

CHAPTER FOUR

The Interest-Impairment Theory

In this chapter, I want to develop a comprehensive theory to account for: (1) the badness of the death event, (2) the badness of premature death, and (3) posthumous harms. For the purpose of this book, I will specifically address the justification of (1).

4.1 INTERESTS AND HARMS

The objective of this chapter is to explore a comprehensive theory which can explain: (1) why a person's death event (or the event which brings about a person's death) can be a *harm* to him, (2) why a person's premature death (or the fact that a person dies prematurely) is always a *harm* to him, and (3) why a person can be *harmed* posthumously. To reach this objective, first of all, I want in this section to give a brief, but reasonably precise, explication of the notion of *harm*. The reason for doing this is as follows.

In order to offer reasonable answers to these three questions, we should have a clear and appropriate understanding of what they mean. And a clear and appropriate understanding of what they mean is essentially based upon a reasonably precise explication of the notion of *harm*. Indeed, the explication of the notion of *harm* is a very important base or preparation for establishing any satisfactory answer to these three questions.

Before explicating the notion of harm, we need to explicate a more basic notion—*interest* on which the notion of harm relies.¹

The notion of interest is ambiguous. It has at least two different meanings which can be expressed in the following two schemata:

- (1) X is interested in Y.
- (2) Y is in X's interests.²

To draw a conceptual distinction between these two, interest in the sense of (1) can be named as 'subjective interest (or psychological interest)', whereas interest in the sense of (2) as 'objective interest'. These two notions are clearly different. It is possible for someone to be interested in something that is not really in his *objective* interests. It is also possible for something to be in his *objective* interests regardless of the fact that he is not presently interested in it.

'Psychological interest' is not suitable to be used to explicate the sense of harm relevant here. For 'psychological interest' refers to an inclination to pay attention to something. In other words, the notion of psychological interest is too *subjective*. John Kleinig, for example, offers an example to show the difference between 'harm' and 'the thwarting of psychological interest'. He says:

If, whenever I express a [psychological] interest in strawberries and cream, my wife harangues me on calories, cholesterol and coronaries, I may find myself losing [psychological] interest in strawberries and cream. But the 'invasion' of my [psychological] interest may have been all to the good [i.e. not a harm to me].³

To explicate the notion of harm, I suggest (following Kleinig) that we adopt '*objective* interest' which, following Feinberg, I explicate as follows:

'Objective interest' can be expressed as the form: 'Y is in X's interests'. 'Y is in X's interests' means 'X has a *justifiably claimed* stake in Y'. That is to say, Y is in X's interests when X has a *justifiably claimed* stake in Y. 'X has a stake in Y' is understood as 'X is likely to gain or lose from Y, because of some investment of energy or goods in Y or some project affected by Y, or because its outcome affects X advantageously or otherwise'.⁴

At first glance, there appears to be no conceptual difference or inconsistency between 'objective interest' and 'desire'. However, this is not true. We can in

fact have an objective interest in something which is not an object of our desire. For example, having a stomach test is important for completely curing my stomach disease (i.e. it is in my objective interests), but it irks me very much (i.e. it is not an object of my desire). On the other hand, some objects of our desires are not in our objective interests. Indeed, we can even desire something which completely conflicts with our objective interests. For instance, drinking a dozen cans of Victoria Bitter beer with my good friends can be the object of my desire, but it would make me sick (i.e. it is not in my objective interests).⁵

In a sense, the notion of desire is more closely similar to the notion of *subjective* interest (psychological interest) than the notion of objective interest. Although 'desire' and 'psychological interest' have different intensions, they have almost the same extension. In addition, we are generally aware of both what we desire and what we are interested in. I think, this is partly because the notion of desire, like the notion of psychological interest, is also a *subjective* notion. Accordingly, 'desire' (with its *subjective* characteristics) is not suitable to be used to explicate harm either.

In terms of interest as characterised above, I would define harm as follows: *Harm is the impairment of objective interest.*⁶

Note that, in certain circumstances, our desires are really one of the important factors constituting our (objective) interests. Sometimes, a desire can even be the essential factor for constituting an (objective) interest. Besides, most of the time we desire what is in our (objective) interests. This really makes these two concepts tightly linked. Perhaps, this is part of the reason why the desire-thwarting theory is suggested. But note further that, even in these circumstances, it is not just the nonfulfilment of what we desire that accounts for the *harm*. I claim that it is the nonfulfilment of what we desire together with the fact what we desire is in our (objective) interests that accounts for *harm*.

To clarify the definition of harm I suggest here, I want to discuss another two different definitions of harm which are very similar to mine, but which are defective.

The first one is from Feinberg. Feinberg is quite right when he points out that 'harm' is better defined a more *objective* way. He says, '... harm to an interest is better defined in terms of the *objective* blocking of goals [desires]...than in subjective terms...' (My emphasis.) He offers a definition which looks just like mine—harm is the violation of one of a person's interests.⁸ However, he still confuses *interest* with *desire*. Or more precisely

speaking, he explicates *interest* (and thus *harm*) by using *desire*.⁹ This can be shown as follows.

Feinberg introduces a pair of conceptions:

- (1) Want-fulfilment: the coming into existence of that which is desired.
- (2) Want-satisfaction: the pleasant experience of contentment or gratification that normally occurs in the mind of the desirer when he believes that his desire has been fulfilled.¹⁰

Feinberg claims that interest (and thus, harm) should be defined by *want-fulfilment*, but *not want-satisfaction*. He says, '... an interest [and thus, harm] is...best defined in terms of the objective fulfilment of well-considered wants rather than in terms of subjective states of pleasure.'¹¹ (My emphasis.)

Although Feinberg is aware that 'harm' is better defined in a more *objective* way, unfortunately he does not make his definition *objective* enough. Interpreting interest in terms of *want-fulfilment*, in reality, Feinberg still uses *desire* (with the *subjective* characteristics) to define 'harm'. Since desire is *not* suitable to be used to explicate harm as argued above, Feinberg's definition of harm is seriously flawed.

The second different definition of harm is from Kleinig who defines harm as *the impairment of a (human) being's welfare interests*.¹² There are two main problems with this definition.

The first problem is as follows. By 'welfare interests' Kleinig means those interests which are indispensable to the pursuit and fulfilment of happiness or well-being. Welfare interests are seen, by Kleinig, as opportunities for happiness or well-being.¹³ Because *well-being* varies between cultures that would make *welfare* a variable notion. This makes the notion of welfare interests difficult to apply.

The second more serious difficulty is this. According to Kleinig's definition of harm, harm is done only when welfare interests are impaired. Welfare interests are specified by Kleinig as 'bodily and mental health, normal intellectual development, adequate material security, stable and non-superficial inter-personal relationships, and a fair degree of liberty'.¹⁴ Apparently, there can be no welfare interests (as mentioned above) left after we die. Given this, it is impossible for any events happening after our death to impair our welfare interests (so understood). Therefore, according to Kleinig's definition of harm, we cannot be harmed any more after we die. In short, Kleinig's definition of harm fails to accommodate posthumous harms.

To my criticism, Kleinig might reply, 'This is a *difficulty* only for those who believe in posthumous harms'. However, I will argue that there can be posthumous harms in this chapter, Section Three.

There are another two different kinds of harm which are the specialised adaptations of the harm I define above: (1) moral harm, and (2) legal harm. However, neither of them is consistent with our general understanding of harm.

Moral harm is understood as the impairment of one's *moral* interests. In terms of moral harm, only *acts* are harmful and only *people* do moral harm. Thus, according to the notion of moral harm, if a tree, weakened by termites, topples onto my leg, breaking it, the leg will be said to suffer damage or injury, but *not* harm.¹⁵ I am hurt physically but because the tree is *not* an agent, I am not harmed. This is clearly inconsistent with our general understanding of harm. Kleinig also offers the following example to illustrate the unreasonableness of the notion of moral harm:

If the neck of a two-year old child is broken, according to the general understanding of harm, he is unequivocally harmed. However, according to the notion of 'moral harm', the child is harmed, only if his morally good interests are impaired...¹⁶

On the other hand, according to the notion of legal harm, harm is understood as the violation of a *legally* protected interest. This interpretation of harm can lead to the following strange consequence: 'If X trespasses on Y's land, he has done Y harm insofar as he has violated Y's legally protected interest in the exclusive use and enjoyment of his land.'¹⁷

In short, the sense of harm which is crucial is distinct from these two kinds of harm.

Someone might challenge my definition of harm by raising the following two cases:

Case One. A crime boss invests large amounts of money and energy in an attempted bank robbery, but his attempt is foiled. According to your definition, it seems that the crime boss is harmed.¹⁸

Case Two. I buy a lottery ticket, but I do not win one million dollars. Had I won one million dollars, I would have benefited, but my failure to benefit shouldn't be regarded as harmful. However, it

<http://www.springer.com/978-1-4020-0505-3>

Can Death Be a Harm to the Person Who Dies?

Li, J.

2002, X, 198 p., Hardcover

ISBN: 978-1-4020-0505-3