

Book Review

Bioethics Research Notes 14(4): December 2002

SOMEONE HAS BLUNDERED

Reviewed by Jenny Teichman

Jenny Teichman is an Emeritus Fellow of New Hall in the University of Cambridge and John Findlay Visiting Professor of Philosophy at Boston University (2002).

Making Babies: Is There a Right to Have Children?, by Mary Warnock; Oxford University Press, 2002, \$39.95

This article first appeared in Quadrant October 2002.

I don't know how it is with poetry and novels but I do know that, while the puffs on the backs of academic books are written by admiring reviewers, most of the blurbs inside the dustjackets are produced by the authors. Occasionally, it is true, editors write the blurbs, which are then checked and approved by the authors.

It is interesting to see how academic writers "anonymously" describe themselves and their works. Some blurbs reveal big-headedness, others ignorance or hidden anxieties or secret wishes. A quiet, modest, perhaps slightly timid person might well describe his first publication as "majestic, magisterial".

The word "groundbreaking" is a favourite with some professors, including Peter Singer. George Lakoff, a computer nerd, said of his book that it is "philosophy as it has never been seen before" – to which the only possible short reply is "man, you can say that again".

At least two philosophical authors insist that their writings are extremely lucid. Simon Blackburn, blurbing away on the dustjacket of *Being Good*, claims to have "chart[ed] a clear course through philosophical quicksands" while Mary Warnock, in *Making Babies*, says that she has "steer[ed] a clear path through a web of complex issues".

The "clear course" and the "clear path" both turn out to be anti-religious. Professor Blackburn's atheism is vulgar, Lady Warnock's is dismissive. Blackburn, submerged up to his neck in "philosophical quicksands", jeers in schoolboy fashion at the political incorrectness of King Solomon and the Gospel-makers; Warnock, wending her way through "a complex web", condescends to archbishops and creates a trail of circular reasoning, non sequiturs, straw men and dead horses. I am not a believer, but the references to religion in the two books just named are so extremely irritating that one is almost tempted to rush off and throw oneself into the arms of Mother Church.

Making Babies is a short work in which the author makes clear all her approval of all the following: euthanasia, AID (artificial insemination by donor), the use of *in vitro* fertilisation to deal with some kinds of infertility, the use of IVF to weed out defective embryos, the destruction of the "spare" non-defective embryos created in IVF programs,

experimentation on human embryos up to fourteen days, access to AID and IVF by homosexual couples (why couples, why not single people?) and the cloning of infertile men who want children (why only men?). It is also clear that she wants the procedures involved to be carried out by “properly regulated clinics” which among their other tasks would have to decide on the physical and social suitability of prospective clients. But since it is possible nowadays to make private arrangements about using AID and even (in the USA) IVF and “womb-hire” I do not see why prospective clients would submit themselves to suitability tests.

The fact that many people believe that some or all of the things she recommends are either inherently evil or likely to lead to evil does not bother Lady Warnock. She dismisses objectors as “tiny minorities” and “hardliners” while placing herself and those who agree with her in the ranks of “thinking people”. She is a conceited old biddy.

At present the anonymity of sperm donors is protected by law but AID children are beginning to agitate for a legal right to receive genetic information about their genetic fathers. Warnock does not understand that anonymity involves social as well as genetic risks. Consider for instance the following piece of social history. Some years ago the patients of an elderly doctor practising in a smallish town included about thirty couples who could not have children. They asked their doctor to arrange for the wives to receive AID. He agreed, but to save time and also, no doubt, for egotistical reasons, he inseminated all the women with his own sperm. When the resulting children were old enough to start school it was noticed that many of them resembled each other – and the doctor. It was discovered, or he confessed, that the patients had been impregnated with his semen. The women and their husbands were terribly angry, though it is not quite clear why. They were willing, obviously, to use semen from someone they did not know or did not know that they knew but could not accept the fact, which came out more or less accidentally, that the genetic father was a member of their own community. They seemed to think that made him into an adulterer.

Warnock perpetrates an interesting fallacy about rights. She is a legal positivist, that is to say, she believes that there are no natural rights. Slaves had no right to freedom because they had no such right in law; “I prefer to say slaves *ought* to have a right to freedom, not that they already had it ... in nature there are no rights or duties”. Slaves ought, morally, to be free because equal freedom is “a fundamental principle of justice ... the basis of all positive law”.

It might be asked: If there can be extra-legal “oughts” and extra-legal principles of justice why can there not be extra-legal rights and duties? For there is certainly an appearance of inconsistency here. However, Warnock makes a much more interesting mistake. The proposition “in nature there are no rights” implies that natural rights would have to be *natural phenomena*, like clouds and icebergs and earthquakes. Lady Warnock, like other legal positivists, carelessly assumes that in the expression “natural rights” the adjective attaches to rights. But it doesn't.

No one supposes that the expression “citizens’ rights” (that is, civic rights) means that the rights themselves are citizens. No one supposes that the expression “marital rights” means that the rights themselves are spouses. The adjectives *civic* and *marital* do not qualify rights, they indirectly qualify the people who have the rights. Citizens and only citizens have civic rights, spouses and only spouses have marital rights. Such rights belong to a person in virtue of a status conferred on him or her by law. They are not universal.

Natural rights belong to human beings in virtue of what we can call a natural status, the status of belonging to the human race. This becomes obvious as soon as one remembers that the philosophers and others who introduced the concept into political life spoke of natural rights of Man. (It is unfortunate that the word *Man* is ambiguous; it doesn’t always mean Mankind. However, that is another story.) Warnock herself treats the expression “human rights” as equivalent to “natural rights”.

Warnock’s professed positivism is actually very shaky. Thus although she says it is best not to speak about extra-legal rights but rather to discuss basic needs she repeatedly ignores her own recommendation. She frequently asks “Is such-and-such a right?” and “Does so-and-so have the right to ...?” As a self proclaimed legal positivist she should not speculate about these matters, she should simply look in the law books and then tell us the answers.

A similar blunder appears when she proclaims that no one has a right to do what is impossible and from that infers that “those who are terminally ill have no right to life”. This opinion meshes with her support for euthanasia but is quite false insofar as it concerns positive law. Terminally ill people have a legal right, in every Western country except the Netherlands, to live for as long as they have left, whether it be a year or a week. And generally speaking that right is enshrined in laws against murder. If there were no such right and no such legislation, terminally ill people could be “put down” like sick cats. Moreover, since no one is immortal everyone is terminally ill in a sense.

Chapter Seven, “The Moral Status of the Human Embryo” contains a sadly revealing statement about scientists. Warnock says, with not the slightest hint of reproof, that some scientists are “genuinely amazed” at the idea that human embryos should not be destroyed or experimented on. One such scientist, Dame Anne Maclaren, told Lady Warnock that it had never crossed her mind that destroying human embryos, or experimenting on them, might be wrong. Maclaren, explaining her uncrossed mind, said “I had led an ethically sheltered life”. What an ambiguous expression! Perhaps most scientists lead “ethically sheltered” lives; after all there is nothing in a scientific education as such to make students ask questions about the rightness or wrongness of the things they are taught to do.

There is no doubt that Lady Warnock herself thinks the moral and social questions which arise in medicine and science are best settled, and easily settled, by committees of inquiry. Thus she states that the Committee on Human Fertilisation and Embryology, which she chaired in the 1980s “had no difficulty in agreeing that scientists should continue to

develop remedies for infertility and those who needed assistance to conceive should have access to such assistance". Well, it all depends on what you mean by "develop" and what you mean by "agreeing". My information is that seven of the sixteen members of the committee voted against allowing experimentation on human embryos of any age. Is my memory at fault? Or is Lady Warnock rather slippery?

Finally, the author fails to ask important questions. She mentions the fact that the other nations in the European Union have banned embryo research but does not tell us why and perhaps has never asked why. The EU must have had a reason and it can't have been religious because not all EU countries are Catholic and not all modern Catholics are "hardliners". Warnock's lack of curiosity about a matter of such interest and such importance is greatly to be regretted. Unlike her supposedly prejudiced and unthinking opponents the EU is no straw man.