

## CHAPTER 9 | Dignity and Assisted Dying

### *What Kant Got Right (and Wrong)*

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WERE IMMANUEL KANT able to eavesdrop on contemporary debates about the morality of assisted dying, he would likely be puzzled by how his moral philosophy is invoked. On the one hand, many advocates for a moral right to assisted dying hold that individuals are entitled to a “death with dignity.” On this view, autonomous rational agents are sometimes morally entitled to end their lives when they judge that they are better off dying sooner rather than later. To bar physicians (or others) from providing assistance in dying would therefore be a wrongful infringement on an individual’s autonomy and his or her right to pursue a dignified death. The 1997 “Philosophers’ Brief” on behalf of the legal permissibility of assisted dying typifies this perspective:

Each individual has a right to make the “most intimate and personal choices central to personal dignity and autonomy.” That right encompasses the right to exercise some control over the time and manner of one’s death. . . . A person’s interest in following his own convictions at the end of life is so central a part of the more general right to make “intimate and personal choices” for himself that a failure to protect that particular interest would undermine the general right altogether.<sup>1</sup>

Kant would no doubt hear in such appeals echoes of his own characteristic moral doctrines—in particular, that because rational agents are to be

<sup>1</sup> Ronald Dworkin et al., “Assisted Suicide: The Philosophers’ Brief,” *New York Review of Books*, March 27, 1997. Available at <http://www.nybooks.com/articles/archives/1997/mar/27/assisted-suicide-the-philosophers-brief>.

respected as ends in themselves, we are obligated to defer to their choices regarding their own welfare.

On the other hand, an eavesdropping Kant<sup>2</sup> would almost certainly be shocked to see himself depicted as an ally of a moral right to end one's life with the assistance of others. For while Kant had little to say specifically about assistance in dying, he was emphatic in his denunciations of suicide. In his *Lectures on Ethics*, for example, Kant says that those who engage in suicide treat themselves as little better than animals and should be seen as “carrion” (LE 27:372) with no “inner worth” (LE 27:344). And although we ought to sympathize with those suffering from “grief, worry, and depression,” suicide itself should inspire “revulsion” or “hate” (LE 27:372–375). As discussed later, Kant would be particularly puzzled by invocations of “dignity” as a moral basis for the right to end one's life. For in Kant's eyes, human dignity is precisely what morally rules out such a right. And presumably, if Kant believed that there is no general right to end one's life, he would also have believed that there is no right to others' assistance in doing so.

Our aim here is to sort out, historically and philosophically, what Kant's understanding of dignity implies about assisted dying. Unlike many commentators, I am fairly sympathetic to Kant's argument that suicide violates duties to oneself and specifically that the general right to make choices regarding our own welfare is coherent only if we also are subject to a duty to preserve the rational agency exercised in making such choices. Nevertheless, I contend that Kant's argument does not establish an obligation to forego suicide (and hence, an obligation on the part of others not to assist in suicide) in each and every case. Although Kant's ethics, and his notion of dignity in particular, cannot be deployed to defend a broad permission for suicide akin to that favored by the “death with dignity” movement, it also does not entail as restrictive a stance on morally permissible suicide, or on assisted dying, as Kant might have supposed.

To home in on this modified Kantian position, we first need an accurate grasp of Kant's notion of dignity. To that end, the first section situates

<sup>2</sup> References to Kant's works are as follows: Parenthetical references are to the *Lectures on Ethics* (LE), *Metaphysics of Morals* (G), and *Groundwork of the Metaphysics of Morals* (MM). Citations are to volume and page numbers in the Berlin Akademie Edition of Kant's works (1901–). Translations of LE are from Immanuel Kant, *Lectures on Ethics*, ed. J. B. Schneewind, trans. P. Heath (Cambridge: Cambridge University Press, 2001). Translations of G and MM are from Immanuel Kant, *Practical Philosophy*, ed. and trans. M. J. Gregor (Cambridge: Cambridge University Press, 1996).

Kant's notion in relation to other historically prominent notions of dignity. The next section outlines how Kant deploys his notion of dignity in his arguments for a fairly stringent duty of self-preservation and indicates how this duty entails the wrongfulness of assisted dying. Then, I defend Kant's understanding of dignity and how it generates a duty of self-preservation against contemporary Kantians who invoke dignity in defense of assisted dying. The following sections identify two kinds of "hopeless" situations that fall outside the scope of Kant's arguments for the moral impermissibility of suicide and assisted dying. I thus conclude that although Kant's arguments against a right to assisted dying are formidable and arguably rest on a more defensible conception of dignity than that used by putatively Kantian defenders of "death with dignity," the best version of Kant's position does not absolutely preclude assisted dying.

## Dignity, Kantian and Otherwise

As Michael Rosen<sup>3</sup> has documented, dignity has had different meanings throughout its history. Let us therefore catalog various historically prominent understandings of dignity so as to pinpoint what distinguishes Kant's notion of dignity from rival understandings.

First, in some traditions, dignity is an attribute belonging only to certain noteworthy persons. The ancient Romans, for instance, associated *dignitas* with royalty or other high social rank. Those with dignity were thereby owed a measure of deference or esteem. The Romans would thus likely be taken aback by the notion of dignity articulated in the United Nations' *Universal Declaration of Human Rights*, wherein "all members of the human family" have "inherent dignity" or "worth."<sup>4</sup>

In contrast, on Kant's understanding of dignity, it is possessed by all practically rational agents. Individuals with what Kant calls "humanity" are able to choose both the ends they pursue and the means best suited to the realization of their ends. In so doing, according to Kant, practically rational agents exhibit the capacity to choose on the basis of rational principles or, in Kant's own vernacular, to give themselves a "law" for rational action. It is this capacity for rational lawgiving that grounds Kantian

<sup>3</sup> Michael Rosen, *Dignity: Its History and Meaning* (Cambridge, Mass.: Harvard University Press, 2012).

<sup>4</sup> United Nations, *Universal Declaration of Human Rights* (New York: United Nations, 1948), Preamble. Available at <http://www.un.org/en/universal-declaration-human-rights>, accessed November 14, 2016.

dignity.<sup>5</sup> Kant speaks of the “dignity of a rational being, who obeys no law other than that which he himself at the same time gives” (G 4:434) and of our capacity for “lawgiving itself” that “must for that very reason have a dignity” (G 4:436; see also G 4:439). For Kant, “autonomy,” or our capacity to rationally choose—and act on the basis of—principles, is “the ground of the dignity of human nature and of every rational nature” (G 4:436). These rational capacities are not the province of the few, according to Kant. One need not be well born or a “dignitary” in order to have these elementary rational capacities of choice and action. Kantian dignity is thus effectively *universal*, the possession of all beings with practically rational capacities.

Second, some moral traditions follow Kant in holding that, for example, all human individuals have dignity, but they maintain that dignity itself is variegated so that not all such individuals have it in the same manner or to the same degree. Within Roman Catholic thinking, for example, all humans possess dignity, but the specific nature or magnitude of one’s dignity depends on one’s social role. Rosen summarizes the Roman Catholic stance as follows:

All members of society have dignity, but their dignity consists in the role that is appropriate to their station within a hierarchical social order, one in which some are “nobler than others.” Instead of sharing in equal dignity, the orders of society should differ in “dignity, rights, and power.”<sup>6</sup>

On this conception of dignity, the dignity of priests differs from that of the laity, that of men differs from that of women, and so on. However, Kant’s conception of dignity is *unified*. There is but one species of dignity, and all those with dignity possess it in the same manner and to the same degree. The dignity of a king neither exceeds nor is exceeded by the dignity of a pauper. Dignity is thus *equal* in its distribution.

Another distinguishing feature of Kant’s conception of dignity is that it is *unmerited*. On some understandings of dignity, it is ascribed to those with a high level of moral character or wherewithal. Friedrich Schiller, for instance, thought of dignity as a “mastery of instinct by moral force.” For

<sup>5</sup> Kant also associates dignity with morality or our capacity to be moral (G 4:425, G 4:435, G 4:440). However, these passages can plausibly be read as affirming the claim that dignity rests on our capacities for practical rationality. See Michael Cholbi, *Understanding Kant’s Ethics* (Cambridge: Cambridge University Press, 2016), 111–112.

<sup>6</sup> Rosen, *Dignity: Its History and Meaning*, 49.

Schiller, the dignified person exerts a form of self-control over morally recalcitrant desires and thereby acts rightly.<sup>7</sup> Kant agrees with Schiller that a person deserves special moral credit when she resists desires that incline her to act immorally. Hence, our dignity is most plainly in view when we act morally. (G 4:435, MM 6:405) Nevertheless, he did not share with Schiller the belief that dignity is any type of moral accomplishment. For Kant, dignity is neither earned through morally praiseworthy action nor relinquished through morally blameworthy actions. Even the condemned murderer, Kant argues, retains dignity that precludes our justifiably torturing him, humiliating him, and so on (MM 6:333).

In a similar vein, some conceptions of dignity view it as a property of a person's bearing or demeanor. A person who exhibits steadfastness, independence, or tranquility, especially when confronting great adversity, is thereby dignified. This is one plausible way to gloss what advocates of assisted dying have in mind when they speak of a death "with dignity": a death in which a person is not racked with pain and able to keep his perceptual and cognitive faculties about him.<sup>8</sup> Kant would certainly agree that some behaviors we exhibit when under physical or mental strain are *contrary* to our dignity. He claims that "complaining and whining, even crying out in bodily pain, is unworthy" of beings with dignity (MM 6:436). But in such instances, it is the antecedent fact that we have dignity that makes it morally unseemly to behave in these ways. Again, we do not acquire dignity by behaving in dignified ways, nor do we lose it by behaving in undignified ways. Our dignity, Kant says, is not dependent on our actions or behavior and is in fact "*inalienable*" (MM 6:436).

These attributes of Kant's conception of dignity—that dignity is universal, unified, equal, and inalienable—go some way in vindicating Kant's claim to be the "father of the modern concept of human dignity."<sup>9</sup> For we see in Kant's conception of dignity a deeply egalitarian moral ethos at work. Dignity is a kind of high status, according to Kant, but one that elevates each and every human rational agent to that same high status. Kant would thus find the United Nations *Declaration's* understanding of dignity—that because all "human beings are born free and equal in dignity"

<sup>7</sup> Friedrich Schiller, *On Grace and Dignity*, trans. G. Gregory (Washington, D.C.: Schiller Institute, [1793] 1992).

<sup>8</sup> Jyl Gentzler, "What Is a Death with Dignity?," *Journal of Medicine and Philosophy* 28 (2003): 461–462.

<sup>9</sup> Christopher McCrudden, "Human Dignity and Judicial Interpretation of Human Rights," *European Journal of International Law* 19 (2008): 655–724.

and “endowed with reason,” they are thereby entitled to basic “rights and freedoms . . . without distinction of any kind”<sup>10</sup>—highly congenial.

## Dignity, Price, and the Logic of Suicide

As noted previously, whereas many contemporary advocates of assisted dying understand dignity as licensing a right to choose one’s own death, Kant clearly understood dignity as a source of duties to self—duties that prohibit the intentional taking of one’s own life. The source of their dispute stems from the fact that, for Kant, dignity is not only a property that practically rational agents have. It is also a measure or kind of value, to be distinguished from *price*:

Everything has either a *price* or a *dignity*. What has a price can be replaced by something as its *equivalent*; what on the other hand is raised above all price and therefore admits of no equivalent has dignity. . . . That which constitutes the condition under which alone something can be an end in itself has not merely a relative worth, that is, a price, but an inner worth, that is, *dignity*. (G 4:434–435)

Priceable goods, Kant claims, are fungible: It is both possible and morally permissible to exchange such good for one another. We do so whenever we exchange material goods, sell our labor to one another, or conduct monetary transactions. Goods with a price are valuable either as means to the attainment of our chosen ends or because they are among our chosen ends. In contrast, that which has dignity, Kant claims, is an “end in itself” with “inner worth,” not to be traded for priceable goods or for other goods with dignity. According to Kant, whatever has dignity has an “unconditional” and “incomparable” worth, a worth not commensurate with the “relative worth” of any priceable good (G 4:436). In conjunction with Kant’s account of what has dignity (discussed previously), this taxonomy of value implies that rational agency is a distinctive good such that we are not morally entitled to attach a price to it or to trade it for what has price. Dignity is that through which rational agents are elevated “above all other beings in the world that are not human beings,” beings that may permissibly be treated as “things.” Rational agency must therefore be treated as an end in itself rather than merely as a means (MM 6:462). To sell a

<sup>10</sup> United Nations, *Universal Declaration of Human Rights*, articles 1 and 2.

human being into slavery, for example, is at odds with her dignity, for one is thereby limiting a person's liberty, and encumbering her rational agency, in exchange for money, a merely priceable good. Slave sales thus wrongfully treat an end in itself as a commodity to be used for furthering of others' goals or purposes.

But (Kant argues) self-killing is not fundamentally different from selling a person into slavery, inasmuch as when a person aims to end her life, she aims to destroy her own rational agency so as to further *her own* purposes. In so doing, a person wrongfully treats her rational agency as a means to her own happiness rather than (as the dignity of our rational agency demands) treating her rational agency as an end in itself: "A human being cannot be used merely as a means by any human being (either by others or *even by herself*) but must always be used at the same time as an end" (MM 6:462, emphasis added). Hence, to end one's life because doing so will, in one's own judgment, make for a better or happier life overall is to subordinate one's rational agency, which (again) has incomparably valuable dignity, to one's happiness, a "discretionary" good that merely has price. "Disposing of oneself as a mere means to some discretionary end is debasing" to our rational agency (MM 6:423) and contrary to our dignity. In effect then, Kant viewed suicide as practically contradictory—as an exercise of one's rational agency in which one destroys the very agency that grounds the value of one's choices in the first place (G 4:435). Suicide is thus at odds with "the first, though not the principal, duty of a human being to himself as an animal being"—the duty of self-preservation (MM 6:422).<sup>11</sup>

Before considering how Kant's anti-suicide argument denies a right to assisted dying, a few observations regarding the distinctive features of Kant's anti-suicide argument are in order.

First, note that Kant's opposition to suicide largely makes calculations of future happiness irrelevant to the moral justifiability of suicide. He is largely untroubled about whether an act of suicide is in fact prudent. Rather, his argument is meant to show that an individual's happiness simply cannot justify suicide:

Neither the greatest advantages, nor the highest degree of well-being, nor the most excruciating pains and even irremediable bodily sufferings can

<sup>11</sup> Here, I set aside the argument for a duty of self-preservation that Kant provides in the *Groundwork* (4:422), appealing to the alleged inability of a maxim permitting suicide from "self-love" to be consistently universalized. Few commentators find it compelling and many believe it lacks a proper basis in Kant's own ethical thinking. For further discussion, see Cholbi, *Understanding Kant's Ethics*, 184.

give a man the authority to take his own life, to escape from anguish and enter earlier upon a hoped-for higher happiness. (LE 27:628)

Second, Kant is also unconcerned with whether suicidal acts violate duties to others. Although his moral theory does not rule out that possibility (MM 6:423–424), Kant understands self-preservation as a duty we owe to ourselves. Thus, irrespective of whether a suicidal act wrongs others, it nevertheless violates a duty we owe ourselves as rational beings.

Finally, as the previous discussion of Kant’s understanding of dignity underscores, the duty not to take one’s own life is one that applies to us simply insofar as we are rational beings. Hence, all beings with dignity (i.e., all practically rational beings) have an obligation to forego suicide. Kant’s duty does not make provisions for special pleading on behalf of the well born, those with particular social statuses, and so on.

One might assume that there is a direct logical path from Kant’s moral opposition to suicide to a similar moral rejection of assisted dying. After all, if ending one’s own life is wrong, and aiding another person in committing a moral wrong is itself wrong, then presumably Kant would hold that aiding another person in ending her life is wrong. There is, however, one complication here. The Kantian duty of self-preservation is classified as a duty of virtue rather than a duty of right (MM 6:329). A duty of right is one we can be compelled to fulfill via “external” compulsion or coercion. The duty not to steal, for example, is a duty individuals can be compelled to fulfill by threats of legal punishment. The duty of self-preservation, in contrast, is one we fulfill only when we not only keep ourselves alive but also do so because self-preservation is among the ends we endorse. But, Kant argues, although others can compel us to act in particular ways, they cannot compel us to act in those ways on the basis of particular ends or reasons. Our ends or reasons are wholly our own. The fulfillment of our duties to self is thus the result of “free self-constraint” (MM 6:382). Strictly speaking, then, the duty of self-preservation and, therefore, the duty not to take one’s own life are not enforceable duties, according to Kant.

That the duty of self-preservation is a non-enforceable duty of virtue might appear to weaken the Kantian case against the legal permissibility of assisted dying on the grounds that the state ought not to make law aimed at compelling individuals to fulfill a duty that in fact they cannot be compelled by others to fulfill. This inference is mistaken, however. For even if the state could not compel individuals to fulfill their duty of self-preservation by outlawing assisted dying, the law could nevertheless shape attitudes toward assisted dying and hence influence whether the duty in

question is fulfilled. Those inclined to shorten their lives encounter fewer obstacles if assisted dying is legally permissible. Indeed, a legal regime that permits assisted dying in effect offers inducements to violate our Kantian duty of self-preservation. The role of law here is thus asymmetrical: It cannot compel this duty's fulfillment, but it can certainly contribute to its non-fulfillment. Similarly, a person cannot compel a problem drinker to honor her self-regarding duty not to stupefy herself with intoxicating substances. Only the problem drinker can fulfill that duty. But a person can contribute to the duty's not being fulfilled by tempting the problem drinker with alcohol.

### Kant Versus Kantians on Dignity and Assisted Dying

As discussed previously, supporters of assisted dying often appeal to dignity and associate it with recognizably Kantian values such as rational agency. Kant himself invokes dignity and claims that our rational agency grounds a duty of self-preservation that presumptively speaks against assisted dying. Here, I offer a sketch of why Kant's view appears to have the upper hand in this dispute.

Kant and supporters of assisted dying agree that because we are autonomous rational agents, we have broad rights to decide in what our welfare consists and how others may treat us. Our liberty to decide, independently of the wills of others, our own ways of life is a reflection of the special moral value of rational agency. Others are generally morally required to defer to our choices about our own welfare and way of life because we are rational agents, just as we are required to defer to theirs because they are rational beings. Our rational agency thus establishes broad moral permissions for agents to act as their own judgment concerning their welfare dictates.

For Kant, our rational agency serves a second moral role—namely grounding duties to respect our own rational agency—and in fact could not serve this other role unless it did so. Consider the first role, establishing a broad moral permission to choose our own ends and how best to pursue them. Suppose this discretion rested on some value or good V1 over which we had similar discretion such that V1 imposed no moral constraints on how we may respond to it. There would seem to need to be some still further value or good V2 that grounds our discretion over V1. If we had the same discretion over V2, then there would have to be some further value or good V3 that grounds our discretion over V2. But such a regress would

have to terminate in some value or good of a different order or kind—a value or good over which we did not have this sort of discretion but which required our deference or respect. Kant believed that our rational agency is the value or good that halts this regress. Unless our rational agency imposed duties on us, including a duty of self-preservation, the discretion over own ends and the means thereunto that we enjoy would not be coherent.<sup>12</sup>

Hence, for Kantian supporters of death with dignity, our rational agency is purely a source of moral discretion or liberty. But for Kant, discretion cannot be the seed of morality. Discretion must ultimately flow from a value or good toward which we must defer. For Kant, there can only be something that counts as a person's good if persons are themselves sources of value. As David Velleman states,

What's good for you wouldn't matter if you didn't matter. . . . What's good for a person is worth caring about only out of concern for the person, and hence only insofar as he is worth caring about. A person's good has only hypothetical or conditional value, which depends on the value of the person himself.<sup>13</sup>

Our rational agency thus does not merely confer value on our ends. It is also a value we must live up to or honor. A person's rational agency "isn't something that he can accept or decline, since it isn't a value *for* him; it's a value *in* him, which he can only violate or respect."<sup>14</sup> Our dignity (which, again, we possess due to our being rational agents) thus bars rather than authorizes ending our own lives and eliciting others' assistance in doing so.

I cannot claim to have offered a decisive basis for favoring Kant's understanding of dignity's demands over that of contemporary Kantian defenders of "death with dignity." Nevertheless, these remarks shift the argumentative burden onto assisted dying's ostensibly Kantian supporters to explain how the value of rational agency can both be the source of the moral discretion they embrace and also fall within the scope of that very discretion.

In summary, Kant's notion of dignity is distinctive in being universal, unified, equal, and unmerited. Only rational agency has dignity rather than

<sup>12</sup> J. David Velleman, "A Right of Self-Termination?", *Ethics* 109 (1999): 611–612.

<sup>13</sup> Velleman, "A Right of Self-Termination?", 611. See also Elizabeth Anderson, *Value in Ethics and Economics* (Cambridge, Mass.: Harvard University Press, 1993), 26.

<sup>14</sup> Velleman, "A Right of Self-Termination?", 625.

price, and we are therefore required to respect said agency by preserving the bodies through which we exercise such agency. Kant thus disagrees with contemporary Kantian defenders of a right to assisted dying about the role dignity has in the structure of our moral duties.

### Exception 1: Permanent and Irreversible Cessation of Practical Agency

Kant's prohibition on suicide and assisted dying casts a wide net. Indeed, any prudential self-killing, in which one attempts to terminate one's life so as to result in a life perceived as happier, is seemingly ruled out. However, if there are conditions that result in individuals lacking the properties needed to ground dignity, then self-killing would not be wrong on Kantian grounds.<sup>15</sup> There are two kinds of "hopeless" situation wherein, I contend, Kant's prohibition would not apply precisely because such conditions are not met.

The first is relatively straightforward: The dignity we have due to our being practically rational agents is the basis for Kant's opposition to assisted dying. However, some individuals undergo conditions in which their practical agency has permanently and irreversibly ceased to function. Individuals in permanent vegetative states or those with severe dementia lack the capacities Kant associates with dignity, namely the capacity to identify ends worthy of pursuit and the means best suited to the realization of those ends. Such individuals, although biologically alive, are (from a Kantian perspective at least) practically dead, inasmuch as the properties that lend them their moral status are no longer present. In such cases, we cannot fail to respect that which provides human agents their dignity, for the properties needed for dignity are no longer in evidence. Thus, for such individuals to receive assistance in dying would not violate Kant's demand that we treat rational agents with dignity.

Granted, such situations are not commonplace, and such a conclusion obviously raises several practical issues, most notably, how to determine that a person has permanently and irreversibly lost the capacities associated with practically rational agency. Nevertheless, a recognizably Kantian position can allow that a person who, having been diagnosed with progressive dementia, wishes to receive assistance in dying once her

<sup>15</sup> Michael Cholbi, "A Kantian defense of prudential suicide," *Journal of Moral Philosophy* 7, no. 4 (2010), 489–515, 493–494.

practical rationality has been wholly vitiated has a moral right to do so. In so doing, she is exercising a Kantian power to determine what will be done to her body once she lacks the capacity to exert power over it. She in effect directs others as to how her “practical remains” ought to be disposed of.

This conclusion should not be exaggerated. It does not entail that individuals who have permanently and irreversibly lost their capacities for practical agency are obligated to end their lives prematurely, nor does it carry the implication that others may end their lives. The absence of the morally relevant properties whose presence establishes a moral prohibition on self-killing does not entail a moral requirement of self-killing.<sup>16</sup> But those rational agents who assert a right to dispose of their bodies once their rational agency is no more do not act in opposition to the Kantian value of dignity.

## Exception 2: Nihilism and the Lack of Categorical Desires

The second “hopeless” situation falling outside the Kantian prohibition on assisted dying occurs when individuals come to lack prudential reasons to continue living.

Many individuals undergo difficult stretches of life in which they are profoundly *pessimistic*. They may believe that they live in a world hostile to their ends, that they lack the skills needed to realize those ends, and that they have no legitimate place in the world and are burdensome to others.<sup>17</sup> For such individuals, happiness—understood in Kant’s terms as the “complete well-being and satisfaction with one’s condition” (G 4:393)—feels particularly elusive or remote. Unsurprisingly, pessimistic individuals may feel drawn to end their lives. The pain or frustration they feel at seemingly being unable to live a satisfactory or contented life may lead them to believe that a shorter life is better than one that continues forward.

Let us envision a more extreme version of the pessimist, the *nihilist*. The nihilist likely began as a pessimist, someone saddened by her apparent inability to realize the ends that constitute her happiness. But whereas the pessimist is still genuinely committed to particular ends, the nihilist has become wholly disenchanted, to the point at which she no longer has ends at all. Note that this is not to say that the nihilist has no wants. She may, for instance, have other-regarding preferences (e.g., desiring

<sup>16</sup> Michael Cholbi, “Kant on Euthanasia and the Duty to Die: Clearing the Air,” *Journal of Medical Ethics* 41, no. 8 (2015): 607–610.

<sup>17</sup> Thomas Joiner, *Why People Die by Suicide* (Cambridge, Mass.: Harvard University Press, 2007).

that others she cares about flourish). She will also likely care about how her life goes so long as she is alive—that is, she will prefer not to suffer physical pain or deprivation. In terms made familiar by Bernard Williams, the nihilist retains *conditional* desires—desires predicated upon her continued existence. However, the nihilist is so disenchanted that she lacks altogether *categorical* desires—desires that give her a reason to continue to live.<sup>18</sup>

Both the pessimist and the nihilist have recognizably prudential reasons to seek to end their lives, but their reasons differ. The pessimist believes her life is (or will inevitably be) *bad*, an existence filled with pain or frustration at her ends going unmet. The nihilist, in contrast, believes her life is (or will inevitably be) *pointless*, an existence with no cognizable purpose or aim. However, Kant would likely argue that suicide or assisted dying would not be morally permissible in either case. In seeking to end their lives, both the pessimist and the nihilist run afoul of their duty of self-preservation and, specifically, fail to respect their rational agency as end in itself with dignity. Despondency, even out and out nihilism, does not appear to nullify the dignity we possess as practically rational agents.

I contend that although Kant's conclusions regarding pessimistic suicide are reasonable in light of his own moral doctrines, his conclusion that nihilistic suicide is similarly morally impermissible rests on a subtle error regarding rational agency, dignity, and their relation to price.

By Kant's lights, the nihilist is a moral agent. Despite her complete detachment from any ends whose fulfillment might constitute her happiness, she is nevertheless capable of moral reasoning, able to act from moral principles, and so on. In Kantian terms, the nihilist can acknowledge the force of categorical imperatives but recognizes the rational force of no hypothetical imperatives. The nihilist retains the dignity associated with moral personality despite having lost the dignity associated with humanity or practical agency.<sup>19</sup> For Kant, the absence of the latter dimension of dignity does not change the individual's status as an object of moral duties; she is still subject to all the same self-regarding duties as before, including the moral prohibition on self-killing.

Yet the nihilist is not a full-blown Kantian agent. For if she has permanently lost the ability to set ends (i.e., to identify states of affairs whose

<sup>18</sup> Bernard Williams, "The Makropulos Case: Reflections on the Tedium of Immortality," in *Problems of the Self* (Cambridge: Cambridge University Press, 1973): 82–100.

<sup>19</sup> Cholbi, "A Kantian Defense of Prudential Suicide," 502–503; Allen Wood, *Kantian Ethics* (Cambridge: Cambridge University Press, 2007), 94.

realization she is committed to and which she is thereby motivated to pursue), she has lost one of the two capacities that constitute her practical agency and dignity. This opens, I propose, a narrow alley for a form of suicide or assisted dying that falls outside Kant's prohibition.

To understand this, contrast the nihilist's prospective suicide with that of the pessimist. What Kant objects to in the suicide of the pessimist is her prioritizing her personal discretionary ends, whose worth is conditional on her setting these as her ends, over the unconditional worth of her own rational agency. The wrong in question consists in a transaction wherein the pessimist trades what has dignity (her own rational agency) for what has price (her happiness, or the ends that constitute it). But this analysis does not, indeed cannot, apply to the nihilist's suicide. Assuming that the nihilist is not engaging in altruistic suicide, ending her life so as to advance the ends of others, her personal reasons for suicide are not that a shorter life will be a happier or better life in any standard sense. Rather, her suicide is justified by appeal to the thought that continued existence has no point, not that it would have a point that will go unfulfilled. The nihilist is therefore not engaged in the transaction that, by Kant's lights, makes the pessimist's suicide morally impermissible. The nihilist is not trading her dignity for what has price. She is instead opting to jettison a future that has no value to her.

This conclusion is further vindicated by considering the previously presented regress argument used to defend Kant's conception of dignity. That argument held (roughly) that only if our rational agency has the priceless value of dignity are we morally entitled to authority over the priceable ends whose pursuit constitutes our happiness. But note that a nihilistic individual has no such ends over which to exercise her authority. Hence, this regress argument cannot get off the ground in her case, and so we cannot infer that her rational agency has the incomparable worth that (according to Kant) morally disallows her destroying the body through which that agency would otherwise be exercised. Stated more directly in terms of dignity, merely possessing the dignity of personality is insufficient to ground the Kantian prohibition on suicide and assisted dying. One must also have the dignity of humanity in order to be in a position to perform the morally objectionable transaction Kant saw as the root of suicide's wrongfulness. For absent the capacity to set ends that serve as categorical desires, we are moral subjects but not moral objects—that is, not beings whom we and others owe respect.<sup>20</sup> Nihilistic suicide thus cannot fail to respect one's

<sup>20</sup> Cholbi, "A Kantian Defense of Prudential Suicide," 507–509.

humanity or honor one's dignity. Kant erred, I propose, in holding that possessing even a fragmentary form of practical rational agency confers upon us a priceless dignity that bars suicide. The Kantian wrong of suicide is not best described in terms of its failing to respect human dignity. It consists instead of failing to respect human dignity by prioritizing the priceable good of one's happiness above what has dignity. That, I have argued, nihilists do not and cannot do.<sup>21</sup>

Admittedly, permanent or irreversible nihilism (like the permanent loss of practical agency considered in previously) is not a common condition. However, the sort of hopelessness and disenchantment I have ascribed to nihilism are not uncommon in those with suicidal ideation.<sup>22</sup> And so in what we might think of as the worst or most hopeless cases, those in which individuals either have lost the capacity for practical agency altogether or are irrevocably unable to identify ends they deem worthy of pursuit, suicide and assisted dying do not treat our rational agency (or our dignity) merely as a means. My modified Kantian view can thus embrace the moral permissibility of suicide in a handful of cases.

## Conclusion

There are two kinds of "hopeless" cases in which, Kant's appeal to the priceless value of human dignity notwithstanding, the Kantian moral prohibition on suicide and, by extension, a prohibition on assisted dying do not apply. Note that neither case questions the fundamental soundness of Kant's arguments or overall moral stance. Rather, they illustrate that the scope of Kant's arguments is not quite as wide as he supposed because the psychological conditions presupposed in his arguments do not always obtain. For those with permanent and irreversible loss of practical agency and those with hopeless nihilism do not meet the psychological background conditions regarding rational agency that Kant's argument presupposes. Of course, even with these exceptions, the modified Kantian position on assisted dying I have articulated here establishes a much

<sup>21</sup> For a more detailed exposition of this argument concerning the permissibility of nihilistic suicide, see Cholbi, "A Kantian Defense of Prudential Suicide," 504–510.

<sup>22</sup> Martin Seligman has proposed that suicidal thinking accompanies learned helplessness. See Martin Seligman, *Helplessness: On Depression, Development, and Death* (New York: Freeman, 1992). Hopelessness also appears to be an indicator of suicidal thinking. See E. David Klonsky et al., "Hopelessness as a Predictor of Attempted Suicide among First Admission Patients with Psychosis: A 10-Year Cohort Study," *Suicide and Life-Threatening Behavior* 41, no. 1 (2012): 1–10.

narrower moral permission than most contemporary liberal Kantian advocates of assisted dying would likely prefer. For if this modified Kantian position is plausible, then although death *with* dignity remains incoherent in Kant's eyes, some instances of assisted dying at least count as deaths *not at odds* with dignity.