

## **The Morality of Assisting Others to Die**

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My concern in this short piece is with the morality of assisting people to die. My arguments are secular in character but are compatible with the assumptions of many theists.

There are various ways in which one person may assist another to die. Although the word "assist" seems to imply that the assister acts in accordance with the will of the person assisted, the issue of assistance in dying can extend beyond those cases in which a person autonomously requests assistance in dying. There are, for example, instances in which it may seem that it would be better for an individual to die but in which the individual cannot request or consent to being helped to die – for example, cases involving infants or individuals with profound dementia. Toward the end I will offer a few remarks about problems that can arise when an individual with dementia has left an advance directive indicating a desire to die should he become sufficiently demented to be unable to think rationally about whether to continue to live. Otherwise I will be concerned only with cases in which a person has an expressed and autonomously formed desire for assistance in dying at the time that the assistance might be given.

Although most of the ways of assisting a person to die are active, some are essentially passive. Perhaps the least controversial instance of assisting another person to die is the withdrawal of life support from a person who wishes to die. Suppose, for example, that a physician has placed a person on a life support machine but that the person now wishes to die and therefore wants the machine removed, but cannot easily remove it himself – or, perhaps, cannot remove it at all by himself, perhaps because he is paralyzed. The assistance the person requests from the physician is therefore only the removal of the life support machine that she has provided.

Suppose that the physician provides that assistance and the person dies. No one, it seems, has engaged in an act of killing. The person to whom the life support machine was connected has allowed himself to die from the condition from which the machine had been saving him. In requesting that the machine be removed, he has done no more than he would have done in refusing to allow it to be connected to him in the first place. Yet, even though he has not killed himself, his action counts as suicide because his intention in allowing himself to die from the condition was to end his life. Moreover, just as he does not kill himself, so the physician who removed the life support machine did not kill him either. By removing the machine that she had provided as a means of saving the person, she merely stopped saving him. By stopping saving him, she allowed him to die – or, more precisely, allowed him to allow himself to die. (If a third party had removed the machine, she would have killed the person, for she would not have been withdrawing life support that she had been providing. Perhaps if she had been acting at the person's request, so that she was exercising his agency vicariously, it could be said that she only allowed him to die.)

These are of course merely descriptions of what has been done. But they may help to explain why it is hard to believe that either the person or the physician has acted impermissibly – assuming that the person's death was better for him than continuing to live and was not seriously harmful to anyone else. For one of the concerns about assisting a person to die is that doing so involves killing and

killing is usually wrong. Yet assisting someone to die need not and usually does not involve killing him, even when the person assisted then kills himself.

If, for example, a physician provides a person with a lethal drug that the person then administers to himself, the physician does not kill the person but merely facilitates the person's killing himself. And in a case of this sort, the act of assistance derives its moral status primarily from the moral status of the assisted act. If the person's act of killing himself is permissible, there is a presumption that the physician's act of providing the means of his doing so should be permissible as well. There may be some exceptions, when other considerations bear on the case – for example, if the physician is a beneficiary of the person's will and provides the lethal drug with the sole intention of gaining an inheritance sooner rather than later. Philosophers disagree about cases of this sort, with some arguing that the bad intention makes the act impermissible and others arguing that the intention is irrelevant to the morality of the act. Or it may be that in certain circumstances, an act is permissible only for a certain person or persons but not for anyone else. For example, it may be permissible for a parent to kill an innocent bystander as a side effect of saving her child but not permissible for a disinterested third party to do so. Again, philosophers disagree. But such exceptions, if there are any, are rare and in general it seems that assisting a person to do an act that it is permissible for that person to do must itself be permissible, particularly if the assister acts with the same intention as the person assisted.

If this is right, it shifts the question from the permissibility of assisting someone to die to the permissibility of a person's intentionally bringing about her own death – that is, to the permissibility of suicide. This is an issue on which common beliefs have changed radically. It used to be widely believed that suicide is a serious form of wrongdoing – a grave sin, as it would have been expressed by most of those who held this belief. It was thought that suicide, at least in its active form, is an instance of murder, as it involves the intentional killing of an innocent person (innocent, at least, until the act of self-killing is done). It made no moral difference, on that view, that the person murdered and the murderer were the same person or that the murder was done with the consent of the person murdered. But beliefs about the morality of suicide have changed almost as much as beliefs about the morality of slavery over the past few centuries. Most of us believe it profoundly mistaken, and even morally wrong, because inhumane, to suppose that someone driven by misfortune to kill herself is a murderer who is guilty of grave wrongdoing.

Even in the past when beliefs about suicide were so different, those who condemned suicide struggled to reconcile their harsh view of typical suicides with their admiration for those who intentionally sacrificed their lives for the sake of others. Consider the well-known example of the soldier who, instead of leaping to safety, throws himself on a grenade to save the lives of his fellow soldiers. I doubt that anyone has ever argued that such a person is guilty of self-murder. The obvious reply is that this person does not commit suicide because he does not intend to end his own life, but only to save the lives of others. And indeed I think it is right to say that because this person does not intend his own death, he does not commit suicide. But that is a point about language, not morality. It is also true of such a person that he does what he knows will kill him and that he does this as an intended means of achieving an aim. And when a

person kills *another person* in this way, we consider it murder. Suppose that instead of throwing himself on the grenade, the soldier grabs one of his fellow soldiers and throws him on the grenade. In this case too he does not intend that his fellow soldier die. This is shown by the fact that nothing he wants to achieve would be thwarted if the grenade failed to explode or if the other soldier were merely maimed rather than killed. What he does intend is to use the other soldier's body as means of shielding himself from the explosion if the grenade explodes, and that is sufficient to make him a murderer if the grenade does explode and the other soldier is killed.

What this shows is that intentionally killing oneself, or doing what one knows will kill oneself, is morally quite different from intentionally killing another, or doing what one knows will kill another, without that other person's consent. In most or all instances in which we are not permitted to sacrifice another as a means of achieving some end, we are permitted to sacrifice ourselves. And just as it can be permissible to kill oneself as a means of benefiting others, so it can be permissible to kill oneself as a means of benefiting oneself (by preventing oneself from having to endure a future that would be on balance intrinsically bad), provided that one's doing so is not seriously harmful to others.

There are circumstances in which it can be morally wrong for a person to kill himself even when death would be better for him than continuing to live. What could make it wrong to kill oneself when it would be better for oneself to die is that it would be seriously harmful to others. For example, a person who has small children who depend on him and would be damaged for life if he were to kill himself might be morally required to continue to endure an intrinsically bad existence for the sake of his children.

But when it really is better for a person's own sake that he die rather than continue to live, his dying would seldom be more harmful to others than his continuing to live would be. Perhaps the most common reason why one person's death is harmful to others is that the others love him, so that his death would leave a void in their lives. But when a person's continuing to live would be intrinsically bad for him – for example, because his suffering would outweigh any good experiences he might have – it is hard to imagine that it could be genuinely better for those who love him that he should continue to suffer rather than bring his suffering to an end. Those who love him should find it easier to reconcile themselves to what is better for him rather than to what is worse for him.

Some philosophers, influenced by the views of the German philosopher Immanuel Kant, argue that human beings have or contain an intrinsic value or worth (often referred to as "human dignity") that is independent of whether their lives go well or badly and that is inviolable for the sake of any other value, including their own well-being. Some of these philosophers infer from this that intentionally to bring about one's own death, whether by doing or allowing, is always or nearly always wrong because it involves the sacrifice of an incomparably greater value of the sake of a lesser value. As Kant himself expressed it in his *Metaphysics of Morals*, "disposing of oneself as a mere means to some discretionary end is debasing in one's person (homo noumenon), to which man (homo phenomenon) was nevertheless entrusted for preservation." A person's avoidance of suffering is, according to Kant and his contemporary followers, a discretionary end.

There are, however, many respects in which this view is objectionable. If it is we ourselves that have a kind of value that demands respect, it seems that keeping ourselves in existence when continued existence is intrinsically bad for us is not a way of respecting our own value but is incompatible with such respect. This may explain why many Kantians write as if it is not we ourselves who have this inviolable value but is instead something we *possess* – namely, human dignity, which is “entrusted to [us] for preservation.” But then it seems that the Kantian view requires us to see *ourselves* as mere means to the preservation of a dignity of which we are mere custodians. I know of nothing plausible that could be said in defense of such a view. (Most Kantians identify our “rational nature” as that which is the basis of our human dignity. Their objection to suicide is that it involves sacrificing one’s rational nature as a means of gaining relief from suffering. But this seems to imply, implausibly, that using stupefying analgesics, such as morphine, to gain relief from suffering is also impermissible.)

It seems to me, therefore, that we should accept that it can be morally permissible for a person to kill herself or allow herself to die because death would be better for her than continued life, provided that her dying would not be seriously harmful to others, particularly those who are specially related to her, such as her children. And if that is right, it seems that in most cases it is permissible for a third party to assist such a person to die. This is because in most cases it is permissible for a third party to help enable a person to do what it is permissible for that person to do.

This, however, states the case far too weakly. It is not merely that it can be permissible to help a person to die when that person’s life will no longer be worth living. It can be our duty to do so. When, as is the case in most societies now, assisting another person to die is illegal, those who rationally seek to die but are unwilling to expose their loved ones or others to a risk of legal penalties are forced to end their lives by themselves. This may mean that they are compelled to die alone, in despair or terror, without comfort from those whom they love and who love them. It also means that they risk failing in the attempt to die, leaving themselves not only alive but also humiliated and possibly disabled or disfigured. As Arthur Koester once observed, “there is only one prospect worse than being chained to an intolerable existence: the nightmare of a botched attempt to end it.”

As I mentioned earlier, there are various ways of assisting another person to die. Thus far I have discussed only assisting someone to act in a way by which she brings about her own death, either by killing herself or by allowing herself to die. But assisting someone to die may also require killing that person. This may be the case when the person is incapable of either killing herself or allowing herself to die (as in the case of someone who is tethered to life support machines but is paralyzed and cannot disconnect herself from them). As I indicated earlier, many people think that there is a special moral objection to killing another person that does not apply either to killing oneself or to assisting another person to kill herself. I will argue, however, that in the cases with which we are concerned – namely, those in which death would be better for a person and not seriously harmful to others, and in which the person autonomously requests to be killed – it is a mistake to think that killing would be wrong even though it could be permissible for the person to kill herself or permissible for a third party to assist her to bring about her own death.

Virtually everyone believes that in general it is more seriously morally objectionable to kill an innocent person than it is to allow an innocent person to die. Most of us could, in the near future, prevent some innocent person from dying – for example, by donating bone marrow, or a kidney, or by simply giving a sufficient amount of money to a charity organization engaged in saving lives in some impoverished area of the world. Yet most of us do not do this. And even when we become aware that we have allowed people to die when we could have saved them, we do not feel that we have acted as wrongly as someone who has killed an innocent person. Indeed, most people feel that they have not acted wrongly at all. We therefore conclude that killing a person is morally worse than letting a person die, and we extend this belief to our thinking about euthanasia.

But the idea that there is a moral asymmetry between killing and letting die is nearly always mistakenly applied when people reason about euthanasia. The idea that killing is worse than letting die is derived from the more basic view that actively doing harm is more seriously wrong than merely allowing harm to occur. Killing an innocent person is thus generally more seriously wrong than allowing an innocent person to die because death is generally harmful. Yet in cases in which death would be better for a person than continuing to live, death would not be a harm but would instead be a benefit. And if actively harming is worse than allowing harm to occur, it seems that actively benefiting a person should be better than merely allowing him to benefit. We should therefore expect that in cases in which death would be a benefit to a person rather than a harm and the person wishes to die, killing the person should be, if anything, better than allowing him to die.

In practice this is often true, though for contingent reasons – particularly when a person is, for some reason, such as paralysis, unable to bring about his own death except by allowing himself to die slowly from starvation or dehydration. In such cases it is kinder to kill the person rather than to allow him to die slowly, either in pain or in a wholly or partially sedated state – that is, to practice active rather than passive euthanasia, to employ the usual euphemism for killing for reasons of kindness.

To illustrate my claim about killing, I will cite the last instance in which Dr. Jack Kevorkian assisted someone to die. In many previous cases, Kevorkian had assisted people to kill themselves by connecting them to a supply of a lethal chemical which they could then release into their bloodstream. Although he had been brought to trial for this, and the Michigan legislature had even introduced legislation designed specifically to enable a court to convict him if he did it again, juries were never willing to convict him. In 1998, however, he took a further step. The person who sought his assistance in dying was a man in the late stages of amyotrophic lateral sclerosis, which involves progressive weakening and paralysis, who was unable to release the lethal chemical into his own bloodstream and therefore asked Kevorkian to do it for him, which Kevorkian then did. All of this was recorded on video. Because in all the previous instances in which he had assisted people in dying, they rather than he had pushed the button to release the chemical, he had never before actually killed someone. But because in this final case he pushed the button himself, Kevorkian killed the man rather than assisting him to kill himself. He was convicted of second-degree homicide and sentenced to 10-25 years in prison. He was paroled after serving more than eight years when he was diagnosed as terminally ill.

What is striking here that the only difference between the earlier cases and the final one is that in the final case Kevorkian pushed a button at a person's request instead of the person pushing the button himself. That was the difference between killing a person and assisting the person to kill himself. That is, however, clearly a morally trivial difference.

Reflecting on such cases, some people become convinced that the distinctions between letting a person die, enabling a person to kill himself, and killing the person have little or no moral significance when the person requests assistance in dying and death would be good for him and not seriously harmful to others. Yet many of these same people insist on a further condition for the permissibility of any form of assistance in dying. They contend that the person to be assisted must be terminally ill, as was true of the last of the people whom Kevorkian helped to die. But again I think this common view is mistaken. Indeed, it is precisely when a person is not terminally ill that assistance in dying may be most imperative. Those who are terminally ill have the prospect of an early release from their suffering through their illness if they fail to find relief through other means. But those who are not terminally ill but whose lives are intolerable face the prospect of indefinitely protracted suffering. I remember reading years ago of a young woman who was healthy apart from being wholly paralyzed and suffering from frequent and excruciatingly painful muscle spasms that could not be relieved except through persistent sedation. She desperately wished to die but was forced by her paralysis to depend on others to bring about her death, which they could do only by killing her or allowing her to starve, to both of which there were legal obstacles. I recall thinking how much crueler it was to deny her euthanasia than to deny it to someone who would die soon in any case.

I will conclude by mentioning one final but particularly difficult problem: dementia. Many of us dread the prospect of living on in a state of profound dementia, even if we would be contented. (Indeed, some of us think that being able to be contented in such a state is part of what would be bad about it.) Yet avoiding that state poses special problems, even for those who have both the physical ability and the psychological strength to kill themselves. One such problem is that dementia can occur suddenly, as a result of brain damage. Yet even when it arises gradually, a person who wishes to kill herself before her condition becomes degraded faces the risk of inadvertently passing the point at which she will cease to be able to appreciate her condition and bring her life to an end. Those who are in the early stages of progressive dementia therefore sometimes feel compelled to end their lives well before they cease to be worth living to be certain of avoiding the decline into a degrading state of profound dementia. At least one of the people Kevorkian helped to die came to him while she was still highly competent cognitively precisely because she wanted to be sure to die before her dementia passed beyond this point.

Some people in the early stages of progressive dementia attempt to address this problem by signing an advance directive that stipulates that they wish treatment to be withheld from them if they later develop a potentially fatal illness, such as pneumonia, and are incompetent to decide at the time whether to receive treatment. This can give rise to a particularly distressing dilemma if the person does indeed develop such an illness but was contented prior to becoming ill, so that it seems that it would be against her interests to be allowed to die. There are more dimensions to this problem than I can discuss here, such as

whether this individual, when demented, has lost so much of what was constitutive of her earlier self as almost to have become a different individual over whose life the wishes of her earlier self have no authority. I will say only that I think the balance of reasons favors honoring the person's earlier autonomous judgment by withholding treatment. That judgment reflects a rational interest the person had and still has in not having the narrative arc of her life as a whole spoiled by a degrading ending.

This essay draws in various places on ideas that are developed and defended at greater length in my book, *The Ethics of Killing: Problems at the Margins of Life*.