort of cognitive sophistication is Cigman, "Death, Misfortune and Species Inequality," 58–59. Fischer also claims that only persons can have categorical desires ("Introduction," 17).

2. CATEGORICAL DESIRE AND DEATH

In the second sentence of the following passage, Williams appears to be formulating (for the sake of refuting) an argument against the badness of death:

> Many of the things I want, I want only on the assumption that I am going to be alive; and some people, for instance some of the old, desperately want certain things when nevertheless they would much rather that they and their wants were dead. It might be suggested that not just these cases, but really all wants, are conditional on being alive; a situation in which one has ceased to exist is not to be compared with others with respect to desire-satisfaction—rather, if one dies, all bets are off.[20]

Filling in a few blanks, here is how we reconstruct the argument:

1. Death is bad for S only if death frustrates one of S's desires.[21]
2. A desire can be frustrated by death only if it is a categorical desire. (Suppose S desires that P at t, but S's desire that P at t is conditional on S's being alive at t. And suppose S dies before t. Then S's desire is not thwarted.)
3. There are no categorical desires.
4. Therefore, death is never bad for the one who dies.

Williams's response to this argument is to argue that there are some categorical desires, so premise 3 is false. We agree that premise 3 is false and can think of nobody who has defended it. However, Williams accepts premises 1 and 2, which lead us to think he must accept the following argument:

1. Death is bad for S only if death frustrates one of S's desires.
2. A desire can be frustrated by death only if it is a categorical desire.
3. Therefore, death is bad for S only if death frustrates S's categorical desires.

Luper-Foy also seems to find this sort of argument convincing: "[S]ince none of their fulfilling desires can be thwarted by death, Epicureans never regard death as a misfortune."[22]

However, given the account of categorical desire we are working with, the above argument is unsound. Suppose S desires that P conditional on S's being alive. Now

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[20] Williams, "The Makropulos Case," 77.

[21] See also Luper-Foy, "Annihilation," 271.

[22] Ibid., 276.

compare some ways things might go. If S dies, S's desire is cancelled. No matter whether P obtains or not, S's desire cannot be satisfied or frustrated; all bets are off with respect to P. But if S lives, and P obtains, this is good for S. Suppose that S dies, but that if S had not died, P would have obtained. Then it would seem that, in at least one respect, S's death is bad for S, because S's death prevents something good from happening to S. To be sure, nothing intrinsically bad happens to S as a result of S's death; no desire of S's is frustrated, and the cancellation of a desire is neither intrinsically bad nor intrinsically good for the desirer. But that is insufficient to show that S's death is not bad for S.

Thus we reject premise 1 of this argument, on the grounds that death can be bad for someone by virtue of cancelling (rather than thwarting) her conditional desires, and thereby depriving her of some goodness. Although the cancellation of a desire is never intrinsically bad, when a desire is cancelled that would otherwise have been satisfied, the desirer's life is thereby made less good than it otherwise would have been. And so the cancellation of the desire is bad for the desirer. We hypothesize that the view that conditional desires are desires with conditional propositions as their objects is partly to blame for the seeming attractiveness of this argument. This false view of conditional desire does not allow for the possibility of a desire being cancelled, thereby rendering invisible the possibility that death could be bad by cancelling rather than frustrating a desire.

If S has a non-categorical desire that P, that desire *might* be insufficient to give S reason to live, *if* S also has (like "some of the old") a desire to die. The desire to die may outweigh the non-categorical desire that P. In such a case, one would have most reason to die, that is, the reasons to die would collectively outweigh the reasons to live. But then there is nothing really special about categorical desires. Having such desires is not necessary for death to be bad. For one thing, one can have a non-categorical desire that P without also having a desire to die. For another thing, the desire to die can outweigh even a categorical desire that P. The only reason categorical desires are different is that they are frustrated, rather than cancelled, when you die. So, given our assumptions about desire and value, when death prevents the satisfaction of a categorical desire (thereby frustrating it), there is some intrinsic badness that is not present when death prevents the satisfaction of a non-categorical desire (thereby merely cancelling it).

Furthermore, given CD1, an eternal life could be composed solely of non-categorical desires and still be a good life, contrary to what Williams argues. "Since I am propelled into longer life by categorical desires, what is promised must hold out some hopes for those desires."[23] Williams's mistake is in thinking that only

[23] Williams, "The Makropulos Case," 83.

categorical desires, understood in accordance with CD1, can motivate one to continue living, give one reason to live, and make one's life better than no life at all.[24] Why would he think this? Perhaps the unstated principle supporting Williams's reasoning is that if S desires that P on the condition that Q, then S should be indifferent between a scenario in which both P and Q obtain and a scenario in which Q does not obtain. So if S desires that P on the condition that S is alive, then S should indifferent between a scenario in which P occurs while S lives and a scenario in which S is not alive. Such a principle might explain why Williams says the following: "[A] Utilitarian person . . . certainly has good reason to prevent a situation that involves the nonsatisfaction of his desires. Thus, *granted categorical desires*, death has disutility for an agent."[25] Perhaps such a principle can also be attributed to Luper-Foy, given his remark that, because conditional desires "apply only on the assumption that we are alive, they cannot provide grounds for being alive."[26] But this is a false presupposition. Given our assumptions about desires and goodness, it is better to have a desire satisfied than not; so if you desire that P on the condition that Q, P & Q is better for you than not Q. Non-categorical desires can give reasons to live. So Williams is right to say that there is reason to prevent the nonsatisfaction of desires; he is wrong to think that death results in the nonsatisfaction of only categorical desires. Nonsatisfaction sometimes involves frustration but sometimes involves cancellation.

Here is another way in which a mistaken view about conditional desire might lead one to think that only categorical desires provide reasons to live. Suppose one thinks, as Luper-Foy does, that a conditional desire is a desire whose object is a conditional proposition. Now consider a desire that is conditional on being alive; suppose Jeremy desires to eat food tomorrow on the condition that he is still alive tomorrow. Given Luper-Foy's account of conditional desires, Jeremy desires that the following subjunctive conditional be true: If Jeremy were to be alive tomorrow, Jeremy would eat food tomorrow. Suppose there is plenty of food around. Then the subjunctive conditional that is the alleged object of Jeremy's desire is true whether or not Jeremy survives. So this desire gives Jeremy no reason to continue to live. After all, it's not as if Jeremy needs to be around to ensure that the desire is satisfied; his actual death is compatible with the closest worlds in which he lives being worlds in

[24] Stephen Rosenbaum, defending Epicurus, claims that someone with only conditional (non-categorical) desires can have a worthwhile life ("Epicurus and Annihilation," in Fischer, ed., *The Metaphysics of Death*, 302). But Rosenbaum's argument is based on rejecting desire satisfactionism in favor of hedonism. We do not wish to debate the relative merits of hedonism and desire satisfactionism here. One need not reject desire satisfactionism to believe that a life without categorical desires can be intrinsically good.

[25] Williams, "The Makropulos Case," 79–80.

[26] Luper-Foy, "Annihilation," 279.

which he is satiated. Presumably, similar stories could be told about other accounts of conditional desire according to which conditional desires are desires that some conditional be true. But as we've noted, these accounts of conditional desires are false. Conditional desires are not desires with conditional propositions as their objects. Jeremy cannot satisfy his conditional desire for food by dying. A desire for food conditional on being alive is not satisfied when the desirer dies, but is rather cancelled.

One might object that in fact it is not better to have a conditional desire satisfied than cancelled. In many cases, we are indifferent between these options. For example, if my nose itches, I may have a desire to scratch my nose conditional on its continuing to itch. But it seems no better for me to scratch my nose than for it to stop itching on its own. There are many cases like this: One desires to have an umbrella on the condition that it is raining, etc.[27] Do such desires undermine our argument against CD1?

No, they do not. These are all examples of extrinsic desires. On our way of understanding extrinsic desires, an extrinsic desire is a sort of conditional desire (though not all conditional desires are extrinsic). The desire that P is extrinsic just in case it is conditional on P raising the probability of some Q distinct from P. One who endorses a desire-based theory of value typically claims that it is only intrinsic desires, not extrinsic desires, that are relevant to value. [28] And in the cases of the itch and the umbrella, what is desired intrinsically (to stop itching, or to be dry) obtains whether the conditional, extrinsic desire is satisfied or cancelled. If the itch goes away by itself, or if it is not raining, then scratching or having an umbrella fails to raise the probability of not itching or being dry. We cannot think of an example of an intrinsic desire such that it would not matter (supposing the truth of a desire-based axiology) whether the desire was satisfied or cancelled.

If we are right about these claims, then we should also be suspicious about Williams's claim that only categorical desires have the power to motivate one to stay alive. In general, we (rationally) prefer to have our intrinsic desires satisfied rather than not satisfied—we prefer to get what we intrinsically want rather than to have our desire frustrated or cancelled. Conditional desires can motivate one to ensure that their conditions are satisfied, as that is necessary for the desires themselves to be satisfied. Or so it seems to us, though we don't want to rely too heavily on our armchair psychologizing.

So CD1 does not satisfy the normative or axiological roles, and possibly not the psychological role, either. What of the claim that fetuses, infants, and animals lack categorical desires? Given CD1, there seems to be no reason to accept this claim. Why would

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[27] Thanks to Shieva Kleinschmidt and David Faraci for suggesting these cases.

[28] Richard Brandt, *A Theory of the Good and the Right* (Oxford, UK: Clarendon Press, 1979), 111.

one think that horses desire food only conditionally on their being alive? If anything, it seems to require a more sophisticated mental apparatus to have a non-categorical desire than to have a categorical one. Moreover, horses do have desires, and it is apparent that they often act in order to continue living. If categorical desires are necessary to motivate persistence-oriented action, then horses, like any non-suicidal animals that have desires at all, must have some categorical desires.

3. CATEGORICAL DESIRES AS PREFERENCES

It would be rash to conclude that Williams is deeply misguided. Let us proceed in a different way. Instead of first trying to define categorical desire, and then seeing what happens to Williams's claims about the badness of death, let us start with his claims about the badness of death and work backward to an account of categorical desire. On this strategy, it is a condition on an account of categorical desire that it yield the normative and axiological results Williams wants: One who has no categorical desires has no reason to live, and death is not bad for such a person.

Williams's thought might be better fleshed out by appeal to preferences rather than desires. Consider Dumpy, who does not particularly want to live, but does not necessarily want to die either. What Dumpy wants is that if he were to survive, he would get a peanut butter and jelly sandwich. Continued survival without a sandwich would be worse than death from Dumpy's perspective. Dumpy is just the sort of person Williams wishes to say lacks categorical desires. Now let us move to talk of preferences. There are three futures to consider here.

F1: Dumpy dies before t.
F2: Dumpy is alive at t and enjoying a peanut butter and jelly sandwich.
F3: Dumpy is alive at t and without a sandwich.

Given the story about Dumpy's desires, it would seem that he is indifferent between F1 and F2, but prefers F2 to F3, and also prefers F1 to F3.

Now we must translate this talk of preferences back into desire talk. It is not clear that desire and preference are inter-definable. However, elsewhere, we have suggested a way to define preference in terms of conditional desire, for those who believe in a tight connection between the two:

> Preference as Desire: S prefers P to Q if and only if S desires that P on the condition that (P EOR Q).
>
> P EOR Q if and only if (P and not Q) or (Q and not P).[29]

[29] McDaniel and Bradley, "Desires," 296.

Given these definitions, here are Dumpy's desires: Dumpy desires F2 on the condition that (F2 EOR F3) but does not desire F2 on the condition that (F2 EOR F1); Dumpy desires F1 on the condition that (F1 EOR F3) but does not desire F1 on the condition that (F1 EOR F2). As before, if Dumpy dies, one of his desires is cancelled—but another one is automatically satisfied. Dumpy has no more reason to bring about F1 than F2. Someone like Dumpy, a person with no categorical desires, is a person for whom no outcome in which the person is alive is preferred to an outcome in which he is dead, i.e., there is no P such that he desires that P on the condition that (P EOR he is dead).

If all this is correct, then here is another way of defining categorical and non-categorical desire:

> CD2. S categorically desires that P at t if and only if S desires that P at t on the condition that (P at t EOR S is dead at t).

If someone lacks all such desires, then, given our assumptions about desire, reason, and value, the person would have no reason to continue living, and death would not be bad for her.

So CD2 seems to give us a notion of categorical desire that can apparently fill the normative and axiological roles. But as we argue below in section 5, this is an illusion. Furthermore, CD2 faces two additional problems. First, there is an interpretive objection. It seems very unlikely that CD2 could be what Williams had in mind when thinking about categorical desires. His claims about the relevance of categorical desires seem deep and interesting, but if CD2 were correct, his claims would amount to nothing more than claims such as "people are not motivated to continue living when they most prefer to die." We take it nobody who thinks there is something interesting about Williams's paper could be interpreting him in this way.

Second, we doubt that categorical desire as understood in CD2 fulfills the psychological role. It is implausible to suppose that in any case where someone is propelled forward into life, what is really motivating that person is such a preference. Suppose Jerry has a categorical desire to play tennis. His thoughts might be preoccupied with tennis. He might never think about how much better it is to play tennis than be dead. He is motivated by tennis, not by any comparison between tennis and death. To be sure, he might have such a preference; his behavior indicates that he does, even if he never consciously considers how much better it is to play tennis than to be dead. But that is no reason to insist that the preference is what is *motivating* his

behavior. We are inclined to think, rather, that what motivates him is just his strong desire to play tennis.

Can fetuses, babies, and animals have categorical desires if they are understood as in CD2? It is not entirely clear. Certainly these beings act as if they prefer some things to death. But perhaps they really lack such preferences because they cannot grasp their own mortality. Just as we doubt that people are typically motivated to do things by preferences to do those things rather than die, we also doubt that animals are motivated by such preferences. We do not feel compelled to settle this question, as it seems so clear that CD2 does not capture Williams's notion of categorical desire.

4. CATEGORICAL DESIRES AS STRONG DESIRES

So we offer another way of thinking about categorical desire. Rather than by appealing to conditional desires or preference, we can define categorical desire simply by appealing to strength of desire. To have a categorical desire, on this way of thinking, is to have a desire that is stronger than the desire to die. This is not quite sufficient, for one might have a desire that is stronger than the desire to die but that does not propel one into the future. For example, one might desire that one's ancestors did not own slaves; no matter how strong this desire is, it could not motivate one to continue living. To ensure that the psychological role is filled, let us add that a categorical desire that P at t is a desire whose satisfaction is incompatible with the desirer's being dead at t.

> CD3. S categorically desires that P at t if and only if (i) S desires that P at t to a degree greater than the degree to which S desires to be dead at t, and (ii) P at t EOR S is dead at t.

Any other desire counts as non-categorical. CD3 correctly classifies Dumpy as someone with no categorical desires, because his desire for a peanut butter and jelly sandwich is not stronger than his desire to die. Perhaps this way of thinking about categorical desire makes sense of Williams's claims about the badness of death. Categorical desire so understood seems necessary to explain why one would choose to live. Someone who lacked such a desire would have no desire stronger than the desire to die, so death would not be bad for such a person, but good or indifferent.

However, eternal life could still be good for such a person. She might have many desires that do not propel her into the future, but are satisfied—such as the desire about one's ancestors not being slave-owners. Granted, living longer won't help her satisfy those desires. But we can see a way that eternal life could be valuable,

at least given our assumptions about desire and value. Given that it is good to have one's desires satisfied, one might try to satisfy the desires one already has; but one might instead form new desires that will be satisfied from the moment they exist. An eternal life could be filled with strongly held, satisfied desires concerning the past. Williams might not think that it is intrinsically good to satisfy such desires. He might place restrictions on what sorts of desires it is intrinsically good to satisfy. So this is perhaps not an insurmountable problem for CD3.

What is strange about CD3 is that it does not utilize the notion of conditional desire. The work is done by the notion of strength of desire. Because Williams explicitly defines categorical desire as "unconditional," this makes CD3 seem problematic as an interpretation of his views on the evil of death. Furthermore, just as in the case of CD2, we wonder whether Williams's claims would seem interesting if he were thinking of categorical desire as in CD3; could he really have just meant that people don't want to continue living when their strongest desire is not to live? Probably not. But perhaps it is the best we can do, as it seems that accounts of categorical desire that appeal to unconditionality do not give us a notion of categorical desire that fills the roles it is supposed to fill.

Given CD3, it again appears entirely possible for animals and babies to have categorical desires. As long as an animal lacks a desire to die and has just one other desire, that desire will be categorical.

5. ACTUALISM

When categorical desire is defined as in CD3, it is necessary that one have a categorical desire in order for one's death to be bad—or is it? Here we must revisit our assumptions about desire, well-being, and reasons. According to Williams, "the reasons a man would have for avoiding death are, on the present account, grounded in desires—categorical desires—*that he has*; he, on the basis of these, has reason to regard possible death as a misfortune to be avoided." [30] Williams seems to be endorsing an actualist account of desire satisfactionism. According to actualism, it is only one's actual desires that matter when determining how well things go in some counterfactual situation. Recall the case of Dumpy. Suppose Dumpy actually dies without ever forming a categorical desire. Suppose that had he not died when he did, a few months later, he would have adopted a stray monkey. He would have formed a categorical desire to take care of the monkey, and it would have been satisfied to a high degree. Because Williams thinks it is not bad to die unless you have a categorical desire, he must also think it was not bad for Dumpy to die when he did. And as

[30] Williams, "The Makropulos Case," 79, our emphasis.

he also seems to think that death is bad when it deprives the victim of the goods of life (1993: 76), he must think that Dumpy's death did not deprive him of anything good. His actual desires would have been no better satisfied; only an additional purely counterfactual desire would have been satisfied, and those don't count.[31]

Possibilism is the view that when evaluating how well things go for someone in some counterfactual situation, we look at what desires the person would have had in that situation. According to a possibilist, Dumpy's death was bad for him. Had he not died, he would have had a categorical desire satisfied; the fact that he never *actually* had that desire (because he died first) is irrelevant.

Possibilism is a far more attractive view than actualism. It just seems wrong to say that Dumpy's life would have gone no better had he lived. Consider also the following example: As a teenager, Wilma must decide whether to go to art school or become a philosopher. Whichever way she chooses, her desires will over time conform themselves to her decision, and will be largely satisfied on the whole. She chooses philosophy. Years later, she remarks: "Boy, I'm glad I became a philosopher—my life would have been terrible if I had gone to art school! Philosophy is for winners; painting is for losers!" Surely Wilma is wrong. She is projecting her actual desires onto her counterfactual life, and imagining how unfulfilled she would be if she were not reading journal articles and teaching classes about Quine. But those wouldn't have been her desires. She would have wanted to draw pictures of unicorns, and been just as well off doing so. The actualist agrees with Wilma. So much the worse for actualism.[32]

If we reject actualism, then the connection between categorical desire and the badness of death is weakened, even given CD3. A frustrated actual categorical desire is not necessary for death to be bad. The most interesting thing we can say is that someone's death is bad for her only if it results in a life with less desire satisfaction than the life she would otherwise have had, and this can be the case only if she at some point has or would have had a desire that is stronger than the desire to die that would have been satisfied if she had not died when she did. This is not a particularly interesting claim; in fact, it follows straightaway from possibilism plus our original assumptions about the connection between desire and value. Nonetheless,

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[31] See Belshaw, *Annihilation*, 115–117, where he argues that an actual desire to live is necessary for one's death to be bad.

[32] For similar criticism, see Dorothy Grover, "Death, and Life," *Canadian Journal of Philosophy* 17 (1987), 724. Perhaps the thought is not that we should deny that it would be better to have a life with additional desires that are satisfied. Perhaps the thought is, rather, that it is not bad, not a misfortune, to be deprived of goodness in that way. As far as we know, this view has not been explicitly defended; it involves rejecting the deprivation account of the badness of death, which seems to be nearly universally accepted among those who believe death is sometimes bad for the one who dies. So we will not discuss this view here.

it is a claim worth making explicit, especially if assumptions as to its truth or falsity have not always been made explicit in the extant literature on Williams's original argument.

6. CONCLUSION

We have examined several ways of explicating the notion of a categorical desire. When categorical desire is defined as a sort of unconditional desire or as a sort of preference, it fills none of the roles that Williams thought it was supposed to fill. When defined as a desire stronger than the desire to die, it does not fill the axiological or normative roles unless an implausible actualism is presupposed. On none of these conceptions is it the case that categorical desires cannot be had by animals or babies (on some conceptions, this is less obvious). Thus we are forced to conclude that the evil of death cannot be explained simply in terms of the presence or absence of categorical desires, nor are categorical desires obviously helpful to those who wish to argue for the permissibility of abortion, infanticide, or carnivorism. It is a mistake to take categorical desires to be particularly relevant to understanding the evil of death or the wrongness of killing.[33]

[33] A version of this essay was presented at Bowling Green State University; thanks to those present, especially Christian Coons and David Faraci, for their helpful comments. Also thanks to André Gallois and Shieva Kleinschmidt for discussion.

He was a terrible husband, and a terrible ex-husband,
but he's a terrific late husband.
—NATASHA, "Monk Goes to the Circus"

8

Kripke's Moses

Palle Yourgrau

IN A DISCUSSION in 1974 with W. V. Quine, et al., recorded in *Synthese*, Saul Kripke remarked that "…a sentence containing a proper name expresses a proposition if and only if the name has reference…."[1] "Take the case," he continued, "of some statement expressed by some sentence about Moses; then, if Moses doesn't exist, people can't use that sentence to express a proposition." Besides Quine, Kripke's companions in the discussion were Gilbert Harman, David Lewis, and Michael Dummett, none of whom noticed the fact that if what Kripke had said were true, he would have said nothing at all. For at the time Kripke spoke, Moses was dead, and hence no longer existed. Therefore, by Kripke's own account, his sentence beginning "Take the case…" failed to express a proposition. Yet, obviously, his sentence did express a proposition, albeit, as has just been shown, a false one. For "Moses is dead," as everyone knows, expresses a true proposition.[2]

Yet, though Moses himself is dead, hence nonexistent, the proposition that expresses this fact is, intuitively, not nonexistent. For, as Timothy Williamson has recently emphasized, a proposition that is true presumably exists. This simple fact, however, seems to give rise to a puzzle. For, according to Williamson ("Necessary Existents," substituting

[1] Saul Kripke, "Second General Discussion Session," *Synthese* 27 (1974), 510.

[2] Am I being unfair to Kripke, who no doubt was thinking of *possible worlds* without Moses, not of a *time* when Moses was dead? I don't think so. Because the merely possible are no more nonexistent than the dead, my criticism stands. Compare the case of Kripke's own critique of Frege's account of proper names, which hinges on raising *modal* considerations that Frege never contemplated. Would one be justified in claiming that Kripke was being unfair to Frege?

"Moses" for "I"), "necessarily, if the proposition that Moses does not exist exists, then Moses exists." Clearly, what is at issue here is a Russellian conception of propositions, according to which it is Moses himself who is a constituent of the proposition that Moses does not exist. Such a view is a consequence of the so-called directly referential account of proper names and indexicals, championed by David Kaplan et al. Williamson suggests that something like this also holds of the classical Fregean approach to reference, because "more recent developments of his views acknowledge the kind of object dependence which the present argument requires."[3]

Whether or not one agrees with this account of propositions and their constituents—in particular, whether or not one agrees with Williamson's assimilation of Fregeanism to Russellianism—it is surely uncontroversial that for the proposition that Moses is dead (or the sentence that expresses it) to be true, the name "Moses" must actually refer to Moses. For Williamson, then, we are forced to accept the surprising conclusion that Moses, though dead, continues to exist. Williamson, it seems, though in disagreement with most on what happens when you die (for most people, including most philosophers, you cease to exist, whereas, for Williamson, you don't), is in full agreement with Kripke that for a proper name to refer, it must refer to something that exists. Note that Kripke, together with Williamson, appears to equate the notion of referring with that of referring to something that exists.

We return to Williamson presently, but for now let us continue with Kripke's 1974 discussion. Having concluded that if Moses fails to exist, no sentence containing a proper name for Moses expresses a proposition, Kripke sees two alternative reasons that might account for this supposed fact: "that the proposition does exist though people are in no position to express it, *or* that the proposition doesn't exist because Moses doesn't exist." In support of the first alternative, he says that "*we* can say that that's a world in which Moses doesn't exist, though they can't." On the other hand, one could defend the second by noting that "it seems funny to say that though the proposition is around they can't get at it…." The second alternative clearly implies that some abstract entities, like propositions, exist only contingently, but Kripke sees no problem with this (as opposed to Quine, who found this hard to accept), comparing it to the case of sets of contingent objects that also exist only contingently[4]—a view that Robert Stalnaker, for one, has recently defended (for properties as well as propositions, see "On What There Isn't [but

[3] Timothy Williamson, "Necessary Existents," in A. O'Hear, ed., *Logic, Thought, and Language* (Cambridge, UK: Cambridge University Press, 2002), 242.

[4] Problems for set existence arise also with regard to time. Consider, for example, the set containing just Moses and Kripke. Does that set exist, i.e., exist right now, given that one of its members is now dead? Not now,

Might Have Been]").[5] Although he does not come down decisively on the side of either alternative, Kripke says that he's often been inclined to the second.

Now, there are several things worth noting in what Kripke says here. First is the fact that he sees these as two substantially different alternatives, implying two different accounts of the nature of possible worlds and propositions—and presumably, also facts, if there's a difference between the two—contained therein. In particular, he is in effect making a distinction, now widespread, between propositions or facts *in* a possible world and propositions and facts *about* a world[6] (a contrast explicitly formulated and defended in Stalnaker, op. cit.).[7] It is also worth noting that although he is apparently thinking of a world where Moses has never, and will never exist, similar considerations would seem to apply to a time at which Moses no longer exists. As is often the case, temporal and modal logic and metaphysics run parallel to each other. One could thus offer competing explanations of the fact that, if Kripke were right, speakers before Moses was born (or conceived, depending on your view of when he first came into existence) were unable to express propositions about him employing a proper name that refers to him. (As we have just seen, Kripke in fact

presumably—if sets are temporal objects—with one member no longer existent, but also not back then when Moses was alive, for when Moses was, Kripke wasn't. Reflecting on such puzzles, Charles Parsons says that "the conclusion we are left with is that regarding such sets as located [in time] requires the tenseless four-dimensional point of view." *Mathematical Thought and Its Objects* (Cambridge, UK: Cambridge University Press, 2008), 36, note 57. As Parsons points out, however, "[i]t is hard to argue that we *must* regard such sets as located [in time]…" (ibid.).

[5] Stalnaker, "On What There Isn't (but Might Have Been)," in Robert Stalnaker, *Mere Possibilities: Metaphysical Foundations of Modal Semantics*, Princeton, NJ: Princeton University Press, 2012, 1 – 21.

[6] I think there are problems with this distinction, but nevertheless, something like it is unavoidable. In "On Time and Actuality: The Dilemma of Privileged Position," *British Journal for the Philosophy of Science* 37 (1986), 409, I distinguish between what I call "intra-systemic" and "inter-systemic" facts vis à vis possible worlds: "an intra-systemic fact gives us how some world, **B**, represents things as being," whereas inter-systemic facts describe both the necessary structure of "modal space" and such contingencies as whether world **B** is actual or not.

The situation concerning inter-systemic facts resembles what Frege had to say about truth in "On Sense and Reference," namely, that the truth value of a thought is not part of the thought itself, but is, rather, its "reference," the situation of its being true or false. A thought, after all, can refer to itself as being true, can "predicate truth of itself," but the question still remains as to whether it is in fact true. Similarly, it might be a fact "in" some possible world, **B**, that it is actual, but the question still remains whether **B** is in fact the actual world. (David Lewis, of course, famously maintained the indexicality of actuality, the view that all worlds are equally actual, relative to themselves. In my essay, op. cit., I discuss Lewis in some detail.)

With regard to possible worlds, problems remain, even with the relevant distinction, as I point out, op. cit., 411. That our world, **A**, is actual is an inter-systemic fact, one that might have failed to obtain. How shall we represent this contingency? Should we invoke some "super-possible world," **A***, in which **A**'s being actual is a fact? But then how should we represent the fact that super-possible world **A*** itself obtains, as opposed to **B***? (No wonder Wittgenstein was led to claim in the *Tractatus*, 6.44, that, "it is not *how* things are [in the world] that is mystical, but *that* it exists" (emphasis original; brackets added) .

[7] Elsewhere, however, in his definition of rigid designation, Kripke seems to conflate this distinction. He writes in "Identity and Necessity" in A.W. Moore, ed., *Meaning and Reference*, (New York: Oxford University Press,

implies[8] that we are also unable to refer to Moses after his death, but this clearly, as we have also seen, is a mistake—assuming, of course, that when we die, we cease to exist.) That is, either the fact that Moses doesn't exist exists before his birth—i.e., exists in the actual world—but is somehow inaccessible to us, or else it doesn't actually exist (though it possibly does, i.e., exists in some other possible world), which explains why we can't express it.

Kripke appears to think that there would be something mysterious, not fully explained or explainable if we said that "in" the actual world before Moses was born, it was a fact that he did not exist, but a fact inaccessible to those who were around at that time. The idea seems to be something like this: If the fact is around, what prevents us from accessing it? That, in turn, invites the question: If a world, or a world at a time, "contains" certain facts or propositions, "where" exactly are they "located"? Which leads to the further question: Could some "locations" be more inaccessible than others? These questions, I suggest, reflect a misconception of the

1993), 173, that "in any possible world where the object in question *does* exist, . . . we use the [rigid] designator in question to designate that object" (brackets added). However, "in a situation where the object does not exist, . . . we should say that the [rigid] designator has no referent. . . ." What is the meaning, here, of "in any possible world" and "in a situation"? It is clear that what's not meant is that, given that for us, **a** rigidly designates **x**, people *in* a world in which **x** exists would use **a** to designate **x**. It's our use of **a** that is in question, not its use in other possible worlds. But he also can't mean by "in," "about" because he would not then be able to make sense of the (true) claim that Moses does not exist in possible world **w** (a world without Moses), since ex hypothese, Moses does not exist in **w**, and hence, by Kripke's definition, "Moses" cannot be used to designate Moses in statements about **w**. The correct definition of rigid designation, surely, in keeping with what must have been Kripke's intentions, is simply that a term **a** rigidly designates **x** if it designates **x** in all statements in which **a** occurs (hence *with respect to*, or *about*, all possible worlds—not simply all possible worlds in which x exists).

Similar considerations help resolve the difficulty Kripke gets into (op. cit.) in defining essential properties. He first says that properties are essential to something "if this object has to have them if it exists at all" (178). He quickly notes, however (note 12), the familiar fact that that would make existence an essential property of every object, whereas "we should regard existence as essential to an object only if the object necessarily exists." Once again, the solution is to define an essential property of **x** as a property that **x** never lacks—i.e., never lacks with respect to every possible world. Existence will then no longer appear (pace Williamson) to be a necessary property of every object, as contingent objects lack that property with respect to possible worlds in which they fail to exist. Similarly, in the parallel case of times, Moses lacked the property of existence with respect to the time before he was born. In contrast, being Moses is an essential property of Moses—a property that he never, in any world at any time, lacks—including times (like before birth and after death) when he fails to exist.

Does every object, **x**, have the essential property of being **x**? Yes, as Kripke himself brings out clearly, when he draws attention to the necessity of (self-) identity (164; though here again Kripke adds, misleadlingly, that "for every **x**, it is necessary that, if **x** exists, then **x** is self-identical"). How about Aphrodite? Well, alas, there is no such object as Aphrodite. Our objectual quantifier ranges over all objects, all genuine objects (possible and actual, past, present, and future), a collection that, while very big, does not include the (presumably) mythical goddess Aphrodite. Is there a rule for determining which singular terms refer to genuine objects? No, of course not, any more than there is a rule for determining which terms refer to existent objects, or which sentences "refer" (as Frege puts it) to the truth.

[8] As noted earlier, Kripke clearly had in mind possible worlds without Moses, not times at which Moses had ceased to exist, but, as also noted, the implication from what he explicitly stated remains.

nature of worlds and times. A possible world is not constituted by the facts in the same way that a country is constituted by its mountains, plains, and valleys, all of which are in principle accessible to the wandering citizen. Thus, if it is a fact that President Obama is not currently in Paris, it makes no sense to ask where this fact is located (in Paris, where he isn't, or in Washington, where he is?). We can access this fact because we have access to one of its constituents, Barack Obama. In contrast, before Moses was born, he did not exist, hence there was at that time no way to access this fact by informational interaction (causal or otherwise) with its crucial constituent.

One might, however, at this point be inclined to object that what this really shows is that at the time in question, the fact that Moses doesn't exist itself doesn't exist, and that that is the real reason why it cannot be accessed at that time. Indeed, given the parallel between temporal and modal considerations, we might be tempted to say, with Kripke, that the reason why those who live in a world without Moses (a world in which he never exists) can't access the fact that Moses doesn't exist is that that is a fact *about* that world, not *in* it. Returning to the temporal scenario, however, this reasoning looks suspicious. If, before his birth, the fact that Moses doesn't exist does not exist then, when exactly does it exist? Surely not during his life, when he actually does exist, and surely not upon his death (for surely it does not become true, become a fact, that Moses is not yet born only upon the occasion of his dying!).

Yet, once again, the reply might be made that even though it was a fact before Moses was born that he did not yet exist, it was not a fact that existed in this world. Why, however, should we accept this reply? In particular, given that it is hard to see how we can make sense of *tensed* facts about our world that exist only in other possible worlds. There are obviously facts in this world concerning what is happening right now. Are there also such tensed temporal facts about this world that exist only in other possible worlds? (Can we ask, meaningfully, in the actual world, what's happening *right now* in some other possible world?) What is the relevance, moreover, of the fact that the crucial constituent of our fact, namely, Moses, did not himself then exist? It is undeniable, after all, that after Moses died, "Moses is dead" would have expressed this fact, would have articulated this proposition, Moses' nonexistence notwithstanding. Thus, we cannot avoid the conclusion: *There exist in this world facts whose constituents no longer exist*. What reason is there, then, to deny that it was also a fact before Moses was born, before he existed, that he did not then exist? To my mind, no reason at all. And yet the question remains: How is this possible?

This puzzling question is surely at least part of the reason why so many who have philosophized about the metaphysics of death have been reluctant to admit that before he was born, it was a fact that Moses did not exist, whereas there has been less resistance to admitting the fact of his nonexistence after death. In due course, we consider

an attempt to justify this asymmetrical attitude, but first let us recall that Williamson (op. cit.) rejects this asymmetry, as indeed have I, in two previous essays.[9] As we have seen, Williamson bites the bullet and affirms that because it is a true proposition (or a fact, as one might also say) that Moses is dead, that proposition itself exists, and thus so does its "constituent" Moses. Williamson thus, as noted earlier, appears to agree with Kripke (1994) that for "Moses" to refer is for it to refer to something that exists. As this reasoning would apply equally to all seemingly contingent objects of which it would, naïvely, seem true at some time to say that they don't exist, Williamson concludes that, surprisingly, no object is in fact genuinely contingent. All objects, appearances notwithstanding, necessarily exist.

And yet, as Woody Allen might be moved to remark, the supposedly still existent Moses is for all that far less active these days, less strident, shall we say, than he was, to put it delicately, in his prime (i.e., when he was alive). Indeed, "doubtless," writes Williamson, "*in some sense*, [Moses] no longer exists. Specifically, he is no longer anywhere; he lacks spatial location . . . we may say that he is no longer *concrete*" (op. cit., 245; brackets added; emphasis original). "In some sense," indeed. I would say, the sense in which Moses does not exist is—not existing! As Aristotle remarked in *De Anima*, "for living things, it is *living* that is existing." For Moses, unfortunately, not breathing, not moving, not thinking—in short, not being alive, not occupying space and time—means precisely not existing.

Aware of the shock value of his conclusion, Williamson attempts to soften his assault on our logical senses by adding that although Moses still exists, he exists in a different sense than do you and I; he continues to be, but only in what Williamson calls "the logical sense of exists." This is a familiar move in philosophy, to introduce a new sense of what seemed like a perfectly clear and familiar term or concept to help us escape from some logical or metaphysical dilemma. In this case, I'm inclined to agree with Kurt Gödel that, in his words, "the notion of existence is one of the primitive concepts with which we must begin as given. It is the clearest concept we have. Even 'all,' as studied in predicate logic, is less clear, since we don't have an overview of the whole world."[10] As Benya Krik, the Jewish gangster from Odessa, says in one of Isaac Babel's stories, "[L]et us not spread gruel on a clean table." Once we start messing around with clean concepts, what is to prevent us from introducing a special "logical" sense of "alive" and affirming that Moses is still alive, albeit in a special

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[9] Palle Yourgrau, "The Dead," *The Journal of Philosophy* LXXXIV, No. 2 (1987), 84–101, reprinted in J. M. Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993); "Can the Dead Really Be Buried ?" in Peter A. French and Howard Wettstein, eds., *Midwest Studies in Philosophy, Life and Death: Metaphysics and Ethics (Volume XXIV)* (Hoboken, NJ: Wiley-Blackwell, 2000), 46–68.

[10] Hao Wang attributes this quotation to Gödel in *A Logical Journey: From Gödel to Philosophy* (Cambridge, MA: MIT Press, 1996), 150.

"logical" sense (one that does not entail moving and breathing, except perhaps in a special logical sense of "moving" and "breathing")?

The forces that are moving Williamson in this direction, we can agree, are considerable, but as radical as his way out may appear to be, it is not really radical enough. We need, as Aristotle used to say, a fresh beginning. Let us, as they say in court, "stipulate" to the following facts: Moses really is dead and thus no longer exists. Yet, we just stated a true proposition about him, and thus the name "Moses" must really have succeeded in referring to him. These are the facts. What they strictly imply is not that Moses, after all, still exists, but rather that in stating the truth, in recording the fact that Moses is dead, *we are referring to someone who no longer exists*—i.e., to a nonexistent person. Because we are engaging in temporal discourse, we can restate this more precisely: We are referring to someone who does not actually exist, who does not exist right now.[11] The question that then arises, the one that Williamson tried to avoid asking, is: How is this possible?

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[11] By temporal discourse, obviously, I have in mind intuitive temporal discourse, which is naturally tensed. In this sense, what used to exist exists now only in the past. Only what exists now really exists. In this respect, the temporal indexical "now" differs from the spatial indexical "here." No place is really, absolutely here (not even Paris), but only here relative to itself. In contrast, with time in the intuitive sense, not only is Moses dead relative to a given time, which those at that time take to be the present, he is dead, period—as there is a unique objective now. (Of course, in relativity theory, there is precisely no such thing as a unique objective now. But we are speaking here of intuitive, not relativistic time. See Palle Yourgrau, *Gödel Meets Einstein: Time Travel in the Gödel Universe* [Chicago: Open Court, 1999]; and *A World Without Time: The Forgotten Legacy of Gödel and Einstein* [New York: Basic Books, 2005] for detailed discussion of this distinction.)

The distinction, it would seem, is clear enough, yet it seems to elude Harry Silverstein, "The Evil of Death Revisited," in Peter A. French and Howard Wettstein, eds., *Midwest Studies in Philosophy, Life and Death: Metaphysics and Ethics (Volume XXIV)* (Hoboken, NJ: Wiley-Blackwell, 2000), 116–134.) In that essay, as in his previous one, "The Evil of Death," *The Journal of Philosophy* LXXVII, 7 (1980), 401–423, he adopts a four-dimensional approach to time, in which, as in relativity theory, each object—or rather the "history" of each object—is assigned a unique "position" in four-dimensional space-time. (Four-dimensionalism, clearly, has considerable popularity as a perceived antidote to temporal anomalies. Recall note 4, where Parsons invoked four-dimensionalism to help resolve temporal conundrums concerning sets.) In "The Evil of Death Revisited," Silverstein takes exception to my claim in "The Dead" that on his view, the dead exist. He wrongly assimilates, however, my objection to that of Barbara Baum Levenbook, "Harming Someone After his Death," *Ethics* 94 (1984), 407–419, who, as he quotes her, describes Silverstein's position as one according to which objects exist *atemporally*. This is a common mistake that is made about four-dimensionalism, but it is not one that I commit. Nor do I commit the equally common mistake of asserting that in four-dimensionalism, whatever exists, *always* exists (i.e., exists *at all times*). Rather, I point out that in the four-dimensional view of time, "position" in time is ontologically neutral, as is position in space, in the intuitive conception of time and space. If I say that Moses lives in New Jersey, I am telling you *where* he is, not (all joking aside) *whether* he is. Indeed, Silverstein himself says that his framework is "both spatially and temporally neutral" ("The Evil of Death Revisited," 125). But that is just to say that to exist in this framework is nothing more or less than to exist at some (or several) space-time locations. Because Moses' life occupies a distinct position in four-dimensional space-time, according to this framework, Moses exists, period.

Silverstein is simply mistaken, then, when he asserts that "the four-dimensional framework does not deny that dead people do not exist." (A confusing sentence, in any case, in that it contains three negations.) There is also confusion behind Silverstein's question: "What more does Yourgrau think is being asserted by 'x does not exist

The only solution, apparently, that Williamson can think of is to simply deny the conclusion by invoking a new "logical" sense of "exists." In this, he follows a path laid down at the very dawn of Western philosophy by Parmenides and, in certain respects, by Plato, in which there is a concerted effort to banish the very notion of nonexistence. We might call it "fear of nonexistence." Most people fear death. Philosophers, it seems, have as part of their constitution a fear of the very idea of death, the idea of nonexistence. And yet, for all that, I believe that Williamson's reasoning, for the most part, has great force, and that he in fact comes very close to the truth. He has assembled in his essay all the tools needed for a more honest attempt to come to terms with nonexistence (hence death, hence propositions or facts about the dead), if he were but willing to employ what he has at his disposal.

Williamson notes (to modify his example), that even though Moses does not exist, he still counts as having been one of the great historical figures in the Bible, and that "whatever can be counted exists at least in the logical sense: there is such an item."[12] I think Williamson is basically thinking along the right lines here. The fact that Moses is dead does not alter the fact that there is such a person as Moses. (In contrast, there is no such person as Aphrodite; see note 7.) How, then, shall we reconcile the plain fact that Moses does not exist with the equally plain fact that there remains such a person as Moses? Williamson is rare among philosophers in realizing that a reconciliation is needed. He is also rare in realizing that the solution will require some ontological ingenuity, an extension of our ontological imaginations. My disagreement concerns the particular path he chose, modifying the notion of existence so that there becomes a sense—a newly introduced "logical" sense—in which Moses still exists. In my view, this way out sidesteps the real problem, a problem of ancient lineage, the problem of nonexistence.

The correct solution, I believe, requires us to acknowledge what the facts themselves are pointing to: There are people who don't exist, and there are proper names like "Moses" that refer to people who no longer exist. What is necessary, therefore, is to separate what is expressed by the quantifier "there are" from the notion of existence. Williamson, in contrast, follows Quine (who followed Frege) in taking the objectual quantifier, the "existential" quantifier, to express existence. According to Williamson, then, "if x does not exist, there is no such item as x." In contrast, I suggest we take the objectual quantifier to be the formal representation of what is expressed in natural language as "there is someone or something such that…." I thus take the quantifier to be

at all' than is being asserted by 'x does not exist now'?" The "more" is simply the fact that in the intuitive conception of time, "position" in time is not ontologically neutral, as is position in space. Rather, there is a unique, privileged "now" absent in four-dimensionalism (as it is in relativity theory), and for a temporal object to exist at all is for it to exist at this ontologically privileged "now."

[12] Williamson, "Necessary Existents," 245.

genuinely objectual, to range over all objects, not simply over all objects that happen to exist. And by an object I mean a genuine object (not something fictional or imaginary), something that, if it does not actually exist, possibly exists. Put more precisely, the (unfortunately named) existential quantifier ranges over all possible objects.[13]

I believe that this account captures what is essentially correct in Williamson's view, and that it is more consonant with the rest of his account of objects than his official doctrine of "logical existence." For although Williamson, unlike the vast majority of philosophers, does not really conflate the notion of an object with the idea of an existent object, his introduction of the logical notion of existence muddies the waters. But Williamson adheres to the classical semantics of quantified modal logic, which my own approach models.[14] What is this classical account? Charles Parsons expresses it succinctly: "A straightforward semantics for quantificational modal logic involves a domain D of objects which is independent of the choice of possible world. With respect to a given possible world, an object in D may or may not exist. . . . [T]o express existence, a predicate, 'E' needs to be added. . . ."[15] This is exactly my own approach to objects, existence, the quantifier, and the predicate of existence, and I believe it should also be (and in a sense, I think, already is) Williamson's as well. Parsons adds that the quantifiers "are often said to range over possible objects, but without some additional assumption, there is no obstacle to allowing D to contain objects of which 'E' is true in no world." The additional assumption, presumably, the one I would naturally add, is that of course this is a *possible world* semantics (not a possible and impossible world semantics), and thus the objects in the domain of the quantifiers are taken to be all the *possible* (not the possible and impossible—i.e., not possibly existent) objects.[16]

In effect, then, the semantics for quantified modal logic is precisely what Meinong called "*Gegendstandstheorie*"—a theory of objects (not simply a theory of existent objects). I distinguish my approach (as well as Williamson's) from Meinong's[17] own

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[13] Am I not guilty, here, of precisely what I accuse Williamson of, logical or semantic legerdemain? I don't believe I am. It is true that the "is" here does not express existence, identity, or predication. Like predication, however, it is really syncategorematic, i.e., it is essentially part of the entire expression "there is something such that. . . ." It is, moreover, a familiar expression, which I'm using in the familiar way, whereas Williamson is introducing a new, technical term of art, the special "logical" sense of "exists." Further, Williamson claims that his new term captures a genuine aspect of existence—the old, familiar concept of existence—which I deny.
What about the quote from Gödel I introduced earlier? I believe Gödel is correct about the primitiveness and clarity of the concept of existence, and it is for that very reason I'm confident that it should not be conflated with what is expressed by the quantifier, and I'm also confident that it has no special, "logical" variety.

[14] See Yourgrau, "The Dead," and "Can the Dead Really Be Buried?"

[15] Parsons, *Mathematical Thought and Its Objects*, 24, note 31.

[16] As to whether there is some rule for determining whether a putative object is or is not genuinely possible, see note 7, last paragraph.

[17] See "The Dead," 91: "My ontology is thus more Parmenidean than Meinongian. Names in fiction (and myth), I believe, are not genuine names for specific nonexistents, but 'mock names' with which we pretend to refer to

Gegenstandstheorie, because I do not believe that Meinong's theory, which explicitly incorporates fictional, mythical, and impossible "objects," is a theory of genuine *objects* at all. Yet Parsons, curiously, in discussing Meinong's account,[18] according to which the quantifier is objectual rather than existential, and in which there needs to be a special predicate that expresses existence, says that "…discourse about fiction…is probably today the most plausible motivation for a theory of objects."[19] It does not seem to have occurred to Parsons that his own account of the classical semantics for quantified modal logic describes a genuine *Gegenstandstheorie*. In particular, he does not appear to see, as Williamson does not, that this semantics already, if correctly understood, serves as an account of nonexistence,[20] because what possibly exists need not actually exist; in particular, the dead—and, indeed, the unborn, to which we attend in due course—though they do not exist, remain genuine objects, genuinely possible objects.[21]

Let us pause to take our bearings. Moses is dead. He is no longer among the living. He no longer exists. But, as Williamson recognizes, there remains such a person as Moses. Even if he is no longer an actual object, an actual person, he remains a possible person. Indeed, nothing, including death, can rob Moses of the property of being a possible person. This is an essential property of Moses (one he never lacks, not merely one he never lacks whenever he exists.)[22] Williamson misstated things when he described "existing…as a necessary precondition of having any properties or relations whatsoever."[23] What is true, rather, is that being an object—i.e., a possibly existing object—is a necessary precondition of having any properties or relations.

What is also true is that nonexistence, whether before birth or after death, robs a person of his or her actuality, but cannot affect someone's nature or essence, the kind of being he or she is. In short, death affects *whether* you are, not *what* you are. As I put it in an earlier essay, we should not "conflate abstract existents with concrete nonexistents. Possible people, like the dead and the unborn, are not a peculiar kind of abstract existent, but rather a perfectly ordinary kind of concrete object, like you

existent objects." This has not prevented Harry Silverstein ("The Evil of Death Revisited," 133, note 12) from describing mine as a "neo-Meinongian theory."

[18] In a section entitled "Being and Existence."

[19] Op. cit., 27

[20] If Parsons had seen this, he would have said, rather, that "…discourse about the dead and the unborn…is probably today the most plausible motivation for a theory of objects."

[21] One of Kripke's most dramatic claims in *Naming and Necessity*, his assertion (24) that not only does Pegasus not exist, it does not possibly exist, presupposes this distinction between a genuine object—which possibly exists—and what only appears to be an object. One could restate Kripke's claim thus: Pegasus is not a nonexistent object; it is not an object at all.

[22] Recall note 7, final paragraph, on our modification of Kripke's definition of "essential property."

[23] Williamson, "Necessary Existents," 244.

and me, who merely have the bad luck not to enjoy existence."[24] Williamson, clearly, echoes these sentiments: "When [Moses] died," he writes, "he did not become an abstract object, although he ceased to be concrete. . . . He became something neither abstract nor concrete."[25] What he means, presumably, is that when Moses died, he was now no longer actually concrete, but neither was he actually abstract; rather, he was now (merely) possibly concrete.

The situation before Moses' birth is exactly parallel, and Williamson, unlike most who have come before him, realizes this fact. "If [Moses'] parents had never met," he writes, "[he] . . . would have been something that could have been concrete."[26] Just so.[27] "[Moses] . . . would not have been a physical object, but would have been a possible physical object." Once again, what he means is that had Moses' parents not met, he would not have become actual at all, hence not an actual concrete object, but rather something that would have become concrete had it actually come to exist. Indeed, even though Moses' parents did in fact meet and conceive him, one must resist the temptation to ask what Moses was actually like while he was "cooling his heels," so to speak, before being conceived. Obviously, before birth, Moses was not actually up to anything, though he had the possibility of achieving all that he would eventually achieve. (That he had this possibility "all along" is shown by the fact that in the course of time, he realized it in actuality.) And similar considerations apply after his death. Williamson is on the money when he remarks that "when we think of past physical objects, we are content to classify them in terms of what they were;

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[24] "The Dead," 93, note 16.

[25] Williamson, "Necessary Existents," 246; brackets added.

[26] Williamson, "Necessary Existents," 246; brackets added.

[27] This shows, I believe, that those who philosophize about ethical considerations concerning the unborn—including the decision about whether or not to have an abortion (assuming, for the sake of argument, that the fetus is not yet a person), or whether or not to conceive in the first place—make life too easy on themselves if they conclude, as many have, that if the decision is made to go ahead with the abortion, or not to go ahead with the conception, there is, ontologically speaking, no specific possible person in the picture (who would be affected by the abortion or the decision not to conceive).

I agree with Robert Stalnaker when he says that "modal concepts are central to our understanding of the world—the actual world…" ("On What There Isn't [but Might Have Been]"). Modal concepts are not simply philosophical toys. They are needed to understand human life itself. When Marlon Brando's character, a fighter, not a philosopher, says in *On the Waterfront*, "I *could have been* a contender," we cannot grasp his complaint unless we are able to provide some account of possibility and the limitations of actuality. I can't follow Stalnaker, however, when he goes on to say that "understanding [modal concepts] should not require extravagant metaphysical commitments." Obviously, no theory about anything should commit itself to more than it should—but that's not to say very much (or indeed, anything at all). Does it follow, for example, that although concepts from physical theory are central to our understanding of the actual world, we should warn Stephen Hawking and Edward Witten to avoid "extravagant theoretical commitments" to such things as black holes and ten-dimensional strings? Is physics permitted "extravagant" theoretical commitments, but metaphysics not?

we do not insist on a classification of what they are now."[28] (We must be careful, however, not to overstate the case. Though past individuals do not exercise any of their traits in the present, there do, of course, exist actual facts relating to them—such as the fact that at present, they really don't exist.)

What is striking is that Williamson has in effect perceived a modal principle that, though obvious, has proved surprisingly elusive for most philosophers who have considered these matters, namely, that *possibility necessarily precedes actuality*. The birth of Moses, clearly, is responsible for his actuality, not his possibility. Unless Moses was "already" a possible being, a possible person, his mother could not have given birth to him. Williamson is to be praised for being one of the very few philosophers to, in effect, recognize this fundamental modal principle. Why, however, would someone want to reject it?

Many, if not most, philosophers who have considered the question insist that there is an asymmetry between the ontological situation before the birth of Moses and after his death. We have touched on some of the reasoning in our earlier account of Kripke's discussion in *Synthese*. But there is a different kind of reason that is often seen as having considerable force. Before Moses was born, this reasoning goes, his mother was certainly capable of bearing a child. But is it really true that the *specific person* (whom we later came to know as) Moses was already a possibility for her future child? "It is not as if there are unborn persons drifting about the world," wrote Judith Jarvis Thomson in her famous essay "A Defense of Abortion", "to whom a woman who wants a child says I invite you in."[29] Similarly, as Ruth Barcan Marcus put it, "[Moses] isn't some[one] waiting in the wings to take [his] place among the actuals when called."[30] "Could I claim," said Marcus, "that a possible individual, [Moses], has become actual? Of course not. To be a material object the object must have had a unique and traceable history in a material order of things."[31] On this line of reasoning, then, Moses' actuality as the very person he is is not preceded by his possibility as that very person, but only by the possibility of someone rather like him.[32]

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[28] Williamson, "Necessary Existents," 247.

[29] Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy and Public Affairs* 1 (1971), 47–66.

[30] Ruth Barcan Marcus, "Possibilia and Possible Worlds," in R. B. Marcus, *Modalities* (New York: Oxford University Press, 1993), 206–207; brackets added.

[31] Marcus is thus implicitly rejecting the classical semantics for quantified modal logic of Kripke et al., as summarized briefly earlier. Elsewhere in her essay, she makes her rejection explicit: "[T]he semantics for Kripke's theory," she writes (op. cit., 206), "appears to be symmetric as between referring to actual objects and referring to possible objects. . . . No special problem is noted about assigning possible objects to individual variables serving as individual constants."

[32] Indeed, I have heard the argument put in these very words. The idea is that in growing up, one becomes a particular, irreducible person, and it is that particular person who, upon death, will pass away. What is seen as senseless is the thought that it is that very person who was born, since until that person is fully actualized as a definite individual, there is no fact of the matter concerning who it is that is born. Thus, what I view in the text above as a reductio is here seen as a valid conclusion. As the saying goes, one person's modus ponens is another's modus tollens.

Granted that this way of looking at things has some intuitive force, an immediate objection, nevertheless, comes to mind. If we were to accept it, it would not after all be true that Moses (or anyone else) was really born on the day that is usually known as the day of his birth. To be sure, someone (or something) was born on that day, but as it takes time for that child to grow up to become the person Moses actually came to be, whoever that person was that was born, he wasn't Moses. Is that really an acceptable conclusion? Even worse then, when was the actual historical Moses really born? In his 20s? His 30s? Clearly, this is getting out of hand.[33] The conclusive objection, however, is simply the unavoidability of the modal principle we have stated. To deny that something can become actual only after having previously been possible is to misapply the very concepts of possibility and actuality.[34]

Indeed, not only must Moses have been possible before he became actual, his possibility is entirely independent of his having in the course of time become actual, i.e., of his having been born. Had his parents never met, as Williamson noted, his possibility would have been unaffected. No one, of course, would or could have known of him, or of his unfulfilled potential (forever unfulfilled, assuming that the stork only arrives, or attempts to arrive, once). Kripke's Moses would never have been referred to by name, and would never have been the constituent of a proposition grasped, or graspable, by anyone in our world. The same is true, however, as we have seen, in the

What is true, however, is that Moses' parents could not have chosen to have him, specifically, as their child. Even if they could have identified him, how could they have set about having him? There may or may not be certain sexual positions that will insure that you have a boy rather than a girl, but there are none that will make certain you have Moses. But of course, Moses' parents could not have identified him in the first place. One can ask a couple if they're planning to have a child, but it would be senseless to ask them which child, in particular, they're planning on having. (To modify W. V. Quine's example from "Quantifiers and Propositional Attitudes," the couple wants to have not a particular child but mere "relief from childlessness.") In this sense, all of us are really "accidents." We were, none of us, expected to arrive.

What about those who built the Empire State Building? Was it, itself, expected to arrive? If artifacts are genuine individuals, the answer would have to be "no," although the builders had a pretty good idea of what properties the skyscraper would have and, if all went well, would "recognize" it as what they had in mind. In that sense, it would be senseless for them to express surprise that that was the building that came to be built. ("What the hell is *that*?" "You weren't expecting that building?" "Absolutely not!"—a dialogue more appropriate to Kafka than to an architect.)

[33] To be sure, one might, for other reasons (having to do with your favorite theory of personal identity) wish to deny that the adult Moses was identical with the infant who was born, or the fetus who "grew up" to be the infant, and then, over the course of time, the adult. My concerns in the text are restricted to those who would deny that it was Moses himself who was born on what is popularly known as the day of his birth just for the reason that before his birth, there simply was no such fully specific object as the merely possible Moses.

[34] Does this way of putting it overstate the case? I don't believe so. Surely, if someone denied that actuality implies possibility, it would be clear that they were simply misusing these terms. It would be the same if they denied that necessity implies actuality. Contrariwise, it is open to debate whether the possibility of necessity implies necessity, and accordingly, this is an axiom that distinguishes different systems of modal logic. My claim in the text, then, is that the principle that possibility precedes actuality is so fundamental to modal logic that it cannot sensibly be rejected.

actual world, before the historical Moses was born, and yet, for all that, it remains a fact, a fact about Moses—the very man himself, the man who at that time did not exist—that before he was born, he wasn't. And yet the question remains, how can there be facts, or true propositions—concerning either the unborn or the dead—whose constituents (or referents) fail to exist?

Kripke had it right the first time, when he said that "…a sentence containing a proper name expresses a proposition if and only if the name has reference…." The wrong turn that he, and Williamson, took was to equate referring with referring to something existent. If you are to succeed in expressing a (Russellian) proposition (or in expressing a true proposition), your referring term needs to designate not an existent object, but rather a genuine object, existent or not. Having lived with Moses, we know that he is the genuine article, an authentic object, and nothing, including his death, can erase this fact. Having successfully named him, we can continue to use his name to refer to him even after his death erases his existence. More generally, for there to exist a true proposition about something, that something must be a genuine (possible) object, actual or presently existing, or not. For there to exist a fact about something, there must be a genuine object that is a constituent of that fact,[35] whether or not we are in possession of a referring term by which we can designate that object. Kripke's Moses, the actual historical figure in all his specificity, was the selfsame individual before he entered and after he left this world, something to which the facts themselves will testify.[36]

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[35] Recalling note 4, perhaps we should say that the same is true about "abstract" objects like sets, so that the set containing the non-contemporaries Kripke and Moses exists as long as there are genuine objects referred to by these proper names, whether or not the referents are in existence.

[36] I would like to thank Ben Callard, Eli Hirsch, Danielle Macbeth, and Jerry Samet for helpful comments.

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9

Concepts of Value and Ideas about Death

Stephen E. Rosenbaum

PHILOSOPHERS HAVE FOR years discussed whether and how death is bad for those who die, roughly following Aristotle or Epicurus on the question. Some have favored Aristotle's idea that death is the most terrifying of all things for people and bad for them.[1] Others have endorsed Epicurus' apparently contradictory view that "death is nothing to us," and not at all bad for those who die.[2] After many years and considerable discussion, including numerous scholarly publications, there is still no consensus about whether death is bad for people. Agreement is perhaps an impossible quest, but I think that the dispute can be ameliorated by more careful and penetrating examination. I explore here several issues in the apparent disagreement and further expand my thesis that different ideas about value shape thinking about death and these topics. This examination illuminates several important features of the dialectical situation, including somewhat surprising facts about the logical relationship between the two views. In the final analysis, differences between the two positions are based on deeper disagreements about the nature of value, and I suggest that in order to be more fruitful, further discussion of whether death is bad for people requires a quite different philosophical focus on the nature and importance of value.

Epicurus, whose view most recent thinkers have resisted, thought that death cannot be bad for the dead, because it is not something either the living or dead can experience, and he appears to have assumed that being able to experience something is necessary

[1] Aristotle, *Nicomachean Ethics*, 1115a; *Rhetoric*, 1382a.

[2] Epicurus, *Letter to Menoeceus*, Diogenes Laertius [DL], X, 124.

for it to be good or bad for a person.[3] He thought that death involved the complete dissolution of the self, and therefore, there would remain nothing of the dead to have any experience at all. So he thought that there can be no value for people in the condition of being dead. He believed that the dead were beyond being affected in any way of which they could be aware. Apparently thinking too that the primary fear of death was associated with the fear of bad experiences after death, Epicurus thought that he laid the ground for undermining the fear of death.[4] There is no room here to explore the nuances of the recent literature about the various aspects of the debate, and I assume that readers have some basic acquaintance with the most salient points in the literature on the issue.

The Epicurean reasoning for the thesis that death is not bad for people seems attractive, in the context of the assumption that human consciousness, or the personal self, does not continue after death. Yet many find it remarkably wrongheaded for various reasons, even those who agree with the assumption that human consciousness does not survive death. There are important issues still unaddressed and unresolved among the most fundamental objections to the Epicurean view, and I want to discuss some of the more challenging ones and urge that opposition to Epicurus and, for that matter, resistance to his opponents are largely based on insufficiently clear understanding. The chief objections to the Epicurean view have been that it contradicts a fundamental intuition that death is or can be one of the worst things that can happen to people, and that it is furthermore inconsistent with important widely accepted views we have about death. For example, some think that we rightly make judgments comparing the value of continued life to death, say, in assessing the rationality of suicide or the justifiability of euthanasia, and that such apparently legitimate thoughts are not conceptually compatible with the Epicurean view. Some too reject the Epicurean idea on the ground that it is not consistent with the universal moral condemnation of killing.[5] I discuss these issues in light of a distinction between two concepts of value that have been used mostly unwittingly by those engaged in the dialogue over the years.

Operating implicitly, mostly unnoticed, and inadequately appreciated in ideas we have and express about death are two concepts of value. In light of these different

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[3] Epicurus meant by "death" the condition of being dead, not either the process of dying or the moment of passing from life to being dead. See S. E. Rosenbaum, "How to be Dead and not Care: A Defense of Epicurus," in John Martin Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 122.

[4] There may be no single "fear of death," and it may in fact be quite diverse. Epicurus thought, however, that the primary fear was the fear of non-being. See DL, X, 125. James Warren argues that "Epicurus and the Epicureans" addressed themselves to several different forms of the fear of death, in *Facing Death* (New York: Oxford University Press, 2004), 4.

[5] Jeff McMahan, "Death and the Value of Life," in Fischer, ed., *The Metaphysics of Death*, 235.

concepts, one can argue not only that Aristotle's and Epicurus' views about death may be consistent, appearances to the contrary, but also that many ideas we have about death that may seem initially opposed to the Epicurean view are really consistent with it.[6] Additionally, these notions of valuation should engender reflection about and possible revision of various views about death. Such reflection could clarify considerably how we think about death.

TWO CONCEPTS OF VALUE

The recent dialogue about death began with the realization that our views about whether death is bad for people depend on "assumptions about good and evil," but that important insight has not been fully appreciated.[7] In advocating what has come to be known as the deprivation argument, the standard argument for why death is bad for people, Nagel attributed value to facts about people's lives, even if those facts were not associated with concrete conditions of the people whose lives they were about.[8] His concept of "abstract" (or "relational" as he calls it)[9] valuation has been the primary basis for regarding Epicurus' reason why death is not bad for people as mistaken.[10]

Underlying the dialogue about how to think about the value of death for people are two concepts of, or principles about, value, one used by Epicurus and one endorsed, mostly implicitly, by recent Epicurean critics. One concept of value may be said to be concrete, and the other to be abstract. Epicurus' concrete notion of value is that nothing can have value, can be good or bad, for someone, unless it can affect him or her in some way of which he or she could be conscious. This is a concrete concept of value requiring for its applicability some concrete effect on someone, say, a pain or some other condition that is capable of being experienced at some time. Effects included would be psychological effects, including beliefs in addition to physical effects. Furthermore, the effects of some events might cause further effects of which

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[6] Stephen E. Rosenbaum, "Appraising Death in Human Life: Two Modes of Valuation," in Peter A. French and Howard Wettstein, eds., *Midwest Studies in Philosophy, Life and Death: Metaphysics and Ethics (Volume XXIV)* (Boston and Oxford, UK: Blackwell, 2000), 151–171.

[7] Thomas Nagel, "Death," in Fischer, ed., *The Metaphysics of Death*, 64.

[8] Nagel, "Death," 67.

[9] Nagel, "Death," 66. Jeff McMahan implicitly relies on a similar idea in saying that "the badness of death cannot be intrinsic," but rather "comparative." Jeff McMahan, *The Ethics of Killing* (New York: Oxford University Press, 2002), 98. See also Fred Feldman's similar distinction between intrinsic and extrinsic value, in *Confrontations with the Reaper* (New York: Oxford University Press, 1992), 133–139. Ben Bradley also somewhat differently uses the notions of intrinsic and instrumental value to argue that "death" is bad for people, in *Well-Being and Death* (New York: Oxford University Press, 2009).

[10] I have discussed these ideas of value and their importance in "Appraising Death in Human Life: Two Modes of Valuation," 154–155, 159–161.

a person might not be aware until years after the initial effect. Accordingly, an injury, a benefit, a condition a person might be aware of at some time, or some such effect on a person could be good or bad. Some event that can, according to this idea, have no effect on someone can have no value for him or her. For example, in the absence of some extraordinary metaphysical view, if an event in some remote galaxy, say, two hundred light years distant, would completely destroy the earth and all of its life, but only after two hundred years and consequently after a person now living is dead, then that event occurring now, while the person is alive, can have no value for the person. It can never affect the person.[11]

The abstract concept of value denies that the only things that can be good or bad for people are events that have causal effects on them of which they are capable of being aware. It attributes value to propositions or facts about people that may not entail any effects on them. All that is required is that the propositions be about the people, or perhaps be true of them, but the propositions could be about them even if the facts that make the propositions true are not associated with any concrete effects on them.[12] Some facts about people are of course facts about their conditions of which they can become aware, such as their being ill or psychologically distressed. These facts may be said to be good or bad for people, but basically in relation to the conditions they describe. If the fact that a person is ill is bad for the person, it is because being ill is bad, affecting the person as it does. The badness of the fact is derived from the badness of the condition. Some facts, however, are not about conditions of people, caused by events that affect them. The fact, for example, that Lincoln has come to be revered as one of the great American presidents is a fact that can never be associated with effects on Lincoln. He can never appreciate the praise or feel satisfaction about his performance as president or about his place in history. Additionally, if it were a fact that his advisers plotted to undermine his policies on his last day when he went to Ford's Theater, that was a fact that never affected him and about which he never knew. Yet, such facts are able to generate value responses in others who know about them or find out about them. Many will, for perhaps

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[11] Harry Silverstein, who rejects the Epicurean view, does so in the context of a concrete concept of value according to which, as he expresses the idea, "values connect with feelings," whereas most others reject the view using the other concept of value, what I call 'abstract.' See Silverstein's view in "The Evil of Death," in Fischer, ed., *The Metaphysics of Death*. He believes that this concept of value is nevertheless effective against Epicurus because he sees events occurring after a person's death as existing at the same time the person is alive. See also Silverstein's more recent "The Evil of Death Revisited," in Peter A. French and Howard Wettstein, eds., *Midwest Studies in Philosophy, Life and Death: Metaphysics and Ethics (Volume XXIV)* (Boston and Oxford, UK: Blackwell, 2000), 116–134.

[12] Nagel thinks of the kind of value I describe as abstract as consisting in "…goods and evils that are irreducibly relational; they are features of the relations between a person, with spatial and temporal boundaries of the usual sort, and circumstances that may not coincide with him either in space or in time" ("Death," 66).

aesthetic reasons or out of confusion, think of the first fact as good for Lincoln and the second as bad for him. Yet he never knew about them or benefited/ or suffered from the facts being true of him. If these facts have value for Lincoln, the value is abstract, and it depends only on how others evaluate the facts.

If malicious people undermine someone's positive reputation and induce many to regard the person as dishonorable, that is a fact about the person, a part of the person's life narrative, but it may never affect the person. However, there is a true statement about the person that expresses that many think him dishonorable. If this is regarded as having value, being good or bad, for someone, provided that he is never affected by the regard in which he is held, the value is abstract. It is not linked to effects that the person could notice. There are numerous facts about someone made true by events occurring after the person's death. If a person's reputation is destroyed after death, the person cannot be affected by it, assuming the dissolution of the self at death. Yet some, knowing the fact that the person's reputation was destroyed, may feel sorry for him and declare that it was bad for him that his reputation was destroyed. Here too, the fact thought to be bad for the person cannot affect the person, and so may be said to be abstract.[13]

The idea underlying abstract valuation is that many facts are true of individuals. These facts are their life narratives, which are simply stories about people's lives, statements and conjunctions of statements some of which are made true of people because of events that affect them and some because of events that happen but never affect them. The latter includes of course facts about them that occur when they are not alive, and these are outside the bounds of their lives and experience. We sometimes attribute value to human life narratives or to aspects of them, even if we know that not all parts of the narratives reflect ways in which the people themselves were affected. When we feel sorry for someone who recently died and whose entire family was later killed in a natural disaster, we are implicitly attributing value (for her) to the fact that her family was killed. We seem not to care about whether she was affected by the tragedy, but still think it was bad for her. Why we value the facts we do may be for aesthetic reasons, say, because we conceive of lives having a certain appropriate aesthetic structure.[14] It may be for various cultural reasons. Why we attach value to such things is not as important here as that we do attach such value.

Events that affect people and cause further effects on them, when they can be aware of the effects, can have concrete value for them. These events, like all events

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[13] The notion of abstract value has been used to support the controversial idea of posthumous harm. There is no space to review the substantial literature on posthumous harm, but see, for example, George Pitcher's "The Misfortunes of the Dead," in Fischer, ed., *The Metaphysics of Death*, 159–168.

[14] Questions by James S. Taylor suggested this idea.

within a person's life, can of course be expressed as statements about the person and are parts of her complete life narrative. All events that affect people are included in the complete narratives of their lives, but not all propositions included in the complete narratives of people's lives are about events that affect them.

I have elsewhere argued that the philosophical literature on death uses these different principles in the debate about the value of death for people,[15] but I want to add a further consideration that supports the notion that different ideas or principles about value have been used in the dialogue. Those who object to Epicurus' view that death is not bad for us insist that death is, contrary to Epicurus, bad for us, or can be. Epicurus meant by 'death is nothing to us' that the condition of being dead is not bad for us. However, those who object to Epicurus by arguing that death is bad for people, not because of any positive, concrete bad, but because of what the dead miss (because of some extrinsic, comparative, or instrumental value), would not extend their conclusion to assert the negation of Epicurus' view. They would not say that because of what the dead are deprived of, the condition of being dead *is* bad for them, thereby clearly contradicting the conclusion of Epicurus. As far as I know, no one who objects to Epicurus on death has gone on to affirm this conclusion. Why not? They do not really believe it when they think about the matter clearly. Surely, they do think that death can be bad for people; this superficially appears to contradict Epicurus, but I think that without realizing it, they try to explicate the way in which death can be bad for people and ignore the logical relation of their argument and conclusion to Epicurus' view. Perhaps they feel that Epicurus' view is deficient in relation to what they judge as genuine human concerns about death. The relevance of Epicurean ideas to our concerns about death is of course a different philosophical issue, worthy of focused consideration on its own merits. In any case, I think that the failure of those who oppose Epicurus to justify the idea that being dead is indeed bad for the dead is evidence that they do not really mean to assert this, but rather to make an alternative point. In making this point, most contemporary Epicurean critics are implicitly adopting an alternative notion of valuation that includes what I have described as the principle of abstract valuation.

These two different ideas about valuation lie at the core of the dialogue about whether death is bad for people. Those who have used the notion of abstract valuation have generally gone on to consider the nature and utility of the conclusions they draw using the idea in the desire to understand its importance in thinking about death. They have not considered the logical relationship of their view to Epicurus' conclusion about death and its implications for human life and concerns. Nor have they understood how the ideas affect benchmarks of argumentation against

[15] Rosenbaum, "Appraising Death in Human Life: Two Modes of Valuation."

Epicurus. It is useful to see, for example, how the idea affects the intuition that death is bad for people and the popular deprivation argument against Epicurus' view.

THE INTUITION THAT DEATH IS BAD FOR PEOPLE

Many people believe that death is bad, even if there is no afterlife, and are struck negatively by Epicurus' bold declaration that "death is nothing to us." The opinion that death is bad is regarded by many philosophical thinkers as an "intuition," a kind of datum on which philosophical theories may properly be constructed. This intuition seems obviously contrary to the Epicurean idea that "death is nothing to us." At least partly because of this, most philosophers have been motivated to construct theories that entail that death is bad for us. However, it is worth reflecting on this intuition because of its importance in the dialogue about death. I want to briefly explore the intuition because it is usually expressed to disguise important complexity in how people think about death and value, especially in light of the distinction between concrete and abstract value.

People generally think that a person's death is one of the worst things that can happen to the person, and they dread the thought of dying. It is not perfectly clear, however, what people mean when they express negative ideas about death, in the various ways they express them. Furthermore, they may mean things that are in fact compatible with the Epicurean idea that being dead is not bad for people. A careful consideration of what might be meant by various evaluative comments we make about people's deaths reveals that they are not necessarily incompatible with Epicurean ideas.

Consider the following kinds of claims we make about individuals' deaths: "Her death was a tragedy." "His death was unfortunate." "Her death was a misfortune." "His death was bad." There are numerous similar statements we make about death. In light of several distinctions, such assertions are highly ambiguous, and it is thus not clear what philosophical view could rightly be constructed on the assumption that they are true. In thinking about death, one should distinguish, for example, among the process of dying, the moment of death, and the condition of being dead.[16] In light of the distinction between concrete and abstract value, one should also distinguish between good or bad effects on people and good or bad facts about people (however the goodness or badness of those facts is determined), expressed in propositions included in individual life stories. In terms of a difference between value for the person involved and value for others, one should distinguish between personal and impersonal value. When we say, for example, that "his death was bad," we might

[16] Rosenbaum, "How to be Dead and Not Care: A Defense of Epicurus," 120.

very well mean that the process of his dying was bad for him, which would have nothing logically to do with the claim that "his being dead is bad for him." When we say that "her death was a tragedy," we might mean that her death was a tragedy for her family, which would have nothing to do with the claim Epicurus made about death. We might mean that her life history or narrative was tragic. When we think "his death was unfortunate," we might mean that the fact that he died at the time he did was (in relation to other elements in his life story) unfortunate, which would involve appraising a fact about his life narrative and would have nothing to do with whether his being dead is bad for him. We should not take the various value judgments we express about people's deaths at their simple, apparent face value. The things we say or think about specific human deaths are quite different in their exact meaning, and the exact meaning probably varies depending on context. What we say about different deaths may never express some simple intuition that deserves some single philosophical analysis, perhaps involving a choice between Epicurean ideas and others.

People do of course dread their deaths, but it is not clear exactly what they dread, any more than it is clear what people fear when they express fear of death. Perhaps they dread an unpleasant dying process. Perhaps they dread the thought of permanent unconsciousness or the complete dissolution of their selves. Perhaps they dread dying too soon (in relation to goals or desires they have). In any case, it is highly doubtful that what people dread in death can be turned easily into some sort of "intuitive" negation of the Epicurean idea that being dead is not bad for those who die.

COMPREHENDING THE DEPRIVATION ARGUMENT

Many critics use some form of the "deprivation argument" to oppose Epicurus' view about death. Not entirely comfortable with affirming that a person's being dead can be or is bad for the person, they implicitly adopt a different notion of value, and attribute value to propositions about the person that may not be connected to effects on the person. As I noted earlier, those who advocate the deprivation argument do not draw as their conclusion that Epicurus was mistaken in his view of death that the state of being dead has no value for people and is consequently not bad for them. They rather somewhat shift the emphasis to what people may lose because of their deaths, and focus on what the dead are missing, implicitly relying on a different notion of value. They think the dead may be deprived of goods that would have completed their important projects and plans, or their lives, and provided a more complete structure to their lives or perhaps a more satisfying life narrative. We commonly think that human lives may and usually do have a kind of structure that takes

time to complete, and unless lives are completed appropriately, we may judge that it is at least sometimes bad to have the course of life interrupted by death. Critics conclude that death is bad for those who die (because of deprivations produced by the timing of death or because the timing of death significantly worsened the person's life narrative). For example, a person who spent her life working to find a cure for some disabling disease and was making progress when her life was cut short by death suffered, critics think, a great loss (a loss to herself, not just to the world), and they thus think her death was bad for her. To the question of how the deprivation can be bad for those who are dead, because the dead cannot experience, mind, or somehow suffer from the deprivation, deprivationists are silent.

The answer people who advance the deprivation argument should have is that they do not really mean to assert that being dead is bad for people or that the dead can suffer from their deprivations, but that, using a different concept of value, we can make sense of the "intuition" that death can be one of the very worst things that can happen to people. Better said, in my view, we can understand how death can damage and have negative value for a person's life narrative, depending on its content and structure. Further, they might continue, the Epicurean idea that the condition of being dead is not bad for people is off-base in the sense that it does not address at least some, if not any, of the concerns people have about death. In any case, the deprivation argument depends on the idea of abstract valuation, because what is being evaluated are narratives of persons' lives, sets of propositions that are true of people, centered on facts about when they die. A crucial, central part of the narrative of the life of a person for whom death is bad concerns the timing of his death. The fact that a person dies at a certain time, at a certain stage in his life, is the main ingredient of the badness of a person's death, according to deprivationists. So for deprivation theorists, the fact that a person dies at a certain time is or can be bad for the person, even if the fact entails no negative concrete effects on the person. It is the proposition about when the person dies that, when woven into an appropriate part of the person's life narrative, makes the person's death "bad." But what is bad for the person on this view is not the condition of being dead or anything that happens after a person dies, but rather the fact the person died at the time he did. In short, the person's narrative has a certain quality, determined by the structure of the person's life, including the fact that the person dies at a certain time, when he loses goods that would have been experienced if life had continued.

If someone dies who has completed parts of her life for which earlier parts were preparation, the person is deprived of life, but that deprivation would be less important (or, some would say, less bad) than the deprivation of one who dies at an earlier stage of life, when important projects are unfinished. Perhaps, a person could be deprived of so little, say, if the person were very old and had completed all of her projects, that

the death might be said to be not bad at all.[17] The timing of death and when it occurs relative to other facts about a persons' life are crucially important in thinking of the badness of death, when the badness of death is dependent on deprivation.

The deprivation argument depends for its effectiveness on the notion that there is a kind of value that is not connected with concrete effects on people. Those who advocate this idea are implicitly using something like the idea of abstract valuation. Again, they would not declare, contrary to Epicurus, that the condition of being dead is or even could be bad for people. They can adopt the view they do only as they employ a sense of value that gives value to propositions about people's lives, which propositions may not entail that those people suffer negative effects. Their thinking that death is bad for people because of the fact that they die when they do is not inconsistent with the Epicurean view that being dead is not bad for those who die. Therefore the deprivation argument does not negate the Epicurean idea that death is not bad for people. There remains a question of how the Epicurean view would be relevant to human concerns about death, and I address that issue later in the chapter.

LIFE-DEATH COMPARISONS

Among the ideas we have about a number of issues concerning human death are the ones that involve comparisons between life and death, between being alive and being dead. We sometimes believe, for example, that someone's suicide is irrational partly because we judge that her life would have been better if it had continued. We may think in such cases that death was worse for her than continuing to live would have been. Even if we are mistaken in such judgments, we nevertheless make them and use concepts that underlie their meaning. We also sometimes think that death is better for some than continuing to live, say, because continuing to live would be exceedingly physically and/or psychologically painful. In such cases, continuing to live might be thought to be worse than death. My concern is not whether we are correct about such comparative judgments or the basis for such judgments, but rather the logical and conceptual basis for thinking these things. It is moreover important to see whether these comparative judgments are incompatible with the Epicurean view.

Some have thought that these comparative judgments would undermine the Epicurean view that death can have no value for people and can be neither good nor bad for them.[18] The comparative judgments indeed seem to be inconsistent with the

[17] In this manner, we could account for why the death of a young person might be worse (or perhaps more tragic or unfortunate) than the death of an older person near the end of life.

[18] See Jeff McMahan, "Death and the Value of Life," in Fischer, ed., *The Metaphysics of Death*, 235ff; and Harry Silverstein, "The Evil of Death," in the same volume, 97f.

Epicurean view, and to the extent that they are appropriate, seem to provide grounds for seriously questioning or rejecting the Epicurean view. If a person's death would be worse for the person than continued life, then it would be bad in comparison to continued life. If a person's death can be in any sense bad for the person, then Epicurus might have been mistaken in thinking that a person's death could not be bad. A similar point is true of the idea that someone's death could be good in relation to continued life.

The issue seems straightforward. If Epicurus is correct about ascribing any value for a person to that person's death (and there is as he would say no value in a person's death), then how could we ever judge a person's suicide to be "rational" or "irrational?" How could we ever think clearly and comprehensively about euthanasia and the justifiability of any kind of euthanasia? We would apparently never be able properly to compare life and death in an individual case, from the point of their value to the person. Would it be better for a person to die than to continue living, or better to continue living than to die? Could a suicide be justified in the sense that the person's life would have been worse than his dying when he did? Would there be no conceptual or theoretical ground for us to think about and answer these questions? To address this concern, most thinkers have just rejected the Epicurean view and insisted that death can be bad for those who die.

Consider this issue in the context of the distinction between abstract and concrete value. When we make these comparisons, we are not employing the notion of concrete value. We are not using value in relation only to effects on people of which they might be aware. In thinking that a person's death would be better than continuing to live, we are not judging that a person's being dead would better for the person than being alive, as if the person would enjoy benefits in death that the person would not enjoy in life. The benefit to the person would lie in not being alive to experience the suffering in life. When we realize that the person would not experience the benefit of not being alive to suffer, we might wonder what kind of benefit there would be in being dead. There would be no benefits in being dead, no positive goods, according to the idea of concrete valuation and the assumption that people cease to be at death. If we agree that the self "dissolves" at death, then we would not seriously think that there would be any benefits in death in the ordinary sense in which we think about benefits. We would not think that people would in death have concretely good experiences because of states they were in. We would also, for the same reason, not think that there would be any disadvantages in death. How then can we understand these comparative judgments?

We can readily account for such comparative judgments with the notion of abstract valuation.[19] The comparisons seem problematic and paradoxical in the

[19] Although he does not conceive of the matter in the terms I have expressed here, Fred Feldman offers ways to understand what he terms the "extrinsic" value of being dead for such people, completely eschewing the idea that there would be any "intrinsic" good or bad in death. He is developing one way to conceive of valuation abstractly, as I would describe it. Feldman, *Confrontations with the Reaper*, 148–156.

context of concrete valuation, conjoined to the Epicurean view, but if we place them in a different valuational framework, the problem evaporates. We can consider the comparisons to be comparisons between the values of different life narratives for the person in question, independent of the idea that the propositional elements of a person's life narrative need all be associated with concrete effects on the person. We can think that these comparisons are judgments about the relative value of different life narratives, which might depend in our thinking upon facts about when a person dies in relation to various other elements in a person's life. When we believe, for example, that it would be better for a person to continue living than to die, we are basically judging that the narrative in which the person continues to live is better than the narrative in which the person dies.[20] We might of course include in that person's narrative statements about how much concrete good and bad, including satisfactions, pleasures, and pains, would be involved. However, we would not need to exclude from this judgment narrative elements that are not associated with concrete conditions of a person's life. When we believe that a person's life would be better if she did not commit suicide in February, but lived on into the spring and summer, we are thinking that her entire life story would somehow be better than the one in which she ends her life in February. The ground of our thinking this may be that we believe propositions would be true of her if she lived, which nevertheless would not be true of her if she died in February. For example, we might believe that she would have had experiences after February that would have made her life on balance better than it otherwise would have been. She would, say, have had pleasures, honors, and beneficial relationships sufficient to outweigh any negative experiences she would have had. Maybe we think that it is better to have more pleasures, satisfactions, and other goods than less (all things equal), and we believe that the life she would have lived if she had not committed suicide would have contained more benefits than otherwise.[21] Abstract valuation allows us to evaluate her life this way even without bad effects (on her) resulting from her committing suicide.

When we believe in other cases that it was better for a person to die, say, yesterday than to continue living for another six weeks, we are judging that the person's life story was better than it would have been if he had continued living. Perhaps we conceive that he would suffer for the six weeks, in the context of no or too few compensating goods, and thus that it was somehow better for him to die yesterday. The grounds on which we make such judgments are complex and depend on various

[20] The nature of the values we employ here is not as important as realizing that what we are valuing are statements included in someone's life history, which propositions might not entail concrete effects on someone. The values might consist in aesthetic preferences that might emerge from cultural practices and habits.

[21] How we could know such things is of course problematic, but the comments are about how our evaluations operate in general and are shaped by different concepts of value.

values we have about human lives and the structure of those lives, especially in the context of concrete effects on individuals. Those values and the ideas with which they are associated, not to mention the origin of the values, are important and would be interesting to explore, but I want to focus on the idea that when we make the comparisons in question, we are using abstract valuation, according to which propositions about a person can have value for the person, even if not associated with any effects on the person. When we think that it would be better for someone to die than to continue living, our thought does not imply either that the condition of being dead would have any value for the person or that anything occurring while the person is dead would have such value. We are just attributing value to a fact about a person's life, to a statement about a person's history, or to features of a person's narrative. We can only make sense of comparative judgments in the context of assuming that facts about people lives, independent of any effects on them, may be thought to be good or bad.

Our judgments might be difficult to justify, and might differ from beliefs others would have about a specific case. Common judgments about the valuations might differ from one culture to another. For that matter, our thoughts about what is valuable might differ from those about whom we are making the judgment. We might think that it would be better for an individual to die sooner than later; our beliefs might be correct or incorrect and might differ from those of the individuals about whom we judge. Similarly, we might think it would be better for certain individuals to live longer, and we might be correct or incorrect in relation to thinking about their life narratives. The beliefs of the individuals themselves might well be different and might be based on different considerations or different values. In any case, we are in these cases making judgments about different actual and possible life stories or narratives, sets of propositions about individuals' lives to which we ascribe positive or negative (abstract) value. Without the requirement of the idea of concrete valuation that our value judgments (including comparative ones) about people's lives involve concrete effects on a person, we are free to make many different comparative value judgments about life and death. The criteria for making such evaluations when we think about the rationality of suicide or the justifiability of euthanasia may not be clear or easy to formulate, but the point is that we sometimes think about people's deaths in large terms, considering the relative merits of different possible life stories. We make such comparative judgments using abstract valuation, which is logically compatible with Epicurus' basic view about death.

If we can account for life/death comparisons about people's deaths using the notion of abstract valuation and thereby think that the fact that a person died when he or she did can be good or bad for the person, then the propositions that have value in relation to statements about the person's life narrative need not entail that

any condition of the person is actually good or bad for the person. Therefore, comparative judgments, perhaps important in our thinking about the rationality of suicide or the justifiability of euthanasia, are not incompatible with the Epicurean idea that death is not bad for those who die, and constitute no ground on which to reject or question the Epicurean idea. The Epicurean idea is about death, being dead. It is not about the instant of passing from life to death; it is not fundamentally about the dying process; and it is not about facts concerning when people die in relation to other aspects of their lives.

THE WRONGNESS OF KILLING

Some react to the Epicurean view of death by thinking that it is not compatible with a general moral prohibition against killing. Several thinkers have mentioned this to me in conversation, but as far as I know, no one has developed this point in the philosophical literature.[22] These people may think that if death is not bad for those who die, what could be wrong with killing them? This would be a serious objection if it had merit. How might one justify the idea that if being dead is not bad for people, then killing them would not be wrong? This concern deserves attention, because it will yield a deeper understanding of the moral implications of Epicurus' view.

In order to make the case that the Epicurean idea would undermine the moral prohibition against killing in general, setting aside what might be obvious exceptions to the prohibition (such as killing in self-defense), one would need to adopt a strong principle linking the ideas. One would need to argue that the wrongness of killing is incomprehensible unless one thinks that death is bad for those who die. One would need to justify the principle that killing humans is morally wrong only if death is bad for them. I do not readily see how one could argue plausibly for this thesis, and I am unaware of any argument for the principle.

There may be some moral theory according to which the principle required is true, but I know of no such theory. It would not be true, for example, on a utilitarian theory of morality, which would connect right and wrong with good and bad consequences for those affected by an action. A utilitarian theory of just about any kind would not associate the wrongness of an act with the consequences on just one individual affected by the act, say, the person most positively or negatively affected by the act. The utilitarian rightness or wrongness of an action, whether mediated by rules or not, would consider the consequences for everyone affected. So, for example, even if a person's death would not be bad for that person, the consequences for

[22] McMahan briefly mentions this concern in "Death and the Value of Life" (235), but he does not develop the point.

others might be such that the act of killing the person would on a utilitarian view of morality be wrong.

It is well to recall that Epicurean morality regarded killing as wrong, in the context of adopting the idea that "death is nothing to us." How did Epicurus combine the ideas? Epicurus was a contractarian, thinking that the principles (*nomoi*) of justice come from a contract (*syntheke*) whose justification lay in its social usefulness.[23] As the scholiarch of the Epicurean school after the death of Epicurus, Hermarchus urged, consistent with Epicurean doctrine, that murder or killing is wrong because it "is not useful to the general structure of human life."[24] However much this might seem an amusing, grand understatement, in the context of modern sensibilities, one can readily see in this view, or for that matter in almost any contractarian view to which one might be attracted, the possibility of maintaining that killing is morally wrong at the same time one maintains that death is not bad for those who die.

There is a principle according to which it is presumably morally wrong to do something that is bad for someone, which presumption may however be able to be overridden by special considerations. So if it were bad for a person to be hurt, for example, it would presumably be wrong to hurt that person. What this suggests of course is that the badness of an act for someone is some reason for it being morally wrong to do it. If death were bad for someone, then there would according to this principle be a presumption that it is wrong to cause the person to be dead. If one combines this principle with the Epicurean view of death, and operates without any other conceptual resources or moral principles, one would not be able to show that killing someone is wrong, for obvious reasons. However, it would not follow from this principle that one who endorsed the Epicurean view of death could not account for the wrongness of killing. It would be an elementary logical error to think, based on the principle considered, that if death were not bad for someone, then it would not be wrong to kill the person. Only if one believed that there were or could be no other reason an action could be morally wrong would one be concerned about whether denying the badness of dead would enable one to think that killing is wrong.

Perhaps those who would sponsor this objection believe basically that the Epicurean view of death does not allow one to provide the "best account" or the best kind of account of the wrongness of killing. Accordingly, the objectors should perhaps not be seen as thinking that the Epicurean view of death is incompatible with the wrongness of killing, but rather that it is incompatible with the most theoretically

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[23] For further development of Epicurus' moral ideas, see my "Epicurean Moral Theory," *History of Philosophy Quarterly* 13 (1996), 389–410. For some relevant Epicurean texts on morality, or justice (*dikaios*), see Kuriai Doxai, 31–38, preserved in Diogenes Laertius, X, 150–154.

[24] Porphyry, *On Abstinence*, 1.7.1–9.4 (quoting Hermarchus), in A. A. Long and D. N. Sedley, *The Hellenistic Philosophers* (Cambridge, UK: Cambridge University Press, 1987), 129.

adequate account of the wrongness of killing. This objection would be difficult to consider in the abstract, and would in any case take considerable time to address, depending as it would on considering what would constitute a "theoretically adequate" account. No one has pursued this argument, and I cannot consider the objection in the absence of any reasoning that tries to make the case. It might be useful to think about the objection briefly in a more general context of the nature of morality.

The objection that Epicurus' idea about death is not compatible with the prohibition against killing might perhaps be better thought of as the objection that his idea is inconsistent with or cannot form the basis for the *moral* wrongness of killing. One might accordingly distinguish between the wrongness of killing as perhaps a conventional feature of social morality and the "moral" wrongness of killing as some other, perhaps "higher," type of wrongness. The notion of moral obligation raises a very substantial question that cannot be addressed in this chapter. A concept of "moral obligation" in contrast to a concept of conventional obligation short of legal obligation is very popular among philosophers now and goes back at least as far as Kant and maybe to divine-command theories of morality. So while law or social convention might, for example, forbid killing and thus make killing legally or conventionally wrong, killing could according to a modern concept of moral obligation be wrong because it is forbidden by a deity (a divine-command theory) or by reason (Kantian type theory). Many who operate implicitly with a modern concept of moral wrongness commonly locate moral obligation or wrongness in reason, as does Kant. Therefore, perhaps the objection to Epicurus relies implicitly on a modern distinction between moral wrongness (based on reason or divine commands) and non-moral wrongness (based on convention), and would insist that Epicurus' "death is nothing to us" cannot be reconciled to the moral wrongness of killing.

Epicurus does not appear to have had a notion of moral obligation as a distinct kind of obligation. In this way, he was pretty much like other ancient Greek philosophers in whose ethical theories one would search in vain for the distinctly modern concept of moral duty. So it would not be surprising that he would not be concerned to justify the wrongness of killing differently from the way he did. This would of course not exonerate him from the charge of failing to take into account moral obligation, if there really were such an important, distinct kind of obligation. However, the notion has been questioned, even in the context of it being one of the strong canons of recent philosophical thinking about morality, so strong and entrenched that it lies invisibly at the root of much current writing about morality.[25] However,

[25] Anscombe began questioning the idea in the 1950s (G. E. M. Anscombe, "Modern Moral Philosophy," *Philosophy* 33, 1958, 1–19), and Philippa Foot continued the inquiry in 1972 (Philippa Foot, "Morality as a System of Hypothetical Imperatives," *Philosophical Review* 71, 1972, 305–316). Some, but not all, recent "virtue ethical theories" would question the idea as well.

the question of whether there is moral obligation as a distinct sort and whether it is "better" than some kind of non-moral obligation is vast and not amenable to proper discussion here.

In any case, it is worth reflecting on the idea that what seems practically important for morality is behavior in accord with standards of moral propriety, not the kinds of standards they are or the ultimate source of the standards. If a person, for example, refrains from killing another person, following the principle that killing is wrong, it seems relatively and practically unimportant whether the principle originates in social convention, law, God's commands, or reason. This is of course controversial in the framework of Kantian moral principles, but it is worth considering.

There is in any case no convincing basis for thinking that only if death is bad for people could killing them be wrong, or even morally wrong. There are moreover manifold theoretical ways of accounting for the wrongness of killing in the context of the Epicurean view. The wrongness of killing is not inconsistent with the Epicurean idea of death.

FINAL THOUGHTS

These reflections show that many of the most trenchant recent criticisms of Epicurus' basic idea about death for people do not undermine his view. Perhaps more important, they also reveal that substantial philosophical issues regarding death have not been adequately clarified and addressed. If I am correct, there is no logical opposition between Epicurus and most of his critics on whether being dead is bad for the dead. In one sense of value (Epicurus'), death (being dead) is not bad for people, but in another sense (that employs a principle of abstract valuation), death (the fact that an individual dies when he or she does) can be bad for people's life narratives or histories. Properly explained and clarified, this is not extraordinary and should not be puzzling. Emotions have understandably shaped language to obscure many issues regarding how we think about death. Many have been deceived by common rhetoric and feelings about death that discourage penetration and analysis.

There are at least two concepts or principles of value and two modes of valuing various elements of death and dying. There is concrete value, and there is abstract value, each part of a complex human conceptual framework. Ideas can be denied with one that cannot be denied with the other, and ideas can be affirmed with one that cannot be affirmed with the other. Clarity, however, often engenders disappointment. If the conversation about the badness of death comes to this, then what is the upshot of the discussion, except perhaps to have brought us to this realization?

The answer to this question is that we can understand more clearly ideas about death, and we have a richer conceptual framework for properly viewing various

issues involved in thinking about death. If we need not disagree over whether death is bad for people, but can simply make sure that we draw no improper conclusions from our admittedly ambiguous value judgments about death and dying, then we may think more clearly about death and spend valuable effort on other issues. If people want to exert effort thinking about different issues concerning death and dying, they should probably begin to think about the cases in which it is appropriate to use abstract valuation and concrete valuation in relation to issues about death, and then understand the philosophical implications of the usage. They should further consider in this light how to appraise the various claims made about death.

In relation to the distinction between concrete value and abstract value, what is the relevance of the Epicurean thesis that death is not bad for those who die? Is it significant, if true, that in the sense of concrete value, being dead is not bad for the person who dies? The response to this question lies I believe in considering what issues interest us, and how the different views about value bear on those issues. When it comes to our ideas about suicide or euthanasia and whether these actions are justifiable or perhaps "rational," we may find it useful to consider these ideas in the context of abstract valuation, for it would be difficult or perhaps impossible to think clearly about the issues otherwise. When it comes to interpreting the tragedy of a death, we make implicit use of the abstract theory of valuation. The tragedy of a person's death may depend on how the timing of that death (the fact that the person died when she did) fits into the person's life story or narrative, and not necessarily connected with concrete effects on the person. Somehow, the abstract notion of value seems involved in many of the judgments we make about death. It would appear that the only alternative to making, for example, comparative judgments, would be to give up the idea of abstract value and cease making the judgments that are based on it.

We should recall, however, that one of the purposes of Epicurean thinking about death was to undermine the dread of death. This is immediately clear from Epicurean writings.[26] Also, Julius Caesar used the Epicurean idea that death is not bad for us to argue that the death penalty is really no penalty at all.[27] In light of the Epicurean view of death and a traditional conception of punishment according to which punishments are bad things done to people, it is possible to defend Caesar's view. I have already written about each of these topics,[28] but I want to comment about them in this context.

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[26] See *Letter to Menoeceus*, DL, X, 125.

[27] Sallust, *The Catiline Conspiracy*, LI, 20–25. See also Socrates' speech to the jury in Plato's *Apology*, 40 c-d.

[28] See further development of this issue in S. E. Rosenbaum, "Death as a Punishment: A Consequence of Epicurean Thanatology," *Epicurus: His Continuing Influence and Contemporary Relevance*, Dane R. Gordon and David B. Suits, eds. (Rochester, NY: Cary Graphic Arts, 2003), 195–206.

A central feature of Epicurean ethical theory aimed to undermine the fear of death. His implicit idea was that the fear of death is primarily the fear of unpleasantness after death, not fear of the dying process or something else. The fear of death, or perhaps fear about death, is manifold. It differs from one person to another, and it differs in the same person from one time to another. Not only does it involve fear, but also terror, discomfort, repulsion, and other feelings as well. Its objects are similarly diverse. It can be fear of disagreeable circumstances in death, fear of dying uncomfortably, fear of the unknown, fear of dying before some specific event, fear of nonexistence, and others as well. However, if it is fear or discomfort at the idea of future nonexistence, Epicurean advice that one's future nonexistence will be completely without suffering and thus cannot be bad for one is certainly relevant. That advice may, if adequately processed and assimilated, be able to provide some comfort or relief from death anxiety at least in one of its important forms.

The Epicurean view would also challenge the idea that the death penalty really is a penalty, however much it has been so regarded traditionally. Independent of the question of whether and in what circumstances state administered death for someone could be justified, the question can be raised whether it could ever be a penalty. If the death penalty is not essentially associated with a particular kind of dying process, or the psychological effects, if any, of being sentenced to and awaiting death, but rather is the condition of being dead, then it is questionable whether it is a penalty. Caesar thought that it was not a serious penalty and so argued in the debate about how to punish the Catiline conspirators.[29] Making them dead was, in his thinking, not a sufficient penalty. Following the Epicurean idea, he believed that death was the end of all suffering, and apparently assumed that the purpose of a penalty was to assure a suitable measure of suffering. It seems to me that one would be able to conserve the idea of death as a penalty only by developing a notion of punishment that made punishments not necessarily connected with doing bad to those punished in some concrete sense of the term 'bad,' or by arguing that punishments could be essentially associated with abstract bad, somehow negative narratives about the lives of those punished. One might, for example, argue that the penalty of death is essentially killing someone so that his or her life narrative would be very significantly damaged. This would appear to make the extent to which death could be a penalty for someone depend on how death would affect the person's narrative. In any case, the Epicurean view of death implicitly questions whether death could be as severe a punishment for people as it is commonly thought to be.

Finally, it is worth noting that there are advantages in thinking that death could be bad for people in one sense, but not bad for them in the concrete sense. One can

[29] See note 28.

use the different ideas of value to sustain views about death that are attractive to those who support the Epicurean position, and one could also support views that are attractive to those who oppose it. One can understand how to regard death as valuable for people in such a way that one can see how suicide or euthanasia could be "rational" or justified. One can also understand how Epicurean ideas could be relevant to human concerns about death. One can clearly understand how death could be a tragedy or misfortune for those who die. However, one can also comprehend in what way death is not bad for people, and how it might be possible for us to use this in order to undermine the fear of death, at least in some of its forms, and question the severity of the death penalty. The two ways in which death can be valued also constitute a clearer conceptual framework for considering various judgments people make about death. Because our thinking about death is understandably complex, recognizing and using an expanded conceptual framework helps us avoid confusion as we think about death and the various ethical issues surrounding it. I should think that these advantages, once appreciated in the context of how we think about, discuss, and evaluate death in people's lives, would attract one to explore further implications of the distinction between the different concepts of value.

This discussion should have revealed basic aspects of the differences between the Epicurean view that death is not bad for people and the apparently contradictory idea that death is bad for people. The arguments for each of the positions have been attractive and powerful. However, reflection shows that the arguments for the different views, however appealing, do not easily and clearly refute the ideas of the opposing views. It also helps us see how we can understand many of the judgments we make about death, including comparative judgments apparently essential to how people assess the justifiability of suicide and euthanasia, while accepting and using appropriately Epicurus' insights about death. We can also see that Epicurus' view, however relevant to the fear of death and the death penalty, may not be by itself comprehensive enough to account for complex ideas and judgments about death that are current in much ordinary thought and discourse. [30]

[30] I appreciate James S. Taylor's very helpful questions and remarks, which improved this chapter. I benefited from a discussion of an earlier version of this paper at the 2008 6th Global Interdisciplinary Conference on Death and Dying in Salzburg.

SECTION III

Posthumous Harm

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10

The Vulnerability of the Dead

Geoffrey Scarre

1

IF DEATH IS the end of us, the extinction of the personal subject, then it seems the merest commonsense to suppose that the dead can be neither benefited nor injured. For how could there be a harm or a benefit without an existing subject to be harmed or benefited? If harms set back interests and benefits promote them,[1] then neither appears possible in the absence of an interest-holder. Events occurring after a person's death would seem to be too late to have any effect on a person's life. Although an interest that a person had during life (e.g., to bring up her children to be virtuous citizens) may be thwarted after death (the children grow up to be losers or bank robbers), crucially this appears to have no effect on her life. This commonsense intuition has been forcefully emphasised by a number of recent writers. For instance, James Stacey Taylor writes that "the lives of persons whose interests are thwarted post-mortem will *not* be affected by such thwarting,"[2] while Christopher Belshaw contends that there can be no harm after death, because "the notion of harm seems to point to some description of your internal condition—it is not as good as it was, or not as good as it would otherwise have been"; and the dead (as distinct from their corpses) plainly have no "internal condition".[3]

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[1] Cf. Joel Feinberg, *The Moral Limits of the Criminal Law. Volume Four: Harmless Wrongdoing* (Oxford, UK: Oxford University Press, 1990), xxvii.

[2] James Stacey Taylor, "The Myth of Posthumous Harm," *American Philosophical Quarterly* 42 (2005), 316.

[3] Christopher Belshaw, *Annihilation: the Sense and Significance of Death* (Stocksfield, UK: Acumen, 2009), 151.

These writers and others consequently reject the influential account offered by George Pitcher and Joel Feinberg that defends the notion of posthumous harm and benefit by claiming that its real subject is not the postmortem but rather the *antemortem* person.[4] This view, if at first sight surprising, relies on the perfectly reasonable idea that the significance of acts and enterprises is often determined by things that happen at a later date. Thus, if I devote time and energy to winning selection in the British Olympic tobogganing team or reading for a degree in nuclear physics, my failure to achieve either of these goals renders what I had previously been doing futile effort. Likewise, Brown is successfully raising his children to be staunch defenders of the faith if they continue to fight the good fight long after he is dead. Were Brown's offspring to abandon their religion as soon as their father was cold in the ground, then it would be clear that his project had been a fruitless one. Proponents of the Pitcher-Feinberg line point out that no objectionable backward causation is posited on their account. Posthumous events are not taken to change the past but, rather, to make it the case that certain things were true all along. So it was true at the time that Brown was raising fighters for the faith rather than backsliders, though this could not have been known before his death. The backward light or shadow that posthumous events cast over a life is, so to speak, logical rather than causal. In the words of Walter Glannon, "[T]he future event of the thwarting of my present interests logically entails that I am now (while alive) harmed, even though I do not know it".[5]

The obvious attraction of the Pitcher-Feinberg view is that it disposes of the problem of the missing subject of posthumous benefit and harm by identifying the indisputably existent antemortem person as their real subject. Although the harming event has a posthumous date, the timing of the harm falls within the subject's lifetime (according to Feinberg, it commences at the point when the subject acquires the interest that is subsequently to be thwarted).[6] Yet many critics have felt that this 'solution' has too great a whiff of paradox about it. Glannon is typical of writers who object that "[the idea of] harm is best captured, not in terms of the logical notion of entailment between the interest and its being thwarted, but rather in terms of the causal relation between the interest and the state of affairs that thwarts it by obtaining or not obtaining". Because harm comprises "a genuine change in the person's intrinsic properties of body and mind from a better-off to a worse-off condition," and the living person suffers no such change, it follows that the antemortem subject is not genuinely harmed by anything that takes

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[4] George Pitcher, "The Misfortunes of the Dead," *American Philosophical Quarterly* 21 (1984), 183–188; Joel Feinberg, *The Moral Limits of the Criminal Law. Volume One: Harm to Others* (Oxford, UK: Oxford University Press, 1984).

[5] Walter Glannon, "Persons, Lives, and Posthumous Harms," *Journal of Social Philosophy* 32 (2001), 138.

[6] Feinberg, *Harm to Others*, 92.

place after her death.[7] But as there is no postmortem person to undergo a change for the worse, the very idea of posthumous harm (and benefit) must be rejected.

Although opponents of Pitcher-Feinberg typically claim that their objections command intuitive support, it can hardly be said that commonsense is committed to an unequivocal rejection of the possibility that events occurring after a person's death can be good or bad for him or her. Aristotle remarks that someone who enjoys prosperity through much of his life but then, like King Priam of Troy, falls into misfortune in old age is not called "happy" (*eudaimon*). He cites Solon's authority for the view that all appraisals of the success or failure of a person's life are merely provisional until we can "see the end".[8] The disasters that overtook King Priam, his family, and his city, following the Greek assault in revenge for the abduction of Helen, effectively destroyed everything that Priam cared about, violently frustrating all his projects.

Imagine, however, that Priam had instead died while the Greek invasion force was still at sea, its advent totally unsuspected by the Trojans. In that case, Priam would have ended his life able to look back with satisfaction upon a lifetime of fulfilled projects. That Troy and the Trojans were about to suffer catastrophe would not have affected the dying King's "internal condition" or changed any of his "intrinsic properties of body and mind" from a better to a worse state. By dying then, Priam would have escaped the anguish of seeing his hopes dashed, his fifty sons and daughters slain, and his enemies triumphant. Yet it seems distinctly counterintuitive to suppose that everything would therefore have been all right with him. Whether Priam died shortly before or shortly after the Greeks arrived and started laying waste to his kingdom makes scant difference to the judgment we make of his life, knowing as we do the outcome of the war.[9] Aristotle himself shares this intuition, writing that "both good and evil are thought to exist for a dead man, as much as for the one who is alive but not aware of them; e.g., honours and dishonours and the good or bad fortunes of children and in general of descendants".[10] Priam appears a tragic figure even on the scenario in which he dies in blissful ignorance of the fate about to overtake his city; indeed, in one perspective it was worse for him to die before the Greek invasion as it meant that he died deluded. Forthcoming events cast their dark backward shadow, and the Trojan disaster can be regarded as bad for Priam even if he is no longer alive when it happens. For what appeared to be Priam's solid and lasting achievement, it now transpires, was nothing of the kind.

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[7] Glannon, "Persons, Lives, and Posthumous Harms," 138–139.

[8] Aristotle, *Nicomachean Ethics*, trans. D. Ross (Oxford, UK: Oxford University Press, 1954), 1100a, 19.

[9] In the actual legend, of course, Priam endured ten years of bitter conflict before the city fell as a result of the stratagem of the Trojan horse.

[10] Aristotle, *Nicomachean Ethics*, 1100a, 19.

It is a further question how long after a person's death the fulfillment or thwarting of his interests can make a difference to him. Would it still have been bad for Priam if his city had been destroyed by the Greeks a hundred years later? Arguably it would not; or at any rate not as bad. The reason is that Priam is unlikely to have cared as much about the temporally remote fate of his city and descendants as about their more proximate fortunes, with which he has stronger causal and emotional ties. Such discounting for time may not always be appropriate, however. For instance, a poet who aspired to immortal fame might be more concerned to be remembered two thousand years after his death than a mere two hundred. But Priam's case gives comfort to the supporters of Pitcher and Feinberg by revealing the strength of the intuition that we may legitimately look beyond the termination of his life when estimating a person's goods and ills.

Probably some dissatisfaction with the Pitcher-Feinberg view stems from misunderstanding what it actually asserts. Opponents of the claim that a person can suffer harm posthumously constantly reiterate that there can be no harm in the absence of an existing subject with 'intrinsic properties'. But Pitcher and Feinberg have no quarrel with this claim. Their view is *not* that a person can suffer posthumous harm, but that harming events can occur posthumously. The confusion arises because the question "Can the dead be harmed?" is ambiguous. It admittedly stretches credulity to assert that something that does not exist can be harmed or benefited. But to say that events occurring after a person's death can be harmful or beneficial to him is to assert a very different proposition. Pitcher and Feinberg attempt to explain how this is possible even though no changes occur to a subject's intrinsic properties after death—when there is no longer a subject to *have* intrinsic properties. Because their claim is that posthumous events affect the well-being of the antemortem subject, it is potentially misleading to describe them as offering a theory of posthumous harm and benefit.

2

Yet there are grounds for some scepticism about the Pitcher/Feinberg view even when it is properly understood. If the case of Priam described above offers some support for it, here is another that doesn't. Imagine a painter—call him Vin Gough—who, though passionately devoted to his art, lacks self-confidence in his talent and craves a critical acclaim that he finds perennially elusive. Ambitious to produce well-regarded work, he attracts only the scorn of the art establishment and the laughter of the public. So unpopular, in fact, are Vin Gough's colourful but unconventional representations of chrysanthemums and cornfields that he scarcely ever manages to sell a picture. Eventually he dies poverty-stricken and unhappy in

a garret, firmly believing his life and career to have been a failure. But in the years after his death, changes in taste prompt a critical reassessment, and the artist derided by all comes to be viewed as one of the most innovative painters of his day. It is now apparent that Vin Gough had been painting masterpieces although no one had recognised them as such. Far from being a failure, his oeuvre is now held to mark a milestone in Western art, and galleries and connoisseurs pay millions for the privilege of owning his pictures.

Vin Gough's ambition to paint works that win the approval of the best critics would seem amply fulfilled by the posthumous "discovery" of his work and the acclaim it receives. Therefore, on the Pitcher-Feinberg theory, they should count as being good for him, despite coming too late to give him any personal satisfaction. This might be glossed by saying that Vin Gough was successfully doing what he set out to do, even though he didn't know it (and died believing the opposite to be true). Yet it sounds strained to describe the level of the antemortem painter's well-being as being raised by his unwittingly successful pursuit of this end. If *this* is what the Pitcher-Feinberg line implies, then it seems to be operating with a very questionable concept of well-being. For the posthumous fame that awaited the sad and despairing Vin Gough did him—apparently—no good whatever at the time. Had history been different and the painter never attained posthumous celebrity, the miserable conditions of his life would have been exactly the same. The discovery of his work after his death does nothing to make Vin Gough's life better, even if it enriches many other lives.

The obvious question here is: What is the difference between these cases that makes the difference in our spontaneous reactions to them? The later failure of Priam's projects does appear to have a negative bearing on the quality of his life, whereas the posthumous accomplishment of Vin Gough's ambitions seems to have no corresponding positive impact on the quality of his. Why should this be? Or are our intuitions merely confused and inconsistent? Theorists who reject Pitcher-Feinberg may contend that the intuitions in the latter case are stronger than those in the former, and deserve to be given the precedence. Although we might have some inclination to regard the catastrophe that occurs after Priam's death as casting a dark backward shadow over his life, we will more probably be impressed by the inability of the posthumous changes to Vin Gough's reputation to lift his life from the pit of despair. If this is so, the best way to make our ideas coherent is to jettison Pitcher-Feinberg.

However, I think this would be a mistake. Well-being is a complex notion, notoriously hard to analyse, and elements of different sorts contribute to its makeup. If the felt quality of the subject's experiences—roughly speaking, the amount of satisfaction or enjoyment he gets out of life—is the most obvious gauge of his well-being, it is not the only one, and in some lives may not even be the most important. Some

people are less concerned to garner subjective satisfactions than to ensure that their lives are directed toward objectively valuable ends (or what they consider to be such); and among these may be some whose accomplishment will be posthumous—e.g., Brown's goal of raising children to be stalwart fighters for the faith after he is dead. Brown's successfully pursuing this project, even though the success will not be known while he is alive (and thus cannot be a source of satisfaction to him), might reasonably be regarded as good for him, because it means that his life is going as he wishes it to do.

Many philosophers have recognised a distinction between subjective and objective components of well-being, where the former have to do with how his life feels to a subject, and the latter with the quality of the contents of his life as measured by some independent standard of value. So it has become commonplace to remark that an individual might take a lot of satisfaction in what, from a more objective standpoint, may be considered to be fairly worthless activities, whereas in contrast, a life may be filled with valuable activities and projects that fail to give the subject much pleasure. (Parfit has persuasively argued that the life of maximum well-being would be one in which the subject takes his greatest pleasures from the pursuit of highly worthwhile activities.)[11] Some writers place more importance on the subjective aspects of well-being, others on the objective. A plausible hypothesis is that those who are inclined toward the first line will generally be less sympathetic to the Pitcher-Feinberg view than those who tend toward the second. For views that privilege the subjective aspects of well-being will plainly struggle to explain how posthumous events could matter to the antemortem subject when they make no difference to his subjective experience. In contrast, views that focus on how well a person's acts, desires, projects, and ambitions are fulfilled can better accommodate the thought that posthumous events that fulfill or frustrate his various enterprises can affect their antemortem significance. On these accounts, the absence of any awareness of them by the antemortem subject is not a problem, because it is their fruitfulness or futility rather than the consciousness of it that determines their contribution to his well-being.

Note, however, that the preceding paragraph slurs over an important distinction. It is one thing for a person to pursue ends that she believes to be objectively valuable and another for those ends actually to *be* valuable. This raises the question of whether it benefits a person to have any of her goals fulfilled, or only those whose fulfillment is genuinely a good thing. Suppose that the faith that Brown is raising his children to defend is a morally obnoxious one, involving hecatombs of human or animal sacrifice. Or consider Brown's German cousin Braun, whose children, brought up to be

[11] Derek Parfit, *Reasons and Persons* (Oxford, UK, and New York: Oxford University Press, 1986), 501–502.

lifelong Nazis, retain their fanatical devotion to the Führer long after their father's death. Is the fulfillment of their projects good for Brown and Braun, or are they, on the contrary, damaged by having successfully promoted bad ends?

Because this question concerns people's valued goals in general and not only those with a posthumous fulfillment date, I shall not attempt to settle it here. Different views are possible according to how moralistic one thinks a theory of well-being ought to be. Philosophers who believe that no one can flourish without the moral virtues will not see a person's well-being as being enhanced by the success (ante-mortem or posthumous) of her morally misguided schemes. (These philosophers will also be equally moralistic about which *subjective* states are genuinely good for us, refusing to allow, e.g., that any pleasure taken in cruelty could contribute to our well-being.) Because the least problematic cases are those in which what a person takes to be valuable either genuinely is so or is at any rate morally neutral, these are the sort on which, for the sake of simplicity, I focus in the remainder of this chapter.

Sometimes, writers arguing about the merits of Pitcher-Feinberg seem to be talking past each other because they have in mind quite disparate conceptions of well-being. As an illustrative example, Steven Luper—a defender of the line—is accused by Christopher Belshaw of providing "no reasons" for his claim that it is good for a person who has invested a great deal of time and energy in the search for a cure for lung cancer within ten years if a cure is found within that period though he is not himself alive to see it.[12] Belshaw concedes that the researcher *has* an interest in finding a cure for lung cancer, but he denies that it could be in any way *in* his interests for a cure to be discovered posthumously. The thrust of his discussion is that posthumous events have no actual or potential impact on the subject's experience. Imagine, he says, spending years writing a book that is a total flop after your death. It might, alternatively, have done very well. But—the crucial point—"[e]ither way, your experience is the same".[13] Belshaw's criticism of Luper and Pitcher-Feinberg could, though, be regarded as begging the question in favour of a subjectivist understanding of well-being that, whatever may be said for it, is not the only contender in the field.

It is now possible to explain why our spontaneous responses to the cases of Priam and Vin Gough seemed to be out of alignment with each other. The key is that, given the way these examples were described, the more significant features of Priam's situation were the more "objective" ones, concerning the solidity and durability of his lifetime projects, while in Vin Gough's case, attention naturally focused on the

[12] Steven Luper, "Posthumous Harm," *American Philosophical Quarterly* 41 (2004), 69; Belshaw, *Annihilation*, 141.

[13] Belshaw, *Annihilation*, 144.

misery of his lifetime experience, which contrasted so ironically with his posthumous celebrity. Thus the suspected intuitional incoherence turns out to have been more apparent than real. It is not just that our leanings toward one or another account of well-being may affect our attitude to the Pitcher-Feinberg line. The fact is that, unless we are to be narrowly and dogmatically assertive that *either* an objectivist *or* a subjectivist view of well-being is the only correct one, we can afford to admit that, in different cases, objective and subjective elements can vary in degree of importance. So we might hold that what mattered most in Priam's case was the tragic transience of the literal and metaphorical castles he had built, whereas in Vin Gough's, the most salient feature was the painful, unremitting *lifetime* disappointment of his hopes and dreams.

One could conceive of these cases being different. King Priam might have been chiefly interested in living a selfish life of idle luxury amid his obedient and obliging subjects, caring little for what would befall his city or his family following his death. "I'm not really bothered about what happens to Troy afterward," he might have said, "provided that I can go on enjoying life up to my dying moment. After that, if the sky falls, it's no skin off my nose." This sybaritic Priam is a morally less attractive character than the tragic figure familiar from the Greek stories, but the narrowly subjective nature of his interests does at least protect him from being harmed in respect of them by posthumous events. Troy's prosperity mattered to *this* Priam only because it served to sustain his own indulgent lifestyle; after his death the city's fate would be unimportant. An "alternative" Vin Gough, on the other hand, with more confidence in his own powers to produce great art and relatively unconcerned about his lack of critical success during life, might have painted his works for a posterity that he was sure would one day appreciate them. When posterity *does* come to appreciate them, this is genuinely good for the antemortem subject, fulfilling his major lifetime ambition. Were people *never* to value them, this would be bad for this Vin Gough, as it would render his painting in vain, a sad case of artistic misadventure. The Pitcher-Feinberg line thus makes much better sense of this revised version of Vin Gough's case than it did of the original.

It is often claimed that the satisfaction of some of our desires and ambitions is more plausibly said to be good for us, or in our interests, than the satisfaction of others. If I desire to win the lottery and do in fact win it, that result is more clearly good for me than if I desire that you win the lottery and you win it. Moreover some desires are so trivial, transient, or disconnected with the things we really care about that their coming to pass seems to make no, or a negligible, difference to our well-being. The thought that the fulfillment of some of our desires is more significant for our interests than that of others has been deployed against Pitcher and Feinberg in the following way. Some of the causes to which a person may devote herself in life (e.g.,

finding a cure for lung cancer or saving Venice) are not concerned with herself, in the sense that their accomplishment would serve other, or other people's, interests rather than her own. So even if (to borrow Belshaw's words) a person's desire that Venice should be saved is "sustained,…fully embedded in [her] life, realistic, and has involved investment and sacrifice," the problem is to see how the preservation of Venice for many centuries after her death can properly be described as being good for her.[14] Douglas Portmore puts the same point succinctly: "It is only the non-fulfillment of certain desires, those that pertain to one's own life, that negatively affect one's welfare".[15] The claim that the well-being of the antemortem subject is raised by the fact that Venice will last to be enjoyed by people in future ages is alleged to be farfetched, even granting that this outcome had been a major goal of her life. Well-being may have its objective components, but it is stretching things to say that a person's life is made objectively better by the posthumous obtaining of circumstances that appear so remote from her.

But are they really remote? Doesn't that depend on how closely the subject identified herself with the aim of saving Venice? If preserving Venice provided a major part of her raison d'être, then it sounds much less unreasonable to say that the posthumous fate of the city impacts on her well-being, as rendering her life successfully or unsuccessfully spent. It is true that there might be rather few people who would identify themselves exclusively with a project that, however worthy in itself, has as little to do with the normal economy of a human life as this one has; most of us have a range of more intimate and personal concerns. A person who saw herself as a helper-to-save-Venice and not much else would strike us as rather inhuman in the narrowness of her interests and her lack of significant human relationships. But if such she was, then the fortunes of Venice after her death *would* cast backward light or shadow over her life, making it to have been more or less successful. If the Serenissima were to sink beneath the waves a few years later, this public tragedy would also mark a private failure. If, instead, the city were saved for centuries more, then that would have a positive impact on her well-being antemortem. Yet this judgment is consistent with the claim that the restricted nature of her interests sets a ceiling to the extent to which her life can qualify as a life well spent. Although the long-term survival of Venice enhances her antemortem well-being, a life lived differently—say, where other interests were pursued alongside the commitment to Venice—could plausibly be assigned a higher level of well-being overall.

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[14] Belshaw, *Annihilation*, 141.

[15] Douglas Portmore, "Desire Fulfilment and Posthumous Harm," *American Philosophical Quarterly* 44 (2007), 28.

Aristotle's observation that "the fortunes of descendants and of all a man's friends" can posthumously make a difference to his happiness reminds us of a rather more common kind of future-directed concern.[16] Presumably, Aristotle desired that his own son Nicomachus would be happy after his father's death. This is not a desire that strictly pertains to Aristotle's life (as Portmore would demand); it rather pertains to his son's. However, in view of his parental relationship, its fulfillment might still seem better for the antemortem Aristotle than that of any more impersonal desire, such as a desire for the saving of a city. Brad Hooker has proposed, more liberally, that the fulfillment of a desire is good for a person when the state of affairs desired is "desired under a description that makes essential reference to an agent".[17] Aristotle's desire that Nicomachus should be happy after his father's death looks at first sight like a desire of this kind. Yet, consider that parents may love their children because they are their children, yet not love them *as* their children; instead, they may love them for themselves. Many people would say that this is the purest kind of love, when the objects of affection are loved for their own sakes rather than because of their connection with the lover. Therefore, neither the description of Nicomachus as "my son" nor any other self-referring phrase need have entered essentially into the propositional content of Aristotle's desire. Aristotle may simply have wished that Nicomachus would live happily for as many years as befits a young man in contrast with an old one. Should we in that case conclude that Nicomachus' living happily for 20 years after Aristotle's death could have made no difference to his father's well-being? But this, in Aristotle's own words, would seem "a very unfriendly doctrine".[18] If Aristotle, Pitcher, and Feinberg are correct that the fortunes of a person's children or friends after his death can impact on his well-being, it seems perverse to suppose that this can only happen when the love or concern is of the "impure" type, involving desires for their happiness whose propositional content makes essential reference to their status as "*my son*" or "*my friend*".

Rejecting the view that the fulfillment of desires is only good for a person in the case of desires whose propositional content makes essential reference to him allows us to acknowledge a much greater range of posthumous desire fulfillments as potentially contributing to a person's (antemortem) well-being. This is not to say that the fulfillment or thwarting of just *any* desire that a person happens to have has a bearing on his welfare; as remarked above, some desires are too slight, fleeting, or unstable for their fulfillment or lack of it to have an impact. (We should, however, resist

[16] Aristotle, *Nicomachean Ethics*, 1101a, 22.

[17] Brad Hooker, "A Breakthrough in the Desire Theory of Welfare," in J. Heil, ed., *Rationality, Morality, and Self-Interest: Essays Honouring Mark Carl Overold* (Lanham, MD: Rowan and Littlefield, 1993), 212.

[18] Aristotle, *Nicomachean Ethics*, 1101a, 22.

Portmore's claim that because any desire, given enough time, is liable to change or fade away, no posthumous fulfillment or thwarting of a desire should be considered to have a bearing on the well-being of the antemortem subject.[19] Even if this questionable psychological premise should be true, many actual desires are sufficiently robust and persistent for their posthumous fulfillment to be plausibly held to be good for the antemortem subject.)

3

In an earlier writing, I proposed that posthumous alterations in a person's reputation should be thought of as relational shifts of the kind commonly designated as "Cambridge changes," which depend on changes in the intrinsic properties of other things.[20] The stock example of a Cambridge change is that from being a wife to being a widow, which occurs when a woman's husband dies; in this case, the woman herself remains unchanged in respect of her intrinsic (i.e., non-relational) properties, but her husband's death changes her relationship to him. Intriguingly, Cambridge changes can happen even to things that no longer exist, such as the dead, in virtue of changes to the intrinsic properties of other existing things.[21] So when Pope John Paul II died and his successor was elected, his predecessor Pope John Paul I Cambridge-changed from being the penultimate to being the pen-penultimate pontiff to occupy St Peter's chair. In the same way, if some years after his death, the formerly neglected Vin Gough becomes recognised as a great painter, the change to him is of the Cambridge variety, occurring in virtue of an alteration in the tastes of the art-loving public. This example reminds us that although a person may be gone from the world, he can still be the intentional object of thoughts, feelings, praise, blame, and a range of other attitudes. Moreover, because people care about the intentional attitudes that others hold toward them both in life and after death, they may view with pleasure or foreboding prospective posthumous Cambridge changes in those attitudes. For example, Jane may fear that after her death, a jealous rival will spread slanders about her, damaging her reputation with friends and family. The thought of the potential posthumous Cambridge change from being honourably to dishonourably regarded at a time when she will not be around to rebut the slanders may cause her severe mental pain.

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[19] Portmore, "Desire Fulfilment and Posthumous Harm," sect. 3.

[20] Geoffrey Scarre, *Death* (Stocksfield, UK: Acumen, 2007), 105–110.

[21] Cf. David-Hillel Ruben, "A Puzzle about Posthumous Predication," *Philosophical Review* 97 (1988), 232–233.

The possibility of posthumous Cambridge changes, and the fact that antemortem subjects can and do view these with attitudes such as hope, fear, anxiety, longing, or loathing, initially appears to support the case for posthumous harms and benefits. That prospective posthumous Cambridge changes seem desirable or undesirable to their subjects antemortem appears to be reason for regarding them, when they occur, as genuinely harmful or beneficial. Yet a sceptic might complain that this question-beggingly supposes that subjects are *right* to look on any posthumous changes in this light. Although it may be common for people to believe that Cambridge changes of which they are the subjects after death can be genuinely good or bad for them, it does not follow that they are. What good or ill can it really do a person if, say, others think well or badly of him after his death? Perhaps we confuse real with intentional objects and suppose that we can be harmed or benefited qua intentional objects though we have ceased to exist as real ones. Once again, it is the nonexistence of the subject at the time that the putative harms or benefits occur that poses the problem.

The lacuna in the theory, however, can be filled by coupling it more firmly with the Pitcher-Feinberg line. By stressing that it is the *antemortem* person who is benefited or harmed by events occurring posthumously, now construed as Cambridge changes, the sceptic's "no subject" worry can be allayed. Since the antemortem subject is the flesh-and-blood person, there is no need to suppose, implausibly, that the subject of posthumous harm or benefit must be the intentional object in the minds of the survivors. If Jane's malicious rival succeeds after her death in damaging Jane's reputation with her untruthful tales, then this is bad for the antemortem Jane insofar as she is the subject of a failing ambition to be thought well of by others irrespective of the date. One might conceivably hold that Jane is unwise to care much about how people think about her after her death; but probably rather few of us are wholly indifferent about our posthumous reputations, at least among friends and loved ones. Because man is a social animal, a major part of his good consists in his standing in certain relationships toward his fellows, including such intentional relationships as being respected, admired, and loved. It would be very odd to care what people thought of us, but only so long as we were alive. (To test this statement, think how you would feel about a person with whom you enjoy mutually loving relations coming to look on you with hatred or loathing after your death, having been induced to change her view of you by some ingenious enemy.) Love and respect are not relations that we can complacently look forward to as ending with death. When, through malice or mischance, they founder posthumously, then their status during life is damaged too; the hope for their own continuation that is in part constitutive of them turns out to have been a hope that would be dashed.

4

Something superficially resembling the Pitcher-Feinberg view was adumbrated by Kant in some pregnant, if undeveloped, remarks in the *Metaphysics of Morals*. In a section entitled "Leaving behind a good reputation after one's death," he suggests that "Someone who, a hundred years from now, falsely repeats something evil about me injures me *right now*; for in a relation purely of rights, which is entirely intellectual, abstraction is made from any physical conditions of time".[22] This proposal chimes with Pitcher-Feinberg insofar as it represents a posthumous slander as harming the antemortem subject (the obvious rendering of the remark that such a slander "injures me right now"). But unlike them, Kant construes the harm done as having no specific temporal index ("abstraction is made from any physical conditions of time"). This may suggest that he thinks of it as timeless, but it is more likely that he holds it to be a harm *at all times*, including the present moment ("right now"), a hundred years before the slander is delivered. Implicitly, it was also a harm in the days of the dinosaurs and will still be one after the earth has become a burnt cinder. It is a harm too at the very time that the slanderous words are spoken. Kant does not push for the Pitcher-Feinberg identification of the antemortem person as the sole subject of the harm, because on his account, the injury, being eternal, affects the subject at all times, including the posthumous moment at which the offending words are uttered.

Unfortunately, Kant seems to be unaware of the problem of the "missing subject", or at least underestimates its gravity. But his frustratingly brief discussion does gesture toward two possible options for tackling it (other than the Pitcher-Feinberg strategy). The first is to take a leaf out of the book of some metaphysicians of time and hold that the subject himself exists eternally. "Eternalists" take the past and future to be equally real with the present and consider existence at different points in time to be analogous to location at different points in space. According to eternalism, if *x* exists at some time, then it is true at all times to say that *x* exists, where the latter sense of "exists" is an eternal one and the former sense is temporally restricted.[23] Therefore, when a person ceases to exist in the temporally restricted sense, he continues to exist in the eternal sense; for though he no longer exists in the present, he still exists in the past. The difference between the two senses of 'exists' can be illustrated

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[22] Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge, UK: Cambridge University Press, 1991), 112n; my emphasis. Thus Mary Gregor's translation: The German word translated as "injures" is *beleidigt*, more accurately rendered as "offends" or "abuses," but the significant point is that Kant takes the timing to be "right now" (*schon jetzt*), during the subject's lifetime.

[23] I am indebted for this formulation to Mikel Burley (private communication). For further discussion of eternalism and its implications for the debate over the badness of death and the possibility of posthumous harm, see Ben Bradley, *Well-Being and Death* (Oxford, UK: Clarendon Press, 2009), ch. 3.

by contrasting unicorns and dodos. While unicorns, since they never existed in the temporally restricted sense, do not exist eternally, dodos exist in the latter sense because they once existed in the former. Yet, whatever merits eternalism may have as a general theory of existence, it sounds farfetched to assert that existence in the "eternal" sense can supply the right kind of subject to be credibly ascribed posthumous harms or benefits. It may have been bad for the dodos that the last surviving members of their species on the island of Mauritius were eaten by sailors some three centuries ago, but this hardly supports the claim that there is in any relevant sense a class of currently misfortuned dodos. (It would also become much harder to explain just why extinction was such a tragedy for the dodos if they retained some kind of existence.)[24] To be harmed or benefited plausibly requires that a subject exist in the temporally restricted sense, and it is unlikely that Kant, with his penchant for ontological economy, would have countenanced the idea of posthumously harmed or benefited subjects who exist only in the 'eternal' mode.

The other option is to propose that it is humanity itself that is injured by such things as posthumous slander. It might be objected that humanity, in the sense of the quality of being human, is not itself something capable of being injured or offended; but this difficulty can be removed by taking 'humanity' instead as a collective term for all human beings. The claim would then be that *all* human beings are affronted when a posthumous slander is uttered against an individual, because we are all treated with implicit disrespect when a fellow human being—one with whom we share a common human nature—is not shown the respect due to him qua human. More broadly, any moral offence against a human being is an offence against all.[25] Kant shows strong leanings toward this view when he cites the shared humanity of the target of a posthumous slander and of a would-be apologist as the ground that entitles the latter to speak in the defence of the former. That he thinks that all are affronted when the dead are slandered seems implicit in his remark that rebutting such slanders is not merely a moral duty but also the "right of humanity as such".[26]

But if Kant took this view, he must have seen it as supplementing rather than supplanting that of the individual victimhood of the posthumous subject of slander.

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[24] It is in fact more plausible to adopt a Pitcher-Feinberg angle on this avian tragedy and identify the once-living dodos—and perhaps especially those of the last few doomed generations—as the real subjects of the harm done by the hungry mariners. They were birds whose interest in the transmission of their genes was going to be frustrated.

[25] Does "all" include the dead and the unborn? Kant would probably say yes in both cases, in view of his claim that the relations in which "men stand as intelligible beings" to one another hold in abstraction from "everything belonging to their existence in time or space". Kant, *The Metaphysics of Morals*, 112n. However, to avoid further "missing subject" problems, it would be advisable for him to add that it is only when they are alive that they are offended.

[26] Kant, *The Metaphysics of Morals*, 112.

For he explicitly says that someone who takes up the cudgels on behalf of a slandered dead subject can "rightly assume that the dead man was wronged by it, even though he is dead, and that this defence brings him satisfaction even though he no longer exists".[27] The apologist may be speaking for humanity, but he is also speaking for the subject who can no longer defend himself. But, if the eternalist option is rejected, then it seems that Kant's only hope of making this thought intelligible lies in resorting to a Pitcher-Feinberg account that identifies the antemortem person as the primary victim of the harm of the slander. And that Kant would not have found this counterintuitive (had he thought of it) is clear from his claim that the living subject of a posthumous slander is already injured a hundred years before the fact.[28]

5

So far, I have concentrated on the question of whether posthumous *harm* is possible and have sidestepped the related question of whether the dead can be *wronged*. At first sight, it may seem easier to grant that the dead can be wronged than that they can be harmed or injured, as the absence of a current subject to be affected for the worse seems less of a problem when we consider those wrongs that do no actual harm. So if I tell unflattering lies about someone who never finds out how I have spoken or suffers any other ill consequences from my slanders, I may be said to have wronged him even though I do not harm him. If he should now be dead, I still wrong him by saying such things about him; and it would make no difference to my moral culpability if, when I spoke, I did not even know whether he was quick or dead. Or so one might think. Yet the problem of the "missing subject" has not really gone away. It is true that certain things (e.g., telling lies or breaking promises) could be said to be wrong tout court, breaches of the moral law as conceived by Kant; and it might be claimed that spreading slander about the dead is wrong because spreading slander is always wrong. But if we pose the question of whether slandering a dead person also wrongs *that person*, the problem of the subject arises just as it does when we ask whether the dead can be harmed. For there is no presently existing subject to be wronged, anymore than there is a current subject capable of being harmed.

Accordingly, Taylor has argued that "the claim that a person has wronged the dead can be understood as a claim about wrongdoing that *refers* to the dead, where such reference does not imply that the dead person so referred to has been

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[27] Ibid.

[28] Note, however, that in cases where the living person has made it clear that he couldn't care less what people will say about him after his death, posthumous slanders may—pace Kant—do him neither harm nor wrong, however they may offend humanity.

wronged".[29] Such wrongdoing is merely of the "Kantian" variety, a breach of moral law.[30] Nevertheless there is a resilient intuition that the dead can be wronged (and not merely that there can be "wrongdoing that *refers* to the dead"). If I break a promise I make to someone on his deathbed to look after his children, or I falsify his will in order to get my hands on his fortune, then I wrong him (along perhaps with other living people). Again, the only satisfactory way to vindicate this intuition and beat the 'no subject' difficulty is to pull the wrong forward into life and identify the antemortem person as the wronged subject.

What wrongs may be posthumously done to a person depends, as with harms, on his lifetime interests and commitments. Someone who didn't care what happened to her corporeal remains would not be wronged if we donated them to medical research, unlike another who had made clear her objection to having her own so used. Moral dilemmas can arise in cases when a person believes, but others may not, that certain modes of treatment of her remains after her death will be bad for her. For instance, most archaeologists believe that disturbing ancient burials does no harm at all to the people whose remains they exhume, but their view may contrast starkly with that once held by the subjects themselves. In some cultures, interfering with the bodies or bones of the dead has been thought to cause harm to their spirits or ghosts, and members of such cultures have often gone to great lengths to ensure that their remains should be protected against grave robbers and other "trouble-tombs" (in Charles Lamb's delightful phrase). If people are deemed to have a moral right to determine what shall be done with and to their remains, then archaeologists, even if they correctly believe they do no harm to the spirit world, may still be wronging the dead when they disturb their burials in defiance of their wishes.[31] Additionally, they may be held to harm the dead antemortem by rendering vain their lifetime aspiration to lie undisturbed in the grave.[32]

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[29] Taylor, "The Myth of Posthumous Harm," 319.

[30] To clarify his position, Taylor suggests that putative wrongings of the dead are really to be thought of as resembling attempts at wronging a living person that for some contingent reason cannot succeed—e.g., where one man attempts to rob another by putting his hand in his empty pocket (Taylor, "The Myth of Posthumous Harm," 319.) Just as you cannot steal money that isn't there, you cannot wrong someone who isn't there. But this analogy is faulty, because the reason why the dead cannot be wronged seems weightier than a merely contingent one: One could attempt to steal money that *might* have been in someone's pocket, but it seems metaphysically impossible to wrong a nonexistent subject.

[31] There cannot, however, be an indefeasible right to have one's wishes for one's remains respected. Mill's harm principle plausibly has a bearing here. It would not be unreasonable for my executors to ignore my instructions for my ashes to be scattered on the summit of Mount Everest, in view of the difficulty and expense that this would entail. And individual graves and occasionally whole cemeteries may have to be removed when they pose a health risk to the living or occupy land urgently required for agriculture or settlement.

[32] It may be that a person cannot be wronged antemortem by an act that occurs postmortem unless she is also harmed antemortem by that act (Taylor has suggested this to me in a private communication). There are, however, some apparent counterexamples. Suppose that the conscience-stricken dying Jim extracts from his best friend John a promise to reveal to the world a serious crime he had once committed. If, wishing to spare

It is worth remarking, in conclusion, that although harms and wrongs need to be distinguished, they are sufficiently intimately related in practice to make it desirable that accounts of posthumous harming and posthumous wronging should proceed along similar lines. Feinberg notes that the word 'harm' is little more than a hook on which a large variety of things can be hung, though not everything that we might find unpleasant (such as eating a badly cooked meal, having dental surgery, or seeing an offensive poster) is appropriately described as harming us.[33] Yet a cook who deliberately served us a disgusting meal would seem to differ only in degree of malice from another who intentionally set out to make us sick (an undeniable harm); if the former cook merely wronged us, the wrong was not far removed from harm. Likewise, offending or insulting a person, though often classed as instances of wrong rather than harm, may cause considerable mental pain and be meant to do so. And while not all harms are wrongs (some, for instance, are accidental), most deliberate causing of harm is also wrong. If, therefore, we allow—as I have argued in this chapter that we should—that antemortem persons can be harmed by posthumous actions and events, then it is in the interests of theoretical economy to offer a similar account, mutatis mutandis, to explain how antemortem persons can also be wronged.

ACKNOWLEDGMENTS

I am very grateful to James Stacey Taylor, the editor of this volume, for incisive comments on an earlier draft of this chapter. I should also like to thank Professor Narita Kazunobu and the members of the moral psychology research group at Keio University, Tokyo, for their very stimulating discussion of its themes during a seminar in September 2009.

Jim's reputation, John fails to keep that promise, he might be said to wrong the antemortem Jim even as he *saves* him from harm. But against this, it could be held that John does *some* harm to the antemortem Jim by rendering Jim's request a vain one. Although the claim may be hard to prove, I suspect that there is rarely, if ever, antemortem wronging without antemortem harming of some kind.

[33] See Feinberg, *The Moral Limits of the Criminal Law. Volume One: Harm to Others*, ch. 1, for an extended discussion of harm and its varieties.

11

Welfare and Harm after Death

Barbara Baum Levenbook

THE IDEA THAT one can be harmed by events occurring after one's death invites two distinct responses. On the one hand, there are philosophers who claim that it is a common belief that such events can harm; they seek to defend the belief or to give accounts of the nature or the metaphysics of such harm to explain the belief. On the other hand, there are philosophers who think it obvious that such an idea is incoherent, and who appeal to notions about harm and death to defend their position. This chapter is addressed to the latter. I first construct and then challenge a simple, but powerful and appealing, argument against the possibility of harm from posthumous events. I produce a counterargument against one of its assumptions and then demonstrate the superiority of my counterargument to some familiar arguments for posthumous harm. To my knowledge, the case for posthumous harm presented here is a novel one, though it is of the same form as arguments made decades ago by Feinberg (1984) and Parfit (1984).[1]

Consider, then, the following two plausible principles, which many people assume when thinking about harm and death:

> Welfare: An event harms person A only if it makes it the case that A fares less well.[2]

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[1] Joel Feinberg, *Harm to Others* (New York: Oxford University Press, 1984); portion reprinted in John Martin Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 169–190; Derek Parfit, *Reasons and Persons* (Oxford, UK: Clarendon Press, 1984).

[2] Compare with Harman's "Worse-Off" (Elizabeth Harman, "Can We Harm and Benefit in Creating?" *Noûs Supplement Philosophical Perspectives* 18 [2004], 90.) Welfare is inherently comparative. What is the comparison class? Many think it is how well the person would have fared had the event not occurred. As it stands, this

Nonexistence: No one exists after death.[3]

This argument gets a purchase against posthumous harm only if one adds a third assumption. Let us call the minimal assumption to be added

Mortality-Bounded Welfare: No events that occur after the end of one's life can detrimentally affect one's welfare.

It would follow, then, that there can be no posthumous harms.

Let us grant Nonexistence. Welfare may be accepted with a modification, to be explained below. But Mortality-Bounded Welfare, I will argue, should be rejected.

PRELIMINARIES

The idea of harm is what has been called a "family resemblance concept." One of Webster's definitions for "harm" is physical or mental damage. Unless a person can be identified with his or her body, it seems fairly clear that after death, a person cannot be harmed in this sense. But there are other senses of "harm," senses in which it can be truly said that a libel caused harm to its subject or in which a financial reversal can cause harm to a family. It is in some of these other senses of "harm" that the question at issue is raised.

Welfare cannot be accepted as it stands. Because of the possibility of compensation, someone may be harmed in certain respects without his or her welfare diminishing, on most intuitively plausible comparisons. The very idea of compensation implies such a thing; a compensation for a harm isn't an adequate compensation

is inadequate; for unless some other necessary condition is added, there will be no way to distinguish between failure to benefit and harm. In addition, this way of understanding welfare may make the truth of Welfare indeterminate, at least on certain possible-worlds analyses of the conditional "if the event had not occurred." It has obvious difficulties when the harm is over-determined or pre-empted, as I remark below; and it raises paradoxes when the existence of the person is dependent upon the event in question. According to Raz, harm involves a comparison to a level of well-being to which its victim is entitled or to his previous level; Joseph Raz, *The Morality of Freedom* (Oxford, UK: Clarendon Press, 1986), 414. Alastair Norcross ("Harming in Context," *Philosophical Studies* 123 [2005], 149–173) has suggested that the comparison class may vary with the conversational context. As much as possible, I will leave the comparison class open for this chapter. But see below, note 44.

[3] Nonexistence has the status of a tautology if death is understood as beginning with the first moment after life of a person's nonexistence. If death is understood as bodily death, Nonexistence may be a contingent truth. (Whether it is depends upon what constitutes personal identity. See Steven Luper's discussion of death and personhood, "Death," in *Stanford Encyclopedia of Philosophy* [http://plato.stanford.edu/entries/death/], section 1.3.)

unless it returns the harmed person to a benchmark level, which we are assuming is a level of welfare.[4] In addition, one might choose to suffer harm in order to increase one's welfare (undergo surgery for the removal of an arm or an organ, for example, to increase or maintain general health). Moreover, even without compensation, someone may be worse off in some respect without his or her welfare being diminished, as when, to use Scanlon's example, physical harm (to an internal organ, for example) has not yet affected how a woman's life is going for her, and she will die in an accident shortly.[5]

One strategy is to isolate the harming event, claim that by virtue of it a person's welfare is lower, even if compensation or another factor raises the overall welfare. The result is the following principle:

> Welfare in Respects: An event harms person A only if it makes it the case that A fares less well in some respects.

Should this principle be accepted? If the benchmark invoked is the level at which A would have fared had the event not occurred, there are familiar problems with over-determination and what is called *pre-emption cases*. Let us bypass them here. For purposes of argument, and in spite of remaining difficulties concerning the benchmark, let us accept Welfare in Respects.[6]

Welfare in Respects, when combined with Mortality-Bounded Welfare and Nonexistence, implies the impossibility of posthumous harm. (The combination also may have serious implications for the view that a painless murder can harm its victim, as several philosophers have suggested.) To save the possibility of posthumous harm, one may elect to reject Nonexistence[7] or Mortality-Bounded Welfare. I reject the latter. The thesis of this chapter is that the boundaries of welfare-affecting events may extend beyond the existence of the person whose welfare is in question.

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[4] Harman ("Can We Harm and Benefit in Creating?") makes essentially the same point, though not in these terms.

[5] T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Belknap, 1998), 124. See also Parfit's example of the auto accident causing a broken leg that keeps its victim from being drafted in a war; Derek Parfit, *Reasons and Persons*, 372.

[6] Welfare in Respects may have further difficulties handling examples offered by Parfit and others, where it is apparently because of the harmful event that the person exists in the first place.

[7] This I had believed to be Silverstein's position. He claims that a deceased person exists in some tenseless sense; "The Evil of Death," *Journal of Philosophy* 77 (1980), 401–442; "The Time of the Evil of Death," in J. Campbell, M. O'Rourke, and H. Silverstein, eds., *Time and Identity* (Cambridge, MA: MIT Press, 2010), 283–295.) However, if I understand him correctly, he maintains emphatically that it is not the sense involved in the principle Nonexistence, or rather, that the sense in which "A exists" is eternally true does not entail that A is an eternal being; "The Evil of Death Revisited," *Midwest Studies in Philosophy* 24 (2000), 116-135; "The Time of the Evil of Death."

(I argue only that it extends in one direction, after the lifetime. Nothing is said about whether or not it extends in the other direction, before the lifetime.) A person's welfare may be less than the appropriate benchmark as a result of acts or events that occur after that lifetime.

This chapter steers clear of the metaphysical debate over when a posthumous harm occurs. My position is consistent with what Luper calls *priorism*, the view that harm linked to death or to events postdating a subject is incurred by its living subject before the events "responsible" for the harm occur.[8] On that view, if one assumes that the time of a harm must also be a time of the welfare diminution, the extension-of-welfare assertion amounts to the claim that the fact that certain events will occur after someone's death harms him or her when he or she is alive.[9] I find that view implausible, for reasons provided elsewhere.[10] However, it would be a mistake to construe this chapter as an argument against priorism or in favor of what Luper calls *concurrentism*. My position is consistent with many metaphysical views, including the concurrentist view that certain posthumous events and acts harm the antemortem person at the time they occur by their significance to his (coexisting) residual welfare, the part of his welfare that extends after death. Some of the language in this chapter may prove to be concurrentist, but the reader is free to make appropriate metaphysical substitutions.

The issue of what constitutes welfare for individuals is too large to settle here. My strategy is to make a case for at least one human condition having what may be called *residual boundaries* and then argue that it is a factor affecting welfare. Then another such condition will be tentatively advanced.

THE MAIN CASE AGAINST MORTALITY-BOUNDED WELFARE

Given the strong or intimate connection between the body and the person, it would appear that one may be posthumously degraded by mistreatments of his or her body. This section develops the argument vindicating that intuition.

With regard to the question of whether events postdating one can affect one's welfare, there may be nothing special about bodily death. On some plausible theories of personhood, a person no longer exists when his or her body becomes irreversibly comatose (or in advanced stages of Alzheimer's disease). Defending

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[8] Steven Luper, "Mortal Harm," *The Philosophical Quarterly* 57 (2007), 241.

[9] If one rejects this assumption, my assertion amounts to the claim that there are still bads for a person after his or her death; yet the fact that the bads will occur after the death harms the person when he or she is alive.

[10] Barbara Baum Levenbook, "Harming Someone after His Death," *Ethics* 94 (1984), 407–419.

any such theory is too large a task to undertake here; instead, I will provisionally assume that it is possible to have a situation in which the body is still alive, and is the body of what was once a person, but the person no longer exists.

Consider, next, two scenarios:

Reversible Coma: Imagine that a person, Jane Doe, is hospitalized, undergoes some serious operation that has horrible complications or has a medical condition that degenerates rapidly, is put on life support, and subsequently slips into a reversible coma. Doctors explain the situation to her family. We may imagine that there is no medical doubt, and that the doctors are correct in their prognosis. About this time, an evil intern has a nasty idea for making extra cash. For a hefty fee, he smuggles men into Jane's hospital room and allows them sexual access to her body. In Kantian terms, she is used merely as a means. And inherent in the way she is used is a deep disrespect of her as a person tantamount to degradation of her.

Irreversible Coma: The situation is as above, except that Jane Doe slips into an irreversible coma. The evil intern begins his pimping before the family can give the order to remove life support.

Many will agree that in Reversible Coma, Jane is degraded, not merely by the sexual assaults on her body but by the treatment of her body as a sexual commodity. (The belief begs no questions in the present discussion.) Many will also think it uncontroversial that in Reversible Coma, the person Jane still exists. (Those who would challenge this assumption may substitute the case of "Drugged," in which hospitalized Jane enters normal sleep only to have the evil intern inject her with some anesthetic that will deprive her of consciousness for several hours.) The intern's actions are equally wrong in both Reversible Coma and Irreversible Coma. If the intern's actions are equally wrong in both cases, then either Jane is degraded in both cases or in neither case. Jane is degraded in Reversible Coma. Hence, Jane is degraded in Irreversible Coma.[11]

There will be resistance to the conclusion of this argument. The intuition that Jane is degraded in Irreversible Coma may not be as firmly grounded as the intuition that Jane is degraded in Reversible Coma. However, the former intuition seems at least as well grounded as the conflicting belief that in order to be degraded, one must

[11] I am indebted to my colleague Robert Mabrito for formulating my argument in a way that does not beg questions.

exist at the time of the degradation. And the intuition that the intern's actions are equally wrong in Reversible Coma and Irreversible Coma is particularly strong.

The contrary view, that although Jane is degraded in Reversible Coma, it is false that Jane is degraded in Irreversible Coma, is difficult to defend. Shall we say that only in the first case is Jane physically or psychologically altered? This need not be true. Jane may be no virgin. The sexual encounters may be condom-protected and especially hygienic. Jane may never learn what has happened to her body, nor may anyone else; the intern may leave town shortly thereafter; none of the intern's "clients" may be able to identify Jane or trace her; and so on. More important, degradation does not require a future (negative) emotional reaction.[12] There is nothing incoherent in the idea that a person has been being degraded by treatment that she has accepted as normal all her life. (Some would add that the ultimate in oppression is reached if a person comes to prefer this degrading treatment.) Similarly, there is nothing incoherent in the idea that Jane, while unconscious, is degraded and (fortunately) never discovers the fact after she returns to consciousness. (This discussion is analogous to the discussion of harm requiring a future negative emotional reaction.)

It may be claimed that it must be possible for a person who is degraded to discover what happened and feel unhappy about it. There must be a risk of misery for the victim. (There is an analogous position on harm.[13]) However, this idea is a strange one. It makes the actuality of degradation depend on mere possibility. Yet if the risk of misery is entirely eliminated by someone clever enough to act and not be detected, it hardly follows that no degradation has taken place.[14]

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[12] The proposal also, to paraphrase Belliotti on rights violation, confuses being degraded with coming to know one has been degraded. See R. A. Belliotti, "Do Dead Human Beings Have Rights?" *The Personalist* 60: (1979), 202. The proposal is a special application of what McMahan calls the "Narrow Experience Requirement": An event is bad for a person only if the person experiences it as bad; Jeff McMahan, "Death and the Value of Life," *Ethics* 99 (1988), 33. Luper sets out counterexamples to this broader requirement, borrowing from Nozick and Nagel, in "Death," *Stanford Encyclopedia of Philosophy*, section 3.1. See also the counterexamples from Nagel, Feinberg, and Nozick, ably assembled by Fischer ("Introduction," in Fischer, ed., *The Metaphysics of Death*, 18–20).

[13] See, e.g., A. E. Fuchs, "Posthumous Satisfactions and the Concept of Individual Welfare," in J. Heil, ed., *Rationality, Morality, and Self-Interest: Essays Honoring Mark Carl Overvold* (Savage, MD: Rowman and Littlefield, 1993), 218.

[14] McMahan ("Death and the Value of Life," 33, note 4) suggests an additional criticism: Unhappiness can be rational or irrational, appropriate or inappropriate, apt or inapt. The degradation view under discussion has difficulty accounting for these distinctions. Its proponent might say that unhappiness is rational if the event is bad for the person and irrational otherwise. But this move only relocates the problem. If it is held that something can be a misfortune for someone even when it is not possible for him to be unhappy about it, the question arises why the specific misfortune of degradation should be viewed as an exception to this rule. If, on the other hand, one takes the position, held by Silverstein ("The Evil of Death," 414–415) and others, that something can be a misfortune for someone only when it is possible for him to be unhappy about it, the criticism about aptness and rationality reappears.

Alternatively, it might be maintained that it must be possible for degradation (or any misfortune?) to causally affect the future of the person degraded in some (negative) way. Setting aside difficulties with over-determination cases, the view isn't plausible. It treats degradation as necessarily risking future misfortune, while the whole point about degradation is that it in itself is sufficiently unfortunate for the individual degraded. The intuitive view is that degradation depends entirely on the way someone is treated, not on the possible consequences of that treatment.[15]

It may be claimed that degradation requires violation of a right of the degraded person. However, such a requirement poses no obstacle to viewing Jane as degraded in Irreversible Coma. For rights may have residual boundaries. One can trace a case for residual boundaries in rights by starting with the idea that persons can be wronged posthumously; but for those who reject that idea, the case can begin by considering promises to someone to do acts postdating him or her. I digress to provide an argument that begins with the idea of posthumous wrongs, but the assumption that there can be such wrongs is inessential, as the argument will quickly merge into consideration of deathbed promises.

There is generally less resistance to the claim that there can be posthumous wrongs—by slander, by betraying a deathbed promise, or failure to honor a contract, and so on—than there is to the claim that there can be posthumous harms.[16] But upon what grounds are these behaviors wrongs to the person in question? In the normal case (in which all persons discussed are alive at the time of the action or inaction in question), a wronging violates a right of the wronged person.[17] But can violating a right be the analysis offered for posthumous wrongs? Notice that some rights that persons are alleged to have are exclusively directed toward behavior that will occur after the right-holder ceases, such as the right attaching to a promise to bury one's body (or distribute one's property according to a certain pattern) after one's death.

Recognizing the right to promised behavior that postdates one accounts for the pro tanto immorality of breaking that promise while avoiding treating such promises as anomalies. In particular, it avoids (1) holding that promises with content postdating the promisee do not, unlike other promises,[18] generate rights for the promisee;

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[15] See also the replies by Nagel and Fischer to the related claim that something is bad for a person only if it is possible for the agent to experience it as bad; Thomas Nagel, "Death," in Nagel, *Mortal Questions* (Cambridge, UK: Cambridge University Press, 1979), 4–5; John Martin Fischer, "Introduction," in Fischer, ed., *The Metaphysics of Death* (Stanford, CA: Stanford University Press, 1993), 21–22.

[16] But see James Stacey Taylor, "The Myth of Posthumous Harm," *American Philosophical Quarterly* 42 (2005), 318–319.

[17] Some philosophers consider rights violations to be strongly related to harm. See Raz, *The Morality of Freedom*. Feinberg confines the requirement of a violation of a right to the idea of harm that is of interest to the law; Feinberg, *Harm to Others*, 105–106.

[18] Except promises with immoral content.

and (2) holding that breaking a promise with content postdating the promisee is not, unlike other cases, an injustice to the promisee, other things being equal.[19] Of course, recognizing such a right may be unappealing because it seems to present a choice between postulating a right that ceases to exist in all its moral constituents once the right-holder dies and a right that exists without an existent right-holder. The metaphysical issue raised by these alternatives must, however, be bracketed here.

I propose the following account: Once rights vest (in existing people), they delineate not only a sphere of behavior that satisfies the rights (the behavior owed to the right-holder), but also a sphere of rights-violating behavior on the part of others. Unless this delineation is defeated by moral means (by the right-holder waiving, alienating, or forfeiting the right), actual behavior on the part of others that falls within the respective spheres is right-satisfying or right-violating. The story does not change with regard to a right to performances potentially or necessarily postdating the right-holder.[20] The point about the moral status of certain behavior postdating an individual may be summarized by saying that some vested rights have residual boundaries. Death does not prevent residual boundaries; nor does death retroactively defeat by moral means rights with such residual boundaries.[21]

Recognizing rights with residual boundaries is less problematic than alternatives in the case of the right to promised behavior that postdates the right-holder. The alternative is either to deny that promises concerning behavior that postdates a person generate rights in that person or to hold that rights generated by such promises, unlike rights generated by other promises, have contents that evaporate before

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[19] There are other strategies for avoiding treating the promise with content postdating the promisee as an anomaly. One can deny that promising gives rise to moral rights and offer a non-rights account of the wrongness of breaking a promise (e.g., a "moral principle" account). Feinberg (*Harm to Others*, 94–95) ably criticizes a rule utilitarian account of the duty to keep promises with posthumous content offered by Ernest Partridge. Partridge's account explicitly denies that the duty in question is correlative to a right; "Posthumous Interests and Posthumous Respect," *Ethics* 91, 2 (1981), 243–264. (In general, non-rights accounts of the origins of the moral duties involved in promises, contracts, and slander seem to me to be inadequate.) Scanlon's discussion of the grounds of the duty to keep a promise (*What We Owe to Each Other*, ch. 7) is a moral principle account that at times incorporates rights language. That Scanlon's account does not succeed in capturing rights is persuasively argued by M. Gilbert, "Scanlon on Promissory Obligation: The Problem of Promisees' Rights," *The Journal of Philosophy* 101 (2004), 83–109.

[20] I am assuming that the fact that the promised or contracted behavior is conditional does not entail that the associated right cannot vest until the condition is met. One reason is that sometimes the condition is virtually certain; for example, the deathbed promise to bury the body is conditional upon the death of the body, which seems certain. This seems a clear case in which a promissory right, if it exists at all, vests at the time of the promise.

[21] I am here close to Wellman's solution, which I had not discovered when I worked out my position: The duties in question are "implied by the rights of the individuals who have died. . . . [T]he rights of the living continue to impose duties even after the persons who possessed those rights have ceased to exist." Wellman goes on to emphatically deny that these rights "continue to exist without subjects"; Christopher Wellman, *Real Rights* (New York: Oxford University Press, 1995), 156.

occasions on which the promise may be kept. The latter view is manifestly unsatisfactory, for such a vanishing right has no moral point. For example, the alleged vanishing right could be grounded in no conceivable interest on the part of the alleged right-holder. This simple truth amounts to a decisive objection if one supposes, as some philosophers do, that rights protect or are grounded in interests.

The former view—that these promises, contracts, and the like do not generate (moral) rights in the promisee at all—is not attractive either. For the moral landscape, once such promises or contracts are made, is strongly reminiscent of the landscape characteristic of uncontroversial instances of rights. For example, once such promises or contracts are made, the promisor or contractor has a (conditional) moral duty he or she may not have had before. That duty seems to be in a relevant sense under the control of the promisee or contractee.[22] For the promisee or contractee has special standing, when alive, to issue a release or a conditional release, or to record, for later communication, an insistence on performance or a rebuke for nonperformance and to specify the conditions of its communication.[23] Such an insistence or rebuke, if communicated later, is particularly apt coming from the promisee or contractee. It is permissible for someone else, perhaps anyone else, to facilitate the communication of that insistence or rebuke, under the appropriate circumstances. Indeed, it may be the moral duty of someone who knows about a conditional release to facilitate its communication when the conditions are met. Whether or not rights can be reduced to such elements, their constellation is strongly associated with the existence of rights.

Moreover, violation of the promise or contract is grounds for the creation of new duties related to the matter of the original promise or contract. These new duties might plausibly be seen as protecting an original right. For example, the failure of a promisor to bury a body in consecrated ground may support a duty to exhume the body from the unconsecrated ground in which it has been buried. The failure of a promisor to care for a cat after the death of its owner might give rise to a duty to seek the cat among the feral cat population, to obtain medical treatment for the injuries or illness caused by the neglect of the cat, and so on. The failure of a promisor or a

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[22] The control needn't be exclusive. F. Kamm ("Rights," in J. Coleman and S. Shapiro, eds., *The Oxford Handbook of Jurisprudence and Philosophy* [New York: Oxford University Press, 2002], 482) remarks that a third party may have the power to relieve someone of his duty to a right-holder. In addition, it seems that the control may be passed to others. An example is as follows: A patient empowers a surrogate to make medical decisions on her behalf when she is incapacitated, and the surrogate then has the power to fire a physician engaged by the patient.

[23] The standing needn't be exclusive, either. See footnote 22, and consider a promise to take care of my aged mother until she dismisses you. My mother has standing to release you from the duty to take care of her, though not from the conditional duty to take care of her provided she has not dismissed you. Yet I am the right-holder.

contractor to maintain a grave may give rise to a duty to dig weeds or uproot trees that have overgrown the grave as a result, and so on. (Similarly, the slandering of the deceased may give rise to a duty to set the record straight and publicly retract the slanderous allegation.) Not all such duties can be plausibly dismissed as owed to persons or creatures still living.[24]

It must be admitted that some of the elements of more familiar cases of rights are missing in the posthumous cases. On the assumption that "ought" implies "can," there is no duty to apologize to the promisee for breaking a deathbed promise, for it is not possible to do the apologizing. Yet a promise right held by a living person to a performance during his or her lifetime seems to impose a duty to apologize or compensate, even when the right violation is justified. Certain forms of compensation for failure to keep a deathbed promise are not possible either. (Whether or not any are possible depends upon the truth of Mortality-Bounded Welfare, among other things.)[25] However, these divergences from the normal case of a promise right are hardly decisive. What many would agree is the most important personal right, the right to life, shows these divergences as well. It is not possible to apologize to someone for violating his or her right to life when one has killed the right-holder; and the impossibility of forms of compensation to him or her mirror or surpass the impossibility of forms of compensation for violation of a deathbed promise. I contend that the divergences from the normal case of promissory rights in both cases are due to the fact that the promisee dies—i.e., to the moral consequences of Nonexistence—and are irrelevant to the question of whether or not a right vests in the first place.

I conclude that there is good reason to recognize rights with residual boundaries. Rights with residual boundaries give rise to duties that are not merely in respect of the former person, but owed to him or her. What is marked as owed to a right-holder when a right with residual boundaries vests remains so marked. Such an account is immune to the objection that it countenances free-floating rights (rights without right-holders). There is a perfectly good right-holder in question when rights are violated by acts postdating the right-holder, namely, the antemortem person.

So even if degradation requires the violation of a right, there is no conceptual bar to viewing the right in question in Irreversible Coma (to determine sexual access to one's body) as one of those rights having residual boundaries.

If the preceding argument is correct, the person who was, namely Jane Doe, can be degraded by bodily mistreatment after she no longer exists. Degradation of a person,

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[24] Nor, pace Taylor ("The Myth of Posthumous Harm"), may the wrongness of the failure to fulfill such duties always be explained in terms of wronging living persons or creatures.

[25] Nor does the alleged right-holder have the de facto power to confront a violation of the right at the time of the violation and insist on fulfillment. However, right-holders do not always have the de facto power to do this with other, less controversial, rights. The right to life is an example.

in other words, also has residual boundaries. (I will not attempt the robust philosophical exercise of delineating those boundaries and, in particular, of providing a principled answer to the question of whether treatment of bodies or bodily remains hundreds of years after the existence of the person whose body it was can count as degradation of the former person.) It is a truism that degradation is pro tanto bad for the one degraded. Moreover, degradation is bad for its own sake, rather than instrumentally. (This claim is a consequence of taking seriously the value of respect for persons.) Therefore, individual welfare also has residual boundaries.

The acute reader will note that the form of the degradation argument is a contrast thought experiment, as is one of Feinberg's famous arguments for posthumous harm.[26] Taylor has criticized Feinberg's argument on the grounds that there are alternate accounts of the harmfulness of the first contrast case, the one involving only living human beings, that do not apply to the case involving the deceased, and that therefore intuitions about the former do not commit one to recognizing posthumous harm in the latter.[27] The degradation argument is not, however, amenable to this criticism, as I will show.

It is true that one might tender alternate explanations of the degradation in Reversible Coma, explanations that do not apply in Irreversible Coma—e.g., that there is degradation in Reversible Coma because of the interference with Jane's autonomous control over her life or her body during her lifetime. But the intuition is very strong that the wrongness of the intern's actions in both cases is *equal*. In order to avoid postulating degradation in Irreversible Coma, Taylor might try to explain the wrongness of the intern's actions in Irreversible Coma in terms of other factors: deceiving the living relatives of Jane, deceiving the staff of the hospital, facilitating sexual perversion, misuse of a living body, disrespecting the idea of Jane's personhood, the degradation of the sexual clients themselves. However, all of these factors appear in Reversible Coma as well. On what Kagan calls the "additive assumption" of wrong-making characteristics, the factors identified by the critic in Irreversible Coma add to the wrongness of the degradation in Reversible Coma,

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[26] Feinberg, *Harm to Others*, 88–89; and Parfit's "Success Theory" argument (*Reasons and Persons*, 495). Taylor has a particular criticism of Parfit's argument, namely, that there are no strong intuitions of harmfulness in Parfit's first contrast case (Taylor, "The Myth of Posthumous Harm," 317). I trust that the degradation in Reversible Coma is not open to that objection.

[27] Taylor, "The Myth of Posthumous Harm."

[28] More precisely, it is by misuse of a living body that Jane is degraded in Reversible Coma. This misuse constitutes degradation. So on the additive assumption, the critic who holds that the misuse in Irreversible Coma does not constitute degradation must explain why the misuse in Irreversible Coma has as much force as the degrading misuse in Reversible Coma. It is not clear how this challenge would be met.

with the result that the intern's actions in Reversible Coma would be more wrong than they are in Irreversible Coma.[29]

There are two salient rejoinders for a critic like Taylor. One is to reject the additive assumption. One might hold that in the particular context of the additional factors in Reversible Coma, the fact of Jane's degradation makes no contribution to the wrongness of the intern's actions. However, those who say Jane's degradation makes no contribution to wrongness have the burden of providing a reason why, in this context, degradation does not; because in simpler contexts, it clearly does (and this, as Kagan points out, sets up a presumption that it is morally relevant). Alternately, one rejecting the additive assumption might hold that the degradation of Jane in Reversible Coma *does* make a difference; indeed, that it preempts the wrong-making force of the additional factors in Reversible Coma. (To save intuitions about equality of moral status of the intern's actions, proponents of this view will then have to maintain that those factors, also present in Irreversible Coma, jointly have the same wrong-making force.) However, we need some independent reason to believe degradation preempts these particular factors, because in other cases, degradation does not preempt similar morally relevant factors. (A slave who is degraded—by having to wear a collar and being led about on a chain like a dog, for example—is treated worse if also sexually assaulted at the time.)

The second rejoinder is to maintain an additive account but hold that when degradation is involved, intuitions are not fine-grained enough to detect the additional wrong from other factors. So, for instance, in Reversible Coma, Jane is deceived when she wakes, whereas in Irreversible Coma, there is no deception of Jane. This difference between the two cases does not seem to alter the equality of wrongness, but it may be that intuitions are too coarse-grained to detect inequality if it exists. On this tack, in order to save the intuition about equal wrongness, the critic must postulate that the factors in Irreversible Coma are (at least apparently) jointly equal in wrong-making force to the degradation in Reversible Coma. But this claim is subject to counterexample.

Let us grant that there are non-degrading misuses of a human body. That there are such misuses, the skeptic of degradation of the dead may readily agree. Now compare Irreversible Coma with Drunk Substitution:

> Wino is in a drunken stupor outside the hospital, on the street. An evil intern smuggles his unconscious body up into the hospital room of Mr. Strange, who replaces himself in the bed with Wino. Mr. Strange is then free to go into the bathroom to engage in a series of perverted sexual acts with articles of women's

[29] S. Kagan, "The Additive Fallacy," *Ethics* 99 (1988), 5–31.

> clothing, uninterrupted by the night nurse's bed checks. Relatives who come for the evening visiting hours are also deceived at the sight of a man bundled in hospital bedclothes snoring away in Mr. Strange's bed, and turn away at the door. All of this is against hospital regulations. The intern proposes this scheme and is paid by Mr. Strange for carrying it out. Wino is later carried tenderly out of the building and returned to his station in the street.

It should be clear that Drunk Substitution has all of the wrong-making characteristics previously identified by the critic in Irreversible Coma: deceiving relatives, deceiving the staff of the hospital, facilitating sexual perversion, misuse of a human body, disrespect for the wino's personhood, and degradation of the client himself. Yet if we assume that the wino has not been degraded (though his rights may have been violated), the intern's actions do not appear to be equally wrong in Reversible Coma and Drunk Substitution. They seem worse in Reversible Coma. So the factors allegedly accounting for the wrongness of Irreversible Coma are not equivalent in wrongness to degradation, on the additive assumption.

These considerations will not be decisive if the preceding discussion has fastened on the wrong set of wrong-making factors. However, nothing presents itself as a more viable alternative for the critic's purposes. I conclude that the burden of proof is on someone who claims that alternative accounts of the wrongness in Reversible Coma that do not apply to Irreversible Coma preserve the intuition that the wrongness of the intern's actions is equal in the two cases. I suggest that this burden cannot be met.

It remains to consider whether persons can be degraded after their bodies are dead. If the description of Irreversible Coma has been correct, persons can be degraded after they no longer exist. The instant question would then be whether removing the condition of a living human body as a remnant of the person alters the possibility of degrading him or her. It is difficult to see why it should.[30] For a dead body, particularly one newly dead, is also a remnant of the person and just as intimately connected with the former person as his or her living but irreversibly unconscious body (on the personal identity assumption being made). If Jane had died outright rather than slipped into a coma, and her newly dead body was treated as her living but unconscious body was treated in Irreversible Coma, and Jane is degraded in Irreversible Coma, the previous argument can be adapted to conclude that she is degraded in this case. It follows that one's welfare can be detrimentally affected by or on account of events that postdate one, including postdating one's death.

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[30] Kai Draper ("Disappointment, Sadness, and Death," *The Philosophical Review* 108 [1999], 405) makes an analogous point about welfare for the irreversibly comatose and the dead.

THE FALSITY OF MORTALITY-BOUNDED WELFARE, REVISITED

This conclusion that Mortality-Bounded Welfare is false may be reachable by another route. I propose it tentatively. Consider whether there can be posthumous betrayals, based, for instance, on a deathbed promise by a close friend or a trusted spouse. Imagine that the act that constitutes the breaking of the promise doesn't occur until after the death. Imagine too that the promise was not deceitful; it was made with all of the right intentions by the promisor at the time. But after the death of the person to whom the promise was made, the promisor has a change of heart and fails to do as promised, without any release from the deceased or an interested party, such as a potential beneficiary. In such a case, it is implausible to view the promise-breaking or betrayal, if it exists, as occurring during the deceased's life. (Let us leave it to metaphysicians to argue over whether the betrayal began during the deceased's life. The important point is that it is on account of the act postdating the deceased that there is betrayal, if there is betrayal.)

It is bad enough that the person who promised was trusted by the deceased. Let us make matters worse by imagining that the promise concerns something that was very important to the deceased, and that the promise-breaker knows of its importance. For example, the promise could be to track down an alienated family member and deliver a handwritten message of reconciliation from the deceased. The promise could be to see to burial and attendant preparation of the deceased's body in accordance with the strictest rites of his or her religion. The promise could be to edit laboratory notes from the deceased's lifetime research and submit them for publication. The promise could be to destroy entries in a personal diary that would hurt a family member. (Perhaps they were written in an angry sulk, or bitter depression, or they were expressions of a fantasy never acted upon. Here, the betrayal might actually go a step further and consist of revealing these entries to the family member in question.) We must also imagine that there is no excuse or justification for the change of heart.

The intuition that this sort of thing is betrayal, pure and simple, is very strong. It should be accepted. It is more firmly grounded than the belief that in order for a person to be betrayed, he or she must exist during the time of the betrayal. Certain apparent difficulties can be quickly dissolved. I've already argued that rights, such as the right arising out of the deathbed promise in this sort of example, have boundaries that extend beyond the life of the one to whom the promise is made. If it is pro tanto unjust to have one's rights violated, then injustice to someone may occur because of acts that postdate that person—i.e., injustice has residual boundaries. Recognizing residual boundaries for betrayal is neither a bold nor a radical departure from these positions. It is, rather, a modest extension. That the alleged betrayal does not cause

its victim any suffering is not a reason to deny that it is betrayal; for there can be undiscovered betrayals during life.

Establishing that one can be posthumously betrayed is relatively easy.[31] Connecting this possibility to the falsity of Mortality-Bounded Welfare in a way that is compelling is difficult. Many people share the intuition that how one is treated by others, at least in certain ways, affects one's welfare directly. As mentioned earlier, degradation does. Moreover, a familiar criticism of simple hedonism is that, other things being equal, one has a worse life if one's satisfactions and pleasures are based on systematic deceit.[32] An intuition strongly entrenched in many of us is that being deceived about important matters (or matters important to you, or matters from which you derive much satisfaction) is, other things being equal, prudentially bad. Some would hold that it is non-instrumentally prudentially bad. (But see Heathwood for the contrary intuition. However, even Heathwood is willing to admit that a systematically deceived life ranks low in dignity.)[33] There are additional candidates for a prudentially bad life—for example, a life of manipulation so effective that the individual's desires are created thereby, the individual does not realize the manipulation, and so on. The betrayed life seems as strong or stronger a candidate for this position as the deceived or the manipulated life.

There is a simple explanation on desire-satisfaction theories of welfare of why it is bad for someone to be betrayed: Some important desire is thwarted. But desire-satisfaction theories have well-known problems; and their application to posthumous harm is dubious, as there is considerable plausibility in the twin ideas that in order for an act to be a desire satisfaction or desire thwarting, the relevant desire must exist at the time, and in order for a desire to exist at a time, it must be desired at that time. (These ideas solve a problem for desire-satisfaction theories of welfare, as Heathwood points out.[34] See Feinberg's priorist move concerning "doomed" desires.[35]) If you have the intuition, which Feldman admits to having, that the extent to which one is unjustly treated contributes negatively to one's welfare, then you will think that being betrayed (along with being degraded) is pro tanto non-instrumentally prudentially bad.[36] However, not everyone shares this intuition, and it is difficult to see how such a broad claim might be defended. For this reason,

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[31] Many philosophers have insisted that one can be posthumously betrayed; e.g., Thomas Nagel "Death," *Mortal Questions*, 6.

[32] See Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), 42–45; S. Kagan, *Normative Ethics* (Boulder, CO: Westview, 1998), 34–37; T. Nagel, "Death," *Mortal Questions*, 5.

[33] C. Heathwood, "Desire Satisfaction and Hedonism," *Philosophical Studies* 128 (2006), 553.

[34] Heathwood, "Desire Satisfaction and Hedonism," 542.

[35] Feinberg, *Harm to Others*, 91–92.

[36] Fred Feldman, "Some Puzzles About the Evil of Death,," Mortal Questions) *Philosophical Review* 100 (1991), 210. But see Feldman's assertion of Mortality-Bounded Welfare on the next page.

any argument for the falsity of Mortality-Bounded Welfare based on the possibility of posthumous betrayal remains, unhappily, inconclusive.

WHY NOT DISPENSE WITH DEGRADATION?

It may seem that a novel argument for the possibility of posthumous harm, based on degradation, is not necessary. The philosophical literature is now rich with accounts of posthumous harm. Some of them come with metaphysical analyses of how posthumous harm is possible (e.g., Pitcher, Feinberg, Luper), but such explanations are not arguments that Mortality-Bounded Welfare is false.[37] Rather, they presuppose that it (or Mortality-Bounded Harm, if one rejects Welfare in Respects) is false.[38] So would innovative attempts to apply established theories of welfare to posthumous harm. Actual arguments for the falsity of Mortality-Bounded Welfare (or Mortality-Bounded Harm) are relatively rare. I have already indicated that my argument is immune from criticisms launched to two leading thought-experiment arguments for posthumous harm, one by Feinberg and one by Parfit. In this section, I expand on recent work by Bradley to show that my argument is superior to another type of argument for posthumous harm.

I have argued that rights have residual boundaries. Note that if rights are grounded on interests, then recognition of a right with residual boundaries raises intriguing possibilities. If a person has a right to the performance of an assured act even if that performance must occur after his death, then it might seem that he has an interest in the performance of the assured act even if that performance must occur after his death. The acknowledgment of rights with residual boundaries leads to the question of whether there can be interests with residual boundaries, such that when the assured act is performed after someone's death, the act can truly be said to be satisfying that person's interest (or, conversely, when the act fails to be done, its omission can be said to be frustrating or setting back that interest). And if so, might there be other interests held by competent persons, such as an interest in directing the disposal of one's body or one's property after one's death, or an interest in directing the course of one's agency life by choosing any alternative within the sphere of acts not wronging others?[39] Interests have been held by some to be determinants, indirectly or directly, of individual welfare. Postulating such residual boundary interests may

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[37] George Pitcher, "The Misfortunes of the Dead," *American Philosophical Quarterly* 21 (1984), 183–188; Feinberg, *Harm to Others*; Luper, "Mortal Harm."

[38] Depending on how you read him, Nagel ("Death," *Mortal Questions*) either gives a grossly invalid argument or begs the present question altogether.

[39] The latter is the analogue of a right D. VanDeVeer describes (*Paternalistic Intervention: The Moral Bounds of Benevolence* [Princeton, NJ: Princeton University Press, 1986], ch. 2.4). According to the discussion below,

thus seem to be a path to showing that Welfare in Respects is consistent with posthumous harm.[40]

It is, however, a problematic path. There are difficulties in the alleged grounding relation between rights and interests.[41] In addition, there are questions about the relation between the interests that ground rights, if any, and individual welfare. For these reasons, and because on some analyses of interest, an interest account of welfare is open to the objection discussed below, it seems best not to pursue an argument from rights with residual boundaries to interests with residual boundaries to residual boundaries for welfare.

Recently, there have been suggestions that a defense of posthumous harm accepting Welfare in Respects might be built on another foundation, one that makes use of the concept of moral agency. As the earlier examples of communicating a message of release or insistence on performance show, moral agency need not end at death. One may do some action begun before one's death that finds its terminus only after one's death.[42] One can kill posthumously (as when you cut the straps on the parachute your victim will use later, or send a gift of poisoned chocolates through the mail that your victim then consumes). One can burn one's house to the ground posthumously (by an incendiary device on a timer or fuse). One can hurt a loved one's feelings posthumously (by leaving a missive to be discovered after one's death). And, given reasonable reliance upon others or upon the mechanisms of machines, one can also posthumously give advice (it is written into the will or pops up as part of a screensaver on the computer), reveal a secret (the letter is posted or the e-mail is sent just before one's death), exonerate a prisoner (the confession is sent to the governor), slander an enemy, and so forth.[43] No one seems to seriously deny that people can perform acts that find their termini after the agent's death, nor does anyone appear to

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one's agency life may extend beyond one's biological life. If there is such an interest, does it generate a correlative right with residual boundaries? Would that explain why one may wrong Jones after his death by destroying the loving note Jones had left for his family—intending to perform the act of consoling or advising them—and substituting a forged note containing an alleged confession of adultery or a venting of resentments?

[40] And a path to supporting Feinberg's (*Harm to Others*, ch. 2.3) case for posthumous harm made on the basis of his analysis of harm as setback to interests plus violation of rights. See also Luper, "Mortal Harm"; Pitcher, "The Misfortunes of the Dead."

[41] See, e.g., Wellman, *Real Rights*, 154; Kamm, "Rights," 484–486; Gilbert, "Scanlon on Promissory Obligation," 100–102.

[42] "Begun before death" may be the wrong phrase for some such actions; "prepared before death" might be more apt. Consider the person who sets a trap before his death—say, a spring-loaded shotgun aimed at a door so that anyone who walks through the door will be shot. After the agent's death, a trespasser opens the door and is shot. The shooting is attributable to the person who set the trap, but it is implausible to hold that the *shooting* begins before the agent's death.

[43] These examples are inspired by Grover. For further examples, see Dorothy Grover, "Posthumous Harm," *The Philosophical Quarterly* 39 (1989), 334–353.

deny that agents can be responsible for these acts, including acts that are described in terms of bringing about something that does not occur until after the death of the agent.

Given these observations, the argument goes as follows: There can be residual moral agency. Our welfare is intimately connected to the success of our agency, or some subset of our agency, in the following way: In some respects at least, our welfare improves with the success of our agency (at least in certain projects), and in some respects, our welfare declines with the failure of our agency (at least in certain projects). Some of our actions may be thwarted after our deaths—i.e., may be made into unsuccessful attempts by events postdating us. Therefore, our welfare can be affected by events that postdate us, and Mortality-Bounded Welfare is false.[44]

Let us refer to the second premise in this argument as an *agentist* position on individual welfare. I had initially thought an agentist argument appealing. However, it is subject to a line of criticism to which my defense of the possibility of posthumous harm is immune.

The main premise of the agentist argument is as follows: In some respects, our welfare improves with the success of our agency (at least in certain projects), and in some respects, our welfare declines with the failure of our agency (at least in certain projects). (The assumption must be that the decline of welfare is relevant to harm.)[45] The problem is that this premise is subject to paradox, as Bradley points out. Following Bradley, let us imagine a person has the sole project of making sure his life goes badly.[46] This project may meet any restriction one puts on the initial agentist premise—e.g., the project may

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[44] This is essentially an argument given by S. Keller in "Welfare and the Achievement of Goals," *Philosophical Studies* 121 (2004), 39. Scanlon, following Raz (*The Morality of Freedom*), holds that success in achieving one's aims, provided they are rational, helps constitute well-being "to a large extent" (Scanlon, *What We Owe to Each Other*, 118–119, 124). Scanlon does not commit himself to a welfare claim concerning posthumous success, however. Grover ("Posthumous Harm") adopts a variation on this argument, with one important qualification: She tracks impairments in the quality of one's life, not in one's welfare. It is doubtful that she accepts Welfare in Respects, given her Aristotelian explication of quality of life, which entails that the choice of morally praiseworthy over morally blameworthy acts raises quality (and the contrary choice lowers it). For raising the moral quality of one's life this way seems capable of conflicting with optimizing one's well-being. Whether or not she is subject to the following objection, her argument is inadequate. Her alleged sufficient condition for harm cannot distinguish between harm and failure to benefit.

[45] Failure to improve well-being in some respect may not entail a relevant reduction of welfare in that respect. It all depends on the benchmark for Welfare in Respects. (See comments in note 2 above.) Failing to win the lottery wouldn't ordinarily be considered bad in itself for a person who is very well off financially, and it might not be bad for him instrumentally if he were unfazed by his luck. (Of course, failure to win the lottery is usually *comparatively* worse for him than winning would have been. However, what is at issue here is whether the comparison is relevant for Welfare in Respects and, hence, for harm.) We do not regard such a person as suffering a misfortune because of the failure to win, nor do we regard ourselves as suffering multiple continuing misfortunes because none of a thousand improbable benefits befall us. See Draper ("Disappointment, Sadness, and Death," 389). For an analogous view that failure to benefit isn't necessarily a harm, see S. V. Shiffrin, "Wrongful Life, Procreative Responsibility and the Significance of Harm," *Legal Theory* 5 (1999), 120–125.

[46] Ben Bradley, "A Paradox for Some Theories of Welfare," *Philosophical Studies* 133 (2007), 45–53.

be authentic and rational, something in which the agent has heavily invested, and, as Bradley points out, even worthwhile. Such a project might be worthwhile (though by hypothesis imprudent) for someone with a strong sense of justice whose actions have been morally wrong up until now. One can add to this other scenarios that make such a project worthwhile: For example, imagine that an evil demon threatens this person's only child with intense suffering if this person's life goes well. Suppose this person's life goes badly. Then his project succeeds, and his life, according to this view, goes well. However, it then follows that his life does not go badly after all, and his project fails. And so on.

Suppose the agentist takes the following line: In one respect, the person's welfare declines because his life goes badly, but in another respect, his welfare improves because he has succeeded in a project in which he has heavily invested. Respects talk here might make sense if "is good for a person" creates an intensional context, like "intends to" or "believes," so that someone can believe a proposition under one description (e.g., that Mark Twain wrote *Huckleberry Finn*) but fail to believe it under another (e.g., that Samuel Clemens wrote *Huckleberry Finn*). However, "is good for a person" does not create an intensional context. Respects talk might make sense when differentiating between short-term welfare gains and losses and long-term gains and losses. However, this distinction is not at issue in this paradox. Suppose that his life goes badly for him only in the long run. Then he succeeds in this particular project in which he has heavily invested only in the long run. Suppose instead that his life goes badly for him in the short run as well. Then, according to this theory, his life goes better for him in the short run if it goes worse for him in the short run, in which case it goes better for him in the short run after all, and so on.

Can the agentist avoid the paradox by saying that in this case, the success of a project in which the agent has heavily invested is only a pro tanto reason that his life goes better, whereas, all things considered, his life goes badly for him? Then it is because, all things considered, his life goes badly for him that there is a reason to believe the contrary, namely, that his life goes better for him. This borders on paradox even if it isn't actually paradoxical.[47]

Some will object to Bradley's counterexample by claiming that it involves a project analogous to the proposition involved in the Liar Paradox. Bradley's response to this objection is that the proposition that one's life is going badly is not defective.

[47] Keller ("Welfare and the Achievement of Goals"), who would not restrict the agentist premise, purports to render plausible his contrary intuitions by talking about the successful person "imposing her will on the world." He also claims that to some extent, her life meets "the standards set by [its] bearer." Otherwise, she is a "failure." But the claim that imposing one's will on the world is good for one (and failing while trying is bad for one) is very far from self-evident, nor is it strongly intuitive or widely shared. It has no more intuitive appeal—indeed, I regard it as having considerably less—than the assertion that being betrayed is bad for someone, pro tanto. It's a tautology that being a failure at life or at something important to succeed in at life is bad for one,

To get a paradox, one must assume the agentist position. However, one can imagine an interlocuter objecting that the Bradleyan project, like the proposition in the Liar Paradox, is, if not straightforwardly defective, at least self-referential and that self-referentiality causes intractable problems. Bradley is willing to admit that both project and proposition have a "self-referential flavor," but the better position is to deny that the project has this feature. Indeed, the agentist is not committed to self-referentiality in the case of the Bradleyan project. For the agentist is not committed to the claim that one's life goes badly for one *only if* one fails in one's (rational, authentic, etc.) projects. Indeed, agentists Scanlon and Raz reject this claim, and for a good reason. The claim is implausible, leaving out of account the effect on welfare of such factors as pain and suffering, lack of pleasure and enjoyment, bad or nonexistent personal relations, and systematic deception. (One might add to this list absence of self-respect and degradation.) Yet it is only by assuming this dubious claim that the description of the success of the Bradleyan project is self-referential, for it is only by assuming this claim that a project of making one's life go badly for one must involve failure of one's (sole) project. In short, self-referentiality is introduced not by the Bradleyan project alone, but by it in conjunction with the dubious claim. Because the Bradleyan project does not appear to be incoherent, if self-referentiality causes intractable problems, the dubious claim is to be rejected to avoid the problems.

Finally, there is a version of the agentist position that makes use of a tautology about self-sacrifice when self-sacrifice is a means to a goal. According to Portmore, a failure of a goal in which an agent has invested *in such a way as to make a short-term sacrifice of welfare* lowers welfare pro tanto, at least compared to success (or other redemption).[48] This suggests an argument that Portmore could give, applied to posthumous events: Consider the cases of Walter and Wendell. Walter has worked hard for many years and has made sacrifices in order to produce a book. The manuscript is finished, and Walter is about to mail it to his agent when death overtakes him, in the form of something sudden. Let us stipulate that the book is a worthwhile book, and that the choice to make the sacrifice is rational and authentic. In order to make the self-sacrifice graphic, let us assume that Walter would never have undertaken to write the manuscript if he thought it would not result in a published book; he has gained

pro tanto. But nothing follows about being a failure at just any self-chosen goal, no matter what it is (e.g., even if it is contrary, all things considered, to one's welfare). This kind of defeat may not make one the kind of failure we have any reason to be concerned about at all.

[48] Douglas W. Portmore, "Welfare, Achievement, and Self-Sacrifice" (2006 manuscript), Arizona State University, Tempe. A version of this paper appears in *Journal of Ethics and Social Philosophy* 2 (2007) at http://www.jesp.org.

little or nothing in his effort, including enjoyment or a sense of satisfaction. To this point, Wendell's story corresponds exactly. After the funeral, one of Walter's relatives discovers the manuscript. Knowing about Walter's sacrifice, the relative mails the manuscript to the agent. The book is eventually published. But Wendell's relative discards the manuscript and all copies, believing them to have little or no value. We must be sure not to make this a case of betrayal by Wendell's relative; the argument is to be grounded solely in the failure of a sacrifice to achieve its goal due to events postdating the agent. The claim is that other things being equal, Walter's life is better for him than Wendell's; for the sacrifice that Walter made seems to be redeemed by the subsequent publication, but Wendell merely wasted his time and sacrificed his welfare during his lifetime "for naught." (Let us bracket questions about whether the comparative judgment about Wendell's life is sufficient for Welfare in Respects.)[49]

Notice that the conclusion of this argument does not presuppose that someone has a level of welfare after he no longer exists (as it would if it held that Walter's welfare, lowered during the years of his writing, is higher at a later time because of the book publication). One may maintain the conclusion and agree with Grover that posthumous events can re-categorize previous agency for better or worse. On this view, events postdating Walter and Wendell change the category of acts completed during their lifetimes, when they had levels of welfare. Walter is now credited with the authorship of a book, an achievement (at the expense of Walter's short-term welfare), but Wendell's activity as a writer falls into the category of futile sacrifice of time and effort. If the idea of retroactive change of categories is objectionable, one can simply maintain that the full welfare-relevant categorization of activity during a lifetime may depend upon events occurring after that lifetime. (Such a view has its analogue for morally relevant categorization in consequentialism, once it is admitted that acts can have consequences for which we are responsible even when those consequences postdate us.)

The argument is based partly on a tautology, to wit: If one makes the prudentially suboptimal choice at one point in one's life, and this choice is not redeemed (or compensated for) later, one's welfare remains suboptimal, other things being equal, compared to what it would have been if one had made the prudentially optimal choice at that point. In addition, Portmore is assuming that success in the goal for which one has sacrificed redeems the sacrifice, at least partially (so that failure to achieve the goal is a failure to redeem, other things being equal). Unfortunately, there is no way to insulate the Portmorean assumption from the case in which a sacrifice is made in order to lower welfare. Consider someone who sacrifices so that her life will go maximally badly, and a Bradleyan paradox results. To restrict Portmore's

[49] See footnotes 2 and 44 supra.

claim to projects whose means are self-sacrifice but whose goal is not would be ad hoc, for reasons rehearsed above.

The objection might not be technically fatal, for reasons given earlier. As there seems to be something appealing captured in the argument from Walter and Wendell, it is worth pointing out a second difficulty. In order for the argument to be useful against Mortality-Bounded Welfare, one must assume that the postmortem successes of projects begun antemortem count as redemptions of antemortem sacrifices. And this is to beg the question, by assuming that Mortality-Bounded Welfare is false. It is precisely in failure cases in which nothing more awful than the pointlessness of an antemortem investment of time and energy results that there is bound to be the greatest resistance to the idea that events postdating someone that are responsible for the pointlessness are harmful to (or bad for) that person. There are, therefore, grounds to resist the conclusion that Walter has the prudentially better life compared to Wendell's, let alone that Wendell's life goes badly for him because of events postdating him.

I trust I have offered a better alternative, a better argument for the rejection of Mortality-Bounded Welfare. It is grounded on stronger intuitions and is free from the appearance of a Bradleyan paradox.

CONCLUSION

My aim in this chapter has been to defend the claim that posthumous harm is possible against an argument that assumes that an event harms a person only if it makes it the case that his or her welfare diminishes (compared to some benchmark) and further assumes that no one exists after death. I have argued that the boundaries of welfare-affecting events may extend beyond the existence of the person whose welfare is in question. I have shown that my case for rejecting the contrary claim avoids an objection to similar efforts by Feinberg and Parfit and, relying on work by Bradley, that my argument is superior to agentist arguments for posthumous harm.

I can hardly pretend that the case for posthumous harm is complete. I have been arguing for the satisfaction of what many people regard as only a necessary condition for harm. It isn't sufficient, and that opens the possibility that there cannot be posthumous harm for some other reason. But I hope to have supplied some grounds that clear away one obstacle to the possibility of posthumous harm.[50]

[50] I am indebted to my colleague Robert Mabrito for all of his helpful comments on earlier drafts.

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SECTION IV

Death and Bioethics

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12

Doing Posthumous Harm

John Harris

PHILOSOPHICAL, LEGAL, AND indeed policy attention to the issue of posthumous harm has concentrated almost exclusively on the harm that might be done to the dead body or the posthumous interests of an ex-human being.[1] Very few people have insisted that the costs of not doing whatever harm posthumous harm might constitute are almost always by far the greater. Some of the reasons for rejecting the very idea of posthumous harm have been well rehearsed and might be summarised, following Monty Python, as the "Norwegian Blue set of arguments".[2] The remainder of such arguments I have tried to elaborate in the publications referred to below.

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[1] In this chapter, I draw on and wish to acknowledge some previous work, namely, John Harris, "Mark Anthony or Macbeth: Some Problems Concerning the Dead and the Incompetent when it Comes to Consent," in Sheila A. M. McLean, ed., *First Do No Harm* (Aldershot, UK: Ashgate, 2006), 287–303; "Law and regulation of retained organs: The ethical issues," *Legal Studies* 22, 4 (2002), 527–549, with a response by Margaret Brazier, *Legal Studies* 22, 4 (2002), 550–569; and my "Consent and end of life decisions," *Journal of Medical Ethics* 29, 1 (2003), 10–16. See also John Harris, "Life and Death," in Edward Craig, ed., *Routledge Encyclopaedia of Philosophy, Vol 5* (London: Routledge, 1998), 625–630; and "Euthanasia and the Value of Life" and other essays by myself and John Finnis on euthanasia in John Keown, ed., *Euthanasia Examined: Ethical Clinical and Legal Perspectives* (Cambridge, UK: Cambridge University Press, 1995), 6–71. I also thank Nishat Hyder and John Coggon for helpful comments and suggestions.

[2] http://www.mtholyoke.edu/~ebarnes/python/dead-parrot.htm; http://en.wikipedia.org/wiki/Dead_Parrot. As John Cleese in the guise of Mr. Praline noted of the dead Norwegian Blue Parrot: "'E's passed on! This parrot is no more! He 'as ceased to be! 'E's expired and gone to meet 'is maker! 'E's a stiff! Bereft of life, 'e rests in peace! If you hadn't nailed 'im to the perch 'e'd be pushing up the daisies! 'Is metabolic processes are now 'istory! 'E's off the twig! 'E's kicked the bucket, 'e's shuffled off 'is mortal coil, rung down the curtain and joined the bleedin' choir invisibile! THIS IS AN EX-PARROT!" See also note 3 below.

In this chapter, I suggest that considerations for the welfare and interests of the dead and the philosophical attention given to them are self-indulgent nonsense at best, and at worst a crime against humanity. The real issues are the extent of the harm that might be caused by not using tissue, organs, cells, DNA, and other biomaterials from the dead, and the extent of the good that using such biomaterials might achieve. Of slightly less urgency is of course the educational value of bodies and body parts, and even further down the pecking order is their liturgical significance and entertainment value.

In addition to theories I have advanced in the past[3] identifying the compelling moral and social reasons for posthumous organ and tissue conscription, this chapter considers, albeit briefly and incompletely, the ethics of all forms of use of biomaterials from the dead, including blood and other forms of biobanking; anatomical studies and postmortem examinations; exhibiting the dead or their parts in museums (Egyptian mummies) and art exhibitions (Manchester's "Lindow Man"); and religious relics exhibited or stored in churches and monasteries (bones of saints and sinners, blood of Christ, etc.).

THE USE OF BODY PARTS FOR THERAPY, RESEARCH, EDUCATION, AND ENTERTAINMENT

In modern times, since the naissance of medical ethics and bioethics, it has been usually assumed (and often simply stipulated) that consent is necessary before we can use organs, tissue, or other body parts or products taken from dead bodies.

Although both ethics and law recognize that persons may have enduring interests that survive death, the interests of people in what happens to them after death, so-called posthumous interests, are not necessarily like those interests that the obligation to obtain consent traditionally protects. The principal function of consent is either to protect, and indeed facilitate, autonomy or to protect bodily integrity from acts that, absent consent, would constitute a violation. We should note but do not need to discuss cases in which consent cannot be obtained, but in which physical intervention is justified because it is in the best interests of the recipient (as with emergency surgery, for example). Autonomy involves the capacity to make choices; it involves acts of the will; and it is the will that is at the heart of the concept of violation. The dead have no capacities, they have no will, no preferences, no wants or

[3] John Harris, *The Value of Life* (London: Routledge, 1985); and, for example, John Harris "Organ Procurement—Dead Interests Living Needs," *Journal of Medical Ethics* 29, 3 (2003), 130–135; Charles A. Erin and John Harris, "An ethical market in human organs," *Journal of Medical Ethics* 29, 3 (2003), 137–138; Charles A. Erin and John Harris, "Janet Radcliffe Richards on our modest proposal," *Journal of Medical Ethics* 29, 3 (2003), 141–142; John Harris, "Consent and end of life decisions," *Journal of Medical Ethics* 29, 1 (2003), 10–16.

desires; the dead cannot therefore be autonomous and so a fortiori cannot have their autonomy violated. Equally, the dead cannot have their bodily integrity violated, for violation consists not simply in a breach of bodily integrity but in a breach of bodily integrity that is unwanted, that is an assault upon not simply the body but on the mind of the victim.

Of course, there is another form of violation, when the attack is not primarily upon the person (although it may be) but upon the rights or vital interests of the individual. Such "attacks" may be unnoticed by the victim (as when I am defamed but never become aware of the insult), but insofar as they adversely affect the vital interests of the individual, they are damaging and are appropriately regarded as a form of violation. Whether the dead retain much in the way of significant interests or any rights at all, however, is problematic. Which brings us neatly, if not nicely, to necrophilia.

Necrophilia, however distasteful to contemplate, is a test case for the role of consent in alleged posthumous harms. Both consensual (in the sense of permitted, perhaps by advance directives) and nonconsensual sex with the dead are alike in the way that law and popular indignation treat them. Neither is approved of, although as far as the law is concerned, at least in the United Kingdom, necrophilia is not treated as a "crime" to which the issue of consent is at all relevant. Necrophilia may be unethical; it may possibly be a crime, although it is not altogether straightforward to identify what crime it might be.[4] If it is treated as a crime, it is so because it is alleged to raise issues of public decency or propriety or indeed of public order. Some offences that have been recognised (usually one cannot help thinking, more in the spirit of a desperate attempt to find *something* illegal about it) include "mutilating a corpse" and "showing indignities to the dead",[5] but whatever offence it involves, it is not the crime of rape; it is not a crime that involves violation. That necrophilia, as far as I am aware, has never been treated as an instance of rape is some evidence that the law recognises that it is not an act to which the consent of the alleged victim is relevant; it is not violence to the person, not a violation of personal integrity.

Now of course, as just noted, the physical integrity of dead bodies can be violated, as in the case of the mutilation of a corpse, but unless this is also plausibly a violation of rights or of interests, it is a figurative and very attenuated sort of violation. At most, it is a violation simply in the sense of breach of physical integrity in the same sense as one may talk of the violation of the defences of a home or a castle or

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[4] For an account of the ways in which the law has attempted to deal with necrophilia, see D. S. Cook and D. S. James, "Necrophilia: case report and consideration of legal aspects," *Medical Law International* 5, (2002), 199–204.

[5] Cook and James, "Necrophilia."

indeed of the physical structure of the body by maggots, worms, and bacterial action after death.

"Offences" against the dead do not involve violations of their autonomy indeed, as has been established in English law at least; the human body neither owns itself (contra many theories of self-ownership concerning the bodies of the living)[6] nor is it usually owned by others, unless those others have "mixed their labour" with the corpse or parts of it, thereby enhancing its value or utility.

POSTHUMOUS RIGHTS

What about the rights of the dead? It is doubtful as to whether there is any such thing as a posthumous right. There are two main theories of rights: choice theory and interest theory. Choice theory sees rights as securing "the protection and promotion of autonomy or liberty", and interest theory sees rights as serving to further individual well-being or welfare.[7] Clearly, on choice theory, there are no such things as posthumous rights, because the dead are not autonomous and so their rights cannot be analysed in terms of choices. Even according to interest theory, posthumous rights are doubtful because, arguably, the dead have no welfare interests left to be served, and such interests as they might be said to retain have to be strong enough to impose a duty on others.[8]

Joseph Raz, for example, suggests that an individual is capable of possessing rights "if and only if…his well-being is of ultimate importance". Now the dead have no well-being because they have no "being" at all; they are not beings but ex-beings or former beings. They were once beings whose well-being had ultimate value, but no more![9]

Shakespeare gave eloquent expression to both sides of the coin. Mark Anthony, in *Julius Caesar*, denies that the dead can be wronged: "I rather choose / to wrong the dead, to wrong myself and you / Than I will wrong such honourable men".[10] But

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[6] A locus classicus is G. A. Cohen, *Self-Ownership, Freedom, And Equality* (Cambridge, UK: Cambridge University Press, 1995), 68. This originally appeared in G. A. Cohen, "Self-ownership, world-ownership, and equality," in Frank Lucash, ed., *Justice and Equality Here and Now* (Ithaca, NY: Cornell University Press, 1986), 109; and see also Hillel Steiner, *An Essay on Rights* (Oxford, UK: Blackwell, 1994).

[7] On rights theories generally, see L. W. Sumner, *The Moral Foundation Of Rights* (Oxford, UK: Clarendon Press, 1987); Jeremy Waldron *The Right to Private Property* (Oxford, UK: Clarendon Press, 1988), chapter 3; Hillel Steiner, *An Essay on Rights* (Oxford, UK: Blackwell, 1994); Ronald Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977) and *Life's Dominion* (London: HarperCollins, 1994), 210–216.

[8] See also Deryck Beyleveld and Roger Brownsword, *Human Dignity in Bioethics and Biolaw* (Oxford, UK: Oxford University Press, 2001) and *Consent in the Law* (Oxford, UK: Hart, 2007).

[9] See Joseph Raz, *The Morality of Freedom* (Oxford, UK: Clarendon Press, 1986), 166. A related conception in terms of welfare rather than well-being is offered by Sumner, *The Moral Foundation of Rights*, 47.

[10] William Shakespeare, *Julius Caesar*, Act III, Scene II.

in *Macbeth*, Shakespeare allows Macbeth to contradict this view. Macbeth himself, talking of the murder of Duncan whom he has "sent to peace" says: "Duncan is in his grave; /After life's fitful fever he sleeps well; / not steel, nor poison, / Malice domestic, foreign levy, nothing / Can touch him further".[11] However, although the dead on Anthony's view can be wronged, on the normal distinction between harming and wronging, they probably cannot be harmed. Harming involves damage to the body or the mind, whereas wronging involves the violation of rights or of morally protected interests.[12]

Wills and other testamentary dispositions are an interesting case. They give expression and legal force to the living wishes of those who subsequently die, and hence allow the dead some limited posthumous rights and interests. This, however, shows not that the dead have privileged rights and interests over property, but that such interests as law permits them are subject to tax or other claims upon the estate of dead citizens, just as is the case with the property of the living. Testamentary dispositions are thus, like all other interests, subject to the priority of the public interest over individual autonomy. Most people would not wish to pay death duties or have their testamentary dispositions, their posthumous preferences, set aside or modified by state or judicial interference. Taxes, whether levied on the living or on the dead, are usually very much both against the wishes of those anticipating death and contrary to interests of the dead if, that is, their interests are narrowly conceived.[13] We should remember that the public interest serves principally the interests of existing and future individuals. Research on and therapeutic use of body parts or archived samples of deceased citizens might be regarded as analogous to taxing their estate to raise revenue.[14] The point is, of course, that the requirement to respect such interests is much weaker than the obligation to respect rights of existing persons to bodily integrity or freedom from physical violation and indeed also much weaker than the obligation to protect the interests of living people.[15]

We do clearly have autonomous preferences about what happens to our bodies after death; insofar as these are not complied with, our autonomous wishes have been frustrated, but whether it follows that our autonomy has been violated is another matter. I wish that certain things had not happened to me while I was a

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[11] William Shakespeare, *Macbeth*, Act III, Scene II.

[12] On this distinction, see Joel Feinberg, *Harm to Others* (New York: Oxford University Press, 1984), 102; and John Harris, *Wonderwoman and Superman* (Oxford, UK: Oxford University Press, 1992), 84ff.

[13] Of course, it might be argued that taxes serve the interests of all because of the uses to which they are put.

[14] I believe there is a lesson to be learned here for the case of cadaver organ donation, which I raised in my *The Value of Life* (London: Routledge and Kegan Paul, 1985), 219–223.

[15] On this point, see my "Ethical genetic research," *Jurimetrics: The Journal of Law, Science, and Policy* 40, 1 (1999), 77–93.

child. At the time, I was not autonomous and had formed no views about them. Did those things frustrate my autonomy because I now wish that they had not been done? Is it equally so with things I now wish won't happen after I lose my autonomy? In neither case does it follow from the fact that someone has autonomous wishes about something that happens when they are not autonomous, either in the past or the future, that those things violate their autonomy although they are of course contrary to their wishes as held at a particular point in time and may in both cases adversely affect (or have adversely affected) their interests.

This raises an interesting question about why we should respect the advanced directives of individuals who have ceased to be persons. Respecting advanced directives can have nothing to do with respect due to autonomy, although most commentators have assumed that it does.[16] When individuals who were once autonomous have permanently lost autonomy, it is the responsibility of those who care for them, or who have care of them, to act in their best interests. Knowing what the subject would have wanted seems to be a powerful "push" as to what their interests are and hence as to how to act in their best interests, but that is all it could be. However, if they are permanently unconscious, they have no active interests left, no things that they can or ever will care about again.[17]

PERSON-AFFECTING POSTHUMOUS INTERESTS

There is, however, an important sense in which what happens to my body after death is person-affecting[18] ; it is just that it is not me who is the affected person. They are person-affecting in the sense that they affect the persons who will benefit from the research or indeed the persons who are distressed by the tissues being collected, retained, or used.

Having expressed scepticism as to the existence of most posthumous rights or interests, we must now turn to the issue of whose rights or interests may be relevant to the question of posthumous retention or use of tissue, organs, and other body parts. And here the issue of consent may now be seen as highly problematic because, as we have noted, the usual basis for respecting the consent of the subject is absent,

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[16] A related argument in the context of personal identity has been employed by Allen Buchanan, "Advance Directives and the Personal Identity Problem," in John Harris, ed., *Bioethics* (Oxford, UK: Oxford University Press, 2001), 131–157; and also in Dworkin, *Life's Dominion*, 180ff.

[17] I have discussed continuing or critical interests that they may still have elsewhere. See John Harris, "Mark Anthony or Macbeth: Some Problems Concerning the Dead and the Incompetent when it Comes to Consent," in McLean, ed., *First Do No Harm*, 287–303.

[18] See Derek Parfit, *Reasons and Persons* (Oxford, UK: Clarendon Press, 1984), especially part four.

and the consents of others play a role very far removed from the usual one in which consents are requested and given for medical procedures.

If it could be argued that the interests of a deceased are harmed by the donation or retention of tissue or organs, then an interest, albeit in my judgment a highly attenuated one,[19] might arise. Absent such an argument, there seems to be no legitimate interest that could be asserted by friends, relatives, or other third parties. If the organs or tissue were to be used for some immoral purpose or if their removal or retention constituted some immoral act, for example, gross indecency, or if the process by which they were removed was immoral or indecent in some way, the rights or interests not only of friends or relatives but indeed of any citizen might be engaged. But if they are retained for important and realistic scientific purposes or as part of the human tissue archive, the nature of any legitimate ethical role for friends or relatives must be sought elsewhere.

Moreover, if the relatives or friends are themselves adversely affected by the retention or use of the tissue, then their legitimate interests might again be engaged. For example, all tissue contains DNA from which the complete genome of the tissue provider can be obtained. The information is also information about family members, and these family members might have legitimate concerns about their own genetic privacy and the use to which such genetic information might be put. This point could be very important, as it has become widely and rightly accepted that when genetic information on individuals is stored, the information should be suitably anonymized and securely held. (For what it is worth, which is not much, my own view is that the importance and indeed the very possibility of genetic privacy is grossly overrated.)

They also might have religious or culturally based beliefs about the disposal of the dead that might be engaged. Finally, they might simply very much want all the remains of their relative or friend to be buried with the body, perhaps because it seems to them simply fitting or appropriate. In this case, their powerful feelings deserve respect, but so do the powerful feelings of others who want the organs of the dead to be available for science or for life-saving or other therapeutic purposes, because this forms part of *their* deeply held beliefs and values.

Ultimately, this conflict of interests or values will be resolved by considerations of which interests or values carry most moral weight, for example, whether the interests served by one set of values are more significant or vital than those of the other. This might happen if one set of values protected an interest in life itself (actually involved saving a life), whereas the counterpoised interest protected some less significant or less urgent value, for example, a sense of what is appropriate or "fitting". Or, the

[19] Harris, *Wonderwoman and Superman*, chapter 5.

resolution of such differences might turn on a fairly full description of what society would be like if one set of values rather than the other prevailed. For example, if the bereaved could not bury the dead in their own way, they might choose to reject the obligation to do so at all, and the burden and expense of this might fall on society.

For all these reasons, the arguments for the free use of body parts and products seem overwhelming. But even those who reject such arguments need to think seriously about what presumptions about the wishes of the dead are reasonable.

SHOULD WE ASSUME THE DEAD ARE SELFISH MISANTHROPES?

Suppose we grant that the removal or use of organs and tissue serves some beneficial altruistic or important purpose. Suppose, for example, that organs are removed posthumously for transplantation, and that tissue is removed for storage and investigation for public health reasons or in the pursuit of therapeutic research. If you grant that these uses are altruistic and beneficial to other individuals (those whose lives may be saved by organ donation or those whose diseases may find cures through scientific research), two things become clear. The first is that it could not be in the deceased's interests to frustrate the course of science or to make more probable the deaths of other people.[20] Thus, if any presumptions are to be made about what the deceased would have wished (in the absence of specific statements to the contrary), it is surely more reasonable to suppose that if the purposes for which the tissue or organs are retained or used are beneficial and altruistic that the deceased, if they wished anything, would have wished to act beneficially and altruistically toward others. So if any presumption is made in the absence of an advanced directive or a clear autonomous expression of will, it should not be that the deceased would have wished to frustrate altruistic or beneficial purpose; it should rather be a presumption in favour of their good character that they would have wished to promote such purposes.

This "constraint" on what might be presumed to have been the wishes of the deceased in the absence of evidence to the contrary should surely operate on presumptions made by relatives and friends, as well as on those that might be made by public bodies or the courts. Indeed, there is a sense in which what we might call the "conservative presumption" (the presumption that the deceased would object to the use of their bodies after death) is contrary to what little circumstantial evidence there is. It is also contrary to evidence from a number of surveys. The U.K. Organ

[20] See, for example, John Harris, "Scientific Research is a Moral Duty," *Journal of Medical Ethics* 31, 4 (2005), 242–248.

Donation Taskforce, reporting in 2008, noted: "The public is very supportive of organ donation in principle, with 90% in favour in a UKT survey carried out in 2003, and nearly 15 million people already on the NHS Organ Donor Register".[21]

SAINTS, SINNERS, AND SARCOPHAGI

In Christian Europe, it is almost impossible to walk into a cathedral or major place of worship or pilgrimage without being confronted by religious relics in the form of body parts and other mementi mori; bones, blood, sweat, and tears are all on prominent and proud display. Indeed, in many parts of Italy, "Lachryma Christi" is not just the name of an alcoholic beverage. It is doubtful whether any of these body parts, whether of saints or sinners, were collected under strict consent regimes of the sort envisaged by the U.K. Human Tissue Act. And while that rigorous and misconceived piece of legislation applies strictly to any tissue or human material stored, for example, in Manchester's Medical School, just across Oxford Road in the Manchester Museum (also an institution of Manchester University), we find ancient Egyptians and ancient Britons (rubbing, if not shoulders, at least shoulder blades) on display to a curious public.[22] It is more than interesting that churches, temples, museums, and the numerous private collections containing human remains have not only largely escaped regulation, but have almost entirely avoided criticism for displaying, among other things, the body of Tutankhamen, the tooth of the Buddha, or the blood of Christ. Indeed, as far as I am aware, none of the three gentleman just mentioned has every complained about these apparently gross acts of lèse-majesté. Could this be because they have neither minded nor suffered thereby? I like to think that this must be the explanation and that therefore we should not worry too much about the fate of the remains of lesser mortals, particularly when this fate contributes to human good, either by education or example or the facilitation of science and innovation. The three form a powerful group, all of them with claims to immortality of one sort or another.

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[21] http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_082120.pdf(accessed 6th April 2011).

[22] I choose, almost at random, an example from my own environment.

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Suicide: A Qualified Defense

David Benatar

INTRODUCTION

EVEN IF WE do not agree with Albert Camus that suicide is the *only* truly philosophical problem,[1] we should certainly acknowledge that it is *a* serious philosophical problem. Taking one's own life is a momentous act, not least because of its finality. One cannot undo a suicide. Yet, contrary to what some have thought, suicide cannot for this reason be ruled out categorically. There are some fates that are both worse than and only avoidable by death.

Although some cultures have been relatively accepting of suicide and even regarded it as virtuous in some circumstances, the opposite is true of many other cultures, including most contemporary Western cultures. In those societies that frown upon suicide, it is generally either morally condemned or pathologized. This view is partly correct and partly mistaken. It is quite clear that suicide *often* results from psychopathology or is morally wrong. Nevertheless, suicide has been the subject of more opprobrium than is warranted. I argue that although suicide is always *tragic*, we ought often to be less judgmental toward it, whether psychiatrically or morally, than people usually are.

Although analytic philosophers have said much about suicide, their focus has been almost exclusively on the question of whether suicide is ever morally permissible, as distinct from whether there is ever something stronger to be said in its favor. Moreover, most (but not all) such philosophical writing considers this question

[1] Albert Camus, *The Myth of Sisyphus* (New York: Vintage Books, 1991), 3.

within the context of terminal disease or unbearable and intractable (usually physical) suffering.[2]

For some, these are the only bases for suicide that are even worthy of discussion. Others are prepared to extend the discussion to a limited range of other cases, such as those involving irreversible loss of dignity. Suicide on any other grounds, according to this view, must surely be wrong. I take this view to be mistaken. We cannot preclude the possibility that somebody's life may become unacceptably burdensome to him even though his death is not already imminent and he is not suffering unbearable and intractable physical pain or irreversible loss of dignity.

Not all who have ignored other grounds have done so because they think that such suicide would be impermissible. Some of them may have decided, given the general antipathy to suicide, to focus on the conditions under which suicide can most easily be defended. This approach, although understandable, is regrettable. If an autonomous person's life is unacceptably burdensome to him, then suicide is a reasonable topic for discussion even though others would not find life in the same condition unacceptably burdensome. Such suicide is worthy of consideration even though it is more controversial than suicide in the circumstances that are usually discussed.

Therefore, my discussion of suicide is broader than usual. I examine suicide as a response not only to the worst conditions in which people sometimes find themselves, but also to conditions that although less severe might nonetheless be reasonably judged to make life not worth continuing.[3] These include less severe physical conditions, psychological suffering of varying degrees, as well as lesser indignities, including (at least for adults) dependence on others for the performance of basic tasks such as feeding and bathing oneself.

In addition to looking at a broader range of conditions to which suicide may be a response, I also examine not only the question of whether suicide is permissible, but also whether there is something more to be said for it, at least in some circumstances. In this regard, I shall not be concerned with the question of whether it is ever *required*, but rather with the question of whether it may sometimes be *more* rational than continuing to live.

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[2] There are some exceptions. See, for example, Margaret Pabst Battin, *Ethical Issues in Suicide* (Upper Saddle River, NJ: Prentice-Hall, 1995); Valerie Gray Hardcastle and Rosalyn Walker, "Supporting Irrational Suicide," *Bioethics* 16, 5 (2002), 425–438.

[3] I prefer the expression "a life not worth continuing" to "a life not worth living". This is because the latter expression is ambiguous between my preferred expression and "a life worth starting". This distinction is important because different standards should be used to evaluate lives that have have already begun and those that have not. For more on this, see *Better Never to Have Been* (Oxford, UK: Oxford University Press, 2006), 22–28.

Although my discussion of suicide is broader than usual in these ways, there is one way in which what I say has a narrower focus. I am not concerned with the question of whether suicide ought to be legally permissible or the conditions under which it should be legally permissible. My focus is on an ethical and rational evaluation of suicide. This will have relevance to normative questions about the law. For example, insofar as suicide is not immoral, one cannot use its purported immorality to justify a legal prohibition. However, demonstrating that suicide is morally permissible (or even preferable) is not sufficient to show that it should be legal. To reach that conclusion, one would have to ward off other arguments for attaching legal sanctions to suicide. I happen to think that suicide should be legal, but I do not argue for that here.

Nor am I concerned with questions about what suicide is. To be sure, there are cases where it is unclear whether the term "suicide" is suitably applied. For example, was Socrates' death a suicide?[4] He did drink (raise to his lips, sip, swallow) the poisonous hemlock that resulted in his death. Yet he did so because he was sentenced to death, a penalty inflicted by means of the ingestion of hemlock. He did not want to die and was not aiming at his death. Was Captain Lawrence Oates's death suicide? A member of Robert Falcon Scott's expedition to the South Pole, he realized on the ill-fated return journey that his injury was slowing and thus endangering his comrades' safe return to base. They would not abandon him. One day he stepped out into the snow. His aim was to relieve the burden on his comrades rather than to die, but he knew that his action would result in his death. Fascinating though these questions are, my interest here is in paradigmatic cases of suicide when somebody kills himself because he takes that to be in his own interests. Although there may be some sense in which such people would rather not die, they do, given their circumstances, want to die. If these cases of self-interested self-killing are not suicide, then there are no suicides. My concern is with the evaluation, rather than the definition, of suicide.

Discussions about the ethics of suicide are immediately biased by the verb that customarily attaches to it in English. One "commits" suicide. Because this presupposes the wrongfulness of suicide, I avoid that verb, opting instead for "carry out" suicide. This is evaluatively neutral, avoiding both the usual bias against suicide and the unusual bias in favor of it that the verb "achieve" would effect. "Carry out" is preferable to "practice", which implies something ongoing. Finally, "carry out" also implies a suicide that is completed rather than merely attempted.

When successful, suicide results in death. Some believe that life continues after death. Others take death to be the irreversible cessation of the self. Which of these views is true is relevant to an evaluation of suicide. If, for example, there were life

[4] R. G. Frey, "Did Socrates Commit Suicide?" *Philosophy* 53 (1978), 106–108.

after death, then we would need to know just what that life would be like. It would make a difference if death were followed by torments still worse than those experienced in earthly life or if it were followed by blissful pleasures of which the pre-dead can only dream. I assume that there is no afterlife and that death is the end.[5]

In the next section, I respond to a number of arguments that are commonly advanced against suicide, arguments that are intended to show that suicide is never (or almost never) justified. Having shown that these arguments fail and that suicide is sometimes permissible, I venture in the following section to more controversial terrain. There, I argue that suicide may be warranted much more often than people think.

RESPONDING TO COMMON ARGUMENTS AGAINST SUICIDE

Suicide as Murder

Some have regarded suicide as a species of murder and as heinous. The word "murder", unlike "killing", is not value-neutral. It denotes wrongfulness (or, in the legal context, unlawfulness). Thus everybody, or at least everybody who understands the concept, thinks that murder is wrong. The disagreement arises with regard to *why* murder is wrong and thus which killings do and which killings do not constitute murder.

If, for example, one thinks that murder is wrong because it involves taking an innocent human life, then it does indeed follow that suicide is (usually) wrong. However, assuming that the taking of innocent human life is wrong merely begs the question. Those who think that suicide is sometimes permissible clearly do not accept this assumption. More specifically, they deny that suicide can be faulted merely because the person killing himself is killing an innocent human. If we ask ourselves *why* it is usually wrong to kill innocent humans, we find that there may be grounds for distinguishing suicide from murder.

One compelling explanation of why murder is wrong is that it thwarts interests that the victims have a right to have respected.[6] If that is so, then suicide may be permissible, at least when two conditions are met: (1) Continued life is not in a person's interests; and (2) the relevant right, the right to life, does not preclude taking that person's life. These conditions are typically met in cases of rational suicide. In such

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[5] Those who reject this assumption and wish to evaluate suicide face the unenviable task of demonstrating, rather than merely asserting, what the nature of the purported afterlife is.

[6] A variant on this explanation is that murder is wrong because it thwarts interests of the victim *or* violates their right to life. This version differs from the other one in delinking the right from the interest. Instead of viewing the right as protecting the interest, it views the right and the interest as distinct.

cases, life has become so burdensome that continued life is either not in that person's interests or not reasonably thought to be in his interests. Moreover, because the person who dies has consented to be killed—for that is what rationally killing oneself implies—the right to life has not been violated.

There is more than one way to understand why one's right to life is not violated when one kills oneself. If one understands rights in such a way that the correlative duties are borne only by those other than the right-bearer, then the right-bearer has no duty to himself. On this view, my having a negative right to life implies that others have correlative duties not to kill me. It does not imply that I have a duty not to kill myself. Thus, when a person rationally kills himself, he has not violated his own rights.

Those who think that a right's correlative duties include a reflexive duty on the right-bearer will say that my right not to be killed includes a duty on me not to kill myself. However, even that view does not entail the wrongfulness of suicide. This is because a competent right-bearer has the moral power either to assert or waive a right. I have rights to my property but I may waive these rights by lending something I own. I have a right to bodily integrity, but I may waive this when I grant a surgeon permission to perform some procedure on me. If a right-bearer were to lack such power, then the right, rather than serving the interests of the right-bearer, could become his master. Thus, even if rights entail correlative duties to self, these duties differ in a fundamental way from other duties correlated to the right. Unlike other duties, the reflexive duties are duties from which the duty-bearer may release himself (because he is the right-bearer who has the power to waive the right). It is because of this that the second view of rights, which claims that rights have correlative reflexive duties, reduces to the first view of rights, which denies they have correlative reflexive duties. The first view is thus preferable because it is theoretically more parsimonious than the second view.

Opponents of suicide may argue in response that because basic rights, such as a negative right to life, are inalienable, a right-bearer may not release himself or others from the correlative duty. The assumption that basic rights are inalienable is controversial. One reason for disputing it is that if rights are inalienable, then they become a burden rather than a benefit to the right-bearer. However, the permissibility of suicide does not rest on rejecting the claim that rights are inalienable. Those who think that suicide is sometimes permissible or reasonable could accept that rights are inalienable. They then need only distinguish between the inalienability of a right and its waivability. To alienate a right always involves ceasing to have it. Although waiving a right sometimes has the same effect,[7] it is usually more limited. To waive a

[7] For example, I waive my right to claim a debt from you and thereby lose any future claim. However, notice that this sort of rights-waiving involves a right in personam rather than in rem.

right may involve only forgoing its protection at a given time in a particular circumstance and with regard to a particular correlative duty-bearer. Thus, if I alienate my right not to be killed, anybody may kill me at any time. I no longer enjoy the moral protection of the right, and I cannot regain it. However, if I merely waive my right with respect to a particular person, I release that person—either myself in the case of suicide or another in the case of euthanasia[8]—from the duty not to kill me.[9] If somebody else kills me, he has violated my right because he was not within the scope of my right-waiving. And if I change my mind, I can reassert my right and thereby re-impose the duty on the person whom I had released from the duty. It follows from this that we do not need to postulate an independent negative right to die in order to defend the permissibility of suicide. All we need do is understand that a right not to be killed has a corollary—the permission to kill oneself.

Given this, some opponents of suicide might deny that the wrongfulness of murder is best explained as a violation of a right to life. They may argue, instead, that murder is wrong because it violates a duty to God rather than to the person who is killed. However, this argument suffers from the usual sorts of problems faced by religious arguments. Most important, the underlying assumptions are highly controversial. These include not only the claim that God exists but also, if he does, that the prohibition on murder includes a prohibition on suicide. Given that the burdens endured by those who contemplate suicide are more easily demonstrable than are the assumptions of the religious argument, the former should weigh more heavily than the latter, at least for those who do not share the assumptions. To suggest otherwise is to condemn the suicidal to unbearable suffering on grounds that cannot be verified.

Suicide as Irrational

The argument that a right to life, because it can be waived, entails a permission to die presupposes that the right-bearer is competent to make the decision whether to waive the right. Some critics of suicide have implicitly denied that those who would kill themselves are competent to make this decision. This, say the critics, is because all suicide is irrational. Thus, anybody who kills himself cannot be competent.

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[8] Suicide has one advantage over voluntary euthanasia. Because the suicide kills himself, the rest of us have an extra level of assurance that he really wanted to die. This is because it probably takes greater conviction to perform the act oneself than to ask others to do it.

[9] Other rights work in the same way. For example, a right to the confidentiality of some specified information may be waived with regard to a particular person if one allows one's doctor (but not anybody else) to share that information with a particular person. That is quite different from alienating one's right to confidentiality, which would allow anybody to convey any information to anybody else.

The claim that all suicide is irrational can be understood in different ways, corresponding to different senses of irrationality. One way in which somebody might be irrational is by adopting means that do not, and should be known do not, secure their ends. Thus, for example, to attempt to quench one's thirst by shaving one's head is irrational because head-shaving is obviously not an appropriate means for quenching one's thirst. In contrast, drinking a glass of water is rational because it is clearly one means of attaining one's end. Following this ends-means view of rationality (and irrationality), some suicides clearly are irrational. Suicide is not an effective means to every end. Thus, when it does not serve one's end, it is irrational. However, it should be equally clear that suicide may also often be entirely rational under the ends-means conception of rationality. If one's end is to avoid those of life's burdens that can only be avoided by the cessation of one's life, then not only is suicide *a* rational action, it is *the* rational course of action.

Perhaps, then, the suicide critics' conception of irrationality is different. Perhaps they understand as irrational any end to which suicide is the means. On this view, suicide is irrational not because it is a hopelessly ineffective means to attaining the desired goal, but rather because it is a means to an irrational end. Although it may be rational, as a means, to kill oneself if one wants to die, it is not rational to want to die.

If the claim is that it is never (or even almost never) rational to want to die, then again it is difficult to sustain. It implies that life is *never* (or almost never) so bad that death is preferable to continued life in such a condition. This view must certainly be a dogma rather than an informed response to the range of horrific conditions in which humans can and regularly do find themselves. These include excruciating pains that when palliated (if suitable medications are available)[10] are alleviated only by dulling one's consciousness and thereby diminishing one's independence and exacerbating one's indignity. They also include terminal diseases that steadily sap one's life, and irreversible degenerative conditions that cause an inexorable loss of either one's mind or the use of one's body; nor should we forget those who suffer grinding poverty or massive injuries and hideous disfigurements, and those who are paralyzed or who irreversibly lose bowel or bladder control. Although not everybody in such situations would rather die than continue to live in such a condition, the preference of those who would rather die is not unreasonable.

This refutes the suggestion that those who are suffering the burdens of life are not in a fit state to judge whether death is preferable to continued life. Those burdens do not cloud the mind, rendering sound judgment impossible. Instead, the burdens are entirely germane to decisions about whether life is worth continuing. Indeed, in such circumstances, the burdens may not so much cloud the mind as focus it.

[10] Many people, even today, lack access to palliative medicines.

Suicide as Unnatural

Closely related to the claim that suicide is irrational is the objection that it is unnatural. The argument that a practice is immoral on account of being unnatural occurs in many contexts, but it is deeply flawed and succumbs to well-known objections. There are at least two ways in which suicide is said to be unnatural. First, suicide leads to one's dying sooner than one would have died if nature had been allowed to take its course. Second, suicide is contrary to the natural instinct to continue living.

The first version of the argument assumes that a person's taking his own life is not part of nature. It assumes, therefore, that the actions of moral agents are not natural in the relevant sense. That is a controversial claim, but we may grant it for the moment. If suicide were morally problematic because it leads to an earlier death than would naturally have occurred, then saving lives, at least those threatened by moral agents, is also morally problematic because it too subverts a person's natural fate.[11] It leads him to die later than he would have died if nature had been allowed to take its course. There are some people who are willing to embrace this conclusion, but most see it as a reductio ad absurdum of the argument. Those who are prepared to accept the implication for saving lives need to explain why it is immoral to alter the time at which one would naturally have died. What normative force does nature have? And if nature does have such force, why may we interfere with nature in other ways, by building houses or by farming, for example?

The second version of the argument is not any better. Although humans (like other animals) do have a natural instinct to continue living, it is also the case in some circumstances that people naturally lose the will to continue living. Nor is it clear why we ought to comply with our natural instincts. Instincts to violence or sex are regularly thought to be instincts that should be kept in check, even by those who think that we ought not to act contrary to the instinct to continue living.

Suicide as Cowardice

A fourth way in which suicide is criticized is by claiming that it is a cowardly act. The idea is that the person who kills himself lacks the courage to face life's burdens and thus "takes the easy way out". Courage, on this view, requires standing one's ground in the face of life's adversities and bearing these with fortitude.

One way to respond to this criticism is to deny that accepting life's burdens is always courageous. This will seem odd to those who have a crude conception of courage according to which the unswerving, fearless response to adversity is always courageous.

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[11] David Hume offers this argument. See his "Of Suicide" in David Hume, *Essays: Moral, Political and Literary*, Eugene F. Miller, ed. (Indianapolis: Liberty Classics [Revised Edition], 1987), 583.

More sophisticated accounts of courage, however, recognize that the steely response may sometimes be a failing. This is what lies behind the adage that sometimes "discretion is the better part of valour". On the more sophisticated views, too much bravado ceases to be courageous and is instead foolhardiness or even foolishness. Once we recognize that courage should not be confused with its simulacra, the possibility arises that some of life's burdens may be so great and the point of bearing them so tenuous that enduring them further is not courageous at all and may even be foolish.

Simply because a suicidal person judges death to be less bad than continued existence does not mean that bringing about one's own death is *easy*. There is obviously a sense in which he has judged it to be *easier* than continuing to live, but that sort of relative claim can be made, in the reverse direction, of the person who judges continued life in a burdensome condition to be less bad than the alternative of taking his own life. Yet the advocate of the cowardice objection does not claim that the one who endures life's burdens is for that reason cowardly. That one option is preferable to another does not mean that the preferred option is *easy*. Indeed, neither living with significant burdens nor taking one's own life is without difficulty. Although one may be judged preferable to the other, it is preferable in the sense of being "less bad" rather than "more good".

Those who accuse suicides of cowardice fail to see just how demanding the task of killing oneself can be. Suicide is difficult because of the formidable life drive that animates most people, even most of those who eventually take their own lives.

Even if some people lose *all* will to live, many others who kill themselves would like to continue living if only continued living were not so burdensome. They have to overcome their will to live in order to take their lives. This is not easy at all. It is thus unsurprising that more people contemplate suicide than attempt it, and there are more attempted suicides than successful ones.

Given the resolve that some people have to muster in order to take their own lives, combined with the futility or severity of their circumstance, it may well be that suicide is at least sometimes the more courageous option than the alternative.

Interests of Others

A fifth critique of suicide is that the person who kills himself violates duties he has to others. In earlier times, suicide was not only morally condemned but also criminalized because the person who took his own life thereby deprived the king of one of his subjects.[12] Thus, suicide was viewed as a kind of theft against the monarch.

[12] Although somebody who was successful in taking his own life was himself beyond the reach of punitive repurcussions, neither his remains nor his estate were. Those who unsuccessfully attempted suicide were obviously more vulnerable.

Today, this view seems at best quaint, but more likely repugnant, because it implies the king's ownership of his subjects. The idea can be made more palatable to modern sensibilities if one shifts from speaking of the king's ownership of his subjects to the state's interest in the life of the citizen. However, this version of the view seems harder pressed to rule out all suicide. Even if the state does have an interest in each of its citizens, it is surely the case that the interest each citizen has in himself is going to outweigh the state's interest in him. If his life has become so burdensome to him that continued life is not in his interests, it is hard to see how the state's interest in his continued life would be sufficient to render suicide wrong. I am not suggesting that there could be no such circumstances, but they could hardly be the norm.

The argument that suicide may violate duties to others assumes its strongest form when the relevant others are close family, friends or, sometimes, those to whom one has special obligations. These sorts of people stand to suffer profound loss if one takes one's own life. Not only are one's family and friends bereaved, but the loss may be heightened by the fact that one took one's own life. This may be exacerbated by feelings of guilt that they may experience over one's suicide. Moreover, one's death may preclude one's fulfilling duties that one had toward them. One's children may be deprived of a parent and the fulfillment of one's parental duties (even if one's spouse remains alive). One's friends may be deprived of one's company or counsel, and one's patients, clients, or students may be deprived of one's care, services, or instruction.[13] For these reasons, some people have been inclined to view suicide as selfish. The suicide is said to think only of himself and not of those who are left behind.

As was the case with the earlier arguments, this one is inadequate to rule out all suicide. There probably are suicides where the person who kills himself has given his own interests excessive weight relative to the interests of others. Some burdens of life are insufficient to defeat the duties one owes others. Suicide in such circumstances may indeed be selfish. But this is surely not always the case. The greater the burdens of a life are, the less likely that the interests of friends and family will carry sufficient moral weight to defeat the prospective suicide's interest in ceasing to exist. It would be indecent, for example, for family members to expect a loved one to remain alive in conditions of extreme pain or degradation merely so that they can "have him alive". In such circumstances, it is unlikely that he would be able, even if he remained alive, to fulfill many or most of his erstwhile duties to them. Although they will miss his presence if he dies, his condition is too burdensome to require his continued presence. In such circumstances, what is selfish is the insistence that the prospective suicide remain alive, not that he seek his own demise.

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[13] Although these duties may be taken over by others, sometimes this involves some setback to those who had a special relationship with the person who took his own life.

The argument about selfishness can backfire in another way. Just as it is sometimes the case that those who kill themselves have accorded insufficient weight to the interests of others, so it is sometimes the case that those who *do not* kill themselves make this error. Consistent with what I have already said, I do not think that the interests of others are decisive. Nevertheless, there are situations in which a person's interest in continued life is negligible, because he will die soon anyway, and the quality of his life is appalling. If seeing out his days, rather than taking his own life earlier, would spell financial ruin for his family (because of the costs of his medical care), then it may well be unduly selfish not to take one's own life.

The Finality of Death

Finally, there is the finality argument. From the indisputable premise that death is final or irreversible, some people infer that for this reason we should not carry out suicide. This argument takes a number of forms.

One version of the argument notes that there are alternatives to death that do not close off options in the way that suicide does. Thus, one might try to enjoy life despite the burdens, perhaps by trying to distract oneself. This need not involve becoming oblivious to the burdens, but rather seeking relief by not dwelling on them. A second possible response is to accept life's burdens and endure them quietly or perhaps ironically. A third response is to protest against one's predicament (even though doing so cannot possibly undo or even ameliorate that predicament). What distinguishes this response from mere acceptance is that protest is a kind of *in*tolerance of life's burdens. When others are responsible for one's burdens, one could protest against them. However, one's protests need not be directed at anybody. It can be a generalized anger about an unfortunate state of affairs for which nobody is responsible.

There is indeed something to be said for each of these non-lethal responses to life's burdens, and thus one or another of them may well be the most appropriate response in some circumstances. For example, if one's burdens are minor and the costs of suicide (to others or oneself) are great, then enjoying one's life despite the burdens may indeed be the most reasonable reaction. If the burdens are greater but still bearable and carrying out suicide would impose still greater burdens on those to whom one is obligated, then acceptance of (and sometimes even protest against) one's condition may be preferable. However, noting these alternatives is insufficient to show that they are always preferable to suicide. If one's condition is bad enough, then it may make no sense to continue living, even if continued life enabled one to continue protesting. Why continue to bear and even to protest an unbearable condition if one could bring it to an end, albeit by bringing oneself to an end?

A second version of the finality argument notes an interesting difference between suicide and the other options. If one kills oneself, then there is no opportunity to change one's mind later and choose one of the other options instead. In contrast, if one chooses one of the non-lethal alternatives, one can, at any time, reverse one's decision and choose another course, including suicide.

Recognizing this is important for understanding the momentous nature of a suicide decision. However, an action cannot be judged unacceptable merely because it is irreversible. First, if we always deferred to a reversible course of action, then there is one sense in which the reversible decision becomes irreversible. That is to say, if one should never choose a course of action that cannot be reversed, then at each juncture that one reconsiders one is precluded from choosing suicide and thus one may never really switch to suicide from one of the non-lethal responses to life's burdens. If one may never switch to suicide then, though one may change one's mind and shift from one non-suicidal response to another, opting for a non-suicidal response becomes irreversible. Second, and more important, there is nothing about irreversible decisions that precludes their being the best decisions. We only have to be extra sure when making such decisions that they are the right ones.

A third version of the finality argument states that while one is alive, there is still hope that one's condition may improve, whereas once one is dead, all hope is lost. One problem with this version is that it often misses the point of suicide. The person who carries out suicide need not think that his condition will not be alleviated. He may merely judge his current condition to be unacceptable and conclude that no matter how much his situation may improve later, that outcome is simply not worth what he would have to endure in the interim. Moreover, even when the decision to kill oneself is based on a judgment about one's future prospects, it is not always rational to err on the side of continued life. Sometimes there is no realistic hope of improvement. In such situations, one may be faced with a choice between the remotest of possibilities that one's condition will improve and the certainty that one will suffer terrible burdens in the interim. Those who wager rationally do not consider only the quality of the competing options but also their probability. At least sometimes, then, suicide may be appropriate even when not all hope is lost.

BROADENING THE CASE FOR SUICIDE

So far, I have argued that suicide is sometimes permissible. Given the number of people who think that suicide is always wrong, these arguments are important. However, they support only a very weak claim. It is also a claim that many others have already defended. In what follows, I defend some stronger claims. I argue that

suicide is permissible more often than is widely thought, and I argue that suicide may sometimes be more reasonable than the alternative of remaining alive.

A More Accurate Assessment of Life's Quality

Central to judgments about the appropriateness of a given suicide is the quality of the life that the suicide ends. If, when judged in the right way, the quality of a life is (or will soon fall) below the level that makes it worth continuing, then, all things being equal, suicide is not inappropriate. In contrast, if the quality of life is above that level, then, all things being equal, suicide is inappropriate. As is to be expected, however, there is much disagreement about when a life is worth continuing.

One kind of disagreement concerns the criteria for determining how good or poor the quality of a life is. An influential taxonomy[14] distinguishes three kinds of theory about the quality of a life: hedonistic theories, desire-fulfillment theories, and objective-list theories. According to hedonistic theories, the quality of a life is determined by the extent to which it is characterized by positive and negative mental states, such as pleasure and pain. Positive mental states enhance the quality of life, while negative ones diminish it. According to desire-fulfillment theories, the quality of life is determined by the extent to which a person's desires are fulfilled. The objects of one's desires might include positive mental states, but they also include various states of the (external) world. Finally, objective-list theories claim that the quality of a life depends on the extent to which it contains certain objective goods and bads. Having positive mental states and fulfilled desires must surely be included among the things that are objectively good for us. However, the objective-list view differs from the hedonistic and desire-fulfillment views in holding that some things make our lives go better irrespective of whether they bring us pleasure or fulfill our desires. Similarly, on this view, other things diminish the quality of our lives irrespective of whether they cause pain or thwart our desires. Although objective-list theorists disagree among themselves about which things are objectively good and which are objectively bad, one can expect that there will be a lot of common ground. Some things could not reasonably be thought to be good while others could not reasonably be thought to be bad.

Sometimes the differences between and within these three views will be irrelevant to whether a given life is worth continuing. This is because all the views agree that the given life either is or is not worth continuing. For example, a person who faces for the rest of his life the choice of either unbearable pain or semi-consciousness is unlikely to be able to fulfill important desires, and his continued life is likely

[14] Derek Parfit, *Reasons and Persons* (New York: Oxford University Press, 1986), 493–502.

to be stripped of many important objective goods. However, the three views will not always converge in their judgments of a given life. In cases where their judgments diverge, it makes a difference which of the three views one adopts. I do not have the space here to adjudicate among the views. However, in any event, I would not want my qualified defense of suicide to depend on acceptance of one of the three views, for it would then have no effect on those who, notwithstanding any arguments I might advance for my preferred view, nonetheless hold one of its alternatives.

Determining the quality of a life, at least for the purposes of evaluating the suicide that ends it, is not merely a matter of establishing the extent to which the life satisfies a particular view's conditions for a good life. In the context of suicide, we need to consider not only how poor the quality of a life is, but also how poor the person whose life it is *thinks* it is. At one level, it is possible for the *actual* and *perceived* quality of a life to come apart. One can think that the quality of one's life is either better or worse than it really is.[15] One's perceptions are obviously important, because how bad one's life seems to one is relevant in determining whether it is bearable. There is another level, of course, at which the perceptions about the actual quality of a life constitute a feedback loop that affects how good the life actually is. Thus, if one thinks that one's terrible life is not that bad, then one's life is actually not as bad as it would be if one thought otherwise. Nevertheless, there is some value, as I shall show, in distinguishing between somebody's perception of his life's quality and how poor or good it actually is.

There is considerable variation in the quality of people's lives. How accurately people evaluate the quality of their lives also varies. Some people's assessments are less inaccurate than others. The possible relationships between lives of different qualities and peoples' perceptions of their lives' quality can be plotted on a set of axes (figure 13.1).

The worse the actual quality of somebody's life is, the lower on the vertical axis it should be placed. The worse a person's perceived quality of life is, the more to the left of the horizontal axis it should be placed. By combining both considerations, we may allocate somebody to any one of an indefinite number of positions in the area mapped out by the axes. The most accurate self-assessments of life's quality are to be

[15] Now it might be thought that whereas a person's perception of his life's quality could differ from the actual quality of his life on the objective-list and even the desire-fulfillment theories, the same is not possible on the hedonistic view. This is an error. One can be mistaken about how much pleasure and pain one's life actually contains. That one cannot be mistaken about whether one is currently having a pleasurable or a painful experience does not mean that one cannot be mistaken about how much pleasure and pain one has experienced so far or will experience in the future.

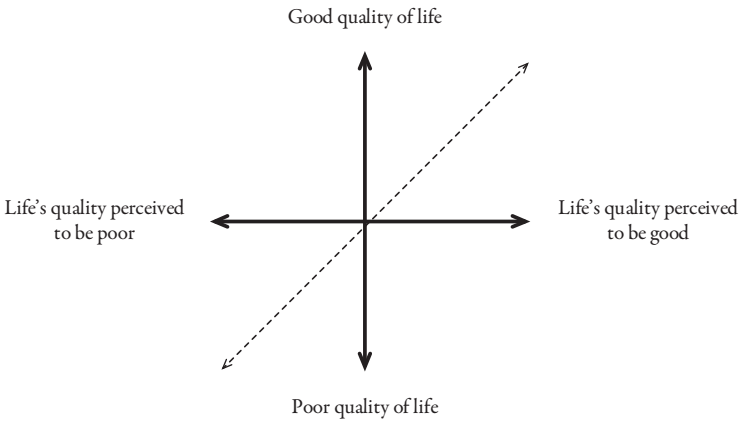

FIGURE 13.1 Relationships between perceived and actual quality of life.

found along the broken arrow, where people's self-assessments perfectly track the actual quality of their lives.

What bearing does this have on our assessments of suicide? First, among the cases in which suicide is most appropriate are those toward the bottom of the broken arrow. These lives are of an appalling quality, and those living them know them to be so. They want to die, and some of them do take their own lives. All those who think that suicide is sometimes permissible think that at least some of these suicides are among them. My earlier arguments responded to those people who think that suicide is wrong even for people living such wretched lives.

Second, and more interesting, is an important bias in most people's views about suicide. When discussing mistaken perceptions about the quality of life in the context of suicide, most people focus on those who underestimate the quality of their own lives. That is to say, they focus on those, among the people to the left of the broken arrow, who contemplate, attempt, or successfully carry out suicide. The planned, attempted, or actual suicides of such people are deemed to be irrational because they are based on inaccurate assessments of the quality of their lives.

One reason why this focus is curious is that self-underestimates of life's quality are actually much less common than self-*over*estimates of the quality of one's life. Psychological research has shown quite conclusively that humans tend to have an exaggerated sense of their own well-being. Our self-assessments of our well-being are indeed unreliable, but almost always because we think that the quality of our lives is better than it really is, rather than because we think it is worse.

There are a number of well-established features of human psychology that explain this. The first and most general is what has become known as the "Pollyanna

Principle",[16] a tendency toward optimism.[17] This manifests in disproportionate recall of positive over negative experiences[18] and in an exaggerated sense of how well things will go in the future.[19] It is also exhibited in the marked tendency of people to rate their own well-being toward the positive end of the spectrum. Thus, most people believe that they are better off than most other people or than the average person.[20] It is impossible, of course, that most of them are correct in thinking this.

A second psychological characteristic that leads to an inflated sense of one's quality of life is what has variably been known as adaptation, accommodation, or habituation. When a person's actual quality of life dips, the initial response is subjective dissatisfaction. However, the person then adapts to his new situation, and his subjective assessment of the quality of his life improves, even though there is no commensurate improvement in his actual quality of life.[21] Although there is some dispute about how much adaptation occurs and how the extent of the adaptation varies in different domains of life, there is agreement that adaptation does occur.[22] In other words, following a decline in the actual quality of one's life, one's perception of that decline initially tracks it more closely

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[16] Margaret W. Matlin and David J. Stang, *The Pollyanna Principle: Selectivity in Language, Memory and Thought* (Cambridge, MA: Schenkman, 1978). The principle is named after Pollyanna, the cheery protagonist of Eleanor Porter's children's book of that same name; Eleanor H. Porter, *Pollyanna* (London: George G. Harrap, 1927). Pollyanna always plays the "glad game"—seeking a bright side to whatever misfortune might befall one.

[17] This is also discussed at great length in Shelley E. Taylor, *Positive Illusions: Creative Self-Deception and the Healthy Mind* (New York: Basic Books, 1989). There is quite a bit of evidence that happier people with greater self-esteem tend to have a less realistic view of themselves. Those with a more realistic view tend either to be depressed or have low self-esteem or both. For a discussion of this, see Shelley E. Taylor and Jonathon D. Brown, "Illusion and Well-Being: A Social Psychological Perspective on Mental Health," *Psychological Bulletin* 103, 2 (1998), 193–210.

[18] The literature on this topic is reviewed by M. Matlin and D. Stang, *The Pollyanna Principle*, 141–144. See also Anthony G. Greenwald, "The Totalitarian Ego: Fabrication and Revision of Personal History," *American Psychologist* 35, 7 (1980), 603–618.

[19] For a review of some of this research, see Taylor and Brown, "Illusion and Well-Being," 196–197. See also M. Matlin and D. Stang, *The Pollyanna Principle*, 160–166. For examples of the primary literature, see Neil D. Weinstein, "Unrealistic Optimism about Future Life Events," *Journal of Personality and Social Psychology* 39, 5 (1980), 806–820; Neil D. Weinstein, "Why it Won't Happen to Me: Perceptions of Risk Factors and Susceptibility," *Health Psychology* 3, 5(1984), 431–457. The latter study suggests that the optimism extends only to those aspects of one's health that are *perceived* to be controllable.

[20] M. Matlin and D. Stang (*The Pollyanna Principle*, 146–147) cite a number of studies that reached this conclusion. See also F. M. Andrews and S. B. Withey, *Social Indicators of Well-Being* (New York: Plenum, 1976), 334.

[21] Angus Campbell, Philip E. Converse, and Willard L. Rodgers, *The Quality of American Life* (New York: Russell Sage Foundation, 1976), 163–164, 485; Philip Brickman, Dan Coates, and Ronnie Janoff-Bulman, "Lottery Winners and Accident Victims: Is Happiness Relative?" *Journal of Personality and Social Psychology* 36, 8 (1978), 917–927; Bruce Headey and Alexander Wearing, "Personality, Life Events, and Subjective Well-Being: Toward a Dynamic Equilibrium Model," *Journal of Personality and Social Psychology* 57, 4 (1989), 731–739; Eunkook Suh, Ed Diener, and Frank Fujita, "Events and Subjective Well-Being: Only Recent Events Matter," *Journal of Personality and Social Psychology* 70, 5 (1996), 1091–1102. For a recent review of the literature, see Ed Diener, Eunkook M. Suh, Richard E. Lucas, and Heidi L. Smith, "Subjective Well-Being: Three Decades of Progress," *Psychological Bulletin* 125, 2 (1999), 285–286.

[22] For example, although not denying the phenomenon of adaptation, Richard A. Easterlin thinks that the extent of adaptation is sometimes exaggerated. See his "Explaining Happiness," *Proceedings of the National Academy of Sciences* 100, 19 (2003), 11176–11183; and "The Economics of Happiness," *Daedalus* (Spring 2004), 26–33.

(moderated, perhaps, by other optimism biases), but then one's subjective response to the objective condition becomes less accurate as one adapts.

A third attribute of human psychology that leads to an overestimation of one's own quality of life is the implicit comparison with the well-being of others that informs our self-assessments.[23] When a person assesses how well his own life is going, he is really assessing how well it is going relative to other people. Thus, insofar as the well-being of all those around one suffers the same actual deprivation, it will not feature in one's self-assessment.

Pollyannaism is the only one of these three psychological phenomena that inclines people unequivocally toward more positive assessments of the quality of their lives. Adaptation occurs in response not only to negative but also to positive experiences. We compare ourselves with both those who are worse off than us and those who are better off. However, given the force of Pollyannaism, the other psychological phenomena I have described function both from an optimistic baseline and under the influence of optimistic biases. For example, people have a greater tendency to compare themselves with those who are worse off than with those who are better off.[24] Thus, in the best cases, adaptation and comparison reinforce Pollyannaism. In the worst cases, they mitigate it but do not negate it entirely.

Recognizing the general human tendency toward overestimating life's quality is important for a few reasons. First, it calls into question whether those who are said to be underestimating the quality of their lives really are underestimating it. Although there probably are some people who truly do underestimate the level of their well-being, it is very likely that many of those who are thought by other people to do so are rather merely falling short of the normal exaggeration. If the norm is to have an inflated sense of how well one's life goes, then those who have either an accurate view of their well-being or merely a view that is less exaggerated than is the norm will appear to most people as underestimating the quality of their lives.

The optimistic biases are so deeply ingrained in people (not least because of the evolutionary roots of these biases) that most people will simply deny that humans have these biases. However, that is to compound a delusion with obstinacy. The evidence for an optimism bias is quite clear. Anybody who honestly wants to evaluate the reliability of self-assessments of quality of life must take this bias into account. Those who do recognize this bias will dismiss fewer self-evaluations of those people who judge their lives not to be worth continuing. Many of those who are pessimistic,

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[23] See, for example, Joanne V. Wood, "What is Social Comparison and How Should We Study it?" *Personality and Social Psychology Bulletin* 22, 5 (1996), 520–537.

[24] This is discussed by Jonathon D. Brown and Keith A. Dutton, "Truth and Consequences: the Costs and Benefits of Accurate Self-Knowledge," *Personality and Social Psychology Bulletin* 21, 12 (December 1995), 1292.

depressed, or otherwise unhappy actually have a much more accurate view of the quality of their lives than the cheery optimists who constitute the bulk of humanity. The views of the unhappy may well be harder to have and to live with, but they may be more accurate and, in that sense, more rational.

Among the many people who overestimate the quality of their life are some who, if they had a more accurate view, would carry out suicide (or at least consider or attempt it). Nothing I have said implies that it is irrational, all things considered, for these people to fail to kill themselves. Although their overestimation of the quality of their lives is a kind of irrationality, their perception of the quality of their lives, even if mistaken, is obviously relevant to an all-things-considered appraisal of their failure to kill themselves. First, the perception of one's quality of life affects the actual quality of one's life. A life that feels better than it really is *is* actually better than it would be in the absence of that perception. This is not to say that the life is actually as good as it is perceived to be, but rather that the perception has a positive impact on the actual quality of life. Second, it obviously matters in itself how good or bad one's life feels, irrespective of its actual quality. If it feels worth continuing, then it is obviously not so burdensome as to make one prefer one's death, even if objectively one would be better off dead.

However, those reluctant to respect particular suicides should note that parallel claims can be made about those few cases where people really do underestimate the quality of their lives. That perception does make their lives worse than they otherwise would be. If they feel that their lives are not worth continuing, then their lives have become so burdensome that they prefer death. Although their perception may be mistaken and thus irrational in this way, their preference for death may be rational in another way—given how burdensome life feels, death may be best for this person.

Now it may be suggested that, notwithstanding these similarities, there is a crucial difference between cases where people overestimate and cases where people underestimate the quality of their lives. When somebody truly underestimates, we should try to convince him that his life is not as bad as he thinks it is, particularly if his being convinced would prevent his suicide. In contrast, in the case where somebody overestimates the quality of his life, we should not try to convince him that he is deluded and his life is actually not worth continuing.

There is indeed an important difference here, but we need to understand what accounts for it and the circumstances under which it may be eliminated. Consider first a person who seeks to kill himself because he truly underestimates the quality of his life. One important reason why we would respond to him by trying to show him that his life is actually better is that we could thereby bring him some relief.[25] In contrast, if we tried to convince the person who mistakenly overestimates the quality of his life, we could

[25] We could also benefit those whose friends and family would be left behind if he killed himself, but my focus for the moment is on the interests of the prospective suicide himself.

actually increase his suffering to the point, if we were sufficiently persuasive, that he can bear it no longer and thus kills himself. One might oneself be willing to bear the extra burden in exchange for the truth about oneself, but it is quite another matter to insist that others make the same tradeoff. Thus, when we have these asymmetrical responses, it is not because those who overestimate are less mistaken than those who underestimate. Instead, it is because it would be wrong to add to the burdens of somebody's life.

It is important to realize, however, that this will not always hold. If somebody's quality of life is actually sufficiently appalling, and his optimism is only making things worse for him, then it may well be appropriate for a sensitive confidant to intervene. There certainly are circumstances when the short-term additional burden of a more sober view of one's condition, leading to one's death, does spare one a much greater burden in the future. A trusted friend or family member could, in such circumstances, be warranted in raising this. He might reassure the wretched person that nobody could reasonably hold his suicide against him. Given the taboos against suicide, such assurances may come as a relief.

In summary, then, both underestimates and overestimates of one's quality of life are rationally defective. Critics of suicide typically focus only on the rational defects of those who underestimate the quality of their lives. Yet overestimation is much more pervasive. Moreover, given this pervasiveness, there are many cases where, although people are thought to be underestimating the quality of their lives, they in fact are not underestimating. They are often more accurately appraising the quality of their lives than the majority of people around them. However, the rationality of suicide is not reducible to whether one is or is not accurately assessing how good one's life is. There is a difference between whether one's view of the quality of one's life is rational and whether, given one's perception, suicide is rational. The perception of one's life's quality is important, although it is not always decisive.

Restoring an Individual's Control

In coming into existence we are guaranteed to suffer harms. The nature and magnitude of those harms varies from person to person. However, it is more common than not for these harms to include formidable ones: grinding poverty (and its associated costs), chronic pain, disability, or disease, trauma, shame, loneliness, unhappiness, frailty, and decrepitude. Sometimes, these mark an entire life. Other times, they begin to intrude into a life that was previously devoid of them. For example, no matter how youthfully robust one may be now, a time will come when one will become enfeebled, unless something else gets one first.

Although there are some things we can do to prevent or delay some of these harms, our fate, to a considerable extent, is out of our control. We may attempt to preserve our health, but all we can do thereby is reduce, not eliminate, the risks. Therefore, we have some but relatively little control over whether these harms will befall us. Indeed, the only actions that could have guaranteed that we not suffer these harms are actions over which we had no control, namely the actions that would have prevented us from coming into existence. These actions were within the control of our parents (and sometimes others), but never within our own control.

Thus, we are involuntarily brought into an existence that bears considerable risk of serious harm. We did not and could not consent to our coming into existence. Nor can we ever wrest this control from those who exercised it. However, it is still possible to decide whether to terminate one's existence. That, of course, is a quite different sort of decision from a decision to bring somebody into being. When a person is not brought into existence, there is no cost for that person, for he never exists. Those who do not exist have no interest in coming into existence. By contrast, once one has come into existence, one typically has an interest in continuing to exist. Unlike never coming into existence, ceasing to exist is tragic. It is tragic either because the interest in continued existence is outweighed by the interest in avoiding the burdens of life or because the burdens of life have become so great that one's interest in continuing to exist has been obliterated. Thus, suicide should not be seen glibly, as it sometimes is, as a ready solution to wrongful life. Nevertheless, suicide may sometimes be viewed as the least unattractive option.

If suicide were impermissible in all those cases when competent people judged their lives to be not worth continuing, then those people would be trapped. Life would have been forced on them, and they would have to endure whatever life dished out to them. It is bad enough that prospective parents see fit to create people who, as a consequence, will suffer. It is worse still, once these people are created, to condemn a decision they might make to terminate their lives. To deny people the moral freedom to kill themselves is to deny them control over a decision of immense importance to them.

This argument has implications not only for the most noxious of conditions that people may face, but also for conditions that, although significantly bad, are not the worst that life has to offer. First, although it may matter more to us that we not be trapped in lives whose quality is (or has dropped to) the lowest level, it also matters a great deal to many people that they not be trapped in lives that, although not this bad, are nonetheless very unpleasant. Second, because one would no longer have to endure any of the hardships of life if one ceased to exist, they are all avoidable.

We must keep in sight, of course, the fact that once we have come into existence, life's hardships are only avoidable at a cost. Thus, if suicide is to be reasonable, the

hardships need to be bad enough to offset that cost. Yet it is clear that these sorts of tradeoffs are heavily dependent not only on how bad one's life actually is or even on how bad one perceives it to be, but also on the value that one attaches to life of a certain quality. There is a tendency to attach immense value to life itself and thus to favor it in tradeoffs between death and continued life with an unfortunate condition. However, those who attach relatively less positive weight to life and relatively more negative weight to reductions in quality of life are not obviously unreasonable. Indeed, it may be argued that this is more reasonable. After all, it is very likely that the high value we attach to life is at least significantly influenced by a brute biological life drive, a strong instinct for self-preservation that is pre-rational, shared with other animals, and then, in the case of humans, rationalized. These biological origins of our valuing of life by no means show that life is not valuable. Indeed, they may simply explain why we value life. Nevertheless, recognizing the evolutionarily ancient pre-rational grounds of the life drive does call into question any illusions we might have that the value attached to life is the product of careful rational deliberation. There is nothing unreasonable about the person who says that though he would rather continue living, that preference is not so strong that he would rather continue living in an unpleasant condition. Those with a lower tolerance for the burdens of life may think it would be stupid for them to persevere when the end of those burdens is achievable.

Is Death Bad?

My argument has assumed something that most people do take to be true, namely that death is at least usually a harm to the one who dies. On this view, arguments for suicide attempt to show either that there are some exceptional cases when death is not a harm, or that the harm of death is outweighed by the harms of continuing to live in an unfortunate condition.

It is noteworthy, however, that there is an ancient and resilient challenge to the typical human view that death harms us. Epicurus famously argued that death is not bad for the one who dies because as long as one exists, one is not dead, and once death arrives, one no longer exists. Thus, my being dead (unlike my dying) is not something that I can experience. Nor is it a condition in which I can be. Instead, it is a condition in which I am not. Accordingly, my death is not something that can be bad for me.

Vast amounts have been written in response to and in defense of this and related arguments. It is not possible, in the space available here, to evaluate the Epicurean argument. I thus merely mention two ways in which consideration of this argument is relevant to the question of suicide.

First, and obviously, if the Epicurean argument is sound, then, from the perspective of one's own interests, suicide has no costs at all, at least if one does the job properly. The upshot of this is that much lighter burdens will be sufficient to make suicide reasonable. If one can avoid even a modest burden without cost, it makes sense to avoid it. It may even be imprudent not to do so. Of course, one's own interests, as I noted earlier, are not the only relevant ones. The interests of others, and especially those to whom one has obligations, should be counted, but they can sometimes be outweighed. And they are more likely to be outweighed when it is not in one's own interests to continue living.

Second, if the Epicurean argument is unsound, then arguably the best explanation why death harms the one who dies is that it deprives him of the goods he would have enjoyed had his life continued. This "deprivation" account of the harm of death does not imply that all deaths are equally bad. The worse the quality of remaining life promises to be, the less the harm done. Some lives are so bad that terminating them actually deprives those whose lives they are of nothing valuable. In such cases, the tragedy of suicide, or death more generally, is that a person's life prospects are so bad that death, ordinarily the great depriver, no longer robs the person of any future goods. When future life would still contain some good but not sufficient to make life worth continuing, then the tragedy of death is both that one's life is so bad and that one will be deprived of whatever good might still have been possible.

In summary, then, the truth of the Epicurean view, if it is true, would justify suicide in many more cases, and understanding why the Epicurean view fails, if it fails, reinforces our understanding of why suicide is at least sometimes justified.

CONCLUSION

Suicides tend to shock. This is not merely because the deaths they bring about are often unexpected by those who hear of them. It is also because they run counter to the deep-seated, natural instinct to self-preservation. Humans, like other animals, will go to great lengths to delay their own deaths. They are usually willing to incur considerable hardship if that is the only alternative to death even though, once dead, that hardship will be over, and one will no longer exist to regret the loss of the extra life one would otherwise have had. How else can we explain the cancer patient who endures the harrowing effects of treatment for the extra months of life it affords him, or the concentration camp inmate who endures the "excremental assault"[26] inflicted on him in order to survive the Holocaust?

[26] "Excremental assault" is Terrence Des Pres's term to refer to the complete defilement and degradation, by means of excrement and other bodily effluvia, of Nazi concentration camp inmates (and those in transit to such camps). See his "Excremental Assault" in John K. Roth and Michael Berenbaum, eds., *Holocaust: Religious and Philosophical Perspectives* (New York: Paragon House, 1989), 203–220.

Those who take their own lives, especially when the quality of those lives is much less bad than those of the cancer patient or the concentration camp prisoner, fly in the face of the normal will to live. They are seen as abnormal, not merely in the statistical sense of being unusual, but of being defective, either morally or psychologically.

I have argued that this response is inappropriate. Suicide is sometimes morally wrong, and it is sometimes the consequence of psychological problems. However, it is not always susceptible to such criticism. If we step back from our powerful survival instinct and our optimism bias, ending one's life may seem much wiser than continuing to live, particularly when the burdens of life are considerable. Moreover, it would be indecent to condemn those who, having deliberated carefully about the matter, decide that they no longer wish to endure the burdens of a life to which they never consented. They ought to take the interests of others, especially family and friends, into account. This is particularly true of those (such as spouses and parents) for whom obligations to others have been voluntarily undertaken. The presence of such connections and obligations will trump lesser burdens, morally speaking. However, once the burdens of life reach a certain level of severity (determined, in part, by the relevant person's own assessment of his life's value and quality), it becomes indecent to expect him to remain alive for the benefit of others.

14

Brain Injury and Survival

Walter Glannon

INTRODUCTION

THERE IS CONSIDERABLE variation in outcomes of severe brain injury resulting from trauma, anoxia, and pathologies such as tumors, strokes, and infections. Some brain-injured individuals become comatose, lose all brain functions, and are declared dead. Others may emerge from even prolonged comas with full conscious awareness and many or most of their physical and cognitive functions intact. But a number of people with these injuries live in altered states of consciousness with significant cognitive and physical disabilities. A smaller few retain full consciousness but experience profound amnesia. These outcomes often involve a significant change in one's psychological properties before and after an injury. This chapter explores two general questions regarding individuals with severe brain injury, one metaphysical, the other ethical. Do individuals with these injuries survive the events that caused them? In what sense can they be harmed? How one responds to the second question depends on how one responds to the first.

To give substance to these questions, I present two cases of individuals with profound amnesia resulting from neurosurgery and encephalitis. The amnesia in these cases illustrates the importance of episodic memory for psychological continuity and the experience of persisting through time. I present additional cases in distinguishing between the vegetative state (VS) and the minimally conscious state (MCS). These states differ according to the degree of integrated cortical (higher-brain) functioning and the extent of connections between and among the cortex, the thalamus, and the ascending reticular activating system in the brainstem. Although there is

little or no integrated cortical function and little or no capacity for consciousness in the VS, there is integrated but under-sustained cortical function and some degree of consciousness in the MCS. This underscores the fact that consciousness can be a matter of degree, which complicates the question of survival. I distinguish these two states in turn from locked-in syndrome (LIS), where an individual retains full conscious awareness despite being almost completely paralyzed by an injury to the brainstem that denies the brain its peripheral connections to the body. Following a discussion of whether individuals in these distinct neurological and psychological states survive their injuries, I consider the respects in which they may be harmed. This refers not only to how the actions of others affect them and their interests while they are in these states; it also refers to how they respond to the loss of or limitations in physical and cognitive functions from brain injury. I also consider the possibility of posthumous harm. This hinges on the question of whether persons have interests that survive their demise, and if they do have them, how the thwarting of these interests harms them.

TWO DISTINCTIONS

'Survival' means that an individual continues to exist as that same individual despite changes he or she undergoes from an earlier to a later time. If these changes involve permanent disruption in the connectedness or continuity of one's essential physical or psychological properties, then the individual in question ceases to exist.[1] The metaphysical question of survival hinges on two critical issues: whether one takes us to be essentially human organisms or persons; and whether one adopts numerical identity or narrative identity to trace the existence of an individual over time.

If we are essentially human organisms, then we begin to exist when there is a sufficiently integrated set of biological properties to uniquely identify us as individuals.[2] This may occur around the later embryonic or early fetal stage of development. We cease to exist when all brain and bodily functions permanently cease. This may occur after the permanent cessation of all brain functions. As neurologist D. Alan Shewmon has shown, some patients who meet criteria of brain death can survive for years as biological organisms with some degree of somatic integration and

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[1] This is roughly Derek Parfit's view. He says that what matters regarding survival is not (numerical) identity as such but relation R. This consists of psychological connectedness of memory, character, and other mental states, as well as psychological continuity, which consists of overlapping chains of strong connectedness sustained by enough of a person's brain. See *Reasons and Persons* (Oxford, UK: Clarendon Press, 1984), part III.

[2] Eric Olson defends this position in *The Human Animal: Personal Identity without Psychology* (New York: Oxford University Press, 1997), and *What Are We? A Study in Personal Ontology* (Oxford, UK: Oxford University Press, 2007).

homeostatic bodily functions intact.[3] If we are essentially persons, then we begin to exist when we develop the capacity for conscious awareness, which probably occurs in the neonatal period.[4] We cease to exist when we permanently lose this capacity. This occurs when there is irreversible cessation of integrated cortical function in the brain enabled by the thalamus and the brainstem ascending reticular activating system, as this function is necessary to generate and sustain awareness of self and one's surroundings.[5] Whether brainstem or somatic functions alone continue after this point is not sufficient to retain personhood. Although they overlap through much of the lifespan, a person begins to exist later than and may cease to exist earlier than a human organism, for which consciousness is only a contingent rather than a necessary property. A patient in a permanent vegetative state or irreversible coma who has lost the capacity for consciousness but has intact brainstem, cardio-circulatory, and somatic functions continues to exist as a human organism. But this same patient ceases to exist as a person.

According to numerical identity, *x* at an earlier time T1 is the same individual as *y* at a later time T2 just in case *x* and *y* have the same properties. Numerical identity can be defined in terms of the spatiotemporal continuity of a physical body through change. It may but need not include psychological properties associated with conscious awareness. According to narrative identity, *x* at T1 is the same individual as *y* at T2 just in case *x* and *y* have the same unified set of psychological characteristics and experiences constituting a distinctive autobiography. Narrative identity presupposes that the episodes in a person's life have a thematic unity shaped by the values and interests of that person.[6] The meaning of the total set of experiences in the life of a person is more than the sum of its parts. Agency is a necessary property of narrative identity, because whether one can construct a narrative from the episodes in one's life depends on the capacity to plan, undertake, and complete projects over time.

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[3] D. Alan Shewmon, "The Brain and Somatic Integration: Insights into the Standard Biological Rationale for Equating 'Brain Death' with Death," *Journal of Medicine and Philosophy* 26 (2001), 457–478; "Brain Death: Can it Be Resuscitated?" *Hastings Center Report* 39, 2 (2009), 18–24.

[4] Jeff McMahan defends the view that we are essentially persons, or what he calls "embodied minds" in *The Ethics of Killing; Problems at the Margins of Life* (Oxford, UK: Oxford University Press, 2002), chapter 1. The idea that being a person requires the capacity for self-consciousness is traceable to Locke in *An Essay Concerning Human Understanding*, ed., P. H. Nidditch (Oxford, UK: Clarendon Press, 1975), book II, ch. xxvii.

[5] Hal Blumenfeld, "The Neurological Examination of Consciousness," in Steven Laureys and Giulio Tononi, eds., *The Neurology of Consciousness: Cognitive Neuroscience and Neuropathology*. Amsterdam: Academic Press, 2009, 15–30. But see also Bjorn Merker, "Consciousness without a Cerebral Cortex: A Challenge for Neuroscience and Medicine," *Behavioral and Brain Sciences* 30 (2007): 63–81.

[6] Marya Schechtman developed the concept of narrative identity in *The Constitution of Selves* (Ithaca, NY: Cornell University Press, 1997). David DeGrazia developed it further in *Human Identity and Bioethics* (New York: Cambridge University Press, 2005).

Because narrative identity requires a richer and more unified set of psychological properties than numerical identity, the threshold of the degree of psychological integration necessary for the first is higher than what is necessary for the second. Following Locke and Parfit, one can say that an individual survives a brain injury if there is a sufficient degree of connectedness and continuity of that individual's psychological properties before and after the event. Connectedness involves relations between mental states holding over shorter periods, whereas continuity involves overlapping chains of strong connectedness holding over longer periods. The relevant mental states include desires, beliefs, emotions, and intentions, the realization of these intentions in actions, memories of these actions and other events, and anticipation of the future. Insofar as these mental states are thematically unified over time, narrative identity is grounded in psychological continuity.

The response to the question of whether an individual survives a brain injury depends on which concept of identity one adopts. Consider the case of Phineas Gage.[7] A metal projectile from an explosion penetrated his skull while he was working on the Burlington and Rutland Railroad in Vermont in 1848. The projectile damaged an area of his frontal lobes, the region of the brain that mediates cognitive functions such as reasoning, decision-making, and impulse control. The frontal lobes also mediate the cognitive and affective traits associated with personality. Some of his cognitive capacities were intact following the accident. But he became impulsive and impaired in his capacity for rational and moral decision-making. His emotions changed radically, and his behavior became erratic. There was such a change in his personality that those who knew him claimed that he was "no longer Gage." By this they did not mean that the post-injury Gage was not numerically identical to the pre-injury Gage. There was enough similarity between his physical properties to be identifiable as the same individual from the earlier to the later time. Rather, they made this remark because of the radical change in the behavioral properties on the basis of which they knew him. His qualitative or narrative identity changed because of the psychological disconnectedness and discontinuity between the characteristics that constituted his life before the injury and those that constituted his life after it. In this regard, Gage did not survive his brain injury.

If continuity of physical properties alone is sufficient for numerical identity, and if this concept of identity is consistent with the idea that we are human organisms, then an individual could lose all higher-brain functions, become permanently

[7] As discussed by Hanna Damasio et al., "The Return of Phineas Gage: Clues about the Brain from the Skull of a Famous Patient," *Science* 264 (1994), 1102–1105; and Antonio Damasio, *Descartes' Error: Emotion, Reason and the Human Brain* (New York: Grosset/Putnam, 1994), ch. 1.

vegetative or comatose, and survive indefinitely as the same individual in this state. Yet it is on the basis of personhood and narrative identity that we are able to value our lives. The capacity for conscious awareness that makes us persons enables us to interact with others. It enables each of us to integrate our actions and experiences into a meaningful whole. This includes the ability to undertake and complete projects resulting in achievement and fulfillment. These are not essential properties of human organisms. In light of this, I discuss the metaphysical and ethical aspects of survival on the assumptions that we are essentially persons rather than human organisms and that the relevant concept of identity is narrative rather than numerical identity.

The only medically and legally accepted neurological definition of death is the permanent cessation of all brain functions.[8] Yet the integrated higher-brain functions generating and sustaining the psychological properties necessary for one to be a person and persist as the same person may permanently cease despite intact sub-cortical and brainstem function. In that case, a person would not survive an injury resulting in this condition but would not meet the whole-brain definition of death. Because personhood and personal identity depend on a certain degree of integrated higher-brain function, and because one can lose this function and cease to be a person without meeting the standard neurological definition of death, I contrast "survival" with "ceasing to exist" instead of with "death." My position should not be equated with what Fred Feldman calls the "termination thesis," the view that people go out of existence when they die.[9] This is the denial of the notion that we survive death. It is the basis for the claim by Epicurus and Lucretius that it is irrational to fear death. For, as long as we exist, death is not with us; and when death comes, we do not exist.[10] I maintain that persons can cease to exist even when they do not meet the whole-brain neurological criterion of death. My revised version of the termination thesis is that persons go out of existence when they permanently lose all integrated cortical function in the brain.

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[8] This has remained unchanged since the Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death: "A Definition of Irreversible Coma," *Journal of the American Medical Association* 205 (1968), 337–340. Neurologist James Bernat defends this criterion in "The Biophilosophical Basis of Whole-Brain Death," in Ellen Frankel Paul, Fred D. Miller, Jr., and Jeffrey Paul, eds., *Bioethics* (New York: Cambridge University Press, 2002), 324–342.

[9] Fred Feldman, "The Termination Thesis," in Peter A. French and Howard Wettstein, eds., *Midwest Studies in Philosophy, Life and Death: Metaphysics and Ethics (Volume XXIV)* (Hoboken, NJ: Wiley-Blackwell, 2000), 98–115; also Feldman, *Confrontations with the Reaper: A Philosophical Study of the Nature and Value of Death* (New York: Oxford University Press, 1992), ch. 6.

[10] Epicurus, *The Extant Remains*, C. Bailey, ed. (Oxford, UK: Clarendon Press, 1926); Lucretius, *The Nature of the Universe*, R. E. Latham, trans. (Harmondsworth, UK: Penguin, 1951).

PROFOUND AMNESIA: H. M. AND CLIVE WEARING

Memory researchers distinguish declarative from non-declarative memory. The first type includes memory that one can consciously recall, whereas the second includes unconscious memory. Declarative memory is divided into semantic memory of facts and concepts and episodic memory of events, which is sometimes described as autobiographical memory. Semantic and episodic memories are formed and stored for a short period in the hippocampus, after which they migrate to different sites in the cerebral cortex for long-term storage. Working memory is a short-term version of declarative memory necessary to process information and to execute immediate cognitive tasks. The prefrontal cortex mediates working memory. Non-declarative memory includes memory of emotionally charged events. It enables us to respond appropriately to fearful or threatening stimuli, though in some cases it can result in psychopathologies such as posttraumatic stress disorder. Unconscious emotionally charged memories are mediated by the amygdala in the limbic system. Non-declarative memory also includes procedural memory of knowing how to do things, such as driving a car or riding a bicycle. The sub-cortical cerebellum and striatum mediate procedural memory.[11]

Amnesia usually affects two forms of episodic memory. Retrograde amnesia is the inability to recall or retrieve memories that one has already formed. Anterograde amnesia is the inability to form new memories. Some regions of the brain are more critical than others in generating and sustaining the psychological connectedness and continuity necessary for narrative identity. Even when other brain regions function normally, damage to the hippocampus can erase the episodic memory necessary for the autobiography of a person and the experience of persisting through time.

H. M. (Henry Molaison), who died in December 2008 at age 82, was perhaps the most well-known amnesiac.[12] He developed a seizure disorder in his teens, the consequence of a head injury from being struck by a bicycle at age nine. Surgery that removed both hippocampi and adjacent structures in his medial temporal lobes resolved the seizures but left him with profound anterograde amnesia. Although he could recall some events from the time before his surgery, he lost all autobiographical memory and was unable to sustain new memories. Without the hippocampus, new memories cannot be consolidated and stored as long-term memories. H. M. retained his working and procedural memory, which enabled him to perform

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[11] Daniel Schacter describes the different types of memory and the brain regions mediating them in *Searching for Memory: The Brain, the Mind, and the Past* (New York: Basic Books, 1996).

[12] Schacter discusses the case of H. M. in *Searching for Memory*, ch. 5. The first account of H. M.'s condition was given by W. B. Scoville and Brenda Milner, "Loss of Recent Memory after Bilateral Hippocampal Lesions," *Journal of Neurology, Neurosurgery, and Psychiatry* 20 (1957), 11–21.

daily physical and many mental tasks. But he was unable to capture the gist or express the general meaning of the events he could recall because he could not contextualize them as part of a coherent sequence in time and space. He could not connect his spare memory of events in the past with his present awareness and could not project himself into the future. Because he was unable to consolidate new memories, he had only a very short-term capacity for recall of his immediate experience. Each time he saw the same person or was informed about the same fact or event was for him the first time. His verbal responses to the neuroscientists studying his case indicated that, when they examined H. M., it was as though he had never met them before. This was how he experienced these encounters, despite many meetings and exchanges with the same people over months and years.

H. M lived from one moment to the next. He was frozen in the present, unable to construct a continuous narrative and unify his experiences into a meaningful whole. Because he could not project himself into the future, he lost much of his capacity for agency. After his surgery, his life was a fragmented collection of discrete units without any diachronic quality. Others could identify him as the same person from the time of his surgery to his death on the basis of his physical properties and the behavioral manifestations of his procedural memory. In these respects, the pre-surgery H. M. was numerically identical to the post-surgery H.M. But his inability to form new episodic memories and the loss of his autobiographical memory precluded continuity between his earlier and later mental states. Indeed, the temporal scope of his attention was so narrow that there was very little, if any, connectedness between his psychological properties from one moment to the next. The radical change in his subjective experience in living from moment to moment without any sense of temporal progression left him substantially changed from the individual before the surgery. Procedural and working memory are not sufficient to meet even a low threshold of psychological continuity. For H. M., each experience was new and never repeated. For those who knew him, his life was like a book consisting of a disconnected set of the same sentences repeating themselves. It was not a coherent narrative with a dynamic succession of thematically integrated chapters. If survival is based on narrative identity, then H.M. did not survive the surgery because he lost this identity. More precisely, he survived as *a* person but not as the *same* person.[13]

A similar case of profound amnesia befell British musician and musicologist Clive Wearing. In 1985, when he was in his mid-40s, he contracted a herpes encephalitis

[13] In *Reasons and Persons*, Parfit says that "to be a person, a being must be self-conscious, aware of its identity and continued existence over time" (202). Although H. M. lacked the experience of persisting through time, he was fully conscious of himself in the present. This is not enough for one to survive as the same person from an earlier to a later time, but it is enough for one to survive as a person.

infection in his brain.[14] The infection destroyed the region of the medial temporal lobes mediating his capacity for episodic memory. Clive's loss of episodic memory was more extreme than that of H. M. Not only did Clive develop profound anterograde amnesia; he also developed profound retrograde amnesia. This resulted in the deletion of most of his past. The scope of his short-term memory and attention was also more limited than that of H. M., spanning no more than a few seconds. This made Clive even more of a prisoner of the present moment than H. M was. He lived from one experience to the next, without any sense of connectedness or continuity between his conscious mental states. At home, whenever he saw his wife, he would greet her as if she had just arrived. This would occur multiple times each day, though he gradually seemed to re-familiarize himself with her. Unfortunately, he retained enough cognitive ability to infer his amnesia from his experience and was painfully aware of it. As his wife Deborah wrote in a 2005 memoir:

> It was as if every waking moment was the first waking moment. Clive was under the constant impression that he had just emerged from unconsciousness because he had no evidence in his own mind of ever being awake before.... "I haven't heard anything, seen anything, touched anything, smelled anything," he would say. "It's like being dead."[15]

Of course, Clive's use of the simile in the last sentence indicates that he was not speaking literally. It was simply an expression of the experience of being aware of having profound amnesia. It is not to be equated with the state of being dead, which of course cannot be experienced.

Our capacity to anticipate the future depends on our capacity to recall the past. The second is a mirror image of the first. Many with profound amnesia are not only unable to recall the past but also cannot imagine the future. This underscores the idea of amnesiacs being stuck in a very narrow span of time in the present and the loss of psychological continuity necessary for survival. In his account of Clive Wearing, neurologist Oliver Sacks writes: "To imagine the future was no more possible for Clive than to remember the past—both were engulfed by the onslaught of amnesia."[16] Clive's subjective experience consisted not in persisting through time but only existing at a time, as though he lived in a repeated present.

He retained three types of memory, however. His capacity for musical performance on the piano was largely intact, indicating that he retained some semantic and his

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[14] Oliver Sacks discusses this case in "The Abyss: Music and Amnesia," *The New Yorker*, September 24, 2007, 100–111.

[15] Sacks, "The Abyss: Music and Amnesia."

[16] Sacks, "The Abyss: Music and Amnesia," 101.

procedural memory. Emotional memory associated with his relationship with wife was intact as well. They married around the time he contracted encephalitis. They also shared a love for music. Emotionally charged memories may resist erasure from hippocampal injury because memories of fearful or threatening events are critical to survival. For this reason, they are more firmly consolidated in the amygdala than episodic or semantic memory in the hippocampus. Not all emotionally charged memories are negative; some may be positive. It is possible that Clive's wedding and shared loved of music with his wife were so positively emotionally charged that they enabled him to retain some non-declarative memory of them. The combination of intact unconscious procedural and emotional memory likely accounted for his ability to continue having an emotional relationship with his wife. He sustained this relationship and experienced a familiarity with her despite the fact that his amnesia made it difficult for him to consciously recognize and re-identify her each time she appeared before him. The regions of the brain mediating his emotional and procedural memory—the amygdala, cerebellum, and striatum—were spared the damage to his hippocampus and other parts of his medial temporal lobes. Sacks asserts that these intact memory systems confirm Clive's identity.[17] He also suggests that improvement in Clive's mood in the years since the onset of his amnesia may be attributed to the strength of these memories.

Nevertheless, these are unconscious memories and as such lack the subjective quality associated with the conscious awareness of persisting from the past to the future. Episodic memories available for conscious recall are necessary for psychological continuity and narrative unity of one's experiences. To the extent that this continuity and unity are necessary for one to survive an event as the same person in a robust and not just etiolated sense, Clive Wearing did not survive the event of the infection that damaged his brain. The unconscious memory he retained was at most a component of his intact numerical identity, but this was not sufficient to sustain his narrative identity. One might claim that his intact capacity for musical performance indicates that he retained his capacity for agency. Yet if agency involves conscious planning and the execution of conscious intentions in actions, and musical performance is a function of unconscious procedural memory, then it is questionable whether he retained a sufficient degree of agency to construct a narrative and survive on this basis. To borrow Ronald Dworkin's distinction, Clive's experience lacked the temporal scope necessary for critical interests, which consist of the values and commitments one has about one's life as a whole. Critical interests are necessary

[17] Ibid., 105. See also James McGaugh, *Memory and Emotion: The Making of Lasting Memories* (New York: Columbia University Press, 2003), Michael Hasselmo, *How We Remember: Brain Mechanisms of Episodic Memory* (Cambridge, MA: MIT Press, 2012), and the special issue "Focus on Memory," *Nature Neuroscience* 16(2013): 111, 119-153.

for narrative identity. His life consisted of and continues to consist of only experiential interests confined to his immediate desires and needs.[18]

The claim that Clive Wearing did not survive his brain injury seems at odds with the claim that he was able to continue his relationship with his wife. Yet the fact that a region of his brain mediating many of the psychological properties associated with this relationship was damaged and that only a region mediating a limited number of these properties was intact suggest, not that he continued this relationship, but that he developed a new relationship with her. Some of his cognitive and affective capacities survived, but not enough to retain the same relationship he had with his wife before his injury. Given the loss of his episode memory and his ability to imagine future experience, he could share only a very limited set of interests with her. This is consistent with the claim that there are two distinct persons, CW1 and CW2, with two distinct narratives before and after the viral infection.

Again, the response to the question of whether a person survives a brain injury depends on which concept of identity one adopts. I have argued that only narrative identity captures the subjective experience of persisting through time, the idea of a unified set of life experiences shaped by one's values and interests, and thus a meaningful sense of 'survival.' Not all brain-injured individuals develop severe amnesia and lose the continuity of their earlier and later mental states. As the cases of H. M. and Clive Wearing illustrate, though, brain injuries damaging the hippocampus and undermining the ability to retain old memories and form new ones can have a devastating effect on the continuity of psychological properties necessary for one to persist as the same person from an earlier to a later time.

DISORDERS OF CONSCIOUSNESS

Unlike the cases of amnesia just discussed, many individuals fall into unconscious states or altered states of consciousness after severe brain damage. There are seven neurological states that need to be distinguished: Normal consciousness; coma; brain death; the persistent vegetative state; the minimally conscious state; the permanent vegetative state; and locked-in syndrome.[19] Consciousness is divided into

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[18] Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom* (New York: Vintage Books, 1993), 214–215.

[19] Steven Laureys, Adrian Owen, and Nicholas Schiff draw these distinctions and discuss their neurological significance in "Brain Function in Coma, Vegetative State, and Related Disorders," *The Lancet: Neurology* 3 (2004), 537–546. See also James Bernat, "The Natural History of Chronic Disorders of Consciousness," *Neurology* 75 (2010), 206–207; Bernat and David Rottenberg, "Conscious Awareness in PVS and MCS: The Borderlands of Neurology," *Neurology* 68 (2007), 885–886; Joseph Fins, "Rethinking Disorders of Consciousness: New Research and Its Implications," *Hastings Center Report* 35, 2 (2005), 22–24; and Fins et al., "Neuroimaging and Disorders of Consciousness; Envisioning an Ethical Research Agenda," *American Journal of Bioethics* 8, 9 (2008), 3–12.

two components: arousal (wakefulness or vigilance) and awareness of self and the environment. The first component refers to a *state* of consciousness. The second refers to the *content* of consciousness, what we are conscious of. Awareness is necessary for an individual to interact with others. In a normal conscious state, there is widespread integrated function in the cerebral cortex sustained by its connections with the central thalamus and the brainstem ascending reticular activating system. Coma is characterized by absence of consciousness in the form of complete unresponsiveness. This may involve temporary or permanent cessation of cortical function and thalamic-cortical connections. Chronic coma is a relatively rare state. Some comatose patients regain full consciousness, usually within two to four weeks of the brain insult. This recovery may occur later as well. Others eventually lose all brain functions and are declared dead.

Still other patients may progress from a coma to a VS, where they are awake but are unaware of themselves or their immediate environment. Many neurologists consider a persistent VS to have become a permanent VS three months after a non-traumatic brain injury (anoxia) or 12 months after a traumatic injury. This classification means that they effectively have no chance of regaining any capacity for awareness. Not all patients in a persistent VS progress to a permanent VS. Some may progress to an MCS, in which they retain some integrated but under-sustained cortical functions. These functions may be enough to enable one to have a limited degree of conscious awareness of oneself and one's surroundings. Emergence from the MCS is defined by the ability to communicate and use objects functionally. LIS consists of full consciousness but almost total paralysis. Eye or eyelid movements are often the only means of communication. LIS is usually caused by a primary brainstem stroke and in some cases by trauma to this part of the brain.

Brain imaging has helped to clarify the diagnosis of brain function and distinguish these neurological states following brain injury. Magnetoencephalography (MEG) measures the magnetic fields generated by electrical activity; positron emission tomography (PET) measures metabolic activity and blood flow; and functional magnetic resonance imaging (fMRI) measures blood flow in cortical and sub-cortical regions of the brain The neurological states just described correspond to greater or lesser degrees of brain activity as measured by these techniques. The MCS correlates with limited integrated activity in the cortex and limited active connections between the cortex and thalamus. Both types of activity are absent in the VS. There is more integrated brain activity and a much greater degree of consciousness—indeed, full awareness—in the LIS than in the MCS.

Insofar as personhood is defined in terms of the capacity for conscious awareness, patients in a permanent VS no longer exist as persons. They continue to exist as human organisms because they have enough intact brainstem, cardio-circulatory,

and somatic functions to sustain bodily homeostasis. Because a persistently vegetative individual may progress to the MCS, that individual may retain some capacity for consciousness and survive as a person, at least for a limited period of time. He or she would be in a temporary state of unconsciousness. But if one did not become fully conscious or did not progress to the MCS within three months of an anoxic injury or 12 months after a traumatic injury, then one would not survive as a person. Beyond this point, one would have permanently lost the capacity for consciousness. This assumes that brain imaging can confirm this assessment within the relevant time framework.

Some minimally conscious patients emerge from this state and regain a considerable degree of consciousness and physical and cognitive functions. Yet others may remain in a permanent MCS. It is important to emphasize that consciousness is not an all-or-nothing state but one that comes in degrees along a continuum. What degree of consciousness is sufficient for one to continue to exist as a person? Could an individual survive as a person in a permanent MCS? This would depend on what one included among the defining properties of consciousness. If one included only arousal and minimal awareness of self and environment, then it might be plausible to say that the person would survive. But if one included the ability meaningfully to interact with others, which most minimally conscious patients lack, then they would not survive as persons in a permanent MCS. In the second case, only emergence from this state would be consistent with personal survival.

One challenge in using brain imaging to diagnose altered states of consciousness is that consciousness cannot be measured objectively. It is inferred from MEG, PET, fMRI, and from behavioral features based on neurological examination. By themselves, imaging and clinical examination are imperfect diagnostic measures and may result in mistaking one state for another. For example, in LIS, near-total paralysis may lead some clinicians to mistakenly judge that an individual in this state is persistently or permanently comatose. The most difficult challenge is distinguishing between the VS and the MCS. A 23-year-old woman in the United Kingdom had been diagnosed as being in a VS in 2006 following a traumatic brain injury. Images taken of her brain by cognitive neuroscientist Adrian Owen five months after the injury showed much more integrated brain activity than had been previously assumed.[20] When asked to imagine herself playing tennis or moving around her home, she activated areas in her primary auditory cortex and motor cortex in a manner indistinguishable from healthy volunteers undergoing the same type of imaging. These indications

[20] Owen et al., "Detecting Awareness in the Vegetative State," *Science* 313 (2006), 1402; and Owen et al., "Using Functional Magnetic Resonance Imaging to Detect Covert Awareness in the Vegetative State," *Archives of Neurology* 64 (2007), 1098–1102.

suggested that she was not in a VS but instead in an MCS, with some degree of consciousness and cognitive and physical functions and some ability to interact with others. This brain activity would have been absent if she were in a VS. During the five months between the time of her injury and the time when images were taken of her brain, she progressed from a persistently VS to an MCS. Her personhood was intact, albeit in a minimal sense.

Arkansas resident Terry Wallis was believed to be in a permanent VS following a coma resulting from a motor vehicle accident in 1984. It became clear that the diagnosis was incorrect when he began speaking and interacting with his family in 2003.[21] He remained in an MCS for 19 years, retaining his capacity for consciousness and personhood throughout this period. Commenting on the difficulty in distinguishing VS from MCS, Joseph Fins and Nicholas Schiff write: "It is not true that the patient is either in an immutable state of permanent unconsciousness or has a heart-wrenchingly normal inner life. In fact, what we must confront is a scale of important gradations—most of which are yet to be discovered and described. . . . Right now the images of gray matter are but shades of gray."[22] Although they are still imperfect, the use of imaging and clinical examination as complementary diagnostic tools has made these mistakes less likely. In fact, it is because of this complementary approach to assessing disorders of consciousness that the MCS has only recently become a diagnostic category.

Still, the critical metaphysical question for survival is not so much whether the individual retains a sufficient degree of consciousness to remain *a* person. Rather, the question is whether the individual retains a sufficient degree of psychological and narrative continuity before and after a brain injury to remain the *same* person. Simply being conscious and continuing to exist as a person do not make a narrative, as the cases of H. M. and Clive Wearing illustrate. Similar remarks apply to those emerging from an MCS and regaining a greater degree of consciousness. If surviving as the same person requires narrative identity, then there would have to be at least a moderate degree of connectedness and continuity between a person's earlier and later psychological properties. The unity of experience necessary for a thematically coherent narrative would require fairly strong links between memory of experiences in the past, present intentions and actions, and imagined future actions.

Individuals in LIS meet these conditions. Although they are locked into their paralyzed bodies and are severely limited in their physical functions, they are fully

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[21] As reported by Benedict Carey, "Mute 19 Years, He Helps Reveal Brain's Mysteries," *New York Times,* July 4, 2006, A1.

[22] Joseph Fins and Nicholas Schiff, "Shades of Gray: New Insights into the Vegetative State," *Hastings Center Report* 36, 6 (2006), 8.

conscious and retain most if not all of their cognitive functions. This may be sufficient for a robust sense of agency to construct or continue a narrative extending from the time before the injury to the present and into the future. The best example of this is Jean-Dominique Bauby, the former editor-in-chief of the French magazine *Elle*. He suffered a brainstem stroke in 1995 and progressed to an LIS shortly thereafter. While in this state, he was able to communicate by blinking his left eyelid. This was enough for him to author a book about his experience that was published shortly before his death in 1997.[23] Bauby underwent significant neurological and physical changes from the stroke. But the fact that he literally constructed a narrative of his experience shows that he had enough psychological continuity and unified agency between the stroke and his death to survive as the same person during that period. The fact that Bauby survived his injury despite a severe state of paralysis does not imply that he survived as a disembodied individual. The paralysis may have altered the content of his perception in some respects. Yet the immune, endocrine, and other systems internal to his body remained intact, as well as the connections between these systems, his central nervous system, and the psychological states influenced by these connections. So he retained a mind-body relation and remained an embodied person.

Owen's patient in the MCS had too limited a set of cognitive functions to retain or regain any degree of psychological continuity from her pre- to her post-injury experience. If she were in a permanent MCS, then she would not be able to actualize the capacity for the psychological continuity necessary to ground the experience of persistence from the past to the future. A capacity that is never actualized is arguably not a capacity at all. Yet unless imaging or other diagnostic techniques could determine that she was in a permanent MCS, whether she survived as the same person would remain an open question. The MCS itself would not rule out the possibility of further recovery of cognitive functions. Such recovery may restore the thematic unity of one's experience disrupted by the injury. Intuitively, there would be a limit to the duration of an MCS for one to survive as the same person, since an indefinite state of minimal consciousness seems too weak a basis for the relevant sense of identity and survival. But the duration of Terry Wallis's MCS and the extent of his neurological and psychological recovery challenge this intuition.

Recent images of Wallis's brain have shown new neuronal connections in the midline cerebellum, an area involved in motor control.[24] There are also indications of new

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[23] Jean-Dominique Bauby, *The Diving Bell and the Butterfly: A Memoir of Life in Death* (New York. A. A. Knopf, 1997). See also Nicholas Chisholm and Grant Gillett, "The Patient's Journey: Living with Locked-In Syndrome," *British Medical Journal* 331 (2005), 94–97.

[24] Henning Voss et al., "Possible Axonal Regrowth in Late Recovery from the Minimally Conscious State," *Journal of Clinical Investigation* 116 (2006), 2005–2011.

neuronal connections in the pathway linking the thalamus and the cortex, which is critical for awareness and cognitive functions. Axons in Wallis's brain have been growing and forming new connections. This is an example of the brain's plasticity, its ability to allow intact regions to bypass injured and dysfunctional or nonfunctional regions and devise new ways of connecting axons. Together with synapses, axons promote communication between neurons. This process of growing and forming new neuronal connections occurs at a slow rate and explains why Wallis's recovery has extended over more than a 20-year period. Reports have suggested that Wallis has recovered some memories of events before his accident and that he has been laying down new memories. However, he has commented to his family that he has no real sense of time. This may simply mean that his temporal perception is impaired, not that he has lost his experience of persisting through time. This point is supported by his increasing ability to retrieve episodic memories of events that occurred before his injury. Yet Wallis still has significant physical and cognitive disability. The critical question is whether he has retained enough episodic memory, agency, and thus the requisite degree of psychological continuity for him to have survived the brain injury as the same person. If only a moderate degree of psychological continuity is necessary for one to retain one's narrative identity and survive, then Wallis's recovery seems enough for him to meet this threshold and to have survived as the same person despite the changes to his brain and mind between 1984 and 2009.

The extent of physical, cognitive, and affective disability from brain injury influences how others familiar with a brain-injured patient respond to the question of survival. A 38-year-old American man who was in an MCS from a severe brain injury resulting from an assault emerged from this state after six years with the help of deep-brain stimulation administered over a 12-month period between 2006 and 2007.[25] This technique restored some movement and speech and increased his awareness, though he still has significant physical and cognitive impairment. It was with reference to this that his mother, in an interview with the CBS program "60 Minutes," commented that she doubted that she would ever "have him back."[26] This is similar to the comment by those familiar with Phineas Gage who, after his brain injury, said that he was "no longer Gage." Some might claim that these two individuals were numerically identical to their earlier selves. But those who knew them claimed that they did not survive their injuries as the same persons because of the discontinuity in their psychological properties before and after their brain trauma.

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[25] "Behavioral Improvement with Thalamic Stimulation after Severe Traumatic Brain Injury," *Nature* 448 (2007), 600–603.

[26] Anderson Cooper, Awakening, "60 Minutes," November 21, 2007.

BENEFIT AND HARM

Benefit and harm are defined in terms of interests. An action or event benefits one when it satisfies or realizes one's interests. An action or event harms one when it defeats or thwarts one's interests.[27] Insofar as the capacity for interests presupposes the capacity for consciousness, permanently comatose and permanently vegetative individuals cannot benefit from or be harmed by any actions done to their bodies. Despite claims by many during the heightened public debate about her case, Terri Schiavo was not harmed by the removal of the artificial feeding tube that resulted in her death in 2005. Based on images of her brain taken in 2003, there was no integrated cortical activity and widespread atrophy of neural tissue.[28] This confirmed the diagnosis of a permanent VS. It supports the claim that she ceased to exist as a person in 1990 when she had an anoxic brain injury. Indeed, she could not have been harmed by this or any other action affecting her body once she had progressed to a permanent VS after the injury. By that time, she had permanently lost the capacity for consciousness and any interests in virtue of which she might have been harmed. Thus, it would have been permissible to remove the feeding tube or any other life-sustaining interventions after this time. By the same token, the fact that she had no interests implies that she could not have benefited from the removal of the feeding tube. From the claim that she could not have been harmed by this action, it does not follow that she could have benefited from it.

Still, the claim that Terri Schiavo had no interests and could not have benefited from or been harmed by the removal of the feeding tube pertains to the period during which she was permanently vegetative. Before her injury, she may have had an interest in not being kept alive by artificial nutrition and hydration if she fell into such a state. Anecdotal evidence indicates that she expressed this interest to her husband at an earlier time when she was healthy. If this interest survived her injury, then it raises the question of posthumous benefit and harm. This surviving interest would mean that continued tube feeding while she was in the permanent VS did in fact harm her. By this line of reasoning, she would have benefited, or would have been harmed to a lesser degree, if the feeding tube had been removed earlier. If interests survive the demise of persons who have them, then persons can benefit from or be harmed by actions even if they cannot experience them or their effects. The subject of the surviving interest fulfilled or defeated after the person ceases to exist is

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[27] Here I follow Joel Feinberg's definitions of benefit and harm in *Harm to Others* (New York: Oxford University Press, 1986).

[28] Schiff and Fins describe these neurological findings in "Hope for 'Comatose' Patients," *Cerebrum* 5 (2003), 7–24.

the living person antemortem whose interest it was.[29] This explains how one can be harmed without experiencing the events that thwart one's interest in the obtaining of certain states of affairs after one permanently loses the capacity for consciousness.

A more controversial ethical question is whether it would be permissible for viable organs to be taken from the bodies of permanently comatose or vegetative individuals for transplantation. Given that these individuals have permanently lost the capacity for awareness and hence the capacity for interests, this action could not harm them. One can make this claim even if the action killed them. The brain injury itself may have harmed them by eliminating their capacity for interests and life plans they may have had prior to the injury. Once they are permanently unconscious, though, organ procurement could not harm them because they would cease to have any interests regarding the status of their bodies. This conflicts with the dead donor rule, which says that organs can only be taken from the bodies of individuals who have been declared dead according to whole-brain or cardio-circulatory criteria.[30] As noted, there is debate within the medical community about whether patients with permanent cessation of all critical brain functions are dead. This in turn has sparked debate on the proper timing of procuring organs for transplantation.[31] Still, the main question is whether unconscious individuals or those with altered states of consciousness have interests. This is not based on whole-brain, cardio-circulatory, or somatic functions but on the extent of integrated higher-brain functions. If one has permanently lost these functions and cannot have interests, then it is unclear in what sense one could be harmed by organ procurement, even if one is not technically dead.

The only sense in which the individuals in question might be harmed would be if organ procurement violated a previously expressed wish that their bodies remain intact following their demise. This assumes that one's interests can survive one's biological death and that one can be harmed posthumously by the thwarting of these interests. There is considerable disagreement among philosophers on this question. For some who base survival on higher-brain functions, they might claim that an individual could be harmed if remaining on life support between permanent cessation of these functions and permanent cessation of all brain functions violated a wish not to be kept alive in this way. One may reject the possibility of posthumous harm. But an action or omission can still be wrong if it fails to respect the surviving interests of the person who has ceased to exist.

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[29] Feinberg, *Harm to Others*, 91–95. Geoffrey Scarre discuses this concept in *Death* (Montreal: McGill-Queens University Press, 2007), ch. 6, "The Interests of the Dead."

[30] Robert Arnold and Stuart Youngner, "The Dead Donor Rule: Should We Stretch It, Bend It, or Abandon It?" *Kennedy Institute of Ethics Journal* 3 (1993), 263–278.

[31] See, for example, Norman Fost, "Reconsidering the Dead Donor Rule: Is it Important that Organ Donors Be Dead?" *Kennedy Institute of Ethics Journal* 14 (2004), 249–263; and Franklin Miller and Robert Truog, "Rethinking the Ethics of Vital Organ Donation," *Hastings Center Report* 38, 6 (2008), 38–46.

As in the case of Terri Schiavo, the question arises as to whether individuals in these states had earlier interests concerning organ donation that survive their ceasing to exist as persons. Before a brain injury resulting in a permanent coma or VS, a person may have had an interest in donating organs for transplantation after ceasing to exist. Removing organs from the body for this purpose while one was in such a state could benefit the person posthumously by fulfilling the surviving interest. On the other hand, waiting until the individual could be declared dead by whole-brain criteria could harm the person posthumously by defeating this interest if waiting meant that the organs would deteriorate and not be viable for transplantation. The person could also be harmed by organ procurement if he or she had an interest in retaining bodily integrity after death. Leaving aside the question of surviving interests, the ontological distinction between persons and human organisms may yield different responses to the question of whether or when an individual can be harmed by continuing or discontinuing life support, or by organ procurement. These responses hinge on the questions of what sorts of beings we are and when we cease to exist. Only persons can have interests. Thus only persons can benefit from or be harmed by removing life support or organs from their bodies. Human organisms cannot have interests and therefore cannot benefit from or be harmed by actions done to them because they lack the capacity for consciousness that is necessary to have interests.

Diagnostic clarity in distinguishing neurological states following brain injury is critical to preventing harm. An individual mistakenly diagnosed to be in a permanent rather than persistent VS during the first few months after a brain injury could be killed by having life support withdrawn or having organs taken for transplantation. This would preclude actualization of the possibility of the VS progressing to an MCS. It could defeat the individual's interest in continuing to live. It could also preclude therapeutic interventions that might restore a greater degree of consciousness and recovery of physical and cognitive functions. These interventions might include deep-brain stimulation of the thalamus, which can reactivate regions of the cerebral cortex in some MCS patients. A mistaken diagnosis could result in the withdrawal of life support and defeat an individual's interest in realizing this recovery. Such mistakes could have even more disastrous consequences in cases of patients with LIS. They may have an interest in staying alive and regaining physical functions, yet have the horrifying experience of being fully conscious of withdrawal of life support without being able to express their objection to this act.

One might question whether individuals in an MCS have a sufficient degree of consciousness to generate an interest in continuing to live. The default assumption is that they would have it, which would prohibit withdrawal of interventions necessary to sustain their lives. Yet if one were in a permanent MCS with little chance of recovering a greater degree of consciousness, then it is not clear that one could have

any interests. If they do not have any interests, then withdrawing life-sustaining care and procuring any viable organs from them would be defensible. This underscores the moral importance of using the most advanced imaging techniques to detect brain function and make the correct diagnosis. The examples I have presented indicate that a mistaken neurological diagnosis can harm those in altered states of consciousness. They show that the degree of brain function and consciousness following brain injury can be morally significant.

For those with profound amnesia, their condition renders them unable to project themselves into the future and makes them lose the critical interests that ground the value and meaning of their lives. The brain injury and resulting amnesia harms them by undermining their agency and foreclosing future opportunities. The cases of H. M. and Clive Wearing are similar in some respects to Thomas Nagel's example of the man who suffers a brain injury and is reduced to the level of a contented infant.[32] Because the man with the injury has ceased to exist ("his life is over"), and the infant is content, it seems that there is no one who is harmed. Yet this example is meant to show that, although one cannot experience death or ceasing to exist, these states can harm one. The deprivation thesis that Nagel and other philosophers defend says that death can be harmful to the person who dies because it deprives that person of additional life years and additional goods of life. The harm of death is determined by a comparison between the life one had and the life one would have had if death had not occurred when it did. This distinguishes the deprivation thesis from posthumous harm, which hinges on the notion of surviving interests. The man with the brain injury is harmed because the injury deprives him of continued life as that same person.

Death is not the only state that can harm one through deprivation. In the case of profound amnesia, harm is not determined by comparing the amnesiac with a contented infant. Rather, it is determined by comparing the life of someone whose memory is intact with the life of someone whose memory is so severely impaired that it undermines his capacity to plan for the future. Deprivation of opportunities can be harmful even if one cannot experience this loss. We objectively recognize opportunities as goods that would make us better off than we actually are, and we are in a state of harm when they do not obtain. This can occur even if the amnesiac remains numerically identical to the person he was before developing this condition.

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[32] Thomas Nagel, "Death," in *Mortal Questions* (New York: Cambridge University Press, 1979), 1–10; also Feldman, *Confrontations with the Reaper*, 133–142; and Ben Bradley, who defines death's badness in terms of what he calls the "Difference-Making Principle," in *Well-Being and Death* (Oxford, UK: Clarendon Press, 2009), ch. 2.

Although some amnesiacs are unable to experience this type of harm, others might experience harm from their awareness of their inability to recall events and recognize people. Clive Wearing clearly expressed this in his comment that his profound amnesia was "like being dead." In fact, his state of profound amnesia was worse than being dead because, unlike the non-experienced loss of additional life years caused by death, Clive's loss of memory, imagination, and a life narrative was something that he experienced on a constant basis. Experienced loss is worse than non-experienced loss because it is subjectively felt by a person and often involves psychological distress. Although he retained his full mental capacities, Jean-Dominique Bauby was harmed by being locked into his body and by the complications of the brainstem stroke that eventually led to his early death.

One who survives a brain injury with one's narrative identity intact could still be harmed by cognitive disability. The harm would pertain not only to the effects of the injury but also to life-sustaining or therapeutic measures that allowed one to emerge from a coma, VS, or MCS and survive with impaired quality of life. For some, continued life with cognitive disability might not be worth living. This may be the case if there is disparity between one's general set of cognitive capacities before and after the injury.[33] One might judge that artificial hydration, nutrition, or other interventions necessary to keep one alive while in a coma or an MCS should have been withheld or withdrawn at that earlier time. One might insist that one should have been allowed to die while in these states, on the grounds that having to live with significant cognitive and physical disabilities and being aware of them is worse than death.

Not all individuals with brain injuries who recover some cognitive functions would make this judgment. Assuming that these recovered functions made life worth living, they would say that interventions that saved their lives benefited them. Fins points out that some may be able "to accommodate their expectations to their altered abilities."[34] He gives the hypothetical example of a physician who sustains an injury to her frontal lobe. In re-learning how to sequence daily tasks, she becomes an accomplished abstract artist thanks to the release of previously inhibited creative impulses from her injury, which resulted from increased activity in her parietal and occipital lobes. This physician and others like her may be able to turn something devastating into something positive. They may be able to discover "a new self while recalling a lost identity."[35] I do not take Fins to be claiming that the physician's

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[33] See Guy Kahane and Julian Savulescu, "Brain Damage and the Moral Significance of Consciousness," *Journal of Medicine and Philosophy* 34 (2009), 6–26; and Dominic Wilkinson et al., "Functional Neuroimaging and Withdrawal of Life-Sustaining Treatment from Vegetative Patients," *Journal of Medical Ethics* 35 (2009), 508–511.

[34] Fins, "Rethinking Disorders of Consciousness," 24.

[35] Ibid.

autobiography has completely changed and that she is constructing a narrative completely unrelated to the one she created prior to her injury. Instead, I assume that Fins only means that some of her cognitive and affective capacities have changed and that she is now constructing a new chapter in her life that is different from but thematically related to her narrative up to the time of her injury. Many people tend to revert to their mean level of satisfaction after a period of time following a serious illness or injury. We cannot assume that their psychological response to altered cognitive and affective states is always negative. But we cannot assume that it is always positive either.

Discovering a new self would be more difficult the more a person identified with particular cognitive abilities lost through brain injury. It would depend on the extent to which these abilities figured in the livelihood and well-being of the person. Indeed, Fins says that cognitive impairments from brain injury are highly individual rather than generic and are "superimposed on each person's psychology and past."[36] The person could be harmed by the memory of what it was like to have these abilities and the awareness of having lost them. An example would be a mathematician with an injury to the frontal lobe that impaired or destroyed his previously exceptional ability to process numbers. By causing the loss of an ability that made life meaningful for him, the injury would be a serious harm. It could be a greater harm to him if he were aware of his loss than if he were not aware of it. If experienced harms are worse than non-experienced ones, then a greater degree of recovery of consciousness might not always benefit someone with a brain injury. An improvement in neurological functions would not necessarily benefit individuals emerging from altered states of consciousness in all psychological respects. Whether one benefited or was harmed would depend on the degree of one's conscious awareness, which cognitive functions were restored, and which were lost.

CONCLUSION

Particular regions of the brain are essential to the capacity for conscious awareness and personhood. They are also essential to the capacity to experience events in one's life in a thematically unified way. By generating and sustaining the neurological functions mediating these psychological capacities, a certain degree of integrated activity in the cerebral cortex is necessary for one to survive as a person and as the same person over time. Some individuals with severe brain injury lose these

[36] Ibid.

capacities and do not survive in either sense of the term. This is despite the fact that the only medically and legally accepted neurological definition of death is based on the permanent cessation of all brain functions. Persons cease to exist when they permanently lose integrated cortical functions, even if they retain sub-cortical and brainstem functions. They may survive as human organisms, but not as individuals who could benefit from or be harmed by actions or events affecting their bodies in such a state. Some may survive as persons, but not as the same persons because of discontinuity between mental states before and after a brain injury. Those who survive an injury with their identity intact may be harmed by the resulting cognitive disability and their awareness of what they have lost.

The combination of brain imaging and clinical examination has improved the diagnosis of neurological conditions involving disordered states of consciousness. It has enabled neuroscientists to distinguish states that may allow for partial or full recovery from states that do not. This has significant implications for the question of harm, because mistaking an MCS or LIS patient for one in a coma or permanent VS could result in withdrawing life support or forgoing therapeutic interventions. Yet even the most sophisticated brain imaging techniques cannot resolve philosophical disagreements about the sorts of beings we are and which concept of identity we should adopt. These techniques will inform but not determine how one responds to questions about survival and harm in the cases I have presented. Nevertheless, by informing how we think about the brain-mind relation, neurological discussion of brain injury has much to contribute to philosophical discussion of the relevant metaphysical and ethical issues.

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