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Self-Ownership or Suicide Prevention?

The core libertarian principle of self-ownership implies that we have a right to commit suicide: the state has no right to forcibly prevent us from killing ourselves.

The core psychiatric practice of suicide prevention implies that we have no right to kill ourselves: the state—through its mental-health laws and psychiatric agents—has the right to forcibly prevent us from killing ourselves.

That is not all. "Suicide prevention"—a euphemism for incarceration in a mental hospital—is preventive detention, par excellence. From a civil-rights viewpoint, depriving a person of liberty because he *might* commit a crime in the future is anathema. Doing so to prevent a person from perhaps committing an act that is *not a crime* is an outrageous injustice.

Mental-health laws authorize and obligate the psychiatrist to incarcerate his patient if he deems him to be "mentally ill and dangerous to himself or others." Marcia Goin, president of the American Psychiatric Association for 2003, states: "We can make contracts with builders, insurers, and car dealers, but not with patients." (Marcia Goin, "From the President," *Psychiatric News*, July 18, 2003; http://pn.psychiatryonline.org/cgi/content/full/38/14/3.) Goin offered her unqualified rejection of contracting with mental patients in the context of the so-called "no suicide contract." That absurd term refers to the psychiatrist's promising the "suicidal" patient that he will forgo committing him, provided the patient promises that, as long as he is under the psychiatrist's care, he will not kill himself.

Whether such a "contract" is or is not effective in preventing suicide does not concern me here. What concern me, instead, are the psychiatric premise that the patient has no right to kill himself; the psychiatrist's professional duty to prevent the patient from killing himself; and the incompatibility between this psychiatric practice and the libertarian principle of self-ownership.

Both de facto and de jure, once a person enters into a professional relationship with a psychiatrist, he forfeits his right of self-ownership, and the psychiatrist acquires the fiduciary duty of protecting the person—henceforth "mental patient"—from himself (and of protecting others from the patient). Should the psychiatrist, in his judgment, deem the patient to be a danger to himself (or others), he is professionally obligated to initiate violence against him, called "civil commitment" and "suicide prevention." If the psychiatrist fails to do so and the patient injures or kills himself (or others), the psychiatrist can expect to be the defendant in a tort action for medical negligence ("failure to prevent harm to self or others").

There is no evidence that suicide prevention prevents suicide. The rate of suicide

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among psychiatrists is at least two or three times that among the general public. Psychiatrists and psychiatric hospitals are regularly found liable for patient suicides (and for harm to others).

Given these circumstances, why do psychiatrists assume—indeed, demand to shoulder—such a risk? As I show in my book *Fatal Freedom*, therein lies the answer to why psychiatry cannot be reformed and must be abolished. Suffice it to say here that, from its earliest beginnings in the late seventeenth century, psychiatry (formerly "mad-doctoring") was synonymous with the control of the patient by the psychiatrist. It still is.

Psychiatry and the Abolition of Contract

Famed English jurist Sir Henry Sumner Maine (1822–1888) aptly observed: "The movement of the progressive societies has hitherto been a movement *from Status to Contract*." In other words, in liberal (free) societies the law treats persons as contracting individuals, not as members of status groups (men/women, sane/insane).

Modern psychiatric ethics has declared war on this principle, as Marcia Goin's reaffirmation of the psychiatrist's unyielding commitment to coercion illustrates. She asserts that psychiatrists cannot make contracts with the persons they call "patients." Builders, insurers, and car dealers make contracts with such persons. Why can't psychiatrists make contracts with them? Because contracting implies two (or more) legally equal parties, each putting his cards on the table. It implies mutual obligations, each party having legal power to compel his partner to fulfill the contract or compensate him for failure to do so.

Such mutuality is contrary to psychiatric ethics. Specifically, psychiatrists reject the ethics of commerce in favor of the "loftier" ethics of care. The seller of plumbing services is obligated to deliver only that which his customer has requested and he has promised to provide. The seller of psychiatric services is obligated to deliver something more: he must protect the customer from himself, even at the cost of depriving him of liberty.

In contrast to such control-command relationship between psychiatrist and patient, modern psychotherapy, exemplified by psychoanalysis, was characterized by a cooperative-contractual relationship between therapist and client. Yet psychoanalysts never emphasized this essential element of the enterprise. Worse, the integrity of the analytic contract was, almost from the start, eagerly compromised by Freud and his followers. In one breath Freud declared, "With the neurotics, then, we make our pact: complete candor on one side and strict discretion on the other." In the next breath he took it all back: "I make use of his [the patient's] communication without asking his consent, since I cannot allow that psychoanalytic technique has any right to claim the protection of medical discretion."

A contract is an agreement equally binding on both parties. Psychiatrists reject contracting with patients. They refuse to be bound by agreement. Instead they claim, and the law grants them, the power to impose unwanted (suicide prevention) "services" on patients, whenever they, the psychiatrists, decide that depriving the patient of liberty serves "his best interests."

Of all the complex issues of social policy that we face, probably the most vexing—and undoubtedly the most neglected—is the conflict between libertarian principles and psychiatric practices. □