The Right to Life after Death

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ABSTRACT: Imagining a future world in which people no longer die provides a helpful tool for understanding our present ethical views. It becomes evident that the cardinal virtues of prudence, temperance, and courage are options for reasonable people rather than rational requirements. On the assumption that the medical means to immortality are not universally available, even justice becomes detached from theories that tie the supposed virtue to the protection of human rights. Several stratagems are available for defending a categorical right to life under these circumstances, but none is compelling. Justice and human rights should therefore be understood as social conventions whose stability depends upon rejecting a tyranny of the immortals in favour of cultural traditions that connect rights and liberties with the means for their enjoyment.

RÉSUMÉ : Imaginer un monde dans lequel plus personne ne mourrait peut s'avérer utile afin de comprendre l'éthique contemporaine. Il devient alors évident que les vertus cardinales que sont la réflexion, la tempérance et le courage concernent des gens raisonnables et ne sont pas des exigences de la raison. Si on suppose que les ressources médicales de l'immortalité ne sont pas disponibles pour tous, même la justice devient indépendante des théories qui relient cette hypothétique vertu à la protection des droits de l'homme. Plusieurs stratégies s'offrent à nous afin de défendre un droit catégorique de vivre selon ces conditions, mais aucune n'est imparable. La justice et les droits de l'homme devraient en ce cas être envisagés comme des conventions sociales dont la stabilité dépend du rejet de la tyrannie des immortels en faveur des traditions culturelles qui relient droits et libertés aux moyens d'en profiter.

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1. Immortal Questions

Human beings accommodate remarkably well to the ultimate philosophical cliché that "all men are mortal." Many cultures that memorialize their dead have the wisdom to engrave monuments in limestone, a soft rock gradually dissolved by natural weathering. The solid record of a life fades along with its diminishing traces in living memory, pictures, and oral traditions. Individuals expect only that they be allowed to live out the full course of their natural lives.

These practices and demands have developed in recognition of death as one of the defining certainties of existence. In this respect, dying is part of each person's life rather than opposed to it. It is like taxes, our other proverbial certainty, insofar as they are the price we pay for civilization, rather than the usurpation of honest toil. Unlike taxes, however, death has not before now been a self-imposed burden. Yet circumstances have arisen that make it possible to imagine a future, and not necessarily a distant one, in which people no longer die. It may not be many years before scientists discover how to turn off the genetic programs that cause cells to cease dividing and the organisms they make up to age. This will probably happen much sooner than the adventures in teleportation that have exercised some of our most imaginative moral philosophers.[1]

To be sure, human beings are and will remain mortal. Eventual death by accident, if not through natural causes, is statistically next to certain, and the increasing entropy of the universe will ultimately claim those who survive even the longest odds. Nonetheless, by current assumptions death will be vanquished. Murder and suicide or happenstance will still occur, but the pattern of emotional response to one's eventual death will be different. A sense of grief at eventual extinction, for example, will be more difficult to sustain when the horizon of death is indefinitely remote. In practical terms it would not be amiss to speak of this state as immortality as long as it is distinguished from the senescence into which Swift's Struldbruggs fall.[2] I assume more than biological survival, including good health and the capacity of memory to sustain continuity of personalities over a million tomorrows.[3] Under these open-ended circumstances, people's self-identities will at no point be strongly shaped by expectations of aging and death.

So far only writers of speculative fiction have had much to say about the circumstances of such a life. A typical story runs as follows.

> The existence of the gerontological treatments had . . . flashed around the world in a day. . . . Many delegates [in the General Assembly] were demanding that the treatments be made a basic human right. . . . Think about it—if this damned treatment only goes to the rich, then the poor will revolt and it'll all explode—but if the treatment goes to everyone, then populations will soar and it'll all explode. . . . In the advanced nations people were marching because of draco-

> nian birth reduction acts. . . . But in the developing countries they were rioting over "inadequate access" to the treatments themselves, and that was far worse. Governments were falling; people were dying by the thousands.[4]

This is territory for philosophical inquiry as well. What effect might an end to aging have upon the staples of moral and political thinking, including justice and the right to life?

The question invites a thought experiment of the kind that some philosophers advise against. Consulting intuitions and asking "what would happen if . . .?" will never become a reliable methodology.[5] We are unlikely to be very prescient about the further questions that will arise if genetic immortality becomes realized. Nevertheless, if we treat such circumstances as a prediction, then interesting practical questions arise concerning how to prepare for what may come. Even if the ensuing reflections cannot confidently identify sound courses of action, it is reasonable to assume that the ethical effects will be profound and deserve our attention now. Just as astronomers think it worth looking for asteroids that might wreck the earth with only a few hundred years warning, it is worth beginning to think about biological discoveries that might wreck society. However, even without any such practical rationale the question retains an important point: it can help us to elucidate moral thinking in the present. Even if we cannot predict the actual future with confidence, pondering its possibilities can help us to understand our current ethical views better.[6] Immortality, or something approaching it, is a powerful metaphor for examining these views. Its potency may make us more sensitive to the claims of other people before their disadvantages become a rationale for violence.

We need not, then, completely acknowledge the philosophical "ignorance of death" elegantly expressed by William Empson in writing,

> I feel very blank upon this topic,
> And think that though important, and proper for anyone to bring up,
> It is one that most people should be prepared to be blank upon.[7]

Empson's point, I think, was that there are existential quandaries that no wisdom can resolve. While accepting this fact, there remains something to be said about the ethical questions arising from the way in which mortal lives have been shaped by the cycle of death and birth. Of course, if genetic immortality is a possibility, so are offsetting genetic alterations. The capacity for grievous anticipation might in principle be genetically enhanced, leaving existential anxieties more or less as they are in spite of the distant horizon of annihilation. Similarly, tendencies towards self-interest might be modified in favour of more extensive altruism, moderating some of the ethical problems mentioned below. Although these con-

ceivable developments are themselves morally interesting, I will ignore them in order to conduct a more controlled experiment by focusing upon the single possibility of healthy life extended indefinitely.

I also ignore the possibly essential role that knowledge of death plays in the liveliness of human imagination.[8] No one seriously supposes that immortality would be an unmixed blessing, but it is a contestable intuition that "an eternal life would be unliveable."[9] Although apologies for human mortality can be made, they have been catalogued and effectively addressed by others.[10] Trying to begin to understand the impact of victory over death upon desirable forms of life will lead me elsewhere. In particular, I consider conceptions of good and right, including the place of justice as a virtue, bearing in mind Aristotle's observation that "moral virtue comes about as a result of habit, whence also its name (ἠθική) is one that is formed by a slight variation from the word ἔθος (habit)."[11] One of the two most important outcomes of my experiment is that we should avoid conflating ethical virtues with the universal requirements of practical rationality.

Any such confusion can be discouraged by expanding upon Aristotle's conception of virtue and rational principle in the *Nicomachean Ethics*. In doing this I am not offering a fundamental contribution to virtue ethics beyond supporting a version of Onora O'Neill's view that it is a mistake to discuss justice and virtue "in quite different registers," as if a focus on justice were "not only distinct from but . . . incompatible with serious concern for human virtue and excellence."[12] I agree with her that the whole of ethics is not properly defined by descriptions of justice in terms of universal principles of human rights that are more demonstrable than the particular requirements of other virtues. I also agree with Michael Slote in understanding virtues as admirable traits and with Rosalind Hursthouse in regarding them as conditions of a good life.[13] These are not equivalent concepts and they carry no obvious criteria of admirability or well-being, but both figure in traditions of thinking about virtue without suggesting that these traditions exhaust moral thinking.[14]

As I work within these agent-focused traditions some criticism of Aristotle's doctrine results from explicating differences between the cardinal virtues and the formal principles underlying them. When this is done it becomes clearer that assessments of virtue can reasonably vary. The principles express requirements of practical reason, but the habits of desirable behaviour they support are closely tied to individual ways of life and local expectations for action and character. The principles make formal and logically universal claims; conceptions of particular virtues do not, opening up options not recognized by Aristotle regarding character traits. The second important outcome of my experiment follows. If justice is a virtue like the others in having various reasonable expressions, it defies modern theories that identify justice in whole or in part with a set of universal

rights whose existence can be philosophically demonstrated. In order to establish this point I will first maintain the optionality of the virtues, then show why justice does not guarantee a right to life.

2. The Optionality of Virtues

Some have suggested that virtue and right can be generically connected in the following way: Right actions are those that virtuous persons would perform.[15] This view seems unsatisfactory as it stands. Many of a virtuous person's actions may be morally insignificant, and one might be a morally admirable person even if one's good qualities should lead to performing a wrong action.[16] The equation of virtuous and right action also offers no convincing account of moral development. In learning desirable traits one often falls short of them initially, but the deficient actions may deserve to be considered right for the agent in that context.[17] Moreover the view suggests a dubious unity of the virtues, as if there were a definite bundle of traits that defines all fully virtuous characters and a single set of action types that are uncontroversially right. To the contrary, the only uncontroversial version of the above formulation refers trivially to more particular actions and characters. For example, courageous actions are those that courageous persons would characteristically perform. There is no suggestion of rightness here, since it is equally the case that cowardly actions are those that cowardly persons perform. Rather than trying to connect virtuous and right actions analytically, it will prove more useful to consider the way in which desirable habits of behaviour are linked to each person's development through the stages of life.[18]

The stages of life are powerfully defining, but genetic immortality entails no longer undergoing many of the changes now typical of human development. Persons in a society of such immortals will not have become the persons they are partly by thinking about the looming end of life. Perhaps this is often true even in our own society, since many people in their formative years seem oblivious to their mortality, but the point reflects the individual variation I am about to ascribe to conceptions of virtue. It also anticipates the place of childish and youthful states in judgements of virtue. In any event, under the new circumstances, together with a continuing capacity for reflection and curiosity, life without the prospect of old age and impending death would undoubtedly display many profound differences from our own. While those of interest to moral philosophy will mainly occupy me here, they are usefully approached through some potential consequences for conceptions of prudential and aesthetic virtues. These consequences indicate that there is no philosophically prescribed set of virtuous traits typical of the good life for a human being. Any such life will include habits of behaviour, but there is a high degree of latitude with respect to those one develops. I will first explicate this proposition through a few illustrations and then defend it by summarizing

the differences between virtues and their rational principles more formally. Ultimately, an examination of the consequences of immortality helps to undermine views for which a limited number of desirable traits define the best life for a human being as one in which these several qualities are all expressed.[19] The inadequacy of these views is evident even in the case of the basic virtue of prudence.

After death the circumstances of virtue change. There is no obvious need for life plans, since at any time one may start anew with ample time to achieve one's new objectives. As John Rawls notes, "the question of what to do with our life is always there," but immortality accentuates the possibility that "the limit decision is to have no plan at all."[20] Making careful provision for education, career, and old age is unnecessary. It remains possible, but such prudential considerations lack decisive authority over rational persons who need not budget their time. One might think that people should be prudent schedulers on the grounds that insofar as a person's interests extend into the future failing to provide for them now is as irrational as failing to adopt the means necessary for satisfying one's present interests. What this reflection shows, though, is the importance of differentiating between a putative virtue and its underlying rational principle. As a distinctive trait, prudence identifies certain future interests as one's own, that is, objects of reasonable fears and hopes that one guards against or pursues. The developed habit conforms to the rational principle of providing for one's interests whatever they may be, but the principle itself does not identify the interests in question as present or future. It is a practical error to engage in activities that may compromise one's hopes, but there is no serious temporal restriction upon what these hopes might be. As things now stand, one reasonably wishes to protect against future threats that compromise one's opportunities, but when death is overcome one's hopes and fears and the future interests they embrace are no longer shaped by the realities of a bounded lifetime. Since hope can be indefinitely deferred, fear of lost opportunities may be unwarranted. One can successively become all of the persons one would like to be and it is not necessary to make basic life-choices between them, so that the fullness of time removes the need for extensive foresight. As Robert N. Johnson has noted, "the young are not likely to have done anything that they feel they cannot undo or in some way make up for."[21] An indefinitely long life can confer this kind of eternal youth, negating the obligation of prudence.

Even now admirable people display significantly different sets of traits during their short lives. Many exercise prudent foresight, but some always live in and for the present. These differences may be associated with metaphysical theories of the self and questions about the ownership of future interests, but on these matters people will reasonably disagree. There is therefore no demonstrable requirement of prudence in the nature of persons, so that when the constraint of death is removed no dominant view

of the self or of prudential rationality is to be expected.[22] To the contrary, when life is no longer thought of as rounded by a sleep a fuller range of practical and conceptual options becomes more readily available. Of course, one may still adopt a way of life that precludes certain others, but if one does not have to die then one may be more inclined to avoid such choices. One may also find that the possibility of deciding whether to die makes death an aesthetically more powerful idea. Having experienced life without concern for mortality, people may wish to reflect on choosing a good end. With the advent of genetic immortality, more people may come to regard death as a good—the voluntary and artful completion of a well-constructed life. Because this is a morally and metaphysically controversial idea (it confronts the problem of preventing the development of future selves in one's bodily line, for example), it is difficult to see it becoming generally held, but it is already occasionally entertained. Something like it is expressed by Dostoyevsky's character Kirilov, who commits suicide in order to assert his self-will.[23] For those who are not only ageless but also jaded, lonely, or enamoured of divinity, this notion may be most appealing, presenting an option that is not prominent where the scarcity of life makes most people view it as a good to be preserved as long as possible.

In addition to prudence, the classical cardinal or primary virtues include temperance, courage, and justice. The assumption of life after death encourages reassessment of all of them. None is precluded, but none is required. Taking their optionality seriously, it should be easier to question the place of temperance within the family of traits desirable to cultivate for the sake of a good life. Temperance calls upon the rational principle of avoiding harms to oneself, in particular injuries attendant upon thoughtless submission to passions, appetites, or pleasures. Under the influence of unruly motivations that "expel the power of calculation," people are now susceptible to personal misfortunes that occur as a result of irresponsible choices. The rational person is not destructively self-indulgent in this way. As in the case of prudence, though, we should distinguish elements of the formal framework of practical reasoning from the circumstances that influence interpretations of the moderation that "right rule prescribes."[24] Aristotle notes that the word for self-indulgence is also applied to childish faults exhibited by an "irrational being" driven by brutish or slavish impulses. Adult behaviour that is animal- or childlike given things as they are may deserve a different description if youthful pleasures can continue indefinitely without threatening the long-term course of a life.

The general axiom of agency that one should not act in ways that damage one's capacity to act says that it is always unwise to indulge appetites and passions when they may cause temporary but dangerous losses of control or lead to conditions that permanently impair one's well-being. Where there is unlimited life to fill, however, it would not be surprising if

wild experiences, prolonged states of altered consciousness, and sensory gratification become more commonplace and more broadly acceptable. This is perhaps more obvious when we consider that judgements of acceptability place individual behaviour within a social context. Where personal thoughtlessness is acceptable, forms of social provision may be implied. Social measures to prevent addictions and accidents, including harm to others, will be necessary; but under controlled circumstances surrendering to appetites and pleasures will violate no rational principle. (It is not a requirement of reason that all of one's passions be moderated by reason all the time, only that one avoid doing or suffering harm.) As a result, the need for constraints upon self-indulgence currently expressed in expectations of temperance can be loosened to the point that speaking of this virtue at all may seem antiquated. It might be compared in this respect with the obsolescent virtue of magnificence, which had its place in different social circumstances.

These observations locate temperance with prudential considerations, but the reference to magnificence serves to suggest that moderate habits may also be motivated by a prideful interest. The accusation of childishness can be effective because most adults do not normally wish to comport themselves in an undignified manner, preferring to express free and rational agency that can be compromised by losing control to appetites or passions. In a culture of agelessness, though, perceptions of childish excess may be replaced by perceptions of youthful exuberance, reminding us that dignity is an uncertain standard. One person's dignity is another's foolish pride. Any very definite behavioural criteria of dignity will almost certainly be contestable, making models of dignified comportment options rather than requirements. The options certainly include an ethical commitment to moderation but they also support a pluralistic view of good character that ranges more widely. These examples further illustrate the absence of any essential virtues and display the diversity of practical thinking that rational agents may exhibit.

Much the same holds for the moral virtue of courage, which will inevitably be reassessed under the circumstances of immortality. Physical courage and heroism rest upon the rational principle that an evil may be accepted for the sake of a greater good. For Aristotle, death was the most terrible of all things but it could be faced bravely if it is a noble death. However, death was terrible because "it is the end." If there is no end, longevity may lessen the value of life, making people more willing to give it up and elevating expectations for courage. Yet an alternative calculation is also possible. It is easy to see how bravery could decline in favour when exposure to danger means much more to lose. The sacrifice of a few years of life is a large price for us mortals to pay for confronting deadly perils, but to lose uncountable years may be simply unacceptable, or at least to require some substitute immortality. The brave may expect memorials of

titanium for their deeds, pharaonic recognition commensurate with their sacrifice. Of course, it is not for us to guess the valuations, and the reasonable variations among these valuations, that will be placed on endless life. The point of these hypothetical reflections is, rather, the plurality of viewpoints about particular behavioural traits they make apparent. They undermine the categorical judgements people make about the requirements of good lives when they consider only a familiar range of actual circumstances.

I do not mean to suggest that circumstances determine reasonable judgements of virtue. Ethical judgements tend to diverge even within the same milieu. A tendency towards normative pluralism is inherent in the capacity of individuals and groups to find new ways of construing the same behaviour. It is thus to be expected that in circumstances of effective immortality ways of life will continue to diverge. Among some the praiseworthiness of courage in the face of death may decline while for others any willingness to risk one's life becomes awesome. Appraisals of similar behaviour will differ, some people regarding it as rashly endangering an invaluable gift, others seeing it as offering an especially noble sacrifice. Intimations of immortality present circumstances that display either evaluation as consistent with human psychology and with the rational principle of facing evil for the sake of a greater good. Consideration of these circumstances simply accentuates the options that exist for the affirmation of particular traits as virtues even now. There are many reasonable ways to live one's life well, or end it.

Many traits of character beyond those in the classical canon can be admired or at least accepted when embodied in a particular person. These may include humility or self-confidence, tactfulness or directness, independence or solidarity, liberality or thriftiness, self-reliance or loyalty, and countless others. I have grouped these qualities into pairs in order to suggest that not all of them can be combined in a single coherent and admirable personality. Images of good lives are thus diverse, expressing alternatives that are unavoidable as long as seriousness of purpose is combined with creativity and imaginativeness.[25] The point is easy to grant for such secondary virtues, whose concepts express no basic principle of rational agency but rather make qualitative comparisons that rest upon personal and cultural preferences. Competition between such qualities for favour will remain after human beings have become immortal, since people will continue to differ in identifying traits of character as deficient, acceptable, or exceptional. Part of my thesis is that similar differences will attach to conceptions of the primary secular virtues.[26] In spite of expressing universal principles, their actual interpretations display personal and conventional preferences.

This thesis can be tested by examining the paramount virtue of justice. Even conceptions of justice change. In the circumstances of Socrates'

polis, conformity to law was a primary factor in understanding this virtue, whereas in contemporary liberal society it refers more essentially to rights. We do not know how justice will be construed under the circumstances of immortality, but significant changes can be expected in the pattern of its interpretations. If, as novelists conjecture, one effect of immortality is a tendency for the human population to increase, that will no doubt lead quickly to necessary curbs on widely accepted rights to procreate. By themselves such restrictions would not profoundly affect understandings of just treatment, since hardly anyone supposes that all rights are absolute. Most rights are settled by law or convention, leaving the right to determine the size of one's family subject to restriction under new circumstances. If the conventional rights of a particular society come into conflict with the conditions under which its people find life agreeable, they can be expected to let the rights give way to the interest of general well-being. In the familiar culture of rights, though, there are defined limits to such accommodation. In particular, functional pressures upon rights do not fundamentally threaten the conception of justice that protects inviolable human rights.

The culture of rights has always been challenged by a disparate minority of socialists, utilitarians, and communitarians sceptical about the human or natural rights that have become widely identified with the requirements of justice.[27] Introducing immortality more centrally into the debate will heighten the challenge. In an argument that is at least as old as Hobbes and Locke, there is a right to life if there are any natural rights.[28] The argument may at first suggest that endless life further enhances the importance of this right. There being more to lose, this protection will have to increase. However, the contrary hypothesis becomes plausible if we entertain the reasonable assumption that some people will inevitably be denied the genetic immortality that others enjoy. It is all too easy to provide stark reminders of human indifference to others of our kind; and we hear constantly of the need to return the costs of research to the inventors of new medical technologies, leading to prices that some cannot afford. My pessimistic scenario may initially offend moral intuitions, but it includes a factual reminder invoked to assist in explaining that in such possible circumstances the human right to life becomes precarious. As it comes into question so does the existence of any basic right and the place of justice as an essential virtue.

Immortality promotes reconsidering the cardinal virtues of courage, temperance, prudence, and justice, but my primary objective here is to explore a particular view of the last of these, namely, its explication through a theory of human rights. Habits of prudence, temperance, and courage are connected with rational principles. These are, respectively, making provision for one's interests, avoiding harms of thoughtless indulgence, and accepting evil for the sake of greater good. These principles do

not constitute the relevant traits of character. Rather, the connections between them are established when reasonable fears and hopes extend one's interests into the future, when one conceives projects that would be injured by ungoverned appetites and when the balance of good over evil demands risky attention. The rational principles are formal truths, expressions of the concept of human agency, hence universal and undeniable within their class of application. Their ethical instantiations are neither universal nor undeniable, depending on the contingencies of identifying one's interests, projects, and desires.

Conceptions of justice are also connected to a universal principle, namely, giving people their due. Different views of justice are then distinguished by competing judgements about what people are owed. It might be doubted whether the characteristic principle in this case is rational or simply moral. If one can significantly ask, "Why should people receive what is due them?" or "Why should I be moral?," then justice distinguishes itself from virtues whose founding principles are undeniable. I will not directly address this long-standing issue since in either case it will be necessary to connect the interpretation of desert with an account of practical rationality.[29] Identifying human beings as due their natural rights is the keystone of contemporary theories of this kind. The circumstances of immortality make it clear why this claim cannot be decisively established. They thereby show that justice cannot be conclusively expressed in terms of a right to life and that where it is so interpreted it is not necessarily incumbent upon everyone.

3. The Virtue of Justice

A human right to life has not been widely recognized. Most cultures exclude many persons from heavenly life after death, normally those who have not earned it through a virtuous or faithful life. That is what justice is thought to require.[30] Even universalistic religions may insist that all (but only) those who merit salvation will have it, separating the sheep from the goats by whatever criteria establish desert. Liberal religions that construe merit itself universally as inherent human worth tend to deplore such distinctions, but unless one particular political conception can be shown or reasonably assumed to reign over others, there is no firm foundation for a right to life in equal worth, only an assertion of this tenet, which will be controversial among persons with other allegiances. Stuart Hampshire will then have been right to say that "Justice and fairness in substantial matters, as in the distribution of goods or in the payment of penalties for a crime, will always vary with varying moral outlooks and with varying conceptions of the good."[31] Only exceptionally have these conceptions been connected with a right to life.

Human groups have been prepared to accept without guilt the sacrifice of some during periods of serious want so that others may live out their

natural lives. Where political institutions are weak or absent, life may be regarded lightly and retaliation for murder taken to be the duty of one's family or friends. Treated as occasion for anger rather than grief, death can be revenged or paid back through an equivalent in cows or cash. Of course, the need to repay shows the value of life even in these cultures, but no natural right to life is recognized in them else repayment in goods would be an insufficient response. It is only in a culture where human rights are morally fundamental that trading life for life or other good is viewed with deep uneasiness: to tolerate violation of the right to life or its subordination to other considerations seems morally incoherent. Justice is then considered part of rational morality that many ways of life have failed to achieve. It is not an optional trait but one that makes all people due certain natural rights.

A large body of work develops the Kantian theme that it is possible through rational deliberation to establish principles of justice that qualify as objects of knowledge. Rawls's *Theory of Justice* was originally received as exemplary of this effort, which is explicitly pursued by Alan Gewirth in arguing that "human rights . . . are the contents of justice [which follow from] dialectically necessary argument, to which every agent is logically committed."[32] Gewirth also suggests that even prudence, temperance, and courage are entailed by an enduring disposition of productive agency, but the thesis is not developed and remains vulnerable to the distinction between principles of rational agency and the variable habits of reasonable behaviour they permit. The more salient thesis is that when productive agency is governed by the requirement of human rights "it also entails the moral virtue of justice" that any rational person will acknowledge.[33] This position well enunciates two important points: first, that examples of cultural relativism lack moral weight; and, second, that the liberal concept of equal human worth is a decisive breakthrough in human thought warranting everyone's acceptance. The first point I accept: human practices are not self-validating. The second I question, both because liberal practices are not self-validating and because Gewirth does not consider circumstances in which formal principles of agency become easily distinguished from their expression in optional traits of character. I will try to show how the circumstances of genetic immortality in particular require distinguishing the principle of giving people their due from recognizing the justice of honouring their human rights.

When anger, honour, love, pity, or other fears overcome fear of death, that says something definite about a person or a culture.[34] It shows that in the development of personalities and relationships, individuals form interests that extend beyond themselves, making one's death a less than utter loss. The meaning of willingness to part with life is less clear when one's self-identity does not include acceptance of mortality. From our mortal standpoint a right to life seems especially appropriate then, but a problem

of coherence will emerge if it is not to be expected that a remedy for aging and death will quickly become readily available. Even now many people in many parts of the world are allowed to succumb to preventable malnutrition, disease, and civil strife. As I have suggested, it is all too reasonable to assume that only some people will enjoy immortality, leaving the rest to die. In this case a practically endless life for some corresponds to no accepted social need, but due only to the lucky accident of access to modern medicine. This is not a situation in which some must perish in order that others may survive. Such a system of things therefore seems ripe for rejection. Why should people generally accept a world divided into those who live almost forever and those who die as we do now?

Of course, past societies have also been prepared to tolerate sharp distinctions, as between master and slave, rich and poor; but these distinctions do not directly threaten the concept of a right to life. Today, too, the rich as a group live longer than the poor, are healthier, and by plausible criteria live more agreeably. Other patterns of social dominance reinforce the disparities. Nevertheless, this situation is widely accepted rather than being considered to compromise the right to life. Real injury is added to insult, however, when many people are in effect deprived of endless life. The disparity between immortal and mortal being so much greater than that between rich and poor, the less advantaged will be able to insist powerfully that their right to life is being denied even while those who enjoy endless life appear prepared for it to remain unavailable to others. The metaphor of immortality thus illuminates an imaginary social division. In due course it may help us understand some actual ones.

In order to reach this understanding, consideration should be given to several available stratagems for defending a requirement of justice understood in terms of human rights. One strategem is naïvely to accept the implications of the right by supposing that those who could become immortal will or should forgo the opportunity. According to this reasoning, if the right to life remains fundamental, then immortality must be extended to all if it is given to any, so that if it cannot be universally available it can be enjoyed by none. Its availability only to some would be an unacceptable moral catastrophe. However, this is not plausible for at least two reasons.

First, it is not to be expected that intelligent and powerful people will ignore the temptation of enormous benefit for the sake of moral rectitude. It is not even clear that they should. If one regards death as the greatest evil there is, then it is greater even than the evil of moral wrongdoing. It might be said, of course, that here as elsewhere the right should overrule the good—moral and material goods cannot be weighed on the same scale—but morality then becomes a regime for angels rather than a practical guide for human beings. Morality must be consistent with empirical, rather than noumenal, psychology. People think economically as well as

morally and are prepared to make trade-offs when a moral good can no longer be afforded.

Second, it is not necessary to say "so much the worse for morality" under these circumstances, since it is morally dubious to insist that everyone should be deprived of a great good because others cannot also have it. All varieties of moral reflection can support allowing some to die. Utilitarian thinking supports the greatest possible extension of benefits, differing from insistence on a fundamental right to life mainly in declining to require universality. Compassionate thinking can support a similar conclusion, since to love others can lead to promoting their interests with a certain partiality. Even Kantian thinking can support some principle of selection, since it is not according proper respect to individuals for them to perish unnecessarily and one can say categorically, "Let some live even if I turn out to be among those who die."

Another stratagem for reconciling justice with limitations on the right to life is provided by the proposition that "ought" implies "can." If the means to immortality for all cannot be available, they need not be. All that is required is that the existing means be available on some fair basis. However, the question immediately arises whether the problem of fair distribution can be solved within the framework of justice as a body of rights. How can one trust a system to be fair when so much is at stake? Although human beings are an extraordinarily cooperative species, this capacity is normally traced to its compatibility with individual advantage or connected with no one's expectations being seriously disappointed. As Rawls notes, distrust corrodes these circumstances, so that "suspicion and hostility tempt men to act in ways they would otherwise avoid."[35] Since the circumstances described here include the possibility of the severest disappointment, there may be fundamental problems for a cooperative system of distribution in this instance.

Even if one was convinced that a system could be free from bias and corruption, one would need to know that it could be implemented. An acceptable criterion of selection must be identified, whether that be financial means, social value, good luck in a lottery, or something else. The problem is that in contrast to questions of allocating scarce life-saving resources on battlefields and in operating theatres there is no clear prospect of devising rational protocols that govern the whole of one's life prospects. No such protocol could be chosen behind a veil of ignorance when the possibility of genetic immortality is added to the general social facts known by potential contractors in a situation like Rawls's conditions of just agreement.[36] The key to fair bargaining is that it permits a reconciliation of interests on the grounds that an unequal distribution of goods is to everyone's advantage. As society is divided into two great classes, though, there is nothing that will reconcile the less-well-off to their situation. Without the great equalizer there is no plausible way in which the

long-term expectations of those who die can be adequately enhanced to compensate for their disadvantage. A conception of right must impose an ordering on conflicting claims, but no stable ordering is available if society assumes the appearance of a despotism of the immortals.

The theory of human rights suggests that attempts to overthrow previous tyrannies could be criticized for violating the laws of morality. Terrorism directed against slaveholders, aristocrats, owners of private property, dominant racial groups, or religious oppressors is offensive because it violates a right to life that should be universally respected. It is no more permissible to destroy one's social superiors than for them to kill their inferiors. Past appeals to human rights have or should have served to help counter such terror on the grounds that the right to life is more basic than the proprietary and other social rights that contribute to the disadvantages of subjugated multitudes. However, this reasoning depends upon a view of people as united through their common humanity. It is not so plausible in the circumstances of immortality for some, where respect for persons' equal worth seems absent. The tyranny of the immortals treats some as alien beings to which the full right to life is not extended. One might respond to such inhumanity as Goya did with powerful irony in his drawing, "But They Belong to Another Race" ("*Si son de otro linage*") from *The Disasters of War*, but the crucial problem remains. In the imagined circumstances of genetic immortality mutual recognition of grounds for equal social position proves elusive. Since common humanity is a normative status rather than a matter of membership in the same biological species, simply to assert this status would beg the question against the most advantaged, leaving the assumptions of justice open to contention.

Insofar as the relationship between the immortal and the mortal is like a despotism, it appears to differ fundamentally from that of slave masters, capitalists, and the racially or religiously dominant who can respect their subordinates' right to life. The privilege of immortality is not easily defended in this way because the most basic right of those who lack it is not fully acknowledged, leaving them almost absolutely disadvantaged. In this case one might reasonably argue that immortality enjoyed by only some creates a state of war and removes the prohibition against violence. Those who are effectively denied genetic immortality then have no obligation to preserve the life of those who have received it because such an obligation could hardly be founded upon a right to life that is denied to them. Under these circumstances the right to life cannot remain fundamental or serve as a rational principle for the virtue of justice. On the assumption that the means to ongoing life are not available to all, there is no coherent account of a right to this life as a universal requirement. Either none should live forever or only some will, contrary to the inviolability and universality of the right.

The stratagem most obvious in reply to these concerns is that the right to life is misrepresented in suggesting that mortals are denied it. The right to life is just the right not to be wrongfully deprived of life. Innocent people may not be killed, but immortals are as able to respect this injunction as the decent members of previously dominant social groups. It is always best to construe the scope of a right narrowly—negatively rather than positively—since the broader the claim the more it will incorporate assumptions which become objects of disagreement that bring the right into question. Thus, in the places cited previously Hobbes says only that "a man cannot lay down the right of resisting them, that assault him by force, to take away his life"; and Locke says "there cannot be supposed any such subordination among us, that may authorize us to destroy another, as if we were made for one another's uses." The liberal culture of rights therefore calls for freedom to strive rather than freedom to succeed, and for equality of opportunity rather than equality of result. As Rawls notes, one's rights and the means to take full advantage of them are different things.[37] The right to life is not best understood as the right to measures that extend life. Hence, it is a mistake to assert that the right to life is denied those who have not gained genetic immunity from death. The immortals may be content to let others perish while they continue to live, but that does not make them tyrants who are subject to being deprived of their right to life. If their privileges are unjust that must be shown in another way.

The readily available way does not lead very far. That is to observe that justice is not only about rights that define the equal liberties of citizens but also about permissible inequalities of social and economic goods. Given this distinction it seems perfectly coherent to say that one has a right to life but is unjustly denied access to the treatments that give perpetual youthfulness. The difficulty remains, though, that no adequate principle of distributive justice emerges from Rawls's original position in the circumstances of immortality. Such a principle is proposed by Gewirth, who defends positive human rights against much of the liberal tradition, but his case depends upon the mutual recognition of common humanity, a condition that is also questionable in these circumstances.[38]

The difficulties of mutual recognition extend still further. In considering whether mortals are denied the right to life, we supposed that agreement can only be achieved on a narrow right to life, but while that agreement has been achieved in liberal society it may not be sustainable in a society where some are immortal. Before genetic immortality emerges as a possibility, it is plausible to differentiate between the right to life and the right to the means of life, but after the fact the proposition that access to the means of immortality can be differentially available without basic injustice only represents the viewpoint of the advantaged. From the perspective of mortals it may seem that they are not accorded respect as per-

sons, that justice is the interest of the stronger or arbitrarily advantaged, and that there is no point in recognizing an absolute right to life. Justice thus appears to display the logical optionality of other virtues: it is available in different conceptions or not at all. Even if we agree on the principle of giving people their due, this need not entail an obligation of justice any more than the principle of providing for one's interests entails an obligation of prudence. Even if we accept an obligation of justice our conceptions of this virtue may differ. If justice is defined as including a right to life these conceptions may be irreconcilable.

Justice may be an accepted virtue in spite of these problems, but it cannot be interpreted in terms of demonstrable natural rights because there is deep disagreement about the scope of these rights. Similar disagreements are likely to attend any search for an alternative line of argument meant to demonstrate the injustice of failing to make life-extending treatments available to all. This impasse suggests a more classical view of justice as an expression of living in the best and most admirable way one can in complex and morally disputatious circumstances. That is to say that what people are due can only be explicated in the context of personal perspectives, social institutions, cultural traditions, and debates about goods. The circumstances of justice after death confirm the view that it is an artificial virtue, not a trait that has been rationally identified as desirable independently of useful conventions that people prefer to observe.[39] In practice it can only be identified when there is a general preference for the rules that describe it, and no such general preference seems possible if those rules refer to a right to life for which some lack the essential means.

4. The Future of the Right to Life

In displaying justice as an artificial virtue, the imaginative fiction of genetic immortality shows that the right to life as normally understood cannot serve as its underlying rational principle. It is important to be clear about what this conclusion means. It does not at all question the importance of a constitutional right to life. A society clearly needs its artifices and reasonably defends them. In order to do this effectively, it needs to know where its defences are weak and to be open to reform by admitting these weaknesses. To the extent that human rights can be challenged by circumstances in which their advantages accrue mainly to a privileged class, these rights will be recognized as failing to constitute universally fundamental elements of moral and practical reasoning. The fact is that there are no such elements beyond abstract principles that cannot supply the concrete substance of particular virtues. There is no alternative to protecting the bases of a society's ethical life by supporting stable conventions and revising those that have become unstable. In consequence, disparities in the value of the right to life should as far as possible be avoided or corrected. Unless that right is concretely general, it is only a privilege that can

be nullified in attacking the regime that enables some to maintain their favoured position.

If a picture of human immortality shows human rights as conventional rather than natural, then reasons for attachment to the conventions are important for their stability. Insofar as these reasons are philosophically articulated rather than simply realized in satisfactory life experience, they will refer to justice and the principle that agents should receive what they are due. Their due can only be identified through deliberative argument, a process in which thought experiments give little guidance. There is no dependable way of imagining how thinking about the rights fundamental to liberal society might develop under pressure. Only plausible stories can be told and some important boundaries identified.

These boundaries are established by the fact that human rights are general rights that can be claimed by all, but it has to be established who is to be included among "all of us," i.e., we who take ourselves to share common humanity. This category once excluded inferior races and sexes who were subsequently acknowledged as fully-fledged human beings when their claims were accepted after extended discussion, debate, and negotiation. Because the advantaged could always coherently proclaim the justice of their privileges, sensitivity to analogies between white and coloured or male and female had to be encouraged and generated. Inclusion therefore did not result from the discovery that all members of the human species possess the equal moral worth of ends-in-themselves.[40] Gaining inclusion within a protected category, securing agreement that exclusion constitutes power without right, never depends upon philosophical self-evidence or demonstration but upon arguments that finally become widely persuasive without being logically compelling.

Both logic and history suggest that if power without right is tyranny, understanding rights as a form of power is crucial. The lesson of immortality is that successful moral struggle is not so much a matter of getting general acknowledgement of moral facts but of securing the assent of those whose advantages are to be shared. Acceptance of new inclusions depends upon a capacity to insist that is not limited to the strength of the obviously better argument. The possibility of genetic immortality provides a reminder that the effective rights of women and minorities, like those of propertyless workers, were won when the consequences of continuing to deny these rights included unacceptably costly social disruption. The rights of mortals should be won and the means to life created for them if they are similarly capable of disrupting an established way of life until they gain inclusion. Struggles of this kind are never easy. The case for mortals is similar to the case of many people in Africa, Asia, and South America whose success in winning the power of rights is so far more nominal than real. The aristocrats of race, gender, wealth, and social position have always been assisted by the fact that negotiating the extension

of significant rights has no philosophically preordained outcome. Inclusion and acceptance are tentative and limited until the privileged have reason to want change. However, circumstances sometimes permit a case to be pressed in this way. The circumstances of immortality show particularly clearly how failure to acknowledge a right to the means of life can reasonably lead to such pressure.

Notes

1 E.g., Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), pp. 279-80.
2 Cf. Jonathan Swift, *Gulliver's Travels*, Part 3: *A Voyage to Laputa*, chap. 10.
3 Contrast Bob Shaw, *One Million Tomorrows* (New York: Ace Books, 1970), p. 190.
4 Kim Stanley Robinson, *Red Mars* (New York: Bantam Books, 1993), pp. 293, 319, 353.
5 Compare Daniel Dennett, *Consciousness Explained* (Boston: Little, Brown, 1991), p. 398, for an example of being asked to imagine too much. Laurence Thomas has suggested that no analogous problem need arise for ethical imagination, noting the differences between the virtues possible for human beings and the Vulcans of *Star Trek* in his "Virtue Ethics and the Arc of Universality" (*Philosophical Psychology*, 9 [1996]: 26-32), esp. pp. 31-32. In any event, extravagant imagination should not be a problem for my request to imagine an event that could occur at almost any time, any more than it was the problem for Ponce de Leon's quest for the Fountain of Youth.
6 It is therefore not a drawback to acknowledge that many scientists regard genetic immortality as no less improbable than teleportation. See S. Jay Olshansky, Leonard Hayflick, and Bruce A. Carnes, "No Truth to the Fountain of Youth," *Scientific American*, 286, 6 (June 2002): 92-95.
7 William Empson, "Ignorance of Death," in *Collected Poems* (London: Chatto and Windus, 1955), p. 59.
8 Compare Janet Frame, as quoted by Michael King: "the [very] function of the imagination depends on the foreknowledge of death" (*Wrestling With the Angel: A Life of Janet Frame* [Auckland: Penguin Books, 2001], p. 367).
9 The quoted sentence is from Bernard Williams, "The Makropulos Case: Reflections on the Tedium of Immortality," in *Problems of the Self* (Cambridge: Cambridge University Press, 1973), p. 100. Contrast Thomas Nagel's question in *The View from Nowhere* (New York: Oxford University Press, 1986), p. 224 (note): "Can it be that he is more easily bored than I?"
10 Notably by Christine Overall in chaps. 2 and 3 of *Aging, Death, and Human Longevity: A Philosophical Inquiry* (Berkeley: University of California Press, 2003). Nick Bostrum also argues against "bioconservatives" who fear that technologies that "may make us . . . 'posthuman,' beings who may have indefinite health-spans," in "In Defense of Posthuman Dignity," *Bioethics*, 19 (2005): 202-14.

11 Aristotle, *Nicomachean Ethics*, translated by Sir David Ross (London: Oxford University Press, 1954), 110a17-18.

12 Onora O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* (Cambridge: Cambridge University Press, 1996), p. 9.

13 Michael Slote, *Morals from Motives* (Oxford: Oxford University Press, 2001), pp. 4-5, and Rosalind Hursthouse, *On Virtue Ethics* (Oxford: Oxford University Press, 1999), pp. 166-67.

14 For useful discussion of these points, see David Copp and David Sobel, "Morality and Virtue: An Assessment of Some Recent Work in Virtue Ethics," *Ethics*, 114 (2004): 514-54.

15 For example, Hursthouse, *On Virtue Ethics*, p. 28

16 Cf. Ramon Das, "Virtue Ethics and Right Action," *Australasian Journal of Philosophy*, 81 (2003): 324-39, esp. p. 331.

17 For this concern about views like Hursthouse's, see Robert N. Johnson, "Virtue and Right," *Ethics*, 113 (2003): 810-34.

18 Julia Annas addresses Johnson's point in this way in "Being Virtuous and Doing the Right Thing," *Proceedings and Addresses of the American Philosophical Association*, 78 (2004): 61-75.

19 Compare Stuart Hampshire, *Morality and Conflict* (Cambridge, MA: Harvard University Press, 1983).

20 John Rawls, *A Theory of Justice* (Oxford: Clarendon Press, 1972), p. 413.

21 Johnson, "Virtue and Right," p. 830.

22 These points about prudence summarize a fuller argument in Evan Simpson, "Prudence and Anti-Prudence," *American Philosophical Quarterly*, 35 (1998): 73-86.

23 Fyodor Dostoyevsky, *The Devils (The Possessed)*, translated by D. Magarshack (Harmondsworth: Penguin Books, 1971), p. 612.

24 On expelling the "power of calculation" and what "right rule prescribes," see Aristotle, *Nichomachean Ethics*, 1119b10 and 1119a21, respectively.

25 Hampshire depicts this inevitability in *Morality and Conflict*. See also Charles Taylor, "The Diversity of Goods," *Philosophical Papers*, Vol. 2 (Cambridge: Cambridge University Press, 1985). Both stress the points that there is no unity of the virtues and no single interpretation of any virtue.

26 The thesis may not apply to the cardinal Christian virtues of faith, hope, and charity. See Peter Geach, *The Virtues* (Cambridge: Cambridge University Press, 1977), pp. 20-21.

27 Examples include Alain Badiou, *Ethics: An Essay on the Understanding of Evil*, translated by P. Hallward (London: Verso, 2001), pp. 4-15; Jeremy Bentham, "Nonsense Upon Stilts," in P. Schofield et al., eds., *Rights, Representation, and Reform* (Oxford: Clarendon Press, 2002), pp. 328-37; and Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame: University of Notre Dame Press, 1981), pp. 64-67.

28 Thomas Hobbes, *Leviathan* (Oxford: Clarendon Press, 1909), pp. 101-102, and John Locke, *Two Treatises of Government*, 2nd ed., edited by Peter Laslett (Cambridge: Cambridge University Press, 1976), p. 289.

29 On the persistence of this issue, see Jan Narveson, review of S. Olsaretti, *Desert and Justice*, in *Ethics*, 115 (2004): 151-57, esp. p. 151.

30 Alternatively, "the doctrine of the immortal soul makes clear that everyone gets an afterlife, though only some will enjoy it." See Alan F. Segal, *Life After Death: A History of the Afterlife in the Religions of the West* (New York: Doubleday, 2004), p. 504.

31 Stuart Hampshire, *Justice Is Conflict* (Princeton: Princeton University Press, 2000), pp. 4-5.

32 Alan Gewirth, *The Community of Rights* (Chicago: University of Chicago Press, 1996), pp. 71-73.

33 Ibid., p. 136.

34 Cf. Francis Bacon, "Of Death," in *Essays* (London: Oxford University Press 1966).

35 Rawls, *A Theory of Justice*, p. 6

36 These conditions are set out in ibid., pp. 130-39.

37 Ibid., p. 204.

38 Cf. Gewirth, *The Community of Rights*, p. 41. Of course, the critique of Gewirth's Kantian rationalism deserves elaboration, some of which I try to provide in "Principles and Customs in Moral Philosophy," *Metaphilosophy*, 24 (1993): 14-32, and, more generally in "Rights Thinking," *Philosophy*, 72 (1997): 29-58.

39 For the *locus classicus* of this view, see David Hume, *A Treatise of Human Nature*, edited by L. A. Selby-Bigge (Oxford: Clarendon Press, 1960), pp. 477-501.

40 In principle, the scope of the right to exist could be extended to all animals, all living beings, or even all corporeal things. Cf. Simpson, "Rights Thinking," pp. 48-55.