Justice and Justification: Reflective Equilibrium in Theory and Practice


This book consists of a series of essays inspired by John Rawls's study, A Theory of Justice, published in 1971, which, we are told “did more to topple the old paradigm of work in ethics than any other intellectual event”. For the past 25 years the author, who is a philosopher and professor of medical ethics at Tufts University has been “trying to understand and extend” the theory of “reflective equilibrium” that Rawls put forward as an alternative to the prevailing and dominant utilitarianism. Justification in ethics, Rawls pointed out, depends on achieving coherence (as he called it) of “reflective equilibrium” between our moral and non-moral beliefs.

The author’s application of Rawls’s theory to the provision of health care will be of help to all those who seek solutions to the ethical dilemmas created by the insatiable demand for health care and its ever increasing cost in terms of resources. A theory of health care, the author maintains, should have two central purposes: to explain why health care (together with education) should be treated differently from other social goods; and to distinguish the things that health care does for us. The combination of unequal opportunity and the strategic importance of access to health care and education places them apart from other goods such as food and clothing, which people can be expected to purchase from their fair share of income.

Fairness in equality of opportunity, the author argues, should be an important determinant of priorities in providing health care, and health care institutions should be included in the list of basic institutions that a fair equality of opportunity should regulate. This raises several questions, for example, how much priority should be given to those who are most impaired or disabled and at what cost to the less ill? Is the obligation of health care providers to restore people to some semblance of normal functioning, and if so where does this leave the terminally ill or mentally defective? How do we choose between services that remove serious impairments for a few people and those that remove less serious, though significant, impairments for many people?

Considerations of justice, the author maintains, challenge the traditional, “perhaps mythical”, view that physicians can act as the unrestrained agents of their patients. Together with a colleague he has examined the ways in which clinicians make decisions about “hard cases” in their own practices in order to determine what is “medically necessary” in mental health care. Some of the “hardline” clinicians held that they should treat only “diagnosable” conditions whereas the more “expansive” clinicians were willing to attempt to reduce any kind of unhappiness they encountered. Hardline clinicians were more disposed to hold patients personally responsible for attitudes and behaviour that more expansive clinicians were more likely to view as symptoms of an underlying disorder.

The hardline clinicians made judgments that fitted quite well with the view that there is a reasonably sharp distinction between treatment and enhancement of opportunity. They considered that their obligation was to restore patients to some form of normal functioning, whereas the expansive clinicians thought that any limitation on functioning, even within normal ranges, could impose disadvantages and that it was the task of medicine to provide people with more equal capabilities to be, or to achieve, whatever they want in life.

The author’s examination of the life-span theory of health care leads him to believe that long term care is of comparable moral importance to acute care as they both have the same function, namely protecting the individual’s fair share of the normal range of opportunities. Providing long term care, he reminds us, also affords relief to families, which provide the bulk of long term care.

Accordingly he suggests that it may be prudent to trade some of the acute care services that are aimed at marginal extension of life, for long term services that can achieve improved quality of life over a longer period. He points out that the US system of health care undervalues the importance of long term care and under-supplies crucial services that benefit people at various points in their life-span. It follows that any re-design of the service should include a reallocation of benefits that reflect these priorities.

The author’s description of the process whereby he has developed and applied Rawls’s theory, an exercise during which he experienced more than one fundamental change in his own views, is fascinating, although a critical appraisal of the process would require a much deeper knowledge of philosophy than this reviewer possesses. Fortunately the explanations are clear and the many examples given by the author are illuminating, although the policies of health institutions that he cites and the views he attributes to physicians are more applicable to the situation in the United States than to other countries. He does, however, note that health care “packages” in many European countries are more likely to include a long term component.
The author concludes with the admission that: “I have been forced quite dramatically to re-think what kinds of moral arguments must be brought to bear on questions of rationing and institutional design. I now think we must pay much more attention to problems of fair process and to refinements of democratic theory.” It is likely that many of those who read this book will find themselves questioning their own views on these important questions.

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Bioethics: an Introduction to the History, Method and Practice


This collection of forty-seven essays, divided into three distinct sections, covers the historical development of bioethics, its methods of analysis and the application of these methods in health care settings. The bulk of this material has already been published in journals over the past fifteen years, but the three editors of this textbook - who have experience in teaching bioethics at all levels - maintain that this particular combination covers the much neglected history of the field and offers a comprehensive explanation of the methodologies used to analyse ethical issues as well as the techniques for applying ethical analysis in the various settings where health care is practised.

The opening section, on the history of bioethics, covers the moral questions raised by the “new biology” and includes discussions on transplant surgery, experimentation on human subjects, patient consent, and dilemmas in relation to euthanasia, non-intervention, and the prolongation of life. The actual emergence of bioethics as a discipline is charted in essays by Daniel Callaghan, K Danner Clouser, and Stephen Toulmin. In the second section, which covers the methods employed by bioethicists, such as Singer, Beauchamp and Childress, there is a distinction drawn between deductive and inductive approaches and critiques of both are appended. This section also includes a variety of papers on empirical studies and there is a final subsection which addresses cultural assumptions in bioethical analysis. Of interest here is Fox and Swazey’s comparison between medical ethics in the US and China.

The third section, relating to the practice of bioethics, covers the role of hospital ethics committees and the training of ethical consultants. There is also a subsection on clinical policy development, with selections from published official documents on child abuse as well as the Patient Self Determination Act from the US, and selections from the President’s Commission on Deciding to Forego Life-Sustaining Treatment, as well as from the California Natural Death Act. This section also includes statements from professional associations, such as the American Medical Association’s position on the ethical implications of the AIDS crisis, and a statement from the American Academy of Neurology on aspects of the care and management of persistent vegetative state (PVS) patients. A final subsection evaluates cultural assumptions in the practice of bioethics with particular reference to race, gender and class.

This is a a valuable teaching aid which could become an essential course-book for postgraduate courses in all aspects of health care ethics.

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Birth to Death. Science and Bioethics

Edited by David C Thomasma and Thomasine Kushner, Cambridge, Cambridge University Press, 1996, xvi + 382 pages, £40.00, $54.95 hb, £14.95, $19.95 pb

In this extremely well-documented educational overview the authors trace current challenges to our values posed by biological discoveries in science and medicine before birth, through genetics, to our deaths, sometimes despite medical technology. These current challenges are collected in sections, most of which have three chapters. Each section combines a sketch of the most recent advances in the particular field, namely, advances in genetics, reproductive technologies, children and women in health care, transplantation, aging, prolonging life, care of the dying, euthanasia and physician-assisted suicide, human research subjects, using animals in research, and finally the environment.

Each of these short sketches about scientific advances - most of which have been made during this century - is followed by ethical commentary. Sometimes these commentaries represent opposing views, sometimes they reflect complementary issues. Only the most fundamental disagreements are highlighted.

This book is useful for educational purposes in that it gives an overview of both the most recent developments in science and medicine, and the more essential ethical reflections. Reflections concerning limiting access to health care and the allocation of scarce resources are remarkably absent. This illustrates, however, the very strong emphasis on micro-ethics and biomedical problems, linked with the technological revolution in medicine and medical science. The educational usefulness of the book is enhanced by the editors’ very useful summaries at the beginning of each chapter, and the suggestions for further reading at the end of the chapters.

This educational emphasis may give the impression of a work that contains nothing new for the experts; fortunately this is not the case. It is clear that the editors invited the most renowned experts and that they commissioned all the chapters as fresh contributions. There is only one exception to this, namely the contribution of Leon Kass on Why doctors must not kill. This overview is therefore even interesting and challenging for those who have long experience in bioethics and of progress in medical science.

Examples of some of the challenging topics in this book are: the capabilities of science and medicine in forging a good society (D Callahan); the need for reproductive technologies to “measure up” to assisting people with disabilities in their reproductive powers (A R Jonsen); the acceptability of a market economy for organs (K E Sells); the usefulness of the four principles analytic framework as a method of analyzing ethical issues involving transplantation (R Gillon); the case for financial incentives to relieve the shortage of organs (J F Blumstein); practical guidelines for dealing with dementia as part of a philosophy of care (S Post); views on quantitative and qualitative medical futility (N S Jecker and L J Schneiderman); the evolution of ethical principles governing research on human subjects (H...