a need for serious ethical discussions, and for ethicists on commissions of this kind and in a public-policy context. This report had two aims, one explicit and one implicit: the first was to investigate how ethical issues were treated in a government commission and the second was to point out the importance of letting ethicists take part in public-policy contexts as experts. The case this report investigated showed that the ethicists' work was not very helpful, but still the authors conclude that there is a need for ethicists in a public-policy context and they also present four possible tasks for ethicists.

Politicians often talk today about ethics, but it is sometimes difficult to understand what they really mean. Therefore it is important to investigate whether this talk is serious or if it is merely talk. One way of doing this is to do what is done in this report and examine a public-policy paper on how ethics is treated. The authors found a great discrepancy between the opinion of the government representatives and the result of the philosophical investigation of the white paper. That is an important finding which hopefully may result in a better understanding, amongst politicians and officials, of what ethics really is about and what philosophical investigation can contribute.

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Regulating Medical Work: Formal and Informal Controls

Judith Allsop and Linda Mulcahy,
Buckingham, Open University Press,
1996, 230 pages, £45 hc,
£16.99 sc.

In recent years, the right of the medical profession to regulate itself has been challenged both by commentators, and by changes in the context in which doctors work, for instance, the increased focus on the resource implications of clinical decision-making brought about by the National Health Service (NHS) reforms of 1990. *Regulating Medical Work* seeks to contribute to the debate on professional regulation by providing a critical overview of the various methods by which the work of doctors is

regulated, examining both controls from within the profession and controls from outside, and assessing their impact in practice.

The authors adopt a broad definition of regulation, taking the term to mean any form of control over behaviour. They emphasise from the outset that their interest encompasses not only formal rules and structures, such as the disciplinary jurisdiction of the General Medical Council, but also informal scrutiny, such as criticism by colleagues. In addition to providing a general theoretical background, the opening chapter introduces the reader to some of the socio-legal literature on compliance with formal rules in order to emphasise that the operation of formal rules in practice depends to a large extent on the attitudes and behaviour of the parties to the process. Those charged with enforcing rules may choose from a variety of strategies in order to achieve compliance; colleagues may be reluctant to "inform" on one another; and the rules may be only one factor among many influencing the doctors they purport to regulate.

Chapters 2 and 3 examine external "watchdog" bodies, such as the Audit Commission, the Health Advisory Service and the Health Service Commissioner. Chapters 4 and 5 assess medical self-regulation through the formal procedures of the General Medical Council, and through other techniques, such as medical audit. Chapter 6 looks at the NHS reforms of 1990 and their impact on medical work through the involvement of doctors in management and of managers in questioning medical work. The remaining chapters introduce the lay person's or patient's perspective, looking at ways in which lay people can challenge experts (for example by invoking legal rules protecting patient autonomy or involvement in user groups) and finally, at ways in which patients can voice their grievances through medical negligence litigation and complaints procedures.

Overall, the authors conclude that what they term the "web" of regulation has been growing, and while they note that excessive regulation can be counter-productive, the general tone of the book favours a further tightening of its threads. In particular, the medical profession still retains substantial control over the way in which it is regulated, and although external controls have increased, the authors doubt their efficacy. However, as the authors admit, in some circumstances

expertise is required in order to judge a professional's conduct. This expertise can only come from within the profession, instantly raising the suspicion that professionals are protecting one another. This problem admits of no easy solution, although it can be mitigated by efforts on the part of the profession to show that it does take self-regulation seriously. *Regulating Medical Work* makes an important contribution to the current debate on this issue.

The book will also be of interest to academics and others for the research agenda it sets out. It is at its best in areas in which the regulatory techniques discussed have been the subject of empirical research. The chapter on complaints procedures is a case in point, in which reference is made to a number of informative case studies, some conducted by the authors themselves. In other areas, the authors find that their aim of evaluating the impact of a technique is frustrated or hampered by the lack of research data on which to base conclusions. The gaps range from the basic and obvious, such as the lack of information on whether complainants to the Health Service Commissioner are satisfied with the redress they receive, to the more complex, such as the question of the extent to which medical negligence actions have "ripple effects" on other doctors. It is to be hoped that the research community will rise to the challenge.

Finally, the book should also satisfy its intended audience of health service managers, who will find it an accessible and thought-provoking guide to the otherwise impenetrable complex of techniques by which medical work is regulated.

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Euthanasia Examined: Ethical, Clinical and Legal Perspectives

Edited by John Keown, Cambridge,
Cambridge University Press, 1995,
xv+340 pages, £45.00.

One of the great difficulties with any discussion of euthanasia is that it is difficult to find any middle ground.

Both academics and lay persons tend to find themselves either firmly in favour, or firmly against, euthanasia and experience shows that they are unlikely to modify their positions. It is this tendency to polarity that makes John Keown's collection of essays *Euthanasia Examined: Ethical, Clinical and Legal Perspectives* such a valuable contribution to the debate. It is rare to find a collection of essays which represents not merely a number of different disciplines, but also a range of radically different viewpoints expressed by those who have become well known as the leading proponents of their position. The reader is able to identify the crucial differences in the process of reasoning, and is not merely faced with different conclusions. It will not necessarily change people's own views, but it will certainly leave them better informed, and possibly also more tolerant of the views of others.

The collection opens with a written dialogue between John Harris and John Finnis, neither of whom need any introduction. The beauty of this interchange is that it introduces the reader to the great difficulty of the euthanasia debate, namely, that much depends upon the premises which are adopted by those arguing their case. Of critical importance (in these and other essays in the volume) is the definition of "euthanasia". Both Harris, in his essay "Euthanasia and the value of life", and Finnis's "A philosophical case against euthanasia", criticise the distinction, adopted by the Law Lords in the case of *Bland*,¹ between euthanasia on the one hand, and omitting to take steps to keep someone alive on the other. Either euthanasia includes all deliberate steps to end a life or it doesn't. Finnis, however, excludes from his understanding of euthanasia those acts which are designed to achieve one end, but which may lead to death as a "side effect": administering drugs to relieve pain but in quantities which may be fatal, for example (a distinction which Harris criticises in his reply).

Further, should the debate be theoretical, or should it be informed by both the practical human experience of euthanasia and the possible practical consequences of the acceptance of a theoretically attractive position? John Harris expressly declines to include a practical dimension to his discussions (given that he was subject to a word limit this is understandable). However, he advances intensely pragmatic considerations in support

of his conclusion when he says that "the real problem of euthanasia is the tragedy of the premature and unwanted deaths of the thousands of people in every society who die for want of medical or other resources" (page 20). John Finnis also argues primarily on a theoretical plane, but shapes his conclusion that neither voluntary nor involuntary euthanasia is morally acceptable by reference to the impossibility of drawing a logical distinction between the two – an implicit acceptance that it is impossible sensibly to consider the position without some awareness of the slippery slope argument. In his view, if we act in accordance with the wishes of one who has decided either that his life is not worth living, or that the world will be a better place without him, we are implicitly condoning a general judgment that in certain circumstances death is no harm, and that society may in some cases be better off if certain persons or classes of persons were dead. Finnis argues that once we accept such judgments, even at the request of an autonomous person, we are committing an error which has grave risks for the vulnerable in society (page 34).

At root, there is one critical issue between Harris and Finnis. That is that according to Harris a person is someone who is capable of valuing his or her own existence. On this account it is no wrong to take the life of someone who does not want to live. Nor is it a wrong to take the life of those who are, on his definition, "non-persons" or "potential persons" because they are not being deprived of anything which they are able to value (page 9). Finnis's position is quite different. He rejects the dualism of Harris's position. For him, "a being that once has human (and thus personal) life will remain a human person while that life (the dynamic principle for that being's integrated organic functioning) remains – ie until death" (page 31).

The next four chapters inform the debate from a number of different perspectives. Kenneth Boyd in "Euthanasia: back to the future" writes as a theologian but presents a considered and interesting critique of the current position, drawing on sources as wide ranging as Anthony Trollope and Derrida. For him the real difficulty in developing an appropriate legal framework is the need to reflect the myriad of different situations which arise in practice. For example, how is one to draw a workable distinction between those cases

where euthanasia is in truth the only means of avoiding the patient's suffering (broadly understood) and those where the suffering could be avoided if adequate resources were deployed but those resources are simply not available. He suggests an intensely practical solution to these difficulties. That is for the law to be amended so as to encourage greater openness between doctors and patients, and for doctors to be educated in both ethics and communication. If these preconditions are met, he argues, it may enable rational judgments about euthanasia to be made following "deep" and "understanding" conversation between the doctor and the patient.

The case for legalising voluntary euthanasia is made by Jean Davies, past president of the World Federation of Right to Die Societies. Hers is a highly pragmatic contribution to the collection. It is followed by extracts from the report of the House of Lords Select Committee on Medical Ethics ("the Walton Committee") which was set up in the wake of the *Bland* decision. Amongst other things, the committee affirmed the distinction between taking active steps to end a patient's life and merely ceasing to prolong it which was the premise of the decision in *Bland*. It also excluded from "euthanasia" the practice of administering treatment for the purpose of pain relief but in quantities known to be fatal. Having so limited the enquiry, the committee concluded that neither voluntary nor involuntary euthanasia should be permitted. This effectively left decisions to end life before it might otherwise end solely within the domain of the medical profession. The last of the four chapters in this section of the book, by Luke Gormally, presents a critique of the three preceding chapters. Gormally concludes by asserting the need for moral truth and intellectual consistency and for a criminal prohibition on euthanasia and assisted suicide by planned omission.

The next two chapters, by Dr Robert Twycross, a leading hospice doctor, and Professor Brian Jennett, who is credited with coining the description "persistent vegetative state", provide the often lacking clinical perspective. Twycross considers a number of different conditions which may be said to warrant euthanasia and demonstrates by the use of both anecdote and scientific literature why alternative methods may address the patient's concerns. He refers to his

own experience that "patients who request euthanasia almost invariably change their minds" (page 155). Whilst he accepts that his approach can be described as piecemeal, he concludes that taken together his individual concerns about euthanasia add up to an overwhelming case against legislation. Jennett, considering the very specific problem of patients in persistent vegetative state, is largely concerned with developing a sensible approach to the treatment, and non-treatment, of such patients. Jennett accepts and discusses the great difficulty in finding ethical justifications for the decision not to continue treatment in cases where there is no advance directive. He does, however, provide a lot of practical information about such decisions, and as such provides answers to many of the questions often posed in the debate. Jennett's chapter is followed by "A case for sometimes tube-feeding patients in persistent vegetative state" by Professor Joseph Boyle, a philosopher. Like Boyd earlier, he concludes that the circumstances of the individual case will be the decisive consideration. However, unusually, he goes further than most and accepts that the factor of cost may also be morally decisive in some cases.

The final five chapters are all written by those with some legal training, although that is not to say that they speak from a universally legal perspective. Professor Dieter Giesen provides a comparative overview of the laws and experience of a variety of different jurisdictions. He reflects that the lesson to learn is the importance of the law conforming to fundamental principles of patient autonomy and what he calls "personality interests". Yale Kamisar considers the various rights-based arguments rehearsed in the USA. He affirms the importance of precise definition, then illustrates the difficulties in achieving such precision and provides an illuminating

discussion of the constitutional arguments for and against euthanasia and assisted suicide.

John Keown's chapter describing the experience of euthanasia in the Netherlands is a vivid reminder of the importance of practical considerations in any consideration of the options for reform. His discussion illustrates the central difficulties highlighted by commentators earlier in the book. The difficulty of defining what one means by euthanasia underlies his analysis of the data available in the Netherlands. The difficulty of distinguishing between what doctors do every day and do not consider to be euthanasia – for example, withholding treatment and giving pain relief in potentially fatal doses – and what requires regulation, is another factor which impacts upon the interpretation of the statistical information available. The difficulty of defining with any real precision the circumstances in which euthanasia may be permissible, and of policing any guidance in this regard are also illustrated by the experience in the Netherlands. The expanded meaning given to terms such as "intolerable suffering" and "last resort" in the Netherlands must be taken on board by those proposing a change in the law in the United Kingdom. The difficulty with his argument that this surely reflects the real danger of the slippery slope lies in our limited understanding of the overlap between what happens in the Netherlands and what happens in practice in the United Kingdom, where doctors are allowed to withhold medical treatment if this is consistent with their clinical judgment, and to take steps which lead to the cessation of life under the "double-effect" doctrine.

Stuart Hornett's chapter on advance directives is a useful description and analysis of English law in this area. Anthony Fisher's concluding chapter, "Theological aspects of euthanasia" provides some much

needed balance to the secular judgments frequently found in England, for example in the speeches of the Law Lords in *Bland*.

Overall, the essays show that although people often consider euthanasia from different perspectives, and reach different conclusions, they will almost always revert to consistent themes to premise their discussion. The difficulty of definition, the distinction between what happens now and what would happen if euthanasia were lawful, the need to take account of practical consequences, and the impossibility of ignoring the particular circumstances of each case, are shown to be real and relevant concerns in each and every essay. The book is an invaluable contribution to the debate – both for the value of the individual contributions, and for the overview which it affords by placing them all in one volume.

References

- 1 Airedale NHS Trust v Bland [1993] AC 789.

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