

DEATH'S DISTINCTIVE HARM

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Is the crucial fact about death not that it makes us
finite or limits our future, but that it limits
the possibilities . . . that we can realize?

—Robert Nozick, *Philosophical Explanations*

The Harm Thesis (HT) states that death can harm the one who dies. The Epicurean rejection of this claim relies on the following familiar argument: before death there is no harm (i.e., prior to its occurrence, death inflicts no injury on its eventual victim); after death there is no victim (since, it is assumed, death brings about the subject's nonexistence, and thus there exists no postmortem subject to whom a harm could accrue); therefore, HT is false: death cannot harm the one who dies.¹ "The most awful of evils," as Epicurus notoriously put it in his *Letter to Menoeceus*, "is nothing to us, seeing that, when we are, death is not come, and, when death is come, we are not." Indeed, insofar as one's fear of death is predicated upon a fear of harm to oneself, Epicurus held, the falsity of HT exposes such fear as irrational. Again from the *Letter*: "He speaks idly who says that he fears death, not because it will be painful when present but because it is painful in anticipation. For if something causes no distress when present, it is fruitless to be pained by the expectation of it."

In most contemporary discussions of death, philosophers resist the Epicurean argument and endorse HT, and this stance will be adopted here as well. But anyone who endorses HT confronts several challenges implicit in

that argument. The present discussion will address two of these challenges. The first concerns timing: if HT is true, when is death's harm incurred? The second concerns harm: if HT is true, what is the nature of the harm brought about by death?

About the timing issue there has been considerable controversy, with apparently all conceptual space now occupied. To wit, each of the following answers to the timing question has been defended recently: at all times (*eternalism*) (Feldman 1992); before death occurs (*priorism*) (Luper 2007); at the moment death occurs (*concurrentism*) (Lamont 1998); after death occurs (*subsequentism*) (Bradley 2009; Feit 2002); at some indeterminate time (*indefinitism*) (Nagel 1970; Silverstein 2000).²

About the harm issue, by contrast, there is remarkable consensus: when bad, death's badness consists in depriving us of life's goods. According to this view, death harms the one who dies solely by preventing her from attaining those of life's goods she would have enjoyed had she continued living: positive experiences, healthy relationships, significant projects, etc. In the 1970 article that has become the locus classicus for this view, Nagel argues that one can be harmed by something unexperienced, that deprivation may constitute

a harm of this sort (i.e., unexperienced but harmful nonetheless), and that death's harm is an instance of this species of harm.³ Since then, and notwithstanding various intramural disputes about how best to formulate it,⁴ the deprivation view (DV) has come to be regarded as the standard view, enjoying broad support amongst supporters of HT.⁵ Consequently, even advocates of opposing answers to the timing question nevertheless share a common commitment to the deprivationist answer to the harm question: eternalists are deprivationist eternalists, indefinitists are deprivationist indefinitists, subsequentists are deprivationist subsequentists, etc.

Our primary focus in what follows will be the deprivationist answer to the harm question. Although we should accept DV as far as it goes, it will be argued that its analysis of death's harm is incomplete. The objective, therefore, will be to isolate this lacuna and to characterize the aspect of death's harm that cannot be accounted for by DV. But we will not ignore the timing question. For what we shall discover is that, whereas DV can be paired with any of the available answers to the timing question, the hitherto overlooked dimension of death's harm jibes with one answer in particular.

The discussion unfolds in three steps. In section 1 we consider the priorist answer to the timing question, see how it works with DV, and entertain a couple of misgivings. Section 2 presents DV in greater detail, highlighting its advantages and drawing out the respects in which it is incomplete. Section 3 offers a proposal for how to understand the aspect of mortal harm that DV overlooks. This account accords with priorism and avoids the objections raised in section 1.

I. PRIORISM

According to the priorist answer to the timing question, the victims of death's harm are not the dead, but the living; the antemortem subjects whose interests death will under-

mine.⁶ If this is correct, then one's future death may constitute an injury to one's present self. But how exactly does death reach backwards in time to bring about this harm?

The priorist claims that death's harm is brought about not directly, via backward causation, but indirectly, by affecting the truth conditions of propositions concerning the living subject's interests and projects. Feinberg, for instance, writes that

the fact of a person's death "makes it true" that his antemortem interests were going to be defeated, and to that extent the antemortem person was harmed too, though his impending death was still unknown to him.⁷

Assuming the priorist adopts the deprivationist account of death's harm, it will be the defeat of the antemortem subject's interests—the welfare whose enjoyment is precluded, the projects whose completion is thwarted, the relationships whose flowering is prevented, etc.—that constitutes the harmfulness of death, on this view. But let us concentrate for the moment on how, according to the priorist, death is supposed to achieve this feat.

Consider a baseball analogy. In our imaginary game, the Yankees and the Red Sox are tied in the sixth inning. A Red Sox batter then breaks the tie by hitting a home run. Failing to score in the final innings, the Yankees lose the game. In some sense, it is the Yankees' failure to score again that turns the sixth-inning home run into the winning run for the Red Sox. But, of course, no change in the home run's intrinsic properties accounts for its status as the winning run; the scoreless seventh, eighth, and ninth innings do not somehow reach backward in time to affect causally the sixth-inning dinger. Better to say that the Yankees' failure to score in subsequent innings "makes it true" that the sixth-inning home run was the winning run. This suggests that the Yankees' failure to score is the truth-making condition of a proposition like 'The Yankees will lose the

game'. But notice that this proposition is true even prior to the game's end. Indeed, albeit unknown to anyone at the time, that proposition was made true the instant the Red Sox batter crossed the plate in the sixth inning. In this way, the home run's acquired status as the winning run reflects a "mere Cambridge change" (on which more shortly).

Similarly, says the priorist, death affects the living subject not by altering her intrinsic properties, but by being the truth-making condition for propositions that hold of the subject prior to her death. In particular, on this view, S's death at t_2 impacts S at t_1 by determining the truth values of propositions that concern S's interests at t_1 .

With the mechanics of this view in place, it is not difficult to imagine how a priorist who is also a deprivationist will defend HT. Luper, for instance, writes:

Suppose I have made some project a central focus of my life. Surely it is in my interest now for my project to be brought to a successful conclusion in the future. Suppose that only I can complete it, but I die prematurely. My dying ensures that it is true of me that my project will not be brought to fruition, and I am harmed all the while I have an interest in finishing my project, for during this time my welfare is lower than it would have been had I succeeded at my project.⁸

So, according to this combination of answers to the timing and harm questions—deprivationist priorism—S's death at t_2 constitutes a harm to S at t_1 by depriving S at t_1 of goods that S would have enjoyed had she continued living. Put differently, if S's death at t_2 will render her efforts at t_1 ineffectual (by precluding completion of a significant project, for instance), then S's death at t_2 harms S at t_1 by making S at t_1 comparatively worse off than she would have been had she not attempted to complete her project in the first place. Note also that, because death is the truth-making condition for propositions that hold of the subject prior to her death, and because those propositions become true or false at whatever

point the living subject acquires the interests that her subsequent death will defeat, the subject is harmed (albeit unwittingly) immediately upon acquiring the interests that will be defeated (just as, albeit unknown to anyone at the time, the sixth-inning home run immediately became the winning run).⁹ In this connection, note that (contra Grey) the priorist is not claiming that death's harm is "prefigured in the destiny of the future decedent."¹⁰ The harm that S's death at t_2 inflicts on S at t_1 is no more destined than is the Yankees' failure to score in the final innings. But *given* its occurrence at t_2 , the priorist claims, S's death constitutes a harm to S at t_1 .

To some, this view has seemed inadequate, even incredible. But on its behalf it should be acknowledged that scenarios like the one described by Luper above are neither unrealistic nor unfamiliar. Consider, for instance, Ferdinand Magellan, whose life's ambition it was to become the first human being ever to circumnavigate the globe. In 1519, an armada under Magellan's command set sail from Spain to accomplish this mission. Although the expedition was eventually completed in 1522, Magellan himself was killed en route in 1521. According to the deprivationist priorist view, by precluding the completion of his journey, Magellan's death in 1521 constituted a harm to Magellan prior to 1521, for 'Magellan shall never complete his project to become the first human being ever to circumnavigate the world' was true of Magellan even before he set sail. Since he sought to complete the expedition, and since an event that prevents the completion of a valued project constitutes a misfortune for the individual whose project it is, death's harm is thus attributed to Magellan prior to his death.

Because our aim is not to adjudicate the general debate between competing answers to the timing question, we can refrain from weighing the balance of considerations counting for and against the priorist part of the deprivationist priorism combo. Here we might simply register two misgivings about

this view. The relevance of these concerns to the present discussion's more limited objectives will emerge in section 3.

First, we noted previously that the harm that S's death at t_2 inflicts on S at t_1 is supposed to be brought about by a mere Cambridge change. Something undergoes a Cambridge change, Geach writes, when "there are two propositions about [that thing], differing only in that one mentions an earlier and the other a later time, and one is true, and the other false."¹¹ This account appears to accommodate *all* cases of change, including not only the familiar cases in which a thing undergoes an alteration in its intrinsic or monadic properties (i.e., "real" or "genuine" changes), but also cases in which there is a shift in the truth-conditions of propositions that once held of something and cases in which there is a difference in a thing's relational predicates. But while all real changes are Cambridge changes, not all Cambridge changes are real changes.¹² This is because something can undergo a Cambridge change without undergoing any change in its intrinsic properties—as in the baseball game example described above, or as when 'widower' goes from being false to being true of Xanthippe upon Socrates's death. These last cases illustrate *mere* Cambridge changes; and according to a deprivationist priorist, death's harm is a mere Cambridge change.

But is it enough, in defending HT, to concede that death's harm effects no real change in its victim, but only a mere Cambridge change—no alteration in the victim's intrinsic properties, but only a change in her Cambridge properties? It seems at this point that the Epicurean opponent of HT might well accuse the deprivationist priorist of moving the goalposts—of construing harm in a way that departs from the more familiar notion originally in play. While hardly a knockdown objection, certainly it must be conceded that the source of HT's intuitive appeal is not obviously captured fully by the view that death harms its victim in this way.

A second worry concerns the fact that, according to deprivationist priorism, death's harm is subjectively inaccessible to its victim. To be sure, DV represents a welcome expansion of the Epicurean view that harm must involve a condition experienced as painful or otherwise hurtful. Nevertheless, it is surprising that so profound a harm could affect the living subject and yet be utterly inaccessible epistemically or phenomenologically: neither known to, nor felt by, its antemortem victim. To be clear, the objection here does not indict the broad claim that some harms may be unwittingly incurred; of course they can. The worry is narrower in scope; it concerns whether the claim that *death's* harm is unwittingly incurred could possibly figure in an adequate defense of HT—in a view that not only answers the Epicurean challenge, but also respects the full force and spirit of that challenge. Put more suggestively, might there be a way of answering the Epicurean challenge that both retains the priorist answer to the timing question and respects the intuition behind HT that the subject of death's harm really is a victim?

Having simply registered these concerns, let us temporarily bracket the priorist part of the deprivationist priorism combo and consider what might be said on behalf of DV itself.

2. DEPRIVATION HARM

In fact, there is much to recommend DV. First of all, DV is a species of a widely held theory of individual interests, according to which an event or state of affairs is overall bad for someone when, and to the extent that, it makes her life worse than it otherwise would be, as measured in terms of the intrinsic goods she attains and the intrinsic evils she suffers. DV adapts this comparativist approach to the particular case of mortal harm, claiming that death is overall bad for us only when, and to the extent that, it prevents us from having certain intrinsic goods—goods we would have

enjoyed had death not occurred. Because it seems to many (including the author) that a comparativist approach to individual interests is broadly correct, DV's application of this approach to the case of mortal harm inherits some of this credibility.

Additional credibility stems from the fact that DV's diagnosis is plausibly given not only of mortal harms, but of nonmortal harms as well. Suppose, for instance, that someone planned to meet a friend for lunch yesterday but was unable to reach the restaurant in time due to a traffic jam in which she became ensnared along the way. In this case, the harm inflicted by the traffic jam is plausibly accounted for in terms of the enjoyable experience the individual was prevented from having—of the experience, in other words, she would have had were it not for the traffic jam. In this way—by assimilating the explanation of mortal harm to an explanation plausibly given of harms whose standing is beyond dispute—the deprivationist not only offers a reasonable answer to the harm question but also strengthens the plausibility of the case for HT.

There is a third advantage of DV that should be registered. But before doing so, it will help first to draw out a feature of HT that may have passed unnoticed. Whereas the conclusion of the Epicurean argument is quite strong—death cannot harm the one who dies—the claim expressing its rejection is quite weak: death *can* harm the one who dies. This contingency of HT is reflected in typical statements of DV:

death is bad for a person . . . *provided that* the life that is thereby lost would on balance have been worth living;¹³

when death is bad for a person, it is bad for him because he will be worse off dead than he would have been if he had lived;¹⁴

death, *when bad for someone*, is bad in virtue of the goodness it keeps that person from having;¹⁵

[death's] deprivation harm can be made clear by comparing the actual world, in which I have

just died, to the closest possible world in which I live longer. *If the latter is more valuable for me than the former*, dying has harmed me.¹⁶

The rationale behind these conditionalized, deprivationist statements of HT can be illustrated by considering an important objection to Nagel first raised by McMahan.¹⁷ McMahan notes that Nagel's initial formulation of DV has it simply that death is bad because of the possible future goods of which its victim is deprived.¹⁸ Whilst he is an advocate of DV, McMahan points out the following important wrinkle: the badness of death is determined not by the deprivation of goods the victim otherwise *might* have enjoyed, but by whatever goods the victim in fact would have enjoyed. Since merely possible goods are infinite in number, McMahan recognizes that, if death's harm consisted in the deprivation of possible goods, no death would count as worse than any other, since all victims would be deprived of an infinite number of possible goods. But that conflicts with some commonly held beliefs—e.g., that, *ceteris paribus*, earlier deaths are worse than later deaths. According to McMahan's refinement of Nagel's initial statement of DV, then, death is bad (if it is) in proportion to the quality and quantity of goods its victim actually would have enjoyed had she not died when and how she did. Subsequent developments of DV preserve this refinement, and most deprivationists seem to agree with McMahan when he writes that a significant virtue of his revision to Nagel's view is that it preserves

the view that most of us take in cases in which it seems that death is not a bad thing for the person who dies, or is even a good thing. These are cases in which we feel that suicide would be rational, or euthanasia justified. The reason why death is not bad in these cases is that, if the person were not to die, the life that he would subsequently have would not be worth living. If, however, we assume with Nagel that death should be evaluated relative to the possibilities for good that would be imaginable in its

absence, then it seems that we should regard death as an evil even in these cases. This makes it difficult to see how those who take Nagel's view can find cases in which suicide would be rational or in which euthanasia would even be conceptually possible.¹⁹

Exactly right. And this is the third strength of the deprivationist approach, viz., that, once revised in the way McMahan recommends, it can accommodate the robust convictions that some deaths are worse than others and that death might not be overall bad for some of those who die. For my part, I would suggest that we should not accept any answer to the harm question—nor, more generally, any defense of HT—that does not preserve this commitment.

Nevertheless, it is in DV's handling of just these and similar cases that we can catch a glimpse of its weakness—or, more precisely, its incompleteness. To see this, consider a different example altogether.

One explanation for why involuntary servitude harms the enslaved might be given purely in terms of deprivation harm.²⁰ On this view, slavery harms only by depriving the enslaved of the many and various goods they otherwise would have enjoyed. To be sure, many actual slaves were (and are) deprived of such goods, and these deprivations certainly constitute harms. Nevertheless, deprivation harm is only a contingent feature of the concept of slavery; a form of slavery in which individuals are enslaved but capable of partaking in all of the goods enjoyed by free individuals is not inconceivable. About this atypical form of slavery, the deprivation theorist would have to say that the nondeprived slave suffers no harm. And yet the very idea of an unharmed slave will strike many of us as a misnomer; slaves are harmed even if they are not deprived. The harm that slavery inflicts, we might say, is a necessary feature of enslavement: not merely a possible effect, but an essential concomitant of the institution of slavery.²¹

What is the nature of this necessary aspect of slavery's harm? It seems likely to have something to do with the degradation of dignity owing to slaves' status as inferiors. Through its conferral and enforcement of an inferior status, the institution of slavery cannot fail to violate the dignity of those who are enslaved, and that violation cannot be explained entirely in terms of deprivation. Enslavement would harm these individuals in this way even if they were not deprived of the goods enjoyed by free individuals.

A proper defense of this suggestion about slavery's harm is of course well beyond the scope of the present discussion, and nothing in what follows hinges on the substance of the foregoing line of thought.²² Whatever the appropriate corrective to a purely deprivationist analysis of slavery's harm may be, the purpose of this example is simply to illustrate by analogy the kind of criticism to which that analysis will be subject when we turn our attention to mortal harm.²³ For the cases analogous to the case of nondeprived slaves include those who lack meaningful projects, relationships, and interests for death to undermine; those who invest in only those projects, relationships, and interests that death cannot thwart; and those who have an interest in dying. These are the subjects whom the deprivationist regards as unharmed, or even benefited, by death. On the contrary, it will be argued that even these subjects do not escape death's harm—that, as slavery does to the enslaved, death harms its victims necessarily.

To this end, let us return to the group of individuals with perhaps the strongest claim to being unharmed by death, viz., those who have an interest in dying. As we saw above, McMahan expresses the deprivationist position when he writes that “the reason why death is not bad” in cases of justifiable euthanasia and rational suicide “is that, if the person were not to die, the life that he would subsequently have would not be worth liv-

ing."²⁴ But this line of thinking is mistaken; it conflates the possible rationality of suicide or justifiability of euthanasia, on the one hand, with the alleged nonbadness of death-by-suicide or death-by-euthanasia, on the other hand. We can and should agree that there are circumstances in which suicide may be rational and euthanasia justified. But from the fact that some lives are not worth continuing, it does not follow that the subjects of these lives go unharmed by their deaths—even when those deaths are elective.

If the overall goodness of these deaths were sufficient to establish that the victims were not harmed, why do we nevertheless mourn them? We do not mourn the continued suffering of the subject, since no such suffering continues. Nor is our mourning in these cases exhausted by our recognition of the setbacks and sadness that we or others will endure as a result.²⁵ The deprivationist will suggest that what we mourn are the goods that death prevented the individual from acquiring, even though on balance those goods are outweighed by the evils that would have been suffered had she continued living. But this is not a coherent global attitude for a deprivationist to adopt, because one who acknowledges that a death was overall good cannot fail to see the evils the individual would have suffered as outweighing the goods of which she was deprived. For a deprivationist to mourn an overall good death would seem to be tantamount to denying that the death was overall good.

But be that as it may. The fact is that we *do* mourn even these deaths. And the reason does not principally have to do with the ledger of goods that would have been enjoyed and evils that would have been suffered. Rather, we mourn because death harms even those for whom continued life would be overall bad.²⁶ The harm that death inflicts is manifest in the very fact that hastened nonexistence could possibly represent a superior alternative to continued existence.²⁷ In other words, the

harm is enfolded into the fact that euthanasia could be justifiable, into the very fact that suicide might represent the most rational course of action.²⁸

To say only this does little to clarify the aspect of death's harm that cannot be explained in deprivationist terms. But before going any further, note that if death harms even those for whom death is overall good, this strongly suggests that, in general, death harms the one who dies *whether or not* the nearest possible world in which the subject's counterpart lives longer is comparatively superior to the actual world in which the subject dies. And in that case, even for subjects whose death is overall bad, the nature of the harm inflicted is not exhausted by the welfare whose enjoyment is precluded, the projects whose completion is thwarted, the relationships whose flowering is prevented, etc. Even when death's victims are thus deprived, in other words, these deprivations do not fully account for the harm that death inflicts. Whatever this nondeprivationist facet of death's harm is, it would seem to be indifferent to the valence of death's overall impact.

3. RESTRICTION HARM

Let us now begin to characterize the nature of this unnoticed aspect of mortal harm. In so doing, we will see both why it accords with the priorist answer to the timing question and how it avoids the challenges to deprivationist priorism raised above.

The suggestion is that the overlooked facet of death's harm can be understood as a kind of restriction of, or constraint on, the autonomy of the one who dies, and that this restriction harm is distinct from (although complementary to) the deprivation harm that death can also inflict. Death's restriction harm consists in the fact that every exercise of a subject's autonomy is possibly thwarted by her death. This restriction can be (and often is) manifest in our awareness of our finite nature: of the fact that death will bring about one's nonexistence—of

the apparent truth, in other words, of what is sometimes labeled the “termination thesis.”²⁹ For lurking at the edge of every exercise of one’s autonomy is the knowledge that “I could cease to exist at any moment, and this might be that moment”—the knowledge that we are limited in our agency by an end that is certain to come, often unforeseen in arriving, and irrevocable once past. Of course, this knowledge may inform determinations about when, how, and why to exercise one’s autonomy. And if particular exercises of autonomy (the adoption of certain projects, the pursuit of specific interests, etc.) turn out to be actually thwarted by death, then death will be rightly said to deprivation-harm the subject in question. But what this deprivationist analysis of death’s harm does not take into account is the fact that, at every moment of our lives, we are endowed with only a limited autonomy, every exercise of which, whether ultimately thwarted or not, is *possibly* thwarted, and known to be so. It is in the boundedness of our capacity for self-determination that the distinctive aspect of death’s harm consists, and this restriction harm is inflicted (wittingly or not) on every subject endowed with that capacity at every moment in which they are so endowed. Notably, then, these victims of death’s restriction harm are antemortem, autonomous subjects, and therefore the restriction-harm part of death’s overall harm accords with the priorist answer to the timing question.³⁰

About the restriction view advocated here, note that although death’s restriction-harm of all living, autonomous subjects goes some way toward vindicating the priorist answer to the timing question, this vindication may be only partial. Nothing said here rules out the possibility that the two aspects of death’s harm are inflicted at different times; hybrid views—say, restrictionist priorism plus deprivationist subsequentism—are possible, at least in principle.

Note further that death’s restriction harm is suffered only by those mortal beings who are

also autonomous. Although death might still deprivation-harm them, human and nonhuman animals (not to mention plants and other living organisms) lacking this capacity for self-determination are not restriction-harmed by death. An autonomous human being is necessarily restriction-harmed by her future death so long as she remains autonomous. Should she lose her autonomy due to some nonfatal condition or injury—or, for that matter, should she somehow become immortal—she would cease to be the sort of being who could be restriction-harmed.

It is important to emphasize that restriction harm is not just a disguised form of deprivation harm. The claim is not that death harms its victim by depriving her of the ability to exercise her autonomy; if it were, then restriction harms could simply be subsumed under DV. The claim is, rather, that every living, autonomous subject who dies is harmed by death in the following sense: no exercise of her autonomy fails to be possibly limited, and this limitation is intrinsically harmful. It is not that the living subject lacks autonomy, of course. It is rather that the future death of every living, autonomous subject ensures that every exercise of that autonomy is possibly limited. Indeed, unlike the deprivation harms that may or may not accompany death, the restriction harm that death inflicts is not contingent, but necessary. It is necessary not because it is a necessary truth that all autonomous, living subjects will one day cease to exist (that is hardly a necessary truth), but because the harm visited upon such subjects by their future deaths is inflicted simply as a function of death’s occurrence: given its future occurrence, the subject cannot fail to be harmed.³¹

Furthermore, death’s restriction harm is distinctive. Whereas a subject’s interests may be defeated by a variety of nonmortal circumstances, only death affects every exercise of a subject’s autonomy in quite this way. For while there might be other circumstances in which every exercise of a mortal being’s au-

tonomy is possibly limited—circumstances imposed from without (e.g., slavery) and from within (e.g., dementia)—only death imposes this restriction necessarily, solely as a function of the subject's mortality and autonomy.

Returning to the objections to deprivationist priorism raised earlier, note first that living subjects may be, and often are, fully aware of death's restriction harm. On the view sketched here, any self-conscious, autonomous subject may be cognizant of her constrained autonomy at any moment of her life. Recall also the concern that death's deprivation harm effects no real change in the living subject who subsequently dies, but only a mere Cambridge change. Insofar as this view fails to satisfy the Epicurean, the restriction view may offer a welcome supplement for advocates of HT seeking a view according to which the harm incurred is metaphysically more robust. On this view, part of what it is to be a mortal, autonomous subject is to be encumbered with the harm inflicted by one's future death. Death's restriction harm is a function of a living being's status as autonomous and so is no mere Cambridge change, but a real change to—or, better, a real state of—this subject.

It might be asked whether the view advocated here—specifically, the claim that death's limitation of one's autonomy is intrinsically harmful—assumes that autonomy is intrinsically valuable. The short answer is that, in the interest of simplicity, we are indeed making this assumption. But it is not an altogether implausible or unpopular assumption. Quite apart from Kant, for instance, no less than Mill himself held that autonomy is “one of the elements of well-being.”³² And nothing said here precludes advocates of competing theories of autonomy from endorsing the proposed account of death's restriction harm.

Note further that the notion of restriction harm helps to illuminate a distinction drawn earlier between the possible rationality of

suicide or justifiability of euthanasia, on the one hand, and the alleged nonbadness of death-by-suicide or death-by-euthanasia, on the other hand. For it might be asked: if death necessarily harms the one who dies, how could suicide be rational or euthanasia justifiable? Here, while continuing to insist that death necessarily restriction-harms all autonomous subjects who die, we can allow that death's restriction harm is only a *pro tanto* harm. Doing so enables one to hive off the question of whether the death of an individual who has an interest in dying does or does not constitute an overall, all-things-considered harm to that individual—and thus whether or not the death in question is justifiable or not, rational or not—without thereby denying that it constitutes a *pro tanto*, restriction harm in any case. The suggestion, in other words, is that the justifiability of an instance of euthanasia (for example) depends in part on whether death's *pro tanto* restriction harm is outweighed by death's benefit to the individual in question—where the measurement of that benefit is established in the way familiar from the deprivationist analysis, namely, by determining whether the nearest possible world in which the subject's counterpart lives longer is comparatively superior to the actual world in which the subject dies.³³

The distinction between *pro tanto* and all-things-considered harms also helps in addressing another question that might be asked: if S is harmed because every exercise of her autonomy is possibly thwarted by her future death, does it follow that S would be unharmed if her death never occurred—if, in other words, S were immortal? As with euthanasia and suicide, the question of whether immortality is an all-things-considered harm can be answered only by consulting the complete tally of goods and evils afforded to the deathless subject. The debate surrounding this calculation is not one that that can be engaged here.³⁴ But even skeptics concerning the overall desirability of immortality should agree that our limited

life span constitutes a *pro tanto* harm to us. If this were not the case, it is difficult to see why the debate over immortality would be of any interest whatsoever.

4. CONCLUSION

It has been argued that death's harm is not homogenous, but multifaceted; not entirely contingent, but partly necessary. While death may deprivation-harm some, not all are deprivation-harmed by death. On this basis, however, it should be inferred not that death does not harm all who die, but rather

that death's harm is not fully accounted for in terms of the loss of those of life's goods one would have enjoyed had one continued living. On the view sketched here, each and every autonomous, living subject who dies is harmed because her every exercise of autonomy is possibly undermined by death. If this is correct, then HT is unnecessarily weak: not only *can* death in fact harm the one who dies, it always does so—whether or not the death is overall good for that individual.

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NOTES

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1. While this gloss would seem to capture the spirit of Epicurus's own argument, different commentators reconstruct this argument differently. Bradley (2004), for instance, suggests that Epicurus derives the falsity of HT from "(1) Anything that is bad for someone must be bad for that person at a particular time" and "(2) There is no time at which death is bad for the one who dies" (p. 1). Luper (2009), by contrast, construes the Epicurean argument as an extended *modus tollens*: "if death harms the individual who dies, there must be a *subject* who is harmed by death, a clear *harm* that is received, and a time when that harm is received. . . . Seeing that there is no coherent solution to all three issues, Epicurus rejects [HT]" (p. 67). See also Grey (1999, p. 359), Silverstein (1993, pp. 96, 372n2), and Warren (2004) for pertinent commentary. The discussion here, however, will not depend on precisely how one renders this argument. In something like the way we often use 'Cartesian' (rather than 'Descartes's'), 'Epicurean' (instead of 'Epicurus') will be used to refer disjunctively either to the view of Epicurus himself and/or to the view often attributed to Epicurus himself and/or to the view in the spirit of the view held by Epicurus himself.

2. This taxonomy of positions is adapted from Luper (2007, p. 241). The lists of expositors are illustrative, not comprehensive.

3. Nagel (1979, pp. 4–5, 7–10).

4. For example, one point of contention concerning the deprivation view has centered on whether (contra Nagel et al.) a person's ability to experience something as bad is a necessary condition of an event's badness. On this point, see Fischer (1993, pp. 18–23), Rosenbaum (1986), and Silverstein (1980). Other discussions may be found in Bradley (2004), Feit (2002), Feldman (1991, 1992), McMahan (2002), and Silverstein (2000). We shall make no attempt in what follows to represent all of the proposed refinements but will instead concentrate on the core claim, whose rough formulation here should be sufficiently encompassing as to be amenable to all parties.

5. In addition to Nagel, notable death theorists who accept (often explicitly, sometimes implicitly or tacitly) this view include Bradley (2004, 2009), Brueckner and Fischer (1986), Feit (2002), Feinberg (1984), Feldman (1991, 1992), Grey (1999), Lamont (1998), Luper (2007, 2009), McMahan (1988, 2002), Pitcher (1984), Williams (1973), and Yourgrau (1987), among others.
6. Those who have defended this view include Feinberg (1984), Luper (2004, 2007), Pitcher (1984), and possibly Aristotle (cf. Scott 2006).
7. Feinberg (1993, pp. 187–188).
8. Luper (2007, pp. 248–249). Similar statements may be found in Feinberg (1993, pp. 183–188), and Pitcher (1993, pp. 162–168).
9. “The harmed condition,” Feinberg (1993) writes, “began at the moment [the antemortem subject] first acquired the interests which death defeats” (p. 186).
10. Grey (1999, p. 364). Grey is objecting to Feinberg’s and Pitcher’s priorist account of posthumous harm, but the objection reflects a common confusion about the priorist account of death’s harm.
11. Geach (1979, pp. 90–91); see also Geach (1969, pp. 71–72); Geach (1972, pp. 321–322).
12. E.g., Geach (1969, p. 72).
13. McMahan (1993, p. 262), emphasis added.
14. Feldman (1993, p. 308), emphasis added.
15. Bradley (2004, p. 2), emphasis added.
16. Luper (2007, p. 240), emphasis added.
17. McMahan (1993, pp. 242–244).
18. Nagel (1993, pp. 62–64).
19. McMahan (1993, p. 244).
20. Although this view has not been advanced at quite this level of abstraction, some of the best known theories of slavery’s harm are clearly deprivation theories. According to Patterson’s “natal alienation” view, for instance, slavery’s harm is to be understood as “the loss of ties of birth in both ascending and descending generations” and the “loss of native status, of deracination” (1982, p. 8). Nevertheless, of primary interest here is not whether such a view has in fact been endorsed, but why such a view (whether or not endorsed) would fail to account for the totality of slavery’s harm.
21. Lawson (1992, pp. 9–12).
22. The interested reader is commended to Debes (2009), Lawson (1992), and Roberts-Thomson (2008), all of which have sparked my thinking in this context. Other relevant work includes Cohen (1998), Elkins (1976), Hare (1979), Kershnar (2003), Patterson (1982), Stampf (1956), and the readings found in Lott (1998).
23. Nor is this analogy in this context original to me. See Rosenbaum (1989) and Luper (2009, pp. 96–97).
24. McMahan (1998).
25. Is it impossible for one’s mourning of an overall good death to be exhausted by this recognition? Might not A mourn the overall good death of B not for selfish reasons *among others*, but for selfish reasons *only*—solely because B’s death results in a setback for A? About such a case it seems plausible to say that A is not, in fact, mourning B’s passing at all. A’s emotion would not be grief *for B*, but rather something more like regret for a consequence of B’s passing. For further discussion, see Solomon (2004).

26. Of course, our reasons for mourning even good deaths might be confused or inapt in some way, and so we can hardly assume them to be dispositive. The aim here is only, first, to occasion in the reader an intuition that the author himself has about these cases; and second, to note that, insofar as this intuition is widely shared, it would be better if we were able to explain it.

27. It might be suggested that the remorse felt in these cases is not (primarily) for death's harm, but for the harms inflicted by whatever condition makes the suicide rational or the euthanasia justifiable (e.g., a painful and terminal illness). But while it is entirely plausible that this grief might extend to include sorrow for the harms inflicted by whatever state of affairs grounds the individual's interest in dying, the claim here is only that no complete account of our grief in these cases would overlook our remorse for the harm inflicted by death itself—by the fact that continued existence could fail to represent the best all-things-considered alternative.

28. This claim that death inflicts *a* harm even on those for whom euthanasia is justified does not settle the ethical, legal, and political questions regarding euthanasia. What matters in answering these questions is whether death constitutes an *overall* harm. For my part, I believe that euthanasia can be justified (viz., for subjects for whom death would be overall good), and this commitment would seem to be widely shared. But beyond registering these beliefs, we need not engage the larger, practical questions concerning euthanasia in this context.

29. The termination thesis asserts simply that death brings about the nonexistence of the one who dies. See Feldman (2000, pp. 98–101) for a useful introduction. Advocates of the termination thesis—“terminators,” as Feldman memorably describes them—include Feinberg (1984), Hershenov (2005), Luper (1987), Nagel (1979), Olson (1997), Rosenbaum (1986), Rosenberg (1983), Silverstein (1980), and Yourgrau (1987), not to mention, of course, Epicurus and Lucretius. Admittedly, the termination thesis is not universally endorsed; notable “continutors,” as they might be called, include Ayers (1991), Carter (1999), Feldman (1992, 2000), Mackie (1999), Persson (1999), and Thomson (1997).

30. Hauntingly evocative both of our criticism of DV and of the proposal concerning restriction harm is Philip Larkin's poem “Aubade,” the first lines of which read, “I work all day, and get half drunk at night. / Waking at four to soundless dark, I stare. / In time the curtain edges will grow light. / Till then I see what's really always there: / Unresting death, a whole day nearer now, / Making all thought impossible but how / And where and when I shall myself die.”

31. The first stanza of Larkin's poem continues: “Arid interrogation: yet the dread / Of dying, and being dead, / Flashes afresh to hold and horrify. / The mind blanks at the glare. Not in remorse / —The good not used, the love not given, time / Torn off unused—nor wretchedly because / An only life can take so long to climb / Clear of its wrong beginnings, and may never: / But at the total emptiness forever, / The sure extinction that we travel to / And shall be lost in always. Not to be here, / Not to be anywhere, / And soon; nothing more terrible, nothing more true. //”

32. Mill (1859, chap. 3).

33. The concluding stanzas read, “And so it stays just on the edge of vision, / A small unfocused blur, a standing chill / That slows each impulse down to indecision. / Most things may never happen: this one will, / And realisation of it rages out / In furnace fear when we are caught without / People or drink. Courage is no good: / It means not scaring others. Being brave / Lets no-one off the grave. / Death is no different whined at than withstood. // Slowly light strengthens, and the room takes shape. / It stands plain as a wardrobe, what we know, / Have always known, know that we can't escape / Yet can't accept. One side will have to go. / Meanwhile telephones crouch, getting ready to ring / In locked-up offices, and all the uncaring / Intricate rented world begins to rouse. / The sky is white as clay, with no sun. / Work has to be done. / Postmen like doctors go from house to house.”

34. Beyond Williams (1973), there has been some interesting work on this topic of late; e.g., Bortolotti and Nagasawa (2009), Fisher (2006), and Moore (2006).

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