

**Global Medical Ethics
Chapter I**

Introduction

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1. Global Ethics

Globalization touches everything, even ethics. Whatever one makes of its overall merits, globalization does spread ideas, and thus innovations, to the entire world. Progress anywhere becomes progress everywhere, or it at least makes progress possible everywhere. This is true of industry and technology in general, but it also true of medicine, in particular. A modern medical system is, of course, technologically complex and quite expensive. The impact of modern medicine is thus limited by the particular local level of economic development. However, when there is an economic base sufficient to support biologically-based medicine, its transformative impact will soon be felt. The success of contemporary bio-medical practice, in turn, gives rise to a host of new moral issues and challenging moral questions.

First, the concept of death itself must be reevaluated in light of the technological ability to keep the body alive when the brain is dead, and thus all possibility of conscious life is completely and irreversibly lost. Furthermore, life-saving organ transplants can use the bodies of those who have died to save lives. On the other hand, life-saving organ transplants also disrupt traditional death rituals and patterns of mourning. In light of these two technological advances, many countries in vastly different cultures have redefined human death as “brain-death” so as to facilitate organ transplantation. In the process, however, previously settled intuitions about respect for the dead come head to head with compassion for others who are dying.

Second, the complexity and specialization of medicine, and the technological capacity to sustain life by artificial means, has thoroughly transformed the patient-physician relationship. Since technology can sustain life even when all hope of meaningful recovery is gone, the imperative of medicine to save life above all else becomes obsolete. In many cases, the continued medical treatments no longer serve the interests of the patient. In these cases, some patients, or their family members, may want physicians to withhold or withdraw medical treatments and let the patient die. These are decisions based on moral values and the patient’s preferences; they are not issues of medical expertise. The physician is a medical expert not a moral authority. Patients are often the best judge of when their life is worth living, and as a result the traditional paternalistic

relationship between physician and patient is transformed. In addition, in a modern medical system, the physician's role is quite different from the traditional family or village doctor. The doctor is now a part of a medical team. Indeed, with the specialization of medicine, the individual physician becomes a thoroughly dependent part of a complex, specialized, health care delivery system; and this further transforms the patient-physician relationship.

Third, simple intuitions about the nature of killing are no longer adequate. In the United States in 1975, the family of Karen Anne Quinlan had to appeal to the courts to order her physicians and hospital administrators to remove a respirator and allow her to die a natural death. At that time it was common to argue, and it was the position of the American Medical Association, that withdrawing life-support was "passive euthanasia" and thus equivalent to killing the patient. A mere 15 years later, such arguments had dropped into the dustbin of history, and the practice of removing life-support and letting patients die is now routine medical practice. We now ask, since it is permissible to let patients die by withdrawing artificial life support, if a patient requests it, is it also permissible to take more active means to hasten the death of a suffering patient? The power of medical technology to sustain life has forced us to reevaluate the distinctions between killing and letting die, intending death and foreseeing death, responsibility for causing death and showing compassion for the dying. Indeed, our judgments about the value of human life, the limits on the right to die of competent patients, and the nature of a dignified death are all challenged by the decisions that we must make at the end of life.

Fourth, assisted reproduction, in-vitro fertilization (IVF), genetic screening and engineering, and therapeutic cloning give us increasing control over reproduction - and with greater control and power come new responsibilities and perhaps new reproductive rights. What is the status of stem cells and pre-embryos? What precisely is the line between medical therapy and human enhancement? What is wrong with enhancement? What is the difference between assisted reproductive technologies and human cloning?

Despite the otherwise substantial cultural differences in the understanding of morality, modern medicine provides a similar challenge to all cultural traditions. Disease and medicine are universal; and the power and appeal of modern medicine is thus irresistible. Contemporary biomedicine, however, has an inherent tendency to disrupt and transform morality and medical practice. Biomedicine is thus a common point where otherwise diverse cultural traditions face common problems rooted in universal aspects of the human condition. By focusing on specific issues of medical ethics, we shall be able to see more clearly the common and core moral values that determine the particular ethical codes that guide and shape our lives. The values of life, of health, and of a dignified death are shared by all cultures, and these values emerge as the dominant common factors that determine how otherwise very different cultures confront these shared issues of modern medical ethics.

2. The Transformation of Western Bioethics

In the United States, the tendency of biomedicine to transform both morality and the practice of medicine is already well under-way. Indeed, we have witnessed a remarkable revolution, a paradigm shift, in the culture of medicine, in medical practice, and in medical ethics. The statistics here are striking. In 1962 only 12% of physicians surveyed disclosed a diagnosis of cancer to the patient. Less than 20 years later, 98% of physicians

reported that their usual policy was full disclosure of a diagnosis of cancer. This is a complete reversal from 88% non-disclosure to 98% full disclosure. This change, of course, does not occur in a vacuum. Some of the most salient factors influencing the shift, I believe, include the notably improved medical therapies and steadily improving prognosis for patients. In addition, with increased options, we also get more complex choices. With more medical options, the risks and benefits of the different options must be weighed. These differences go well beyond judgments of medical utility or futility and inevitably involve quality of life judgments as well. Furthermore, different individuals bring to medicine different religious, philosophical, and cultural conceptions of the meaning of life and death. Although physicians are usually knowledgeable and compassionate, training in medicine provides no special insight about the meaning of life or when it is time to accept death.

These value judgments are not medical judgments. Therefore, the patient's point of view, particular interests, and moral values become ever more salient. In Western countries, the individual patient has replaced the physician as the sovereign medical decision maker. In studying other cultures and countries, we find a similar erosion of medical paternalism but an emphasis on *individual* informed consent does not always take its place. In many cultures, the *family* is the locus of decision making. Each culture, however, must negotiate the relationship between medical outcomes and more spiritual and moral values. The study of medical ethics, however, has focused almost exclusively on the United States' experience. The medical cases, the academic scholars, and the judges that originally dominated the medical ethics literature were primarily from the United States. As a consequence, the articulation of values and principles has reflected the United States cultural norms, context, and legal system. By expanding our focus to include the perspectives of different cultures, the range of possibilities will be enlarged and we will thus see more clearly the strengths and limits of different approaches to moral theory and applied ethics.

3. Cultural Traditions and Moral Theory

Despite the commonality in core values and broad principles, specific values and principles are shaped and interpreted by different conceptions of life and death, and different conceptions of the relationship between the individual and society. It is imperative in our diverse world, to understand these fundamental cultural differences. We will focus on the differences between Western, Confucian, Buddhist, and Islamic understandings. Each of these traditions brings insight into the interplay of culture, worldview and morality.

Confucian ethics is family-centered and focuses not on individual rights but instead on relationships and responsibilities as the most basic concepts of morality. Confucian ethics is also built on a naturalistic (natural law) conception of morality and thus of human relationships. This naturalistic, relational approach to ethics is often juxtaposed to a western rights-based approach to morality. By focusing on Confucian ethics, we will better understand the proper place of both relationships and rights in any ethical system – East or West.

Buddhist ethics is mainly focused on the nature and cause of human suffering and a path, the Noble Eightfold Path, which is supposed to lead to the end of suffering. The most essential part of the Buddhist path is the cultivation of the virtue of boundless

compassion. By focusing on Buddhist ethics, we will explore the nature of virtue ethics, and see clearly the universality of the value of compassion and its relationship to individual flourishing. Buddhists also believe in reincarnation, the continuity of all sentient life whether human or animal, and karma which shapes our contentment or suffering and determines our rebirth. These more metaphysical doctrines profoundly shape Buddhist morality and medical ethics.

Islamic ethics and law is the clearest example of a theological conception of ethics based on divine revelation. Ethics based on revelation inevitably faces the limits of its finite texts to address ever new problems. In Islam, the Qur'an (or Koran), the life of Muhammad, and the Islamic traditions of interpretation, provide many clear cases and statements of ethical principles. Islamic ethics (Sharia) addresses new issues through analogy with earlier clear cases and more settled moral issues. This type of moral reasoning that moves from settled cases by analogy to new unsettled cases is called casuistry. Casuistry is also at the core of Catholic moral education and is a popular conception of moral reasoning in general. While focusing on Islamic ethics in particular, we will explore the nature and limits of casuistry as a basic form of moral reasoning. We also see that disagreements in medical ethics between Buddhists and Muslims, is essentially theological and not a moral disagreement at all. There is a general truth here that moral disagreement need not reflect any disagreement in moral principles.

Each of these traditions is rich in particular detail, but they each also present theoretical issues that are universal and cross-cultural in their relevance. Each tradition is universal in its aspirations and addresses itself to the human condition. Our interest in different traditions is first to understand it, but then to also take it seriously as a conception of ethics which aspires to provide insights for all. As such, it is not enough to describe a cultural tradition; we must also evaluate these different traditions as comprehensive conceptions of morality. Although this may at times involve questioning various aspects of different cultural traditions, we will do so by respectfully engaging it in a serious and direct manner.

Although we do explore background issues of moral theory, our practical focus is on questions of contemporary biomedical ethics. Here we find a remarkable overlapping consensus on the nature of the problems and solutions raised by the challenge of modern medicine. The shared human condition leads to consensus despite our otherwise enormous cultural differences. To be clear, however, the consensus is often a consensus of shared disagreements; that is, the debates over medical paternalism, the definition of death, and the limits of taking life are essentially the same debates cross culturally. Of course, one side in a dispute over a particular issue may be dominant in Japan and the other side may be dominant in the United States. This tendency may be related to local cultural factors, but in both the East and the West, the reasons for and against in the dispute are the essentially the same across cultures. For example, as we shall see, the arguments for and against redefining death as brain-death are the same in Japan and the United States, but in Japan, the arguments against brain-death are more widely accepted. The basic issues, reasons offered, and competing sides of the debates are shared, despite important cultural differences. The cultural comparison is thus richer. Indeed, the particularity of one's own approach stands out more sharply in contrast to other traditions confronting the same dilemma. Possibilities open up, and there is much to learn from each other, when distinct cultures face a shared human predicament.

Before turning to our main topic, we need to address a simple and basic objection to Global Ethics. Some readers may be unsympathetic to this project because they accept the doctrine of moral relativism. These readers assume that the cross-cultural examination of ethical systems, which is at the heart of this work, is mistaken from the very start. In the next section, we will attempt to disarm the moral relativist and generate a more sympathetic ear for the rest of our project. The discussion of moral relativism, however, is more abstract and theoretical than the argument that follows, and indeed the indeed the practical arguments and discussions of the rest of the book provide our full response to the moral relativist. If our comparison of different cultures proves fruitful, and we discover underlying principles and moral insights that are common across cultures, then skepticism about the value of cross-cultural examinations of ethical systems will have been answered.

4. Cultural Relativism and Universal Moral Principles

Moral relativists deny that there are any universal moral truths and insist that morality is thoroughly culturally relative. There are obviously significant differences in the moral beliefs and practices of different cultures. For example, different cultures have strikingly different death rituals. Although burial and cremation are the most common practices, Tibetan sky-burial presents us with a shocking and initially a bit horrifying alternative. Sky-burial involves taking the dead body to a high mountain ledge and hacking the body into pieces and feeding it to vultures. Even the bones are split open so the vultures can have easier access to bone marrow. As we will see later, the practice of sky-burial reflects and reinforces core Buddhist beliefs in the impermanence and commonality of all life. However, someone from a Christian or Islamic tradition, seeing the act for the first time without explanation and contexts, would likely assume that this is some form of terrible punishment for some horrible deed. This is a dramatic example of cultural difference but we are all aware of countless differences in morally acceptable and unacceptable practices across different cultures. Equally striking are the differences in moral beliefs across time. From slavery, gender discrimination, and colonialism to more mundane practices like dueling, morality seems to shift and drift with the winds of time.

On the basis of these differences, the moral relativist maintains that there is no basis for morality other than the particular moral standards of a culture at a particular time. According to the moral relativist, there are no universal principles or objective truth about morality. What is morally right is simply that which a culture thinks is morally right. In short, since there is no culturally independent standard of morality, if a culture believes that some practice is morally right, then that practice is morally right.

Notice, however, that there are two distinct claims being made here. First, there is the *uncontroversial fact* that different cultures have different moral beliefs and practices - - call this *the cultural difference thesis*. Second, there is *a claim about morality*, namely that the standards of morality are culturally relative; that the standard of moral rightness is set by a culture's moral beliefs - call this *the moral relativism thesis*. These are very different claims and the second claim simply does not follow from the first.¹

¹ There are many excellent discussions of moral relativism and cultural relativism. A classic essay on moral relativism is Hume's "A Dialogue" - which is quoted below. James Rachels has a nice clear discussion of the issue in his *The Elements of Moral Philosophy* (McGraw-Hill, 5th edition 200?). Christina Hoff Sommers, editor, *Right and Wrong* (Harcourt, Brace, and Jovanovich, 1986) has a collection

The basic thesis of Global Ethics is that there are indeed common moral principles that are shared across cultures and times, but that different circumstances and different cultural possibilities lead to significant moral differences in the manifestation and realization of that which is otherwise common and shared. The idea is captured nicely by David Hume's analogy between the universal principles of nature and of morality:

"How shall we pretend to fix a standard of [moral] judgment of this [universal] nature?"

By tracing matters, replied I, a little higher, and examining first principles, which each nation establishes, of blame and censure. The Rhine flows north, the Rhone flows south; yet both spring from the same mountain, and are actuated, in their opposite directions, by the same principle of gravity. The different inclinations on the ground, on which they run, cause all the difference in their courses"

The Rhine and the Rhone flow in different directions, and result in rivers with very different characteristics as they take shape in different circumstances, yet both spring from the *same* mountain, and are actuated, in their opposite directions, by the *same* principle of gravity. Morality also flows from the same source across cultures and times, and is guided everywhere by the same basic moral principles, but the differences in circumstances (as well as factual and theological beliefs) result in markedly different particular moral beliefs and practices.

A belief in moral relativism is often based on a simple confusion of factual and moral claims. That is, some people point out that moral beliefs differ across times and cultures (the cultural difference thesis) and from this conclude that what is morally right also differs across cultures and times (moral relativism). The fact of moral disagreement and diversity is of great interest in thinking about ethics, but it simply does not demonstrate that morality is relative to a culture's current beliefs about morality.

As a general point, differences or disagreements in beliefs about some subject does not demonstrate that there is no objective fact of the matter. For example, there is controversy and moral disagreement about evolutionary theory, but this does not in any way demonstrate that there is no fact of the matter about the origin and mutability of species. When two people disagree on a factual issue, at least one of them is mistaken. This is not surprising because it is often difficult to discover even objective scientific truths. So, too, in the case of moral disagreements, one person may be mistaken in his or her moral beliefs. We cannot conclude from the fact of moral disagreement alone that there is no fact of the matter. It could instead just be that the moral facts are sometimes not at all clear, and this leads reasonable people to hold different opinions on difficult moral issues. Notice that the individuals disagreeing surely think that there is a right and a wrong conclusion. If I think that the death penalty is morally wrong and you think it is right, we each also believe that one of us is wrong. Of course, the basis of our disagreement may be some objective factual question like whether or not the death penalty is really an effective deterrent, or whether it inevitably results in the execution of innocents. Moral disagreement is often actually based on factual disagreement in this very way. In Chapter V, we will see that the doctrine of therapeutic privilege (which

of papers by Ruth Benedict, W.T Stace, Bernard Williams, and Mary Midgley on ethical relativism. The discussion in the text is based on all of these sources. Also see *Moral Relativism and Moral Objectivity* by Gilbert Harman and Judith Jarvis Thomson (Blackwell, 1996).

aims to justify the non-disclosure of medical information for the benefit of the patient) is based on the empirical claim that non-disclosure is in fact medically beneficial. We now know that the empirical evidence indicates that this is simply false. This is a case where a fundamental dispute in medical ethics is objectively resolvable.

In the case of different cultures, however, it is also possible that there is common moral ground despite the more obvious differences. Indeed, the doctrine of moral relativism seems to compare moral beliefs on too superficial a level. As Hume says in the quote above, we need to trace matters a little higher (or a little deeper may be a more apt description). First, even if one wants to maintain that there are basic differences in moral orientation in different cultures, surely one can criticize the morality of one's own culture, and when a culture responds to sound internal criticism we typically consider this to be *moral progress*. Even a relativist should recognize that some of a society's current moral beliefs may be wrong relative to the *deeper and more basic moral values and principles* of the very society in question. In the case of the United States, despite its deep and systematic racist past, as the Abolitionist and Martin Luther King so forcefully argued, it is still the case that slavery and segregation contradicted, all along, the fundamental values and principles that were claimed to be the foundational beliefs defining our way of life and social institutions. Similarly, as John Stuart Mill so eloquently argued, gender inequality, the legal and social subordination of women, in the 1800s was in deep conflict with the assertion of liberty and fair equality of opportunity that constituted the fundamental political principles of the modern age. In both these cases, moral criticism contributed to moral progress. But once the relativist recognizes this gap between basic moral beliefs and the particular moral practices and social institutions, this also provides a wedge for the objectivist: Superficial moral differences between different cultures may mask significant moral agreements on fundamental principles and values. Until we look much deeper, particular substantive disagreements simply do not undermine the idea that there are deeper, more fundamental and universal basic moral beliefs and principles.

Of course, many moral relativists are not concerned about the possibility of substantive moral criticism within a culture, and they might even agree that there can be moral progress relative to the deeper standards of a culture. It is instead *cross-cultural criticism and intolerance* of the beliefs and practices of other cultures that is their real concern. Their skepticism about moral objectivity is meant to support or express a *principle of tolerance* for other ways of life and an embrace of *moral pluralism*. Now, even if one believes in objective moral principles, a healthy reserve in criticizing other cultures is sensible. After all, why assume that one's own moral beliefs are the ones that are objectively right and that the others' beliefs are objectively wrong? The moral principles of toleration and pluralism, however, do not exclude objectivity at all. A belief in objectivity of morals does not imply that I am the one that is objectively right!

Furthermore, in many cases the situation may be more complex and allow for distinct but equally justified practices or beliefs. As Hume put it, the Rhine and the Rhone obey the same laws but are very different rivers because of the different circumstances. Similarly, the specific content of morality will also vary in different circumstances, even if the basic principles of morality are everywhere the same. The demands of morality are clearly context-sensitive. For example, principles of sexual morality are likely to be different in the context of effective birth control. Basic

principles of morality are also likely to be consistent with more than one set of social practices. For example, even if a representative political system is called for by basic moral principles, there may be no objective reason to prefer a British or Japanese style parliamentary system to a United States style separation of executive and legislative power. Democracy may also be context-sensitive; in that democratic representative government may well presuppose the prior existence of a robust civil society and an advanced public education system before it is either practical or beneficial. The objectivity and universality of morality is thus thoroughly compatible with significant cultural variability.

On the other hand, if one is a moral relativist, it is not at all clear why one should hesitate to criticize the belief system of others. If there is no objective or universal morality, then it cannot be *objectively wrong* to criticize other cultures using one's own idiosyncratic moral standards. Indeed, there would be nothing objectively wrong with imperialism, including the systematic domination or even elimination of other cultures. Actually, according to relativism, imperialism would be right in imperialist societies and wrong in societies that reject imperialism. The moral rightness or wrongness of imperialism would itself be culturally relative. It is true that one would be mistaken if one believes that others are objectively wrong. This may remove one of the traditional reasons for imperialism. But if there are no objective moral truths, then it is not objectively true that one should respect other cultures.

For the moral relativist, the justifications of cultural imperialism (or intolerance or cultural genocide) should depend on the culture's particular belief system. Of course, if one does not believe that one's beliefs are objectively right, then some of the impetus to impose them on others will perhaps be lost. Moral Imperialists typically sincerely believe that God or the Truth is on their side. Nonetheless, if one believes that there is no objective truth, one can just as naturally (and reasonably?) conclude that there is nothing objectively wrong with imperialism and intolerance. For a convinced relativist, there is no objective moral reason not to impose one's will and beliefs on others in so far as one can. This has led many to conclude that relativism is an inadequate foundation for the principle of tolerance or for the value of cultural diversity. To justify these (liberal) principles we must instead focus on the universal (objective) value of individual and/or cultural self-determination; or consideration of the multiple ways of life that equally promote human welfare.

The justification of the objectivity of morals is clearly a major philosophical project of its own. One direction of justification involves an investigation of Basic Ethics (Utilitarianism, Kantianism, Virtue Ethics, Intuitionism, for example) and of Meta-Ethics and the foundations of basic moral principles (Naturalism, Rationalism, Prescriptivism, Expressivism, for example).² The other direction involves an investigation of major cultural approaches to ethics across the globe to see how similar or different they really are. This is the approach we shall take.

Across all cultures and epochs, compassion and benevolence are universally recognized virtues. Prohibitions on harming innocent others (the principle of non-

² See Shelly Kagan *Normative Ethics* (Westview Press, 1998); Michael Boylan *Basic Ethics* (Prentice Hall, 2000); Stephen Darwall *Philosophical Ethics* (Westview Press, 1998); and *Moral Discourse and Practice: Some Philosophical Approaches* edited by Stephen Darwall, Allan Gibbard, Peter Railton (Oxford University Press, 1997).

maleficence), including limits on killing and the use of violence, are minimal universal standards of morality. Principles of trust, honesty, and privacy are more variable in their requirements and expectations, but still universal. Honoring and respecting a principle of confidentiality in special relationships is a simple and obvious expectation of people in any reasonably complex society.

Even more variable, but still an essential, aspect of social life, are the subtle and almost tacit conventions of respect. What is respectful or disrespectful seems to be highly conventional and clearly must be learned and internalized. What is here universal is the necessity of clear conventions of respect and deference. Herodotus, the first Greek historian, long ago commented on the striking relativity in how people treat their dead, and we began our discussion with Tibetan sky-burial. Death rituals reflect fundamental beliefs about the cycle of life and death. Sky-burial is a ritual that reinforces the belief in the impermanence and commonality of all life. The destruction and dissolution of the body emphasizes the impermanence of the body, and the actual feeding of the vultures reflects the Buddhist doctrine of universal compassion for all sentient beings and the interdependence and interconnectedness of all life. Therefore, despite its apparent brutality, sky-burial actually fits nicely with the Buddhist theology of compassion and loving-kindness, as well as Tibetan geology; it shows no disrespect whatsoever for the dead person - who lives on and is reincarnated in another bodily form.

What is more striking than the variability of death rituals, however, is the universality of death rituals. Across cultures all people need rituals to deal with and accept the reality of death. We find the most cultural diversity, and superficial relativity, in rituals, etiquette, and significations of respect and deference. This is probably initially surprising because we tend to assume that our ways are thoroughly “natural” and the only appropriate way of behaving. Learning about other cultures reveals that this is indeed a mistake. What seems so natural to us is all too often thoroughly cultural. (Still the study of other cultures also reveals that a system of etiquette and rituals are basic elements of human social life.)

Respect and social deference are typically closely associated with social roles, hierarchical relationships, and distinct responsibilities. However, the *moral ideal* of the equal dignity of all persons has now extended these moral notions to a respect that is due to all human beings. The idea that all people have equal dignity, and are due some level of basic respect, has far reaching and revolutionary social implications. It is typically tied to the idea that each individual has an equal autonomous status, a right to (limited) self-rule and self-determination. The assertion of autonomy is a challenge to any supposed relationships of natural subordination and domination. At the same time, it is an assertion that all persons must be treated with a certain (unspecified) minimum concern and respect. The language of *human rights* now refers to the fundamental moral claim to concern and respect that all human beings share in virtue of their humanity alone. Autonomy and human rights thus add something significant and revolutionary to a basic morality of benevolence, restraint, and trust.

Some object to the contemporary focus on human rights as too individualistic in that this focus distorts the central place of relationships and community in moral development, moral virtue, and proper moral reasoning. In Chapter III, we will explore in some detail Confucian ethics which focuses on relationships and responsibilities. We will also consider and respond to contemporary Confucian objection to a morality based

on human rights. In addition, in Chapter V, *The Medical Relationship: Paternalism and Autonomy*, we also explore the basis of human rights more fully by focusing on the emergence of contemporary biomedical ethics, which emphasizes patient's rights, from traditional systems of medical ethics that were based on the superior authority and benevolence of physicians. Western, Islamic, Confucian, and Buddhist ethics are indeed different in significant and important respects. We shall see, however, that these differences involve substantive issues of universal and cross-cultural significance. The points of disagreement are not, and should not be reduced to, mere cultural differences.