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TRICKY INTUITIONS

Torbjörn TÄNNSJÖ. *Setting Health-Care Priorities: What Ethical Theories Tell Us.* New York: Oxford University Press, 2019, xii + 212 pp. ISBN-13: 9780190946883

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1. Referring to moral intuitions in discussions of moral matters is usually risky. It raises a host of disquieting questions such as: What is an intuition? What is its origin or what are its origins? Is moral intuition stable and rigid or perhaps fluid and mouldable? If it is stable and rigid, does it mean that culture and upbringing doesn't influence it? If it is rather fluid and mouldable, how to distinguish such an intuition from a bias or sheer prejudice? Which intuition really counts as moral? Whose intuition should be taken into consideration and whose is unworthy of it? Why should it matter in ethics and how can ethics based on such intuitions be normative? etc. There are three main strategies of managing the risk of referring to moral intuitions in ethics. The first strategy is the most difficult and complex: it consists in answering such questions, defining the notions and explaining them or narrowing down the scope of consideration. The remaining two are much simpler. The second strategy is to avoid mentioning the notion of moral intuition altogether. Lastly, the third strategy consists in ignoring the risk or downplaying it in the hope the reader understands properly what you mean. In his new

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book, *Setting Health-Care Priorities: What Ethical Theories Tell Us* (2019), Torbjörn Tännsjö seems to embrace the third strategy.

2. Tännsjö devotes the book to discuss the ethical problem of allocation scarce resources for health-care purposes in welfare states with publicly financed health-care systems. Since such resources are limited, in order to avoid wastefulness we need to set some priorities. Of course, in practice some priorities normally are observed but the question is whether such functioning priorities are sufficiently reasonable. Tännsjö expresses his doubts and attempts to contribute to this discussion by engaging his well-established philosophical expertise in normative ethics. The task he imposes on himself is "to find out how a system of health care in a welfare state, where medical expenditure is publicly financed, would *differ* from *all* existing systems, if reformed from the point of view of the theories under examination, namely utilitarianism (with or without a prioritarian amendment), the maximin/leximin theory, or egalitarianism" (viii).[1] These three ethical theories are chosen because in his judgment they are "the most widely held and most plausible theories about how to distribute scarce resources" (vii), or, in other words, they are "the most credible theories about distributive justice" (172). Utilitarianism is mainly taken in its classic, hedonistic form. The maximin/leximin theory, understood as "the most radical departure from utilitarianism" (82), is taken from the writings of John Rawls, although Tännsjö departs from what Rawls says and how he understands his theory because Tännsjö's interest "is not in Rawlsian exegesis but in basic moral theories" (28).[2] Egalitarianism, as a theory or rather a family of theories that comes somewhere in between (cf. 29), receives less attention because: "there is little reason to think that egalitarian thinking differs from the verdicts reached from utilitarianism *and* the maximin/leximin theory" (82).

The book has two parts: in Part I these three theories are presented and explained with the help of some abstract thought experiments, whereas in Part II only two theories are applied to the problem of setting health care priorities in real life (egalitarianism is merely commented in passing). Tännsjö juxtaposes and compares these theories not so as to indicate the best among them (although he does not hide his personal adherence to hedonistic utilitarianism and takes it as true and superior to any other moral theory), but rather so as to gain a better understanding of these theories and their

[1] I use numbers in parentheses to refer to pages from *Setting Health-Care Priorities*.

[2] This approach to moral theories, perplexingly close to the straw man fallacy, surfaced also in Tännsjö's former book. I find it problematic and shall come back to it below.

arguments, because he believes that "they all present us with *justifiable* positions" (viii). It is of note, however, that Tännsjö is no moral nihilist or relativist: he says several times that he takes moral realism for granted and his purpose in doing normative ethics is to find the truth (viii, 1, 2, 5, 197–98). What is even more important, Tännsjö says he does not intend to convince anybody (2) but rather to help the reader with "cognitive psychotherapy where she learns more about" the origin of her intuitions (4). From his discussion it turns out that all three theories converge in showing one general direction of correcting the practice of distributing health care resources: "[they] should be redirected from attempts at marginal life extension to better care and cures for patients suffering from mental illness" (100). And this conclusion is presented as valid "in all existing systems of health care in the wealthy and industrialized world" (ix).

3. I do not dispute this conclusion here. I think there are also other theories that would probably converge in this quite reasonable and general postulate.[3] Even a Kantian or a Thomist could have accepted it, if they were admitted to the discussion. I would like to dispute rather the method of choosing moral intuitions and some secondary postulates or recommendations presented as if they were conclusions following from the arguments presented in this book or directly from moral intuitions. Among these recommendations the most problematic are suicide and euthanasia. In discussions about setting health-care priorities it seems advisable to avoid creating the impression of lobbying for suicide and euthanasia. Tännsjö clearly failed to avoid it or perhaps he even did not want to avoid it. The refrain of this book, repeated several times *ad nauseam*, goes something like this: how happy the universe would be if the elderly and suffering people, or even people expecting some serious suffering, simply killed themselves or accepted to be killed by medical doctors; the rest of us would be so happy without them and we would have more money (ix, 28, 100–101, 110–11, 124, 126, 131–32, 138, 153, 154, 159, 161, 165, 169, 175–87, 199). His insistence on suicide and euthanasia is appalling. It is doubtful that the attitude encapsulated in this refrain is formed by or necessarily follows from the theories discussed in this book. It is rather a sign of tendency that finds no sufficient obstacle in these

[3] For example, over thirty years ago Daniel Callahan wrote a balanced book with a similar title and about a similar problem: *Setting Limits: Medical Goals in an Aging Society* (CALLAHAN 1987), where he was attempting to start a discussion on the need to limit the costs of health care for very elderly people. See also his other books on similar matters that followed. Callahan described himself as a communitarian. For a brief description and critique, see e.g. COHEN-ALMAGOR (2002).

theories and as such it might be easily dropped from the book without doing any harm to its general conclusion.

If my ninety-eight-year-old grandfather lived with me in the same flat, I would have preferred to remove this book from my shelf and hide it somewhere. The same feeling is with me when I imagine my wife or daughter as having some mental problems. I am afraid the type of discourse present in this book might be hurting or even devastating for a vulnerable person.

What seems even more problematic is that those who don't agree with the message of this refrain are labeled "irrational". As he says: "we human beings are, if not outright immoral, somewhat irrational. Even when it is obvious that we have little to gain from further attempts to keep us alive, we want to stay alive, regardless of the quality of our remaining life" (175). And then he analyzes what might happen to somebody who reads this book in normative ethics and recognizes "an obligation to let go of life, but who at first hesitated" (176). Earlier he remarked that if we want to introduce the recommendations of "sound ethical theory", but people do not comply with it spontaneously, "it may still be possible for political authorities to enforce such compliance" (99). Now he deliberates whether such a person might be morally permitted not to comply. He is reluctant to accept such a solution because, "once it gets publicly known," it would have bad consequences (177). The fact that people desire to stay alive, regardless of the quality of their lives, is finally connected with human irrationality (178). Why is it irrational to wish to stay alive in a situation of marginal life extension? Tännsjö analyzes five senses of being irrational for a desire and the third sense is particularly interesting because it is accompanied with one of the rare examples of the "cognitive psychotherapy" promised at the beginning of the book. In the third sense "a desire may be considered irrational if it doesn't survive knowledge about its origin" (179). It is worthwhile to quote the whole passage where we can taste this cognitive psychotherapy:

> If a desire, when exposed to cognitive psychotherapy thus revealing its true origin, would go away, then it is, on this count, irrational. Our hunger for more life or for marginal life extension *may* be of this kind. It has been handed over to us by evolution. After all, if anything has survival value, it must be a desire to stay alive, whatever the circumstances. However, when we realize its origin and that in many situations, it is, after all, even from an evolutionary perspective, irrational. Normally, *marginal* life extension does not enhance our reproductive capacities. (180)

Note, that is all Tännsjö has to offer in terms of cognitive psychotherapy for the intuition that human life is valuable in itself. Hence, *the true* origin of our desire of life is evolution. In this perspective, this desire is quite rational when we are able to reproduce. When we are old, this desire becomes irrational. And that's it. As if there were no other values in life…. Even if this desire stays after being exposed to this kind of therapy, it must be irrational, according to Tännsjö, in one of the five senses. Moreover, even "medical doctors, who themselves fear death," are irrational because they are not prepared "to accept to offer euthanasia or their assistance in a suicide" (182).

Not just anybody can suggest that moral disagreement ultimately boils down to human irrationality. If a young scholar were to suggest such a solution, he would be easily accused of shallowness or intellectual laziness. In the case of a well-established and renowned scholar, as Tännsjö certainly is, it might be a sign of depth, courage, or there could be still other explanations, unknown to me.

Happily, Tännsjö is a moral realist and I agree with him when he admits that what he presents as abstract normative theory "is of little help in decisions about how to reform actual medical practice." I strongly disagree with him, however, when he adds, in a Hegelian tone: "this is not a problem for the theories. It is rather a problem, as it were, for reality itself" (102).

4. When Tännsjö explains his method of approaching the eponymous problem, he exposes one of the most fundamental and at the same time one of the weakest points of his project. He says that he searches for the best explanation of the content of our intuitions about crucial thought experiments devised in order to test three main moral theories (4). He notes that his method often raised the question: "*Whose* intuitions count?" (4). Introducing his answer to this question he remarks that it is "close to trivial". Since the same method of referring to moral intuitions was discussed more extensively in his former book (TÄNNSJÖ 2015), he now quotes one of its reviewers who confessed that it was not clear for him whose intuitions were being drawn upon. Tännsjö addresses this charge as follows: "But that should be crystal clear to the reader of that book and even more so to the present reader. I refer the reader to her *own* intuitions. My methodology invites the reader to put her own intuitions to scrutiny by exposing them to cognitive psychotherapy where she learns more about their origin" (4). Well, it was not crystal clear to the reader of that book who was unwilling to admit that Tännsjö uses such a problematic and fragile method.

Tännsjö's strategy might work if each of us had the same set of moral intuitions and only these intuitions were relevant for Tännsjö. In that case the notion of moral intuition could be narrowed down, for example, in such a provisional manner: *moral intuition is a deeply ingrained belief in moral matters that each human being shares*. It is quite possible that there are such intuitions. But Tännsjö doesn't narrow down the meaning of the notion in this way and from his discussion I understand that there are some moral intuitions I seem to share with him but I also have some other that he doesn't seem to share with me, and apart from that he expresses some moral intuitions I feel unable to share with him. We agree that moral intuitions are in some essential part shared by most human beings because we are this specific kind of animals (he refers to the mechanisms of evolution leading to the state we find ourselves in experiencing some moral intuitions). It is less clear, however, how far he would go to admit social and cultural influence on our moral intuitions. I am inclined to think that this influence is powerful and significant. So perhaps we should narrow down even more the notion of moral intuition to cohere with Tännsjö's argument in this way: *moral intuition is a deeply ingrained belief in moral matters that each civilized and reasonable enough human being shares*. Thus, the simplest explanation of my difficulty that we partly differ in our moral intuitions is that I am not civilized and reasonable enough. And if this explanation is right, I find no ground to formulate any objection for there is no obligation to warn the reader in the preface or in the introduction that this book is addressed to those who are civilized and reasonable enough because it is all too obvious. However, the simplest explanation is probably not the best in this case—not the best both for me and for the Author—or at least it seems insufficient.

Tännsjö's strategy might also work if he decided to take into consideration a wider spectrum of moral intuitions. Yet he excludes this wider spectrum because he takes into consideration only the three chosen moral theories. He thinks these theories are the most widely held and most plausible and this is the reason why only these theories he treats seriously. These three theories, as he himself admits (166), happen to accept the principle that the end justifies the means. If you think otherwise, it's your problem. Here we are supposed to rely on the authority of the expert that other moral theories, these for example which deny that the end always justifies the means, need not be treated seriously. How can he escape the charge of arbitrariness? In the Preface he says that deontological theories are largely irrelevant to the problem he discusses in this book. In his words:

> Some argue that we should maximize happiness, for example, but not at any cost. There are deontological constraints forbidding some ways of maximizing happiness, such as maximizing by killing innocent human beings. I set these problems to one side in this book by assuming (with a few exceptional passages where I touch upon the question of euthanasia) that the allocation of scarce resources can be performed without any violation of any putative deontological constraints (vii).

It should be added that Tännsjö discusses also other problems that might meet some deontological constraints, namely suicide, abortion and in vitro fertilization. It seems perfectly justified to assume that the allocation of scarce resources can be performed without any violation of any *real* deontological constraints. And this book could have been written with such an assumption. But when in fact this assumption is so often violated in this book, the exclusion of deontological theories does not seem justified. Treating seriously also deontological theories, moral rights theories, care ethics or virtue ethics would perhaps hinder all too easy conclusion that those who dare to disagree are simply irrational.[4] As it stands, it would be better to add the quantifier *some* to the title of this book: *What Some Ethical Theories Tell Us*.

Finally, Tännsjö's strategy might work if he defined what *moral* means. Since he doesn't define it we should conjecture from his discussion what he means by this term. Reading this book one may sometimes think that his understanding of the term "moral" is usual, commonsensical. For example, when he assumes that moral realism is true or when he objects against restricting the scope of moral theories only to other-regarding decisions (cf. 89). But then there are whole chapters where it is clear that this term has

[4] 'Seriously' needs to be stressed because in his earlier books, TÄNNSJÖ (2015) and TÄNNSJÖ (2008), he considers these theories but—basing my assessment on his discussion of virtue ethics and the Thomist version of deontological theory—his treatment is far from serious. His strategy consists in presenting a theory in a very truncated form, then in treating his description as a complete moral theory, and afterwards in criticizing this theory because he finds something missing or inadequate—without any sign of reflection that his description might be inadequate. For example, in TÄNNSJÖ (2015), for him the Thomist version of deontological theory consists of only two elements: the Sanctity-of-Life Doctrine plus the doctrine of double effect. And he treats his very schematic presentation of these elements as a complete moral theory (ibid., 29). Moreover, he understands the doctrine of double effect in an extremely liberal and permissive way, justifying almost all sorts of killing, provided the intention is correct (I doubt there is any Thomist who would accept such a reading). Then he says that this theory is vulnerable to criticism and quotes some examples of critiques mocking this extremely liberal understanding (ibid., 65). But this amounts to the straw man fallacy. And concluding the book he can triumphantly say that "Utilitarianism fares best in the competition" with deontology and moral rights theory (ibid., 264). He even goes so far as to say that the Thomist version of deontological theory "has a utilitarian component built into it in addition to the idea of deontological constraints" (ibid., 58).

quite a peculiar meaning for him. For example, when he measures moral value by counting hedons, where one hedon is a least noticeable difference with regard to happiness, while suffering has a net negative moral value—which signifies literally the level you subjectively assess your mood (e.g., p. 51). Am I right to think that this is not a usual, commonsensical sense of moral value? Or when he claims that in this book he will not take into consideration moral desert because, as he says: "I do not believe that there is any such thing as moral desert" (18), and even "for moral reasons, we should reject the notion of moral desert altogether" (31); moreover, metaphysically we "lack the kind of free will necessary for the notion to be applicable to us in a manner implying differences with regard to desert" (31; cf. vii, 37). In this perhaps consists the main reason why Tännsjö does not take into consideration other moral theories and does not deem them plausible.

5. I have some experience of caring for some truly wise elderly people. They were suffering a lot but their attitudes were marked by a profound wisdom. They were examples of the beauty of human integrity, goodness, and living in truth. They were peaceful and visibly reconciled with themselves, with their own history, with others, with God and with the universe. Their life experience, knowledge, insight and sane judgment were priceless. They were wisdom-bearers for all those who cared for them. This experience perhaps partly shaped my moral intuitions. The mere thought of the possibility to suggest to them to take advantage of euthanasia is for me repulsive. I don't think this reaction is irrational and no "cognitive psychotherapy" managed to change it—just the opposite I regard it as strengthened and corroborated.

Learning from experience, one may think about human life that 1) it usually contains beautiful moments regardless of age, health, economy or geography; 2) for these beautiful moments human life is worth living; and 3) it is a mistake to expect from life to be beautiful in each and every instant. The mistake seems obvious because such an expectation would most probably render one miserably frustrated or insincere. This consideration might be accompanied by the conviction that basically there is no human life worth not living or not worth living. However, there are attitudes that make a life worth not living or not worth living but these attitudes are changeable. Learning from experience, one might be justified to think that human happiness consists especially in seeking wisdom and caring for others. Is it unreasonable or irrational? I find it reasonable and intuitively appealing.

Imagine, for example, Tom who for many years of his academic career as an evolutionary biologist was convinced that life and the world are meaning-

less. By the end of his life, terminally ill, he contemplates suicide. Free of all previous attachments and commitments, he revises his thinking and all of a sudden he discovers a deep and illuminating meaning of life and the world, and clearly sees his place in the world as profoundly meaningful. He now understands that his thinking used to be unbearably shallow and clearly sees how this shallow thinking rendered his life miserable. Now, despite his physical pain, he feels happy, he wants to readjust his attitudes to what he now understands. He reconciles himself with his life-long enemy and regards this day of reconciliation as the most beautiful day of his life. He goes to other people in a similar bodily condition and gives what is for them priceless—his benevolent and joyful presence. He experiences his new understanding as liberating in many respects.

In the picture of the moral world painted by Tännsjö there seems to be no place for Tom's experience or his experience would be irrelevant. Tom would not accept the offer of euthanasia and in Tännsjö's perspective it would be a sign of irrationality. For me Tännsjö's picture of the moral world and the notion of rationality are too narrow to be plausible.

Tännsjö does not say it, but his book seems to be addressed only to the readers who share his particularly liberal moral intuitions. If you have a bit more conservative moral intuitions you may feel excluded: your intuitions are not considered, not taken into account, you do not seem to belong to those worth discussing with or worth any consideration. You rather belong to those who act irrationally or even you are an obstacle in maximalizing happiness in the universe. If you are already convinced that hedonistic utilitarianism is the best moral theory, this book is definitely for you: reading it you will probably add huge number of hedons to the net value of happiness in the world because it will only confirm that you are right. Otherwise, I see no chances this book would ever convince you to abandon your preferred, for example, deontologist moral theory, or the sanctity-of-life theory. But happily Tännsjö does not want to convince anybody. He only offers his help in cognitive psychotherapy. For some readers, however, it may be indistinguishable from cognitive psychomanipulation.

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TRICKY INTUTIONS

Summary

This article is a critical discussion of the book *Setting Health-Care Priorities* by Torbjörn Tännsjö. This critique targets mainly Tännsjö's method, but also several unjustified conclusions and some implicit assumptions.

Keywords: ethics; moral theories; moral intuitions; human values.

KŁOPOTLIWE INTUICJE

Streszczenie

Artykuł jest krytyczną dyskusją książki Torbjörna Tännsjö *Setting Health-Care Priorities*. Krytyka dotyczy głównie przyjętej w tej książce metody, ale też kilku nieuzasadnionych wniosków i przemyconych założeń.

Słowa kluczowe: etyka; teorie moralne; intuicje moralne; ludzkie wartości.

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