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Arresting but misleading phrases

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Author's abstract

This paper discusses some common misconceptions of what a utilitarian approach to medical ethics is and of the conclusions it forces upon those disposed to accept such an approach. It suggests that broad and unargued characterisations of approaches to moral questions as 'utilitarian', 'Hippocratic' or whatever are likely to be misleading and counterproductive. What matters is not what to call the position that people feel inclined to accept but rather what arguments there are in its favour and what arguments there are against it.

Simon Brooks sets out to challenge the assumption that utilitarianism provides an appropriate sub-structure for medical ethics, and suggests that it is a corrupting influence on the relationship between the physician and society. This is a tall order for a short paper, and Brooks wisely concentrates on a particular set of problems and on one author's discussion of them. It is George S Robertson's discussion of how to deal with the brain-damaged old that Brooks takes as the main exemplar of the utilitarian approach that he wishes to reject. I shall not be concerned here to defend Robertson's views, since he is on hand to defend them for himself. Rather I'm worried by Brooks's wholesale and rather cavalier account and rejection of a 'utilitarian approach' to such problems. And I'm particularly worried because I think I share most of Brooks's particular doubts and concerns about the arguments he rejects.

Brooks ends his paper in fine style with a plea for 'more profound examination of our ethical views . . . which will allow us to get beyond the use of arresting but misleading phrases'. Brooks is against utilitarianism and in favour of a 'Hippocratic/individualistic' approach'. While these labels are not particularly arresting, they are highly misleading. They are misleading in the most misleading of ways. They do not lead us in the wrong direction, rather they give very little indication of the direction in which they do lead.

My worry with Brooks's style of argument is that he practises the very methods that he preaches against. He

is against the attaching of misleading labels and he is against the casual espousal by the medical profession of 'the ethics of a philosophical system which it appears not to understand any too clearly and the implications of which it will not face'. However, his own attack on utilitarianism and espousal of Hippocratic individualism seems disturbingly to bear all the hallmarks of the base metal he wishes to discard.

Brooks's attack on Robertson's conclusions, and on the rather crude utilitarianism which he believed underlies them is, if he has read Robertson rightly, reasonably sound. But this says nothing about either the usefulness, or the moral respectability, of a broadly utilitarian approach to medical ethics. If we look at some of Brooks's specific arguments and claims we can see more clearly why this is so, and more clearly what conclusions to draw.

Brooks opens his main argument, both against Robertson and against the utilitarianism he believed Robertson exemplifies, with this claim:

'Robertson's proposal . . . can I believe be shown to be basically utilitarian in a fairly simple form which would have been easily recognisable to John Stuart Mill or his contemporaries. Thus the basic approach is to be the search for what Mill would have described as "The greatest happiness of the greatest number".'

But when Brooks comes to a criticism of how this, albeit crude and narrow conception of what utilitarianism amounts to, operates in practice, his argument betrays so many misunderstandings and confusions that it is difficult to draw any conclusion about the respectability of the position he rejects. Take, for example Brooks's discussion of the desirability of widening the debate about ethical issues in medicine. Robertson is in favour of this, and I must assume that Brooks is against since he says: 'If, however, the utilitarian approach is adopted it is difficult to see how one can object to the intervention of any group, since we all have a vested interest in the "greatest happiness of the greatest number"'. But the reason the ethical debate must be widened has nothing to do with utilitarianism specifically. It is not because we all have an interest in one particular moral theory that the ethical debate must be widened, but rather that we all

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have an interest in morality, *whatever our moral theory*.

The reason that debate about ethical issues in medicine cannot be confined to health care professionals is simply that we all have an interest that right be done and wrong be avoided, whatever our conception of right and wrong, and whatever our theory about the source or justification of these ideas. The reason why we cannot object to the 'intervention of any group', is that no one group has a monopoly of moral concern. It is impossible to tell from Brooks's discussion what precisely he has against widening the moral debate, because he allows his objection to this to seem merely to derive from its association with utilitarianism. This surely is an example of moral argument being replaced by the attaching of misleading labels and slogans that Brooks wishes rightly to reject, when his judgement is not clouded by his wish to reject utilitarianism.

Again, my concern derives from the fact that there is obviously much common ground between the line that Brooks wants to take and a utilitarian approach to ethics; thus it is a pity that he misses the common ground because of the crudeness of his conception of what a utilitarian approach might amount to.

Nowhere is this clearer than in his discussion of euthanasia. Brooks again starts with a castigation of utility: 'There are further problems which seem to follow the utilitarian approach as night follows day. When dealing with questions of "euthanasia" the utilitarian ethic necessarily involves considerations of harm and benefit accruing to individuals other than the patient'. Any ethic worth the name must allow that harm and benefit consequent upon actions and decisions count for something in the moral balance. If I can only save this elderly patient's life, or rather postpone his death, by using resources that could save the lives of ten other patients, I must surely allow these considerations of harm to others to come into my deliberations as to what to do. I'm sure that Brooks realises and accepts this. He is worried about the sorts of case where the fact that a patient's relatives would find it 'difficult to cope' with the patient if he survived, or would be financially worse off if he lived or would even be happier if he died, are offered as reasons to let him die, or even to kill him. Brooks believes and fears that utilitarianism requires that where others can benefit from someone's death, or be harmed by their continued existence, that person's life must be forfeit to maximise 'the greatest happiness' of those other people. But nothing in utilitarianism requires us to think this. Some utilitarians might think it, as might some non-utilitarians and even some Hippocratic individualists; though I would guess not many of either.

Even if we accept Brooks's version of utilitarianism as requiring that we promote the greatest happiness of the greatest number, it is far from clear that we would be forced to the conclusions Brooks fears. For one thing, most people would be made very unhappy by the idea that someone could or would be killed to

appease the distress or ameliorate the finances of their relatives; and the distress of all of us at the very idea of this, would easily counterbalance the happiness of the relatives. The greatest happiness of the greatest number would thus require that we saved the life of the unlucky geriatric.

It cannot be an argument against a moral theory that it requires us to take *some* notice of happiness and misery to whomsoever they occur and to try to promote the one and minimise the other. Even according to the version of 'classical' utilitarianism that Brooks mentions, the requirement that we maximise happiness would have to take into account the contribution to human happiness made by adherence to various principles, like respect for life, respect for autonomy, keeping of promises and respect for contracts and so on. It is arguable, and often argued, that adherence to the principles of conventional morality itself makes such a major contribution to human happiness, that it would be difficult for classical utilitarians to justify major revisions of this system in the name of utility. Certainly the class of persons whose happiness or misery must be taken into account is not confined, or confinable even according to Brooks's version of utilitarianism, to the relatives of the deceased.

This is not the place to defend the sort of sophisticated rule-utilitarianism hinted at above. Indeed I think it indefensible for reasons not relevant to the present argument. The point is not that some (or any) version of utilitarianism is right; but rather that no versions of it are weakened by the sorts of considerations adduced by Brooks. Indeed many, if not most, utilitarians would share his fears and would want to adopt many of his suggestions.

When Brooks concludes his discussion of euthanasia with the claim that utilitarianism somehow entails that: '(a)nyone whose "quality of life" is deemed, by whoever considers himself the appropriate authority, to be in negative balance; may be in danger the moment his continued existence poses more problems for those around him than would his termination' he sounds as though he has gone way over the top of even the justified alarmism to which he admits. But whether no sane utilitarian would ever countenance such a thing or whether all humane people, whatever their moral theory, should advocate it, depends crucially on what is meant by 'negative balance'. If, as I suspect, what Brooks has in mind by 'negative balance' here is simply a case where an old person has what most people would regard as a bad quality of life, involving some undignified loss of control, then no one, not even a utilitarian, would think it justified that that person's life be ended against his or her will just because others found it convenient. This would be required by no version of utilitarianism of which I am aware, and it certainly could not plausibly be supposed to promote the greatest happiness of the greatest number.

If, however, resources are genuinely scarce, there might be an argument (and again, not necessarily a

utilitarian one) as to whether such resources as there are are best deployed in helping the very old, or some other age group.

There is another possible meaning to 'negative balance'. If it means that, not only is the quality of life of the individual poor by any standards, but rather that it has become worse *for that individual* to be alive rather than to be dead, then any humane person would think it better that the individual die rather than live – *for her own sake*, never mind the benefits or burdens to others. You don't have to be a utilitarian to think it cruel to keep someone alive when for him, life is worse than death, and there is no prospect of this position being reversed.

So, on the first interpretation of Brooks's worst fears, his suggestion is that this is one of the implications of utilitarianism and that his medical colleagues have failed to see that this is where it leads because they have failed properly to understand the implications of an ethical system they have too readily and too superficially espoused. But here it is Brooks's understanding that has failed, as has anyone's who thinks that any version of utilitarianism requires that we kill off people with a poor quality of life whenever

this is the convenient thing to do.

On the second interpretation, it might be the kindest, most moral thing to do, to end the life of someone for whom life is worse than death and who wants to die. But even a Hippocratic individualist might believe this – for it is a consequence of respecting the life and the needs of the individual.

I agree with Brooks most wholeheartedly when he rejects misleading labels and phrases and when he pleads for a 'profound examination of our ethical views'. Even in his substantive judgements there is much common ground between his own position and that of most people who would regard themselves as taking a broadly utilitarian view of ethics. If his criticisms of Robertson's position are cogent, they are so not because Robertson accepts, and Brooks rejects, some version of utilitarianism; but rather because the better moral arguments are on Brooks's side of the case. We should worry about the arguments first and how to characterise them, or what labels to attach, a long way second. If we do this we will be much clearer about what is at stake in each case and about the issues which unite all of us who are concerned about the ethical dilemmas of medical practice.