

Libertarianism, Self-Ownership and Consensual Killing

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1. INTRODUCTION

Under what conditions is it morally permissible to commit suicide, to assist in someone's suicide, or to kill another person with his/her consent? Under what conditions is it morally permissible to use force to *prevent* such acts? I shall defend a libertarian answer to these questions. On this view, autonomous agents initially fully own themselves in the same sense that one can fully own an inanimate object such as a car. Just as full owners of cars are morally permitted, under a broad range of conditions, to destroy their cars or have someone else do so, autonomous agents who fully own themselves are permitted, under a broad range of conditions, to terminate their lives or to have someone else do so. Furthermore, under these conditions, other agents are not permitted to use force to prevent a full self-owner's consensual death.

I shall focus on consensual killing (i.e., with the killed person's consent) of autonomous agents. This includes suicide, assisting with suicide, voluntary euthanasia, and even cases where a non-sick person requests that another kill her. I shall not address cases of killing that are involuntary (against the will of the person killed) or non-voluntary (where the being killed is not autonomous; e.g., killing animals, children, and incapacitated adults). These are important issues, but they cannot be addressed here.

2. LIBERTARIANISM

Libertarianism is a rights-based theory that holds that psychologically autonomous agents (i.e., beings capable of robust rational choice) initially (prior to commitments, wrongdoings, etc.) fully own themselves. Below, we shall examine carefully the nature of full self-ownership and its implications for consensual killing. First, however, it's worth noting that there are different kinds of libertarian theory based on the conditions under which they hold that the non-agent part of the world (natural resources and artifacts) can come to be owned. The most familiar form of libertarianism (e.g., that of Nozick 1974) is *right-libertarianism*, which holds that natural resources may be privately appropriated without the permission of, and without any significant payment to, the other members of society. Versions of right-libertarianism hold, for example, that the first person to discover, mix labor with, or simply claim some unappropriated natural resources can acquire full ownership thereof. *Left-libertarianism*, by contrast, holds that natural resources are owned by all in some egalitarian manner.

Right libertarianism is, I believe, grossly implausible because of the arbitrariness of allowing some individuals to reap all or almost all the benefits of natural resources, which by definition were not created by any agent. Left-libertarianism, on the other hand, is a highly promising form of liberal egalitarianism. It is liberal in that the rights of self-ownership give individuals rights to control their lives, and it is egalitarian in that the benefits of natural resources are distributed in an egalitarian manner. There are many different versions of left-libertarianism. The most plausible version thereof, I would argue, holds that agents are free to appropriate unappropriated natural resources, but only on the condition that they make a periodic rental payment to a social fund equal to the competitive value (based on supply and demand) of the exclusive rights that they are claiming. The social fund in turn is spent to promote effective equality of opportunity for a good life.

Fortunately, for the issue of consensual killing, we don't need to assess all the relative merits of left- and right-libertarianism, nor those of the different versions of left-libertarianism. Any plausible version of libertarianism will hold that, under a broad range of circumstances, agents have a full liberty to use, and a full power to appropriate, various natural resources and artifacts (which may be contingent on a suitable payment to others). Given this and plausible related assumptions, full self-ownership entails, I shall argue, that under a broad range of circumstances consensual killing is permissible and forcible interference is not.

3. SELF-OWNERSHIP

Libertarianism holds that agents are, at least initially, *full self-owners*. As I shall now explain, not all the elements of full self-ownership are needed to establish that, under a broad range of conditions, consensual killing is permissible and forcible intervention is not. Hence, the arguments that I present may be endorsed by those who accepted a certain less-than-full kind of self-ownership.

Agents are full self-owners just in case they own themselves in just the same way that they can fully own inanimate objects. This full private ownership of a person or thing includes (1) *full control rights* over (to grant or deny permission for) the *use* of the person or thing, (2) *a full immunity to the non-consensual loss* of any of the rights of ownership as long as one uses no objects over which others have non-waived claim-rights, (3) *full power to transfer* these rights to others (by sale, rental, gift, or loan), and (4) *a full right to compensation* if someone violates these rights. It's important to note that ownership can vary in strength depending on how strong the corresponding bundle of rights is. Libertarianism in the strict sense is committed to *full self-ownership*, which is a maximally strong bundle of ownership rights.

For the present argument, only the first two rights are relevant. That agents initially have

full control ownership of themselves is the crucial claim.¹ The immunity to loss of rights is also relevant, since it helps establish that often agents still have full control self-ownership at the time of the consensual killing. The remaining two components of *full* self-ownership will not be invoked. The right to compensation is irrelevant here. The power to transfer rights is relevant to consensual killing, but only for a special kind of case that I shall ignore. If a person has transferred the relevant control rights to someone else, then killing her—even if she consents—violates that other person’s rights. For simplicity, I am not going to address cases involving transfer, since such rights are highly controversial and such cases not the typical cases.

The crucial claim, then, is that agents initially (prior to agreements, wrongdoings, etc.) have full control rights over the use of their person (full control self-ownership). One has *full* control rights over the use of an object just in case one has *all* the control rights over the use of that object and there are no impersonal duties with respect to such use. Thus, full control rights over one’s person consist of three components: (a) full protective claim-rights over one’s person: no one may use one’s person without one’s permission, (b) the absence of any claim-rights held by others over one’s person: no one else’s permission is needed for permissible use, and (c) the absence of impersonal duties concerning the use of one’s person: any use is permissible if everyone agrees to it.² Stated otherwise, one has full control rights over one’s person if and only if one has full protective claim-rights over the use thereof and one has a *full liberty* to use one’s person (i.e., one has no personal or impersonal duties concerning the use thereof; the second and third elements above).

An agent who fully owns a given object has no impersonal or personal duties concerning the use of the object. She will typically, however, have a wide range of duties concerning the use of other objects. Because any use of her owned objects will also involve the use of other objects, she is not morally permitted to use her object in any way she pleases—the full owner of a

baseball bat is not permitted to bash it into my head.

We are finally ready to consider the first argument.

4. THE IMPERMISSIBILITY OF USING FORCE TO PREVENT CONSENSUAL KILLING

Under what conditions is it permissible to prevent a consensual killing? From a libertarian perspective, there is in general no problem with non-forcibly preventing a consensual killing. One may refuse to take part in the process, refuse to loan or sell needed items (e.g., a gun), or attempt to dissuade the parties. The issue here concerns the use of non-consensual *force* to prevent consensual killing.

The libertarian argument against the permissibility of using non-consensual force to prevent consensual killing is straightforward:

P1: Each agent initially (prior to agreements, wrong-doings, etc.) has full protective claim-rights over the use of her person (i.e., no one may use her person without her permission).

P2: Under a broad range of circumstances, (1) just prior to engaging consensual killing, neither the killer nor the person to be killed has lost any of these rights, and (2) neither the act of consensually killing a person nor the act of consenting to being killed causes an agent to lose any of these rights.

P3: It is impermissible to use non-consensual force against a person who has full protective claim-rights.

C: Thus, under a broad range of circumstances, it is impermissible to use non-consensual force against a person to prevent a consensual killing.

In what follows, I shall focus on the first two premises. The third premiss, suitably

understood, is true by definition. It is simply a statement of what it is to have full protective claim-rights (on, as explained below, the choice-protecting conception of rights). The crucial understanding is that consensual killing is to be understood as killing to which the participating agents have given *valid* consent. Consent is valid when, in some sense, it is “reasonably” free (uncoerced), reflective, and well informed. We need not here try to establish the relevant criteria for reasonableness in this context except to note that a plausible account will hold that consent is typically but not always valid. In what follows, then, consensual killing will be understood as involving valid consent.

A. Premiss One: Initial Full Protective Claim-Rights

The first premiss asserts that agents initially have full protective claim-rights over the use of their person. This just means that others are not permitted to use their person without their permission. Hence, as long as this right is not lost, others are not permitted to forcibly prevent them from participating in consensual killing.

One very general objection to this claim is the view that individuals do not have any rights at all. Some may be skeptical of rights on the ground that they involve a mysterious moral ontology. Throughout, however, I understand rights in the Hohfeldian sense. On this conception, a person has a right that agent A do X just in case A has a duty to that person to X, where the concept of owing a duty to a person is, as explained below, unpacked in either choice-protecting or interest-protecting terms. There is nothing mysterious about rights so understood. They exist whenever personal duties exist.

A more specific objection to rights is the claim—raised by act consequentialists and others—that individuals and things can be permissibly used (e.g., forcible restriction of their freedom) in whatever manner best promotes the social good. There are no constraints on how

individuals may be treated in order to advance social goals. The problem with this view, of course, is that it fails to respect adequately the moral separateness of agents. There are moral constraints on how individuals may be used for the benefit of others or for impersonal goods. The ends do not always justify the means. Agents have their own lives to live, and the harmful direct use of their persons (e.g., physical assault) without their consent is incompatible with the dignity and moral separateness of agents. Hence, it is quite plausible that agents have some control rights.

A second objection to full protective claim-rights over oneself appeals to the existence of God. God, if he exists, created the world out of nothing, and creators, it is claimed, own their creations if they own all the factors of production. (God, we assume, owns himself.) Hence, we don't have full protective claim-rights over the use of our person. God holds those rights. One might, of course (as I do), challenge the presumed existence of God. Even if this granted, however, there is a problem with the principle that creators own their products when they own all the inputs. One might challenge this on general grounds, but the central point here is that it is quite implausible when the created thing is a sentient and autonomous being. Parents do not own their children, at least not once they become autonomous agents. Nor would a scientist own an autonomous and sentient robot that she created. It is just as implausible to hold that God owns us because he created us. Even if in general creators own their products, this is not the case when the product has independent moral standing, as sentient autonomous agents surely do. Thus, the existence of God gives us no reason to doubt that individuals have full protective claim-rights over the use of their persons.

A third objection is that, even if agents have some such claim-rights over the use of their persons, they do not have *full* protective claim-rights. One could have a claim-right that others not use one's person without one's consent except in certain situations, such as when it is

necessary to avoid social catastrophe. Admittedly, something like this is close to common sense, but common sense is, I claim, here mistaken.

There are three kinds of case of non-consensual force that must be considered: (1) cases where it is necessary to prevent a harm or provide a benefit to the person against whom the force is used, (2) cases where it is necessary to prevent an impersonal bad or provide an impersonal good, and (3) cases where it is necessary to prevent harms or provide benefits to others. The first case will be discussed below when we turn to the next objection (rights as protecting interests rather than choices). Here I shall discuss the second and third cases.

Impersonal goods and bads (if there are any) are things that are good or bad but not in virtue of being good or bad for anyone. The preservation of a way of life or of some ancient work of art might, for example, be held to be an impersonal good. Such goods may often be good for individuals, but that is not what makes them impersonally good. One might doubt whether there are any impersonal goods or bads, but even if there are, they do not provide any reason to doubt that agents have full protective claim-rights. If the claim-rights against the non-consensual use of one's person are to be at all significant, they must hold at least where the only cost is in terms of impersonal goods and bads. Otherwise, there would be little moral role for the wills of agents, and that would fail to take their autonomous agency sufficiently seriously. Perhaps harms and benefits to self or others justify the non-consensual use of a person, but impersonal goods and bads do not.³

Let us consider, then, the third kind of case of non-consensual force—the one where others will obtain some benefit or avoid some harm if such force is used. To start, suppose that there is some small number of individuals who will get a benefit from the use of force against the victim, but the benefit to each person is not significantly greater in magnitude than the cost to the victim of such force (e.g., two people get a benefit of 5 each and the cost to the victim is 4). The

personal sovereignty of agents precludes the non-consensual use of force in such cases. If it did not, there would be little effective control of how one is used. One would be, as on the utilitarian view, a pawn to be used to promote the social good. Individuals are not, however, interchangeable receptacles for benefits and harms. There are limits on what may forcibly be done to a person for the benefit of others. At a bare minimum, in order for non-consensual force to be permissible either (1) at least one person must get a significantly greater benefit than the cost borne by the person against whom the force is used or (2) a significant number of people must get a benefit that is at least as great as the cost borne by the person against whom the force is used.

Suppose, then, that either of these two conditions holds. Even here, we need to distinguish between cases where those who benefit would be well off even without the benefit and cases where they would be poorly off without the benefit. In the former case, personal sovereignty reigns and non-consensual force is impermissible. It's not permissible, for example, to forcibly perform medical experiments on someone simply to make a lot of happy people much happier. In the latter case (benefits to the poorly off), commonsense says that if the number of individuals and the size of the benefit to each are large enough, then the non-consensual use of force is permissible. The use of force is permissible, it is claimed, to avoid social catastrophes. This is compatible with a limited personal sovereignty, but not with full personal sovereignty. Commonsense is, I claim, here mistaken. Individuals are fully sovereign over their person (full protective claim-rights). It's wrong, for example, to forcibly perform medical experiments on an individual even if it will avoid a social disaster by eliminating some potentially widespread disease.

This is not to say that from the all-things-considered perspective of practical reason (broadly construed) one should never use non-consensual force against a person. Moral

requirements and prudential requirements sometimes conflict. Where there is such a conflict and the prudential benefits for the various individuals involved are great, it may be that one should— from the point of practical reason, all-things-considered—use non-consensual force. The point here is that, if one does so, then one does something wrong, and thus feelings of guilt are morally appropriate, and one owes the victim an apology and compensation.

No doubt, few will be convinced of this very strong form of personal sovereignty. Fortunately, the core of the argument for the impermissibility of the forcible prevention of consensual killing does not require full protective claim-rights over one's person. For few such cases of consensual killing are cases of social catastrophe. Thus, those who are unconvinced can simply recast the argument as applying only to cases not involving social catastrophe.

A fourth objection to full protective claim-rights over oneself acknowledges that agents have full protective rights over themselves, but denies that their will or consent is relevant to the determination of whether rights are infringed. Rights, it is claimed, protect the *interests* of the rights-holder and not necessarily their *choices* (or will).⁴ Ownership is normally construed as a set of choice-protecting rights, and I have done so above. So construed, valid consent of the right-holder ensures that his/her rights are not violated. On the interest-theory of rights, however, consent does not always play this crucial role. It is rather the *interests* of the right-holder that are relevant. For example, even if I validly consent to your killing me, your doing so may still violate my interest-protecting protective rights if death is not in my interest.

My claim is only that the rights of *agents* protect their choices—and not that the rights *as such* are always choice-protecting. A standard objection against the choice-protection conception of rights is that it entails that children, incapacitated adults, and sentient animals have no rights (since they are not capable of the relevant kinds of choice). I fully agree that these beings have rights and that the choice-protection conception of rights cannot recognize their rights. I reject,

however, the assumption that either all rights are choice-protecting or all rights are interest-protecting. For non-autonomous sentient beings, rights are indeed best understood in well-being-protecting terms.⁵ For psychologically autonomous agents, however, the role of their will, I claim, trumps (is lexically prior to) the role of their well-being. Hence, the choice-protection conception is the relevant one for agents.

The interests that rights might protect can, roughly speaking, be construed narrowly to include only well-being, or broadly to include also autonomy interests. The narrow version of the interest-protection theory is quite implausible for agents. For it fails to recognize any role for their will in setting the duties that others owe them. The broad version of the interest-protection theory of rights is not subject to this objection in this crude form. For it recognizes that agents have autonomy interests in addition to well-being interests. It may implausibly allow, however, that under certain conditions their well-being interests override their autonomy interests. This problem can be avoided by adopting a lexical priority version of the broad interest-protection theory according to which the protection of autonomy interests is lexically prior to the protection of well-being interests.

Even here, however, there is a problem. For autonomy interests broadly construed include the interest in maintaining and developing one's capacity for psychological autonomy as well as the interest in having one's exercise of this capacity respected (when one makes a choice). Sometimes these conflict, as when an autonomous person chooses to take drugs that undermine her future capacity for autonomous choice. Not all choices should be respected, but those that concern the use of one's person that are sufficiently well informed, reflective, and free should—even if mistaken—be respected. Respect for one's current autonomous will takes priority over protection of one's capacity for future autonomous choice. When present, autonomous agency should, that is, be respected as opposed to promoted. Hence, the protective

rights of agents should indeed be understood in choice-protecting terms.⁶

A fifth objection grants that agents have full protective rights over the use of their person and that these rights are understood in choice-protecting terms. It challenges, however, the claim that it is the agent's *current* consent that is exclusively relevant. Agents in the sense relevant to morality exist over time, the objection rightly claims, and hence the consent of the agent in the future is also relevant. If all "time-slices" of the agent consent to a certain treatment, then indeed the agent's rights are not violated by the treatment, but if most future time-slices would dissent from such treatment, then arguably the use of force against the agent violates her protective rights—even if she currently consents to it.

This is indeed a deep and troubling objection, and I don't have a theoretically satisfying reply. One possible reply is to deny that agents exist over time and to claim that agents just are time slices. This, however, is implausible in that agents would not be accountable for what their related past slices did and would not be able to make any commitments concerning their related future slices. A second possible reply is to acknowledge that agents exist over time but to endorse presentism, according to which only the present is real. It is implausible, however, to think that reality is exhausted by the present. A more promising model is one where the slice of the agent that has power—the current one—has the moral authority to decide for the agent (and thus may bind future slices). Each slice has prudential duties to the other slices of the same person, but, with respect to other agents, the current slice of a given agent has the authority to speak for the other slices (subject to the commitments made by past slices).

Obviously, this is a controversial issue, and I cannot here defend a particular account. Something like this, however, is implicit in much of our self-understanding. One's rights are not infringed by actions—such someone using one's car or having sex with one—to which one has validly consented, even if future slices would not so consent. Moreover, one's rights are

infringed when they are breached without one's valid current or past consent. The mere fact that all one's future slices would consent to the use of force to stop one from smoking does not legitimate such action.

So far, we have considered the claim that agents *initially* have full protective claim-rights against others using their person. I shall now defend the second premiss and argue that under a broad range of circumstances agents engaging consensual killing have not and do not lose these rights.

B. Premiss Two: Full Protective Rights Are Not Typically Lost

Agents start with full protective claim-rights over their person. Agents can and do, however, lose some of their protective claim-rights by consensually transferring them to others or by violating the rights of others. Nonetheless, under a broad range of circumstances, prior to engaging in consensual killing, this is not so. Typically, agents have not transferred any of their protective rights, and, if they have violated the rights of others, they have rectified the wrong (by apology, compensation, and/or punishment) and their protective rights have been restored. The crucial question, then, is whether the act of participating in consensual killing (as opposed to some prior act) causes agents to lose some of the protective claim-rights. If it does, then forcible prevention of such killing may be permissible. I shall argue, however, that, under a broad range of circumstance, the act of consensual killing does not cause any such loss, and hence that forcible prevention is impermissible.

One possibility is that consensual killing is impersonally wrong (wrong, but wrongs no one; i.e., violates no one's rights). When we address the permissibility of consensual killing, I shall argue against this possibility. The relevant point here is that one does not lose one's self-protective claim-rights because of an impersonal wrong. If no one is wronged, why would lose

some rights? It's implausible in general that any kind of claim-rights would be lost because one commits an impersonal wrong. Rights are more robust than this. Moreover, it's especially implausible that one would lose protective claim-rights over *oneself*. Perhaps one loses claim-rights over other things (one's house or car) because of impersonal wrongs, but the non-consensual use of force against one's person does not become permissible simply because one has committed an impersonal wrong. That would be highly illiberal.

If participating in consensual killing causes one to lose one's protective rights, it must be because it violates someone's rights. Consider first the rights of the person killed. On the interest-protecting conception of rights, it might violate the rights of the killed person—even though he validly consented—if death is not suitably in his interest. I argued above, however, that, although the interest-protecting conception of rights may be appropriate for non-autonomous beings (children, animals, etc.), it is not appropriate for autonomous agents. For it fails to give adequate moral powers to their wills. The relevant conception here is the choice-protecting conception, and on this conception of rights, it does not violate the rights of the killed person, since consent waives any otherwise applicable duty.

With respect to the violation of rights of others (third parties), we need to distinguish between two kinds of cases: (1) cases where others have rights that you not use the *non-personal resources* involved in the killing (e.g., land, gun, or poison), and (2) cases where others have rights that you not use your *person* or the *person* of killed person in the killing. Let us start with the first case.

Clearly, sometimes consensual killing violates the rights that others have in non-personal things. When it takes place without permission on the land or with a gun that another person morally owns, the killing is wrong because it violates her property rights in things.

Commonsense says that under a broad range of conditions consensual killing can take place

without violating the property rights of others in things. Commonsense is, I claim, correct, but it is worth noting two possible challenges. The first claims that the use of natural resources or artifacts in consensual killing violates the rights of God. The second claims that it violates the equality rights of other human agents. We'll consider each in turn.

If God created the world, it is quite plausible that he fully owns all natural resources (and perhaps also artifacts made from them). If this is so, and if God forbids us from using any of the natural resources for killing other human beings, then consensual killing violates God's property rights in land, air, etc. Although I argued above against the view that God has any claim-rights over the use of our person, the issue with respect to things that have no moral standing is quite different. Here it is plausible that God fully owns the natural resources that he created. Thus, if God exists, and commanded us not to use any natural resources to kill other (innocent) human beings, then consensual killing violates his rights, and he and others may be permitted to forcibly intervene. To rebut this claim, we would need to establish either that God does not exist or that he gave us no commandments not to consensually kill, and I cannot here take up these theological issues. Hence, my argument for the impermissibility of forcible prevention of consensual killing will have to be understood as conditional on the truth of at least one these claims.

Perhaps, then, the use of artifacts or natural resources in consensual killing violates the rights of other human agents. On at least one version of left-libertarianism, this is so. On this view, natural resources are *jointly owned*, and no one may use or appropriate natural resources without collective approval (e.g., by majority or unanimous vote) by the members of society. Hence, if the collectivity has not granted permission for the lethal use of natural resources (raw or as embodied in an artifact), the rights of each of the members of society (as joint-owners) are violated by such use. Such a view, however, is not plausible. A plausible conception of the

ownership of natural resources will leave agents at least a basic range of freedoms to use and powers to appropriate unappropriated natural resources. Without such freedoms and powers, agents have no effective freedom to control their lives. Everything one does involves the use of natural resources, and, without such freedoms and powers, all one's actions would be subject to the wills of others. More specifically, a plausible conception of the ownership of natural resources will typically allow agents to use the kind of natural resources and artifacts that are often used in consensual killing (land, air, etc.). Hence, such use does not typically violate the rights of other human agents.

So far, I have argued that (1) agents initially have full protective rights that preclude the force against their person if they have not and are not violating the rights of others, and (2) under a broad range of conditions, these rights have not been lost by past actions nor by the use of the natural resources or artifacts used in consensual killing. I shall now argue that under a broad range of conditions the following conditions also hold: (3) consensual killing is compatible with the contractual and other acquired obligations of the participating agents, and (4) agents initially (e.g., prior to agreements and wrong-doing) have no duty to others to stay alive. From this I conclude that, under a broad range of conditions, consensual killing does not violate the rights of others, and hence that the agents still have their full protective rights. Thus, under these conditions, forcible prevention of consensual killing is impermissible.

Consider, then, the contractual and other acquired obligations of agents. Sometimes these preclude consensual killing. First, the killer or killed person may have contractually committed herself not to participate in consensual killing. Second, the killer may have acquired certain duties (e.g., to deliver a lecture at precisely the time of the contemplated consensual killing) that are incompatible with participating in the consensual killing. These two cases, however, are relatively rare. The main case that we must consider is the one where the person to be killed has

acquired duties to others that are incompatible with the contemplated death. These duties may be acquired contractually (e.g., a contract to deliver a lecture in the future) or via a liability rule (i.e., performance of permissible action that generates certain duties; e.g., perhaps the act of procreation generates duties to offspring). Consensual killing in such cases violates the rights of others and thus forcible prevention may well be permissible. Nonetheless, under a broad range of conditions, those participating in consensual killing have no conflicting obligations. They have no contractual or liability-rule duties to deliver personal services in the future. Perhaps those with dependent children have duties to stay alive to provide for them, but people with no dependent children often have no acquired duties to others that require them to stay alive. Whatever duties they have acquired (e.g., to pay one's taxes or give to the poor) are typically duties to do various things *if* they are alive—not unconditional duties to do them.

I conclude that under a broad range of conditions consensually killing is compatible with the acquired duties of the participating agents to others. Our remaining question is whether agents have an initial (non-acquired) duty to others not participate in consensual killing. If they do, then their protective rights may be lost, and forcible prevention may be permissible.

The idea that an agent has a duty to others not to participate in consensual killing is rather strange. Why would others have such a right concerning what I do with my life? I can think of only two remotely plausible reasons. One is that one has a duty of obedience to one's creator (God, or one's parents). The other is that one has a duty to aid others. Neither, I shall argue, is plausible.

Perhaps agents have a duty of obedience to those (God or human agents) who created them. Thus, if God or one's procreative parents told one not to engage in consensual killing, then one has, on this line of thought, a duty to them not to do so. Although this view is not completely crazy, it is nonetheless implausible. Children don't owe their procreative parents any duties

merely because the latter created them. Children born with lives not worth living and children who are abandoned at birth by their parents do not have any duties to their procreative parents. Furthermore, even children who have wonderful lives and wonderful parents owe their procreative parents no duties. The mere fact that one benefits from someone else's choice (even procreative choice) generates no duties. Of course, it's morally desirable for individuals to show gratitude to those who have helped them in the past, but there is, I claim, no duty of gratitude—not even to God. Hence, this line of defense of the initial duty to others not to engage in consensual killing fails.

That leaves the possibility that consensual killing violates the rights of others because the killed person has a duty to stay alive and aid others. Perhaps, for example, the killed person is a highly talented doctor who could do much to relieve human suffering. On the libertarian view, agents initially fully own themselves, and this entails that they initially owe no duty of aid to others. We need not, however, defend this extreme view here. We simply need to distinguish between an unconditional duty to aid and one conditional upon one's being alive. The former holds that one has a duty to stay alive for as long as possible (perhaps with some suitable qualification) if doing so will aid others in some specified manner. The latter merely holds that one has a duty to aid others in some specified manner *if* one is alive. This weaker duty is fully compatible with consensual killing, and the stronger duty is surely implausible. There are *acquired* unconditional duties to aid—such as the duty to provide for one's offspring—but there are no such initial duties.

I have been arguing that, under a broad range of circumstances, consensual killing does not violate the rights of others, and hence that it doesn't cause one to lose one's protective rights. I identified the possible ways that such action might violate the rights others and argued that under broad range of conditions rights are not violated in that way. From this, it does not follow

that there is a broad range of conditions under which consensual killing violates no one's rights. Each kind of rights violation might be relatively rare without it being rare that there is some kind of rights violation. Nonetheless, given the nature of rights violations at issue, the needed stronger claim remains plausible. Under a broad range of conditions under which consensual killing occurs, none of the following conditions hold: (1) protective rights have been lost (and not restored) due to past rights violations, (2) the action violates the rights of others in natural resources or artifacts (the land, gun, etc.), (3) the action is incompatible with their acquired obligation to perform certain services, and (4) the action is incompatible with their initial obligations to aid others. We may thus conclude that agents participating in consensual killing still have full protective rights over their person, and thus that forcible prevention of consensual killing is not permissible.

5. THE PERMISSIBILITY OF CONSENSUAL KILLING

Under a broad range of conditions, forcible intervention with consensual killing is, I have argued, morally impermissible. This leaves open, however, whether it is permissible to participate in consensual killing. The mere fact that others are not permitted to stop you from doing something does not entail that you are permitted to do it. Nonetheless, consensual killing is, I shall now argue, permissible under a broad range of conditions.

If consensual killing is wrong, it is either because it is impersonally wrong or because it wrongs others (violates their rights). In assessing the permissibility of forcible prevention of consensual killing, I argued that, under a broad range of conditions, participating in such killing does not violate the rights of others. This was necessary in order to establish that the protective rights of the participating individuals were not lost. All that remains to be shown, then, is that consensual killing is not, under a broad range of conditions, impersonally wrong. Indeed, I shall

argue that it never is.

Impersonal are very mysterious things. Why would an action be wrong, if it wrongs no one? Why would something be wrong if it neither adversely affects the well-being nor thwarts the will of being with moral standing?

Of course, if one believes that some things are valuable quite independently of their being valuable for someone, then impersonal duties will not seem so strange. One might, for example, hold that human life, or autonomous human life, is impersonally valuable even if the life is not worth living and the subject reflectively wants to die. Impersonal values are, however, just as mysterious as impersonal duties. All values relevant for morality are based on the well-being, or respect for the will, of specific individuals. Life and autonomy are typically morally important, but that is because they matter to individuals who are alive or autonomous.

The denial of the existence of impersonal duties is less radical than it might appear. First, it only holds that all wrongs wrong some being with moral standing; it does not take a stance of what beings have moral standing. I assume that all and only beings that are sentient or autonomous, now or in the future, have moral standing. Thus, the harmed beings may be animals or even future persons. They can't, however, be rocks. Second, the rights involved in personal wrongdoing may be very weak or conditional. Suppose, for example, that one has a duty to save one of two drowning agents but no duty to save either one in particular. Neither agent has a right to be saved. This might lead one to conclude that the duty to save one of them is an impersonal duty, but this is not so. On the most natural understanding, each has a kind of conditional right: the right to be saved if the other one is not. One wrongs each agent if one saves neither (and neither has consented to not being saved). Thus, the personal duties involved may be conditional and weak in various ways.⁷ *** The denial of impersonal duties is simply the denial that there are any duties to perform some action even if all agents consent to its non-performance and no

non-autonomous sentient will be harmed by its non-performance. (There is no duty, for example, to save either individual, if their lives are not worth living, each has consented to your not saving her, and there are no other individuals with moral standing.)

The most serious challenge to the claim that there are no impersonal wrongs comes from Derek Parfit's example of a woman who knowingly conceives a child with a life worth living but with a serious disability. Her only alternative is to wait a month, in which case a normal, but different baby (because of different sperm and egg) will be born. The disabled baby has, it is stipulated, the best life it can have, and is thus not wronged.⁸ Here commonsense says that conception is wrong, even if no one else is wronged. Following Melinda Roberts, I'm inclined to bite the bullet here and deny that the action is wrong.⁹ For present purposes, however, we can set such procreation cases aside. They are not involved in typical cases of consensual killing.

There is, however, a further significant complication to address here. Wrongs that neither thwart anyone's will nor harm anyone are indeed bizarre, but wrongs that thwart no one's will but do harm someone are not as bizarre. On a choice-protecting conception of rights, these are deemed impersonal wrongs. Consider, for example, a consensual killing of a self-owning agent where death is not in the interest of the killed agent. This does not violate the rights of the agent nor (assuming full self-ownership) the rights of anyone else. Hence, if it is wrong, it is an impersonal wrong. Given that the death harms (or is bad for) the killed person, it is not so crazy to think that the killing is wrong, and hence impersonally wrong.

The point is that, although it is quite implausible to hold that there are harmless will-respecting wrongs, it is not so implausible to hold that there are wrongs that violate no one's rights on the choice-protecting conception of rights. Such actions may be wrong because they *harm* certain individuals.

The problem with recognizing impersonal wrongs of this weak sort is that it restricts the

moral freedom of agents. If it is impersonally wrong for an agent to use her person or some other thing in a particular way (e.g., to kill, or be killed, by another person consensually), then her will has less of a role to play in determining what is permissible. Of course, her will may still play a large role in other ways. In particular, her consent may still be necessary to make it permissible for others to use force against her to stop her from doing the action. Still, the role of her will in determining the moral status of the use of her person is restricted. A plausible view will not, I claim, so restrict the role of the wills of agents—at least not with respect to acts of consensual killing.

There are, then, no impersonal wrongs—or more weakly: consensual killing is not an impersonal wrong. Given that (as argued in the section on the prevention of consensual killing), under a broad range of circumstances, consensual killing also wrongs no one (violates no one's rights), it follows that under these circumstances consensual killing is permissible.

6. CONCLUSION

I have argued that, under a broad range of circumstances, consensual killing (suicide, assisted suicide, and killing another person with their permission) is morally permissible and forcible prevention is not. The argument depends crucially on the claims that agents have certain control rights over the use of their person, that these rights are understood in choice-protecting terms, that the relevant consent is that of the agent at or prior to the time of action (and not that of the agent in the future), that there are no impersonal duties, and that God, if he exists, has given us no commands not to use natural resources for the purposes of consensual killing. Each of these claims is of course highly controversial. I hope, however, that I've said enough to give some plausibility to the libertarian position on this issue.¹⁰

[Insert my name and affiliation here.]

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Notes

¹ For insightful discussion of control self-ownership, see Christman J. (1994).

² For simplicity, I am here unpacking the notion of full control rights by assuming the choice-protecting conception of rights. On the interest-protecting conception, appeals to consent or permission would need to be replaced by appeals to non-harm.

³ For extensive discussion of this issue, see Feinberg J. (1990).

⁴ For superb discussions of the issues dividing interest-protecting and will-protecting theories of rights, see Kramer, M.H., Simmonds N.E., and Steiner H. (1998).

⁵ I argue for this claim in Vallentyne P. (2002).

⁶ What, it may be asked, about soft-paternalism? Is it permissible to use force against a person when necessary to ascertain that her choice is indeed autonomous? Relative to what we know, such interference is indeed often appropriate. If, however, the agent's choice was in fact suitably autonomous, then such interference is objectively impermissible—even though relative to the intervener's information it was perfectly appropriate (and not blameworthy) to intervene. It is a case of blameless wrongdoing. For an extended discussion of paternalism, see Feinberg J. (1986).

⁷ For useful discussion of such “imperfect” duties, see Feinberg J. (1984). For excellent general discussion of impersonal wrongs, see Feinberg J. (1990).

⁸ There is much literature and controversy on the topic of whether all wrongs must wrong someone and on whether all bads must be bad for someone (the person-affecting restriction). An important early work is Parfit D. (1984).

⁹ See Roberts M. (1998). For a critical review, see Vallentyne P. (2000).

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