

February 16, 2007

- **The ‘Hawkeye’ Case**

To motivate the discussion, I started by borrowing S. J. Odell’s example of the case of ‘Hawkeye’ (from the film *The Last of the Mohicans*) he discussed, concerning the question of euthanasia in his PHIL100 lecture.¹ The scene:

Hawkeye, a good sharpshooter, leaves the Iroquois camp and from a distance he sees an English captain being burned to death, tied to a stake. There are Iroquois warriors everywhere, so there is absolutely no chance in the captain’s survival or in his being rescued. So Hawkeye, from a distance, draws his musket and manages to hit the captain squarely between the eyes, killing him instantly.

As in the case of S. J. Odell’s experience, polling the people leaving the theatre, practically everyone in the three sections believed that Hawkeye did the morally correct thing. The two who were unsure or disagreed (**Callie Douthit § 0207, Christopher Young § 0206**) leaned in a direction that at least partially favored Sullivan’s argument: active killing is not morally permissible. (Or more narrowly construed: If Hawkeye were a doctor, according to Sullivan’s interpretation of the AMA’s 1973 statement of euthanasia he advocates, it is not permissible for Hawkeye to shoot the captain.) Still, however, when posing this question to Sullivan’s argument, everyone in all three sections agreed that the Hawkeye case at least provided a hard case, or stumbling block: a kind of ‘paradox of intentions.’ For on the one hand, Hawkeye’s primary intentions were to alleviate the suffering of the captain, yet based on the circumstances, this would force Hawkeye in a situation in which he would *actively* have to bring about the captain’s death, i.e. *actively intend* to kill him. In other words, Hawkeye’s shooting the captain between the eyes obviously doesn’t qualify as an “unwillingness to use extraordinary means for preserving life.” (Sullivan, 198) Rather the intention is clearly deadly, “so...the act...is wrong.” (ibid.)

- **Rachel**

Other interesting responses however included **Brandon Berman’s (§ 0206)** in which he questioned whether or not the ‘Hawkeye’ analogy was applicable in terms of some of the hard cases dealt with in euthanasia, primarily due to the *extremely* protracted short lifespan of the captain. (As the examples Rachel and Sullivan discuss usually involve protracted lifespans of hours or days). On the one hand, like in the case of the abortion arguments, we’d want to say that the lifespan (whether minutes, hours, or days) of the suffering victim shouldn’t be of relevance, on the other hand one could also criticize the Hawkeye case as such an extreme example that it ‘straw-mans’² the issue. (It’s very seldom that a patient only has minutes to live).

¹ SJ Odell advocates an ethical theory he developed called ‘Folk Based Practice Consequentialism’ (or FBPC). Basically, from this FBPC position, SJ Odell argues for a reformist euthanasia (one that includes active killing) as he argues that our ‘folk practices’ endorse active euthanasia anyway. He is able to argue for this position, of course, without committing the ‘fallacy of the many’ (recall from the list of fallacies, in the first set of notes distributed Feb. 2) which states that: ‘X is right/true because a majority of people agree or endorse X.’

² Recall from the list of fallacies, Feb. 2. A straw-man tactic is to exaggerate a case (pro or con) to the extent that the actual issues are sidestepped or distorted beyond recognition.

One thing is fairly obvious, though. Rachel would certainly argue that Hawkeye did what was morally correct. As he argues, the distinction between active and passive euthanasia is a difference that makes no moral difference: like in the cases he cites (throat cancer patient, infant with Down's Syndrome) it would be *cruel* to just 'let die' and not actively bring it about.

As in the previous article (by Thompson) Rachel likewise uses a bare differences method, which he test with variant cases and analogous thought experiments. Recall the bare difference strategy:

P1: Case A has feature P and case B differs from A only in feature Q

P2: Case A and case B are morally equivalent.

C: Therefore, features P and Q are morally equivalent.

(Cases A and B are the analogous Smith/Jones thought experiments, which P and Q are the features of actively killing versus allowing to die.)

In general, a fair amount of you in each session agreed, more or less, with the generally reform-based perspective of Rachel, insofar as euthanasia laws should be revised in such a manner as to allow a more active 'right-to-die' as mutually decided by health practitioner, patient's family, and of course, by the patient. **David Cimino § 0207**, for example, argued that Rachel's conclusions were sound in both the voluntary and involuntary cases. Others, however, while agreeing with Rachel in spirit, nevertheless took issues with the form and the content of his argumentation. **Jessica Elmore § 0202**, for instance, questioned the merit of the analogies and the thought-experiments adopted by Rachel, essentially adopting some of the procedures below (when critiquing analogies and the soundness of the premises of the bare-differences argument):

(A) Look for *disanalogies*

(B) Use method of variant cases to test the merits of the disanalogies

(1) Critique P1: Could there be *other* features that are different from cases A and B, that weren't discussed?

(2) Critique P2: Are cases A and B really morally on par?

Echoing Jessica's point, **Christine Dever § 0202** pointed out that in discussing passive euthanasia, Rachel selectively focused on extreme cases (like the throat cancer patient) without mentioning a spectrum of other possibilities, rendering passive euthanasia not such a 'cruel' option. (For instance, the other extreme, mention in Darren Hick's Thursday lecture notes, that the patient undergoes an unexpected recovery...an outcome that's clearly precluded in the 'active' case.) **Christina Stennet § 0206** on the other hand questioned the feasibility of such an outcome, minus the intervention of 'extraordinary measures.' In other words, it seems reasonable to hope for the chance of a spontaneous recovery of a seriously ill or comatose patient in the case when extraordinary measures have been implicated. But when a comatose patient has been taken off life support, as in the passive euthanasia case, the notion that any outcome such as the possibility of recovery seems so unlikely, as not to even warrant serious consideration. In other words, Christina was pointing out that the factor of extraordinary measures (a factor lying outside of euthanasia) should probably be taken also into consideration when entertaining the possibility of 'miraculous' recovery.

- **Sullivan (versus Rachel...and vice versa)**

As expected, the more interesting debates and questions and issues brought up had to do with Sullivan's article. Both **Pearl Horng § 0207** and **Christopher Young § 0206** favored Sullivan's overall conclusions, as well as his critique of Rachel. Pearl and Christopher endorsed the same opinion that Sullivan's interpretation of the AMA's 1973 statement essentially safeguards against the possibility of the first-person desires and preferences of a suffering patient from completely overriding the (third person) perspectives of the health care practitioners and perhaps that of the patient's family. In other words, according to both Pearl and Christopher's points, the issue revolves around *precedent*. They agreed with Sullivan's critique of Rachel here, as Rachel's attempted equivocation of active versus passive euthanasia does not adequately prevent a bad precedent from being formed in which, for instance, the momentary desires of the suffering patient can override what may be considered (we may assume) to be the more objective perspective of those not actively suffering. For instance, suppose the suffering patient on a Monday decides s/he wants to end her or his life, but the next feels otherwise. We cannot assume, in other words, that the level of rationality and objectivity of someone suffering intensely to be on par with that of the community of support (family, medical care givers). Do we *really* want to set a precedent in which a patient's 'Monday morning wish,' so to speak, has final authority? It would seem to open the door leading down the slippery-slope of state-supported suicide.

In fact, according to Georgia state law (and one may assume most other states have something equivalent) when a person who cannot afford insurance has consented to care after a suicide attempt, the State takes over and his or her rights and independence are suspended until a county-appointed psychiatrist decides that the patient no longer represents a menace to himself or herself. So, in other words, outside of the AMA's statement on euthanasia, there exists legislature which in effect makes someone attempting suicide (after s/he has consented to treatment) effectively a 'ward of the state,' as the state has deemed such cases as people who represent menaces to themselves and hence their responsibilities (as well as their rights) become severely restricted. Rachel's 'reformist' position would seem to run contrary to this policy as well.

On the other hand, however, **Michael Donovan § 0206** pointed out that there's quite a disanalogy between the case of someone attempting suicide (who may be in physically good condition) versus someone wanting to die, because of terminal and painful medical conditions. The 'state-assisted suicide' argument against Rachel rests on this equivocation (between a psychological and a medical pathology). Once we recognize this difference here, the slippery slope becomes less apparent. In other words, there may be ways to fix Rachel's reformist position with clauses preventing the (unqualified) 'state-assisted suicide' scenario.

Gopi Narang § 0202 also pointed out another potential conflict of intentions (similar to the Hawkeye case) for Sullivan, involving Rachel's throat-cancer patient. Clearly, the intention of the caregiver would be to alleviate the patient's suffering. But prolonging the patient's life (by 'letting nature take its course') does exactly the opposite. Sullivan's statement or disclaimer that when our eyes are "filled with tears we don't see clearly anyway" (199) basically seems to beg for the case made by Rachel (the case Sullivan is supposedly arguing against): the policy is cruel! **T'Naija Dickens § 0207** shared a similar sentiment: that Sullivan is guilty of the very issue that he accuses Rachel of. Sullivan's distinction of intentions/consequences distracts one from the heart of Rachel's argument, that the cruelty of the AMA position creates this somewhat artificial distinction between (actively) terminating life versus (passively) letting-die. In other words, T'Naija argued, certainly Rachel would not disagree with Sullivan in his talk about 'intentions' ... after all doesn't the whole issue of euthanasia *presuppose the primary intention of alleviating suffering*? How can one do this when one's hands are tied, into acquiescing only for the 'passive' route?

Other questions directed towards Sullivan's position included interesting utilitarian cases dealing with issues involving the distribution of resources. For instance **Shelby Watson § 0207** raised the 'lifeboat' question (borrowing from Brody's discussion) in which she asked what would Sullivan have to say in a case involving someone sharing a lifeboat with another, in which the person in question is suffering from terminal and very contagious disease? **Adil Zaman § 0206** asked a similar question: "If 100 people are suffering a terminal and contagious disease, and only one will recover, what would Sullivan have to say?"

Shelby and Adil are both bringing up the distinction between *intentions* and *consequences* that Sullivan wants to keep separate. Their questions, however, inevitably deal with *consequences* in which one must take into consideration what seems best for the whole (the two people on the lifeboat or the 100 people). Of course, in both cases, Sullivan is bound to say that that one person on the lifeboat, or that one in a hundred who will survive, must be kept alive, no matter how devastating the consequences. What's of interest here, in Shelby and Adil's questions, turns on the issue that in some emergency scenarios, all talk of *intentions* must take a back seat, in order to ensure that one is responsible in the face of the harsh realities and potentially devastating consequences.

As a side note, certain cultures (like the Inuit) practice just such a form of active euthanasia illustrative of Shelby and Adil's questions. During times of food shortages, in order (one may assume) to ensure the survival of the fragile community in the harsh conditions, certain severely ill members of the tribe (whether elderly or small children) are literally left out in the cold to die.

Others raised points which they considered presented cases which would present problems for both Rachel and Sullivan. Specifically, **Morgan Gerard § 0202** brought of the case in which one is comatose, yet still sentient (medically documented cases like these exist). Similar to the question of the status of the fetus, it's not clear whether the category of this patient would fall (vegetative, therefore subject to issues dealing with involuntary euthanasia, or sentient and responsive, therefore subject to issues dealing with voluntary euthanasia?) The point of the sentient comatose patient is quite analogous to the 'future-of-value' issue discussed by Marquis on in his argument against abortion. For the status of such a patient is medically analogous to the status of a fetus (in the final stages of pregnancy): depending entirely on life support, yet harboring sentience. Rachel might argue (incorrectly, as the patient is sentient, i.e. knows what's going on but cannot communicate with the outside world) that this falls under a case of involuntary (active or passive) euthanasia. For this would override the patient's possible desires to live. On the other hand, the line of defense of AMA policy made by Sullivan doesn't seem to answer this specific case either. (But, a' la Marquis, perhaps one could argue that Sullivan's stance at least wouldn't automatically rob that patient of a future of value.)

Last of all, **Almita Philips § 0206** made a general point against the method of argument made by both Rachel and Sullivan, that was very similar to my general worry concerning who they reason. Almita pointed out, especially in the case of Sullivan, that too much emphasis is placed on general policy. While such issues like euthanasia inevitably would involve decisions in which one is sensitive to the particular case at hand: how *much* and how *many* will suffer? One can only exercise judgment effectively when, at best, logic *constrains* but doesn't *determine* the decision. I pointed out that the simple (Aristotelean) logic adopted by the authors here and elsewhere (as in the abortion issue) does a rather poor job of addressing particular factors that, one would think, are essential when wrestling with such weighty matters. Ironically, the ethics that Aristotle advocated, an ethics based on *virtue* and *practice* (as opposed to *argument* and *principle*) is just such an ethics that would answer Almita's point. For in an ethics based on virtue and practice (like Aristotle's) there are no general hard-and-fast logical principles that rigidly determine what

the course of action. To quote the Grateful Dead: “There is a road, no simple highway.” The path or road of difficult ethical decisions is no ‘simple highway’, all laid neatly and cleanly out by rules of elementary logic. Instead, argues Aristotle, character is built through practice, which itself is guided by rough-and-ready rules like the Golden Mean (i.e., avoid extremes). But such rules shouldn’t be mistaken for mechanical logical principles governing the machinery of policy. Virtue, character, are qualities for Aristotle that are manifested in traits like wisdom and good judgment. One doesn’t acquire such qualities by contemplating and deducing logical arguments all day. At best, studying or forming arguments can assist in shaping, but cannot *determine* virtue.