



# Misconceiving “Neutrality” in Bioethics: Rejoinder to “Bioethics and the Myth of Neutrality”

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## Introduction

In a recent editorial in the journal, Dawson et al. (2018) called on the bioethics community to examine critically the “myth of neutrality” in bioethics—in particular the putative neutral stance of bioethics associations like the Australasian Association of Bioethics and Health Law (AABHL), as in cases “where sustained harm is deliberately inflicted on vulnerable populations or where there are clear failures to abide by international human rights norms” (483) and took as an example Australia’s treatment of asylum seekers. In an accompanying editorial, Ashby and Morrell (2018) point to the risk of conflating the academic analysis that is the primary activity of bioethics, with ethics as an engaged political force. They consider that bioethics earns public authority from the distillation from its analytic activity of strongly agreed normative positions such as professional ethics codes, but that this authority could be lost if bioethics is used *directly* in politically contentious debates. They conclude “It is probably therefore desirable for ethics as activism to be clearly separated off from the academic discipline itself and its normative consensus standards” (480).

Of course bioethicists do enter the normative lists in a number of direct ways, but this paper supports Ashby’s

and Morrell’s caution, via responses to the authors’ reasoning in the following areas:

- (1) Some arguments advanced by the authors are conceptually flawed.
- (2) The authors appeal to the factually and normatively risky strategy of claiming the right view on asylum seeker welfare to be self-evident.
- (3) No additional examples are provided where bioethics associations like AABHL and the “bioethics community” should take public/political action.
- (4) The authors do not adequately account for the appropriate roles of different bioethics entities regarding ethical activism.

Together these deficiencies undermine the authors’ case that professional associations like AABHL should formalize public advocacy/action as a mainstream activity at the potential cost of losing their academic authority.

## Conceptual Issues

The authors appear to accept the case that bioethics organizations should remain neutral about contentious issues, by focusing on the quality of relevant analysis, arguments and their premises, and evidence. They give examples such as abortion, euthanasia, allocating scarce health resources, and using animals in medical experimentation. They distinguish such matters where “reasonable people can disagree” from instances “where

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sustained harm is deliberately inflicted on vulnerable populations or where there are clear failures to abide by international human rights norms” (483), such as Australia’s treatment of asylum seekers. Here, they argue that remaining silent and failing to act to end abuse by appealing to “neutrality” amounts to “a dereliction of responsibility and an acquiescence to continuing abuse” (483).

This is a strong accusation. “Acquiescing to continuing abuse” does not just impute to an organization and/or its office-bearers and/or its members a determined position of impartiality concerning abuse of the vulnerable but carries with it an implication of tacit assent. Failing to act by appealing to neutrality imputes to the organization a failure to do something that the organization ought to do but refuses to, on spurious grounds. However, these criticisms omit from consideration relevant contextual factors. For example, it does not follow from the setting up of an organization to facilitate discussion and debate—as reflected in the constitution of AABHL (DLA Phillips Fox 2015)—that “failure” to engage in direct public/political action in relation to social issues implies some unacceptable or even questionable ethical position, especially if described in accusatory and unsubstantiated terms like “acquiescing to continuing abuse.”

But are the authors on stronger ground when they suggest that bioethicists simply “have an individual responsibility to act” and that they “have responsibilities as part of a community, to act together on behalf of others in urgent need,” and that “AABHL also has a responsibility to speak out and act” on the grounds that “Bioethics has always aimed to be practical, to make a difference to practice and policy, particularly when standing with those who are marginalised”?

This construal conflates two senses of “practical” in relation to bioethics. Normative ethics and normative bioethics are generally understood as categories of *practical* reason, in contrast to science’s *theoretical* nature, since they aim to analyse and elucidate what we *ought to do*, in contrast to discovering *what is the case* (Wallace 2014). Given this, it might be assumed that a person or an organization concerned with discussing ethics or bioethics would be logically committed to engaging in *action/activism*. The first sentence in Hare’s “The Language of Morals” captures the idea: “If we were to ask of a person ‘What are his moral principles?’ the way in which we could be most sure of a true answer would be by studying what he *did*” (Hare 1952, 1) (my emphasis).

But this means only that if an individual, or an institution via some formal process, *adopts* an ethical principle, one could expect that person or institution to *enact* the principle in the relevant circumstances, for example by supporting the position in a public discussion, or issuing a statement when asked, or participating in a public demonstration, on pain of contradiction or hypocrisy. Facilitating participation in bioethical discourse and research, in the absence of the further fact of formally adopting principles, has no such implications for direct action.

### Beware the Self-Evident

These logical niceties may be all well and good, but does it not mean that in the case the authors have in mind it simply remains to take that further step of adopting the principle and go ahead and act? Issuing the AABHL Conference Statement (AABHL 2018) would appear to satisfy the requirement of acting after formally adopting the principles it includes—providing justice and protecting the health and human rights of all asylum seekers and refugees; providing healthcare and promoting their long-term health as set out in the Royal Australasian College of Physicians (RACP) position statement on refugee and asylum seeker health; implementing a rights-based and humane approach to people seeking asylum—by canvassing AABHL members and obtaining majority support. This seems correct as far as it goes, but that is as a special statement on a particular issue, not as an instance of a general organizational policy, whereas the gist of the authors’ paper is that bioethicists, bioethics organizations like AABHL, indeed the “bioethics community,” after examining “critically the myth of neutrality in bioethics” should become activist and stand “with those who are marginalized” (485).

Furthermore, the question “Where should the bioethics community stand?” conceals two problematic, related assumptions. Related to the definitional issue of just what and who constitute the bioethics community, the first assumption is that the “bioethics community” is something that *could* take a stand on this or any issue. What would that look like in practice, even if there were some theoretical basis for it? The second assumption, underlying the theoretical possibility and implied by the alleged contrast with issues over which reasonable people can disagree, is this: where any individual or

association or the whole “bioethics community” should stand on the issue of asylum seeker welfare is self-evidently in solidarity with the authors.

Recall that they expect that, unlike with issues such as euthanasia and abortion, no reasonable reader could disagree with opposing policies “where sustained harm is deliberately inflicted on vulnerable populations” (483) and where remaining silent amounts to acquiescing to continuing abuse. I submit that some reasonable people *would* disagree with this depiction of current asylum seeker policy and certainly with the implied assessment of the moral deficiencies of those individuals and organizations who “remain silent.” While it is one thing to call on the Australian government “to honour its legal and ethical obligations” as noted above, it is quite another to make explicit accusations of deliberately harming people and acquiescing in abuse. But obligations to provide justice, protect health and human rights, and implement a rights-based and human approach to asylum seekers, are themselves open to interpretation, discussion, and argument, and different approaches to meeting them will be proposed and disagreed with by reasonable people. The stark demarcation between issues about which reasonable people could or could not disagree is a prescriptive strategy that closes down continuing deliberation.

Asserting any view about a matter to be self-evident is fraught, especially a normative issue. Perhaps the most famous assertion of this kind, and this was a factual claim, was Descartes’ conclusion that his mind must be categorically different from physical things, all of whose existence he could doubt, because doubting presupposes the existence of the thinking entity—the mind—that doubts (Internet Encyclopedia of Philosophy 1996). But the declared, self-evidently unique nature of the Cartesian mind is now accorded significant doubt (Newman 2016). Even dyed-in-the-wool Cartesian dualists accept that reasonable people can disagree with their favoured view.

Having stipulatively distinguished matters where reasonable people can disagree from (at least one) matter where not agreeing with a particular view is self-evidently wrong (given that even remaining silent amounts to acquiescing in abuse, let alone arguing a contrary position), the authors do not provide any philosophical justification or guidance as to just how to ground the difference. Is there a principled way of distinguishing between self-evident and contentious matters? Or does it just come down to where you happen

to stand on different issues? After all, in the matter of the ethical and legal status of euthanasia, some protagonists on each side of the argument do consider that their position is obviously or self-evidently true. We deserve some account of what special status it is that confers the sort of infallibility on a view that authorizes the edict that no reasonable person could disagree.

### Just One Issue?

Given that the authors describe the asylum seeker issue as an *example* of the category of matters that brook no reasonable disagreement, the reader might expect them to advance some additional issues, if they consider that bioethics organizations like AABHL should *expand* their activities to ethical/social/political activism. However, the only other matters mentioned are the allegedly contestable issues where the same admonishment of organizations for remaining silent is not administered. What other issues are there where “there are no reasonable bioethical or legal arguments” (484) in support of any view but the one advanced? There would need to be more issues on the horizon that an individual or group considered to be incontestable to motivate an organization to reconstitute itself to include activism as a general policy. Conversely, if there were just *one* issue that is incontestable, that would be odd, to say the least.

### Roles of Bioethics and its Constituents

As indicated above, the assumption that the “bioethics community” is something that *could* take a stand on this or any issue is linked to the question of who/what constitute that community. We can certainly give an ostensive, if rough and incomplete idea of the community. It includes, inter alia, individual researchers and research groups, bioethics teachers such as those involved in university medical and health programmes, bioethics and medical/health ethics journals, appointed panels and commissions, and professional associations such as AABHL. But the authors’ criticism appears to focus on bioethics associations such as AABHL, so it may be asked “Why have at least some other members and constituents of the bioethics community not been targeted for remaining silent and thereby condoning abuse?”

The different entities that make up the bioethics community play different roles. Teachers of medical ethics, for example, are professionally and academically duty bound to teach about the current professional codes that will contribute to the professional governance of the health profession their students will enter on graduation but also to provide impartial guidance concerning the arguments on different sides of contentious social and health issues. They may take an ethical position on a particular bioethical issue, but this should be as an individual or as part of a group that publicly quarantines itself from the teaching role and from their employing institution. No expectation or criticism should be levelled at ethics teachers *qua* teachers for “failing” to endorse an allegedly obvious normative view, and the authors correctly do not entertain such a position.

But what about journals? If professional organizations like AABHL cannot fulfil their proper aims as organizations within the bioethics community unless they dispense with allegiance to the myth of neutrality and engage in direct social/political action, why should the same requirement not apply to bioethics journals like *Bioethics*, or the *Journal of Medical Ethics*, or the *JBI*? Journals are different from professional associations in some obvious respects but similar in the ways that are relevant here. They are developed and run to facilitate discussion of bioethical issues in different formats—usually written but sometimes verbally and via conferences and so on—just as many professional associations are constituted. Journal editors, editorial committees, and reviewers are members of the bioethics community and like members of professional associations, could be readily canvassed to support statements about ethical issues. If it is odd to expect a journal to be activist, why would it be considered morally *necessary* for professional associations to be so, given their congruent primary aim? The idea is captured by McGinnis, in this case in relation to activist law schools and universities more broadly but consistent with Ashby’s and Morrell’s and this author’s position concerning bioethics and its constituent organizations:

Universities should have as their objective the production of knowledge, not activism. A democratic society has other institutions that specialize in activism—political parties, many think tanks, and single issue pressure groups, and, for law, “public interest” litigation groups. But democratic stability is bolstered from having an engine that

tries to discover truths even amidst its divisions of interest. And activism interferes with the university’s production of knowledge, because it leads directly to ideological discrimination and the erection of roadblocks of orthodoxy that impede truth seeking. To be sure, the law has a normative dimension, but norms also are a form of knowledge to which people can add and which they can refine. (McGinnis 2018, ¶3)

The equivalent to the threat that McGinnis sees to “democratic stability” from within the universities, is the threat to the public authority of the bioethics community and its constituent bodies.

## Conclusion

Dawson et al. have called on the bioethics community to examine critically the myth of neutrality in bioethics, within the pages of a leading bioethics journal that facilitates and publishes bioethical debate. There would be no point in their call to examine their position *critically*, if they did not accept that contrary views may well emerge. But accepting this dissolves their underlying thesis of incontestability. A number of contrary views have been advanced here that enliven this irony and support the general caution issued by Ashby and Morrell. They have the following related implications for AABHL and other bioethics organizations.

- If “neutrality” is described in terms such as failing to act in response to the deliberate infliction of harm on vulnerable populations and acquiescing to continuing abuse, the alleged “myth of neutrality” is a straw concept that bioethics organizations amongst other actors should ignore.
- If there is no clear way of distinguishing bioethical issues that are incontestable by anyone from those that are contestable by reasonable people, it is equally unclear that bioethics organizations have obvious obligations to engage in activism in relation to any allegedly incontestable issues.
- If institutions such as journals, that are similar to bioethics organizations in the respects that are relevant to the question of bioethical activism, are not obliged to engage in activism, neither are bioethics organizations, on pain of inconsistency.

- Even if it were theoretically and practically possible to identify one issue that brooked no reasonable counter-positions (a view contested here), if there is only *one* such issue, it follows that AABHL and other bioethics organizations have no reason to adopt a *general* policy enabling bioethical activism.

These implications expose the alleged “myth of neutrality” as a misconceived concept that fails to demonstrate that professional associations such as AABHL should add public advocacy as a general policy objective to their existing functions.

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