

# Primum Non Nocere Mortuis: Bioethics and the Lives of the Dead

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*While many people are skeptical that we can harm the dead, much of our discourse depends on it. I defend the claim that we can harm the dead by presenting a new way to think about how the dead can be harmed, and I show that the reasons we can harm the dead shed light on many issues in bioethics, including organ donation, posthumous reproduction, end-of-life decisions, and advance directives for dementia. While the idea of harming the dead will conclusively decide few issues, it will rule out some options, and it will make some positions more or less attractive than they otherwise would be.*

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## I. INTRODUCTION

At the conclusion of a particularly trying clinical ethics consult that ended with the death of the patient, one of my colleagues assured me, “Don’t worry. He’s dead. We can’t harm him now.” That remark was innocent enough, but on reflection, it puzzled me. My initial response had been that it was a banality, since obviously we can no longer create pain in someone who is dead. But that banality may lead us to infer that the dead are beyond our ability to harm them. That inference is, I think, mistaken—perhaps profoundly so. In this paper, I defend the claim that we can harm the dead by presenting a new way to think about how the dead can be harmed, and I then show that the reasons we can harm the dead shed light on many issues in bioethics, including organ donation, posthumous reproduction, end-of-life decisions, and advance directives for dementia. While the idea of harming the dead

conclusively decides few issues, it rules out some options, and it makes some positions more or less attractive than they otherwise would be.

## II. THE PUZZLE

Think about the following two cases, one ordinary and one unusual.

*The organ donation.* Antonio has no interest in donating his organs, and he has made his wishes clear to his family all of his life. He claims that he just wants his body to be buried intact. His wife Claire strongly disagrees with this attitude. So when he dies, she authorizes the doctors to take his organs. She reasons that since he is dead, he no longer has any interests, and since the organs can be put to use saving others, she has a moral obligation to donate them.

*Posthumous sperm retrieval.* Tyrone, 27, died in a tragic car accident. Tyrone was an only child, and his mother Carla is devastated by his death, especially since she always wanted to have grandchildren. Tyrone himself never expressed any interest in having children, and to the extent he expressed any preferences, he was unenthusiastic about the idea. He was not in any serious relationships when he died. Her only chance is to retrieve her son's sperm and to pay a woman to become impregnated and carry the child. Carla is rich enough that she will be able to do so, so she orders the doctors to retrieve the sperm.

If the dead have no interests, then Claire's and Carla's actions are unproblematic. They ignore the wishes of their loved ones, but since they are dead, those wishes carry no weight, and so only their own desires and interests are relevant to what should be done. However, if we think that their actions are wrong, then we must claim that those wishes must be respected.

The most straightforward way to endorse those wishes is to insist that the dead continue to have interests and that those interests are clearly harmed when they are so blatantly ignored. To deny that the dead have interests, we must account for our intuitions about these cases in some other way. So, for example, people want to be able to protect their family's future, even if they are no longer alive to do so themselves. For that reason, we create social practices surrounding wills that insure those wishes will be respected. In effect, we set up the means by which to protect in the future things that we care about *now*, while we are still alive to care about those interests (Partridge, 1981, 253–61; Callahan, 1987, 349–51; Taylor, 2012, 15–21). We could then try to say something similar in these cases. For organ donation, such an argument might be convincing. Since we have institutional structures in place for organ donation—organ procurement organizations, special hospital transplant teams—we might be able to construct a case that the living will arrange things to ensure that their wishes will be respected. People often do not become organ donors because they believe that doctors will not try as hard to save them. Their worry is more about what they expect while they are alive than what should happen after

they actually die. Yet, a case can plausibly be made that some institutional harms occur if we do not respect those wishes. For the sperm retrieval example, however, that case is hard to make. Almost no one thinks about this kind of case, so no one has expectations about it, and no institutional expectations are in play.

The problem with these explanations is that either they do not take their own position seriously enough or they are simply too indirect to account for our intuitions. If we really think the dead have no interests, then we should feel free to ignore the contractual mechanisms they put into place to project their wishes into the future. Indeed, if we really believe the dead have no interests, then people should simply stop trying to project themselves into the future. We should be educating people about the truth, rather than finding mechanisms to bolster their illusions.<sup>1</sup> Even if we agree that people should be able to take such measures to project themselves into the future, we should not accept these convoluted indirect explanations that are unlikely to capture the heart of our intuitions until we have explored the straightforward answer to see whether it can survive criticisms.

The claim that the dead have interests has faced two kinds of objections that many find insurmountable (see, as examples, [Wilkinson, 2011](#), 34; [Taylor, 2012](#), 10–11). First, critics argue, interests require interest bearers, and a dead person cannot have interests. Interests, critics claim, cannot exist floating free from persons, and so once the person ceases to exist, her interests cease to exist as well ([Partridge, 1981](#); [Callahan, 1987](#)). Second, they claim, even if we can make sense of the dead as interest bearers, we cannot make sense of how they could be harmed. To count as a harm at all, an effect must be experienced in some way. The effect can be distant and indirect, but if an event literally has no effect on the experiences the person has, then she is not harmed ([Belshaw, 2012](#); [Hawkins, 2014](#)). Since the dead have no experiences, they cannot be harmed.

Indeed, those who defend the interests of the dead have struggled to account for it. No one wants to attribute interests to the rotting corpse, so the claim has often been that a posthumous event can harm persons during their life. Since our desires and interests can concern events that occur after our death, some have argued, the interests they have while they are alive can be thwarted by events that occur after their death, and the person is harmed at the time of having the interest ([Feinberg, 1984](#), 89–91; [Pitcher, 1984](#); [Luper, 2013](#)). As much as the defenders claim otherwise, such a view looks like backwards causation. Before an event that has interfered with persons' posthumous interests occurs, the persons are unharmed, but after it, they are harmed. Since the persons no longer exist, the harm is supposed to have accrued to them while they lived, so it retroactively caused them to be harmed. Defenders like George Pitcher try to avoid this conclusion by appealing to a change in perspective: "the occurrence of the event makes it true that during the time before the person's death, he was harmed—harmed

in that the unfortunate event was going to happen” (Pitcher, 1984, 187).<sup>2</sup> The change here is not causal, but a kind of status change, in the same way that the passing of the year 2019 means that Shakespeare has now been dead for more than 400 years. While such accounts need not involve any strange accounts of causation, they struggle to explain how such a change constitutes a real harm.

However, I think there is a way to answer the objections that makes the kinds of answers the defenders give more plausible. In section III, I argue that we should reject the claim that we can be harmed only if we experience a harm. In section IV, I will discuss how we should think about the interests of the dead in a way that does not commit us to backwards causation and in a way in which we can say what is harmed. With such a view in mind, I lay out in section V the implications of such a view for some issues in bioethics.

### III. HARMS WITHOUT THE EXPERIENCE OF HARM

The claim that the dead cannot be harmed because they cannot experience it has a powerful intuition behind it, best summarized by what Jeff McMahan calls the “Wide Experience Requirement”: “an event can be bad for someone only if it in some way affects or makes a difference to his conscious experience” (McMahan, 1988, 33). The basic idea is simple: how can something be good or bad for someone if it does not affect her experience in any way, even indirectly?

Now consider Michael: Michael is a lively participant in a group of people whom he regards as his friends. They socialize regularly, exchange gossip, and engage in animated banter, but unknown to him, he “is betrayed by his friends, ridiculed behind his back, and despised by people who treat him politely to his face,” and yet he never realizes it (Nagel, 1979, 4). Michael is living in a lie, and because that lie is maintained by his “friends,” they harm him; his life is worse than it otherwise would be, even if he never experiences it as such (Partridge, 1981, 251–53). Discovering his friend’s deceptions will certainly make Michael unhappy, but intuitively his life had already been made worse by them. As Thomas Nagel argues, “the natural view is that the discovery of betrayal makes us unhappy because it is bad to be betrayed—not that betrayal is bad because its discovery makes us unhappy” (Nagel, 1979, 5). Michael thought his life had a certain character, that he had true friends, only to discover that the life he thought he had was a fiction. His reaction to the betrayal is not—and should not be—that he wished they had kept up the illusion a little longer so that he could live happily for a while longer, but that his life had remained untarnished all along.<sup>3</sup> He regrets *that he was betrayed*, not that he *discovered* that he was betrayed.

The proper response to the news, then, is not, “Now I am unhappy,” but “I thought I had a good life, but I was wrong.”

Silverstein (2013) claims that the fact that Michael has the potential to discover his betrayal is enough to anchor the claim that he is affected by it. Nevertheless, as John Martin Fischer points out (2009), this move does not solve the problem. We can construct cases in which there is no possibility that the person will discover the betrayal, and yet our sense that the betrayal makes his life worse does not change. Taylor (2012, ch. 1) argues that Michael is harmed because he would have wanted to live his life differently if he had known about the betrayal. This account has three problems. First, I think we can construct cases in which it could not affect the way we live our lives, and yet we would still think it a harm. Second, even if such counterexamples are not possible, Taylor’s view exponentially increases the number of harms that each of us suffers. For example, my high school friend who would have dated me had I asked harmed me by not telling me that she liked me because I would have acted much differently had I known. Third, if we accept such an expansion of harms, the view does not explain why the dead cannot be harmed. If I knew now that 100 years from now, my works would be read if I wrote them another way now, then I might change what I would write now. Now Taylor can only rule out cases by limiting the harms to those that might actually affect someone’s life, but then his view falls prey to the same objection as Silverstein’s. More importantly, however, both these replies miss the crux of Nagel’s point: whether or not it affects him is irrelevant. The betrayal itself *is* the harm.

Let us consider Aunt Amy. Before she died, she never discovered that her otherwise-charming son Don, in whom she had invested much time, energy, and effort, is actually a cocaine addict who was fired for incompetence. We might be relieved that she never learned the truth, but the question of whether or not we should have inflicted this painful news on Amy at the end of her life does not change the fact that her life had been made worse by Don’s failures. Our desire to spare Amy the pain of learning that her life was worse than she thought it was may render Amy a great disservice: she may prefer to know the facts about her life than to die deceived. Our reluctance to tell her is understandable. Yet, one of the odd consequences of the Wide Experience Requirement is that there is no debate on this question: only *telling* Amy of her son’s failures makes her life worse. If she is never told, it never enters her experience in any way, and therefore, she is never hurt. Clearly, such a view makes too simple what should be a hard question.

The Wide Experience Requirement also has other unpalatable consequences. If awareness of a harm were a necessary condition for a harm to occur, then its proponents should think that no harm is done to people who live their lives hooked up to Robert Nozick’s experience machine, in which a person can have his brain programmed so that he can order whatever

experiences he would like (Nozick, 1974, 42–43). Consider the following case: without his knowledge, Robin hooks Reginald up to an experience machine. She programs it so that he does not know he is hooked up to the machine, and Reginald lives and dies still hooked up to the machine. The experiences she picks for him are ones he always wanted to have: a nice life with an intelligent and beautiful wife, two accomplished children, and a literary career that wins a Nobel Prize. His life is pleasant, he thinks he accomplishes things in his life, and he experiences his life as good. On the theory that harms must be experienced, Robin does not in any way harm Reginald since he will never experience it as such. Yet Reginald's life on the machine is an illusion: none of his relationships create real connections between two intelligent beings, and he does nothing to warrant a Nobel Prize. In truth, his life is utterly pointless. For that reason, Robin has harmed Reginald profoundly by hooking him to the machine.<sup>4</sup> The experience machine did not create a good life for him, but a sadly wasted one. It matters to how we evaluate his life that nothing he thought was true was in fact true. If we accept the Wide Experience Requirement, the good of living a life of genuine fulfillment is not a good for Reginald, because it never enters his experience. Reginald's life is severely deficient because it lacks the very basic good of living a real life.<sup>5</sup> If we accept these examples, we should reject the Wide Experience Requirement.<sup>6</sup>

Nevertheless, the Wide Experience Requirement has tremendous appeal, and I think it is true if we limit its scope. Following Shelly Kagan, let us draw a distinction between our *well-being*, defined in terms of our lived experiences from moment to moment,<sup>7</sup> and our *lives*, defined in terms of our life considered as a whole (Kagan, 1994; see Glannon, 2001; Kauppinen, 2012). The Wide Experience Requirement is then obviously true about *well-being*, but we can argue that a person's *life* is made worse by unknown betrayals and experience machines. Because Michael is content and because the betrayal does not change anything in his body or mind, his well-being is unaffected by it, and Reginald has a lot of well-being in his life, even if his life as a whole is hollow. We think our *lives* considered as a whole are important and not just our well-being, narrowly construed. Indeed, while our well-being is important in its own right, it is also important because it makes our *lives* better. This distinction helps us see where the argument against posthumous harms goes wrong: it focuses on the bodies and minds of persons and therefore on their well-being, but it does not then take into account their lives as a whole. It argues that since a posthumous harm can do nothing to affect a body or a mind, it cannot possibly cause harm. Insofar as we care about our lives and not just our bodies and minds, posthumous events can mar something about which we care deeply: our lives.



## IV. OUR LIVES

My suggestion, then, is that posthumous events can harm our lives, though not our well-being; it does not change how we experience our lives as we are living them, but it does change the meaning and significance of those events, and it thereby alters the shape of our lives as a whole. Our lives are more than the sequence of events in our existence: they include the ways those events are connected and the commitments, relationships, and values that create narrative strands of meaning, as well as disconnections and discontinuities. As we live, we continue to contribute to our lives, but once we die, our lives continue to exist independent of our bodies and minds.<sup>8</sup> Insofar as we can look at our lives as a whole, I claim, we can understand their meaning, and so we can understand how that meaning can be undermined by subsequent events. By seeing our lives as whole, we see how they can be harmed when, say, someone acts to sully our reputation or to undermine our deepest commitments, even when our bodies no longer exist. Since the life continues to exist in some sense after our death, this account avoids the problem of backward causation because the life is harmed at the point at the time the insult occurs.

However, this suggestion avoids the problem by doubling down on the problem of the subject. What is this “life” that continues to exist even though the body of person who lived it has become food for worms?

I will defend what Jennifer Hawkins has called the “life object view” (Hawkins, 2014, 519). Indeed, I suggest that we think of our life as a kind of object, one that can be created, shaped, damaged, and repaired.<sup>9</sup> Think of life as something like a work of art, made of materials that have their own properties, shaped by the tools available to us, and continuing to exist after its creator ceases to exist. On this view, life is like a sculpture—like, say, Michelangelo’s *Pietà*. It was created at a certain place and time: Rome in about 1500 (Murray and Murray, 1963, 273). The *Pietà* continues to exist well beyond the lifetime of its creator, even though it can no longer be shaped or modified by him. But, it can be damaged—as it was in 1972, when Laszlo Toth, shouting “I am Jesus Christ,” jumped over a balustrade in St. Peter’s Basilica in Rome and took a hammer to it, shattering the arm and damaging the face of Mary (Hoffman, 1972). Toth’s actions certainly marred the statue, though—fortunately—careful work was able to restore it. Nevertheless, the object Michelangelo created was seriously harmed by Toth’s actions, and we have no trouble understanding how it was harmed, even though Michelangelo had been dead for over 400 years. Since Michelangelo invested so much of his life and creativity in perfecting the statue, we can also understand why Michelangelo has an interest in the statue, and how his life’s work would have been diminished if the *Pietà* had been destroyed. Imbedded in this analogy are three claims about lives, which I must now defend. First, we need to understand how we can think of our lives as separate from what

we are living at the moment. Second, we need to see how that life can be damaged and how it can be damaged even after we cease to contribute to it. Third, we need to see why we have an obligation to respect that life even after we stop living it.

The first step is to examine the ways that we already treat our lives as objects of study that exist separately from the persons who live them. In one sense, this claim is obvious: the whole industry of biography could not exist without it. Indeed, think of a great biography, like Robert Caro's grand multivolume biography of Lyndon Johnson (Caro, 1982–2012) or Taylor Branch's biography of Martin Luther King (Branch, 1988–2006): each relates the facts of Johnson's and King's lives, but they also connect those events into a compelling narrative, making sense of events within each life that even their subjects did not understand at the time, and placing their stories in the context of American life and culture in the twentieth century that lay completely outside the ability of their subjects to comprehend—and not just because they did not have another 50 years of perspective on the events of their lives.

Seeing a life through the lens of biography helps us to understand that while a life is made up of individual moments it is not reducible to them. As David Velleman argues, the value of a life is a “strongly irreducible second-order good”<sup>10</sup> (1991, 58). “A person's *life*,” Kagan notes, “seems to be broader and more encompassing than the person himself; it includes more in it” (1994, 319). One way (but only one way) we can see the value of a whole life is by thinking about its narrative structure.<sup>11</sup> Imagine, Velleman says, two lives with the same amount of happiness, measured moment-to-moment: in one life, the person grows up in poverty and early on struggles to attain middle age success and a contented retirement, while the life of the other begins in childhood happiness and early success, followed by late career setbacks and an unhappy old age (1991, 49–50). The first life is a story of success, while the second is a story of decline. Even if the two lives contain the exact sum of happiness and unhappiness, taking into account the effects of the past on present happiness, the first is still a better life. Because they contain the same amount of well-being, that conclusion is possible only by considering the lives as wholes and by attending to the narrative shape of those lives.<sup>12</sup> Only by looking at the life from a perspective above the day-to-day minutiae can we see what makes that life more valuable. So, it is possible, as Kagan notes, that “a person's life might be going poorly, even though the person himself is well-off” (1994, 321). Imagine, for example, the pleasant and comfortable life of the suburbanite who has a soulless job and spends his spare time watching reality television. Everything intrinsic to each moment of his life might be good, and yet his life might not be going well. We thus separate the life from the person living it. A person *lives* her life, but she *has* a life, and she is not *identical* to her life.



In thinking of a life as separate from, though constituted by, the person who lives it, we can appreciate a life as a something which we—or others—can step back and study: we can examine it, if we are inclined, for the moral lessons it teaches, as an object of aesthetic appreciation, or for its entertainment value. Most importantly, we can judge whether that life is a good life *simpliciter*. A good life, as Susan Wolf has elegantly argued, is one that has meaning, and meaning comes from our subjective commitment to objectively valuable projects (Wolf, 2010, lecture 1). Importantly, the success of those efforts matters to the meaning of our lives: while a life spent in a noble failure is not a bad life, it would have been better if it had been a noble success (Kauppinen, 2012, 351).<sup>13</sup> While living our lives, we are interested in more than our well-being. We want our lives to go well, but we usually want them to be meaningful, both in the sense that their parts are intelligible and in the sense that they create something of value (MacIntyre, 1984, ch. 15; Rosati, 2013). So narratives are significant, precisely because some meaning can be created in the structure itself, as Velleman's lives of success and failure show (Velleman, 1991; Kauppinen, 2012). Most of us want our lives to be more than a mere parade of events; we want it all to add up to something.<sup>14</sup> We want the narrative of our life to relate the contributions we have made to one or more intrinsically valuable projects, or we want it to be valuable in itself. Of course, we do not expect every element of our life to fit into one grand picture, or even that every moment fits into one of several plotlines, but we want to be able to see our lives as creating some kind of meaning.<sup>15</sup>

Note, however, whatever form the narratives take, we do not treat the narratives of our lives as mere tales. We do not simply want to be able to construct some narrative or other about our lives. *We want the story to be true*. We want to change the world in fact and not just in our heads. We want to accomplish things of real value and not just believe that we have achieved them. We want truly to win the Nobel Prize and not to win it in an experience machine. Our lives only have meaning if the meaningful events are true.

We can, then, think of our lives as separate from ourselves. The second question is how those lives can be damaged. If life is like a sculpture, then it is not hard to see how it can be damaged. Consider Miranda: at the brink of a successful career in business, Miranda suffers a traumatic brain injury in the collapse of a building, and she loses significant cognitive functions. Wasted now are the tedious hours she spent learning accounting tricks and marketing strategies, tasks in which she took no enjoyment, but which she thought essential to the career path, which she hoped would earn her a substantial income. Had Miranda's life turned out differently, we would point to those hours as a necessary sacrifice to her later success, but without that success, they were just opportunities missed to engage in reading, ballet, or volunteer work.<sup>16</sup> Even if Miranda is now able to reinterpret those events

more positively—as a lesson in what is truly valuable in life, or as a demonstration of her willpower—the meaning of those events has now been altered by things that occurred later in time. In effect, the clay pot of her life that Miranda had been shaping carefully has collapsed on her potter's wheel and horribly damaged, and now she must see what she can make of the glob that remains. Whether the accident is ultimately a tragedy or a challenge depends on later events—events that may or may not be under Miranda's control. Since later events affect the significance of the earlier ones, it looks like some form of backwards causation is at work, but this case seems untroubling. Because her life is still under construction, its shape does not have its final form, and so we cannot yet pronounce whether it is a good life or not. We only know that creating a “beautiful plot” will now be harder—though in fact, it may be all the more striking for what emerges.

Obviously, then, our lives can be damaged while we are living them, and—as I have suggested—that damage can affect our life story even when we are unaware of it. When the software company, which Margaret had worked so hard to nurture, failed due to the sabotage of her former employee Lars, her life is harmed by Lars. It is harmed, even if her friends keep the truth from her because she is dying of cancer, and they do not wish to burden her with the knowledge (adapted from McMahan, 1988, 38). Their deception keeps her from feeling the effects of her company's failure, but it does not keep its failure from affecting her life. Notice that whether the company fails several weeks *after* her death rather than several weeks before makes no difference. In either case, a central project in her life has collapsed, but she is unaware of that fact, and it does not change any of her experiences. In either case, it hurts her life.

In a like manner, we can understand how a life can be marred by attacks on a person's reputation. Like the statue, that reputation may later be repaired, but the damage is nevertheless real. So, for example, as Philippa Foot remarks:

Few philosophers can ever have suffered more than Nietzsche those special misfortunes than come to a man after his death. That his unpublished manuscripts should have been in the hands of an unscrupulous sister ready to twist his doctrines to serve the cause of an anti-Semitism he loathed; that he should have been taken as a prophet by an intellectually and morally despicable regime; . . . that even his non-Nazi disciples should have defended him in a childish, hysterical way. (Foot, 1966; see Rachels, 1986, 56–57)

On Foot's view, Nietzsche's life was tarnished by the misuse that others made of his writings after his death. Additionally, Foot was glad that in her lifetime, Nietzsche's reputation was being restored. In both Michelangelo's case and Nietzsche's, we are presented with a completed work—a statue and a life—that has been damaged. In both cases, that damage is all the more poignant, because although they can be repaired, their authors can no longer say how best to repair it.

If we accept that a *life* can be marred by things that occur after the life is completed, then it seems a small step to show that we have some obligation not to harm a life apart from harming the person. Yet, although Toth harmed the Pietà, it seems strange to say he harmed *Michelangelo*. If we have an obligation to protect the Pietà, we might think, it arises solely from its status as a great work of art. Nevertheless, the way in which Michelangelo is harmed is closely connected to just this point. The Pietà deserves respect as a great work of art, and as such we have some obligation to preserve it. Michelangelo, while living, had an interest in his artistic legacy, and so he had an interest in the survival of his art after his death. We can imagine that he might take great care to see that his works of art survive and that those works survive with his artistic vision of them intact. That vision and Michelangelo's legacy—as well as the sculpture itself—were damaged by Toth's hammer. For that reason, Michelangelo has an interest in an object that he created—even after his death. Similarly, Nietzsche has an interest in his philosophical and literary legacy that was harmed by his sister's use of them. Indeed, each of us has an interest in the most important things we create and leave behind: our own legacies and what our lives represent. Persons are, as Rawls puts it, “self-authenticating sources of valid claims” (Rawls, 1993, 32). The choices human beings make, as long as they are not immoral, deserve respect simply because they are the products of a rational creature. Lives as such, thus, deserve respect, some because they are themselves great works of art in their own right, but most simply because they are the creations of rational beings. As Kant himself argues, we should not divorce the respect we owe a life from the respect we owe a person:

But a *good reputation* is an innate external belonging, though an ideal one only, which clings to the subject as a person, a being of such a nature that I can and must abstract from whether he ceases to be entirely at his death or whether he survives as a person; for in the context of his rights in relation to others, I actually regard every person simply in terms of humanity. (Kant, 1996, 76)

To respect a person, Kant suggests, we must respect her reputation, and whether the person is living or dead makes no difference. Her life is an essential part of her humanity, so to respect her humanity, we must also respect her life. The duty of charity, Kant argues, is based on helping others to achieve their ends; it is “the duty to make others' *ends* my own” (1996, 199). The human enterprise is one that is entwined in the creation of lives; it is the most fundamental human creative act. The choices we each make construct what constitutes our lives. Indeed, for that very reason, many people take great care for the arrangement of their lives and their legacy, be it material, literary, charitable, or intellectual. Many people during their lifetimes hope that others will continue to respect their lives after they are gone. Insofar as we have obligations to respect the ends which people choose for

themselves, we have reason to take some care to respect their legacy. Of course, legacies built on falsehoods and on evil do not deserve our respect, so we do not owe respect to some aspects of such lives, even if we owe some respect to the person as such. Thus, because we have a duty to respect the choices persons make, we have a duty to respect their lives, even after they stop living them.

To say that we have an obligation to respect the lives people have created does not imply that harming a life is the same as harming the person. I think we should say that we harm the person indirectly by harming her life, but my central point does not depend on it. The moral impetus to pay attention to the harm we cause to people's lives comes from the respect we owe to the creative process that lives represent. On this view, then, there is no problem of backwards causation. The Pietà was harmed in 1972, and thus the project of Michelangelo's life that is embodied in the Pietà was also harmed in 1972. The harm to his life project in 1972 is certainly different from, say, what a bodily assault in 1495 during his lifetime would have been, but it is not so different from an unknown betrayal in 1490, since the latter would have affected the success of his life projects.

Even though lives are objects of respect, our obligation to them has obvious limits. Most importantly, that obligation is not overriding. It would make my life successful if people are reading my work 100 years from now, but they have no obligation to do so. Indeed, I should not think my life a failure if they do not since I would be setting much too high a standard for my legacy. At some point after Margaret's death, the company that exists (if it does) is merely continuous with the company she created, and its failure at that point would make her life only minutely worse, if it is affected by it at all. Likewise, the success or failure of my children reflect on me and my life, but that of my grandchildren much less so (unless I have a large role in their upbringing), and that of my great-great-grandchildren, none at all. My life projects, then, extend beyond the boundaries of the years I live on earth—but we need not think that they extend indefinitely. Most of us, for better or worse, will be unable to avoid the "second death" when our lives and legacies are forgotten.<sup>17</sup>

In addition, our obligation to respect life projects does not override the interests of others. During my lifetime, my interests in my life do not override the interests of others, and neither should they do so in my death. Certainly, projects in evil impose absolutely no obligation on anyone and certainly not after death. On a more mundane level, Margaret may have had an interest in seeing her daughter Monica take over her business. Even in her lifetime, Margaret's interest only counted as a small reason for Monica to take over the business; after all, Margaret had no right to dictate anything in Monica's life, since Monica has to live her own life for her own projects. After her death, Monica's reasons for taking on the task may actually decrease, since

part of its appeal to both women may have been the collaboration that they would have created together. Margaret can nevertheless have an interest in having Monica run the company as part of Margaret's life project, yet Monica would not have to honor that interest.

Moreover, the interests of others may come to override the explicit wishes of the dead. So, for example, William Marsh Rice wanted to establish a "an Institute for the advancement of Literature, Science, Art, Philosophy and Letters . . . and for cultivating other means of instruction for the white inhabitants of the City of Houston, and the State of Texas" and that such an institute would be "free and open to all" (Hall, 2012, app. 1). As racial attitudes changed, the racial ban could no longer be tolerated, and as the costs of education skyrocketed, the desire to remain tuition-free simply became untenable. In both cases, the trustees of what became Rice University rightly decided that Rice's explicit wishes were less important than his broader intention to create an institution of higher learning of the highest caliber. The integrity of the university and of the larger vision of affordable education required a reinterpretation of Rice's explicit terms (*Coffee v. Rice University*). The interest of the dead here are important, but other considerations can outweigh their wishes.

## V. IMPLICATIONS FOR BIOETHICS

Taking seriously our lives as objects, which exist past our deaths and in which we have interests posthumously, has clear implications for a number of issues in bioethics. So, first, I return to the two issues with which I began: organ donation and posthumous reproduction. Next, I expand the discussion to the two kinds of issues that are affected by the view of life implied in my view: end-of-life decisions and care for patients with dementia. My discussions are meant only as sketches of the implications of this view of our lives, and not as full discussions of the complexities of the issues addressed.

### Organ Donations

Although our lives are separate from our bodies, people have an interest in what happens to their bodies after they die. Now Antonio wants his body to remain intact after he dies. Perhaps he thinks that the resurrection at the end of times requires a body that has remained in one place, or perhaps he just does not like the idea that he will be cut apart. Claire thinks more good will be done in the world if she ignores his wishes and that she therefore has a moral obligation to donate his organs to save lives. On my view, doing so would harm Antonio's life project in a significant manner (Hamer and Rivlin, 2003).

I happen to share Claire's view to the extent that I think promoting organ donation is important. After I die, I want any viable organs I have to be used

by anyone who would benefit from them. I would like my kidneys, heart, liver, lungs, corneas, and the rest to make the lives of other people better once they are no longer of any use to me. If my family does not honor my wishes, they not only harm the people who would otherwise receive my organs, they harm the project of my life as well. They harm it not only because they fail to honor a specific request, but also because I regard organ donation as something everyone should be willing to do. Indeed, given my work with transplant teams, they would be undermining a moral stance that is of some importance to me. They would make a mockery of the moral stands I have taken in my life.

Some proponents of cadaveric organ donation like John Harris and James Stacey Taylor argue that the intent of the dead should not matter at all, that we should simply take all organs in the name of saving lives (Harris, 2003) and of respecting the autonomy of the living over the nonexistent autonomy of the dead (Taylor, 2012, ch. 8). If we do not have to respect the life projects of the dead, then we cannot harm them or violate autonomy by harvesting organs, and the interests of the people whose lives could be extended are all that matter. On that logic, the moral choice would be clear. My view categorically rejects such a stance.

However, that rejection does not by itself imply that we must reject the routine harvesting of organs. As Harris notes, even if we should respect the life projects of the dead, we can still harvest their organs if we think the obligation we owe is weak, especially compared to a life that might be gained from the organ donation: "My point is that it is surely implausible to think that having one's body remain whole after their death is an objective that anyone is entitled to pursue at the cost of other people's lives" (2003, 133). If we must respect the projects of the dead, then keeping one's remains whole may be important, but Harris is still free to argue that these projects should be overridden (Wilkinson, 2011, 113). However, he makes the case too easy for himself by dismissing the interests people say they have in their bodies as trivial and probably irrational. For some people, bodily integrity forms an important part of their self-image or an important value in their religious belief system. We do great harm to their life projects if we violate those wishes. To make his case, then, Harris must make a different, stronger argument that shows that the health interests of others are so vital that they outweigh the interests people have in their bodies as part of their life projects. Even in cases in which public health overrides people's interests, like vaccinations, we usually allow religious (and sometimes "philosophical") exceptions in the interest of preserving liberty. So, the case Harris must make is that the lack of organs constitutes a public health emergency so serious that it overshadows even these liberty interests.

Unlike vaccinations that create the public good of herd protection, which can only be created with mass participation and which protect even those who are unable to be vaccinated, organ donations benefit only the people



who receive them. While those individual goods are significant, they do not obviously outweigh the value that people place on their bodies. So, even to make the case that we should use a system of presumed consent in which organs are assumed to be available for transplant unless the person has explicitly expressed a desire not to be a donor requires a compelling argument that the interests people have in their bodies are sufficiently protected by such a policy. The case that Harris wants to make—that we should simply ignore any claims that people have interests in their bodies—must be doubly strong.<sup>18</sup>

### Posthumous Reproduction

When one part of a couple dies at a young age, the spouse sometimes wants to have a child by the dead or dying spouse. This desire is, naturally enough, more frequent among childless couples, and more frequent if the husband of a heterosexual couple is dying, partially because sperm retrieval is far easier than ova retrieval and partially because it does not involve recruiting another person to serve as a surrogate.<sup>19</sup> So for example, when New York City police officer Wenjian Liu was killed in the line of duty in 2014, his wife of three months retrieved his sperm and used it to give birth to a daughter in 2017 (Goldstein, 2017). If we do not have to respect the life projects of the dead, then the husband's wishes have no bearing on the case. The only question is whether the wife wants to bear her dead husband's child or not, with all the psychological implications that raising such a child would entail. As long as she understands those burdens, we would have no reason to condemn her choice and, as Taylor points out, although the benefits to other people are not as clear in this case as in the case of organ donation, posthumous reproduction is the only way to produce the good in question (Taylor, 2012, 139–41). Tyrone's case is a bit more extreme, of course, but the logic of the situation still holds. Carla wants biological grandchildren, and if we do not have to respect the projects of the dead, then as long as the child will have a life worth living, Carla's request does no harm.

If, however, life projects deserve some respect, then posthumous reproduction will affect them: whether to have children or not is obviously a question that bears on the meaning people find in their lives. As John Robertson notes, "control over whether one reproduces or not is central to personal identity, to dignity, and to the meaning of one's life" (1994, 24), and for that reason he argues for a basic right to reproductive liberty. Thus, a refusal to allow a sperm extraction from a man who made an explicit, well-informed decision to permit it harms his goals for his legacy. We may also harm his legacy if he wanted to have such children, but was never explicit about his wishes so that no one knew about them—though, obviously, he cannot expect others to act on a wish that no one knew he had. Even if he wanted to have children in general, his wife may not be harming his legacy if she

refuses to bear a posthumous child: that would depend on whether his desire to have children was a desire that included his participation in their upbringing and whether he wanted to have children, even if she did not. Her refusal would harm his posthumous interests only if he wanted such a child, even if she did not. In that case, his interest certainly does not outweigh her interest not to bear and raise the child.

By the same reasoning, the husband's legacy is also harmed if his sperm is harvested against his wishes, compelling him to become a parent posthumously when we have reason to think he did not wish to be. Generally, people are not forced to be parents against their will. Thus, when a couple has created embryos by in vitro fertilization (IVF), one partner has not been allowed to gestate an embryo over the objections of the other on the grounds that people's interests in not reproducing are very strong (Robertson, 1994, 113–14). In these cases, of course, the objecting spouse still exists to assert what interests he has. Now the case is no different if he is dead, unless we assume that we owe nothing to the life projects of the dead.

One variant of these cases is found in those in which a dead woman is forced to bear a child against her will.<sup>20</sup> For example, in 2014, the body of Marlise Muñoz was forcibly kept functioning after she was declared dead by neurological criteria, because a hospital thought it was obliged to support her pregnancy, even against the wishes of her husband and against his interpretation of her wishes (Fernandez, 2014). These cases are different in two respects. First, not only is the dead woman forced to become a parent against her wishes, her body is also being used for that purpose. Second, if we ignore her wishes, then a child—with its own interests—will result. If we can make a case that fetuses—especially previability fetuses—have interests, then some could argue that the interests of the fetus outweigh those of the dead parent in the use of her body. Indeed, this logic lay behind a 1986 Georgia case in which the court required the support for the body of a brain-dead pregnant woman (Niklas et al., 2016, 247).<sup>21</sup> If we do not have to respect the life projects of the dead at all, then whatever interest a fetus has in being born, however small, is decisive. If we do have to respect those wishes, then those wishes will ordinarily be crucial (Sperling, 2006, ch. 8).

In all these cases of posthumous reproduction, someone could claim that the legacy of the posthumous parent is actually promoted by the creation of such a child—even when she professes not to want one. After all, people are sometimes wrong about what it is in their own interests, and people who accidentally have children against their wishes sometimes discover that their previous views about how children would affect their lives were mistaken. A trite movie plot is one in which a hedonistic, self-centered young man is, by some accident, forced to care for young children and discovers deeper meaning in life than the superficial pleasures of drunken parties and casual sex. Such arguments are not available to someone arguing for posthumous parenthood: the posthumous parent will never gain insight into the

deeper meanings of life by having children. So, the claim would have to be that being a parent is intrinsically worthwhile—even without any of the experiences that typically make the project of having children meaningful. Although such an argument cannot be ruled out, it does not seem particularly plausible.

### Planning for the End of My Life

I have argued that we have an obligation to the life projects of the dead because we each have an important interest in the shape of our lives as a whole and in the critical projects while we are alive and as our lives come to an end. For many people, dying in a way that is consistent with the values in their lives and with the shape of their lives as a whole is an important aspect of their life projects. For that reason, many people do not want to die hooked up to ventilators and IVs, unable to communicate with those around them. Many do not want to die in pain on the one hand or in a morphine-induced stupor on the other. Many fiercely independent people do not want to die in a state of second infancy, relying on their children to care for their every need. On my view, these people have strong interests in controlling the manner and time of their deaths. The question is not simply one about controlling decisions about their futures; it is about sculpting the projects of their lives.

Having such control requires, at minimum, that patients should be allowed to refuse medical treatments, even if such refusals will result in their deaths. Some patients nearing the end of their lives, however, will be unable to shape the end of their lives simply by refusing medical treatments. To end their lives as they wish, they will need drugs that can only be provided by a physician, so their interests are clearly served by allowing them access to such drugs. But, people who are not capable of taking drugs to end their lives may have similar interests and, for the same reason, they have an interest in how they die. So, patients with terminal illnesses who are incapable of taking drugs to kill themselves should also be permitted to find someone to help them die. Additionally, many people who do not meet the legal definition of “terminally ill” (usually less than six months to live) may face a life of dependence and humiliation that violates their sense of who they are. For some of these people, intentionally taking their own life would be anathema to their sense of themselves. For others, it would not be: the shape of their lives and their life projects would be better served if they could end their lives sooner rather than later. Ensuring that they have some legal means to end their lives in the way they would want would serve their interests much better than the current system.

The question then is whether there are other countervailing considerations to the interests that some may have in dying. First, others may have an interest in not participating in these deaths, so no one has a right to compel

others to aid in their death. However, two other kinds of interest might be relevant: some unrecognized interests of the person herself or the interests of others. On the first grounds, some would argue that with the exception of people who are known to be near the end of their lives, everyone has an interest in living. Of course, put so broadly, such a claim is surely false. As Albert Camus argues, “what is called a reason for living is also an excellent reason for dying” (Camus, 1955, 4). Life projects can require us to sacrifice our lives. So, the claim must be that each person has an interest in life, which she can never voluntarily surrender. However, that claim is hard to support. Certainly, many people believe it because they think God will punish those who end their lives by their own hand, but that belief should not be imposed on those who do not share it. Unless we have compelling evidence that people are systematically mistaken about the shapes of the lives in these respects, we should allow people to decide where their overall interests lie.

The second kind of worry is that a policy that allows more physician-assisted deaths will harm the interests of others. We might worry, for example, that the poor, the handicapped, and the vulnerable will be pressured into ending their lives because others think their lives less valuable, that the interests they have in their life projects will not be taken seriously. To some extent, we can ameliorate these worries by putting strong protections in place to insure that anyone who seeks to end her life understands what she is doing and to ensure that the decision is truly her own, based on her own assessment of the value of her possible future life. We can require a waiting period to ensure that the decision is one based on long-standing desires that suggest they are important to her life. We can require an assessment for depression and for coercion, perhaps using the model of living donor advocates that are designed to protect the interests of organ donors. Nevertheless, not all the problems will be solved, no matter what safeguards we construct. As Velleman (1992) notes, sometimes even creating an option for someone makes her life worse, even if she is free to reject the option. So, to use his example, imagine that I am not fond of my boss, and so I have no desire to spend time with him outside of work. Yet, if he invites me to dinner, I may feel I need to go because I cannot give a sufficient reason to refuse, even if I am free to refuse. I would prefer not to be invited at all. Once the invitation is offered, however, it puts pressure on me to justify myself in ways that never having the option does not (Velleman, 1992, 672). Likewise, if I never have the option to choose death, I never have to justify to anyone my decision to stay alive (Velleman, 1992, 671–73). Therefore, this option undermines the ability of some to live out their life projects.

This worry is, I think, a serious one. The moral question, then, is how best to protect the various interests people have in their life projects. Now we will have to balance the interests of those for whom a hastened death is needed to fulfill their life projects against those for whom such a choice would endanger them. The question then, is whether adequate safeguards

can be put into place to protect the latter so that the former can act on their interests. The goal, however, must be to promote the ability to have a life that embodies those most important values when possible.

### Planning for the Last Phase of Life

The kinds of life projects that lead people to shape their deaths may also lead them to have a strong interest in planning the last phase of their lives. Many people want “nature to seek its course,” no matter what course that might take. Others think that ending their lives in, say, an Alzheimer’s-induced state of confusion, engaging in pointless tasks and unable to interact meaningfully with others, would be degrading. They do not find it a fitting denouement to their physical lives, and they do not wish to be remembered for the burden they created on others, rather than for their accomplishments. Such people want to write advance directives that would allow them to choose to forgo all life-prolonging medical treatments at a point in which they would not be competent to refuse treatments. So, for example, Marvin might request that if he is suffering from Alzheimer’s Disease to the extent that he no longer recognizes his family, then he should not be given treatments, even for easily treated pneumonias, but instead should be given medicines only to make him comfortable. In that way, he thinks, he can insure that the last stage of his life is consonant with the life he had lived up to that point.

The problem with such directives is that by the time they become operative, a patient like Marvin can no longer remember the instructions or the reasons he wrote them. Indeed, he may then be perfectly content with his life as it is. Marvin cannot see his whole life anymore, but Agnieszka Jaworska argues (1999), he is still capable of being a valuer. Because he still has interests in life as he is experiencing it, he can still express important values. Because he can express values, she claims, any values that he held previously should not trump the values he has now, and so we should not honor an advance directive that clearly undermines his current values (Jaworska, 1999, 125). Of course, from the point of view from which Marvin wrote the advance directive, this position is precisely the one he had hoped to avoid. He did not want to live a life in which he took pleasure from watching mindless soap operas and game shows. His life as he understood it ended when he was no longer capable of appreciating the intellectual pursuits that characterized his life and his life projects. So, his interest in his life as a whole seems to dictate that we should stop all curative treatments.

Nevertheless, the view I am defending need not directly contradict Jaworska’s point. To say that Marvin has an interest in his life as a whole only gives additional weight to the preferences expressed in the advance directive; it does not make those interests decisive. Even Jaworska concedes that once Marvin loses so much capacity that he can no longer value anything, we can follow the advance directive (Jaworska, 1999, 123). The

debate is really about how much weight to give Marvin's interest in his life as a whole. Since my view claims the interest of a person in the shape of his life and in his life projects is important, I would permit the advance directive to go into effect earlier than Jaworska. Indeed, since I think the value of our life projects is often the most important value that people create, I think the presumption should be that we should act on those interests when they have been clearly articulated, but these interests in our lives as a whole do not automatically trump our other interests. The ultimate answer depends on assessing that delicate balance.

## VI. CONCLUSION

Taking seriously the life projects of the dead, I have argued, gives us a way to think about a number of issues in bioethics that otherwise seem unlinked. I have suggested that if we take seriously the obligations we have to people's life projects, we get a better grip on how to think about posthumous organ donation, about posthumous reproduction, about end-of-life decisions, and about living with dementia. However, to claim we have obligations to the dead does not imply that those obligations override other interests—not the interests of other people, and not the interests of ourselves in a later stage of life. Our obligations to the life projects of the dead interests count, but they can be outweighed by other considerations.

The biggest objections to this project lie in the very idea that we have obligations to the life projects that outlive their creators. For religious reasons, many people feel quite comfortable with the claim that we have interests after our death, but they also think they will survive their own death and so they will continue to be the interest bearer in their post-death lives. But, I have argued, even if we reject the immortality of the soul, we can still make sense of the obligations we have in the lives of the dead as objects, objects that survive their deaths and that can be harmed or promoted after their bodies are long gone. Taking those obligations seriously, however, should shift some debates in bioethics. Even if taking them seriously does not decide any issues, it changes the landscape of the debate.

## NOTES

1. Even people who believe in life after death might argue that the soul that survives is no longer a being that has interests in the cares of this world. Speculations about what posthuman souls are like would be a doubly weak foundation on which to base claims about harming the dead.

2. [Silverstein \(1980\)](#) gives a variation on this solution by adopting a timeless perspective, in which we can discuss the person as a four-dimensional space-time object that can experience harms that occur outside the boundaries of that object.

3. I am inclined to say that we should think that he was not happy all along, but I cannot defend the stronger claim here.



4. Some would argue that by altering his life as she does, Robin has wronged Reginald, but she has not harmed him, since it does not enter into his experiences (see Taylor, 2012, 18–21). Such a view simply accepts the Wide Experience Requirement as a definition of harm and then accounts for the problem with this case in another way. On my view, precisely because she has wronged him by creating a bad life for him, she has harmed him, but the differences between these views are merely definitional.

5. The claim that harms do not require the experience of harm gains some independent support from two sources. First, Samuel Scheffler argues that our reaction to the “doomsday scenario,” in which all human life is extinguished 30 days after we die, is that it would undermine various projects in our lives that depend on the continued existence of human beings, either because those projects no longer have any beneficiaries or because they would take too long to come to fruition. Thus, our own lives become meaningless by things that occur after we are dead (Scheffler, 2013, especially 23–27). Because no human beings would exist to experience that meaninglessness, no one would be harmed by it.

Second, the claim is supported by Derek Parfit’s Non-Identity Problem. Since the identity of persons in future generations depends so profoundly on what we do now, no one in the future can say they have been harmed by anything we do, since they would not exist if we had done anything differently. If we think we cause a harm by, say, failing to act against climate change, then we will be arguing that harms can occur even though no one can experience them as such (Parfit, 1984, ch. 16). People will experience the world as worse than it would be otherwise, but they cannot claim that they experience it as a harm.

6. We should then accept what Stephen Rosenbaum calls an “abstract concept of value” which “denies that the only things that can be good or bad for people are events that have causal effects on them” (Rosenbaum, 2013, 152).

7. The literature on well-being is, of course, vast, and so I am simply stipulating a distinction that, I hope, does not do disservice to the concept.

8. I thus accept what Walter Glannon calls the “independence thesis”: “that the badness of events that harm persons is independent of their bodies and minds” (2001, 127).

9. A similar, but more radical, view is defended by Daniel Sperling (2008, ch. 1). Sperling posits what he calls the “Human Subject,” an abstract object which holds the interests of the person after her death, yet still belongs to “the moral community of humans” (2008, 37). As part of that community, he thinks Human Subjects have a moral status. Sperling never explains how this abstract entity without personality can be a part of moral community, and so the entire construct seems ad hoc: it exists only as a holder of the posthumous interests that have moral status.

10. A second-order good is a good grounded in other goods. So, the value of life is a good that depends on the relationship of the other goods that make up the life.

11. For my purposes, I need only argue that *one* way to see the value of a whole life is through its narrative structure. I need not insist that it is the *only* way. Nothing I say here conflicts with Galen Strawson’s (2004) arguments against narrativity.

12. Antti Kauppinen (2012) nicely complicates Velleman’s picture by adding two scenarios: one in which a person’s life declines because a noble effort failed for reasons she could not control, and another in which a person’s life gets better but only because he stumbled onto a fortune. In Kauppinen’s view, the life of hard-won success is better than the noble failure, which is better than the lucky fortune, which is better than the life of deterioration. The trajectory of life, then, is not the only relevant piece of the narrative arc.

13. For this reason, Ronald Dworkin claims that an important aspect of life involves judgments about what makes life worthwhile and what makes it successful: we have “critical interests” in living our lives according to our considered value judgments that shape our lives and give them meaning, in contrast to our “experiential interests” in having certain kinds of particular experiences (1993, 201–202).

14. We want our lives to form, to use E. M. Forster’s distinction, a *plot* rather than just a *story*: “Consider the death of the queen. If it is in a story we say: ‘And then?’ If it is in a plot, then we ask: ‘Why?’” (1927, 60). To understand a narrative as a plot, rather than a mere story, Forster notes, requires memory and intelligence: we must remember the plot elements and we must think about how they are related to each other causally, thematically, and structurally (1927, 60–62).

15. From this perspective, sense can be made of the remark Aristotle attributes to Solon that only at the end of a life can we determine if someone has led a happy life (2009, 1100a10). Likewise, we can make sense of Cicero’s remark that “no one has lived too short a life who has discharged the perfect work of perfect virtue” (Cicero, 1927, I.109).

Note, however, I am trying not to build too much into the idea of a narrative. Rosati (2013) explores whether narrative contributes something unique to the good of a life, apart from the good that is created

by fulfilling worthwhile projects. For my purposes, this distinction is interesting, but not crucial. My view is not undermined, I think, if the only good that narrative creates is reducible to the good of fulfilling such projects.

16. McMahan (2002, 177) uses a similar example.

17. I heard a small sad sound,

And stood awhile among the tombs around:

"Wherefore, old friends," said I, "are you distrest,

Now, screened from life's unrest?"

--"O not at being here;

But that our future second death is near;

When, with the living, memory of us numbs,

And blank oblivion comes! (Hardy, 1898, 205)

18. Of course, it must also be able to overcome other kinds of objections to such a policy. For example, many people, unfortunately, believe that doctors are already more interested in the organs of dying patients than in saving the patients. Any government mandate is more likely to heighten those worries than allay them. Indeed, even switching the United States to a presumed consent standard is likely to raise these suspicions. Without greater trust in the system, changes are not politically feasible. Indeed, for reasons like these, T. M. Wilkinson argues that we may want to allow a family veto over donations (2011, ch. 5).

19. Homosexual couples, likewise, must necessarily involve another person as either a donor or a surrogate.

20. For an extensive discussion of the various ways to think about pregnancy in brain-dead women, see Sperling (2006).

21. A similar logic underlies recent attempts to claim that in disputes over embryos created by IVF, consideration must be given to the best interests of the embryo to be gestated and born (Cohen and Adashi, 2016; Lewin, 2016).

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