

2012

Why There Is No Duty To Die

Gary W. Levis

University of Connecticut - Torrington Campus, gary.levis@uconn.edu

Margaret M. Levis

Central Connecticut State University, LEVVISM@CCSU.EDU

Follow this and additional works at: https://opencommons.uconn.edu/torr_articles

 Part of the [Bioethics and Medical Ethics Commons](#), and the [Philosophy Commons](#)

Recommended Citation

Levis, Gary W. and Levis, Margaret M., "Why There Is No Duty To Die" (2012). *Torrington Articles*. 5.
https://opencommons.uconn.edu/torr_articles/5

WHY THERE IS NO DUTY TO DIE

WHY THERE IS NO DUTY TO DIE

ABSTRACT

John Hardwig argues that patients have a duty to end their lives when their continued existence imposes serious hardship on their caregivers. Hardwig has deflected many critics' objections concerning the practical implications of his position. Our goal is to demonstrate the self-contradictory nature of the duty-to-die thesis. Once we eliminate the vagueness (over the necessary conditions for a presumed duty to die) and the ambiguity (implicit in Hardwig's use of the term "duty"), we find that the essential conditions for such a duty cannot be simultaneously satisfied. The problem is that the very process by which the duty to die is determined affects the qualitative states of the patient that are central to the determination itself. Although the duty-to-die thesis is defended on the basis of the harms caused to others by one's continued existence, we conclude the essay by dispatching the idea that a duty to die might be a duty to oneself.

KEY WORDS: duty, duty to die, lifeboat ethics, suicide, supererogatory.

I. Introduction.

Most ethicists wrestling with end-of-life issues focus on whether suicide, assisted suicide and euthanasia are morally *permissible*, such permissibility being a necessary condition for any *right* to commit these acts. In contrast, John Hardwig argues that ending one's life is, under certain circumstances, a moral *obligation*.¹ He claims that we have a *duty* to die when our continued existence places too great a sacrifice upon others. If Hardwig's position is correct, then the central issue facing the medical community is not whether patients may oblige their caregivers to assist in their deaths, but whether and under what conditions caregivers may oblige patients to end their lives. The position is radical insofar as it threatens to reverse the dynamic of the caregiver-patient relationship: patient self-determination (and any presumed right to life) is subordinated to the interests of others. These *others* include, for Hardwig, one's family upon whom one might put an excessive financial and emotional burden. To continue to live due to one's "cowardice, rationalization, or failure of resolve" (Hardwig, 2000, 127) is, in his view, an egregious immoral act, particularly if one has already had one's "share of the good things life offers" (Hardwig, 2000, 129).

We believe that Hardwig's position is long overdue the rebuttal it deserves. Criticism of Hardwig's position has mainly focused on its practical implications without focusing on the logic of the argument itself. For example, Callahan and others have argued that Hardwig's position opens the door to abuse at the hands of one's family or even state-sanctioned involuntary euthanasia (Callahan, 2000). This may be true, provided the duty to die entails a corresponding right or carries policy implications, both of which Hardwig denies. This denial comes at a cost: it forces Hardwig to equivocate

on his use of the words “duty” and “duty to die.” Specifically, it forces him to alternate between genuine duty-talk for which the possibility of a corresponding rights-claim exists and a way of speaking more appropriate to supererogatory or virtuous actions. The use of the latter language results in a vagueness concerning the necessary and sufficient conditions for a duty to die, leaving the concept virtually impossible to assess.

For our part, we intend to show that once the equivocation is remedied and the vagueness removed, the concept of a duty to die is internally inconsistent and may be rejected on the basis of a *reductio ad absurdum*. Hardwig would deny there are rights corresponding to a duty to die or that such a duty carries policy implications. We think that such a denial turns on a second equivocation between duties-to others and duties-to-oneself. Hardwig’s argument depends crucially on demonstrating the harms to others caused by one’s continued existence, but rather than accept the implications, he would prefer to befriend the idea that a duty to die is merely a duty to oneself. We will conclude this essay by demonstrating how even on such a construal, the concept of a duty to die is implausible.

In Section II, we will establish three necessary conditions for there to be a duty to die based upon the examples Hardwig provides. We assume Hardwig would raise no objection to these conditions. In Section III, we will explain how further clarification of the concept is impeded by Hardwig’s attempt to avoid unwanted implications concerning corresponding rights and social policy. We will explain how this tactic produces the equivocation mentioned earlier, and why it must be remedied. In Section IV, we complete the task of outlining the hypothetically necessary and sufficient conditions for a duty to die and demonstrating their internal inconsistency. Section V concludes the essay

by demonstrating how a duty to die cannot plausibly be regarded even as a duty to oneself.

II. What Is a Duty to Die?

Even though Hardwig does not provide a determinate set of conditions essential to a duty to die, and offers instead a set of conditions he says increases the probability that one has such a duty, it is possible to discern at least three necessary conditions based on his examples and commentary. These form a bare minimum, and we would not expect Hardwig to find them in the least bit controversial. Here is the first:

Consider Captain Oates, a member of Admiral Scott's expedition to the South Pole. Oates became too ill to continue. If the rest of the team stayed with him, they would all perish. After this had become clear, Oates left his tent one night, walked out into a raging blizzard, and was never seen again (Hardwig, 2000, 120).

Hardwig believes that such “*lifeboat cases* make for bad ethics” (Hardwig, 2000, 120); however, certain necessary conditions are evident:

- (i) Person A is in some condition C (in this case the condition of *being too ill to continue the expedition*) that poses a serious risk of harm H_1 to Person A (in this case, *A's eventual death*);
- (ii) Person(s) B cannot attempt to remedy H_1 (*A's eventual death*) or ameliorate C (*A's condition of being too ill to continue the expedition that will result in A's eventual death*) without creating an equally serious risk of harm H_2 for Person(s) B.

Condition (i) is uncontroversial. Condition (ii), however, points to the risk posed to Person(s) B (in this case, the members of the expedition other than Oates) should they attempt to *remedy* H or *ameliorate* C; but the case, as here described, only mentions the risk assumed “[i]f the rest of the team stayed with him.” In fact, according to Admiral Scott’s journal, the rest of the team chose to stay with Oates, rather than leave him behind, in order to help him continue the trek back from the South Pole. Doing so slowed the expedition and put it at peril’s risk. Oates knew about this risk and perhaps had an opinion about the futility of his own situation (even if that opinion was not shared by the other members of the team).ⁱⁱ These were the conditions that precipitated his sacrificing his life.

In assessing Oates’ action, it is important to add to (i) and (ii) a third element:

(iii) Person A knows (i) and (ii).

This too is a necessary condition, since we cannot ascribe duties to persons who are not to some degree knowledgeable of the nature or consequences of their actions. Such knowledge is a precondition for moral agency and *a fortiori* for being responsible, blameworthy, virtuous, dutiful, *etc.* Accordingly, Oates’ state of mind is important for the sake of determining the character of his action. Indeed, history has looked kindly upon Titus Oates precisely because it understands that he intentionally sacrificed his own life in order to better his comrades’ chance of survival.

Because of his intention to sacrifice his life in his colleagues’ best interest, Oates’s action has long been heralded as virtuous or supererogatory. Hardwig, however, is skeptical of this appraisal:

...Oates left his tent one night, walked out into a raging blizzard, and never was seen again. That may have been a heroic thing to do, but we might be able to agree that it was also *no more than his duty*. It would have been *wrong* for him to urge—or even to allow—the rest to stay and care for him (Hardwig, 2000, 120, emphasis added).

Had Oates acted otherwise, according to Hardwig, he would have been guilty of a wrongdoing toward the other members of the expedition: by placing his interests above theirs, he would have knowingly put them at serious risk.

Let us turn to Hardwig's contemporary case:

...An 87-year old woman was dying of congestive heart-failure. Her APACHE score predicted that she had less-than a 50% chance to live for another six months. She was lucid, assertive and terrified of death. She very much wanted to live and kept opting for rehospitalization and the most aggressive life-prolonging treatment possible. That treatment successfully prolonged her life (though with increasing debility) for nearly two years. Her 55-year-old daughter was her only remaining family, her caregiver, and the main source of her financial support. The daughter duly cared for her mother. But before her mother died, her illness had cost the daughter all of her savings, her home, her job and her career (Hardwig, 2000, 126).

In most respects, this example is similar to the Oates' case. The 87-year old woman is (i) faced with a serious condition, but (ii) her reliance upon her 55-year old daughter places the latter at serious financial risk. In order for element (ii) to be satisfied, the risk of harm

to Person B (the daughter) must be at least as serious as that facing Person A (the mother). Hardwig lists a number of realistic harms that the daughter and her family might incur:

The burdens of providing care or even supervision twenty--four hours a day, seven days a week are often overwhelming. When this kind of care giving goes on for years, it leaves the caregiver exhausted, with no time for herself or life of her own. Ultimately, even her health is often destroyed. But it can also be emotionally devastating simply to live with a spouse who is increasingly distant, uncommunicative, unresponsive, foreign and unreachable. Other family members' needs often go unmet as the caring capacity of the family is exceeded. Social life and friendships evaporate, as there is no opportunity to go out and see friends and the home is no longer a place suitable for having friends in... We must also acknowledge that the lives of our loved ones can be devastated just by having to pay for health care for us (Hardwig, 2000, 122-123).

As Hardwig points out, caregivers can be faced with immense hardship. Aside from the financial burden, there are the physical and emotional burdens, including the stress put upon one's personal relationships. One's life may be thoroughly devastated by caring for another person.

It is very important at this juncture, for Conditions (i) and (ii) to be clarified. Both employ the notion of a "serious risk of harm," so we must ask as to the manner in which a serious risk or burden is to be determined. This is where things begin to unravel for Hardwig's purported duty to die. Because of the seriousness of the harm posed to

caregivers, it is possible for caregivers to raise questions as to their own rights (or their duties to themselves for safety, survival, etc.); so we need to know precisely how to proceed when this issue arises between patients and caregivers.

Hardwig's comments on the subject are not helpful and open the door to the charge that the duty to die is subjective and variable. He says,

[A]sk yourself which is the greater burden:

(a) To lose a 50% chance of six more months of life at age 87?

(b) To lose all your savings, your home, and your career at age 55?

Which burden would you prefer to bear? Do we really believe the former is the greater burden? Would even the dying mother say that (a) is the greater burden? Or has she been encouraged to believe that the burdens of (b) are somehow morally irrelevant to her choices (Hardwig, 2000, 126)?

So the matter is left to intuition. It is, of course, a difficult matter to find a vocabulary in which to articulate any comparison of persons' well-being. However, leaving the issue to be decided by the "What is your preference?" method, raises worries that what should count as a duty to die may be subjective and variable. For this reason, Callahan comments,

Much suffering is subjective, a function of personal values and particular circumstances.... But is the duty to die to depend on the emotional vagaries and differential values of caregivers. What happens if a family is divided, some feeling unburdened and others feeling much put upon? Whose judgment will count?

The same subjectivity will come into play with the sick person. Here again people range along a continuum, some quite willing to burden others, some utterly unwilling. The values and life experience of the sick person will and must come into play. But can a “duty to die” be based upon that kind of continuum (Hardwig, 2000, 142)?

Before we can make sense out of a duty to die, it is necessary to articulate the notion of a serious burden in such a way as to eliminate this element of subjectivity; and this ought to be done so as to bring into prominence the *wrongfulness* perpetrated against others when this duty is unmet. Unfortunately, before the concept of a duty to die can be clarified further, we must respond to Hardwig’s attempt to obfuscate the issue by denying a duty to die carries any corresponding rights. As noted earlier, this generates an equivocation on the meaning of the word “right” which must be eliminated before progress on the issue can be made.

III. Death as Duty and as Supererogatory.

Hardwig’s position, as stated so far, is open to the criticism that a patient’s (presumed) duty to die might rest on an arbitrary or unprincipled decision, since what counts as a serious harm appears subjective, thus leaving both patients and their caregivers threatened by the vagaries of personal inclination. Hardwig is faced with a dilemma: leave the defining criteria vague (and be susceptible to the charge of subjectivism) or clarify the criteria (and face the prospect of undermining patient autonomy in the face of rigid social policies that prescribe when suicide or euthanasia is obligatory). Hardwig opts for vagueness: “I cannot say when someone has a duty to die” (Hardwig, 2000, 129). And for the preservation of patient autonomy: the duty to

die, he claims, is “personal – self-recognized, self-imposed and self-enforced” (Hardwig, 2000, 181). This seems self-contradictory; how could someone both have the duty to perform some kind of action but the right not to do so? Hardwig’s answer turns out to be an attempt to pass between the horns of the dilemma by denying the existence of any right corresponding to a duty to die. He states that he “intend[s] no implication...that someone [else] has a right corresponding to [a duty to die]” (Hardwig, 2000, 135, note 1). In fact, he claims that those who link duties to rights are merely playing with semantics:

We should not, then, get diverted by semantics or the metaethics of “duty” at the very beginning of a critically important moral discussion. Callahan, and Cohn and Lynn insist that to claim someone has a duty to die implies – by virtue of the mere logic of “duty”—that someone has a right that this person die. ...I do not think we should cede the word “duty” to a rights-based ethics. But even more, I do not think we should get sidetracked into a discussion of the word. If duty is a problem, we can just as well begin, at least, by considering a responsible death. (Hardwig, 2000, 165).

Churchill, his most sympathetic commentator, concurs that the duty to die would not imply corresponding moral or legal rights: “I am seeking to articulate a *personally felt* duty, not to instruct others. Still less do I want to suggest that there are implications for health policy...” (Hardwig, 2000, 154, emphasis added). For this reason, Hardwig rejects the possibility of establishing determinate criteria for a duty to die. Instead, he offers a set of conditions that contribute toward the probability that one has a duty to die (for example, that one has lived a full life); but the weight assigned to any of these factors must be left to the patient and the patient’s caregivers. They are meant to provide

families with a helpful guide as they embark on a meaningful discussion of the topic with their burdensome loved one. It is this denial of any corresponding right coupled with the “self-imposed” character of the duty to die that lies at the heart of Hardwig’s equivocal use of the term “right.”

Hardwig’s use of the word “duty” pulls in two directions. The seriousness of the issue, and the reason for speaking in terms of a “duty” to die, derives from the fact that the burden placed upon another may be of such great extent as to constitute a grievous harm to the caregiver. Here “duty” swims in the same waters as “wrongdoing” and “rights,” such that it makes sense to say the caregiver is being wronged, or that the caregiver’s rights are being violated. On the other hand, in order to escape the implications of such a duty, Hardwig emphasizes its thoroughly voluntary (self-recognized, self-imposed, etc.) nature. In fact, when our own students read an anthologized version of Hardwig’s essay (Hardwig, 2006), what they initially found compelling was the way it was written in the first-person from the perspective of someone who genuinely wants to spare his own family the burden of his continued existence.ⁱⁱⁱ The students found this to be virtuous, evidence of being willing to go beyond the call of duty for one’s family. To end one’s life, on this view, is a courageous act. In this respect, Hardwig’s use of “duty” has its home in the language of virtuous or supererogatory acts.

The problem is that the evidence for why it might be *good* to end one’s life (in the sense of being virtuous or supererogatory) does not suffice to establish a genuine *duty* to do so. Hardwig may contend that his critics are merely toying with the semantics of the word “duty,” but it Hardwig who is guilty of linguistic gerrymandering by divorcing

rights-talk from talk of rights violations and wrongful acts. What is his argument? In a footnote Hardwig cites several reasons, mainly historical, for thinking that duties don't imply rights. He notes that duty-talk was around for centuries before rights-talk became fashionable; that Kant acknowledged there are few rights corresponding to positive duties; and that even a recent version of the *Encyclopedia of Philosophy* admits there are some duties, such as beneficence (if beneficence is indeed a duty), to which there are no corresponding rights. None of these claims are particularly relevant, since it is incumbent upon Hardwig to demonstrate that the duty to die (specifically) carries no corresponding rights implications. It would be preposterous to deny this. The very basis for countenancing a duty to die had to do with the enormous burden placed upon one's family or caregivers, the devastating economic and emotional effect, at a time when one's life (in his view) had comparatively less value. To presume a duty to die is to presume one's continued existence -- every breath of it -- is an egregious wrongdoing. The duty to die, in this instance, must be regarded as a negative duty not to cause severe harm to others. So Hardwig's claim that duties don't imply rights, in this instance, is a *non-sequitur*. Replacing the word "duty" with "responsibility" (responsibility *to whom?*) or "obligation" (obligation *to whom?*) does not change matters one whit.^{iv}

By de-emphasizing the object of one's responsibility or obligation, i.e., the person(s) to whom one owes a duty, and emphasizing instead its "personally felt" quality (as if *feeling* one has a duty is necessary for *having* a duty), Hardwig's duty to die looks less like a duty and more like a virtuous or supererogatory act. In his reply to his critics, entitled "Dying Responsibly," he describes such actions as being *true to oneself* (Hardwig, 2000, 165), and as involving a choice between one's life and one's *personal*

integrity (Hardwig, 2000, 182); and as we mentioned earlier, he likens one's failure to die responsibly to a *vice* resulting from "one's "cowardice, rationalization, or failure of resolve" (Hardwig, 2000, 127). Virtuous actions and actions that fulfill duties are not, of course, mutually exclusive, unless the virtuous act in question is supererogatory. We think sacrificing one's life for others fits the bill. Captain Oates is remembered as a hero precisely because he saved his comrades -- who, out of sense of camaraderie or their own *personally felt* sense of loyalty, would have trudged on albeit at a slower pace with Oates -- from placing their own lives at greater risk. He knew the others would make the utter sacrifice for him, just as he would (and did) make it for them. Was Oates obligated to commit suicide? No. Were the rest of the expedition's members obligated to assist him at all cost? No. Even if the rest of the party thought Oates should die, and killed him, our evaluation of their behavior would center upon whether the homicide was an excusable wrongdoing rather than a justifiable exercise of the expedition members' rights.^v The point is that there was a vacuum with respect to rights and duties, and within that vacuum Oates chose to act with integrity and out of sympathy for his comrades. He was, as Hardwig would say, true to himself. Because that desire to be true to himself arose from his concern for the welfare of others, we call him a hero (just as we would call the other members of the expedition heroes were they to die trying to save Oates). *Calling* the action a "duty" is therefore misleading. At some level, Hardwig and Churchill are aware of this, otherwise they would not qualify their position by informing readers they are concerned merely with "*personally felt* duties."

The fact is that avowals of duties are notoriously deceptive. Persons avow duties to nasty gods, unjust regimes, and abusive parents. On the basis of emotion, persons feel

“under an obligation.” We often talk that way in order to underscore the importance of our actions. A parent might express her willingness to sacrifice her life for that of her child in an emergency by saying she felt she was under an obligation. But it is far from clear that any such obligation or duty truly exists. To establish a genuine duty, it is necessary to demonstrate that the failure to perform the action entails a wrongdoing. It is necessary to consider objective harms. To the extent that Hardwig’s discussion gravitates towards the supererogatory, such that the rightness of the act is utterly the discretion of the agent, it cannot meet this burden of proof.

IV. Refutation of a Duty to Die.

The foregoing discussion suffices to show that Hardwig’s argument is invalid once it is clarified. However, in this section we intend to refute the very idea of a duty to die by means of *reductio ad absurdum*. This will require clarifying the concept further so that its internal inconsistency is evident.

Earlier we mentioned that Hardwig dismisses the project of establishing necessary and sufficient conditions for a duty to die and, instead, offers a loose set of factors families might want to consider when considering whether their loved one should choose to die. As these factors are satisfied, he says, the probability that one has a duty to die increases. (Perhaps, to avoid the equivocation cited earlier, this point would be better expressed by saying that when these factors are satisfied, there is a corresponding increase in the reasonableness of one’s choice to die.) From Hardwig’s list we learn two important things. Included on it are: whether one’s life imposes a serious burden on others, whether one has lived a long life, whether one has lived a full life, whether one adopted a lavish lifestyle during one’s life, the degree to which one has contributed or can

contribute (financially or emotionally) to the well-being of one's family, whether one's family can still interact with one in a meaningful way, and whether one's capacity to love others and to "nurture and sustain relationships" (Hardwig, 2000, 130) is diminished.

First, observe that the last three items correspond to diminished cognitive and emotional capacities. Hardwig has in mind diseases such as Alzheimer's Disease or Huntington's Chorea (Hardwig, 2000, 129). However, as these diseases progress and one's mental capacities diminish, one capacity for moral agency is likewise diminished. It is paradoxical for Hardwig to suggest one's duty to die increases in proportion to a decrease in one's moral agency: only moral agents can have duties. Perhaps Hardwig's point would be better expressed by saying one's duty to die (or the reasonableness of one's choice to die) grows in proportion to the degree one can predict such debilitating conditions.

Second, and more importantly, there is no consideration given to the moral agent's own perspective regarding the value of her life. This may sound strange since (a) the patient's personal preference and choice serves as a defeater in the midst of all other considerations, and (b) the very purpose of conducting a discussion of the sort Hardwig envisions is designed to help the patient achieve clarification concerning her priorities and those of her loved ones. The problem is that the patient's preferences need to be part of the content of a qualitative analysis, and not a mechanism that renders the deliberative process otiose. Obligations are not the sorts of things that cease to exist simply because one fails to acknowledge them or chooses not to act upon them.

What is needed, if there is a duty to die, is some way to place a patient's qualitative states (i.e., attitudes, plans, goals, etc., regarding his or her life) alongside the

other considerations pertaining to a patient's family's emotional and financial risks. Herein lies the difficulty. For our purposes, it does not matter how the apples of financial risk are mixed with the oranges of a family's (caregivers' and patient's) emotional hardship. What is relevant, however, is that it would be impossible to factor in a patient's qualitative states without affecting those states.

Earlier we cited three necessary conditions for a possible duty to die: (i) Person A is in some condition C that poses a serious risk of harm H_1 to Person A; (ii) Person(s) B cannot attempt to remedy H_1 or ameliorate C without creating an equally serious risk of harm H_2 for Person(s) B; and (iii) Person A knows (i) and (ii). In order to determine whether a *serious risk of harm* is being posed, one would have to consider both H_1 and H_2 , and Person A would have to be made aware of such. Importantly, H_1 must be understood, not merely as the loss of Person A's life, but qualitatively in terms of Person A's unfulfilled plans, thwarted expectations, etc. Hence,

(iv) Any determination of a serious risk of harm to Person B (or the relative risk of harm to Persons A and B) must be based not only upon the economic and emotional impact A's continued existence has upon B and quantitative factors concerning A (such as A's age), but upon qualitative factors regarding A's attitude toward life and death.

If condition (iv) were satisfied, such that one could know that the *extent* of harm caused to others by one's continued existence is sufficiently serious, then one could be ascribed a duty to die. However, condition (iv) cannot be satisfied simultaneously with condition (iii).

Imagine how the family discussion would play out. The caregivers must both elicit from their loved one her attitude toward life and death. This means the family must give consideration to her very concrete hopes, fears, and expectations. If she intensely desires, for example, to live to see her grandchild graduate from college, then that must be given some consideration (even if it cannot serve as the sole desideratum). At the same time, the family members must convey to their loved one how living to see her grandchild graduate imposes an unreasonable burden upon them. Her desire will be affected. Achieving that goal could not possibly retain the significance or value it might have had in the absence of such knowledge. Only someone suffering from cognitive impairment (hence not a moral agent) could be unaffected by such knowledge.

It is not merely that such discussions are difficult, as Hardwig acknowledges, nor simply that we lack access to the relevant information. Knowing whether someone has a duty to die requires assessing the extent and seriousness of the harm posed by a person's continued existence. The qualitative states of the duty-to-die candidate must enter into this assessment. So too must the hardships imposed upon caregivers. Knowledge of the latter, however, will affect the qualitative states of the person to whom they are giving care. In our own case, in which we found ourselves caring for one of the author's parents, such a discussion would have caused that parent intense guilt about living. Other persons receiving care might react differently. We find it unimaginable, however, that they would not be affected in some serious way. Since the attempt to determine the qualitative states of the person to whom a duty to die is to be ascribed affects the very states to be determined, and since the possibility of there being a duty to die requires the

existence of some determinable qualitative state that is unaffected by the method by which it is determined, there can be no duty to die.

VI. Is the Duty to Die a Duty to Oneself?

We do not want to engage the issues raised by Marcus Singer () concerning whether there are duties to oneself. We are willing to grant that there are. The problem is that the choice to die may be revoked by the agent at any time, rendering the agent's suicide at most permissible rather than obligatory. This is so regardless of whether the source of obligations (in general) is construed as contingent upon an individual's choices as the Kantian liberal tradition believes or as derivative of some concept of the Good for humans in accordance with non-liberal theories. Liberal theories must make the agent's choice and voluntary consent as central to the assumption of duties. Theories of the Good, on the other hand, to be taken seriously at all, must regard choice as a good – perhaps not the only good and perhaps one that should be constrained in ways that exceed the Harm Principles of the Liberal tradition – but at least a factor when evaluating what is good for any individual.

It is worth asking, therefore, what is in the best interest of patients who are terminally ill and under the care of other persons. We suggest that the best clue as to what persons who are dying want and what is in their best interest can be garnered from the first-hand experiences of persons working within hospice care. Hospice care workers consistently say that their patients' greatest fear concerns their loss of autonomy. In particular, they want their dignity safeguarded, to be as free as possible from pain, and to exercise choice over who has access to them socially as well as physically in a nursing capacity. Typically, meetings with family and friends aim at reconciliation so that the

dying person can die in peace. Often death waits, and it is not uncommon for hospice workers to describe their patients as “choosing” when to die.⁶

Given the centrality of choice at the end stage of life, it is difficult to understand what a ‘duty’ to die would be, especially a duty to oneself to die, other than simply a *choice* to die. What else could it be once the duty to *others* is subtracted from the equation? If we regard an avowal of “I ought to die” as an utterance in which one declares a responsibility to oneself, then it is a responsibility that can be rescinded in the next breath, which means it is otiose to regard such utterances as duty-generating.

This argument is not entirely immune to criticism. Certainly there are exceptions to the generalizations offered by hospice care workers. Someone for whom death might be sweet release may choose to live on despite extreme pain and loss of dignity. However, this type of situation can hardly be used to establish a duty to oneself – contrary to one’s choice -- to die. On the contrary, hospice workers regard this as a situation in which the dying person typically is awaiting permission or warrant to die from a loved one or a trusted caregiver. They tell the patient, “It’s ok let go,” – not “You owe it to yourself to die now.” We recommend to anyone seeking to devise examples of the sort necessary to demonstrate a duty to oneself to die, albeit a duty contrary to one’s immediate choice to live, to imagine whether the imagined context could ever warrant a declaration of “You ought to die” or “You owe it to yourself to die” (rather than “It’s ok to let go now”) on the part of the hospice worker. If not, we do not feel the burden has been met to prove any such duty to die.

ⁱ Hardwig’s article first appeared in the *Hastings Center Report* (Hardwig, 1997) and was reprinted in *Is There a Duty To Die? and Other Essays in Medical Ethics* (Hardwig 2000). The latter contains critical comments by Nat Hentoff, Daniel Callahan, Larry

Churchill, Felicia Cohn and Joanne Lynn (137 – 164), Hardwig’s responses to these commentaries (165-184), and comments by Hardwig’s own family members in the book’s “Afterword: Family Responses” (185-196).

ⁱⁱ EyeWitness to History, "Doomed Expedition To The Pole, 1912," 1999, at www.eyewitnesstohistory.com .

ⁱⁱⁱ John Hardwig, “Is There a Duty to Die?” in *Contemporary Moral Problems*, ed. James White, (Belmont, CA: Wadsworth, 2006), 192 – 203.

^{iv} “As is appropriate to my attempt to steer clear of theoretical commitments, I will use ‘duty,’ ‘obligation,’ and ‘responsibility’ interchangeably, in a pretheoretical or preanalytic sense.” (Hardwig, 2000, 119)

^v For a discussion of the distinction between justification and excuse as it relates to lifeboat and related cases, see Bedau, 1997.

⁶ Callahan and Kelley, 1997, 197ff.

References

Bedau, Hugo Adam. *Making Mortal Choices: Three Exercises in Moral Casuistry*. Oxford: Oxford University Press.

Callahan, D. 2000. Our burden upon others: a response to John Hardwig. In Hardwig 2000 (pp. 139-145).

Callahan, M. and Kelley, P., *Final Gifts: Understanding the Special Awareness, Needs, And Communications of the Dying*. New York, Bantam, 1997.

EyeWitnessToHistory.com. *Doomed Expedition To The Pole, 1912* [On-line] (1999) Available: <http://www.eyewitnesstohistory.com/scott.htm>

Hardwig, J. 1997. Is there a duty to die? *Hastings Center Report* 27, 2: 34-42.

_____. 2000 *Is There a Duty To Die? and Other Essays in Medical Ethics*. New York: Routledge.

_____. 2006 *Is there a duty to die?* ed. James White. *Contemporary Moral Problems*. (pp. 192-203) Belmont, CA: Wadsworth.