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MORAL RIGHTS TO LIFE, BOTH NATURAL AND NON-NATURAL: REFLECTIONS ON JAMES GRIFFIN'S ACCOUNT OF HUMAN RIGHTS

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In what senses, if any, do we have a moral right to life? In addressing this question, I shall reflect upon the views of James Griffin. (See Griffin [2008]) The central question at issue provokes more basic ones. What are moral rights? Who can have them? How do human rights in particular relate to moral rights in general?

GRIFFIN ON HUMAN RIGHTS

Griffin proposes that human rights should be thought of as protections of our 'personhood', of our 'normative agency'. According to him:

> Human life is different from the life of other animals. We human beings have a conception of ourselves and of our past and future. We reflect and assess. We form pictures of what a good life would be – often, it is true, only on a small scale, but occasionally also on a large scale. And we try to realize these pictures. This is what we mean by a distinctively human existence – distinctive so far as we know... Human rights can then be seen as protections of our human standing or, as I shall put it, our personhood. (*ibidem*, pp. 32–33)

He argues that there are three 'highest-level human rights' that pertain to our ability to live what we conceive of as a worthwhile life: the right to liberty; the right to autonomy; and the right to a minimal level of welfare.

In Griffin's view, the obligations pertaining to the recognition and fulfilment of human rights derive from 'the dignity of human status itself'. For this reason, he restricts their application solely to living human beings who are actual normative agents. For instance, human beings who lack autonomy are excluded. He writes: '…I am inclined to conclude that human rights should not be extended to infants, to patients in an irreversible coma or with advanced dementia, or to the severely mentally defective. And if they do not extend to them, it is hard to find a case for extending them to foetuses.' (*ibidem*, p. 95) He adds: 'This conclusion is

compatible with our none the less having the weightiest obligations to members of all these classes.' (*ibidem*)

Do infants and so forth have moral rights that are not human ones on Griffin's account? It is not clear.

According to Griffin, to have a right involves the ability to exercise it. For instance, the right to vote involves the ability to exercise that right. If we have a right to life, as he contends we have, he thinks it follows that such a right cannot be useless to or hollow for us. We must also have a right to what we require to render such a right significant to and exercisable by us. So he thinks. Rights, as one might say, play leapfrog in Griffin's view: they propagate themselves, to change the metaphor. This echoes the famous, influential but debatable claim of Thomas Jefferson in his letter to William Carmichael of 1790 that: 'The right to use a thing comprehends a right to the means necessary to its use, and without which it would be useless.' (Lipscomb and Bergh [1903-04] p. 72)

GRIFFIN ON THE RIGHT TO LIFE

Griffin writes:

> If personhood were, as I propose, indeed the ground of the right to life, the intuitive case for it would go like this. We attach a high value to our autonomously choosing and freely pursuing our conception of a worthwhile life…. Can we value living in a characteristically human way without valuing the *living* as well as the autonomy and liberty that make it characteristically human? If human rights are protections of that form of life, they should protect life as well as that form. (Griffin [2008] p. 215)

He insists that the right to life is not merely the right not to be killed but includes positive elements. He notes that: 'If we accept that the right to life implies positive duties, then we face several problems. How great will the demands be? One limit on them is that the right is not to a fully flourishing life but only to that more austere state, the life of a normative agent' (*ibidem*)

Notice the unexplained and unannounced oscillation here between a 'right to life' and a 'human right to life'. How does our human right to life differ from our right to life? Do our non-human rights also protect our personhood and moral agency? It is not clear.

Notice too, that, despite his specified aim of making human rights determinate, the right to life –the human right to life? – is far from being so: it remains vaguely defined although, perhaps, none the worse for that. He writes:

> (…) the protection even of that relatively austere state, the life of a normative agent, can be highly demanding. Here the right to life, with its positive elements, substantially overlaps a right to health. The right to health is not, strictly speaking, a right to health itself. Health is only partly within human control. I have no right not to be struck down by in incurable disease. Nor is it a right merely to health care. Much more is relevant to our health than health care, narrowly conceived: for instance, safe roads, female literacy, good sew[er]age, clean water and so on. Our right is to health care, broadly conceived. But then it is a right only to basic health care, also broadly conceived, where what is 'basic' is decided by what is necessary for life as a normative agent, and no more. There are many forms of ill health that have no bearing on normative agency. (*ibidem*)

WHAT ARE MORAL RIGHTS?

I contend that there are at least, and possibly only, two sorts of moral rights: rights of action and rights of recipience. On the one hand, rights of action are the absences of particular moral duties. We have a moral right of action to, for instance, have sexual intercourse with a particular person if we are not under a moral duty to refrain from doing so. We have a moral right of action, say, to stand on our heads if and when we are under no moral obligation to refrain from so doing. On the other hand, rights of recipience correspond to the duties of another person or agency. For instance, we would have a right of recipience to have sexual intercourse with a particular person if that person had a corresponding duty to have sex with us. It would, I suggest, be unusual to have a moral right of recipience to such a thing. A client who has paid a prostitute in advance might, perhaps, have it. Not all that we need, want or properly have, no matter how important it might be to our well being, is ours as a moral right of recipience. (See McLachlan [1997], [1998] and [2004])

In the most obvious and easily understandable instances, rights of recipience and their corresponding duties arise from the making of contracts and promises. Thus, if we borrow money or equipment from someone, our duty to return it and the lender's right to its return are, as one might say, like two sides of the same coin. However, not all rights of recipience and their corresponding duties come about from voluntary agreements. We have moral duties that are not our own creation that, nonetheless, correspond to other people's moral rights. For instance, we have moral duties not to slander people nor kill them wantonly and they have, correspondingly, moral rights not to be slandered nor wantonly killed.

Not all of our moral duties have corresponding rights of recipience. For instance, if, as seems reasonable to say, we have a moral duty to be charitable, no

particular people have a right of recipience to our charitable giving. That to which they have a right of recipience is something other than our charity. However, moral duties are the font of moral rights of recipience. We have moral rights of recipience to something or other only when there is the bearer of a corresponding duty. That bearer need not be a person. It can be an agency. Thus, for instance, the state has a moral duty to treat its citizens impartially and individual citizens have a moral right to receive impartial treatment from the state.

Moral rights of recipience correspond to moral duties. However, moral rights of action do not correspond to moral duties of other agents or agencies and they do not impose moral duties on them. If one has a moral right of action to do X, it does not follow that others are morally obliged to help one to do X nor even to refrain from obstructing one in one's endeavour to do X (although they might sometimes be so obliged on other grounds).

Suppose, for instance, that you a moral right of action to have sexual intercourse with a particular person. This means and means only that you do not have a moral duty not to have sexual intercourse with him or her. Other people are not thereby morally obliged to refrain from impeding you, far less are they obliged to assist you if you choose to try to have such sexual activity. For instance, the person's girlfriend or boyfriend, who equally has a moral right of action to have sexual intercourse with him or her, is not morally obliged to stand aside, far less to encourage you in your courting of the person. Notice too that the person who is the object of the desire is not only morally entitled to spurn any particular advances that you might make but to eradicate your moral right of action to have sexual intercourse with him or her by withdrawing his or her consent.

There is not necessarily one and only one feature by virtue of which good actions are good. There is no reason to suppose that there is only one basis on which our moral duties arise. There is no reason to suppose that all moral rights of recipience or, if there are any, human moral rights of recipience arise, as Griffin suggests, for the one moral reason, whether that pertains to human dignity, protection of personhood or whatever. (See McLachlan [2009a])

Moral duties are the font of moral rights of recipience rather than, as Griffin seems to suggest, *vice versa*. For instance, if I have a moral right to receive £5 pounds from you, it is because, for instance, I loaned you £5 last week and you have thereby a moral duty to return it to me. I have the right because you have the duty. You do not have the duty because of my prior right to receive the money. Similarly, if we have, say, a moral right not to be killed or not to be tortured, this is because people have a moral duty not to kill or torture us. Their duty does not derive from our prior rights not to be killed or tortured. I have, for instance, a moral right not to be slan-

dered if and because you have a moral duty not to slander me. It is not the case that you have a moral duty to refrain from slandering me because of my moral right not to be slandered.

Our moral rights of recipience are limited to and by the moral duties of others. Such rights do not impose moral duties on them. It might be thought to be the other way round in the case of legal rights of recipience. Here, particular people and agencies can be considered to have particular legal duties because it has been enacted that citizens have particular specified legal rights. Sometimes, the declaration that people have particular legal rights is mere verbiage if no agent or agency that is able to fulfil them is declared to have the corresponding duties. With regard to moral duties, it might be, as Kant suggests, that ought implies can. However, agents and agencies might be allotted legal duties that they are incapable of fulfilling. Such is the folly of politicians.

Whether we have a particular moral right and whether it is worth having it are quite separate questions, in my interpretation. Particular moral rights might be to some or all people unwanted, unneeded and useless. A nun, no more or less than a rake will have what human rights and other moral rights there are pertaining to, for instance, sex, abortion, contraception and family life. A fundamentalist atheist, no more or less than a priest will have what rights there are pertaining to freedom of worship and freedom to express religious beliefs. A moral right of recipience not to be killed will be held no less by the terminally ill and the suicidal than by anyone else. Often, by our consent, we can waive our rights of recipience and sometimes, by our misdeeds, we can forfeit them. However, we need first to have them to be able to waive or forfeit them.

Moral rights of action and of recipience do not play leapfrog: they do not propagate themselves. One can have a right to free speech whether or not has anything to say or the physically ability to express it. The right does not bring with it the right to have something to say or the ability to say it. A duty not to kill you does not bring with it a duty to do all that might be required to keep you alive. I might, in some circumstances, be morally obliged to do what is necessary in the circumstances to try to keep you alive but it does not follow from my having a moral duty not to kill you. Hence, it might be that, in some circumstances, what is your right to life is or seems to be a hollow sham.

We might need various things to protect our 'personhood', in Griffin's sense of the term. In my view, it does not follow that we have thereby a moral right to them. Such needs do not automatically generate duties for other people that would correspond to rights of recipience for us. Not all that we have that is worth having or that protects our 'personhood' was given to us as the fulfillment of

a duty and, correspondingly acquired by us as a right. Even if we have a moral right that it is not taken from us in particular ways, we did not acquire our very existence as a matter of right. We did not have a moral right of recipience to be born. So it is with much that means most to us as individuals, is not held or experienced as a moral right. Among the items that for me belong to that category of things are: my love for and from my wife; the music of J.S Bach and Buddy Holly; my enjoyment of golf, my ability to play it, after a fashion, and good friends to play it with at a golf course in the vicinity of my house; novels and short stories.

We could not exercise a right to life if we were not alive. However, we could not have a moral right of recipience that our bodies were conceived, carried and delivered alive. We would not have been born if our parents had not met and had sex. They did not have a moral duty to meet far less to have sex with each other, hence we could not have corresponding rights of recipience to be conceived. We were not born of moral right. Our need to be born in order to enjoy a human right to life did not propagate for us a moral right to be born.

MORAL RIGHTS AND HUMAN RIGHTS

Within the general category of moral rights, there is a specific although only vaguely specifiable category of human rights or, as they are also called, natural rights. Natural, or human rights and duties are held by all human beings as such because they are human beings. They are distinct from the moral rights and moral duties that are held by particular human beings by virtue of the particular people they are and the particular contexts they are in. As with moral rights in general, there are human rights of action and human rights of recipience. Similarly, human duties are the font of human rights of recipience. If we have human rights of recipience, it is because other people have corresponding human duties. A human right of action to do something or other is the absence of a human duty to refrain from doing it.

I have written elsewhere that:

> I am not sure what particular natural duties we have. I believe that we have, at least, the following three.
>
> (i) We have a natural duty to enjoy and to revere the Creation.
>
> (ii) We have a natural duty to try to provide for ourselves our means of survival.
>
> (iii) We have a natural duty not wantonly and avoidably deliberately to kill another human being.

> Some but not all natural duties have corresponding natural rights of recipience. In addition to these natural rights of recipience, there are natural rights of action: one has a natural right of action to do that which one is not obliged by a natural duty not to do. Thus, to say, for instance, that one has a natural duty not to kill … is precisely to deny that we have a natural right of action to kill. (McLachlan [2005] pp 44-45)

In my account, there is nothing ethically special about 'human rights', if there are any. Furthermore, there is no reason to imagine that they should be regarded as politically significant in any way. For instance, it does not follow that human duties and rights, any more or less than any other moral duties and rights, should be reflected in the criminal or civil law. Murder should be a crime quite independently of whether or not we have a human right not to be wantonly killed and a human duty not to kill wantonly. If it is a breach of one's natural duty to fail to support one's self or to fail to revere and enjoy the creation, it does not follow that such moral lapses should be, on that grounds, criminal offences.

GRIFFIN ON HUMAN RIGHTS, DETERMINACY AND POLITICS

Griffin and I agree that not all that politicians declare and decree to be 'human rights' are human rights. However, unlike me, Griffin thinks that human rights can and should be determinate. He also thinks it matters whether or not something or other is a human right.

I am certain that we have natural or human duties. I think we have human rights and have suggested three possible ones. I suspect that we have others. However, it would not matter to me if it were the case that there are no human rights of any sort. My philosophical, ethical and political positions would not be undermined in any way.

Human rights are a sub-category of moral rights but they are not, somehow, ethically more highly powered and significant than other moral rights. Even if there were a way of being sure what moral rights actually exist and of ascertaining which of them actually are human rights, nothing of necessary moral, social or political significance would follow, in my view, although the exercise would clearly be of academic interest. For instance, the question of what human rights, if any, we have is quite different from the question of what civil and legal rights we should be accorded in any particular state or society.

In his attempt to make human rights determinate, he introduces the notion of 'practicalities'. Personhood is not the only necessary ground of human rights, in his view. Thus he suggests that while it would not destroy his personhood to have

his finger pricked against his will, to have, say, a kidney so removed might destroy it. He writes:

> Does my right to security of person protect me against, say, the health authority that wants one of my kidneys? After all, the few weeks that it would take me to recover from a kidney extraction would not prevent me from living a recognizably human life either. Where is the line to be drawn? What is clear is that, on its own, the personhood consideration is often not up to fixing anything approaching a determinate enough line for practice.... to make the content of the right to security of person determinate enough to be an effective guide to behaviour, we need a further ground – call it "practicalities" (Griffin [2008] p. 37).

Practicalities encompass 'empirical information about ... human nature and human societies, prominently about the limits of human understanding and motivation' (*ibidem*, p. 38).

This is not the clearest or the most convincing aspect of Griffin's account of 'human rights'. Furthermore, it is not clear that or why we should expect 'human rights', if there are any, to be determinate. Some people might want them to be but that is another matter.

GRIFFIN ON HUMAN RIGHT, POLITICS AND LAWS

Griffin seems to take it for granted that if we say that people have a moral right to X, particularly if we say that they have a human right to it, then it will become more likely that people will get X. He assumes too that if people have a human right to X, this should be reflected in law. For Griffin, philosophising and talking about human rights has a political purpose, it is, indeed a sort of politicking in itself. It is part of the process of bringing about the sort of societies that Griffin would like to exist.

According to Griffin:

> Ethics should be concerned not just with identifying right and wrong, but also with realizing the right and preventing the wrong. Having the simple term 'human right' is important to the latter. Strictly speaking, though, that is a case for having a simple term, not necessarily the term's being "human rights". It could instead be 'constitutional rights' or 'basic rights' or 'entrenched rights', to which we could attach a satisfactory determinate sense, say of a positive nature: a 'constitutional right', we could say, is one chosen by a certain sort of convention of citizens and given a certain sort of foundational place in the legal system (*ibidem*, p. 19)

Again, conflating ethics and politics, he writes:

> But would something be lost simply by not having a single word or simple term for human rights? Having a simple term serves several practical purposes. It highlights a certain consideration, attracts our attention to it, marks its importance in our culture, makes its discussion easier, increases the chances of its having certain social effects such as ease of transmission and potency in political action. It can facilitate deep moral shifts… It lends itself to political slogans and provides the centrepiece of popular movements. It allows lists of 'human rights' and so checklists for the sort of monitoring done by Amnesty International and Human Rights Watch. It can empower individuals (*ibidem*)

It is true that there often are such practical effects but this is regrettable. Human rights are no more morally significant than other moral rights. As with moral rights in general, there need be no presumption that it would be wise to pass laws to uphold them nor is there a presumption than wise laws uphold moral rights. If people want to argue that we should, in a particular society, be granted a legal right to X, let us hear their argument for this proposal. Their argument might (or might not) be more persuasive if they use the rhetoric of human rights but that will not render its substance more rational.

We should distinguish between ethics and politics. Politics is not reducible to ethics and ethics is, clearly, not reducible to a consideration of 'human rights' however defined. The following questions are different sorts of questions. We should not conflate them. Do we have a moral right to X? Would it be wise, whether or not we have a moral right to X, to give citizens at a particular time and place a legal right to X? I could – but happen not to - agree with Griffin that people should have a legal right to the sort of things he identifies in his account of a right to life whether or not I agree that we have such a moral right. Similarly, if I were to agree that we have a moral right to life as he describes it, it does not follow that I would have to agree that we should be accorded such a legal right.

RIGHTS AND THINGS

Like other advocates of human rights such as Blau and Moncada, Griffin tends to confuse the possession of rights with the possession of that to which one might have a right. They are distinct and separable. If we have a right, say, not to be killed and are murdered it is our life and not our right that is taken away. Our right is not honoured but it exists nonetheless if we have a moral right not to be killed. Similarly, to have, say, a lover, food, a house or health treatment is distinct from having a moral right to these particular things. One might have the rights,

the things or both. One might have neither. It is curious to say that rights, of whatever sort, protect our 'personhood'. It is things rather than rights that we need and which protect us. People who are, say, hungry do not crave a right to food. They want and need food. One can have the right without the food and the food without the right. The right will not nourish them. Only the food will do that. It will nourish them no more with the right than without it.

Blau and Moncada talk of : ' …those freedoms and rights that relate to human security, such as rights to a job, to an identity, to a healthy environment, and to an education…' and say: 'People at all times and at all places have aspired to having such rights as these… (Blau and Moncada [2005] p. 24) I would doubt that people everywhere aspire to have rights to such things, whether or not human rights. They aspire to have the things. They aspire to have jobs, healthy environments, education and so forth. Hungry people aspire to be fed. Some of them who are of particular philosophical and political dispositions might also, but not instead, aspire to a right to food.

It is an ideological belief rather than a sociological fact that people are more likely to get particular things if they are thought and said to have a moral right to them and if they are declared by politicians and legislators to have such things as 'human rights'.

CONCERNING WHOM OR WHAT CAN WE HAVE A MORAL DUTY? WHO OR WHAT CAN BE A BEARER OF A MORAL RIGHT?

It would seem reasonable to say that only living human beings can possess human rights. However, it does not follow that it is only living human beings who can possess moral rights. Furthermore, it is not merely concerning human beings, whether or not they are alive that we can have natural duties and other moral non-natural ones.

With regard to the abortion debate, some people focus on the question of when, if ever, a fetus becomes a person. (See, for instance, Dawkins [2007]; Lee [1996]; Reiman [1999] and Stretton [2000]) This is a mistake, in my view. (See McLachlan [2009b]) A fetus is a partially developed body. Bodies are not and never become persons. It is persons rather than bodies who have moral rights. I would argue that it is not merely persons with currently living developed human bodies who have moral rights. The dead who once had but no longer have such bodies might still have moral rights, whatever the contents of such right might be. Similarly, in my view, people who are yet unborn can currently have moral rights. Our conservation policies and our concern with environmentalism would not make much sense unless people who are currently without living bodies and who

are currently incapable of feelings matter. Such people matter now. They matter even if it turns out that they never become mature living human beings. Even if people who do not have currently living developed human bodies do not have moral rights, we might have duties concerning such people. I assert that we do. I see no compelling reason to restrict the attribution of moral rights to people with living, developed human bodies.

As we have seen, Griffin writes: '…I am inclined to conclude that human rights should not be extended to infants, to patients in an irreversible coma or with advanced dementia, or to the severely mentally defective. And if they do not extend to them, it is hard to find a case for extending them to foetuses' Cruft's reaction is interesting. He says of Griffin:

> He is careful to note that his position is compatible with the view that we have strong duties to infants and mentally disabled people, even though they cannot hold human rights (p. 85). Nevertheless, my response on reading this stipulation was akin to MacCormick's response to Hart's similar suggestion that young children cannot be rights-bearers: 'I should recognize it as a plain case of moral blindness if anyone failed to recognize that every child has ... right[s] (Cruft [2010] p. 178)

I suspect that the emotive and the political consequences of talk of 'human rights' might rebound on Griffin here. It is a risky and unpredictable activity to use words for political and rhetorical effect. The consequences will not always be what you expect or want. Philosophising is one thing; politicking is another. They over-lap and interact but we should try to distinguish between them.

RIGHTS OF ACTION AND RIGHTS OF RECIPIENCE, BOTH NATURAL AND NON-NATURAL, TO LIFE

We have a moral right of action to live unless we have a moral duty not to live. We have a moral right of recipience to life if and insofar as someone or agency has a moral duty regarding our life and our living. If there are different duties that someone or some agency has or different duties that different people and different duties have, we will have various rights of recipience to life. Such real or imaginary moral rights and duties can be classed as natural or non-natural ones or, to use the synonym, as human or non-human.

In most circumstances, it is morally permissible for us to continue to live. We have, it would seem, no natural moral duty not to live. However, it is possible that, in some circumstances, we might have a non-natural moral duty not to live. For instance, if we were to commit some particularly heinous crime, we might be morally

obliged to kill ourselves or to submit to being executed. Our death might be an appropriate punishment. Our suicide might be an appropriate response. Sometimes, our continued existence might preclude the continued or, at least, the comfortable continued existence of other people. Sometimes, our continued existence might even preclude the possible existence of some other people. Our continued existence in some circumstances might impose an unjustifiable burden on other people even if we are not guilty of heinous offences. We might, in some unusual circumstances, have a moral duty to sacrifice our lives for the sake of other people. A non-natural duty can trump our natural right of action to live.

I have already suggested that: 'We have a natural duty not wantonly and avoidably deliberately to kill another human being.' This corresponds to a human right not to be wantonly, avoidably and deliberately killed by any other human being. All human beings who are alive have such a moral duty and such a moral right. We do not have a human right of recipience to be born or to remain alive but, if we are alive, we have a human right held against everyone else, that our life is not taken from us in particular ways.

Such a moral duty does not exhaust our moral obligations towards the life and the living of the rest of living humanity since not all of our natural duties need correspond to natural rights. However, the right not to be killed in particular ways exhausts, I suggest, our natural or human right of recipience to life. Griffin would call this a negative right. I prefer to call it a positive right of negative recipience. What is crucial about this suggested human right to life is that the duty involved is one that we are all capable of fulfilling. It makes no sense to say, that I and all other people have, for instance, a duty to give every other living person a job, sufficient food, shelter, clothing or sex. We could not possibly fulfil such a duty. However, it is possible that we can each fulfil a moral duty to each and every other living human being by refraining from killing him or her wantonly, deliberately and avoidably. The duty, say, to try to give other people a job and so forth, if there were such moral rights would not be the same as a moral duty to give them one and it would not correspond to a right to work. We do not merely have a duty to try to refrain from killing people wantonly. We have a duty to do so.

The right not to be killed in particular ways is the extent of one's human right to life but it is not all that particular people can have as moral rights to life. Furthermore, people have moral duties, whether natural ones or not, that pertain to the maintenance and protection of human lives that do not necessarily correspond to the moral rights of other people.

Suppose that my wife and I were passing by a large lake in which ten children were swimming. We both would have a natural duty to refrain from drown-

ing them and they each would have a human right not to be drowned by us. Suppose that one of the children was in danger of drowning and cried for help. Because my wife and I happen to be there at that particular time, we have particular moral duties regarding the child. For instance, we are both obliged to consider helping him or her. To raise the alarm might be sufficient to discharge our moral duty. If we alert a lifeguard, whose attention might, say, have been temporarily drawn elsewhere, that might be the limit of what we ought to do in the circumstances. If there is no life-guard, we might do all that is required of us if, say, we try to find one or, say, throw a life-jacket, if one is located nearby, towards the child.

My wife is disabled. I am fit and a strong swimmer. If there were no lifeguards and it looked as though the child might drown, it is possible that I would have a moral duty to enter the water to try to save him or her although my wife could hardly have a moral duty to risk her own life severely for the remote chance of saving the child. However, if the child's mother appeared on the scene, she might have a moral duty to brave the water to try to save him or her even if she happened to be disabled and a weak swimmer.

Different people would have different moral duties, if they had any at all, with regard to the rescue of the child. It is far from clear what moral rights, if any, pertaining to the rescue and to the actions that might further it the child would have in such circumstances. He or she might have a moral right that any one who happened to be present gave serious thought to his or her predicament and its possible solution. If a lifeguard is on duty, the child might have a moral right to the lifeguard's help whether or not it was a moral right of the child that there was a lifeguard on duty. It is interesting to speculate whether, if at all, the situation would be different if the person in danger of drowning were an adult rather than a child.

Suppose that, by some curious freak, all ten children experienced some difficulty and all seemed simultaneously to be in danger of drowning. My moral duty might remain the same. None of the children would have a stronger claim on me than any other one would. None of them has a moral right against me that I rescue him or her even if I have a duty to try to rescue one – any one – of them. I cannot save them all. I cannot even try to do so. I can only save one at a time. It would be permissible if I chose to try to save a child who was close to the bank. It might even be morally obligatory for me to do so. However, if the parent of one of the children in the water saw that his or her child was farthest from the shore, it would be morally permissible and possibly even morally obligatory for him or her

to ignore the other, more easily rescued children and to try to swim to save him or her no matter how remote the chances of success might be.

IS THERE ARIGHT TO DIE?

Griffin argues that we have a (human) moral right to death but concedes that there might be practical problems in framing appropriate legislation. I agree that we should seriously consider making assisted suicide and, even, active euthanasia legal. However, there is no general moral right of action to kill oneself and there is no general moral right of recipience to be, even if one wants to be, killed.

As we have seen, Griffin thinks that moral rights play leapfrog. He argues that, since there is a moral right to life, there is a moral right to death and one that involves the right to the restoration of the capacity to exercise it. He writes:

> Whether dignity-destroying pain or deterioration is to be endured is one of the most momentous decisions that one can take about what one sees as a life worth living. If one is denied that momentous decision, or the possibility of implementing it, then one's rights to autonomy and liberty are hollow shams. If one has a right to anything one has a right to death (Griffin [2008] p. 221)

It is, in his view, not merely what Griffin would call a negative right. In other words, he is saying more than that people should not prevent others from killing themselves. He asks: 'What is a right to death a right to? The right clearly entails a duty on others, in certain circumstances, not to stop one from killing oneself. But does it also entail a duty on some others to help one?' (*ibidem*, p. 223) He thinks it does entail such a duty since, he argues: 'If one's right to suicide were merely a right not to be stopped, then the right would often, in the circumstances most relevant to rational suicide amount to little'. (*ibidem*)

This looks at the matter the wrong way round. Duties generate rights rather than vice versa. Furthermore, as I have argued, some moral rights are hollow shams at least for some people in some circumstances. For some or all people, some moral rights do amount to little.

Often – normally, perhaps – we are morally obliged to continue to live. In other words, we do not always have a moral right of action to kill ourselves. Suppose that someone who is intent on killing himself happens to be walking past the lake in which a child is drowning and that only he is around to notice this unfolding drama. Let us suppose that he had intended to kill himself at that very moment and that, prior to his awareness of the drowning child, he had a moral right of action to do so. He would no longer have such a moral right of action. He would have a duty, I suggest, to postpone his attempted suicide and to consider how the child might be hel-

ped. It is unfair, he might think, that such a moral duty imposes itself on him so fortuitously but whether we have particular moral duties and whether it is fair that we have them are different questions. If he is a competent swimmer, he might well have a moral duty to enter the water and rescue the child himself.

We can only fulfil our moral duties towards other people and implement their moral rights, if we are alive. For instance, if we owe some one £10,000, we have a duty to try to stay alive and healthy in order to repay our debt. However, it does not follow that we are always obliged to refrain from killing ourselves. Suicide might, in some circumstances, be morally permissible even when it is not morally obligatory. We might sometimes have a right of action to kill ourselves. I have suggested that we have '…a natural duty to enjoy and to revere the Creation.' We can enjoy life only if we are alive but if we loose our capacity for enjoyment, we loose thereby our duty to enjoy being alive. Furthermore, suicide need not be an irreverent act. We can, say, regard life as a precious gift for which we are very grateful and yet conclude that we have had enough of it. There is nothing impious or inappropriate about such an attitude. If life were thrust upon us with the implied warning that we relinquished it at our pearl, we could hardly regard life as a gift, far less as a gift from a benevolent and loving God. Gifts do not come with conditions far less with threats. We can, to use an analogy, thank a host for a delightful evening and take our leave at a time of our choosing without acting inappropriately or causing offence. As Hume argues convincingly in his marvellous essay on suicide, the stock religious objections to suicide fail even on religious terms. To use one of his arguments, the means of ending a life no less than life itself can be seen as a Divine gift. (McLachlan [2008])

It is sometimes thought to be a good thing that people are able to choose when to die, if they want to kill themselves or to be killed. However, to say that a particular outcome is a morally good one is not to imply that someone or other has a moral duty to bring it about. Even if the person concerned has a moral right of action to kill himself and has voluntarily waived his human right to recipience to life, it does not follow that he has a moral right of recipience to die or to be killed. Even if it were morally permissible for other people to kill him, it does not follow that they have a moral duty to do so and that he has a corresponding right to die.

Consider the analogy of sex. If someone who has a moral right of action to have sex asks someone, however intently, to have sex with him, the person who is asked will not necessarily have a moral duty to comply with the request whether or not the person is morally permitted to do so. The consent given by the request frees the person who is asked from what would otherwise be a moral duty not to have (non-consensual) sex with the person. However, the person might have other

moral duties that forbid the action. Furthermore, even if no moral constraints prevent the person who is asked from having sex, he or she, for whatever reasons of personal preference might not want to do it. He or she does not have a duty to have sex with that particular person at that particular time and the person does not have a moral right of recipience to sex.

By the same token, a person who is asked by someone who wants to die to kill him or her is released from a particular moral duty not to kill the person but other moral duties might remain. Furthermore, for matters of personal preference, which need not pertain to ethics, the person might object to being a killer. For instance, if he or she is a doctor, he or she might think that to kill and to heal are inconsistent goals and/or that it is inappropriate for doctors to be or to be thought to be killers. Whether euthanasia and assisted suicide is acceptable one question. Whether physician assisted euthanasia and assisted suicide is acceptable is another. (McLachlan [2010])

There is no general right to die and no general duty to kill those who want to die. However, one can imagine dreadful and unusual circumstances in which some particular people might be thought to have a moral duty to kill some other particular people whether or not those people have a moral right to die. For instance, suppose that a married couple are on a shooting holiday driving around a remote Scottish island. Suppose that their car crashes and that one of them is trapped, conscious and only slightly injured in the wreckage. Suppose that the car bursts into flames and that the trapped person will be burnt alive. This, let us suppose, would take at least twenty unimaginably painful minutes. There is no prospect that a fire engine could come to the rescue far less that it will come in time. There is none on the island. Should one spouse kill the other if he or she begs to be released from the present and inevitable future pain? It is certainly possible although not certain that one of the pair has a moral duty to kill – to shoot, perhaps? - the other one. Among the complications is the fact that intentional killing is a crime, the crime of murder, whatever the motivation might be. Furthermore, after the event and after the ravages of the fire, it might not be a straightforward matter to refute the charge that the killing was a run-of-the-mill domestic murder rather than an act of mercy. Policemen, courts and juries are far from infallible and far from omniscient. They can also be highly suspicious and cynical. If there were young children of the marriage, who would look after them if one of their parents were dead and the other imprisoned for life for murder?

THE RIGHT TO LIFE OF THE UNBORN: OUR DUTIES TOWARDS AND CONCERNING FUTURE GENERATIONS

Those people who have a currently living human body have a human right that their lives are not wantonly ended. Those people who do not have a currently

living human body have a non-human right that their chance of having a life that might we worth living is not wantonly taken from them.

What makes abortion and climate change moral issues is that they can involve taking from people, as yet unborn, something that is worth having (and worth having now even if one could not be aware of having it): the chance of a life that might have been worth living. We have a duty not to take away such a chance wantonly and willfully particularly when it would be needless to do so and costless for us to avoid so doing. I think they also have a corresponding right of recipience not to have their chance taken from them in such a manner. Similarly, we have a duty not wantonly, willfully and needlessly to make the lives of those who will be born in the future less worth living than they could have been. Those people who will be born have a corresponding right of recipience.

However, it does not follow that we are morally obliged to sacrifice our own interests and those of our contemporaries for the sake of those who are as yet and might forever be unborn. It certainly does not follow that abortion is always morally wrong or that it should ever, far less always, be illegal. (McLachlan [2009b]) It does not follow that we should not burn fossil fuels, travel on aircrafts or, in general, deplete scarce resources or do that which might alter the climate. We should not do such things wantonly, willfully for no good to ourselves but that is another matter. There is much leeway possible with regard to what is morally mandatory in the circumstances: there is a broad margin for reasonable disagreement. For instance, it is not the case, despite what is often said, that we are obliged to ensure that future generation have a standard of living and life that is at least as good as the one that we enjoy. We did not receive this as a right. Future generations do not have a right to receive it. We are more like winners of a lottery. We are not obliged to give it all away. However, we should, perhaps, relinquish, in the form of gifts and charity, some of it.

CONCLUSION

It is worth unpacking a number of issues that Griffin conflates. There are different sorts of moral rights to life. Different people have, in different contexts, different moral rights to life against different people. To ask what is the content of the right to life is like asking what the content is of an IOU. It all depends. The human right to life, if there is one, should not be given an exaggerated status among the other moral rights concerned. It need not be accorded any political significance.

A focus on moral rights with regard to the living of a worthwhile life and not merely on human rights can be misleading and inappropriate. Not all that we have which is worth having came to us as a moral right. Not all that we properly hold is

held as a moral right. For instance, suppose that some particular woman is very healthy, very good looking and a millionaire by virtue of having won the lottery. She did not win the lottery because to win it was her moral right. It would not have been an injustice had someone else won instead. Similarly, she does not have a moral right, denied to the rest of us, to be very healthy and very good looking. It was, too, a matter of luck, whether good or bad, that she was born a girl rather than a boy.

It would be an infringement of the woman's moral rights if her good health, good looks, money and her life were taken from her in particular ways – if, say, her face was deliberately smashed by a bottle, her money was stolen or she were murdered – but she does not have a general moral right to remain healthy, good looking, rich or alive. Like the rest of us, she has a moral right, for instance, not to be slandered, assaulted or robbed. She can rightly claim that an injustice has occurred and that some one or other has failed to fulfil his or her duties towards her if such rights are infringed. However, if she grows ill, ugly, poor or dies, it does not follow that injustices have occurred and that particular people or agencies are necessarily in breach of moral duties which they hold towards her.

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