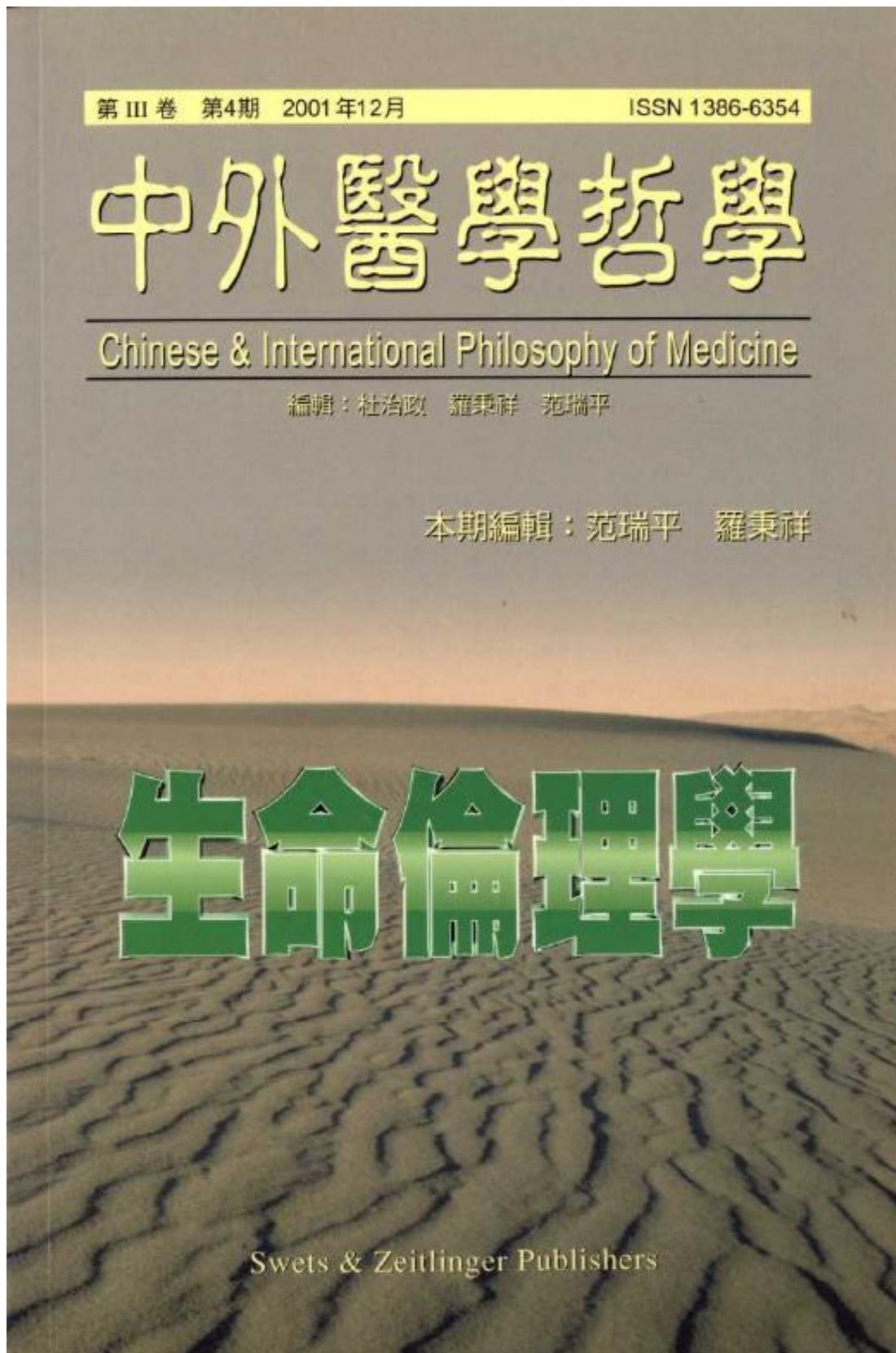


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生命倫理學
Bioethics

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Issue Editor: Fan Ruiping

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摘要

在後設倫理學以至生命倫理學上，一直存在著脈絡主義與原則倫理之爭辯。脈絡主義者解決道德問題的方式，是首先審視個別事件發生的脈絡細節，作出道德判斷後再將之用於其他相類事件；原則倫理者卻試圖將一般的道德原則用於特殊事件上。前者可視為一種「自下而上」的方式，後者則可名為「自上而下」。很多道德哲學家都指出這兩種進路各有利弊。R.M. Hare 藉著引介兩層道德思維結構，來論證上述二者其實並不矛盾，相反地，它們在不同的道德思維層面，分別扮演重要角色。在本文中，我嘗試檢視 Hare 的論證是否成立，又是否會在實踐上引生另外的問題。最後，我將指出，中國儒家倫理中的「經」、「權」觀念，如何可以幫助解決脈絡主義與原則倫理的問題。

目錄

人體器官買賣有何不可？

余錦波

摘要

本文檢討贊成和反對器官買賣的論據，討論了五個反對和兩個贊成器官買賣的論據。五個反對器官買賣的論據是：(一) 器官買賣剝削窮人；(二) 器官買賣促進罪惡；(三) 器官買賣製造家庭矛盾；(四) 器官買賣鼓吹金錢萬能；(五) 器官買賣貶低人性尊嚴。兩個贊成器官買賣的論據是：(一) 器官買賣是個人權利；(二) 買賣器官令資源得到更有效運用。筆者認為兩方面的論據都缺乏說服力，器官買賣並不是一個是非分明的問題，而是一個有待深思的倫理學難題。容許器官買賣，並不等於完全容許自由買賣。在特定的限制下，例如：(一) 限制買賣的類別；(二) 限制賣方的資格；(三) 限制買方的資格；(四) 限制售賣的價格；(五) 限制售賣的方式，可以將容許器官買賣的好處提高，及將容許器官買賣的壞處減低。在特定的情況下容許買賣，可以給予人們金錢利益以提高其供應器官的意願，並不可以與完全自由買賣器官混為一談，值得進一步的認真探究。

目錄

摘要

本文討論末期病人的決策過程的三個模式，即個人主義、家長主義和家庭本位主義。個人主義過份偏重病人的抉擇，家長主義只強調從專業角度照顧病人的個人最佳利益，這兩個模式均會令家庭角色邊緣化。本文認為家庭本位主義更符合東方社會文化，從倫理角度來看亦較其他兩個模式可取。

目錄

雷切爾斯論安樂死

摘要

發表於 1975 年的〈主動及被動安樂死〉，雖然已成為醫學倫理學的經典著作，但該文引起的爭議，迄今未息。作者雷切爾斯在文章中攻擊傳統見解裡認為「主動/被動安樂死之區分在道德上有意義」的觀點。他的主要論證方式是對 (i) 「殺人在道德上跟見死不救有分別」提出質疑。其後，雷切爾斯回應論者對其論證的批評時，更否定 (ii) 「判斷行為的道德對錯時，意圖的好壞是相干的考慮」。〈主動及被動安樂死〉所引發的辯論中，論者的焦點往往是雷切爾斯在該文中提出來的論據。本文則還論及他對批評者的回應，嘗試剖析雷切爾斯後來為自己所作的辯護，從而評價他的整體立場。本文第二節將要簡要地說明幾個基本概念。在第三節，筆者透過對有關論爭的交代去說明「意圖」、「主動安樂死」及「被動安樂死」三者雷切爾斯對有關問題的論述中如何互相緊扣。第四節採用雷切爾斯擅用的「相同化例子證明法」指出他對 (i) 和 (ii) 的看法不能同時成立。第五節則通過對「雙重後果原則」的討論去進一步分析雷切爾斯對 (ii) 的批評。第六節嘗試正面說明我們應怎樣看「意圖好壞」和「殺人/見死不救」的考慮在道德評價活動中的互動關係，並據之而評析雷切爾斯所用的論證方法的根本問題。

目錄

摘要

本文的主要目的是探討複製人類的行為本身是否合乎道德，即撇開安全性和風險等因素，僅僅考慮有關行為本身是否合乎道德這一問題。本文嘗試從 (i) 複製的目的以及 (ii) 複製人的道德地位兩方面來考察有關問題。與此同時本文亦嘗試從一個比較倫理的視野，主要是從自由主義（強調自由權利）的生命倫理和儒家的生命倫理的道德視域，來分析有關問題。根據本文的分析，上述自由主義的生命倫理和儒家的生命倫理的道德視域對於複製的目的以及複製人的道德地位均有著不同並且是互相衝突的道德立場。

目錄

動物權益問題

李翰林

摘要

本文指出「種類主義」及「反種類主義」都不可取，唯一令人信服的觀點，是人類與眾多類動物都有不同內在價值，只不過是程度問題而已。但由此卻引申出兩個問題，均當人類及動物兩者的利益互相衝突時而產生。第一個問題是當人類較次要的利益與動物較重要的利益有所衝突時而產生的，筆者指出由於我們要也考慮人類較高的內在價值和動物較低的內在價值，此問題是解決不了的。第二個問題包涵性較廣，包括所有人類侵犯動物利益的情況，更包括犧牲一定數量的動物的生命，以研製可救回更多人生命的藥物，問題是究竟動物有沒有權利——尤其是生存權。筆者指出這問題現時無法解決，因為一來我們對權利的必要及充分條件並不清楚，二來由魚蝦類、爬行類、鳥類到哺乳動物及人類這一連接的幅度，很難說哪些動物有生存權，哪些則沒有，而又不牽涉隨意性。所以本文並不打算對這些問題提出答案，而是把問題的結構突顯出來。

目錄

摘要

女性主義倫理學家將生命倫理學諸理論，如 Engelhardt 的把自主性放在第一位的“世俗多元倫理學”，Veatch 的“契約論倫理學”，Pellegrino 以有利或行善原則為基礎的倫理學，羅爾斯的“正義倫”倫理學；道義論倫理學，後果論倫理學，以及 Beauchamp 和 Childress 的原則倫理學等統稱為“正義倫理學”(Ethics of Justice)，其理論模型稱“工程模型”(Engineering Model)，將它們與“關懷倫理學”(Ethics of Care) 及“關懷模型”(Caring Model)相對立，以女性主義的視角，對生命倫理學理論和實踐進行了批評。審視女性主義對生命倫理學的批評，對照和比較女性主義關懷倫理學與生命倫理學，我們發現女性主義關懷倫理學的理論和內涵，確實給人以清新的感覺，女性主義關懷倫理學與生命倫理學如能互補，將對倫理推理和倫理難題的解決，提供較好的倫理理論和實踐方法。

目錄

中、美醫學倫理道德的多元性：導向一種詮釋的跨文化生命倫理學

摘要

從 20 世紀 70 年代後期以來，美國對中國醫學倫理學的評價及中國對美國生命倫理學的反應，經歷了從坦直的批評到熱情的讚揚，從拒絕到接受的過程。但是無論在美國還是在中國，美國的生命倫理學與中國的醫學倫理學一直被認為分別代表了個性主義和社區主義或集體主義這兩種不同取向。這種一般性的對比被人們廣泛地接受，於是中美醫學倫理道德自身的巨大差異，特別是中國醫德經歷的內在多樣性，即使不說被全部忽略了，至少是不幸地被輕視了。不管是美國的生命倫理學還是中國的醫學倫理學，二者都不只有一種占主導地位的思維方式。在美國和中國——傳統與現代——的醫學倫理都是複雜與多樣的。例如，美國和中國的文化與醫學倫理都顯示出個人主義與社區主義的傳統。無論是一般的生命倫理學還是跨文化生命倫理學從本質上都是詮釋性的。詮釋性的跨文化生命倫理學重視任何文化中醫學倫理道德的多元性。通過詮釋，跨文化生命倫理學可作為一種社會與文化批評的重要手段。

目錄

Abstract

There has been controversy between particularism and generalism in metaethics in general and bioethics in particular. Particularists (e.g. contextualists) attempt to solve moral problems by firstly working with particular cases in all of their contextual details and then by applying these results to other similar cases, whereas generalists (principled ethicists) try to apply the general normative principles to particular cases. The former approach can be viewed as a "bottom-up" and the latter "top-down" way. As indicated by many moral philosophers, both of these approaches have shortcomings. Principled ethics have been challenged for their impotence in providing guidance in a moral decision. The challenge is in twofold: Firstly, there is scepticism that one can reach a moral judgment by reasoning deductively from general ethical principles; secondly, these theories are insensitive to and thus do not give due weight to the contextual variabilities in a specific situation. By contrast, contextualism emphasizes the relative importance of inductive method in moral reasoning. However, how to resolve moral issues by employing the inductive method remains a problem. Therefore, while it accuses principled ethics of its inability to guide moral decision, contextualism itself cannot provide any guidance.

With respect to the rival views of principled ethics and contextualism, R.M. Hare thinks that both theories have grasped the truth, but only part of it. For instance, contextualism has caught hold of an important truth, that one has to judge each situation on its own merit. But if contextualism persists in asserting that in morals one cannot appeal to general principles, then it is mistaken. This is a mistaken view in that it ignores another obvious truth that some situations are similar in some morally relevant respects, and also in that it holds that these two truths are incompatible. Hare conceives that this mistake arises from confusing the concepts of universality and generality and also from failing to make the distinction between the two levels of moral thinking. By introducing the intuitive level and critical level of moral thinking, Hare argues that the two kinds of metaethical theories are not in real conflict. Contrarily, they both play important roles in our moral thinking, though at different levels. In this paper, I am going to examine to what extent, if ever, Hare's attempt is successful, and furthermore, what are the steps that should be taken to remedy the deficiency, if any. Finally, I try to show that the ideas of "jing" and "quan" in Confucian ethics operate in the two levels of

moral thinking in Hare's structure, and hope that these two ideas may help to solve the issue discussed in this paper.

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Abstract

In this paper I examine the arguments for and against the buying and selling of human organs. I examine five opposing and two supporting arguments. The five opposing arguments are: (1) exploitation of the poor; (2) fostering crime; (3) creating a conflict between a person and his family; (4) contributing to the prevailing ethos of everything being for sale; (5) degrading human dignity. The two supporting arguments are: (1) self-ownership of human beings; (2) effective use of resources.

I argue that none of the opposing and supporting arguments are convincing. The buying and selling of human organs is not a problem with a clear and easy answer. It is instead a difficult ethical problem.

The use of the profit incentives to increase the supply of organs should not be mixed up with a literal commodification of human organs. There can be different ways of selling organs. Although human organs may have a special status quite different from other commodities, this may just mean that human organs should be sold very differently rather than that they should not be sold at all.

Organ selling can be restricted in the following ways: (1) buyer, e.g. only the government can be the buyer; (2) seller, e.g. only the "host" can be the seller (i.e. no resale is allowed); (3) price, e.g. one price system; (4) form, e.g. financial gain but no cash payment (such as reduction of insurance premium or compensation of estate); (5) content, e.g. only cadaveric organs can be sold; (6) purpose, e.g. only for transplantation.

Under such or similar restrictions, the advantages of allowing buying and selling organs can be promoted and the disadvantages can be avoided. Such arrangements deserve further investigation. If we take such restrictions into consideration, many objections against organ selling are not as convincing as they first appear to be.

My conclusions are as follows: (1) The arguments against the selling of organs as outlined in this paper can at most show that an unrestricted free market of organs is wrong, but they cannot show that the use of monetary incentives to increase the supply of organs is wrong. (2) The arguments for the selling of organs as outlined in this paper cannot show that people have a right to sell their organs. (3) It does not seem unreasonable to hold the view that the use of monetary incentives is acceptable but an unrestricted free market of human organs is not.

Abstract

This paper critically examines the liberal, the medical paternalist, and the familial models of decision making for the terminally ill. It is argued that the liberal model is excessively patient centered while the medical paternalist model overemphasizes the role of the physician. The paper concludes that since both models marginalize the role of the family in the decision-making process, they are morally inadequate and not suitable for societies with strong family ethics, particularly those in Asia.

The liberal model is predominant in the United States. According to this model, a competent patient can express in an advance directive her prior wish of how she is to be treated when she lapses into incompetency. In the absence of an advance directive or in cases where the directive is vague or ambiguous, the surrogate decision-making process will be invoked, which is normally a procedure in which the family makes the decision on the patient's behalf. In this process, the family serves to assist the incompetent patient to exercise her self-determination by figuring out and then following her counterfactual choice in accordance with the substituted judgment standard. If it is impossible to arrive at a decision by following this standard, the family, with the assistance of the physician, will follow the standard of best interests to promote the well-being of the patient. In sum, in the process of surrogate decision making, only the individual choice and interests of the patient are a matter of concern. Thus, the liberal model is entirely patient-centered. The role of the family is marginalized in the sense of being subordinated to the (previous or counterfactual) choice and interests of the patient. The family therefore becomes a "shadow" of the patient with no independent status and is deprived of its self-sufficiency.

In the United Kingdom, medical paternalism is more influential. There is a preference for a code of practice to legislation for advance directives, and the prevalence of the best interest standard. Yet, unlike the liberal model, the best interests of the patient are not determined by the family in accordance with the standard of a reasonable person. Rather the doctor is expected to make decision for the patient in accordance with a responsible and competent body of relevant professional opinion in determining the patient's best interests. Though the family will often be consulted, the principal decision maker is the physician. So the role of the family is also marginal in this model.

In Asian societies, e.g., Japan, Mainland China and Hong Kong, the family plays a fundamental role in the decision making for the terminally ill, so the model of familialism prevails. In these societies, it is common that the patient will not be informed directly of her terminal illness by the physician. The decision for the incompetent patient is regarded not as an individual but a family decision, and the dying process is viewed a sharing process, the last journey that the patient undergoes together with her significant others.

In the familial model, the decision for a terminally ill patient is regarded not entirely as an individual matter because other members will be affected by the patient's choice. Should a son merely consider the wishes or the best interests of his father without considering the burden of care and the feelings of his mother while his father is going through the last stage of his life? Should the mother also consider the financial burden that her son might have to bear for his father if he were to be kept alive at all costs? Such issues would not have a place in the liberal and the medical paternalist models, for what matters is only the choice or the best interests of the patient. On the contrary, due considerations are given to these issues in the familial model, which makes it more plausible than the other two models.

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Abstract

Twenty-six years on, the debate generated by James Rachels' 'Active and Passive Euthanasia' (1975), one of the most widely reprinted articles on euthanasia in bioethics, is still very much alive. The following policy statement cited and attacked by Rachels in the article has thus become familiar to many bioethicists: 'The intentional termination of the life of one human being by another - mercy killing - is contrary to that for which the medical profession stands and is contrary to the policy of the American Medical Association. The cessation of the employment of extraordinary means to prolong the life of the body when there is irrefutable evidence that biological death is imminent is the decision of the patient and/or his immediate family.' This statement, Rachels claims, endorses the 'conventional doctrine' that there is an important moral difference between active and passive euthanasia, i.e., that it is permissible, at least in some cases, to withhold treatment and allow a patient to die, but it is never permissible to take any direct action designed to kill the patient. Rachels' major objection is that this doctrine rests on the mistaken idea that there is a moral difference between killing someone and letting someone die.

While commentators on Rachels' rejection of the distinction between active and passive euthanasia focus mainly on his arguments against the moral difference between killing and letting die as put forth in 'Active and Passive Euthanasia', this paper aims to give an evaluation of Rachels' overall position by examining also the way in which he defends his arguments in 'More Impertinent Distinctions and a Defense of Active Euthanasia', an article published in 1978. In this article, Rachels responds to the objection that his earlier arguments against the distinction between killing and letting die failed to take account of the role of *intentions* in our moral appraisal of acts. Rachels tries to undermine this objection by challenging a common conception about the moral relevance of intentions. A critical examination of Rachels' view on intentions and its bearing on his rejection of the distinction between passive and active euthanasia is worth undertaking if we are to give a proper evaluation of this most interesting debate. It is the aim of this paper to offer such an examination.

Some preliminary clarifications are made in Section II. A variety of cases where futile therapy is withdrawn or withheld are not to be confused with passive euthanasia. Such a confusion can only be avoided by noting that an adequate

definition of 'euthanasia' must make clear that it is the act of bringing about a gentle death that results from the *intention* of one person to kill another person or to let another person die. Similarly, the correct identification of intent is crucial for the distinction between active euthanasia and some other cases of causing death in medical contexts, otherwise the argument in favor of, say, some strategies for relieving pain that unavoidably cause death stands in danger of collapsing into an argument for active euthanasia.

Section III clarifies the interplay between the issue about the moral relevance of intentions and that about the distinction between killing and letting die by tracing the development of the debate between Rachels and two representative critics. Rachels' contends that the idea that there is a moral difference between killing someone and letting someone die is mistaken can be shown by considering his example of 'Smith and Jones'. It is supposed to follow that active euthanasia is morally on a par with passive euthanasia. The AMA policy is therefore objectionable, Rachels argues, for it rests on a moral distinction between the two kinds of euthanasia. Thomas D. Sullivan and Bonnie Steinbock both accuse Rachels of misinterpreting the policy statement. In their views, the idea behind the AMA policy is not a doctrine about the distinction between active and passive euthanasia, but is simply a prohibition against *intentional killing*.

Rachels tries to undermine this challenge by rejecting the traditional view that there is a definite sort of moral relation between act and intention. His example of 'Jack and Jill', he argues, shows that the accompanying intention, though relevant to assessing the *character* of the person who does an act, is not relevant to deciding whether the *act is* right or wrong.

Both in launching his attack and replying to critics, Rachels relies heavily *on the method of equalized cases*. Section IV starts with an analysis of the form and structure of this method, followed by an example of equalized cases ('Wong and Lee') designed to show that Rachels' overall position is problematic. The example does its work by having the following feature: the bare difference between the two cases is one that involves both an act/omission aspect and an intentional aspect. Committed to a 'no relevance'-view regarding both aspects, Rachels would have to give a perverse, or highly contestable, assessment of the moral qualities of the acts in the example. This suggests that something is seriously wrong with his view.

The root of the problem is that the two issues - that of the moral relevance of intentions and that of the distinction between act and omission - are subtly connected. Section V firstly addresses the problem about intentions and then

sheds light on the subtlety by way of a discussion of the principle of double effect. Another pair of equalized cases ('The Two Pilots') is introduced to show why Rachels' view on intentions is flawed.

The principle of double effect is an inconsequentialist one that recognizes the role of intentions in assessing acts. Many of our acts have both good and bad effects. This gives rise to the question of when an act of this kind is morally permissible. The principle defines that it is absolutely wrong to intentionally bring about a bad consequence but permissible to perform an action (in pursuit of a good) when the resulting harm is foreseeable but not intentionally procured. The example of 'Two Bombers' is given as an illustration, followed by considerations of some objections concerning the individuation of action and the identification of intent.

Section VI elaborates the points emerged from these considerations. First, it is suggested that (a) whether, and how much, killing differs morally from letting die in any particular case may depend on what sort of intention is involved. Second, (a) can be further supported by considering one particular kind of equalized cases involving killing and letting die, i.e., those cases commonly encountered in everyday life where the killing, but not the letting die, is accompanied by an objectionable intention. Third, holding (a) allows us to maintain that (b) intentional killing is in general worse than unintentional letting die. (b) is of unique importance because in everyday life by far most of the comparable cases where we think it is important to make a moral distinction between killing and letting die fall under the category of 'intentional-act/unintentional-omission'. Intuitively, this sort of cases of 'killing vis-a-vis letting die' involves the greatest moral discrimination. And our common moral responses to these cases conform strongly to (b). No adequate moral view can afford to discount the intuitive force behind such conformity. Fourth, Rachels' consequentialist rejection of the moral difference between killing and letting die and the moral relevance of intentions is therefore bound to strike us as most disturbing in the 'intentional-act/unintentional-omission' type of cases. This explains why our example of 'Wong and Lee' tends to embarrass those who hold both negative theses that Rachels has offered. His example of 'Smith and Jones' did not strike us as particularly disturbing only because it is of a different type. In light of our analysis, one may explain Rachels' moral assessment of the acts of Smith and Jones in terms of some kind of *counteracting effect*, i.e., that the moral weight of the distinction between killing and letting die is counteracted by the presence of the malicious intention *shared* by the two protagonists.

Section VII concludes with a caveat. In a case of voluntary euthanasia the killing or the letting die is not supposed to bring harm to the patient. Careful thoughts should therefore be given to diluting the relatively stronger prohibition against killing or the relatively greater permissibility of letting die as entailed by our arguments when considering the moral difference between active and passive euthanasia.

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Abstract

A proper assessment of the moral status of applying the somatic nuclear transfer technique to human involves three important moral questions. The first question is concerned with the safety of using the technique, i.e., whether using the new technology on human in this stage will pose an unacceptable risk to the cloned child. Indeed, one major objection to cloning human beings is that the technique of somatic nuclear transfer may cause harm to the cloned child. For instance, the U.S. National Bioethics Advisory Commission (NBAC), among others, argues against human cloning in this vein. It claims that "current scientific information indicates that this technique is not safe to use in humans at this time," and that "[at] present, the use of this technique to create a child would be a premature experiment that would expose the fetus and the developing child to unacceptable risks" (NBAC 1997, "Executive Summary").

As I have argued elsewhere, (Jonathan Chan, 'Human Cloning, Harm, and Personal Identity,' in Gerhold K. Becker (ed.), *The Moral Status of Persons: Perspectives on Bioethics*, Rodopi B. V., Amsterdam/ Atlanta, 2000, pp. 195-207), this harm-based argument is far from conclusive. Firstly, the question of how safe and reliable human cloning might be can only be answered by further scientific investigation, and so far scientists do not have strong evidence to prove that cloning human beings is extremely dangerous. Since the risk in question cannot be accurately determined unless scientists are allowed to carry out scientific research on the effects of applying the cloning technology to humans, it is unfair to urge a ban on human cloning by arguing that the technology is unsafe. Secondly, the argument faces the difficulty of what is sometimes called "the non-identity problem." The argument of the non-identity problem runs as follows: It is impossible for the cloned child to be harmed by the act of human cloning since it is this same act that caused the child to exist. Had the act not been performed, the child would not have existed and, hence, the child would not be better off. It follows, then, that performing the act of human cloning would do no harm to the child.

The second important moral question concerning human cloning is the one concerned with the purpose of cloning humans. There are three different types of purposes in relation to human cloning. The first type is the ones that I describe as "purely reproductive." With these purposes, people choose to clone a child simply

because they want to have and rear their own child and for nothing else. In this case, the motive of these people is not much different from that of those using artificial reproductive technology such as IVE. The second type is the "non-reproductive" ones. To clone a child, for instance, mainly for the purpose of scientific investigation, without any intention of rearing the child, is a paradigm case of cloning humans for the non-reproductive purpose. The third type is the ones that I describe as "mixed" purposes. A set of purposes is a mixed one if and only if it has both the reproductive and non-reproductive components. To clone a child, for instance, so as to provide a son and heir, or to create a sister for Bill, falls into this category.

In the above, I have put forward a scheme that classifies the purposes of cloning humans into three different categories. With this scheme of classification, I hope to clarify some moral issues in the current debates concerning human cloning. It will be argued that the Kantian critique that human cloning makes the cloned child purely a means will not stand with respect to the purely reproductive purpose. For unless we deem all (natural or non-natural) reproductive acts as the ones that make people purely a means, the generalized criticism that human cloning makes the cloned child purely a means does not have a strong ground when it is viewed from the Kantian perspective. To rear a child is to develop a parent-child relation, and to foster this relation is to create a certain good that is internal rather than instrumental. For this reason, it is sensible to treat the act of creating a child with a view to rearing him or her as non-instrumental. However, as to the cases in which a child is cloned without the intention of rearing him or her, the conclusion will be very different. In these cases, the child is created not for developing a parent-child relation but simply for other purposes, say, for scientific investigation. Then, the application of the Kantian principle to these cases is quite intuitive.

The third important question concerning the morality of human cloning is the one concerned with the moral status of the human clone. Some philosophers use the "delayed identical twins" metaphor to describe the relation between the clone and his or her original. It will be argued that the above metaphor is highly misleading. It is misleading because the clone and the original cannot have that kind of relation. Rather, the clone is just the original's biological extension. One might wonder what moral implications we can draw from this conclusion. It will be argued that the moral implications that we can draw from the above conclusion is relative to our moral perspectives. For those who hold the liberal moral

perspective, so far as the clone has self-consciousness and autonomy, his or her moral status is not different from a normal human person. His or her own identity will not be affected by the fact that he or she is just the original's biological extension. However, for those who hold the Confucian moral perspective, the conclusion will be very different. According to the Confucian moral perspective, one's own identity is defined in terms of the five basic human relations, particularly, the parent-child relation. As the clone is just his or her original's biological extension, he or she cannot have the natural parent-child relation with any person. That being the case, the clone will not have a complete identity as a normal person has. Then, to clone a human, even for reproductive purpose, would violate the moral standards of the Confucian moral perspective.

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Abstract

Until relatively recently, ethics has been a subject involving only human persons. Whether the issue concerns euthanasia, pornography, capital punishment, or world hunger, only human persons are involved. Since then, moral issues have arisen that involve not only human persons, but also non-human animals. This is a significant change, because the ethics involving only human persons is ill-adapted for problems involving not only them, but also non-human animals. In this paper, I argue that the traditional ethics is inadequate for solving the problem of animal research and non-vegetarianism, and that arguments trying to show that animals can be sacrificed in experiments in order to save human lives is inconclusive.

There are three different views on the moral status of non-human animals. The first is the speciesist view that only human beings have moral status. The second view is the anti-speciesist view according to which human and non-human animals have equal moral status. Both views hold that moral status is an all-or-nothing matter. In contrast, the third view holds that moral status is a-matter-of-degree, and that human and non-human animals have moral status, or intrinsic value, but to different degrees. On this view, moral status, or intrinsic value, of an animal is dependent on, and derived from, its capacity to have a rich life, which is in turn dependent on its experiential capacity. Given that human beings have the capacity to a richer life than other animals, they also have higher intrinsic value or moral status. Similarly, mammals also have higher intrinsic value than birds, which in turn would have higher intrinsic value than reptiles, which has higher intrinsic value than fish, shrimps, etc. I claim that the "matter-of-degree" view is the only plausible view on the comparative moral status between humans and non-humans.

However, this view leads to a problem. If we can save either (1) a human being from injury, or (2) a dog from death, but not both, which should we save? This is a different problem from the traditional problems in which a human being's claim is compared with the claim of another human being or human beings, because in these problems only the relative importance of the competing claims are at issue. Thus, in deciding whether people have the right to defame others as a special case of right to free speech, for instance, we take into account the pros and cons of allowing defamation versus the pros and cons of prohibiting defamation. In other words, we have to weigh and compare the competing claims of potential

defamers versus those of potential victims. However, in the case of choosing to save either a human being from injury, or a dog from death, an extra consideration is in play, namely, the intrinsic value of the human versus the (lower) intrinsic value of the dog. But the problem due to this extra "variable" seems to have no solution, because there is at present no ethical calculus or any conceptual schemes by which to compare the lesser claim of a human being and the greater claim of a lesser entity. Thus, if we compare (1) a human being's claim to the taste of a cow's meat, and (2) a cow's claim to life, we do not know how to make the comparison, because (1) and (2) are incommensurable.

To use an analogy, we can solve an equation with one variable (e. g., $2x+4=8$), but cannot solve an equation with two variables (e.g., $2x+y+4=8$), because there is one unknown too many. The moral analogue in the issue of animal rights is as follows. We can solve the problem of competing claims in which two entities of *different* intrinsic value have claims of the *same* type. (We know we should save a human person's life rather than a dog's life, if we can only save one of them.) Moreover, we can solve the problem in which two entities of the *same* intrinsic value have claims of *different* type and different importance. (We should save a stranger from dying, rather than another stranger from injury.) However, we cannot solve the problem in which two entities of *different* intrinsic value compete for claims of *contrary* importance - that is, when a greater entity makes a lesser claim whereas a lesser entity makes a greater claim, because there is one unknown too many. (Thus, the utilitarian axiom that every person is to count for one is not only important in its own right, but is also a vital premise without which no maximization of utility could possibly begin. For by assuming that everyone is equal, utilitarianism assumes everyone's intrinsic value to be equal. This allows utilitarianism to hold "one variable" constant, and thereby in effect eliminate it from "the equation.")

Speciesists only focus on the relative moral status (or intrinsic value) between humans and non-humans, whereas anti-speciesists stress the difference in intrinsic value between humans and non-humans. The truth, however, is that we have to take both variables into account, and yet there seems no way to combine both variables in the issue of non-vegetarianism. To give it a name, call this the two-variable problem.

In many cases of animal experimentation, the two-variable problem has no relevance, since by sacrificing the lives of a relatively small number of non-human mammals, we can prevent the mortality (and morbidity) of a greater number of

human beings. It looks as though we have a net gain both in terms of lives as well as in terms of intrinsic value. But there lurks the question as to whether non-human animals have rights in general, and the right to life, in particular. If non-human animals have the right to life, then we are morally prohibited from using them as materials for experimentation, or as a source of food. On the other hand, if they don't have such a right, (though it does not mean we can therefore treat them in whatever way we like) it would seem to be justifiable to sacrifice them for experiments that can save many more human lives.

However, I argue that to answer the question whether animals have the right to life, we are faced with two major hurdles. First, we do not know what would constitute the necessary and sufficient conditions for having the right to life. Second, the intrinsic value from lowly creatures such as shrimps and fish to *homo sapiens* represents a continuous spectrum. To determine which type of creatures would have the right to life, and which would not, will surely involve a certain degree of arbitrariness. Since arbitrary solutions are not good philosophical solutions, animal rights issues as well as other issues have remained unsolved. These include the problem of personal identity, in which memory is a matter of degree whereas personal identity is all-or-nothing. The problem of whether a fetus is a person is another instance: A fetus grows continuously, but whether it is a person is supposed to be an all-or-nothing matter. Finally, the search for a definition of knowledge is another example. Knowledge is supposed to be all-or-nothing, but the justification of belief is a matter of degree.

I try to unveil the deeper structure of the problem of animal rights. As I said, those who accept the all-or-nothing views would have an easier dealing with the issue of animal rights. For if speciesism is correct, we can feed on animals, and use them for experimentation. If, on the other hand, anti-speciesism is correct, non-vegetarianism is forced on us, and animal experimentation must be banned. This is because in assuming either that non-human animals have intrinsic value equal to that of human persons, or that they have no intrinsic value at all, the two-variable problem is thereby reduced to a one-variable problem, which is solvable. But such reduction is premised upon implausible all-or-nothing views.

However, since speciesism and anti-speciesism are both implausible, the fact that the issues of animal rights *would have been* solvable if they *were* plausible is unhelpful. I don't know whether - nor do I suppose - that the problems of animal rights are in the end unsolvable. But I hope to have shown why there appears to be no satisfactory solution to these problems, at least as at present.

One reason why all-or-nothing views fail is that the moral reality is messier and more complex than they portray. In philosophy, views that take short cuts (e.g., some forms of reductionism) often achieve solutions by cutting the reality down in size or scope. The residual reality is manageable. But the desire for solutions and simplicity is satisfied at great costs, because the problem attacked is no longer the original issue.

Moreover, as Thomas Nagel observes, "[s]implicity and elegance are never reasons to think that a philosophical theory is true." Perhaps, as Nagel also points out, "one should trust problems over solutions, ... and pluralistic discord over systematic harmony." At the very least, Nagel seems to be correct about the issue of animal rights. For the all-or-nothing views are forms of reductionism that cut down the moral reality in size, that is, by cutting down a two-dimensional issue into a one-dimensional one.

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Abstract

Feminists find that females tend to focus on details about the relationships among the persons involved and to seek innovative solutions that protect everyone's interest. In contrast, males typically try to identify and apply a relevant principle or rule (which they take to be universal or valid from an impartial perspective), even if doing so means sacrificing someone's interest. Feminists call the former approach an *ethics of care* (or responsibility) and the latter an *ethics of justice*.

Feminism thinks *ethics of justice* includes bioethical theories such as Engelhardt's "Secular Bioethics", Veatch's "Contract Ethics", Deontological Theory, Utilitarianism, Beauchamp and Childress' principlism, Pellegrino's virtue and duty-based ethics, and so on. Feminists criticize *ethics of justice* or all of bioethical theories seriously. The *ethics of care* challenges all of these dominant bioethical theories as deductivism and principle-based ethics. Feminists downplay the role of rights and allegedly universal principles and rules, in favor of an emphasis on caring, interpersonal relationships, and context.

I think *ethics of care* and *ethics of justice* should meet each other in the practice of bioethics arrived after reviewing the criticism of feminists. The essay concludes that there is no reason to consider the *ethics of care* inferior or the *ethics of justice* inferior. An ideal bioethics should incorporate both approaches.