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ORIGINAL ARTICLE

Best Interests and Pragmatism

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Abstract In this article I will show that 'best interests' is a concept that fits nicely with many of the features of pragmatism—Holm and Edgar's rejection of the principle in favour of pragmatism it will be suggested is misplaced. 'Best interests' as a principle may be considered an embodiment of the ideals of pragmatic adjudication. The paper starts by briefly introducing the concept of 'best interests' and theories of judicial and legal 'pragmatism'. This article will examine the role of the rational decision-maker in medical law and argue that this role is limited. The paper concludes by suggesting how we view the relationship between 'best interests' and 'pragmatism'.

Keywords Best interests · Legal pragmatism · Philosophical pragmatism

Introduction

In this article I will have four main focuses. The first of these will be an overview of best-interests and some of the features central to it. Then I will move on to pragmatism. It will be shown that 'best interests' is a concept that fits nicely with many of the features of pragmatism—Holm and Edgar's rejection of the principle in favour of pragmatism will be shown to be misplaced. Rather I will show how 'best interests' as a principle may be considered an embodiment of the ideals of pragmatic adjudication. The third section of the paper will briefly look at the role of the rational decision maker in medical law. I will show how this is not necessarily a feature we would expect to see in medical law decision making nor is it a model the

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courts use as a default when it is unclear what the interests of a particular individual are. The final section provides a note of caution to any full blown endorsement of pragmatic adjudication in medical law cases. I will examine the historical roots of pragmatism in legal realism. I will also show the danger of an over reliance on social policy considerations in cases dealing with the protection of vulnerable individuals.

'Best Interests'—An Overview

As a mission statement for how patients should be treated the best interests standard seems to have an admirable aim. In practice however things are less clear. What does 'Best' mean in any given case and who should make that decision? Doctors will make clinical judgements about medical interests, patients may have a different view, and the courts may ultimately take a different approach. Whether the concept of 'best interests' provides any real guidance is thus questionable. As a standard, best interests, can be described as being at once 'unfeasibly demanding' and 'practically indeterminate' [3]. It is demanding because it requires that we promote the best interests of an individual without consideration for others. It does not allow us to promote the interests of the patient 'other things considered'. It can be described as indeterminate because it is unclear what constitutes 'best interests'.

The best interests standard faces a problem that is faced by all consequentialist principles. It is a future orientated principle which aims to protect the future of the patient. However in order to do this effectively there must be certainty of possible outcomes and their probability of occurrence. This is a problem highlighted by Holm and Edgar in their account of von Neumann-Morgenstern's conception of rational choice—there may be many possible outcomes in any given case and which one to choose may at times be indeterminate. Thus, while in many instances we may have 'clear cases' of what is in patients' best interests this will not always be the case. 'Less clear cases' are those that involve interests that are unknown or in some situations non-existent. In these situations we may never know in any real sense what is in a patient's 'best interests' and for Holm and Edgar this is the crucial flaw in 'best interests'. They seem to reject the idea that there can ever be an objective account of 'best interests' in these cases. They suggest instead that the decision making process constructs both the patient and their interests. This seems to be an extreme claim. The fact that an individual has not expressly stated what they would wish to happen in any given case does not mean that any attempts to make decisions to protect their interests involve a construction. It also assumes a purely subjective account of 'best interests'. This is something which the courts have rejected [24]. In their criticism of An NHS Trust v. A [2], Holm and Edgar state [12]:

> What is essentially claimed here is that the court should first apply the court's value system, although hiding this under the rhetorical device of presumptive definition in the statement of "the key question", and only later consider the patient's views. But what is in the best interest of the patient must to a large extent be determined by the values of the patient.

This criticism seems to be unfair. In the case under discussion, rather than simply applying their own values first and the values of the individual second, the court was protecting the legal rule that patients cannot demand whatever treatment they choose. This is a principle that was upheld in the case of Burke [24]—where the adult requesting the treatment was competent and there could be no suggestion that his interests were being constructed by the courts. The Court of Appeal held that:

> What the patient cannot do is require the doctor to provide a particular form of treatment which the doctor does not consider to be clinically appropriate, even though it is in accordance with a responsible and competent body of relevant professional opinion. A doctor is not obliged in law to provide whatever treatment a competent patient believes is necessary, where it is the doctor's clear professional view that such treatment would provide the patient with no clinical benefit or would be futile. [24, p. 208]

This goes to highlight the fact that the best interests of a patient is not treated as a purely abstract notion, understood in isolation from the context within which it occurs. It is a test that has both subjective and objective elements. This contextualism is a feature of pragmatic thinking [11, p. 24]. When considering the best interests of the patients in these cases the courts thought not only of the individual who appeared before them but of the policy implications if they endorsed a right to demand whatever treatment the patient desired. Therefore while it is true that in many situations we will have little knowledge of possible outcomes and their probability of occurrence, this does not necessarily mean that we can only determine best interests in a constructionist way. The objective features of the test can be seen as a constant. Also the fact that there are many possible outcomes does not mean that there cannot be a 'best' outcome. This is a point I will come to again later.

Pragmatism—An Introduction

All consequentialist principles face the problem of epistemic uncertainty. In situations when we cannot accurately predict the possibility of outcomes or their probability of occurrence, the 'best interests' principle offers us little guidance. However this is a problem that will be faced by pragmatic considerations as well. I believe, contra to Holm and Edgar, that pragmatism can be understood as a consequentialist method of adjudication,[1] as Posner describes:

> A pragmatic judge believes that the future should not be a slave to the past, but he need not have faith in any particular bodies of data as guides to making the decision that will be serve the future. If like Holmes you lacked confidence that you or anyone else had any very clear idea of what the best decision on some particular issue would be, the pragmatic posture would be one of reluctance to overrule past decisions, since the effect of overruling would be to sacrifice certainty and stability for a merely conjectural gain. [19, p. 8]

[1] I acknowledge that Posner does not think that it is useful to call pragmatism consequentialist.

Therefore the criticisms that Holm and Edgar level at the consequentialist failings of 'best interests' are unlikely to be answered by their appeal to pragmatism.

Pragmatism, best understood as a theory of adjudication, has its roots in the legal realist movement, championed by, among others, Oliver Wendell Holmes. This movement was a reaction to the dominant formalist approach to decision-making, with its focus on rules and principles. The realist rejected this reliance on principle, as Oliver Wendell Holmes puts it [13]:

> It is the merit of the common law that it decides the case first, and determines the principle afterwards.

Today's pragmatists are not quite as extreme as their ancestors although they still reject the notion of feeling an absolute obligation to obey precedent [19, p. 5].[2] As mentioned above it is a forward facing method of adjudication that aims at the best outcome of any given case. Precedent should only be relied on to the extent that it promotes this aim. The concern of the pragmatist is 'substantive' justice. Justice Richard Posner and Thomas C. Grey are two of the most prominent advocates of pragmatism today. Posner describes pragmatism as follows:

> "Pragmatic" as an adjective for anything to do with the judicial process still causes shudders. It seems to open up the vistas of judicial wilfulness and subjectivity and to mock the rule of law; it seems to equate law to prudence, and thus to be Machiavellian. All that pragmatic adjudication need mean, however—all that I mean by it—is adjudication guided by a comparison of the consequences of alternative resolutions of the case rather than by an algorithm intended to lead the judges by a logical or otherwise formal process to the One Correct Decision, utilizing only the canonical materials of judicial decision making, such as statutory or constitutional text and previous judicial opinions. The pragmatist does not believe that there is or should be any such algorithm. He regards adjudication, especially constitutional adjudication, as a practical tool of social ordering and believes therefore that the decision that has the better consequences for society is to be preferred.[3]

We see in this quote that pragmatists reject the notion that there can only be 'One Correct Decision' for any given case. This is a parody of the method used in formalist adjudication. It is the idea that once the relevant rules and principles are applied to any given case there can be only one outcome. However this is not the same as a rejection of the reality that there *will only be* one decision chosen in any given case. Although the pragmatist rejects the idea of 'One Correct Decision', they

[2] Pragmatism need not so be seen as necessarily problematic to a system of precedent. 'The pragmatist judge has different priorities. That judge wants to come up with the best decision having in mind present and future needs, and so does not regard the maintenance of consistency with past decisions as an end in itself but only as a means for bringing about the best results in the present case. The pragmatist is not uninterested in past decisions, in statutes, and so forth. Far from it. For one thing, these are suppositories of knowledge, even, sometimes, of wisdom, and so it would be folly to ignore them even if they had no authoritative significance. For another, a decision that destabilized the law by departing too abruptly from precedent might have, on balance, bad results'.

[3] [20, pp. 185–185] as quoted in [9, pp. 94–95].

very much endorse the idea of there being only one actual outcome. The pragmatist believes that the decision reached should be the one that achieves the 'best' outcome in any given situation. The content of what 'best' means is left open as Posner describes in the following passage [19, p. 16]:

> I likewise leave open the criteria for the "best results" for which the pragmatic judge is striving. They are not what is best for the particular case without consideration of the implications for other cases. Pragmatism will not tell us what is best but, provided there is a fair degree of value consensus among the judges, as I think there still is in this country, it can help judges seek the best results unhampered by philosophical doubts.

It is therefore clear that for legal pragmatists like Posner, there is no doubt that only one answer can be given in a case and that this answer will be the 'best' answer.

How Pragmatists Decide

In their criticism of Butler-Sloss, Holm and Edgar reject the 'one unique answer' approach she adopts in Re S (Adult Patient: Sterilization) [14]. They suggest that here Butler-Sloss is endorsing the 'One Correct Decision' notion, outlined above. However on a kinder reading of Butler-Sloss it could be suggested that she is simply acknowledging the fact that the court can only reach one decision in any given case. This can be seen from the rest of the statement that Holm and Edgar draw from:

> and that, since the weight of medical evidence supported the less invasive procedure as the preferred option and the mother's concerns did not tilt the balance towards major irreversible surgery for therapeutic purposes, the judge's declaration should be set aside and a declaration made allowing the patient to be fitted with a contraceptive coil. [14, p. 15]

One of Butler-Sloss's main lines of reasoning here is an acknowledgement of the fact that there is more than one outcome available. The fact that she is motivated to choose the reversible outcome can be seen as an acknowledgement that the decision may need to be revisited in the future. It is also worth stating that the logical problem that stems from the multiplicity of possible outcomes is not necessarily a legal problem. There can only be 'one' decision and the function of the court is to deliver it. Also, the fact that the rational decision maker may be faced with many possible outcomes does not mean that each individual will be. Depending on the circumstances of the case there may only be one possible outcome and this will be the one chosen.

The criticism that Holm and Edgar level at the 'logically only one best option' account they attribute to Butler-Sloss is similar to a criticism that Ronald Dworkin levels at pragmatism:

> In fact, assignments of probability are indispensable to any genuine consequentialist analysis. It would be irrational for a pragmatist to compare two alternatives by comparing only the worst possible consequences of each,

> or only the best, or even only the most likely. He must compare the various possible consequences of each decision, taking into account their gravity, but discounting each by its probability. Posner's pragmatic argument becomes strikingly less impressive, even on its own terms, when we reformulate it in that spirit. [9, p. 97]

Legal pragmatism has roots in philosophical pragmatism. The influence of the work of one of the most prominent philosophical pragmatists, Richard Rorty, is evident in much of the literature on legal pragmatism, particularly that of Richard Posner.[4] This is no surprise given the fact that many legal realists, like Holmes, were influenced by the work of pragmatists like Dewey, Peirce and James. Pragmatism rejects the pursuit of 'Truth' in philosophy. Pragmatists like Rorty, state that we should reject efforts to represent the world in some objective sense. We should instead accept that all we can accomplish is description. The rejection of an 'absolute Truth' about the world we inhabit means that for pragmatists the pursuit of this 'Truth' is pointless. We should accept that *some* of the beliefs we hold about the world may be false (this is not to say that *all* these beliefs will be false—fallibilism is to be distinguished from scepticism). We should further acknowledge the fact that those beliefs we have about the world will be dependant on the social and historical contexts which gave rise to them. This is a type of relativism endorsed by Rorty [25, p. 203]:

> ...I have been arguing in this section that the notion that we know *a priori* that nature and man are distinct sorts of objects is a mistake. It is a confusion between ontology and morals. There are lots of useful vocabularies which ignore the non-human/human or thing/person distinctions. There is at least one vocabulary—the moral—and possibly many more, for which these distinctions are basic. Human beings are no more "really" described in the latter sort of vocabulary than in the former. Objects are not "more objectively" described in any vocabulary than in any other. Vocabularies are useful or useless, good or bad, helpful or misleading, sensitive or coarse, and so on; but they are not "more objective" or "less objective" nor more or less "scientific".

This seems to be the basis of Holm and Edgar's criticism of 'best interests'. I understand their argument to mean that, rather than focusing on what the best interests of an individual are in each case, we should ask a different question. The pursuit of finding the 'Truth' of an individual's best interests should be abandoned. All of this requires an account of what it is we mean by 'best interests'.

What is 'Best'?

When we discuss best interests what is the object of the term 'best'? It seems to be used to determine what would be in the best interests of the patient overall. What

[4] 'I consider myself a legal pragmatist and owe much to Rorty's pioneering work. He personified and expressed the concept of philosophy as a constructive engagement with social problems, rather than as a secular theology preoccupied with abstractions such as truth and meaning'. Richard Posner as quoted on http://www.slate.com/id/2168488/ (Last Accessed 09/12/07).

this consists of is not very clear—at present the principle acts as little more than a ‘colourless meta-value’ [27]. It can be seen to mean everything and nothing at once, depending on interpretation. This type of non-foundationalism sits well with pragmatic thought, as Putnam describes in the following passage:

> The trouble is that for the strong antirealist [e.g., a pragmatist] *truth* makes no sense except as an intra-theoretic notion. The antirealist can use truth intra-theoretically in the sense of a ‘redundancy theory’ [i.e., a theory according to which “S is true” means exactly, only, what “S” means] but he does not have the notion of truth and reference available extra-theoretically. But extension [reference] is tied to the notion of truth. The extension of a term is just what the term is *true of*. Rather than try to retain the notion of truth via an awkward operationalism, the antirealist should reject the notion of extension as he does the notion of truth (in any extra-theoretic sense). Like Dewey, he can fall back on a notion of truth (in any extra-theoretic sense). Like Dewey, he can fall back on a notion of ‘warranted assertibility’ instead of truth...[5]

Pragmatists, as mentioned earlier, do not reject the idea that the decision they reach is the best one for the given case. They still use interpretive concepts. Many of the criticisms that are levelled at the best interests principle sit comfortably with pragmatists’ rejection of foundationalism. Rather than being concerned about what ‘best interests’ are, pragmatists would simply describe the decision as best. The way they decide to protect/respect the interests of an individual would be through the ‘best’ decision overall. Therefore in our focus on the content of best interests we may be asking the wrong type of question and concerning ourselves with the wrong issue when we wonder what constitutes ‘best’ in ‘best interests’. ‘Best’ can after all, for the pragmatist, only be used in a descriptive way. Perhaps then we should reject the pursuit of an account of best interests and focus instead on the best outcome in any given situation. However whether this will result in a different type of decision-making process is unclear.

When we use ‘best interests’ in this way we do not need a fixed account of what ‘best’ is. But as outlined above, Posner falls silent on how best to reach the best decision. Is this a flaw of pragmatist thinking? This seems to be what Arras and Dworkin both think:

> ...in the absence of a discrete set of norms to guide pragmatist deliberations, Judge Posner’s reassuring advocacy for the “best results” in any given case proves itself to be completely vacuous. [4, p. 79]

> Pragmatists argue that any moral principle must be assessed only against a practical standard: does adopting that principle help to make things better? [9, p. 91]

This highlights a problem that pragmatism may have in practice. Posner holds that conditions of consensus among judges will overcome this difficulty. This is a throw-back to the notion of ‘hunches’ in the work of Holmes. In court cases judges

[5] [21, p. 236] as quoted in [25, p. xxiv].

can be considered to be like a witness: they review the facts of the case as it appears before them; they are a witness to the case presented [10, p. 119]. They are then able to make the 'right' choice. This seems to reflect the present situation in many medical law cases. Consider the comment of Brazier on the position of Hedley J. in *Wyatt* [see 15–18, 23].

> The evidence in a sense depicted different babies. The parents described a daughter, a child who was terribly ill but still, in their view a child whose continued life is worth living. The doctors (in the main) presented a picture of an infant in the ante-room of death for whom pro-longing the process of her death could result in nothing but suffering. [5, p. 414]

Hedley J. in this instance had to make a judgment as to which account of Charlotte should be accepted. Cases like this highlight why the search for an account of the 'best interests' that is 'objectively true' will be misplaced. The *Wyatt* litigation demonstrates that the courts, where necessary, will revisit cases as the situation changes.

Rationality and Judicial Discretion

The focus in Edgar & Holm's paper on rational decision making is at odds with how the decisions of competent adults are respected in English medical law. The words of Lord Donaldson in the case of *Re T* stated that:

> This right of choice is not limited to decisions which others might regard as sensible. It exists notwithstanding that the reasons for making the choice are rational, irrational, unknown or even non-existent. [22, p. 102]

This case illustrates the fact that the courts do not presume that adults will be or need be rational decision makers. They are prepared to protect the non-rational decisions of an individual. Holm and Edgar's focus on a rational decision-maker also gives rise to more possible outcomes than there may actually be in any given case. The context in which a case occurs will affect the possible outcomes that can be reached.

The 'best interests' standard can not tell us which interests to protect, it can simply act as a general principle stating that we should reach the best decision overall. However it does not tell us whether best interests should be judged at a policy level or in relation to each specific individual [26]. We have seen so far that pragmatism endorses an aim of reaching the best decision overall. This decision should be made against the backdrop of the social context in which it is being made. This is a call which sits well with a move towards a more communitarian account of medical decision making. Many feel that medical law has become increasingly too individualistic and that this is at the cost of acknowledging the reality of the context in which medical decisions occur.

However if judicial reasoning is left entirely to the beliefs of judges about improving the social context it leaves the way for discrimination and prejudices to be imposed. In medical law cases, due to the sensitive nature of the issues being

addressed, it is imperative that there are formal rules in place to protect individuals from the biases of the judiciary. Indeed, it is in a case decided by Justice Holmes that the importance of this protection is most visible:

> It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes... Three generations of imbeciles are enough. [7, p. 206]

This case took place at a time when eugenics was a popular policy in American society. The present day possibilities of medical science mean that there is a necessity to protect against policies like this. If judges share prejudices with their fellow men there must be measures in place to protect innocent individuals from these prejudices. It could be suggested that 'best interests' acts as such a measure. However, its lack of guidance means that it may not be very effective. Similarly, general policies in relation to issues of medical law and technology may often, on an individual scale, yield apparently unfair results. As Brazier puts it:

> Whenever an attempt is made to establish general legal principles to govern human affairs as emotive as infertility treatment or regulating birth itself, those principles will yield some harsh individual results. The common good may not always be the individual's good. [6]

Conclusion

In some of the cases mentioned here there has been obvious discomfort felt by many judges about the decisions they have to make, a discomfort like that felt by many in society at the role of the courts in medical law cases and the links between morality and legality in many of these cases. Lord Hoffmann, in the case of *Bland*, describes this difficulty:

> Is the court to assume the role of God and decide who should live and who should die? This is not an area in which any difference can be allowed to exist between what is legal and what is morally right. The decision of the court should be able to carry conviction with the ordinary person as being based not merely on legal precedent but also upon acceptable ethical values.[6]

There also seems to be a blurring of the line between the role of the judge and the role of Parliament. Orthodox accounts of legal theory suggest that the judge assumes the role of enforcing law made by other institutions, they should not make new laws [8]. The problem with this account is that principles and precedents may often be vague or conflicting and rather than judges finding the correct ones to apply they are in fact choosing between conflicting principles and precedents, or re-interpreting or manipulating them [10, p. 117]. Therefore in the language of

[6] [1, p. 822] per Lord Hoffmann.

many judgments it is evident that the courts are perplexed not just by the issues of the case but also with procedural concerns about whether they should be making these decisions at all. This is evidenced in the words of another judge in the *Bland* case, Lord Mustill:

> [I]t seems to me imperative that the moral, social and legal issues raised by this case should be considered by Parliament. The judges' function in this area of the law should be to apply the principles which society, through the democratic process, adopts, not to impose their standards on society. If Parliament fails to act, then judge-made law will of necessity through a gradual and uncertain process provide a legal answer to each new question as it arises. But in my judgment that is not the best way to proceed.[7]

Whether a move towards a more pragmatic approach to judicial decision making will help matters remains unclear. It is less clear still why 'best interests', as a standard, would be abandoned by the pragmatist. Instead of being too concerned with the content of the principle they would arguably endorse it as a concept that can guide decision making. It is arguable that pragmatism flourishes in the English courts. Perhaps then Holm and Edgar's article is best understood as an example of the argument put forward by Jim Childress. He suggests that 'We're all pragmatists now' [4, p. 81]. The courts often need to take a 'pragmatic' (in an ordinary meaning of the word, rather than a technical meaning) approach to decision making. This can be seen in the decisions of Justice Hedley in the Charlotte Wyatt case [see 15–18, 23]. Here the role of Hedley is as much that of a social worker as of a judge. Ronald Dworkin puts it thus:

> Some lawyers who call themselves pragmatists mean only that they are practical people, more interested in the actual consequences of a particular political and legal decision than in abstract theory. [9, p. 36]

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References

1. *Airedale N.H.S. Trust v Bland* [House Of Lords]. (1993). AC 789.
2. *An NHS Trust v. A*. (2005). EWCA Civ 1145.
3. Archard, D. (1993). *Children: Rights and childhood*. New York: Routledge.
4. Arras, J. D. (2001). Freestanding pragmatism in law and bioethics. *Theoretical Medicine, 22,* 69–85.
5. Brazier, M. (2005). An intractable dispute: When parents and professionals disagree. *Medical Law Review, 13*, 412–418.
6. Brazier, M. (1997). Hard cases. *Journal of Medical Ethics, 23*, 343.
7. *Buck v Bell* 274 US 200 (1927).
8. Dworkin, R. (1975). Hard cases. *Harvard Law Review, 88*, 1057–1107.
9. Dworkin, R. (2006). *Justice in robes*. Cambridge, MA: The Belknap Press of Harvard University Press.
10. Frank, J. (1949). *Law and the modern mind*. London: Stevens.
11. Grey, T. C. (1996). Freestanding legal pragmatism. *Cardozo Law Review, 18*, 21–42.

[7] [1, p. 852] per Lord Mustill.

12. Holm, S. & Edgar, A. (2008). Best interest—a philosophical critique. *Health Care Analysis, 16*(3). doi:10.1007/s10728-008-0092-x.
13. Holmes, O. W. (1931). Codes and the arrangement of the law. *Harvard Law Review, 44*, 725–737.
14. *In Re S* (*Adult Patient: Sterilisation*) (2001). Fam 15.
15. *Portsmouth NHS Trust v Wyatt* (2004). EWHC 2247 (Fam).
16. *Portsmouth NHS Trust v Wyatt* (2005). EWCA Civ 1181.
17. *Portsmouth NHS Trust v Wyatt* (2005). EWHC 117.
18. *Portsmouth NHS Trust v Wyatt* (2005). EWHC 693.
19. Posner, R. A. (1996). Pragmatic adjudication. *Cardozo Law Review, 18*, 1–20.
20. Posner, R. A. (2001). *Breaking the deadlock: The 2000 election, the constitution, and the courts*. Princeton: Princeton University Press.
21. Putnam, H. (1975). *Mind, language and reality*. Cambridge: Cambridge University Press.
22. *Re T* (*Adult: Refusal of Treatment*) (1993). Fam. 95.
23. *Re Wyatt* (2006). EWHC 319.
24. *Regina (Burke) v General Medical Council* (*Official Solicitor and others intervening*) (2005). EWCA Civ 1003.
25. Rorty, R. (2003). *Consequences of pragmatism*. MN: University of Minnesota Press.
26. Smith, S. J. (1998). A child's best interests: A commentary on 'jurisprudential and ethical perspectives on the best interests of children' by Keith Walker. *Interchange, 29*, 309–316.
27. Walker, K. (1998). 'Jurisprudential and ethical perspectives on the best interests of children'. *Interchange, 29*, 287–308.