

GRIFFITH UNIVERSITY

FACULTY OF HUMANITIES

**HU12E01
TOPICS IN ETHICS**

Study Guide

This copy of the Study Guide may only be supplied to a currently enrolled student of HU12E01 *Topics in Ethics*.

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Subject Information

Topics in Ethics is a second level subject that acquaints students with the data, themes, and methods of ethics. It presupposes successful completion of one year of university level studies in any field. Thus students from commerce, the sciences, and other fields will be able to understand the subject's concepts and readings.

Topics in Ethics is prerequisite for three other ethics subjects offered by the Humanities Faculty. The four subjects comprise the required core for a major in applied ethics. Other faculties also offer ethics subjects—altogether thirteen in the University. Admission to those subjects depends on admission rules of the faculties offering a given subject, but in general, cross-registration is encouraged. The complete list of undergraduate subjects is:

Subject Instructional Materials

In addition to this study guide, you will require the following study materials:

Dossier of Readings



The Dossier supplies the readings primarily required in the subject. The readings are selected to introduce students to the concept of applied ethics. The term is often used as shorthand for the ethics of the professions and vocations. This is the principal, but not the exclusive sense of applied ethics in this subject.

Recommended Texts

A Companion to Ethics. Edited by Peter Singer. Oxford: Blackwell, 1991.

This helpful edited volume contains digests of many themes relevant to the subject. It is especially helpful for the ethics of major religions, schools of ethical thought, concepts of ethics.

Ethical Issues in the Professions. Edited by Peter Y. Windt, *et al.* 2nd edition. Englewood Cliffs, NJ: Prentice Hall, 1992.

This edited volume provides an overview of contemporary ethical practices in the professions. It covers the concept of the professions, their privileges and membership, the professional-client relation, professional obligations, regulation of the professions, and codes of conduct. Unfortunately, it is costly. Students intending to complete the applied ethics concentration may wish to purchase it.

ASSESSMENT

Assessment in this subject is comprised of two short essays and a long essay.

1.	Short essay	25%	1000 words
2.	Examination	25%	1000 words
3.	Long Essay	50%	2500 words

Essay Assessment Criteria

- (a) Analytical skills; especially:
- (i) grasp of course themes and concepts and capacity to evaluate specific problems in those terms;
 - (ii) capacity to mount a clear and well-ordered argument about the problem posed by the question you choose to answer.
- (b) Skill of expression and presentation. A good standard of written English expression is required. Essays that have not been proofread for grammar, spelling, and typographical errors will not attract a good mark.

The short essay tests your grasp of one concept, presented in the question, together with the use of factual information needed to elucidate the concept. The long essay tests your grasp of concept clusters and their interconnection.

° The examination is a one-hour multiple-choice test, covering all material up to Week 8. It is mainly a test of factual knowledge, including recognition of key terms used in the subject. The test will cover materials in the Subject Outline and Dossier *only*.

Essays must be typed or neatly written. Write on one side only, DOUBLE SPACED, leaving ample left and right margins for comments. Use 12-point type (the default size in most software applications). Indicate which question you are answering. Number the pages. Use A4 bond paper. Check the spelling and grammar prior to submission. Ensure that the bibliography is complete. Retain a copy of your paper.

Essays that do not conform to these requirements will be returned for resubmission.

Note. If you use a computer to compose your essay, *always make a backup*. It is not an excuse for late submission that data was lost due to computer fault.

Essay Questions

Short Essay. Answer ONE question only. Questions 1 and 2 can be answered using the materials in the Study Guide and Dossier, plus general knowledge. Question 3 requires some additional reading in one area of medical service, such as sports medicine.

1. The “moral low ground” (Minson) of politics operates by the rule, “winning is everything.” This can be interpreted as a one-line ethics to the effect that anything goes. Discuss the circumstances of Australian political life that compels the low ground operators to rise to the higher ground of legality and honesty. Bear in mind the civil service.
2. Whitton states that the civil servant is pledged to administer government activity in accordance with law and the procedures of a specific department. However, rules may become “red tape” that frustrates the intention of government. What ethics guides the civil servant in relaxing or ignoring rules? Let your response refer to Whitton’s examples of this practice.
3. Some areas of medical practice are ethically contested, e.g., women’s health, sports medicine, psychiatric detention, experimentation on human subjects and animals, and reproductive technologies. For any contested medical area, contrast the professional justification of the practice with the opposing ethical view.

Long Essay

Long essay questions will be distributed in Week 9. The questions will range over topics studied throughout the subject.

The Study Guide and the Organisation of the Subject

The subject is comprised of 13 weeks of work. It is divided into a series of linked tasks to be completed on a weekly basis. The point of departure for each week's work is the Study Guide. It introduces the topic of the week, advises you of the readings for the week, and provides a commentary on the readings.

The Study Guide also lists study questions to help focus your attention on the most relevant aspects of each reading. And it suggests self-assessed exercises enabling you to test your retention of facts, ideas, and your "feel" for the topic.

While professional ethics is a relatively focused field whose history is short, ethics is ancient and its practice (and mispractice) is ubiquitous. This has the advantage for students that virtually any aspect of personal life as well as public life presents opportunities for learning about ethics.

To assist your travel through this large experience, the Study Guide inserts sections titled The Data of Ethics. These sections provide information that may be useful for interpreting or better understanding specific aspects of the subject.

The Dossier also contains a Glossary of ethics terms that are referenced throughout the Study Guide. An asterisk * before a term means that it is in the Glossary. You should memorise a good portion of these terms, since they are the "handles" on major concepts. Learning these terms will assist you learning to speak the languages of ethics.

The work for each week, including time for preparing assessment items, is designed for completion within 10 hours. The materials for some weeks are more demanding than others, and student interest in a given topic varies according to individuals. Some topics of particular interest may tempt you to dedicate much more time to it than the assigned ten hours. This temptation should be

resisted, otherwise you will borrow study time from other assigned work, or simply fall behind. The assessment tasks provide the opportunity for you to explore more thoroughly a favored topic.

The readings may be broken down into a variety of types. Some are “grabs” that briefly present a thought, attitude, action, or feeling. You may think of them as pictures in a gallery of ethics exhibits. They are included to assist you build up a collection of pictures relevant to a particular topic. You already have quite a few pictures in your collection. Try to integrate the ones offered in the Dossier into it.

Other readings project a vision. Since the character of ethical visions is discussed in Week 1, it is not commented on further here.

Other readings are largely analytical. Analysis examines fine structure or large structure, much as an art critic might examine a painting. A picture’s composition and subject belong to large structure; brush strokes and highlighting to fine structure. The art critic’s aim is to assist you to see better what is actually there. Your aim in reading an analytical text should be to enhance your perception of fine structure and large structure.

Still other readings are argumentative. Argumentation aims to lead thought from starting point A to conclusion F by passing through intermediate steps B-E. Often an author conducting an argument pauses here and there to engage in criticism of contrary arguments. The criticism may be that a fact has been neglected, or that a piece of analysis is misbegotten, or that a consequence has been left unexamined. Your aim in reading argumentation should be to grasp the sequence of the reasoning and to evaluate its validity.

Facility in analytical and argumentative is called “discursive competence.” What that amounts to in practice is mental dexterity in finding your way around a particular wing of the ethics gallery. The assessment in this subject largely tests that dexterity.

Haven’t we forgotten something? Is the point of ethics just clear thinking, or is it about character, choice, living well? It is indeed, as the Study Guide discusses in Week 1. Topics in Ethics presents two major ethical aspirational goals, under the rubrics of the professions and human rights. The values and ways of life contained under these rubrics are described and analysed by the Study Guide; they are commended in the

Readings. There is no way to test your progress in becoming more ethical. The subject uses discursive competence as a surrogate.

Study Skills

The subject work presupposes the successful completion of a year of university level work. The Study Guide doesn't provide on-going advice on reading and comprehension, time management, note-taking, composition, and so forth. If you feel that you need additional tutoring in these skills, a Griffith University Study Skills Booklet is available on request.

This said, some reminders about basic study skills might be helpful.



Reading.

Most of our reading is passive. We skim the newspapers, read a magazine article for its gist, flip through advertising. Reading becomes active and focused when we have a particular objective. Suppose we have cause for concern about the city's plan for a waste disposal site in our neighbourhood. Then we are likely to study the information we can obtain, talk to other concerned persons, write letters or make telephone calls, and so on.

Reading for university subjects must be similarly active if you are effectively to acquire information, concepts, and the skill to think about them. You might think of reading activity as an on-going interaction between your thoughts, the Dossier, and the Study Guide. Study questions and exercises are ways that the Study Guide assists you to interact with the readings. Another is note-taking.

Notes are your record of what you've gotten from readings. No notes, no record. You may think that you have a record in your head, but experience shows these records are somewhat fugitive.

--► A note-taking habit will help you break reading down into sessions of purposive work. A session can be defined in

terms of the notes that you jot down while you read and the summary that you write when the reading is concluded.

--▶ Pinpointing what you do not understand assists you to clarify uncertainties and doubts.

--▶ Many students interact with their readings by highlighting phrases or sentences with a felt pen. Often they highlight more than half of the text. This is not a digest of the main points. You should not expect to identify the main points on the first reading. Save the highlighting for the second reading.

--▶ How you take notes matters. Keep them in one place, such as a loose leaf binder or a computer file. If you write them out, keep them neat and legible. Remember that your notes are the launch platform for writing the assessment items.

--▶ Keep a dictionary handy. The words that you don't know might convey a meaning that you want to know.

--▶ The Study Guide exemplifies how one text may be made to interact with another. You may wish to use it as a model for your own study.

Week 1

Getting Started: What is Ethics?

Ethics is often said to be about the kind of life we ought to live, what actions are right and wrong, what our duties are, and how to justify our choices.

It is also described as discussion or writing about values, ideals, norms, rules, the purpose of life, and how to live well.

These definitions cover a lot of territory. Let's narrow it down.

Kind of Life. This notion is usually thought of prospectively, where we, in a choice situation, attempt to envisage the decades that lie before. The choice of a career, or of a marital partner, are typically occasions for taking the long view of life prospects. However, reflections on life need not be instigated by circumstances of an important choice. The more common experience is reading, or viewing films, about the lives of others. The vicarious experience of other lives is usually undirected; we simply gravitate to things that interest us without probing deeply about the selection. But whether directed or not, in absorbing life experience we acquire *models of living well and badly.

Of all the ways of teaching ethics, models are the most used, because the concreteness of life situations helps to visualise the rich dimensions of action. All cultures produce an abundance of models, and in a variety of forms.

Aphorisms: Wise Sayings. The most concise form of an ethical model is the anecdote or aphorism. Aphorisms circulate as handy sign posts or telling points about motive, action, or the human situation. Among the Chinese, the sayings of Confucius and other wise men are sources of sanctioned *practical wisdom. Among Muslims, practical wisdom is collected in the *hadith*, the sayings of the Prophet Muhammad. The Bible contains a store of wise sayings, e.g., Proverbs and the Beatitudes.

Aphorisms have a surprising vitality. When invoked by persons of influence, they can even become legend. An example is Prime Minister Malcolm Fraser's quotation of the adage, "life wasn't meant to be easy." The adage is a handy reminder to help us regain composure when the going gets tough. It stems from the religious conception that this life is a time of trial and testing. Fraser invoked it in a speech about government belt-tightening, and in doing so provoked an outcry.

Among Confucius's sayings is the startling statement that "it is a joy to the heart to see an old friend fall off a roof." What can this mean? By reminding us of the secret gratification that we sometimes take in the misfortunes of even those dear to us, we are cautioned about believing too earnestly in our purity of heart.

There is a similar realism in the saying of Stephen Agee, "A lot of people would do the right thing if they thought that they could get away with it." Agee was a whistleblower. His disclosures about the CIA provoked such retaliation that he migrated to Australia to escape. His aphorism answers the charge often used to discredit whistleblowers—that they are trouble-makers. Agee is adroitly saying that the difference between whistleblowers and ordinary employees is willingness to take risks.

Aphorisms can be antidotes to moral imagination that has soared a little too high or that has hoaxed itself about its righteousness. Consider the parody of religious wisdom sold in gift shops:

Lord, grant me the serenity to accept the things / I cannot change, the courage to change the things / I can and the wisdom to hide the bodies of those / people I had to kill because they got my goat.

Witty inversions of moral seriousness are socially acceptable ways of signaling to others awareness of the ambivalence of human intentions, and how they may be disguised. In this case, pious phrases mask homicidal thoughts that are revealed in the explosively witty closing line.

In contrast, consider an example of the soaring moral imagination, Immanuel Kant's characterisation of humankind's status in the grand scheme of things:

As the single being on earth possessing understanding, and consequently, the capacity for setting himself ends of

his own deliberate choice, man is titular lord of nature, and, supposing we regard nature as a theological system, he is born to be its ultimate end.

A more concise statement of the same idea, without the theological reference, is a much-quoted statement by *John Stuart Mill:

Over himself, over his own body and mind, the individual is sovereign.

This aphorism is used to justify the removal of social or legislative constraints on individual liberty. It is a succinct statement of the principle of *autonomy.

The lofty thoughts of Kant and Mill contrast with a reflection on the human condition from William Shakespeare's *Measure for Measure*:

But man, proud man / Dress'd in a little brief authority, / Most ignorant of what he's most assur'd, / His glassy essence like an angry ape, / Plays such fantastic tricks before high heaven, / As makes the angels weep.

Shakespeare's gift for words brings soaring visions back to earth in a graceful glide. ("Glossy essence" means the self seen in a mirror). Compare it with the crash-and-burn put-down authored by Albert Szent-Györgi, a Nobelist in medicine:

The human brain is not an organ of thinking but an organ of survival, like claws and fangs. It is made in such a way as to make us accept as truth that which is only advantage.

Szent-Györgi dedicated his life to seeking truth heedless of advantage, but he thought that not many scientists do. His statement is a brutal reminder, written in the idiom of Darwinian evolution, that soaring aspiration needs some control by practical wisdom.

Model Lives and Ethical Visions. Youngsters dedicating themselves to excel in sport often mentally attach themselves to an outstanding athlete that they make into a role model. The details of the model's life—how she or he rose, overcame obstacles, and succeeded—provide the aspiring athlete examples of "how to do it" in the challenge ahead.

Psychologists say that these familiar facts express a general truth about learning. "Practice makes perfect," and practice is

organised by imitating mental pictures of the action to be executed. We compare our actual skill with the model aspirational performance, and attempt to make the former match the latter.

This learning model is helpful for understanding how ethics, as a normative schema of conduct, is learned. The temples of Asia are dominated by statues of the Buddha, sitting cross-legged, his hand raised in the gesture of blessing. The statue expresses the Buddhist vision of serenity, called Nirvana. In Catholic churches, Jesus on the cross expresses the redemptive ordeal of sacrifice. The images of Mary the Mother of God express divine *agape*, or love. Judaism, Islam, and Protestantism do not express their central vision in visual icons, but they do cultivate an abundance of narratives about the lives of the righteous and the unrighteous that serve the faithful as signposts.

The persistence of ethical models in secular cultures confirms their importance as a learning device. Consider the young Soviet Union. In undertaking to install a socialist culture, the revolutionaries had to reckon with the moral traditions that they wanted to replace. One of the most important was the Russian Orthodox Church, in which icons of saints figure prominently. The revolutionaries set about creating a galaxy of models—“heroes of labour”—for popular emulation. The great star in this firmament was Lenin, who became the venerated saint of a cult.

It is much the same in secular bourgeois culture. Eulogies to Dr. Fred Hollows made us aware that he had quietly acquired saint status, that is, a foremost position as an ethical model for medical service to the neglected. The quality that Australia honors in him is easily recognised by Christians as charity. The massive media coverage of Mary MacKillop’s elevation indicated that her life is perceived to be ethically meaningful by the non-religious. It is part of the substance of their lives as ethical models that both found themselves often at odds with the medical and religious establishment. The antagonism is ethically significant because it was not a personality clash, but one sign of their *ethical vision.

A vision is a compelling synopsis of the good (or holy) life, of truth and justice, of the world and of ourselves as they ought to be. Visions are also called “ideals.” Visions can be and often are rendered in biographies and in ethical, philosophical, or theological essays. This is a significant fact about them.

The key feature of ethical visions is their *practicality*. They are master ideas that we use to organise and control our practice so that it approaches the ideal. Let us switch our analogy from athletics to music. Conductors develop concepts of the “perfect” performance of a particular musical score. This “concept” is a generalised schema that organises innumerable thoughts about the precise ideal performance of each passage. The conductor’s concept is intangible. Although it can be talked about—the conductor talks about it during rehearsals—the key thing is the aesthetic certainty that the conductor communicates in the course of rehearsals. A rehearsal, of course, is an actual “doing” of the music. Similarly, in taking action, we “do” a vision. Visions are characterized by four features: certainty, *trust, prestige, and *authority.

u Certainty resolves ambiguity and doubt. Ethical visions provide a big picture that sorts “where we stand” items from details that can be negotiated. Verbal descriptions of the vision will elevate “where we stand” items to principles, dogmas, or commands.

u Trust. In the real world, certainty is easily undone by the multitude of ambiguities. Can we trust our certainty?! Ethical models overcome doubts by providing the example of an actual human being whose conviction, faith, genius, or dedication overcomes all obstacles. Thus an ethical model is someone whose example we trust, as a testimony that the vision is stable and durable.

u Prestige. Prestige means public standing or credibility. It is the quality that flows to persons who are trusted by a following, on whose behalf they act. When a person’s prestige is very high, it is called “charisma.” In politics as well as in the entertainment industry, charisma is the elusive magic that attracts the millions like moths to a flame. Charisma is an important quality in politics, since charismatic leaders translate their personal prestige into consensus about contested issues. “Consensus” is another way of saying that the leader’s vision of policies and policy directions are credible. They terminate public uncertainty, at least for the time being. What is true of politics is true also of ethics.

u Authority is the product of certainty + trust + charisma. To respect authority is voluntarily to defer, or mentally submit, even in the absence of coercion or organisational discipline. The lives of ethical models often exhibit persons who persisted in their vision despite attempts by authorities to dissuade coercively. Model lives usually show at least one

important episode when the model defied authority and won through. The episode is important for establishing the model's authority, since it exhibits the practicality of the vision that the model projects.

Visions, models, and character. Implicit in our discussion of models and their use is the concept of character and its formation. Character is the distinctive and enduring qualities of a person. People are known for their qualities, e.g., Henry is rash and impetuous, Mary is gentle and warm, Solomon is a man of sound judgment, Alice is zany. In many ethical traditions, character is thought to be what we make of our natural impulses. Among the Greeks, for example, courage is the quality that controls the impulses of anger, fear, and revenge. A person who had little or no control of their impulses is a creature of whim—unreliable, a “bad character.” Many ethical traditions assign different model characters to different statuses and offices. Judges, for example, are supposed to be persons of grave and sober character. But prophets and holy persons are recognised by sudden and convulsive loss of control, as the Spirit enters them. Good character is often equated with virtue.

Models of conduct need not be conducive to the formation of good character. They may be quite the opposite. Some individuals or groups may deliberately launch a character model meant to challenge prevailing notions of good character. The soft-core pornography entrepreneur, Hugh Hefner, pioneered the “playboy” character as a cultivated lifestyle. The trademark of rock star Madonna is the thrill of transgression. In one of her performances she said to the audience: “I know people say I’m ruthless, violent, and manipulative. But you love that, right? When people get in your face, when they stab you in the back, you got to show them whose boss, right? In America, people really dig a little senseless violence. What about you, Toronto?” Madonna is an astute businesswoman whose upbringing was strict Catholicism. She understands that by claiming the character of ruthlessness and violence, and glorying in it, she goes beyond mortal sin and ventures toward diabolism. Her “product” is the excitement of transgression.

Ethical models in the animal liberation and environmental movements. One of the striking features of social change over the past three or four decades is the emergence of animal liberation and environmental concern from marginal eccentricities to mainstream values. Neither of these two concerns had any standing in the great secular moral tradition that we call the Enlightenment. The reason is

that control of nature, by technological and economic means, is the hallmark of that tradition. Animal liberation and environmentalism, by contrast, register a tremendous NO! to the presumed virtue of economic development. Implementation of the purist versions of these visions require profound changes in accepted practices, as we see in the on-going conflicts between loggers and conservationists, between oil producers and Greenpeace.

The formula for combining development with conservation is “sustainable growth.” This means that while economic development is affirmed as a fundamental value, we must reject or curb growth that damages the environment and destroys the life chances of future generations. A recent example of the operation of this policy was the decision to place a ten year stop on new agricultural development in the Murray-Darling river basin.

Environmental ethics profoundly revise the values that underpin economic development. The quotation from Immanuel Kant expresses these values. Since humankind is unique among animals in having the capacity to act according to ends of its own choice, “man is titular lord of nature.” A “lord” may do as he wishes. He may “conquer” nature. Environmental ethics, by contrast, denies this unique status by conceptualising human agency as one strand of a larger fabric of nature that can be despoiled but not controlled.

Environmentalism and animal liberation have cast up quite a few saints articulating ethical visions. An early statement was Rachel Carson’s *Silent Spring* (1962), which communicated to millions a vivid sense of devastation done by the use of pesticides in agriculture. Her ode to nature’s harmony, and her indictment of technology-driven agriculture, led to the discontinuation of DDT use and to the development of environmentally friendly biological controls for pests. Biological controls have replaced chemical controls as the *best practice standard. But it also led, in Africa and Asia, to an explosion of deaths from malaria.

Another early statement was Paul Ehrlich’s *The Population Bomb* (1968), which advocated Zero Population Growth to stave off the peril of “too many people.” Zero population growth is an abstract numerical formula. Not the stuff, one might think, of a fervent ethical vision. Wrong. By weaving together measures of population growth rates, land degradation, climatic changes, and other variables, Ehrlich produced a numerical ethical vision that transformed population control from an abstract concept into a powerful

motivation. Ehrlich's followers make a personal commitment not to have more than two children.



The Readings

Peter Singer

As a text illustrating ethical visions, we take the closing passage of Peter Singer's book, *How Are We to Live? Ethics in an Age of Self-Interest*. Singer, a philosopher at Monash University, established himself as charismatic teacher with his book, *Animal Liberation* (1973) often called "the Bible of the animal liberation movement." It has sold over 300,000 copies in two editions. *Animal Liberation* described the use of animals in scientific, medical and commercial laboratories, and the abuse of animals farmed for food products. He painted a Buddha-like tableau of immense suffering, and exhorted his readers to take action. But what action? We cannot, as individuals, bring medical or commercial killing of animals to a halt, but we can refuse to participate in it. We can act on our own lives by becoming vegetarians. We can abstain from using animal products, such as clothing made from animal hides or milk and butter. Finally, we can join with others to agitate for the immediate relief of local animal suffering and the eventual end to animal exploitation. Singer endorses and participates in protest action.

To those who enjoy their lamb chops, vegetarianism imposes a sacrifice. Sacrifices for moral ends are called *asceticism, meaning the voluntary relinquishment of significant pleasure as the pathway to ethical ends. Historically as well as today, asceticism is closely bound up with the credibility of visions. The thought is that sacrifice of pleasures, or mortification of the body, proves a person's ethical seriousness. This is why fasting is so often used as an ethical act with potent symbolic meaning. Buddhism teaches that all life is sacred; consequently strict orthodoxy requires strict vegetarianism. But when Singer visited Japan to talk ethics with Buddhist monks, he found that meat was served in the monastery's refectory! Singer, a vegetarian himself, was dismayed. The monks lost credibility in his eyes.

For most people the adoption of vegetarianism involves not only a difficult reform of habits, but a change of attitude that usually affects one's associations. Just as reformed alcoholics do not visit pubs and avoid occasions where alcoholic beverages are served, so vegetarians tend to avoid close association with meat-eaters, preferring the company

of the like-minded. The dietary restriction marks them off as a *moral subculture.

The Singer selection, though brief, projects a grand vision. It also situates each of us in that scheme of things as agents and promoters of the vision, or as heedless and erring. The vision deposes humankind as the special object of creation (Singer sharply criticises the Old Testament vision of man as lord of creation). Despite the equality of all creatures, he assigns an ethically privileged place to his followers. By converting to anti-materialism, they advance, he says, to “higher ethical consciousness.” This is not a commitment of rationality (Singer says “reasoning alone proved incapable ...”), but of the sensitive heart recoiling from the nightmare of “the present dominance of materialist self-interest” (evil). Greed and consumerism are meant. Greed is a timeless model of bad living (because heedless of others). Singer’s graphic description taps a vast religious and secular heritage of ethical criticisms of capitalism. Singer’s alternative is not the vision of revolution, but of an informal congregation of the ethically enlightened. He calls them the “critical mass” of humanity—the elect who will transform humanity. Insiders call it “the invisible church.” Our term is “moral sub-culture.”

Note that in the closing lines, Singer exercises his authority to lay duties upon his followers (“quitting your job, selling your house and going to work for a voluntary organisation in India ... you will take up new causes ... money and status will become less important”). The rewards are spelled out: “You will not be bored, or lack fulfillment in your life ... you will know that you have not lived and died for nothing ...” because you are among those who through the ages strive “to make the world a better place.”

Graham Richardson

What about the profane world? Two readings from former environment minister Graham Richardson are selected to voice the pragmatic vision of profane politics. Richardson credits himself with having delivered the environmental vote to the ALP in the election of 1990. When he became environment minister in 1987, he had no history of involvement and no known commitment. He was widely viewed as a factional chief and numbers man who looked on ethical issues as pawns in the political game. However, on a visit to Tasmania hosted by Dr Bob Brown, Richardson says that he was “converted” by Brown’s “passion and intensity.” Some months later, Richardson won the trust of conservationists after enduring a highly publicised assault by loggers at a Ravenshoe meeting. In his three years as

minister, Richardson gave Australia its national environmental policy—a high achievement.

But his soul belonged to the profane world, as we see in the two passages. The first expresses his meat-eater displeasure at the vegetarian austerity imposed on him by meetings with conservationists. The second, from a speech at a sharply contested ALP conference, shows him defusing aroused passions by humorously mocking counterfeit idealism.

Since ethical visions prescribe detailed and distinctive modes of action, we should not be surprised if they are disturbing and unsettling. As Singer states: “A clash between *utilitarianism and our ordinary moral judgments is, after all, a common enough occurrence, and stout-hearted utilitarians should be prepared to jettison a good many commonly accepted moral judgments.” Two newspaper reports are included in the readings to highlight this point. The first, by Greg Neale (*Are Our Pets Prisoners?*), reports on an unexpected consequence of animal liberation: we must give up our pets. John Bryant, a leader of this movement in the United Kingdom, wants to phase out domestic animals, so that only the original “natural” species remain. The hybrids kept as pets, Bryant insists, “are pathetic.”

The second report discusses the activities of Dr Jan Tilden and the National Threatened Species Network in preserving endangered plant and animal species. Although the membership in such networks is small, they are international. One of their projects is to use ordinary gardens to preserve edible plant species threatened with extinction by modern hybrid agriculture. Such groups presently preserve tens of thousands of edible plants that would otherwise be extinct.

Activities

Media watch. Throughout the subject you are encouraged to track newspaper or television reportage of stories illustrative of each week’s topic. For this week, identify two stories that illustrate for you models of exemplary good conduct. Make a note about just what it is in these models that inspire your admiration.

Memorise the glossary definitions of Model, Trust, Authority, Practical Wisdom, and Asceticism.

Study Questions

Read all the questions. Select one for careful consideration. Jot down your thoughts in your notebook.

1. Singer's advice to his followers that they sell their worldly goods and do charity work in India may subliminally remind readers of Mother Theresa, who observes the vow of poverty. Yet Singer draws a professorial salary and accumulates fame and fortune. Is it valid for him to recommend obscurity and poverty to his followers? Think of one reason to support his position.
2. Secular philosophers tend to deny ethical merit to dietary restrictions. They say that such discipline belongs to the ritual "externals" of religion. They instance anorexia nervosa. Anorexics starve themselves to achieve a bizarre body image. Similarly, the argument goes, vegetarians reject the use of animal products, to achieve a bizarre ethical image (conferring merit on denying the body's need for animal protein). Is this argument relevant, when the aim of vegetarianism is to express compassion for fellow creatures?
3. Kant claims that because humankind is the only species possessing understanding, it is "titular lord of nature." He means that humankind can do with nature as its understanding directs. Does it follow (for anyone who accepts Kant's belief) that it is misconceived in principle to place the freedom of animals on the same level as human freedom?
4. Animal liberationists have been accused of inconsistency in refusing to use animal products while accepting drugs and medical service derived from destructive experimentation on animals. Must the consistent animal liberationist avoid doctors and hospitals? If not, why not? If so, what do you make of animal liberation?
5. The film *Wall Street* is a graphic depiction of the brand of greed rampant in financial markets during the 1980s. Obtain this film from a video shop and analyse the anti-hero's "Greed is good!" speech. Why exactly is greed good? What is the film's commentary on greed values?

Week 2

The Professional Ideal

Conservation ethics were selected as our introduction because they show, in a graphic way, what an ethical vision looks like. We also see in them just how the vision presides over changes to personal life, how it assembles individuals into cooperative action, and how those small group activities balloon up to public life. Finally, conservationist ethics is a historically novel development enjoying an enormous momentum.

We now want to apply that understanding to another ethical vision and associated practices, the professional ideal.

This ideal teaches personal dedication to a shared vision of public good promoted by a professional practice, such as law, medicine or engineering. One of its core ideas is technical competence, or the integrity of craftsmanship. However, technical competence can be morally ambiguous, as nuclear scientists came to realise. There are also other obstructions to understanding the ideal.

The first is the sheer diversity of professional practice today. We may think of “doctor” as the general practitioner down the street, but general practice is only one among many types. Community medicine, medical research, and medical administration follow ethically diverse models dictated by the diversity of activities. Where in all this complexity is the “real” professional ideal of doctors, and how does it relate to the professional ideal of accountants?

A second difficulty is that professions can be considered as just another type of business, whose ethical pretensions are advertising in disguise. The image of clients exploited by lawyers, and of over-servicing doctors, is encountered often enough in the media. When we learn that the professions are partly defined by a monopoly on practice (exercised through licensure provisions of law), we may conclude that the professions are conspiracies to obstruct free trade. At the extremes are those who maintain that the medical guild is a

health hazard and that the lawyer guild functions mainly to pervert justice.

Of the two obstacles to making a beginning with the professional ideal, the second is ethically the most important. The professions do enjoy monopoly privileges, which have pay-offs in money and power. Professional practices are businesses. Disinterested impartiality may be less evident here than ordinary selfishness.

The legal and medical professions are under siege by numerous citizen groups clamouring about malpractice and the harm done by these professionals do the public good. Add to this the unraveling of value consensus associated with multiculturalism. In that arena, what judges believe to be judicial impartiality is attacked by others as gender or race bias. What doctors claim to be sound health measures are attacked as “politics.” Even science, the fortress of objectivity, is said to be compromised by fraud and money-grubbing.

The professional ideal has a “credibility problem.” Its icons of purity are tarnished.

Practical Wisdom. The greed-and-power image of the professions is an important datum of ethics. It registers the recurrent experience that the realities of professional practice aren't all that their practitioners would have us believe.

There are two ways of coping with this discrepancy. We may say that the greed-and-power criticism registers accumulated instances of misconduct or perversion of normal, ideal professional practice—exceptions to the rule. This is the view taken by the professions. Or we may take the radical position that the legal guild perverts justice and that doctors are a health hazard. On the former view, we would support safeguards against abuse; on the latter, radical social reconstruction.

This subject does not explore the second alternative. The readings are based on the reformist view that ethical institutions are basically sound though liable to abuse. Lapses from good practice are to be expected from creatures for whom ethical practice requires effort to achieve.

Criticisms of professional practice, and their contested status in the public arena, are important because they demonstrate that actual practice does not always correspond to the ideal.

Criticism of ethical ideals is an important element of ethics. It constitutes the practical wisdom that tempers commitment to ethical visions by a sober appreciation of real world imperfections. Paraphrasing Mr. Keating, we may say that practical wisdom is the deflation that ideals need to have.

Practical wisdom is distinct from total deflation of ideals. Total deflation gravitates to the view that all ethics is imposture (e.g. lawyers pervert justice). This is called skepticism or nihilism. Alternatively, deflation may make an appearance in public debate as radical criticism of an institution (e.g., the entire judiciary is misogynist).

Recall that the Study Guide (Week 1) characterised ethical models as *practical* guides to action. We are now adding the proviso that they need to be moderated by common sense. This is a simple idea, but we need to bear it in mind. To assist us, we introduce two terms to mark the extremes of ideals. Ideals that are presented as completely pure and trustworthy are said to be VALORISED. Ideals that are presented as completely hollow and deceptive are said to be DEMONISED. The spectrum in between is COMMON SENSE or practical wisdom.

Valorisation and demonisation are a ubiquitous part of the ethics landscape in part because they make “good copy.” The media thrive on extremes, on sensation, on the grotesque, and on wild swings of fortune.

Ideals Again. Despite public contests, the professional ideal remains a potent ethical influence, recruiting and organising the dedicated efforts of many women and men.

Let’s have a glimpse at the ideal’s history. It emerged from diverse streams between 1850-1914. One stream was civil service reform, whose objective was to create educated, impartial cadres expert in administration and government. Another stream was educational reform demanded by the rapid growth of science and technology. In secondary education, there was a need for mass instruction in trade skills to bring labor to modern industrial standards. At the tertiary level, science was recognised as vital to the improvement of clinical medicine and to educating engineers and industrial scientists.

Finally, there were strategic conceptions of the modern state in which the professions constitute the new elites replacing the obsolete ruling classes of the past, especially aristocracy-monarchy, the clergy and churches, and business magnets.

An interesting testimony of the power of the ideal at that time was its influence on revolutionaries. The Socialist Party of Germany professionalised its organisation and Vladimir Lenin conceived and implemented the ideal of the professional revolutionary.

The civil service ideal. The objective was to create politically neutral, competent cadres dedicated to public service “without fear or favor.” The malpractice to be reformed was “jobs for the boys,” also called “the spoils system.” Under the spoils system, a political party coming to power appointed party workers to public posts, to provide jobs and to influence the conduct of government. This influence often took the colour of money. Party workers sold government influence to favored bidders. This led to widespread corruption. According to the professional ideal, public servants would be incorruptible. They were to be permanent, salaried officials schooled in administrative and political skills. They were to be selected and evaluated on the basis of merit. As a cadre they were independent of electoral change. They were to provide the stability needed by complex, rapidly changing democracies. They were to carry out the policies of the elected government, whatever those policies might be. In return for their independence, they were not to participate in electoral politics.

The civil service vision of professional ethics may be broken into the following components:

- ++ a vision of the impartial (non-partisan) administration;
- ++ a perception of abuses and corruption that professionalisation corrects;
- ++ the idea of cadres dedicated to competence and quality, irrespective of personal advantage;
- ++ subordination to elected officials who set policy, and to courts and laws that prescribe the ground rules for administration;
- ++ an ethic of service requiring the self-discipline to resist temptations to abuse the authority of office or to pursue goals inconsistent with policy or law.

Notice that this ethic requires a degree of self-control verging on asceticism. The habits of factuality and impartiality extinguish prejudice and “doing it my way.” Action is to be based on objective considerations rather than favor or impulse. Status in the service is understood to depend on

demonstrated merit, not on patronage. Abuse of office and misuse of public funds are mortal sins. And, what is perhaps the most difficult self-discipline of all, the civil servant does not allow his or her private ethical convictions to interfere with administration of public office, when the two conflict.

This vision of the civil service ideal received its classic statement in the writings of Max Weber (1864-1920) on the role of bureaucracy in the modern state.

The core elements of the civil service ethic replicate across the professions. Pharmacists and engineers are also experts—master craftsmen, if you like—who apply a specific body of knowledge to human service. Their conduct is constrained by the content of that knowledge, free of influence from other factors. It is also constrained by the standards of *best practice and *due care for the well-being of clients.

The combination of objectivity and service in the professional ideal suggested, a century ago, that the ideal was a way of reinstating, in the new context of rationality and the modern state, the old dedication to the ethical life. At a time when religious faith was waning, it did not seem to rely on religious conviction, yet it was compatible with religious ideals of service. And it gave scope to the impulse to action.



The Readings

Milton Friedman

Milton Friedman, Occupational Licensure. It is part of the definition of a profession that membership is obtained only by formal admission, through a qualifying examination. The administration of examinations is regulated indirectly by law. Professions are also regulated by law that makes it a civil offense for anyone not formally qualified to practice medicine, pharmacy, architecture, etc. This “closed shop” system is defended as necessary to guard the public against unqualified practitioners.

Friedman challenges the monopoly imposed by the licensure system. It is, he maintains, a hold-over from the paternalistic thinking of an earlier time. Friedman defends the market system of client choice, which (he maintains) automatically grades quality of service. Friedman holds the Nobel Prize in economics for studies that paved the way for the revival of free market economics. His basic position is the *liberal defence of individual freedom, to the maximum compatible

with public order. Like most liberals, he is a critic of public morality, which to him is a trick by which one social group manages to impose its values on everyone else. He opposes in principle the legislation of morals, or the attempt to improve public morality by law.

The proposal to eliminate licensure is a radical departure from present standards of best practice. It has had virtually no uptake in the three decades since proposed. Nevertheless, it is relevant to our study. (1) His criticism places in focus the economic power conferred by licensure. In that way it throws light on an enduring contested point about the professions—the element of power in provider-client relations. (2) The fact that the proposal has sparked no calls for reform brings out an important consensus, viz., that law and government OUGHT to be “paternalistic” in protecting the public from some avoidable harms. Few would agree with Friedman when he says that protecting patients from unqualified physicians “is no ground for [legal] intervention.” (3) By thinking along with Friedman, we discern the basic rationale for paternalistic regulation, which is, as he puts it, to protect us from our own ignorance. Turning this around, free trade in law or medicine assumes that consumers will adequately inform themselves about which professionals they should trust. Friedman maintains that many consumers do this even in the licensure system.

Howard Whitton

Howard Whitton, *King Arthur and the Code of Conduct for Public Officials*. The author is a Queensland government public servant who was closely involved in the implementation of the sweeping reforms following on the Fitzgerald Report on police corruption. He discusses some of the main questions arising from Queensland and Commonwealth codes of conduct for public officials. Such codes are valuable as a snapshot of the ethics that a profession believes it honours. Whitton discusses how public servants are meant to interpret codes of conduct legislated for them. Are they, like traffic laws, rules of the road that people agree to abide as a condition of employment? Or are they prescriptions on the *character* demanded of public servants? On the first interpretation, the public servant abstains from wrong-doing because her service contract requires it. Her private thoughts about wrong-doing don't come into it. Whitton's example of this relation to ethics is Sir Humphrey Humprey's classification of all governmental ethical problems as “Church of England problems.” On the second interpretation, the public servant is expected *to be* ethical, as a matter of character. Neither of these two interpretations seems satisfactory to Whitton. If the motivation to good

conduct were merely contractual, there is no guidance when the public servant uses administrative discretion. But if the code of conduct is meant to be prescriptive of character, the intent not only invades individual liberty, it seems to demand the impossible. Anyway, it is a common place that public servants from time to time must administer rules that are contrary to their personal ethical beliefs. Whitton's way out of the dilemma is the "ethics of role." By this he means that duties are conceived as acts flowing from a public role that the employee assumes, in the way that thespians assume roles. "Role-playing" imposes character on actions so long as the role is played.

Jeffrey Minson

Jeffrey Minson, *The Book of the Politician*. In Week 1 we contrasted the moral earnestness of conservationists with the profane practices of politicians, as seen by former minister Graham Richardson. We now look more closely at that profane world through Minson's review of Richardson's memoir, *Whatever It Takes*. Richardson seems to relish confirming the worst that people say about politicians. They are back-stabbers, opportunists, fomenters of tribal hatreds, big noters greedy for fame and power—in short, a collection of rogues *least* fitted to promote the nation's welfare. This is a paradox, for democracy and for public servants who are duty-bound to carry out ministerial decisions. This paradox is due in part to the inflationary effects built into political debate. Each party promotes itself as the font of virtue, while disparaging opponents as corrupt and partisan. The media further amplify this "hype."

Minson accepts that ALP factional struggles really are as nasty as Richardson says they are. Yet Minson discerns in this picture of "rogues" a manual on how to conduct oneself in the hurley-burley to advance the party interest in retaining power while also advancing the public interest. This is a neat trick. The politician achieves it by distancing himself from the hatreds of faction far enough to find the common ground, or to work out a formula for defeating a faction without driving it to revolt. The ethical meaning of this becomes clearer when we substitute for Richardson's word "hatred" its synonym, "ideological fervor." The tendency of Richardson's coldness to moral passion turns out to be, Minson explains, a studied "commitment" to realism, to objectivity in public affairs, to political craftsmanship. Richardson's memoir is a portrait of a specific and important political virtue, the capacity for negotiation and compromise. Of course not all politicians are of the Richardson stripe. Some, even many, are sincerely committed to their ideals. But that is just why his type of virtue is needed.

Activities

Media watch. Identify a news story that casts doubt on the integrity of a profession and a story that confirms public trust in a profession.

Memorise definitions of Merit, Best Practice, Profession, Practical Wisdom, Virtue.

Read the Queensland government’s advertised announcements for appointments in the senior executive service. What concepts of character and merit expected of candidates do they convey?

Data of Ethics.

° The word *ethics* derives from the Greek word *ethos*, meaning custom, habit, or way of life. Morality, from the Latin *mos*, (pl. *moris*) has the same meaning. The French writer Anatole France expressed this classic sense of ethics when he declared, “Morality does not originate in religion or philosophy, but in habit, which is the only force that can hold together men animated by the same spirit.”

The word *virtue* stems from the Latin *virtus*. Among Roman moralists, it means (a) manliness or courage and (b) a fixed disposition of character to act according to moral principle. These two meanings are related because there are many “discouragements” to acting on principle, known in popular idiom as “failure of nerve” (recall Agee’s quip, “A lot of people would do the right thing if they thought that they could get away with it”). Christian moralists retained these senses of virtue while elaborating new ones. The Pauline doctrine of the strife between spirit and flesh, and the clerical practice of celibacy, generated a new meaning that equated virtue with chastity.

° During the industrial revolution, virtue was often equated with diligence, industriousness, and honesty—traits of the “work ethic” (discussed in Week 9)

Today the term “virtue” has fallen into disuse, probably owing to its association with religious and aristocratic traditions. Its replacements are “responsibility” and “integrity.”

° Minson’s commentary on Graham Richardson’s description of conduct of politicians seeks to show it to be an ethically valid sketch of civic virtue among “rogues.” A key problem for the integrity of political virtue is loyalty. The condition for effective action is party unity, which entails declarations of unwavering loyalty to the party leader. But leadership is volatile under the Westminster system; today’s leader may be tomorrow’s backbencher. Everyone pledges unwavering loyalty to the new leader, but loyalty wavers the moment that the leader’s position is seen to be weakened. Personal loyalty is a relation of trust, yet it seems that you can’t trust anyone.

Study Questions

Read the questions and select one for study.

1. Government Advocacy. Governments actively seek to shape public opinion on a variety of personal choice matters, e.g., compliance with drink driving law, healthy lifestyle, and personal conduct toward persons of the opposite sex. Often the public servants heading these initiatives are dedicated to the government’s objective. They may even be zealots. Does this arrangement conform to the ideal of civil service impartiality? MUST the Office for the Status of Women be headed by a feminist? Should the sexual orientation of the person heading the AIDS campaign be taken into consideration by the appointing minister?
2. Lying. In *Whatever It Takes*, Graham Richardson stated that “under the Westminster system, a minister must lie and lie often.” He did not add what everyone knows—that according to the conventions of the system, ministers found to have misled or to have lied to Parliament must resign. Richardson thus suggests that there are two sets of rules. The ostensible rules that bear the standard of publicly defensible integrity, and the actual rules that square with the exigencies of the real world, where integrity and power do not necessarily walk the same path. Minson’s defence of Richardson’s “low ground” in public life is meant to show that it is compatible with and indeed indispensable to a civic culture that does not assume office bearers to be saints. Is this defence convincing? If so, why?
3. Public confidence in judicial impartiality is believed to be essential to confidence in society’s capacity to maintain principles of fairness. Yet in recent years

feminists have argued that judges express male biases in their rulings. Re-education of judges, and the appointment of more women to the bench have been proposed as remedies. Does this seem a plausible solution, or does it, as some critics suggest, substitute one set of prejudices for another?

Week 3

The Medical Profession

Health services today are involved in most aspects of life. Thus, sanitation, occupational safety and hygiene concerns extend health surveillance into every business and household. Health promotion is education designed to draw attention to unhealthy life styles and to persuade publics to abandon them. Getting born and dying, once things that just happened, can be ethically and medically very complicated today. From the public there is demand for ever-expanded services, and complaints and litigation about those already offered. Health ministers have a difficult portfolio; sometimes they perceive its terrain as a battlefield of clashing interests.

In this segment, some of those conflicts will be explored.

Health services are delivered by a combination of administrators (in public and private organisations) and medical staff. The terminology in use today calls all of these personnel “health care professionals,” contrasted with the “clients” of the health care system. The terminology communicates the notion that the ethical basis of health service is professionalism.

One image of the health services battlefield depicts administrators in conflict with medical staff. The conflict is mainly about resources. Another image depicts nurses in conflict with doctors. It is toned by gender issues. Still another image depicts the health system in conflict with clients. This makes for a complicated and stressed health services environment.

Conflict among professionals challenges a major assumption about the professions on which the vision of the professions as a stabilising factor in modern life rested. The assumption was that the professions, like the knowledges on which they rested, were *mutually consistent*. This vision underestimated conflicts arising from professional groups as interests; it also

over-estimated the consistency of knowledge. Is the Greenhouse effect real? Experts disagree. Is a particular drug safe? Experts believed that it was but discovered their error after the body count. And so on.

Medical ethics are comprised largely of standards of “best practice,” “good practice,” and “malpractice.” The distinction between “best” and “good” practice is made because circumstances do not always permit best practice. These standards are developed in a variety of ways.

Legal/judicial. When organ transplantation became possible, it was necessary to arrive at a legal and clinically practicable definition of donors who would die as the result of removing vital organs. The Commonwealth Law Reform Commission investigated the matter, took public submissions, and after due evaluation, proposed the brain death definition of donors that became the Australian standard. This is typical of the way in which standards are put in place and tested.

Medical consensus. Medical consensus arises through professional associations, teaching, and publication. Standards are constantly up-dated owing to advances in diagnosis and treatment. Consensus on broad and general matters are included in codes of conduct. Consensus on the details of treatment are incorporated into the standard procedures of hospitals and clinics.

Consumer advocacy. This term covers a diverse range of public inputs into provision of services. In Queensland and other states, the Health Rights Commission is established in legislation as an independent agency to act as a consumer advocate and as an arbiter/conciliator of complaints patients may have against service providers.

Bioethics. This ethics specialisation arose in the 1960s in response to the socially far-reaching consequences of medical services. Early concerns were with genetic engineering, in vitro fertilisation, transplantation, abortion, and experimentation on human subjects. More recently its concerns have been patient autonomy, privacy, access to records, drug trials and drug safety, and equity in resource allocation.



The Readings

Clyde H. Farnsworth

Clyde H. Farnsworth, *The Children of Duplessis*. This *New York Times* dispatch exemplifies a category of reporting, the medical horror story. In this case, doctors, nuns, administrators, and a premier collaborated to reclassify Quebec orphans as mental defectives. The motive was “greed”: the Canadian government subsidy for mental defectives was twice that for orphans. Horror stories are examples of practices so cruel, unlawful, outrageous, negligent, or incompetent that they are “unbelievable” and cast doubt on the trustworthiness of institutional medicine. Other examples are: approved drugs and medical devices that turn out to be lethal, amputating the wrong limb, induced addiction to prescription drugs, unnecessary surgery on a large scale (most Caesarean sections are for doctors’ convenience), instruments left in patients after surgery, and hospital acquired illness, injury, and death. Because such incidents occur as a regular part of health services, some consumer advocates call the health system “a war zone.” (Observe that this description is “demonisation”).

The *Children of Duplessis* story exhibits the power of respected institutions to perpetrate an “unthinkable” abuse and get away with it, until the development of the law of accountability provided some recourse.

AMA

Federal Australian Medical Association, Code of Ethics. An edited version of the lengthy AMA Code is printed here. This Code, like most codes of ethics, is DECLARATORY, that is, not an enforceable document. It declares the profession’s consensus on standards of best practice. While these standards are not enforceable, they are nonetheless an important point of reference in disciplinary tribunals, courts of law, and public discussion of medical duties and reasonable client expectations. Few doctors actually consult the Code to discover what their obligations are. The reason they do not is that the norms declared have long since been “internalised” through education and normal professional experience and communications. Codes are important as declarations to the public of what a professional group believes its norms to be. They could be said to define the practice of the “virtuous physician.”

In reading the Code, try to identify the principles of medical ethics and their source.

Ian Siggins

Ian Siggins, *The Ethics of Care and the Ethics of Justice*. The author is Commissioner of Queensland’s Health Rights Commission. The Commission was established as an independent authority in 1991 as a health client advocacy

organisation. It receives complaints about medical services, investigates them, and seeks to rectify, by negotiation and conciliation, mispractice on the part of hospitals and individual doctors. The Commission has no power to impose penalties. Its annual report classifies complaints according to established categories, and describes the results of the Commission's investigations.

The reading is an excerpt from a public lecture sponsored by the School of Applied Ethics, Griffith University. On that occasion the Commissioner invited public submissions toward a Code of Health Rights and Responsibilities (adopted in 1995). The code is declaratory. Siggins explains why it would be unwise or impracticable to set up a legally enforceable code regulating doctor-patient relations. The Code is a statement of mutual expectations between doctors and patients.

The essay expresses his experience in investigating complaints and reconciling differences. The essay exemplifies the operation of practical wisdom in analysing a cluster of professional services and seeking reforms outside the agency of law.

Edmund D. Pellegrino

Edmund D. Pellegrino, *The Primacy of the Act of Profession*. Medicine is often defined as the *art* of healing and comforting the sick. It is an art rather than a science because it is an applied activity. The author, who is a physician and a professor of medical ethics, derives the physician's professional duties from the service owed to sick persons accepted for care. For the patient, sickness is an "ontological assault." He means that in sickness the person's sense of self is challenged, by reducing self-confidence, impairing body image, inducing anxiety, and compromising freedom of action. To paraphrase John Stuart Mill, the sick person has experienced a loss of "sovereignty" (or autonomy) over their body and perhaps also over their emotions. This inequality of power between doctor and patient is to be regulated by the doctor's *profession* to be a healer and the patient's expectation that the doctor acts exclusively to heal or to comfort, and to restore the patient to the pre-sickness autonomy.

Notice that the author makes technical knowledge and skill an indispensable condition for professing medicine. The incompetent physician "is worse than a quack" because he deceptively "enshrouds his ignorance in a mantle of science."

Pelligrino devotes considerable attention to patient autonomy. To respect autonomy is to make the patient a partner in the healing process, by disclosing the facts of the illness and treatment, by encouraging their moral agency, and by assisting patients to make informed judgments about treatment decisions.

Activities

Media watch. The film *Awakenings* is about Dr. Oliver Sachs's astonishing success in reviving cognitive function in patients with severe dementia. Obtain the film from a video shop. What do the action and dialogue communicate about patient autonomy? About physician autonomy?

OR

Television series about doctors communicate considerable information about medical decision making and about constraints on decisions imposed by institutional or personal circumstances. Jot down some of the non-medical influences on medical decisions, noting particularly how character differences of medical officers influence their decisions.

Data of Ethics

° A distinguished physician, Dr. Lewis Thomas, wrote this benchmark of the dramatic change in medical ethics with this reminiscence, written in 1985.

“[Fifty years ago] medical ethics referred to a small set of unambiguous, nonphilosophical matters worried over only by doctors and their families and related exclusively to money. Doctors who advertised, overcharged their patients, surreptitiously took over the care of patients already being looked after by another doctor, or split fees with other doctors were unethical and that was what the word meant. Doctors who performed abortions were not unethical, they were immoral or criminal, or both. Human experimentation was not unethical because there was no such activity, or perhaps it is better to say that it was not realised, even by practicing doctors, that experiments were performed on patients in the normal course of medical practice.”

Note that on Dr. Thomas' account, doctors were not aware of an obligation to seek the patient's informed consent to

treatment decisions. Medical practice without informed consent or respect for patient autonomy is called “paternalistic.”

° Medical “hype.” Media reporting of medical stories often alternates between demonisation and valorisation (atrocious stories and saving lives stories). Doctors are very sensitive to the need to maintain the profession’s “image.” Practice requires on-going attention to “public relations,” including emergency campaigns in response to ministerial attacks or public outrage. This public interface was not part of medical practice fifty years ago. Some elements of the medical profession engage very directly in public relations activities. One such element is research medicine, where medical scientists are tempted to “hype” their discoveries to justify funding and to build their prestige quotient. Other elements engage in scare campaigns, to shape public support for outcomes of dubious health relevance. Thus, the AIDS education campaign claims that everyone is at risk and that AIDS is the greatest threat to public health today. In reality, AIDS constitutes a very minor fraction of Australia’s annual mortality and morbidity—far less than is due to road accidents.

° The Professional Indemnity Review conducted by the Commonwealth government found that 400,000 Australians annually suffer illness or injury from medical treatment errors. About 230,000 of these cases could have been prevented by increased care and vigilance. Fewer than 2000 of these cases result in litigated compensation claims. Most of these cases are won by doctors.

Study Questions

1. The Queensland Bill of Health Rights enumerates patient responsibilities. Among them are the patient’s contribution to preventative medicine, by avoiding unhealthy lifestyles. According to public health advice on prevention, Australians acquire obesity by eating too much of the wrong foods, consume too much alcohol, engage in unsafe sexual practices that place them at risk for communicable diseases, and should not use tobacco products. Is this list of prohibitions compatible with respect for autonomy? Is it imaginable that for some persons, a healthy lifestyle might constitute an “ontological assault” on the sense of self?

2. Siggins states that “I can say with assurance that some failure of communication is an intrinsic element of 80 to 90 percent of health complaints.” He associates these lapses with the failure of providers to take sufficiently into account the dignity of patients. Critics reply that allocation budgets do not cover the costs of counselling needed to help patients resolve the anxiety and sense of loss in sickness that leads to striking out, including punishing providers by complaining to the Health Rights Commission. They say that complaining to the Commission is a “therapy” could not be provided in any other way. What do you think of this?
3. The doctor-patient relation set out in our readings has been criticised for not addressing important facts of contemporary practice. It assumes that patients *want* to know the details of their sickness and want to participate in medical decision making, whereas many are made anxious by these details and the majority prefer to leave treatment decisions to the doctor. This means that most patients *prefer* the paternalistic doctor-patient relation, although it lacks legitimacy in contemporary ethics. Consequently, a large proportion of medical practice does not conform to a key ethical principle because neither doctors nor patients want it. Is this a satisfactory state of affairs? What would be your advice toward change?
4. The first sentence of the AMA Code states the principles of the doctor-patient relation. It affirms the authority of doctors, derives authority from knowledge, affirms the passivity of patients relative to superior knowledge, and defines the patient’s relation to the doctor as one of trust. Does this amount to saying that the first rule of medical ethics is “doctor knows best”?

Week 4

Review and Assessment

This review is designed to promote your grasp of the landscape of ethics. It recapitulates some of the main concepts developed thus far, and reviews some of the terminology and facts central to the subject.

Our initial discussion of visions was followed by consideration of the professional ideal and then the presiding vision of the medical profession. We defined a vision as “a compelling synopsis of the good (or holy) life, of truth and justice, of the world and of ourselves as they ought to be” (Study Guide, Week 1). The practicality of visions was emphasised. They are used as models by which individuals and communities shape their conduct to achieve ends stipulated in the vision. As a tangible example we referred to the aspiring athlete modelling her or himself on an achiever. The modeling process is an imitation of the model’s life, stressing the personal self-control, and persistence, and commitment in the quest for sport excellence.

The relationship between vision and model is that visions are frequently communicated as the sayings and action of a specific person. Thus for Jews the model person is Abraham; for Buddhists, Buddha Siddhartha Gautama; for Muslims, Muhammad. In the case of religious visions, we have a master vision based on a central person, which gives rise to a galaxy of lesser visions. Thus Buddhists recognise about 5000 sacred texts and many lineages of wise men. Christianity developed many religious orders, each dedicated to a specific mission, each with a specific devotional practice and interpretation of salvation. The diversity of visions within a moral or religious tradition corresponds to human diversity and to diversity of experience.

Visions are “ideals” in the double sense that they stipulate an ethical aspiration (the core of their practicality) and that they soar above the grubbiness of the “real world.” According to tradition, the Buddha’s ethical journey began at the age of eleven, when he shed tears on seeing a bird tear worms from freshly plowed earth. His teaching of unlimited beneficence

(sympathy with the suffering of all living things) is “unrealistic.” Most Buddhists are not vegetarians and there is such a thing as the Buddhist soldier. Moral traditions compensate for the “unreality” of visions by producing context-sensitive practical wisdom and legitimations of profane practice. Our contrast between the visionary Singer and the politician Richardson was meant to bring out this point.

Ethical principles codify ideals implicit in visions, and to the practice of a particular ethical community. The principles of Buddhism, are codified as the Fourfold Noble Truth and the Noble Eightfold Path. The principles of Islam are the Five Pillars. The principles of Christianity (for Catholics) is that Jesus of Nazareth is the Messiah promised by the prophets and the authority of apostolic succession through St. Peter. These very abbreviated statements of principles diversity into many living traditions.

A similar structure carries over into secular ethics. The diversity of secular “schools” of ethics is analogous to differences in religious visions. We have made acquaintance with the conservationist vision and the professional vision. Each of these visions has developed a codification of principles.

Another vision to be considered later is Human Rights. Its principles derive from European law and a specific vision of the tasks of the modern state (a vision that is also a component of the professional vision).

Yet another vision is philosophical. It rests on an intellectual tradition according to which the private reason of individual philosophers may be vouchsafed a vision of the ultimate ethical principles of Reason. The large number of ethical systems have been trimmed back by the current consensus to just two. They are Deontological (a theory of duties) or Utilitarian (a theory of expediency). Philosophical ethics is distinctive among ethical visions in that validation is independent of the experience of a specific ethical community. It is not paradoxical for a philosopher to claim that his ethical system alone is true and right. The same claim for legal or medical ethics would be incredible.

The professions provide a major ethical vision for the modern world; more precisely, a cluster of closely related visions. As your examination of the AMA Code of Ethics will have shown, the ethical principles of professional practice are inherent to technical competence, to the relation with clients,

and to the community of practitioners and clients. Ethical medical practice is not possible outside bounds of the ethical community stipulated in the Code. The principles of medical ethics arise from the experience of this community, including the experience of law.

This critical fact about the origin of principles is proved indirectly by instances when medical practice IS released from community and legal surveillance. It has happened in wartime, in weapons development, and in state security organisations. Medicine, taking on the color of its environment, becomes an instrument of torture, terror and killing. The AMA Code refers to this possibility when it stipulates: “Regardless of society’s attitudes, do not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman, or degrading procedures whatever the offence of which the victim of such procedures is suspected, accused, or convicted.” If all doctors respected this principle, certain hideous weapons and interrogation methods would not exist. Like science, all professional expertise can be perverted to inhuman uses. So indeed can ethics and religion.

The professions provide a cluster of services essential to the functioning of modern society. Their character and social role is sometimes compared with religious orders of the past. The professional, like the monk, subordinates his or her personal wishes to the rules and purposes of their service. The ideal is motivationally robust enough to justify the sacrifice of reputation, fortune, or even life in its service, should circumstances require. Queensland’s leading AIDS clinician died of an infection acquired in the course of treating a patient. He knowingly accepted the risk. Neither he nor his colleagues cast blame.

Our readings uncovered an ambivalence about the relationship between the professional ideal and the persona of the practitioner. Pellegrino’s account of the “act” of the physician roots healing and comforting at the deepest levels of character. Whitton by contrast expresses reservations about this degree of personal commitment among civil servants. Can the liberal state, which leaves individuals free to choose their personal commitments, demand that public servants (of which there are many) dedicate themselves, in an almost religious way, to service? He thinks not. He proposes instead an “ethics of role.” During business hours, public servants are to act *as if* they were fully dedicated, but after hours they may pursue the lifestyle of their choice. It would seem on Whitton’s account that the same public servant who

has responsibility for the government's anti-smoking campaign can puff away in the privacy of her home.

This problem arises partly because “the public service” denotes in the first instance a type of employment, not a specific service requiring specialist training. Junior clerks are as much public servants as the senior executive service. This is another way of saying that the public service is not a profession. But it can be “professionalised” (Study Guide, Week 2). Professionalisation spreads the civil service ideal through all ranks, but it does not demand the high dedication expected of those in the senior ranks.

The liberal state does not leave public servants or judges free to live as they please. Most senior public servants relinquish the common political rights to stand for office and to participate in party politics. They must also be persons of “good and sober character” or persons of “high integrity.” These restrictions on individual freedom may be squared with the liberal state's grant of freedom by observing that the state offers some citizens the choice of voluntarily relinquishing some freedoms for the higher aims of service.

Traditional models of the professional ideal do not articulate the element of power exercised by professionals and public servants. There are two reasons for this. The first is institutional. Public servants, judges and doctors make decisions and take action within established structures whose legitimacy they do not need to defend in the political arena. The creation of new structures, and the defence of existing ones, is a political function. Professionals, as professionals, do not engage in “power struggles;” at least, not very often. The second reason is conceptual. The professional, like the craftsman, does not think in terms of power but in terms of objectively correct execution of a task. In designing the bridge, the engineer is not concerned with her power over concrete and steel, or with impressing motorists, but with creating a safe and dependable object of use. The aim is to get the task right, from drawing board to the completion of the actual structure. Similarly, the doctor is not concerned with her power over the patient, nor the judge with power over the defendant, but with restoring health or doing justice.

The turmoil in the professions today results partly because the omission of power as an independent variable is “unrealistic.” Professionals exercise enormous power individually and as professional groups. The new ethics of the professions (as well as recent legislation, e.g., Freedom of Information) is

meant to make the exercise of power explicit and accountable.

An example in medicine is the concept of patient autonomy. As we saw (Study Guide, Week 3), the autonomy concept revises the doctor-patient relation. The old paternalist relation (“doctor knows best”) is replaced by doctor-patient cooperation in which the patient is a partner in the healing process. The difference is sometimes characterised as a transition from dictatorship (“the doctor is always right”) to democracy (“it’s *my* body, not a chook in an assembly line!”).

However, patients have no control over the health system, just as citizens have no control over the administration of justice. They cannot influence the theory of disease on which standards of practice are based. They have no way of participating in determining the directions of medical research and medical technology development, although both profoundly influence elements of the doctor-patient relation. Mechanisms such as Health Rights Commissions are partial remedies for this power imbalance. Similarly, the autonomy ideal is a small though significant island in the sea of medical dominance.

Visions are characterised by certainty, trust, prestige, and authority (Study Guide, Week 1), all of which are non-rational factors that cement ethical visions into regular practices. Their non-rationality is requisite to their functioning as visions shared by a community marked by great diversity of experience and knowledge. Expertise in botany is not a condition for participating in the conservationist vision. Even children can and do participate. Students commencing the study of law take it on trust that their teachers, and their own diligence, will gradually reveal a consistent vision of public justice. It is not uncommon for law students to place themselves in tutelage to a prestigious legal tradition, in which they do ethical apprenticeship.

The non-rational elements of ethical visions help us understand how the content of visions can change over time, while yet maintaining their authority unimpaired. To illustrate: In 1889, the Canadian Supreme Court upheld a statute stipulating that resident Chinese (coolie labor) and Eskimos were not persons. The stipulation meant that these groups did not enjoy civil rights. Today both legislation and the courts of Canada are of the opposite mind about civil rights. Yet this drastic change does not impair the prestige or authority of law in Canada today.

If ethical visions depend on non-rational factors, does this mean that Reason cannot adjudicate between them? And that consequently, as far as Reason is concerned, they are all “relative” (anything goes)? Implicit in these questions are many more, some of which will be explored in subsequent weeks, particularly in dealing with Multiculturalism. For the moment the following points may be noted.

- Relativism (also called “nihilism”) is a *philosophical* school of thought. It is not usually enumerated along with Deontology and Utilitarianism because it is not a distinctive ethical stance. Any number of incompatible life commitments may “follow” from it. One is religious faith; another is to live as you list; another is pragmatism.

- Philosophical relativism is compatible with religious traditions claiming that ethical principles derive from a supra-rational source—revelation. Indeed, there are streams of theological ethics in which the inability of Reason to prove ethical principles is used as a proof of the necessity for divine revelation.

- In your imagination, make a thought experiment of living as you list. There are many films and books to assist you. In the film *Pulp Fiction*, the characters are unacquainted even the meaning of morality—and feel no inner compulsion to learn. They inhabit an underworld of predatory crime, betrayal, and violence. Power relations replace authority and legitimacy. Above the underworld is the straight world, which prohibits living as you list. Many actions are prescribed and proscribed. Not to perform is to lose friends and to acquire residence in a correctional institution.

- Ethical relativity becomes real as choice only when we abandon our ethical community and individual commitments. We can explore the exotic spaces of relativism imaginatively, but we cannot enter them without undergoing a major rebuilding of our person and perhaps our psyche. Stalkers who fall in love with a celebrity and imagine themselves in consort exemplify what happens when the distinction between imagination and reality is obscured. Owing to the abundance of imaginative representations in our media-dense culture, confusions of this kind are frequent. They are a problem of some kind, but they do not represent a challenge to the validity of ethics.

- Perversions of ethical visions, e.g., doctors assisting in torture, or religious groups engaging in terror, do not occur

under the auspices of relativism so much as the auspices of zeal untempered by practical sense.

- Court records and other relevant data indicate that philosophical doubt about norm validity accounts for few breeches of professional ethics. A far more common motivation is the belief that they could get away with breaking a rule whose validity for professional practice they do not doubt. When mispractice or unlawful acts are motivated by intellectual scruple, the motivation is nearly always made public, e.g., the debate on abortion or euthanasia. The “rogue” norm turns out to be a challenge norm seeking legitimacy in law and accepted practice. (Note that the AMA Code allows conscientious abstention from accepted practices that offend the individual’s conscience).

- The experience of personal “avalanche effects” is common today owing to the complexity of contemporary culture. Bewilderment is often an element of the avalanche. Sometimes the outcome is entry into the underworld. The more common outcome is switching from one ethical vision to another, after an intermezzo of relativism. Bewilderment can assist grappling with “mind-boggling” alternative ethical visions and with human experience that seems “beyond the pale,” for it involves temporary suspension of belief. As students we may cultivate a temporary indifference to alternatives so that our minds do not “boggle” at extreme positions. If you can stomach *Pulp Fiction*, you should be able to handle the next assignment on euthanasia, where we encounter a duty to kill. You already know about this duty under the name “mercy killing.”

Data of Ethics

Schools of philosophical ethics.

Deontology. The term is derived from two Greek words that together suggest “the science of duty or moral obligation.” The term was introduced in 1826 by Jeremy Bentham to signify his purpose in writing about the principles of morals and legislation. In current usage, deontology is understood to refer primarily to the ethics of Immanuel Kant, because he taught that ethics could be rationally founded on absolute prescription of duties, called “categorical imperatives.” Philosophers who propose unconditional duties (duties that stick regardless of circumstances) are said to cultivate deontology. Religious ethics abound in unconditional duties, but since they appeal to sources beyond reason, they are not counted as philosophical. Unconditional duties (or prohibitions) are often introduced into secular ethics. A term currently used for absolute duties is “zero tolerance,” as in zero tolerance for misappropriating trust funds by lawyers, or sexual overtures during a medical examination. These offences are grounds for striking from the role.

Utilitarianism. This school declares that the rightness or wrongness of actions is to be judged by their utility in promoting the greatest good of the greatest number; “good” means happiness, pleasure, or welfare. Kant was quite aware of the utilitarian principle, which he believed he had decisively refuted. His refutation is the reason why deontology is contrasted with utilitarianism as its polar opposite. Unfortunately for students, the utilitarian *Bentham* claimed to be a deontologist. To confuse matters further, Bentham rejected virtue-based duty as “mere sentiment,” adding “it is very idle to talk about duties . . . ‘ought’ is a word that ought to be abolished from our vocabulary.” He meant that human action is determined, in a mechanical way, by those two “sovereign masters,” pleasure and pain. Yet if the will is determined, humans have no more need of deontology than does Felix the cat. The greatest happiness principle was introduced into ethics by the Scottish philosopher Frances Hutcheson in 1726. It was developed by Anglican moral theologians into a complete ethics. Bentham cut the tie with theology, and launched a new utilitarianism, by associating utility with market economics. This association gave utilitarian ethics its connotation of materialist, selfish interests. The most influential utilitarian philosopher of the last century was Herbert Spencer. He was a fervent advocate of the market economy as the path to universal happiness. He equated state intervention with

political slavery. His star faded in this century. In ethics his star faded because he taught that the weak, the do-nothings, and orphans *ought* to perish, according to the maxim (which he coined), “survival of the fittest” in the “struggle for existence.” The social and genetic deaths of the “unfit” were nature’s way of advancing the progress of society. To interfere with this process is not only ignorant; it also thwarts the *moral* progress of society and in the long run increases unhappiness. Other utilitarians of Spencer’s generation drew very different conclusions by starting from the same principles. James F. Stephens, for example, denied that liberty had any human value apart from the greatest happiness principle. Consequently, economic laissez-faire was ethically unwarranted. Inconsistent outcomes continue to characterise utilitarian ethics in this century. Some utilitarians promote animal liberation while others reject it on the grounds that animal suffering is uncontrollable.

Deontology and Utilitarianism are but two among current schools of ethical thought. Others are Feminist ethics, Humanism, Pragmatism, Marxist ethics, Aristotelianism, Existentialism, Environmentalism, Evolutionary ethics, and Nihilism. The *Companion to Ethics* describes most of these schools.

Essay Questions—see Subject Information of the Study Guide



The Readings

Reread the Study Guide and Dossier for Weeks 1-3.

Week 5

Euthanasia: The Professional Perspective

Preliminary remarks. Euthanasia seems to be a simple proposal to revise medical ethics so that doctors may legally assist patients to die at the time and in the manner of their choosing. People are said to have a “right to die.” The right is founded on the autonomy of individual determination of things that concern themselves. Few life events focus individuality more than death. Surely here, if anywhere, the individual has a right to choose.

If this were the issue, there would be no cause of public debate. Civil law no longer prohibits and punishes suicide. (It once did. A common practice in England was to disgrace the memory of the suicide by dragging the corpse through the streets). It becomes a public issue when the individual wishes to recruit a second party to assist dying, or to kill them. The euthanasia debate is about the proposal to revise the law of homicide so that it permits physicians, in certain circumstances, to assist dying or to kill patients.

The proposal is often compared with the legalization of abortion. Abortion was long opposed by most doctors and lawyers on ethical grounds. But when it was finally accepted, it turned out not to be as bad as its reputation.

This analogy may be misleading. For one thing, abortion can be applied only to pregnant women, whereas euthanasia applies potentially to everyone who dies a natural death. The implications for personal choice, and for professional practice, are therefore extensive.

The previous weeks’ work familiarized you with the professional ideal. This ideal is very important in the euthanasia debate. The two professions most closely involved are medicine and law. Medicine is pledged to preserve life; law to preserve innocent life. While these professional ideals will be prominent in our study, we will develop another perspective on the issue—the citizen perspective. The citizen isn’t merely a client of government

service provision, but takes her or himself seriously as a participant in the governmental process. This involves, among other things, making an effort to arrive at informed judgments about matters of public moment. The euthanasia issue is well adapted to this exercise because each of us, at some time in our lives, are challenged by the death and dying of loved ones, and of course, by the prospect of our own death.

In dealing with this topic, you are asked at specific points to take particular note of your own views. If you follow instructions, you will compile a Before and After picture of your initial opinion and your informed opinion. This contrast will help you self-assess your progress.

Getting Started. If you are a typical young Queenslander, you have already considered euthanasia; the chances are 9 in 10 that you approve. That's the conclusion drawn by journalists who write up the results of telephone polls.

The question surveyed in the *Courier-Mail* poll of June 23, 1995 was:

Thinking now about euthanasia where a doctor complies with the wishes of a dying patient to have his or her life ended. Are you personally in favour or against changing the law to allow doctors to comply with the wishes of a dying patient to end his or her life?

Respondents who answer that they are “strongly” or “partly” in favour of legal change are scored as approving legalisation of voluntary euthanasia. Respondents who say that they are “strongly” or “partly” against the change are scored as disapproving.

Let's try an exercise. Imagine that your telephone was among those randomly selected and that a stranger said that she would like to get your opinion on current issues. You were about to leave for your aerobics class but you don't want to be rude to the caller. What is your response to the *Courier-Mail* question?

What do you envisage, precisely, happening between the doctor and patient? The question covers two possibilities.

Voluntary euthanasia. The doctor kills the patient at the patient's request. A lethal substance such as potassium chloride is injected.

Assisted suicide. The doctor provides the patient with a drug or other lethal substance and the patient self-administers.

Both these acts are homicide under Queensland law, although the public prosecutor could elect to charge persons participating in assisted suicide with manslaughter or some other lesser offence. The prosecutor could also elect to take no action at all.

Did these two possibilities come to mind? Were you aware that voluntary euthanasia is chargeable as homicide? Did you know that the prosecutor has the option *not* to bring charges? Did you know that in 1995 the public prosecutor of South Australia decided not to bring charges against a woman who killed her father by disconnecting the ventilator?

Suppose now that the interviewer asks your reasons for approving or disapproving euthanasia. How would you respond? Take a few minutes to

THINK ABOUT IT

How many reasons did your search come up with? One really good reason? Several reasons? If several, jot them down. If you answered that you were “partly” in favour or against, what did you mean exactly? That you are in favour, but on condition that safeguards are built into the legislation? That you disapprove, but think that in some circumstances euthanasia isn’t morally wrong?

Now let’s compare your thoughts with what others say.

Next of kin. In these days of wonder drugs and surgical miracles, most of us have a loved one in the twilight zone. Many are aged, but quite a few are the younger chronically ill and severely disabled. Often the next of kin carry in their heads a “before and after” mental picture that calibrates the declining person’s enfeeblement by stages: loss of continence, the move to the nursing home, vagueness about the names of grandchildren or even children. Next of kin often ask the doctor: “How long does she have to suffer?” Doctors interpret the question as a hint that the inquirer

would be grateful if the doctor helped her to die. It would end the suffering of the patient and the next of kin.

Make a note of whether this reason for approving (or disapproving) euthanasia occurred to you.

Anger. Normal, ordinary people express homicidal thoughts when they become really angry. Most nurses attending dying patients have encountered it in next of kin. Sometimes they abuse nurses and doctors for uselessly prolonging life. Sometimes they fume to the nurse about the patient. Sometimes they do both. The following incident occurred recently in a Brisbane hospital. A nurse called the wife of a man that she believed would shortly die. But when the wife arrived, the patient was conscious. She was furious at the nurse for needlessly interrupting her day and declared, "I wish the old bugger would die!" The nurse explained that the old bugger was indeed dying even though he was conscious. But the woman stormed out, leaving her husband to die with the nurse some half-hour later.

The woman in this story entertained homicidal thoughts toward a dying person, her husband. There is a range of responses to such feelings.

At one end of the spectrum, observers are shocked at the brutality. If they have duties of moral counsel, they reproach the expression of such feelings. It is inexcusable, indecent conduct toward anyone, but especially toward a spouse, it is said. Moral counsel demands that such feelings be replaced by love and patience. At the very least, decency requires that they not be expressed.

At the other end of the spectrum the woman's conduct is excused. A common excuse goes like this: "Bravo for refusing the burden and the guilt! The indecency isn't hers, but his pathetic clinging to an empty life. He exhausted her capacity to care, not to mention exhausting the family resources. If the old bugger had any decency, he would have died years ago. For stragglers like him, euthanasia is a quick way to deliverance."

Review the reasons you jotted down for approving euthanasia. Did they cover this case? Do you agree that people who insult the world by loitering about, strapped to machines and foul smelling, ought to hear some straight talk? Or that it is unconscionable for stragglers to go on indefinitely demanding care and consuming scarce health care dollars?

If you agree with these thoughts, you classify as a person who endorses “the duty to die.” We will come back to this idea.

One in 10 of younger Queenslanders in the *Courier-Mail* poll “partly” or “strongly” disapprove legalising euthanasia. If you are among them, what reason did you write down? A reason commonly given, by many doctors and clergy, is “sanctity of life.” This phrase means that as individuals and as a community we have a duty to care for the disabled, the sick and the dying. That includes the handicapped infant who requires total care for life and silly old buggers who loiter among the living. Euthanasia denies that duty and turns a harsh face toward those most in need, sanctity of life advocates say. To deny the duty is, at the personal level, to excuse the brutal treatment that the wife meted out to her dying husband. As a lawful social practice, euthanasia would in time brutalise society by giving effect to the idea that people should die at the right time.

The sanctity of life argument breaks down into three sub-arguments—one medical, another legal, a third religious. The medical argument deduces the professional prohibition on killing from the internal structure of medical practice. It goes like this. The physician’s duty is to heal and comfort. These are the primary “acts of the profession” (Pellegrino, Week 3). Patients trust the doctor to use her power only in service of healing or comforting. If terminating life were tacked on to medicine as the last duty of the physician, patient trust would be undermined. The doctor would also be affected. Doctors would have to overcome their ingrained abhorrence to killing patients. Once this was done, doctors would be free to substitute their personal judgments about the quality of life worth living for the medical art of comforting. The emphasis is on “worth.” Said one AMA president: “There is no doubt that the most economical way of dealing with sick people is to kill them ... but as doctors in this community our aim is to care for the sick and killing them is not a view we would support.” The AMA supports a service to the dying called “palliative care.” Patients in palliative care receive no treatment to retard dying. They receive sedation to control pain or discomfort and they receive the personal touch that dispels social isolation. (The formula for palliative care was devised by the British nurse, Cecily Saunders. Her motto: “You matter because you are you, and we will enable you, not only to die with dignity, but to live until you die.”)

The legal argument was put on record by the Canadian Supreme Court in its ruling on a suit brought by Sue Rodriguez under a provision of the Canadian Charter of

Rights. Rodriguez is incapacitated by Lou Gehrig disease, a progressive degenerative disorder. She claimed that her disability prevented her from exercising the right to suicide, and that the refusal of doctors to administer a lethal drug frustrated her right to suicide. She claimed a right to die that would oblige the British Columbia health service to provide a doctor to kill her. In its decision the Court stated that it is the paramount duty of law to protect human life. Rodriguez's claim under the Charter had therefore to be compatible with that duty. By creating a right to die, the Court judged that it would create a generalised public duty to kill those claiming that right. It would also create a presumption that there is a moral duty to die; and this presumption would put pressure on vulnerable persons, in no position to resist an established social expectation, to request euthanasia.

The Canadian Supreme Court's estimate of the probabilities of the effect of a legal right to die has been seconded by the House of Lords Select Committee on Medical Ethics inquiry into euthanasia, and by New York State Task Force on Life and the Law (a permanent committee that considers a wide range of issues). Both recommended against law reform because, in their view, creating a right to die sets up a legal logic leading to a duty to kill and a duty to die. The Lords Committee stated: "Prohibition [against intentional killing] is the cornerstone of law and of social relationships. It protects each one of us impartially, embodying the belief that all are equal."

Both these bodies were influenced in their assessment of probable consequences by euthanasia practice in the Netherlands. Although Dutch law builds in many safeguards, in practice they are widely disregarded. Dutch opinion so strongly supports euthanasia that doctors and patients make whatever arrangements they wish. The House of Lords report laid particular stress on the legal implications of creating a right to die. It pointed out that rights are powerful tools. Individuals could use it (as Rodriguez attempted) to oblige the state to provide a painless death at a time of their choosing. It could also be used to halt initiatives, common in health services today, to address the rising levels of suicide among teenagers and young adults. The argument would be that the state has no business interfering in the private judgments of individuals to end their lives. They have a right to die. They would also have a persuasive legal argument that the state must provide them the means to the suicide of their choice. It would be open to claim means other than a lethal injection; and administrators other than doctors.

Someone could demand to die by public hanging. Rights, once granted, have a logic of their own.

The religious, or theological, argument for the sanctity of life is based on a belief about the moral boundaries of human action set by divine law. Suicide and homicide are prohibited under Jewish, Islamic, and Christian law. Religious moral teaching derives the authority of legal and moral commands from God, whose precepts are absolute. For members of these communities, to set aside the divine command in a particular case is to “play God,” by usurping the divine judgment. Orthodox Jewish law in particular lays great stress on the teaching that the body belongs to God. For secular thought, dying is a natural process in which there is no element of the sacred. This means, for secular ethics, that there is no divine limit on the human will; and most (not all) secular traditions deny that there is a natural limit on the human will. Anything goes.

This secular perspective provides the basis for the claim to a right to die, as the chosen, autonomous act of the individual. On this view, norms lack *ethical* validity unless and until they are thoughtfully chosen by the individual. The limit to valid ethical choice most often mentioned in this tradition is that the choice involves no harm to others. The basis of this limit is the principle of justice as reciprocity, roughly according to the ancient formula, “do unto others as you would be done unto.” It follows that someone who kills another at their request does them no harm; the killing is innocent. But the law interprets such killing as homicide. Euthanasia societies argue that the law is irrational. Many people agree. Time and again, juries acquit persons charged with homicide if they credit the defendant’s claim that the act was a mercy killing.

Euthanasia advocates often say that they seek nothing more than to establish in law the validity of an act, mercy killing, already widely accepted as innocent. To illustrate, they invoke the veterinary analogy. Veterinarians love animals. Yet they and pet owners put down the beloved household pet, as a compassionate act to spare it pointless suffering. This happens daily. There is no autopsy; no death certificate is required. But it is not an abused liberty.

Critics of the analogy point out that the killing of animals doesn’t stop there. The RSPCA, which acts as an animal welfare advocate, also clears the streets of vagrants. Some find homes, but most are put down. They are not killed as acts of mercy to the animals, but for the convenience of human beings and, in the case of cats, to protect wildlife.



The Readings

Letter to Phillip Adams

This letter from a Brisbane woman takes us inside the experience of a person undergoing the slow process of declining powers. It vividly depicts this experience. This person does not complain of pain, but of the anguish of “aloneness.”

Daniel Meynen

This short statement by a leading German advocate of euthanasia is a compendium of thoughts that occur to some of the dying and to their loved ones and care givers. Notice the stress on the anguish of degraded quality of life.

Dr. Marguerite Robertson

The author is medical director of the Mt. Olivet Hospice and a specialist in palliative care. This letter was written in response to Governor General Bill Hayden’s endorsement of euthanasia.

Sir Mark Oliphant

Sir Mark, formerly Governor of South Australia and well known for his advocacy of euthanasia, made these comments in support of the Governor General’s endorsement of euthanasia.

Archbishop Peter Hollingworth

Brisbane’s Anglican archbishop wrote these comments in response to the passage of the Northern Territory bill. The views he expresses had been communicated to the committee studying the issue. In the revision of the draft bill, these considerations were given weight.

The Aborigine view

Aborigines have a distinctive way of dying. What anthropologists call “singing to death” is a communal holding the hand of the dying that prevents the “aloneness” mentioned in the first reading. The dying person lies in the sun during the process and takes no food or water. This hastens death through dehydration.

Susan Gilbert

This *New York Times* front page story reports a finding that many doctors disregard patients’ expressed wishes to be allowed to die. It illustrates medical autonomy in conflict with patient autonomy. The information given in the story implies that doctors do this in order to collect fees. However, doctors say that requests to be allowed to die are often medically uninformed and are routinely disregarded in emergency and intensive care service.

Professor Roger Higgs

This is an excerpt from a lecture to a New Zealand conference on euthanasia, held after the New Zealand parliament had rejected a voluntary euthanasia bill. The author is director of King's College of Medicine and Dentistry, London. The conference focused on the law and clinical practice of what is known informally as “back door euthanasia”—killing the patient as a side effect of pain relief drugs. The clinical rule of good practice that Higgs mentioned is widely accepted: morphine made be administered in doses required for pain palliation, even at the risk of the patient's life. (The Queensland criminal code exempts such deaths from prosecution). Note that Higgs affirms the autonomy of the doctor to decide when and whether to use this back door permission to euthanase. Note that the wishes of the patient are not mentioned by Higgs as a component of the standard he supports. This means that he supports involuntary euthanasia without expressly saying so.

Data of Ethics

° The definition of “natural death” is critical to legal assessment of whether the death of a particular patient was homicide. The South Australia Natural Death Act 1983 defines it as:

“Any illness, injury or degeneration of mental or physical faculties (a) such that death would, if extraordinary measures were not undertaken, be imminent; and (b) from which there is no reasonable prospect of temporary or permanent recovery, even if extraordinary measures were undertaken.”

“Extraordinary measures” are defined as:

“Medical or surgical measures that prolong life, or are intended to prolong life, by supplanting or maintaining the operation of bodily functions that are temporarily or permanently incapable of independent operation.”

° The Natural Death Act was introduced to clarify the duties and legal liabilities of medical staff responding to patient refusal of life-supporting treatment. Prior to the legislation, the duty to save life conflicted with patient right to refuse treatment when the treatment was life-sustaining. Legislation resolved the conflict in favor of the patient. This is now the Australian norm.

Study Questions

1. One commentator on the Rodriguez case chided the Court for accepting it for review. Rodriguez' condition did not prevent her from committing suicide, since she could have died quietly and quickly by refusing food and water. The legal battle was a way of persuading herself that *others* stood in the way of executing a decision for which she lacked the nerve. He concluded that as in many suicide attempts, Rodriguez' "publicity stunt" was a cry for help. Evaluate this analysis.
2. To protect those at risk of suicide, the Commonwealth government prohibits the importation of books describing how to do it. The prohibition has been criticized as an arbitrary infringement of the individual's right to decide for themselves, which should take precedence over minor risks. Evaluate this dispute, taking particular notice of Mark Oliphant's remarks.
3. The Gilbert and Higgs readings suggest that as things stand, physician autonomy outweighs patient autonomy in respect to end of life decision making. What changes of law suggested in the Gilbert article could redress this imbalance of power?
4. Could the Aborigine way of dying be adapted for use by the broader community? Imagine how it might be done in the setting of palliative care. What legal or other problems are encountered?

Week 6

Pause Week

Week 7

Euthanasia: The Citizen Perspective

The Northern Territory Rights of the Terminally Ill Act. Legislation for euthanasia—the first in the world—was introduced by Chief Minister Marshall Perron. It was accepted in June, 1995 by a 13-12 vote taken in the early morning hours.

Citizens of the Northern Territory took a keen interest in the bill. As individuals and members of associations, they talked with their parliamentarians, wrote submissions to the committee charged with studying the issue, debated it in the letters columns of newspapers. Mr. Perron is of course also a citizen. He introduced his measure as a private member's bill, rather than a government bill, to underscore that he was pursuing a personal quest that he believed to be in the public interest.

In July 1995 a similar bill was defeated in the South Australian parliament by a vote of 30-12. This debate was little noticed by the media, but South Australian citizens and parliamentarians have long been acquainted with the issue, partly because the Voluntary Euthanasia Society is active there. In August 1995, the New Zealand parliament rejected a voluntary euthanasia bill by a 61-29 vote. In the State of Oregon (USA), voters approved an assisted suicide bill by referendum in November 1994. The practice was limited to persons able to self-administer the means of death. The law was ruled unconstitutional by a federal district judge, who said that it violates the Fourteenth Amendment rights of dying patients.

The Rights of the Terminally Ill Act incorporates many provisions suggested in public submissions. It places many restrictions on exercising the right to die that the Act creates. The patient must be at least 18 years of age; two doctors must certify in writing that the patient is suffering from a terminal illness; the patient must be in palliative care; the patient must be suffering severe pain; the patient must consider the implications of the decision for the patient's family; two

medical practitioners and a psychiatrist must be satisfied that the patient is competent and that the decision has been made freely and after due consideration; the patient may rescind the request at any time; at least 48 hours must elapse between completion of the request form and the administration of the lethal injection; no doctor can be compelled to administer the injection; it is an offence to improperly influence the decision of the patient; and more.

Mr. Perron intended his bill to be a political testament to his individualist moral philosophy, in which personal choice is the touchstone of the human good. But as mentioned, the act puts many limitations on patient choice. •The requirement that the patient consider the implications for family comes from Aborigines. Suicide is abhorrent among them; they are suspicious of any dying in white men's facilities (hospital deaths and deaths in custody are for them much the same); the Aborigine way of dying requires community participation. •The requirement that the patient must be beyond curative treatment means that patients do not have a right to choose the time of their death. •The requirement that the patient must be in severe pain excludes most palliative care patients, since pain can be controlled when there is no longer any need to regard the addictive side effects of sedative drugs. The result is that when euthanasia is safeguarded by restricting its scope to exactly the patient population who are in severe terminal pain, there will be scarcely any patients to euthanase. Perron's euthanasia bill, one commentator quipped, was turned by parliamentarians into Clayton's euthanasia bill.

Euthanasia in the Netherlands. Euthanasia has been an accepted practice in the Netherlands for nearly two decades. The Dutch are relaxed about it. It is not unusual for a person who has elected euthanasia to hold a farewell party. Friends and loved ones gather for a feast. Sometimes there is a eulogy, and slides of the person's life are shown. Then the doctor arrives and retires with the patient to a private room. It all seems so innocent and simple. Why isn't the Dutch system copied elsewhere?

The Dutch system is so much a product of national traditions that it is not put forward as a model. The Dutch parliament has never created in law a right to die. Instead, Dutch law treats death by euthanasia as homicide. But the law allows two defences against homicide: self-defence and duress. The euthanasing physician formally claims that she or he was placed under such duress by the patient's request that she/he was unable refuse. The claim, in other words, is that the

physician did not act as a free agent. Some doctors have been “coerced” hundreds of times; others never.

The Royal Dutch Medical Association opposes euthanasia legislation because it believes that the key term, “terminal illness,” cannot be applied with exactitude. The RDMA prefers that the legal framework around euthanasia practice should arise through case law.

In case law developed since 1973, euthanasia is acceptable when repeatedly requested by the patient; there is severe mental or physical suffering without prospect of improvement; •there is no other treatment option; on consultation of a doctor with another doctor. Palliative care is absent from this agenda. As we have seen, palliative specialists state that drugs can control pain, and that “aleness” can be dissipated by care that makes the patient feel wanted. They deny that killing is treatment. To call it a treatment is to normalise killing the dying, as the Caesarean section has been normalised in birthing. The rule of good practice for Caesareans is that they are performed only when natural birthing fails in some way. The actual practice is that Caesareans are performed for the convenience of the doctor. Nominally, this is done with the patient’s consent (she signs a consent form) but a woman in labor has no power to reject the doctor’s decision or to evaluate it independently. Thus Queensland doctors deliver about 30 percent of babies by Caesarean, yet probably no more than 1-2 percent are medically necessary. Critics say that if euthanasia were normalised, the sick and dying would find themselves in the same predicament as birthing mothers. The records would show that they consented, but in reality that had no effective choice.

The development of euthanasia from an initial position of patient choice in extreme circumstances to a procedure independent of medical criteria crossed a watershed recently. In letter to Parliament, Justice Minister Winnie Sorgdrager declared that doctors could terminate patients irrespective of their prognosis. She wrote: “A doctor can have recourse to euthanasia if the patient is in incurable or intolerable physical or mental suffering, even if the patient has not entered the terminal phase.” The letter was a response to a Dutch high court ruling in June 1994 which exonerated a psychiatrist for killing a woman suffering from treatable depression. Minister Sorgdrager interpreted the court’s decision as explicitly liberating euthanasia from medical criteria. One of the symptoms of depression is feelings of worthlessness and suicidal thoughts. If Dutch doctors comply with the wishes

of every depressed patient, the Netherlands will become a happier country.

Minister Sorgdrager's letter proclaimed officially a standard that Dutch doctors had already established. According to the guidelines of 1973, euthanasia was to be voluntary. Non-voluntary and involuntary euthanasia are not acceptable. However a government study of 1991 showed that the guidelines are frequently disregarded. Many Dutch doctors accept that terminating life is part of normal medical practice. The decision about when to terminate life is considered a medical judgment like any other, and depends no more on the informed consent of the patient than the decision to perform a Caesarean section depends on the wishes of the mother. Doctor knows best.

Who Favors Euthanasia? Who Opposes? Until recently, the Voluntary Euthanasia Society was the only organisation promoting euthanasia. The Society is organised by states. Although its membership is small, it is influential. This situation changed recently when the New South Wales and Victorian AIDS Councils became advocates. AIDS Councils in other states are likely to follow suit. Nearly all religious faiths have declared against it. The Australian Medical Association opposes it, as do the Canadian and U.S. Medical Associations.

Taking no position in the debate are political parties, which slate euthanasia as a conscience vote.

Australian organisations for persons with disabilities take no position on euthanasia. Overseas some such organisations strongly oppose euthanasia. So do some Australian disabled persons and parents of disabled children. They believe that euthanasia directly threatens their lives. This is because euthanasia thinking is closely related to quality of life concepts of fairness in the allocation of health care resources.

Also taking no position are organisations for seniors. This is surprising, since seniors are said by euthanasia advocates to be the age group that would most benefit from the right to die at a time and manner of their choice. The executive officer of Queensland's largest organisation for seniors reports there is virtually no interest in law reform among his 80,000 members. Seniors do however take keen interest in the politics of welfare and health care benefits. Through their organisations they vigorously contest any suggestion of age or quality of life based rationing of health care.

Fairness in Resource Allocation and the Duty to Die. The Commonwealth Economic Planning and Advisory Council released a report (January 30, 1994) predicting that the nation's ageing population would overload health funding. It projected an annual health budget of \$126 billion in 2051, as against \$29 billion currently. The present expenditure on those over 65 is 33 percent of the budget. Most of this cost is incurred in the last two years of life.

The trend cross-nationally is for those over 65 to use 3-4 times more medical services than those in the 20-65 age cohort. Those over 75 use about 20 percent of the total short-stay hospital days.

The Council proposed as containment measures that can be given immediate effect:

- to educate people to costs, making sure there is informed consent to all procedures;
- community discussion of euthanasia and withdrawal of treatment;
- making sure patients are aware of their right to refuse treatment;
- living wills;
- giving lower treatment priority to patients whose illness is self-inflicted.

The Council's report was a lightning rod to critical comment from the AMA, the Catholic bishops, the Australian Pensioners and Superannuants Federation, and other organisations. The gist was that there must not be ethics debates about who lives and who dies.

The fact is, though, that there have been such debates for some time, and they are likely to increase. Australia and other OECD countries have developed a historically unique population profile, marked by an increasing proportion of seniors.

In 1900, Australia's over-65s were 6 percent of the population. At the 1988 census the proportion had increased to 10.9 percent. The projected figure for 2021 is 16 percent.

To look at it another way—in 1900, one in 17 persons was over 65. Today it is one in nine. In 2021 it will be one in six.

This means that the proportion of the population paying taxes to support health and welfare services declines while the proportion of those requiring services increases. The tax base shrinks while the service demands increase.

At some point, citizens will find that maintaining services at present standards requires a trade-off against their lifestyle.

At some point, euthanasia as a right to die at a time of one's own choosing may become a duty to die when the quality of life falls below a certain threshold. The Netherlands is the bellwether for this development. The nonchalance about euthanasia, and public indifference to revelations that some physicians practice involuntary euthanasia, show that the infrastructure of the duty to die is in place.

What is the duty to die, and how is it expressed? The idea is ancient. The Greek dramatist Euripides wrote:

I hate the men who would prolong their lives / By foods and drinks and charms of magic art / Perverting nature's course to keep off death / They ought, when they no longer serve the land / To quite this life, and clear the way for youth.

This thought is about what is meant by “justice between generations.” Having enjoyed the goods of life, the individual's final contribution to children and grandchildren is not to “stay at the table after the meal is finished.” Former Governor-General Bill Hayden endorsed the idea in an address to the Australian College of Surgeons in June 1995. Speaking of euthanasia he said, “Having had a full and satisfying lifetime there is a point when the succeeding generations deserve to be disencumbered—to coin a clumsy word—of some unproductive burdens.” Hayden's words were applauded by Sir Mark Oliphant, former Governor of South Australia and patron of the South Australia Voluntary Euthanasia Society. He told Radio National:

“I think there are too many people who are now no longer part of humanity, as it were, still being kept alive in homes and even in their own homes by their relatives.” Referring to an old crony, he said: *“He just loves to be alive and to be a damned nuisance to all his friends and relatives. I think he is cluttering up the world at a time when he should not.”*

These are blunt words, confirming Confucius' saying “that it is a joy to the heart to see an old friend fall from a roof.” In less public places, the phrases could be more deadly, as the wife who wished death on her husband. Her words were the equivalent of pointing the bone.

The abuse meted out to people with disability and mental illness is legend among those groups. Abuse may be personal or institutional. As for personal abuse, most quadriplegics have encountered people who strongly resent the fact that

anyone in their condition could wish to live. “You ought to die!” is a reproach sometimes heard. Disparaging language is used of the disabled to describe their low quality of life: “imprisoned in a non-functioning body,” “living hell,” “basket case,” “helpless and hopeless,” “life not worth living.” The National Council on Intellectual Disability states that abusive language and physical attacks on the disabled continue at high incidence despite protective legislation.

Disparagement of difference begins with children, who tend to mock anyone who differs from the group norm. Accent, speech impediment, religious affiliation, dress—most any difference may provoke group ridicule. This effect was found among adults by social psychologist Meira Weiss in her study of parental response to infant disability in Israel. In her cohort of 1450 handicapped infants, Weiss found a high rate of infant rejection (72 percent) when the infant’s defect was a visible deformity, but high acceptance (84 percent) when the defect was hidden from view, even if the defect had serious implications for the child’s quality of life and parental commitment to care. Weiss’ study confirms what most disabled persons know from personal experience and what innumerable studies of prejudice have shown. There is an enduring human tendency, expressed across time and culture, to exclude and punish people who “don’t look right.”



The Readings

Bill Hayden

Address to the Australian College of Surgeons, 1995. Euthanasia was one of several topics in the lecture. The Governor-General's office stated afterwards that it received many telephone calls and letters, but did not indicate the proportion of favorable responses. Hayden designates his perspective as "secular humanist"—the phrase is a red flag for religious conservatives. The speech outlines a duty to die, based considerations of justice between generations and the concept of the diminishing value of life.

Helga Kuhse

The author is Director of the Monash University Centre for Human Bioethics. At the time of writing she was President of the Euthanasia Society of Victoria. She is known internationally for her passionate advocacy on behalf of voluntary death. This piece was written in support of the Northern Territory Bill.

Editorial, *The Australian*

The unfolding euthanasia story has been extensively reported in *The Australian's* news and features columns. This editorial sharply critical of the Northern Territory bill surprised readers who thought that the paper leaned editorially toward the other side. Note that Kuhse expresses surprise that the AMA opposed euthanasia. There seems to have been a major shift of opinion, internationally, on the question during 1994.

Melbourne Euthanasia Doctors

In March 1995 seven Melbourne doctors wrote an open letter to Victorian Premier Jeff Kennett admitting to helping terminally ill patients to die. They attacked current legislation as hypocritical. They claim that the AMA's rejection of voluntary euthanasia is softened by "back door" acceptance of the practice at the discretion of the physician. Compare with the reading by Professor Higgs.

Views on Death and Dying

This selection of quotations provides historical perspective on the euthanasia issue. An early advocate of letting die, on a large scale, was the celebrated philosopher, Herbert Spencer (d. 1903). By about 1890, euthanasia was on the agenda of social reformers. The idea was popularised by H. G. Wells, especially in his book, *Anticipations*. The quotations for criminologist George Ives are typical of opinion at that time. The use of euthanasia by the Hitler government set back the euthanasia cause. But it was taken up again in the 1960s by the theologian-ethicist, Joseph Fletcher. Fletcher, the father of "situation ethics," saw euthanasia as one part of a

comprehensive approach to birthing (he favored eugenics), birth control, and death control. The basic premise of Fletcher's outlook is that there is life unworthy of life, from which he derives a duty to kill. The quotations from Peter Singer express this view.

Study Questions

1. It has been suggested that “justice between generations” needs for its implementation a dying ritual, in which the dying person makes a “bequest” of the resources that are saved by not continuing life. The concept is akin to the “gift of life” of organ donors. What might the components of such a ritual be?
2. You are the Attorney-General. You receive information, sufficient for prosecution, that “back door” euthanasia is practiced in a Queensland hospital. Will you bring prosecution? Justify your choice.
3. A well known ethicist wrote in support of euthanasia that “every rational and compassionate observer must admit that there is life unworthy of life.” A disabled person responded that prejudiced and malicious persons had expressed that opinion to him. Does the expression of such views threaten persons with disability? If so, should the freedom of speech be curtailed by law to prevent it?

Week 8

Journalism Ethics

Introduction. Journalists in Australia have a credibility problem. Surveys of the perceptions of a range of professions and occupations over the past several years consistently place journalists well towards the bottom of the scale—closer to real estate and used car sellers than to nurses and teachers. Why is it that journalists rate so badly in the eyes of the public they claim to serve? Several high profile cases in recent years have highlighted the ethical dilemmas faced by journalists in trying to do their job of gathering news in the public interest. These have revealed significant conflicts of interest between the public’s right to know and invasion of privacy, for example, where grieving families become the focus of news attention despite their objections. A spate of much-publicised sieges, too, has revealed significant differences between journalists’ perceptions of ethical behaviour and those held by public officials like police. This has led to much public debate about the role of journalists and their claims to be professionals.

Journalism plays a profound role in the formation of public understanding and discussion in our society. As one journalism academic observes, ‘to know how a thing is done is to know how it might be done differently’. Ethics in journalism is closely linked to the role of ethics in the public and private sectors. Some suggest that public sector ethics is set within a broad context including the relationship between the law and morality, the role of politics, and the requirements of social, civic, and personal responsibility. This discussion will focus on the idea of professionalism in journalism and on the important link this has with the *Code of Ethics*.

One of the results of this public concern about journalism ethics has been a revision of the 50 year old journalists’ *Code of Ethics*. A major argument for doing this was to make *explicit* what was *implicit* in the previous code, thereby

raising the public profile of journalists' activities. The Journalists' association, the Media Entertainment and Arts Alliance (MEAA), has described the *Code of Ethics* as 'an external template of virtue', placing it at the very centre of claims that journalists are professionals. The journalists' *Code of Ethics* and its influence on media workers are crucial elements in journalists' claims of professionalism. Now read the clauses of both versions of the *Code of Ethics* to familiarise yourselves with the ethical concerns identified in them. Also read the Statement of Principles dealing with the reporting of indigenous issues in Australia.



Readings

Media Entertainment and Arts Alliance

The Journalists' Code of Ethics.

The Recommended Revised Journalists' Code of Ethics

The 10 clause version of the journalists' *Code of Ethics* has been the subject of much debate, specifically in the first two readings in this unit. The revised draft Code of Ethics, expanded to 20 clauses, was released for discussion in August 1995 following almost two years' deliberation by a panel of journalists, lawyers, and representatives from the public sphere.

Dept of Communication and the Arts

The Media and Aboriginals and Torres Strait Islanders—*Statement of Principles*.

This 1994 *Statement of Principles* for reporting on indigenous issues in Australia is the result of a two-day conference in Brisbane in 1993, the Year of the World's Indigenous Peoples. The Media and Indigenous Australians Conference, as it was called, was the result of recommendations of the Royal Commission into Aboriginal Deaths in Custody which handed down its findings in 1991. In these findings, there were four specific recommendations in relation to media representation of race in Australia. This set of ethical principles resulted from a series of interactive workshops involving working journalists and members of the indigenous community from across Australia who believed the existing 10 clause Journalists' *Code of Ethics* was inadequate in providing journalists with guidelines for dealing with sensitive issues like race. Some believe these

principles have been watered down from the original recommendations made at the Brisbane conference.

Study Questions

- How does the revised Code address flaws in the previous document?
- Does the *Statement of Principles* provide clearer guidance for journalists than either of the *Codes of Ethics*?

Despite the release of the new draft code, there has been little serious public debate over core ethical issues. Is this an indication of journalists' apathy or a conscious decision not to engage in too much public 'navel gazing'? Ethical dilemmas for journalists come in many and varied forms. Some of the most contentious include the way in which the news media deal with reporting grief and whether journalists should always identify themselves in investigating news. Read the two extracts now and answer the Study Questions below.



Readings

Lawrence Apps

Lawrence Apps, Death Knocks the Code of Ethics

Lawrence Apps

Lawrence Apps, Journalism, ethics and ideology

These two readings by journalism academic Lawrence Apps consider ethical dilemmas journalists face in newsgathering. The first reading, 'Death knocks the Code of Ethics', looks at the conflict between privacy and the public's right to know. It examines the practices of journalists in covering the Moura mine disaster in 1985 and the impact on grieving families. In the second reading, Apps looks at the dilemma journalists face in working 'undercover' and the ethical questions this raises. The case study in question here is of a journalist who posed as a high school student to gather information for an investigation of the NSW education system.

Study Question

- How effective is the code in trying to get journalists to subject themselves to a particular kind of professional behaviour?

Ethics in the history of Australian Journalism. By the 1850s in Australia, there were calls for the professionalisation of journalism. The New South Wales Country Press Association attempted to draft a media ethics code in 1927, a short time after similar moves to codify principles of the profession of journalism in the United States around 1920. But it was left to the fledgling Australian Journalists' Association in 1930 to initiate a recommendation for such a code. This was revived by the AJA in New South Wales in the 1940s. The grounding for these codes was in the broader philosophical notion of ethics, particularly as it concerned meaning and how judgments of the rightness or wrongness of actions might be justified. Conflicts between journalism's dual functions as a business and as a public service further suggested the need for ethical intervention. One journalism academic observes that the first real move towards professionalism and journalistic independence amongst Australian journalists was when journalists with *The Australian* newspaper went on strike in 1975 over claims of bias in the federal election campaign following the sacking of the Whitlam Labor government. Activity of this kind did not re-emerge until debates over the ownership and control of the Fairfax newspapers in the 1980s.

These activities by journalists were based around claims that they were acting in 'the public interest', supporting the notion of 'the public's right to know'. These are important concepts on which journalists consistently rely when making their claims of professionalism.



Reading

John Hurst and Sally White John Hurst and Sally White, *The Public Right to Know*.

This extract from the author's book, *Ethics and the Australian News Media*, outlines the framework in which journalists operate. Journalists' claims of ethical behaviour often revolve around the notions of the 'public right to know' and 'the public interest'. These are important terms, albeit problematic, upon which journalists rely to explain their daily newsgathering practices. The authors also provide an overview of the regulation of journalists' ethical behaviour in Australia.

Study Question

- How important to journalism ethics are notions of 'the public right to know' and 'the public interest'?

Journalism and professionalism. The idea of professionalism in journalism has relied on a definition of the *characteristics* of journalism—the existence of a ‘professional’ organisation (the MEAA) and the *Code of Ethics*. Other approaches take into account journalists’ *professional attitudes* as a defining characteristic. Australian journalists themselves rate self-development very highly, and on this basis, some argue that Australian journalists can be regarded as having a ‘professional outlook’. But is journalism a profession? A lack of certification or a test for competency, the absence of a body of knowledge dealing with journalism, and an undefined relationship between journalists and ‘clients’ (the audience) might challenge suggestions that ‘professionalism’ defined in this way does exist in journalism. So is journalism a business? Journalists, after all, work for some of the biggest businesses in the world—global companies like Rupert Murdoch’s News Corporation, for example, which owns around 70 percent of Australia’s newspapers. Is this ‘professional outlook’ that some have identified in journalists able to act as a buffer between conflicting ‘professional’ and ‘business’ obligations? Because of its role in a democracy as the ‘fourth estate’, media do occupy a special position in society but does this mean that journalists, too, automatically take on this ‘special’ status? The need to ‘professionalise’ journalism has been an issue within journalism education for some years. While some argue that merely being taught by ‘professionals’ is enough to instill ‘professional practices’ into journalism graduates, others put forward different suggestions. Now look at the next reading which deals with these issues.



Reading

John Henningham

John Henningham, Why and how journalists should be professionalised.

Journalism professor John Henningham has long advocated the need for journalists in Australia to become more professionalised. In this article, he argues why this should happen and how it might occur.

Study Question

- How does the writer suggest a professional consciousness might be developed for journalists?
- How realistic are these suggestions when we consider the social structure in which journalists must work?

Professionalism or professionalisation as concepts remain central to the notion of journalism and it seems unlikely either will be abandoned. Indeed, moves by the MEAA to re-vamp the *Code of Ethics* and to stimulate public debate on this question is one example of an attempt to identify and strengthen a professional ethos amongst journalists. But the perception many journalists have of themselves as undefined professionals sets the scene for the enshrining of dominant ideas into their professional ideology—the ideas and assumptions they bring with them in covering news. The close relationship journalists have with powerful sources, for example, and the ineffectiveness of the *Code of Ethics* in enabling a critical reflection on journalistic practices, make it difficult for alternative approaches to reporting to be considered. This is particularly evident, for example, in the representation of issues like race-relations. News values at the best of times are notoriously slippery to define—especially by journalists—and the *Code of Ethics* is seldom (if ever) found prominently displayed in newsrooms. If the notion of professionalism relies almost entirely on the *Code of Ethics*, how effective is the code in acting as a ‘template of virtue’ in covering events that involve cross-cultural issues?



Reading

Michael Meadows

Michael Meadows, Portrayal of Aboriginal Australians: reporting or racism?

This extract looks at ethical dilemmas facing journalists in reporting on the sensitive issue of Aboriginal and Torres Strait Islander relations. It documents reaction to publication of an article in *People Magazine*, quoting a Cairns police officer making offensive comments about Aboriginal people in the north Queensland city.

Study Questions

- What guidance for professionals does the *Code of Ethics* offer in reporting race-relations?
- How might the code be made more effective in this area?

Journalism ethics has been a hot topic in recent times. There have been calls for, and some success in introducing, Charters of Editorial Independence and broadcasting industry codes of conduct—other attempts at ethical intervention. The Australian Parliament has conducted its own inquiries into various aspects of journalists' rights and obligations, particularly their relationship with sources. The question of the need for confidentiality and even some legal protection for journalists (shield laws) has emerged following the jailing of a number of reporters for refusing to reveal the identity of their sources in court. The following readings look at three perspectives on this problematic relationship—from that of the journalist, the court, and the sources themselves.



Readings

David A. Anderson

David A. Anderson, Subject to or above the law? Reflections on the Budd jailing.

In this extract, Brisbane journalist and media law expert David Anderson examines the way in which legal and ethical questions become intertwined when the issue of the confidentiality of sources confronts journalists. Several Australian journalists have been jailed in recent years for refusing to reveal to courts the sources for their stories. A 1994 Senate inquiry into the Rights and Obligations of the Media recommended that journalists in such cases be afforded some but not *absolute* legal protection in protecting their sources. The issue remains the subject of much debate.

Chuck Alston

Chuck Alston, The other side: a source's ethics.

This reading looks at the source's perspective on providing information to journalists. Although it is an example from the USA, it nevertheless raises important ethical questions which journalists everywhere must confront.

Study Questions

- What guidance does the Code of Ethics' offer for journalists in dealing with the confidentiality of sources?
- Does the new draft code clarify this position?

Conclusion. Journalism is a product of a legal and philosophical tradition which confers rights of freedom of expression on individuals. While journalists do not yet have a special legal right to speak out, our political traditions do safeguard, by informal presumption, the idea of 'freedom of the press'. Journalism is a method of expression and communication which occurs in a variety of settings. The journalists' craft involves expressing a judgment on the importance of an item, engaging in gathering information or 'facts', in writing a 'story', and in assessing and interpreting that information. Ethical judgment is at the core of this process because news values or news judgment are critical in determining what a story communicates. For example, the inclusion or exclusion of one piece of information might dramatically change the sense of a news story. Factors such as time constraints and availability of sources and resources also influence the nature and range of information used by journalists to create news. Sources are easily available—often existing in a symbiotic relationship with journalists—and are strongly linked to dominant power structures within the community. Thus, media organisations become to a large extent, slaves of public relations agents. Libel and defamation laws represent a significant constraint on the ways in which journalists gather and process information in Australia. However, there are conflicting views over whether Australia's defamation laws are genuinely inhibiting—or merely inhibit those disinclined to zealously pursue important matters. Information and misinformation is frequently 'leaked' to journalists for varying reasons and with varying implications.



Reading

Free Speech Journal

The Dangers of Anonymous Accusations

The reliance journalists place on accredited sources like police is discussed in this short piece documenting media

coverage of an alleged sexual assault case in Western Australia. The potential impact journalists have in covering such issues is graphically illustrated.

Study Questions

- What ethical guidance does the *Code of Ethics* offer for journalists dealing with such an issue?

Journalists and the media for which they work are part of the political system, not simply observers of its processes. Take for example, the role of the Press Gallery in reporting Federal politics. Can Gallery journalists really claim they are not part of the political process when they receive selective ‘leaks’ of information from politicians and lobbyists on a daily basis? Similarly, claims by journalists that the confidentiality of sources must be protected leaves them open to being used by purveyors of misinformation. This kind of absolute confidentiality may also be open to abuse by journalists who ‘invent’ sources to support a good story. Journalists must make judgments about the value of this information and whether publishing it serves the public interest. This notion of judgment is contained, for journalists, within their claims of professionalism and, by direct association, the *Code of Ethics*.

Study Questions

- Which clauses of each of the codes apply *specifically* to the practice of journalism rather than simply embodying a general set of values which might be applied to other areas of practice—like business, for example?

Week 9

Business Ethics

Trade is very old; so is the ethics of trading. A seventeenth century manual, *The Shopkeeper*, lists four maxims of good practice.

Never mingle chalk into flour. A customer is a friend. Be compassionate to widows. A just price is your advantage.

The first maxim warns against adulterating goods by adding, in this case, chalk to increase the selling weight of flour (to the sorrow of digestion!). The maxim stipulates that the quality and safety of goods must not be misrepresented. That the customer is a friend states that transactions are not just economic exchanges, but also social exchanges. The shopkeeper is to be mindful of the relationship of trust between vendor and customers. The rule about compassion to widows means that vulnerable persons should not be exploited. “Just price” was the concept, widespread among common people, of what goods *ought* to cost. Businessmen disliked the idea because it ignored wholesale price fluctuations. The maxim says that it is better to sell temporarily at a loss or to little profit than to offend your customers’ sense of fairness.

These rules have a perennial quality about them. A code of ethics for the small businessperson circulating in Queensland today states much the same ideas:

1. Reputation. To show faith in the worthiness of my vocation, by industrious application to the end, that I may merit a reputation for quality of service.

2. Morality. To seek success and demand all fair remuneration or profit as my just due, but to accept no profit or success at the price of my self-respect lost,

because of unfair advantage taken, or because of questionable acts on my part.

3. Honour. To remember that in building up my business, it is not necessary to tear down another. To be loyal to my clients or customers and true to myself.

4. Righteousness. Whenever a doubt arises as to the right or ethics of my position, or action towards others, to resolve such doubt against myself.

5. Friendship. To hold friendship as an end and not as a means. To hold that true friendship exists, not on account of the service performed by one to another, but that true friendship demands nothing, but accepts service in the spirit in which it is given.

6. Responsibility. Always to bear in mind my obligations as a citizen to my nation, my state, and my community and to give them my unswerving loyalty in word, act and deed. To give them freely of my time, labour and means.

7. Compassion. To aid others by giving my sympathy to those in distress, my aid to the weak, and my substance to the needy.

8. Diplomacy. To be careful with my criticism and liberal with my praise, to build up and not destroy.

If we add a theological dimension to these rules, we obtain what is known in historical sociology as “the Protestant work ethic.” According to Max Weber, the massive socio-economic development indicated by the term “capitalism” is motivationally based on a theology that provided a powerful incentive to accumulate wealth. The story goes like this. Puritans of the seventeenth century believed (as all Christians did) that “this world” was a pilgrimage, followed by judgment and eternal afterlife. The pilgrimage is contrived by the divine will to be a period of testing, and adversity (hence the proverbs, “life wasn’t meant to be easy” and “you have to be cruel to be kind”). For Catholics, salvation is achieved through absolution of sin by priests who have that power in virtue of continuous transmission from St. Peter. Calvin denied priestly absolution, as all Protestants did. Luther said that salvation was through faith alone. Nothing that priests do, and no meritorious conduct, could possibly redeem the individual’s sinfulness. Calvin agreed, but added a distinctive twist. He maintained that each soul was predestined from eternity to be saved or damned. Nothing

that the individual can do—neither prayer nor pious works—changes that status. This doctrine instigates a tremendous anxiety: am I among the Elect ... or among the Damned?, the Calvinist asks in fear and trembling. Calvinists need a proof of their certainty that they are among the Elect. The proof was the manner of their conduct in this world. They practiced an austere ethic of diligence, industry, scrupulous honesty, sobriety, punctuality, avoidance of luxury and self-display, and so on. It was a “this-worldly” (non-monastic) asceticism. Calvinists closely monitored their conduct, often by keeping a diary, or spiritual account book, of good and evil works. The account book was a running tally of whether they were spiritually in credit or deficit. When the tally was positive, the certainty of salvation was confirmed. Since damnation as Calvin envisaged it is truly horrific, Calvinists were extremely anxious about that tally. The unintended consequence of this worldly asceticism was that Calvinists excelled as tradesmen and small businessmen, prospered as communities, and, because they shunned all displays of wealth, they accumulated money whose destination could only be new projects for good works (investments). Since wealth was a sign of righteousness, and righteous conduct in turn a sign of Election, the Calvinist could never have too much money. Thus Weber argued that wealth and power of capitalism was built from a religious motivation.

Weber’s story transmits a core practical truth that was widely appreciated in Europe. Any individual or community can accumulate wealth if they scrupulously practice the simple rules of diligence, honesty, self-attention, etc. These rules were stated in many manuals about how to get ahead. They still are. Indeed, the core “Protestant” virtues have been known to Asian business for a very long time, although Asians call them Confucian or Buddhist virtues. The Japanese recovery was based on a corporate version of the work ethic. If we examine the rules of business conduct developed by the rabbis, we find that the same “Protestant” virtues pop up among Jews. The Protestant “work ethic” looks like a specific historical inflection of a universal practical wisdom.

Something is missing here. Are there not alternative paths to worldly success? May power not be used to accumulate wealth? Did the “greed creed” play no role in the development of capitalism? What about structured unfairness in the relation between employer and the work force? Didn’t the concentration of wealth in a few hands depend on labour being valued at a low rate relative to selling price? What about technology? By 1825, the output of Britain’s steam

engines was estimated to be equivalent to the labour of 4.6 billion men. Surely that was a meaningful accumulation? What about communications and transport? And the market economy?

Let's look briefly at an alternative vision of the role of wealth in individual and public life. It goes like this. The best that this world has to offer is peaceful and commodious living. Alas, peace is forever being disturbed by royal wars of prestige and acquisition, and religious wars about the true faith. Wars destroy wealth and inflict a great deal of misery. The human condition would greatly improve if these conflicts could somehow be removed from the public agenda, and be replaced by peaceful activities. Now commerce is a peaceful activity; its medium of exchange is money, not bullets. At the same time, it provides an outlet for motivations that instigate war. As Louis XIV's chief minister Colbert put it: "Commerce is a perpetual and peaceable war of wit and energy among all nations." As for the virtues of shopkeepers, they need not be theologically based. Robert L. Stevenson encapsulated the business wisdom of his contemporaries in the epigram: "So long as you are a bit of a coward and inflexible in money matters, you fulfil the whole duty of man." The Calvinist tally of gains and losses is replaced by a different sort of bookkeeping. Rather than a Win-Lose system (the soul is saved or damned), we observe that there are two other possibilities: Win-Win, and Lose-Lose. War is a Lose-Lose strategy; even the victors usually pay dearly for their prize. Commerce, by contrast, is a Win-Win strategy. The reason is that even though a few Win rather more than others, everyone wins by the economic growth fostered by technology linked to commerce. This vision of capitalism as a solution to the human predicament is incomplete without a decision procedure to determine the fairness of the big and small wins. Why shouldn't the small winners gang up on the wealthy few and share the wealth socially? Why have inequality at all? The reason, according to the free enterprise vision, is "the market." The market is a just, because impartial, arbiter of values. The market price of goods and services is their true value. This value is determined democratically, so to speak, by millions of daily transactions, in which people vote with their purchases. Profit is the reward of those who supply widely desired commodities, at the lowest price for quality. These persons are called "entrepreneurs." Some are persons of great integrity; some are completely amoral (winning is everything); and some combine integrity with amorality, as in the words of the American entrepreneur Commodore Vanderbilt to competitors who complained of his price slashing: "If I can

ruin you, you *deserve* to be ruined.” Vanderbilt was stating a qualification on the overall Win-Win scenario of free market economics. Price competition, necessary for improving efficiency and economic growth, has as its downside the elimination of inefficient businesses and production methods. Nineteenth century theorists of the free market compared the process with Darwinian “survival of the fittest” in nature’s jungle. The evolution of an ever better economy was perceived to be like the evolution of ever higher organisms. The right of the stronger prevails. Still, the competitors ruined by Vanderbilt are bankrupt, not dead. They may use their wits to strike out on new paths.

The every man for himself aspect of the free market vision was modified in the welfare state vision and rejected altogether in the socialist vision. The welfare vision uses wealth redistribution measures, such as taxation and industrial relations bargaining, to redress the inequalities of power between big and small winners. By providing minimum standards for income and services, it seeks to assure that the outcomes of competition are never fatal. The socialist vision, in its Marxist inflection, claims that the so-called impartiality of the market is actually a stacked deck, a game that the working class always lose.

We can abbreviate these ideas as follows:

Laissez-faire → every man for himself → individual autonomy

Welfare state → comprehensive social duty assumed by society as an ethical subject → autonomy in choice of lifestyle

Strong socialism → comprehensive social duty assumed by society as an ethical subject → regimentation of lifestyles; autonomy replaced by solidarity



The Readings

Lindsay Tanner

The author, who is the federal member for Melbourne, writes a conspectus of the post-Marxist vision of a “moral world order” current in the ALP. Superficially, the Right faction won out in its contest with the Left. But the visions of both factions have been overtaken by economic, technological, international, and ideological developments. Note why the

polarity between labor and capital no longer corresponds to workplace realities. The ALP continues to be “collectivist,” in broad opposition to liberal individualism. However, the new vision abandons state socialism (the market isn’t *all* swindle), individual rights and aspirations are accepted as legitimate. Note that Tanner nominates the environmental movement as “the most likely source of a new moral order for the Left.” He does not spell out the reasons, but some elements of that vision are readily stated. •The environmental vision retains the old radical insistence on inclusiveness (all humankind), and solidarity (one for all and all for one) but it does so on the basis of our shared fate on “Spaceship Earth.” Sustainable growth is in everyone’s self-interest. •Environmental concerns provide a factual and objective basis for continuing the criticisms of business and manufacture, when they are heedless of the common good. Also criticism of the greed creed. •New to the Left’s vision is the concept that economic progress depends on “smart work,” not muscular exercises in mines or on the factory floor. This has two consequences. Professionals are recognised as a natural constituency (the polarisation between blue- and white-collar is eliminated). And women become a natural constituency independently of worker-husbands. Women level-peg with men more readily in offices than in mines.

Milton Friedman

We return to the reading of Week 2. As was noted previously, Friedman’s opposition to the professionals’ monopoly on trade is based on the classic vision of free trade as the *one* fair and effective arbiter of values. Re-read this essay, paying particular attention to the assumptions that Friedman makes about consumers. He assumes that they are “rational actors.” This means that people make purchases on the basis of what they perceive to be to their advantage, or that they optimise their individual interest. They are also assumed to have full information about the products that they purchase (rational consumers look before they leap). Welfare state thinking rejects these assumptions. The state exercises vigilance over products and services, to assure their safety and quality. But this vigilance is not universal. Individuals are free to choose their own lifestyles.

News Dispatch

This item is about a \$10 million settlement between a medical laboratory and the families of two women who died as a result incorrect interpretation of the Pap test for cervical cancer. The dispatch is included in the readings for several reasons. •It illustrates the trend of courts and of legislation to hold business liable and accountable. •The large settlements being made by courts are intended to deter negligence by making it very costly. Some large firms have been bankrupt

by liability awards against them. •It illustrates consumer alertness, and willingness to take on big business. Some class action suits have resulted in payouts exceeding \$1 billion, e.g., Corning Glass for faulty breast implants. •It illustrates the hi-tech character of contemporary business and the associated need “smart work” and fine-tuned quality control.

Advertisement

Advertising has long been a target for critics of commercial civilisation. Advertising is one continuous hyping of desires to sell products that are not needed. Consumer protection laws introduced in the 1960s made advertisers liable for the truth of statements made in ads. The response of the advertising industry was to remove factual statements from ads, and rely entirely on suggestion and association of images. This ad, by an investment firm, associates a financial management product with out-mode business ethics. The old values are praised and the trendy values are put down as “illusions.” But the closing line indicates that it is tongue-in-cheek.

Hewlett-Packard Code of Ethics

Hewlett-Packard manufactures computers, electronic equipment, and precision instruments. Scientists and engineers make up a significant percentage of its employees. The quasi-military work discipline of traditional factory labor is replaced at Hewlett-Packard by an organisational culture that emphasises individual initiative, and the organisation of work by individuals and small groups, rather than line managers. It illustrates the changes referred to by Tanner when he says that the old labor-capital antagonism is obsolete.

Activities

Examine the advertising for Gold Lotto and Treasury Casino. What exactly is the product being sold? Are any factual claims made in the ads? Is there any significant information about the product that the ads do not mention?

Read a few issues of a business magazine. What attention is given to ethical values, and what are they?

Study Questions

1. The motto of the Harvard Business School is: TO BECOME A PROFESSION. However, few of America's business leaders completed the standard postgraduate business course, the MBA, and some of its wealthiest leaders did not complete an undergraduate degree. Does this mean that there is no identifiable body of knowledge that constitutes expertise in business?
2. Consider the following conflict. The engineer in charge of quality control for a product reports a design flaw that could lead to injury or loss of life. He recommends a new design. Six months later he finds to his surprise that the product has reached the market with the design flaw uncorrected. He arranges a conference with the firm president, who is also an engineer, to alert him to the dangers. The president accepts the engineer's facts. But he explains that the decision to produce the defective product was a business decision, arrived at on advice from accountants and the firm lawyers. Their advice was that the cost of re-tooling the manufacture would be greater than the likely cost in compensation payments to persons injured. Aghast, the subordinate engineer tells the president that the decision violates his duty of trust as an engineer. The president repeats his statement that he made a business decision, and "I'm about to make another—you're fired." Construct a criticism and a defence of the president's two business decisions, using Milton Friedman's principle that the primary responsibility of senior managers to shareholders. Is the decision compatible with the Hewlett-Packard code of ethics?
3. Tanner's vision for a moral world order mentions neither political nor individual morality. Ex-Prime

Minister Margaret Thatcher, by contrast, is well known for promoting individual responsibility as the moral basis of economic freedom. Could environmental ethics serve as a basis for individual morality supporting economic freedom?

Week 10

Human Rights and Law

In this week's study we examine some of the language and concepts of human rights. They will be familiar to you from human relations school subjects and from exposure to the media. It will become clear that the subject is extensive. You are not expected to achieve an over-all view. In the present treatment, the stress is placed on the legal dimension of human rights. This is because law is a major avenue for giving human rights effect. (Some other dimensions are: long-term health agendas, on-the-spot relief, diplomacy, public awareness).

The legal approach also sharpens the focus on the relationship between human rights and ethics. The Study Guide offers a provisional assessment of this relationship.

This week's work is intended as a preparation for next week, when we consider multiculturalism and feminism.

Human rights are one of four pillars of United Nations policy. The other three are peace, economic and cultural development, and dispute resolution through international law. Taken together they comprise a long-term agenda for the well-being and happiness of humankind. They project a vision for the future. And they provide a common language for framing ethical obligations.

The Australian Commonwealth strongly supported the UN at the moment of its inception and has remained steadfast since, regardless of the government in power. Australia is signatory to numerous UN human rights documents. Leading Australian jurists state that international human rights documents merit being considered by judges in deciding human rights cases.

The United Nation's basic document on human rights is the Universal Declaration of Human Rights, promulgated in 1948. The document does not purport to have the status of international law; it limits itself to pronouncing a "common

standard” acknowledged by member nations. The Preamble states that the “foundation of freedom, justice and peace in the world” is “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family.” Article 1 declares that human beings are “born free and equal in dignity and rights,” and the exercise of these rights is deemed to be incompatible with discrimination on the basis of race, color, gender, language, religion, political opinion, national or social origin, property, birth, or other status.

Since 1948 the UN has broadened this initial statement to include the rights of children, prisoners, refugees, and stateless persons, the rights of indigenous peoples, and the rights of civilian populations under the rules of war. It has also produced elaborations of rights affirmed in the Proclamation. The document on the rights of women, for example, asserts their right to education and employment, to equal pay, to adequate health care, to equal standing under civil law, and their right to control their own fertility. To children the UN ascribes the right to health care, schooling, and freedom to choose their religion. The document also comments extensively on the prevention of child abuse and the employment of children. The document on minorities and multiculturalism proclaims the principle of toleration and protection against all forms of discrimination and persecution, the right to sustain cultural heritage, including language; to practice the religion of the community according to their lights. Statements on political rights elaborate on freedom of speech and the press, freedom from arbitrary arrest, a right to a fair and public trial, the right to vote and stand for public office.

History of Human Rights

Most legal codes and religious traditions operate with the concepts of “right” and “duty.” There is no uniform sense of “right” but several related senses do frequently recur. One meaning is “sanctioned” or “correct and true.” Thus the Noble Eightfold Path of Buddhism enumerates eight “rights”: right view, right thought, right speech, right conduct, right livelihood, right effort, right mindfulness, and right concentration. In Judaism and Islam, religious observance consists of scrupulous adherence to practices prescribed by religious law. The preponderant meaning of “right” in Judaism and Islam thus equates with righteousness as conduct in accordance with religious custom. “Right” is a signpost

pointing down a path; the alternative path is “wrong” or iniquitous. Finally, right may mean prerogative. This sense of the word is expressed in the motto on the British coat of arms, *Dieu et mon Droit* (God and my right). The right meant is the absolute right of the sovereign to judge and make law, and to conduct war, called the “royal prerogative.” Today royal prerogative is exercised in the name of the crown by Cabinet.

The history of human rights begins with the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and the Citizen (1789). In both cases rights of citizens are affirmed against royal prerogative. The framers of these documents understood themselves to be setting limits to the lawful powers of government, or conversely, reserving an inviolable sphere of freedom to individuals. In the American Declaration, the inviolable sphere is briefly referred to as “life, liberty, and the pursuit of happiness.” The French Declaration states that “all men are born free and equal.” These rights are more deeply founded than the legal rights. In the legal context, basic rights abrogate or extinguish (as lawyers put it) any rights in conflict with them. In the philosophical context, they are basic attributes of “man;” hence they were called “natural rights.” The comprehensive sense of natural liberty is given in the fact that they endorsed democracy as the only legitimate type of government. Democracy empowers the citizen to have his or her say and to participate in making the laws under which he will live. This empowerment recognises the equal desire of each to decide for themselves how they will live (or “pursue happiness”). We previously encountered John Stuart Mill’s dictum: “Over himself, over his mind and body, the individual is sovereign.” This notion is central to the revolutionaries’ conception. It is not far removed from the sense of right affirmed in the motto, *Dieu et mon Droit*, except that now this sovereign right is broadened to everyman. It belongs to the concept of sovereignty that the war-making power is among its prerogatives. The American Declaration was a preamble to a declaration of war on Great Britain. Although the French Declaration was not a war preamble, it did divest the privileged social orders of their ancient rights, and this led to civil and foreign war not long after.

Personhood and Dignity

The close connection between personhood as conceived in these documents and the arms-bearing citizen is the reason

why the American and French patriots did not include women under the concept “man.” Equality under law for women was not raised in American deliberations about the Constitution. It was raised in French debates. Under the first constitution, citizens were divided into “active” and “passive” classes, with different privileges. Passive citizens had no right to vote or hold office, and their property rights were restricted. But they had full entitlement to provisions of civil law, eg, free speech and right to divorce. Women, and men without property, were classed as passive citizens. This distinction was subsequently abolished, but women retained the rights previously accorded them.

The French patriots abolished slavery in their overseas dominions. The Americans of course did not abolish slavery. Blacks, women, and Indians were all excluded from the scope of “man.” The inconsistency did not take long to register. Agitation for the abolition of slavery was well under way by 1825. It was eventually abolished by force of war (1863). From correspondence and other documents we know that the wives of the patriots drew the attention of their husbands to the exclusion of women from civil rights. The response was that no clause of the Constitution expressly excluded women or blacks from citizenship. Hence there was no impediment to each state modifying its laws to include women and freed slaves in the citizen body. But this was a long time coming. In 1848, women agitating for their rights convened the Seneca Falls Convention and produced a manifesto demanding suffrage and equal participation. It was not until 1911 that a politician of national stature (Theodore Roosevelt) endorsed women’s suffrage. In Australia, by contrast, the Federal constitution of 1900 mandated universal suffrage. Aborigines, however, were not included.

Human Rights since 1945

With the cessation of hostilities, the UN assembled the first international civil service in history, drawn largely from civil service and professional cadres of western nations. Scandinavia, Australia, Canada, Britain, the U.S., British-educated Indians, and several Latin American nations were the countries of origin of many. As international civil servants, they were pledged to serve all member nations impartially. The *esprit de corps* among them was high; the belief in their mission to serve mankind was ardent. But this dedication struck the rock of the Cold War suspicion and rivalry. Some American, British, and Canadian members of

the UN civil service were placed under suspicion in their home countries as communist subversives, serving the interests of the Soviet bloc at the expense of free world interests. Soviet thinking, for its part, identified the interests of mankind with proletarian revolution. It associated the doctrine of rights with the rise of the bourgeoisie. It was a valid doctrine for its time, but it had been superseded by Marxism-Leninism and was now a smoke-screen for capitalist domination.

These antagonisms stressed the UN civil service, sometimes severely, but the vision remained steadfast. Over the decades, it developed into an intelligentsia drawing on progressive elements in many countries, including Australia. The interactions between the UN civil service and the civil services of member nations has softened the old sensitivities and jealousies about national sovereignty. The ideal's perspective was global from the beginning and remains global today.

These progressive elements do not share a common philosophy. They share pragmatic agreement on the agendas incorporated into successive declarations of rights. And they share the concept of "human dignity" that displaced the older American and French concept of "man" as the arms-bearing citizen. Dignity is an attribute of everyone: of children, of the severely disabled, of prisoners and even felons. The attributes of autonomy are not a condition of dignity. The synonym for dignity most commonly used in UN documents is "respect." The most common antonyms are "cruelty," "violence," "oppression."

Human Rights and Ethics

Is there an ethics of human rights? That human rights declarations are prescriptive of individual conduct is clear. But not all rights are prescriptive of conduct for all individuals. The rights of prisoners, and the right to education, to take examples, are addressed to correctional services and law-makers respectively. In their civic capacity, individuals may and do take an interest in these matters, but rights do not impose strict duties on individuals generally.

It is an important attribute of human rights that their form is legal rather than ethical. They are addressed essentially to governments. As we noticed in the discussion of euthanasia, a right is a potent concept in western law. It is a superordinate concept that in the case of conflict takes

precedence over lawful practices. Lawyers say that it “abrogates” or “extinguishes” conflicting rights. Thus, a publican may lawfully set minimum standards of dress and decorum for customers, and may prosecute offenders for trespass. But the publican may not refuse admission on grounds of race. In litigation of this question, the residual right to refuse admission appealed to liberties inhering in property rights. “It’s *my* property, you shove off, and I don’t have to give a reason”—this was the thinking. Courts disallowed this appeal because it gave refuge to racial discrimination. The example illustrates the superordinate status of rights. All lesser legal permissions or customary practices must bow to them. That is why a right to die could well be found by a court to imply an obligation on the state to kill those demanding death, and an obligation to kill them at the time and in the manner of their choosing.

The legal form of human rights locates them primarily in the public reason of law rather than in individual practice. Only governments can give effect to the extensive sphere of rights, and only courts and governments can determine what practices are upheld or denied by a particular right. To revert to our example. Property rights and the right to non-discrimination are both fundamental. No one could know prior to a judicial test or legislation whether the publican could prohibit Aborigines entry to his premises. Most Australians have no clear idea of the rights of the disabled or of children or of a women prisoner who is nursing a child. Nor need they in most circumstances. Employers, however, are obliged to conform in personnel practices to government legislation to ensure equality of treatment of disabled employees or job applicants. And teachers and other service providers to children must be aware of children’s rights sanctioned in legislation. But most of us do not need to know these particulars. Even the most learned judge would find it a challenge to hold in mind all the rights enumerated in UN documents and sanctioned in Australian legislation.

This contrast between legal public reason and individual conduct is not peculiar to human rights. Prior to the rights of man there were rights of Englishmen, as an old saying goes. Those rights were the collective knowledge of common lawyers. Most Englishmen did not know, in any detail, what they were. (The American Revolution occurred because the colonials and Privy Council did not agree about limitations on the Crown prerogative to levy taxes). Human rights increase the distance between public legal reason and individual conduct by expanding the moral community from Australians to humankind. To illustrate, in our collective responsibility

we have obligations (under UN protocols to which Australia is signatory) to refugees. “Boat people” know about this obligation; they claim asylum rights on landing. No individual Australian owes refugees any duty under UN declarations. But the Minister of Immigration is obliged to determine, for each individual, whether she or he has a valid claim to refugee status. If not, that individual is returned to the port of embarkation and advised to apply for entry using normal channels. Some think this “legalistic” approach is cruel. Anyone who arrives in Darwin half dead on a rotting boat deserves admission. But it would be unlawful for the Minister to set aside refugee entitlement criteria to act on personal motive.

Pulling together these thoughts, we may say that human rights derive from high level deliberations of international elites. They are transmitted to national governments for implementation in domestic legislation. In OECD countries, many human rights espoused by the UN are consistent with domestic political traditions. Freedom of speech, freedom from arbitrary arrest, and exemption from interrogation under torture are examples. Other human rights are not widely known in domestic political traditions although they are espoused by domestic elites. The rights of children and of the disabled illustrate. Some human rights norms can be readily applied by individuals. To the extent that this is so, they can constitute a component of individual ethics. But the barrier to an ethics based on human rights is the overwhelming burden of duties that scrupulous attention to the rights of others would impose. So many rights have been enumerated that it is doubtful that any one person could keep them all in mind.

People who wish to give effect to their beliefs about human rights usually select one or two issues and join an organisation dedicated to doing something about it. Amnesty International is a world-wide voluntary organisation dedicated to the cause of political prisoners. It opposes detention without due process, torture and degrading conditions, and capital punishment. It is recognised by the UN as an organisation whose investigations and data are a reliable source for its own decision making. There are many such organisations; sometimes their ethos is so strong that they constitute a moral subculture.



The Readings

Dr. Boutros Boutros-Ghali International Law: The Cornerstone of Progress. This reading is edited from a speech delivered at a Columbia University, in a ceremony to mark the 50th anniversary of the UN. The author is the UN Secretary-General. After a brief résumé of UN activities in its first 50 years, Dr. Boutros Boutros-Ghali discusses diplomacy, international law and peacekeeping forces as tools for conflict resolution. He notes, but does not discuss, the fact that in the past decade, the UN has intervened substantially in the internal disputes of states, the former Yugoslavia being the prime example. Since this speech, the Bosnia conflict has been resolved by a combination of UN and NATO diplomacy. UN peacekeeping troops have been replaced by NATO troops with orders to engage attackers according to the rules of war. There were a number of reasons for replacing UN troops with NATO troops. One relevant to mention is that the UN symbol will not be carried by troops who may be required to engage in full-scale war. A similar arrangement was made in respect to the Gulf War. A consortium of 35 nations confronted Iraq, under rules and conditions agreed by the UN Security Council. It was a lawful war, in terms of international law, but it was not waged by the UN.

The Universal Declaration of Human Rights and The International Covenant on Civil and Political Rights These two documents have inspired many UN initiatives and programs, and they remain today the core statements on human rights. Their language is that of constitutions and constitutional law. Article 1 implicitly defines “human beings” as “endowed with reason and conscience.” These two capacities are singled out in the Western legal and philosophical tradition as the components of *autonomy*. Reason and conscience are nearly universally recognised in traditional moral and legal systems, but they are interpreted in a manner that supports authoritarian systems. Article 25 accords what in effect is a right to live in an affluent society. The elimination of poverty through economic development has been a long-standing UN policy.

Charles Humana Human rights, a Western liberal concept. The author is a human rights scholar and activist. The reading is drawn from his Introduction to the *World Human Rights Guide*. He addresses the objection to human rights made by representatives from non-western governments that it is a western liberal concept. Historically speaking this is obvious, and Humana says, “we will just have to live” with the

paradox that rights claiming universality are peculiar to one political tradition. Another paradox is that many nations that give human rights little or no effect nevertheless subscribe to the UN documents. In Saudi Arabia, women may not hold a driver's license, nor go out of doors without a chaperone and permission from their husbands or fathers. After the Islamic revolution in Iran, women who failed to conform to newly imposed religious rules of dress and conduct were severely punished, often by death. It is believed that a significant portion of progressive Iranian women perished in this "cleansing" of western influences. Japan, which has always been watchful to keep foreigners out, will not allow entry to refugees. Permanent residence and citizenship is virtually impossible for foreign-born to acquire, even when married to a Japanese. Its small resident population of Koreans are subject to government and individual discrimination. The leaders of several Asian countries (Malaysia, Singapore, Indonesia) have stated that they do not accept the "decadent" values that flow by implication from human rights. The People's Republic of China aggressively rejects appeals for the release of dissidents and rejects the democracy that dissidents espouse. China also carries out public executions, abhorrent to the western conscience. It is widely believed (though denied by the Chinese) that unwanted infants (mostly female) are allowed to die from neglect. The one-child policy, though ostensibly voluntary, results in many unwanted pregnancy terminations.

Charles Humana

Human rights rating for Australia and Bangladesh. This guide rates nations for their compliance with three UN rights declarations. The UN monitors compliance by member nations, but it does not publish an official report, since many nations object to an official certification of their state of human rights "health." All the nations that Humana's survey rated at 90 percent or better are European or Europe derived in their social composition and legal system. The highest rating was given to Finland (99 percent). Other ratings are: Indonesia, 34 percent; Japan, 88 percent; China, 21 percent; Burma, 17 percent, Zaire, 40 percent. —The author is a former Amnesty International activist.

Data of Ethics

° To define “human being” in terms of reason and conscience omits from the scope of rights some categories of “people”: infants, the intellectually handicapped, the demented, the comatose. This gap was closed by UN documents on the rights of the disabled, where “person” and “personhood” is said to endure despite lack of mental competence or consciousness. Extensive discussion of personhood criteria has not led to agreement on a definition applicable in all medical contexts. Catholic bioethicists say that personhood begins at conception and ceases with death or with onset of Permanent Vegetative State. The legislative standard developed in the context of IVF protects human embryos from the 14th day after fertilisation. Some ethicists argue that embryos and fetuses are not persons, and that the infant is not a person until about the third year of life.

° The UN charter prohibits it from intervening in the domestic affairs of a state unless requested to do so. This limitation has slowly eroded. The combination of anarchy and urgent need for humanitarian relief are regarded by the Security Council and General Assembly as grounds for intervention.

° The Optional Protocol of UN rights declarations puts in place a mechanism by which citizens of signatory nations may complain to a relevant UN body of rights violations. If the body finds for the complainant, the government is obliged, under the Optional Protocol, to take corrective action. The European Community has a similar arrangement for its member nations.

Study Questions

1. A proposed law against racial vilification has been discussed in Australia. Proponents say that it would help support the commitment to the dignity of persons, by making the expression of bigotry, hatred, and defamatory statements about ethnic groups liable to prosecution. Critics say that part of the intent of such a law is already covered by laws against inciting to riot. But the broad scope of the law would raise many problems of legal interpretation and would hamper freedom of speech. Some have suggested that an alternative is to amend defamation law to allow groups

to bring a class action for defamation. Evaluate these alternatives.

2. Article 26 of the Universal Declaration states that “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial and religious groups, and shall further the activities of the United Nations for the maintenance of peace.” In your schooling, have you encountered an express commitment of the curriculum to foster the development of personality? How was this meant to be achieved? What response should be made the fundamentalists who say that intolerance of evil and evildoers is a component of moral development?

Week 11

Multiculturalism and Feminism

Multiculturalism and promotion of the equality of women are policies, enjoying bi-partisan support, that strongly influence our civic culture. Although the policies are recent, they have deep roots in our past.

Multiculturalism designates a strategy for nurturing advantages that diversity offers. The outlook is positive. It acknowledges that cultural diversity gives rise to conflicts, and it puts in place conflict management strategies. The program is judged by others to be very successful. Overseas observers rate social conflict in Australia as low, and some European states are attempting to copy our policy.

Since multiculturalism is a management strategy, it is not an ethics. To illustrate. One of the cornerstones of Australian policy is that English is the official language. This happens to be uncontroversial, but it was a bone of contention in Canada until bilingualism was adopted. The policy means that ethnic groups wishing to instruct children in the mother tongue must fund that instruction themselves. The decision on this question is not ethical but prudential. (Instruction in Aboriginal languages is an exception to this policy. Indigenous peoples argue that the survival of their cultures is bound up with the survival of their languages. Since native speakers of these languages are few and dwindling, governments accept responsibility for funding instruction).

The equality of women, we have noted, became a public initiative at the time of the French Revolution. A book published in 1792 by the English political thinker Mary Wollstonecraft stated many points that proved to be enduring. One is that the dominance of women by men, through law, institutions, and custom, is morally wrong. This, of course, is a direct ethical claim. The other is that male belief in their superiority arises by trivialising or misunderstanding women's experience. This is a demand that men acknowledge the full human dignity of women.

Wollstonecraft believed that these two ancient mispractices are closely linked. The male opinion of superiority is coordinate with the cultural stereotype of women as the “fairer sex,” the “gentle sex,” the “weaker sex.” Women internalise this characterisation, Wollstonecraft said, by conceding the greater physical strength of men. They perpetuate injustice against themselves by rearing their children according to these cultural stereotypes. She saw the solution in hastening the civilising process that must eventually eliminate the use of violence against women and create a new breed of males whose dignity was not bound up with pride in the use of force. Her contribution was eloquent advocacy of women’s equality. Had Wollstonecraft’s French disciples been able to bring Napoleon Bonaparte over to her views, the history of sexual equality might have been different. As it was, Bonaparte was a devotee of the male experience of conquest. He ridiculed sexual equality, suppressed publications advocating it, and jailed dissidents. His wars of glory (promoted as “freedom”) also set Europe alight with the flame of belligerent ardour, giving male fantasies a public object that continued for two centuries. Still, if war retarded it did not supplant the civilising process. The valorised use of force plays little or no part in the ethical images that most males take for themselves today. These are civilian and gender-neutral. The professions are a prime example of this. Perhaps the most dramatic example is the renovation of the police self-image, and ethical policing practice, so that women can and do integrate into the ranks.

This doesn’t mean that men are free of the subtle biases that deny parity of esteem to women’s experiences. Some feminists argue that most men accept women as equals only on the tacit condition that they feel and act like men. They also say that when the chips are down, men fall in together to put down women who climb too high. A recently discussed example is the “casualty list” of senior women politicians. When the most senior of them fell under a cloud of a Royal Commission inquiry established by the male Premier of Western Australia, women journalists hit the interview trail for answers. Fiona Harari came up with these.

•Politics is an aggressive sport played by male rules. You can be attacked at any time—by the media, the opposition, or from behind your back. To survive women have to adopt male language and male tactics. They must be tomboys. This wears women down. Their family life suffers. So they leave politics.

•Since there are so few women in politics (about 12 percent of federal parliamentarians are women) they are more visible to the media. To the pressure of the limelight is added the pressure of public expectation that women will behave better than male politicians. When they do something that they shouldn't, the media turn on them with an I-told-you-so glee.

•The public and male politicians are more accepting of women politicians than they were a decade ago. But there is strong resistance within parties to a quota system that would raise the representation of women in parliament. The Coalition rejects it outright, saying that pre-selection should be on the basis of merit. •The “burn out” of women in politics is a world-wide phenomenon. Women able to dominate their own party and national politics, such as Margaret Thatcher, are unusual. —When confronted with these views, male politicians say that politics selects people who thrive on contest, on taking charge, on being in the limelight. When it's no longer satisfying, you should bow out. But they deny that politics is a men's club. There is room for a diversity of talents and styles, including grandmothers and scholars.



The Readings

Commonwealth Government Multiculturalism and the Law

This report on multicultural policy was accepted by the Attorney-General in 1991. It reviews the history of multiculturalism from the point of view of law. It also sets out the policy that prevails today. Several key points may be underscored.

Assimilation vs multiculturalism. The assimilationism was the view that cultural diversity (distinctive ethnic customs) would disappear into the melting pot of the mainstream. The mainstream was the prevailing Anglo-Celtic history, political and legal institutions, and culture. This policy came to be seen as a back door denial of the legitimacy of other cultural traditions and hence an implied rejection of their legitimacy. It was deemed to be unacceptable. There was also a practical reason why assimilation became untenable: the increase in the number of new arrivals from a great diversity of cultural backgrounds meant that assimilation would be a long time coming. In the meantime, minority cultural traditions would lack full acceptance. The solution to this problem came by rethinking the desirability of cultural uniformity. While it has the advantage of social cohesion, it has the disadvantage of

excluding the richness and opportunities afforded by diversity. It was also apparent that the Anglo-Celtic culture was itself undergoing dramatic change owing to the internal dynamic of social and economic development. Multiculturalism brings together the dynamic of social change and cultural diversity under a single concept that welcomes change and diversity as a dynamic process stretching into a better future.

Multiculturalism and “core values.” When the multicultural policy was debated, the Opposition attacked it as divisive. They proposed the “one nation” vision as an alternative. This was seen by various ethnic communities as an apology for the status quo. This, they claimed, was unacceptable and divisive. Contrary to what some Opposition statements on the matter seemed to imply, the government’s policy did not say that “anything goes.” It affirmed “core values” or “universal values” for all Australians. Among the values enumerated are: English as the national language; parliamentary government; rule of law and equal treatment under law; freedom of speech, thought, and conscience; protection of children from abusive customs and practices; equality of the sexes. This is a very large commitment indeed. Note the prominent mention, in this reading, of UN instruments as guides to ethically valid multicultural practice shows.

Craig Johnstone, Jews are richer, smarter: report

This news feature summarises the findings of a research report on Australia’s religious communities, prepared by the Bureau of Immigration. The report found that Jews are better paid and better educated than the non-Jewish population. This confirmed a common social perception of Jews announced in the title: Jews are smarter. It gives rise to jealous social comparisons and to anti-Jewish feeling. The Jews are not unique. The same social comparison arises between host Asian and Pacific island populations and Chinese who settle there. Resentment against Chinese businessmen in Indonesia, Malaysia, and Papua New Guinea is marked. It is also expressed in the U.S., in the antagonism between urban blacks and Korean shopkeepers. The antagonism of the Québécoise to the “Anglos” in Canada is based partly on the differential educational and economic advantage that Anglos enjoy over the French. The Bureau of Immigration report makes a point important for the management of ethnic and religious antagonisms. It is that often they have a factual basis. Prejudice enters the picture when one group demonises the other. Jews, for example,

have been demonised as the secret controllers of blood-sucking international finance. A similar legend is spread in Asia about Chinese businessmen. The reality of differential social performance by ethnic groups limits one strategy for managing ethnic conflict; which is to plead for judging people as individuals rather than according to group membership.

UN World Conference on

Women: Platform for Action

In September 1995, 20,000 delegates assembled in Beijing to assess the status of women worldwide and to prepare a platform for the next decade. Women and men of many political and religious persuasions participated. Predictably, there were many disagreements. But the platform that emerged expresses the concerns typical of Western feminism and it incorporates previous UN initiatives on the subject. Programs to promote gender or racial equality are called Affirmative Action and are known among Australian jurists as “compensatory justice.” The compensation analogy suggests that since a class of persons has been and continues to be disadvantaged by gender-biased social arrangements, the correction requires changing social institutions to “level the playing field.” This in turn requires interventions that treat persons as classes rather than as individuals. Thus, the platform calls for greater representation of women in senior economic and business positions. The platform envisages joint control of property and income in each household, and joint decision making about money matters. The “breadwinner” and “head of household” concept are to be discarded. Outside the home, women are to have equal access to employment. The traditional division of labour, in which women’s role was to manage the household while men worked out of doors, is also to be discarded. The anticipated result is parity of esteem in the conjugal relation. This model, called “companionate marriage,” is already practiced by many childless couples in Western countries. But what about Third World women who marry early and have 6-10 pregnancies? The solution is: educate women in contraception, make pregnancy termination available, increase day care facilities, and educate men to be partners in household management. Note that the platform does not promote, as a model for Third World countries, the Chinese option of the one child family.

Sue Leeman, Exile still

fighting for Muslim women

The conflict between outspoken Bangladesh writer and activist Taslima Nasreen and Islamic fundamentalists has received much attention. Her writings sharply criticise the

oppression of women by traditional customs. She is a self-styled atheist, feminist, and human rights activist. This made her liable to prosecution for blasphemy in civil courts, and liable to a judgment (*fatwa*) by a religious judge. The odium she cast on traditional beliefs and practices so inflamed the men of Dhaka that they took to the streets demanding her head. She escaped vengeance by fleeing to London. Taslima's conduct is seen in the West as heroic and progressive. But among devout Muslims, it confirms their belief that human rights are a western invention to destroy the "right way" (*shari'a*), or as we would say, to destroy religion and culture. This drama was played out in Iran, where Salman Rushdie was cast in Taslima's role. It is also happening in Algeria and Egypt, where modernist governments are under pressure to rid society of western influences forbidden (*haram*) by Islamic law; and where writers and editors promoting the human rights agenda have been assassinated in compliance with a lawfully pronounced *fatwa*. The Nasreen case is of interest because it pulls disparate trends together in a single focus. (a) The conflict within Islam between modernists and traditionalists. It is perceived in most of the Islamic world in terms of the ancient duel between Islamic and western civilisation. Modernists thus labour under the double onus of opposing the old ways and going over to the enemy. Until the Iranian revolution (1979), modernists had the upper hand in most Islamic countries. They controlled the professions, business, government, and senior military ranks; traditionalists were a potent but waning force in public opinion. The modernist ideology was a localised version of western liberalism or Soviet Marxism. This equation was dramatically changed by the Iranian revolution. Egypt, traditionally the leader of the Arab world, led the modernist movement, but today its government is under pressure. Anwar Sadat, admired in the West as the greatest post-war Arab statesman, was assassinated by traditionalists. (b) In the past, modernists conciliated traditionalists by saying that Muslim countries would take from the West only what is good and allowed (*halal*) in Islamic law, while rejecting the forbidden (*haram*). The increasing prominence of human rights, including the equality of women, undermined the credibility of this conciliation strategy. Now Nasreen, by combining atheism with feminism under a human rights umbrella, has undermined the credibility of accommodation and shaped the modernist position as a confrontational "either/or." This was the perception that Sadat labored to avoid. It confirms the Ayatollah's central claim about the effects of western influence. The Nasreen affair, one may say, is the cultural earthquake that the Islamic world had to have. She is likely

to be held up by traditionalists as the proof of what modernism is all about. Marxist atheism and Rushdie's blasphemies are by comparison mild, since neither directly attacked the traditionalist concept of male and female roles. (c) Central to the conflict is a collision between competing notions of human dignity. For traditionalist Muslims of both sexes, the emancipated western woman is not distasteful but obscene. Hence traditionalists want to eliminate western films and western television programming. But in the day of global communications, is this possible? Might modern communications and the markets that accompany them prove to be the decisive factor tipping the scales in favor of modernisation?

Data of Ethics

° A *fatwa* is a judgment given by a qualified religious scholar on some point of law. They usually concern minor points of interpretation about whether a certain practice is allowed or forbidden. In the case of Rushdie and Nasreen, the question was whether their writings or statements were blasphemous. Blasphemy is a serious offence in Islam. It is meritorious for any Muslim to slay a person who has been pronounced by a competent authority to be a blasphemer. This means that Rushdie and Nasreen live under death sentence until a competent religious authority revokes the *fatwa*. The validity of the *fatwa* is unaffected by the fact that it is unlawful in other jurisdictions. The *fatwa* is not lawful in Egypt, but if tested in Saudi Arabia, judges might well uphold it.

° The Soviet Union, which was comprised of 197 nationalities, pursued a multicultural policy from 1920. The autonomy of each nationality was recognised, but Russian was the national language and the Communist Party provided the nation's universal culture. The first sign of the policy's weakness was the break of fraternal relations between the Soviet and Chinese parties. On the collapse of the Soviet Communist Party, national (or ethnic) identities emerged as a major organising factor.

° The tension between modernists and traditionalists replicates in Israel. Traditionalists are exempt from the requirement that all able-bodied Israeli youth perform three years of military service. The orthodox object that military service for women is not compatible with their view of lawful sex roles. Also as a concession to the orthodox, most

government and commercial business is closed during religious holidays. Orthodox Jews strongly oppose the peace plan of self-governance for Palestinians. The assassination of Prime Minister Rabin by a politically motivated orthodox Jewish law student could polarise the modernist-traditionalist tension in Israel.

° Indigenous peoples of Australia and other nations object to the “core values” component of multiculturalism, saying that it denies their right to self-determination, and measures their well-being in terms of white middle class indicators, such as employment and educational levels.

° Some feminists contest the supposed gender neutrality of the professions. Reproductive medicine is said to be an expression of male control over women’s bodies; medical ideology and practice reduces women to baby-making machines. Male dominance is also said to be expressed in the subservient of nurses to doctors. Similar criticisms are made of the sciences and of engineering. Thus, among scientists there is a prestige ranking of fields according to their position on a scale of “hard” and “soft.” Physics, which deals with power, is “hard.” Ecology, which deals with often unquantifiable interactions, is “soft.”

° The phenomenon of “male feminism” has been examined by feminists. These are men who believe, sincerely, that they accept the full equality of women. They range from the sex entrepreneur Hugh Hefner to learned high court judges. Feminists claim to demonstrate, from their own words and actions, that the veneer of equality covers an unregenerate male supremacist. Anthropologist Helen Fisher agrees. She maintains that the human patterning of sex roles is the same for primates and large mammals. “Evolution has programmed men to cooperate in work with other men and to cooperate with women for reproduction,” she says. She claims that women are programmed to nurture children and to cooperate with other women.

Study Questions

1. The claim to gender (and racial) equality is based on the perception that the subordination of women to men is immoral. The implementation of equality has led to direct interventions in personal conduct, by equal rights commissions and anti-discrimination tribunals. This implies a gender (and racial) neutral ethics. Such an

ethics is presumably practiced by the civil servants who implement these measures. Is the civil service vision of impartiality robust against feminist criticisms?

2. Critics of these interventions say that they infringe the liberty of individuals to think, live, and speak according to their own lights. They say that they are a regressive policy of policing personal conduct, no different in principle to the religious policing of private morality among fundamentalists. It is said to be especially threatening to gays and lesbians. Evaluate this criticism.
3. Some feminists espouse feminist ethics, whose task is to disengage from male stereotypes of women, to discover an ethics appropriate to women specifically. Other feminists are uneasy about this project because it denies the vision of an ethics common to all humankind. Still, they acknowledge that a feminist ethics is needed in the transitional period when full equality has not been attained. Is there a need for a masculinist ethics for this transitional period, and if so, what might it look like?

Week 12

Happiness and the Meaning of Life

In Week 1 the Study Guide said that ethics is about the kind of life we ought to live, about duties, and the justification of choice. It is also about the purpose of life and how to live well. The objective of this week's work is to relate larger questions of life's meaning to rules, norms, and duties.

An initial connection between these two sets of questions was established. The unifying element was ethical *visions*. We saw how Peter Singer's environmental vision interpreted the meaning of life and provided some general indicators of right conduct. Some attention was paid to the ethical significance that he assigns to vegetarian practice. Ethically purposive vegetarianism has as its reward a constant reminder that one is achieving for the good. This is probably true of all asceticism and sacrifice dedicated to an ethical purpose. Thus people can derive happiness from even extreme deprivations that seem to the mind of the non-participant misery itself. In the study questions for Week 1, the ethical merit of dietary regimes was questioned by reference to anorexics, who starve themselves to obtain a bizarre body image, but without reference to an ethical purpose. However you may have evaluated that question, it does not diminish the joy of meritorious achievement; in this case, taking control of bodily appetites.

Risking your neck in a cause is also experienced as deeply meaningful. Frankie Seymour, an Australian activist, joined the intrepid crew of *Sea Shepherd*, which disrupts the commercial harvesting of seals and whales. She said of her experience: "*Sea Shepherd's* contempt for the laws that make it illegal to do what we know is morally right, its commitment to saving lives and worrying about the money and publicity, the politics and penalties later, represented something I had looked for all my life and never found before." This sense of

reward from dedication—*serious* dedication that can cost dearly—is like the soldier’s disregard of personal risk. In addition to rising above fear, Seymour mentions the reward of defying law to do what is morally right. Action of this kind is honored in most moral traditions; it is at the moral core of civil disobedience. *Sea Shepherd’s* graphic film of harvesting baby seals had such high impact that Canada banned the activity. This inspired other activist groups to copy *Sea Shepherd’s* techniques. One such group was Operation Rescue. Their tactics to close down abortion clinics had such impact that a draconian law was brought in to prohibit interfering with any clinical service.

We contrasted the visionary with Graham Richardson’s earthy pragmatism. This is a vision of a sort. It accepts politicians and political life as they are: a robust contest for power in which betrayal of loyalty is inevitable. Ethics in this context means using personal example and influence to support a culture of civility in the midst of strong passions. It also means striving for the impartiality needed to recognise policies in the national interest. Richardson was chosen as a credible witness to this rogue ethics because he made an enduring contribution to environmental policy even though environmentalists are not his favourite cronies. That corruption charges dogged his career does not diminish but strengthens the authenticity of his witness. In Richardson’s ethical world, you can dabble in corruption and still serve the public good.

In moving to the professions, we reached cleaner air. We found an abundance of models for ethical practices, combined with ways of life. (You may wish to reread Pelligrino, Week 3). We noted that the professional ideal has been promoted as the secular replacement of religious ideals of service. The ideals are firmly rooted in “this-worldly” activity. They give wide scope to individual creativity. They reward the “asceticism” of impartiality and technical skill. Professional association brings the rewards of fellowship. Service to clients brings in the personal dimension of reward. The professions are, at least by intention, race and gender neutral. They do, at least by intention, ultimately serve humanity. For many, the professional ideal imbues life with meaning; professional practice brings many as close to happiness as mortals may hope to come.

The Study Guide noted that professionals typically enjoy the rewards of power (being your own boss), good repute, and better than average income. In addition, some professions, law and medicine particularly, exercise continuous and

profound influence on society. They may—and in capitalist societies do—use that influence to ensure that they are well rewarded. Granted that professionals are not as “dirty” as politicians, neither are they wholly pure. The diminution of public standing of the professions has resulted in a decline in the satisfactions they provide. A recent survey of Australian GPs revealed widespread disaffection. They are unhappy with the long hours of work, the modest rewards, government interference, and patient dissatisfaction.

From these observations we can distil the following ingredients of what happiness is believed to be.

- Service and sacrifice, including thriving on risk and danger. This formula is included in most religious and secular service ideals. It achieves maximum coincidence of moral action and personal satisfaction. The meaning of life is serving the vision. (See the Protestant work ethic, Week 9).

- Membership in moral community in continuous association. Happiness in this sense is the joys of social interaction and sharing, under the auspices of moral purpose. Many religious communities consciously pursue this ideal. Professional and business associations sometimes try to mimic it (see the Hewlett-Packard work place ideal, Week 9).

- Happiness is self-realisation. Self-realisation is a developmental concept in which life is conceived as a journey of discovery and fulfillment of an inner impulse. This concept is compatible with an ethical life. But it is also compatible with the Playboy philosophy and with the greed creed.

Cross-cutting these three conceptions are opposing notions of how happiness is experienced. On one view, happiness is a constant quality permeating the individual’s life, regardless of changes of circumstances. It is like Grace, or irrevocable status: once you have it, you have it forever. On another view, happiness is like the satisfaction of an appetite. A good meal satisfies until hunger comes again; then there is need to dine once more. On this model, happiness is the continuous progression from desire to desire, which never reaches a point when desire is completely satisfied. This model is assumed by Consumerism. Its spirit is captured in the Toyota ad, “Oh what a feeling!” But beyond the Toyota there is the flash sports car (see the investment ad, Week 9) The opposite of consumerism is the Buddhist teaching that desire is the root of suffering.

The Pursuit of Happiness. Many moral traditions teach that happiness (or whatever the blessed state is called) is the by-product of the moral life. The thought is that you can't just decide: "My life goal is to be happy," and then devise a plan to maximise happiness and minimise unhappiness, much as you might operate a business to maximise profit.

The happiness-as-by-product idea is basic to the conception of the relationship between human rights and happiness. Human rights, we have seen, impose far-reaching duties on government and on individuals. However, it is believed that societies that are structured by human rights rules are more likely to make most people happy. In such a society everyone enjoys equality of opportunity. There is no social disparagement or handicapping. There is no arbitrary arrest or war. Individual choice and personal development are maximised. A prosperous economy enables everyone to enjoy life's goods.

It is understood that attaining equality, in the human rights sense, requires long term social reconstruction of existing society. The underlying premise of equality, as a touchstone of happiness, is that people suffer by comparisons that show some people getting the lion's share of life's good things, while others make do with small mercies. It's not fair, we say. What would be a fair distribution? What is the decision procedure for determining a fair distribution? How would the theoretically fair distribution be implemented in practice? These questions illustrate the question of happiness is inseparable from questions of just desert, and that in turn from the question of what is a just society.



The Readings

Janet Radcliff Richards

Our first reading is drawn from a British philosopher whose book, *The Skeptical Feminist*, addresses the large task of designing social relations so that happiness and justice coincide. She states that "the principal complaint of feminists ... is that men have contrived by various means to get for themselves an inordinately high share of the good things of life, leaving women with a corresponding disproportion of the bad." The reading illustrates what is involved in a major social reconstruction. Richards's position is that legal guarantees of human rights are necessary, but not sufficient to

assure justice. In the selection, the author surveys the “foundations for utopia,” which is the relation (or lack of it) between human nature and happiness, and the subsidiary question, whether women and men have different natures, to which there is a corresponding difference in happiness. These are wide-ranging questions and the Dossier excerpt does not follow the author through the entire complexity of her argument. Your objective in reading the excerpt is to observe how “utopia” questions can be structured for analysis and argument. It is a presupposition of Richards’s approach, stated elsewhere in her book, that the traditional ideal of happiness for women, family and community standing, are not the right answer for modern women.

The Meaning of Life

Four vignettes are selected from the *Life Magazine* series, *The Meaning of Life*. The series was funded as a public service by the Mazda Corporation. Mazda executives wanted to find out what ordinary people from ’round the world thought of life. Hundreds of answers were collected. The vignettes in our reading were written by a Balinese artist, a Jordanian travel agent, a Tanzanian bishop, and a Chinese translator. The artist and the bishop find the meaning of life in religion, but the experience of religion is different in each case. The travel agent is a loner who says that she is married to her work. The translator finds the meaning of life in matrimonial love. All of them agree that happiness is an inner state, independent of external circumstances. All the authors are poor, but they do not complain of their poverty. This was just the point of curiosity to Mazda executives. What is happiness for the half of humankind, who do not participate in consumer happiness? It turns out that for Have Nots, the best things in life are free.

The End of Mystique

This profile of Richlands State High School teacher Bob White was one of a half dozen published in *The Australian Magazine* under the title, *The End of Mystique*. Journalist Mike Safe and Mark Whittaker interviewed teachers, nurses, police and other “pillar of the community” occupations to compose a picture of their standing in these “tougher, faster, more cynical times.” White, who began teaching in 1955, muses about his career and the changes in schools over the years. Imagine yourself a prospective teacher. Do his comments encourage you to think of the teaching career as meaningful and rewarding? Notice White’s remarks about the decline of respect toward teachers, particularly toward female teachers.

Get Rich

Consumer happiness. The comedian W. C. Fields quipped that “it is better to be rich and happy than poor and sad.” The advertising industry is geared to make us identify happiness with the use or consumption of commodities and services. If the industry is believed, there are many paths to happiness, but all of them pass through the gates of desire, where a toll is charged. Suppose we identify this underlying message with Consumer Wisdom: the more you desire, the more you consume. This wisdom is the opposite of the Wisdom of Buddhism. The Buddha teaches that the world is filled with the suffering of the unenlightened; and the root of suffering is desire. To eliminate suffering from your life, you must extinguish desire and indeed the Ego.

Some sense of what this may mean can be gathered from reflecting on the desires catered to by advertising. Some ads sell quick riches products, or even more fabulously, the power to obtain whatever your heart desires. Some of these products are “mind power” tapes, videos, and weekend seminars that put you in touch with your motivation centres. Others are herbals or yoga exercises that give the same effect. We select for this reading an advertisement for candles, which, if used as directed, have amazing results.

Hiram Caton

The second reading on the attainment of happiness is Caton’s analysis of gambling. Games are structured so that betters have a high probability of losing in the long run. If you need rent money, the TAB is not the right place to look for it. Nevertheless, Australians pour billions into the quest for “easy money.” Caton’s article explores the problems of rationality of choice raised by gambling. He argues that better rationality is impaired by “necessary illusions” that games of chance exploit. This raises a problem for the design of utopias: must they make allowance for irrational desires?

Study Questions

1. In the reading of Week 1, Singer explains how acting virtuously is intrinsically rewarding. This expresses a nearly universal belief among moralists. However the biblical story of Job struggles with three other combinations: the virtuous suffer ruin; the unrighteous are happy despite their wickedness; there is no intrinsic connection between virtue and happiness, or wickedness and unhappiness. Job’s doubts about divine justice are resolved when God reasons with him (the one place in

the Bible where God “philosophises”). Read Job Chapters 38-42. Job was persuaded, but are you?

2. Madonna sells showmanship that trades on the thrill of transgression. She also sells the wisdom behind her act. Here are samples of her wisdom.

“It’s a great feeling to be powerful. I’ve been striving for it all my life. I think that’s just the quest of every human being: power.”

To a Toronto audience: “I know people say I’m ruthless, violent, and manipulative. But you love that, right? When people get in your face, when they stab you in the back, you got to show them whose boss, right? In America, people really dig a little senseless violence. What about you, Toronto?” Audience screams approval.

“I admit I have this feeling I’m a bad girl and need to be punished. ... I had to deal with the loss of my mother and then I had to deal with the guilt of her being gone and then I had to deal with the loss of my father when he married my stepmother. So I was just one angry, abandoned little girl. I’m still angry ...” Is this, on balance, a picture of happiness, of melancholy, or of despair?

3. The actions of *Sea Shepherd* make many people unhappy (it costs jobs and occupational dignity in Canada). The animal distress shown in its dramatic films makes many more feel guilty. Supposing that *Sea Shepherd* inflicts a net loss of happiness to human beings without increasing the happiness of seals and whales, is its activity justified?
4. The proverb “misery loves company” brings out the fact that people who individually are unhappy may boost their self-esteem through fellowship. What is it about sharing personal experience that transforms misery into a “tonic” or “therapeutic” effect? Does sharing the “greed creed” transform it into a stimulus?
5. Taking the Richards and Caton readings together, reflect on the possibility that a utopia of happiness may be a “necessary illusion.” Would happiness in Richards’s sense be possible if there were “natural” antagonisms and conflicts between women and men?

Week 13

Thinking about Ethics

The final assessment item sets questions that invite you to think in a comprehensive way about what you have learned. To assist your writing, the Study Guide for Week 13 will conduct a review. There are no new readings. Instead you are invited to reread a good portion of the Dossier, concentrating attention on one or two that will serve as the basis of your final essay.

First, let's remind ourselves our goals. Topics in Ethics is an introduction to ethics. To cover this very large territory, we visited a variety of moral cultures and some moral subcultures. At each stop we examined the kind of life that the natives lead, how they assess right and wrong, and what they think their duties are. We also inquired into their visions of a just world, the problem of evil, how they derive rules and norms, and how they regard the meaning and purpose of life.

The journey began by exploring the suggestion that ethical visions are a handy means of getting a clear idea of a particular ethics. We examined two contrasting visions: the lofty and ascetic vision of animal rights, and the roguish practice of party politicians as seen by Graham Richardson. The moral culture inhabited by Richardson is powerfully charged with ethical visions. (They are briefly described by Lindsay Tanner in his proposals for a new vision of a moral world order, Week 9). Richardson's role in this baffling swirl of personal ambition and high ideals was to act as moderator and pragmatist, "hosing down" righteous anger with timely reminders of what holds the party together: a common interest in holding power as a party. This is a low view of morality, and yet the personal achievement of Richardson was to give the nation a comprehensive, bipartisan environmental policy. We expect principled saints to be ethical high achievers; now we see that pragmatic rogues may achieve as

well. The rogues add the practical wisdom needed to bring soaring ideals down to earth.

Topics in Ethics is the introductory subject to a course we call “Applied Ethics.” The professions were selected to focus attention on applications. Our examination of the professions reviewed the vision of the ethical role of the professions in the modern world. In the vision of Max Weber, professionals are the studious, dedicated, impartial servants of all the people. The analogy with religious orders suggests itself because the professions relinquish a variety of liberties enjoyed by non-professionals; and they do so in order to serve the well-being of the public. One liberty relinquished is personal freedom to live according to inclination. The professional accepts the limits on private choice imposed by the conditions of professional service. The readings by Whitton (Week 2) and Pellegrino (Week 3) spell out details. Public servants at more senior levels might easily enrich themselves by using their inside information to make investments. The code forbids it. They could use their power to hamstring citizens and groups that they do not like. The code forbids that as well. They may from time to time be required administer activities that go against their conscience (Study Questions, Week 2). The code requires that they distance themselves from their private convictions, or else step aside. Pellegrino describes a comparable discipline in the relation between physician and client. The physician has large power to affect the well-being of her patient. But that power is held in trust; it must never be violated. In sum, from the Whitton and Pellegrino readings there emerges an ethical vision imposing an intellectual discipline of knowledge, impartially used, and dedication to the well-being of clients. We also see the details of ethical values, norms, and practices comprehended in the vision.

What is the practical value of the professional vision to you? The core of the ideal is the concept of personal responsibility in a vocation. It can be applied broadly. In business, for example. In Week 9 we considered the Protestant ethic as a model of the way that intense personal dedication was historically brought to bear on the conduct of business. Today there is a push toward the “professionalisation” of all vocations, even policing and trade union offices. The everyday duties of policing devolve enormous discretionary power on police, for example, the power of arrest. They must resist corrupt influences and patiently bear the abuse of angry people, without using their discretionary power to retaliate on them. Thus, there is ample scope for practicing ethics whatever your vocation may be.

Our second ethical vision focus was human rights and the obligations associated with them. Human rights, we saw, arose in the political context. They may be evaluated from two points of view. Pragmatically, they are just and fair “rules of the road” that we all agree to abide. We agree to them because they are a sensible formula for living together peacefully, according to the proverb, “do unto others ...” Or we may embrace them because they touch the ethical core of common living, by conferring on each the legally protected attributes of human dignity.

Either approach commits us heavily to **theory**. Along the pragmatic avenue, theory needs to be a general social theory about the conditions of collective existence. Is equality of rights possible, given the diversity of age, motivation, and abilities? Who is to enforce the rules? Must not the enforcing authority have the authority and power to make the rules stick, and if so, doesn't that create inequality? Can the rules be enforced without the use of legal penalties, such as fines and imprisonment, that may infringe human rights? What about war in defence of the human rights-based polity? How is the state's call upon the “ultimate sacrifice” compatible with guaranteeing the right to life? Is it hollow to talk about human rights when modern weaponry doesn't discriminate between combatants and innocent civilians?

There are comparable theoretical challenges on the more strictly ethical arm of human rights. Who exactly is the “individual” or “person” to whom rights are attributed? The Americans initially excluded Indians, women, and blacks from the rights vision. The French abolished slavery in their colonial dominions and conceded some rights to women. The notion that all human beings, without exception, “are born free and equal in dignity and rights” was not a practical consensus when the UN Charter was adopted. Black and indigenous peoples lay under heavy burdens of discrimination everywhere. Women had achieved equal political and property rights only in some western and socialist societies but had not achieved social equality anywhere.

Travel along the challenging road of acceptance of the equal dignity was troubled by the abrupt emergence, during the Sixties, of an expanded community to whom rights are owed. In one vision, the expanded community includes animals; in another, the whole biotic community. There are of course numerous practical obstacles to acceptance of either version of the environmentalist vision. The French playwright Molière stated one of them: “Let us go frankly for things that grip us by the entrails, and never bother to find reasons to

stop us enjoying ourselves.” But the phenomenon of differing gastronomic tastes doesn’t raise the problem of theory. We see the problem in the conflict between animal liberation and experimentation on animals. Scientists treat animal lives as expendable. Animals may be dissected alive to study circulation or respiration, electrodes may be stuck into their brains to study neural pathways, they may be infected with terrible diseases, they may be tormented to identify pain neurones, they may be driven mad to test psychiatric drugs, they may be starved to study anorexia nervosa. Scientific laboratories, in other words, are the sites of inflicted torment on a very large scale. But scientists are not sadists. There are two ethical excuses for animal experimentation. The first is that experimentation is indispensable for advancing medical knowledge, which in turn is serviceable to relieving human suffering and saving lives. (This is a utilitarian argument). The second is that experiments ethically permissible on animals would be a human rights outrage if practiced on human beings. That is because there is an absolute ethical difference between strict duties owed to human beings and no duties owed to animals, beyond a non-specific injunction to be mindful of their welfare. (This is a deontological argument).

This is a “crisis” of theory because it challenges the underlying assumption of Western rationality that reason is self-consistent. In this case we have far-reaching and apparently irreconcilable differences about the scope of the moral community. In the environmental vision, the cultural and ethical commitment to improve the human good by “playing the tyrant” over nature is ethically invalid. It is the height of arrogance and “species chauvinism.” We must become Buddhists and extinguish desire. In the scientific vision, the environmentalist vision is the height of irresponsibility. Merely to stop scientific farming of cereals would plunge the world into a food crisis resulting in an incalculable number of deaths.

The crisis of theory emerged also amidst the problems of cultural diversity. Charles Humana (Week 10) took note of the objection raised by non-westerners that human rights are a western cultural-legal development. To enforce these rights on non-western cultures is to dissolve them. The most conspicuous protest to this effect comes from religious fundamentalists (Week 11). The *shari’a* recognises no general right to free speech; and there is a solemn religious obligation on all Muslims to punish blasphemy. (The same is true for Jewish fundamentalists). Again, for fundamentalists equality of women is unlawful because the *shari’a* prescribes

distinct duties to women and men. Taslima Nasreen brought these two issues to a head by advocating women's rights and attacking the *shari'a*. Qualified judges pronounced a judgment (*fatwa*) on Taslima: it is meritorious for any Muslim to slay her, wherever she may be.

Fatwas and much else in traditional Islamic law have no validity in Australia; Commonwealth and state statute alone are enforceable. Multicultural policy is based on the supremacy of "core values," among which are freedom of speech and the rule of law. For those who are heirs of the western ethical tradition this supremacy is a bulwark against barbarism and a beacon to humanity. But to militant minorities and some sections of the Aborigine community, this supremacy bears the stigma of white intolerance, arrogance, disenfranchisement, and conquest. During settlement, the destruction of Aborigine culture was sanctioned by white religion; today, by human rights. The effect in both cases is the same: to uphold the dominance of western ways.

The crisis of theory thrown up by fundamentalism is (a) the apparent irreconcilability of opposing ethical visions and (b) the use of authority and force to impose those visions.

There is a further problem for theory in the circumstance that human reason cannot always foresee the consequences of its principles. The patriots who originally espoused human rights conceived them as establishing a protected sphere for liberty. The enlargement of individual autonomy was obtained by limiting the sphere of government. The arrangement known as "free enterprise capitalism" was fostered. The result was to increase wealth as never before, but also to increase inequalities of power and status as never before. The ethical argument for political liberty and personal autonomy had overlooked the aggregate social effects of economic competition. It also overlooked the ethical implications of competition. There arose a libertarian competitive ethic that justified restraining the humanitarian impulse to extend help to casualties in the fierce competitive battle. Foremost among them was the utilitarian philosopher Herbert Spencer, who coined the phrase "survival of the fittest." The perishing of the unfit was, he believed, essential to *moral* progress (Study Guide, Week 4). In a characteristic statement he wrote: "A man who is born into a world already possessed, if he cannot get subsistence from his parents on whom he has a just demand, and if a society does not want his labour, has no claim or right to the smallest portion of food, and, in fact has no right to be where he is." The originators of

human rights did not foresee that human rights must be inclusive. They did not foresee that when the doctrine of liberty is combined with economic growth, the outcome is a theory and practice of brutal “let-them-perish,” done in the name of *ethical* progress.

This doctrine was social dynamite. It helped legitimise a contrary revolutionary doctrine legitimating the replacement of callous capitalism by humane socialism. The solution was what came to be known as the welfare state. It pragmatically mixes individual liberty with state responsibility for enforcing equal rights and for rescuing the casualties of capitalist competition. In recent phases of the welfare state, two unforeseen consequences of rights logic have come to the fore. One is the simple concept that for every right created, a corresponding duty is created. The expansion of rights is accordingly also an expansion of duties. Most of these duties can fall only on governments (Week 10). But some, such as racial and sexual equality, distribute on all individuals. To secure compliance to equality principles, governments have enacted interventions in personal conduct and freedom of expression that are obnoxious to libertarians, who complain of “political correctness” enforced by “equality commissars.”

A major difficulty with the personal autonomy position is that people cannot always use their freedom well. In Week 3 we examined Milton Friedman’s argument for eliminating professional licensure. He espoused a free market for all services, and argued that shoddy services would be driven from the market by ordinary competitive pressure. No government has adopted this proposal because most people are unable to evaluate the quality of health services prior to becoming a casualty. In Week 12 readings, Caton examined a voluntarily inflicted economic harm—gambling. It costs Australian gamblers a net \$7 billion per year, plus the savings that might be made by diverting gambling funds into the household mortgage, plus the cost of broken homes and rehabilitation of habitual gamblers. He argues that gambling is a clear-cut rebuttal of economists’ belief that consumers behave as rational actors. They pursue happiness irrationally, if the calculus of self-interest is the benchmark of rationality.

What we throw away in the TAB we want to save in health services. Two weeks were devoted to the euthanasia issue. Week 5 considered the professional perspective; Week 6 the citizen perspective. We found that patient autonomy is not the only argument for euthanasia. The “duty to die” is an increasingly public-interest argument for terminating life, based on considerations of equity in allocation of health

resources. Against this, lawyers have a professional duty to protect life through good advice and judicial decisions. And doctors have a duty to save life, not to extinguish it. We found that the legal and medical professions are not of one mind.

It is apposite to conclude our review with mention of euthanasia. Many have loved ones of advanced age, and as the “greying” of Australia advances, the proportion will increase. Each of us will need to reach a view of dying compatible with personal beliefs and with civic responsibility. And with the fact that no one can foresee what the consequences will be of changing the law or leaving it as it is.