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J. Med. Ethics 1995;21;220-224

doi:10.1136/jme.21.4.220

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The elimination of morality

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Abstract

Anne Maclean has written a book which purports to identify and then definitively to reject the claims which she perceives to be the claims of bioethics. If she is right, then the enterprise to which this journal is dedicated is misconceived and worthless. In this paper, I attempt to show why so far from being not right she is comprehensively wrong, both in her understanding of the nature of bioethics and in the specific moral claims she makes about those she terms 'bioethicists'. Since much of her book-length study is devoted to a criticism of my own work, this paper analyses the extent to which Maclean's criticisms of me, and by extension, of other bioethicists, are sustainable.

'If a man could write a book on ethics which really was a book on ethics this book would, with an explosion, destroy all the other books in the world.'
Ludwig Wittgenstein (1)

From the point of view of ethics it is perhaps disappointing to note that there are still books in the world. It must, however, be particularly galling for Anne Maclean, who has attempted to write a book on ethics based on Wittgensteinian aphorisms.

Maclean's book regards the enterprise to which this journal is dedicated as futile; for her, ethics is largely a matter of holding the right attitudes, and she equates the whole tradition of bioethics with one small part of it, namely consequentialist ethics: three good reasons to say something about the plausibility of such claims.

That this latter claim at least is absurd will be obvious to anyone who knows the field. Consequentialist ethics can claim only a minority role and influence as bioethics is currently practised worldwide. Maclean clearly regards consequentialist bioethics as a dominant orthodoxy against which she must crusade. But, so far from being an orthodoxy, there are many countries in which consequentialist ethics are scarcely recognised and barely tolerated (2).

Key words

Ethics; morality; personhood; bioethics; Wittgenstein.

Maclean's equation of bioethics with consequentialist bioethics and her claim that bioethics thus understood is both futile and wicked is part of a robust polemic that is fuelled in large part by discussion of some of my writing on biomedical ethics. Indeed her book is not a thesis on bioethics but an antithesis. I would like here to correct what I consider to be mis-statements concerning the claims and methodology of consequentialist bioethics. More importantly there seem to be fundamental, and I shall suggest, fatal, flaws in the fragments of a positive account of ethics of which Maclean permits the occasional glimpse, in a book which otherwise appears largely destructive in intent.

Reasons and persons

1. PERSONS

The second chapter of Maclean's book is devoted to a discussion of personhood and the role it plays in bioethics.

Her target is my own account of personhood. Maclean has two main objections to my theory of personhood. The first is that it is false and the second that it is a *theory*.

My account of personhood may well be false, or at least inadequate, but not for any reasons Maclean has produced. Her main objection to it, however, is that it is a theory, and such an objection from a philosopher might be described (to borrow an analogy from pugilism) as leading with your chin.

Maclean's objections are as follows:

'Harris claims that our belief that the lives of "normal adult human beings" have value implies that value must be attached to the life of any individual which is like a normal adult in being rational and self-conscious. But even if it does, which I doubt, the conclusion is that the lives of *all* rational, self-conscious creatures have value; it is not that the lives of only rational, self-conscious creatures have value. Yet it is the second of these statements, and not the first, which constitutes a summary of Harris's theory' (3).

Maclean is right about everything except her own contribution to this argument, namely that I claim that *only* rational self-conscious creatures have value. I do not. I argue that *all* rational self-conscious creatures are valuable and valuable for that reason, but not that *only* rational self-conscious creatures are valuable. The form my argument takes is to attempt to show why any individual has value of a particularly important and overriding sort. I term beings that have this special value, 'persons' and suggest that if, as I believe the argument shows, the reason why persons are valuable is that they are rational and self-conscious, then other reasons will have to be found to sustain claims of value on behalf of creatures that are not rational and self-conscious. I then rehearse some of the leading contenders for such other arguments and show them to be inadequate to sustain such claims on behalf of other creatures.

Maclean's claim is that my account is based on a circular argument. She continues the passage quoted above as follows:

'Harris cannot derive his theory of the value of life from the agreed assumption ... that the lives of normal adult human beings have value. If he wishes to establish this theory he must assume ... for example, that value does not attach to the lives of fetuses and infants; for if it does it cannot be the case that *only* those creatures which are rational and self-conscious are valuable. *He must assume, in other words, the truth of the proposition which appears as the conclusion of the argument ... He cannot arrive at the theory he puts forward without doing so*' (4).

The argument I produce does not beg the question against fetuses and infants, as we have seen. It proceeds by asking: 'what should lead us to accept the embryo or the fetus, or the neonate, or the child, or anything at all, as having the range of qualities that make them persons' (5)? I start where Maclean and I and everyone are in agreement, namely by accepting that normal adult humans have value in the requisite sense, if any individual does. I then ask what distinguishes such creatures from those whom most agree have value of a different order of importance, lettuces or chickens for example. If we have identified plausible features, we then have a theory we can apply to the hard cases, those about which there is radical disagreement (the moral status of fetuses and the legitimacy of euthanasia for example). In other words, I have treated normal adults as a paradigm (6). I have not treated fetuses as a paradigm precisely because there is dispute about their moral status. However, I have not begged the question against fetuses, I have not assumed that they are not valuable, as Maclean suggests, I have simply not *started* by assuming that they are. Those, like Maclean, who are convinced that fetuses must be included in the paradigm have a different task.

They must show what theory unites the paradigm cases and justifies their paradigmatic status, but still permits moral distinctions to be drawn between such paradigmatic persons and cats and canaries, lettuces and chickens.

We will come to Maclean's suggestions as to how to do this in a moment. However, there is one more feature of Maclean's criticisms we should notice. She claims that 'no-one who sets aside all his particular judgment concerning life and death can have anything at all to say about what makes for a valuable life' (7). This is true; what is false is that I (or any other ethicist so far as I am aware) claimed the contrary. Of course it is true that all arguments must contain some un-examined premises. No one, as Gödel and Wittgenstein demonstrated, can argue having first put aside all prior judgments.

I am puzzled by Maclean's complaint that: 'bioethicists present the theory they put forward as showing that their judgements, and theirs alone are correct'. Anyone who puts forward a theory puts it forward as correct. But it is put forward for consideration and possible refutation. I am sure I am not alone in saying that I would never claim that my theories let alone my judgments 'and mine alone' are correct.

Having examined Maclean's complaints about my theory concerning persons, let's come to what Maclean believes reason or reasons amount to, for this is her account of how to make moral distinctions.

2. REASONS

Maclean wants to defend the idea that certain claims are beyond the reach of bioethics because they are beyond reason and rationality. Her example is a proposition (which she says must not be thought of as a proposition), namely that 'it is generally wrong to kill babies'.

'To cast it in propositional form, then, is already to misrepresent it, and to do so in a way which tends to serve the bioethical interest. What is misrepresented in this way is neither a belief nor an assumption; the least misleading thing we might call it perhaps, is an attitude – the sort of attitude that is a matter of the way we instinctively behave. This is the sort of attitude to which Wittgenstein is referring when he says, speaking of what some philosophers call "the belief in other minds", that "my attitude towards him is an attitude towards a soul. I am not of the *opinion* that he has a soul". We are not of the *opinion*, either, that it is generally wrong to kill babies. Our thinking this – our "valuing their lives" – like our "belief in other minds", is a matter of what we *do, as of course and without question* ... We treat babies in certain ways and not in others ... Bioethicists demand *for what reason* we do so, but there is no reason – or, to put the same point differently, their being babies is the reason, all the reason in the world' (8).

What are we to make of this attempt to give philosophical respectability to the idea that certain attitudes are beyond rational consideration, that the mere possession of them constitutes 'all the reason in the world'?

Maclean's eagerness to put her own values beyond the reach of wicked bioethicists has certain dangers, even for her. It protects her own cherished attitudes at the cost of leaving her no perspective from which to criticise, evaluate or even examine, other basic attitudes, the mere possession of which their possessors may claim is all the reason in the world to behave in certain ways.

Compare the following claims:

My attitude towards him is an attitude towards a soul.

My attitude towards her is an attitude towards someone without a soul.

My attitude towards him is an attitude to a slave.

My attitude towards her is an attitude to an animal.

My attitude towards him is an attitude to a subhuman.

My attitude towards her is an attitude to a woman.

All of the classes of objects of these attitudes are vulnerable to the prejudices of the attitude-holder, and all, if Maclean's suggestions are to be accepted, are not only beyond the reach of the bioethicist, but beyond any and all rational criticism.

To take just one example in fractionally more detail, that of attitudes to women. Suppose someone says: 'My attitude towards her is an attitude to a woman' and when asked to expand, he explains that women are sexual objects, the possessions of their husbands and unsuited to anything but bearing children and domestic work. This attitude to women was pervasive in many cultures over millennia, the behaviour which flowed from it was something done 'as of course and without question'.

When this attitude-holder is presented with any arguments or theories which attempt to identify features possessed by paradigm objects of a different attitude and which purport to show how the features that justify and explain such different attitudes are also possessed by women, and is asked to justify her position in the light of such criticism or theories, she has her answer ready. 'Their being women is the reason, all the reason in the world'.

From anyone, such an answer constitutes the abdication of reason, but from a philosopher it is also heresy. The reason for her failure to distinguish reason and prejudice is perhaps to be found in her apparently literal belief in the unthinkable.

MORAL REASONS

In discussing a paper I wrote over twenty years ago while a student, Maclean outlines her views as to what can count as a moral reason. She begins her chapter entitled 'Plain Murder' by asserting: '[i]n his

paper "The Survival Lottery" John Harris makes a proposal intended to remedy the chronic shortfall in the number of vital organs that presently become available ... in transplant surgery' (9).

I would like to make clear for the record, that it was never such a proposal. Though I still stand by all the arguments contained in that paper, it was deliberately not a *proposal* of mine, but (as Maclean acknowledges in a footnote) (10) a *hypothesis*. At the time I wrote the paper transplant surgery was in its infancy. I stated in the paper that its arguments were predicated upon a time when 'transplant surgery had been perfected' – a time that still has not arrived. I argued that the survival lottery would not be morally objectionable and that prudent, self-interested individuals had powerful motives to support it. But to say something is not morally objectionable is neither to propose, nor even to recommend it. I have more recently made proposals about transplants radical enough to please, or perhaps displease, any conservative critic (11); but the survival lottery has never been one of these (12). This is simply to set the record straight. To return to the theoretical point at issue.

Maclean objects to a policy of maximising lives, of trying to preserve the lives of as many people who want their lives preserved, as possible, on the general ground that such a course can involve us in doing the morally unthinkable, namely sacrificing the lives of some people so that more others may be saved (or 'murder' as she prefers to call it). I have never suggested that maximising lives is always the right policy, but to borrow one of Maclean's rhetorical devices for a moment, maximising is actually what most decent people believe is right. People do believe that tragedies are bad in proportion to the number of lives they claim. A plane crash is a worse tragedy if three hundred people are killed than if three are. Equally, a health policy should aim at providing access to health care for as many citizens as possible.

But Maclean does not really seem to understand the basis of a belief that maximising lives is often the right thing to do. It is not simply that each life is valuable, from which it certainly follows logically that two are more valuable than one. It is that *each person matters morally* and hence each person's preferences and interests must be given equal weight. Maclean's confusion can be seen by her treatment of a case of her own inventing. She asks us to imagine that terrorists have seized three hostages and want them, on pain of death, to reveal the whereabouts of a fourth person they intend to kill. Because the hostages believe it would be shameful to betray the fourth, they decide to keep quiet, knowing they will be killed. She then comments, 'An advocate of the maximising policy would have to say that theirs is the wrong decision' (13). This is not so. Because each person's life is valuable, and of value primarily to the person whose life it is, each is at

liberty to decide to sacrifice it for what he or she holds to be of greater value. Maximisers are not required to believe that people must be kept alive whether they wish it or not.

The essential difference of moral emphasis between Maclean and consequentialists is, I believe, small.

Consequentialists believe maximising is often (14) the right policy because they believe that people matter. This involves believing not in 'the unthinkability of *doing* certain things to them', but in the wrongness of certain things *happening* to them when these things can be prevented. What matters most from the consequentialist perspective, is not the (as it seems to me) rather self-centred and self-indulgent belief that what matters most is *what I do*, but rather the belief that matters most is *what happens to people*. Maximising enters the picture because, if what matters is what happens to people, then, other things being equal, if that thing is bad, it matters that it happens to as few people as possible, and if it is good, it matters that it happens to as many people as possible.

Just as Maclean believes, sincerely I have no doubt, that how we value people is displayed by what we do to them, consequentialists hold that how we value people is displayed by our concern and respect for each and every one of them.

What matters morally?

Maclean has in large part been tilting at windmills. In her opening chapter she says:

'The objection I wish to make to the bioethical enterprise is a fundamental one. It is that philosophy as such delivers no verdict on moral issues; ... When bioethicists deliver a verdict upon the moral issues raised by medical practice, it is their own verdict they deliver and not the verdict of philosophy itself' (15);

No one, so far as I am aware, has ever claimed that 'philosophy itself' delivers any verdicts about anything. Philosophy, and the branch of philosophy devoted to biomedical ethics, is far too diverse for that. However, it is simply not true that the alternative is that all individual philosophers have to offer is their own voice and verdict. Where philosophers produce arguments and evidence, as almost all do and believe they should do, then the evidence and arguments are what deliver the verdicts. Although Maclean says that all she wishes to reject is the 'conception of rational justification' used by consequentialist philosophers, 'and not the concept itself', she does in fact frequently reject rational argument and any attempt at it, in favour of the assertion and re-assertion of her own apparent prejudices, or 'attitudes' as she prefers to call them. To add insult to injury (from a philosophical point of

view) she claims that this is not only doing philosophy but also somehow occupies the moral high ground. '[U]tilitarianism itself has its full share of morally repugnant implications. If the ethic which bioethicists urge upon us is supposed to be necessary for moral salvation, I for one, would prefer to be damned then saved' (16).

Maclean's claim to the moral high ground is further weakened by the way in which she implies that those with whom she disagrees hold 'vulnerable' positions which clearly they do not in fact hold. In chapter seven for example, she summarises the account I give of life's value and then says: 'I shall now advance some objections to this sort of analysis, taking, not the version given by Harris, but the fuller version given by James Rachels ...' (17). She then criticises views of Rachels which go far beyond, and are incompatible with, my own account. The implication for the readers is that these are somehow elaborations of my own arguments, fuller versions of *the same account*, fully consistent with it. Another example is the account she gives of my position in chapter 3. There she purports to consider 'the account of moral action which Utilitarians like Harris give' (18) and then goes on to discuss an account of action which I do not give and which is incompatible with the account I do give. This, Maclean acknowledges in a footnote, remarking that while it is not my account, it is the 'orthodox' utilitarian account. Since I have never claimed to be an 'orthodox utilitarian', why link my name with such an account?

The crucial difference between Maclean's approach and that generally taken by moral philosophers, from many traditions, including consequentialism, is the importance of giving justifying reasons for moral action, reasons which, as Ronald Dworkin has argued, must themselves meet certain standards of evidence and argument (19). It is the absence of these standards, and the presence of the belief that the mere possession of a particular attitude, is not only a reason, but 'all the reason in the world', that exemplifies the appropriateness of the title of Maclean's book; she has indeed proposed *The Elimination of Morality*.

Acknowledgement

I am very grateful to Cynthia Macdonald and Margaret Brazier, both of whom read an earlier version of this paper and made many invaluable suggestions.

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References and notes

- (1) Wittgenstein L. *A lecture on ethics*.

- (2) To give just two examples. In Germany, consequentialist philosophers have been denied the right to speak on bioethical issues, in Italy, and many South American countries, bioethics is predominately Catholic or 'natural law' bioethics.
- (3) Maclean A. *The elimination of morality*. London: Routledge, 1993: 24.
- (4) See reference (3): 24–25.
- (5) Harris J. *The value of life*. London: Routledge & Kegan Paul, 1985: 14.
- (6) *And* produced an account which justifies their paradigm status. If for example the only feature of alleged moral relevance that distinguished humans and chickens had been that the former are featherless bipeds, the moral relevance of feathers would have required demonstration or the paradigm extended to embrace chickens.
- (7) See reference (3): 25.
- (8) See reference (3): 36.
- (9) See reference (3): 99.
- (10) Maclean's footnote implies that I was trying to distance myself from the implications of my own account. Anyone familiar with my work will surely know that this is unlikely.
- (11) For example see my reference (5): ch 11.
- (12) Incidentally I believe her analysis of 'The survival lottery' is truly perverse and cannot be sustained by a careful reading of what I actually say. However, I leave judgment about this to people who have read both my arguments and Maclean's critique. The point turns on whether or not she can sustain her suggestion that the lottery is ultimately irrelevant to the ethics of the way that article suggests organs might hypothetically be distributed.
- (13) See reference (3): 82.
- (14) Not always. See for example my 'More and better justice' in Mendus S, Bell M, eds. *Philosophy and medical welfare*. Cambridge: Cambridge University Press, 1988: 75–97.
- (15) See reference (3): 5.
- (16) See reference (3): 77.
- (17) See reference (3): 123.
- (18) See reference (3): 43.
- (19) Dworkin R. *Taking rights seriously*. London: Duckworth, 1977: 10.

News and notes

Ethics in biomedical research

An international conference on the ethical implications of biomedical research will be held in Pisa, 23–25 November 1995. The conference will be organized by the Dean of the School of Medicine and Surgery and the Rector of the University of Pisa and supported by the Hoechst-Roussel Foundation.

The specific aim of the conference is to suggest possible directions to strengthen the principle that the correct approach to biomedical research, which is frequently subject to the pressure of advanced technologies, must first take into account the protection of

human beings.

In an attempt to draw the necessary line between the requirements of research and knowledge, and the rights and dignity of human beings, a consensus statement – although containing some controversial points – has been approved by the Assembly of the European Council. It appears to be necessary to think over and to discuss this document before its final draft and approval.

For further information contact: Mario Del Tacca, MD, Professor of Pharmacology, University of Pisa, Italy.