Death, Dignity, and Moral Status[1]

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ABSTRACT: Ronald Dworkin and David Velleman fail in their attempts to justify hastening the death of patients on the grounds that their dignity demands their demise. I argue, first, that their projects fail internally, for the dignity and interests that they are trying to protect cannot justify hastening some deaths. What is more, their conceptions of dignity cannot even provide reasons why we should cure the extremely demented who are reduced to childlike or comatose states if we could do so. I then argue instead for an account of dignity in which our value depends upon the kind of entity that we are and upon a sense of what ends we ought to realize. Our moral status will be determined by the kind of healthy life that we are designed to live. It is not dependent upon any manifestation (present or earlier) of autonomy or rationality.

RONALD DWORKIN AND DAVID VELLEMAN attempt to justify euthanasia and physician-assisted suicide by appealing to considerations of patient dignity. Dworkin insists that respecting dignity involves acknowledging that the interests in dying that patients earlier autonomously produced are retained even when they are unrecognized by those who come to suffer dementia.[2] Velleman likewise argues for hastening the deaths of some patients on the grounds that mind-destroying injuries and diseases degrade patients as they undermine their rationality-based dignity.[3] I argue that not only do both these projects fail internally (for the dignity and interests that they are trying to protect cannot do the lethal work that they want them to do) but their conceptions of dignity are not even able to provide reasons to cure the extremely demented who are reduced to childlike or comatose states if we could do so.

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[2] Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia and Individual Freedom* (New York NY: Knopf, 1993).

[3] David Velleman, "A Right of Self-Termination?" in *Ethics* 109 (1999): 606-28.

Let us begin by trying to understand the nature of Velleman's case, for there appear to be internal problems in what he wants to hold. The crux of the problem is that a mentally debilitating disease has so greatly reduced the patient's rationality-based value that there is no longer sufficient value with which to be concerned. The patient's rationality has been reduced to the point that it does not make sense to claim that he still possesses some great value that is being continuously degraded. If there is no such continuous degradation, then it makes little sense to claim that the degradation can only be halted by hastening his death. Moreover, Velleman's insistence that the interests of an individual only matter if their possessor is valuable means that the loss of rationality-based value removes any weighty reason why the diseased individual's destroyed rationality should be restored if it could be. Dworkin's theory fails to realize that the earlier autonomously produced interests in leading a certain life that allegedly require an early death after dementia strikes do not actually survive the brain destruction wrought by Alzheimer's or other mind-destroying pathologies. Dworkin's impoverished account of interests recognizes only "critical interests" that were autonomously generated prior to the disease or "experiential interests" subsequently manifested by the demented, and thus it provides no basis for the existence of an interest in a cure in the absence of autonomous capabilities or a conscious wish to be restored to health.

A more promising approach is to recognize that we have welfare interests based on the kind of being we are. There is a certain healthy development and functioning that is proper for us. Our type of life involves the exercise of rational and affective capacities that no other known living creatures possess. They bestow upon us a value that is not shared by any other creatures, even if the scope of the abilities found in those creatures were no different from those of a mindless or a minimally minded young child or a brain-damaged adolescent or adult. Given the fact that we are instances of a kind of entity that can lose out on lives of great value, death harms us to a degree that it does not harm any other kind of living organism. Given the great heights of the benefits and the extreme depths of the losses that creatures of our kind can undergo, our moral status is much greater than that of any other living being. This remains true even if the loss is overdetermined by dementia and death or if the loss that death would have brought about is pre-empted by dementia.

My contention is that even mindless members of our species have an

interest in healthy development. That sort of interest always exists, for health is a necessary condition for flourishing. It explains why our death is a great harm and why we would be harmed if we are not cured of our dementia. Accounts that root our dignity in our autonomous personhood (such as that by Velleman) or earlier capacities to generate interests autonomously (as in that by Dworkin) cannot account for the moral status and treatment that is intuitively owed to those who never were or are no longer rational or consciously interested in their dignity. They cannot explain why, if there were a scarce serum that could either heal brain-damaged adults or bestow personhood upon healthy kittens, the serum would go to the former.

1. Velleman's Account of a Person's Dignity, Good, and Interests

Velleman claims that our possession of dignity prohibits decisions that would result in our destruction if they are offered on the basis that it would be in our interest to die. He argues that it would be immoral, even incoherent, to destroy a creature of great value on the basis of its interests in avoiding discomfort, boredom, failure, physical dependence, or other burdensome conditions that make our lives go less well. These interests are of derivative value and cannot provide a justification for destroying the very source of their value, the person. To appreciate this argument, we must understand the relationship between an individual's value, good, and interests.

Velleman contrasts the person's value with the person's good or well-being. He finds that it makes sense to care about the good of a person only if one values that person. So, he argues, it is reasonable that a person should care about his own good only if he cares about his value as a person. Velleman illustrates this point with a story about someone who, after doing something horrible, loathes himself as worthless and as a result ceases to care about his good. He can realize that certain things are in his interest, but since he does not value himself, he does not value his interests. So, if a person does not matter, then his interests and his good do not matter.[4]

The notion of intrinsic value is at the basis of Kant's moral theory and is crucial to Velleman's account. Kant calls this value "dignity" and argues that morality requires that we respect people's dignity. We possess dignity because we possess the property of personhood by virtue of our rational moral agency.

[4] Velleman, pp. 610-11.

For Kant, morality is not possible without a belief in the dignity of the person. If a person does not have value, neither do his good and interests. Velleman believes that this stance might sound like the religious notion of the sanctity of life. In fact, he proposes the category of personhood as a secular substitute for the sanctity of life. For Kant, this is the foundation for morality. What morality honors and protects is the intrinsic value of dignity.

Velleman emphasizes that respect for people's intrinsic value is not the same as respect for human beings. Being a rational person involves having a mind of a certain sort and some human beings do not possess those traits. For Velleman, a mindless fetus is not a rationality-possessing person, and so respect for persons does not render abortion immoral. Thus Velleman insists that respect for the intrinsic value of persons does not mean that such respect is owed to all human life. Dignity is what Kant calls an "self-existent value" – one that we do not have to bring into existence but that we must respect when it does exist.

Velleman does not deny, however, that there are situations where someone should be helped to die. He just objects to a person doing a cost/benefit analysis and declaring that it is in his interest to die. Velleman insists that it is a form of practical irrationality to pursue what is a means and thus of derivative value in a way that destroys or frustrates the very end that it is supposed to serve and that ultimately gives it value. A person's interests matter because the person matters. Showing concern for a person's interests is a way or means of showing concern for the valuable person. Since one's interests have derivative value, they cannot be appealed to in a way that denies or destroys the non-derivative value that is the very source of their derivative value. Demanding a right to die on the basis that it is in one's interest would be no more coherent than for the Catholic Church or another religion to establish an ecclesiastical court and then for this court to try to disband or undermine the church (or the religion). The court's authority is derived from that of the church. Thus, it does not have the authority to abolish the church that is the very source of its authority. If we were to replace the authority of the church and the court with the value of persons and their interests, we would see a parallel incoherence in any claim that there could be an interest-based right to die.

2. Velleman's Defense of Kantian Suicide for the Sake of Our Dignity

Velleman insists that respect for personal dignity does not rule out physician-assisted suicide and euthanasia. It just excludes certain arguments in favor of hastening death. It rejects any trade-off of one's dignity for pain relief. It prohibits what he calls "escapist suicide" in which one dies so as to escape the burdens or frustrations or tedium of life. But if one can no longer live with dignity, then the death of such a person would not offend against his value. It would not involve weighing his interests against his value. If a patient's value or dignity were deteriorating, then out of respect for that value or dignity death might be warranted.

Velleman points out that we often destroy objects of value or dignity when their value is under attack. Flags and books are destroyed or buried rather than allowed to continue to deteriorate. Honor guards have a ceremony for removing and destroying tattered flags. They do not leave the flag up until it is fully shredded. Likewise for books: religious Jews bury bibles that are falling apart. Velleman does not believe that these things have intrinsic dignity like persons. But for him they all belong to the "class of dignity values, whose defining characteristic is that they call for reverence or respect."[5] The dignity of books or flags, he claims, is borrowed from the dignity of persons. I take that assertion to mean that the flag stands for the persons of those countries and their values and that the books are the achievements of persons who wrote them and perhaps of those whose lives they describe.

For Velleman, "dignity can require not only the preservation of what possesses it, but also the destruction of what is losing it, if this destruction is irretrievable." He stresses that patients should be permitted to die for the sake of their dignity, not because it is in their interest to be relieved of pain. Velleman points out that there is a difference between pain and suffering. Some people bear their pain well. Others disintegrate in the face of pain. The distress of disintegrating as a person is what Velleman means by "suffering" and that, not pain, "necessarily touches one's dignity."[6] Individuals are not rational selves any more when they suffer greatly, for they can no longer engage in rational activity. They have lost or are losing value, and so bringing about their death in order to prevent this loss is not an offense against their value. The suffering may be the result of unbearable pain, as when one is dis-

[5] Velleman, p. 617.
[6] Velleman, p. 626.

tressed that most of one's life has become restricted to a focus on pain relief. But one can also suffer without physical pain. Someone with dementia may be suffering, for they cannot be rational agents any more, or to the degree that they want. They no longer can reason well, recall things, and carry out their plans.

Velleman believes that a person's decision to die would be premature if he still possessed all his rationality and just wanted to avoid a future in which it would decline. If one were fully rational, it would be an offense to that person's dignity to hasten death. It is only when the dignity is under attack by disease that death is not an affront to one's dignity. Velleman describes patients in the earlier stages of dementia as being in the "twilight of autonomy." According to Velleman, such an individual is not fully a person but only a person to a lesser degree. Such a "temporally scattered person" will have moments of lucidity followed by confusion. So, paradoxically, when the person is rational, she does not have a reason to die, but when she has a reason to die, she is no longer competent enough to fully recognize and appreciate it. Thus, her choosing death would not be autonomous or fully voluntary. She needs to be involved in the decision, but her "self-determination is more of a shadowy presumption than a clear fact."[7]

3. Only the Dignified Can Be Degraded

I turn now to criticisms of Velleman's Kantian approach. Insults to dignity in a case like the tattered flag involve the co-existence of a value and a slight. The people for whom the tattered flag stands or the values that they hold dear co-exist with offensive and degrading treatment. The books that are burned or buried rather than allowed to disintegrate further co-exist with their divine author or the people about whom the story is told or the values that they represent. Slavery, perhaps the paradigm case of degrading the dignified, involves people being demeaned at the very time that they possess a great unappreciated value. Likewise, to degrade yourself is to act in a way not befitting your own value. In such cases the value and the offense to it co-exist. But, for Velleman, this temporal co-existence is not the case for the advanced Alzheimer's patient. So, how does Velleman find the survival of the Alzheimer's patient degrading if his value is gone or nearly gone? He used to be

[7] Velleman, p. 619.

rational but is no longer so, or much less rational than he was. Thus, if the disease has eroded the rationality and dignity of the patient, then its persistence and effects cannot be an offense to the patient's value, for that value is gone. At best, the injury or disease can be said to "attack" one's value at the outset, but it soon removes one's value and thus is not an offense against any present value. Once someone's cognitive capacities have been undermined, there would be little or no Kantian value to be further offended, and so the case is unlike that of the ongoing degradation of a rational human being who is enslaved and treated like a farm animal.

Perhaps the degradation that Velleman has in mind is the suffering of persons at an earlier period within the disease who are still sufficiently aware of themselves and distressed that they cannot act rationally. They retain some value in the Kantian sense, for they are not devoid of rationality. Their remaining dignity enables them to feel distress when they are frustrated in their attempts to navigate their worlds. But I suspect that their frustration is not really an offense to their value since a considerable portion of it is gone and the patients are acting as someone with that level of reason would be likely to act. If they lack dignity, so would the mentally disabled who are distressed when their cognitive limitations frustrate them. We do not consider the congenitally mentally disabled or children to lack dignity when they are frustrated as they act in a way that is to be expected and that is appropriate for them, given their developmental stage or cognitive inability to act more rationally. We do, however, find undignified those adults who misbehave and act like children when they are capable of acting otherwise.[8] Such different reactions could be the result of our understanding undignified to mean "culpably failing to respond appropriately to value" and thinking that healthy adults are so failing while the children and the demented do not. Or there could be an equivocation such that the demented and children are not deemed undignified, for undignified can also mean "lacking in value" whereas they have the same dignity as healthy and more developed humans do. I will suggest that it is the latter meaning that explains why the demented and children are not undignified. This interpretation will receive support from our reactions (discussed below) to those unhealthy human beings who have never been

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[8] See my "Death, Dignity, and Degradation," *Public Affairs Quarterly* 21 (2007): 21-36 for some distinctions in usage between undignified and not dignified.

rational.

Velleman's idea might be that the attack on dignity consists of the patient being distressed by the prospect of the disease further eroding her value. She realizes that she soon will not even be able to do what she now can do. The mentally disabled and children are not facing the same decline. So, it may be the awareness that more value will be lost that distresses the person and that in his view justifies our assisting them in dying. However, Velleman argued that the killing of the rational before they lost their rationality would be an offense against their value. It would be wrong even if they were very distressed by the prospect of their entering the twilight of autonomy. So, to kill those losing value lest they suffer distress from the prospect of losing more value seems to be liable to the same charge, namely, that it is too early if there exists enough value to motivate concern about one's future. If Velleman's idea is that after the onslaught of the disease there is less dignity to offend by appealing to one's interests in dying,[9] the earlier incoherence threatens to return. Given his account of interests being of derivative value, it seems that even a decline in the value of the demented would mean that their non-derivative value (the residual rationality) was being sacrificed for the derivative (an interest in dying).

Velleman cannot mean that the offense is somehow against the way in which the person ought to be. That would make it undignified and an offense to be mentally disabled from birth, for there too is a lack of Kantian dignity, i.e., the value of being rational. Surely, Velleman would not think that the distress of the congenitally mentally disabled when unable to reason as they would like provides them with a dignity-based reason to hasten their deaths. Or, if he does, he shouldn't. Most of us would not want the congenitally mentally disabled or the demented to be ashamed of lacking rationality and Kantian dignity. We do not want them to believe that it is a mistake for them to remain alive in a state that is an offense to the Kantian dignity that they ought to embody.[10] Yet Velleman's account suggests that the demented and the congenitally impaired are in error by clinging to a life lacking in rationality and Kantian dignity. Velleman's position would seem to commit us to getting the

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[9] Velleman, p. 622 n17.

[10] See my "Death, Dignity, and Degradation" (op. cit.) for a "shame test" for undignified.

mentally impaired to recognize that they are making a mistake staying alive. He might not advocate that we try to convince the impaired amidst their limitations, frustrations, and suffering to hasten their death so as to avoid demeaning themselves. But if they had a brief period of lucidity, it seems that he is committed to providing them with such an argument that they ought to be ashamed of clinging to such degrading lives. I believe that our wish that the congenitally demented not react with shame and a death wish so as to avoid their alleged degradation indicates that many of us have a belief that our dignity lies elsewhere than in our manifested rationality.

An alternative interpretation is that Velleman believes the patient ought to die because his condition is an offense to the way in which he used to be. That would spare the congenitally mentally disabled but provide a reason for others to die when comatose, for then they are shadows of their earlier selves. But Velleman seems to indicate that there is not a dignity-based reason in terminating the irreversibly comatose. He writes: "The view stated in this essay is that assistance in dying is morally justified to spare the patient from degradation. This view could hardly justify withholding such assistance until there was nothing left to degrade."[11] Velleman does, however, suggest that a thing can be offense to its past when he writes: "The moral obligation to bury or burn a corpse, for example, is an obligation not to let it become an affront to what it once was."[12] But Aquinas and many others argue that the deceased human being does not persist as a corpse, so he cannot then be in a state that is an offense to his earlier exalted condition.[13] A corpse is not a dead man but merely his remains. These remains may warrant a certain respectful treatment but that is because they are human remains rather than because they implicate

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[11] Velleman, p. 626.

[12] Vellemen, p. 617. I take it that the word "it" in "it once was" refers to the corpse and the entity that it "once was" and thus is intended to identify the corpse with the earlier individual. I might point to an old picture of a fetal sonogram and say "It is now a lawyer" or gesture at an old dog and say "It was once a puppy" but what is suggested, respectively, is that the lawyer is identical to the fetus and the older dog is identical to the puppy. Perhaps Velleman's use of the impersonal "it" (rather than "he" or "she") supports the objection of a referee that the phrase is to be understood as saying that the person has ceased to exist and is replaced by a thing.

[13] See my "Organisms and their Bodies" in *Mind* 118 (2009): 803-09 and "Do Dead Bodies Pose a Problem for the Biological Account of Identity?" in *Mind* 114 (2005): 31-59.

anything about the dignity of the deceased.

Nevertheless, while the idea of an offense to the way in which someone used to be does not apply to corpses for metaphysical reasons, Velleman could extend the idea to comatose or childlike patients by arguing that those conditions are an offense to the way in which they were. But since the two states do not temporally co-exist like the slave and his degrading treatment, this is a very different type of dignity attack. I suspect it is being confused with patients wanting to be remembered at their best. If a patient requesting his own death so that others would not see him in such a state would not want to die if he would be unseen by those whom knew him prior to the coma or dementia, then considerations of dignity are not in play. His rationality-based dignity is just as far beneath what it was whether he is seen or unseen. Being remembered at one's best is like wanting to be photographed in a way that is flattering, but it does not invoke considerations of Kantian dignity.

Therefore it is not clear to me that Velleman's framework can justify hastening death. Yet I think that Velleman should worry even more that his account cannot justify healing the extremely demented or comatose. Imagine that someone has been reduced to infancy or unconsciousness by Alzheimer's disease. Why cure them by restoring their capacity for rationality, assuming that we could? Although we do not presently have the means to do so, the result of imagining a future in which we can achieve this effect reveals why the Kantian moral account of our dignity as residing in our rationality is insufficient. Recall that Velleman had emphasized that respect for the dignity of persons is not the same as respect for human beings: "What secular morality must regard as sacrosanct...isn't the human organism but the person, and a fetus may embody one but not the other."[14] Being a person involves having a mind of a certain sort but some human beings do not possess these traits. A mindless fetus is not a person, he would argue, and so respect for persons does not mean that abortion is immoral.[15] Velleman went out of his way to note that

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[14] Velleman, p. 616.

[15] My concern in this article is with Velleman's view and whether it works internally, so it does not matter that others call the fetus a person or think that older fetuses have mind and thus are persons with unexercised capacities for rationality. Patrick Lee, Robert George, Jason Eberl, David Oderberg and others refer to the fetus as a "person with potential" rather than a "potential person." See Robert George and Patrick Lee, *Body-Self Dualism in Contemporary Ethics and Politics* (New York NY:

dignity is what Kant calls a "self-existent value" – someone that we do not have to bring into existence but whom we must respect when it does exist. But how is the comatose or infant-like human adult different from the case of a fetus in a morally significant way? It is true that some comatose adults have rationality that is still intact (like I do when sleeping). But others do not, for their injuries or diseases have left them more childlike or fetus-like. I have in mind the demented who lapse into coma. Some comatose patients may become conscious again, but they end up with childlike minds that have "stagnated," i.e., are unable to develop into healthy adult minds. In that way they are unlike healthy fetuses. All that one needs to criticize Velleman is a case in which the comatose Alzheimer's patient cannot come out of the coma or illness with rationality superior to the late fetus or newborn. Since Velleman does not offer dignity-based protection for fetuses, he cannot provide protection for the brain-damaged individual whose pathologies can be cured in a hypothetical future where the brain's healthy functions are restored. The "cure" could be either making them like a healthy fetus or newborn who will develop into a rational adult or rewiring their brain so that they possess adult-like rational brain structures even if the idiosyncrasies of their pre-Alzheimer's mind is not restored.

Velleman might claim that the patient once was rational and that this entitles to respect that a fetus is not. But why should that matter when there is no remaining physical realization of that intrinsic value? Moreover, recall the passage from Velleman cited earlier to the effect that the way in which someone used to be gives us no reason to euthanize the comatose, for there is no longer any value that is left to be degraded. So, I do not see why Velleman's framework gives any reason for helping the extremely demented or comatose who were minimally conscious or who have lapsed into a coma. It cannot reside in their potential for rationality, for that is there in the fetus even though Velleman claims that the fetus lacks dignity. So, the extremely demented either

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Cambridge Univ. Press, 2008); Jason Eberl, *Thomistic Principles and Bioethics* (New York NY: Routledge Press, 2006). Christopher Kaczor mentions an "immature person" by analogy; a child's not yet functioning reproductive organs can right be called immature reproductive organs. See Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (New York NY: Routledge Press, 2011). But Velleman is a Neo-Lockean and does not understand fetuses in that way and he is my target.

lack an interest in a cure or it does not matter very much, given their greatly diminished value.

4. Dworkin's "Life Past Reason"

We have seen that, for Velleman, the decision to die made during the "twilight of autonomy" will not be a fully autonomous decision, for it is not authorized by someone who is determinately a person. That means that such cases of euthanasia will begin to resemble non-voluntary euthanasia. But a possible difference between the type of euthanasia that Velleman justifies and non-voluntary euthanasia is that the patient could have made an advanced directive when competent and autonomous about how she would want to be treated within the twilight of autonomy. A natural suggestion is that an advanced directive could turn such deaths into cases of voluntary euthanasia since there earlier was a recognition and endorsement of such reasons as applicable later. Dworkin offers such an account.

In the last two chapters of *Life's Dominion* Dworkin is concerned with the exercise of antecedent autonomy and the best interests of the severely demented. He concentrates on identifying what moral rights people in the late stages of dementia have and what is best for them. In passing he discusses Andrew Firlik's famous account of Margo. Firlik met Margo while doing a medical school gerontology elective. She painted the same circles within circles every day, read randomly the same mystery novel, enjoyed peanut butter and jelly sandwiches as well as the company of familiar people whose names she did not know. Firlik memorably described her "as one of the happiest people I know."

Dworkin states that those who were not always demented but became so can be thought of in two ways: as a demented person (thereby emphasizing their present situation and capacities) or as a person who has become demented (in this way, having an eye to the course of his whole life). Would a competent Margo (before the onset of dementia) have a right to dictate that later life-sustaining treatment be denied even if, when demented, she pleads for it? It would obviously be incredibly difficult for a doctor to end the life of someone at a time when that individual presently does not want to die and seems to have no recognition of or interest in the earlier reasons to die, such as a disdain of a life without intellectual pursuits, a loathing for being dependent and for being a burden upon others, an inability to recognize loved

ones, a desire to be remembered by friends and family in a certain way and so on. It might be thought to help if the doctor imagines the patient briefly regaining lucidity and complaining that her earlier wishes to die were ignored. If she then lapsed back into dementia, this would elicit the belief that the doctor should heed a person's autonomous wishes, not their demented wishes. But this approach is very flawed. It involves the doctor imagining that the patient has interests that she does not actually have. I will come back to this crucial point later.

5. Dignity, Rights, and Dementia

Dworkin observes that a person's dignity is normally connected to his capacity for self-respect.[16] He asks whether we should care about the dignity of demented persons if they have no sense of it and suggests that it "depends upon whether his past dignity, as a competent person, is in some way still implicated. If it is, we may take his former capacity for self-respect as requiring that he be treated with dignity now, dignity is now necessary to show respect for his life as a whole."[17]

Dworkin claims that the value of autonomy derives from the capacity that it protects, the capacity to express one's own character, values, commitments, and critical as well as experiential interests (that is, those that please us). Dworkin offers the following description:

> We all do things because, we like the experience of doing them: playing football, perhaps, or cooking and eating well, or watching football, or seeing Casablanca for the twelfth time, or walking in the woods in October, or listening to *The Marriage of Figaro*, or sailing fast just off the wind, or just working hard at something. Pleasures like these are essential to a good life – a life with nothing that is marvelous only because of how it feels, would be not pure but preposterous.[18]

Dworkin contrasts experiential interests with people's critical interests. He finds critical interests in some ways to be more important than experiential ones. He describes the former as the hopes and aims that lend genuine meaning and coherence to our lives. They express one's considered values, life story,

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[16] Dworkin, p. 291.
[17] Dworkin, pp. 220-21.
[18] Dworkin, p. 201.

and commitments. Critical interests lead people to "want to make something, or contribute to something, or help someone, or become closer to more people, not just because these would be missed opportunities for more pleasure, but because they are important to themselves."[19] Dworkin writes in this way of his own critical interests: "I feel that it is important that I have a close relationship with my children..., that I manage some success in my work..., that I secure some grasp, even if only desperately minimal, of the state of advanced science of my era."[20]

Dworkin believes that respect for autonomy means that we must carry out someone's advanced directive or honor antecedent intentions made earlier on the basis of one's critical interests. Respecting autonomy protects a person's judgment about the overall shape of the life that he wants to live. It allows people to live their own lives rather than merely to be led along by their circumstances. Recognizing an individual's right to autonomy makes self-creation possible, so that each of us can be what we have made of ourselves. We even allow someone to choose death over amputation or blood transfusion, if that is his informed wish, because we acknowledge "his right to a life structured by his own values.... Autonomy encourages and protects people's general capacity to lead their lives out of distinctive sense of their own character, a sense of what is important to and for them."[21] One principal value of that capacity is realized when people live a life that displays a general, overall integrity. Dworkin observes: "Integrity is closely connected to dignity. Moreover: we think that someone who acts out of character...shows insufficient respect for himself."[22]

6. Precedent Autonomy

Dworkin understands precedent autonomy as a version of integrity-based autonomy.[23] To see how integrity-based precedent autonomy operates, imagine

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[19] Dworkin, p. 202.
[20] Dworkin, p. 201.
[21] Dworkin, p. 224.
[22] Dworkin, p. 205.
[23] He contrasts integrity-based autonomy with what he calls the evidentiary account of autonomy. This account suggests recommends that we respect decisions of others that appear imprudent because each person generally knows what is in his own best interests.

that the incompetent patient earlier executed a living will that provides for what he clearly does not want now in his debilitated state. Suppose that Margo left instructions to give all her property to charity so that it could not be spent on her care or that she requested no treatment for any life-threatening disease that she might contract. Or imagine that she requested to be killed as soon as possible once dementia manifests to a certain degree. Wouldn't respecting autonomy then require that her autonomous wishes be carried out despite the pleasure that she got from various activities like drawing, eating peanut and butter and jelly sandwiches, and reading her dog-eared mystery novel?

The integrity view supports the view that past wishes must be respected. Advanced directives can be understood as judgments about the overall shape of the kind of life that one wants to have led. Someone may object and instead claim that autonomy is necessarily contemporary, i.e., only present decisions, not past ones that have been relinquished, should be respected. Dworkin says that it is fine for the competent. But imagine a Jehovah's Witness who demands no blood transfusions, for that will cut him off from God for all eternity. Suppose the accident that created the need for blood also deranged him and that he pleads to be transfused. The doctor agrees to transfuse him. Then, when the Jehovah's Witness becomes lucid, he is outraged and insists that his autonomous wish was disregarded. Dworkin agrees with his charge. The man's former decision should be held to remain in force because no new decision by a person capable of autonomy has renounced it. It is not because the man will later regret his choice to transfuse. If the man was competent at the time and then in a moment of cowardice demanded the transfusion, he might certainly later regret it. But the difference is that this would be a change of mind of the competent. He was competent, however weak, at the time of the change of mind. Respecting his autonomy demands this change be respected.

Dworkin says that if we respect the wishes of the patient in a persistent vegetative state (courts have ruled that states must), then we have the same reasons not to keep alive those who dread dementia rather than unconsciousness. Dworkin admits that there are troubling consequences. Could we deprive of life, even kill, a rather content Margo? He admits that there might be reasons not to do so. But he insists that they still would violate her (precedent) autonomy.

7. Objections to Dworkin's Accounts of Critical Interests

My contention is that most of the critical interests of persons do not survive their dementia. Consider an updating of Parfit's Combined Spectrum thought experiment.[24] A brilliant evil neuroscientist has rewired your colleague's brain, arranging his neurons in the way that Michael Jackson's were arranged. Your colleague no longer has interests in, say, philosophy, classical music, and waltzing but now shares the musical tastes of the King of Pop and likes to break dance. Your rewired colleague no longer wants to live in a college town but yearns to move to Jackson's Neverland ranch. The neurological structures that have been destroyed were the physiological basis for many of his critical interests. Those earlier critical interests that were contingently acquired and typical of your colleague do not remain. Dementia is equivalent to the evil scientist "unravelling" your colleague's neurological connections but not "rewiring" them in the manner of Michael Jackson. The interest in, say, doing philosophy or composing music or living an independent life are destroyed by the disease.

Since the demented have had their earlier interests removed, I do not think that there are any antecedently autonomously generated interests remaining to be respected. It is not just that the demented cannot recognize and act in accordance with their critical interests, but that they do not have them any anymore. They are not like the Jehovah's Witness mentioned above or like you when asleep and still retaining interests of which you are not aware at that time. You can wake and live in accordance with those interests. Your interests are still supported by your brain in some sense. Moreover, it seems that congenitally damaged brains (retarded from birth) do not acquire such sophisticated intellectual interests in philosophy, composing, achievement, morality, etc. Likewise, damaged brains do not retain their support of such interests and those interests are no more. The demented have lost the "higher" interests; only more childlike interests remain (or the more childlike interests are new).

This loss of critical interests would be especially problematic if Dworkin were right that "A person's right to be treated with dignity, I now suggest, is the right that others acknowledge his genuine critical interests."[25] If I am right

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[24] Derek Parfit, *Reasons and Persons* (New York NY: Oxford Univ. Press, 1983), p. 283.

[25] Dworkin, p. 236.

about the disease destroying the patient's critical interests and if Dworkin is correct on their importance to dignity, then the late-term Alzheimer's patient will have undergone a dramatic decline in dignity. Recall the earlier texts in which Dworkin ties dignity to autonomy and integrity. The critical interests that were generated from the autonomous self are a manifestation of that autonomy. Integrity depends upon them. So, if someone's critical interests are destroyed and there remain no autonomous capacity to generate new ones, a life with integrity in Dworkin's sense is no longer possible. Dignity will be diminished if there are no autonomous capacities nor autonomously produced interests essential to a life with integrity. It is more surprising that late in the disease such patients lack an interest in a cure. The basis for their critical interests is gone and they lack an experiential interest in a cure when they are infant-like or comatose. This suggests that something has gone very wrong in Dworkin's discussion of our interests and dignity.

A reader, however, may imagine the following scenario in which some philosophers suffer severe dementia and no longer recognize any critical interests. Suppose that there are two cures for their dementia: one will restore their capacities and interests to the way they were before, and the other will restore their normal functioning but it will be random as to what type of life they subsequently prefer after the procedure. The reader's intuition may be that the individuals should be restored back to their former selves, and the only plausible way to explain this intuition is to claim that they "still carry some weight."[26]

My first response would emphasize that this view seems to be in tension with some sort of physicalism that I expect most readers assume about the basis of those critical interests. They would not believe that individuals had such critical interests when they were children prior to the experiences that formed them. Such individuals have not been exposed to the circumstances where their brains were transformed to support and store the resulting critical interests. But if the damaged brain of the adult is imagined to be structurally and functionally like that of the child, why think those interests are retained in an adult brain that is very childlike?

A second response is to suggest that what may be motivating readers to restore the physical basis of the brain damaged may not be a belief that the

[26] This objection was put forward by an anonymous referee.

critical interests persist but just confidence that the person would do well and thrive with those interests. He once had those interests and probably was fairly successful in fulfilling those and enjoyed their pursuit. To see this, imagine that a clone of a healthy adult is made. That clone starts out as a fetus, develops into a new born, and so on. Imagine that it suffers brain damage as a newborn but continues to grow physically, only not mentally. The individual never developed any critical interests. Years later the individual has the mind of a baby in an adult body. Then suppose that scientists discover how to rewire damaged brains but that there are only two options: make him an athlete like the being from which he was cloned or turn him into a poet. I think it would be very wise for them to rewire the brain in a manner of the individual of which the patient is a clone. We know that the individual's body, physiology and so on could thrive with such interests. The interests would be a good fit. We know the rest of the brain would fit well with the athletic interests and so forth. Rhe decision obviously has nothing to do with earlier critical interests of the patient since he never had any; rather, it is a safer bet. He will do well, the interests will fit his physiology, his body type, mesh well with the other already structures in his brain, etc.

8. An Alternative Account of Moral Status

The same reasons that leave me skeptical of those philosophers who defend abortion and infanticide on the grounds that that newborns and the unborn lack the interests necessary for a right to life make me skeptical of any view that implies the demented or comatose do not have interests in being cured. I think such philosophers fail to distinguish something being in an individual's interest from that individual taking an interest in something. Moreover, it is important to realize that there are things in their interests that are contingently so and others that are necessarily so. Those who are contingently so depend upon the idiosyncrasies of the person's development. For instance, Dworkin maintains: "Critical interests are personal.... [This is] not a discovery of a timeless formula, good for all times and places, but as a direct response to our specific circumstances of place, culture and capacity."[27] So, critical interests are not possessed by the mindless or minimally-minded young, and I have argued that the elderly do not retain such interests after

[27] Dworkin, p. 206.

disease has eradicated the brain states wherein they were physically realized. Dworkin fails to recognize that we possess necessary as well as contingent interests. Velleman seems not to recognize what are necessary interests, or perhaps wrongly thinks that they do not matter because they are not the interests of a rational person.

It is in the interests of the fetus, the infant, the comatose, and the demented to live on even though they may not have taken an interest (i.e., desire) to live further into the future. Analogously, eating vegetables is in a child's interest even when he is not interested in them. All living things have an interest in healthy development. We can that that it is in the interest of potential persons, even mindless ones, to live and develop in a healthy fashion by which they will flourish. It may even be that consciousness evolved so as to promote the same well-being that organisms had previously furthered without awareness of doing so. Regardless, if one does not accept that non-sentient beings can have welfare interests, then one will not be able to explain the harm of lapsing into a coma or the benefit of coming out of a coma, for harms and benefits involve changes from one level of well-being to another, not a move to or from the absence of any well-being.[28]

Even blades of grass can be said to literally thrive and thus to have an intrinsic well-being and a non-metaphorical interest in being in the sun and nutrient-rich soil. Despite having interests, a blade of grass has a future that is not very valuable. So, its interests and flourishing are given far less moral weight than those of human beings. Assuming that the degree of the harm of an entity's death depends, in part, upon the value and extent of the well-being that it loses out on, the grass is harmed very little. A healthy human fetus, on the other hand, has the potential to realize mental capacities of considerable

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[28] There is a difference between, on the one hand, the absence of well-being and, on the other, low-level well-being. We were all devoid of any level of well-being before we existed and that explains why coming into existence is not a benefit. The comatose have zero or low well-being, unlike the non-existent and inanimate with well-being. That is, the comatose, like all living beings, will have a level of well-being that can be registered on a scale between extremes in ill-being (captured by a negative number) and extremes in well-being (represented by a positive number). Zero well-being would indicate indifference in the conscious, neither doing well or poorly in the mindless living. The mindless non-living will never be found anywhere on a well-being scale. They lack a negative level of well-being, indifferent well-being indicated by zero, and a positive level of well-being.

value that will enable it to obtain levels of well-being unrivaled by other kinds of creatures. Creatures with minds like ours are liable to obtain greater benefits and to suffer greater harms; thus they have more value than living things that are not capable of such thoughts and emotions. Even unhealthy fetuses and demented adults have a potential that accounts for their moral status. It may be that the harm is preempted or overdetermined by disease, but then the harm should be considered the combination of the disease and death, what McMahan calls "total harm"[29] and Neil Feit labels "plural harm."[30] Killing the incapacitated contributes to the total or plural harm that the patient suffers.

My contention is that the morally relevant sense of potential is determined by what is healthy development for things of that kind. Human fetuses, the congenitally mentally disabled, and the demented have the potential to develop minds of great cognitive and affective abilities.[31] The healthy realization of these abilities will enable them to enter into various rewarding relationships and exercise a range of cognitive skills that empower them to think and act in valuable ways unlike any other kind of living being. So, their potential means that they will be greatly harmed if deprived of that valuable future. Causing the death of the terminally diseased is being responsible for a component of the overall plural or total harm.

Mindless or minimally minded organisms only have interests in healthy development or proper functioning and the flourishing that involves. So, a healthy embryo or a retarded child has an interest in growing a healthy proper functioning brain but no interest then in becoming a tennis player even if it will later be an adolescent dreaming of Wimbledon fame. Likewise, the demented no longer have an interest in athletic fame, undertaking philosophy, being independent of care-givers, or any other contingent interests that they acquired

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[29] J. McMahan, *The Ethics of Killing* (New York NY: Oxford Univ. Press, 2002).

[30] N. Feit, "Plural Harm," *Philosophy and Phenomenological Research* 90 (2015): 361-88.

[31] It is true that fetuses and the congenitally mentally disabled and demented have potential in different ways. But they would all be rational if they were able to develop in a healthy manner and stay in a healthy state. So how they differ doesn't matter. My point is that the morally relevant sense of potential has to do with healthy development. So what is important is that first, if they were healthy they would be or become rational and secondly, that they have an interest in their health.

in their socialization. It is not enough for a mindless or minimally minded entities to be identical to earlier or later rational beings to presently attribute to them the interests that they possess at other times. The earlier or later good must be in the interests of mentally unsophisticated beings when they are mindless or minimally minded. And the only basis that I can see for ascribing interests to the mindless is by appealing to the good realized by their proper functioning, i.e., healthy development for entities of that kind. Health is a necessary condition for flourishing and constitutive of a good deal of valuable well-being in a healthy person. The living will always have an interest in health-produced flourishing. All flourishing depends upon health being present (to some) degree and every living being has an interest in health at every stage of their lives, including their geriatric or embryonic stages. When they are mindless, there is probably nothing else to their prudential good and flourishing than their health.

I am open to there being non-organic conscious entities that have (non-derivative) interests. My claim is just that the only mindless entities with interests are organic, i.e., alive. Of course, the closer that machines come to be self-maintaining, the more they will seem to have something like well-being. A Roomba vacuum cleaner seeks out dirt and then returns to its home base to "nourish itself" by recharging.[32] But it is still very distant from an organism that maintains itself, growing, healing, and replacing parts to serve its ends. Living beings make adjustments to stay alive, they have to do such and such to keep their gases, temperature, chemical balances, etc. They can do it better and worse, and as a result remain alive and thrive or fail and die. Because they have this self-directed range in which they can safely pursue their ends, we can say they have well-being as things go better or worse for them. Artifacts only have derivative functions and do not internally maintain themselves in pursuit of their self-given ends. If we used the Roomba for something else and it ceased to function as a vacuum, it would then become say an entity upon which to hang clothes. It would not be malfunctioning if it then later came about that it could no longer clean carpets. Its function could easily change because its function was always derivative upon our intentions. We can speak metaphorically of it acquiring an interest in supporting clothes just as we can

[32] An anonymous referee presented the Roomba as a challenge to my position that only organisms had well-being and interests.

speak metaphorically of a car having an interest in oil. But the vacuum cleaner and the car lack non-derivative interests and, perhaps more importantly, lack sufficient internal self-maintenance in pursuit of those ends, and so lack well-being. The Roomba's being recharged or used as a sturdy clothes rack are not good for it. But if we used the tree for something like a clothes rack, its earlier health-oriented functions do not change. We do not say that the tree does better or worse, flourishes more or less, when it supports clothes better in the colder seasons when it is without leaves. The tree does better when its organic health improves and worse when its health declines. Since its interests are not derived from ours and it maintains itself in pursuit of its self-given ends, it can literally be said to have a well-being.

The appeal to healthy development as the morally relevant potential renders unnecessary any appeal to the distinction between active and passive potential or the equally problematic intrinsic and extrinsic potential. Thus, the appeal to active or intrinsic potential would not divide up cases as their proponents want. There is no active or intrinsic potential for (Lockean) personhood in demented adults, anencephalic, or congenitally retarded human fetuses, but they would surely have priority over a healthy kitten to receive a scarce serum that made personhood possible for them. We can imagine both that the congenitally mentally disabled lack a gene necessary for development and that dementia could be caused by a mutation or absent gene. Neither the fetus nor the extremely demented would then have the active or intrinsic potentiality needed for health if they were missing the requisite genes. The fetus would not develop by its own powers in its normal environment or even with normal interactions from the environment. There are not even obstructions to remove as when some genes activation is blocked by some other factors. I do not see how active or intrinsic potential can be doing any work in the case of the anencephalic or congenitally cognitively disabled who are missing genes or have mutated genes. To claim that it does is to lose sense of the distinction between active and passive (or intrinsic and extrinsic) potential. One can claim that active potential just means that identity is preserved when it undergoes changes. But it typically is the case that active potential means that if the entity is put in its normal environment it will develop, or at least that it will develop if some obstacles are removed.[33] Of course, one can insist that

[33] Kaczor (p. 24) understands "active potential is nothing other than growth or

the soul is there and just blocked and active potential lies in the existence of the human soul. But that will not have any purchase on the non-soul theorist who wants to use the active/passive distinction. And even most modern Thomists typically refer to the presence of the (soul configured) genome to explain a fetus's active potential. Eberl writes in a manner updating Aquinas: "The contemporary understanding of DNA, however, places the formative power in a zygote or early embryo itself. This fact would arguable motivate Aquinas to define a zygote or early embryo as having an active potentiality for rational operations, since it has an active internal principle to develop the requisite organs for such operations to occur."[34]

McMahan shows the moral insignificance of the active/passive potential distinction by pointing out that it is not plausible that a human fetus's moral status would drop and then return if its earlier active or intrinsic potential for personhood was lost but then restored by a genetic therapy. But if we appeal to healthy development as the morally relevant potential, then the intrinsic or extrinsic source of the development is irrelevant. The condition that is doing all the work – whether there is active (intrinsic) or passive (extrinsic) potential involved – is healthy development. And healthy potential need not be active or intrinsic. So it is not intrinsically manifested traits in which lies our moral status. Rather, our dignity depends upon the kind of being that we are. That is, it depends upon how we are designed to be.[35]

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maturation, an active self-development." The demented and congentially cognitively impaired don't have active potential in Kaczor's sense.

[34] Eberl, p. 29.

[35] Valuable aspects of our design may not be essential to us. It may be that our species could remain the same species but evolve in ways that the functions of our brain change, previous value-bestowing mental functions becoming vestigial like those functions of our appendix. In *Warrant and Proper Function* (New York NY: Oxford Univ. Press, 1993) Alvin Plantinga discusses this possibility for a position like mine own (pp. 194-215). That kind of event, farfetched though it is, could lead to a change in our value. So I am not appealing to our essence, that which we couldn't survive the loss, but merely to what is healthy development, i.e. proper medical function which is determined in part by what historical and thus extrinsic. This distinguishes my treatment of the disabled's moral status from those like Lee, George and Kaczor who stress our substantial nature. They appeal to the nature of the species, I appeal to a kind's capability to develop in a healthy manner which could be determined by just the species for a period of its history or even by a reference group that is smaller than the species. It all depends upon what is the best account of health.

Once we recognize that the harm of dementia depends upon comparing our present state to the way in which we should be if we develop in a healthy manner appropriate for our kind, we can easily see why the infant-like demented have greater moral status than any non-human animals like cats that might be cognitively equivalent to demented humans. The former are susceptible to a range of serious harms and extraordinary benefits far more significant than anything to which cats are susceptible. So, infant-like patients can be the source of stronger reasons for respect and concern than cats can be. The demented's moral status is raised above that of cats by their potentiality, which depends upon the kind of being that they are. Their dignity lies in the developmental potential of their kind. It is wrong to kill demented humans when they want to go on living even if they have written in their advanced directive to do so. Their interest in their healthy potential does not disappear with contingent interests in, say, sports or literature or philosophy or independence. It is an interest that they always have. It is a necessary condition for flourishing. Babies have it but are not conscious of it. The demented have the same interest in a return to health but may not realize it. And they preserve that interest even when the destruction of their brain removes any contingent critical interest in ceasing to live when, say, dependent upon others or unable study science or philosophy or write poetry. If Margo ever had those contingent critical interests, they are gone.

If Margo's moral status was due to her possession of rationality, contingent critical interests or experiential interests, we would not have any grounds based on her interests to cure her of her dementia with a scarce serum rather than make a cat into a person. But surely we ought to restore personhood to the Alzheimer's patient or bestow it for the first time on the congenitally retarded human beings. They are supposed to be rational persons. That is the kind of entity that they are.

In conclusion, Velleman and Kant are right that any person's value is the same as that of any other. To disrespect the value in oneself is to disrespect it in others. To disrespect it in others is to devalue it in oneself. A duty not to kill oneself has the same basis as the duty not to kill another. Their mistake is just that they located one's value in the wrong place. It lies in not in manifested mental capacities but in being the kind of entity that will manifest such valuable capacities and has an interest in doing so.