Abstract

Individuals suffering from anorexia-nervosa experience dysmorphic perceptions of their body and desire to act on these perceptions by refusing food. In some cases, anorexics even want to refuse food to the point of dying. In this paper, I answer the following question: if an anorexic, A, wants to give consent to refuse food when the food would either be life-saving or prevent serious bodily harm, can A’s consent be valid? I argue that there is compelling reason to think that anorexics can give valid consent to refuse food, even in these extreme circumstances.

First, I outline stipulations that will apply to my argument. Second, I outline and reject reasons one might give for thinking that A’s consent is not valid. Third, I address an objection.

Of Blood Transfusions and Feeding Tubes: Anorexia-Nervosa and Consent

Individuals suffering from anorexia-nervosa experience dysmorphic perceptions of their body and desire to act on these perceptions by refusing food. In some cases, anorexics even want to refuse food to the point of dying. In this paper, I answer the following question: if an anorexic, A, wants to give consent to refuse food when the food would either be life-saving or prevent serious bodily harm, can A’s consent be valid? I argue that there is compelling reason to think that anorexics can give valid consent to refuse food, even in these extreme circumstances. My argument for this conclusion is based on the following cases:

Jehovah’s Witness: a Jehovah’s Witness (JW) is brought into the ER with a severe injury which will require her to get a blood transfusion to survive. She expresses her religious belief that this is not permissible. The doctors try to persuade her that she must get the transfusion, otherwise she will die. She persists in refusing, even after understanding all of the ramifications of her decision.

Anorexia: an individual with anorexia (A) is so malnourished and thin that she is near death. She is brought to the ER. The doctors explain to her that she must eat if she is to remain alive. But, A explains to the doctors that she doesn’t want to eat the food, even though she understands that she will die if she doesn’t.

It seems clear to me that most people’s initial intuitions are that JW can validly consent to refuse the transfusion and that A cannot give valid consent to refuse food. Based on these cases, my argument will proceed as follows: I argue that there is no reason to believe that JW can consent and that A cannot consent. Any purported reason that JW can consent and that A cannot consent either (1) applies equally to JW or (2) is independently implausible as a reason to invalidate A’s consent. This leads to the conclusion that A can give valid consent to refuse life-saving food.¹

First, I outline stipulations that will apply to my argument. Second, I outline and reject reasons one might give for thinking that A’s consent is not valid and that JW’s is. Third, I address an objection.

¹ A limited version of this conclusion has been defended by Draper. It is important to note that Draper supports anorexic’s refusal of treatment in a very narrow range of cases (122-123). Draper also uses a comparison between Jehovah’s Witnesses and anorexics, but it seems to be only an off-hand remark and not essential to her argument or developed very far (128).
I. Stipulations:

First, I assume that consent is valid iff it is informed, rational/competent, and voluntary. I take it as a working assumption that if an individual’s consent is invalid, it is invalidated in virtue of being coerced, incompetent, or deceived. Second, I assume that both Jehovah’s Witnesses and anorexics are not being coerced or deceived into giving their consent. Thus, I will only discuss the rationality/competence of these individuals. Third, in the cases that I discuss, the individuals with anorexia give concurrent agreement to refuse food. The question is whether the ‘yes’ of an anorexic is morally transformative and rises from mere consent to valid consent. Fourth, I assume that the burden of proof lies with those who would limit consent. For that reason, I assume that if there is no compelling reason against an individual’s competence to consent, we should adopt the view that this person is competent. In short, competence should be innocent until proven guilty. Fifth, I don’t assume a particular theory of the ontology of consent. Sixth, I assume that most people think that JW can consent to refuse the blood transfusion. Given this, if a purported reason that A cannot consent applies equally to JW, I take this as evidence to reject this reason against A’s competence.

II. Purported Reasons That A’s Consent Is Not Valid, While JW’s Is:

In this section, I consider what I take to be an exhaustive list of reasons one might give to defend the view that JW can consent and that A cannot. I argue that every reason one can give to undermine A’s consent either applies equally to JW or is independently implausible as a reason to invalidate A’s consent.

I consider two broad categories of objections: (i) that A cannot consent because of irrationality and (ii) that A cannot consent because of something bad about her values.

i. A’s consent is invalid because she is rationally impaired in a way that JW is not, because A’s consent-relevant beliefs are false, while JW’s are true:

By ‘consent-relevant belief,’ I mean the belief that the agents in question base their decisions on. For A, the consent-relevant belief is something like, ‘I am fat,’ while JW’s consent-relevant belief is something like, ‘God has commanded me to not get a blood transfusion.’ In this version of the objection, the thought is that A’s consent is invalid, because she is irrational in virtue of possessing a false belief.

This view fails for two reasons. First, it seems clear to me that JW’s beliefs are also false. So, this objection, if successful, would invalidate JW’s consent. Second, so long as no deception is involved, our consent-relevant beliefs don’t need to be true in order for our consent to be valid. Surely, we can consent on the basis of false beliefs, otherwise an absurd number of decisions would be nonconsensual.

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2 There are three main views about the nature of consent: (1) mentalism, which holds “that performing the appropriate kind of mental act is not just necessary but also sufficient to bring about the normative change distinctive of permissive consent,” (2) a performative view, which holds that consent is an external communicative act, and (3) a hybrid view which says that consent involves both mental and communicative features (Manson, 2016, 3318). Mentalism is defended by Hurd (1996), Alexander (1996 and 2014), Husak (2006), and Westen (2004). The performative view is defended by Wertheimer (2000, 2003), den Hertogh (2011), and Millum and Bromwich (2018). The hybrid theory is defended by Malm (1996), Owens (2011), and Dougherty (2015, 2018). Manson (2016) rejects all three views and defends a view that, by my lights, seems closest to the hybrid view.
A’s consent is invalid because she is rationally impaired in a way that JW is not, because her consent-relevant beliefs are unjustified, while JW’s are justified:

We can alter the objection to say that, although both A and JW’s beliefs are false, A’s beliefs are unjustified, while JW’s are justified. Perhaps the fact that A’s beliefs are unjustified shows why she cannot consent while JW can.

I have two responses. First, we can construct versions of these cases where both A and JW’s beliefs are equally unjustified or justified. This would make the argument, again, able to invalidate JW’s consent. Second, in general, we can give valid consent on the basis of unjustified beliefs. It’s likely that most people have a substantial percentage of unjustified beliefs; thus, if this were sufficient to undermine consent, a great number of normal behaviors would be nonconsensual.

A’s consent is invalid because she is rationally impaired in a way that JW is not, because A’s consent-relevant beliefs are both (1) unjustified and (2) caused by a pathological disorder:

We can further revise the objection to say that A cannot consent, while JW can, because, even if both of their beliefs are false and equally unjustified, A’s belief is caused by a pathological disorder, while JW’s belief is not. After all, anorexia is a psychological disorder, and religious belief is not.

I have two responses. First, we can appeal to cases in which individuals with other pathological disorders can give valid consent. For example, individuals with OCD engage in pathological ritualizing behavior, but this doesn’t undermine their ability to consent. For example, if an individual with OCD ritualizes by washing his hands, this doesn’t mean that one would violate his consent by offering him soap.

Second, we can ask why a pathological disorder might undermine consent. Upon reflection, if a pathological disorder undermines consent, it must do so in virtue of rendering A’s behavior involuntary. To be more specific, the objection is not that A’s behavior is involuntary. This is false for anorexics. Rather, the objection is that A’s consent-relevant belief (‘I’m fat,’ etc.) is involuntary because it is controlled by her disorder. In short, A’s disorder causes her to endorse this belief, and she cannot help but believe it. She has no choice in the matter, making her belief unjustified an involuntary. Although this is certainly tragic, it does not undermine consent for the simple reason that many of our beliefs are not within our control, but we can still act on the basis of them in consensual interactions. For example, if S cannot control his belief that he ought to donate money to Oxfam, but in fact he is not obligated to donate to Oxfam, Oxfam does not violate his consent by accepting his donation. Furthermore, although JW’s consent-relevant belief is not caused by a pathological disorder, his belief is similarly involuntary and out of his control as A’s consent-relevant belief. This is true for the simple reason that most, if not all, of our beliefs are not under our voluntary control.

A’s consent is invalid because she is rationally impaired in a way that JW is not, because A is generally incompetent in a way that JW is not:

Perhaps A is irrational in a way that goes beyond the features mentioned so far. It may be the case that A is generally incompetent in a way that JW is not. If this were the case, then A’s decision to refuse food would certainly not be consensual.
The empirical evidence runs contrary to this claim. Although there is no universally agreed upon competence test, on what I believe to be the best test (the Macarthur Competence Test), anorexics are ruled competent.³ The Macarthur test tests four things: (1) ability to communicate a choice, (2) ability to understand the relevant information, (3) ability to appreciate the situation and its likely consequences, and (4) ability to manipulate information rationally.⁴ There is evidence that anorexics satisfy all four conditions. As Tan states, anorexics “often appear to have a very good understanding of the facts of their disorder and the risks involved and the ability to reason, which they can retain even at very low weights.”⁵

ii. A’s consent is invalid, because her values are flawed in a way that JW’s are not:

Departing from considerations of rationality, the objector argues that A makes her decision to refuse food on the basis of a flawed set of values, which renders her decision incompetent and thus nonconsensual.

There is something appealing and intuitive about this view. If there is some important way in which the values that inform my decisions are alien to me, or if they are not my own, it is difficult to say that I am the one who is deciding. Rather, some external influence is exerting undue force on my will.

There are three ways that we can understand this view. It might be saying that A’s values are flawed because (1) her values are objectively false, (2) her values are not authentically hers, (3) her values are unstable. I argue that each interpretation fails to justify the claim that A cannot consent to refuse food.

ii. 1. A’s consent is invalid, because her values are objectively false:

We can see this view as saying that A cannot give consent on the basis of objectively false values.

This view fails, because it entails that anyone with false values cannot give consent if those false values influence their decisions. This is wildly implausible, as many people likely hold false values, meaning that an absurd number of people cannot give valid consent. Again, this reason would also apply equally to JW, as his values are also false.

ii. 1. A’s consent is invalid, because her values are not authentically hers:

This is, to my mind, the strongest version of the objection. As I understand it, the objector is here arguing that A’s values have been hijacked and that, as a result, she is being driven by some

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³ As Vollmann argues, “the results of the study show that anorexia nervosa can have complex and variable effects on concentration, beliefs, and thought processing without affecting the ability to perform well on the MacCAT-T. At the same time, participants also report a change in their value system as well as in their personal identity. The authors argue that the results of their studies suggest that the competence to refuse treatment might be compromised in people with anorexia nervosa in ways that are not captured by the MacCAT-T” (290). It is important to note that Vollmann thinks that this reveals a problem with the Macarthur Test. I do not share that view but instead think that the Macarthur test is correctly identifying anorexics as being competent.

⁴ Appelbaum and Grisso, 106.

⁵ Tan et al., 537.
force alien to herself. To put it strongly, it is not A, but instead her condition, that is making the decisions.

This fails for several reasons. First, there are anorexics for whom anorexic values are, sadly, authentic. For such individuals, anorexia has characterized much of their lives, and it seems that the values associated with it are truly their values. Unless what we mean by ‘authentic values’ is just ‘objectively true values,’ then an authentic value should be understood as one which the agent has stably and consistently held for a long period of time. Given this, there are anorexics for whom anorexic values are authentic. For example, in an interview, one anorexic patient said “it [anorexia] feels like my identity now,” and when a different patient was asked if she would “wave a magic wand and [make it so] there wouldn’t be anorexia any more,” she replied “I couldn’t.”

Second, one might object that this is a shallow understanding of authentic values. It might be the case that, for a value to be authentic to an agent, it must deeply resonate with her, or it must be an expression of her deep self. Even if this is the case, there will be anorexics for whom anorexic values resonate with them and are an expression of their deep self. As another anorexia patient said in response to the question “if your anorexia nervosa magically disappeared, what would be different from right now?” she replied, “everything. My personality would be different. It’s been, I know it’s been such a big part of me, and – I don’t think you can ever get rid of it, or the feelings, you always have a bit – in you.”

Third, even if one does not agree with my responses above, the initial objection could be formulated against JW. After all, it seems that his religious beliefs are something external to him that entered his life at a certain point and which exercise an extreme amount of control over him. One might wonder whether JW’s decision to refuse a transfusion is really JW or is just his religion hijacking his decision. Thus, the initial objection can be equally applied to JW and A.

ii. A’s consent is invalid, because her values are unstable:

Another way to understand the objection is that A’s values are flawed, because they are highly unstable and prone to rapid change. It seems plausible to suggest that, if an individual rapidly changes her mind from moment to moment, we cannot accept her token of consent. For example, if S says at some time that she wants to have sex with J, but if she continually alters her feelings at subsequent times, J ought to be unsure about whether this consent renders their sex permissible. Something similar might be true of anorexia. If anorexics experience frequent changes in desires about whether to eat food, then this would suggest that doctors cannot act on their consent.

This response fails for several reasons. First, one of the tragic features of anorexia is that it is remarkably stable. Individuals with anorexia do not experience changes in their values. The previously referenced interview quotations suggest that this is true. While this is deeply saddening, it suggests that this cannot be a reason that anorexic’s have flawed values, because their values are not subject to rapid and unstable change. Second, even if there were an anorexic

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6 Tan et al., 539.
7 Tan et al., 542.
for whom this were the case, there are reasons to believe that having unstable values does not render us unable to consent. Consider the following case:

**Rapid Conversion**: S is a Christian who believes that sex outside of wedlock is morally impermissible. S undergoes a rapid loss of faith and ceases to be a Christian. Now, S believes that casual sex is perfectly permissible. S decides to have sex with several partners. But, in a matter of weeks, S has a religious experience and returns to her Christian faith and its accompanying sexual morality.⁸

In this case, S underwent a rapid, unstable, and drastic shift in values. Despite this, it sounds implausible to say that the men she had sex with during the period in which she was not a Christian engaged in a seriously wrong and impermissible sexual act without her valid consent, even if they knew about her rapid shift in values.

With all of the preceding discussion, I conclude that the best reasons one can offer for why JW can consent and A cannot all either (1) apply equally to JW or (2) are independently implausible reasons to undermine A’s consent.

### III. Objection:

#### i. Is paternalism justified against A, even if she can consent?

The objector might argue that even if I am right that A can give valid consent, this may be irrelevant, because paternalistic intervention may be justified against A even if she can give valid consent. Consent is a moral transformative, meaning that it renders an action permissible when it otherwise would not have been. But, consent is not always a sufficient condition for the permissibility of an act. There are consensual actions that are all-things-considered wrong. For example, perhaps people can give valid consent to a slavery contract, but slavery may be so wrong that we are justified in preventing this contract. Perhaps A can consent to endure serious bodily harm, or even death, but these outcomes are so bad for A that they override the normative power of A’s consent and render her refusal all-things-considered impermissible.

This objection proves too much. If the arguments in section II are correct, then there is no reason to think that A cannot consent that does not equally apply to JW, because all of the purported reasons that A cannot consent either independently failed or applied equally to JW. If this is correct, then we should apply the same standard in both cases for paternalistic intervention. If intervention is justified for A consenting to die, then it must also be justified whenever JW will do the same. Thus, if the objector holds that A’s actions are so harmful that paternalistic intervention is justified, she must say the same about JW, meaning that she is committed to the claim that JW should be forced to take the transfusion. This is too strong. Surely, the very purpose of consent is to protect our autonomy, and to force the transfusion on JW is to violate his autonomy. Thus, because it seems clear that we are not justified in forcing JW to take the transfusion, and because JW and A’s consent abilities are on a par, I conclude that we are not justified in force-feeding A.

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⁸ Something very similar happens to this in Paweł Pawlikowski’s 2013 film *Ida*, which involves a young nun who leaves her convent to experience secular life.
Conclusion:

Although it is tragic, I argue that anorexics can consent to refuse food, even to the point of death. This does not entail that we should desire such behavior, only that the importance of rights prevents us from stopping such behavior.
References


