

'Total disability' and the wrongness of killing

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ABSTRACT

Walter Sinnott-Armstrong and Franklin G Miller recently argued that the wrongness of killing is best explained by the harm that comes to the victim, and that 'total disability' best explains the nature of this harm. Hence, killing patients who are already totally disabled is not wrong. I maintain that their notion of total disability is ambiguous and that they beg the question with respect to whether there are abilities left over that remain relevant for the goods of personhood and human worth. If these goods remain, then something more is lost in death than in 'total disability,' and their explanation of what makes killing wrong comes up short. But if total disability is equivalent with death, then their argument is an interesting one.

In a recent article, Walter Sinnott-Armstrong and Franklin G Miller (whom I will call 'the authors') account for the wrongness of killing by virtue of what they call 'total disability.'¹ It is not the loss of life or the loss of consciousness that counts; rather, the wrongness of killing is best explained by the *universal and irreversible* loss of one's 'remaining abilities' to act or do things. If this is right, then it is not wrong to cause the death of patients who are disabled to such an extent that they have no abilities left to lose. Applied to vital organ transplantation, the authors believe this account undercuts the 'dead-donor' rule and shows how current practices of organ procurement from totally disabled patients are permissible.

Does their account succeed? It depends on how one understands 'total disability.' If total disability is equivalent with death, then they provide an interesting analysis of the wrongness of killing. But if it is not and there are abilities left over that remain relevant for the goods of personhood and human worth, then something more is lost in death and their explanation comes up short. Surprisingly, this position is not well represented in the commentary on authors' paper,²⁻⁵ so I will try to show why their account cannot be applied to vital organ transplantation without

begging the question whether one has certain abilities relevant for personhood and human worth after being 'totally disabled.'

Why do the authors think that total disability best explains the wrongness of killing? Suppose Abe shoots Betty in the head, leaving her permanently brain damaged. She has control over nothing, her mental states are chaotic, and she feels neither pleasure nor pain. Betty is better off totally disabled than dead only if death causes the loss of *something* more of value beyond the loss of all her abilities. But, the authors assert, there is nothing more to lose. Hence, nothing beyond total disability explains the wrongness of Abe's actions. Therefore, Betty is no better off totally disabled than dead; the harm of total disability is equivalent with the harm of death. Furthermore, the authors believe other rival explanations of killing can be subsumed under the effects of harm. Specifically, disrespect to Betty's personhood should be understood in terms of Abe's causing the loss of her personhood, which, according to the authors, 'is a harm broadly construed.' Thus, the wrongness of killing is best explained by the effects of harm, and the effects of harm are best explained by the effects of total disability.

The problem: total disability sufficiently explains the loss of personhood only if personhood is an accidental property instantiated by a certain set of abilities. Total disability is not sufficient if personhood is essential to one's humanity—the sort of property that survives the loss of a subset of abilities necessary only for the expression of personhood. If personhood is essential, then death is necessary (and sufficient) to explain the loss of something beyond one's abilities for action, that is, one's personhood.

Indeed, we can appeal to the framework of abilities to supply evidence for the belief that personhood is not accidental to us. Suppose one is a person if and only if one has the abilities that are sufficient for personhood. This set of abilities includes lower- and higher-order abilities. By 'lower-order ability' I mean the first-order, immediate ability to express one's personhood. By 'higher-order ability' I mean the ability to have a lower-order

ability. We can illustrate the difference: suppose Betty goes deaf in both ears, but by way of cochlear implants, she retains the ability to hear. She goes blind, but by way of some optical technology of the future, she is able to retain vision. Her spine disintegrates, but it is replaced with some organic fibre optic cables that preserve bodily sensation and the ability to move. Finally, her brain loses the ability for memory, consciousness and self-awareness, but by way of computerised neural implants, she is able to retain all her memories and sustain a unified conscious experience. In the first-order sense, Betty lacks these abilities, and requires the aid of technology to keep them. But in the higher-order sense, Betty *never lost* the ability to enjoy the abilities produced by the technology. So in the first-order sense, she is 'totally disabled' if *all* of her first-order abilities depend on technology, but not in the higher-order sense if she is able to enjoy the technology's assistance.

If higher-order abilities are excluded from our view of personhood, we are subject to the 'gappy-person' problem. Consider two people, Smith and Jones, who are in exactly similar comatose states, except that Smith lives in a well-off, technologically advanced society and Jones does not. Through intensive care, Smith's doctors are able to reverse the effects of the coma, but Jones's low level of care fails to improve his condition. Because Jones 'cannot' realise the relevant lower-order abilities for personhood, Jones is not a person; yet, owing to Smith's circumstances, Smith *is* a person. But if Jones were airlifted to where Smith lives, he would become a person again. Or if intrinsic abilities are what counts (rather than extrinsic factors like location) then this only reinforces my point, because higher-order abilities *are* intrinsic; if intrinsic higher-order abilities are excluded, then people who are under the effects of anaesthesia lack personhood until the effects wear off. Unless we are willing to assert that persons can go in and out of existence like this, we should include higher-order abilities in our view of personhood.¹

This fits with the view of personhood I gestured at earlier: an essential property of one's humanity.⁶ In this view, a human being is taken to be an Aristotelian

¹The gappy-person problem can be read as isolating either a moral status or a metaphysical property that implies a moral status. Either way something is lost if only first-order abilities are in view.

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substance which instantiates a property of personhood that survives the loss of a subset of abilities necessary only for the expression of personhood. A lack of expression does not entail a lack of personhood because personhood attaches to the sort of being that *grounds* the abilities necessary for personal expression, whether they are realised or not. If one's higher order abilities are lost, the kind of being that loses them goes out of existence. Therefore, if a substance suffers a defect, say Betty suffers a loss of rationality, she does not suffer the loss of a higher-order ability; instead, she only loses a lower-order ability needed to realise her higher-order ability for rationality. So while she is unable to express her rationality, she remains a 'rational animal' by nature. Once a substance loses its higher-order abilities, it goes out of existence.

The second assumption the authors make is that biological life entails a norm against killing only if it is capable of sustaining abilities necessary for what has been called 'biographical life,' that is, a life capable of accomplishment.⁷ They write, 'Since Betty then lacks all abilities to act or *do anything*, and we are concerned here only with abilities *to act or do things*, Betty's disability is universal.' The authors contend that these abilities explain why we have moral status and plants do not, and why there is no norm against killing beings that lack the abilities necessary for biographical life.

The problem is that biographical life, unlike one's biological life or life history, is an inadequate ground for the goods to which we have rights.⁸ It is plausible to suppose that the right not to be cannibalised is generated by the non-instrumental worth of human life, and that cannibalism would disrespect us regardless of whether

or not we are totally disabled.ⁱⁱ Furthermore, our life history extends beyond both our biographical and biological lives, which explains why we are wronged if we are maligned at our funerals or if a promise made to us on our deathbeds is broken. Thus, we can distinguish between the value of *human beings*, as they are comprised of flesh and blood, and the *states of affairs*, of which human beings are constituents; the former have a value that attaches to their kind while the latter have value insofar as they contribute to the non-instrumental worth of the former. Hence, someone like Betty can be 'totally disabled' in the authors' sense and still have a right to those goods that contribute to the value of her life or life-history, which include not being killed or treated as a means to an end. Thus, the concept of biographical life, which admittedly ends at the point of total disability, is not an adequate framework to ground the goods to which we have rights. Therefore, we ought to reject the notion that biological life has moral worth only if it is capable of sustaining the abilities necessary for biographical life.

More could be said about the authors' comments on transplant ethics, but it suffices to conclude that their analysis of 'total disability' cannot be deployed to show how current procurement practices are compatible with morality without addressing the concerns raised above. I take no position on whether human worth depends *solely* on our abilities, but I do think the harm account is well served by explaining the loss of life in terms of the loss of *all* our abilities. Nevertheless, the harm account remains incomplete if

ⁱⁱI assume that the right to not be cannibalised is inalienable, though others may disagree.

we fail to account for the worth of the being that is harmed. Once we do, principles of respect become applicable. Thus, I submit that disrespect to the worth of an innocent human being—someone like Betty—is essential to explaining the wrongness of killing, not the authors' understanding of 'total disability.'

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