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SETTING HEALTH-CARE PRIORITIES: A REPLY TO PIOTR LICHACZ

I am pleased to have the opportunity to respond to criticism from Professor Piotr Lichacz who has devoted time and intellectual energy to my recent book. First a very brief precis of the book.

In the book I examine what I believe are the most plausible theories on just distribution of resources, utilitarianism, the maximin/leximin theory and egalitarianism. Professor Lichacz has correctly described this.

My first substantial claim is that these theories (even if they differ in the abstract philosophical laboratory, where we perform thought experiments) converge on the claim that less health-care resources should be spent on marginal life extension and more on the cure and care of people suffering from mental illness. I speak here of this as CONVERGENCE. I also argue that even if we consider deontological constraints of various kinds, the conclusion stands. It is easier to accomplish what the theories require if euthanasia is legalized, and let me add it is easier to live and die in a country where euthanasia is legalized (such as in the Netherlands or in Canada). However, what is required by the theories can be accomplished even if euthanasia is deemed immoral and prohibited. Fewer options allowing for marginal life extension, good palliative care (including the possibility of offering terminal sedation) would suffice. The theories do not require the impossible.

My second claim, FUTILITY, is that, as a matter of fact, we will not abide by these recommendations.

My third and final claim is that the explanation why we will not abide by them is our human IRRATIONALITY.

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I am pleased to note that Lichacz writes that he will not dispute CONVERGENCE. He seems also to accept that even if deontological constraints are considered, we can reach this conclusion.

Given how in fact resources are allocated I suppose he also accepts FUTILITY. But it is clear that he disputes IRRATIONALITY.

The dialectic here is problematic. If you accept CONVERGENCE and FUTILITY, it is difficult to avoid a belief in IRRATIONALITY. I set this problem to one side, however, in an attempt to defend IRRATIONALITY.

I discuss different senses in which a desire may be irrational. Let me here focus on the most important one. A desire is irrational if, by acting on it, we make our own life worse as a whole. We add time to it which provides us with life worth not living. In my experience, this is often true of people who cling to their lives when their lives are coming to an end, desperately requiring costly means to marginal life extension. Moreover, even if people now and then gain something of value, when they hence have their lives marginally extended, it is likely that it would have been better if the resources used to this end had been spent on people suffering from mental illness.

It is always tragic when we have to say farewell to our close ones. However, this is so if my old father dies now or half a year hence. And looked upon with hindsight, we often comment that it was a good thing that he was not forced to struggle on any more. This is so in particular if we can conclude truthfully that on the whole he lived a rich and good life. If it ended in January or in November is no big thing. The fact that it ended peacefully in January rather than after much additional suffering in November is a big and consoling thing, however.

But could not terrific things have happened between January and November? I do not deny that this is *possible.* It may even have happened in some rare case. Perhaps Lichacz' anecdote may be an example of this:

> Imagine, for example, Tom who for many years of his academic career as an evolutionary biologist was convinced that life and the world are meaningless. 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 general, however, we should not count on things like these to happen. In many cases, our mental capacities are reduced at the end of our lives, and in other cases physical pain, shortness of breath, nausea, and feelings of lack of self-control overwhelm us. And even if there are a few cases such as the one presented with Tom, it is not clear why he needs measures to provide him with *extra* marginal life extension. He would probably have had better chances to finalise his life if he had accepted his plight, not struggled in vain against his illness, and lived to the point where he felt it was time to let go. As a matter of fact, it is not clear from the example that he really needed costly marginal life extension. However, as a general message, we need even in cases where a few patients would have profited (to some extent) from costly marginal life extension to see to the opportunity costs when we invest resources in health care measures allowing them to struggle on for a while, when these resources could instead help people who, because if their mental illness, risk to live *their entire lives* in agony, fear and despair.

In Part One of my book I discuss the three abstract theories: utilitarianism, the maximin/leximin theory, and egalitarian thought. I here use a method I have used also in other context and a method I have defended not only in this book but also, for example, in *Taking Life. Three Theories on the Ethics of Killing* (OUP, 2015). It is obvious that Lichacz has not understood how this is done. I may be to blame for this and I will make another attempt to explain the method.

In normative ethics it is a good idea to arrange with crucial thought experiments, where the theories you want to put to test yield conflicting messages. You confront the conflicting evidence with your considered moral intuition and you reject the theories at variance with your considered intuitions. You adopt (provisionally) the theory that best explains (morally) the content of your intuition. You make an inference to the best moral explanation of the content of your considered intuitions.

Lichacz asks the following questions:

> 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.

Rather than trying to answer all these questions, indicating that he has not understood how my method is designed, I will clarify what I mean when I talk about intuitions and their place in crucial thought experiments. It is of note that by "intuition" we may either refer to a mental *event* taking place at a certain time and place; or, we may refer to the propositional *content* of such an event. This is similar to how we speak about observations in science. While an observation may be to the effect that *there goes a proton*, a moral intuition may be to the effect that *this action is morally right*. Intuitions and observations differ in the kind of propositional content they possess, then, but they are similar in that they are reactions formed immediately, that is, without being preceded by any conscious reasoning. They are not the result of an inference.

In both science and ethics it is the abstract content of our observations/intuitions that is taken as evidence. This explains why a moral (normative) intuition can have a normative force. It is not the (empirical) fact that I or anyone else have a certain intuition that is taken as evidence—it is the propositional content of an intuition, a moral (normative) proposition, capable of being consistent or inconsistent with a normative theory (such as the ones I put to a test in Part One of the book).

However, in science I sometimes base a belief that *p* on the fact that someone else has observed that *p*. But then I make an inference—from the fact that a scientist in a distant lab has made the observation—to the truth of the content of the observation. I trust this scientist and form the belief that *p*. It is different in ethics. Here we need no expensive equipment to perform the relevant experiments, we can do it for ourselves. Hence it is not a good idea to rely on expertise. If we want, we can make our own thought experiments, form our own moral beliefs (intuitions), and rely on them in our adoption of a moral theory (again, the one that best explains them).

Should we always trust our intuitions? That would be foolish. We do not always trust our observations (such as the one that the stick in the water is bent). We need to put them to some kind of test. We want to rely only on our *considered* intuitions. This is where the idea of cognitive psychotherapy enters the pictures. Some putative intuitions must be debunked. When we learn more about the origin of our intuitions, they sometimes go away (we realise

that they were the result of indoctrination of some sort), or even if they stay, we do not treat them as evidence any more (we realise that we have formed them through a manner of "quick" thinking, handed over to us by evolution, often adequate, but not in the relevant context, i.e., in the context of the thought experiment with which we are confronted).

It is a moot question, of course, whether any intuitions survive such a test. Can all our intuitions be debunked? If no intuitions survive we are thrown into moral scepticism. However, I am of a more optimistic bent. I think some stay and seem to us (to me) reliable. I then rely on them.

What if other people disagree? The fact that they disagree is an *empirical* fact and it cannot function as evidence for or against my *moral* belief. However, the fact that they disagree with me means that I have to think twice about what I thought was the correct verdict in the crucial case. And I must try to find out if I or the person with a conflicting verdict has made some intellectual mistake. Suppose I find no intellectual fault with either myself or with the other person, what am I to do? If I can't help holding on to my belief, then it is rational for me to do so. I am interested in believing what is true, and now I have my belief which I think is true, so in the absence of any evidence against my belief, I stick to it. But now I must be prepared to argue, of course, that, even if I am not capable of spotting it, the other party *must* have made some mistake.

This somewhat dogmatic stance is compatible with my belief that some of my moral (and empirical) beliefs are likely to be false. However, this is no reason to give up any one of them in particular.

SETTING HEALTH-CARE PRIORITIES: A REPLY TO PIOTR LICHACZ

Summary

I discuss the comments from Professor Piotr Lichacz on my book, *Setting Health-Care Priorities. What Ethical Theories Tell Us* (New York: OUP, 2019). The idea that our reluctance to let go of life and abstain from marginal life extension is irrational is defended against his criticism. The methodology used in the book—urging us to rely in our testing on ethical theories on the content of our considered moral intuitions—is explained at length and the notion of cognitive psychotherapy involved in it is defended.

Keywords: rationing; utilitarianism; prioritarianism; maximin; considered intuitions; irrationality.

SETTING HEALTH-CARE PRIORITIES: ODPOWIEDŹ PIOTROWI LICHACZOWI

Streszczenie

Omawiam komentarze prof. Piotra Lichacza dotyczące mojej książki *Setting Health-Care Priorities. What Ethical Theories Tell Us* (New York: OUP, 2019). Bronię krytykowanego przeze mnie poglądu, że nasz opór przed rezygnacją z życia i wstrzymania marginalnego wydłużenia życia jest irracjonalny. Szeroko wyjaśniam używaną w tej książce metodologię, skłaniającą do oparcia naszego testowania teorii etycznych na zawartości naszych przemyślanych intuicji moralnych. W obronę biorę również związane z tą metodologią pojęcie psychoterapii kognitywnej.

Słowa kluczowe: racjonowanie; utylitaryzm; priorytaryzm; teoria maksyminowa; przemyślane intuicje; irracjonalność.

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