

Ayurvedic tonic after he refused to apologise for such crass commercialism. Similar action has been threatened against another who appeared in a commercial for a toothpaste. The council is also proceeding against a doctor who has placed advertisements in newspapers for her slimming programmes.

Self-promotion in any form is a punishable offence under the apex Medical Council of India's rules and the state council's code of ethics which even bars doctors from publishing their photographs. But so rampant is the practice now that a physician even published a calendar with his name, address, degrees and pager number.

It is obvious that only strict vigil and action by medical councils can put an end to such pernicious practices. But then, going by the wall graffiti, huge hoardings and newspaper advertisements some of physicians in north India put up to

proclaim their expertise, the Medical Council of India does not seem bothered by such violations of its codes and rules.

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FROM OTHER JOURNALS

Ethics and the world¹

The author starts with a quotation from Wittgenstein: "Ethics does not treat of the world. Ethics must be a condition of the world, like logic." Would that it were so!

In his presidential address to the Seventieth Session of the Indian Philosophical Congress, Dr. Rajendra Prasad points out that ethical principles do not determine the possibility or impossibility of anything they are relevant to; rather, they determine its desirability or undesirability. These principles are relevant to individuals, their groups, their actions, motives, intentions, attitudes, plans and policies, projects and projections... Ethical goodness is foundational to all other kinds of goodness in the sense that its presence in any one of them heightens the latter's natural or distinctive value and its absence in the latter or the latter's having been polluted with some ethical evil, does the contrary. A necessary component of our ethical concern is a concern or care for the welfare of others.. .

That an ethical consideration has the primary, or an overriding authority, is clear from the fact that no non-moral consideration can take away or curtail the moral rightness of an action, if the latter is otherwise morally right. The moral rightness of an action can be a very good ground - some would say the best ground - for attributing to it some other kind of rightness, say political rightness. No action can or should be said to be right - even

from a religious point of view - if it is morally wrong. In fact, one of the methods quite often adopted by religious reformers to improve or purify the functioning of a religion is to suggest dropping or modifying those of its prescriptions or proscriptions which they consider morally wrong, unjustified or insignificant.

Genetic research²

This thought-provoking essay is strongly recommended.

The Human Genome Project will probably be completed by 2006, ahead of schedule. It may take another hundred years to figure out what each gene does in regard to the development and function of 'normal' individuals. Only then will the therapeutic payoff start. In the meantime there will be an increasing number of tantalising bits of diagnostic information, most accompanied by a measure of uncertainty.

What the project promises to do is to make the unknown known with a 'scientific certainty' that is difficult to refute. 'The potential of this horror makes people shudder. Not only will they know their own futures, but anyone else who has the information will have some terrible power over them. The Biblical adage will have come to pass:

'For now we see through a glass darkly, But then face to face;
Now I know in part,
But then I shall know even as also I am known.'
I Corinthians

13:12.

A survey carried out by the author showed that two per cent of those polled had been refused employment, four per cent refused health insurance and six per cent refused life insurance on the basis of genetic reports. Another study found far greater evidence of 'genetic discrimination'.

Geneticists found it difficult to answer the question: 'Should a patient's relatives be informed that they may be at genetic risk against the wishes of the patient?' 41% of those polled in the US and 34% outside the US would maintain the patient's confidentiality. In many cases, telling unasked relatives is a practical impossibility because of the difficulty in locating them. The President's Commission decided in 1983 that confidentiality could be overruled if four conditions were met: 1) reasonable efforts to persuade the patient to disclose voluntarily had failed; 2) there was a high risk of harm to the relatives if the information was not disclosed, and the information would be used to avert this harm; 3) the harm suffered would be serious; and 4) only information directly germane to the relatives' medical/genetic status was conveyed.'

Patients took a different view. 75% felt that the doctor should inform the relatives.

66% of geneticists would not tell a man that he is not the father of a child, even if he asked. 75% or respondent patients, who

were mostly women, thought that the doctor should tell the man who asked, but most thought the doctor should warn the woman first.

French respondents to the survey often started with the statement: 'My rights end where other people's rights begin.' Chinese respondents and those from most developing countries said that individuals should act in terms of the welfare of the population as a whole. Most American geneticists and patients felt that withholding any service requested by a patient was a denial of patients' rights.

Addressing the question of whether knowledge is good in itself, the essay focusses on Sophocles' statement: 'It is not wisdom to be wise, when wisdom profits not.' Referring to the example of Huntington's disease, Wertz points out that whilst the test has a 100% certainty, it cannot predict the exact age at which the disease will appear. Most other genetic tests do not offer such certainty. Instead, like weather forecasts, they offer 'percent chances'. Risk theory suggests that most people tend to overestimate low numeric risks and underestimate high numeric risks.

Wertz also discusses the stated Chinese goal of human genetics as 'improvement of the population quality and decrease in population quantity', raising the spectre of eugenics. Prenatal diagnosis, 'prevention of birth defects' and reducing 'the number of deleterious genes in the population' are other stated goals in 17 of 37 nations (including India) surveyed.

The final paragraph in this essay is especially interesting. 'America will export its ethical values along with its technology, ultimately leading to world cultural hegemony in bioethics... We have some ethically dubious practices, such as patenting of genes and inequality of access to care, that we should probably not try to export...'

*Duty to warn*³

The doctrine that therapists have a duty to warn third parties of possible harm by their patients was first highlighted in the *Tarasoff* case. Prosenjit Poddar murdered Tatiana Tarasoff in 1969 just two months after confiding this intention to a University of California psychologist. The California Supreme Court held that the therapist has a duty to warn when 'in the exercise of his professional skill and knowledge, [the therapist] determines, or should determine, that a warning is essential to avert danger arising from the medical or psychological condition of this patient.' In an unusual grant of re-hearing, the California Supreme Court vacated its prior *Tarasoff* decision, holding instead that '[w]hen a therapist determines, or

pursuant to the standards of his profession should determine, that his patient presents a serious danger of violence to another, he incurs an obligation to use reasonable care to protect the intended victim against such danger.' The court went on to state that the duty could be discharged in a number of ways, depending on the circumstances, including 'warn[ing] the intended victim or other likely to appraise the victim of the danger, to notify the police, or to take whatever other steps are reasonably necessary under the circumstances.' The court had concluded that '[t]he protective privilege [to confidentiality] ends where the public peril begins.]

In *Hutchinson v. Patel*, the Louisiana Supreme Court confronted the issue of whether a psychiatrist's failure to warn or take reasonable precautions to protect third party interests constitutes malpractice. The Court decided that the duty to warn requires only reasonable care in applying the standards of the professional community. In addition, reasonable care must be exercised by the therapist in discharging the duty to warn to protect the potential victim.

*Ethical aspects of the human embryo*⁴

De Luca's essay is warmly commended. It discusses protection of the human embryo in the light of the proceedings of the Third Symposium on Bioethics of the Council of Europe in December 1996. It incorporates the considered views of scholars from the field of ethics, law and religion. Opinions from the Islamic faith, Jewish religion, the Greek Orthodox Church, Japanese and Maori cultures are included. An important point raised deserves special attention:

'Economic forces and the networks formed between the political sphere, public laboratories, private laboratories and the biomedical and scientific institutions... are for the grey area of the reins of power. Although the expansionist, secretive approach of the industrial free market may be acceptable for the production of industrial goods, it is essential that industry's appropriation of the human embryo be put to public debate. We can only protect the human embryo, procreation and child birth if the private sector is effectively subjected to the laws of ethics being discussed in the public arena.'

*Active vs passive euthanasia*⁵

The distinction between 'passive' and 'active' euthanasia has focussed on one allowing nature to take its course and the other causing death by human intervention. This letting die/killing dichotomy has, in turn, led to other difficulties. What constitutes 'active' and which actions are really 'passive'?

Much is made of 'intervention' by the therapist and the subsequent withdrawal of such 'intervention', the therapist being held responsible for the intervention and its consequences. If there be no intervention, the responsibility for the train of events can be placed on nature. Natural processes are deemed to be morally neutral, whilst the consequences of human intervention are open to judgement. Natural deaths are not killing and are thus neither immoral nor illegal. Implied in the characterisation of intervention of medical steps as intervention is the thought that in killing a patient one is the direct cause of death whilst in letting die, one merely allows a physiological process to follow its natural course. The fallacy of such thinking is obvious. The physician might opt not to put a patient who is not expected to survive and cannot breathe on a ventilator as this lack of action will 'allow nature to take its course' and end in certain death.

Naturalness not only permits, it also restricts. In the same patient who is not expected to survive and cannot breathe, the doctor administering a lethal injection of morphine will be interpreted as having killed the patient even though death was a foregone conclusion.

It is important to realise the complex and consequently moral fragility of the artificial, especially against the pseudo-simplicity of the natural. Might it not be better to consider whether a step taken is beneficial or right rather than whether it is natural or induced by man? 'Our moral practices already allow us to kill patients in hopeless and painful conditions, as well they should. It is a good kind of killing. But now we need to set aside our prejudices against the artificial and set aside our myths of the natural death and extend the option of good killing to those trapped by nature.'

*Elizabeth Kubler-Ross*⁶

Incapacitated by a series of strokes, Elizabeth Kubler-Ross is waiting to die. Decades of work with the terminally ill has done little to ease her own transition from life to death. As she puts it, 'For 15 hours a day, I sit in the same chair, totally dependent on someone else coming in here to make me a cup of tea. It's neither living nor dying. It's stuck in the middle. My only regret is that for 40 years I spoke of a good God who helps people, who knows what you need and how all you have to do is ask for it. Well, that's baloney. I want to tell the world that it's a bunch of bull. Don't believe a word of it.'

Elizabeth Kubler, psychiatrist and spiritualist, was born in Switzerland in 1926. She married an American doctor, Emmanuel Ross, moved to the United States and settled in Chicago. In 1969 she

published *On death and dying* - a book that **made** her famous and helped launch the hospice movement in the United States. Today, she thinks suicide may be a legitimate option. When asked which of the five stages of death (described and popularised by her) she finds herself in at the moment, she yelled, 'I'm pissed!'

Some gems from consent forms⁷

The following are from real consent forms received by the institutional review board at the University of California:

- 'You believe that you will understand what will happen to you if you agree to be a part of this study.'
- 'You are free to seek care from a

physician of my choice at any time.'

- 'When all patients have been enrolled, they will be shipped on dry ice...'
- 'Like interferon, conception should be prevented by men and women.'
- 'You should not participate in this study if you can think of a reason why you should not participate in this study.'

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REVIEWS

Intractable neurological disorders: Human genome research and society
 Proceedings of the Third International Bioethics Seminar in Fukui, 19-21 November, 1993. Editors: **Norio** Fujiki, M.D. & **Darryl R. J. Macer**, Ph.D. Christchurch, New Zealand: Eubios Ethics Institute 1995

The disaster that Hesiod sees threatening a community that disregards justice... is not an eternity of damnation but the failure of nature to work - of crops to grow, of herds to bear, of women to produce normal children.

In the developing nations of the third world, infectious diseases continue to be a burden on the health care system and are the bane of the poor. The developed nations, freed of most of these diseases, are now grappling with chronic diseases at extremes of age.

As has been elegantly pointed out in the text of the proceedings of the seminar, the ability of modern medicine to prolong life in case of intractable neurological disorders in adults and to prenatally diagnose uncorrectable neurological diseases raises ethical, legal and social dilemmas which have never been required to be addressed in the past. Interventions at the end of life (ventilator care) or at the beginning of life or even pre-life (prenatal) represent major financial and administrative outlays.

The need for community based care is of utmost importance in these groups of patients. Continual medical therapy after the patient is sent home from hospital by 'home-visit medical program' is a revolutionary concept introduced in Japan. On the one hand it maintains continued medical supervision of the patient at home after discharge and on the other it pre-

empts situations whereby patients are denied re-admission due to non-availability of hospital beds during periods of symptom exacerbation at home. Deadlines indicating termination of periods of in-hospital care facility may become a reality worldwide following escalating expense of medical care.

It has been succinctly mentioned that patient care is no more the exclusive domain of the scientific-medical community but has to necessarily consider the right of self-determination of the patient and hold social, ethical and financial implications in perspective. Dignity of life, quality of life and sanctity of life are concepts which will seldom yield a solution in harmony when confronted with the request for euthanasia.

Human genome studies raise the **spectre** of 'eugenics' as **practised** by the Nazis in European war prisons and the Japanese in Manchuria during the Second World War. In the following decades those blots on scientific study have been virtually cleansed, however any new forays into genome research and genetic manipulations will have bio-ethical implications.

Genetic research is a widely accepted and encouraged subject. Prenatal genetic diagnosis, on the one hand, reliably predicts the probable occurrence of disease in the future and, on the other, offers the option of early implementation of primary prevention strategies such as dietary restriction and pharmacologic manipulation in primary hypercholesterolemia. Is our response the same to untreatable manifestations like Huntington's disease?

The debate for legalised abortions at will for social or eugenic reasons will never be conclusively resolved. Is the human

genome really sacred? Who will be the final arbitrator in allowing expression of one gene with so called superior qualities or obliterating the appearance of a gene with perceived inferiority or abnormality? Such questions have never needed to be answered in the bygone ages but will keep surfacing and nagging the human race in the future. The 'white man's burden' has surpassed all conceivable limits.

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Bioethics in High Schools in Australia, Japan & New Zealand. Darryl R. J. **Macer**, Yukiko Asada, Miho Tsuzuki, Shiro Akiyama, Nobuko Y. **Macer**. Christchurch, New Zealand: Eubios Ethics Institute 1996

Growing concern on ethics in research and medicine has prompted the investigation into the need for a formal curriculum in the field of bioethics.

The survey conducted by **Macer** and coworkers sought to identify the recognition, perception and inculcation of bioethical values in high schools in Australia, Japan and New Zealand. Although an impersonal form of survey (questionnaire) had been used without direct personal contact; it is perhaps a telling comment on the state and awareness of this concept that less than 50% replies (collectively) could be obtained, despite reminders. This is a stark statement on the prevalent situation as the subjects to whom these questionnaires were directed were teachers, who are instrumental in shaping **the** young minds and mould their thought