

Body art and medical need

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A company called Biojewellery has proposed to take a sample of bone tissue from a couple and to grow this sample into wedding rings. One of the ethical problems that such a proposal faces is that it implies surgery without medical need. To this end, only couples with a prior need for surgery are being considered. This paper examines the question of whether such a stipulation is necessary. It is suggested that, though medical need and the provision of health and wellbeing is overwhelmingly the warrant for surgical intervention, there is no reason in principle why other, non-medical, projects such as jewellery creation might not also warrant surgical intervention. Implicitly, this line of thought forces us to consider the proper place of surgical intervention—that is, to ask what surgeons are for.

In February 2005, the *New Scientist* reported that a company called Biojewellery was searching for a couple to have cells from bone fragments grown into wedding rings, allowing each partner to give the other a ring grown, effectively, from their own bone.¹ The fragments would most likely be retrieved by biopsy, and one of the criteria for ethical approval of the project was that each partner should already need surgery such as wisdom tooth removal. This criterion was not the only ethical point made in relation to the project (T Kerridge, personal communication, 2005), but it is the one on which I shall be concentrating, and it raises a handful of questions, such as why ethical approval is necessary, and why such approval is predicated on a prior need for surgery. This paper will look at these questions, which is a fairly simple matter, and examine the implications of any answers that might present themselves, which is not nearly so simple.

I. WHY IS ETHICAL APPROVAL NECESSARY?

One line of ethical objection can be dismissed as misleading. The objection would be that there is something wrong with growing jewellery from human bone as such, this wrongness being cashed out in terms of a claim about the objectification and commodification of the body; thus the procedure to gather the requisite cells should not be permitted. Clearly, however, this objection does not explain why a prior need for surgery would make the procedure less problematic. Certainly, one *might* want to raise questions about the use of body parts in jewellery, but these are not questions that I shall address here—except to say that I do not think any

objection to the project along these lines would work, because it is not obvious that the participants are objectifying or commodifying themselves or one another. Besides, even if (for the nonce) they *were* objectifying or commodifying each other, a separate argument would be necessary to show that this is *always* wrong.² (It is noteworthy that, in a passage that seems particularly apposite here, even Kant concedes that, since marriage is “the reciprocal giving of one’s very person into the possession of the other...neither is dehumanised by the bodily use that one makes of the other”.³)

For similar reasons, although we may worry about the possibility of coercion—we may worry that one partner is, wittingly or unwittingly, pressuring the other into having surgery that he or she would otherwise not choose—these problems are at least as pressing in those circumstances when surgery was *already* indicated: arm-twisting arguments would seem to be much easier to make if they can be contextualised with a “while you’re unconscious...” type of appeal.

The most plausible ethical questions that we might raise in relation to the idea of undergoing surgery *simply* to obtain the raw materials for jewellery are, essentially, the same as those that we might raise in relation to *any* surgery, and turn on the idea that all surgery involves injury (incision and so on) and risk. (For the sake of brevity, I shall henceforward use the word “harm” to cover this combination of injury and risk.) Thus the question that we have to ask ourselves is whether, and in what circumstances, it is permissible to cause harm. In respect of this question, I shall take it as read that “First do no harm” is a demand that it is implausible to make of surgeons. Nevertheless, “Do no harm without reason” is much more compelling; the ethical question is whether the harm is warranted.

It is in the wake of this clarification that we can begin to get to grips with the ethical problems that might be presented by the prospect of operating to obtain bone cells from those who would not otherwise be undergoing a surgical procedure. They would face harm that they would not otherwise face, and apparently without good reason (a point to which I shall return). The infliction of this harm would not be warranted and would therefore be unjustifiable.

These objections would be enormously diminished in respect of those already facing therapeutic surgery. Such a procedure, when considered in its own right, is an example of warranted harm, since the expected benefits are relatively high. Naturally, the more complicated a procedure, the greater the harm, and deliberately removing extra bone, howsoever little,

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means that the patient is deliberately put in more danger: thus the question of the permissibility of such an addition is one that ought at least to be asked. Nevertheless, the risk added to a tooth removal by removing a sliver of extra bone is likely to be negligible. For this reason, it does seem to be fairly morally unproblematic for this bone to be removed in the course of a previously indicated procedure. We can present a similar argument in respect of the thought that the removal of the bone sample represents a waste of resources on fripperies when those resources could be put to better medical use: although this might be a compelling objection in the absence of any other cause for surgery, the extra time and money involved in removing a little bone is only small and marginal when some procedure was to take place anyway.

Hence, when there is some appropriate procedure slated already, I shall assume that concerns about harm will not present any insurmountable objection to taking a little more bone. This does not mean there is any particular obligation on the surgeon to perform such an extended procedure—he may have no desire to comply, and might point out that the procedure lacks the moral pull of medically necessary surgery. However, neither would there be any particular obligation on him *not* to do so that is based on harm avoidance as there might have been were there no other reason to operate.

II. THE NOTION OF WARRANT

At this point we seem to have an answer to the questions that I mooted at the start of this paper. In response to the question of why ethical approval was necessary, we have the rather workaday thought that all surgery involves harm, and that it is important to take care that the harm is warranted: in this sense, the only difference between the Biojewellery project and any other surgery is that the former is unusual. As to why ethical approval would have to be predicated on a pre-existent need for surgery, we can say that only in this case, when it is marginalised, would the harm be warranted; perhaps we might elaborate by pointing out that the risks must be marginalised because it is not necessary to have jewellery, and certainly not necessary to have bone-grown jewellery.

By generalising this line of thought, we could formulate a model by which we could assess all interventions. At least in principle, there is a distinction to be drawn between those cases in which the harm of surgical intervention is warranted and those in which it is not. What, then, would be the criteria under which a procedure would be warranted?

A clue comes from the suggestion that participants in the project would need a wisdom tooth removing. The infliction of harm is warranted, we might say, if it is a necessary part of the provision of a person's wellbeing when that wellbeing is seen in sufficiently wide scope. A wisdom tooth operation causes harm, but it prevents a diminution of wellbeing; in the same sort of way, opening someone's thoracic cavity is harmful, but when it is done in order to remove a life threatening tumour, that harm is warranted. Similarly, we might feel that cosmetic surgery after a mastectomy or severe burns is warranted for the sake of the more widely conceived wellbeing of the patient, and so on.

Hence, by adverting to a concept of health, and by reminding ourselves that the function of the healthcare professional is closely related to the maintenance and promotion of health, we can separate warranted and unwarranted surgical harm; since (as I have already allowed) jewellery is not something that someone could really be said to *need*, it does not provide a reason for surgery.

Moreover, this argument might lead us to express worries about the integrity of a surgeon who is willing to partake in a procedure that will see a patient put to significant risk for the

sake of something that is not medically indicated. Putting someone under the knife to remove a rotten wisdom tooth is unproblematic, and taking a little extra bone while we are at it, I shall allow, unlikely to present too much in the way of extra ethical difficulty. When all we want is the bone, though, the harm is unwarranted, and so ought to be avoided by reasonably decent medics. Or so the thought would go.

My suspicion is that these answers come rather too easily—or, at least, that they bring with them a range of supplementary questions. To put it bluntly, rather a lot is being assumed about what it is that does or does not warrant the harms implied by surgical intervention. To understand what is being assumed, it is worth looking at the reasons that a person might have for opting for surgery. This will involve going over some of the same ground, albeit with an eye for different features.

III. PROJECTS AND WARRANTS

In order to make sense of a person as an agent, it seems fair to ascribe to him the belief that all of his deliberate actions and all the things that he voluntarily undergoes are worth doing or undergoing. In other words, he must think that, at the very least, his deliberate actions and those eventualities to which he willingly makes himself subject are warranted. Following Bernard Williams's terminology,⁴ I shall take it that this worth must be thought of either as categorical—that is, self sustaining—or as hypothetical—that is, contributory to some other end.

It is implausible that surgery of any sort has anything but hypothetical value. Although it *is* (barely) possible that a person might *believe* that surgery is categorically valuable, I shall assume that it is unlikely that this is a belief that anyone actually *does* have, and that such a belief is pretty uncontroversially false anyway. What is the case is that, if surgery is ever warranted, it is so only within the context of a particular project that we might have. For example, the removal of a tooth is carried out for the sake of making the pain stop or in the expectation that it will never *start*—it is warranted in the context of a project framed in terms of improving or maintaining wellbeing. Equally, undergoing thoracic surgery is something that we would choose within the context of another project. Here, the project might simply be not dying (although, for reasons that Williams points out, simply not dying is unlikely to be a categorically valuable project, and so unlikely to be able on its own to provide a reason to undergo surgery; it is more likely that being alive is valuable, and gives us a reason to undergo surgery, only to the extent that life provides us with the means to achieve other ends).⁴

In exactly the same way, surgery to recover bone cells would only ever be hypothetically necessary—in this case, in the context of a project to obtain bone-grown jewellery. And, just as Williams argued against the idea that merely not dying is not categorically valuable, so the idea that bone-grown wedding rings are categorically valuable is unlikely: we need to go further and ascribe to the person undergoing the procedure a belief that the procedure is hypothetically worthwhile as a means to get bone-grown rings, which are, in turn, hypothetically worth having because the exchange of such rings is categorically better in some sense than is the exchange of mere (!) gold ones. The reason why there are likely to be ethical objections, though, is based on the idea that the harms incurred during the procedure are not warranted by the outcome; hence to operate would be to breach the rule that forbids the infliction of harm without reason.

This is not an assessment that has to be all that problematic. Even if a person wanted to argue that the necessary surgery is worthwhile, it would be implausible to

suppose that *not* having the surgery would bring about or perpetuate any form of hardship. The choice between giving a piece of jewellery made from one's own bone cells (or owning a piece of jewellery made from one's partner's) and giving or owning one made of the next best available material—say, gold—is, we may reasonably suppose, the choice between something desirable and something only slightly less desirable. By not operating, one would neither harm without warrant nor perpetuate harm without warrant.

So far, this line of thought correlates fairly easily with the thought that surgery to harvest bone cells for jewellery would be unwarranted harm. We should note, however, that the claim that the harm incurred in the Biojewellery project is unwarranted is predicated on the thought that the only possible warrant for the harms of surgical intervention is medical need. Yet this is a point that is, itself, unargued.

I shall allow that the project of maintaining or maximising wellbeing can determine whether a surgical intervention is warranted. However, it is not necessarily the *only* project that can warrant intervention: a person may formulate projects that are irreducible to a quest for wellbeing. For example, *pace* Williams, a person might decide to do whatever is necessary to avoid death, and there is no reason to suppose that this decision has to be framed in terms of wellbeing. Although we have to be alive to experience wellbeing, it is not obviously the case that being alive is worthwhile simply as a means to achieve wellbeing: there would be something odd about a person who said that he wished to live so that he could have more wellbeing, and any attempt to avoid this oddity seems unlikely to succeed. Furthermore, a person who said that eating ice cream made him happy, and that he therefore wished to be alive in order to facilitate ice cream consumption in order to be happy, would seem to be speaking in an "Alice in Wonderland" manner. And (though I do not have the room to argue the point here) there is no reason to accept a Millian retort that all claims about what is or is not valuable boil down to disavowed claims about welfare.⁵ Hence there could well be projects other than the provision of wellbeing that give a person a reason to seek surgical intervention.

Thus we might imagine someone who cheerfully admits that the procedure necessary to harvest bone cells is risky and injurious, but that this injury is warranted by his project—in this case, the project of obtaining bone-grown jewellery. The argument that his welfare will not be diminished by not having this jewellery will simply bounce off such a person, because his claim was not couched in the language of welfare or wellbeing in the first place.

Correspondingly, we might see no reason why a suitably qualified person might not admit that, although his surgical skills are most frequently put to work in the pursuit of wellbeing—that is, to straighten noses or remove tumours for the sake of a standard of health, however broadly construed—they might also be put to work in pursuit of some other end—in this case, something artistic (I shall return to this point in a moment). Granted, he might say, surgical intervention qua medicine is properly directed to wellbeing, but this does not preclude the possibility that a surgeon may sometimes wear a non-medical hat. This being the case, the ethical questions that are raised by the Biojewellery project revolve around deciding exactly what it is that surgeons are for, and whether there is any ethical reason why a surgeon might say that, at least at the moment, he is interested in participating in an aesthetic rather than a healthcare project.

In other words, we might accept that surgical intervention is overwhelmingly medically motivated but deny that it should be *exclusively* medically motivated. When we tell surgeons they are to do no harm without reason, this can generally be taken as an abbreviated way of talking about having sufficient *medical* or *therapeutic* reason. Note, though,

that *generally* does not imply *always*. Almost certainly, a person who argued that surgical harm was warranted because his continued wellbeing was predicated on the possession of bone-grown jewellery would be presenting a weak case. But there is no particular reason why he should *have* to argue this: he might simply argue that one of his projects involves bone-grown jewellery, and that this project is, in the long run, no more or less worthwhile than projects that are predicated on the pursuit of wellbeing. And, we might feel, a surgeon could take this project seriously without impropriety: to claim that surgeons ought only to concern themselves with medical or therapeutic interventions is indicative, we might say, of an arbitrary prejudice against some projects. (Further, we might add, we risk inconsistency if we are at the same time willing to allow surgeons to perform other non-therapeutic procedures such as circumcision.⁶) There is, then, no reason why we should not allow that a project involving bone-grown jewellery is just as worthwhile as a project involving wellbeing, and no reason why we should forbid surgical involvement in such a project.

Interestingly, we might also present the opposite argument: that a project involving wellbeing is no more worthwhile than a project involving bone-grown jewellery. Here the thought would be that the value of each project that a person might adopt sits within a network of beliefs, values, and prejudices, none of which is self sustaining. As it happens, we tend to believe that some projects are important enough to warrant surgery—but there is no reason to suppose that this belief is beyond criticism or that our values key into anything *objectively* worthwhile. Although I do not imagine that anyone actually *does* suppose that surgery to harvest bone cells has the same value as surgery to remove a tumour, such a supposition is possible and it is not obvious to me that it would be based on a mistake or misunderstanding. What we think to be worthwhile and what some other person thinks to be worthwhile might differ, but they are equal in as much as each is arbitrary.

This is not to say that it is within the gift of any *individual* to formulate his own projects. It seems much more likely that merely being brought up within a culture of whatever sort inducts us into a hierarchy of values that determines the way in which we think about matters, so that it is not so much the case that we have projects as it is that projects have us. In this way, it might be possible partially to rehabilitate the notion of a categorically worthwhile project, in the Kantian sense that it is not possible to think that project *p* is anything but worthwhile.⁷

However, this is only a partial rehabilitation: first, it tells us more about the limits of our imagination than it tells us about the objectivity of our values; second, it does not exclude the possibility that other people in other times or places may simply think *differently*. If this is the case, then it forces us to concede that determinations to the effect that project *p* does not warrant surgical harm are interesting anthropologically but not ethically. Accordingly, to claim that surgeons ought only to concern themselves with medical or therapeutic interventions is again indicative of an arbitrary prejudice—this time, in favour of some projects.

IV. BEYOND THE PERSONAL PROJECT

Still, there could be other reasons why surgical involvement in an artistic endeavour is problematic. A potential objection to surgical involvement in *any* non-medical project deserves mention, and goes something like this. A surgeon is a kind of doctor; surgical involvement in (say) the recovery of cells for bone-grown jewellery indicates a serious shift in the role of the doctor and the professional norms implicit in doctoring. This shift is undesirable because it erodes worthwhile assets such as good and stable professional/patient relationships. (I

am grateful to Medard Hilhorst of Erasmus MC, Rotterdam for suggesting this line of thought, and, though I have modified some of the terminology, I hope that I have retained its spirit.) The suggestion that surgeons may change their hats to take on a non-doctoring role fails to foreclose this line: the point is that it is the very notion of a surgeon derogating from the established doctor role that is undesirable.

Now, when we claim that x is undesirable, we are not simply saying that, as a matter of fact, it is impossible to desire x ; this would be pedantry. Rather, we are more usually saying that one ought not to desire x —that is, that one ought to avoid x or x -ing. A claim that a shift in the role of the doctor is undesirable therefore amounts to the claim that one ought to avoid such a shift. As I see it, this claim could only ever be compelling if it satisfied one of three criteria: either one ought to avoid such a shift in the role of the doctor because of some a priori moral rule, or because *all* shifts in the role of the doctor imply the loss of something valuable, or because *this* shift in particular implies the loss of something valuable.

Since my notional objector to surgical involvement in artistic pursuits says that a shift is undesirable *because* it would cause the loss of something valuable, it would appear that no appeal to an a priori rule is being attempted (and it is not clear that there is any such rule to be had anyway). The prospect of satisfying the second criterion is a non-starter, given that the role of the doctor has shifted over time—for example, he has taken over surgery from the barber and started being paid—and we appear to have lost nothing valuable as a result. The only ground on which one might say that surgical involvement in artistic projects is undesirable is that the *particular* shift in the role of the doctor that it would represent would imply the loss of something valuable. The weakness of this position is that it lacks evidence. Past shifts in the role of the doctor have not meant the loss of anything valuable, and there is no apparent reason to think that *this*

shift should be different. I see no reason to suppose that a shift in the role of the doctor that could accommodate the recovery of cells for jewellery must be undesirable or resisted. Perhaps there should be caveats to involvement—but this is a long way from saying that there should be no involvement at all.

V. SUMMARY: WHAT ARE SURGEONS FOR?

Based on a claim that the most serious prima facie ethical objection to the surgery necessary for the furtherance of something like the Biojewellery project is motivated by the question of whether surgical harm is warranted, I have argued that there is a need to ask questions about the reasons that a person might have for undergoing surgery, and suggested that the most compelling ethical reason for not allowing the surgery is that surgery is properly directed at meeting medical needs. However, I have also suggested that this claim is arbitrarily made, and that there is no reason to grant a privileged status to medically motivated interventions. Hence there is no reason why surgical skills might not be put to use in the name of (at least some) non-medical projects. Surgery as a means to get jewellery might not be *medically* justified—but this does not mean it is not justified at all.

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