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Review of *Against Bioethics*, by Jonathan Baron

Chad W. Flanders

Abstract

This is a review of *Against Bioethics*, a recent book by Jonathan Baron of the University of Pennsylvania.

Jonathan Baron, *Against Bioethics*. Cambridge, MA: MIT Press, 2006. Pp. xii+236.
ISBN; 0-262-02596-5

This is an ambitious book, although it is not ambitious in the way that its title unsubtly hints. The author, a professor of psychiatry at the University of Pennsylvania, is not against bioethics, root and branch; he does not want the discipline to go away. Rather, Jonathan Baron opposes the form bioethics currently takes: applied bioethics, he writes, “has to some extent taken on a life of its own. . . . It has become a kind of a secular priesthood to which governments and other institutions look for guidance” (4). It is this secular priesthood that Baron take arms up against, but his attack is remarkably free from name calling and ad hominem despite Baron’s admission that he took up writing the book out of “grumpiness” (xi). Overall, Baron’s book is measured and serious, and a screed or a manifesto, apart from some probably justified ranting against Institutional Review Boards.

But the book is ambitious, and its ambitiousness lies not in its attacks against contemporary bioethicists (very few of whom are targeted by name), but by Baron’s proposal to reorient the field and put it on a surer foundation. If he does not want the discipline to go away, he certainly wants to transform it. He tries in *Against Bioethics*, in his words, “to present an explication, in very rough outline, of what applied bioethics might look like if it took utilitarian decision analysis more seriously” (xi). Baron’s ambition, ultimately, is to make bioethics more like economics as he conceives of it. He urges us to “think quantitatively” (213) and not rely so much on religion (51), “tradition and intuitive judgments” (4).

If Baron does not entirely succeed in his effort, it is not from want of trying. In a short space (a little over 200 pages), Baron tackles nearly every major topic in bioethics: consent (chapter 6), drug research (chapter 8), the value of life (chapter 5), conflicts of interest (chapter 7), world health (chapter 10), etc. But Baron clearly wants us to judge his book not on the individual treatment of any of these topics, but on the overall strength of his method (utilitarian decision analysis) for exploring controversies in these areas and resolving them. Ironically, however, the sum of the book's parts end up being more valuable than the whole: one can read with profit many chapters of the book (especially the later chapters in the book) without subscribing to utilitarian decision analysis. And it is a good thing, too, because it means that the book is worth reading and thinking about even without becoming a fan of utilitarian decision analysis, a method which does not live up to the considerable hype that Baron bestows on it.

The strongest chapters of the book are chapter 4 ("Going Against Nature") and chapter 6 ("Coercion and Consent") and they give us the surest examples of Baron's method on display – both its possibilities and its limitations. Utilitarian decision analysis, boiled down to its essence, is that we should select the option that has the best expected consequences, or in the jargon, "maximizes expected utility" (5). When we are faced with questions of whether we should use technology to eliminate genetic defects in children (one of the subjects covered in chapter 4) we should not unreflectively reject that technology, or traffic in confusing metaphors about life being a gift not to be tampered with (64). Rather, according to Baron, we ought to more soberly ask: what good will come of it, what's the likelihood of success, and what are the chances of things going wrong? Nor should we oppose efforts to extend the length of a normal human life, as

“going against nature.” Whether extending the normal life span is good or bad, Baron writes, is not a conceptual question, or one to be decided based on intuition, but an empirical one, which could go either way (80)

Baron’s arguments against those who would appeal to nature, and to associated metaphors that life is a “gift” and not a product of our wills are compelling, but it is unclear what utilitarian decision analysis proposes to put in their places. Baron’s candidate is utility, obviously. But what is utility? Baron writes in one place early on that, “good consequences are, by definition, good. So giving them up for the sake of some other principle at least requires a difficult trade” (7). This is unhelpfully tautological. What we want to know is what consequences *are* good. Later on, Baron writes (mysteriously) that “our methods for measuring are crude. ... But utility, like time, can become a better-defined construct as we learn how to measure it better” (50). But how are we to fine tune our construct? One way of asking this question is to ask what is supposed to be included when weighing utilities. This is a question that dogs utilitarianism, no matter how well-defined our utility “construct” is.

Take an example from Baron’s chapter on “going against nature. Suppose many people find human cloning physically disgusting and so want it heavily regulated, or even banned (Leon Kass famously opposed cloning by appealing to the “wisdom of disgust” in his popular writings). Does this give us a reason to avoid cloning according to utilitarian decision analysis? The answer to this, surprisingly, is that it depends. Baron says that even “moralistic utilities,” that is, utilities that favor some result that does not advance the goals of other people, are still utilities (75). They, therefore, must be weighed against other more mundane utilitarian factors, such as freedom from pain and physical and

mental well-being. Accordingly, if enough people find human cloning disgusting, and are passionate about their disgust, then the utilities weigh in favor of a ban. As a result, Baron's method may not yield a result that changes the status quo, but instead one that justifies it – giving weight to the desires of those who oppose cloning, euthanasia, and the like, even when those desires are based on what Baron believes are inadequate or “evil” (153) reasons, such as the fact that life is a “gift” or that cloning is “unnatural.”

The objection, then, is that what Baron seems to want excluded from decision analysis (desires based on tradition, intuition, or religion) may nonetheless be included by it, because the feelings of disgust, or disappointment are still the preferences of some people, and utilitarianism is bound to take those preferences (“moralistic utilities”) into account. Baron writes that there may be some utility to be gained by discouraging such preferences, but he concedes that it is an open, empirical question whether the gain from getting rid of them will outweigh the expense of trying to override them. Even if, as Baron suggests at one point, we turn over most biomedical decisionmaking to experts (212), those experts will still have to weigh the preferences people have. And those preferences may favor results which some of us (including Baron) might regard as unfortunate. The expert utilitarian calculus will still give us garbage, if we put garbage in it.

Baron himself is divided between whether he wants to defer to our intuitions or to expose and change them. In the space of two pages, he advocates “greater reliance on experts in decision analysis” (212) but also claims that if we accepted his recommendations, then “[b]ioethics will not be so much a matter of telling us what desires we ought to have” (213). Strictly speaking, these two points are not in tension:

the experts could tell us how best to realize the desires that we have. But if this is the case, then there is no guarantee that our desires will always be rational or will maximize such familiar values as “life, freedom from pain, and physical and mental capacity” (82). People might have what Baron calls “evil desires” (153), for instance, a desire for privacy might prevent some useful research from being done. Such desires, evil though they may be, if they are strong enough, *should* prevail, according to Baron’s utilitarian decision analysis, surely not his own favored result.

If the worry in the chapter on “going against nature” is that the utilitarian analysis is not radical enough because it ratifies the preferences of the status quo, a worry we might have with the chapter on consent (chapter 6) is that utilitarianism is too radical. The benefit of utilitarian analysis, Baron avers, is that it demystifies many values and lets us see them either as not true values, or as values that are instrumental for other ends. A case in point is autonomy. Baron writes that the value of having people make their own decisions (i.e., being autonomous) is that they are often in a better position to know what is good for them, and also because people get better and making choices the more choices they make (102, 113). We should not, therefore, regard autonomy as a “fundamental value,” but as only an instrumental one – it usually leads to the best decisions for those involved. This straightforwardly instrumentalist analysis of autonomy leads Baron to look at informed consent in a certain way. The need for such consent has value when these autonomy-based utilities are realized, that is, when autonomy seems to promote the better decision. When autonomy does not contribute to better decision-making, it accordingly has less value.

But we might wonder whether the value of autonomy is being obscured, rather than being demystified on this account. The value of autonomy, we might think, is realized even when we do *not* make our best choices, or even learn anything from them: the value of autonomy is the value of being able to be the authors of our own lives, even if those lives go badly. The point is that these choices are what make a life that is genuinely ours and not somebody else's: and our choices make our life *ours* even when we choose the less optimal path. If we look at it this way, the value of autonomy cannot be easily traded off with an increase in our well-being, because it is a value that is independent of how our lives go, generally speaking. The importance of informed consent, then, is not necessarily that we are better knowers of our own wishes, but because more deeply our choices constitute who we are and that this can have a value even if our choices are not utility maximizing. This is not to say that the value of consent should always override other values, only that it cannot be reduced in any simple or straightforward way to a utilitarian analysis – even one that acknowledges that we may have a strong preference for securing our autonomy (as Baron's does [113]), because autonomy may have value even if we do not prefer it in our own lives.

This points to a wider critique of Baron's method. Baron argues that bioethics, as it presently stands, relies too much on intuition and judgment, "intuitive heuristics and biases" (212). But Baron's dissatisfaction with intuition may signal a dissatisfaction with the pluralism we intuitively may feel about values; there are more things that matter than utility alone, and which are not merely a means to maximizing utility. Autonomy may be one of those values. Being in accord with "nature," although certainly more mysterious, may also be one of those values. And if there are many values, then it becomes harder

simply to plug them into a utilitarian calculus and expect to get an unambiguous answer. If this is correct about the value that are at play in bioethics (and I think this is), then this limits bioethics' ability to be "more technical" as Baron hopes (213): we cannot so easily discover a formula that will tell us when to trade off autonomy for more utility. To do so, I am suggesting, would result in falsely assuming that one value (for example, autonomy) could be reduced to another (utility), and that we could simply add up the utilities on both sides and then make our decision.

Baron writes in his preface that for him, "many moral intuitions are interesting psychological phenomena rather than windows into some sort of moral truth" (xi). We have seen that, even *qua* psychological phenomena, utilitarian decision analysis cannot wholly dispense with moral intuitions: it must respect people's moral intuitions, even if they are evil, or simply "yuck reactions." But a better defense of utilitarian decision analysis would more directly confront people's moral intuitions, and Baron goes some of the way towards doing this. But he does not go far enough. He asks probing questions about why people might worry that cloning would demean life, rather than enhance it (32). These questions are a start, but we might want more. It would have been better, to treat the intuitions as possibly having some truth, rather than simply dismissing them because they cannot fit easily within a utilitarian framework. We might ask, what does it mean to argue that cloning is demeaning, or that life is a gift and not a product of our wills? To say that some values (autonomy and privacy, for example) do not easily fit within an economic analysis is not the same thing as saying that they do not exist. Baron admits that he is not dealing with all goods, and especially not any idea of the "social good" (5); but excluding these from analysis does not make them go away. Any

discussion of bioethics that strives to be as ambitious as his cannot afford to ignore them, nor can it treat them as nothing more than mere preferences.