

Eugenio Lecaldano on Bioethics

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Abstract

Eugenio Lecaldano offers an important contribution to the tradition of Italian liberal thought. In his book on bioethics he deals with the subject's most relevant topics by taking a utilitarian perspective, which clearly demonstrates the influence of J.S. Mill's philosophy. The indication of some significant analogies and distinction among different moral problems is one of the most interesting and useful aspects of Lecaldano's work.

Bioetica. Le scelte morali (1) (*Bioethics. The Moral Choices*) by Eugenio Lecaldano is an important step forward in the philosophical liberal tradition in Italy, as well as a significant contribution to the current bioethical debate. I find relevant and important a considerable number of moral distinctions and analogies Lecaldano uses to explain different aspects of the bioethical debate (one of them, for example, regards the context of the debate about the freedom to procreate, where a considerable part of Lecaldano's argumentation is based on the idea that there is no reason to attribute different requirements of moral responsibility to cases of natural procreation and cases of assisted procreation).

Because I feel sympathetic to almost every aspect of Lecaldano's thesis, I will not write in detail about the merits of the book. I'll indicate some points where it seems to me that some further explanation might be of some help.

The book deals with the leading bioethical topics in contemporary debate. At the beginning of the book, the author tries to explain why the topics he chooses are the relevant topics of bioethics and why on the other hand others (although relevant in themselves) have to be excluded from the debate. Lecaldano's choice is to discuss the end of human life and the right to die, the freedom to procreate, embryo experimentation, genetic engineering and genetic integrity, and the right to a minimal medical support. Among the topics excluded there animal liberation and environment ethics. I must admit that I didn't find any convincing reason for this choice, and I think that no explanation for it is really possible nor necessary. Why include in the 'proper domain' of bioethics the debate on genetic integrity, while at the same time exclude the problem of possible animal rights (for example their right to live or their right not to be tortured)? Etymology at least would suggest that the proper domain of bioethics - literally 'the ethics of questions of life' - is closer to the problem of the possible right to life of animals than to the problem of the right to genetic integrity. The latter, as shown by Bruce Ackerman, can be easily shown to be an aspect of a theory of justice which deals the right to choose a model of life (2). Perhaps analysing the etymological meaning of the word is not the best way: it might be better to look at bioethics as a science closely related to medical ethical issues. However, in this case a problem remains. Why is the problem of embryo experimentation relevant to the topic, whereas the problem of animal experimentation isn't? There seems to be a specific moral choice behind this decision, i.e. that

human rights have a specific relevance compared to animal rights. However, this is a position open to criticism (accused as speciesism), and it is not a good strategy to limit a domain of discussion to a specific position within the domain.

However, as I already said, I don't find it really necessary for an author to explain his or her choice of topics (at least if one is not writing an encyclopedia), and therefore I don't think that Lecaldano's choice needs to be questioned nor explained.

Before directly approaching bioethical problems, Lecaldano offers the reader a discussion of his moral epistemology (i.e. of his method of moral inquiry). Lecaldano does not accept what can be called 'the deductive approach' to moral philosophy (he calls it 'engineers approach'), i.e. the idea that moral conclusions on particular cases can be derived from a singular general moral principle (or from a limited number of them). The engineers model fails because it leads all discussions to highly controversial general principles and therefore it reduces the possibility of finding a common solution to practical problems.

Lecaldano's polemic is directed indeed not only towards approaches that are related to the acceptance of general moral principle (either common sense intuitions or some naturalistic statements related to empirical sciences), but also towards those philosophers who support the idea that there are some epistemological, linguistic or other general principles that can serve as a foundation for moral reasoning. In the latter case, Lecaldano is referring to a Kantian model. I suppose that two examples of this ethical fashion might be Richard Hare (although Lecaldano surprisingly mentions explicitly Hare only because of the utilitarian epilogue of his theory, while his sophisticated argumentation is neglected) and Alan Gewirth (3). Hare develops his moral system from an analysis of the logical properties of moral terms, while Gewirth thinks that a whole moral theory can be derived from a proper definition of 'agent' and from a series of insuing deductions. Lecaldano's opinion is that it is not impossible to find solutions to current moral problems, but that the relation to general principles as those indicated by Gewirth and Hare renders this attempt more difficult (if not impossible). Lecaldano also refuses the coherentist approach to moral reasoning (as the one proposed by John Rawls and further developed by Norman Daniels (4)). The coherentist approach holds that we must find an equilibrium among general principles supported by theories and intuitions related to particular cases.

Is the analysis of the logical properties of moral terms or the search for an equilibrium among moral beliefs of different levels really more difficult than the search for a solution to current moral problems? Surely, Hare's and Gewirth's attempts are not easy. Proof of this is some discussion of their proposals (5). Neither is the situation with the coherentist approach really easier. But is the attempt to resolve concrete moral cases easier? I have some doubts about the possibility of a positive answer (6). However, let's see how Lecaldano's argument proceeds.

Lecaldano's methodological proposal is to arrive at general criteria in an inductive manner, i.e. by extending to more general situations the results of the analysis of singular cases. The approach is fallibilistic, i.e. Lecaldano doesn't think that the result of the analysis might be some conclusive or absolute principle. This kind of method consists in a process which manifests the capacity to make an ethical diagnosis, whose central aspect is the search for analogies between different situations and the analysis of the consequences of a solution. Lecaldano doesn't refuse the acceptance of general and abstract principles, but these must never be considered as non revisable. When looking at the consequences of a solution, it is necessary not to forget which value is to be privileged (according to Lecaldano it is the flourishing of human persons, and therefore their capacity to become more autonomous and able to enjoy higher forms of life).

I must admit that at this point Lecaldano's purpose ceases to be totally clear to me. Firstly, I'm

not sure that I have understood correctly the differences between his proposal and the method of reflective equilibrium. In its narrow version, the method is based on the equilibrium of particular moral statements and more general principles. Let's use an example. Let's imagine that somebody accepts some general principles, for example a set of principles that protect basic human freedoms. These principles might be primary intuitions, or they may be derived from a more general belief. Let's imagine that they are derived from a more general beliefs. Let's imagine also that this set of beliefs is represented by an ideal of human flourishing which consists in the possibility to of enjoying life on higher values. John Stuart Mill's idea might be an example (7). According to Mill, there are higher and lower pleasures, and the ability to enjoy the former must be developed, i.e. a goal of morality is to lead people to have the capacity of enjoying them. This can be obtained only if we ensure people some basic liberties - personal and political liberties as well as those related to economic activities (8). In the model of reasoning here briefly represented, neither the principles protecting freedom, nor the statements on values need to be fixed and not revisable. A comparison with judgments related to particular cases (which can be used as an inductive foundation for some moral principles) can lead to revise something on the 'theoretical' side (9). We can even imagine, as Michael DePaul does, that the acknowledgment of particular cases might lead to a revision of the moral sensibility on the subject, and therefore to a radical revision of the 'theoretical side' (10).

Now, what's the difference between this proposal and the method proposed by Lecaldano? I must admit that I'm not sure I have found it. It seems to me that the difference is even more difficult to see when Lecaldano considers whether traditional moral principles are compatible with the contemporary situation (as for example Peter Singer (11) denies). It appears here that moral principles have a relevant role. Of course, it is possible for Lecaldano to say that they are still defeasible by the verification (or falsification) in relation to singular cases. But even this, by itself, does not appear to be a denial of the method of reflective equilibrium. This appears to be exactly the method of mutual adjustment supported by the Rawlsian proposal. Moreover, at this point it is not totally clear what aspect of Lecaldano's proposal can help resolve problems related to current moral troubles, where the method of reflective equilibrium, as Lecaldano himself says, fails (because referring to controversial moral principles).

In interpreting Lecaldano's thesis I should perhaps refer to other parts of his book, those in which he underlines the utilitarian nature of his argumentation. In this case, the idea would be the following one. The ground of the argumentation is utilitarian. The best way to develop a utilitarian approach is to find some principles that are justified by empirical evidence and related to concrete situations. However, those principles are highly revisable, and they are surely not fixed once for ever. New evidence can make the revision of these principles the most reasonable choice. But if this is Lecaldano's choice, I'm not sure I can see the difference between his approach and that of Richard Hare in *Moral Thinking* (12), where this author explains the origin of moral intuitions. Moral intuitions are moral principles that are justified on utilitarian grounds as those that - the world being as it usually is - will lead to the best utilitarian solution. These principles are surely revisable, because they are based on statistical reasoning and therefore the consideration of more particular cases, or the achievement of more political evidence can lead us to change them.

Maybe Lecaldano could accept the analogy between his proposal and Hare's in the aspect that regards the relation between moral principles, particular cases and utilitarianism, but he would certainly refuse Hare's metaethical foundation of the moral discussion. However, I don't see the advantage of Lecaldano's version. I don't think that avoiding the problematic parts of a philosophical proposal is a good solution, even if these difficulties might lead to a possible failure. If it is true that Lecaldano's proposal is similar to Hare's in the aspects I have mentioned, he might still have to answer to the objections of those that do not accept utilitarianism (none of

its versions) as a valid moral approach. (Hare at least tried to do this). If this interpretation of Lecaldano's proposal is valid, he leaves unanswered the possible objections.

It seems to me useful to look in detail at another aspect of Lecaldano's proposal. This is the one regarding Lecaldano's idea on the proper attitude we should take towards moral principles in relation to their enforcement. One proposal is to enforce moral beliefs by law. Lecaldano refuses this proposal, and thinks that instead of considering moral principles as something that has to be enforced by law, we must consider them as criteria of moral responsibility. If moral principles are not enforced by law, this does not mean that they have no relevance, or that the field that they relate to is of low moral relevance. It is still possible to use the weapon of moral condemnation or approbation. Furthermore, Lecaldano wants to indicate that his solution is not related to moral relativism. He doesn't claim that there is not one preferable moral vision. He only denies that moral principles can be taken as absolute and infeasible.

Well, I'm not sure it is so easy to deal with these issues. First of all, I'll say something about the refusal to enforce moral principles by law, while taking them seriously (and supporting them by moral condemnation and approbation). Lecaldano thinks that his attitude is the most apt to ensure social stability. It is true - according to Lecaldano - that it is difficult to imagine that social stability might be ensured even without a recourse to some common moral attitudes. But it is true as well that social stability can't be ensured if the moral principles are accepted only because of fear of punishment. Now, I agree that if the support of a moral system is exclusively based on the enforcement of law the result is not particularly appreciable. Furthermore, I think that enforcing moral principles that are not part of a common agreement would be a source of conflict rather than a source of stability (or overlapping consensus). On the other hand, it is an illusion to think that moral principles can survive without any 'external' support (support based on some kind of authority external to the agent). Lecaldano himself thinks that this support must rely in most cases on moral sanctions rather than on legal sanctions. The proper domain of law enforcement in relation to the field of morality is the one which consists in to harm to others (13).

In my opinion, there is more need for the intervention of law than the last sentence intends if strictly interpreted. Leaving all the responsibility for the preservation of moral motivation to some support other than legal institutions creates the danger of vagueness, which might be a source of moral confusion. Some enforcement by law (even if the sanctions are only symbolical) renders more clear and evident which moral principles are of social importance. In contrast to Lecaldano's opinion this can't be established by using Mill's criterion of harm to other only. This is a difficult point: when do harm others? Who do we mean by relevant others? This is an open question in bioethical debates, therefore it seems to me that it can hardly be the criterion for the important distinction now under discussion.

A better solution would be to accept as a criterion the identification of the moral principles and values that are relevant for social cooperation (as for example the respect of the integrity of the members of the political community - including their autonomy -, the respect of the value of life, some minimal social solidarity, etc.). Of course, the solution in this case is to look for principles that really result from an overlapping consensus in the political society. This is the proper domain of enforcement by law.

I don't feel that it is of particular help to social stability to have people with a common possession of a moral motivation, if then they disagree on particular moral questions. Religious fundamentalism really is a source of moral motivation, but it is difficult to accept that fundamentalists (at least in pluralist societies) could for this reason be a factor of social stability. Therefore, my proposal is to identify the space of moral consensus relevant for social stability. This domain, as I already said, is the proper domain of enforcement by law. The space that will

remain - what falls outside the overlapping consensus, which is nevertheless of moral relevance to some people - must be left to solutions of particular moral communities. Therefore, two domains must be distinguished. Firstly, a domain of 'public' morality (which is related to the whole political society), where some enforcement by law (even though most frequently represented by symbolic sanctions) is needed. Secondly, a domain of 'particular' moralities, that must be left to the choice of particular moral communities. The first domain is the proper field of enforcement by law, the second one is the field of moral sanctions, even though operative only within particular moral communities. Indeed it seems to me that Lecaldano is not distant from this proposal while discussing current problems. For example, when he discusses euthanasia he says that what has to be protected is mainly the freedom of one's conscience, and that therefore the institutions must not privilege one of the particular existing moralities. This seems to be consistent with the scheme of two levels of morality (only one of which has to be enforced by law) I'm speaking of. In any case, perhaps some more detailed explanation of the scheme of Lecaldano's approach to the problem of the enforcement of morality would be of some help to the reader.

It might be useful to look in detail to some of Lecaldano's discussions related to concrete cases in order to see how he actually applies his methodological proposal. It seems to me for example that the discussion of the problem of euthanasia creates some difficulties in the application of Lecaldano's methodological approach. Even though in the first chapter he has declared his intention of not complicating moral discussions with the appeal to general principles that are highly controversial, it seems nevertheless that the confrontation with general principles is inevitable and reappears in the discussion of particular problems. In the discussion of euthanasia Lecaldano shows correctly the consequences of his approach, an approach that relies on the idea that the goal that has to be realized is the increase of happiness and that happiness can be obtained by making people more free to develop creatively their personality (14). However, what still remains open is the confrontation with at least one great cultural tradition, the one that is based on the sanctity of life. In Lecaldano's view the only kind of euthanasia that is acceptable is the voluntary one, while the non voluntary (that particular case of euthanasia in which the subject doesn't have the possibility to express his will, for example because he does not possess the cognitive or emotional features requested) doesn't seem to be compatible with the author's paradigm. On the other hand, the tradition of the sanctity of life, as Lecaldano himself admits, condemns every type of euthanasia. Every particular situation will therefore cause disagreement between the two general approaches and what the solution requires is precisely a form of agreement on some general principle. My proposal is - in order to avoid conflicts and to protect a stable cooperative political society -, to leave the choice to the persons involved (as individuals or as members of communities), and only one common moral statement must be safeguarded, the one that protects the principle of equal freedoms. This means that I separate, as I have already done in this paper, two levels of moral problems: one is the level of the public morality, the other one is the level of private choices. Again, it seems to me that Lecaldano accepts this distinction. But if this is true, it is also true that it might be useful if he separated more explicitly the two different question: the problem of the possibility of ensuring a common moral basis in view of the necessity of supporting a stable cooperation and of avoiding conflicts (foundation of a public morality), and the problem of developing particular moralities inside the political society (foundation of particular morality).

But this separation is not always visible in Lecaldano's book. Analysing in more detail the euthanasia case, for example, it clearly appears that on the one hand Lecaldano expresses his respect for the sanctity of life doctrine (15) (which confirms the idea that what Lecaldano is looking for is a form of public morality, in which there is a space for different - even contrasting - proposals), on the other hand he criticizes this doctrine as not correctly founded. Lecaldano objects that the grounds of this doctrine (the theory of double effect, and the distinction between

ordinary and extraordinary means) are misleading. In particular, I think that the criticism of the first criterion relevant for the sanctity of life doctrine is problematic. The theory of double effect says that an action that leads to death can be sometimes accepted. For example, let's imagine a case in which somebody needs such a strong injection of painkillers that this same injection is lethal. The doctrine of sanctity of life allows this action because death is not the primary effect, but only something that follows an intended and legitimate effect (the theory of double effect is actually more complicated, but these complications are not relevant for the present discussion). Lecaldano's criticism is that this criterion cannot be accepted as a public one, because verifying the intentions is not empirically possible. Now, I obviously accept the idea that it is difficult to verify intentions. In the euthanasia case it can be extremely difficult. But the attribution of intentions is not something unusual for the evaluation in social practices or behaviors, for example in criminal law and in the course of trials. Frequently this distinction determines the gravity of a murder, and trials are based on the attribution of intentions. Therefore, this can't be an argument against the doctrine of the double effect. It is an argument ad hoc. What seems to me problematic in the doctrine of the double effect is this: is somebody that deliberately chooses an action which he or she knows will lead to an effect really not responsible for it?. It seems to me that on this issue our intuitions are problematic. In my opinion, the theory of double effect is one of the most relevant cases of moral hypocrisies in the history of ethics, but I admit that this is for me only an intuition that I am not able to demonstrate, and I have never found a really convincing demonstration for it. The fact that there is not a clear argument against the theory of double effect shows that it can be excluded from the public domain only in an indirect way. However there is not a conclusive proof in its favour as well, and this is a reason for excluding it at least as a compulsory rule. Nonetheless it would be an expression of brutal power to impose it to all members of the political society. At the end of the day, Lecaldano's conclusion and mine are identical: if somebody wants to consider the distinction that grounds the theory of double effect as relevant he must be free to do this; the same must be said for somebody that doesn't. However, it seems to me that this conclusion requires the appeal to two different domains of morality, more than a direct criticism of the theory of double effect. A direct criticism represents a moral choice for comprehensive doctrines, as those refused by Rawls as foundations for public morality (16). In any case, the choice of a comprehensive doctrine as the foundation of public morality must rely in some sense on the idea that this doctrine comprises some absolute moral valid statements, and this doesn't seem to be consistent with Lecaldano's intention. Therefore, it seems to me it would be useful if he illustrated more explicitly (and maybe more consistently) the distinction of the two levels of morality.

Lecaldano's strategy shows some further problems when he admits that a recourse to some objective moral criterion is needed. It is the case of situations of euthanasia in which the individuals involved have never had the possibility of making a choice (because they were born without the cognitive features needed). An objective criterion is therefore needed in order to decide whether life should be terminated or not. Lecaldano refuses both the right of the parents to decide for their children, as well as the establishment of a set of undefeasible rules. He thinks that the best solution is to leave the decision to an ethical committee (to which the parents will participate): a confrontation between different moral views is thus safeguarded. I agree with Lecaldano's idea that the choice should not be left to the parents' will. However, I'm not sure that leaving the decision to an ethical committee is a more valid solution. Again, I think that the diversification of two levels of moral domain can be of some help. It could be a general rule of political society that nobody should have the right to cause (or forbid to avoid) suffering to someone (the function of the committee would be to determine whether an actual case is an instance of this). Therefore, the parents shouldn't always have the right to decide about the future of their child. On one side there is a rule that constrains the decisions of the committees and which doesn't seem to be controversial in an irresolvable way, and on the other side there is a minimal insurance of the interests of the subject involved in the decision. On the contrary,

Lecaldano's proposal leaves - in practice - the fate of the child to the distribution of power in particular situations.

As I already said, I don't find the methodological doubts I have indicated as decisive for the evaluation of Lecaldano's book. Most of the time I'm only proposing some further clarification. Bioetica. Le scelte morali discusses a great number of relevant bioethical cases. If, as I hope, bioethics is going to become part of ethical curricula in Italian universities, Lecaldano's book will be a useful instrument for all those who think that the liberal approach must be part of this curricula.

Notes

(1) E. Lecaldano, *Bioetica. Le scelte morali*, Roma-Bari, Laterza, 1999. [back](#)

(2) B. Ackerman, *Social Justice in the Liberal State*, New Haven, Yale University Press, 1980. [back](#)

(3) R.M. Hare, *Moral Thinking. Its Levels, Methods and Point*, Oxford, Clarendon Press, 1981; *Essays on Bioethics*, Oxford, Clarendon Press, 1993; A. Gewirth, *Reason and Morality*, Chicago, Chicago University Press, 1978. [back](#)

(4) J. Rawls, *A Theory of Justice*, Oxford, Oxford University Press, 1989 (1971), 19-21, 48-51; N. Daniels, *Justice and Justification. Reflective Equilibrium in Theory and Practice*, Cambridge, Cambridge University Press, 1996. [back](#)

(5) See: D. Seanor and N. Fotion (ed. by), *Hare and Critics*, Oxford, Clarendon Press, 1989; D. Beylevend, *The Dialectical Necessity of Morality*, Chicago, Chicago University Press, 1991. [back](#)

(6) I tried to confirm my doubts in a paper I wrote about the difficulties to resolve controversies on abortion by appealing to intuitions related to singular case; to this end, I discussed the proposal of J.J. Thomson and some criticisms of her proposal. [E. Baccarini, *Pobacaj. Pomazu li moralne intuicije*, "Zbornik Pravnog fakulteta Sveucilista u Rijeci", 1998, 115-132] . See: J.J. Thomson, *A Defense of Abortion*, in R. Dworkin (ed. by), *The Philosophy of Law*, Oxford, Oxford University Press, 1977. For some discussions of Thomsons proposal, see: M.A. Warren, *On the Moral and Legal Status of Abortion*, "The Monist", 1973, 43-61; J. Finnis, *The Rights and Wrongs of Abortion*, in R. Dworkin (ed. by), *The Philosophy of Law*, cit.; J. English, *Abortion and the Concept of a Person*, "Canadian Journal of Philosophy", 1975, 233-243; P. Singer, *Practical Ethics*, Cambridge, Cambridge University Press, 1989 (1979), 111-116; R.M. Hare, *Abortion and the Golden Rule*, in R.M. Hare, *Essays on Bioethics*, cit., 147; D. Boonin-Vail, *A Defense of 'A Defense of Abortion'*, "Ethics", 1997, 286-230. [back](#)

(7) J.S. Mill, *Utilitarianism*, in J.S. Mill e J. Bentham, *Utilitarianism and Other Essays*, Harmondsworth, Penguin, 1987. [back](#)

(8) J.S. Mill, *Essay on Liberty*, Harmondsworth, Penguin, 1986. [back](#)

(9) I'm not sure whether this can be really called 'theoretical', because it might seem more like a systematization of intuitions. But this is not really relevant for the present discussion. [back](#)

- (10) M. DePaul, *Balance and Refinement. Beyond Coherence Methods of Moral Inquiry*, Rotledge, London, 1993. [back](#)
- (11) P. Singer, *Rethinking Life and Death*, Melbourne, Text Publishing Company, 1994. [back](#)
- (12) R.M. Hare, *Moral Thinking. Its Levels, Methods, and Points*, cit. [back](#)
- (13) Of course, the origin of Lecaldano's thought in this case is Mill's proposal on the criteria of freedom. See: J.S. Mill, *Essay on Liberty*, cit. [back](#)
- (14) E. Lecaldano, *Bioetica. Le scelte morali*, cit., 113. [back](#)
- (15) "Even though this conception might be ethically elevate I don't think that I can share it, although I fully respect those that practice it". E. Lecaldano, *Bioetica. Le scelte morali*, cit., 119. [back](#)
- (16) J. Rawls, *Political Liberalism*, New York, Columbia University Press, 1993. For a distinction that has some similarities to Rawls' and the one I discuss - the distinction among the level of public morality and particular moralities - see also H.T. Engelhardt, *The Foundations of Bioethics*, Oxford, Oxford University Press, 1996². [back](#)