



## Review: Kamm, *almost over: Aging, Dying, Death*

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Human mortality has been one of F.M. Kamm’s central concerns throughout her distinguished career in moral philosophy. Ever since her monumental, two-volume *Morality, Mortality* (1993, 1996), Kamm’s books have addressed an array of questions concerning the interpersonal morality of killing, letting die, and saving lives, with the wider aim of articulating a non-consequentialist approach to such questions. Along the way, she has become the chief exemplar of a case-heavy method of reflective equilibrium wherein moral principles are tested against cases and assessed in light of our intuitions concerning those cases, generating new (usually more nuanced or qualified) principles to be tested against ever more subtle cases, etc.

Kamm’s collection of essays, *Almost Over: Aging, Dying, Dead*, continues her career-long investigation of mortality, but represents a departure from her previous work in certain respects. For *Almost Over* is instead concerned mainly with (a) mortality from a first-personal perspective — with the conditions under which death is bad for a person, whether (in the face of aging or terminal illness) it can be rational to hasten one’s death via assisted suicide, and with the place of meaningfulness in deliberation about such matters — and (b) the public policy choices we confront regarding hastening death and the role of medicine therein. Methodologically, the book contains little of the “trolleyology” for which Kamm is famous. Instead, Kamm dissects arguments that prominent philosophers (Shelly Kagan, David Velleman) and public intellectuals (Atul Gawande, Ezekiel Emanuel, Justice Neil Gorsuch) have offered on such questions. The result is a collection with a looser and more dialectical flavor, but with no sacrifice of the care and rigor that characterizes Kamm’s other work.

Kamm’s first chapter considers what can render someone’s death bad for them. Kamm offers criticisms of the prevailing “deprivationist” view, according to which a person’s death is bad for them just in case it results in their having a worse life overall than the life they would have had in the nearest possible world in which they died

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later. Kamm suggests that deprivationism cannot account for the apparent relevance of certain factors in determining the value a person's death has for them. For instance, two individuals' deaths might be equally significant from a deprivationist point of view inasmuch as each stands to gain (or lose) the same amount of welfare by dying at the time they do. But these deaths might differ in that one individual might have had a better life than the other up to that point, been alive for longer and hence had a greater magnitude of conscious experience, or die subject to more of what Kamm calls "insult factors" (that one's death occurs after a decline from a good life, etc.) A thread running through Kamm's discussion is that in thinking about death's badness, deprivationism wrongly focuses on facts about a person's future at the expense of seemingly relevant facts about a person's past and their biography. For Kamm, the value of a person's death is a complex matter, irreducible to any single factor. The chapter concludes with an application of her views to the questions of whether we should have the same attitudes toward death as we have toward pre-vital non-existence and of whether human extinction should be viewed as lamentable.

Chapter 2 offers criticisms of the view offered by Shelly Kagan (*Death*, 2012) about when it is sensible to end one's life and how to deliberate about that decision. Kagan is attracted to an aggregationist view according to which it is prudent to end one's life only so long as one's future is not worth having taking both likely future goods and bads into account. Kagan's position implies that tolerating a future that involves intense or prolonged bads (such as chronic pain) will be prudent so long as these bads are outweighed by the prospect of future goods. Kamm, in contrast, argues that it can be rational to forego such a future simply on the basis that it portends grievous bads. As best I can tell, Kamm is not appealing to any sort of asymmetry between bads and goods, i.e., she is not arguing that bads of a given quality or magnitude make a greater negative contribution to our well-being than equivalent goods make a positive contribution to our well-being. Rather, Kamm opposes the claim that, in thinking about hastening death, etc., it is rationally required that we adopt Kagan's aggregationist approach of weighing goods and bads. It can be sufficient to render our hastening our deaths rational that we do so in order to avoid foreseeable bads, irrespective of expected future goods. Kamm thus seems to gesture at an attractively *pluralistic* account of rational decision making, at least regarding the duration of our lives: There are multiple possible rational responses we may have toward the expected declines in well-being we may face near life's end, and no one of these responses is rationally obligatory.

Kamm looks outside of moral philosophy for her interlocutors in chapter 3, addressing the views put forth by Dr. Atul Gawande (*Being Mortal*, 2015) regarding meaning near the end of life and our priorities in caring for the aging and the dying. Gawande resists the widespread inclination to prioritize prolonging life and relieving pain to the exclusion of all else, arguing that individuals should be afforded greater liberty to pursuing meaningful and autonomous activity in life's final chapter. Kamm is largely sympathetic to Gawande's critiques, but finds his emphasis on particular ways of finding meaning near life's end (for instance, by playing the "dying role") unduly narrow. This chapter thus echoes the general skepticism Kamm evinces about attempts to find a single, pat answer to how we should approach death and the end of life. I should add that, to my eye, chapter 3 is especially valuable as an example of

how to put serious philosophy in dialogue with thoughtful medical practice. Kamm skillfully manages the difficult task of facilitating dialogue between Gawande's experientially informed views and the philosophical literature on the value of death (for instance, Bernard Williams' distinction between categorical and conditional desires). This chapter could thus have a long life as a text to introduce philosophers to how clinicians think about death and the end of life, and vice versa.

Chapter 4 is an attempt to sort through the wide range of considerations and interests that intersect in advanced and end of life care. Kamm observes that conflicts are likely to arise among competing considerations and interests in such contexts, such as respecting patient preferences, satisfying family wishes, and meeting standards of care adopted by health care professionals

She is also concerned with difficulties in eliciting patient's preferences in ways that satisfy informed consent. Much of the chapter is devoted to the nuances of conversational protocols developed to guide conversations with patients concerning end of life care. As expected, Kamm offers helpful interventions here, highlighting the dangers of (for example) framing effects in influencing patient choices. That said, it was difficult to tease out larger thematic takeaways about how end of life care and decision making should be approached. If Kamm's aim is to illustrate how untidy and fraught these processes are, she succeeds on that score.

One of the titular concerns of *Almost Over* is aging. Kamm's fifth chapter inquires into one of the more provocative thought experiments about aging, death, and well-being, namely, the story of Benjamin Button. Button ages "in reverse," i.e., he is born physiologically "old" but becomes physiologically younger as time progresses so that he dies in the maturational equivalent of infancy. Kamm puts the tale to good use in considering how physiological aging intersects with the passage of time to impact the value of our lives and the attractions of dying at particular stages of life. Near the end of Button's life, he (like the prototypical aging person) undergoes a phase in which his capabilities, etc. decline from those he had in his adulthood. Moreover, Button's life could well have a similar distribution of goods and bads across the phases of his life that a person has in standard cases of aging and death. Of particular interest in this chapter are Kamm's observations about how Button's life would likely seem more determinate or limited in its trajectory, as well as whether Button (as he "aged" toward physiological infancy) would maintain the categorical desires that (according to Williams) are essential to our wanting to continue our lives.

*Almost Over's* sixth chapter considers Emanuel's argument that once we reach seventy-five years of age, our lives are sufficiently "complete" that we should forego not only extraordinary life-extending medical care but also routine care (such as flu inoculations) that would extend lives whose quality makes them better off for us than being dead. Emanuel holds that living beyond this point affords us few if any opportunities for meaning; after seventy-five, our lives are necessarily too "diminished" to be worth continuing. This is the book's longest chapter by a wide measure, and Kamm wastes no opportunity to take Emanuel to critical task. Emanuel is (she notes) too hasty in supposing that even if aging individuals cannot continue the activities that lent their lives meaning when they were younger, that they cannot find other meaningful activities to substitute for them as they age. Kamm also highlights apparent inconsistencies in Emanuel's overall stance: He opposes physician-assisted

dying, but this is hard to square with his hard line stance on refusing even “easy care” that protects us against premature death. Emanuel’s position could be salvaged if one held that the former involves wrongfully intending to kill, whereas the latter is merely acting so as to foresee that one’s death will result. But Kamm reasons that the relevant intention (to die sooner than one otherwise would) can be the same in both cases. The chapter underscores a claim Kamm defends in several chapters, namely, the apparent defensibility of intending one’s own death, whether by refusing life-sustaining interventions or by opting for more “active” assisted dying or euthanasia, whenever we reasonably believe death is the least bad option that enables us to avoid even worse outcomes that would ensue if we lived further.

Chapter seven puts Kamm in dialogue with Velleman and Gorsuch regarding the justifiability of assisted suicide. Kamm sets the stage with a series of four-step arguments concerned with the moral defensibility of doctors assisting patients to die as part of their professional responsibility to relieve patients’ pain. Each variant of the argument concludes that it is at least permissible for doctors to intentionally cause or assist in the causing of a patient’s death when death alone can stop that pain, and in particular, when the patient’s death is otherwise imminent. Against Velleman’s claim that respect for persons entails that we may not hasten their deaths for the sake of their contingent interests in (say) pain relief, Kamm argues that the demand to respect the value of a person does not entail that the person (or we) must keep them in existence even when death would be a better option for them than continuing to live. Persons, she argues, can have incomparable value worthy of our respect despite their continued existence not having incomparable value. Kamm then takes up Gorsuch’s attempt to invoke double effect to argue against the moral (and legal) permissibility of assisted dying. She pinpoints several difficulties with Gorsuch’s attempt to explain intention and its moral significance. As someone with relatively little patience for the casuistry of foresight and intention, I found Kamm’s criticisms generally convincing but wonder whether a better framework for analysis would begin from the fact that in all cases of voluntary euthanasia (whether active or passive), assisted dying, etc., the clinician is *cooperating* with, and hence rationally endorsing, a course of action chosen by the patient that the patient will typically recognize as hastening their death.

Kamm’s final chapter, entitled “Death and the State,” seeks to investigate euthanasia and assisted dying as public policy questions. Returning again to Emanuel, Kamm recommends that public policy on these questions should proceed primarily on the basis of rights rather than “harms,” since (a) many of the putative harms invoked by critics are better classified as wrongful rights violations, and (b) many of the harms that skeptics have predicted would transpire when assisted dying or euthanasia was made legal (“various slippery slopes”) have not actually come to pass. As Kamm notes, in confining the investigation to rights, we hardly settle whether such practices should be legalized. We must still consider the strength of the various rights involved, as well as the frequency with which such rights are violated when the status quo criminalizes medical assistance in dying versus when these are legal. To register one note of disagreement: Kamm tries to compare assisted dying to capital punishment as a way to ascertain the role of the state in the legalization of the former. Specifically, when the state bars assisted dying, is it *causing* the harms that legalization would prevent, in the way that some authors have thought that the state is responsible for

the deaths it opts not to deter by foregoing the use of capital punishment (dubiously assuming that capital punishment deters killing)? Kamm's discussion struck me as overlooking a fairly significant disanalogy here: In cases of voluntary assisted dying, whatever "harms" may ensue are harms to which patients have consented, whereas murder victims tend not to consent to their own murders. The state thus seems far less responsible for (and far less accountable for) harms in the previous case than in the former.

As mentioned above, Kamm's trademark methods are largely absent from *Almost Over*. This is not to say that the collection is always easy reading. One of its challenges is that Kamm's typical approach is to let her interlocutors set the philosophical agenda. She devotes most of her energy to the patient, careful dissection of others' views. And nearly always she finds them to contain controversial and undefended premises, inconsistencies or ambiguities, etc. While laudable, Kamm's approach tends to mute her own voice. Time and again, I kept asking, "fair point — but how do you, Kamm, think about the matter at hand?" Readers will be able to decipher only the most general contours of where Kamm's own sympathies lie. An introductory or concluding chapter summarizing Kamm's own convictions would foster deeper appreciation of the criticisms she poses to others.

This approach also leads Kamm to underplay her potentially intriguing theoretical contributions. For instance, in chapter one, she gestures at a position regarding death's value she calls "willhavehadism," that "how good or bad one's life will have been" at the point when one dies "could be a better indication of how bad one's death is for one than how good or bad one's life would be in the future." Kamm calls willhavehadism a "backward consequentialist" thesis because "how much one will have had is an effect of death." (p. 2) Kamm intends willhavehadism as a contrast with deprivationism about death's value. I suspect that Kamm may be underestimating deprivationism's ability to absorb the claim that "how good or bad one's life will have been" matters to the value of one's death. The deprivationist invites us to compare our actual lives to the nearest possible lives with respect to the overall well-being of each, in order to determine how bad (or good) it is for us to die at various times. Deprivationism could seemingly allow that "how good or bad one's life will have been" contributes to overall well-being in a person's life. Deprivationists will emphasize future losses (in Kamm's terms, "how good or bad one's life would be in the future") since it is those losses that death prevents and which form the basis for comparison between our actual and counterfactual lives. But setting aside whether willhavehadism and deprivationism are ultimately compatible, "backward consequentialism" offers a suggestive insight into the badness of death. Plausibly, a person whose life has realized more of its potential for goodness or value loses more by dying than the person whose life has realized less of that potential. How can this be made intelligible? Perhaps we could say that the former is deprived of more good by dying than the latter, but to do so, we cannot think of goods as contributing to our overall well-being only at the times when they occur, such that the value in question consists simply in summing the goods at those times. Kamm seems to be hinting that there is some additional "biographical" good that we enjoy in such cases, perhaps a good arising from our being present for, or cognizant of, the goods of our lives.

Finally, a comment on Kamm's engagement with her interlocutors, particularly interlocutors who are not academic moral philosophers, such as Gawande, Emanuel, and Gorsuch: This strategy struck me as a mixed success. Her criticisms of these figures are nearly always on point. That said, these engagements seem to me to illustrate, perhaps ironically, why we need moral philosophers and cannot rely on such public figures for insights about difficult moral domains such as death and dying. Those whose purposes are not philosophical will often be aiming to inform or provoke rather than persuade in a conscientious way. As such, they are likely to be far less self-aware than philosophers are about disambiguating their views, considering their implications, teasing out inconsistencies, etc. Kamm does this work for them, but a reader might wonder if these are efforts better spent trying to craft a public sphere where conscientious philosophy is more welcome. Kamm spends at least one-quarter of the book refuting Emanuel, for example, who (candidly) seems like a figure ripe for criticism. Kamm's academic audience probably expected as much. Yet I doubt that Kamm's critiques will discourage figures like Emanuel or diminish their impact on public discourse.

*Almost Over* is a worthy addition to Kamm's corpus on the ethics of killing and dying. It shows a moral philosopher wrestling with issues that are very much alive for her and in the wider world.

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