

Against the Sanctity of Life

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Modern life-prolonging technologies have sharpened some ancient dilemmas on the value of life. Our ability to sustain vital signs virtually as long as we wish pointedly raises the question whether we value life for its electrical efflorescence or for qualities that might be enjoyed by the person whose life is in jeopardy. In fact, it raises the question what the life is that we value. Is it biology or biography?

Our legal norms and moral intuitions evolved before we had techniques to separate vital signs from interesting personality, before we could hold the dying in a living death and perpetuate a hopeless limbo of darkness and electricity. They developed during the long pre-technological age in medicine when the cessation of breath and pulse always coincided with the cessation of brain function and consciousness. But these no longer coincide.

Nearly every hospital in the country has the equipment, and occasionally the incentive, to preserve heartbeat and respiration in bodies not brain dead but subject to a permanent and total loss of higher brain function. Because many states have not accepted brain death as their legal definition of death, it also happens that hospitals occasionally have the incentive to prolong vital signs in bodies past the point of brain death. This was physically impossible until the past three decades. Our medical cleverness has increased much faster than our willingness to think about the ethics and metaphysics of death. This moral and legal vacuum has left physicians, patients, families, and courts without guidance as to when biological animation is life inviolate, to be protected at all costs, and when it is just electrical twitching—or something in between.

The very lack of moral and legal guidance has been an incentive to increase our ability to preserve vital signs ad nauseam. Fearing liability, physicians employ more and more heroic methods to preserve life in the form of vital signs even when life in the form of hopeful consciousness has been irretrievably lost. The more heroic methods they use, the more the duty to preserve merely cardio-pulmonary life is rendered a grotesque anachronism. This vicious circle is not inescapable. But it can only be broken by clarity and courage: the clarity to look closely at complex questions and the courage to make very difficult decisions without much help from our unequipped ethical, religious, and legal traditions.[Note 1] We must rethink the nature and value of life.

Toward the end of Section 2 I will briefly examine the consequences of failing in this courage. If it is true that our technical innovations in medicine have made certain difficult choices necessary, and if we shirk the responsibility of making those choices, pretending that nothing of moral significance has changed, then at least we should know what evils might now emerge that would not have emerged in the pre-technological age of medicine.

As we approach the threshold—the precipice—of the perfect ability to enliven any cadaver with sparks we must fill the moral and legal vacuum with the results of our clear and courageous reflection, or we will have made our technology a fetish without making life more secure. The moral position which upholds the "sanctity of life" does not fill so much as codify this moral vacuum. It does not rethink the nature and value of life, but clings for security to the indiscriminate consecration of animate signs.

The phrase "sanctity of life" occurs frequently in modern discussion, yet is rarely explicated and understood. Nor are its grounds or alternatives often examined. Too often the position is painted as the only one in the field for people who abhor murder. But the position is not that

comprehensive or exclusive in fact, and when articulated must give up some of the territory it occupies by virtue of vagueness and moral bullying.

To say that life has sanctity (or is sacred) is normally to say that life per se has sanctity. For the assertion is meant to be distinguished from the view that the value of a life may depend on its quality, condition, or circumstances. To the sanctity of life proponent, lives have sanctity regardless of the degree or kind of suffering, deterioration, dependency, or development they manifest, and regardless of the imminence of death, the burden on others, and the wishes of the subject to live or die.

Therefore, the sanctity of life position is opposed to any position that allows the value of a life to vary with its condition or circumstances. Such positions are usually collected under the name "quality of life" theories. The contrast is real, but much remains to be done to show the fuller meaning of the two positions. Each position is actually a cluster of variations, and much of the task of clarification will be to show that one need not affirm all that one's fellow travelers affirm.

For convenience I will refer to the sanctity of life position as "SL", and the quality of life position as "QL".

Before proceeding I should acknowledge that the medical cleverness which created the difficulties on which I focus here has not only relieved untold suffering, but has made many previously intractable ethical problems simply disappear. A dramatic example is the effect of antiseptic surgery, which first made possible Caesarean sections which were safe for the mother. Before the 19th century, if a fetus were hydrocephalic or for any other reason could not pass through the birth canal, physicians and families had a simple, painful choice. They could perform a Caesarean section to save the child, entailing the almost certain death of the mother. Or they could save the mother by avoiding any surgical incision, kill the fully developed fetus in utero, and remove it in pieces. If it presented head first, the skull was pierced with an iron poker, the brain scooped out, the skull crushed, and the rest of the body removed. In case of a breech birth, pieces of the fetus were removed one by one with various hooks, blades, and grippers.[Note 2]

I believe it an unqualified good that safe Caesarean sections are now possible, permitting both the mother and hydrocephalic child to survive at very small risk. And this is only one of hundreds of examples. Hence, my complaint is not with the progress of medical science and technology in themselves. I object to the ethical fear and torpidity —what Santayana called moral cramp— that has refused to recognize that certain technical developments have changed the nature of death.

Section 1 and Section 2 describe the SL and QL positions, their variations, and points of disagreement. The argument against SL is detailed in Section 3. In Section 4 I consider the risks of putting QL into practice.

Section 1. The Sanctity of Life Position

What does it mean to attribute sanctity —as opposed to very great value— to a life? The answer seems to have these two parts:

The value of life exceeds all other values. No other value overrides the value of life except possibly more life.

All lives are of equal value. No single life deserves priority over another, not even the most fit, hopeful, and developed over the most vegetative, wretched, or immature. Possibly a plurality of lives may take priority over any single life, or a single life may take another in self-defense. The first of these may be called the ultimity condition, and the second, the equality condition.[Note 3] The ultimity condition makes it easy (and necessary) to choose life over all nonlife values. The equality condition makes it impossible to choose among lives when tragic scarcity of resources makes choice necessary.

SL proponents may disagree on whether these conditions permit preventive killing, as in self-defense or to save a greater number of lives. But preventive killing will not provide a criterion to choose among lives when, for example, medical resources are too scarce to help all who need them. In cases of scarcity it may contingently—and frequently—be the case that more must be left to die than are saved, rather than vice versa. But even when the existing resources can help a majority rather than a minority, the "license" from theory to save some at the expense of others does not help select the lucky ones to survive. While solving the selection problem will be a primary reason to put aside SL for QL, SL proponents need not believe their theory is weakened by its failure to solve it. If lives are equally valuable, then it is a sign of the tragedy of life, not the weakness of the theory of equality, that some decisions are unmakeable.

I will not elaborate interesting variants of the equality condition, although several may be cited: all those lives under the jurisdiction of this legal system are of equal value and may be given priority over aliens; all "innocent" lives are of equal value and may be given priority over non-innocent lives; all human lives are of equal value and may be given priority over non-human lives; all those lives able to pay for treatment are of equal value and may be given priority over the indigent; all lives in being (to use the legal phrase) are of equal value and may be given priority over future lives; all lives closely related to the agent may be favored over other lives; all lives are of equal value except in times of war, shortage of resources, or other emergency.

While these will not be elaborated here, they will be discussed further in Section 3 as strategies by which SL may respond to objections. For now we simply pose this question: can SL use any of these two-tiered equality conditions without thereby becoming a QL position?

The ultimity condition has several variants which should be kept distinct. Here are three of the most important:

Absolute SL: Life is of absolute value. No other value is absolute. Hence, no other value ever overrides the value of life, except possibly more life.

Infinite SL: Life is of infinite value. There may be other infinite values and, as Cantor showed, not all infinities are equal. No finite values in any combination may override the value of life.

Maximum SL: Life may be of finite value, but if so, nothing has infinite value and life is the greatest finite value. Hence, no other single value ever overrides the value of life, except possibly more life. Some combinations of other values, separately insufficient, may conceivably override the value of a life.

What follows are some elaborations and comparisons of these three types of SL positions. It may be skipped by the reader who wants to get on to the contrast of SL generally with QL. (Skip to the next section.)

A general form of the equality condition is probably implied by all three types of the ultimity condition, although it implies none of them. The equality condition seems to be a necessary but not sufficient condition of any SL position. That it is insufficient is seen from the fact that it says

nothing about the value of life as against other values. It is consistent with the view that the comfort of an elite, the convenience of kin, or the golf appointments of physicians are values which exceed the value of life.

Infinite and Maximum SL are variations on Absolute SL designed to make the theory compatible with different cosmologies. In mathematics we have known since the late 19th century that not all infinities are equal, and that among equal infinities some are proper subsets of others. This is not a mere technicality. Josiah Royce, for example, wanted to say that the human spirit was "infinite" but nevertheless inferior to the spirit of God. He was the first to use Cantor's transfinite cardinals to express this duality. In SL terms, life has infinite value but might still be overridden by other, greater infinite values, such as the will of the deity or certain combinations of life.[Note 4]

This variation is important because it shows that SL may allow some nonlife values to override the value of life, but only if they are of a special type. No SL position can allow extremities of pain, cost, indignity, insentience, or hopelessness to override the value of life. While Infinite SL proponents can consistently believe that there are values worth dying for, these causes must be those of god, not country; they must be richer infinities than the human, not values derivative from the human infinite such as a vision of the good life or a good death.

Maximum SL states that life is the greatest finite value, and that that value is the highest anywhere, i.e. there are no infinite values. This variation is important because it shows that SL need not be religious. It need not posit a universe of gods, spirits, or any infinite values.

Many philosophers have pointed out that a belief in the sanctity of life does not automatically entail the absolute wrongness of all kinds of killing. If we have a duty to preserve, lengthen, and create life, we might also have competing duties which in some circumstances are overriding. This move is possible only in Infinite and Maximum SL, not in Absolute SL. It is even easier in softer positions that assert merely, e.g. that life is valuable. Because the ultimity condition makes the value of life supreme, I will assume that SL makes the the duties to life overriding in any conflict of duties. Even for Infinite and Maximum SL, which permit some combinations of other values override some number of lives, the balance tilts back in favor of life when enough lives are added to the picture.

Despite the logical possibilities opened by Infinite and Maximum SL, we find that most SL proponents seem to hold the Absolute SL position. They speak as though the value of life were infinite and that no value whatsoever could override the value of life except possibly more life.

Preventive Killing

The question of preventive killing arises in many settings. It arose very sharply in the birth of hydrocephalic children prior to the development of antiseptic Caesarean sections. Killing the infant would prevent the mother's death; killing the mother (a foreseeable effect of a Caesarean section) could prevent the infant's death. It arises now in the killing of abortion doctors by "pro-life" activists.[Note 5]

To those who affirm the equality condition of SL, killing one person to save another is not a bargain, even if it is permissible as in self-defense. But to kill some to save more is agonizing precisely because it is not forbidden by the principle.

Most SL proponents in practice are stymied by the question whether one life may be sacrificed to save many. Many support the death penalty, self-defense in excuse of homicide, and certain

wars on the theory that more lives are saved than lost. But they resist generalizing the principle to an arithmetic formula.

Whether preventive killing is ever permissible depends on how SL proponents finish articulating their principle. It could be impermissible, permissible but not obligatory, or obligatory. If permissible or obligatory, then again depending on how the theory is completed, the selection of the life to sacrifice (to eat on the life-boat, to deny access to dialysis) could be made to depend on chance, on QL criteria, or on a combination by which QL criteria narrowed the field and chance picked the final victim.

Again, if sacrificing some life to save more is permissible or obligatory, then SL proponents may disagree on the net gain needed to justify the sacrifice. For example, to sacrifice n lives to save $n + m$ lives may depend for its permissibility on the magnitudes of n and m . If n were 100 and m were 1, then few would assent (kill 100 to save 101), while if those numbers were reversed, then many would assent (kill 1 to save 101), even though in both cases the general principle of sacrificing fewer for more is the same. Without supplementing their original principle, SL proponents cannot distinguish killing 1 to save 101 and killing 100 to save 101, although most would distinguish these cases intuitively. Nor (if they permit preventive killing) could they distinguish killing a few poor people to save many rich people, or the sacrifice of the healthy for the terminally ill, the joyous for the suicidal, mothers for children, embryos, or zygotes, and so on, although again most would find these cases very different.

There are strict SL proponents who do not allow some life to be sacrificed to save more life. In the life-boat cases in which the passengers draw lots to kill and eat one of their number, these proponents have asserted that each passenger had a duty to starve to death before taking another life. These proponents would not kill in self-defense. This position is not the same as the Socratic principle that it is better to suffer injustice than to do it; but it would be the same if we added the proposition that killing, even in self-defense and bona fide prevention, is unjust. But the latter proposition is not at all self-evident.

Nor could SL proponents, without supplementing their principle, distinguish a sacrificial act which "saved a life" or "prevented a death" from one that did not. The most that can be done to save life or prevent death is to postpone the inevitable. But postponement for longer or shorter periods, under greater or lesser burdens and handicaps, with more or less capacity for rational choice and enjoyment of life, cannot be relevant to SL proponents. Except possibly for the sheer quantity of time, these are distinctions of quality; hence, to rely on them is to shift from SL to QL.

SL proponents who permit (or require) preventive killing recognize at least one cause worth dying for. Absolute SL proponents cannot recognize any other. Infinite and Maximum SL proponents, however, could in principle recognize other causes that outweigh the value of an individual's life.[Note 6]

Making and Destroying Life

SL makes it absolutely wrong to kill life, shorten life, or prevent the creation of life; it imposes an unremitting duty to preserve life, lengthen life, and create new life. If fertile men are alive, and if not all fertile women are pregnant, or if viable sperm and eggs are banked and ready for use but not actually in use, then we are foregoing a chance to make more of the ultimate value. Whatever else we are doing with our time and energy must be of secondary value unless, arguably, we are medical moonlighters working around the clock to postpone the deaths of the dying.[Note 7]

What will happen when we develop artificial placentas which, with in vitro techniques already in existence, will allow fertilization and gestation to take place independently of the fertility, pregnancy, and number of women? Must we put all our resources into such machines until we begin to die from new causes introduced by the diversion of resources? (The duty to make more life will be discussed further in Section 3.)

Whether or not we are making more life, the moral center of the SL position enjoins us not to shorten or destroy the life that already exists (except possibly to save more life). Because SL studiously disregards the quality, condition, or circumstances of a life, it must insist on heroic measures for vegetative patients just because they are alive.[Note 8] Because this duty is unbending, or because the value of life is overriding, SL proponents must divert resources away from secondary values, such as education for the illiterate, food for the hungry (but not dying), and hospital space for those whose health or happiness, sanity, solvency, or sentience is in jeopardy but whose life is not. In short, the duty is only to avoid the destruction of life, not to cultivate, nurture, or enhance it. (For this reason SL has been parodied: "Life begins at conception and ends at birth.")

The disregard of the quality of life makes some medical decision-making very easy and some very hard. Every warm body must be given whatever is necessary to keep it warm. But when beds, drugs, machines, or personnel are too scarce to save all, then questions not answerable by SL must be answered. SL does not make triage unnecessary just because it makes choice impossible. When not all sanctified lives can be saved, then either we develop criteria to save a good number, or we wring our hands in righteousness. (The effect of limited resources on SL will be discussed later.)

What Is The "Life" That Is Sacred?

The SL view, in all its variations, makes life into a unique sort of value. I have called the competing values "nonlife" values, which may cause some confusion. A person's health, happiness, comfort, convenience, financial interests, aesthetic enjoyment, moral convictions, and so on, are all nonlife values even though they derive from a living person and even if they will be extinguished on her death. They are values other than the person's life. The value of a living person's life is distinguished by SL proponents from all her other values, concerns, interests, needs, desires, attributes, qualities, and possessions.

The "life" that has sanctity for SL is biological vitality, perhaps with a spiritual glow, but not the complex of powers and interests that we collectively call the person. It is pulse and respiration, and perhaps brain activity. To add adjectives like "conscious" or "rational" to that brain activity, converts the position to QL. I will call the SL notion of life, "life qua life" or "life qua vital signs" to distinguish it from life qua adventure, moral arena, history, consciousness, and so on.

SL proponents may value life qua life above the higher development and expression of that life, but need not. This may seem a caricature of a moral theory, but the position is easily misunderstood. SL proponents may cherish all higher developments of life, such as consciousness, self-consciousness, intelligence, friendship, community, the sense of self-worth, and capacity for autonomous decision. They merely locate the sanctity of life in the basis or foundation, the vital signs, which are all that remain when the quality of a life is disregarded. SL proponents need not be primitivist or anti-intellectual, although they often are. They certainly do not believe that the value of a life is (necessarily) diminished by maturity and culture.

The contrast is ultimately between concepts of life as a repository of value. Biological life is a phenomenon of chemical organization, electrical activity, and self-replication, while biographical life is the flowering of biological life into history and consciousness. Both are valued highly by SL

and QL proponents. But when tragic collisions of values force us to decide when a life is worth living, or whether to kill, let die, or exclude from life-prolonging technology, then SL and QL proponents look for different marks of worth. The SL proponent looks solely for vital signs. The QL proponent looks for an often ineffable congeries of qualities (discussed in more detail in Section 2 below).

The SL proponent looks only for vital signs because they suffice, not because they alone are valuable. Even vital signs carry the absolute (or infinite or maximum) value. Once found, inquiry may cease; the duty of care is known to attach.

When tragic circumstances require that life qua life for a given individual can continue only shorn of the complex of consciousness and dignity, then SL proponents will choose to continue it and QL proponents will not. For example, if a comatose and brain damaged person can be kept alive only as a vegetative parasite to a machine which controls its respiration and circulation, then SL proponents would take money from "less valuable" obligations to keep the person alive; the QL proponent would not. A vegetative state with vital signs is a sanctified vegetative state to SL.

The SL proponent never faces a dilemma whether to save or not to save, unless not all can be saved. But SL proponents do face the theoretical question whether the vital signs, whether biological vitality alone, can support any moral value at all, let alone the ultimate moral value. But if it can, then they must face the second question whether they can justify their favoritism toward human beings, or even toward fauna. But if they can, then they must face the final question whether the life that is ultimately valuable for them is actually valued without regard to its quality, condition, or circumstances.

Section 2. The Quality of Life Position

The QL position is more difficult to state in detail because it relies on concepts of quality and value that are at best fluid and continuous, and at worst vague and indeterminate. But in general the QL view is easy to state. It is the view that the value of a life varies with its quality. That value might be absolute, infinite, or maximum, but only if circumstances permitted it; other circumstances can reduce that value. The value of a life is contingent. It follows directly that not all lives have equal value. Hence, QL denies both the equality condition and the unqualified ultimity condition of SL.

In medical cases, relevant parameters of quality might include the imminence of death, the constancy and pitch of pain, the ability to think clearly, to enjoy life, to make rational choices (including a valid consent to treatment), and the independence of drugs, machines, or placentas. Outside the medical sphere a QL proponent might consider the desire to live, the level of satisfaction with one's life and ability to change one's situation, one's contempt for the world or despair in one's circumstances, and so on. Different QL proponents will write these lists differently.

But the use of such lists to QL proponents is uniform. The motive to adopt a QL position is to articulate the conditions under which a life is worth living. Nothing could be more useful, if it could be done. We will not try to resuscitate a brain-dead patient with a machine that pumps and oxygenates its blood if we have already decided that such a life is so blighted and stunted that it is no longer worth living. We might not resuscitate even if we had a surplus of time, space, money, personnel, and equipment.

The concept of a life not worth living is central to the QL position. When there is competition for scarce resources, the central notion becomes that of a life less worth living than another life: we

will not let the brain-dead patient with machine-driven pulse and respiration occupy a hospital bed or dialysis machine when healthier patients will become brain-dead without them. The usefulness of the notion of a life worth living, in short, is that it helps us to make the decisions that our medical cleverness has forced us to face and to make.

No one would develop a list of factors defining a life not worth living unless the tragedy of competition for scarce resources had made it absolutely necessary, or unless our medical cleverness and old moral habits had led us to prolong vital signs under grotesque, inhumane circumstances. In this sense, QL is a child of modern times, born from the need to cope with the machines that create life and death questions of access and that allow us, for the first time, to extend life further than it ought to be extended.

The contours of a life not worth living cannot be precisely described, and this is probably for the best; for if we could do so, we probably would. We are thus spared a legalistic list of factors, and hence, legalistic appeals to such a list. The list is unattainable in part because of the disagreement of individual QL proponents and the divisions within the societies they reflect. But it is also unattainable because of the diversity of ways in which a life can be mutilated and diminished.

But from here wide divergences exist. Some QL proponents may be called positive, and some negative, in their approach to the definition of a life worth living. The positive approach requires that a life possess some positive features or set of features to be worth living, such as dignity, autonomy, and rationality, while the negative approach requires that a life simply lack certain negative features to be worth living, such as extreme pain, hopeless deterioration, and irreversible incapacity to give or withhold consent. The positions can be combined to hold that a life is worth living only if certain positive features are present and certain negative features absent.

Different QL proponents may agree on a list of relevant positive (or negative) features, but disagree on which factors were jointly sufficient to make a life (not) worth living. They may disagree on whether there is even in principle more than one such subset of features.

QL proponents may even disagree on whether the list of factors may be specified in advance. In practice virtually no sophisticated proponents have tried to offer a complete list; but very few take the other extreme either, that unique or unforeseeable circumstances prevent us from framing tentative or general lists. Some positive features appear in most discussions, such as autonomy and desire to live, but there is widest agreement on certain catastrophic negative qualities, such as brain death.

Worth Living To Whom?

When QL proponents speak of a life not worth living, they usually mean not worth living to the individual, not to the individual's next of kin, emotional and financial dependents, or society. But this is not always so. Many critics of QL, and many QL proponents themselves, fail to make this distinction.

When Socrates said that the unexamined life is not worth living, he probably did not intend to offer a criterion to be applied in actual life-and-death decisions. But like many statements that are intended to offer a criterion, it is ambiguous on the question to whom, in this case, to whom a certain kind of life might be worth living. Socrates might have meant that to him, Socrates, an unexamined life is not worth living. This would mean that he would rather die than give up inquiry, which in fact he decided to do. It could mean that to compel a person to live a life of inquiry would make that person's life more satisfactory to Socrates, but not necessarily to that

person, to society, or to the gods. It might also mean that if another person did not live a life of examination, then that life could be taken or lost without the grief we should feel, or the punishment we should impose, for the death of an inquirer.

On the other hand Socrates might have meant that to the individual an unexamined life is not worth living. This would mean that losing the prospect of inquiry would be a rational ground for suicide, even if the rest of us would deplore it. It would mean that compulsory inquiry for slug-a-bed non-inquirers would open their eyes and elicit authentic retroactive consent and gratitude.

When medical resources are ample, an individual may refuse to take advantage of them for many different reasons. One reason may be that the best that medical technology can provide is a few months of expensive, painless deterioration toward death. A person may well decide, before becoming incompetent, that for her such an extension of life would not be worth living.

If we respect such a person's autonomy and do not override it paternalistically by compelling treatment, we too may believe that such an extension of life would not be worth living for her or, vicariously, for ourselves should we find ourselves in a similar situation. We may take a different route, and affirm that such a life would be worth living for ourselves—but decide to respect autonomy on the ground that the harm of overriding it would be worse than the harm of respecting it in the form of permitting a person to reject life-prolonging therapy.

When medical resources are not ample, or even sufficient, to treat all who need them in order to live, then we must have a criterion other than respect for autonomy or the prevention of self-harm. For if more people choose to undergo therapy than we can accommodate, then we must refuse some. It is not necessary under these circumstances to decide that some candidates for therapy have no prognosis of a life worth living after therapy, but this decision is theoretically available to QL. Another theoretical option provided by QL is to decide that some have a prognosis of a life less worth living after therapy than others in need of the scarce resources. But the most important option in the present context is the decision that some lives are not as much worth preserving or extending to us, regardless of how the individuals estimate the value of their own lives.

In triage, for example, a person very certain to die very soon may be competent enough to demand treatment; nevertheless, we may favor a patient with a greater chance for a long and full life after treatment. There is no escaping the fact that the judgment that one person's remaining life is less valuable than another's is our own judgment. But the judgment may be made under several standards. We may decide that the remainder of one life is less valuable (less worth living) than another by our own standards, by the standards of the patient herself, by the standards of most similarly situated patients, or by the standards of a normative "reasonable person".

The QL position as such is not committed to any one of these standards. What is important is to notice that more than one is available to QL. The judgment that a life is not worth living, or is less worth living than another, may reflect how we wish to make optimal use of our scarce resources, the preference of a paternalistic physician or magistrate, the preference of an actuarially average patient, the preference of a normatively reasonable patient, or the preference of the actual individual who is dying.

It follows that a common objection to QL—that it has physicians, judges, kin, or other proxies "play god"—is misplaced. If it means that incompetent patients receive care (or not) only under the decisions of others, then SL and QL share guilt equally. If it means that decision-makers impose their own values on the incompetent, then it is false of QL. Paternalism of that kind is just one path open to QL; among the others is the very opposite, that suppresses the values of

kin, physicians, law, and society in order to promote those of the patient herself, insofar as they can be ascertained, even if this means rejecting available therapies in order to hasten death. Note too that the direct, offensive sort of paternalism is equally available to SL, as when competent people are prevented from taking risks or shortening their lives because officious paternalists think it carries too high a risk of death.

QL, Paternalism, and Power

QL proponents frequently disagree in their judgments on the quality of particular lives. They may disagree because of prior disagreements on the features that make up a life worth living, or on the application of agreed criteria. QL proponents also disagree on whether judgments of quality can be objective and bind others. Even those who believe that judgments of quality can be objective may disagree among themselves about the rights of persons to decide for themselves, but "wrongly", that their own lives are not worth living. And they may disagree about the rights of some specially situated persons, such as physicians and magistrates, to settle disagreement by imposing their own judgment.

For example, if a mentally competent dancer with a badly injured leg in need of amputation finds her life no longer to be worth living, some QL proponents would defer to her judgment and find her suicide morally permissible. Others might find that her life was "objectively" still worth living, and if they would not take steps to prevent suicide, would at least judge suicide to be morally impermissible or unjustified under the circumstances. All QL proponents tend to believe that suicide can be rational, or at least that it is not *eo ipso* a sign of derangement. However, many believe that no one mentally capable of rational decision or physically capable of suicide is actually enduring a life not worth living. Moreover, a policy of deference to autonomous decisions (say, to commit suicide) is different from agreement with those decisions (that the life was not worth living).

Therefore, most applications of the doctrine that a life might not be worth living are not by persons to their own condition, but by others. By the nature of the case, they tend to be made by the competent over the incompetent. If this is repellent, that is what life in the technological age of medicine requires. If its repellent odor is one's primary ground for rejecting the QL position, then one is not taking seriously either the need to make decisions when a life is terminally truncated or the inability of the subject to decide for himself or herself.

Frequently the one who must decide the quality of a life is only a judge unwillingly —a physician, next of kin, first person on the scene. But undoubtedly the QL position is most controversial when it is most needed, when one person is judging, or made to judge, the quality of another's life, and when death can result from one possible judgment.

Insofar as QL proponents can seek to advance the subject's own preferences, and not only through offensively general presumptions, "paternalism" is certainly not the right word for this practice. Of course outright paternalism is just as consistent with QL as anti-paternalism. The issue here, then, is not so much paternalism as power. One person is deciding for another when the stakes are high. Medical cleverness has made this necessary. Many people assume this power only with dread, not to play god but to act responsibly with the suffering of others; for the alternative is to let not only the incompetent and injured, but also the indigent and ignorant, lose every competition for medical resources to the wealthy and knowledgeable. But while medical cleverness has made this power necessary, it has not legitimated it. We are still uneasy because we are not accustomed to exercising powers, with life and death stakes, in the midst of civilized life, that cannot trace their legitimacy to some social consensus.

Threshold Versions of QL

Some QL proponents believe that there is a certain, comparatively low threshold of quality above which all lives should be treated as if possessing equal and ultimate value. Some who doubt or disbelieve this in theory are still prompted to act by it in practice. This view may be called the "threshold QL" position. It closely resembles SL; when the quality of life in the given subject is above the critical threshold, it is the SL position. But I classify it as a QL position because it ascribes equality and ultimacy of value only to some lives, and not to all, and to those only on the basis of certain qualities found to be present (or absent). The value imputed to the life is not imputed to biological vital signs, but solely to quality.

Kant may look like a SL proponent by virtue of his position that rational beings have infinite worth. But in fact his position is a threshold version of QL. The inherence of infinite worth depends solely on the inherence of rationality—a quality—and not of biological life. Kant makes this clear by ascribing infinite worth to all rational beings, not merely to living human beings. Holy wills and the deity also possess infinite worth, and possess it solely on account of their rationality. The presence of rationality is the threshold quality; above that threshold, a being has infinite worth regardless of its age, health, desires, humanity or other qualities.

Threshold versions of QL may take any number of critical qualities to be the threshold of ultimate value. For Kant it was rationality. For Jeremy Bentham it was the capacity to feel pain, which he knew enfranchised most animals. For many vegetarians it is being a mammal or "higher animal". For opponents of abortion, it is being a member of the human species, zoologically considered. For others it is to be a baptized human being, or a cultured or autonomous human being.

(Kant's theory indirectly illuminates the central weaknesses of SL. There is no reason to link vital signs—chemistry and electricity—with ultimate value. But there is a good reason, one that Kant articulates, to link the possession of reason with that value. Because most threshold QL theories chose their thresholds with care, they share Kant's strength on this point. Once Kant forges a link between the quality of rationality and ultimate value, he consistently ascribes that ultimate value to all rational beings, and does not limit his valuation to human beings or organic lives. Moreover, he respects the difficult demands of infinite worth, and draws the correct conclusion that such beings should not be treated as tools of finite worth, or means, merely. By contrast, SL proponents establish no link between vital signs and value; they fail to value all beings with vital signs but instead limit themselves arbitrarily to human beings; and rarely do they live within the rigors of their own position. All these points will be discussed in more detail in Section 3.)

Section 3. Against the Sanctity of Life

I have two basic objections to make against the sanctity of life position. One focuses on the coherence of valuing life per se with ultimacy and equality. The other focuses on the consequences for people, practice, and policy of doing so. Note that non-consequentialist versions of SL are still vulnerable to the first family of objections, and that consequentialist versions are vulnerable to both.

Before the objections are considered, I would remind the reader that the setting for this discussion is a search for a way to live with the results of our own medical cleverness. Hence, it will be an objection to a theory if it cannot help us make the decisions that this cleverness has laid upon us. I emphasize this because, normally, one might well believe that a theory of value (as opposed to a theory of conduct) could be sound even if it gave no advice or assistance. That is not so here. Of course, this criterion only reaches theories that cannot make the

discriminations or assessments necessary for decisions, not theories that make those assessments difficult and painful.

First Objection: Valuing Life per se

The sanctity position values life independently of its quality or condition. It invests with ultimate value just life qua vital signs or life qua bio-electrical activity, and nothing more grandiose, because this is the only life left when quality and condition are disregarded. Several objections arise from this essential core of the position.

First, the sanctity position as described is not capable of making distinctions of value among lives. From one angle this is the *raison d'être* of the position: it is designed to value the very young and very old, the immature and the degenerating, the retarded and the competent, and wealthy and the indigent, all equally and all ultimately. What is often overlooked, however, is that the premise that justifies this uniform valuation also justifies, even requires, that we value plants, non-human animals, and human beings all equally and all ultimately. Because plants and animals share life qua life, life qua bio-electricity, sanctity must be ascribed to lives regardless of their zoological or botanical species. If life qua life independent of its quality is the locus of value, then we must value not just fetuses, but frogs and fungus, as much as we value mature and healthy human beings.

The fact that most sanctity proponents favor humans, or at least fauna, and want to justify discrimination in favor of them, is not an argument against the sanctity position, although it is an argument against the consistency of those proponents of it. A stricter proponent of the position could preserve consistency here. (Inconsistency of proponents rarely reflects on the merits of their position, whether it amounts to hypocrisy or confusion.)

Sanctity proponents can make two moves here, each fraught with difficulties. First, they may embrace the consequences, and value bushes, beetles, and Bach equally and ultimately. Second, they may amend their position and say that only human lives (for example) have sanctity. Let us examine these in order.

The first option (that all human and non-human lives are equal in sanctity) may seem too absurd to deserve argument. But I think not. When imputed to a St. Francis or an Albert Schweitzer — as opposed to a Senate Committee— and when contemplated in an expansive, cosmic setting apart from the urgent but strictly local problems of medicine and law, we are tempted to accord it respect, even sublimity, if not also truth. To that extent, it does deserve counter-argument. The chief difficulty with it is that it does not permit us to decide how to allocate our medical (and other) resources. When scarcity makes difficult choices necessary, this position does not help at all; on the contrary, it commands us to have no favorites, no preferences, no priorities. That is the effect of the equality condition in the position. The ultimity condition in the position requires us to divert all our resources from uses that do not save or preserve life to life-saving purposes. The ultimate value must be promoted before any lesser value. Hence we must stop making televisions, toothbrushes, and toilet paper, and perhaps cheese, shoes, and houses until we have enough kidney dialysis machines, CAT-scans, hospitals, and trained medical personnel. We must be cold, hungry, ill, and miserable until all those at death's door have their deaths postponed to the limits of our present technology. Even if this applied only to human beneficiaries, which it does not, it is an infinite responsibility. Because there is no end to fulfilling the primary task, because the postponement of death has no end, we will never return to secondary tasks and use our resources and time to improve the quality of life.

Moreover, if we think these earthly problems are properly secondary to a cosmic correctness in the position, we may reflect on the natural world. This position makes it immoral, or authentically

tragic, for a tiger to kill a wildebeest for food. It makes it immoral or tragic for a cow to eat grass or a caterpillar to eat an oak leaf. Proponents would have to go beyond vegetarianism to complete fasting unto death, like some Jains, or else interpret all eating as the tragic choice in a conflict of duties to sacrifice some life for more life.[Note 9] Note, though, that while some SL can justify preventive killing, it must always be by quantitative not qualitative standards. That is, we may kill some life to save more life but never (as in natural eating) "lower" life to save "higher" life. For there is no higher life for this position. Also note that not all SL positions can justify preventive killing, and in tragic situations many of them command that all should die rather than that any should kill.[Note 10] Since organic life survives only by eating organic life, it makes life itself immoral or tragic. Indeed, it probably does the same for death, even natural death. Upon examination the theory begins to look a little less cosmic or divine.

(Note that the cleverness that makes difficult medical-ethical decisions necessary also makes it possible to feed ourselves on petro-chemicals and other byproducts of long-dead organic life, and hence to advance life without killing. Even if the achievement of plastic whipped cream proves the moral perfection of the life force, it is hard to credit a moral position that puts moral duties on trout and peewits, requiring them to eat only the dead the way many vegetarians eat road kill. The natural scavengers, and they alone, would live a life of righteousness.)

(Again, the fact that most proponents of SL also believe, inconsistently, that a benevolent and wise god created the world, and that only human beings can sin, only goes to the consistency of those proponents, not to the consistency of SL itself.)

A related objection starts from the same place as this one. One might ask what the destruction of life is exactly. If it is death, then SL proponents cannot consistently kill or live from killing. Since this includes plant as well as animal life (since both are equally life qua life), consistent SL proponents must starve. On this reading SL is perverse. It loves life so much that it requires starvation to death. If eating is justified on a theory of self-defense, then the continual tragic struggle that makes life possible begins to lose the odor of sanctity and smell like prudence.

But if the destruction of life in the important sense is not death but the dissolution of organic compounds into inorganic, then the position becomes trivial. For then life would not be destroyed by any medical procedure or any but the most complicated kinds of murder and mayhem. The sin SL condemns would become almost impossible to commit. At the very least SL could no longer condemn abortion, euthanasia, capital punishment, war, suicide, infanticide, homicide, or genocide.

If the destruction of life in the important sense is a violation of the dignity or spirit or autonomy of the living being, then SL has become QL again, valuing biographical over biological life. This brings us to the second possibility.

The second path (that only human life has sanctity) is much more attractive, but its problem is even more directly evident. If a sanctity proponent shifts from valuing life per se to valuing human life, then she has shifted from an SL to a QL position.[Note 11]

Being a human being is a quality or condition of life, a predicate that distinguishes it (and is meant just to distinguish it) from non-human life and life per se. Because it is a quality, any position that held that lives with this quality are sacred, while others have lesser value, would be a threshold QL position. Clearly the same is true for other qualities beside "being human" to which SL proponents might retreat, such as being mammalian, Christian, Caucasian, American, or insured.

In my experience, most people who thought they held the sanctity position really hold a threshold QL position, and are not discomfited to admit it. If this is true, then QL proponents

have fewer rivals, hence are less impudent, than they may at first appear. However, the shift is not merely one of nomenclature. I am not asking these SL proponents simply to rename their position. I am asking them to recognize that they have made the value of a life depend on its quality. If they recognize that, then they are in the same vague and slippery world as the unabashed QL proponents. Before they can criticize some of the more controversial QL positions, they must see that making humanity the threshold quality is no more, and no less, in need of support as making autonomy, rationality, consciousness, or hopefulness the threshold quality.

But let us suppose that this kind of programmatic retreat would not make SL into a QL position, or in any case let us suspend this objection. SL proponents must then say what they mean by humanity. Either (2a) they mean humanity in the zoological sense, by which we are classified as members of the species *homo sapiens*, or (2b) they mean it in a more ethical sense by which we call ourselves persons with rights and duties.

2a. Again, it may appear that the former view is too implausible to deserve rebuttal. But I think not. It is a far better basis than the latter view for calling zygotes, embryos, and fetuses human—a result that most SL proponents want from their theory. For there is no question that the fetus of a human mother is zoologically a member of our species. However if SL proponents do take this view, then they must explain why zoology makes a moral difference. This has not been done and I doubt that it can be done. Moreover, if it could be done, it might have to be on general principles that gave more than one species the blessing of sanctity. If it were done by appeal to special "humanistic" qualities of human beings, then it is really the second view, following.

2b. If they take the second view, that humans deserve favor over non-human life when "human" is a moral rather than a zoological term (or an axiological rather than a taxonomic term), then, again, SL becomes a QL position. However one defines the moral person one will appeal to qualities that separate one kind of life from another in order to justify a difference of valuation.

But let us suspend this objection too. Even if SL proponents could develop a method for articulating the superiority of human to non-human life without appeal to qualities, they must deal with the continuum of life from human to non-human, from animal to plant, and eventually from all of these to the inorganic. Whatever property they select to distinguish human from non-human life will either be possessed by another species, or be a moral quality which converts SL to QL, or both. Hence, favoritism for humans is only a special case; favoritism for any segment of the continuum will encounter the same difficulties. It will either be arbitrary or based on qualities that turn the SL position into QL.

Similar reasoning will answer an important SL objection. An SL proponent may argue,

"Your SL proponent is a straw man. We do not find ultimate value in mere vital signs, but in the life whose lowest and most easily measured foundation lies in vital signs. It is crass reductionism to say that the life we value ultimately, the life independently of its quality, is simply a phenomenon of chemistry and electricity."

The QL reply to this will depend on how the objection is further elaborated. (1) If the SL proponent believes that some non-material soul is added to the chemical, electrical substratum in order to constitute the kind of life with ultimate value, then the reply is that possessing such a soul is a quality missing from other lives, such as horseflies and honeysuckle. (2) If the SL proponent believes that the kind of life that is ultimately valuable is emergent from chemistry and electricity, and not reducible to chemistry and electricity, then the reply is that the emergent properties which are valued are qualities missing from other lives, such as mold and mosquitoes. (3) If the SL proponent admits that the soul or emergent properties are necessary

conditions for a life of ultimate value, and that not all plant and animal lives meet this condition, then she has conceded, in effect, that her position is a threshold version of QL.

If the SL proponent believes that the soul or emergent properties belong to all lives, including mold and mosquitoes, or that even chemistry and electricity are sacred, because everything is sacred, then a different kind of reply is in order. Is the sanctity of all creation compatible with the natural killing for food that takes place in the animal world? If so, then SL must explain why it would not also be compatible with QL decisions. If not, then creation itself seems inconsistent in such a way that SL cannot consistently object to QL. If the universal sanctity does not condemn life for taking life to nourish life, then *prima facie* it cannot complain about the medical decisions made by QL proponents. But if it does condemn life, then it is perverse.

I have not argued that either kind of universal sanctity is false. But the former kind (incompatible with natural eating) is cosmologically suspicious, unhelpful in making choices, dangerous when applied selectively, and must be supplemented by QL criteria for reasons already given. The latter kind (compatible with natural eating) is cosmologically attractive, but not clearly a rival of any aspect of QL.

Second Objection: Some Consequences

If life is the ultimate value, then we must promote it before all lesser values. This requires not only that we preserve the lives in being, and prolong them as much as possible, but also that we make more lives.

If making life is within our power (if we are fertile), then all other uses of our time, energy, and resources would be preempted by a duty to bring about more life. Even the exemption for infertility is vanishing as new reproductive technologies allow many of the infertile to reproduce. For the same reason that some evangelists must put aside other interests to become missionaries for their god, SL proponents have to make babies until they are already pregnant, drop from exhaustion, die of starvation, or find a more efficient way to use their time and effort to promote life. Moreover, they might have to advocate laws that would compel the rest of us to do the same—until all fertile women were pregnant and all artificial placentas occupied. Then we could rest and pursue our secondary duties and interests. Women would live under an unremitting moral obligation to be pregnant while fertile. Voluntary sterilization, contraception, and celibacy would be crimes.

Moreover, it would imply the same duty for all fertile non-human animals and for all plants. In short, it requires fanaticism. Everything other than sheer life, such as its enjoyment, must be sacrificed to it.

(Again, the SL proponents who are not fanatics do not invalidate SL itself so much as reveal their own inconsistency.)

Ironically, while this fanaticism would normally suggest a vision of life imbued with high ethical stakes, SL acknowledges no causes for which one might die except (and only in some SL versions) a numerical margin of lives. One cause is infinitely compelling; the rest vanish by comparison. As a moral theater, life is bleak.

On the other side, SL opposes only the destruction of life, not the failure to nurture or enhance it. By forcing resources to go to the top priority of preserving or multiplying life *qua* life, it shifts them away from the manifold of life-enhancing projects that make life valuable to most people. It would beg the question against SL to object that, followed strictly, it would make life not worth living by QL standards. But it does not beg the question to observe that, phenomenologically,

people value life less for its electro-chemical processes that distinguish it from water and stone and more for its gratifications and complex possibilities.

Another consequence runs directly against the special criterion mentioned at the beginning of this section. The SL position cannot help us choose among lives when scarce resources make it necessary to do so. Its equality condition paralyzes choice; all the contenders must be valued equally, even when some are otherwise fit and happy and others are unborn, vegetative, suicidal, or brain-dead.

The only method of decision it can use in hard cases is deliberate refrainment from decision, letting all die, or resort to chance. Only chance can put those with an equal right on an equal footing. If it distributes scarce resources on a first-come, first-served basis, or on the basis of who can pay, then it is not a moral theory; it has no theory of distributive justice but looks to any expedient to make up the lack of one. If it has other criteria, even those used in hospital triage, they must appeal to qualities, and SL would again become a QL position.

SL seems not to value biological life qua life because it is valuable, but because the complexity of the alternative is beyond coping. If so, it is driven by fear, not by love. Because it fears complexity, it worships electricity rather than face the difficulty of personhood. It clings to traditional notions of life rather than face the consequences of the new technology that have redefined life and death. It will not accept human responsibility for changing the nature of life by our Faustian inventiveness. It is literally reactionary, fleeing the burden of our cleverness, the open-eyed view of the difficulties, the frank avowal of the consequences even of its own principle, and the enjoyment of the life it reveres.

If SL forbids choice, or simply makes no choices, then it is impracticable in the objectionable sense and must be put aside in our search for standards of decision. It is well to admit here that some forms of QL are equally impracticable. But there are many versions of QL that permit decision, if only after painstaking and painful evaluation, and so release QL from this objection.

In short, SL cannot cope with conflicts of duty except, like Buridan's Ass, by inaction, or by appeal to chance. While these will get us through every situation, it will frequently be with losses far greater than the painful path of making decisions based on quality. One is tempted to say that a position that has inaction and chance as its only resources in difficult cases is the default of a moral theory, justified, if at all, only by the absurdity of the world and not on its own terms that appeal to sacred, equal, and ultimate values. However, even if we grant the absurdity of the world, would it not be better to take responsibility to make choices, resolve indeterminacies, and courageously to invest the world with meaning than to escape paralysis only through chance and the fearful retreat from complexity?

Section 4. Theory and Practice

Suppose we agree that SL is an incoherent theory with many disagreeable consequences. Nevertheless, strong arguments can be made that SL is less disagreeable in practice than QL. If the risk of SL is paralysis in difficult cases, and maldistribution of effort and resources to one value among many, then the risk of QL is murder and genocide, a slippery slope to the Holocaust.

QL proponents differ on what we are permitted to do with a life judged to be no longer worth living. No one proposes that involuntary euthanasia (killing despite a competent dissent) would then be permissible. But most would permit either non-voluntary euthanasia (killing when no consent or dissent would be competent or when either is impossible to ascertain and wrong to presume), or voluntary euthanasia (killing on request or with competent consent), or both. While

most would permit these, some would also make them obligatory under some circumstances. "Pulling the plug" would be permissible for most, and obligatory for some, if there is need for the resources being "wasted" or "abused".

Note that the worst that is authorized by a negative judgment is the active or passive extermination of vital signs in an entity judged to be "living" a life not worth living. If one is repelled by this, one is, again, either not accepting the condition that the life not be worth living, or one is still associating vital signs per se with the kind of life that is worth living. This repulsion is difficult to shake off because our moral intuitions have been cultivated in circumstances in which biological human life is a pretty good surrogate for life worth living. But the repulsion is not an argument, only an artifact of our moral genealogy. And we should recognize that medical "advances" have created dilemmas far different from the circumstances which have shaped our intuitions. Moreover, while the persistence of this repulsion may be welcomed as a restraint on abuse, it also carries with it the danger that in the hard cases where our moral intuitions are helpless or wrong, it will cause us to fail in our courage.

It is too easy to say that the decisions required by QL are difficult, agonizing, or presumptuous. They are; but if the decisions required by QL are in turn required by our technological cleverness, then we must face and make them anyway.

(Note that the medical cleverness that has left these agonizing ethical consequences has thereby also left profound metaethical consequences. It suggests that our moral intuitions have been historically conditioned by attitudes and situations in which this medical cleverness either played no part or played the part only of untamed anomaly and chaos-maker. It therefore implies that we ought to diminish the authority of our intuitions in this corner of ethics.[Note 12])

A judgment that a life was not worth living would never authorize killing in the usual sense—the taking of a life with value. We should not worry that QL authorizes the killing of organisms we value. Nevertheless, many do fear this. While this fear is based on misunderstanding, others fear that QL puts us atop a slippery slope, and this fear may not be based on misunderstanding. If QL were put into practice, it is feared, today's non-voluntary euthanasia of the brain-dead and the vegetative comatose would become tomorrow's bludgeoning of bothersome senior citizens, infants, and dissidents. Clearly if we slide to the bottom of this slope it is not because QL authorized it; indeed, the slope is from QL to its negation. Still, one could argue that, while QL might not authorize it, putting QL into practice might set the stage for it to happen anyway.

We might slide down another slippery slope. Today's pained and careful ascertainment of insufficient quality might give way to tomorrow's hasty guess bristling with ulterior motives. Or it might give way to legislative presumptions crudely effacing subtle distinctions in the name of administrative convenience or a political ideology.

These slippery slope arguments are problems with instituting the QL position, not objections to the theory of value it proposes. But a theory of value which cannot be instituted without abuse will not be saved by its theoretical soundness in other respects. Fear of abuses of this kind has led many continuum QL proponents to adopt a threshold version of QL for real-world application on the ground that the threshold version is less liable to abuse. The ultimity and equality of value found in lives above the critical threshold in quality may be a fiction, but it is a fiction that saves us from the pitfalls of letting ourselves inquire into the actual quality of a life. By erring on the side of life, it answers the fear.[Note 13]

I have two comments to make on these fears. First, to err on the side of life sounds like an unequivocally good thing to do when we must err. But we think it good because our moral intuitions were cultivated in the normative environment that has not yet taken our technical

advances into account. In short, today there is more to fear than death. There is the fetishism of our technology, the torture of dying persons, the abuse of brain-dead bodies, the manipulation of the emotions of survivors, the impoverishment of dependents, and the continuing failure to face and accept death.

Having said that, it is important to add that we should err on the side of life when we really must err. But we must realize that to err on the side of life is no longer unequivocally good. While the price of erring on the other side would be death, the price for erring on the side of life is a new hideousness.

Second, in general it is dangerous to reject otherwise sound moral theories on the ground that affirming or instituting them might lead to abuse. It is dangerous even when it is true, because it makes us forget that to avoid abuse we are instituting an oversimplified or erroneous theory that will therefore lead to its own insensitivities and injustices. When we know which abuses will result on both sides, then we can use the risk of abuse as a criterion, but not until then.

If a simplification actually creates fewer problems than it prevents, and makes life better than a truer theory that is more respectful of complexity, subtlety, ambiguity, and indeterminacy, then courage requires that we be fictionalists and admit it. My argument is that our current conventional ethics for dealing with questions of life and death in medical extremities are oversimplified and lead to grotesque abuses. The slippery slope arguments against QL must be taken seriously, but do not prevail unless the abuses they contemplate are worse than those we have already created by ethical fictionalism.

The practicability of a moral theory, of course, goes to its merits, and is not a mere "administrative problem". But this should not tempt us to adopt the theory that would be easiest to implement. While the risk of abuse is to be avoided when possible, naive pursuit of its avoidance will ignore the very problem to be addressed. It is part of the burden of clarity and courage imposed on us by our cleverness that we must move beyond easily administered crudities to complicated positions that reflect the complexity of the world we have created for ourselves. It is part of that burden to institute the morally preferable theory and stay awake at nights to detect abuse. When we invented methods to extend vital signs beyond the extinction of personality, we lost the right to live by a simpler moral code. Regret for this situation should not take the form of denial.

Most of the objections to QL theories in legal opinions and philosophical literature focus on these slippery slope arguments as objections to instituting QL. All of them can be answered by the threshold version of QL. But even against non-threshold versions of QL, the slippery slope arguments do not suffice unless QL cannot be instituted without abuses, or without abuses greater than its gains. The objections might not make such a strong claim, in fact. Read closely they may assert merely that we fear our incompetence in making the necessary decisions of quality, and fear our weakness in preserving our vigilance against abuse. If that is the import of these fears, then they bemoan the problem to be solved rather than point to another, better solution. Hence, either these fears make a very strong claim (not substantiated) about the inevitability of abuse, or they make a plausible claim about the difficulty of our situation that cannot be used as an objection.

After seeing this, the problem is no longer ethical but political. What institutions will allow us to implement QL and minimize the risks of abuse, and how do we get there from here?

I have not argued that life lacks value, of course, only that mere vital signs lack ultimate value. Even this kind of life may have very great value, and life even a little richer in quality may well have ultimate value; I have left both questions open. I have argued that it does not make sense

to speak of the sanctity or ultimate value of merely chemical and electrical life, even if it makes sense to value this form of life very, very highly and even if, for prudential reasons, to prevent abuse, it makes sense to many people to protect it as if it were of ultimate value. Moreover, it might make very good sense to speak of the ultimity and equality of value of hopeful, thinking human beings. All I have argued is that it does not make sense to speak of the sanctity of "life" so broadly and without qualification that it applies to life per se and hence applies equally to sagebrush, slugs, and Socrates. However, I have argued that to begin to discriminate and to say what kinds of life have sanctity or ultimate value is thereby to make the quality or condition of a life relevant to its value.

Notes

1. Sanford Kadish believes that, until recent technological developments in medicine, there was a rough ethical and legal consensus on how to deal with cases in which taking life seemed to be required or justified by other values. He gives an excellent summary of the legal consensus before it was unsettled by recent technologies in "Life and Rights in the Criminal Law," in Stephen Barker (ed.), *Respect for Life in Medicine, Philosophy, and the Law*, The Johns Hopkins University Press, 1976, at 63-101. See also Glanville Williams, *The Sanctity of Life and the Criminal Law*, Alfred A. Knopf, 1972, esp. Chapter 1, "The Protection of Human Life," pp. 3-33.

2. Owsei Temkin, "Respect for Life in the History of Medicine," in Stephen Barker (ed.), *ibid.*, at 9-10 and his footnotes 26-30 where he cites ancient and medieval sources on embryotomy and craniotomy. In general, Catholic physicians chose to save the infant, so that it could be baptized, while Protestants chose to save the mother. *Ibid.* p. 10.

3. These two conditions distinguish SL from many related and more attractive positions, for example, the positions that living beings deserve respect, that persons have rights, that life is an intrinsic rather than an instrumental good, that life is a divine creation, that life deserves awe, that prima facie life should not be terminated, that prima facie life takes priority over everything else, and that life is a necessary condition for all other value. Some of these positions are taken from William Frankena's helpful list in "The Ethics of Respect for Life," in Stephen Barker (ed.), *ibid.*, at 29-30.

Helga Kuhse characterizes SL (roughly) by the same two conditions but calls the first the "inviolability" condition. Helga Kuhse, *The Sanctity-of-Life Doctrine in Medicine: A Critique*, Oxford University Press, 1987.

4. Josiah Royce, *The World and the Individual*, First Series (1899), Supplementary Essay, "The One, The Many, and the Infinite," pp. 473-588, Dover Publications, 1959. For other uses of the mathematical concept of infinity in discussions of the sanctity of life, see the positions of Rabbi Jakobovits and Dr. Moshe Tendler (professor of Talmudic Law), quoted in Kuhse, *op. cit.*, 12-13.

5. Catholic priest David Trosh was quoted in *Newsweek* magazine (August 30, 1993, p. 59) as saying: "If 100 doctors need to die to save over 1 million babies a year, I see it as a fair trade."

6. William Temple has said that the "belief that life, physiological life, is sacrosanct...is not a Christian idea at all; for, if it were, the martyrs would be wrong." He is quoted in Joseph Fletcher, *Morals and Medicine*, Princeton University Press, 1954, at 193, and in William Frankena, *op. cit.*, at 41. I would amend Temple in his own idiom: the belief that SL is rejected by Christians is not warranted at all; for if it were, all Christians would be consistent.

For the view that SL originated with Christians, see W.E.H. Lecky, *History of European Morals*, London: Longmans Green & Co., 1894, II.18ff; quoted in Kuhse, *op. cit.* at 17-18.

7. "Surely, 'Be fruitful and multiply, and replenish the earth' never meant this!" William Frankena, *op. cit.*, at 53; cf. 32.

8. William Frankena correctly points out that SL proponents may believe it is wrong to end, shorten, or prevent life because to do so is against god's will, rather than because it would violate sanctity of life. William Frankena, *op. cit.* at 38-39, 45, 152. Also see the list of motives for not-killing in Marvin Kohl, *The Morality of Killing: Sanctity of Life, Abortion, and Euthanasia*, London: Peter Owen, 1974, at 3-4. Compare what Kuhse calls the qualified SL position; Kuhse *op. cit.* at 5, 23f.

9. See Albert Schweitzer, *Out Of My Life and Thought: An Autobiography*, trans. C.T. Campion, Henry Holt & Co., 1933, p. 126: "The world, however, offers us the horrible drama of Will-to-Live divided against itself. One existence holds its own at the cost of another: one destroys another....[M]an is subject to the puzzling and horrible law of being obliged to live at the cost of another life, and to incur again and again the guilt of destroying and injuring life."

10. See e.g. Edmund Cahn, *The Moral Decision: Right and Wrong in the Light of American Law*, Indiana University Press, 1955, at p. 71: In a case of tragic shortage of resources, such as a lifeboat at sea, "...if none sacrifice themselves of free will to spare the others...they must all wait and die together. For where all have become congeners, pure and simple, no one can save himself by killing another." Quoted by Leo Katz, *Bad Acts and Guilty Minds: Conundrums of the Criminal Law*, University of Chicago Press, 1987, at p. 33.

11. Edward Shils is a good example of one who naively defends SL for human beings only, and who is vulnerable to the objections in the text. See Shils, "The Sanctity of Life," in Edward Shils et al., *Life or Death: Ethics and Options*, University of Washington Press, 1968, at p. 19. Later he tries to identify which features of human beings justify this exclusivity, and comes up with consciousness of oneself as agent and patient in time and "the capacity for psychic 'self-locomotion'" (p. 29), which are plainly qualities. His rejection of the broader view (life per se) is clear at 31-32.

Albert Schweitzer is a good example of one who carefully avoids limiting the SL position to human beings. Schweitzer, *Indian Thought and its Development*, Beacon Press, 1960, at 83-84; *The Teaching of Reverence for Life*, Holt, Rinehard and Winston, 1965, at 47-49; *The Philosophy of Civilization*, Macmillan, 1960, at p. 310. Marvin Kohl believes that Schweitzer is rarely cited by SL proponents precisely because he does not limit his position to human beings; Kohl *op. cit.*, at 19.

12. To me this answers any defense of SL which presupposes, as Baruch Brody's does, "that any moral theory that is in conflict with our moral intuitions should be rejected unless overwhelming reasons can be given for disregarding those intuitions." Baruch Brody, *Abortion and the Sanctity of Human Life: A Philosophical View*, MIT Press, 1975, at p. 3. If it is not a decisive answer, at least it turns the tables by requiring overwhelming reasons from those who assert that our moral intuitions are relevant or sufficient, at least in those situations that have been fundamentally changed in recent times by technological developments.

13. Oswei Temkin articulates a related position. Physicians ought to respect life, even in the chemical and electrical sense, but the amount of this respect cannot be stated precisely and, since respect (like love) cannot be commanded, the charge to do so cannot be reduced to a duty. It should be considered a regulative principle in medicine. Temkin, *op. cit.* at 18.