

Questions of Life and Death

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Abstract

What sort of right is the right to life? Does it make sense to speak of a right to die, or to be allowed to die, or to be helped to die, or to die with dignity? Are life and death straightforward alternatives? Are they possible objects of desire or aversion? Can they be given as gifts? If life is a gift, have recipients of it a duty to be grateful? Answers to these questions are obtained by philosophical analysis, chiefly of the concepts of life and death.

Keywords

life, death, rights, gifts, gratitude

In the excellent 1934 film of *The Scarlet Pimpernel* Robespierre says to the Count de Tournay 'We give you your life'. The Count replies reprovingly: 'God gave me my life.' Less thoughtful people have supposed that we are given life by our parents; and this has been considered a ground for expecting love and obedience from children, and for imposing stiff penalties on parricide. Life, it is implied, is the greatest good that can possibly be bestowed on anyone. But is it really so good? According to the chorus of Sophocles's *Oedipus Coloneus* (1224–8), 'By far the best thing is not to be born at all, and the second best, to return whence you came as fast as possible.' Both ways of regarding life are explored in one of the most charming songs in Gilbert and Sullivan: 'Is life a boon?' asks Colonel Fairfax on his way to the scaffold, and, in a second stanza, 'Is life a thorn?'¹

The Count de Tournay was a relic of the *ancien régime*; since the French Revolution people have talked less of gifts and more of rights. Everyone, it is generally agreed, has a right to life; that is the most basic of all human rights; and according to some people, we have, or the law should give us, the right to die, to give back, as J.R.R. Tolkien put it,² the gift of life. So the questions arise, are life and death good

¹ *The Yeomen of the Guard*.

² *The Return of the King*, Appendix I (v).

or bad? Are they gifts we can be given? Have we a right to them? I propose to consider the last question first because the notion of a right is simpler and more familiar than those of a gift and a benefit.

Rights are either active rights to do things and to refrain from doing them, or else passive rights to have things done to us and not to have them done to us; and they are held against other people who have corresponding duties to act or refrain. The right to life may sound like a right to do something, but in fact it is passive and negative: it is the right not to be killed. To say it is a *human* right is primarily to say that we all have it by virtue of being human and not just by virtue of belonging to some particular society or having some position in some society; but I think it is also usually assumed that we hold it against all other human beings, whether within the boundaries of our own country or not. *We*, at least, have a duty to refrain from killing other people, wherever they come from, as we have also from inflicting bodily harm and subjecting them to physical constraint; if there are savages who do not recognise a duty to refrain from killing, harming or constraining *us*, then they should. Whether it is really best to regard this restraint as a matter of duty rather than of humanity or some other kind of rationality may be debated; but at least what is meant by 'the right to life' is clear.

The notion of a right to death is much more obscure. Against whom could it be held? Who, if anyone, has a duty *not* to keep us alive, *not* to impede the processes that destroy our vital organs? The only possible answer is: 'our doctors'. By '*my* doctors' I mean people who, whether or not they have real skill at healing, are recognised by themselves and by society as having certain duties towards *me* as a patient. Traditionally one of these duties is to try to keep me alive, and in some societies (Italy is an example, as the recent Welby case shows) doctors have a legal obligation to refrain from doing anything that will hasten a patient's death. How could the same people have the obligation both to keep me alive and to refrain from keeping me alive? Perhaps it will be said that they have a duty to keep me alive as long as I wish, and to stop keeping me alive when I wish. But doctors have no duty to treat people who are not their patients, and to claim the right to die from my doctor is not to claim a right to withdraw from the patient-doctor relationship. The idea seems to be that refraining from treating me is a special kind of treatment a doctor might owe me; but how could it be?

The right to death is not a right to commit suicide. Many societies have already ceased penalising attempted suicide, and penalties for stopping others from killing themselves are not what those claiming a right to die demand. But nor is it simply a right to die. Dying is not like voting in elections or keeping a horse. Everybody dies sooner or later, whether a right to die is recognised or not. Claiming a right to die sounds as strange as claiming a right to grow old. If someone

is threatening to cut me off in my youth I might say 'Allow me to grow old,' but this is a request not to be killed prematurely. It is reported that patients who are dying slowly and in pain or distress sometimes say 'Doctor, just allow me to die.' Is this too a request not to be killed, a plea that their disease should be allowed to take its natural course? That is not how we are sometimes expected to understand it.

I think that what people claim when they claim a right to die is actually a right to be killed, a positive passive right. Being killed is still something positive, it is still having something done to you, whether you are killed by having something lethal administered, such as an injection, or by having something necessary for life withheld, say water or air. Since people often quote Clough's couplet:

'Thou shalt not kill, but need'st not strive
Officiously to keep alive,'

perhaps I should linger on this point.

Suppose you are on a life-support machine that works by electricity, and I inadvertently switch the electricity off: I can properly be said to kill you, though accidentally. And the same if I forget to switch the electricity on when I should, for instance if I am an electrician who has been mending a fault. It follows *a fortiori* that if I switch off the electricity intentionally I kill you, though whether I do so intentionally depends on what my intention is. If it is to relieve you of a painful and ultimately futile treatment, then I do not kill intentionally, though I may kill knowingly – and the same goes even if I switch off the machine just to save electricity, though in that case most people will say I do wrong, that it is more important not to kill someone than to conserve electricity. If, on the other hand, my purpose is to hasten your death by withdrawing air or food that is necessary for life, then I kill intentionally, though if you are suffering pain or indignity from the course of the disease, some people would say I do right.

The right to be killed, then, is a right to something positive. More precisely, however, it is a right to request something positive rather than a right to receive it. If it were a right to receive it, someone would have a duty to provide it. But who has a duty to kill? Doctors often do kill patients, and seeking their aid is putting your life in pawn, but it cannot be said that killing a patient is part of the duties of a doctor or an aim of medical practice. Aristotle says that a doctor may make a statue, but he does so not as a doctor but as a sculptor. If I ask my doctor to kill me I want him to use his knowledge of my bodily condition and his expertise in drugs, but still I am asking him to act not as a doctor but as a merciful executioner. Those who want the law to recognise a right to die do not, I think, want to place a legal obligation on doctors to kill their patients even when the patients ask them to. Rather they want patients to have a legal

right to request this service. As the law in England stands at the moment, I do not have the right to ask you to kill anyone whatever, since that is incitement to crime; but I should acquire the right to ask you to kill *me* if it ceased to be illegal to kill people who request this service for themselves. As a sort of partial parallel, we have no right to receive sex, but we can have a right to ask for it. If prostitution is legal but pandering not, I have no right to ask you to sell sex to someone else; but I do have the right to ask you to sell sex to me. Those who speak of a right to die at least want killing people who ask for this service for themselves to be decriminalised. This will not cover all the other cases they have in mind, handicapped embryos, unwanted babies, incontinent dotards and the rest; but it might give them a legal right against a doctor who has agreed to kill them, as people are sometimes held to have a legal right to sex from their spouses.

We can have a right to assistance in certain circumstances – joining the AA gives you a right to assistance when you break down on the road – and instead of killing, people sometimes talk of helping to die. But this does not really make sense. It is most natural to talk of helping in connection with purposive activity. You can help me to move a piano or to prevent an attacker from forcing an entrance. But dying is not something like this; it is not causing or preventing anything. We can extend the notion of helping to bodily functions: you can help an asthma-sufferer to breathe, or help my heart to pump blood. But death is the failure and cessation of all bodily functions. You cannot help a person to fail at anything, nor can I help your heart or lungs to fail.

Sometimes campaigners to liberalise the homicide laws speak not just of a right to die, but a right to die with dignity. But that is problematic too. I can have a right to shoot over a field, but I cannot have a right to shoot successfully or to hit the birds at which I aim – the Americans may claim a right to pursue happiness but they certainly do not have a right to achieve it – and it sounds odd to claim a right to do something gracefully or in a dignified way. A right to do something is of itself a right to do it with dignity, and being forced to do it like a buffoon is a restriction of that right. But if we cannot have a right to die because dying is not doing something but a failure of bodily functions, *a fortiori* we cannot have a right to die in a dignified way. At best we have a right not to be harassed as our powers fail.

I conclude that talk about a right to die is confused, and the result of squeamishness about calling things by their right names. Perhaps it may be felt that as death draws near we should try to find the least distressing words to describe what has to be done, but careless speech leads to confused thought, and confused thought to bad decisions both in legislation and in practice.

Let me now return to the question whether life or death is something good or bad. Life, *pace* Colonel Fairfax, is on the face of it neither a boon nor a thorn, neither a benefit nor a burden; rather it is a precondition of being benefited or burdened. It is like existence; for living things, indeed, life and existence are the same. Non-existent things neither stretch out their hands for existence nor dread it. Life can neither be conferred on non-living things like membership of a club, nor inflicted like imprisonment. Plato in the *Phaedo* suggests that embodiment might be inflicted on souls as a kind of imprisonment, but the souls that get embodied already exist and have a life of intellectual activity. In the story of Pygmalion Aphrodite is said to give life to an inanimate statue. She is doing a kindness here to Pygmalion, not to the statue, which as an inanimate object might be damaged or improved but cannot be benefited or harmed. And after Aphrodite's intervention, what Pygmalion clasps is not a statue which is alive but a living woman who has arisen miraculously out of the statue. To take a more familiar case, when a child is conceived, the parents do not, strictly speaking, give life to an ovum and a spermatozoon; what grows in the womb is not an ovum and a spermatozoon endowed with life but a living human embryo that has been generated from them.

Death, in contrast, is not a precondition of being harmed or benefited; far from it. Dying (if we leave aside life after death) is passing away altogether, ceasing to exist, so the dead can neither be harmed nor benefited. Life can be prized by those who are already alive, but it is not something that can be given to those who are not yet alive. Death, in contrast, can be given to those who are not yet dead; they can be killed; but it is neither an advantage nor a handicap to those who are already dead.³

I have been speaking as if life and death were opposites or alternatives, but the noun 'death' covers two different things, dying, and being dead. Being dead is a kind of alternative to being alive; dying is an alternative rather to coming to life or being conceived. To put it more formally, living, being alive, is like a *state* of motion: we are alive for a stretch of time, for so long as various processes, biological or psychological, are going on. Dying is like *coming* to rest, *switching* from being in motion to being at rest. It is ceasing to be alive, and we die not for a time but after a time. Christ died, was dead for a time, and according to some, returned to life; but 'Christ died *for* a couple of days' and 'Christ died for ever and ever, and so shall we all' are both incorrect ways of speaking.

Because living and dying are like this, dying can be an object of desire or aversion, whereas life cannot. An object of desire or aversion

³ 'There's a good deal to be said,' E C Bentley declared, 'For being dead': 'Not,' we may reply, 'by the dead themselves.'

is something that can be caused or prevented. We cause someone to die by damaging vital organs and arresting vital processes; or we prevent someone from dying by removing impediments to those processes and repairing the organs. But we cannot cause someone to be alive or prevent someone from being alive, any more than we can cause a body to be in motion or prevent it from being in motion. If a body is at rest we can prevent it from moving, in that we can prevent it from *starting* to move, but we cannot prevent it from being in motion; and we can cause it to start moving, but not to be moving. Likewise if a body is in motion we can cause it to cease moving and come to rest, but not to be at rest. What is roughly described as a desire for life is not, therefore, a desire to *be* alive, (nor, of course, is it a desire to *become* alive, because we must already be alive to have any desires at all,) but a desire to *stay* alive, or, more exactly, an aversion to dying; and a desire for death is not a desire to *be* dead but to die.

It is possible to desire death and to bring it about on purpose that one's vital processes cease; but in general dying is reckoned an intrinsic evil, an object of aversion for its own sake. I can understand your doing what is necessary to prevent your dying without attributing to you any further purpose, whereas I cannot understand your acting to end your life without attributing to you some further purpose or some special reason: I must think you want to escape shame, or benefit your heirs, or prevent a secret from being extracted from you under torture, or something like that. Hence death is of itself an object of aversion; life, on the other hand, is not an object of desire of itself, but only inasmuch as ceasing to be alive is of itself an evil.

What about *coming* to life or being conceived? Although conception and death can both be objectives, they are objectives of different kinds. We can desire the death of particular individuals, whereas we can desire the conception only of a kind of individual, not of any particular individual of that kind. If Brutus desires the death of Caesar, he knows there is a such a person as Caesar, and wants him to die. But if Henry VIII desires the conception of a boy, it is not the case that he thinks there is something which is a boy, and desires that boy to be conceived; he just wants-there-to-be-conceived something which is a boy. To be sure, we can also want the death just of an individual of a certain sort. I might go whaling not, like Captain Ahab, with the aim of killing some particular whale, but simply with the desire that there should be something which both is a whale and is killed by me. But conception as an objective must always be general in this way.

This again makes giving life different from giving any other gift. I said earlier that a child to whom parents give life is not there to receive it, whereas a child to whom they give a toy train must be there to receive it. But there is the further difference that we

give ordinary gifts to particular individuals, whereas we can conceive only kinds of individual. A child who has been conceived is, of course, a particular child, not a universal, but parents cannot intend to conceive the particular child they do conceive – my parents cannot have intended to conceive me personally. At most parents can intend only to conceive a *kind* of child out of particular gametes.

What intentions, in fact, can they have? Many children are conceived unintentionally, the parents not intending to conceive a child at all, but just to have intercourse. Often, however, parents do have intercourse in the hope of conceiving, or at least being *willing* to conceive. Why? What benefit do they take a child's coming into existence to be, and to whom? Frequently, I think, they want a benefit to themselves. In the past parents have wanted a helper on the farm, or someone to attend upon them when they get old and feeble, or at worst a girl or boy to sell into some kind of slavery. It is also natural to want a companion, someone with whom you can be friends and exchange benefits. Responsible parenthood today is sometimes taken negatively: not conceiving more children than have a reasonable chance of a happy life; but might a very high-minded parent have the aim of conceiving just as many children as have a chance of a happy life, for the benefit of those children?

Those who, like the Count de Tournay, believe that God gave them life probably attribute this sort of intention to God. The doctrine that the world is created by God is best understood (or so I have argued elsewhere⁴) as the doctrine that natural processes generally go on because God wants them to. God *gives* life to living creatures because he wants these processes to go on *in order that* living things may come into being and thrive 'each after its kind' – in the case of things capable of happiness, in order that they may be happy. If it makes sense (whether it is true or not is another question) to say that God wants all natural processes to go on in order that living things may arise, human beings can presumably want the movements they make in having sex to go on for the same purpose.

The verb 'give' is used widely. In its basic use it is, to use a logical expression, a three-place predicate term. A donor gives a gift to a recipient, and all three are particular things that exist prior to the giving. Moreover it is assumed that the donor gives intentionally and recipient receives willingly unless there is reason to think otherwise. But these requirements can be relaxed. What is given need not be a material object, and it can be given unintentionally – I give you my cold – or to an unwilling recipient – you give me a slap in the face. Life is not a material object, nor is it given to a recipient that is already there, but insofar as people have

⁴ *Being Reasonable About Religion*, Aldershot, Ashgate, 2006, Chapter 14.

intercourse in order that children may arise they may be said to give life intentionally.

In point of fact it is easier to attribute this purpose to God than to human parents. In the first place, it is the only purpose a creator could have. *Ex hypothesi* there are no existing individuals to be benefited, and the creator is not supposed to be in need of meat or vegetables, or even of companions like Aristotle's citizens who need people towards whom they can exercise the Aristotelian virtues. And secondly, it is the only purpose that can be attributed to the whole natural order. If the processes which go on in nature make a system, what is it a system for? The only plausible answer is: for the generation of living things of various kinds; and in saying this we must accept the existence of living things as a kind of good, distinct from the benefiting of individuals that already exist. But while we can see the arising of living things as good thing for which someone might want the whole natural order to continue, it is not one at which we human beings are often exhorted to aim. The Utilitarians tell us to maximise happiness, but that precept can be understood in two ways. It is one thing to maximise the chances of happiness of those who already exist, another to maximise the number of people with chances of being happy. The first is altruistic; the second is risky, since to maximise the number of people with chances of happiness is also to maximise the number of people with chances of misery. We must also be on our guard against a fallacy of composition. Even if existence is a blessing to each individual that exists, it does not follow that the existence of a million people is a blessing to each of those people, much less to the whole million, the collectivity, that they make up. People do try to keep threatened species going. They agitate against hunting sperm whales, sit out all night to stop people from stealing the eggs of ospreys and so forth. And they deliberately breed human children themselves. But there are plenty of other ways to explain these activities, and if they insist they are having sex or keeping guard over a nest out of a pure desire that there be more living things, how can we be sure they are not deceiving themselves?

The case is changed for parents who believe that God wants living things to arise. Such parents may try to conceive children for God's sake, in order to cooperate with him and further his aim. In God they have a beneficiary who already exists. But if we believe that there is no purpose for which natural processes go on, and that they might quite well result in an ever-spreading pool of hatred and misery, why generate more children than we and our friends need? We cannot change the laws of nature; our purposive action all takes place in accordance with them; and if there is no system, the distant consequences of anything we do are incalculable. This is a familiar objection to Act Utilitarianism. There is also a more immediate risk. Dispensing existence is of necessity (I have argued) an impersonal

affair; and parents who dispense it may be tempted to expect from their children the kind of uncritical reverence religious teachers sometimes say we owe God. This can lead to unreasonable demands and even to cruel tyranny.⁵

The words are sometimes heard 'I didn't ask to be born.' Superficially they are absurd since, as I said earlier, we cannot ask for anything unless we already exist. But do we owe anything to a person who gives us life? The notion of a debt has its origin in society – we have debts, strictly speaking, only in a society with laws and private property – and so, I think, has the related but more general notion of duty. Different societies attach different duties to the biological relationship of child to parent, and Hume (*Treatise* 3.1.1) is on strong ground when he says that no particular duties can be deduced from it.

But surely at least we owe gratitude? Although we may talk of a duty to be grateful, gratitude and duty are rather different considerations. We can have a duty to thank – omitting to write a letter of thanks may be bad manners. But the word 'gratitude' is connected with the words 'gratis' and 'grace', it suggests free giving, and the virtue of gratitude is a disposition to do more for a benefactor than what duty requires. Theologians sometimes describe charity as disinterested love of God, and there is such a thing as disinterested love for the parents that gave one life. Acting out of gratitude to parents is not discharging a duty but showing concern for them for their own sakes, a concern, moreover, that goes beyond the consideration it is reasonable to have for others generally. Pretty well every society attaches duties to the parent-child relationship, and sees sexual relationships too as creating duties. But these biological relationships and the rewards they bring enable people to rise to a kind of rationality that transcends social obligations as it transcends narrow self-interest: the rationality of selfless devotion to a parent, a child or a lover.

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⁵ Theologians anxious to defend the doctrine of Hell sometimes suggest that we have an infinite debt to the Creator, and critics say that the Jehovah is a tyrant. But the doctrine of the Incarnation suggests that God, whether as a matter of duty or out of disinterested love, thinks it right to make the utmost sacrifices for those to whom he has given existence. Cruel tyrants do not accept crucifixion for those they rule.