

Don't Fear the Reaper: An Epicurean Answer to Puzzles about Death and Injustice

Simon Cushing

Abstract

I begin by sketching the Epicurean position on death - that it cannot be bad for the one who dies because she no longer exists - which has struck many people as specious. However, alternative views must specify *who* is wronged by death (the dead person?), *what* is the harm (suffering?), and *when* does the harm take place (before death, when you're not dead yet, or after death, when you're not around any more?). In the second section I outline the most sophisticated anti-Epicurean view, the *deprivation account*, according to which someone who dies is harmed to the extent that the death has deprived her of goods she would otherwise have had. In the third section I argue that deprivation accounts that use the philosophical tool of possible worlds have the counterintuitive implication that we are harmed in the actual world because counterfactual versions of us lead fantastic lives in other possible worlds. In the final section I outline a neo-Epicurean position that explains how one can be wronged by being killed without being harmed by death and how it is possible to defend intuitions about injustice without problematic appeal to possible worlds.

Key Words: Death, deprivation, possible worlds, epicurus, Nagel, Silverstein, Feldman, McMahan.

1. Introduction

In this chapter I defend the notion that my death will not harm me. This is not a novel sentiment: it is the view of Epicurus (c. 341-270 BCE), whose argument for it is contained in his *Letter to Menoeceus*:

Accustom yourself to believe that death is nothing to us, for good and evil imply awareness, and death is the privation of all awareness...

Foolish...is the person who says that he fears death, not because it will pain when it comes, but because it pains in the prospect. Whatever causes no annoyance when it is present, causes only a groundless pain in the expectation. Death, therefore, the most awful of evils, is nothing to us, seeing that, when we are, death is not come, and, when

death is come, we are not. It is nothing, then, either to the living or to the dead, for with the living it is not and the dead exist no longer.¹

I take Epicurus to mean by 'death' here *the state of being dead*, and accordingly, that is what I mean by it in this chapter. None of what I say should be taken to apply to *dying* (which Epicureans can certainly concede to be harmful) or death as a moment, whereby one can debate whose death is better, Joan of Arc's (painful but heroic) or Elvis' (quick, but, to say the least, undignified).

Next, a disclaimer: I am not an Epicurus scholar. When I talk about the Epicurean position, I do not mean to say this is precisely what Epicurus said or even what he meant. It may be that Epicurus' real view is not Epicurean (as Marx is rumoured to have said of Marxists that he was glad he was not one), but I will not concern myself with such exegesis. With that in mind, I take the Epicurean position on death to be as follows:

1. The only way one can be harmed is if one experiences suffering.
2. It is impossible to experience suffering when one does not exist.
3. When one becomes dead, one ceases to exist.
4. Therefore, one is not harmed by being dead.

To put it succinctly: death won't be bad for me because I won't be around. As Epicurus' follower Lucretius pointed out, we don't lament the time of our non-existence before our births, so we should no more fear the time of our non-existence after our deaths. That is not, of course, to say that Epicureans deny that my death will be bad *for other people*. It is my fervent hope that upon my death the wailing and gnashing of teeth of my surviving great great grandchildren will be heard across the land. (Of course, this hope in itself is probably as irrational as a fear of death, but even philosophers should be allowed occasional lapses.)

I find this Epicurean reasoning about death very compelling, but I must concede that it has counterintuitive implications, not least of which is that it appears to suggest that attempted murder is worse for the victim than successful murder. If only Caesar hadn't had time to say '*et tu, Brute*' he would've been fine.

However, even if the Epicurean view has these implications, they are not sufficient to constitute a *reductio* of the position if the argument for it cannot be faulted. And, as we shall see, it is not clear that alternative views fare any better in the strange consequences department.

The Epicurean position is often met with much snorting and sputtering. Stephen Rosenbaum, himself an Epicurean about death, reports that a critic writes that Epicurus' argument 'will hardly bear looking into' and that 'Epicurus was not much interested in logic.'² And Steven Luper-Foy once wrote:

Epicurus' famous argument...is about as absurd as any I have seen...The self-deception of people like Epicurus is not conscious; we cannot relieve our anxiety by swallowing beliefs of whose inanity we are aware. But deception is nonetheless at work.³

One is reminded of David Lewis's comment about criticisms of his views, that it is hard to argue with an incredulous stare. Of course, the critics offer alternatives, most of which fall under what Harry Silverstein has called 'the standard argument'⁴ or what Fred Feldman calls 'the deprivation approach.'⁵ In what follows I will consider some of the better-known versions of this approach and explain why I think each is unsatisfactory. I shall conclude by attempting to explain away the more counterintuitive implications of the Epicurean position.

2. No Harm Without Suffering

Let us make clear the common ground between the Epicureans and the anti-Epicureans. First, we will assume, as writers on this subject typically do, that death marks the end of all experience. That is not to rule out by *fiat* the possibility of a so-called afterlife, just to deny that it happens *during death*. Better to say that those who believe in an afterlife in fact believe in immortality and deny that death happens. (They needn't deny the death of the body, just that the person dies along with it.) With that understanding of death, very few people deny the third Epicurean premise, which Fred Feldman dubs the *termination thesis*, that we cease to exist at death. Feldman himself is one who does deny it, but not in a way that gives much solace to those approaching death. Although he calls himself a 'survivalist' to distinguish himself from so-called 'terminators' who accept the claim, Feldman's position is a mixed bag. I quote:

The good news is that most of us will survive death. Most of us will continue to exist after we die. The bad news is that though we will survive death, and will continue to exist after we die, each of us will then be dead... We will just be corpses.⁶

In something of an understatement he concedes, 'such survival may be of very little value.' Feldman's position follows from his view that we are our bodies, and while that view has some advantages (for example, it makes sense of statements like 'we're burying Aunt Ethel today'), it does not really capture what we care about. So I shall assume the termination thesis in what follows. Even if one did not, however, one would still be forced to accept EPD 2 (to which we could add that should we continue to exist as corpses, we won't be suffering either), which is as uncontroversial as any claim in philosophy can be.

That leaves EPD 1, which we could call the 'No Harm Without Suffering' principle, as the only weak spot in the Epicurean argument, and it is indeed on this that the critics focus. Of Epicurus' contemporary critics, undoubtedly the most well-known is Thomas Nagel, who points out its implications:

It means that even if a man is betrayed by his friends, ridiculed behind his back, and despised by people who treat him politely to his face, none of it can be counted as a misfortune for him so long as he does not suffer as a result.⁷

Nagel here offers plausible candidates for harms that do not involve suffering. But let us look closer at his 'misfortunes'. The first thing I would suggest about them is that, in considering these cases, one cannot help imagining the poor sap *finding out* about the betrayal and ridicule, and this is where the real harm occurs. If that is so, then these cease to be examples of harm without suffering. To press the point, imagine that he finds out and *really doesn't care*. He is the remarkable man who forgives all, and has no ego that can be damaged. Wouldn't we say then that he had never been harmed, and precisely because he *doesn't* suffer?

Even if this point does not convince, a second thing to point out is that all of his examples involve other people acting with ill intent towards the blissfully unaware target of their venom. But *death itself* (that is, the state of being dead, not the titular Grim Reaper) cannot betray or ridicule one.⁸ In fact, I would suggest that Nagel's misfortunes are (at best) examples of *wrongs* rather than *harms*. Now, in saying that I am suggesting that there can be wrongs *without* harms, a claim that I suspect Epicurus would reject. Nonetheless, I will explore this suggestion later in the chapter, as I believe that making that distinction allows an Epicurean to maintain that killing can be wrong even when it does not harm the victim.

In sum, I maintain that Nagel's list of misfortunes do not constitute obvious counterexamples to the No Harm Without Suffering principle. But

he has another example that does not seem open to the challenges I mounted against the list, and here it is:

Suppose an intelligent person receives a brain injury that reduces him to the mental condition of a contented infant, and that such desires as remain to him can be satisfied by a custodian, so that he is free from care. Such a development would be widely regarded as a severe misfortune, not only for his friends and relations, or for society, but also, and primarily, for the person himself.⁹

Clearly this is intended to be an example of harm without suffering, because it is stressed that the post-injury individual is 'contented,' yet there is no doubt that we are inclined to say, as Nagel does, that he has undergone a serious misfortune. What can an Epicurean say in response?

One possibility is to deny that the post-injury individual is the *same person* as the pre-injury individual. Of course he *looks* the same, but there are very plausible accounts of personal identity that would require for continuity of personhood faculties that are missing in the post-injury individual. Just because the man with the mind of an infant has the same body as the pre-injury individual doesn't mean he is the same man.

In response Nagel could raise the capacities of the post-injury person. But he would have to be careful to ensure that he is still perfectly contented. And if we raise the capacities to the point where he can communicate with us and *tell* us that he does not feel that he is suffering, then are we really right to insist that he has been harmed? By analogy, suppose a formerly great athlete sincerely tells us that he is just as happy now his body is broken down, and can give good reasons why – is it our place to correct him, and tell him that *of course* he's worse off? Does the plausibility of this brain injury case rest on rather troubling prejudices against the mentally challenged?

Alternatively, another tack the neo-Epicurean could take is to allow that suffering does not have to be spelled out solely in hedonistic terms. (Again, the Epicurean might here be departing from Epicurus, but no matter.) The neo-Epicurean could side with Mill against Bentham and suggest that somebody denied the possibility of experiencing higher pleasures is legitimately suffering. This would be a hard road to take, though, because suffering seems at least to require a *negative experience*, whereas this would count as suffering merely the *absence* of a particular kind of *positive* experience. And surely this would open the door to a rejection of the Epicurean position that death cannot harm us, because if there's anything that we can be sure of in death, it's that we will have an absence of experiences of *any* kind.

3. The Deprivation Approach

This, in fact, is the central idea behind the Deprivation Approach: that being deprived of something positive can constitute a harm, and that death therefore harms the one who dies because it deprives her of *everything*. Thus the anti-Epicurean can allow that Epicurus is quite right to point out that being dead will not be a cause of suffering in the traditional sense of a painful or otherwise negative experience, but retort that one can still be harmed by death because of the things that one will *not* experience on account of being dead.

The Epicurean isn't going to give up that easily, however, as they are used to fighting uphill against received wisdom. In Nagel's brain injury case it is clear who is harmed and when he is harmed, and as we saw, it is also necessary that identity persists through the injury for the victim to be said to have been harmed. What are the analogues in the case of a death? *Who* is harmed? *When* is this person harmed? *What* exactly is the harm?

In the case of a brain injury, we can say either that the *pre*-injury, intelligent person, or the post-injury person is harmed by his current brain-damaged state. George Pitcher dubs the parallel 'before and after' persons in the case of death the *ante-mortem* person and the *post-mortem* person.¹⁰ But not only can the ante- and post-mortem person not be one and the same, crucially (given the termination thesis) there *is* no post-mortem person. How can a non-existent individual be harmed? Thus, the ante-mortem person appears to be the only remotely plausible subject of the harm of death. But in what way has the living Aunt Ethel been harmed by her death?¹¹ She isn't dead yet, and so has not been deprived. Hence the second Epicurean challenge, specifying *when* one is harmed by death. The temptation is to say 'at death'. But that is to define death as a single moment rather than, as we have used the term here, the state of being dead. If the state of being dead starts the moment a person dies, then that is also the moment that person ceases to exist, and thus the ante-mortem person, by definition, *never dies*. The ante-mortem person exists only up to the point death begins.

That suggests that if we are to claim that death is a harm, then it must be a harm that happens to a person (the ante-mortem person) *after* she ceases to exist. But if that is the case, why should she care? This is the point at which Lucretius' observation that we don't care about the time before we begin to be seems most relevant. If death harms us simply by being a state when we are non-existent, then, presumably, exactly the same harm is imposed on us by the vast stretch of time before we came into existence. We don't care about that, though, so we should have the same attitude to the time after our deaths. Indeed, it seems downright ridiculous to suggest that the ante-mortem person *could* be harmed by an absence of existence that *by definition* cannot temporally overlap with her. Is it even possible for there to

be a connection between a person and a harm committed after she has ceased to be?

Harry Silverstein argues that it is and responds to this second Epicurean challenge by denying the ‘temporality assumption’ which requires that a harm to a person ‘must have a temporal location or extent at least part of which’ is prior to her death.¹² Expanding on a remark by Nagel that ‘for certain purposes it is possible to regard time as just another type of distance,’¹³ Silverstein argues that events in the future exist just as much as events far away exist, and that thus:

A’s death coexists with *A* (‘in an eternal or timeless sense of the word’ [Quine]), and is therefore a possible object of *A*’s suffering, and is therefore an intelligible *A*-relative evil.¹⁴

What is interesting about Silverstein’s approach is that he, unlike Nagel, accepts a variant of the first Epicurean premise, that harm must *in some sense* be connectable with suffering, or, more generally, what he calls the ‘Values Connect with Feelings’ view.¹⁵ His variant, however, allows that a particular event *x* can be viewed as a harm for person *A* even if it does not actually cause suffering for her:

x can intelligibly be said to have a certain *A*-relative value provided merely that it be possible, or possible under certain conditions, for *A* to have the appropriate feelings as a result of *x*.¹⁶

Thus, on this view, the ante-mortem Aunt Ethel can be harmed by post-mortem event *x* because they coexist with each other in a timeless sense and *x* is therefore a possible subject of suffering for Aunt Ethel. But it still remains for this view to explain the harm of *death itself*, rather than particular events after Aunt Ethel’s death. While one might view the moment of death as an event, it seems odd to view the potential infinity of time one spends being dead as a single discrete event. Moreover, even if it were legitimately seen as such, is it possible for one to have an infinitely long event as the subject of feelings? And finally, the third Epicurean challenge—what is the harm of being dead—rears its head here: how is being dead a cause of suffering? Silverstein’s response is as follows:

[T]he reason one fears death, of course, is that it shortens the duration of one’s life; if *A* contracts terminal cancer...his approaching death would typically be the object of negative feelings precisely because of his

awareness of the brevity of his life as a whole, and the consequent sparsity of its content, in comparison with alternative imaginable lives. In short, it is the 'four-dimensional' ability to understand life in durational terms, to view one's life as a temporal whole and to make evaluative comparisons between it and alternative possible life-wholes which ultimately accounts for the fact that statements of the form 'A's death is an evil for A' are commonly regarded as not merely intelligible, but true.¹⁷

That is, Aunt Ethel's being dead is a harm to her while alive because (a) her future death is an object of harmful feelings because of (b) the comparative brevity of her life in comparison to 'alternative possible life-wholes' (henceforth PLWs) in which she lives longer.

Let us take those two elements in turn. First, Silverstein insists that one's death can be the object of feelings while one is alive. That is, he's not simply saying we are harmed by foreboding, or thinking of death *in general*, but that we are harmed because our *actual* death (or events that happen while we're dead) can be the object of feelings before we die. He attempts to support this view, with a case where a husband finds out the truth, that his wife is having an affair with his best friend, by a report from another friend who *mistakenly* thought he overheard something to that effect.¹⁸ This is a case where, claims Silverstein, the affair is the *object* of the husband's misery without actually being the *cause* of it. That is, he holds a *de re* view of the objects of feelings. I find this simply implausible, but am not sure how to explain it. The best I can manage is that, while I might allow that my statement 'the alien with thirty arms somewhere in the universe' might have as its object that actual being, my *feelings* cannot be 'about' that being without *some* causal connection. My feelings are about my conception of that being. And so with my death: I cannot have feelings about my *actual* death (or state of being dead), just my imagination of it, and thus on his VCF view, I cannot be harmed by it. Suffice to say that this element of Silverstein's view is idiosyncratic. However the second element, the idea of that the harm of death is in the comparative brevity of one's actual life when compared with other PLWs is common to several deprivation approaches.

This putative comparison conjures up images of a spectral pre-birth Aunt Ethel entering the Supermarket of Lives and being presented with a range of options of lives and asked to pick which one she would prefer. The use of a fictional 'choice position' is reminiscent of Rawls's Original Position, and subject to the same kind of worries. On what grounds would Aunt Ethel choose one life over the other? How would she know what life she would prefer before she knows what preferences she will have? Or are we to say that some lives are *objectively better* than others, and thus it does

not matter that spectral Aunt Ethel has no preferences? And how wide a range of choices does she have? Just two – the one where she dies her actual death, or one where she avoids *that* death and meets another later on? But how much later on? And why that one later death rather than another? Clearly the notion of PLWs needs fleshing out.

4. Possible Worlds

One philosophically respectable way to do so is to turn to the conceptual tool of *possible worlds*, as Fred Feldman (among others) makes explicit. Leibniz is famous for his claim that we live in the best of all possible worlds, and while that claim (savagely satirized by Voltaire in *Candide*) was never popular, his idea that every possibility there was a ‘possible world’ (or, to use the language of science fiction, parallel universe) in which it occurred. Thus, for any death that any person meets, there are innumerable possible worlds in which everything up to *just before* the moment of death is the same, but that death is avoided. (Conversely, of course, there are innumerable worlds where that person dies much sooner or doesn’t live at all.) Thus the sum of PLWs would be in all those possible worlds where the person whose death is being assessed lived at all. But how to compare them? Arguing against Epicurus, Feldman nonetheless assumes a crude form of hedonic calculus that he believes would be amenable to Epicurus for the sake of argument, and because this provides a simple, objective way to evaluate in what sense one PLW could be better than another without having to worry about the varying preferences a person might have in each. With that in mind, Feldman suggests the following analysis to explain the harm to himself of his dying in a ‘plane crash:

Suppose I am thinking of taking an airplane trip to Europe. ...consider the nearest possible world in which I...die en route to Europe on this trip...Let us suppose that that world is worth +500 to me...Next...consider the nearest world in which I do not die en route to Europe on this trip. The relevant feature of this world is that I do not die a painful and premature death in an airplane accident. Suppose I there do live to enjoy many happy years of retirement. Let us suppose my welfare level at that world is +1,100. [This account] implies that my death on this trip would have a value of -600 for me. It would be a terrible misfortune.¹⁹

There are all sorts of metaphysical questions about possible worlds, though. For one thing, in what sense *are* they possible? A believer in determinism would deny that any world other than the actual one really *is* possible. For

such a person there is no distinction between physical and metaphysical possibility. That would appear to imply that determinism commits one to an Epicurean view of death, because you can't be harmed by impossibilities.

Another issue is the problem of establishing transworld identity: in what sense are all these people, some who die, some who live, *Fred Feldman*? This question is contentious, and the subject of high-level metaphysical debate. It seems odd that the harm of death, supposedly so intuitively obvious as to make the Epicurean position absurd, should hang on such abstract philosophising. According to the view popularised by Saul Kripke, Fred Feldman could possibly be just about any being in any circumstances at any time. There is a possible world in which I, sitting here named Simon Cushing, am in fact Fred Feldman. This view of transworld identity has disastrous implications for any Deprivation Approach that appeals to possible worlds (henceforth PWDA), because if there is such a wide range of possible lives for me, then it seems that the *actual* me, sitting here alive, is harmed by far more than my actual death. Remember that according to PWDA, the harm of being dead is that I am thusly deprived things of value I have in some other possible world. But it then follows that even sitting here alive I am currently being harmed because in some alternative possible world I live the life of an immortal philosopher-king. What is more, this is *exactly the same kind of harm* that constitutes the harm of being dead, and, on Feldman's crude calculus, potentially far greater. This seems to me either a *reductio* of the possible-worlds deprivation account, or the biggest excuse for whining ever. Call this criticism the Absurd Proliferation of Possible Harms (APPH) objection.

One tack a defender of PWDA can take to avoid APPH is to try to restrict what can count as harm so that it does not include things like being deprived of possible great wealth. Steven Luper writes:

The explanation might lie in the distinction between harm and misfortune. Consider that it is no misfortune for me not to enjoy the goods genius would bring me, and it is no misfortune to be deprived of goods when their absence is not a misfortune for me. Also, lacking genius is not in itself a misfortune, and yet genius is a great good.²⁰

Thus, while I my actual death is a *misfortune* for me, my actual not-being-Philosopher-King-of-the-World (as I am in some, clearly more reasonable and well-ordered possible world) is not. This response does seem to fit with our use of terminology, and indeed, might seem to fit with my objection to complaining about my non-King-ness. Strictly speaking, though, Luper's distinction doesn't get rid of the Absurd Proliferation of Possible Harms, it

just denies that many of them are *misfortunes*. I'm not sure how seriously to take this: I don't think it is much comfort if one is being harmed to be reassured that at least one is not suffering a *misfortune*. Because, the fact remains that the possible worlds model is out of step with our views in characterizing my non-King-of-the-world-ness as harm on par with the harm of death. For the harm of death can only be spelled out in the good things that would have come to me in the life unlived (for it is *not* a misfortune to die if the alternative is non-stop torture), and surely that meets the very definition of 'good possibilities' that 'fail to be actualised'. However, Luper's reason for drawing the harm/misfortune distinction is at least interesting, resting as it does on a taxonomy of goods:

How can lacking a great good fail to be a misfortune? Because some goods are less important for us than others, and it is a misfortune to be deprived of a good if and only if it is important for us to have it. But when is it important for us to have a good? Various answers are possible. One answer lies in the fact that it is one thing for a life to be (merely) good, and quite another for it to be the best (physically? conceptually?) possible life; some qualities are requisite for a merely good life, or a life that meets the minimal conditions for happiness, while others are essential to the optimal life, or one that provides for a degree of happiness that cannot be exceeded. Failing to have (something essential to) a good life (or minimal happiness) is a misfortune, yet failing to have (what makes for) the best possible life (or maximal happiness) surely is not. So it is plausible to say that the goods it is important to have, and whose absence constitutes a misfortune, are essential goods: items essential to a (merely) good life, or a life of (mere) happiness.

The suggested distinction between 'essential goods' and non-essential ones, (which would include my Philosopher King-ness), while also initially plausible, cannot be sustained on a PW model. Let me explain why. I am perfectly willing to concede that in *this* world I should shrug off the fact that I don't have Warren Buffet's wealth and attendant influence, and regard it as neither harm nor misfortune. But that's because I never saw that wealth as *mine*. But the PW model tells me that I am harmed because there is more of *my* life that I am being deprived of because, in another possible world *I* (and not just somebody similar to me) live longer. But then there is another possible world where *I* do have wealth and influence to put Buffet's to

shame, and thus I am being denied *my* wealth. Not having a million dollars that was never mine and never likely to be mine is no misfortune. Not having a million dollars that *is* mine is definitely a harm and seems pretty clearly a misfortune. Now, maybe, objectively, I don't deserve it. But then why should I feel that I deserve the extra years my possible counterpart outlives me by?

All this suggests a second approach the anti-Epicurean can take to avoid APPH: to restrict the range of possible *mes* to rule out all but a few worlds where things are very similar for me *up to* the point of death. Feldman almost certainly has this in mind when he refers specifically to the *nearest* possible worlds. Jeff McMahan spells out how 'nearness' of possible worlds (which, after all, are entire parallel universes, not actual planets) could be measured:

Let *t* be the time at which some person died. Our overall, objective evaluation of how bad or good his death was for him will be based on a counterfactual claim about what would have happened to him if he had not died at *t*. Let the antecedent of the relevant counterfactual be 'if the entire transitive cause of his death had not occurred...' To complete the counterfactual, we consult the possible world in which the antecedent is realized which is closest to the actual world up to *t*. In assessing comparative similarity, we give nomological similarity lexical priority over factual similarity. That is, we hold the laws of causation constant across possible worlds. Then we simply let the future unfold in this world in accordance with the laws that hold in the actual world, and see how the person fares.²¹

McMahan thinks that this view both encapsulates and develops the intuitive idea that 'death is bad for a person...at any point in his life, provided that the life that is thereby lost would on balance have been worth living,'²² where the 'life lost' is the life that is had by the person on the possible world that is identical to the actual world except for the key causal factor that brought about the death of the actual person. Does McMahan's account remove the counterintuitive implications of the anti-Epicurean position?

I do not think so. McMahan's focus is on establishing the harm of a person's actual death. This is how he can justify comparing the actual world to just one closest possible world, where the closeness includes as much as possible an identical life up to the point of death. However, my complaint against the PWDA school is that if you are going to allow that a person is harmed because of the existence of an alternative, better life on another possible world, then there are a lot more harms than just death, and again,

these can be much more extensive. McMahan thinks focusing on someone's *actual* death removes the relevance of other possible worlds. But only if all you are interested in is the question of how death harms you. This doesn't mean that other worlds aren't relevant for other questions, such as how not-being-born rich, or not having world-beating basketball skills or what-have-you harms you. So the limiting of worlds is not accomplished by the other worlds being somehow irrelevant to you or not actually evidence (according to the assumptions of the possible worlds approach) of harm to you, but merely because of the particular question he was interested in. The APPH objection remains un-rebutted.

Furthermore, while McMahan sees the specificity of his account to be strength – he is able to explain why someone's *actual* death is bad for her, and is able to account for why some deaths are worse than others – I think it means that he has not really explained the harm of *being dead*. In fact, if his account succeeds in showing that anything is bad for a person, it is the *cause* of her actual death, rather than the death itself, for the cause is the difference between the actual world and the 'nearest' possible world with which it is compared. As a result, McMahan has to contort his account in cases where death would result almost instantaneously from another cause (say, my actual death was one bullet of many in a firing squad) lest people who die in those circumstances be harmed much less by their deaths than those whose deaths are not causally overdetermined.

In sum, McMahan has not successfully delimited the number of possible life-wholes that one should compare oneself with to find out how much one is being harmed, and thus his view, as much as any of the possible life-wholes views subjects actual people to potentially infinite harms in its attempt to make being dead a harm to the living.

5. Accounting for Injustice

That's all very well, the anti-Epicurean can respond, but the Epicurean position has far worse implications, most notably that you do not harm a person by killing her. Not only that, but eschewing possible-worlds talk deprives the Epicurean of the apparatus to explain all kinds of harms, including, in particular, injustice. Earlier I compared Silverstein's alternative life-wholes to the possible worlds a party in Rawls's Original Position contemplates, and it certainly seems that views like his make use of counterfactuals to explain the injustice of actual institutional arrangements or distributions. If I am disallowing comparisons across possible worlds, can I no longer account for actual people suffering injustice?

Here is my suggestion: one does not suffer injustice because there is a possible world in which one is better off (in justice-relevant ways). One suffers injustice because one is *not* better off in *this* one. This is an incredibly

crude characterisation, and I cannot hope to do justice to the *topic* of justice in such a short space, but let me explain what I mean.

There are two ways in which injustice might be taken to be comparative. One way is that I suffer injustice if things could have gone better (in the relevant justice-relative ways) for *me* in another possible world. Here the possible world would have to be relatively near: if it is one where I am some amalgam of Johnny Depp, Einstein and Pele, the injustice seems trivial. But that leaves the possibility that, in fact, although I suffer in the actual world, there is no near-enough possible world that both preserves my identity sufficiently and in which I am better off. On this account of injustice, I do not suffer it. Positively Panglossian. The alternative suggestion for the relevant comparison is to some ideal of justice that perhaps is impossible to attain amongst humans. This would allow that the best of all actually possible human worlds would still exhibit injustice. I am inclined to think this is the correct view: that even Heaven on Earth could be unjust.

In these foregoing remarks I have been discussing justice in a purely distributive sense. There is also another, more personal, sense of injustice, the kind that more closely fits a Nozickian model than a Rawlsian one. Here I am done an injustice if somebody deprives me of something (however abstract) that is rightfully mine. But this kind of injustice concerns wrongs, not harms, and, moreover, does not require possible worlds to account for it. In fact, possible worlds talk might have counter-intuitive results. Consider the argument against restitution to the descendents of slaves, that in fact they are *better off* than they would have been had they stayed in Africa. That, even if true (and of course it does not apply to the non-descendents of the people who died childless in the crossing) is surely beside the point: it was wrong to enslave people, even if they fared better than their possible non-enslaved counterparts. (Well, the deprivation theorist could say, they were deprived of their *freedom*, and there is a possible world in which they were not. But what if their country was in a civil war and they would have died?)

That one can be wronged even if one is not harmed by death: if I murder someone, I wrong him because he has the right of self-determination that my action robs of its essential basis. I have no right to embark on the course of action that causes that right to be annulled. That is the sense in which I wrong the living person before he dies. There is no mystery as to *when* this wrong occurs – it occurs as I act intentionally, and thus the victim of the wrong is the ante-mortem person, wronged simultaneous to my act. As I mentioned earlier, I take this to be parallel to the case of a person being wronged by a betrayal of which he is oblivious.

I am fairly certain Epicurus would not be happy with my suggestion that there are some wrongs that can be done with no accompanying harm. And he is probably not alone. Am I just turning this into a dispute over terminology? Well, not really. I deny that one is wronged *or* harmed by *being*

dead, but further deny that this undercuts the wrongness of killing. More broadly, I deny that one is harmed by being deprived of something, while allowing that the person who deprives me of it may thereby wrong me. Even further: there might be social systems where I am neither wronged *nor* harmed, but where the system is still unjust because it falls short of some ideal.

To recap, then: I do not believe that the Epicurean challenge has been met by the various writers who have attempted it. In particular, possible-world deprivation accounts are in the unenviable position of claiming that the living suffer the deprivation of being dead, and the use of possible worlds to characterize *actual* harms opens the door to horrendously implausible claims about the harms we suffer because of our myriad possible selves.²³

Notes

¹ Trans. R D Hicks, <<http://classics.mit.edu/Epicurus/menoec.html>>.

² M Mothersill, 'Death,' *Moral Problems*, J Rachels (ed), New York, 1971, p. 378.

³ S Luper-Foy, 'Annihilation,' *The Metaphysics of Death*, JM Fischer (ed), Stanford University Press, Stanford, 1993, p. 270.

⁴ H Silverstein, 'The Evil of Death,' Fischer, op. cit., p. 98.

⁵ F Feldman, *Confrontations with the Reaper*, Oxford University Press, New York, 1992, p. 236.

⁶ F Feldman, op. cit., p. 105.

⁷ T Nagel, *Death*, Fischer, op. cit., p. 64.

⁸ Of course, the dead being betrayed by the living is a common fictional theme (at least, in the films *I* like to watch), but the stories inevitably have to resort to the device of the betrayed party either returning from the grave or at least reaching across to the land of the living to exact revenge. That is, the stories cheat by allowing an existing party to experience the betrayal.

⁹ *ibid.*, p. 64.

¹⁰ G Pitcher 'The Misfortunes of the Dead,' Fischer, op. cit., p. 161.

¹¹ Presumably this is different from jumping up and down on a long-buried person's grave: supposing, contrary to what I believe, harm is committed to a person by this disrespectful act, it surely must be (contrary to the termination thesis) to the post-mortem person. Disrespect to the dead is not disrespect to the living.

¹² Silverstein, op. cit., p. 106.

¹³ Nagel, op. cit., p. 66.

¹⁴ Silverstein, op. cit., p. 112.

¹⁵ *ibid.*, op. cit., p. 107.

¹⁶ *ibid.*, op. cit., p. 107.

¹⁷ *ibid.*, op. cit., p. 116. While I have lumped Silverstein in with proponents of the so-called standard argument, Silverstein is adamant in distancing his position from the standard anti-Epicurean view, because that approach makes the fatal mistake of suggesting that death is a loss to the non-existent dead person. His view, he insists, entails a coherent 'life-life' comparison instead of an incoherent 'life-death' comparison. However, in my opinion his view is just a more respectable fleshing out of the deprivation idea.

¹⁸ 'The Evil of Death Revisited,' *Midwest Studies in Philosophy*, XXIV, 2000, pp. 123-4.

¹⁹ F Feldman, 'Puzzles About the Evil of Death,' Fischer, op. cit., pp. 316-317.

²⁰ S Luper-Foy, 'Death', *The Stanford Encyclopedia of Philosophy*, Spring 2006 Edition, EN Zalta (ed), <<http://plato.stanford.edu/archives/spr2006/entries/death/>>, section 4.3.

²¹ J McMahan, 'Death and the Value of Life,' *Ethics* 99, October 1988, p. 48.

²² *ibid.* p. 58.

²³ H Silverstein insists that his account is different from the 'standard' deprivation accounts, specifically because future events (on his view) *can* be the *objects* of the feelings that constitute a harm to the living (and, recall, this is so even if in fact one experiences no *actual* adverse feelings). He attempts to support this case in 'The Evil of Death Revisited,' *Midwest Studies in Philosophy*, XXIV, 2000, with a case where a husband finds out the truth, that his wife is having an affair with his best friend, by a report from another friend who *mistakenly* thought he overheard something to that effect (123-4). This is a case where, claims Silverstein, the affair is the *object* of the husband's misery without actually being the *cause* of it. That is, he holds a *de re* view of the objects of feelings. I find this simply implausible; while I might allow that my statement 'the alien with thirty arms somewhere in the universe' might have as its object that actual being, my *feelings* cannot be 'about' that being without *some* causal connection. My feelings are about my conception of that being. And so with my death: I cannot have feelings about my *actual* death (or state of being dead), just my imagination of it, and thus on his VCF view, I cannot be harmed by it.

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Simon Cushing, is an Associate Professor in the Philosophy Department of The University of Michigan-Flint.