

***Can Death Be a Harm to the Person Who Dies?***. Vol. 73 of Philosophy and Medicine series. By Jack Li. Dordrecht / Boston / London: Kluwer Academic Publishers, 2002. Pp. x + 193.

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Jack Lee of Tamkang University (nee Jack Li of the Fooyin Institute of Technology) has produced a fine monograph successfully espousing a new theory of harm to persons despite his decision not to explore therein the meaning of personhood. However he does try to do more than construct and defend his new theory. These additional attempts are admirable if not always convincing.

In rough outline, Lee proceeds as follows: (1) Show that the Epicurean argument (that it is impossible for death to be a harm to the person who dies) is defective. (2) Construct a theory of harm to persons that is more defensible than other theories — and thereby convincingly argue (with respect to the person who dies): (a) death *can* be harmful; (b) premature death is *always* harmful; and, (c) posthumous events *can* be harmful. (3) Use the new theory to ask or answer related questions (e.g. issues related to the Lucretian Symmetry Argument).

According to Epicurus (341-270 BCE), it is impossible for death to be a harm to the person who dies because death cannot be experienced (a dead person can have neither experiences nor harms). Via example cases (thought experiments) Lee shows that, contrary to Epicurus, one can be harmed without experiencing harm. This includes cases in which one does not experience harm because one is no longer alive (i.e. one has become a permanent *experiential blank*). Thus, so to speak, there is neither an *experience requirement* nor an *existence requirement* in order to be harmed. A person can

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be harmed without experiencing harm (no experience) and a person can be harmed after death (no existence).

Lee examines two major theories of harm to persons and then constructs a third theory of his own. Thereby he explores three possible definitions of *harm to persons*. His analysis finds that harm to persons (*alive or dead*) involves the impairment of their objective interests:

(1) Is harm to persons *the thwarting or frustration of desires*? But dead people are “experiential blanks” and have no desires. Dead people have no sensations, experiences, hopes, or fears. *Yet, contrary to Epicurus, we have found that dead people can be harmed.* Moreover, sometimes a particular desire can be harmful instead of helpful. Thus, objectively, the thwarting of such a desire would be good or beneficial rather than bad or harmful.

(2) Is harm to persons *the deprivation of goods*? But dead people have no goods in that they have no life, liberty, or property. Dead people cannot pursue happiness or act to achieve goals or dreams. *Yet, contrary to Epicurus, we have found that dead people can be harmed.* Moreover, in this context, the term “goods” seems more ambiguous and less accurate than the term “objective interests.” Sometimes a particular “subjective interest” (e.g. a particular “desire” or a particular “good”) can be harmful instead of helpful. Thus, objectively, the thwarting, deprivation, or impairment of such a “subjective interest” or “desire” or “good” would be beneficial rather than harmful.

(3) Is harm to persons *the impairment of objective interests*? Persons can indeed be harmed without experiencing harm; moreover, persons can indeed be harmed after death. A dead person is a (dead) person; every person (*alive or dead*) has objective interests.

Lee, following Joel Feinberg and John Kleinig, differentiates *subjective* interest (“X is interested in Y”) from *objective* interest (“Y is in X’s interests”). But unfortunately Lee then goes on to follow Feinberg and

Kleinig further<sup>1</sup>: (A) “Y is in X’s [objective] interests” equals “X has a *justifiably claimed* stake in Y”; and, (B) “X has a stake in Y” equals “X is likely to gain or lose from Y ...” Below I show that assertions (A) and (B) are seriously flawed.

(A) Here the phrase “justifiably claimed” is presumably used in order to differentiate objective interests from merely subjective interests (such as certain desires or goods that are not in our objective interests). A problem with “justifiably claimed,” however, is that our objective interests remain our objective interests whether or not we “claim” them. Likewise, our objective interests remain our objective interests whether or not we “justify” them.

(B) Here the phrase “likely to gain or lose” is used. It is perhaps natural to think of our objective interests as somehow connected to gaining or losing. But in fact our objective interests remain our objective interests whether or not some gain or lose is “likely” or unlikely, more probable or less probable.

As just explained, the ordinary meaning of “impairment of objective interests” includes the rejection of faulty assertions A and B. But let me point out also that here impairment is to *persons* (persons have objective interests). Thus it would be clearer to think of persons advancing toward their objective interests, including the advancement of their *ethical* learning. Moreover, we can think of the objective interests of all persons *living and dead*.

We now have a clearer definition of harm: Harm to persons is the impairment of their *advancement* toward their objective interests, including the advancement of their *ethical* learning. Accordingly, we do not say a person is harmed because utopia is not achieved in the next three seconds. Failure to secure utopia in the next three seconds is not necessarily an impairment (major setback) to the advancement of my (or our) objective interests.

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<sup>1</sup> Jack Li, *Can Death Be a Harm to the Person Who Dies?*, vol. 73 of Philosophy and Medicine series (Dordrecht / Boston / London: Kluwer Academic Publishers, 2002), 68.

For the practical purpose of delimiting the scope of the monograph's research project, Lee defines "death" so as to be permanent and an experiential blank. Indeed, the term "death" in the present context is often defined something like this: The permanent (irreversible) cessation (end) of life, existence, or consciousness. I now point out, however, that even given our present philosophic intent and context, death defined as permanent or irreversible is not without its problems. For one thing, what is deemed permanent or irreversible may be relative to the state of our empirical learning (the level of our science-technology). Moreover, if empirical tests necessarily involve empirical corroboration or empirical refutation (either or both), then "permanent death" is in principle potentially open to eventual refutation but not to eventual corroboration. In other words, death viewed as a temporary condition that is potentially reversible by far-future science-technology ("temporary death") is open to empirical corroboration in the far-future but is not open to empirical refutation.

Is it possible that death is (or can be made to be) a comma instead of a full-stop? (The reality of "temporarily" dead persons being revived using CPR and other existing biomedical technology says that already, at least sometimes, the answer is YES.) Is it possible that the set of all "permanently" dead persons can be (or, using far-future science-technology, can be made to become) a *null* set? Is it possible that the set of all "temporarily" dead persons can include (or, using far-future science-technology, can be made to come to include) *all* dead persons? It seems that both logically and empirically the answer to both "possibility" questions is YES. Moreover, let me point out that this answer apparently applies not only to people and the set of all persons, but also to worlds and the set of all universes.

Lee claims "that the death of an elderly person who has led a full and worthwhile life is not a great misfortune for him."<sup>2</sup> Lee is saying that it is NOT a great misfortune or harm if a hundred year old person *permanently*

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<sup>2</sup> Jack Li, *Can Death Be a Harm to the Person Who Dies?*, 81.

becomes an *experiential blank* (dies). On the contrary, our analysis above seems to tell us that being “elderly” (in the sense of age-related debility) and being (permanently) “dead” are not in the objective interests of persons. Becoming disabled or being mortal does not contribute to an optimal “never-ending” journey of a person toward ultimate personhood. In the following example by Feinberg, Lee makes modifications in brackets to support his “one-century” view<sup>3</sup>

“Thus, if I have an annual salary [life] of one hundred thousand dollars [100 years], and my employer [God] gives me a fifty thousand dollar [50 year] raise, I benefit substantially from this largesse. If he [God] fails to give me a raise, I am not so benefited, but surely not harmed either...If he [God] reduces me to five thousand [50 years]...however, he [God] not merely fails to benefit me, he [God] causes me harm...”

Lee’s analogy does not hold up. First of all, God is love (not our harmful or helpful employer) and wishes us to take the initiative and to self-advance toward ultimate personhood. Such an adventure in discovering and advancing one’s objective (ethical and other) interests will take much longer than a mere one-century. Secondly, life is not like a mere job or salary. If one is alive and healthy, one may be able to obtain another job or salary. But (permanent) death ends one’s life and life-plan; one does not then obtain another life or life-plan. Beyond this, self-improvement and world-betterment are in our objective interests. Nature (not God) indifferently causes events like drought, earthquake, crop failure, smallpox, AIDS, cancer, age-related debility, and death. Via the advancement of our objective empirical interests, we learn to regulate nature; via the advancement of our objective ethical interests, we turn the world from indifference into love.

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<sup>3</sup> Jack Li, *Can Death Be a Harm to the Person Who Dies?*, 81.