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Physician-Assisted Suicide Within a Kantian Framework

Daksha Bhatia
University at Albany, State University of New York

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The highly polarized debate over the practice of physician-assisted suicide is relatively new to the realm of ethical issues. Physician-assisted suicide was first explicitly legalized in the United States in 1994, when Oregon passed its Death with Dignity Act.[1] Although the Act stipulates that a doctor "may prescribe a lethal dose of medication to terminally ill people under certain conditions,"[2] the term physician-assisted suicide also encompasses giving a patient information on how to commit suicide, or giving them the means to do so in a form other than a prescription. Physician-assisted suicide is different from euthanasia in that the patient, rather than the doctor, carries out the last step leading to the patient's death.[3] Exactly what "certain conditions" Oregon's law entails are highly contested. The impetus behind it was to give rational, terminally ill people a chance to end their lives on their own terms, while preserving their dignity and avoiding incredible suffering from which there would be no relief, other than eventual death.[4]

While the morality and logistics of physician-assisted suicide involve a relatively recent discussion, ideas about suicide in general have been around since antiquity. Some believe similar reasons for and against suicide extend to include physician-assisted suicide as well, while others think there are different arguments to be made for each situation. One common argument in support of physician-assisted suicide is that today's technology greatly lengthens people's lives, which puts them in a position they would not have been in had they lived in another era. In the past, people with terminal diagnoses did not have much time to live. This has changed, but not every terminally ill patient is living

[1] Canick, Simon M. "Constitutional Aspects of Physician-Assisted Suicide After *Lee v. Oregon*." American Journal of Law and Medicine 23.1 (1997): 70.
[2] ibid.
[3] Dworkin, Gerald, Frey, R.G., and Bok, Sissela. Euthanasia and Physician-Assisted Suicide. Cambridge, UK: Cambridge University Press, 1998. 3.
[4] ibid.

a life that they consider to be dignified and free from excruciating pain. Physician-assisted suicide, some people argue, gives people a chance to reject long, drawn-out suffering. It is argued that even though we have the ability to feed someone in a persistent vegetative state for thirty years through a feeding tube, this may not be what every person would want. Some people believe it is unfair to force the technology upon someone and essentially punish them for being alive today instead of in the early 1900's. Another argument in favor of the practice uses the idea of personal autonomy to claim that people have the right to live, and die, according to their own conception of a good life (as long as they are not harming other people). If the practice is illegal, some argue, it prohibits our freedom to make our own choices about our own lives.[5]

There are a variety of religious arguments that can be made against physician-assisted suicide, which relate to the nature of suicide itself, but since religion is not a part of this project I will not discuss these objections here. One secular argument against the practice is that it distorts our conception of the value of a human life. We have laws against manslaughter, murder, negligent homicide, etc., because we feel a certain amount of respect is owed to the sanctity of human life, and to legalize facilitating the destruction of a human life is contradictory.[6] Others argue that explicitly offering up the choice to die will put an immense burden on already suffering people – they will have to justify to their family and friends why they are continuing to live.[7] Some believe that the Hippocratic Oath, which states, "I will give no deadly medicine to anyone if asked, nor suggest any

[5] Canick, Simon M. "Constitutional Aspects of Physician-Assisted Suicide After *Lee v. Oregon*." American Journal of Law and Medicine 23.1 (1997): 73.
[6] ibid.
[7] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.)

such counsel" clearly rules out the moral and legal permissibility of physician-assisted suicide.[8]

With so many arguments on either side of the issue, it is easy to see why we are nowhere near coming to a consensus. The most controversial aspects of physician-assisted suicide involve our different perceptions on just how much liberty we truly have, and whether potential abuses of the practice are detrimental enough to ban it altogether. With all of this abstract thinking surrounding the practice of physician-assisted suicide, it is sometimes easy to forget that we are talking about the lives of specific people within our community. Their subjective experiences are just as important to the debate as our theoretical reasoning is. One organization that is sensitive to and works to bring awareness of this issue is The Death with Dignity National Center. The Center advocates for and educates people on the Oregon law. Their website, www.deathwithdignity.org, contains a blog on which anyone can post their experiences with end of life decisions.

One such blogger, Colleen, writes about the unique perspective she has on the idea and practice of physician-assisted suicide. She was the primary caregiver to her father, who was dying of leukemia, and her brother, who had T-Cell Lymphoma. Her father was reduced to a horrendous state just before his death. She said he begged her for more pills and was, "amazed that he continued to awaken morning after morning while I changed his diapers, bathed him, fed him and tried to keep him comfortable day after day."[9] Since he lived in Montana, a state without any physician-assisted suicide laws at the time, his death was slow, painful, and without dignity. Her brother was fortunate

[8] Canick, Simon M. "Constitutional Aspects of Physician-Assisted Suicide After *Lee v. Oregon*." American Journal of Law and Medicine 23.1 (1997): 74.
[9] Colleen, "Death with Dignity is a Life Choice." Living With Dying Blog. Posted 10/16/10. Accessed 01/31/11. http://www.deathwithdignity.org/2010/12/16/death-dignity-life-choice/.

enough to live in Washington State, where a law similar to Oregon's Death with Dignity Act has been established. Although he was currently in remission, they agreed that she would help with his end of life choices when the lymphoma returned for a third time. In May of 2010 the cancer came back and the siblings carried out their plan – legally. Colleen wishes her father had been given the same choice her brother was, that is, he was "able to leave this world on his terms, complete with dignity and control over his final days."[10] Sadly, Montana has since ruled in favor of physician-assisted suicide with its decision in the Baxter v. Montana trial; formal legislation is currently being debated.[11]

Another blogger, Katrina, writes about the uglier side of not having a death with dignity option available. Her mother Susan, who lived in Arizona, was a physically active RN who loved to run and hike the Grand Canyon. With her medical background, she knew just what a diagnosis of ALS meant for her. When her lung capacity was diminished to 30%, the next step in treatment was going to be a ventilator, confinement to a hospital bed, and twenty-four hour care. Unable to tolerate this, and unable to speak to her family about her wishes without putting them in legal jeopardy, she waited for all of her family members to leave the house before taking matters into her own hands. She rode her motorized wheelchair out of the house, went to a deserted area of the road, got up, and walked until she collapsed from exhaustion and passed away.[12] Susan may have been in control of her death, but there was certainly no dignity anywhere in her ordeal. Without the option of physician-assisted suicide, Susan suffered unnecessary emotional and physical trauma. Since she was unable to speak to her family about her decision they

[10] ibid.
[11] Gouras, Matt +Associated Press. "Montana Lawmakers Punt on Physician-Assisted Suicide." CNBC. 02/20/11. http://www.cnbc.com/id/41491838
[12] Katrina, "Susan Jane Cox: May 12, 1945 – September 2, 2008." Living With Dying Blog. Posted 01/22/10. Accessed 01/31/11. http://www.deathwithdignity.org/2010/01/22/susan-jane-cox/.

were all denied the opportunity to say good-bye, and walking to her death on 30% of her lung capacity was undoubtedly more agonizing for Susan than being given a lethal dose of medication in a hospital, under the care of a doctor, would have been.

Although almost everyone can understand the pain people like Susan and others in her situation experience, we all approach the debate on physician-assisted suicide with our own background theories about morality. This is responsible for much of the disagreement; since we don't all embrace one moral theory, we are also conflicted in our classification of moral and immoral acts. In the 18th century, Immanuel Kant created a complex moral theory that strictly opposed the practice of suicide. Kant defines suicide as "the intention to destroy oneself,"[13] and gives two main reasons for his unyielding opposition to the practice. The first is that there is a self-contradiction in carrying out suicide, and the second is that when you kill yourself, you use yourself merely as a means and not at the same time as an end in itself. While I appreciate and agree with many aspects of Kant's ethical theory, I don't believe that suicide, or assisted suicide, is unconditionally wrong. In certain, specific, situations it is possible to adopt many of Kant's views while also leaving room for a pro physician-assisted suicide position. There are places where his theory can be tweaked to allow for the practice, and other places where his theory really doesn't succeed in fully ruling out suicide in each and every possible situation.

In order to fully understand Kant's objections to suicide, and my objections to his view, it is important to provide an outline of his ethical theory. After giving some background on Kant's theory, I will explain and analyze his arguments against suicide.

[13] Kant, Immanuel. "Suicide." Lectures on Ethics. Ed. Louis Infield. Indianapolis, Indiana: Hackett Publishing Company, 1963. 150.

This is followed by a description and critique of some contemporary Kantian views on physician-assisted suicide. Since it is impossible to discuss physician-assisted suicide without worries of potential abuse being raised, my conclusion is preceded by a short commentary on this issue.

Kant's Ethical Theory

Kant believed that human beings are bound to the requirements of reason by virtue of being rational creatures, i.e. because we are rational beings, we must follow the dictates of rationality, and morality is one of these requirements. He argued that to have moral worth, an action must come from the motive of duty. An action done from the motive of duty gets its moral worth not from its actual or intended results, but from the maxim one wills while doing the action. To act on the maxim of doing one's duty, whatever it may be, is to act from pure respect for the moral law.[14] A maxim is a statement in general terms of the features of your situation and action that led you to perform a certain action. For example, when a hungry person eats a meal, their maxim is something to the effect of, "When I am hungry, I will consume some sort of food to quell my discomfort and satisfy my nutritive needs." From these ideas, Kant formed what he called the supreme principle of morality. This principle can be formulated in a few different ways; each formulation is meant to illuminate different facets of the principle. One of these variations is the universal law formulation which states, "I should never act except in such a way that I can also will that my maxim should become a universal

[14] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 11-13.

law."[15] It is a categorical imperative because it is a command of reason that binds all rational beings, regardless of the ends they will.[16] This is contrasted with a hypothetical imperative, which only comes into play when one adopts a certain goal as her end. For example, I might decide to learn how to play the piano, and it would be necessary for me to gain access to a piano for this purpose. However, if I give up the goal of becoming a pianist, there is no need for me to continue searching for a piano. Kant argues that morality is not discretionary in this way; one cannot just give up the end of being a moral agent if one is a rational agent.

The universal law formula tells us to engage in only those actions that we could at the same time will that our own maxim become universal law. Going against this principle would be contrary to duty, as it is our duty as rational beings to follow the categorical imperative. It is there because we are imperfect beings; if humans were perfectly rational, we would always act in accordance with universalizable maxims and wouldn't need any outside help. Since we do need help to determine whether an action is contrary to duty, Kant created what has come to be called the contradiction test. It begins by stating the maxim of the proposed action, A, in general terms. The maxim must be in general terms because the goal is to find out if it is a maxim that could be universally adopted, that is, by people in similar situations when only relevant information is considered. For example, when considering lying to someone, it is not relevant what day of the week it is, or where the person is standing. The relevant information includes factors like what led you to be in your current situation, and why you think lying will

[15] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 14.
[16] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 25.

help you. Next, imagine that the maxim is universalized, that is, all other rational beings adopt this maxim. The question to ask yourself is, can I, without contradiction, both choose to act on this maxim and also choose that it be universalized? There are two kinds of contradictions that could arise – a contradiction in conception, and a contradiction in the will, with something else that you necessarily will. If either of these contradictions is produced, then the proposed action is contrary to duty, and should not be carried out.

Kant distinguishes between two different types of duty – perfect and imperfect. A perfect duty is one that cannot be circumvented in the interest of the preferences or inclinations of the agent.[17] A perfect duty is always binding on rational beings, in each and every situation. An example would be the duty to refrain from needlessly causing innocent people bodily harm. It isn't enough to just not injure your family at the dinner table but then you go out and attack a homeless person – you must always, in every circumstance, refrain from harming innocent people. An imperfect duty is also one that is binding, but not in each and every situation; rather, it does allow for the interests and inclinations of the agent. One of Kant's examples is the duty to perfect yourself. He argued that people have a duty to develop at least some of their talents, but there is "a latitude for free choice."[18] For example, if an agent excels at both (and only) sports and music, it is up to him to decide which of these to pursue, but the question of whether he will develop either of them is not up for discussion. His latitude for choice ranges between music and sports, and within each category he can pick which instrument or sport to play, but he can't choose to abstain from both.

[17] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 30.
[18] Kant, Immanuel. The Metaphysics of Morals. Ed. Mary Gregor. Cambridge, UK: Cambridge University Press, 1996. 194.

If an action is contrary to perfect duty, it will produce a contradiction in conception when put through the contradiction test. A contradiction in conception yields a world in which universalizing your maxim is inconceivable or impossible, and a contradiction in the will goes against something else you necessarily will by virtue of being a rational being. Kant gives the following examples for each type of contradiction. A contradiction in conception would arise if you tried to make a lying promise in the case of distress. Say you needed to borrow money but knew you could not pay it back, so you decide to lie to the loan officer. In this situation, your maxim is, "When I need to borrow money, but know that I cannot pay it back, I will lie to the person giving me money so that I may get what I need." A contradiction in conception arises because a world in which this maxim is universalized would entail a world in which everyone knows that when people need to borrow money, they will lie and say they can repay the loan even when they know full well that they cannot, and have no intention of keeping their word. In such a world, moneylenders would not lend money for fear of being cheated, and thus you would not be able to obtain your loan either, which was your goal.[19]

If an action is contrary to imperfect duty, it will yield a contradiction in the will. An example of this type of contradiction is a person who decides to never help any other human being with anything, even if it is in the slightest, most convenient way, simply because they cannot be bothered. The person's maxim in this situation would be, "Whenever I see someone in need of assistance, I will ignore them because I just cannot be bothered with even the slightest inconvenience." Kant argues that this would cause a

[19] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 31; Korsgaard, Christine. "Kant's Formula of Universal Law." Pacific Philosophical Quarterly. 66.1 & 66.2 (1985): 24-47; Holmes, Robert. Basic Moral Philosophy. Belmont, CA: Wadsworth, 1993. 133-153.

contradiction in the will because as a rational being, you necessarily will that other people assist you when you need help. This is because as a rational being you necessarily will that the means to meet your ends be carried out; if you need help in attaining these goals, then reason requires you to seek this help. To reject it would be irrational because human beings are bound to the idea that they must seek all necessary steps towards achieving their ends. Thus, it is a contradiction to will both that no one helps anyone in any circumstance, but also that people help you when you need it.[20] If everyone behaved the way this hardened and ungenerous person wants to, his own life efforts would be thwarted, and to indirectly will the failed fulfillment of your own ends is contradictory and against your rational nature. The version of the supreme principle that Kant calls the formula of the law of nature might help clarify this point. This formula states that you should "act as if the maxim of your action were to become through your will a universal law of nature."[21] The man that decides to help no one would make it the case, through his own desire to help no one, that everyone else also gives no aid to any person. Hence the contradiction is produced – the man is willing both that he be helped when he needs it, and that no one help anyone, as a matter of natural law.

Another variation of the supreme principle of morality is what is called the formula of the end in itself. In this version, Kant argues that you should only "act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means"[22] (Kant uses the term

[20] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 32; Herman, Barbara. The Practice of Moral Judgment. Cambridge, MA: Harvard University Press, 1993. 52-56.
[21] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 30.
[22] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 36.

"humanity" to mean a trait all humans possess, and not as a reference to the human population as a whole). Our humanity is our rational nature, and it would be wrong to use any person (including yourself) as merely a means to your own ends and not as an end in themselves, because this would ignore their power of choice, and rational beings are by virtue of their own nature rational choosers. Lying to someone or coercing them into an action would be considered treating them as a mere means, because you are not allowing them the chance to exercise their powers of rational thought and choice, i.e. to choose to adopt your end as their own. On the contrary, using a barista to get your morning caffeine does not use him or her as a mere means. While you do use the person to get something you need, you also recognize that they have made the rational decision to take this job as a barista, and they are making your coffee of their own free will, as opposed to preparing it because you are threatening them with a knife.

There are two other variations of the supreme principle of morality – the formula of autonomy and the formula of the kingdom of ends. The formula of autonomy is "the idea of the will of every rational being as a will that legislates universal law." The formula of the kingdom of ends is an ideal that involves "a systematic union of rational beings through common objective laws." These objective laws are the ones that are legislated by the will of each rational being, and each rational being lives in the kingdom as both sovereign and subject.[23]

In this kingdom of ends, everything has either a price or a dignity. Objects, possessions, and things have a price; they can be exchanged for money, or traded for other things. Rational beings, however, have dignity, which is "above all price and

[23] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 38-40.

therefore admits of no equivalent."[24] Kant believed that rational beings have intrinsic value, i.e. they are valuable for the sake of themselves, and this is what gives them their dignity; furthermore, this intrinsic value is absolute and unyielding. Humanity, morality, and autonomy in persons are what give them their dignity and their absolute, objective value.[25] Kant believed there was no situation in which a rational being would cease to have objective value.

Kant's Ethical Theory in Relation to Suicide

Based on his commitment to the rich and complex ideas in his ethical theory, Kant proposes the two aforementioned objections to suicide: 1. There is a self-contradiction in the practice of suicide (based on the contradiction test) and 2. When you kill yourself, you use yourself merely as a means (which is not permitted, as you should never treat humanity, including in yourself, as a mere means).

Kant argues for the self-contradiction of suicide in both the *Grounding for the Metaphysics of Morals* and *Lectures on Ethics*. The early stages of his position can be seen in *Lectures*, when he states, "To use the power of a free will for its own destruction is self-contradictory. If freedom is the condition of life it cannot be employed to abolish life and to destroy and abolish itself. To use life for its own destruction, to use life for producing lifelessness, is self-contradictory."[26] He is arguing that there is a conceptual contradiction when we try to think of using an item, x, for the very purpose of destroying

[24] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 40.
[25] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 40-41.
[26] Kant, Immanuel. "Suicide." Lectures on Ethics. Ed. Louis Infield. Indianapolis, Indiana: Hackett Publishing Company, 1963. 148.

x. Once we are dead, we loose our freedom, rational nature, and anything else connected to being alive, and we cannot use our life to bring about the termination of it.

Kant continues his argument in the *Grounding* when he formulates a maxim for a person considering suicide, and says that it produces a contradiction. He constructs this maxim to be, "From self-love I make as my principle to shorten my life when its continued duration threatens more evil than it promises satisfaction."[27] He argues that this maxim could never be universalized because there is a contradiction in the idea that the same feeling in us that acts to further our lives could be used to end that same life. If there is one feeling in us that causes us to seek to preserve our lives, say by eating regularly or avoiding extreme unnecessary dangers, it doesn't make sense that suddenly this feeling would turn against us and want to end the life it has spent so many years preserving, because seeking destruction was not its intended purpose. Furthermore, a system of nature in which this maxim is universalized wouldn't even be possible. If the instinct for self-preservation also produced the impetus for self-destruction, the human race could not continue successfully.[28]

In order for the practice of suicide to produce a contradiction, as Kant says it does, it must fail his contradiction test in one of two ways – there could either be a contradiction in conception, or a contradiction in the will. A contradiction in conception would mean that it is impossible to have a world in which everyone used their lives to destroy themselves; a contradiction in the will would mean that your will to die conflicts

[27] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 30.
[28] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 31.

with your necessary desire to stay alive, which you have by virtue of being a biological creature.

Kant's contradiction test is only successful in ruling out certain cases of suicide. One such example would be a widowed mother with four young children who is miserable because she seems to attract only bad luck, and this adversely affects her children. She wants her children to be happy, and so she decides to kill herself to rid them of her bad luck. I think we are anyway inclined to disapprove of this particular case of suicide on the grounds that bad luck isn't "enough of a reason" to kill yourself. However, we could also oppose it on Kantian grounds. As a rational agent, the mother necessarily wills that the means to her end be carried out, and one of her ends is the happiness of her children. Since their father is deceased, their mother's care is one of the best means by which the children's happiness can be fulfilled (we are assuming that despite her bad luck, this mother is a devoted and loving parent). The mother's suicide produces a contradiction because she wills the happiness of her children, but then destroys the means to this end. She is simultaneously willing contradictory things – as a rational agent, she necessarily wills that the means to her ends be carried out, but then she also wills to destroy herself, and she is the means to her end; she both wills the means to her end be carried out and be destroyed, which is contradictory.

There doesn't always need to be another person involved for Kant's contradiction test to successfully oppose suicide. A contradiction in the will could also be created by a man who decides to end his life because he has been fired from his job at the age of 50 and can't fathom the thought of starting over at the bottom of the ladder at another company. So he wills to end his life before it is overrun by humiliation and day after day

of bitterness. However, as a rational being with all of his facilities intact, Kant would argue that he has an imperfect duty to work towards perfecting himself and developing his talents. Although he is older than the ideal age for starting life anew, he owes it to himself and in fact necessarily wills that he cultivate himself in some way until he is no longer capable of doing so. To will to end his life is contrary to these other desires Kant believes he necessarily has.

Physican-assisted suicide, however, is not successfully ruled out by Kant's contradiction test. The maxim he says one wills while carrying out suicide, "from self-love I make as my principle to shorten my life when its continued duration threatens more evil than it promises satisfaction"[29] does not produce either kind of contradiction in this particular case. I believe it is important that he says "satisfaction" as opposed to "pleasure" because we can be satisfied by things that aren't necessarily pleasurable, by completing a difficult workout for example. I argue that the terminally ill person contemplating physician-assisted suicide isn't just upset by a lack of foreseeable future pleasure; he or she sees a future void of satisfaction of any kind. This could include being able to continue their career, foster relationships with loved ones, travel, enjoy listening to or playing music, watching films, exercising, living independently, and a vast number of other hobbies, interests and goals. It is also interesting that Kant chooses to say "evil" instead of "pain" or "discomfort." The dichotomy of satisfaction v. evil as opposed to pleasure v. pain suggests that there are a multitude of factors going into the evaluation of a life as being satisfactory or containing evil, not just bodily pain or pleasure, which is exactly the case when we consider physician-assisted suicide. These are not people that

[29] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 30.

are just feeling sad over the loss of a job, or are jeered at by their community. Rather, they have taken stock of the overall situation they find themselves in, and decided that the evil of a terminal illness coupled with permanent, excruciating pain, likely humiliation, and a slow death really will crush the possibility of any kind of future satisfaction.

Kant believed that suicide yields a contradiction in conception because the same feeling that furthers life cannot also be used to destroy it. However, I argue that in the case of a terminally ill patient facing constant misery, it is not the same feeling within them that both wishes to further life and end it. Consider Katrina's mother Susan, the RN who was diagnosed with ALS. When she was healthy and able to run, hike the Grand Canyon, engage in a fulfilling career and have meaningful relationships with her family members, there was a feeling inside her that wanted this life to continue, in the state it was in now, some similar state, or a better state. When the quality of her life began to steadily decline, this feeling of wanting to stay alive began to diminish, because her life was not continuing on in a comprehensively desirable manner. In its place developed a new feeling, one that was not there before because the necessary background conditions for its development were not there; this new feeling saw that her future would be full of misery and didn't want the full extent of this wretchedness to come to fruition. I don't think it is too far fetched to suggest that we develop different feelings and motivations over time. We are not born with all of our motivations already implanted in us; rather, the course of a person's life molds them, often without their willing participation. To clarify, I am using the term "feelings" to indicate the long-lasting internal desires that constitute our very nature and character, and not to mean fleeting emotions of say anger or joy. The feeling within us that desires to keep on living is a manifestation of self-preservation, and

is more central to our conception of ourselves than the temporary joy of watching an exceptional film. A feeling in the realm of the ones I am concerned with would be the feeling we have within us to care for our children.

The existence of two distinct feelings, one that wishes to continue life in a certain manner, and one that wishes to end life when sufficiently horrible conditions have consumed the life, avoids two problems that Kant discusses. The first is that our desire to continue living is not turning against us, which avoids putting it in a conflicted position. The second is that this distinction prevents the type of failing as a system Kant is concerned with. No one will be using his or her instinct for self-preservation also for self-destruction. Rather, certain people in very specific situations will develop a new feeling, and this new feeling will cause them to end their lives. Since not every person will have the necessary background conditions to develop the new feeling, the practice of physician-assisted suicide for some terminally ill people will not lead to the end of the human race. When the maxim is universalized, only a small number of people will be in the position to also act on the maxim, and so there is no danger of killing off every single person. To make this point clearer, it can be contrasted with the conceptual contradiction created by a lying promise. In this situation, the problem is created by the fact that everyone knows you are lying, and so you cannot go through with your lie, because no one will believe you. In the case of two distinct feelings in relation to suicide, it is not a problem that others know about and act on your maxim. Since so few people will be in the same situation, only those few people will kill themselves (not all of humanity as Kant is worried about), and the fact that others know that people in these specific

situations sometimes commit suicide will not impede the actions of the person seeking physician-assisted suicide.

There still remains the problem of a possible contradiction in our will with something else that we necessarily will. Kant argues that as biological creatures, we necessarily will that our life continue to be in existence. If we also wish to die, we are simultaneously willing opposite things. I disagree with Kant's idea that all human beings always will to go on living unconditionally. Since we are rational and forward-looking creatures, we can make calculations about our future given adequate information. For someone who is considering suicide because she is terminally ill, the information is telling her that she is going to die a horrible, painful death in a limited amount of time. It seems more rational to want to get the inevitable over with quickly and with as little pain as possible, than to unnecessarily draw out the wretched process.

Similar to Thomas E. Hill Jr.'s view, I argue that our rational nature only wills that we stay alive as long as our life stays above a certain threshold of pain and suffering. This should not be confused with a view that values life *only* on a basis of pain and pleasure. I would modify Kant's position to argue that life is valuable for the sake of itself, but this value is not absolute. Life is intrinsically valuable provided it doesn't fall below a certain threshold of relentless and incurable suffering. Kant's view, that life is valuable objectively *and* absolutely, doesn't take seriously the value of an agent's subjective experience. Since we are biological creatures, we have subjective experiences that make a meaningful contribution to the quality of our lives. Objective and subjective value are two separate, and equally important, criteria by which we evaluate a life. There is a point at which an agent's subjective experience of extreme and permanent bodily

pain combined with the mental anguish of failing to find satisfaction of any kind in what is left of her life overrides the agent's objective value.

Instead of the desire for self-preservation and the desire to die existing in opposition, as Kant says would happen, I argue that the desire to continue living is replaced by the desire to end your life on your own terms. It is true that some people would prefer to live their life to its natural end even if it means months of extreme suffering, and it would obviously be wrong to put ideas of suicide in their head or try to speed along their death, but this is not because we think being alive is unconditionally intrinsically good. It would be wrong because of the value we place on people's autonomous decisions. Just as it is wrong to contravene a person's last will and testament after their death, it is also wrong to hurry along the death of a person who desires to live life out to its natural end. However, our present concern is physician-assisted suicide, and a person considering this course of action certainly has no qualms with expediting the inevitable.

Although the formula of the end in itself is usually used to show the immorality of coercion and deception, Kant also uses it to make his second argument against suicide. He believes that we should never treat humanity, even in ourselves, as a mere means.[30] This aspect of the formula is tricky to grasp; it seems counterintuitive that using yourself to achieve an end that you want to achieve doesn't qualify as treating yourself as an end in itself. If your goal is suicide, and you use your thoughts and actions to kill yourself, haven't you just carried out an end that you yourself willed?

[30] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 36.

Kant argues that you use yourself merely as a means because you are destroying yourself for the goal of avoiding misery or pain. Instead of respecting your intrinsic value as a rational being and the ends your rationality strives for, viz. continuing to be alive, you use it just as a tool to avoid certain unfavorable feelings. Thomas E. Hill Jr. explains the principle of treating humanity as an end in itself to entail the idea that humanity is an objective end rather than a relative one. You cannot exchange an objective end for a relative end because objective ends are above having a price, which means that there is nothing equivalent to them. Kant argues that an objective end has dignity, and dignity is not something that can be bought, sold, or traded. Relative ends, however, do have a price and can be exchanged. Avoiding pain and feeling happiness are both relative ends; if you destroy yourself to achieve merely a relative end, you fail to treat your life as having an absolute, objective value. The fact that your humanity is an absolute, objective end puts a limit on how it can be used, and sacrificing it to obtain a relative end is not permitted.[31]

If my previous argument regarding the maxim one wills while carrying out physician-assisted suicide succeeds in showing that no contradiction is created, then Kant's second reason to oppose the practice is already partially defeated. If a rational human being can legitimately adopt the end of wanting to end their life on their own terms, then they are not using themselves merely as a means. They are respecting their own rationally selected goal of dying with dignity, and thus treating their humanity as an end in itself. Just as we acknowledge the barista's career choice when we ask for a triple espresso in the morning, a person contemplating physician-assisted suicide recognizes the

[31] Hill, Thomas E. Jr. "Humanity as an End in Itself." Dignity and Practical Reason. Ithaca, New York: Cornell University Press, 1992. 43-44.

option they have selected, along with the reasons why, and treats himself as an end by taking the necessary steps to fulfill his goal.

There still remains the issue Hill brings up, about exchanging something of objective value for something of relative value, regardless of whether or not it is indeed your will to do so. Kant believed that human life is good for the sake of itself no matter what the content of that life contains; there is no amount of pain that can demote the value of a life from its status as an objective end. As I have already suggested, I disagree with this notion of a life having absolute, objective value. I also don't believe that we can trade it away for just anything. Rather, I argue that there are certain specific circumstances under which life ceases to be good for its own sake. One of these circumstances is when a person is terminally ill and faces only excruciating pain that will lead to a slow and wretched death, and they themselves wish to end their life. Both criteria are equally important because it would be morally abhorrent to judge from the outside that another's life is no longer valuable and decide to end it against their wishes or without taking the time to find out what their wishes are. However, if a person does indeed choose physician-assisted suicide, and their pain and misery will make it so that they can no longer find any satisfaction in life, such as continuing meaningful relationships, taking care of oneself, enjoying cultural activities, etc. then this life will stop having objective value.

Once all sources of satisfaction are removed from this life, all that will be left is wretchedness. Any judgments we make about this life will have to be in virtue of this wretchedness, because that is all that is left in the life to evaluate. At this point, we cannot value this life for its own sake, because we would essentially be valuing the wretchedness

as being objectively good. I think we have to carefully consider what we are saying when we argue that a life is good for the sake of itself. I interpret this statement to mean that regardless of what activities the life carries out, there is something valuable about the state of being alive just because it is good to be alive; even if you spent your life murdering children (presumably an example of a life filled almost fully with bad content), the fact that you are alive is still good for its own sake. In the case of the terminally ill person, how can we say that there is something intrinsically good about them being alive? The only function this life can both practically and theoretically have is to suffer through excruciating pain, and their continued existence is directly contrary to their own rational conception of a good life, and surely we cannot value this as an objective good. The fact that this person is alive is not good for its own sake. I do not disagree that life can and does have objective value; I just don't believe it has *absolute* objective value. Once a person fulfills the criteria of having a life saturated with misery, completely void of any kind of satisfaction, and they no longer wish to continue living in this manner, the life stops being valuable for its own sake. Getting back to Hill, once an agent's subjective experiences cause sufficient harm, she slips below a threshold beyond which her life ceases to be valuable for the sake of itself.

Kant might respond to this line of thought by arguing that the life is still valuable for its own sake, because the person is still a rational chooser and source of value. Kant believed that as rational beings we impart value on things by what we choose. Even if a person is in horrible pain they are still capable of making choices, and even if the choices are minor, the fact remains that they are still autonomous and consequently their life continues to be intrinsically valuable. While I do agree with Kant that we have value

because we are autonomous, rational beings, I also think it is important to look at what the person considering physician-assisted suicide is choosing. If a person has value because she is a rational chooser, and the choice she has made is to end her life (for all of the reasons we have been discussing), then what does it mean to value her as a rational chooser if not to value what she chooses? There seems to me a disconnect in arguing that we value a person because they are capable of making rational decisions, but then we won't value or honor the decision they make. This specific problem is rare because our choices usually don't directly lead to a loss of life, except in the case of suicide. In this special circumstance, I argue that what the person chooses is an expression of her own objective value. She has used her rational faculties to decide that her life has indeed fallen below a certain threshold of misery, and she is now choosing to impart value on the decision to die. The combination of the objective facts about her situation and her own subjective evaluation of death as valuable override her objective value as a rational chooser, i.e., the agent uses her abilities as a rational chooser to impart value on the idea that it is time for her die. Since we value her for the sake of her ability to impart value, we must value that which she chooses, even if her choice will end her ability to make any further decisions.

There is a logistical issue I want to consider. When a person is first diagnosed with a terminal illness, before they reach the stage of unbearable pain and misery, they will surely think about what is to come in the near future. At this point, before the life has become wretched, it does still have objective value. However, it seems cruel to argue that a person must necessarily wait until they are in a completely miserable state for it to be morally permissible that they commit suicide. Where to draw the line at which a life stops

being objectively valuable is perhaps the hardest question that arises in this sort of discussion. I don't think it can be answered with a principle or formula that will apply to every terminally ill person considering suicide. It will have to be decided on a case-by-case basis. There are many factors to consider. The most obvious one is that it must be true that this person's future will promise nothing but horrible pain which will lead to a slow and terrible death. Equally important is an agent's own feelings. As long a person is getting some little amount of satisfaction or enjoyment from their life, then it has objective value. Even if a person finds no satisfaction whatsoever in their life, but still wishes to continue living through the pain, the life continues to be objectively valuable. It is only when the objective circumstances of the situation combine with horrible subjective experiences and a rationally made decision to choose death that the life stops having objective value, and henceforth physician-assisted suicide becomes a morally permissible option.

I believe that there is room in Kant's own theory for a pro physician-assisted suicide position. The maxim a terminally ill patient wills while considering the act does not necessarily lead to either kind of contradiction Kant describes. If, as I have argued, a life can cease to be objectively valuable, then it is permissible to trade it for another relative good. Therefore, it is not necessarily immoral to carry out suicide within Kant's ethical theory, and physician-assisted suicide for terminally ill patients in the conditions we have been discussing is an option that is legitimately available to rational agents.

Contemporary Views

Contemporary views on physician-assisted suicide are difficult to navigate. Although there are distinct yea and nay camps, the reasons for alignment vary depending on which moral theory is used as a guide. Choosing a particular ethical framework doesn't even guarantee a position, as often times the same theory is used to both support and refute the idea of physician-assisted suicide. For example, some people agree with Kant's views on suicide and argue that they extend to include physician-assisted suicide as well. Others argue for physician-assisted suicide based on the ideas of Kantian dignity and autonomy. To keep us in the realm of Kant, I will discuss the views of J. David Velleman, Martin Gunderson, Thomas E. Hill Jr., and Iain Brassington. Velleman and Hill are on opposite sides of the debate, the former opposing physician-assisted suicide and the latter in agreement with the practice. Gunderson has an interesting in-between position, and Brassington takes the extreme view that no suicide is wrong within a Kantian framework, thus physician-assisted suicide is also morally permissible. In addition to the confusion about which theories support which side of the debate, there is also an issue of the context in which physician-assisted suicide is supported or opposed. For example, Velleman opposes the practice at a policy level, while Brassington focuses only on the theoretical implications of Kant and doesn't consider how they would translate into laws or regulations. This unfortunately leaves us with the familiar apples and oranges situation, though I hope to be able to overcome this difficulty and discuss each view as it relates to the others as best as I can.

Although Velleman believes it is possible that in certain circumstances a person might be morally entitled to assistance in dying, he "doubts whether our moral obligation

to facilitate some people's deaths is best discharged through the establishment of an institutional right to die."[32] He also argues that the Kantian ideas of dignity and autonomy that are often used to argue for the legalization of physician-assisted suicide really don't lend support to the practice. When proponents of physician-assisted suicide use these terms, they use them in a way that is different from what Kant intended. Velleman argues that Kantian dignity has nothing to do with being able to walk on your own or feed yourself. Rather, Kantian dignity refers to a person's status as having a value that is above all price, a value that cannot be traded or sold. The person has dignity because he is a rational being, and requiring assistance with eating and walking doesn't detract from his rationality, and so it does not diminish his dignity.[33]

Despite these concerns, Velleman does think that it is possible, on Kantian grounds, that we could sometimes be required to aid in the death of another human being. However, his worry has to do with the consequentialist argument that offering patients the choice to die will be more harmful to them than not giving them a choice at all.[34] He believes that by formally offering the choice of euthanasia or physician-assisted suicide, we put the patient in a worse situation than she was in before being given the option. Using support from Thomas Schelling's *The Strategy of Conflict,* Velleman argues that just having an option available to you, even if you don't exercise it, can cause you harm. He uses one of Schelling's examples to illustrate this point – imagine that a union leader is negotiating with the management of a company, but he cannot persuade the union members to approve a salary decrease. Since he does not have the option to approve the pay-cut, he is in a better bargaining position. Gerald Dworkin has expanded on this point

[32] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 1.
[33] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 2.
[34] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 5.

with his own example that the midnight cashier at a gas station would rather not have the option of being able to open the safe.[35]

Similarly, Velleman believes that giving people the option to die puts them in a worse situation because they can't just go on living by default, it now becomes an active choice that they are making. If we ask ill or pain ridden people if they would like to die, and they do not want to, they might feel that they now need to justify to their family and friends why they want to keep on living. Not only is this a hefty and cruel burden to place on an already suffering individual, Velleman also argues that "the burden of justifying one's existence might make existence unbearable – and hence unjustifiable."[36] He is saying that the task of persuading others why you want to keep on living could be a tremendous undertaking, especially if your family were to benefit from your death, and then the only reason your life will become unbearable is because of this burden of providing justification for your continued life. You only need to provide justification because death was formally offered to you as a legal option, thus the choice itself leads you to be forced into choosing it.

Anticipating an objection against his view, Velleman argues that it is not unreasonable to assume that people will want to justify their choice to others. In fact, sound justification of your decision will probably be necessary to prevent people from thinking you have chosen it because of diminished brain functioning. Having the ability to justify your actions is how people remain proper objects of respect, and if a patient comes to be perceived as irrational they might be cut off from meaningful relationships

[35] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 7.
[36] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 11.

with others.[37] Anticipating another objection, Velleman discusses the idea that withholding end-of-life options from people who would choose them because of undue burden or pressure will also keep people who could legitimately choose the option from being able to do so. He expresses his own view that people never have a moral right to end their own life[38], so he is not worried about blocking anyone from exercising an option they could have otherwise chosen, because he doesn't think that anyone can have an explicit right to suicide.[39]

One problem I see with Velleman's argument is that while physician-assisted suicide is only a legal option in two states, it is a practical option in every state. Greedy family members seeking inheritances and adult children who are tired of caring for sickly parents can always pressure a terminally ill person into ending their life prematurely. A formal legal option of physician-assisted suicide will not open the floodgates to such abuse; the abuse is already there. The idea behind legalizing physician-assisted suicide is to regulate the practice and make sure patients can die in a peaceful and painless manner, should they so choose. This is also an objection Velleman addresses, stating that legalizing physician-assisted suicide will change people's perceptions of the practice, and not the actual circumstances a patient is in. If physician-assisted suicide is illegal, people will be less likely to ask others to commit suicide. However, if it is offered by a doctor along with an array of other options like surgery or a ventilator, family members will

[37] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 11 – 12.
[38] Unfortunately, Velleman doesn't expand on or explain his view in this paper.
[39] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 15.

question why the patient didn't choose it. Therefore, the harm is caused by a change in people's perceptions about suicide, not by an actual change in the facts of the situation.[40]

Velleman believes that the best thing we can do for terminally ill people is to not formally offer them the option of death, and states that, "so long as caregivers are permitted to withhold the option of euthanasia, patients will not have a right to die."[41] Although this is a minor point at the end of his article, I think it should be examined. I disagree that permission to withhold something means that a person doesn't have a right to it, and a right to something doesn't always mean that a person has the power to demand that any other person fulfill it. For example, I have the right to get my hair dyed green, but that doesn't mean I can force my hairdresser to do it, and if she refuses, her refusal doesn't mean that I don't have the right. I just need to find someone who is willing to help me exercise my right. Yes, there are some rights that we can demand from everyone, like the right to not be caused bodily harm, but every right doesn't work like this. Doctors refuse to perform procedures all the time, but that doesn't mean a patient doesn't have the right to a risky surgery or experimental treatment, it just means that they must find a physician who is willing to participate.

Velleman states that the most society should do is "permit, and never require, health professionals to offer the option of euthanasia or to grant patients' requests for it."[42] However, since he is against any type of formal euthanasia or physician-assisted suicide legislation, he argues for a policy of permission by default – we should allow

[40] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 16 – 17.
[41] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 20.
[42] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 19.

euthanasia or physician-assisted suicide by a failure to enforce laws against it.[43] For someone who is worried about consequences, this seems like a dangerous view to adopt. All of the abuses Velleman is concerned with regarding the legalization of the practice will continue to happen under the radar, and what's worse is that there will be no regulation about the way in which patients are assisted in their death. There should be some kind of standard procedure regarding who is eligible to request physician-assisted suicide, what kinds of lethal medications can be prescribed, and which doctors a patient must see before their request is granted (e.g. a psychiatrist) – none of these precautions can be stipulated without legislation.

Gunderson's interpretation of Kant's ethical theory espouses that it is more conservative than current policy in some areas, and more liberal than others. Gunderson believes that Kant's arguments against suicide extend to include physician-assisted suicide, and also make painkillers that will result in a permanent loss of rationality and a refusal of life-saving treatment unjustifiable. On the more liberal side, he argues that once rationality has been lost, euthanasia is justifiable on Kantian grounds, even if the patient is still conscious. Although it is justifiable, Gunderson does caution that we must consider risks such as people being mistakenly diagnosed as no longer rational before we dive into any kind of legislation.[44]

Gunderson considers both the contradiction test and the argument against using yourself as a mere means. He argues that as a general argument against suicide the contradiction test is not always convincing because it is not clear "why we should accept the teleological view that the purpose of self-love is furtherance of life or even the view

[43] Velleman, J. David. "Against The Right To Die." The Journal of Medicine and Philosophy. (1992.) 20.
[44] Gunderson, Martin. "A Kantian View of Suicide and End-of-Life Treatment." Journal of Social Philosophy 35.2 (2004): 277.

that self-love has some natural purpose."[45] He is referring to Kant's assumption that because we are biological creatures, we will the continuance of our lives despite the circumstances we are in. Kant makes only one exception to this, which is that we would not be morally wrong in killing ourselves if the only alternative were to participate in some abhorrent deed incompatible with living as a rational being, such as selling yourself into slavery. Kant strongly believed that nature has given us the instinct of self-love for a reason, and that this reason must be to continue life, but Gunderson does not agree. However, this is only an argument against a contradiction in conception. Gunderson supports the Kantian idea that universalizing a maxim regarding suicide will create a contradiction in the will. Although he doesn't believe that as rational, biological creatures we will to go on living unconditionally, Gunderson does think that we will the continuation of our rationality.[46] Thus, his position is that we only will our rationality to continue as long as possible, and that is made possible by a continuation of life; however, once rationality is lost, there is no need to preserve life. Along with seeking the continuation of our rationality, Gunderson cites Kant's *Metaphysics of Morals* to argue that we also have an imperfect duty to seek our own perfection, as well as the happiness of others. If we are committed to these ends, then we are also committed to taking the means to reach these ends, and being alive is a necessary step in the process.[47]

Gunderson also argues against the doctrine of double effect, which is sometimes used to justify an act like prescribing a large dose of painkillers to make the patient more comfortable, even though the doctor knows it could lead to an end of the patient's

[45] Gunderson, Martin. "A Kantian View of Suicide and End-of-Life Treatment." Journal of Social Philosophy 35.2 (2004): 278.
[46] ibid.
[47] Gunderson, Martin. "A Kantian View of Suicide and End-of-Life Treatment." Journal of Social Philosophy 35.2 (2004): 280.

rationality. The doctrine says that it is morally permissible to pursue a greater good even if you know that an evil will occur as a side effect, as long as you are not directly willing the evil to occur. [48] Therefore, since the intention of the medication is to alleviate pain, and possible loss of consciousness or even death are a foreseeable but not intended consequence, it is morally permissible for the doctor to prescribe the pills, and for the patient to take them. The greater good is the alleviation of pain and suffering, and the (arguable) evil is death. Gunderson argues against the doctrine of double effect by saying that we all have an imperfect duty to seek our own perfection, and we know that we cannot do that if we are in a medically induced coma, or dead. He believes that if death is a foreseeable result of an action, then the action is not morally permissible.[49] Ultimately, Gunderson's position is that physician-assisted suicide is never permissible within a Kantian framework, but euthanasia after a patient has lost their rationality is permissible and maybe even required if the person has written an advance directive expressing their wishes to be euthanized.

Gunderson has a very specific and nuanced interpretation of Kant in regards to suicide. He is correct in examining the duty to perfect yourself and arguing that this is obviously not something a person can accomplish if they are dead. However, it is important to note that Kant relegates this duty to an imperfect one, meaning that there is room for the interests and inclinations of the agent.[50] In *The Metaphysics of Morals*, he describes several different ways in which you could cultivate your perfection and says

[48] Kamm, F. M. "Physician-Assisted Suicide, the Doctrine of Double Effect, and the Ground of Value." Ethics 109.3 (1999): 591.
[49] Gunderson, Martin. "A Kantian View of Suicide and End-of-Life Treatment." Journal of Social Philosophy 35.2 (2004): 282.
[50] Kant, Immanuel. Grounding for the Metaphysics of Morals. Indianapolis, Indiana: Hackett Publishing Company, 1993. 30.

that the various routes a person decides to take are "matters left for him to choose in accordance with his own rational reflection about what sort of life he would like to lead and whether he has the powers necessary for it."[51] It seems that Kant is arguing for latitude in what people consider to be a good life, as long as they choose something within the confines of perfect duty and universalizing only non-contradictory maxims. While it is true that we must make some headway in all of our imperfect duties, it is up to each individual to decide when and how they will fulfill their duty. Kant also gives us the freedom to decide whether or not we have the necessary powers to achieve our conception of the good life. For many terminally ill patients in the "end stages" it is unrealistic that they will have the power to perform activities that aim at perfection, simply because they will either be in excruciating pain, or completely consumed by the mental trauma of facing one's death and saying goodbye to loved ones. There are certainly exceptions to this; some people spend their last few months finishing a painting or completing a long anticipated goal. However, I think it is too much to ask of these people to stay alive out of a duty to themselves, and in fact Kant does not require this of them. If they choose to write the great American novel before their death then that's fantastic, but it is something they will do of their own choice, not because they have an obligation to work towards perfecting their talents right up until their last few moments alive. Kant would recognize that they have spent all of their previous years striving towards perfection, and would not object if they should choose to retire from this activity in their last few months alive.

[51] Kant, Immanuel. The Metaphysics of Morals. Ed. Mary Gregor. Cambridge, UK: Cambridge University Press, 1996. 195.

Furthermore, as a rational being, Kant believes we are capable of reflecting on what kind of life we would like to lead, and so terminally ill patients should have the power to reject a life that is not compatible with their strong personal moral convictions. Though surely not the same situation, a loose parallel can be drawn between these circumstances and the exception Kant himself makes for committing suicide instead of selling yourself into slavery. Kant argues for this exception on the grounds that no rational person could justify making the decision to sell all future decision making powers about their own life to someone else. Similarly, it is possible that a terminally ill person reduced to a completely wretched state would find it abhorrent to live a life in which he has the theoretical right to make decisions, but no practical ability.

Like Gunderson, Brassington is also concerned with the feeling of self-love and the idea that we don't really know if it was given to us for a reason, much less if that reason is the continuance of your life. However, he takes this point to an extreme when he argues that based on this fact, "we can claim that suicide includes no violation, perversion or contradiction in any natural law."[52] Brassington's position is that Kant is not successful in showing that any suicide is morally wrong, so there is no problem with physician-assisted suicide. Interestingly, Gunderson thinks there are times when we may actually be required to help someone die by performing euthanasia, and Brassington believes that while we are never obligated to help someone die, there is nothing wrong with doing it because there is nothing wrong with suicide.

Brassington believes the issue of self-love as a motivator to continue living is a major weakness in Kant's theory. He explains his understanding of Kant to be that he is

[52] Brassington, Iain. "What Kant Could Have Said about Suicide and Euthanasia but Did Not." Journal of Medical Ethics 32.10 (2006): 571-572.

imagining a person who is debating whether or not they should commit suicide, and then it "dawns on them that they are blessed with self-love"[53] so they refrain. Rather than argue against this picture, Brassington says it is not a sufficiently plausible psychological story for him to take the time to reject it. Instead, he gives what he considers to be a more plausible story – that there are two different kinds of self-love and they come into conflict with one another when a person is contemplating suicide. One kind cares about the person's current situation, and the other cares about the "big picture." However, he points out, this would just be a conflict of two different principles, not a contradiction within the same principle.

Brassington also considers Kant's argument that carrying out suicide involves using yourself as a mere means. He makes a distinction between the idea of personhood (by which I believe he means the trait or idea of being a rational, functioning person) and personhood actually in an individual. He says that the idea of personhood belongs to the intelligible world, but the experience of my own personhood is a different entity altogether, belonging to the world of experience. The connection between the experiential self and the intelligible self is not known, but it is true that they are not identical because we have experience of one and not the other. We know a priori that the intelligible self must exist, but we know nothing about its nature because we have no experience of it. Based on this distinction, Brassington argues that you can extinguish this one instance of a person (the experiential person) while still respecting the idea of personhood in general (which exists in the intelligible world).[54] This is because you are only destroying one instance of a person, and not the idea of personhood itself. In the case of physician-

[53] Brassington, Iain. "What Kant Could Have Said about Suicide and Euthanasia but Did Not." Journal of Medical Ethics 32.10 (2006): 572.
[54] ibid.

assisted suicide, he says that if a person wants you to kill them, and you are motivated by their plea, you can't be "acting in such a way as to make a person a means to our end."[55]

While I am a proponent of physician-assisted suicide in certain cases, I think that Brassington goes a bit too far with his analysis. I share his concern about the idea of self-love and whether or not we have it for a reason, and if that reason is to promote the continuance of our lives, but I don't think this point alone is enough to undercut everything Kant says about suicide. Brassington also seems to be misinterpreting Kant in a few places. His explanation of how he thinks Kant is picturing a person contemplating suicide and then they realize they have the instinct of self-love so they refrain is not what I think Kant had in mind. Kant is arguing that we all have the instinct of self-love, and that this manifests itself as a desire for self-preservation. So, if people used their rational nature to devise a way to kill themselves, they would be using it to do something that goes against a desire they necessarily have by virtue of being a biological being. On this picture, there is no active, ongoing debate. Kant's point is that a system of nature in which every single person uses his or her life to end that very same life would not be possible – there would be no people in it.

Although he misinterprets Kant's picture of the person considering suicide, Brassington is correct in his hesitation to accept Kant's idea that self-love just always does manifest itself as self-preservation. Brassington's view is that there are two competing kinds of self-love, one that is concerned with long-term issues and another that worries about what is going on right that moment. I believe he is right in arguing that there are two different feelings, but I disagree that they are different forms of self-love,

[55] Brassington, Iain. "What Kant Could Have Said about Suicide and Euthanasia but Did Not." Journal of Medical Ethics 32.10 (2006): 574.

and that they compete with one another. Rather, a new feeling, distinct from the desire to continue life, develops in the terminally ill person that is suffering and considering physician-assisted suicide. This new feeling replaces the one that wanted to continue life, and thus they are not in conflict with one another. My position is somewhere between Kant and Brassington. Kant believes there is one principle, that of self-love, which for him is self-preservation, and to use the instinct that manifests itself as self-preservation for self-destruction is contradictory. Brassington argues that self-love can manifest itself in different, conflicting ways. I am suggesting that there is a desire of self-preservation that we have (whether or not it comes strictly from self-love I am not sure about), and this desire can be altered or replaced depending on the course your life takes. If the necessary background conditions are there, i.e. the terminally ill person's life has fallen below the threshold, then their desire to continue living will be replaced by a desire to end their life, and these two feelings will not be in conflict with one another.

Brassington makes a compelling argument about the general distinction between the idea of personhood, and personhood in an individual, but I think this is another area where he misinterprets Kant. Kant says that you cannot treat *humanity*, whether in yourself, or in another, as a mere means. This is a quality within a person, and Kant is saying that you must respect it on an individual level, in each and every person, including yourself. While Brassington is correct in pointing out the distinction between the idea of personhood and an individual person, this is not an accurate criticism of Kant because it misinterprets his view. Kant believed that it is not possible to kill yourself while simultaneously respecting humanity or personhood in yourself, because you are destroying it and that is not respectful. Brassington's picture is also troubling because of

the consequences it would have for other actions. If his interpretation of Kant were correct, then it wouldn't only be the case that killing one individual person doesn't entail a disregard for the idea of personhood – there would be a whole list of injustices we could perpetrate against individual people while still respecting their intelligible selves. We could argue that it shows no disrespect to the idea of personhood to torture individual children or to knowingly and willingly impose the death penalty on innocent people. Surely this cannot be what Kant had in mind.

When Brassington considers physician-assisted suicide he seems to think that in order to use someone as a means, we must be using someone else as a means to our own ends, or some other third party's ends. However, this is not what Kant has in mind either; Kant argued that it is possible to use humanity as a mere means even if only one person is involved – just you. In the case of suicide, the person uses their humanity as a mere means to an end, and even though this end is one that this person desires, Kant doesn't think that a rational person can legitimately adopt suicide as their goal, and so they use their own humanity as a mere means to their own ends, and not as an end in itself. Since Brassington says that physician-assisted suicide doesn't involve using the person we help die as a means to "our ends," it seems that he is only thinking about a situation in which the person giving the assistance will benefit from the death and that is why they do it. However, even if they do not benefit from the death, Kant would argue that they are still aiding in the use of one person's humanity as a mere means and not as an end in itself.

Hill's approach is different from the views discussed above in that he wants to talk about suicide in terms of ideal and less than ideal behavior, as opposed to morally wrong and morally right actions. He is a Kantian and wants to trace his intuitions about

suicide, which he thinks others might share, to a kind of modified Kantian principle that will allow for suicide under certain circumstances.

Hill begins by outlining four different cases of suicide that he claims we all consider to be less than ideal. These are: a. impulsive suicide – this is a suicide motivated by an intense and passionate feeling that is out of character for the person and if he or she were thinking clearly, it would not have been chosen as a desired option. An example would be someone committing suicide after the loss of their spouse. b. Apathetic suicide – this is a suicide motivated by a lack of passion for anything in life, as might be the case with an extremely depressed person. c. Self-abasing suicide – this suicide is motivated by a feeling of worthlessness and, "a desire to manifest self-contempt, to reject oneself."[56] d. Hedonistic calculated suicide – this is a suicide committed after a cost/benefit analysis shows a person that their future pain will invariably outweigh future pleasure.[57]

Hill then proceeds to describe three cases in which he says we are not inclined to think that the suicide is objectionable. These include: 1. Suicide when human life is no longer possible, for example when a disease destroys a person's capability to function as a rational being. 2. Suicide to end gross irremediable pain when the pain is so unbearable that it overrides the value of being alive. Hill makes it clear that he is not claiming that a life is valuable based only on a pleasure/pain assessment, but that it might be valuable to a person only if excruciating pain does not exceed a certain threshold of tolerance. 3.

[56] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 87.
[57] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 85-86.

Suicide based on self-regarding moral beliefs, for example when a person can only live on by betraying everything they believe in.[58]

Hill's strategy is to show us that there is something about cases 1-3 that make it difficult for us to object to them, while cases a-d are objectionable. He rules out utilitarian motivations because he thinks we feel that there is something wrong with the attitudes of the people in a-d, irrespective of the potential consequences. Human rights principles are out because, as Hill states, we are trying to explain why we find a-d to be less than ideal, not a wrong perpetrated against others.[59] He arrives at a modified Kantian view that avoids the issue of blame by expressing an ideal situation rather than a strict duty. Hill's principle is that, "a morally ideal person will value life as a rational, autonomous agent for its own sake, at least provided that the life does not fall below a certain threshold of gross, irremediable, and uncompensated pain and suffering."[60] This threshold view encompasses the idea in example 2 that while a life is not measured by a balance of pain and pleasure alone, pain beyond a certain threshold can override its intrinsic value.

Hill's conception of rational autonomy is also slightly different from Kant's in that he believes it to be a set of capacities that allow us to make choices about our goals and principles, and can be contrasted with a creature that is completely ruled by instinct and impulse. He does not adopt the Kantian view of rational autonomy as complete

[58] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 90-91.
[59] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 91-92.
[60] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 95.

freedom from all causation and desire.[61] Hill, like Kant, believes that as autonomous agents we are creators of value, but he does not think that this makes us objectively valuable in all circumstances. He illustrates this point with a creative example: Suppose there is a sleazy film coming out that most people think will be a flop, but then some market value is created for it by a seedy section of society that is interested in its unsavory plot. Just because these people endow some value to the film does not mean that we are committed to valuing these people for their own sakes.[62]

Hill's modified Kantian principle lines up with our moral intuitions in that it rules out suicide in cases a-d as less than ideal situations, but does not object to suicide in cases 1-3. In an impulsive suicide, the person fails to place enough value on his continued existence as a rational, autonomous agent. The case of apathetic suicide is less than ideal because it adopts a policy of standing for and believing in nothing. In a self-abasing suicide, the person considers himself to be less than nothing and "denies the possibility that he can make the whole story meaningful by future action; he attributes no value to living as the author of his life."[63] Suicide based on a hedonistic calculus considers life to be valuable *only* as a function of pain and pleasure, and thus falls short of the modified principle that a life is valuable for its own sake unless it sinks below a certain threshold of relentless and incurable pain and suffering.

The modified Kantian principle allows for suicide in a situation where a person can no longer function as a rational being, because this life is no longer capable of

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[61] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 97.
[62] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 103.
[63] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 100.

rational agency (in the way Hill describes it), and so no potential is being destroyed. Suicide in the case of gross, irremediable pain is acceptable if the pain is so great that it incapacitates the person from exercising any of his human capacities. In this situation, Hill is not saying that this life has no objective value whatsoever, rather, he argues that life for the sake of itself is not valuable above all else unconditionally. Rather, a threshold has been crossed after which the life is demoted from being valuable for its own sake and other factors must be considered. The third case of intuitively permissible suicide regarding a refusal to live on in a manner that denies all of your personal beliefs and moral convictions is also allowed on Hill's modified principle because this act of suicide can be seen as the final choice a rational agent makes in his conception of a good life. As the author of his own life, he decides to end it so that all his actions leading up to death have been in accord with his principles, instead of extending his life to a point at which it will be ruined.[64]

By shifting the discussion to one about ideal and less than ideal situations, Hill makes it easier to reconcile our intuitions about suicide with a semi-Kantian position. We are still valuing the life of an autonomous, rational agent as being good for the sake of itself, but we add a threshold for pain and suffering that can reasonably be tolerated. When we go beyond this threshold, a special circumstance is created under which suicide is not objectionable. Hill's modified Kantian principle is successful because it doesn't downplay the effects of subjective experience, such as excruciating misery and suffering, but still avoids the problem of valuing a life on pain and pleasure alone. He places just enough emphasis on the damage horrible pain can do, while remaining true to a largely

[64] Hill, Thomas E. Jr. Autonomy and Self Respect. Cambridge, UK: Cambridge University Press, 1991. 100-101.

Kantian view of rational autonomy and a rational agent's position as a being capable of imparting value.

Although Hill's shift in perspective is a softer, more amiable approach to a sensitive subject, it isn't necessary to move this far from Kant's actual view to make suicide morally permissible. I think the contradiction test really does fail to rule out suicide in every circumstance, and we can use this to permit suicide in the case of some terminally ill patients without deviating much from Kant's own position. As I argued earlier, physician-assisted suicide does not create a contradiction in conception, because our self-love is not being used in a contradictory manner. Rather, the desire to continue life has been replaced by a desire to end life. Since the necessary background conditions for this change will only arise in a small number of people, we will not be left with a world void of people, as Kant is concerned about. There is also no contradiction in the will, because of Hill's threshold idea. If we grant that life does not have objective value unconditionally, rather that it is intrinsically good provided that it doesn't fall below a certain threshold of misery and pain, then there is no contradiction in the will. If as biological creatures we do not necessarily desire to continue living unconditionally, then a desire to die will not conflict with our will.

The Issue of Abuse

It is almost impossible to discuss physician-assisted suicide without arousing questions and worries about abuse. A critic might argue that the potential for abuse is so great that the practice should never be permitted, so the grounds on which it can be justified are superfluous. The problem is serious and the following few pages certainly do

not hold all the answers; their purpose is only to show that there are parallels to be drawn between the potential abuse of physician-assisted suicide and how we deal with other kinds of abuse, as well as other problems in the medical field. By pointing out some similarities I hope to give the project of reducing abuse a little tangibility.

Perhaps the most popular worry about physician-assisted suicide is that greedy or selfish family members will abuse the practice to advocate for their own interests as opposed to the true wishes of their family member. There is also room for abuse by doctors who are perhaps eager to test out their new power, or by those that are already prone to letting power get to their head and are now being given the ultimate authority. Another worry is that insurance companies might take advantage of the practice so that they don't need to keep paying for expensive long-term care or desperate procedures. While these concerns are not to be taken lightly, it is distressing that we would rather deny already suffering people the opportunity to carry out their last earthly wish than work to suppress, punish, and eventually maybe even significantly decrease the abuse.

There is a misrepresentation floating around that allowing physician-assisted suicide will result in doctors casually offering the option to all of their terminally ill patients and not giving proper consideration to the gravity of the situation. Just like any other medical procedure, there would be guidelines, privacy issues, and rigorous testing to ensure that this is an option that should be offered to the patient. For example, it would be possible to explain physician-assisted suicide to the patient without telling any of their family members, similar to how we currently handle a person's HIV/AIDS status. This would help with Velleman's worry that having to justify to your family why you have chosen to stay alive will create a new reason to choose death. If a person does not want to

be burdened with justifying their decision to reject physician-assisted suicide to his or her family, then they simply do not have to tell them about the offer. Since Velleman is also concerned with people's perceptions, creating various steps in the process will create the perception that not everyone qualifies for the offer of physician-assisted suicide, and so the family will probably assume that it has not been presented to the patient. We could look to the Netherlands, a region far more advanced on this issue than the US, and their "criteria of due care"[65] for assistance in creating our own policy. Physicians in the Netherlands are required to submit a report to one of five regional review committees, which are comprised of professionals from many different fields, as well as answer any questions the committee may have before they are permitted to carry out their patient's request to die. In the Netherlands, researchers from BioMed Central conducted a study of this procedure and found that through their decisions in varying cases the courts have established the following criteria of due care[66]:

1. The patient's request is voluntary and well considered.
2. The patient's suffering is unbearable and hopeless.
3. The patient is informed about his situation and prospects.
4. There are no reasonable alternatives.
5. Another physician, independent from the treating physician, must review the case.
6. The termination of life should be performed with due medical care and attention.

We could improve on this list by incorporating some of the guidelines Oregon's Death with Dignity Act has established, such as the patient must only have six months left to live, and he or she must make two oral and one written request to die. In Oregon ordering

[65] Buiting, Hilde, Johannes van Delden, Bregje Onwuteaka-Philpsen, Judith Rietjens, Mette Rurup, Donald van Tol, Joseph Gevers, Paul van der Mass and Agnes van der Heide. "Reporting of Euthanasia and Physician-Assisted Suicide in the Netherlands: Descriptive Study." BMC Medical Ethics. October 27, 2009. http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2781018/?tool=pmcentrez
[66] ibid.

a psychiatric evaluation is up to the discretion of the treating physician; I would argue that it should be mandatory.[67]

It might be possible to deal with the problem of abuse by doctors by making end of life decision making a specialty within the field, one that requires extensive training and a psychological evaluation (among other things) before a doctor is granted entry. This might help prevent doctors who are power-hungry and thus more likely to abuse their position from gaining access to patients considering physician-assisted suicide.

One way to deal with insurance companies could be to follow the model currently used regarding HIV/AIDS. In New York State, HIV/AIDS status only needs to be disclosed to the insurance company if it is necessary for them to know in order to approve payment for a related medical expense.[68] We could treat physician-assisted suicide similarly in that it would only be disclosed to a person's insurance if he or she actually decides to go through with it and it has come time to pay for the drug that will be utilized. Or, it would be possible to set up some kind of public fund which would be used only to pay for this kind of medication, and so a person's insurance wouldn't have to be involved at all. Another possibility is that supporters of the practice, such as the Death with Dignity nonprofit organization, will independently fundraise to help ensure that no one is denied because of a financial issue. However, if we follow advice like Velleman's about permitting physician-assisted suicide simply by failing to prosecute doctors who engage in it, then none of these precautions can be taken. In order to create a safe environment for physician-assisted suicide we need explicit rules, regulations, and a watchdog group.

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[67] ibid.
[68] "NYS Confidentiality Law and HIV: Questions and Answers." Accessed 03/17/10. http://www.health.state.ny.us/diseases/aids/facts/helpful_resources/confidentiality_law.htm

There is more potential for abuse in an unregulated underground system, which is what we currently have with the exception of Oregon and Washington State. Just as we work to overcome and guard against abuses in our judicial practices, prison systems, welfare programs and various levels of government, we can also make strides against abuses of a policy permitting physician-assisted suicide. We will do the most benefit by taking several, well-planned preemptive measures, but of course strict recourse for offenders will be necessary as well. The ever-looming threat of a revoked medical license will have more clout when there is transparency and accountability in what our physicians are doing; keeping physician-assisted suicide hidden will only perpetuate the abuse.

Conclusion

Although many of the objections to Kant's views on suicide and to the consequences explicit legislation will have certainly deserve serious consideration, the outcome of this period of reflection should be a decision in favor of working to bring the practice of physician-assisted suicide aboveground.

The best way to do this is to use Hill's threshold idea to build an exception for physician-assisted suicide right into Kant's theory itself. At first glance it may seem as though Kant is an absolutist about prohibiting suicide, but this is not actually the case. Kant himself argued that it would be morally permissible to commit suicide if the only other option was to sell yourself into slavery. Since Kant already admits of one exception to his views on suicide, all we need to do is add another one. This can be accomplished by taking seriously a terminally ill patient's subjective experience of pain and misery, and

incorporating Hill's view that there is a threshold of suffering beyond which a life ceases to have intrinsic value. This modified Kantian view retains a large part of Kant's own idea that a life is intrinsically valuable, but it rejects the notion that this intrinsic value is absolute and unconditional. It is possible to follow the categorical imperative and still allow for physician-assisted suicide. This is because, as I have argued, the maxim one wills while carrying out the practice does not produce either type of contradiction. It is imperative to keep in mind that both of the criteria I have discussed are equally important when considering whether or not a person is eligible for physician-assisted suicide. The first is the objective facts of the situation must be that the person really is terminally ill, has a short time left to live, and will die an agonizing and painful death if left to die naturally. The second is the patient's subjective experience of misery and pain, along with their own assessment of their life as no longer providing them with any kind of satisfaction whatsoever. If both of these criteria are in place, and the patient makes the decision to end their life on their own terms, then it is possible to justify and allow this decision with a Kantian ethical framework.