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A Gradualist View about the Badness of Death

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1. Gradualism

In evaluating a health care policy outcome, we need to determine, among other things, the effects of the policy on preventing premature deaths.¹ And in turn, we need to determine how important it is to avert a death. It seems plausible that not all deaths are equally bad for their victims. Death at the end of a very long life seems less bad for its victim than death relatively early in life. A simple way to account for this would be to employ the *Deprivation Account* of death's badness. According to this account, the magnitude of death's badness for a person is determined by the amount of good life of which death deprives that person; thus death is likely worse at age 40 than at age 80 because it likely deprives its victim of many more years of life. However, the Deprivation Account has some implications that some find implausible: in particular, that the very worst deaths, and hence the ones most important to prevent, are the ones that occur earliest in life—even before birth.

This may lead us to prefer an alternative view, called *gradualism*. According to gradualism, death at the very earliest stage of life is hardly bad at all. Death becomes gradually worse as the potential victim gets older, and then gets gradually less bad as the potential victim gets even older, until, when the potential victim reaches the upper limits of human longevity, death is once again hardly bad at all. Thus gradualism is consistent with the Deprivation Account concerning deaths late in life, but not concerning deaths early in life. At what age death is *worst* is left open for now; there are many possible answers, and I will discuss two answers in this chapter. Whether we accept gradualism is a matter of no small significance, since whether death is very bad for embryos and

¹But see Greaves (chapter 13, this volume) for important cautions.

fetuses may affect how we judge the impact of, for example, prenatal health interventions on populations.

In this chapter I will introduce a view that I think has not yet been explored in detail and argue that it is a more plausible version of gradualism than extant views.²

An important preliminary note: I am here concerned only with the badness of death for its victim. Many deaths are, of course, bad for *other* people. Death in early adulthood or middle age might have serious effects on one's family members or community. These effects are important, but they are not what I am investigating here. It is necessary to point this out at the start, because one's intuitions about the relative badness of death at various ages may be colored by one's thoughts about how such a death would affect other people. It is important, for the purpose of evaluating the badness of death for its victim, to attempt to screen off those evaluations.

2. Very Early Deaths: McMahan's Argument

Jeff McMahan argues that, if death were worst at the first moments of existence, we should think it would be very important to prevent conception from occurring in cases where spontaneous abortion would occur (2002, 171). This is because it is *very important to prevent great harms*, and preventing such conceptions from occurring would be preventing great harms, since death at the first moments of existence is the most harmful death.

I have given two objections to the notion that it is always important to prevent great harms (Bradley 2008). First, it is not important to prevent great harms to individuals that lack moral status—to individuals that do not factor into our moral deliberations. I do not have a theory of moral status, but it is questionable whether a human embryo has moral status, and very doubtful that it has the *same* moral status as an adult human. Thus it might not matter much whether we prevent harms to embryos, even if those harms are very great.

The second objection does not rely upon moral status. It rejects the claim that it is, in general, crucial to prevent great harms. Harms are worth avoiding or preventing only insofar as doing so makes someone better off than she would otherwise have been. Preventing someone from coming into existence, if she were going to go out of existence immediately anyhow, does not make

²See especially McMahan (2002). Also see Broome (1985, 287), who anticipates McMahan's view, and Parfit (1984), who is its primary inspiration. Sumner (1981) and Dworkin (1993, 18–20) defend gradualist views similar in some important respects and in motivation to the one I propose here. Millum (2015; chapter 4, this volume) defends gradualist accounts more generally without committing to any particular version of gradualism.

her any better off than she would otherwise have been. So everyone should agree there is no reason to do that.

Joseph Millum (2015) agrees with my second objection, but also correctly points out that McMahan's argument could be revised to avoid this objection. Perhaps there is no reason to prevent conception in cases in which the individual would otherwise immediately go out of existence after conception. But *once conception has occurred* (or once an individual has come into existence, whether that is at conception or not), it seems there would be a strong reason to prevent spontaneous abortion from occurring, if the standard Deprivation Account is true. Once conception has occurred, spontaneous abortion *would* make an individual worse off because it prevents that individual from having a long life. Spontaneous abortion rather than a long good life is bad; spontaneous abortion rather than never having existed is not bad.

It is perhaps less obvious that there are no strong reasons to prevent spontaneous abortions in cases where pregnancy has already occurred than it is that there are no strong reasons to prevent spontaneous abortions by preventing conception. So Millum's revision of McMahan's argument takes some of the punch out of the argument. Nevertheless, many will be convinced that there are no strong reasons to prevent spontaneous abortions of embryos. There are different explanations for the fact that there are no such reasons. In particular, we could argue once again that embryos lack moral status, or are not persons, and therefore harms to them do not matter morally. But some will find it unacceptable to say that embryos suffer great harm in death, even if that harm does not matter very much morally. So for now I will bracket the personhood/moral status reply and focus instead on attempts to explain how it could be that death does not greatly harm embryos.

3. Identity and Time-Relative Interests

Some would say that you and I, and all adult human people, were never embryos. An individual person comes into existence sometime significantly later than conception—perhaps as a fetus, or even as a baby. You might find this view plausible if you think that (i) psychological states are necessary for personhood and (ii) personhood is essential to a person. Embryos do not have brains and thus cannot be people, according to (i); and given (ii), if you are a person, you were never a non-person. According to this view, when an embryo dies, a future person is prevented from coming into existence, but no person goes out of existence.

Both (i) and (ii) are highly controversial philosophical views, and their truth will not be settled here, if anywhere. I will leave open the possibility that we were once embryos and that a single individual can transition from being a person to being a non-person (and vice versa).

McMahan has developed an influential gradualist view that does not commit us to denying identity between a fetus and the adult it becomes (2002, 165–174). What is important, according to McMahan, is not identity, but psychological connectedness. According to his Time-Relative Interest Account (TRIA), the badness of death is determined by the extent to which the victim had a time-relative interest, at the time of death, in the goods (and bads) her future life would have contained. This, in turn, is determined mainly by two things: the magnitude of the loss of goods in life and the extent of the psychological connection that would have obtained, had the victim not died, between the victim at the actual time of death and at the times she would have received those goods. Thus, for example, we are to look at the extent to which the victim later would remember her earlier life, the extent to which her earlier self desired certain things to happen later, the extent to which her beliefs and values remained the same over that period, and so on. Since an embryo or a fetus does not have such connections with its future self, it is not very harmful to it for death to deprive it of future goods. It may be slightly bad in virtue of the physical connections between the fetus and its future self, which also provide some minimal basis for prudential concern.

TRIA is a deceptively complicated view because the notion of a time-relative interest is difficult to grasp.³ To get a hold of the notion of a time-relative interest, let's start with the concept of an "interest." By this, we do not mean a desire. You can have an interest in something without desiring it. Rather, for you to have an interest in something is *for it to be good for you*. What then would a *time-relative* interest be? A first thought would be that to have a ~~relative~~ interest in some good *G* is for *G* to make you better off at *t*. But this is not the right idea. A future pleasure does not make me better off now at all, yet I now have an interest in having that pleasure (a "now-relative" interest). Your now-relative interest in something is the extent to which you now ought, prudentially, to desire it. It may be the case that you have more reason to desire certain goods than others for yourself, even apart from how good they are. And it may be the case that the extent to which you should, prudentially, desire some particular good changes from one time to another. For example, you may have little reason to desire some past pleasure for yourself but strong reason to desire some future pleasure for yourself, even if the pleasure is equally good for you whether past or future. This is controversial but understandable given that our desires do in fact change in these ways. According to TRIA, another explanation for why your reasons to desire some good may change over time, and the one that is relevant to the badness of death, is that at different times you are more or less psychologically connected to the future individual who

³ See Broome (chapter 7), McMahan (chapter 8), Mogensen (chapter 3), and Norheim (chapter 2), all in this volume, for further discussion of time-relative interests and TRIA.

will receive that good. You have more prudential reason to care about future goods that are experienced by someone who is closely psychologically connected with you than about future goods experienced by someone who does not have such close psychological relations with you, even if both future people will be *you*.

On a time-relative axiology, each valuable thing has, in addition to its ordinary absolute value, a value relative to a time. This time-relative value is its value from the prudential perspective of that time. Thus on such an axiology there are at least two questions we can ask about the badness of death. The first is, what difference does the death make to the victim's lifetime well-being level? This is the question the standard deprivation theorist thinks is important. The other question is, for some time *t*, what is the *t*-relative value of death? That is, to what extent should, prudentially, the victim at *t* desire the future of which death deprives her? According to McMahan, the latter question is the one that is relevant to determining the extent of the misfortune of death: we determine the badness of death for a person by looking at the badness of the death *relative to the time at which it occurs*.

There are many objections to TRIA that we may raise. I have raised some objections in previous work.⁴ Here I focus on a different problem. Although TRIA gives us a gradualist view, the shape of the badness curve it gives us is wrong. A 2-year-old is hardly psychologically connected at all to the goods she would receive as an adult. Adults have no memories of what it is like to be 2 and do not have any interest in satisfying the desires of their 2-year-old selves; a 2-year-old likely does not have very many desires about her life at age 40 if she can even conceive of being 40. Thus the badness of the death of a 2-year-old is *significantly discounted* according to TRIA. But this is the wrong result, or so it seems to me. The deaths of 2-year-olds are very bad.⁵ We don't think: it's not so bad that this 2-year-old died because she couldn't imagine or relate to her future life as an adult. Contrary to what TRIA entails, it can be very bad to be deprived of goods even if your psychological profile will change a lot by the time you get them. A more plausible gradualism would entail that while the death of an embryo is not very bad for the embryo, the death of a 2-year-old is very bad for the 2-year-old.⁶ At least, it would be useful to have a

⁴ See Bradley (2008). Also see Broome (2004, 251; chapter 7, this volume) and Greaves (chapter 13, this volume).

⁵ Here I agree with Millum (chapter 4, this volume), though I remain agnostic about whether gradualism is true.

⁶ In conversation, many people seem to have the view that it is worse to die as a 15-year-old than as a 2-year-old. This judgment might be thought to be confirmed by studies such as Lewis and Charny (1989). But that would be a mistake, since those studies merely survey judgments about *who ought to be saved* when people of different ages are at risk of death, and such judgments are based on many factors other than how bad death would be for each victim. Some would argue that the badness of death should play no role in such judgments; see Kerstein (chapter 16, this volume). In any case, I will not argue against this view here; it is sufficient to claim that the deaths of 2-year-olds are very bad for them and

version of gradualism that yields this result, so that we can compare it to TRIA. How can we get this result?

4. Vagueness and the Subjects of Genuine Well-Being

The view I will formulate here is based on the following simple thoughts: there is a difference between individuals that are susceptible to harm (by death or by anything else) and individuals that are not.⁷ This difference is just the difference between individuals that are *subjects of well-being* and individuals that are not. And there is no sharp boundary between the individuals that are subjects of well-being and those that are not.

If you can read this chapter, then you are a paradigmatic example of a subject of well-being. You are fully conscious and sentient. You can probably experience pleasure and pain. You have desires about the future and memories about your past. You care about your welfare and the welfare of others. Whatever it takes to have well-being, you have it. If someone shot you, the pain you would feel would matter morally, as would your death. Shooting you would harm you in a robust sense.

In my office, there is a money tree plant. It is doing reasonably well. Some of the leaves are a little brown. But on the whole, the plant is well off. But it is not well off in just the same way you are well off. It is healthy, as you might be; but it has no mental life. If someone killed my plant, I would be a little sad because the plant makes my office look a bit nicer. But I wouldn't feel bad for the plant. The plant's well-being doesn't matter morally. It can't be harmed in the way you can be. Likewise for my computer. We might say that spilling water on my computer is bad for my computer. This should not be taken to imply that my computer has a well-being similar to mine. It just means that my computer won't work as well if someone spills water on it.

There are countless other beings that are more or less similar to you or the plant, such as earthworms, flies, embryos, fetuses, and dogs. It seems unlikely that there is a sharp line dividing the entities that have genuine well-being from those that have it only in a derivative sense if at all. Wherever one might try to draw the line, there would be entities just on either side of it that are very similar to each other.

Let us turn to the case of human development. Stipulate that an unfertilized human ovum has no genuine well-being. At some point, if it is fertilized and implanted and develops normally, it will have genuine well-being. But at

not significantly discounted relative to the deaths of older people. See Mogensen (chapter 3, this volume) for further discussion of the reliability of intuitions concerning deaths suffered at different ages.

⁷ See the discussion of "responsiveness" by Seven Luper (2009, 132–134).

what stage? It seems doubtful there is a moment at which it goes from having no genuine well-being at all, like my computer, to having well-being in the full sense that you have. Rather, there is a period of its development during which it is *indeterminate* whether it has genuine well-being.

What makes it the case that it is indeterminate whether something has genuine well-being? This depends on what makes it the case that something has genuine well-being. If hedonism is true, then the only things that have genuine well-being are things that have the capacity to experience pleasure or pain. If a desire-fulfillment view is correct, then the only things that have genuine well-being are things with the capacity to have desires. Note that on either of these views, plants certainly have no well-being, and conscious adult humans certainly do. Indeterminacy arises because there are beings such that either it is vague whether they have the capacity to experience pleasure or pain or have desires, or it is vague whether they have that capacity to a sufficient degree. As L. W. Sumner says, “When sentience emerges it does not do so suddenly . . . Because there is no quantum leap into consciousness during fetal development, there is no clean and sharp boundary between sentient and nonsentient fetuses” (1981, 150).

This vagueness in status, it seems to me, explains why people are not overly concerned to prevent miscarriage of embryos. An embryo or a very young fetus is in many ways more similar to a plant than to an adult human. Vagueness in being a subject of well-being can, it seems, explain gradualist intuitions. But there are different ways we might understand the vagueness. Here I will distinguish two.⁸

On one view, there are degrees of truth (Sainsbury 1986). Suppose it is indeterminate whether an individual X is a well-being subject and that individual is deprived of a good life of value N . Then the statement ‘death is bad for X to degree N ’ is neither wholly true nor wholly false; rather, it is true to some degree less than 1 but greater than zero. This interpretation of the view entails that *it is not determinately true that death is very bad for an embryo or early fetus*. In fact, for no degree of badness is it determinately true that death is bad for an early fetus to that degree.

We might prefer a view according to which it is *determinately* true that death is *not* very bad for an embryo or early fetus. This would help, in particular, if we wish to compare the badness of death for a fetus with the badness of some other condition for an adult person. In order to formulate such a view, let us suppose that the property *being a subject of well-being* comes in degrees.⁹ An embryo has that property to a degree close to zero, while we adult humans

⁸ See Williamson (1994) and Keefe (2000) for influential defenses of different views of vagueness, neither of which I discuss here but which would provide a basis for different views along lines similar to the one I develop.

⁹ See Burks (1946, 483) for a defense of the view that properties come in degrees.

have it to degree 1. We can then develop a view about the badness of an event for an individual along the following lines: the extent to which some event is bad for you is the product of (i) the *magnitude* of the difference the event makes in your well-being and (ii) the *degree* to which you are a subject of well-being. Thus if death deprives you of 50 years of a good life, but at the time of death you are a well-being subject to degree .2, the badness of the deprivation for you is similar to the badness for a full-blown well-being subject of being deprived of just 10 years of a similarly good life.

But this is only a start. Given the gradual development of people from non-welfare subjects to welfare subjects, every human person is a subject of well-being to a certain degree at one time and to a different degree at a different time. This means we have two kinds of choices in our development of the view. First, we must decide whether the view should ultimately be time-relative or absolute.¹⁰ If we adopt a time-relative view, the badness of death will be relative to a time in the following way: the *t*-relative value of an actual event for an individual equals (the value of the individual's actual life minus the value of the life the individual would have had) times the degree to which the individual is a well-being subject at *t*. But the usefulness of such a view would be minimal because we would still need guidance about *which* time-relative value is relevant to our decision-making.

So it seems better to have a view that yields a single answer to the question of how bad an individual's death is for her. This means we must choose a time, such that the individual's level of being a welfare subject at that time determines the extent of the harm of death. One option here is the time of death. Ronald Dworkin seems to think this is clearly the correct choice.¹¹ But it is unclear why that particular time should be treated as special.¹² Another option would be to choose the time at which the individual reaches her *peak degree* of being a welfare subject.¹³ In other words: the value of an actual event for an individual equals (the value of the individual's actual life minus the value of the life the individual would have had) times the greatest degree to which the individual is ever actually a well-being subject. Let us call this the *Partial Welfare Subject View*. When evaluating the death of a fetus on this view, it will typically be the case that the fetus has the property of being a well-being

¹⁰This corresponds to the distinction described by Broome (chapter 7, this volume) in the interpretation of McMahan.

¹¹Dworkin (1993, 19). This assumes that Dworkin's talk of "interests" in that discussion can be translated into talk about well-being.

¹²Broome (chapter 7, this volume) makes a similar criticism of McMahan's Time-Relative Interest Account: Why focus in particular on time-relative interests at the time of death?

¹³Ralf Bader pointed out to me that this view might get some strange results, e.g., in cases where an individual briefly reaches a high level of well-being-subjecthood but then reverts to something like plant status. I am concerned about this kind of case, but I do not currently see a better way to develop the view.

subject to the greatest degree at the time of death, and it seems correct to use this standard rather than look at the degree to which it had that property at some previous time.

When we apply the Partial Welfare Subject View to the badness of death for a typical human, we get the following result. Death is hardly bad at all for an embryo; it gets worse quickly as the fetus develops; it is worst sometime late in fetal development or perhaps early in the first year of life (when the individual clearly has a well-being); and it slowly gets less and less bad through old age. These seem like just the results the gradualist wants.

5. Evaluation of the Partial Welfare Subject View

The Partial Welfare Subject View has advantages over TRIA. For reasons that are now clear, it gets better results concerning the shape of the badness curve. As noted earlier, TRIA entails that the death of a 2-year-old is not very bad for her, since she is not very psychologically connected to the goods she would have received as an adult. But surely we have very strong reasons to save the lives of 2-year-olds, even apart from any effects their deaths might have on other people. This suggests to me that connection to the future is not doing the work in explaining gradualist intuitions. Rather, what is doing the work is the gradual development of an individual into a being with a full-fledged well-being, capable of being harmed.

The Partial Welfare Subject View, as I have formulated it here, is in some ways like TRIA. It is, for example, an *actualist* view.¹⁴ TRIA instructs us to consider only the *actual* time-relative interests someone has in evaluating her death and ignore the time-relative interests she would have developed had she not died. Similarly, the Partial Welfare Subject View instructs us to consider only the *actual* extent to which an individual becomes a well-being subject and ignore the extent to which she would have become a well-being subject had she survived. (Both TRIA and the Partial Welfare Subject View must take this route in order to avoid the implication that death greatly harms an embryo.) If there are problems for actualism, they will likely be problems equally for TRIA and the Partial Welfare Subject View—and, I suspect, for any gradualist view. For example, other actualist views face objections involving violations

¹⁴ McMahan (chapter 8, this volume) explicitly rejects actualism and denies that his view is actualist. He does not explain why his view is not a version of actualism, but perhaps it has to do with his distinction between “dependent” and “independent” interests. This distinction mirrors the distinction I have made, following an analogous distinction made by Arrhenius and Bykvist (1995, 88, attributed to an unpublished paper by Jan Österberg), between necessary and contingent interests (Bradley 2008, 312–313; 2009, 142–143). For reasons given there I do not believe this distinction will help save TRIA, but there is insufficient space here to discuss this issue in detail.

of plausible principles of normative invariance.¹⁵ The Partial Welfare Subject View might face similar objections. Whether it does will require further study.

The Partial Welfare Subject View is similar to views according to which personhood or moral status itself comes in degrees. But it seems somewhat preferable to such views. Philosophers have meant many different things by “person,” and it is unclear which if any of these would be useful in answering questions about the degree of badness of death.¹⁶ If, for example, we have a notion of personhood that is based on psychological capacities, it might be that we do not become people until well after birth. On the other hand, if we have a biological conception of personhood, we may become people very early in gestation, either around conception or at the time we become organisms. Regardless of which of these notions of personhood we employ, we may wonder why personhood has anything, in particular, to do with harm. One would have to provide further argument in order to establish that only persons can be harmed in the robust sense in which we are interested here. It may be easier to make a connection between well-being and moral status. In fact, Joel Feinberg explains moral status in terms of well-being: a creature has moral status if and only if it has a well-being (1974, 49–51; see also Sumner 1981, chap. 4). If this is how moral status is understood, then the view I have formulated here may be seen as filling in some details of a moral status view, but the notion of moral status is unnecessary for the development of the view, and potentially distracting insofar as it may be confused with personhood.

As Jens Johansson has pointed out to me, although the Partial Welfare Subject View arguably gets the right result when one is calculating the *badness* of death, it might get the wrong result in cases where death is *good* in virtue of preventing a life of suffering. Death for an embryo facing a lifetime of suffering might be thought to be very good for it; we should not discount the goodness of this death because the embryo is not a full well-being subject. However, it is not clear to me that there is an asymmetry here. While it does seem like a good thing to prevent this suffering, if the embryo is not a well-being subject, perhaps we should not say that it is good *for the embryo* that it dies. Rather, it is good for the universe, or good full-stop, that the embryo dies before developing into a suffering person. But it would likewise be bad for the universe if an embryo were to die before developing into a happy person.

Finally, considering the Partial Welfare Subject View raises an important but difficult metaphysical question: Is it possible for something to survive a transition from non-subject to subject of well-being? Can one and the same individual be, at one time, a non-subject of well-being and at another time

¹⁵ For a discussion of such problems involving actualism with respect to non-actual people, see McMahan (1994), 558).

¹⁶ See Feldman (2012) for a useful discussion of conceptions of personhood.

a subject of well-being? There are some cases where it seems like the answer must be no. Suppose I have magical powers and can turn a chair into a happy human being. If I do so, would we say this is good *for the chair*? If I choose not to, would this be bad for the chair? This seems like a strange thing to say. If it would not be bad for the chair not to be turned into a happy person, then we should be able to say the same thing about an embryo (and about any other cells that we can turn into an embryo): it is not bad for it to fail to turn into a happy person.

But I doubt that it is essential to any being that it is, or is not, a well-being subject. If it were, it would be impossible (if hedonism is true) for anything to acquire or lose the capacity to experience pleasure and pain. But that does not seem impossible.¹⁷ If I am right about this, then why should it matter whether the being is a subject of well-being at the time of the harming event (e.g., at the time of death)? If an individual is deprived of some well-being *that would truly belong to that very individual*, then why isn't it bad for that individual to be deprived of that well-being? I do not have an answer to this question. This prevents me from being able to endorse the Partial Welfare Subject View wholeheartedly. I present it here merely as another option for gradualists to consider.

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¹⁷ We might instead deny that having the relevant capacity is necessary for one to be a well-being subject. In previous work, I suggest a weaker option (Bradley 2009, 100–105). The weaker option is likely not compatible with the version of gradualism I develop here.

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