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Patrick Lee and Robert P. George, BODY-SELF DUALISM IN CONTEMPORARY ETHICS AND POLITICS

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vent “unwarranted human suffering” (p. 34). But this duty is wider than the duty to prevent violations of dignity, for, Perry expressly says, some forms of “unwarranted human suffering” do not violate human dignity. How a moral system based on human dignity entails a duty to prevent certain actions that do *not* violate that dignity Perry never explains. Arguments like this do much of the work in this part of the book.

As to the proper role of courts in protecting human rights, Perry argues that unelected judges can protect such rights better than elected legislators or executive officers because judges are more insulated from popular influence. This argument goes back at least to *The Federalist*. Perry then refers to the counter-majoritarian difficulty, the idea that judicial review is suspect because allowing unelected judges the final say on the validity of legislation is anti-democratic. He argues for a compromise solution that allows courts to invalidate legislation but also allows legislatures to overrule courts by following special super-majoritarian procedures. Such compromises between unfettered democracy and judicial supremacy have been discussed in the literature for many years, and Perry provides illuminating accounts of the compromise systems in Canada and the United Kingdom. Finally, Perry argues that when, as in the United States, courts have the last word and amending the constitution is usually impracticable, courts should declare legislation unconstitutional only if there is no reasonable reading of the constitutional text under which such legislation would be valid—a position famously developed by Thayer. Perry applies Thayerian principles to conclude that the Supreme Court should find that capital punishment, laws banning abortions, and a state’s refusal to recognize same-sex unions are all constitutional. Given Perry’s moral views on these issues, this section of the book is an impressive display of intellectual integrity.

In sum, the problems that infect Perry’s use of the word “dignity” ripple throughout his philosophical discussions in this book, and Perry’s argument that religious theories have an advantage over non-religious theories in supporting the morality of human rights is not persuasive. His discussion of the law of human rights is stronger, however, and his explanations of various systems of judicial review will enlighten those who have not kept up with the relevant literature. Especially for philosophers not trained as lawyers but interested in the problems of translating moral conclusions into legal norms, this is a valuable book.

Body-Self Dualism in Contemporary Ethics and Politics by Patrick Lee and Robert P. George. Cambridge University Press, 2008; viii + 222 pp. Cloth, \$80.00.

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In his attempt to “Newtonianize” what would now be called psychology, Locke famously reduced the contents of mental life to corpuscular entities (“simple ideas”) which, by a process of association, were melded into ever more complex ensembles. The source of the elementary ideas was comparably elementary sensations. Locke’s related and further task was to rid

a science of human understanding of every vestige of the old substance-theories still defended by the Cambridge Platonists just down the road. Of course, the *self* (mind; soul; spirit) was just the sort of ontological dangler that needed to be dispatched. Hence, Locke's famous theory of personal identity as but the reach of consciousness back over remembered experiences. If these could be transferred between a Prince and a cobbler, each of them would awaken, as Locke put it, the same *man* but not the same *person*. Along the way, Locke distinguished the things whose "essential" nature could and could not be known; the distinction being between their *nominal* and their *real* essence. The latter, in today's vernacular, would be at the level of sub-particles inaccessible to experience, whereas the former would be classified by way of our merely conventional designations: man, horse, Pippin apple.

Over time, it became clear that this seemingly abstract metaphysical issue was alive with moral and legal conundrums. These were recognized soon after the publication of Locke's *Essay*. Pope, Swift, and the other "Scriblerians" were quick to recognize the weird legal implications arising from a theory that confers a new personal identity with new sets of experiences. But only in our own time have these anticipations ripened into serious and detailed examinations of just how *personhood* is to be understood and the ethical and political consequences arising from different positions on that fundamental question. Such a detailed examination is provided by Patrick Lee and Robert George in six tightly argued chapters equally informing in philosophy of mind, ethical theory, jurisprudence, and even the metaphysics of identity relations.

Needless to say, in packing so much into a relatively brief treatise, the authors are surely excused for summarizing, but not always analyzing, core concepts at levels that would call for entire volumes. Thus, in considering at some length Derek Parfit's influential work in the matter of personal identity, insufficient attention is paid to Parfit's interesting (but I believe flawed) contention that the *person-plus-self* dyad enjoys no metaphysical advantage over a *person minus self* entity. Parfit's seemingly more economical ontology is thus not embarrassed by the consequences of a perfect duplication, though Lee and George must rule against such a duplicate withdrawing funds from the bank account of the original (p. 35). I should note that issues arising from this distinction are not reducible to dualism-materialism controversies. To the extent that materialism can support some sort of *personhood*, it can equally well (poorly) support some sort of *selfhood*.

The authors provide an especially perspicuous account and critique of hedonistic ethics, making good use of Aristotle in establishing that not everything desired is desirable. Variations on the "brain in a vat" scenario are advanced in support of the claim that there is more to fulfillment than the experience of pleasure. The research literature on intrinsic motivation is now robust and reasonably stable and might have been consulted to drive home the point that passive pleasures are quickly abandoned in favor of those we work to earn. Even without this support, the authors set down just the challenges that hedonistic theorists ignore or systematically misunderstand.

The chapter on abortion begins with the arresting question, "What is killed in an abortion?" The authors advance compelling, convincing arguments to the effect that human embryonic and fetal life is complete as

an expression of human life, though not mature as a form of human life. Obviously, the embryo is a *complete organism* (p. 121). The maturation leading to neonatal life is governed by processes internal to the embryo. Hard cases (e.g., embryonic monozygotic twins) are seen to be rather soft cases once the assumptions of the skeptic are examined closely. After all, as the authors write, "In nature, determinate individuals split and generate new entities all the time . . ." (p. 123).

This part of the overall argument returns Lee and George to the conclusions reached in the first chapter. Suppose one contends that the human fetus is a human being but not a human person, withholding the latter until there is evidence of reflective consciousness, self-awareness, and so on. On this account, there is a fetus that at a later date will be Mr. Smith, but now is something qualified as "human" and "in being" and, therefore, in some sense a human being. Later, something new arrives – Mr. Smith, a full-fledged *person*. As Lee and George make clear, only a very quirky mereological gambit can make this seem credible. How one goes about adding reflective consciousness to a (merely) biological system, the latter now metamorphosing into a person, is the sort of theory that gave alchemy a bad name.

The chapter on euthanasia, which includes considerations of suicide, would have been improved by considering in detail Hume's challenge and then the Kantian perspective as a means by which to give moral solidity to the authors' notion of "intrinsic dignity." Such dignity as might be accorded persons, at least on grounds not expressly religious, would seem to be tied to the possibilities immanent in rationality itself; thus, to terminate rational life in the interest of a sensuous desire (termination of pain) is, to say no more, a bad bargain. This, at any rate, is surely an argument that might well have been developed in the chapter, even at the expense of various conjectures regarding the (arguable) criteria of brain death and the extent to which it should be dispositive.

The concluding chapter addresses the moral dimensions of sexuality and does so with care and concern. The authors recognize the powers of *eros* and understand that putting this aspect of life on the right track requires more than scolding. At the bottom of their analysis, the authors caution against trading gold for brass. There is much more in the chapter, with an entire section devoted to distinguishing between heterosexual and homosexual sexuality, the latter stripped of the moral validity associated with the possibility of procreation. On the offered analysis, only the procreative heterosexuality that takes place between loving spouses can "realize a common good rather than induce self-alienation or an illusory experience" (p. 217).

Only an extraterrestrial would expect anything less than cries of protest once this book enters into the consciousness of today's apologists. It would be surprising if those opposed to the central arguments were as respectful and systematic in their criticisms as Lee and George have been in challenging views different from their own. But, as the title of the work makes clear, what has long been an interesting if abstract set of metaphysical questions has now been absorbed into the *political* realities of our time, thus attracting many commentators foreign to philosophical discourse. *May the games begin!*