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ARGUING FROM AUTONOMY AND DIGNITY
FOR THE LEGALIZATION OF ASSISTANCE
IN SUICIDE AND VOLUNTARY EUTHANASIA

SUMMARY: 1. *Introduction.* 2. *The altered understanding of autonomy: from Kant to late modernity.* 3. *Ronald Dworkin on precedent autonomy and dignity.* 4. *A minimalist approach to defeating this reasoning.* 5. *The vulnerable and incompetent as our 'friends'.*

1. INTRODUCTION

THIS article is essentially concerned with one way in which the notion of autonomy, linked to the idea of dignity, is deployed in public policy debates about the legalization of assistance in suicide and voluntary euthanasia. It will be important to bear in mind that the central concern of the article will be with the justification of legislation.

Both assistance in suicide and euthanasia involve the intention to bring about the death of a person, usually a patient. It is a fundamental assumption of this article that the law cannot accommodate intentional killing for reasons incompatible with beliefs fundamental to securing just relationships between human beings in society – or, to put it more briefly, incompatible with justice. 'Justice' here refers to what we owe to others by way of action and restraint in our relations with them.

The reason purporting to justify euthanasiast killing and assistance in suicide is that it would be a benefit to the patient as he would be 'better off dead' since, for one reason or another, he no longer has a worthwhile life. The reasons adduced vary: intractable pain, extreme psychological distress, loss of a sense of 'dignity' with increasing dependence, a sense of being an extreme burden to others, and even *taedium vitae*. Whatever the particular reason in any particular case it serves to underpin the judgment that for this particular patient continued existence is no longer worthwhile, so he or she would be 'better off dead'. What is critical in purporting to justify the view that the patient would be better off dead is the negative judgment on the value of the patient's life. That is the judgment which purports to do the work of justifying intentional killing and that is the judgment which is in effect given a stand-

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ing in law as a justifying reason for intentional killing when euthanasia and assistance in suicide are legalized.

Nearly all legislation and proposals for legislation envisage a physician being responsible for assisting in suicide or carrying out euthanasia. The physician is therefore responsible before the law for these acts. His position cannot be understood to be that of a mere instrument of the patient's will. So questions arise about whether and on what basis he could both judge a person not to have a worthwhile life and act on that basis either to assist the person's suicide or to kill him.

The argument from autonomy to be considered here seeks to show that the patient's own estimate of the value of his life has to be uniquely authoritative for the physician, and provides adequate grounds which the law should accommodate for physicians assisting in suicide and carrying out euthanasia killing.

The counterargument to be advanced here is that a patient's subjective estimate of the value of his life is neither an adequate basis for judging the value of that life, nor could it provide the type of grounds which the law could accommodate for intentional killing, since to do so would subvert an assumption basic to the existence of a just order in society.

Some preliminary clarification of terms would be appropriate. The words 'autonomous' and 'autonomy' are used in respect of a capacity, a condition and a right. To be autonomous is to be in some sense self-governed or self-directed or self-determining in the conduct of one's life; that is the condition. The word 'autonomy' is used of the capacity to be self-directed in the conduct of one's life and of the exercise of that capacity. The phrase 'respect for autonomy' refers to respect for at least some exercises of that capacity, and a 'right to autonomy' must be a right to at least some exercise of the capacity for self-direction in the conduct of one's life. Exactly how much exercise of that capacity one has a right to is contested.

The phrase 'human dignity' is here taken to refer to the type of goodness, worth or value a human being has in virtue of which he or she is held to be entitled to be treated justly or with respect for their rights. It will become clear in the course of this paper that there are two radically different understandings of human dignity in contention in debates about the legalization of assistance in suicide and euthanasia. One of these understandings of dignity is wholly determined by reference to a particular understanding of autonomy.

The article first seeks to clarify the dominant notion of autonomy which is invoked in contemporary debate (section [2]). An analysis is then offered of a sophisticated version of the linkage of autonomy and dignity in the work of Ronald Dworkin, and of the way he deploys this linkage in arguing for the legalization of assistance in suicide and euthanasia (section [3]). A minimalist philosophical critique is then offered of this kind of argument for legalizing these practices, showing that the argument fails to show either that a patient's

subjective estimate of the value of his life can have a unique authority for a physician or that it could provide the basis for legalization (section [4]). Finally, the understanding of human dignity in the Christian philosophical tradition is sketched along with the response to fellow human beings that it warrants (section [5]).

2. THE ALTERED UNDERSTANDING OF AUTONOMY: FROM KANT TO LATE MODERNITY

The notion of autonomy achieved prominence in moral theory in the work of Kant. Kant characterised the human will by reference to a concept originally employed in Greek political theory to characterise those city states that *made their own laws*, in contrast with those city states the laws of which were imposed upon them by a 'mother city'. The notion of autonomy combines, therefore, in its origins the ideas of *self-legislation* and of *independence*.

Applied to the will by Kant, independence is grounded in the will's capacity to "be efficient independently of alien causes determining it".¹ This *negative* freedom of the will is the condition of its achieving a coherent and reasoned way of working. The coherent and reasoned way of working is through the adoption of principles that could be adopted by all, and which in that sense have 'the form of law'. It is in adopting for oneself principles that are universalizable – in the sense that they *can* be adopted by all – that Kantian autonomy is exhibited. Kantian autonomy, then, consists in acting freely on principles that one believes all can adopt, and it is in so acting that human dignity consists.

The independence which characterises Kantian self-legislation retains a certain kind of 'objectivity', consisting in the requirement that for self-legislation to have the character of moral law what is legislated must be capable of being adopted as a maxim by anyone else. What is striking about the dominant contemporary understanding of the exercise of autonomy, especially in the fields of bioethics and the jurisprudence of medical practice, is that it has so little place for giving to choice any claim to universality. Late modernity is characterised by an individualist conception of value, and hence by a pluralism of irreconcilable values, and in consequence by the abandonment of the Enlightenment project of giving a universal claim on reason to the *substantive* choices it is deemed public policy must accommodate.²

One area of the law in Anglo-American jurisdictions in which individual choice is unimpeded by reference to substantive standards of rationality concerns refusals of treatment. Such refusals are particularly problematic in ad-

¹ I. KANT, *Groundwork of the Metaphysics of Morals* 4:446, in I. KANT, *Practical Philosophy*, translated by Mary Gregor (The Cambridge Edition of the Works of Immanuel Kant, Cambridge: Cambridge University Press 1996), p. 94.

² See the 'Conclusion (1994): Postliberalism' to the second edition of J. GRAY, *Liberalism* (Buckingham: Open University Press, 1995).

vance declarations when the refusals are suicidally motivated. For, at the point at which the advance declaration is to be complied with, the patient is no longer competent, so no longer in possession of the ability to exercise choice. Nonetheless it is held that the choice such a patient made antecedent to incompetence is to be complied with. This requirement is justified by reference to the notion of precedent autonomy. In the next section Ronald Dworkin's case for precedent autonomy will be examined since it is a case which, if judged successful in justifying compliance with suicidal decisions made antecedent to incompetence, *a fortiori* justifies compliance with contemporaneous requests from competent patients for assistance in suicide and the carrying out of active voluntary euthanasia.

It could be said that the authority Dworkin wishes to accord to precedent autonomy is already recognised in English law at least in respect of suicidal refusals of treatment. It is uncontroversial that competent patients have a right to refuse treatments which offer no reasonable prospects of benefit or which they would find excessively burdensome. But the courts have gone much further than this, holding that competent patients have an "absolute right" to refuse treatment "notwithstanding that the reasons for making the choice are rational, irrational, unknown or even non-existent...".³ And that this right can be exercised in advance of incompetence to govern one's treatment when incompetent.⁴ The recognition of such a sweeping right to refuse treatment undermines the law against assistance in suicide. For it is undoubtedly the case that some advance refusals of treatment are suicidally motivated. They have now been accommodated in statute law in England and Wales in the *Mental Capacity Act 2005*. One of the architects of that Act made plain ten years prior to its passing her desire to give statutory authority to precisely such refusals of treatment which the Act now obliges doctors to respect. She refers to the person who, able to make his own decisions, «may be horrified at the prospect of losing that capacity and so refuses quite ordinary treatments *on the ground that he would be better off dead*.»⁵ Refusals of treatment motivated by the intention or purpose of hastening one's own death are unambiguously suicidal.

The position of the law in the United States about advance refusals of treatment is substantially similar to the law in England and Wales. One student of the topic has summarised it in the following terms:

³ See *Re T* [1992] 3 WLR 782 at 786, *per* Lord Donaldson M.R.

⁴ *Ibidem* at 787; see also *Re C* [1994] 1 All ER 849; *Airedale NHS Trust v. Bland* [1993] AC 789 at 864 *per* Lord Goff].

⁵ The Hon Mrs Justice Hale [now Lady Hale], *From the Test Tube to the Coffin: Choice and Regulation in Private Life* [Hamlyn Lectures 1995] (London: Sweet & Maxwell, 1996), p. 116. Mrs Justice Hale chaired the committee of the Law Commission which produced the Report and draft Bill on which the current legislation is based. See Law Commission (Law Com No.231) *Mental Incapacity* (London: HMSO 1995).

...courts uniformly have recognised a patient's right to refuse life-sustaining treatment as a fundamental tenet of respect for patient autonomy and self-determination...

Courts have consistently ruled that society's indirect and abstract interest in preserving life must yield to the individual's much stronger direct and personal claim to control over the course of his or her own life.⁶

To some extent the courts have sought to evade the logic of obliging compliance with suicidal advance refusals of treatment by stipulative declarations that they are not suicidal. But both critics and defenders of present legislation and court decisions are not in doubt that they accommodate the moral reality of suicide. While critics deplore this state of affairs, others would like to see the law embrace the logic implicit in it, namely legalization of active assistance in suicide and voluntary euthanasia. Since compliance with suicidal refusals of treatment is presented as justifiable in terms of respect for claims to self-determination (autonomy) which would also justify active measures to assist suicide and carry out euthanasia, resistance to their legalization is deemed to be indefensible.

Much in the contemporary literature of bioethics accords an extensive authority to autonomy claims. The sociologist Paul Root Wolpe has noted that "The strong American tradition of privacy rights and personal liberties has elevated 'the patient's right to decide' as the rallying cry of both bioethical theory and medical jurisprudence".⁷ The most influential textbook in the field of bioethics has been Beauchamp and Childress's *Principles of Biomedical Ethics* which advances an approach to bioethical decision-making by reference to a quartet of principles. Critics have often observed the increasing tendency through successive editions of the volume for the principle of respect for autonomy to trump other considerations. It is of particular interest to note, as Janet Smith has done, the shift from the third to the fourth editions of the volume in regard to the justification of physician assistance in suicide and voluntary euthanasia. Whereas in the third edition their legalization is seen as representing a dangerous shift in society's understanding of medical practice, and as threatening a slippery slope in the direction of non-voluntary and even involuntary euthanasia, by the fourth edition retaining the legal prohibition on these practices is represented as harming individuals precisely in so far as it frustrates autonomous choice.⁸

⁶ R. S. OLICK, *Taking Advance Directives Seriously* (Washington, D.C.: Georgetown University Press, 2001), p. 10.

⁷ P. ROOT WOLPE, 'The Triumph of Autonomy in American Bioethics: A Sociological View', in R. DEVRIES and J. SUBEDI (eds), *Bioethics and Society: Constructing the Ethical Enterprise* (Upper Saddle River, NJ: Prentice Hall, 1998), pp. 38-59, at p. 47.

⁸ J. SMITH, 'The Pre-eminence of Autonomy in Bioethics', in D. S. ODERBERG and J. A. LAINING (eds), *Human Lives. Critical Essays on Consequentialist Bioethics* (Basingstoke: Macmillan Press Ltd, 1997), pp. 182-195, at pp. 190-192.

It will become clear in the following section just how individualistic the understanding of the claims of autonomy is which is advanced to justify the legalization of assistance in suicide and euthanasia.

3. RONALD DWORKIN ON PRECEDENT AUTONOMY AND DIGNITY

Discussion of Dworkin⁹ on precedent autonomy, though focused on the question of the authority of advance refusals of treatment, is of interest for present purposes because of the larger implications of his view of autonomy claims that emerges from his discussion, a view which does indeed purport to justify the legalization of assistance in suicide and euthanasia.

Dworkin's understanding of the significance of precedent autonomy is formulated in the light of a background distinction he makes between biological life, the life that consists simply in the biological endowment to which he seems to limit nature's contribution to our existence, and, on the other hand, the life of a person, which has taken shape in virtue of that person's chosen commitments. For Dworkin it is only the latter which possesses inherent value. His low view of what he regards as 'mere biological life' is fairly conveyed by his uninhibited references to patients who are irreversibly comatose as "unthinking but scrupulously tended vegetables"¹⁰ and, in the case of Nancy Cruzan, as "a manicured vegetable".¹¹

What has value in human life is the life of the *person* that has had value *conferred upon it* by the choices the person makes. Dworkin distinguishes two kinds of interest influencing choice: critical interests and experiential interests. Each person's sense of whether their life is going well is governed by more or less self-conscious assumptions about what is worth achieving in life. Even if a person has not subjected these assumptions to critical reflection they constitute a person's 'critical interests' – the interests that determine a person's sense that he has made something of his life and not just wasted it.¹²

Critical interests are to be distinguished from 'experiential interests' – interests in the enjoyment of certain activities and experiences just for the pleasant experiences they are. Satisfying experiential interests is not in general decisive for a person's sense that his life has gone well, unless one is what Dworkin calls a 'critical hedonist' – someone for whom maximizing pleasure is the standard by which to judge a successful life.

A person's critical interests, if he is reflective about the matter, are determined by decision, the kind of decision which underpins commitment, and it is commitment that determines the sort of consistency in a life which, in Dworkin's lexicon, is referred to as 'integrity'. Dworkin wants to qualify the

⁹ R. DWORKIN, *Life's Dominion* (London: HarperCollins Publishers, 1993). Hereinafter: Dworkin.

¹⁰ DWORKIN, p. 180.

¹¹ DWORKIN, p. 192.

¹² DWORKIN, p. 201.

idea that decision is foundational for integrity, and so for investing a life with value, by insisting that we remain exercised by the question whether we have got it right in settling on certain critical interests. However, that kind of question is to be answered, he says, by reminding “ourselves of how it *feels* to believe that a given life is the right one. We feel this not as the discovery of a timeless formula, good for all times and places, but as a *direct response* to our own specific circumstances of place, culture and capacity.”¹³

It is the consistent living up to one’s commitments – integrity – which invests a life with value, the value Dworkin associates with the notion of human dignity.

Depending on the critical interests which have governed a person’s sense of self and the value of his life, certain conditions in the closing phases of a life will be seen as *incompatible* with one’s sense of the meaning and value of one’s life. Many people want to control the time of their death, Dworkin says, out of a self-directed concern that their death, whatever else it is like, express their conviction that life has had value because of what life made it possible for them to do and feel. They are horrified that their death might express, instead, the opposite idea, which they detest as a perversion: that mere biological life – just hanging on – has independent value. Nietzsche said: “In a certain state it is indecent to live longer. To go on vegetating in cowardly dependence on physicians and machinations, after the meaning of life, the right to life, has been lost, that ought to prompt a profound contempt in society.”

Nietzsche’s sentiments seem clearly to be Dworkin’s own.

For Dworkin the best account one can give for the right to an extensive exercise of the capacity for self-determination – for the right to autonomy as he conceives it – is that integrity depends on an extensive exercise of autonomy. Integrity, recall, is the consistent shape one gives to one’s life in the light of one’s commitments. And one’s commitments are chosen in the light of what ‘feels right’ given one’s personality and situation. Everyone, as Dworkin puts it, has a “right to a life structured by his own values”. The right to autonomy makes what he calls “self-creation” possible.¹⁴

What Dworkin calls the integrity view of the value of autonomy would be more accurately named the ‘self-expression’ view of its value. At the heart of the Dworkinian notion of self-expression is a view of liberty which accommodates radical choice of values and commitments. Hence Dworkin’s fondness for the (in)famous ‘mystery’ passage in the joint opinion of Justices O’Connor, Kennedy and Souter in *Planned Parenthood v. Casey*:

At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.¹⁵

¹³ DWORKIN, p. 206. Emphasis added.

¹⁴ DWORKIN, p. 214.

¹⁵ 505 U.S. 833 (1992) at 851.

Choices based on those conceptions, it is claimed, are “central to personal dignity and autonomy”.¹⁶ The notion that there are some basic common truths to be recognised in the shaping of one’s life has disappeared and been replaced by a radical individualism difficult to distinguish from subjectivism.

The idea of respect for precedent autonomy is invoked to protect self-expression beyond the point at which one has lost control, to ensure that one’s life retains the shape and character and value one has given it when one was in control of one’s life. If one anticipates lapsing into a condition which is inconsistent with the value one has conferred on one’s life, then, because the value one’s life has simply is the value one has conferred on it, one can make choices to ensure that one avoids continued existence in that undesired condition. And those choices should be respected by persons responsible for one’s care when one becomes incompetent. Notoriously, Dworkin has argued that even if all the evidence suggests that a demented person continues to enjoy simple pleasures one should deny them life-sustaining treatment if, in the light of their critical interests, they had specified by advance directive that one should so deny them. That would be the way to honour their dignity; for they have no other dignity than the dignity Dworkin associates with the ‘self’ a person has constructed through his autonomous commitments.¹⁷

It will be evident that Dworkin’s case for the authority of precedent autonomy is intended to justify not merely assistance in suicide by planned omission of life-sustaining treatment, but also positive measures to assist suicide as well as euthanasiast killing by act or purposeful omission.

The argument Dworkin advances is a sophisticated variant on an argument which is a commonplace in the bioethical literature that seeks to advocate the legalization both of assistance in suicide and of euthanasia. If the case for legalization is to be made in terms of *benefit* to the patient it is a case which has to show what general grounds there might be for judging that a patient no longer has a worthwhile life and would therefore be better off dead. Dworkin’s contention that persons confer value on their lives through the shape they give them by the choices they make in the light of their critical interests is one way of articulating the widespread view that a person’s exercise of autonomy (i.e. of the *capacity* for self-determination) lends unique authority to a person’s valuation of his or her own life, for it is nothing other than their choices which has given to that life the value it has.

If it were true that the value of a person’s life is uniquely determined by the choices that person makes, then, if he or she says that under certain condi-

¹⁶ *Ibidem* See the crucial role this text plays in the amicus brief to the Supreme Court in favour of legalizing assistance in suicide penned by Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon and Judith Jarvis Thomson: ‘Assisted Suicide: The Philosophers’ Brief’, *New York Review of Books*, March 27, 1997, pp. 41-47.

¹⁷ DWORKIN, pp. 228-9.

tions their life would not be worthwhile, that judgment may appear to provide sufficient justification for a physician to assist in ending or directly to end that person's life. If a person's choices and a person's sense of his or her 'integrity' are uniquely determinative of the value of a person's life then a physician can hardly have an alternative basis for disagreeing with a person's judgment that in certain circumstances their life would no longer be worthwhile. That is the basis of the authority of suicidal advance directives on Dworkin's view (and on the view of many others), as well as of the authority of contemporaneous requests for euthanasia and assistance in suicide.

4. A MINIMALIST APPROACH TO DEFEATING THIS REASONING

There is a line of argument, available within the depleted resources of secular reasoning, for resisting the type of reasoning that Dworkin exemplifies.

At the outset it should be acknowledged that there is indeed a type of goodness, and therefore a type of dignity, which a life may have in virtue of the kind of choices an individual makes in shaping the course of his or her life. It is usefully named *existential dignity*.¹⁸ Existential dignity is typically exhibited in the character people acquire in virtue of the way they live their lives. But we are not inclined to recognise goodness and dignity in just any kind of character, however deliberately acquired. This alone suggests that what is to *count* as a valuable or worthwhile life cannot be determined by an individual without reference to shared understandings of what is worthwhile. That being so, it is not obvious that a person's estimate of the value of his or her life should have a unique authority in the eyes of a physician simply in virtue of the patient's say-so. The belief that it does possess unique authority has to assume that there is no body of shared values which enjoys the authority of being objective. It is quite implausible to hold this to be the case about the moral value of a range of dispositions of character. So a physician may well think that there are common criteria for assessing existential dignity which stand in the way of accepting the patient's own judgment that his life in certain circumstances would no longer be worthwhile.

That is not, however, the principal criticism that needs to be made of the position of those who believe that the value or worth of a life consists solely in the value created by the choices of the person whose life it is, and that a physician can, for that reason, be justified in acceding to a contemporaneous request or in following an advance directive for assistance in suicide or the performance of euthanasia. What is wrong with this view is not simply that it assumes a mistaken understanding of existential dignity, but, more importantly,

¹⁸ On the terminology about dignity, see L. GORMALLY, 'Pope John Paul II's teaching about human dignity and its implications for bioethics', in C. Tollefsen (ed), *John Paul II's Contribution to Catholic Bioethics* (Dordrecht: Springer, 2004), pp. 7-33.

that it fails to recognise a more basic dignity without recognition of which we cannot ground a defensible account of justice in human relationships. The account of human dignity we require for that purpose acknowledges a basic dignity attaching to human beings simply in virtue of the fact that they are human, a dignity that exists prior to the acquisition of existential dignity. And since that basic dignity (usefully referred to as *connatural dignity*) attaches to our humanity it means that it is not open to anyone to judge any living human being to be lacking in worth. If that is so, then no one can allow himself the judgment – whatever advance directives or contemporaneous requests imply – that a person lacks a worthwhile life, and for that reason may have their life ended.

What line of argument would require recognition that human beings possess a basic dignity which gives them a fundamental equality of moral status? In public debate in a former age one might have appealed to Christian doctrine in defence of belief in the equality in dignity of human beings. In a pluralistic society, in which secularist thinkers regularly assume that they have a unique right to define what are allowable moves in the sphere of public reason, it is practically necessary to rely on thinner argumentative resources.

Why do we need to assume that human beings possess a common basic dignity prior to any existential dignity they may possess? Consider what would be the case if it were true that there is no account to be given of the value of a life independently of the value the person whose life it is determines it has. *To be able to confer value on one's life*, a person must have adequately developed abilities for understanding, judgment and choice, abilities which will be characteristically exercised in thinking of various things, projects and activities as valuable and *investing one's life with value* through one's engagement in certain projects and activities. How well developed must the relevant abilities be to be adequately developed? There is no single rationally compelling answer to this question so that it is inevitable that it becomes a matter of *choice* where one draws the line between those deemed to have adequately developed psychological abilities and those who have not yet reached the requisite developmental stage. But if where one draws the line in this regard is necessarily a matter of choice then the line-drawing is arbitrary. A certain arbitrariness in determining the membership of many bodies is unavoidable, but it is hardly admissible in determining who belong to the community of those who are to be treated justly. Since what we are discussing here are the features in virtue of which a human being is deemed to have the kind of value which entitles him or her to just treatment, it is obviously unacceptable that the features which are held to be relevant should be based on an arbitrary choice. The obviousness follows from the fact that one of our most basic intuitions about justice is that it excludes arbitrariness about *who is to be treated justly*. The need for a non-arbitrary understanding of who are to be treated justly requires that we assume that it is the simple fact of being human which establishes one's

entitlement, so that all human beings are deemed to be equal in basic worth and dignity.

Can such an understanding find a grounding outside some framework of religious belief? Or does it have to be a groundless assumption for the secularist thinker, who in consequence may be tempted to think it a fiction arising from the desire to retain a hold on the concept of justice? If that is all that could be said for it, it might well be concluded that the concept of justice should be jettisoned. It would then appear that for secularism our dealings with each other depended on who had the power to determine who should command a certain respect and who, on the other hand, would be dealt with as *convenience* dictated.

Even within the emaciated resources of what passes for public reason in our society it is possible to offer intellectual resistance to such a descent into barbarism. We might reflect that the abilities to understand, judge and choose – abilities to know the truth and to choose what is good – which everyone rightly prizes, and in exercising which we may come to live well as human beings, are abilities we develop in virtue of a fundamental capacity inherent in our nature. They do not supervene in our lives in virtue of something extrinsic to our nature, even though their development depends on a facilitating environment. So if we recognise a worth and dignity which can be exhibited in the exercise of the abilities for understanding, judgement and choice, we should recognise an even more fundamental worth and dignity in the human nature which is the source of the radical capacity out of which these abilities develop, a capacity in virtue of which we are ordered to truth and goodness.

We do not have reason to think that those who have lost the abilities to which they attach their own sense of their dignity as human beings – in particular the incompetent – are not in fact human beings, and as such bearers of a worth and dignity more fundamental than any existential dignity that may have characterised their lives. This more basic dignity is reason not to accept those self-valuations which inspire requests for assistance in suicide, including suicidal advance directives, and requests for euthanasia. What recognition of this more basic dignity blocks is the judgment that a person has not got a worthwhile life, and thereby blocks the inference that that person would be better off dead.

It is sometimes objected to this claim that it relies on collapsing a distinction which should be maintained between the thought that the continued living of a life is no longer worthwhile and the thought that the person, whose life it is, lacks value. You can continue to think, it is said, that a person has value while thinking that that person's continued existence is no longer worthwhile. But this contention relies on what is surely an indefensible dualism of person, on the one hand, and personal existence on the other. If you talk about the value of a person you are talking about something which holds good of the *actuality* of that person. To say that something has positive value though its *actual*

existence has negative value is nonsense. The being of a human person is not distinct from his or her ongoing life. A human person just is a living human body, and the life of a person is the life of that body. Hence to say that the ongoing life of a particular living human being is not worthwhile is to deny value to the person whose life it is.

The reality of a shared basic human dignity leaves no room for the claim that a patient's own judgment on the value of his ongoing life constitutes the sole basis on which a physician can judge the value of the patient's life. It is not open to a physician to judge that a person's life lacks worth and for that reason he would be better off dead. And no such judgment should be accommodated by the law as a reason for killing patients or assisting their suicide, for any such judgment would subvert what is most fundamental to just legal arrangements in society, namely recognition of the equality in basic (connatural) dignity of all human beings.

Nonetheless it is evident that this subversion of justice is systematically spreading in Western societies. We can conclude by considering just how radical a break it represents with a Christian understanding of human dignity.

5. THE VULNERABLE AND INCOMPETENT AS OUR 'FRIENDS'

In his essay 'Goodness beyond virtue'¹⁹ the Australian philosopher Raimond Gaita recounts an experience he had as a 17 year-old which has been decisive for his philosophical outlook. He was working as a ward assistant in a psychiatric hospital with severely demented patients, who were treated by most staff as one would treat brute animals and who were wholly abandoned by their families. There was a small group of younger psychiatrists who, speaking of the 'inalienable dignity' of these patients, sought to improve their conditions. The young Gaita greatly admired these psychiatrists, but their senior colleagues thought them fools and some of the nurses vehemently despised them.

For the purposes of this article those patients can be taken to stand for all those human beings who are perceived – by others, or by themselves – as having lost any dignity they may have possessed. Talk of 'inalienable human dignity', Gaita reflects, has a hard job carrying conviction in the face of human beings as sorely afflicted as the psychiatric patients he knew. What *seriously* convinced him was the following experience:

One day a nun came to the ward. In her middle years, only her vivacity made an impression on me until she talked to the patients. Then everything in her demeanour towards them – the way she spoke to them, her facial expressions, the inflexions of her body – contrasted with and showed up the behaviour of those noble psychia-

¹⁹ R. GAITA, *A Common Humanity. Thinking about love and truth and justice* (2nd edition, London: Routledge, 2000), pp. 17-27. Hereinafter: Gaita.

trists. She showed that they were, despite their best efforts, condescending, as I too had been. She thereby revealed that even such patients were, as the psychiatrists and I had sincerely and generously professed, the equals of those who wanted to help them; but she also revealed that in our hearts we did not believe this.²⁰

No philosophy of our time, Gaita reflects, could find a place in our midst for people so sorely afflicted. A common thought is that it would have been better if they had never been born. Hence the purchase on the minds of our contemporaries of advocacy of abortion and euthanasia.

Gaita acknowledges the role that the nun's own religious beliefs are likely to have played in explaining her behaviour – her belief, for example, that these poor people are children of God, loved by God. But for Gaita, who is agnostic about the reality of God, what she revealed by her attitude requires no independent justification.²¹

Seeing her I felt irresistibly that her behaviour was directly shaped by the reality which it revealed. I wondered at her, but not at anything about her except that her behaviour should have, so wondrously, this power of revelation ... her behaviour was striking not for the virtues it expressed, or even for the good it achieved, but for its power to reveal the full humanity of those whose affliction had made their humanity invisible. Love is the name we give to such behaviour.²²

Christian tradition does not share Gaita's agnosticism about what grounds the truth about human beings which warrants such love. It is instructive to sketch here, however briefly, a central philosophical theme in that tradition which helps to put into focus the radically impoverished understanding of human life exemplified by the philosophical position that Dworkin exemplifies.

"Dignity", St Thomas Aquinas said, "signifies something's *goodness* on account of what it is in itself."²³ There is a goodness to human nature which consists centrally in the radical orientation of our being to union with that goodness which is God. Each person is made for fulfilment in union with God. We come into existence for that fulfilment – we each of us exist for our own good, and that is why we are lovable *for our own sake*.²⁴ In the course of human development we can progress, under divine grace, towards this fulfilment through understanding and judgment and choice and growth in virtue. But this human good is already the good of those who have not yet acquired the dispositions and abilities necessary to existential dignity, and it remains the good of those who prove incapable of development or who have lost the abilities through exercise of which human existential dignity is exhibited.

²⁰ GAITA, pp. 18-19.

²¹ GAITA, p. 22.

²² GAITA, pp. 19-20.

²³ ST THOMAS AQUINAS, III *Sent.* d. 35, q. 1, a. 4, sol. 1c.

²⁴ See on this truth S. L. BROCK, 'Crosby and Aquinas on Personal Dignity', *The Thomist* 69 (2005): 173-201.

In being the good of each of us it is our common good. And we reach this common good through a common life. We need others – in different ways, depending on our capacities and condition – to reach our common good. We need persons who love in us that common good as our good. We therefore need friends. But it is precisely because we have a common good that we can have friends – that we can be loved for our own sake and that our friends can know what will *count* as loving behaviour towards us. For if there are no grounds for a shared understanding of what makes for our fulfilment, how can others know what is required truly to love us? It is the fundamental orientation of our nature to a common good which grounds a shared understanding of what makes for our fulfilment.

When Dworkin and others speak of ‘mere biological life’ they are trading in a vicious abstraction. There is no such thing. We identify immaturity or pathology precisely as the immaturity or pathology of a particular kind of being – in our case, rational animals. The extremely debilitated and the incompetent are rational animals, even when they do not possess presently exercisable abilities for understanding and choice. They, and those also who have come to think their lives no longer worthwhile, in fact share with the rest of us a common good and a common dignity, and they need human friendship, and minimally respect for their dignity. It is no expression of respect or act of friendship to help implement suicidal advance directives, or assist the competent to commit suicide or execute euthanasia. It is subversive of the conditions of the common life we all need if we have to live within a legal regime which accommodates any of these practices.

We should be clear in our minds about the deeply destructive character of the ideological position of those like Dworkin who locate the value of a human life solely in the autonomously determined value with which a person is said to invest his or her life. Since that autonomous determination is carried out without reference to any common criteria of what counts as the human good, what each individual counts as his or her ‘good’ may have no claim to being recognised by others. This means that we cannot know what it is to love others; the necessary good of friendship cannot get any purchase within such an outlook.²⁵ Society fragments into groups with shared preferences in the absence of a common good. And in this atomistic state of affairs the immature, the severely mentally impaired, the senile, and those who think their lives lacking in continued worth, are no longer seen as lovable for their own sakes, but are rather candidates for expulsion from society.

In charity, St Thomas says, we love others as “companions in the sharing of beatitude”. “The beatific vision is, God willing, *our vision*, not [just your vision or my vision]. And so we [can] love one another as lifelong companions along

²⁵ On this see D. M. GALLAGHER, ‘Person and Ethics in Thomas Aquinas’, *Acta Philosophica* 4 (1995): 51-71, especially section 4, ‘Persons and teleology’, pp. 66-70.

the way. 'This is most clear', St Thomas writes in his Commentary on Aristotle's *Nicomachean Ethics*, 'where the path is uncertain, for everyone calls back even an unknown and foreign stranger from going the wrong way, as if every man is *naturally* an acquaintance and a friend of every other man.'"²⁶

The word 'autonomy' can be used either of the *capacity* to be self-directed in the conduct of our lives or of the actual *exercise* of that capacity. It ought to be clear that many exercises of the capacity are not worthy of our respect: we cannot see goodness or dignity in rape, torture, murder, the sexual abuse of children and many other manifestations of human wickedness. On the other hand, it should also be clear that the *capacity* for self-determination is a constitutive feature of our dignity as human beings. A human life is not left to be wholly determined by forces over which we have no control. We are indeed the kind of creature who can, in the course of development, give a certain shape and character to our lives. So the capacity for self-determination, as a feature of our nature, of the kind of beings we are, belongs to that dimension of human dignity which is basic – our connatural dignity. The significance of autonomy, of the capacity for self-determination, properly understood provides, then, reason against rather than reason for legalizing assistance in suicide and euthanasia.

ABSTRACT: Justifications of the legalization of assistance in suicide and euthanasia are offered in terms of benefit to patients on the grounds that they would be 'better off dead' because their lives are no longer worthwhile. Patients' own judgments on the worth of their lives are held to have unique authority because their own choices, which are not criticisable by reference to objective criteria of human worth, are held to be constitutive of their worth/dignity. This view of human worth/dignity is shown to be incompatible with that understanding of human dignity which is indispensable to a defensible account of who are subjects of justice. Recognition of this basic dignity renders inadmissible the judgment that any human life is no longer worthwhile. The individualist, autonomy-based account of human dignity is contrasted with the Christian understanding of human dignity along with the response to fellow human beings it warrants.

²⁶ ST THOMAS AQUINAS, *In Eth.Nic.* 1155a21-23. This quotation and the text in which it is nested are from J. O'CALLAGHAN, 'Creation, Human Dignity and the Virtues', *Nova et Vetera* [English edition] 1 (2003): 109-140, at p.128.