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The Ethics of Killing: Problems at the Margins of Life

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If a weak agent were to act continently, this would be no accident, on Kennett's account, because such agents are disposed to do so, unlike compulsives. However, it may seem surprising that agents with such dispositions could be weak at all. If one really is disposed to act as one judges best, how is it possible to be weak-willed? Here, again, weakness threatens to collapse into compulsion. Kennett avoids this difficulty by rejecting this strong interpretation of the disposition that constitutes self-control. Instead, Kennett offers the following weaker account: 'If there is a close possible world in which I do exercise self-control, then I display weakness of will if here and now I fail to do so' [166].

This is almost certainly too weak an account, for it fails to rule out chance coincidences of judgement and motivation. (One can imagine that a compulsive drug addict shooting up might have desired not to shoot up in the close possible world in which the temperature was five degrees colder). This problem may be avoidable by appeal to a more complex pattern of possibilities, however I believe that any moderated account of the disposition to exercise control will run into a serious difficulty, as follows.

On all these accounts, weak-willed agents' possession of the capacity for self-control is analysed in terms of their possession of a disposition that their strong-willed counterparts also possess. And these strong-willed counterparts would be described as *exercising* their capacities to the extent that this same disposition causes them to act as they judge best. The problem, clearly, is that the distinction between weakness and continence looks merely to be a matter of luck. Whether or not someone responsibly does right or wrong turns out to depend merely on external circumstances leading to the manifestation of their dispositions. One of Kennett's primary distinctions gets lost—that between responsible right- and wrongdoing. This distinction is supposed to justify differential attitudes (and behaviour) towards agents depending on whether or not they do the right thing. However, no such differential attitudes could be justified if the distinction between responsibly doing right and wrong were merely a matter of luck (if, as seems consistent with Kennett's proposal, agents may be intrinsically identical whether or not they responsibly do right or wrong).

Kennett succeeds in her stated aim—to resist the collapse of weakness into either recklessness or compulsion. However, in doing so, it appears that she introduces a new collapse of weakness into continence (or, of the failure to exercise control, into its exercise). While I believe Kennett's account of self-control runs into serious trouble, there is much along the way of considerable interest. In particular, Kennett's discussion of the varieties and techniques of self-control offered by folk-theory should be invaluable for any further work on the notion of self-control. Also, various meta-ethical concerns touched on through the book are insightfully discussed.

An important achievement of the book is to draw together much of the disparate discussion of weakness of will into a unified dialectic. I believe Kennett's original framing of the problem to be extremely useful. However, unlike her, I believe that it sets things up aptly to draw a sceptical conclusion regarding the distinctions offered by folk-theory.

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McMahan, Jeff, *The Ethics of Killing: Problems at the Margins of Life*, New York: Oxford University Press, 2002, pp. xiii + 540, Aus$110.

This book addresses questions about the morality of killing individuals whose metaphysical and moral status is 'uncertain or controversial', beings 'at the margins of life'—'animals, human embryos and fetuses, newborn infants, anencephalic infants, congenitally severely retarded human beings, human beings who have suffered severe brain damage or dementia, and human beings who have become irreversibly comatose' [vii]. To answer these questions McMahan formulates a ground-breaking general theory of the ethics of killing and letting die. The theory is distinguished from other views by its metaphysical starting-point. McMahan presents his analyses as implications of accounts of personal identity and of what matters in survival.

I approached the book's opening section on personal identity with some trepidation after reading in McMahan's preface that this material has come to seem a 'trifle musty' to him [ix]. But the warning is unwarranted. Knowing that there is more at stake than a relitigation of intuitions about identity and survival provides extra incentive to follow McMahan through the maze of puzzle cases. McMahan argues that we are embodied minds; our existence depends on 'the continued existence and functioning, in nonbranching form, of enough of the same brain to be capable of generating consciousness or mental activity' [68]. He agrees with Derek Parfit, however, that what matters in survival differs from identity in not being all-or-nothing. McMahan offers the Time-Relative Interest

Account to capture a person's rational interest in continuing to live. This account specifies that a person's degree of egoistic concern in her future varies with the degree of physical, functional, and organizational continuity in the areas of her brain that realize consciousness. McMahan translates questions about the ending of various kinds of marginal lives into questions about the time-relative interests of the beings in question to continue living. Someone at the outset of progressive dementia may determinately survive several years of the disease, but nonetheless have a weakened time-relative interest in the years subsequent to the onset of dementia due to the condition's impact on the various continuities. Abortion may deprive a newly conscious fetus of many future goods, but its interest in these goods is small, given that it is not strongly connected to them.

The Ethics of Killing is a long book, jammed with interesting and provocative arguments. In the remainder of this short review I limit myself to discussing two implications of the Time-Relative Interest Account for questions about the relative value of different kinds of lives.

McMahan's acknowledges an awkward apparent implication of the Time-Relative Interest Account. If the wrongness of killing depends only on the extent to which killing frustrates time-relative interests then it must be more objectionable to kill some persons than it is to kill others. A young person has a greater time-relative interest to continue living than does an old one. Her death would deprive her of more valuable experiences than would the death of the old person. The same reasoning would lead us to expect a dull person to have a weaker time-relative interest in continuing to live than a bright one of similar age. So, the Time-Relative Interest Account would seem to make killing an old person less wrong than killing a young one and killing a dull person less wrong than killing a bright one [234–5].

To avoid this implication McMahan proposes a two-tiered theory of the wrongness of killing. This theory involves the positing of a threshold. Above the threshold are autonomous individuals, beings whose treatment is governed by what McMahan calls the morality of respect. Those covered by the morality of respect are inviolable; all killings of those eligible for respect count as equal offenses against utmost worth. What McMahan calls the morality of interests applies only to the killing of individuals below the threshold, fetuses, animals, and the severely mentally disabled. These are the chief concern of the book. McMahan claims that the Time-Relative Interest Account gives the right answers to questions about their fates.

It clearly makes a big difference to an individual whether its killing is governed by the morality of interests or by the morality of respect. McMahan considers it implausible that each of us 'must cross the chasm in a single leap' [261]—that someone could start breakfast as the kind of being that could be sacrificed to meet some other being's needs, and finish it inviolable. McMahan proposes that the threshold is not 'a sharp line but is instead a broad band of indeterminacy' [265]. He considers a couple of proposals about how to treat those within the band of indeterminacy, but finds most attractive the idea that they have an intermediate status. Such beings 'cannot be governed by the Time-Relative Interest Account, for that would fail to distinguish those beings from beings below the threshold' [265]. Instead they might be covered by the morality of respect, perhaps qualifying for a lesser degree of respect. This 'lesser degree' is difficult to get a good sense of, given that killing individuals covered by the morality of respect constitute 'the ultimate violation of the requirement of respect' [242]. Being a little bit inviolable sounds like being a little bit pregnant. But McMahan is happy to finish on an inconclusive note, as his main concern is with the killing of individuals below the threshold, those straightforwardly covered by the morality of interests.

I wonder if McMahan's appeal to vagueness really gets him what he needs. Perhaps it is just vague whether some individuals have reached the stage in psychological development to count as autonomous. But this account of the metaphysical facts does not, by itself, tell us how to treat the large number of individuals who fall within the region of indeterminacy. Compare 'deserving respect' with a more familiar vague predicate. The claim that it is just vague whether or not a given individual is bald may reflect the metaphysical facts about baldness. But it would leave an intolerable gap in our moral theory if we applied two very different moral codes to bald and non-bald people, and had nothing to say about vague cases. To overcome this problem McMahan resolves that for any such case in which it is vague whether or not the morality of respect truly applies, or perhaps even vague whether it is vague whether the morality of respect truly applies, we should go ahead apply the morality of respect. I think this leaves him confronting a dilemma. One possibility is that there is some precise point at which we should begin to apply the morality of respect—the point at which it becomes at all questionable whether an individual qualifies. The proposal of a broad band of indeterminacy will not avoid the problem of having a point in normal human development at which there is an abrupt change in moral status. The other possibility is that the vague boundary will be pushed so far back that the morality of interests becomes coextensive with the morality of respect—the morality of interests will be trumped out of existence.

My second question about comparative worth concerns the killing of animals and severely mentally disabled humans. McMahan's theory is species-blind. But species-blind theories of the morality of killing have highly counterintuitive implications. Some animals and severely mentally disabled human beings have similar time-relative interests in continuing to live. So this seems to mean that it would be equally wrong to kill them. McMahan's discussion of this issue is illuminating. He proposes a convergent assimilation of animals and the severely mentally disabled. According to this view we must revise down commonsense views about the moral status of the severely mentally disabled and revise up commonsense views about the moral status of animals. McMahan says 'the optimal point of convergence with respect to killing and letting die requires that traditional beliefs about animals be more extensively revised than traditional views about the severely retarded' [230]. But McMahan is unable to accept the 'shocking conclusion that severely retarded human beings and animals with comparable psychological capacities should receive the same forms of treatment' [231]. He explores and dismisses various ways to avoid this conclusion. McMahan's main strategy is to emphasize the moral significance of special relations. He says 'each severely retarded human being is someone's child. In most cases, that individual is someone's sibling, niece, nephew, or cousin' [232]. The fact that a mentally disabled human being stands in this relation to uncontroversially morally considerable beings requires that we treat them better than animals which are not similarly related.

I wonder how successful this softening of the 'shocking conclusion' is. It seems to me that the appeal to special relations may often make the killing of an animal a more serious matter than the killing of mentally disabled humans. Severely mentally disabled children who are given up at birth, but not adopted, are biologically related to morally considerable individuals, but these biological relations are, in many cases, not matched with any relations of care. Contrast these individuals with well-fed pets. We can be confident that relations of care obtain between them and morally considerable individuals. McMahan's modifications seem to make killing members of a significant subset of mentally disabled humans a less serious matter than killing members of a significant subset of cognitively similar non-humans. I suspect that many people will find this conclusion more shocking even than the idea that humans and animals with similar cognitive capacities are equivalently valuable.

This review has touched on only a small part of what is an exceptionally argumentatively rich book. It is the essential starting point for all future discussions of the killing of individuals at the margins of life.

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Hooker, Brad and Margaret Little (eds.), *Moral Particularism*, Oxford: Oxford University Press, 2000, pp. xiv + 317, Aus$110.00 (cloth).

The publication of Jonathan Dancy's *Moral Reasons* in 1993 was undoubtedly one of the more significant events in moral philosophy over the past twenty years. In that book Dancy argued that the generalism of orthodox moral theory overlooks the way that the behaviour of a reason cannot be predicted from its behaviour elsewhere; thus generalism fails to capture an essential aspect of moral phenomena. What is required instead is 'situational appreciation', not general moral theory. Not only did Dancy's work manage to raise important questions about the role that general moral principles play in the ethical life, but also it achieved what many might have thought to be an impossibility, namely uniting Kantians and Consequentialists on a topic in meta-ethics.

The present collection is, in the main, a response to Dancy's work and the issues raised reflect his own special brand of particularism. A number of key themes emerge out of the discussion. On one side, there are questions about whether the generalist can plausibly explain the apparent variations of the valency or polarity of moral reasons and whether generalism gives an adequate account of the phenomenology of moral deliberation. On the other side, and against the particularist, there are questions about whether moral reasoning requires patterns or generalities, whether particularism can account for practices of justification and whether particularism does really—as Dancy would have it—accord with our pre-theoretical moral views.

The early chapters are written by opponents of moral particularism. In the first chapter, Brad Hooker argues that particularism is both wrong and bad. It is wrong because moral reasoning, as commonly understood, necessarily involves the comparing of cases. It is bad because its adoption would have negative social consequences. Hooker argues that one of the points of morality is to increase the probability of conformity with certain mutually beneficial practices, yet particularism