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# Narrative and Casuistry: A Response to John Arras

RICHARD B. MILLER\*

I find myself in the awkward position of commenting on a paper with which I am largely sympathetic, especially when Professor Arras calls attention to the importance of thick descriptions and interpretation in casuistry.<sup>1</sup> Still, I am reluctant to embrace the language of narrative ethics to enrich casuistry, which has led me to raise three questions.

First: Is narrative the proper genre for developing casuistry, even as casuistry is enriched and developed by Arras? I raise this question to suggest that there is no easy marriage between casuistry and narrative ethics, at least as these terms are understood in the guild of philosophical and religious ethicists today. To clarify this point, consider the contributions of Kenneth Kirk<sup>2</sup> and Alasdair MacIntyre<sup>3</sup> to casuistry and narrative ethics, respectively.

Kirk provides, to my mind, the best account of casuistry's origins and aims. According to Kirk, casuistry is occasioned, in large measure, by two experiences: doubt and perplexity.<sup>4</sup>

In the first experience, doubt, there is uncertainty about the meaning or applicability of a moral principle. One is met with ambiguity, for example, when a principle's range of application is unclear. In this instance, casuists seek to clarify the practical applicability of a vague piece of legislation. One reason that casuists go to work is to liberate the conscience from interpretive or moral uncertainty. To this end, casuists typically attempt to *specify* the meaning of general rules, to develop *paradigms* and *taxonomies* to classify actions, to reason *analogically* from familiar paradigms to new cases, and to attend in various ways to the *circumstances* that surround the action in question. All of these endeavors pursue clarity and precision, providing a form of moral therapy for the anxious conscience, plagued as it is by ambiguity.

A second, quite different occasion results from the experience of moral conflict. When this happens, the conscience is not met with a dubious law in need of specification; rather, the conscience is bound by two clear and specific rules, one which requires sacrificing the other.<sup>5</sup> The conscience is not doubtful about whether a law applies; instead, it is perplexed about *which* law ought to prevail when at least two are relevant. I suspect that most people know all too well the kind of anxieties wrought by the conflict of duties. For example, the duty to uphold a promise to meet a friend may have to be

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1. See John D. Arras, *Principles and Particularity: The Roles of Cases in Bioethics*, 69 IND. L.J. 983 (1994).

2. KENNETH E. KIRK, CONSCIENCE AND ITS PROBLEMS: AN INTRODUCTION TO CASUISTRY 106-38 (1936).

3. ALASDAIR C. MACINTYRE, AFTER VIRTUE: A STUDY IN MORAL THEORY 191-93 (1981).

4. KIRK, *supra* note 2, at 321, 388-92.

5. *Id.* at 321-22.

sacrificed on behalf of the duty to care for an ill spouse. Likewise, a physician's duty to protect the confidentiality of an AIDS patient may clash with the duty to uphold public health. In other instances, parental duties notoriously conflict with professional and other commitments. Casuistry arises from the need to develop what Thomas Aquinas calls an ordering of charity: a hierarchy of duties and loyalties to settle dilemmas that arise on a daily basis.<sup>6</sup>

As Kirk observes, both "doubt" and "perplexity" suggest some measure of alienation or self-division.<sup>7</sup> In one way or another I am separated, if only momentarily, from the principle that should guide my action. Yet, casuistry's acknowledgment of alienation or division is difficult to reconcile with the dominant strand of narrative ethics, which views narrative as the antidote to doubt and perplexity—indeed, to practical reasoning itself. Casuists are engaged with quandaries of conscience, with cases that ask: How should we choose? People like MacIntyre,<sup>8</sup> Edmund Pincoffs,<sup>9</sup> and Stanley Hauerwas<sup>10</sup> view the attention to quandaries and decision as one of the great pitfalls of modernity.

Consider, for example, what MacIntyre has to say about narrative as a central feature of selfhood and virtue. MacIntyre writes that the "concept of self . . . resides in the unity of a narrative which links birth to life to death as narrative beginning to middle to end."<sup>11</sup> For MacIntyre, narratives provide intelligibility for human actions, enabling one to contextualize human conduct and to make sense of another's intentions in light of the circumstances that surround a particular activity. The self that emerges, then, is a kind of integral agent, *one whose purposes are tied together over time*.<sup>12</sup>

Here I do not mean to impute to Professor Arras the view that adopting the idea of narrative involves thinking about epic quests or life-long journeys. MacIntyre's comment simply suggests that narratives are linked to a view of the unity of self and virtue, and that this account of the unity of virtue leaves little room for conflicts, dilemmas, and practical reasoning. Conflicts presuppose a self that is, temporarily at least, divided or alienated from itself or its familiar moral codes. Hence, I think that casuists have good reason to depart from narrativists. Narrative is frequently depicted in the contemporary literature as an antidote to practical reasoning, conflicts, and alienation. In contrast, cases presuppose the value, indeed the richness, of what Aristotle called "phronesis," or practical wisdom in the face of particulars, with their many duties and obligations.<sup>13</sup> Narrative is a genre in the service of an

6. THOMAS AQUINAS, 34 SUMMA THEOLOGIAE, II-II, Question 26, at 119-59 (1975).

7. KIRK, *supra* note 2, at 216.

8. MACINTYRE, *supra* note 3, at 6-21.

9. EDMUND L. PINCOFFS, QUANDRY ETHICS IN REVISIONS: CHANGING PERSPECTIVES IN MORAL PHILOSOPHY (Stanley Hauerwas & Alasdair C. MacIntyre eds., 1983).

10. STANLEY HAUERWAS, THE PEACEABLE KINGDOM: A PRIMER IN CHRISTIAN ETHICS 116-34 (1983).

11. MACINTYRE, *supra* note 3, at 191.

12. *Id.* at 193-94.

13. ARISTOTLE, NICOMACHEAN ETHICS 351-52 (bk. VI) (H. Rackham trans., G.P. Goold ed., 1990).

undivided, unconflicted character, one which is not anxious about practical decisions or conflicts of duties. Indeed, by the narrativists' account, the fact of such division bespeaks of a lack of unity, a weakness of character. If casuists follow this trajectory to its term, they will give up what is distinctive to casuistry—its appreciation for moral complexity and the tasks of practical reasoning.

My second question concerns the proper device for the rhetoric of casuistry: Should it be paradigms or stories? Professor Arras suggests both for casuistry, but it is not clear how compatible these two devices are.

First, consider the paradigm. Paradigms provide a way of seeing, a kind of gestalt for viewing a moral case. Typically, they are uncomplicated and uncontroversial, furnishing a starting point for practical reasoning. Moreover, they comprise a kind of taxonomy, a system of classifying moral action. Not infrequently, casuists proceed by first providing a clear, brief definition of the essence of an action—for example, lying, theft, abortion, obliteration bombing in war—before rendering a verdict about a particular decision or policy.

Owing to this importance of taxonomic description for casuists, several parallels between casuistry and the role of paradigms in scientific research naturally suggest themselves. Thomas Kuhn observes that in science paradigms provide examples in which investigative procedures are relatively clear and well tested.<sup>14</sup> They provide the route to what he calls "normal science," shaping a gestalt for scientific practitioners.<sup>15</sup> Similarly, casuistry is (often) paradigm-based research since it begins with accepted examples of ethical analysis—standard approaches about which literacy is central to professional initiation. Kuhn writes that paradigms provide "models from which spring particular coherent traditions of . . . research."<sup>16</sup> Without paradigms or taxonomies in casuistry, interpretations would be random and ad hoc, not unlike those moments when science lacks a paradigm for inquiry and problem-solving. Kuhn continues: "In the absence of a paradigm or some candidate for paradigm . . . early fact-gathering is a far more nearly random activity than the one that subsequent scientific development makes familiar."<sup>17</sup>

When used as a means of approaching the unfamiliar, paradigms in casuistry require analogical reasoning. Casuists solve moral puzzles by modeling them on previous puzzle-solutions, keeping an eye to relevant similarities and differences between the familiar and the new. As Kuhn observes about analogies in science, research about the unfamiliar can be done by relating "by resemblance and by modeling to one or another part of the scientific corpus which the community in question already recognizes as among its established achievements."<sup>18</sup> Similarly, in ethics, casuists can seek a solution by first seeing how a novel case resembles a problem that has already been

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14. THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTION* 24 (1970).

15. *Id.*

16. *Id.* at 10.

17. *Id.* at 15.

18. *Id.* at 45-46.

encountered, and for which they have developed a clear taxonomy.<sup>19</sup> In this way, casuistry as paradigm-based research moves “from clear and simple cases to the more complex and obscure ones . . . .”<sup>20</sup>

Henry Davis provides an illustrative use of paradigms in casuistry. Writing in 1938, Davis sought to develop some guidelines about the morality of surgery for women suffering from ectopic pregnancies.<sup>21</sup> He confronted the quandary: Does the removal of the fallopian tube and the inevitable loss of fetal life constitute an abortion? Or can such surgery be justified as foreseen, but unintended? On the one hand, removing a fallopian tube carrying fetal life resembles a craniotomy in which the emerging child's head is crushed in order to save the life of the mother. Such an act would be prohibited by the rule that evil cannot be done to produce a good. If used as the taxonomy of ectopic pregnancies, it would a fortiori produce a prohibition. Yet ectopic surgery also resembles the removal of a cancerous uterus from a pregnant woman. In this case, the loss of fetal life is foreseen, though not intended, and is justified as a proportionate measure. Davis set out to address the case of ectopic surgery by first seeking to ascertain which of these two cases provides the best way to classify, by analogy, the surgical removal of a fallopian tube in which an embryo was lodged. Drawing on the advice of medical professionals experienced with the case, he concluded that the latter analogy was more appropriate.<sup>22</sup>

Narrative presents several contrasts to this view of casuistical inquiry. Narratives are not clear and uncontroversial, but murky and complicated. It is usually difficult to see through them until the end, and even then the interpretation of the narrative is often up for grabs. Such a device for practical reasoning would seem to make casuistry interminable. Paradigms boast the ability to enable casuists to proceed more efficiently, without interpretative complications. In contrast to narratives, paradigms are more or less self-evident or self-interpreting.

To be sure, narratives provide some merits worth mentioning. Not the least of their advantages is that they provide a greater sense of moral ambiguity and complexity than paradigms furnish. Narratives ask moral agents to become, in the words of Martha Nussbaum, “finely aware and richly responsible” concerning context, feelings, relationships, and duties in everyday life.<sup>23</sup> But for those who proceed with such a view of moral experience, it is not clear what advantages, if any, paradigms provide, given their fixity and precision. Professor Arras recommends both paradigms and narratives for casuists. Again, I am not convinced that bringing them together would produce a happy marriage.

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19. *Id.* at 169.

20. ALBERT R. JONSEN & STEPHEN TOULMIN, *THE ABUSE OF CASUISTRY: A HISTORY OF MORAL REASONING* 252 (1988).

21. HENRY DAVIS, *MORAL AND PASTORAL THEOLOGY* 171-86 (1938).

22. *Id.*

23. MARTHA C. NUSSBAUM, *LOVE'S KNOWLEDGE: ESSAYS ON PHILOSOPHY AND LITERATURE* 148 (1990).

Professor Arras makes a plea for including numerous voices in a case as a way of making sure that the voice of a professional—for example, a doctor—does not call the shots in a complicated case.<sup>24</sup> Including multiple voices in a case description is a way of limiting a professional's power. This brings me to my third question, concerning the difference between abstract theory in ethics and casuistry. Specifically, it deals with the differences between theory and a more inductive, historical, case-based method. Whatever may be the limits of a more abstract orientation to ethics, it can at least promise some measure of critical distance from practices, habits, and institutional sources of power and knowledge. Seeking to detach itself from historical attitudes and customs, theory provides resources for social and ideological criticism. A more inductive approach, as Professor Arras has observed, poses the risk of social conservatism, of enshrining our prejudices by turning our habits and customs into moral paradigms.<sup>25</sup> This is the danger of an inductive casuistry. It may lack distance from everyday habits and assumptions, especially when they are in need of moral criticism. Casuists need to address this problem of "critical distance" unless they want to open the door once again to theorists who will quickly point to the dangers of bias and perspective in casuistry. What bases does Professor Arras see for what might be called a hermeneutics of suspicion in a case-based approach? I am not sure that including several more voices within the description of a case will suffice because those voices must often adopt the vocabulary of the professional in order to be heard, thereby implicating themselves in the sources of power which they seek to resist. Moreover, there is the problem of determining whose voices are to be privileged in the overall account. Which set of concerns or interests ought to prevail when several interests clash? Including more voices in a case description provides no obvious resolution when interests do not harmonize.

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24. Arras, *supra* note 1, at 1011.

25. *Id.* at 1013.

