

END-OF-LIFE CARE AND PRAGMATIC DECISION MAKING: A BIOETHICAL PERSPECTIVE. By D. Micah Hester. Cambridge: Cambridge University Press, 2009. 198 pp. \$28.99.

D. Micah Hester's new book *End-of-Life Care and Pragmatic Decision Making: A Bioethical Perspective* is a refreshing examination of moral issues surrounding care for the dying using what he calls a "radically empirical" philosophy heavily indebted to William James. For Hester, "radical empiricism" accepts as 'real' any and all experience, and thus requires that all experience be taken seriously." Hester goes on to note that radical empiricism says "value, itself, arises in experience, not imposed upon experience from some transcendent realm of value." This account of experience and value would entail that the "dying process is part of living."¹ Hester's approach to dying builds on his earlier work in *Community as Healing*. In that work, he argues that "living healthily" is the appropriate normative goal of medical practices. In this most recent work, Hester defends the thesis that the dying process represents a possibility for "meaning." Hester adopts a Jamesian account of meaning, which holds that meaning "arises as the marriage of our 'intelligently conceived ideals' with the fortitude necessary to achieve them."² Hester uses the notion of "narrative" to help elucidate James's theory of meaning in relation to ethical issues. For Hester, meaningful lives include meaningful deaths. Meaningful deaths are created through ethical narratives authored by the dying person and her community. The book will be of interest to James scholars and medical ethicists. However, because the writing is so clear, this book should make an impact on medical professionals and their clients. Overall, I think Hester makes good use of James's ideas, particularly in his third chapter relating James's theory of obligation to the question of whether there is a duty to die. I only have a few reservations, but they do not undermine the basic arguments of the book.

Although some of Hester's book is based on prior published work, it is hardly a loose collection of essays; rather its structure is coherent and well wrought. Chapter 1 sets up Hester's objectives using several convincing case studies. Chapters 2 and 3 lay out the radically empirical ethical framework. Chapters 4, 5, and 6 apply this framework, respectively, to physician assisted suicide of competent adults, caring for incompetent dying patients, and moral issues of dying children, particularly neonates. The last chapter concludes with a model of caring for the dying, with a useful distinction between palliative and comfort care.

The second chapter is entitled “Blindness, Narrative, and Meaning.” This chapter sets up a defense of three central normative claims: that we should strive to overcome our blindness to others’ ideals; that narratives have moral significance for deliberation; and that we should use our sympathetic understanding of multiple narratives present to craft moral solutions that accommodate as many ideals as possible. In the remainder of the book, Hester effectively uses these claims to throw moral light on the complex issues that arise in caring for the dying. He thinks that these claims can be supported by James’s radical empiricism, so he begins the chapter by outlining some of its main elements. Although Hester appropriately qualifies this discussion with the disclaimer that his discussion is, at best, a “primer” on radical empiricism, I am not convinced that appeal to that doctrine is necessary to bolster a pragmatic model of ethical decision-making. James himself never directly connects radical empiricism to his moral philosophy; especially the theory presented in the earlier “Moral Philosopher and Moral Life.” Some of James’s motives for developing “radical empiricism” have to do with epistemological and metaphysical debates about the relation between minds and bodies, the status of “relations” and so forth. Given the pragmatist idea that all inquiry is guided by interests relevant to the problem at hand, and given that the problem here is how to respond to the dying process, it is far from obvious that a return to James’s metaphysical debates from the early 1900s will be of use. Hester only alludes to the ethical relevance of radical empiricism in an intriguing footnote on page 20 where he briefly suggests that radical empiricism is a superior alternative to Rawls’ and Berlin’s pluralisms because the former lacks metaphysics, whereas the latter is based on a misguided metaphysics. I agree with Hester that one might make a compelling case that a pragmatic ethics supported by radical empiricism could be a potent contribution to current debates over moral pluralism. But Hester does not flesh out this case, so the relevance of radical empiricism to moral theory generally, or the ethics of dying more particularly, remains an open question. More to the point, Hester could bypass the whole issue of radical empiricism and support his normative claims by direct appeal to ideas in James’s essay “The Moral Philosopher and the Moral Life.” For example, James’s claims that every object of a demand is a good, and that there are a plurality of incommensurable demands, supports a broad ethical pluralism. James’s thesis that demands generate obligations, and that we are therefore obligated to satisfy as many demands as possible, are restatements of the moral ideal of harmonizing as many interests

as possible, with due deference to fallibilist sensibilities about what actions would succeed in maximal interest satisfaction. The injunction to cultivate habits of sympathetic awareness of alien ideals is a corollary of James's value pluralism and ideal of inclusive interest satisfaction. So, it seems that the discussion of radical empiricism is something of an unnecessary detour.

Doubts about the connections between radical empiricism and ethics hardly undermine Hester's overall project. The third chapter, "Radical Experience and Tragic Duty" is a brilliant discussion of James's essay "The Moral Philosopher and the Moral Life." In just a few pages, Hester illuminates James's theory of obligation in a way unsurpassed by other longer commentaries. James makes the striking assertion that every claim expressing a desire generates an obligation that it be satisfied. Hester distinguishes James's sense of "duty" from deontological and rights based accounts. James's view is similar to a rights approach in that some rights theories maintain that every right generates an obligation. But James's "claims" generate what Hester calls "pre-critical, de facto" obligations.³ Hester asserts that such obligations are the inputs of moral inquiry. Our actual obligations result from a decision-making process that seeks to harmonize as many claims as possible, "butchering" the fewest. Hester then applies these Jamesian concepts to the much-discussed debate, begun by Hardwig, of whether there is a duty to die. Hester shows that a Jamesian approach would necessarily be contextual, carefully examining on a case-by-case basis, what claims are at stake. As Hester puts it, ". . . there may be many different kinds of de facto obligations to die, and it is possible that some of these may be reconstructed into a variety of ethical obligations to die. That is, each obligation is itself unique to the situation in which it arises, and the inquiry that transforms that 'mere' obligation into an ethical 'duty' will itself create a uniquely felt duty to die."⁴ Unlike Hardwig's position, which seems to maintain that "being a burden to loved ones" is the primary moral reason for a duty to die, Hester's view is that it is actual claims, and not simply burdens, that lead to de facto obligations to die. Hester adeptly demonstrates how the Jamesian view avoids rigid *a priori* views that would rule out any such duty, while being more flexible than Hardwig's approach.

Hester effectively uses his concept of narrative to support the claim that good deaths tend to be those that allow patients to "author" the meaning of their own deaths. In the fourth chapter, entitled "Needing Assistance to Die Well," Hester shows how this will sometimes mean allowing competent terminally ill patients the option of physician-assisted suicide. He writes, "for

patients in these conditions, the *choice* to die and the ability to control the dying process can become a last act of significance, a way to end their stories on personal terms. They might wish to be progressive *in* their dying, transforming the abyss of death by giving meaning to the end of their lives.”⁵

Pragmatism emphasizes intelligent control established through the practice of inquiry in response to problematic situations. Hester effectively shows that “control” in the context of the dying process is not always about curing diseases and ailments, nor is it even just about treating pain and suffering. As important as these goals might be for medical practice, they are subservient to an even more fundamental goal: dying with significance. In an illuminating discussion of James’s account of significant living, Hester claims that meaningful living comes from pursuing intelligently conceived ideals that represent novelty and that are pursued with courage.⁶ Hester demonstrates that a Jamesian pragmatism is not a narrow consequentialism advocating aggressive technological medical interventions at all costs. Dying well is about the mutual creation of meaningful narratives by patients, doctors, and a community of loved ones. Sometimes, physician assisted suicide will be the best way to bring life to a meaningful close.

Hester’s discussions of the care of dying incompetent patients and children are very well done. He deftly explores the complex questions raised by patients diagnosed with a permanent vegetative state. He examines the much talked about Terri Schiavo case, and the less known Terry Wallis case. Hester argues that the medical facts in these cases are sometimes ambiguous. Diagnoses about vegetative states are always interpretations undetermined by the current body of medical knowledge. The conflict between Schiavo’s husband, who wanted her taken off life sustaining treatment, and Schiavo’s parents, who believed that Schiavo had some degree of awareness, is hardly just a dispute over correct medical facts. Hester writes, “. . . the argument about Terri Schiavo’s condition was more about who is best positioned to author the last chapter (s) of her life story, than it was about the medical ‘facts.’ In fact, the arguments about the medical condition were attempts to “be right” about her fate . . . even here in the midst of a significant social controversy about a well-known case, we are reminded that narrative understanding of patients is often, at bottom, *the* moral issue.”⁷

Hester’s has many useful observations about dying neonates and children. He argues, for example, that unlike cases of adult patients who can appeal to developed life narratives for decisions about how to die meaningfully, “neonates are beings with no significant life-story of

their own to draw upon . . . the interests and at play are not ones neonates ‘own’ themselves, but are ones projected on them from others. Thus it follows that caution and reticence in euthanizing practices is warranted.”⁸ Hester asserts that palliative care is obligatory for neonates. Any kind of assisted suicide is inappropriate for them.

All in all, Hester’s book promises to be an important addition to the literature on the ethics of dying. The book also demonstrates the deep ethical resources in James’s writing that scholars have only begun to mine. James’s writings offer many more fascinating and suggestive ideas about death and dying that go beyond the scope of Hester’s concern with medical ethics. For example, many of James’s writings function as philosophical therapy for those who have become paralyzed by a pessimism based in the fear that our personal meanings and ideals will perish with our mortal lives. James seeks to defend our “right to believe” in religious and moral truths when doing so has tangible moral and psychological benefits. The essays “Is Life Worth Living,” and “Will to Believe” are prime examples, but this theme is peppered throughout James’s corpus.⁹ Some of these reflections on life’s meaning are not directly relevant to developing an ethical framework for decision-making about care for dying patients. Nevertheless, I cannot help but wonder how, for example, James’s “will to believe” might be applied to decisions about risky medical procedures and decisions to cling to life when the evidence for a cure is slim.

Consider also James’s many reflections religion and death. It is understandable that Hester bypasses extended discussion of religion and dying, given his social policy focus. He claims, plausibly, that those religious traditions that maintain human life is always valuable no matter what a patient desires, cannot legislate policy for those who stand outside of these faith traditions.¹⁰ Hester’s concept of narrative is helpful here. If your own personal narrative is based on religious traditions with absolute prohibitions on the taking of life, for example, then it is morally incumbent for us to respect that commitment. But others do not share those same narratives, and so should have every right to die according to their own cherished meanings. Perhaps this is all that should be said about religion when applying Jamesian ideas to social policy questions about dying. However, James’s own writings on religion and death are worth considering briefly. Early in the *Varieties of Religious Experience* James makes an important distinction between morality and religion. He claims that those people devoted to moral ideals respond to death with a kind of stoical indifference. When life literally breaks down, the morally

committed person must simply be resigned to fate. James says “he can willfully turn his attention away from his own future, whether in this world or the next. He can train himself to indifference to his present drawbacks and immerse himself in whatever objective interests still remain accessible.”¹¹ The moral person continues to cling to duty until the very end.

The religious person, in contrast, does not resign to fate, while holding on to whatever moral choice remains until the moment of death. Rather, she willingly surrenders to death. For the religious person, “to suggest personal will and effort to one all sicklied o’er with the sense of irremediable impotence is to suggest the most impossible of things. What he craves is to be consoled in his very powerlessness, to feel that the spirit of the universe recognizes and secures him, all decaying and failing as he is.” James goes on to say “there is a state of mind, known to religious men, but to no others, in which the will to assert ourselves and hold our own has been displaced by a willingness to close our mouths and to be as nothing in the floods and waterspouts of God. In this state of mind, what we most dreaded has become the habitation of safety, and the hour of our moral death has turned into our spiritual birthday.”¹²

The sentiment James expresses in these passages represents a religious or mystical counter-voice to the Promethean, pragmatic philosophy that emphasizes the energetic pursuit of moral ideals. These two sides of his thought are, of course, familiar to James scholars. Now I would not say that these religious writings cast doubt on Hester’s arguments. But I do wonder whether Hester’s use of the concept of narrative registers more in the Promethean key than in the mystical/religious tones. Hester tends to describe dying well in terms like “controlling the narrative of death.” This suggests that the goal is a kind of moral striving—a striving to “author” meaning up until the end. However, the religious person does not want to author her death’s narrative; rather she surrenders to the authorship of the divine. Maybe I’m mincing words. Hester could rightly say that the religious person is simply regarding death from one of many possible narratives. In her case, although she does not regard herself, or her finite community, as authors of meaning, she still makes a meaningful death by identifying with a (divine) narrative. So, Hester could argue that his notion of narrative is broad enough to capture this mystical/religious side of James. I’m not entirely sure. Something about the metaphor of “authoring a narrative” seems to miss the mark in characterizing the utter losses of meaning that lead to certain religious or mystical states of consciousness. Such states, documented by James, can only be characterized as absurd—as disruptions of coherent narrative. That Hester does not

treat these religious ideas in James is not really a sign of a lack that the book should have filled, but perhaps a sign that more books on James and death should be written.¹³

Todd Lekan
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NOTES

¹ Hester (2010), p. 9.

² Ibid, p. 11.

³ See Hester (2010), pp. 45-49.

⁴ Ibid., p. 53.

⁵ Ibid., p. 66.

⁶ See Hester (2010), pp. 38-40.

⁷ Ibid., pp. 113-114.

⁸ Ibid., p. 152.

⁹ See James (1979).

¹⁰ Hester (2010), p. 69.

¹¹ James (1985), p. 45.

¹² Ibid., p. 46.

¹³ Bill Gavin has already done some very important work on James's philosophy of death; see Gavin (1995, 2003, 2010). Eugene Fontinell metaphysical work on James's concept of immortality should also be mentioned; see Fontinell (1986). John McDermott's many existentially inflected writings make good use of James's ideas on death, see McDermott (2007).

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