BELIEVE that it is now pretty generally accepted by professional philosophers that ultimate ethical principles must be arbitrary,'1 wrote Brian Medlin in 1957. That may have been a slight exaggeration, but the tendency of philosophy in the mid-century was certainly towards an extreme minimalism in ethics. Mackie, as we saw, agreed with Medlin and denied that there was any such thing as ethics. He argued that moral properties would be ‘queer’ ones, from a scientific point of view. Where is the cruelty of an act, he asks, over and above the pain it causes and the subjective responses in the observers?2 David Armstrong spoke for many philosophers who were not primarily interested in ethics when he claimed that objective value is not the kind of thing that can be causally efficacious — it would be a kind of metaphysical superfluity to the world revealed by science.3

In Melbourne, they did not go quite as far as that. Philosophers there agreed in part, but believed there were ways of refuting selfishness without the need to suppose there were any really moral values. There was, they thought, plenty of scope for reason in ethics, and its

purpose was to achieve co-ordination of interests.\(^4\) Kurt Baier’s *The Moral Point of View*, the most famous work of this school, emphasised that moral rules function to resolve conflicts between individuals by adopting a non-person-relative perspective.\(^5\)

Outside professional philosophy, meanwhile, the social sciences tended to take for granted a relativism about ethics, with anthropology especially concentrating on the differences between the mores of cultures. Philosophers impressed with these currents have produced a stream of books dominated by the thought that valuation needs a valuer, and are inclined to see moral value as nothing over and above what valuers do; relativism is suggested by the fact that there are disagreements among valuers.\(^6\)

Until about 1970, such general questions about the nature of ethics dominated philosophical work in the subject. Philosophers (except Catholics) didn’t take sides, or tell people what to do. They only clarified the principles.

If one asked mainstream philosophers for advice as to what one should actually do, the main suggestion they had to offer was utilitarianism. Its standard version, ‘hedonistic act utilitarianism’, claims that


the right action in any circumstance is the one that (most likely) leads to maximisation of happiness. The theory has a definite appeal. Happiness is something everyone is in favour of, and it is remarkable how often the aim of maximising happiness results in recommendations that agree with normal moral intuitions.

Nevertheless, the theory has some well-recognised problems. Firstly, why maximise just happiness, as opposed to other goods that could be thought of? The main Australian defender of utilitarianism, Jack Smart, defends happiness as the sole aim of ethics thus: ‘What could be better than to maximise happiness? Any theory that was not equivalent to hedonistic act utilitarianism would imply that on occasion one should make the world less happy than it would otherwise be.’ And again, ‘The chief persuasive argument in favour of utilitarianism has been that the dictates of any deontological [i.e., rule-based] ethics will always, on some occasions, lead to the existence of misery that could, on utilitarian principles, have been prevented.’ That is the only justification he offers. He does not mean that the theory of utilitarianism is correct — much less that he has proved it correct. He believes, like Mackie and others, that there are no genuine moral facts, but he himself recommends utilitarianism and hopes others too will find it preferable as a guide to action.

Difficulties for utilitarianism arise from its commendation of the total quantity of happiness, as opposed to its distribution. It is not exactly true that utilitarianism prefers the situation with the least misery. If in some case we have a choice between distributing a burden to many, who suffer mild discomfort, and heaping it all on a scapegoat whose life becomes a torture, utilitarianism recommends the latter if the total unhappiness is less, however slightly. That is, utilitarianism recommends more misery, since in the equal distribution there is none — no real misery, that is, only a widely distributed discomfort.¹⁰

A problem of this kind arises especially over the possible conflicts between happiness maximisation and justice. Consider the case of a sheriff in a town of the old South who is faced with a choice between

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executing an accused black he knows is innocent, and allowing a white mob to riot and kill many. According to utilitarianism, he must kill the innocent man to prevent the greater evil. Smart accepts that utilitarianism does recommend unjust killing in such cases, though he hopes they are rare. But the problem is not merely that this is a difficult case, but that utilitarianism gives no weight at all to the injustice. Even someone who thinks the sheriff ought to hang the black if the riot will be bad enough feels there is some problem of injustice that the size of the catastrophe must outweigh.

Utilitarianism is a harsh doctrine for those whose desires for themselves are at odds with what many others want them to do.

The counterattack on behalf of objective ethics has included three Australians among its leaders — Alan Donagan, John Finnis and Raimond Gaita.

Donagan, a Melbourne graduate who unusually included studies in law in his undergraduate degree, was for many years Professor of Philosophy at the University of Chicago. The definite article in the title of his book *The Theory of Morality* is important. He argued that there is a coherent theory underlying the general moral outlook and behaviour of all (normal) people, though it is not necessarily consciously expressed. *Rules* of ethics are not basic. Instead, they are generated by a more fundamental assumption, that persons are valuable in themselves. Thus, the reason why murder is wrong is not anything to do with the co-ordination of society or the maximisation of happiness, much less the command of a deity. Nor are rights basic: a right to life is simply the wrongness of destruction of a life, from the point of view of the person living the life. What is wrong with murder is

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12 Smart in *Utilitarianism: For and Against*, pp. 70–2; ‘Utilitarianism and punishment’, at pp. 365–6.
that it results in the destruction of something intrinsically valuable, a human life. He writes:

I take the fundamental principle of that part of traditional morality which is independent of any theological presupposition to have been expressed in the scriptural commandment, 'Thou shalt love thy neighbour as thyself', understanding one's neighbour to be any human being, and love to be, not a matter of feeling, but of acting in ways in which human beings as such can choose to act. The philosophical sense of this commandment was correctly expressed by Kant in his formula that one act so that one treats humanity always as an end and never as a means.  

All moral rules, he maintained, even very detailed ones about specific cases, should be deducible from this general principle with some thought. He argued further that it is possible to say exactly what it is about humans that makes them valuable. It is their rationality. He defined rationality rather narrowly, as 'a capacity to perform acts whose contents belong to the domain of logic'. He was less than clear on why this aspect of human nature alone is the one that confers worth.

Plainly, Donagan's theory was in many ways a revival of the Catholic natural law theory described in chapter 4. Donagan admitted as much, though he believed that there was a systematic distortion of natural law theory in Aquinas. Donagan objected to Aquinas' view that lying is wrong because it contravenes the 'natural purpose' of speech, to express the truth; such an argument, Donagan says, does not rest on the basic worth of persons and cannot be sustained. He objected, that is, to the kind of argument from 'what is natural' that can lead to saying things like, 'If God had meant us to fly, he would

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have given us wings’. Such arguments are not justified by an ethics based on natural intrinsic worth.

A more explicit revival of Catholic natural law theory is the influential *Natural Law and Natural Rights* by John Finnis, originally a South Australian, later Professor of Law and Legal Philosophy at Oxford. Finnis summarises the aspects of human nature that are especially relevant to ethics in a list of things that are self-evidently ‘basic aspects of my well-being’, or ‘the basic forms of good for us’: life (including health), knowledge, play, aesthetic experience, friendship, practical reasonableness and religion.18 (‘Practical reasonableness’ covers the ability to think intelligently about how to live one’s life, and the freedom to do it.) These goods, Finnis maintains, are all equally fundamental and none are superior to others. He emphasises that these goods are not supposed to be deduced from a pre-existing concept of human nature; if anything, what human nature is is to be understood by a practical investigation of what is fulfilling for people.19 These considerations are intended to fill out the traditional conception of human nature. His ethical conclusions are in keeping with traditional morality.

Neither Donagan nor Finnis gives in his writings any strong impression of a personality different from that of other philosophers. Their conclusions are opposite to those of the subjectivists and utilitarians, but their style of expressing them is much the same. It is otherwise with Raimond Gaita. Gaita’s book on his childhood, *Romulus, My Father*, is one of the most gripping of Australian autobiographies.


Gaita was born in Cologne in 1946, the son of a Romanian blacksmith who was one of the millions of Eastern Europeans working in Germany as virtual slave labour. The family soon escaped to rural Victoria. Gaita’s childhood was overshadowed by the serious mental illnesses of both his parents, and his powers of survival are by implication enormous. One understands why a life as a moral philosopher would seem the only possible one after such a beginning. The illnesses were balanced, when his father was well, by a solidity in his father’s life that is the foundation of what Gaita writes on ethics.

The philosopher Plato said that those who love and seek wisdom are clinging in recollection to things they once saw. On many occasions in my life I have had the need to say, and thankfully have been able to say: I know what a good workman is; I know what an honest man is; I know what friendship is; I know because I remember these things in the person of my father, in the person of his friend Hora, and in the example of their friendship.

The result is something that has struck everyone who reads or hears Gaita, or at least those who have any sympathy for his views. Robert Manne recalls encountering him at a Melbourne University forum on existentialism, where he spoke along with a philosopher and a flamboyant student personality. ‘His talk made the speech of the philosopher seem superficial and the speech of the famous undergraduate unbearably frivolous. I was drawn to something in his manner — a seriousness, a kind of genuine openness to experience, a purity of spirit.’

The theme of Gaita’s *Good and Evil: An Absolute Conception* is not so much an attempt to say what it is that founds the objectivity of good, as a concentration on the seriousness of moral evil, and the way in which sceptical philosophies of ethics like those of Medlin and Mackie would undermine it. What is most wrong with moral scepticism is not its falsity, he says, but its evil; it is ‘to be rejected, not because it is false or muddled or incoherent, but because it is an invitation to wickedness ... the fear of losing our sense of the reality of good and evil [is] a fear internal to a serious understanding of good and evil ... there are some things it is evil even to believe, and that good and evil may be an illusion is one of them.’ Characteristically, he develops this thought by having moral scepticism of the kind discussed in professional philosophy confront the reality of evil, and his condemnation of it is moral before it is intellectual:

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The fraudulent kind [of moral scepticism] which titillates itself with the pretence of thinking dangerous thoughts, is a tasteless form of intellectual and moral irresponsibility. If it were not fraudulent it would be evil, for it would question the reality of the evil that people have suffered in a way which is itself a form of evil. To see this quite clearly one need only imagine a tutorial in which one of its members had been a victim of terrible evil of which all the other members were aware, and in which the tutor invited them to consider whether our sense of the terribleness of evil was not an illusion. Everyone would be outraged if their tutor was not serious and struck by unbelieving horror if he was.

The example brings out that scepticism of this kind is itself an act against those who have been the victims of evil. The victim need not be directly before us as in the example. If people find themselves thinking that Jews are swines who deserved what the Nazis did to them, then that is itself something for which they should be ashamed, not merely because of what it shows about them, but also for the sake of those who suffered under the Nazis; for in thinking what they did they placed themselves in a concrete moral relation with them. If they said that it was, after all, merely a thought, they would betray their moral coarseness.23

Gaita suggests that we start our ethical reflection not from abstract questions about foundations or from attempts to resolve conflicts between moral intuitions, but from our most serious moral experiences, like remorse. His willingness to use in all seriousness — with the seriousness of common speech — moral concepts like remorse, guilt and corruption sets him off from the great majority of moral philosophers. He is of course hostile to modern tendencies to see guilt as a bad thing, to be remedied perhaps by psychoanalysis. He says simply, ‘The modern hostility to guilt and guilt feelings threatens a proper understanding of good and evil, and proper sense of our humanity and of the independent reality of others, in one of the most fundamental ways possible.’24

His emphasis on the moral before (though not in exclusion to) the intellectual leads him to doubt whether the intellectual skills of philosophers are an advantage in thinking about ethics. He writes:

It is not accidental that there are no moral whizz-kids. That is partly because we cannot acquire moral knowledge in any sense that would make us morally knowledgeable ... It is more natural to speak of a depth of moral


understanding or of wisdom, and it is not accidental to these that their achievement takes time.\textsuperscript{25}

\textsuperscript{25} Gaita, \textit{Good and Evil}, p. 270.
It is for this reason that he rejects Donagan’s attempt to found the worth of persons on their possession of rationality, conceived narrowly as an ability to think logically. Such a conception, he argues, would trivialise remorse. ‘Remorse often presents itself in the accents of a horrified discovery of the significance of what we did but it is trivialised if we express a murderer’s horrified realization of what he did in terms such as these: “My God what have I done. I have been a traitor to reason. I have violated rational nature in another!”’

Indeed, Gaita does not approve of founding ethics on any properties of humans at all, or on any view of reality outside ethics. ‘There cannot be an independent metaphysical inquiry into the “reality of good and evil which would underwrite or undermine the most serious of our ways of speaking.”’ In particular, questions of the existence of God can have no bearing on the foundations of ethics. That does make it difficult for him to explain whether the different ways we treat humans, dogs and insects is a result of the objective differences between them. However, he does agree with the central thrust of Donagan’s and Finnis’s ideas, that the rules of ethics are only an effect of something more basic about the value of human nature:

If the insistence on exceptionless principle is not to appear merely lunatic — an instance of what Jack Smart called ‘rule worship’ — then it will have to make clear its relationship to a sense of the meaning of wrongdoing that is interdependent with the sense that each human being is unconditionally precious.

If GAITA was opposed to the main trends of the mid-century in thinking about ethics, he was no happier with the direction the subject has taken since. For good or ill, the fastidiousness of philosophy in the face of practical problems did not last. Casuistry is back, and the public have more and more accepted the relevance of philosophy to decision-making in real life — public life, at least. A great number of philosophers have gained employment in a large industry providing ethics courses to professionals. The excesses of the

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business world in the 1980s created a demand for business ethics, and parallel scandals led to demands for police ethics, public service ethics, computer ethics, and professional ethics generally.


32 N. Preston, ed, Ethics for the Public Sector (Sydney, 1994); G.L. Clark, E.P. Jonson & W.C. Caldow, eds, Accountability and Corruption: Public Sector Ethics (Sydney, 1997); Royal Institute of Public Administration (Queensland Branch), Do Unto Others: Ethics in the Public Sector (Brisbane, 1990); Management Advisory Board, Ethical Standards and Values in the Australian Public Service (Canberra, 1996); N. Preston & C. Sampford, Encouraging Ethics and Challenging Corruption (Sydney, 2002).

33 T. Forester & P. Morrison, Computer Ethics (2nd ed, Cambridge, Mass, 1994); J. Weckert & D. Adeney, Computer and Information Ethics (Westport,
There has not been much about academic ethics (except perhaps for the books on the Orr case). One perennial issue in academic ethics is plagiarism. Strangely, applied ethics itself provided the most notable plagiarism accusation in Australian philosophy. In 1984 the philosopher Suzanne Uniacke published in the little-read American journal *The Thomist* an article on the ‘doctrine of double effect’ (of which more later). She was surprised to read a very lightly retouched version of a considerable quantity of her own words in the 1987 book *The Sanctity-of-Life Doctrine in Medicine*, by Dr Helga Kuhse, Deputy Director of Monash University’s Centre for Human Bioethics. The words were not in quotation marks, and there were only two or three brief footnotes to her article. When she complained to the publishers, Oxford University Press, the Press issued, with Kuhse’s agreement, a special announcement that Kuhse had ‘insufficiently acknowledged’ her debt to Uniacke’s paper, and supplied a corrigenda list of eleven new footnotes acknowledging the debt. Kuhse still denied any suggestion of plagiarism. Various Melbourne philosophers issued statements about how unimportant the whole matter was; Max Charlesworth, who had been unworried by plagiarism of his own work, and as acting Vice-Chancellor of Deakin University did little


38 ‘Academic admits book insufficiently acknowledged another’s work’, *Age* 14/7/1989, p. 3.
about (subsequently proved) accusations of faked research against his Dean of Science, advised the *Age* that since Plato most philosophical writing had involved little more than ‘remanipulating’ the ideas of others. What Kuhse had done was, he said, not ‘a scholarly crime in the usual sense’, but more ‘a matter of bad manners or inadvertence.’ Monash University looked into the matter of Kuhse’s PhD thesis, of which the book was a slightly revised version, but they did not do so very vigorously, choosing as an ‘independent investigator’ a philosopher who had been effusively thanked in the preface to the original book. Sydney philosophers took the matter more seriously and arranged for *Quadrant* to print several pages of parallel quotations from the two works. There the matter rested.

Medical ethics, or ‘bioethics’, has been at the forefront of applied ethics. An interest in health is reasonably objective, and it has proved possible, to a considerable extent, to achieve agreement on particular cases, even among philosophers who disagree on matters of ethical principle.

39 *Age* 17/7/1989, p. 13.
Bioethics was driven not so much by scandals like those that gave rise to business ethics as by the remarkable advances in medical technologies, such as test-tube babies. Victoria had the world’s first legislation on in vitro fertilisation in 1984. It provided for a philosopher to be included on the committee overseeing research and practice in the field. Max Charlesworth was appointed, and soon found himself advising on such matters as whether embryos could be created specially for research or had to be ‘spare’ ones, and whether an ‘ovum in the process of being fertilised’ was an embryo. Ethical philosophers had often been criticised for concentrating on ‘unrealistic’ imaginary cases, but now they found it hard to keep up with reality. B.A. Santamaria was quick to warn that the cases were likely to become bizarre, with scientists freezing embryos and mixing human sperm with rat ova.

His predictions were quickly overtaken by events when two embryos in a Melbourne refrigerator became ‘orphans’ after their parents were killed in a South American plane crash, leaving an estate of $8 million. It was a legal mess spectacular even by Australian standards. By 1998, there were 8000 frozen embryos in Melbourne whose par-
ents could not be traced. Thawing and destruction of them was
debated.

Bioethics is the field of Peter Singer, undoubtedly Australia’s most
famous philosopher — he has been described as ‘the most influential
philosopher alive’.

Singer, like Gaita, is informed by the sense of a close personal rela-
tion to the European past, but the tradition he comes from could
hardly be more different from that of Romulus Gaita. Singer’s mater-
nal grandfather, whose biography he has recently written, was a clas-
cial scholar of Enlightenment views and a close associate of Freud in
Vienna. In 1911 he co-authored with Freud an article on erotic
dreams in folklore, unpublished at that time because of a dispute be-
tween the co-authors. He died in the Holocaust, as did both Singer’s
paternal grandparents. His grandmother survived the camps and
brought to Australia the manuscript of the then unknown work by
Freud and her husband.

Singer was a philosophy student at Melbourne University in the
Sixties. Like many, he turned away from ‘rather fruitlessly analyzing
the meaning of words’ to involvement in Vietnam and other issues of
the time. He wrote a thesis on ‘Why should I be moral?’ before
leaving for Oxford. He soon achieved fame with his argument that
as long as people in the Third World are starving, it is immoral to
buy ourselves new clothes and cars. At Oxford he fell in with

46 SMH 8/12/1997, p. 5; ethical debate in B.F. Scarlett, ‘The moral status
of embryos’, Journal of Medical Ethics 10 (1984): pp. 79–81, with reply by Kuhse
and Singer pp. 80–1, further pp. 217–8; an account of taking Peter Singer’s
advice in M. Hogben, ‘What size is an embryo’s soul?’, Human Life Review
24 (3) (Summer 1998); pp. 88–93.
47 ‘Living and dying, with Peter Singer’, Psychology Today 32 (1) (Jan/Feb
1999): pp. 56–9, 78–9, at p. 56; list of his publications in D. Jamieson, Singer
and His Critics (Oxford, 1999) and at www.princeton.edu/~uchv/faculty/
CV91802.htm; links to many online articles at www.petersingerlinks.com.
pp. 177–203; Singer’s account: Pushing Time Away: My Grandfather and the
Tragedy of Jewish Vienna (Pymble, 2003).
50 ‘A conversation with Peter Singer, part II’, The Animals’ Agenda 14 (3)
7.
51 Brief autobiography in SMH 22/2/1997, p. 2s.
52 P. Singer, ‘Famine, affluence and morality’, Philosophy and Public Affairs
and P. Singer, Practical Ethics (2nd ed, Cambridge, 1993), ch. 8; also on this
vegetarians, and finding he could not answer their arguments, became one. He then wrote his hugely successful book *Animal Liberation*, which has sold some half a million copies and been translated into most major languages. He conceives animal liberation as a successor to the liberation movements of blacks and women. Why not for animals as well? He wrote: ‘A liberation movement demands an expansion of our moral horizons and an extension or reinterpretation of the basic principle of equality’. Equality of what? Not of objective characteristics: just as differences in IQ among people do not license differences in moral consideration, so the undoubted differences between animals do not imply they should be treated unequally. ‘Equality is an ideal, not a simple assertion of fact ... not a description of an alleged actual equality between humans; it is a prescription of how we should treat humans.’ Equality of moral consideration does not imply exactly equal rights; pigs will not be given the right to vote, because they can’t vote. But in explaining why moral consideration does not extend beyond animals to, say, stones, Singer asserts that equality of consideration requires the possession of an objective property, namely sentience. ‘Capacity for suffering is the vital characteristic that gives a being the right to equal consideration.’
If there is a choice between killing an animal and killing a human, we may prefer to save the human, Singer says, but the reason for this is simply that humans have more preferences: ‘taking the life of a person will normally be worse than taking the life of some other being, since persons are highly future-oriented in their preferences. To kill a person is therefore, normally, to violate not just one but a wide range of the most central and significant preferences a being can have.’ (This argument seems to be vulnerable to research that might discover a cat could foresee dinner and plan to arrive at dinnertime.) Singer wonders, as well he might, whether the carnivores might not be better eliminated. He rejects the proposal, but only because he lacks confidence in the capacity of humans to manage the ecology.


The impact of *Animal Liberation* on farming practice and medical research on live animals has been substantial, and this is what is meant by the claim that Singer is the most influential philosopher alive. The bona fides of the research in *Animal Liberation* were attacked much later by some California biologists, who claimed that the chapter dealing with research on animals presented misreferenced and distorted views of that research. US researchers in pediatric surgery, which is particularly dependent on animal experiments, asked about the ethics of the alternative, experimenting directly on children. But it was far too late to shut the stable door.

On the strength of the success of *Animal Liberation*, Singer became Professor of Philosophy at Monash University in 1977 at the age of 30. He became a well-known public figure, especially in Melbourne, and showed a certain flair for publicity by getting himself arrested at the piggery formerly part-owned by Paul Keating and standing as a Senate candidate for the Greens (though he received only 2.8 per cent of the vote). He founded and became first Director of the Monash Centre for Human Bioethics. The Centre took advantage of the upsurge of interest in bioethics created by the new medical techniques like in vitro fertilisation, in which Monash University doctors were world leaders. The researchers at the cutting edge found the

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support of philosophers a comfort. One said, 'I had to sort myself out in the early days just like anyone who works in a new area involving something like human embryos. If we hadn’t had Peter Singer around in those days I think we might not have pursued some things to the extent that we have."

The basis of Singer’s ethics is very clear, as he explains in his immensely successful textbook, *Practical Ethics*. He is a ‘preference utilitarian’, meaning that he holds that what is right is what maximises the satisfaction of preferences (or interests). All interests are equal; ‘an interest is an interest, whoever’s interest it may be.’ Thus, an animal’s pain is entitled to equal consideration to an equal pain in a human, but since trees do not have feelings or sufferings they do not have to be taken into moral account. This principle may, as Singer explains, conflict with a principle of equality of the organisms that have the pain. For example, if we are faced with a choice of helping only one of two earthquake victims, one of whom has lost a leg and will lose another toe if we do not help, and the other who has lost no leg but will lose one leg if we do not help, then we should help the less seriously injured victim, since losing a leg is worse than losing a toe.

Equality of preferences explains why differences in IQ or race, for example, are not morally relevant: ‘the most important human interests — such as the interest in avoiding pain, in developing one’s abilities, in satisfying basic needs for food and shelter, in enjoying warm personal relationships, in being free to pursue one’s projects without interference, and many others — are not affected by differences in intelligence.’ Singer does not discuss the case of mental patients and Buddhists who have transcended these interests, but, as we will see, he does have some conclusions to draw about infants.

Naturally, this theory leads to the usual problems for utilitarians over whether the preferences of many override the preferences of one. Singer was tackled about this in an interview:

**Interviewer:** There’s something I don’t understand about preference utilitarianism. Let’s say there are 11 beings, and 10 of those beings want to kill one of those beings. Do the intense preferences of those 10 outweigh the intense preference of that one?

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Singer: Numbers matter, but I'd assume the preference of that one being not to die is much more intense than the preferences of the other ten to kill it. You'd have to actually live all 11 of those lives to know for certain.

Interviewer: Right — so how can you evaluate the intensity of a preference from the outside?

Singer: It's very hard. You can't actually go around living a moral life by doing those calculations all the time. That's why we have moral rules of thumb. In general, most people have a very serious, intense preference to live that outweighs almost any other preference. But these rules don't have absolute moral status.68

Of the many novel and controversial doctrines advanced by Singer, none has created more anger than his assertion that babies up to about the age of four weeks have no right to life. He is not here dealing with the genuine problem of severely deformed babies,69 but is speaking of normal babies. He writes in Practical Ethics:

In thinking about this matter we should put aside feelings based on the small, helpless and — sometimes — cute appearance of human infants. To think that the lives of infants are of special value because infants are small and cute is on a par with thinking that a baby seal, with its soft white fur coat and large round eyes, deserves greater protection than a whale [2nd ed: gorilla], which lacks these attributes. If we can put aside these emotionally moving but strictly irrelevant aspects of the killing of a baby we can see that the grounds for not killing persons do not apply to newborn infants. The indirect, classical utilitarian reason does not apply, because no one capable of understanding what is happening when a newborn baby is killed could feel threatened by a policy which gave less protection to the newborn than to adults. In this respect Bentham was right to describe infanticide as 'of a nature not to give the slightest inquietude to the most timid imagination'. Once we are old enough to comprehend the policy, we are too old to be threatened by it.

Similarly, the preference utilitarian reason for respecting the life of a person cannot apply to a newborn baby. A newborn baby cannot see itself as

68 ‘Living and dying, with Peter Singer’, p. 79.
a being which might or might not have a future, and so cannot have a desire to continue living ... If there were to be legislation on this matter, it probably should deny a full legal right to life to babies only for a short period after birth — perhaps a month ... If these conclusions seem too shocking to take seriously, it may be worth remembering that our present absolute protection of the lives of infants is a distinctively Judaeo-Christian attitude ... None of this is meant to suggest that someone who goes around randomly killing babies is no worse than a woman who has an abortion, or a man who thinks it fine sport to shoot ducks. We should certainly put very strict conditions on permissible infanticide; but these restrictions might owe more to the effects of infanticide on others than to the intrinsic wrongness of killing an infant. 70

It is here that the consequences of preference utilitarianism, with its doctrine that all preferences are equal whoever or whatever has them, become most obvious. As Singer puts it under the heading, ‘Does a person have the right to life?’, ‘the wrong done to the person killed is merely one factor to be taken into account, and the preference of the victim could sometimes be outweighed by the preferences of others.’ 71 Since the utilitarian values happiness or preference fulfilment in abstraction from the people who have the happiness or preferences, he has no objection in principle to the painless killing of one being and its replacement by another with similar happiness. 72

Naturally, one would like someone to ask Singer about his own children. A recent interviewer did so and Singer was happy to answer:

Interviewer: Do you have children yourself? Everyone says that however you feel about kids in the abstract, it changes when you’re confronted with critical decisions regarding your own. How would you behave given a dire situation involving your own offspring?

Singer: I have three grown daughters. It is important to remember that I have never said that it is OK, or a trivial matter, to kill newborn infants in normal circumstances, that is, when they have loving parents who care for them. My point is that the wrong done is really, at that stage, a wrong to the parents rather than to the infant who has no awareness of its own ex-


71 Singer, Practical Ethics, 2nd ed, p. 95.

quence. So, of course, I cared for and loved my children, and would have been deeply upset if they had died, but that is really because of my feelings, and those of my wife, not because of what they were at that moment. So I don’t think it is true that I don’t take emotions into account.\footnote{‘Living and dying, with Peter Singer’, p. 78.}

fants” — is quite in logical accord with the rest of his pronouncements.

Still, that sort of point-scoring is not going to make much impact on Singer’s position. If he is wrong, a moral revulsion must be more relevant than fancy intellectual footwork. Gaita holds that the act of discussing seriously the permissibility of infanticide is itself corrupt:

Only twenty years ago it was believed that the conclusion that infanticide was permissible was a *reductio* of any argument that led to it. In particular, it was agreed by all that abortion would be inconceivable if it were shown to be (morally) the same as infanticide. Today there are philosophers who believe that infanticide is permissible under much the same conditions as is abortion; and philosophy students the Western world over who are taking courses in practical ethics, think that it is at least arguable. Amongst philosophers it is thought to be perfectly proper to argue that infanticide is an evil but it is thought to be improper to say that conjecturing whether it is permissible is itself an evil to be feared. If a philosopher were to say that students were liable to be corrupted by those who invite them to seriously consider whether they may kill six-week-old babies for the same kinds of reasons that will procure an abortion, then most of his colleagues would judge that he had shown himself to be less than a real philosopher, less than a real thinker.78

These considerations lead up to the most savage of Gaita’s condemnations of the kind of applied ethics that Singer and his colleagues pursue:

Those practical philosophers who have been in the forefront of the argument to relax the conditions under which it is permissible to kill people and who have created a new genre called ‘practical ethics’ have not made academic philosophy less insular. Quite the contrary: they have extended the arrogance and insularity of the worst kind of academic professionalism beyond the academy. Generally they show no fear or even slight anxiety at the responsibility they have assumed; they have no sense of awe in the face of the questions they have raised, and no sense of humility in the face of the traditions which they condescendingly dismiss. They are aggressively without a sense of mystery and without a suspicion that anything might be too deep for their narrowly professional competence. They mistake these vices for the virtues of thinking radically, courageously and with an unremitting hostility to obscurantism.79

Singer has shown no tendency to acknowledge that kind of attack, or any evidence of understanding it. His opponents have wondered if

he was perhaps lacking something in the area of emotions.\textsuperscript{80} The relation of the emotions to ethics is a vexed issue\textsuperscript{81} (Gaita complains of ‘a distinction between reason and emotion that distorts our understanding of one of the most important facts about the ethical — that we often learn by being moved by what others say or do’\textsuperscript{82}) but it certainly seems that anyone who does not have an immediate emotional reaction to pictures of Belsen is lacking a perception of something important to ethics. It is strange that Singer goes out of his way, in the passage quoted above about infanticide and seals, to recommend the putting aside of the ‘emotionally moving but strictly irrelevant aspects’ of killing babies. Nor does he notice that seals are cute because they look like babies. At one point, he almost admits to a lack of relevant emotions, at least in the past; the total effect of his admission is decidedly odd:

Interviewer: What do you think has been added to the animal rights movement by the feminist critique of animal oppression?

Singer: The feminist critique has, perhaps, made some of us who are inclined to look at things in a rational way realize that we have not given enough attention to emotional connections to animals and to caring attitudes towards them. We should try to extend people’s emotional attachment and commitment to animals, and we ought to try to get people to empathize more with the less charismatic, less attractive animals.\textsuperscript{83}

Opposition to Singer’s views has taken the form of more than mere words. In 1989/90, a philosophy professor at the University of Duisberg offered a course based on Singer’s \textit{Practical Ethics}, which by then had been translated into German, Spanish, Italian and Swedish as well as being widely used in philosophy courses in English-speaking countries. The course was subjected to repeated protests over the book’s advocacy of active euthanasia for disabled newborn infants. In late 1990 Helga Kuhse was unable to deliver a lecture in Vienna because of protests from the disabled. The prestigious International Wittgenstein Symposium for 1991 invited Singer to speak, but the president of the Austrian Ludwig Wittgenstein Society decided that protesters had a case and that the invitation should be cancelled.

\begin{itemize}
\item \textsuperscript{80} ‘The man in the black plastic shoes’, \textit{HQ} (Winter 1992): pp. 54–61.
\item \textsuperscript{82} R. Gaita, ‘Reflections on the euthanasia debate’, p. 22.
\end{itemize}
organising committee cancelled the entire symposium instead. The
weekly Die Zeit published two articles on Singer’s views and the
leader of Germany’s ‘Cripples Movement’ chained his wheelchair to
the doors of the editorial office. When Singer rose to speak on animal
rights in Zürich, part of the audience began to chant ‘Singer raus! Singer
raus!’. He writes, ‘As I heard this chanted, in German, by peo-
ple so lacking in respect for the tradition of reasoned debate that they
were unwilling even to allow me to make a response to what had just
been said about me, I had an overwhelming feeling that this was what
it must have been like to attempt to reason against the rising tide of
Nazism in the declining days of the Weimar Republic. The differ-
ence was that the chant would have been, not “Singer raus”, but
“Juden raus”. One protester tore Singer’s glasses off, throwing them
on the floor and breaking them.’

In his account, Singer speaks throughout as if his opponents are in
favour of the absolute sanctity of life of all human beings, while he is
in favour merely of killing severely deformed babies. This is dising-
genious, to say the least, even though it was principally disabled ba-
nies that were the concern of the German adult disabled. Singer also
says that euthanasia as he understands it has nothing to do with the
Nazi murder of ‘people considered unworthy of living from the racist

84 P. Singer, ‘On being silenced in Germany’, New York Review of Books
Singer, ‘A German attack on Applied Ethics: A statement by Peter Singer’,
Rappe, ‘Silencing the Singer: Antibioethics in Germany’, Hastings Center
Hegselmann & H. Kliemt, eds, Peter Singer in Deutschland (Frankfurt, 1995);
also J. Stenzel, Kein Recht auf Leben: Peter Singers Kritik des Lebensrechtes im
Lichte der Philosophie Constantin Brunners (Essen, 1993); A. Leist, ‘Bioethics in
129–45; later in SMH 6/5/1996, p. 10; opinions of the Australian disabled in J.
Fitzgerald, ‘Legalizing euthanasia’, Australian Disability Review, no. 2 of
pp. 28–37; I. Parsons & C. Newell, Managing Mortality: Euthanasia on Trial
(Geelong, 1996); H. Ramsay, ‘Distinctive moralities: The value of life and
17.

85 S. Uniacke & H.J. McCloskey, ‘Peter Singer and non-voluntary
“euthanasia”: Tripping down the slippery slope’, Journal of Applied Philosophy
viewpoint of the German Volk.' That is true, but a dangerous thing for a preference utilitarian to call attention to, given that his theory implies that sufficiently strong desires by sufficiently many Nazis would make the genocide of a sufficiently small Jewish race right.

Singer compares himself, of course, not to Hitler but to Socrates. The wounded tone of his complaints about the suppression of free speech and his attacks on defenders of 'the conventional doctrine of the sanctity of life' prompt Jenny Teichman to wonder if Singer 'adheres to the conventional doctrine of the sanctity of free speech,' and to add 'if human life itself has only conventional importance it becomes terribly hard to see how Singer's wish to speak at conferences could have any importance whatsoever.' Gaita writes, 'some of the people in wheelchairs may have had a point. They must have realised that if their mothers had believed what Singer does, then they would almost certainly be dead.'

The controversies have not died down. Singer's appointment in 1998 as Ira W. DeCamp Professor of Bioethics at Princeton University's Center for Human Values sparked more protests from the disabled. There were more protests at his first lectures and a major donor threatened to withdraw funding.


87 Singer, 'A German attack on applied ethics', p. 89.


A MINORITY of deaths are now due to acute events, so most readers will need to consider, sooner or later, the decisions to be made at the end of their lives. Euthanasia is an ethical issue that most will not be able to avoid.

The majority of print expended on the subject deals with side issues like slippery-slope arguments, worries about emotional blackmail of the frail elderly, the adequacy of safeguards, State rights, the rights or otherwise of some people to impose their moral views on others, whether legalising euthanasia will create a ‘culture of death’ which will impact badly on palliative care, and so on. These are important issues in themselves — few issues are more serious — but everyone knows they are not the central ones. Neither are the very real issues that arise in decisions about borderline cases, like patients in persistent vegetative states. With respect to the euthanasia debate itself, those are no more than debating points. Positions are taken first and foremost on the raw issue: is the intentional ending of innocent life permitted?

While philosophers like Singer are ‘for’ euthanasia, and those like Finnis and Gaita are ‘against’ it, it is extraordinarily difficult to discover what the real positions of both sides on this basic question are. Both sides speak in ways that are misleading. It seems at first glance that those against euthanasia maintain there is a ‘sanctity of life’, an irreducible worth of life that may not be intentionally violated, while those for euthanasia generally believe in some naturalist world view which does not include any such metaphysical entities, and take their stand on liberty: ‘Whose life is it anyway?’ If that were the situation, it would be an example of how philosophical clarification revealed a basic clash of metaphysical beliefs behind a mass of rhetoric. It does reveal that, but the philosophical situation turns out to be much more complicated. On the one hand, supporters of euthanasia do not usually believe in a general right to suicide, as is implied by the stand for arbitrary liberty; normally, they would not assist a healthy teenager planning suicide, and many would be unhappy about assisting in the


deaths of old people who requested death while suffering nothing worse than loneliness.” They require at least a serious illness to justify euthanasia, apparently implying some weighty preference for life which the seriousness of the illness may balance. On the other hand, opponents of euthanasia almost always permit the administration of drugs to ease pain for dying people, even if they will hasten death. A few opponents of euthanasia do adhere strictly to the absolute sanctity of life, but that is not the traditional opinion held by, for example, Catholic moralists. The traditional view has survived nearly unchanged from the older Catholic casuists, one of whom explained it thus:

The last moments of our conscious life are most precious. The eternal salvation of a sinful man who has not made his peace with God depends on how he makes use of them ...

Nevertheless it is sometimes lawful to relieve the extreme suffering of a dying person by the administration of a drug which deprives him of consciousness from which he never recovers. The conditions under which such a procedure may be permitted are as follows:—

(a) The consent of the patient must be freely given ...

(b) It must be morally certain that the sick man has made every preparation for death ...

(c) The suffering he has to undergo must be more than he can be expected reasonably to tolerate. While there would be an obligation to bear ordinary pain and discomfort, especially when it is soon to come to an end in death, there is no clear obligation to endure what is morally beyond the limits of human fortitude. It is true that the dying man’s conscious life is shortened, but conscious life is shortened by a narcotic administered at any other time during life, and the shortening of conscious life for the relief of unsupportable pain is justified by the principle of totality. The good of the whole man is the first consideration, and if he is better in a narcotic sleep than suffering excruciating pain, may he not


submit to the drug? It is only *per accidens* that on this occasion he will never awake from it, but the principle which permits the administration of a narcotic applies essentially in the same way for every period of life. This reservation, however, should be made: The last moments of our earthly existence are of the greatest value, and so a more serious cause is required to justify passing into unconsciousness, artificially and deliberately induced, at that crisis than on an occasion when the danger of death does not enter the consideration.

(d) Finally, it is usually laid down that the drug administered to a sick person must not notably shorten his life, though some slight abbreviation of life may be permitted as an effect proportionate to the good result which is sought, i.e., relief from pain. In this case, however, the patient is at death’s door, independent of human interference. What must be guarded against is a dose out of proportion to his condition, which would in itself be sufficient to cause death. All that is permitted is sufficient to relieve the pain. This may be the occasion of death sooner than would otherwise happen; but the dose given must never be lethal, in all the circumstances of the case.\(^7\)

In short, both sides allow the administration of drugs that will certainly shorten the patient’s life, if the patient’s condition is sufficiently bad (but not otherwise). What then is it that they are arguing about, exactly?

Most of the attempted explanation of this question has focused on the notion of intention. What is wrong, according to the proponents of the ‘anti’ side like Finnis, is the *intentional* ending of (innocent) human life.\(^8\) The ‘pro’ side, especially utilitarians like Singer, have argued that intention is irrelevant to deciding whether an action is good or bad: instead, they say, one should look only at the goodness of the total situation that the action brings about, the consequences of the action.\(^9\) Supporters of intention argued with some conviction that

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there was a meaningful distinction in general between what one directly intends, and side-effects of one’s action that one foresees but regrets — it is important in distinguishing murder from manslaughter, for example, and the deliberate terror bombing of civilians from the unfortunate side-effects of bombing military targets. The distinction is expressed in traditional Catholic ethics as the ‘principle of double effect’: a regrettable side-effect may be permissible, provided that it is not intended in itself, that the good effect cannot be obtained without it, that the good effect is the direct result of the act and not of the side-effect, and that the bad effect is not out of proportion to the good one.

The distinction between intention and side-effects may be meaningful, and even morally relevant, but it is hard to see that it has answered the primary question about the ethics of euthanasia: when can the needle go in? Rules about intentions say nothing about where that point is. The difficulty is to explain why the intention of others should be the deciding factor in what can happen to the victim. To decide on whether to discontinue aggressive treatment, or increase the dose of painkillers to a level that would hasten death, one must reach the conclusion that death is a more desirable state of affairs than the alternative, in all the circumstances of the case. If it is, how can it be wrong to bring about that state of affairs? The talk about intentions and double effects is no help in answering that question. Doubtless, if the victim is beyond the allowed point, the doctor can and should compose his intention so as to have pain relief and not death directly in mind, while if the victim is not yet at that point, the doctor may not so compose his intention. (The fact that intention will naturally follow a decision on the facts of the case is what makes it hard to interpret the many surveys that show most doctors and nurses ‘favour

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euthanasia — whether what they favour satisfies the rules about intention is generally impossible to tell.) The question still is, how is that point to be decided?

On this question, Singer does offer an answer, though it is an alarming one. Being a preference utilitarian, he believes that where the line should be drawn depends heavily on the preferences of people other than the sufferer. If the sufferer has many heirs who greatly covet his fortune, that will move the line earlier. On the other hand, if the Queen of Australia’s late daughter-in-law had survived the crash in the Pont d’Alma tunnel, the wishes of her billions of fans to have her kept alive would override any sufferings of hers. Any kind of utilitarianism is a harsh doctrine, because of the weight it gives to the happiness or preferences of those other than the individual who has to suffer the consequences of its recommendations.

The other side at least agrees that the question, ‘When can the needle go in?’ ought to depend principally on the degree of suffering of the victim. It is all a matter of proportion, of drawing a line on a continuum by determining whether further life and further treatment are ‘excessively’ burdensome. The patient can forgo ‘treatment which either involves an imbalance between probable benefits to and burdens on the patient or is clearly therapeutically useless.’ It is a humane approach, but one that makes a good deal of the existing debate on philosophical principles beside the point. It is not even clear, for example, whether the much fought-over Northern Territory Rights of the Terminally Ill Act, the first legislation in the world to allow euthanasia, did or did not satisfy these conditions. Cer-


tainly, it is an approach far removed from the apparent stark simplicity of a conflict of world views and basic ethical principles. In a matter of such importance, it is deeply disturbing that both sides have so seriously failed to explain their positions.