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Book Reviews

Life and Death with Liberty and Justice

Germain Grisez and Joseph M. Boyle, Jr.

University of Notre Dame Press, Notre Dame, Ind., 1979. x + 521 pp., \$20.95.

Life and Death with Liberty and Justice is a comprehensive critical examination by two professional philosophers of the major issues involved in the current euthanasia debate. Grisez holds the chair of Christian ethics at Mount Saint Mary's College and Seminary, Emmitsburg, Md. Boyle is currently a philosophy professor at the College of Saint Thomas, Saint Paul, Minn. The book includes 13 chapters of which chapters two through nine are devoted to a jurisprudential treatment of the issues. In chapter two a basis for the forthcoming treatment is established on the principles of liberty and justice. The discussion in chapters three through nine concerns what the appropriate legislation in the United States should be for issues such as "the definition of death," "refusal of medical treatment," "suicide," "voluntary and involuntary euthanasia" and "care for the noncompetent patient." Chapter ten considers defects in American constitutional law which were revealed in the earlier jurisprudential discussion. Chapters eleven and twelve examine the principal issues from a moral or ethical point of view. In the final chapter of the book the authors compare and contrast their own views on the relation between law and morality with utilitarianism. They also attempt to show here how the ethical theory established in chapter eleven gives additional rational support to the justice and liberty jurisprudential framework worked out in the second chapter.

Although both authors collaborated on the entire work, Grisez appears to be its principal author. This seems to be clearly the situation for the jurisprudential part of the work. Overall, this book is a clearly written, thoroughly researched (through July, 1977), incisive, critical analysis of the current debate on euthanasia from the legal and ethical perspectives. The authors make an obvious effort to give a fair and temperate hearing to all sides of a particular issue and the more than 50 pages of notes at the end of the book attest to the extensive research which went into the project. There is an index, but no special bibliographical section.

Although the argument developed in the book is philosophical in character and thus of interest to any philosopher concerned with the legality and morality of questions pertinent to euthanasia, Grisez and Boyle have written especially for all those "who doubt the wisdom of legalizing the killing of one person by another not now permitted by Anglo-Saxon law." The authors hope to provide these people with a "well argued and unified strategy" for defending human life in the practical order as effectively as possible. The book, in brief, is a serious professional effort by pro-life philosophers Grisez and Boyle to give a practical wisdom to the pro-life movement and thereby help it make a substantive case in the public arena based upon jurisprudential and ethical grounds, rather than on religious or theological ones.

It is both interesting and significant in light of this that the authors rest their jurisprudential case on the concepts of justice and liberty rather than on the "sanctity of life" standard usually advocated by people in the pro-life movement. Grisez and Boyle believe that any use of the latter in public debate would make one vulnerable to a charge of "question begging" since there exists no consensus

in American society on "the sanctity of life." Life from that perspective is simply not a direct, immediate and absolute part of the common good, for the sake of which Americans have forged themselves into a political entity. But a rationally sound jurisprudence can be based upon the concepts of justice and liberty, the authors claim, because analysis reveals that "justice — including fair respect for liberty — is the one component of the common good that is constant and necessary." Justice with liberty is then the standard which any party to the euthanasia jurisprudential debate must accept if it claims to argue its case in reference to the American legal and political perspective. If Grisez and Boyle are correct in their views that justice with liberty is a more rationally justified jurisprudential standard than "sanctity of life" and that this standard rests or is supported by a solid ethical foundation (chapters eleven and thirteen), then the pro-life movement would probably lose little and gain much by using "justice with liberty" rather than "sanctity of life" as the standard for its jurisprudential arguments. With the possible exception of some system of "living will" which could be legalized under justice with liberty, a jurisprudence based upon the latter would appear to correspond with most other legislative objectives of the pro-life movement.

In any case, to focus critically on some major issues treated in the jurisprudential part of the book, the authors contend that a sound system of law based upon the principles of justice and liberty will properly designate any form of active euthanasia, whether voluntary or nonvoluntary, as unlawful homicide. Turning first to active voluntary euthanasia, it is argued that physicians should not be at liberty to perform this kind of killing because at least some people not wishing to be killed are likely to become unwilling euthanasia victims if active voluntary euthanasia without close governmental regulation were legally permitted. These people would obviously be unjustly denied the protection they now enjoy under anti-homicide laws, since the denial would function to serve a private interest alone. Grisez and Boyle, however, go beyond this familiar slippery slope or wedge anti-euthanasia argument to make their point, by claiming that any voluntary active euthanasia would be unjust even if it were effectively controlled under tight government supervision. In this situation the liberty of "the many people who still consider euthanasia killing a grave moral evil" would be unjustly infringed upon, they argue, since the tight governmental regulation would necessarily make them unwilling participants in a government process which functions to serve a private interest alone.

This argument is interesting because the authors admit that something more than the often-used slippery slope defense may be necessary to justify the infringement of liberty effected by legislation prohibiting any form of voluntary active euthanasia. It is not clear, however (at least not to this reviewer), that the "something more" based upon involuntary coercion offered by Grisez and Boyle is sufficient to plug the hole they perceive in the slippery slope argument. Would legislation permitting active voluntary euthanasia necessarily serve private interests solely? Do the many people referred to, who consider voluntary active euthanasia a grave moral evil, really consider it to be a grave moral evil in all circumstances? Or is the euthanasia context similar to the abortion one, where many of those opposed to legalized abortion are not opposed to legalized abortion to preserve the life of the mother? The fact that these questions can be raised meaningfully in reference to Grisez and Boyle's argument suggests that pro-lifers who accept their evaluation of the slippery slope defense might have to do more than is done in the book to make a strong case against any legislation permitting active voluntary euthanasia.

The authors supply a less problematic case when opposing legislation permitting active nonvoluntary euthanasia. They believe that a distinct argument is necessary to handle this form of euthanasia since they admit that the killing to be done in this context could possibly serve a public interest. It could, for example, cut

the high costs incurred from providing health care to noncompetent citizens who are seriously ill and show no reasonable promise for improvement. Two substantive reasons are given which show why any legalized killing of this sort would necessarily be unjust. In the first place, all the various kinds of killing in Anglo-American law which have jurisprudential justification to do so because the killing either "protects the rights of others and the rule of law from being overridden by brute force" or it "provides the best possibility of survival when some members of a group must be sacrificed to save the lives of others." Obviously none of these contexts provide any precedent for legalizing the killing involved in active non-voluntary euthanasia. Secondly and, I think, decisively, any institutionalization of active nonvoluntary euthanasia will function unjustly from an arbitrary cutoff point differentiating those to be killed from those to be saved, as well as from an arbitrary discrimination in the practical application of the category which permits the killing of borderline cases.

In the ethical component of the book, it is clear that Grisez and Boyle give no quarter whatsoever when arguing the issues of euthanasia from the moral or ethical perspective in chapters eleven and twelve. For them, any proposal to bring about death as a means to end suffering, whether by omission or commission, is, if adopted and executed, an instance of killing in the strict sense and can never be morally justified. This contention is especially tough-minded because in addition to condemning active euthanasia it also means that any instance of withholding or withdrawing treatment which has been decided upon because "the patient will be better off dead" is also a killing not justified from the moral point of view, regardless of the good will of the people involved. If Grisez and Boyle are correct here, then possibly some, and perhaps much of what is accepted in our society as morally justified so-called passive euthanasia is simply no different objectively from any other moral act of murder.

This moral position on euthanasia derives basically from two factors: a fundamental normative moral principle and the basic intrinsic goodness of human life. The fundamental normative principle is this: "one ought always to act on these potentialities conducive to fuller and fullest self-fulfillment" and it is naturally rooted in the normativeness of all the basic human goods taken together. The authors argue that human goods as such ground this principle because each good in itself is not only an obvious value, existing in reference to the network of human potentiality for self-flourishing, but is also a value which is incommensurable. Thus, all basic human goods are qualitatively equal with no one of them being the inferior or superior of any others, at least not in the practical order. The feature of incommensurability involved here is established from the fact of free choice. If basic human goods were qualitatively different one would be psychologically determined in a given context to choose the best: "what one ought to do will be identical with what one will do." The fact of the matter, however — the fact of freedom — is that one is perfectly capable of doing other than what he or she knows ought to be done. Thus what provides the fatal blow to all consequentialist ethical theories opens the door for the basic principle of natural law: act always in ways which are open to the basic human goods and never act in ways which violate any of them (precisely because each is an incommensurable good). The argument to establish the basic normative principle involved here is more a crystallization of positions Grisez and Boyle have developed in earlier writings than it is something completely new. In fact, some of these earlier writings have already generated a challenge from pro-life ethicists who, while admitting in principle Grisez's and Boyle's point on incommensurability, deny that basic human goods are necessarily incommensurable in every context.

Grisez and Boyle think that their claim about the intrinsic goodness of human life is true because the opposing view — that it is an extrinsic good necessary for the possession of the basic goods, such as knowledge of truth and experience of

beauty — entails dualism and dualism is a false position. Few people will deny that dualism is false, but dualism may be a red herring here. Perhaps the point at issue really concerns the extent to which the human biological body as we know it is an intrinsic good of a human person. It appears that for Grisez and Boyle the coverage extends to the entire biological body: arms and legs, heart and lungs. The compelling quality of their account may not be seen or felt, however, as one looks for the intrinsic good in the total human biological body of the self-respiring but brain-damaged person who is living out his life in an irreversible comatose state.

The service that Grisez and Boyle provide to the pro-life movement through *Life and Death with Liberty and Justice* should be reiterated. It will surely be advantageous for furthering pro-life objectives if people within the movement give the book the careful study it deserves.

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Principles of Biomedical Ethics

Tom L. Beauchamp and James F. Childress

Oxford University Press, New York, N.Y., 1979. x + 314 pp., \$7.95 (paper).

Principles of Biomedical Ethics is an innovative book. Until now, most efforts to treat the full range of moral issues in medicine from the standpoint of a systematic moral theory have been provided by authors writing in one of the major theological traditions. This volume represents an attempt by moralists with scholarly facility in 20th century philosophical ethics to construct a set of moral principles for use in analyzing a broad spectrum of ethical dilemmas in health care. The philosophical elegance of the principles is commendable. Somewhat less satisfactory, however, is the manner in which the principles are applied to clinical medicine. What the volume seems to lack is a firm sense for some important philosophical lessons regarding the physician-patient relationship which clinical experience provides.

The authors propose to examine medico-moral issues primarily from the perspective of four principles: autonomy, nonmaleficence, beneficence and justice. Certain other principles, sometimes thought to be *sui generis*, are derived from some member of this set. For example, the duty of veracity is derived from the principle of autonomy. Autonomy requires consent by the patient or subject, and "consent cannot express autonomy unless it is informed, and it therefore depends on communication and ultimately on truth-telling" (p. 203). However, duties of fidelity, which are also a significant feature of professional-patient relationships, are created by voluntary actions such as the making of contracts. Oftentimes they "hinge on the terms of the relationship itself rather than on external principles" (p. 201). The various principles formulate *prima facie* duties — they indicate duties that "are on all occasions binding unless they are in conflict with stronger duties" (p. 45). Thus, the interpretation of principles, as well as some of their content, derives from W. D. Ross.

Each of the centrally important middle chapters focuses upon one of the four major principles. In each case, the relevant principle is explicated and then used to examine bioethical issues to which it is deemed to be most relevant. Although the