

MORAL ARGUMENTS FOR AND AGAINST MAXIMALLY  
TREATING THE DEFECTIVE NEWBORN

I

This paper explores the issue of whether and in what circumstances active euthanasia of newborns could be justified. Allegations that active infanticide of severely deformed children under the age of approximately one month does not have the same potential for undermining moral practice as infanticide under other circumstances, in that a full bonding with an infant and an acceptance of the infant into society has not occurred, will as well be assessed. This paper does not purport to examine all the moral arguments, a task clearly beyond the scope of a single paper. It only examines some of the more salient ones, and only does so from a particular moral point of view. Nor does it pretend to address the theoretical and practical difficulties generated when one moves from a relatively clear-cut paradigm case of a seriously defective child under one month of age known to be hydranencephalic, a condition where both cerebral hemispheres are absent and are replaced by cerebral spinal fluid, to other cases where the child is less seriously defective or defective in a significantly different way. Expressed another way: this paper focuses upon a small part of the problem of whether it is morally right or wrong to maximally treat known hydranencephalic infants from birth to the age of about a month, and considers only those interpretations of right and wrong that are grounded upon a neo-Hobbesian<sup>1</sup> moral point of view. It considers the case of Paul Doe, a three-week-old known hydranencephalic, and claims that the death of this infant is not a harm to it because mere physical process, life in and of itself, is not always a good. To be more specific, it claims that the loss of an objectively meaningless life is not the loss of a primary good.

Let us first consider the question of social bonding, forgetting, for the moment, what Paul Doe may or may not experience in terms of having ties with others. Some writers, like Ashley Montagu, argue that at birth

the human infant has to complete its gestation outside the womb and that persons, socialized individuals, come into being only through a long process of social interaction and education. Others argue that some bonding occurs as early as the prenatal period. Still others maintain that the issue is not one of bonding but a question of when intense bonding occurs, and that intense bonding, the kind of tie where the death of the child results in deep grief and an intense sense of loss, does not typically occur until after the first year.

Now it is tempting to argue that bonding is typically developmental and that separation or death is easier the earlier it occurs. After all, are we to assume that if ending the life of a seriously defective infant is not a harm to that infant, it is generally *not* better (in terms of possible harm to others) to do so as soon as one reasonably can?

Notice that the difficulty is not with the developmental thesis. Bonding is typically developmental and separation *is* generally easier the earlier it occurs. The trouble, I suspect, is with the words 'typically' and 'generally'. For they suggest that in some cases the general thesis will not be true.

What, in light of this, ought we to do? Should we make the exception to the rule? Or should we be content to recognize that bonding can be idiosyncratic? I urge the latter. We should neither try to make fit what does not truly fit nor be overly pessimistic and assume that nothing ever can fit. Hence, a means ought to be provided by which exceptions, the problematic cases, can be taken care of. We should recognize that bonding can be idiosyncratic; that in some situations a close tie is established early, while in other situations fairly late, if ever.

Having admitted this, let us return to the case of Paul Doe. Born essentially without the complete brain structure of a human being, Paul possesses only a brain stem, which serves primarily to control respiratory function ([1], p. 480). It seems reasonable to hold, therefore, that where there is no capacity for cognition, there is no opportunity for the child to be aware of ties, aware in the sense of having more than rough prehensions. So that, even if it be granted that there is far greater physical dependency with such an infant, it nonetheless seems to be true that infants who lack even minimum cognitive power are infants who also lack a necessary condition for social bonding or, perhaps more accurately, they lack the necessary condition for an awareness of that bonding.

But the problem is not as simple as all this. For even if the infant

cannot have this tie, other cognizant human beings can, including health care workers and parents. Indeed, the attachment of other parties may be, and often is, greater because of the infant's defects and great dependency. People, even in an intensive care infant nursery, do get attached to defective children, often in a relatively short period of time, and simply to dismiss this possibility without reason or explanation will not do.

On the other hand, the exception does not make the rule. Significant positive bonding is rare in cases of hydranencephalic infants.<sup>2</sup> The reasons for this are fairly clear – the shortness of time, the professionalism of the health care staff, and the typically limited contact between the child and its parents. In this sense, the case before us, the case of Paul Doe, is a typical one. It is a case where no significant bonding has occurred. Moreover, it is a case where the parents with reasonably full information view their child's existence as wrongful and, therefore, give their consent to withdraw maximal treatment, knowing that that withdrawal will probably result in the death of their child.

In so limiting our paradigm, I do not wish to suggest that atypical cases are unimportant. Quite the contrary. They raise a host of important questions concerning the rights of parents. The only suggestions I wish to make at this point are, first, that since it may make a moral difference if parents are bonded to and wish their hydranencephalic infant to live as long as it can, we should distinguish these cases from cases where that bonding has not occurred; and, second, that a discussion of the complexities generated by the former are beyond the scope of the present paper.

## II

Thomas Hobbes is perhaps the most neglected of the great ethical theorists. And with this neglect an understanding of ethics, one based upon a realistic understanding of human nature, largely came to an end. For Hobbes, above all other thinkers, understood that ethics must have the power of coercion. This does not mean that we must accept his materialism, egoism, or the conclusion that monarchy is the best form of government; for, like all bold and explosive thinkers, Hobbes made some grand mistakes. But when we consider his mistakes, we see that they are largely derivative and, in the main, due to moving too quickly from the ethical to the political realm. The great strength of Hobbes lies

elsewhere. It lies in his fundamental doctrine that human nature is dominated by fear of loss, and that the primary function of ethics is the protection of the primary good, namely, life. When strained of its non-essentials, the doctrine is that humans are dominated by fear of loss of life and that the major function of ethics is objectively to allay this fear.

But it is not enough to enumerate these claims without saying how they are related to each other, and without more carefully refining them in order to arrive at what we have called a neo-Hobbesian moral point of view. It would not be adequate to merely say that, according to Hobbes, "the cause which moveth a man to become subject to another is the fear of not otherwise preserving himself". For we do not understand how it is that the wills of most men are governed by fear. Similarly, we do not understand why the primary function of ethics is to protect the primary rather than the highest good or to protect all the goods necessary for a full life.

Hobbes explicitly says that fear of death and the desire for power are the two basic notions that move most men, if and when they would have the choice, to construct a form of governance. But he does not say that fear of death and the desire for power are the only human motives. Nor does he say that only corporeal substances have the ability to effect human behavior. What has power is that which has the ability to change things. So the question of which things have power is an empirical one, and Hobbes readily admits that things such as the imagination have power. Critics tend to confuse these points. In their attempt to vilify and refute Hobbes, an activity that unfortunately has become philosophic ritual, they tend to confuse canalizations of motives for the motives that more generally move men. In doing so they neglect Hobbes' own introduction to the *Leviathan* ([4], p. 20) where he distinguishes the passions, which are the same in all men – desire, fear, hope, etc. – from the objects of the passion, which do not have this similitude.

There is a restless desire of power in all men, "a perpetual and restless desire of power after power, that ceaseth only in death" ([4], p. 80). This desire leads to the state of nature where the life of man is "solitary, poor, nasty, brutish, and short". The reason being that there can be no legitimate peace and security without a central and dominant power that protects the weak from the strong, and the strong from the weak; for even a weak man may have the power to take the life of an otherwise stronger man.

Aversion is the turning away from an object. Fear is a strong aversion coupled with the conscious or unconscious opinion that the object is harmful. Fear of death is, at root, an elliptical way of saying that there is a strong aversion to the loss of life because one is of the opinion that that loss is a harm. Thus it is not death per se that is feared but rather the loss of life, and this is feared because that loss is viewed as being a great harm. Another way of saying this, that is Hobbesian in spirit, if not in letter, is to say that life is the primary good, thus the loss of life is the primary evil. The primary function of the policy is to protect that primary good, and that the goodness of this good is determined by the fact that it is generally desired by mankind, and the badness of death determined by the fact that it is generally abhorred by mankind.

Few moral philosophers have stressed the importance of protecting life as did Hobbes. The heart of his doctrine is to be found in Chapter 14 of the *Leviathan*. Here Hobbes discusses the right to the defense of one's own life, the right the correct understanding of which is vital to our moral understanding of the Paul Doe case. Hobbes suggests that a right may be transferred or renounced. The nature and limits of how we may give up a right or grant it to others is perhaps not sufficiently clear. What is clear is that rights are not absolute in the important sense that some are alienable. However, not all rights are alienable; not all rights can be surrendered. And the first of these inalienable rights is the right to the defense of one's own life. Hobbes' explanation of this entitlement is as follows:

Whensoever a man transferreth his right, or renounceth it; it is either in consideration of some right reciprocally transferred to himself; or for some other good he hopeth for thereby. For it is a voluntary act; and of the voluntary acts of every man, the object is some *good to himself*. And therefore there be some rights which no man can be understood by any words, or other signs, to have abandoned, or transferred. As first a man cannot lay down the right of resisting them, that assault him by force, to take away his life; because he cannot be understood to aim thereby at any good to himself ([4], p. 104).

What are we to say about this doctrine of Hobbes? It is quite certain that there is empirical warrant for the claim that human beings generally hold life to be a good, and since they generally do not give up a good except in exchange for another good for themselves, it follows that, when assaulted, they typically neither transfer nor renounce their right to life. I think very likely that the objections raised against Hobbes' egoism fail to touch this doctrine. Contrary to advocates of psychological altruism, exceptions do not make the rule. Even if some men are

willing to renounce or transfer this right on the basis of complete self-disinterest, most men are not. Hobbes' basic point is that the purpose of social morality is not to regulate the lives of a few saints or their like, but to regulate and protect the lives of ordinary men and women. This much, I think, we must grant to Hobbes.

Yet there remains much that needs be added to the theory. We must not assume that, because life is generally a good, it is always a good. From a Hobbesian perspective – since what makes something a good is the fact that what is deemed to be of value is something that has or is capable of standing the test of mankind, that it has been desired by most men over the span of their existence or that it is capable of being freely desired by most men over some comparable and reasonable span of time – it follows that if some forms of life have almost never been desired and have been typically avoided, then these forms of life cannot properly be called good. We have already suggested that the loss of an objectively meaningless life is not the loss of a primary good. It is not the loss of a good because, once the notion of an objectively meaningless life is properly understood, it becomes clear that mankind, with sufficient reason, has not generally held such life forms to be a good but rather an evil.

The distinction between an objectively meaningless and an objectively meaningful life is not an easy one to draw. There are two reasons for this. The first is historical or perhaps evolutionary in nature. Prior to the significant changes in medical technology that have taken place in our lifetime, human progeny who, because of nature or accident, were physiologically so low functioning as not to be able to possess or achieve any goals minimally healthy human beings typically have or choose to pursue, would have died at birth or succumbed to the general exigencies of life. In other words, the physiological condition of those who are here being described as having objectively meaningless lives was such that they typically died at birth or shortly thereafter. This is a vitally important point because it explains, in no small way, why Hobbes and most men of good sense prior to our time held that life and objectively meaningful life were identical. The reasoning was straightforward. Observe those who live and those who die. Those who live, even if they be close to subsistence, can give their lives purpose and worth by choosing goals. Of course these goals may not involve the pursuit of the highest or the higher goods, but a life that is not fully meaningful may, nonetheless, be meaningful.<sup>3</sup> Similarly, observe those who are about to

die. If the death is not preventable, then, aside from posthumous interests, the problem of having goals is largely futile; a problem that will, so to speak, resolve itself shortly. This is no longer true or as true as it once was. Natural selection no longer always takes care of those who would have heretofore died. Therefore it is a mistake, given the accomplishments of modern science and technology, to assume that biological existence equals meaningful existence.

The second difficulty involves that formidable task of showing how what is true can be shown to be true. How can we show that statements of the form "Paul Doe has an objectively meaningless life" are true or false? The first point to notice is that, whether we be successful or not in verbally characterizing the notion of an objectively meaningless existence, there are biologically living beings who possess the characteristics in question. That is why we have insisted upon focusing upon the hydranencephalic. Hydranencephalics may be rare, but they do exist. Of course, a critic may be inclined to say that, in the phrase 'objectively meaningless existence', we have a denotation without adequate connotation. This is very well. Half a cake is better than none. For the more serious charge would be to have a reasonably clear signification, say like the signification of the word 'unicorn', and not to have any objective referent.

What, then, are we to say about the signification of the term 'objectively meaningless life'?

By life is here meant the genetic capacity to initiate, build up, replicate, or destroy protoplasm, a capacity that permanently ends with death. Subjectively, judgments as to meaningfulness are correct when the individual being described earnestly believes his or her life is not vain. Objectively, such judgments are correct when the claim that the life in question is not vain corresponds to relevant external conditions. If this admittedly rough and preliminary analysis is correct, it means that meaningfulness wears the semantic pants, that our understanding of the concept of meaningful life derives primarily from our understanding of meaningless life and not vice versa. It is therefore closer to the mark to say that meaningless existence is one thing; irrevocably meaningless existence another. A life is irrevocably meaningless when an individual cannot possess, can no longer possess, or cannot achieve any goals *and* when one or more of these conditions are irreversible. Perhaps better put: subjectively meaningless existence is one thing; objectively meaningless existence another. A life is subjectively meaningless when

an individual earnestly believes he or she cannot possess, can no longer possess, or cannot achieve any goals. A life is objectively meaningless when any of the forementioned intersensual and intersubjective conditions exists and is known, or is capable of being known, to be irreversible. Certain cases of irreparable brain damage, monolithic or anhedonic personality, permanent coma, and impending inevitable death are some examples.

In other words, some judgments about the meaninglessness of life are correct. Subjectively, they are correct if the individual who is being described earnestly believes his or her life is vain. Objectively they are correct if, given the individual's dominant goals or his very capacity to have goals, the judgment that his life is vain corresponds to relevant external conditions.

Why, it will naturally be asked, is having an objectively meaningless life such an evil? Why not be content with organic life, even if it be objectively meaningless? And why not just admit that nothing is good unless life itself is good?

To assume that life is a good because it comes first is to confuse primacy with goodness. For it does not follow that every condition of a good is a good. Suppose we consider a cure for cancer to be a good (albeit a concrete one). Suppose further that the condition of having cancer is also a necessary condition for its cure. Now it may follow that the having of cancer is primary, but it does not follow that, because it comes first, it must be a good. The "nothing is good unless life itself is good" argument is fallacious. It is fallacious because it rests, as Richard Robinson observes, on the false principle that every condition of a good is a good:

Not every condition of a good is a good. Suffering is an evil although it is a condition of pity and pity is a good. Life does not have to be itself good because it is a condition of there being any good. It is consistent to say that something is good and yet life is not a good ([10], p. 54).

As to the question of why having an objectively meaningless life is such an evil, we can only refer back to our Hobbesian perspective. What makes something a good or an evil is that it has been or is capable of so being judged by mankind, in that it is held desirable or undesirable by mankind on the grounds of sufficient reason. Hence to say that an objectively meaningless life is an evil is to say that, where it has existed, it has been averted by most men and with sufficient reason. Omitting the



grossly ignorant, the superstitious, and the fearful, ordinary men and women strongly prefer not to live objectively meaningless lives.

The theoretical basis of our ethical theory, at least in motivational terms, is the principle of meaningful life, – viz., that it is necessary for the minimal well-being of each individual to have goals and the capacity of attaining some of them. The fact that mankind has generally recognized this principle means that they do not desire mere organic life, but desire meaningful life. And it is mankind – neither individuals nor societies – who is the irrefutable and ultimate arbiter of the good.

It is of course plain that this leaves undiscussed many questions with which any complete treatise on ethics ought to deal. A great deal obviously remains to be said in order to make meaningful life and other principles of Hobbism clearer. But enough, I hope, has been said by way of preliminary to explain why we claim that the loss of an objectively meaningless life is not the loss of a good.

### III

Let us now turn our attention to a very able and contrary point of view. Philip Devine's *The Ethics of Homicide* [3] seems to be on the right track in several regards. First, in maintaining that an ethics of homicide should be developed as a branch of morality in its own right rather than merely as a derivative part of a theory of justice or as a set of corollaries to another more comprehensive moral theory. Second, that the ethics of homicide directly relate to whether or not human beings have an interest in continuing to live, for if it can be shown that there never is an interest in direct or indirect voluntary death, then, whether one knows it or not, one has made the essential case for absolute pacificism. Third, that the essential opposition to what appears to be morally permissible killing is due to the belief that, when a homicide is wrong, it is considered wrong in itself, apart from the bad side effects it is also likely to have.

Devine never very clearly states the 'in-house' alternatives to his own nominal moral interest theory. He seems to believe that if one holds an interest theory one must hold one essentially like his own or that the alternatives to his own theory are not worth considering. Since on either alternative he is mistaken, I think it will be wise to briefly consider alternative interest theories before considering in detail the arguments for his own position.

Let us grant, for the sake of argument, that the judgment “*X* is a good homicide” would never have been made by an advocate of a moral interest theory unless the homicide was considered valuable because of some interest taken in *X*. Let us also grant, for the moment, that the interest to live itself and all our other interests are at root conditional on continued living.<sup>4</sup> Now there are several different ways of analyzing these claims. We can say that interest may be defined as “anything that is the object of desire”. We can say, as Perry does, that an interest is a favorable attitude somewhat broader and less subjective than what is usually called desire and that moral good is “the fulfilment of an organization of interests” ([8], p. 14). Or we can say that an object of an interest is what is truly good for a person whether he desires it or not, because what counts morally is not individual desire but whether or not genuine harm occurs. Now let us, for simplicity’s sake, label these alternative approaches (1), (2), and (3). According to (1), to say that an infant has an interest in continuing to live is to say that that infant desires to live. According to (2), an infant has a moral interest in living only if living fulfills a minimum of other, presumably ‘higher’, interests. According to (3), an infant has an interest in continuing to live, whether he desires it or not, depending on the quality and quantity of harm that is involved. The initial oddity is that, although Devine uses the language of the moral interest theoretician, his logic is such as to avoid the assets and liabilities of the aforementioned approaches. Of course, this may merely indicate an oversight on our part, and may mean that Devine has managed to avoid the perils of the more typical approaches. Or it may mean that we have before us a closet moral theist, as his opening remarks seem to suggest ([3], p. 10), and that most of the talk about interests derives from an unexamined ‘classical moral theology’.

We are now in a position to consider Devine’s argument. The difference between his own theory and other theorists he tells us is that these other theorists [11] think that:

an interest must be grounded in a desire, albeit in some cases the desire may only be a possible or future desire of an existing individual. That is to say, if an act is to be a violation of someone’s rights, it must be contrary to desires he could experience *now*, or desires he *will* experience in the future. I am maintaining, to the contrary, that at least some desires are expressions of pre-existing interests, and that it is unnecessarily strained, when someone entertains clearly self-destructive desires, to refer to his potential desires to explain how his desires and interests are in conflict. (I do not suppose that someone could have an interest in having something he could never view except with aversion.) Accordingly, an infant can have an interest in continuing to live, although he can possess no

articulate desires of any sort, and if we kill him he will never develop any. His existence, as a self-maintaining system of a complex sort is sufficient to ground the claim that he has an interest in continuing to live, and hence also (if our common moral notions are not in error) a right to do so ([3], p. 69).

The key passage here is that every infant has an interest in continuing to live and that its existence (as a self-maintaining system of a complex sort) is sufficient to justify that claim. Be not deceived, seduced, and mistaken concerning the nature of homicide, says Devine. All infant death is evil. All infant life is good. For we have received from nature standards and rules for the knowledge of truth, and nature's lesson is devastatingly simple: the death of an infant is always a harm to that infant, because since life (mere existence as a self-maintaining system) is always a good, the loss of life is always a harm.

It is tempting to say that, whatever may be the merits of this approach, it is not an interest theory – or it begs the question. After all, how can an interest in continuing to live be identical with the fact that one is alive? How can one's existence as a mere organic being be sufficient to ground the claim that one has an interest in continuing to live, and hence also a right to do so? In short, how can a state of being stand as its own justification?

One possible explanation is that death seems to be viewed, not neutrally as the ending of life, but as the loss of life. But even this move will not do. For Devine is then faced with the problem of explaining that the loss of something is necessarily a harm. Admittedly, the loss of life is a loss; for it seems certain that the loss of *X* is indeed the failure to keep *X*. But if I should lose a cold or an enemy, where is the harm? To assume that everything one loses incurs a harm to the loser, as Devine seems to do, assumes that each and every loss is a loss of a good, a move that decidedly begs the question at issue.

A related argument concerns the evil of death and the correlate claim that death is an evil incommensurable with other evils. The argument is as follows:

... there is something uncanny about death, especially one's own ... I do not want to deny that a suicide can be calmly and deliberately, and in that sense rationally, carried out. But then someone might calmly and deliberately do something blatantly foolish or even pointless, and it is sometimes rational to act quickly with passionate fervor. But if, as seems plausible, a precondition of rational choice is that one knows *what* one is choosing, either by experience or by the testimony of others who have experienced it or something very much like it, then it is not possible to choose death rationally. Nor is any degree of

knowledge of what one desires to escape by death helpful, since rational choice between two alternatives requires knowledge of both. . . . the opaqueness of death is a logical opaqueness. . . . [for] such a choice presents itself inevitably as a leap in the dark. . . . The difference between these choices [undergoing a sex-change operation, taking LSD, and so on] and that of death is a logical one. While it is logically possible . . . to get an idea of what it is like to have taken LSD from someone who has done so, death is of necessity that from which no one returns to give tidings ([3], pp. 24–28).

Now, as regards this statement, all that I can say is this. It does not seem to me to express any evidence to show that death is an evil. In fact, if we accept the logic of the statement, what follows is that death is incommensurable and, therefore, cannot be known to be either good or evil.

Devine largely confines his attention to arguing that death is logically opaque, that it is not logically possible to get an idea of what death is really like. But it seems clear that, if death is that epistemically dense, then it is strictly speaking not opaque, but connotatively almost empty. And if it is connotatively almost empty, then all the talk about choosing death as if one were choosing something – as opposed to merely leaving life – is cognitively misleading.

In so far as *the notion of death is a negative notion, only denoting the lack of life*, there is no leap into something. Strictly speaking, there is no ‘something’. There is no thing to fear. To the extent fear is rational, we may fear dying or the loss of life if and when it is a good, but to fear death believing that it is actually something is like believing that, when there is nothing in one’s pocket, that nothing somehow exists. Without being bound by superstition or theistic sentiment, death signifies the lack of life and nothing more. Contrary to Devine and the tradition he represents, death is not a leap into the unknown but, so to speak, a leap into nothingness. Unless we adore intellectual mystification, nothingness is nothingness, and not ontological ‘somethingness’.

This point seems fatal to Devine’s supporting argument. For he would have us believe that, when we choose death, we are actually choosing something, something that is logically opaque. Since we know what life is like, and cannot possibly know what death is like, the choice of death is at best a blind choice, if not outrightly irrational. But if the aforementioned explanation is correct, then the reason why death is an opaque notion is because there is nothing ‘behind it’ in that it simply and solely denotes the end of the life of a being who once lived. The choice between life and death is not like the choice between leaving London

and going to Cimmeria. It is more like the choice between staying in London and leaving London to go nowhere forever. We are inclined to believe that the rationality of the latter choice turns upon the reasons for leaving, and not upon knowing something about nowhere. Similarly, the choice between leaving life to 'go to death' is like leaving a place we know something about to go nowhere forever, and the rationality of this choice depends upon the reasons for leaving, and nothing else. In fact, there is something absurd about claiming that there is a choice between the knowable and the logically unknowable, and then insisting that we cannot leave the former unless we know what the latter is like.

Expressed differently: Devine would have us believe that the death of Paul Doe is an evil because death per se is an evil. But what we have shown is that that case has not been made. We have urged that the notion of death is logically dense because it is, in a vital sense, denotatively empty, and that because of this, whatever rational judgments may be made must be directed solely to the question of whether or not ending the life of Paul Doe is an evil, in the limited but important sense of being a harm to Paul Doe. If the loss of an objectively meaningless life is not the loss of a good, and if Paul Doe has an objectively meaningless life, then it follows, contrary to what Devine and others may feel, that the death of Paul Doe is not a loss of a good to him.

Before enlarging upon the explanation of why the loss of an objectively meaningless life is not the loss of a good, we should perhaps address that part of Devine's argument that has thus far been neglected. It is the argument which, for want of a better label, may be called the argument for moral vitalism. The argument is as follows: The aim of every living being – plant, animal, or human – is to persist as a living being. To thwart this aim is an evil. Hence the death of any living being is an evil to that being. Or in Devine's own words:

Loss of life . . . is the central harm inflicted by an act of homicide. This is a harm that can be inflicted on any organism: plants, nonhuman animals, and human organisms of every state of development including the embryonic can all suffer loss of life. A consequence is that plants (and consequently animals and all members of the human species without exception) have interests . . . ([3], pp. 20–21). For all living beings have an interest in continuing to live . . . ([3], p. 32).

In a parallel vein, he writes that we can talk about and should take seriously the interests of species. For both individuals and species have interests:

It will not do to refuse to admit the existence of such interests [self-preservation] on the grounds that "a whole collection, as such, cannot have beliefs, expectations, wants, or desire," since such conditions are not necessary to the existence of interests. We can easily view the perpetration of a species through its characteristic mode of reproduction as an act, not only of the individual organisms that engage in pre-productive activity but also of the species itself, acting through its members. It is thus possible to attribute *an aim of preserving itself* to species as a whole and to see *this aim* as frustrated when the species becomes extinct (emphasis added) ([3], p. 111).

The point of quoting this passage at length is not to lose the thread of the underlying argument in the difficult question of whether or not species can have interests but, rather, to show that Devine uses the term 'aims' and 'interests' interchangeably. Thus he seems to believe that if a living being has some sort of teleological aim, then this is tantamount to that being always having an interest in staying alive, because staying alive is always in the interest, presumably the best interest, of that organism.

In order to exhibit adequately the importance of the distinction between having an interest in a teleological sense and having an interest in the sense of an act being in one's own best interest, I must ask the reader to travel with me and briefly visit the metaphysical realms of teleological naturalism and supernaturalism, the two great strongholds of moral vitalism. Before, our primary concern was with determining impartially whether loss of life was a loss of a good in the sense of being contrary to the best interests of the infant; now we have to ask whether the loss of life is contrary to the natural or supernatural aim of an individual organism.

If we begin by accepting the tenets of naturalistic vitalism – the belief that the functions of a living organism are due to some power or force that preserves its life – we may seem to have before us a self-evident claim. For being appears to necessarily mean aiming at self-preservation. And it is evident that if every organism must aim at self-preservation, then they must aim at self-preservation. Equally undeniable is the immediate inference from the claim of those supernaturalists who hold that, because God makes each living being aim at preserving itself, each living being so aims. In short, metaphysical vitalism is irrefutable. But it is irrefutable because it largely assumes what it seeks to prove and typically protects these assumptions under a cloak of intellectual obscurantism.

But if metaphysical vitalism guarantees that each living being aims at

preserving itself – that is, grounds the claim that each has an aim, in this sense therefore, each has an interest – then I cannot see how one can leap from this to the claim that his interest is a good, unless there is another, hidden premise that logically helps us make this leap. Is it premise (1) that “whatever living beings naturally aim at is good”; (2) that “continued living, no matter what be the condition of that life, is always an actual good”; or (3) that “the aim of continued living is a good because God gave us the aim and God, by definition, is all-good”? It is difficult to say. Premise (3) plunges us into the problems of theism which Devine purports to avoid. Premise (2) has the dual fault of not being self-evident and of clearly begging the question. Premise (1) is plausible but requires an independent criterion for what is good or else it lapses into (2). It is not necessary here to know what Devine’s hidden premise is: it suffices to say that without such a premise his metaphysical vitalism does not provide adequate grounds for his moral vitalism. In other words, the residuum of understanding we have so far obtained is that, even if we admit that metaphysical vitalism is irrefutable, that in itself does not necessarily make the case for moral vitalism. Whatever may be the merits of vitalism, it is a far cry from what is typically held to be a moral interest theory; for to have an aim is one thing, to have a morally good one, another.

#### IV

Let us now pass to a fuller explanation of why the loss of an objectively meaningless life is not the loss of a good. In the first place we have explained why it is a mistake to be content with the language of 17th century thinkers or to tacitly assume that by the right to life they meant the right to mere organic life. It was admitted that human life is generally meaningful. What this means is that most surviving human progeny live meaningful lives. But most is not all. We have suggested that the gap between having a meaningful and a meaningless life may be proportional to our ability and willingness to protect and sustain objectively meaningful forms of human existence. With our new abilities there come new and, as in the paradigm before us, heart-rending problems.

The greatest danger perhaps is that, because many of us are unfamiliar with this new concept, and because initial conceptualizations – like any new concept formation in a science – will probably be rough,

perhaps imprecise, it will be dismissed out of hand. The great danger is that, because of conceptual conservatism and impatience with an admittedly new conceptualization, we may not be able to extend understanding and adequately map an area of increasing concern.

To map a new area is not to say, in itself, what one should do with that area. To say that a human life is objectively meaningless when we know or are capable of knowing that the individual cannot possess, can no longer possess, or cannot achieve any goals – is neither to say nor suggest that such individuals must necessarily die. Nor is it to suggest that it follows from this characterization alone that “the loss of an objectively meaningless life is not the loss of a good”. The question of how we know the latter is true is an independent one. Although we have urged that the question is best answered by appealing to the fact that mankind, with sufficient reason, has not generally held such life forms to be a good, but rather an evil, the point we have insisted on is that the existence of something does not, in itself, make it a good.

Even if this be granted – even if one grants that some humans, including hydranencephalic infants, lead objectively meaningless lives, even if one also grants that to exist as a bare organic being is for a human not necessarily a good – one may object, and I think with good cause, that it is not sufficiently clear just *why* the loss of an objectively meaningless life is not the loss of a good.

Can we, then, better explain what it is that makes such a loss not the loss of a good? Can we more fully describe the reasons or sentiments that seem to generate judgments of this kind? It would be a mistake, perhaps only a lapse into intuitionism, to say no. At the same time it would be a greater mistake to claim more for the explanation that follows than it can actually deliver. Elsewhere I have urged that we judge certain kinds of death not to be an injury to the decedent when his life is known to be irrevocably meaningless or when irreparable meaninglessness is known to be imminent [5]. The argument, in essence, is as follows: Since, as a matter of fact, it is highly improbable that a fully informed man would choose to live an objectively and completely meaningless life, the act of ending that life is not wrongful because it is not an injury to that person. More generally, we do not injure human beings when we allow their lives to end or put them to death even if they cannot, or have failed to, state their preference if they are living an objectively meaningless life, if the state of affairs that warrants that judgment is irreparable and irreversible, and if there is no



or insignificant evidence to indicate that they would not accept the judgment that their lives were meaningless ([5], p. 583).

In 'Voluntary Death and Meaningless Existence' [6], I enlarge the above argument to read that if, in addition to the aforementioned requirements, the act in question is a great kindness, then to the extent it is and *ceteris paribus*, we should end or allow that life to end. The merciful ending of life is morally permissible where it is not an injury to anyone and where, and to the degree, it rests on one or more of our moral duties, especially the duty of beneficence. An attempt is also made to distinguish between *believing* that one is leading an irrevocably meaningless life and *knowing that that is the case*, a distinction that in the present paper parallels the distinction between a *subjectively* and *objectively* meaningless life.

But I became increasingly discontented with my appeal to the 'fully informed' man. After all, what does the fully informed man know that warrants his judgment? Presumably he 'sees' that it is not an injury to the individual because that individual is living an objectively meaningless life. Does he perhaps 'see' or sense something else? Does he not somehow understand that a human being who cannot possess minimum life values and goals has a vain existence, an existence that for its possessor is pointless and worthless? Does not our ideal observer, our fully informed person, sense that the loss of a human life that is objectively meaningless is not the loss of a good because the loss of a vain existence, at least for a human, is not the loss of a good for that individual?<sup>5</sup>

To be quite candid, I did not realize the importance of filling in the grounds for the intuitions of the fully informed until I read Robert Coburn's excellent paper [2]. Coburn approaches the problem from a Kantian-Rawlsian perspective. Among other things, he suggests that an ideal moral legislator, a morally neutral hypothetical chooser with complete knowledge of general truths, would opt for the permissibility of infanticide where "the defects at birth are so severe that the individual's life will not be worth living and the effects on those most directly affected of either actively or passively procuring the infant's death are in the main positive and substantial" ([2], p. 347).

This rather fascinating and detailed agreement between Rawlsian constructivism and our Hobbesian morality should, no doubt, help to give us confidence in the former. But from the perspective of the latter it is difficult to see how a morally neutral theory, in itself, would generate

Coburn's conclusions. Coburn's analysis is admirable in many ways. But it has one essential defect. If the theory is morally neutral, then it cannot generate the conclusions that it does. If, on the other hand, it can generate these conclusions because it tacitly assumes a principle akin to the meaning of life principle, then it is not, strictly speaking, a Rawlsian theory. To assume, as Coburn does, that an ideal legislator would be able to recognize a life not worth living simply on the basis of non-moral general truths seems to press rational credibility. But if he is assuming that the ideal legislator recognizes the principle of meaningful life – *viz.*, that it is necessary for the minimal well-being of each individual human being to have goals and the capacity for attaining some of them – then, he is appealing to a very important moral fact. Rawls tells us that moral facts have no place in a constructivist doctrine:

The idea of approximating to moral truth . . . has no place in a constructivist doctrine . . . the parties in the original position do not recognize any principles of justice as true or correct and so as antecedently given; their aim is simply to select *the conception most rational for them*, given their circumstances. This conception is not regarded as a workable approximation to the moral facts: *there are no such moral facts* to which the principles adopted could approximate, (emphasis added) ([9], p. 564).

If it be admitted that the ideal legislator recognizes that some lives are not worth living, then this conclusion is most rational for him because he has some standard for judging worth or at least for judging vain lives. If, contra Rawls and Coburn, one is persuaded that one cannot generate conclusions concerning the worth of defective infants without an appeal to a moral fact closely akin to the principle of meaningful life, then one will naturally hold that, where Rawlsianism differs from Hobbesianism, the former is mistaken and ought to be corrected.

Consider again the case of Paul Doe, a case of a defective infant under one month of age known to be hydranencephalic, a condition in which the cerebral cortex is absent, though skull or cranial meninges, brain stem, and optic nerves are intact. Why do we know the loss of this child's life is not, for the child, a loss of a good? Because we explicitly or implicitly appeal to a moral fact. The moral fact, negatively stated, is that a human life is vain when it is objectively meaningless. When positively stated it is that it is necessary for the minimal well-being of each human to have goals and the capacity for attaining some of them. The genuine moral legislator, one who is truly informed, judges the death of Paul Doe not to be a loss of a good because, in addition to other social truths, he makes a judgment based upon the aforementioned moral fact.

## V

I have now completed what I hope is a plausible explanation of why the loss of an objectively meaningless life is not the loss of a good. It only remains to guard my argument from being understood in a more sweeping sense than it has been intended or is properly able to bear. Although I have suggested that if it is morally permissible to end the life of an infant it is better, *ceteris paribus*, to do so as early as one reasonably can, nothing that I have said purports to be sufficient to make a full moral case. It is only maintained here that separation is typically easier the earlier it occurs, that death is not always an evil for the decedent, and that having an objectively meaningless existence is a good example of one such exception. Morality may demand that we should regard every act of evaluation with regard to the aggregate effect on life. But the claim that the loss of an objectively meaningless life is not the loss of a good does not necessarily lose its force because there may be more to morality.

*State University of New York  
Fredonia, New York, U.S.A*

## NOTES

<sup>1</sup> I shall, for reasons of style, use the terms 'neo-Hobbesian' and 'Hobbesian' interchangeably. However, the theory that follows is, strictly speaking, neo-Hobbesian. It is neo-Hobbesian because, although it resembles Hobbes in enough fundamental respects to warrant the judgment that it is far closer to his view than to other traditional moral conceptions, it is not close enough to warrant the judgment of identity or true fidelity. No doubt, Hobbes would have been comfortable with the claim that it is largely through fear that man enters into moral union with his fellows; that just as you cannot take up custard with a hook, you cannot have social morality without the power of coercion; and that the primary function of ethics is the protection of the primary good, namely, the protection of what I have called objectively meaningful human life. I am also inclined to think that he would not have been averse to a partial explanation of desirability in terms of a principle of sufficient reason or a vision of excellence involving a plurality of higher goods, provided each had sufficient empirical safeguards. The latter, however, is no more than interesting speculation.

<sup>2</sup> I am indebted to David Klein for this point and for much of my, albeit limited, knowledge about brain-damaged infants.

<sup>3</sup> For a discussion of some of the implications of confusing the having of a meaningful life with the having of a richly or fully meaningful life, see [7].

<sup>4</sup> I am here merely following Devine in using desires and interests as interchangeable terms. See [3], p. 29.

<sup>5</sup> Although my analysis takes considerable license with his point, I am indebted to F. C. White for his essential insight concerning the nature of vain activities. See [12].

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