

## REVIEW

Jeff McMahan, *The Ethics of Killing: Problems at the Margins of Life* (Oxford: Oxford University Press, 2002; paperback, 2003), pp. 540, £15.50

Judging from the promissory notes that started to appear in journals in the late 1980s, the gestation period for Jeff McMahan's book was a lengthy one. But the event of its final delivery – it weighs in at a hefty five hundred pages – is one that everyone with an interest in normative and applied ethics has reason to celebrate. McMahan's treatment of these forbiddingly difficult issues – personal identity, the badness of death, the wrongness of killing, abortion, and euthanasia – is remarkably detailed, fecund, and painstaking, and provides highly useful apparatus for further investigation into these issues, regardless of whether one finds oneself in agreement with McMahan's conclusions.

Amidst the welter of argumentative detail, comparatively little of which I will be able to address here, a couple of load-bearing points stand out. I will focus on these in the following remarks. McMahan's approach to the badness of death, the wrongness of killing, and their application to abortion and euthanasia, is ultimately driven by his account of personal identity, and his account of the grounds of an individual's egoistic concern, which are developed in tandem in the lengthy opening chapter. McMahan's treatment of personal identity yields a cautious compromise between the competing attractions of animalism and neo-Lockeanism. McMahan betrays some initial sympathy for the Psychological Account, which makes personal identity consist in the holding of relations of psychological connectedness and continuity over time. Now a significant problem with the Psychological Account lies in its vulnerability to 'branching' cases, in which the conscious career of an individual bifurcates into two or more 'successor' individuals. To illustrate, imagine that the conscious career of Locke's prince is inherited overnight by two cobblers, not just one. The psychological relations that, for the Psychological Account, are constitutive of personal identity are perfectly intact in both cases of psychological transference – between the prince and the first cobbler, and between the prince and the

second cobbler – but the two cobblers are clearly numerically distinct; it follows that the Psychological Account is unable to accommodate the transitivity of the identity relation. Derek Parfit's well-known response to this challenge is to admit the letter of the charge, but not the spirit of it, on the grounds that identity does not matter. What matters instead is 'survival', or psychological continuity, whether or not psychological continuity is realised in one and the same individual. Thus the Psychological Account drives a divergence between personal identity and an account of the grounds of egoistic concern.

Reflection on, *inter alia*, the familiar case of 'Division' (p. 23), which is the branching case involving the transplantation of each of the brain's two hemispheres into the bodies of two successor individuals, encourages McMahan to agree that identity does not matter, or that identity is not necessarily coextensive with the grounds for egoistic concern. But McMahan is resistant to neo-Lockean intuitions regarding other branching cases – for example, the 'Teletransportation' case (p. 56), which involves the obliteration of the original human animal and the reproduction of its psychological life in a spatio-temporally distinct human body. The difference between Division and Teletransportation is that the former, but not the latter, provides for some continuity in the physical basis of an individual's psychological life. McMahan develops, as a result of reflections like these, the 'Embodied Mind Account' (p. 67), which says, roughly, that personal identity consists, in non-branching cases, in the continued existence of the physical basis of an individual's mental life. But the Embodied Mind Account also says that enough of that physical basis of an individual's mental life will be preserved in each of the two successor individuals who inherit a hemisphere in Division. This consequence does not trouble McMahan, since he has already conceded that identity does not matter.

What, meanwhile, is happening to McMahan's account of egoistic concern? He first suggests, in line with the Embodied Mind Account, that 'the basis for an individual's egoistic concern about the future . . . is the physical and functional continuity of enough of those areas of the individual's brain in which consciousness is realized to preserve the capacity to support consciousness' (pp. 67–8), but he then modifies his position, suggesting that 'the rational degree of egoistic concern about one's own future varies with the degree of psychological unity between oneself now and oneself in the future' (p. 74). McMahan's conclusion, then, is

that, to the extent that an individual enjoys weaker prudential unity relations – roughly, relations of psychological connectedness and continuity – with his future self, that individual has weaker grounds for concern about his future.

McMahan goes on to argue that the account of the morality of killing applying to ‘marginal cases’ of human beings who are not Lockean persons, such as foetuses and infants, the congenitally severely retarded, and the victims of dementia, ought to be governed by what he calls the ‘Time-Relative Interest Account’ (p. 194) of the wrongness of killing. The Time-Relative Interest Account of killing is, in part, a product of his earlier account of egoistic concern. In determining the wrongness of killing a particular individual, the Time-Relative Interest Account takes into account not just the valuable future of which death would deprive him, but also the degree of psychological unity he would enjoy with that future self. Consider, for example, an undamaged human foetus with the rudiments of a mental life. Because this foetus enjoys only a very weak degree of psychological unity with its future adult self, the mere fact that it has the prospect of a very valuable future is not by itself enough to make the act of aborting it seriously wrong. The Time-Relative Interest Account contrasts with the ‘Harm-Based Account’ (p. 191) of the wrongness of killing, which calculates the wrongness of killing an individual by considering that valuable future alone, without taking into account the degree of psychological unity with that future self. McMahan thinks the Harm-Based Account falsely presupposes that identity is what matters, and is therefore unacceptable.

This is not to suggest that the only accounts of killing on offer are the Time-Relative Interest Account and the Harm-Based Account. Though McMahan holds that the former offers a better account of the wrongness of killing than the latter when we are considering marginal cases, he also thinks that neither seems fully satisfactory when we turn to the morality of killing fully developed human adults, who are typically self-conscious, rational, Lockean persons. As applied to Lockean persons, McMahan expresses cautious support for the ‘Equal Wrongness Thesis’ (p. 235). The Equal Wrongness Thesis claims that, other things being equal, the killing of persons is equally wrong, regardless of the age or future prospects of the victim. (The Time-Relative Interest Account and the Equal Wrongness Thesis together comprise the ‘Two-Tiered Account’ of killing (p. 245).) The Equal Wrongness Thesis requires that we find an all-or-nothing property of Lockean

persons that could substantiate the Equal Wrongness Thesis. McMahan struggles, illuminatingly but not altogether successfully, with this quest, but then claims that his central concern lies, in any case, with killing in marginal cases. It seems to me, however, that this lacuna may be more damaging than he thinks. For suppose that the Equal Wrongness Thesis cannot be sustained, given McMahan's other assumptions and commitments, which tend to push firmly in the direction of the variable wrongness of killing. This would mean, presumably, that the Time-Relative Interest Account would have to be applied to both marginal and non-marginal cases, so that the wrongness of killing would always be sensitive to the future prospects of the particular victim, given his particular capacities and circumstances. Would we settle for such an across-the-board account of the morality of killing? If not, an alternative account of killing that was applicable to both marginal and non-marginal cases, and that permitted less variable treatment of the marginal cases, in line with the less variable treatment of the non-marginal cases, might secure a tighter overall degree of fit with our strongly held intuitions about these matters. (I should confess that I am unsure what such an account would look like; my point is only that the Time-Relative Interest Account might seem less appetising if it were the only account of killing in circulation.)

Perhaps McMahan could ultimately shrug off this worry. A deeper problem with his treatment of marginal cases, however, concerns the motivation for the Time-Relative Interest Account. As we have seen, this account is a function of his earlier account of egoistic concern, and it seems to me that McMahan's recruitment of the degree of psychological unity into his account of egoistic concern is open to a number of serious objections. In explaining its relevance, McMahan revealingly draws on cases of radically amnesiac individuals (pp. 76–7) who lack any substantial psychological links between their past, present, and future selves. It is easy enough to agree with McMahan that the value of such individuals' lives is very low; these are fates that most of us would dread. We might further agree, at least for the sake of argument, that a less unified life is less valuable than a more unified life. It does not follow, however, that the less unified life is any less an object of egoistic concern than the more unified life. To suggest otherwise is to come perilously close to endorsing the implausible suggestion that the less valuable or worthwhile an individual's life is, the less reason he has for caring about it. My

suspicion, then, is that McMahan is guilty of confusing the value of a life with an account of egoistic concern. (This is actually very surprising, because in other respects McMahan shows an admirable determination to explore modes of evaluation of an individual's life that do not turn simply on how valuable that life is, or on how much well-being it contains. See, for example, his fascinating discussion of fortune and misfortune in Chapter 2.) Alternatively, McMahan might hold that the degree of psychological unity in an individual's life enjoys a significance which is independent of its contribution to that life's value. But if the degree of psychological unity has no independent implications for the value of an individual's life, it is rather difficult to see how it could be relevant to an account of egoistic concern. A further objection concerns McMahan's contention – and this becomes something of an *idée fixe* in the book – that the grounds of egoistic concern do not have to, and indeed should not, follow the all-or-nothing logic of the identity relation, since Division shows that identity does not matter. But this is a mistake: Division does *not* show that identity does not matter, or is not at least coextensive with everything that matters, *in ordinary non-branching cases*.

I conclude that McMahan's account of egoistic concern is faultily motivated. This is costly to the success of his arguments in the rest of the book, for, as I have indicated, it underpins much of his analysis of the badness of death and the wrongness of killing. But this is not to say that his discussions of the various aspects of abortion, euthanasia, and the badness of death, are not full of subtlety and insight. This book will be deservedly studied for a long time.

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