choices are influenced by other (partial) systems, so that authority of the (first) system is constrained. For instance, if a therapy for cancer costing 10 million dollars per person were discovered then medicine would fall prey to politics, and the choice of which patients should be cured would not be left to doctors.

According to Luhmann when such a situation takes place, there is a need for a further reflective thinking in the partial system. However, in the case of medicine the situation is difficult because medicine has not developed any reflective style resulting in a 'theory of medicine' as for example economics, or law, which have developed sophisticated 'theories of economics' and 'theories of law'.

Luhmann suggests that the development of a theory of medicine could provide a way of looking at new problems arising in medicine, and that such a way could be a viable alternative to the introduction of ethical committees, which is sometimes suggested.

Finally, he tries to point towards such a new theory of medicine, saying that the concept of health is too wide and fuzzy to be helpful, and that a more suitable framework would be provided by the problem of pain, as this reveals the special relationships between the individual's conscience and his body.

I am not so sure that Luhmann's suggestion of a more developed theory of medicine would suffice to solve the new problems arising in medicine. As an economist is not necessarily a good businessman, so it is not certain that a theoretician of medicine can come up with better practical solutions. Bearing this in mind I do not agree with Luhmann's strong opposition to ethical committees, which in my judgement can be useful.

Luhmann's view is interesting however because it suggests a way of facing the new ethical problems arising in medicine. He thinks that a widening of the perspective is sufficient for medicine to find the solution. In this sense the end of a narrow technicalism is enough for the beginning of a more humane medicine.

This general view seems to be adopted by some proponents of the Catholic position; whilst in non-religious factions, the new problems are given a different solution from traditional ones, for example, the S. Raffaele Hospital's proposal is to put such new problems in a new setting of 'widened' medicine so that hard choices are softened. I am not sure that such an approach will produce good results, as I do not agree with Cardinal C M Martini when, in his contribution to the book, he says that contemporary democratic non-religious societies are unable to present ethical values in their educational systems. I think that a secular society can and will produce a more humane medicine, more fitted to solve the new moral problems that we have to face.

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Case Studies in Nursing Ethics


The text is based on the premise that nursing ethics is a discrete sub-category of bioethics, using the same principles and discipline of analysis but applied to issues of particular relevance to nurses and their work.

In this book, underlying ethics and values in nursing are initially explored with a sound account of ethical conflicts in caring for patients, followed by a discussion of the nurse and moral authority. However, the main thrust of this book and, to my mind its special contribution, is contained in Part II where ethical principles are described and illustrated at length by case examples. Part III then becomes rather more familiar as problem areas, such as abortion, unconscious consent and informed consent are covered.

There is little doubt that the combination of expertise from an ethicist and a nurse has resulted in a particularly stimulating book. They have succeeded in relating the discipline of ethical analysis to several areas of health care which are relatively poorly recognised or understood. Guidelines for adjudicating ethical disputes are provided with care and with full reference to the role of codes in decision-making. Although they employ a conventional framework for applying ethical principles (such headings as fidelity, avoiding harm, justice, autonomy, veracity being used) for a wide range of dilemmas the presentation of case material makes this original, stimulating and educational.

In all, one hundred and fifteen actual cases are used, with legal references provided as appropriate. Some pertain to quite basic issues of how to allocate time for care between patients, while others concern disagreements between the values and actions of other professionals. In all cases the analysis is from a moral, legal and clinical viewpoint is penetrating and clear. As one might expect, the reader is left to adjudicate and decide the verdict, which certainly extends the period one requires to devote to this work.

While Veatch and Fry have contributed well to the literature on nursing ethics, it would be sad if others in health care were excluded from readership. Despite the specific nature of some American case material, this work should really benefit the broader field of health-care ethics on both sides of the Atlantic.

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Medicine in Contemporary Society: King's College Studies 1986-7


This book has been compiled from public lectures given at King's College, London in the spring of 1986, and covers issues contemporary to that time, many of which continue to be prominent in ethical discussions. Thus, as always, anything to do with sex - abortion, in vitro fertilisation, the pill for under-age girls, sexual abuse of children and women's place in medicine is well to the fore. As usual arguments on these issues seem to have been formed after, and not before, judgements.

It is a pleasure, therefore to come across some of the other issues contained within this volume. The question of the use of animals in medical research is considered by Peter Byrne and by putting it alongside the use of children for research, I think that he illuminates the subject with a welcome dose of common sense. The logical consequence of the anti-vivisectionist argument is the use of sub-standard humans - the lame, the halt and the blind - instead.

Arnold Simanowitz is also topical on the question of 'no-fault' compensation for medical accidents. He uncovers the fact that prior to the current massive increase in defence organisation
subscriptions the British Medical Association (BMA) brushed aside any suggestion of such a scheme. This revelation undoubtedly uncovers the BMA’s true reason for supporting a ‘no-fault’ scheme – more money for its members. The simple answer to the current debate seems to have escaped everyone. Those doctors operating in the market place should pass on the cost of malpractice insurance to their customers, but for those employed in the NHS, the employer should accept the tort as his own just as he does for nurses, physiotherapists and laboratory workers.

Lord Scarman has reviewed the impact on medical ethics of two separate court cases.

The Sidaway case demonstrated that the patient, save in exceptional circumstances, has a right in English law to know the material risks as well as the anticipated benefits of the treatment proposed. The Gillick case established the right of a minor, if of sufficient understanding, to give valid consent to treatment without the need to consult the parent.

And so to sex. Wendy Savage thinks that women are undervalued, under-represented, under-employed and under-promoted in medicine. Well, she would, wouldn’t she? What I found surprising was the awe and reverence in which she holds the medical establishment – the teaching hospitals and Royal Colleges. Granted, they are the bastions of the pompous old buffers, but who wants to join them? Everyone knows that real medicine is practised at the periphery, and women are welcome there.

Robert Winston gives a clear account of in vitro fertilisation which helps to explain why there was so much opposition to Enoch Powell’s Bill: the argument here all depends on the view one takes on the status of the newly fertilised ovum. As Mr Winston says, ‘Either an embryo is an unborn child and therefore sacrosanct in all situations, or it isn’t’. If you take the former view the chapter is superfluous. If you take the latter, there is no argument and the Warnock Committee’s embryo of 14 days with a primitive streak is as arbitrary as the mediaeval ‘quickening’.

Anthony Kenny tries to support the Warnock position by arguing that the pre-14 day embryo is not an actual identifiable human individual because part of its substance will form the (disposable) placenta and it might yet divide to form monzygotic twins. This argument seems to me as specious as to argue that I am not an individual human being because part of my substance will become my (disposable) nails and hair. Perhaps I misrepresent him, he was difficult to follow in places. . .

Finally, Ian Kennedy on confidentiality, competence and malpractice covers the Gillick, Savage and medical defence issues all over again. He stresses that not all teenage girls are competent to decide to have under-age sex, that formal inquiries are no way to settle personality difficulties, and that doctors are crying wolf over the high cost of malpractice insurance – after all, practising lawyers and perhaps even academic lawyers like Professor Kennedy have to pay far more.

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Rights, Restitution and Risk: Essays in Moral Theory

This is an extremely rewarding collection of articles on moral philosophy. Only the first two articles, on abortion, the first of which is already widely known, are directly concerned with medical ethics, most of the others being in the field of philosophy of law; but there is much to be learned from the author’s general approach, in particular her approach to the analysis of rights. Accordingly, rather than even pretending to try to summarise thirteen complex articles that range through abortion, self-defence, killing and letting die, privacy, preferential hiring, liability, and rights in general, among other topics, I will concentrate on what her account of rights has to offer medical ethics.

Ms Thomson’s work does not so far deal with the justification of talking about moral rights, which in these articles she assumes, nor does she deal with the analysis of the concept of a right. Rather, she is concerned with the analysis of such notions as the ‘right to life’, and to argue that these are really ‘bundles’ or ‘clusters’ of more precisely defined rights, so that our entitlements from and duties to each other are more specific, and above all more complex, than the use of terms such as ‘the right to life’ or ‘the right to freedom’ would suggest. Moreover, the way to discover the exact nature of these rights and duties is to consider a large number of situations, including ones which cannot in fact arise in practice, and ask what the rights of the parties involved would be.

For example, in A defence of abortion, she considers the question whether there is an absolute right to life held by all persons under all circumstances (for the purposes of argument, she grants that a fetus is a person). To test this, she considers the (impossible) case of a famous violinist with a kidney disease, whose friends kidnap a healthy person, into whom they plug the violinist’s circulatory system, in order that for the nine months while the illness lasts the kidneys of the healthy person will do duty for both and thereby keep the violinist alive. She argues that in such a case the violinist’s right to life, and by extension to what is necessary to sustain life, does not extend to a right to use another person’s body for this purpose, and therefore, although it would be generous to remain plugged into the violinist, it would not be unjust, or a violation of his rights, to refuse to do so – still less would it be murder.

Much has been written about whether this would or would not be a violation of rights, and also about whether the analogy holds at all – suppose, one writer suggests, that the person in question is the violinist’s mother? There is no question that here and elsewhere Ms Thomson’s work has proved extremely thought-provoking both for those who agree and for those who disagree. But perhaps more important is that it marks a very significant advance in the development of moral theory. This is the recognition of the complexity of questions about moral rights, so that, even if we agree that there is a right to life of some kind, we have to go on to ask what precisely are the claims that we may legitimately make on each other’s resources, time, expertise or even actual bodies in order to remain alive, and in what ways these claims differ in different situations. We have a long way to go before we have more than provisional answers to these questions, and indeed before we have found a method for fully adequately tackling them; but a collection such as this one takes the vital step of opening up this area of moral theory to investigation and the further step of demonstrating one way in which the investigation can be launched.

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