

A concise argument: on the wrongness of killing

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In this issue, Walter Sinnott-Armstrong and Franklin G. Miller (*see page 3*, Editor's choice) argue that what makes killing wrong, when it is wrong, is not that it ends life, but that it causes complete and irreversible disability—what they call total disability. They hold that the wrongness of killing should be explained by reference to the harm that killing causes to the person who dies. And the only harm of this sort that killing causes, they argue, is the harm of being totally disabled: once one is totally disabled, there is no further harm to one in losing one's life. It is no worse to be dead, and thus totally disabled, than it is to be totally disabled but alive.

In fact, Sinnott-Armstrong and Miller (henceforth, the Authors) concede that the story may be more complicated than this. For example, it may be that what makes killing wrong, when it is wrong, is not that it causes harm, but that it is intended to do so, or that it violates a right which protects against harm. But either way, harm plays a crucial role in explaining the wrongness of killing, and the relevant harm, they claim, is the harm of being disabled, not that of losing one's life.

The Authors' argument has important implications for medical ethics. Their view implies that killing a person need not be wrong when that person is already completely and irreversibly disabled (i.e. totally disabled). This suggests, for example, that the dead donor rule in organ donation is mistaken. Contrary to the rule, it could be morally permissible to harvest organs from a living donor provided that the donor is totally disabled. Harvesting organs will kill the donor, but it will not disable her, since the donor has no abilities left to lose.

Four commentators, Julia Driver (*see page 8*), David DeGrazia (*see page 9*), Jeff McMahan (*see page 10*), and Michael Bevens (*see page 15*), raise a number of objections. Most though by no means all of these fall into two categories.

Objections of the first kind point out ways in which killing might be wrong for reasons other than those invoked by the Authors. Thus, for example, DeGrazia and

McMahan note that killing someone might be wrong because it deprives that person of future valuable opportunities or experiences and Driver suggests that it may be wrong because it frustrates the persons earlier preferences. These are ways in which killing might be wrong because harmful to the person killed, but in addition, DeGrazia notes that killing might be wrong because it *wrongs* the person who is killed even if it does not harm her. For example, it could be wrong because it violates her right to autonomy. Meanwhile, Bevens argues that killing a totally disabled person could be wrong even if it neither harms nor wrongs that person, for example because it destroys relationships which others share with the person who is killed.

In reply to these objections, the Authors take a largely concessive line. They suggest that some of these reasons for the wrongness of killing can be subsumed within their view. For example, they indicate that their view can accommodate the claim that the wrongness of killing consists in depriving a person of future valuable opportunities, since the loss of these future opportunities can be thought of as a loss of ability—specifically, a loss of the ability to take these opportunities. Other reasons why killing may be wrong can, the Authors argue, be accommodated alongside their disability-based account of the wrongness of killing. Their interest was in explaining why killing is *directly* and *intrinsically* wrong, and their explanation was that, when it is wrong in this way, it is wrong because it causes total disability. But this is consistent with killing being wrong for other indirect or instrumental reasons in many cases. These might include, for example, the relationship-based reasons identified by Bevens.

Objections in a second category point to what are taken to be unacceptable, or at least puzzling, implications of the Authors' argument. McMahan argues that the Authors' should be interpreted as claiming that the wrongness of killing varies with the amount of ability lost. Thus, their view has the inegalitarian

implication that killing an already partially disabled person is less seriously wrong than killing a non-disabled person. Meanwhile, Driver considers an interesting case in which 1000 patients are completely disabled, but could have their disability reversed by a medication of which there is only one dose available. She wonders whether the Authors might be committed to the puzzling conclusion that giving the medicine to one of these patients would be tantamount to killing the other 999, since it would render their previously reversible disability irreversible.

The Authors do not directly confront Driver's case, but they do respond to McMahan's charge of inegalitarianism. They argue that, by partially decoupling the wrongness of an action from the degree of harm that it produces, they can allow that killing is wrong because it totally disables without being forced to accept the view that the degree of wrongness of killing is proportional to the amount of ability that is (irreversibly) lost. One possibility, they suggest, would be to allow that killing is wrong, and equally so, whenever an individual is totally disabled from a level of ability that exceeds some threshold.

Interestingly, the commentators understand what the Authors mean by 'causing someone to be totally disabled' or 'totally disabling someone' in quite different ways. For example, on McMahan's interpretation, one totally disables someone when one deprives that person of all of her valuable abilities. I take this to be a temporal understanding of total disabling (and will call it the Narrow Temporal View). On this view, one totally disables a person by moving the person from a state of possessing some abilities to a state in which she does not, and will never, possess any abilities. Thus, for example, if an embryo possesses no morally relevant abilities, one does not totally disable it by killing it, even though one thereby prevents it from developing abilities.

Driver appears to understand the Authors differently. She suggests that one would totally disable someone who is

already completely disabled by destroying the only available means of reversing his disability. In this sort of case, one would not be depriving the individual of abilities—his abilities have already gone. One would rather be fixing the lack of ability, making it irreversible.

There are two different ways in which we might understand total disabling that are consistent with Driver's interpretation. On one view, one totally disables someone when one moves him from a state of not being totally disabled to a state of being totally disabled. Like McMahan's interpretation, this is a temporal interpretation of total disabling. It makes total disabling dependent on a change over time. However, it does not require that the change is a loss of ability, rather, the change could be a change in the permanence of disability. Call this the Wide Temporal View. On this view, one is totally disabled when one is moved from a state of being completely but reversibly disabled to a state of being completely and irreversibly disabled.

On another view, one totally disables someone when one brings it about that he is totally disabled when he would not otherwise have been—that is, when the individual would not have been totally disabled had one acted differently. Call this the Counterfactual View.¹ On this view, it does not matter whether the individual possessed any abilities at the time one acts, only that she would have possessed some abilities, or not irreversibly lacked them, had one acted differently.

On both of the Wide Temporal View and the Counterfactual View, it is possible that killing an embryo *does* involve totally disabling someone. Even though

an embryo plausibly lacks abilities to 'act or do things', which are the only abilities that the Authors allow to be morally relevant, it does not irreversibly lack those abilities. It could possess them in the future.ⁱⁱ So killing the embryo could be thought of as moving it from a state of complete but reversible disability to a state of total disability (thus qualifying as totally disabling on the Wide Temporal View). It could also be thought of as bringing it about that the embryo is totally disabled when it would otherwise have been only completely but reversibly disabled and perhaps, in the future, non-disabled (thus qualifying as totally disabling on the Counterfactual View).

In cases involving the killing of embryos, the Wide Temporal View and the Counterfactual View may have the same implications. In other cases, however, the two Temporal Views have the same implications and these which differ from those of the Counterfactual View. McMahan discusses some such cases. Here is another: Suppose that the ability to play Bridge is one of the abilities that is morally relevant on the Author's account—it is relevant to the harmfulness of being killed to the person who dies. Now suppose that Jack is killed having just acquired this ability, while Jill is killed just before she would have acquitted it.

On all three interpretations of total disabling outlined above, both Jack and Jill are totally disabled by being killed. However, the degree of disabling that occurs in these cases may differ. On the Temporal Views, the killing of Jack is in one way more disabling (though not necessarily more wrongful) than the killing of Jill in virtue of the fact that he

had acquired an ability that Jill had not acquired. By contrast, on the Counterfactual View, the timing of the killing relative to the acquisition of the ability makes no difference to the degree of disabling involved. What matters in these cases is that both Jack and Jill would have had the ability to play Bridge had they not been killed.

I am not sure which of the Narrow Temporal View, the Wide Temporal View and the Counterfactual View will render the Authors' account of the wrongness of killing most plausible. However, since these views differ substantially in their practical implications, the Authors' choice among these views may make a substantial difference to the credibility of their account. Importantly, however, it will not make a difference to the implications of their account for the sorts of case in which they are most interested: organ donation from totally disabled individuals. In these cases, harvesting organs and thus killing the donor will not qualify as totally disabling whatever plausible account of totally disabling one accepts.

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ⁱ Note that the Temporal Views may also include a counterfactual element since moving a person to a state of disability might be understood in counterfactual terms: for example, it may be that one moves a person to a state of disability only if that person would not have been in a state of disability otherwise. However, the Temporal Views also require that there is a change in ability (or the reversibility of disability) across time whereas the Counterfactual View does not require this.

ⁱⁱ I assume here that an embryo is identical with the person who will develop from it.