

## Short literature notices

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Rothhaar, M. and Frewer, A. (eds.): 2012, *Das Gesunde, das Kranke und die Medizinethik. Moralische Implikationen des Krankheitsbegriffs*. Stuttgart: Franz Steiner Verlag. 225 pages. ISBN 978-3-515-09938-7. Price € 46.00.

The concepts of illness and health are pivotal notions of theoretical and moral justification of both medical practice and health care policy. Establishing and exploring the meaning and normative aspects of these concepts requires continuing differentiated examination, especially in view of the abundance of unprecedented therapeutic, preventive and alternative goals arising from recent developments in biotechnology. The volume edited by Markus Rothhaar and Andreas Frewer meets this challenge by confronting the theoretical controversy surrounding the concepts of illness and health with corresponding ethical reflections, and by revealing their epistemological and practical interconnections. Though the volume covers a wide range of issues raised by the notions of “illness” and “health”, the question of the extent to which these concepts can and should be conceived of as normative and as ethically relevant is a central motif throughout the book.

The first part of the book brings together approaches from the philosophy and history of science and from the theory of medicine. According to the medical-historical contribution by Daniel Schäfer, implicit and explicit normative ideas of illness can be traced back to classical and early modern medical understandings of “perfect” and “imperfect nature”. In the following chapter, Peter Hucklenbroich’s aim is to determine, in conceptual proximity to current theoretical and practical medicine, those elements

of “illness” that are conceptually prior to, yet able to integrate behavioral directives associated with ill or diseased individuals. By contrast, Bernard Gert suggests that the values associated with the experience of suffering are anthropologically universal and allow to define an ethically normative conception of illness or “malady” beyond subjective and culturally relative beliefs. Similarly, central to the accounts of health subsequently advanced, first by Kenneth Richman and then by Lennart Nordenfelt, is the assumption that purely descriptive attempts to define health are necessarily deficient. However, both of these approaches rely on a concept of health that owes its normative force not to basic anthropological or intersubjective values but to personal preferences of well-being. Thus both accounts deem individuals as healthy or in need of medical attention to the degree that they are able to pursue their (self-chosen) goals, even though the range of goals that can plausibly justify a right to assistance by third-parties may be limited. Representative of a phenomenologically-oriented approach to illness is the chapter by Klaus Gahl, which outlines the main features of a “medical anthropology” that takes into account both the objectiveness of illness as well as the subjective character of being affected by illness.

The second, ethical part of the book is introduced by Petra Gelhaus who addresses the normative dimension of “illness”, which goes beyond the mere description of illness as a deviation from normal or ideal states. The three subsequent contributions deal with epistemological and practical challenges for conceptions of illness that arise in the face of recent discoveries and developments within biotechnology. Roland Kipke reevaluates the boundaries of medical discourse by investigating the justificatory potential of appealing to “illness” in ethical evaluations of enhancement purposes. Monika Bobbert, and subsequently

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Ilona Szlezák, discuss how predictive genetic diagnostics and neurological imaging procedures, respectively, require theoretical and practical adaptations within clinical pathology. Complementing and topping off the preceding articles, Micha Werner advances a general interpretation of illness that allows to integrate universal ideals of justice with individual conceptions of the good life, thus being suitable for playing a justificatory role in regulative health care policy.

Taking into consideration and contesting key ideas from Anglo-American literature about the concepts of illness and health, this volume should be considered a fruitful reading material for medical, legal and social theorists and practitioners alike who are interested in the vast range of complex theoretical and ethical issues at the center of illness and health.

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Callahan, D. 2012, *In Search of the Good: a Life in Bioethics*. Cambridge, MA: MIT Press. 232 pages. ISBN: 978-0262018487. Price: US \$29.00.

“In search of the Good” is an autobiographical book by Daniel Callahan, the well-known co-founder (with Willard Gaylin) of the Hastings Center, located near New York. The volume explores the pioneer work of the Center since its foundation in 1969. The haven of bioethics at the end of the 1960s was something new, unconventional, where theoreticians could apply their knowledge, and suggest solutions to contemporary problems. The crucial question posed by the author at that time was: “Would it be possible to make use of my philosophical training on a wide and complicated range of ethical challenges posed by the stunning medical advantages that emerged in the 1960s and promise along with others to continue for the indefinite future, as those challenges have?” His affirmative answer to this question marked the point of departure of the Center’s building process, which overcame several obstacles, such as the scepticism showed by both philosophers and medical doctors, and the difficulties to obtain financing.

Daniel Callahan tells the reader about himself as a young philosophy student who wanted to find a connection between his field of expertise and the moral dimension of medical advances. The introduction of medical technologies arose during these decades many ethical debates, such as those on the role of the birth control pill in society, or later on, on the use of embryonic stem cell in research.

The book is divided into nine sections, which represent the fundamental steps taken by Daniel Callahan in his life devoted to bioethics. The first chapter describes various

aspects of the author’s early life, which includes his Catholic heritage, his passion for swimming, his wedding in 1954 and the beginning of his preparation to be an academic philosopher at Harvard University. The second chapter, entitled “My Own 1960s: A Decade of Transformation”, describes the moment when Callahan left Harvard in order to take a job as editor of *Commonweal*, a journal of opinion. In those years, the author became aware that he did not want to be a standard university philosopher who speaks mainly to other philosophers. Nonetheless, he wanted to apply his background differently. Also in those years the author lost his Catholic faith and questioned himself about the role that religion plays in morality.

In the third chapter, “Giving Birth to a Center: 1969-1979”, the author writes about his first idea to build a research center on ethics in 1967. At the time of the Center’s foundation, many physicians, educated in the era of positivism, did not believe that ethics was something more than an expression of emotions. During the first years of activity of the institution, the topics more often discussed included abortion and various issues relating to genetics.

The fourth chapter, which focuses on the years 1980–1986, describes the Hastings Center as a definitively established institution that developed activities relating to the service industry. In those years, issues relating to research on human subjects were at the forefront of public discussion. An important feature of human subject research concerned the moral status given to informed consent, which was strictly related with autonomy, a dominant value in American bioethics.

The fifth chapter describes the decade between 1986 and 1996, which was characterized by an incredible growth of the Center. It not only reached economic stability but also started to edit one of the most important bioethics journals worldwide: the *Hastings Center Report*. The following chapter explores the years from 1996 to 2010, when Callahan devoted part of his time to teach seminars of ethics and health policy at the Harvard Medical School, starting to collaborate with the Universities of Harvard and Yale. Some points concerning the interaction between Bioethics and University Programs are stressed in the seventh chapter, while the eighth one explores the relationship between bioethics and moral values as well as various methodological approaches. In conclusion, this volume represents an important contribution to both the history of bioethics (by tracing the birth and development of one of the first research centers devoted to this field), and to the biography of a pioneer bioethicist like Callahan, who never lost his will to find a “new track”.

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Pelluchon, C.: 2013, *Tu ne tueras point. Réflexions sur l'actualité de l'interdit du meurtre*. Paris: Cerf. 112 pages. ISBN: 978-2-204-09997-4. Price: € 13.00.

Corine Pelluchon is a philosopher and lecturer at the University of Poitiers, in France. In recent years, she has made thoughtful contributions to bioethical reflection with two important volumes: *L'autonomie brisée. Bioéthique et philosophie* (2009) and *Eléments pour une éthique de la vulnérabilité* (2011). The volume which is the object of this review focuses on the prohibition of killing. This “founding prohibition” (*interdit fondateur*) of every human society, as she calls it, has a direct connection with several bioethical controversies, especially those relating to the beginning and the end of life.

In this small but thoughtful volume, the author claims that the prohibition of murder makes sense even in the absence of a belief in God or in the sacredness of human life. The response is neither to be found in purely theoretical philosophy. Neither the purely rational Kantian ethics, nor the consequentialist approaches provide a full account of the moral wrongness of murder. Appealing to Levinas' philosophy, she argues that ethics emerges primarily in the concrete person-to-person relationship, and not on the level of purely theoretical knowledge. It is only at this interpersonal level that we really understand why murder is intrinsically wrong. According to the well-known Levinasian expression, the “face” of the other silently reminds us the command: “thou shall not kill” (*Totality and Infinity*, p. 199). Thus, the ban on murder draws its strength, not from a theoretical, abstract imperative, but from my relationship to “the other”, who totally escapes to my power. In this regard, Levinas' experiential approach represents an enrichment of ethical reflection as it helps us to better understand, from a concrete perspective, our duties towards others, and the absoluteness of being that every human being embodies.

Based on this perspective, Pelluchon describes murder as the desire to annihilate the other, that is, to destroy him or her so as to make them as if they had never existed. In this regard, every murder is the ultimate expression of violence; it is addressed to the other *as such*, to his or her “otherness”. From this point of view, every murder is to some extent impossible, in the sense that murderers take for granted that they have the power to annihilate “the other”, but in fact, they do not have such a power.

Pelluchon also applies the prohibition of murder to our relationship to (non-human) animals by arguing that the absolute power that humans often exert over animals constitutes a transgression from an ethical point of view. However, she recognizes that the prohibition of killing has not here the same force that in the case of humans. As she points out, the alterity the animal is not the same as the

alterity of a human being. Only a human being is my “neighbor” in the full sense of the word (p. 81).

Probably the main originality of Pelluchon's book lies in its attempt to apply the Levinasian ethics to a number of controversial bioethical issues, such as abortion, euthanasia and assisted suicide, which have not been, as far as I know, specifically addressed by Levinas himself. In this regard, this volume represents an interesting contribution to bioethical reflection from a particular perspective. The question remains open however, whether the Levinasian approach alone suffices to explain the wrongness of killing, especially in those situations where an interpersonal encounter with “the other” is virtually inexistent or impossible (such as in the case of embryos, fetuses, and patients in coma or in a persistent vegetative state). Could it be argued –against Levinas– that in such cases ontology precedes ethics?

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Keown, J.: 2012, *The Law and Ethics of Medicine. Essays on the Inviolability of Human Life*. New York: Oxford University Press. 392 pages. ISBN 978-0-199589555. Price: £50.00.

This recent volume by John Keown is a bijou of consistency and rationality. Based on the study of numerous legal documents and cases, it fuses passion with rigor, depth with simplicity, complexity with clarity. From this work emerges the professional competence of the author in the field of the medical law and ethics: Professor at Georgetown University (Kennedy Institute of Ethics), well-known medical lawyer in the US (and in Europe too), cited for his research by distinguished bodies worldwide (like US Supreme Court, the Law Lords, the House of Commons, the House of Lords Select Committee on Medical Ethics, and the Australian Senate), Keown offers to his readers an excellent tool and resource to think in-depth about one of the most significant issues of nowadays: *the value of human life*.

Actually, this topic is not utterly new, as Keown himself shows through the analysis of the history of medical law. What is new is the “anthropological question”, which looms large from the “biotechnological revolution”, that is, from the new possibilities to handle human life at the beginning and at the end. Even though the principle of inviolability of human life is widely recognized as a legal principle, there are several contemporary misunderstandings around it, which are real cultural pitfalls, defined as “caricatures” by Keown. So, the pivotal scope of this volume is to outline this principle, freeing it from the cultural confusions, which identify this principle with

vitalism, or present the inviolability of life as the fruit of a theological vision, or yet as a speciesist position.

Keown starts an ideal dialogue with the opposite view, analyzing critically the misleading concept of “quality of life”, and distinguishing “worth of treatment” and “worth of life” that is “quality of life benefits” and “beneficial quality of life”. He also focuses on the unavoidable principle of equal dignity of all human beings, rejecting the distinction between the notions of “human being” and “person”, which he considers arbitrary. At the same time, he sets out the principle of autonomy but without exacerbating it to the point of destroying one’s or another’s life. Keown applies first of all the principle of life’s inviolability to various legal issues relating to the beginning of life, including the most controversial issues, such as abortion, in vitro fertilization, the “morning after” pill, and frozen embryos. Then, he applies it to the several end of life issues, like euthanasia, physician-assisted suicide, living wills, withdrawal of tube-feeding from patients in a vegetative state or in minimally conscious state, and the duty to provide palliative treatment.

The book shows the current strong cultural, social and political pressure that leads to interpret human rights as if their foundation were absolute self-determination, and if people had a right to dispose of the life of the weakest and most defenseless members of society. In this regard, I agree with Keown that only the recognition of the inviolability of human life from conception to natural death is able to give a solid foundation to a theory of human rights and render authenticity to the principle of equality.

The volume, accompanied by an extensive bibliography and by two tables of cases and statutes, is primarily directed at academic lawyers and practitioners of medical law in all common law jurisdictions. However it should also be of interest to people involved in bioethical issues regarding the value of human life, like healthcare professionals.

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Rosen, M.: 2012, *Dignity: Its History and Meaning*. Cambridge, MA: Harvard University Press. 176 pages. ISBN: 978-0-674-06443-0. Price: € 18.95.

In this short book, Michael Rosen dwells on both historic and systematic questions on where our understanding of dignity stems from and what we mean by it today. In fact, he thinks that these questions are inevitably interconnected, for “to untangle dignity, the best way, I think, is to reach back to its roots, and these [...] are historical” (pp. 7f.).

The book is divided into three chapters. In the first, Rosen presents various understandings of dignity that have

been developed through the history of philosophy, from Cicero and the Stoics to Kant and Catholic ethics. He identifies three main strands of thinking about dignity: “the idea of dignity as status, the idea of dignity as inherent value, and the idea of dignity as behaviour, character, or bearing that is dignified” (p. 54). In the remaining chapters, he focuses especially on the second strand and contrasts it with his own favourite, which is revealed by the third, namely the idea of dignity as a duty to treat people respectfully. Rosen spends the major part of the second chapter on criticizing views on dignity that depict it as an “inner transcendental kernel” (p. 9). In particular, he argues that if we evaluate such an understanding against real court cases, its limits quickly become obvious. For one thing, such a view cannot make sense of the absolute inviolability enjoyed by dignity: Although practices like dwarf-tossing violate the dignity of small people, there seem to be no good reasons to ban them, provided they are done with the explicit and autonomous consent of the people affected (p. 69). Likewise, a deontological understanding of dignity as an inviolable value overriding all other claims leads to problems in cases where conflicts within its sphere of protection arise: Rosen considers a German court decision which condemned torturing a kidnapper even though the life of his victim was in danger. He rejects several alternatives that defend the prohibition to violate the kidnapper’s dignity as justified even against the dignity claims of his victim. In the third chapter, Rosen seeks to show how his conception of dignity as respectfulness can solve the puzzle of why we should not only treat the living, but also dead human beings in a dignified manner. Rosen suggests to interpret our duties to these as part of adopting “an *attitude of respect*”, which urges us to “act in ways that are expressive of this attitude” (p. 143). This attitude as grounded in an idea of dignified behaviour is linked to duties “that all of us have simply by being human” (p. 141).

Rosen’s book is to be appreciated for his appealing account of dignity that aims to occupy some middle ground between status conceptions of dignity (as recently defended by Jeremy Waldron) and those that interpret dignity as some kind of absolute value. Likewise, his interpretation of Kant is refreshing in clearly setting aside what he calls “voluntarist” (p. 89) accounts of Kantianism and carefully exploring Kant’s own commitments to the philosophical tradition (e.g. pp. 23f.). It would have been interesting, though, to learn more about the possible connections between dignity as status, value, and attitude. Rosen confines himself to a couple of hints about the different functions performed by the various conceptions of dignity. He states, for instance, that the status-conception of dignity “is not capable of playing a constructive role in helping us to identify a specific bundle of human rights as

fundamental” (p. 61), a function he mainly assigns to dignity as intrinsic value. This is remarkable insofar as his account of dignity as respectfulness allows the conclusion that “there are at least some times when it is proper to abandon dignity or even to attack it” (p. 73), e.g. when greedy and corrupt politicians are caricatured as pigs. This appears to suggest that while Rosen’s account of

dignity might capture important ways how the notion is used, it misses out on others also firmly established in our society, namely ways that point to a form of personal dignity we would not allow to be overruled so easily.

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