

8 Mortal harm

Begin by distinguishing the process of dying, death, and being dead. Dying takes place during life, and death is typically construed as the transition from dying to being dead. Being dead takes place after both dying and death – it is the state or condition of being dead. Sometimes “death” is used simply to pick out the condition of being dead, and I will use the term in this way. The question I shall address in this chapter is this: in what way can death – the condition of being dead – be a harm or misfortune for the individual who dies? For some purposes it is important to distinguish the notions picked out by “bad thing,” “misfortune,” and “harm,” but here I shall use the terms interchangeably.

Although there is of course considerable difficulty in giving an adequate definition or account of “death,” I shall assume that death is the cessation (perhaps the *permanent* cessation, although this issue will not be relevant to the discussion here) of life. I shall accept, for the sake of the discussion, that the individual who dies goes out of existence.

It is obvious how dying could be a harm for the individual who undergoes this process insofar as it may involve pain and suffering, and it is relatively clear that pain and suffering are bad. But we are here considering whether death or the condition of being dead, rather than dying, can be a harm for the individual who is dead. It is perhaps also obvious how death could be harmful for the individual who is dead if there is an afterlife (construed in various ways, including existence in hell or reincarnation) insofar as the afterlife may involve something like pain and suffering. But here I shall

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simply assume that death is an experiential blank. Thus, I am here adopting a secular conception, according to which death involves no consciousness or experiences. So our question is: how can death, construed as the (possibly permanent) cessation of life and experience, be a harm for the individual who dies?

SKEPTICISM ABOUT DEATH'S BADNESS

Death is perhaps not always a bad thing for the individual who dies. It may be that an individual is in such relentless pain that his continued life would not on balance be a good thing for him. Or it may be that he is so impaired or constrained either physically or psychologically that his continued existence would not on balance be a good thing. Of course, it is very difficult to specify the precise conditions in which an individual's continued existence would not on balance be a good thing for him, and thus it is challenging to specify the circumstances in which an individual's death would not be a bad thing or harm for him. Although reasonable persons can disagree about this point, it does seem to many that at least in some situations death would not be a bad thing for the individual who dies.

It also seems to most of us that in at least *some* cases – indeed, in many cases – the death of an individual is indeed a harm to the individual who dies. Perhaps it is the greatest harm that can happen to a person, but in any case it is often thought that death can be a bad thing for the individual who dies. But despite what might be described as the “common-sense” or “ordinary” view that death can be a bad thing or harm for the individual who dies, the ancient Greek philosopher Epicurus and his followers have taken the opposite view. On the Epicurean approach, death – as opposed to dying – cannot be a bad thing for the individual who dies, on the secular assumption to the effect that death is an experiential blank.

An important Epicurean assumption, as I wrote above, is that the individual who dies not only ceases to live, but goes out of existence. We can now formulate what is perhaps the most basic idea that drives Epicurean skepticism about the possible badness of death for the individual who dies: the “Existence Requirement”:

(ER) Something can be a bad thing or harm for an individual at a time only if that individual exists at that time.

Assuming (what is admittedly controversial, but not, in my view, implausible) that an individual's being dead cannot harm him while he is alive, (ER) implies that his death – his being dead – is not and cannot be a bad thing or harm for him.

But what is the reason why we should accept the Epicurean's (ER)? We might usefully distinguish between considerations that arise from the relationship between *experience* or *possible experience* and harm and those that are based in more abstract metaphysics, as it were. Because I believe that the fundamental reason for adopting (ER) stems from the relationship between harm and experience (or possible experience), I shall in this chapter focus on this approach to justifying (ER).

A natural and plausible thought about the basis for (ER) is that existence is required for experience, and that something can be a bad thing or harm for an individual only if the thing in question is connected in some way with unpleasant or negative experiences of the individual. So perhaps (ER) is rooted in something like the first version of the Experience Requirement:

(ExpR1) Something can be a bad thing or harm for an individual at a time only if that individual experiences something unpleasant or "negative" (such as pain, suffering, frustration, and so forth) as a result of the thing in question.

(ExpR1) would imply that death cannot be a bad thing for the individual who dies, on our secular assumptions about death. (ExpR1) explains (ER) by positing a strong link between harm and negative experience. But various philosophers have argued that the envisaged connection is *too strong*; they have presented examples in which it is alleged that an individual is harmed, although the individual in question experiences no unpleasant or negative consequences.

Consider, for example, the famous "betrayal" case suggested by Thomas Nagel (1979). In criticizing a view such as (ExpR1), Nagel writes:

It means that even if a man is betrayed by his friends, ridiculed behind his back, and despised by people who treat him politely to his face, none of it

can be counted as a misfortune for him so long as he does not suffer as a result. (Nagel 1979: 4)

If a group of people who present themselves to you as your friends regularly get together behind your back and criticize you, accusing you of cheating on your spouse and plagiarizing others' work, and so forth – it would seem that you have been harmed, even if you never find out about these secret (to you) "parties." Of course, it is uncontentious that your so-called "friends" have behaved wrongly and shoddily; but Nagel (and his followers on this point) wish to contend that it is *also* the case that a bad thing has happened to you – you have been harmed. If harm is to be conceptualized (roughly) as a setback of an interest (Feinberg 1984: 31–36), then you have been harmed insofar as your interest in a good reputation has been wrongfully set back. But no matter how one explains the harm, it has seemed to many philosophers that Nagel's example, and similar examples, show that an individual can indeed be harmed by something, even if he never experiences anything unpleasant as a result of the thing.

Some Epicureans, however, resist the conclusion of Nagel and like-minded philosophers, claiming that you are not indeed harmed in the example of the putative betrayal behind one's back. After all, you do not ever find out about the "get-togethers," and you do not ever experience anything unpleasant or negative as a result of these occasions. How can something that does not affect you psychologically in these ways be genuinely bad for you? Granted, the behavior under consideration is reprehensible, but that is a different issue from whether *you* have been harmed.

Other Epicureans will concede that the target of the scurrilous verbal attacks in Nagel's example has indeed been harmed, but only because the individual *could* (in some clear sense) find out about these activities and thus could have unpleasant experiences as a result. On this sort of view, the explanation of (ER) is still in terms of a connection between harm and unpleasant experience, but here the connection is envisaged as a bit looser. That is, the link between harm and unpleasant experience is forged in terms of *possible* experience, rather than actual experience:

(ExpR2) Something can be a bad thing or harm for an individual at a time only if the individual can experience something unpleasant or "negative" (such as pain,

suffering, frustration, and so forth) as a result of the thing in question.

Since we are assuming that individual who is no longer alive or in existence cannot experience anything, (Expr2) is just as efficacious as (Expr1) in supporting (ER).

Why should we accept (Expr2)? I shall first consider an argument on behalf of (Expr2) offered by Stephen Rosenbaum:

Suppose that a person *P* cannot hear and never will hear. Then the egregious performance of a Mozart symphony cannot causally affect *P* at any time, supposing that what makes the performance bad is merely awful sound, detectable only through normal hearing, and supposing further that the performance does not initiate uncommon causal sequences that can affect the person. It is clear that the person cannot experience the bad performance, auditorily or otherwise. Furthermore, it seems clear that the performance cannot be bad for the person in any way. It cannot affect the person in any way. The reason why it is not bad for him is that he is not able to experience it... Similarly, a person born without a sense of smell cannot be causally affect by, and thus cannot experience, the stench of a smoldering chertoot. The stench cannot be an olfactory negativity for her. We could imagine indefinitely many more such cases.

Since I see nothing eccentric about these cases, I believe that we are entitled to generalize and claim that our judgments about these cases are explained by the principle that if a person cannot experience a state of affairs at some time, then the state of affairs is not bad for the person. (Rosenbaum 1986: 219)

The problem with this argument is that it is a "hasty generalization", Rosenbaum extrapolates from cases where the badness could only be (or be the result of) *sensory* unpleasantness to *other* cases – cases in which the putative bad would not be (or be the result of) unpleasant experiences. The class of putative harms can be divided into those which involve unpleasant sensory stimuli and those which do not. If there are indeed things that are bad for an individual, but whose badness does not involve or stem from unpleasant experiences, then in principle such things could be bad for an individual who could not experience anything unpleasant as a result of them. Thus, given the existence of this second sub-class of putative harms (or, alternatively, given the putative existence of such harms), it is inappropriate to extrapolate from a conclusion about the first sub-class to a more general conclusion that also applies to

the second. Thus, one cannot decisively establish (Expr2) or (ER) in the way sketched by Rosenbaum.

Consider also Nagel's thoughtful critical reflection on (Expr2):

Loss, betrayal, deception, and ridicule are on this view bad because people suffer when they learn of them. But it should be asked how our ideas of human value would have to be constituted to accommodate these cases directly instead. One advantage of such an account might be that it would enable us to explain *why* the discovery of these misfortunes causes suffering – in a way that makes it reasonable. For the natural view is that the discovery of betrayal makes us unhappy because it is bad to be betrayed – not that betrayal is bad because its discovery makes us unhappy. (Nagel 1979: 5)

It seems to me that Nagel is correct here. But what if the Epicurean resists Nagel's Euthyphro-style point? What more can be offered in seeking to reject a principle such as (Expr2)? The following examples purport to be cases in which an individual is harmed, even though he *cannot* experience anything unpleasant as a result of the putatively harmful event.

Nagel offers an example in which an intelligent adult receives a brain injury (perhaps as a result of an accident or stroke) which leaves him in the "mental condition of a contented infant, and that such desires as remain to him can be satisfied by a custodian, so that he is free from care" (Nagel 1979: 5). It is plausible that in this case the individual is indeed harmed by the brain injury, although we can assume that he does not and also *cannot* experience anything unpleasant as a result of it.

Here is another example that seeks to impugn (Expr2). Suppose your daughter is trekking in the remote Himalayas and tragically dies in an accident (perhaps an avalanche). Before you can possibly find out about this tragedy – say, five minutes after the death of your daughter – you (independently) die of a sudden heart attack (McMahan 1988). The death of your daughter is clearly a bad thing for you – you are harmed by her death during the last five minutes of your life. But given the circumstances you *cannot* (in any relevant sense) experience anything unpleasant as a result of her death.

Nagel's brain-injury case and McMahan's trekking case (and similar cases) appear to show that an individual can be harmed, even though it is not possible for them to experience anything unpleasant

as a result of the putatively harmful event. Thus, these examples seem to call (Expr2) into question. I have provided another such case, building on the famous "Frankfurt-style" counterexamples to the Principle of Alternative Possibilities (according to which moral responsibility requires freedom to do otherwise or access to alternative possibilities) (Frankfurt 1969).

It will be helpful to begin with a version of a Frankfurt-style case:

Black is a stalwart defender of the democratic party. He has secretly inserted a chip in Jones' brain that enables Black to monitor and control Jones' activities. Black can exercise this control through a sophisticated computer that he has programmed so that, among other things, it monitors Jones' voting behavior. If Jones were to show any inclination to vote for a Republican (or, let us say, anyone other than the Democrat), then the computer, through the chip in Jones' brain, would intervene to assure that he actually decides to vote for the Democrat and does so vote. But if Jones decides on his own to vote for the Democrat (as Black, one of the only progressive neurosurgeons in the known world, would prefer), the computer does nothing but continue to monitor – without affecting – the goings-on in Jones' head.

Now suppose that Jones decides to vote for the Democrat on his own, just as he would have if Black had not inserted the chip in his head. It seems, upon first thinking about this case, that Jones can be held morally responsible for his choice and act of voting for the democrat, although he could not have chosen otherwise and he could not have done otherwise. (I originally presented a similar example in Fischer 1982.)

We can now return to Nagel's betrayal case, but adding a Frankfurt-style "counterfactual intervener," White (Fischer 1997): Call this the "modified betrayal case." White is similar to Frankfurt's Black in being a strictly counterfactual intervener – an untriggered insurer of the relevant result. We suppose that White can effectively prevent you from ever finding out about the secret meetings and the activities that take place at those unfortunate gatherings. So, for instance, if someone were about to call you to inform you of these meetings, White can prevent him from making the connection by snipping the telephone line or temporarily paralyzing the person or whatever. Given that White has the power to prevent you from ever finding out anything about the meetings, you *cannot* have any unpleasant experiences as a result of those get-togethers. And yet it seems that you are harmed by the betrayals that take place at those

meetings. And, again, if this is so, (Expr2) is false and thus cannot provide support for (ER).

The Epicureans will resist the critiques of (Expr2) and thus of (ER). I shall first explore their analysis of the modified betrayal case (and similar cases), after which I shall turn to a discussion of the brain injury case.

THE MODIFIED BETRAYAL CASE

In the modified betrayal case, in which White stands by ready to intercept any messages to the individual who is the target of the verbal "attacks," I contend that the individual is harmed, although it is impossible for him to have any unpleasant or negative experiences as a result of the activities at the secret meetings. There are two ways in which an Epicurean might respond. First, an Epicurean might contend that insofar as the individual really can't experience anything unpleasant as a result of the activities at the party, it follows that he is not harmed by those activities. Second, an Epicurean might admit that the individual is harmed, and thus concede that (Expr2) is false, but still maintain (ER). The claim here could be that there is some other explanation of the harm in the modified betrayal case – an explanation that does not generalize to death. There are various ways of pursuing this second strategy, but they have in common the claim that it is inappropriate to extrapolate from examples such as the modified betrayal case, in which the individual in question exists, to death, which results in the non-existence of the individual.

David Suits provides a vigorous defense of the contention that the target of the verbal assaults in the modified betrayal case is not in fact harmed precisely because he *cannot* ever have a negative experience as a result of those assaults (Suits 2001). He points out that, typically, betrayals are risky; they are like "incautious firings of guns" in this respect. This is why, typically at least, betrayals are bad for the individual who is betrayed: it is possible that he find out about it and suffers as a result. But let us say that precautions are in place that absolutely guarantee that no one will be adversely affected by a particular incautious (from the perspective of the individual firing the gun) firing of a gun, in this case, what would typically be harmful to others is *not* in fact a harm to anyone, according to Suits. And, similarly, although betrayals would typically harm

their target by exposing them to the risk of adverse psychological effects, what would typically be harmful to others would not in fact be harmful, if precautions are in place that guarantee that the target of the scurrilous verbal attacks never finds out about them.

Suits writes:

John Martin Fischer proposed an addition to Nagel's example of a secret betrayal; he adds a Frankfurt-style "counterfactual intervener" named White, who has the amazing power to intervene in case the secret betrayal starts to cause any bad consequences for the person betrayed ... The result is said to be a betrayal which not only does not, but, because of White, *could* not lead to any bad consequences for the "victim." Fischer claims that even so, the betrayal is bad, and the person is harmed. In a subsequent article, he responds to a criticism that a betrayal which is guaranteed to be effectless is not a bad thing any more than is firing a gun under strict conditions of safety: "I have no ... inclination to say that a mere firing of a gun, where there is no chance of hitting anyone, can harm anyone", whereas "I am inclined to say that the negative characterizations of you by your so-called 'friends' harm you, by the very nature of the behavior."

But why? What is this "very nature of the behavior" which Fischer is appealing to here? It has been named, but it has not been shown to be harmful. The counterfactual intervener ensures that the consequences are not harmful in any way, and so Fischer means to condemn "the very nature of the behavior," careless of any consequences. But my question is: What is condemnable about it? That is, why avoid such a thing, why try to prevent it, why deplore it, if all possible sources of aversion – that is to say, all the ill consequences – have been squeezed out of it, and there is nothing left but an old name? (Suits 2012: 225)

Suits emphasizes that in the usual case, something is a harm for an individual only if it is at least possible for the individual to have a negative experience as a result of it. To oversimplify his view a bit, Suits contends that when this presupposition fails, the status of what is typically deemed a bad, misfortune, or harm for an individual must be re-evaluated. He writes:

[Suppose X is a betrayal] ... if we know that because of a counterfactual intervener such as White (or indeed for any other reason) [the individual who is the target of the verbal attacks cannot ever experience anything negative as a result of them, among other special features of the situation], then either X has been mistakenly classified as a betrayal, or else we have learned – *perhaps to our surprise!* – that some cases of betrayal are quite

unlike the usual sort. If the latter, then from then on, we would have to change some of our evaluations; we would have to say that we used to assume that all betrayals were bad, but now we know that some kinds of betrayal have no bad consequences after all. It would no longer be enough to say what Nagel *et al.* seem to be saying, namely, that if X is a case of betrayal, *it is therefore bad.* (Suits 2012: 227–28)

It is difficult to offer an *argument* against Suits here. (For a preliminary attempt, see Fischer 2006a.) I do indeed have the intuition that a White-monitored betrayal is nevertheless a harm to the individual who is being betrayed. Put somewhat more modestly, I have the intuition that a White-monitored verbal assault does indeed harm the target of the assault. But I do *not* have the intuition that an incautious firing of a gun, in a context in which it is impossible for (say) a particular individual to be affected by the gun-firing, is a harm to the individual in question. The incautious firing of a gun is wrongful behavior – it is either reckless or negligent. But it does not follow that it harms anyone.

Similarly drunk driving is wrongful behavior, and it is typically risky. But when it is absolutely impossible for an individual to be affected by a particular instance of drunk driving, I do not have the intuition that this behavior harms the individual. How exactly can I explain the asymmetry in the intuitions? Why do riskless gun-firings and riskless drunk-driving not count as harms to individuals who cannot be affected, whereas riskless betrayals do? This is an interesting challenge.

I'm inclined to say that the proper response might rely on a normative theory of human interests. It is plausible that we have an interest in not having our reputations besmirched, even if we never find out about these besmirchings. Julian Lamont articulates this point nicely:

I have a preference for certain people not to think ill of me. Now I might never know if those people think ill of me, but I am worse off if that preference of mine is not fulfilled.

...

I do not want people to slander me, *even if I suffer no other harm as a result.* Not having this preference fulfilled is *itself* a harm to me – if it is not fulfilled then I live a life where people slander me behind my back. I would much prefer that not to be true of my life. (Lamont 1998: 205)

Lamont puts the point in terms of preference-fulfillment, but the point could be put simply in terms of interests: it is normatively plausible that we have an interest in not having our reputations destroyed, even if we never find out about this. But I just do not think it is normatively plausible to suppose that we have an interest in other people not driving drunk or firing guns incautiously – where these activities are guaranteed not to pose *any* risk of untoward consequences for others.

Perhaps, then, the way to explain the asymmetry in our intuitive reactions to riskless incautious gun-firings and riskless drunk-driving, on the one hand, and riskless betrayals, on the other, is in terms of the implications of the most plausible normative theory. Such a theory would posit an asymmetry in the *interests* of human beings. Although I find this a promising way of seeking to address Suits' challenge, I also have the residual worry that the response is question-begging or perhaps simply pushes us back to the question of why we should suppose that the asymmetry in interests is normatively plausible.

Suits responds to the modified betrayal case by contending that the individual who is the target of the verbal assaults is not in fact harmed, despite the fact that betrayals are typically harms to the individuals being betrayed. As I pointed out above, another Epicurean strategy of response to the example is to contend that the targeted individual is indeed harmed, but that one cannot legitimately extrapolate from this case (in which the individual in question exists and has certain mental states) to death (in which the individual does not exist or have mental states). A particularly fascinating version of this approach is presented by Stephen Hetherington (2001).

Hetherington discusses the modified betrayal case, and he points out that in it "you are 'out of step' with the world, notably with some parts of the world that matter to you" (Hetherington 2001: 352). As he puts it, "Insofar as it matters to you to be right about what matters to you, therefore, your being mistaken about what matters to you harms you" (Hetherington 2001: 352). Hetherington continues, elaborating on a "further harm":

What is that further harm? It is the harm of human *absurdity* ... I am talking about an *objective* sort of absurdity. It is objective, in that it is not an *awareness*, either actual or even possible, of a discrepancy; instead, it is the

existence of a basic discrepancy, one that can exist between a person and the world as a whole, and one that can exist without the person being aware of it; perhaps even with her being unable to be aware of it.

... To the extent that your belief in your friends' loyalty is also important to you, that absurdity is even tragic, no matter whether or not you are aware of this tragic dimension to your life. (Hetherington 2001: 355–56)

On this view, the badness of the betrayal is understood as a kind of *dissonance* or *discordance* between our mental states – certain beliefs – and external reality. If this is the *only* reason why the betrayal in a case such as the modified betrayal case is a harm to the targeted individual, then death could not be a harm or bad thing for anyone: there is no discordance insofar as there is just one "note," as it were.

I find Hetherington's critique of the modified betrayal case as it relates to death's purported badness fascinating and challenging. In seeking to address it, I would first note that there might well be more than one harm involved in a case such as the modified betrayal case. One sort of bad is precisely the kind identified by Hetherington – a kind of discordance between the targeted individual's perspective on the world – his mental states – and the relevant aspects of the world. This discordance or lack of "fit" issues is a kind of absurdity, and the absurdity is *tragic* insofar as the individual deems the matter important – that is, insofar as the loyalty of his "friends" is important to him. To the extent that these features are indeed present in the modified betrayal case (and similar cases), the extrapolation to a conclusion about death's badness is attenuated.

I still, however, think that the modified betrayal case provides resources that are useful in seeking to argue that death can be a bad thing for the individual who dies. Perhaps it is not the case that the *only* harm in a case like the modified betrayal case arises from the sort of discordance described by Hetherington; perhaps there is a badness that is not a kind of absurdity, and perhaps it doesn't (and need not) rise to the level of a tragedy. And yet the example still may be illuminating with respect to death's alleged badness.

Imagine that you are teaching a large lecture class, and you don't really know what your students think of the course. It briefly crosses your mind that it might be too difficult or "abstract" for them, as they are introductory students, but you don't pause to consider the

question carefully and you form no belief about whether the students are enjoying the class or finding it rewarding or whether they like or respect you. Now imagine further that a group of your students meets regularly, as in the modified betrayal example, scurrilously attacking you verbally (for your lectures and mentorship and even personal matters), and that there is a suitably placed counterfactual intervener whose presence renders it impossible for you to find out about these gatherings. It seems to me that you are harmed by the verbal attacks, even though you do not and cannot experience anything unpleasant as a result of them. As above, I believe that you have an interest in not having your reputation besmirched – an interest in not being thought ill of in certain ways. The harm here is not a matter of a discordance between beliefs that you are well thought of by the relevant group and the nature of the corresponding part of reality; thus, the harm is not a kind of absurdity of the sort described by Suits. Rather, it seems to me that it is a matter of an interest of yours being set back wrongfully – your interest in having a good reputation. This example indicates that the wrongful setting back of this interest is in itself a harm to you, quite apart from any “absurdity” (of the sort specified by Hetherington) that might also be present in certain scenarios.

Suppose, also, that you apply for a job at a philosophy department and you give your “job talk” during an on-campus visit. The audience seems to like your talk and be impressed during the visit, but you really don’t know what they think. When you return home, you simply refrain from forming any settled beliefs about how the visit went, and, in particular, what the members of the department thought of your talk and your visit in general. It turns out that at a meeting to discuss the candidates they excoriate you, ridiculing your lecture and your performance in general; various members of the department accuse you of plagiarism and even of making unwelcome sexual advances. Suppose, however, that the department is absolutely and sincerely committed to strict confidentiality about their deliberations, and it is thus impossible for you to find out anything about the content of their discussions. Further, the members of the department are absolutely committed to not causing you any pain or suffering in the future, apart from the specific decision about the job. (We could add a White-like counterfactual intervener to make it even clearer that you cannot have any unpleasant

psychological consequences of the verbal attacks during the meeting. Let us suppose that White can absolutely “isolate” the goings-on at the meeting so that you can never find out about what happens and also the individuals present can never in the future cause you pain or suffering as a result of the discussions at the meetings.)

I think that you have been harmed by the verbal assaults at the meeting. And this is so, despite the fact that you cannot have any unpleasant experiences as a result. Further, you have been harmed, even though the harm does not consist in the sort of discordance and concomitant absurdity described by Hetherington. That is, you do not in fact believe that the members of the department in question think well of you; you simply withhold judgment about this matter, and you refrain from coming to any conclusions about their views of you. We cannot then tie the harm to a lack of fit between your beliefs and the relevant part of the external world. Again, this particular harm consists in the wrongful setback of your interest in a good reputation.

Of course, it is normatively plausible that we have various interests, including the interest not to have false beliefs about important features of our lives. Thus, in the modified betrayal case, this interest is indeed wrongfully set back, and one is thereby harmed. But it is not the *only* relevant interest: we also have an interest in being thought well of or not having our reputation besmirched; this interest is also wrongfully set back, and one is also thereby harmed. Perhaps it is a *tragedy* when an important belief around which one has structured one’s life is false; perhaps then it is a *tragedy* that you are betrayed in the modified betrayal case. It does not seem similarly to be a *tragedy* that you are ridiculed in the two cases I have just presented: the lecture case and the job-talk case. But the critique of Epicureanism based on these sorts of cases does not require that these cases count as tragedies for the person who is harmed. It is enough that they are cases in which someone is harmed without the possibility of experiencing anything negative as a result of the harmful event or activity. It would then at least be possible that death is a harm for an individual, despite the impossibility of the individual’s experiencing anything negative as a result of his own death. Because of the specific nature of death, it would then be plausible that it is the *kind* of harm that could count as a *tragedy*. The argument proceeds in steps, and it is not required that

the initial step involves an example that is just like death in every respect, including its being a tragedy.

Obviously, *any* example that could be helpful in arguing that death could be a harm for an individual who dies cannot be just *like death*, if it were, then it would be question-begging to present the example as part of an argument for the conclusion that death can be bad for the individual who dies. This is why one must present examples in which the individual remains in existence but is nevertheless apparently harmed. One then seeks to *extrapolate* to the conclusion that death can be a harm for the individual who dies. If one sought to begin with an example in which the individual goes out of existence, it would be difficult to avoid the charge of begging the question, if one were to seek to invoke the example as part of an argument to the conclusion that death could be bad for the individual who dies. The fundamental point of the critic of Epicureanism based on the examples under consideration is this: *if* it is plausible that there can be cases of harm to an existing individual who cannot have a bad experience as a result of the harm, then it is also at least plausible (although it does not strictly follow) that an individual could be harmed by his own death.

THE BRAIN-INJURY CASE

Return to Nagel's "brain-injury case," which appears to be a case in which an individual is harmed and yet cannot experience anything unpleasant as a result of the apparently harmful event. Let's assume that the individual persists, that is, we assume that the brain injury does not make it the case that the original person goes out of existence and a new person now exists. (For discussions of the possibility that the original individual has gone out of existence, see Braddock 2000, and J. Taylor 2012: 78.) Given this assumption, Taylor has pointed out that the example is importantly different from death in precisely this respect:

If the intelligent man does not cease to exist as an experiencing being as a result of his brain injury, then his case is importantly disanalogous to that of a person who dies. As such, then, even though one might hold that his brain injury is a misfortune to him this cannot support the claim that death would therefore be a misfortune to the person who dies. (J. Taylor 2012: 78)

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But, as above, it does *not* follow from the fact that the case is "importantly disanalogous" to a case of death that it "cannot support the claim" that death would, or at least could, be a misfortune for the person who dies. I would again emphasize that *any* argument from analogy must proceed from cases that are allegedly *similar* to, but *not identical* to, the cases or phenomena to which they are purportedly analogous. If they were in all respects identical, then we wouldn't have an argument by *analogy*, and the argument would presumably be question-begging (or at least not promising in terms of making intellectual progress). Again, Nagel's point is presumably this: *if* it is plausible that the individual who has had the brain injury has been harmed (where we assume that he *cannot* experience anything unpleasant as a result of the brain injury), then it is at least plausible that someone who has died can be harmed by death. We are invited by an argument by analogy to *extrapolate* from one kind of case to another, and this particular argument is no different. Further, it seems to be a plausible extrapolation. Taylor writes:

If one holds that the intelligent man does continue to exist, then one could hold that his brain injury is a harm to him in that it adversely affects his experiences, even though he himself in his reduced condition is unaware of this. (J. Taylor 2012: 78)

It seems that Taylor is suggesting that, under the assumption of continued personal identity, the harm is to be understood as a diminution in the quality of the individual's experiences, where the quality (or quantity) is still non-zero, as it were. But why have the non-zero requirement? This just seems entirely arbitrary! Why not instead hold that the example suggests, at least, without (of course!) literally *requiring*, that an individual can be harmed when his experiences are "adversely affected" by reduction in quality or quantity to zero? The example at least invites this conclusion, and it might seem *ad hoc* to insist on the non-zero requirement, in any form.

DEATH'S BADNESS

Return to the question with which I began: how can death, construed as the (possibly permanent) cessation of life and experience, be a harm for the individual who dies? In this chapter I have discussed (and rejected) some of the most salient skeptical worries for

the common-sense idea that death can indeed be a bad thing for the individual who dies. In my opinion, the main problem with these skeptical worries (stemming from Epicurus) is that they tie badness too closely with negative experience (either actual or possible). In contrast, I find it more plausible to suppose that death is bad insofar as it deprives the individual who dies of an on-balance good life. The deprivation theory of death's badness is defended by various philosophers, including Thomas Nagel (Nagel 1979) and Fred Feldman (Feldman 1994).

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9 When do we incur mortal harm?

I

If there is no time at which my death fascinates me, then my death does not fascinate me. If there is no time at which my death scares me, then my death does not scare me. Is it also true that if there is no time at which my death is bad for me, then my death is not bad for me?

According to a well-known Epicurean line of thought, it is (Epicurus 1940; Hershenov 2007). Moreover, Epicureans add, there is no time at which my death is bad for me. Before it happens, I am still unharmed by it, and once I die, I am no longer there to be harmed. And so my death, Epicureans conclude, is not bad for me at all. It might fascinate me; it might scare me, but it does not harm me.

Most philosophers, however, reject this conclusion; more precisely, they espouse "anti-Epicureanism," the thesis that death, at least in many cases, is bad for the deceased. Most anti-Epicureans contend that, on closer inspection, my death *is* in fact bad for me at certain times. There are two main groups here: *priorists*, who locate these times before my death (Feinberg 1984; Pitcher 1984; Luper 2007, 2009: 134–36, 2012a), and *subsequentists*, who locate them after my death (Feit 2002; Bradley 2009: chap. 3).

Yet other writers agree with the Epicureans that there is no time at which my death is bad for me, but maintain that it is still bad for me (Broome 2012; Johansson 2012). These are the *atemporalists*.

Subsequentism is sometimes held to have an important advantage over priorism and atemporalism: it gives us a *uniform* account