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Abstract

An important duty for any society is to manage the deaths of its members. In most cases there are highly evolved social and cultural traditions, alongside civic procedures which render this management routine. It is only when something out of the ordinary occurs, an air accident, a tsunami, an earthquake or some other cause of multiple fatalities that the underlying moral and evaluative framework is starkly exposed. This paper begins by examining critically some of the current bioethical arguments concerning the nature of responsibility towards the dead and the implications this has for managing the dead: the “Epicurean Model”. The paper moves from a critique of this model to a consideration of an alternative ethical approach to caring for the dead in the context of disaster management.

Key words: Death, ethics, Epicurus, disaster

Introduction

An important duty for any society is to manage the deaths of its members. In most cases there are highly evolved social and cultural traditions, alongside civic procedures which render this management routine (Walter 2012). It is only when something out of the ordinary occurs, an air accident, a tsunami, an earthquake or some other cause of multiple fatalities that the underlying moral and evaluative framework is starkly exposed. Imagine the following scenes: an aircraft incident in which debris and corpses are scattered across a wide urban and rural landscape. Local residents are joined by media organizations, rescue workers, the curious, the deliberate voyeurs and souvenir hunters. An earthquake has devastated an already impoverished region, corpses line the roads. A local businessman volunteers his construction vehicles and lorry loads of bodies are taken outside of the city where together with the detritus of the earthquake they are tipped into large pits hastily excavated for the purpose. There has been a multi victim accident on public transport in which the bodies of victims are left in situ pending a forensic investigation; the bereaved families are not permitted to see the bodies of their relatives until the forensic investigation has been completed.

Disaster might not be the context in which to uncover the routine morality of caring for the dead but it is a context in which an ethics of managing the dead is revealed and where some reflection is needed (Dorries 1999, Blau 2008). Disaster management is of course a very practical affair and lessons have been learned from the past, there are now strategies and plans, even handbooks, describing in some detail the procedures to be brought into play to manage the survivors and the dead (Morgan et al 2006). There is no doubt that disaster management requires a good deal of justified utilitarian thinking; prioritize the living over the dead at all times, seek to maximize safety, maximize welfare and minimize risk, harm and distress. However it will be argued here that to

rely solely upon utilitarian thinking will be detrimental to long term recovery from disaster.

Disasters, though frequent enough, are not ubiquitous, happening everywhere, all of the time. There is an opportunity to *plan* for a disaster, to think and reflect upon strategies and even to accept that such plans and strategies can be informed by a higher order reflection upon the underlying values. This paper will focus upon one small area of this higher order reflection and will argue that any plan, strategy or handbook for the management of disaster victims should give some thought to the value and importance of proper care for the dead. Caring for the dead is not only a matter of respect for dead individuals but for the values of a culture and as a necessary and integral part of the duty to contribute to the recovery of survivors. To this end this paper seeks to begin a dialogue about the underlying ethics of disaster management by asserting three broad statements:

1. The dead matter
2. The body matters
3. The care of the dead and of the living are intimately connected

These three statements may seem uncontroversial but may be challenged when viewed in the light of some contemporary, broadly utilitarian, approaches within bioethics.

As has been mentioned, disaster management may require some highly utilitarian approaches to be employed but if thoroughgoing disaster planning is also planning for recovery of the society in which the disaster has had an impact then something more than utilitarian managerialism is required.

Bioethics and the dead

An interest in the dead does feature in some contemporary bioethical debates but the interest is less focused on care and more on management in the interests of the living.

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Just as the dead have been treated as another *thing* to be managed within the chaotic disaster landscape then so to, in the bioethics landscape the dead are often regarded as an inconvenience with the potential to pose a practical risk to the living and a challenge for ethical theorists. In this section I consider some of the ways in which bioethics has attempted to deal with the dead as an inconvenience; disconnected from the prevailing values. I shall point to the inadequacies of approaches that are atomistic, individualistic and autonomy centric especially if applied to disaster management.

The metaphysical issues surrounding death are an abiding leitmotif within philosophical thought (Choron, 1973, Scarre 2007). Whether there has been a “tremendous resurgence in philosophical interest” as James Stacey Taylor (2012) argues or whether this is merely a temporary re-focusing on an ever present theme is unclear. What Taylor is right about is that our thinking about death (and what we do to, with for the *dead*) is of significant practical importance to bioethical debates (Taylor 2012, 2013). Taylor and others turn their gaze to such issues as post-mortem organ harvesting, post-mortem conception and the wider questions of what we may or may not do to the dead in the interests of science medicine and society. These debates touch on many of the landmarks within the bioethics archipelago including such matters as rights, obligations and interests, wrongs and harms, and concepts such as autonomy and dignity. It must be added that some regard the point of this focus as bringing about a critical scrutiny intended to provoke radical change through the debunking of certain “traditional” ways of thinking. Ruth Macklin’s criticisms of dignity as “a useless concept” (2003) is a case in point. Macklin’s argument are representative of some contemporary bioethical approaches to the dead. Based broadly on issues of utility and autonomy the dead are considered, in terms of the potential good the dead can do for the living, advancing the view that medicine should be free to do to the bodies of the dead

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whatever will benefit the living but without the requirement to acknowledge any awkward values which might just get in the way. Autonomy, for Macklin is the ultimate trump against any other potential source of value such as dignity. In her brief paper Macklin argues that doctors and medical students ought, as a matter of course, be permitted to practice invasive medical procedures with the implication that if only we could be rational enough to see that no harm is done in such practices then we would be free to reap the unequivocal benefits. Macklin states:

An altogether different use of dignity in relation to death occurs when medical students practise doing procedures (usually intubation) on newly dead bodies. Some medical ethicists charge that these educational efforts violate the dignity of the dead person. But this situation clearly has nothing to do with respect for autonomy since the object is no longer a person but a cadaver. There may be reasonable concern about how the dead person's relatives would feel if they knew that the body was being used in this way. But that concern has nothing to do with the dignity of the dead body and everything to do with respect for the wishes of the living. (2003: 20)

I am not arguing that such procedures are entirely incompatible with respectful care of the dead but what Macklin fails to acknowledge is that dignity issues are not reducible to autonomy issues. Though “dignity” remains a challenging concept, the issues that a concept of dignity helps to signify do not evaporate merely by replacing “dignity” with “autonomy”; itself an equally challenging concept. John Harris (1983, 1985, 2003) has also argued that the bodies of the dead ought to be requisitioned by the state for use as resources for the living, because even if the dead retain some interests these are so weak as to be negligible when compared to the interests of living. Other contributors to bioethical debates have been quick to point out the limiting influence of certain intuitive human responses to issues and developments within medicine and the biosciences with certain traditional positions being condemned as squeamishness (“Yuk” factor) or sentimentality. The point is that the advocates of utility and autonomy are also claiming these as broad cultural values, with the implied endorsement of the wider community,

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yet other broad values are dismissed or not even considered. I have argued elsewhere that while seeking to dump awkward concepts like dignity, and condemn intuitive caution as sentimentality sounds fresh and radical it is not the sort of economy that bioethics needs, even less so in the context of disaster management (Woods 2009).

The importance of asking questions concerning whether the dead have rights and interests, whether they can be harmed or wronged should not be lost to sight though we can be quickly embroiled in some quite theoretical, and distracting, philosophical debates. How we answer such questions reveals something about the underlying landscape of values; though often values as seen through the lens of certain kinds of “reasoned” philosophical arguments.

By examining some of the bioethical responses to these questions I will argue that certain of these reasoned analytical approaches are too lean and fail to leave enough room for some of the necessary values related to caring for the dead both in domestic and in disaster contexts.

The bioethical debates.

Taylor (2012, 2013) argues that there is a foundational influence on contemporary bioethical thinking not to be found in Mill or Kant but in Aristotle at least implicitly: “contemporary bioethical discussions are *implicitly* grounded in the Aristotelian views that death is a harm to the one who dies, and that persons can be harmed, or wronged, by events that occur after their deaths.” (2013: 1 emphasis added). As Aristotle expresses it:

A dead man is popularly believed to be capable of experiencing both good and ill fortune -- honour and dishonour, and prosperity and the loss of it among his children and descendants generally --

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in exactly the same way as if he were alive but unaware or unobservant of what was happening. (Aristotle, *Nichomachean Ethics* 1.10)

Taylor argues that this influence has some very bad consequences not merely because it requires some cumbersome philosophical theorising in order to explain the potential harms, interests and broader moral claims involving dead persons but that it is the basis of some conservative and restrictive practices in bioethics; with a negative impact on the interests of the living. I would argue however that the bad consequences and theoretical awkwardness are mainly experienced by certain philosophical theorists and not the people for whom such everyday intuitions seem both reasonable and right. Of course there is a need for clarity, well-reasoned arguments can and ought to influence everyday practices for the better, but the idea that all well-reasoned arguments should be followed through to their logical end often leaves one faced with conclusions that are too far out of line with everyday morality. Everyday morality may well be challenged by well-reasoned argument but equally such well-reasoned arguments may themselves be resisted by robust intuitions. Thus it might be said that the claimed Aristotelian influence is not the source of the intuition but rather that Aristotle was merely giving voice to a deeply felt and ubiquitous human attitude towards the dead.

Taylor argues that the Aristotelian influence ought to be rejected and replaced by that of another classical philosopher; Epicurus. Epicurus (341 BCE) is famous for his slogan “death is nothing to us: non fui, fui, non sum, non curo” (I was not; I was; I am not; I do not care) (Epicurus 1926). For Epicurus it is not rational to fear death and thus the management of death both in terms of personal attitudes and behaviour as well as institutional approaches should be mindful of its unimportance. As human beings we should try actively to promote detachment from our concerns about death through

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rational and empirical approaches to all things and by actively cultivating the pleasures of living. Epicurus thus combined rationalism with a hedonistic account of well-being which places him as a proto-type utilitarian; thus his appeal to contemporary philosophers of a broadly utilitarian persuasion. Taylor's approach is self-styled as a form of "full-blooded" Epicureanism which is founded upon the claim that death is not bad for the one who dies, and nor can the dead be harmed or wronged by anything that happens after their death. Adopting "full-blooded" Epicureanism will, in Taylor's view bring much to illuminate contemporary bioethical debates. But is there anything really new in Taylor's account and is it also true that the status quo of contemporary bioethical debates is broadly Aristotelian in the way he claims? On this latter point; there seems to be no shortage of voices, perhaps the loudest and most radical rather than the most common, who advocate approaches to "classical" bioethical problems that reflect, more or less, this Epicurean approach (Harris 1985, Singer, Macklin 2003).

Taylor takes his place amongst these contemporaries, philosophers of a broadly consequentialist persuasion, and thus predictably his analysis of the problems of the dead and whether they have abiding interests, or can be harmed or wronged, follows a familiar pattern. One characteristic of the rationalist, hedonistic Epicurean approach is a common scepticism about the possibility of post-mortem experience; life after death. However a belief in the possibility of life after death is not necessary in order to see that there are limitations to the Epicurean model; one does not need to posit an afterlife in order to argue that the dead are deserving of care.

What follows is a quick run through Taylor's position on the three common "Epicurean questions" : i) Is death bad for the person who dies? ii) Can the dead be harmed? iii) Can the dead be wronged? The reason for dwelling upon these questions and responses is that Taylor, amongst others, believes that we ought to take the arguments seriously

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because they have important implications for bioethical practices. Each of these questions is related to a much broader theme about the nature of welfare or wellbeing and the Epicurean view that the dead are out of the equation when it comes to any calculation of wellbeing. I shall take ii) first because this is relatively straightforward and in addition offers an account of the general form of the Epicurean approach. According to Taylor's view the dead cannot be harmed because "harm" is an experiential bad i.e. it has to be "felt" or one at least has to be aware of it for it to constitute a harm and, on the presumption that the capacity to experience does not survive death, there can be no bad experiences after death. On this understanding, nothing that can be done to the dead body, or the person, that would constitute harm to them.

The problem with this analysis however is that it is only convincing if we accept the Epicurean account of the nature of harm. It is misleading to focus on this individualistic experiential account of harm because it is far too narrow. One can turn back to the Epicurean and ask whether what is proposed is the right way to treat the dead even though the dead are insensible? The strength of this question is even greater if we consider whether a living person is harmed by the things they never know about? The well concealed infidelity, or the slander that never comes to light for the person slandered are both instances in which, following this line of reasoning, the unaware person is not harmed. Yet it seems quite obvious that these are ways in which a person ought not to be treated.

The problem with this Epicurean/ utilitarian way of reasoning is the potential it has to support some obviously misguided strategies. If the Epicurean approach is persuasive then would it be justified to create strategies based upon the principle of ignorance? Something like this form of reasoning is implicit in the behaviour of some authorities

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responsible for the management of disasters. Anne Eyre (2002) comments on the various approaches adopted after the Lockerbie bombing and the sinking of the Thames river-boat the *Marchioness* in which relatives were not kept fully informed and prevented from seeing the remains of their loved ones on the paternalistic grounds that too much information would only add to the distress. Pamela Dix (1998), whose brother was a victim of the Lockerbie incident; and who has since become a campaigner and founder of the charity "Disaster Action", speaks movingly of her own experiences. Pamela Dix comments that she felt that it was her duty to see her brother and was prevented from doing so because of a blanket official decision not to allow relatives access to even photographs of the deceased though numerous professionals from around the world had access to photographs, remains and other forensic evidence.

Perhaps the analogy is not strictly accurate here but it can be easily seen how brute paternalism may seek a justification in the Epicurean catchphrase "what isn't known can't harm". To my mind however there is something suspicious about this taxonomical way of thinking about harms, since though it may be conceded that a person isn't harmed if they don't have negative experiences, nevertheless a bad thing has occurred. The blindness behind the tactic of keeping relatives ignorant of things which might distress them is the failure to see the connection between the living and the dead which makes a real and substantial demand upon the living. The holding of such values does drive people to endure personal sacrifice, to go through very unpleasant experiences, out of a sense of duty to their dead because some values are more important than the quality of one's immediate experiences. The sense of "harm" in this Epicurean perspective is just too narrow.

Returning to question i) death cannot be bad for the person who dies because, following the same Epicurean line of reasoning, there is no perspective from which to judge the

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“badness” of death, the dead person does not regret or mourn the end of their life, they don’t feel sad for the losses incurred because, as Epicureans are quick to point out, there is no person to regret or feel sad. Of course the living are a different matter, those who cared about the deceased will grieve and feel sad but the bad experiences are those of the living and not of the dead.

In contrast to posthumous harms the experiences which precede death may well be replete with bad experiences, pain, fear, distress such that death itself may be seen as a limited good in that it ends all such experiences. One often hears the remark that to die suddenly, without knowing a thing about it would be a good way to go (Williams 1990, Walter 2003). Plausibly then, sudden death, with no insight into what is about to occur is, from the perspective of the person experiencing it, a good way to die. There is no frightening anticipation, no suffering, and no slow decline; perhaps just a fleeting warning and then nothing. Sudden death is therefore something to which Epicureans ought to approve. However this very singular, first person perspective, is one of the things which seems so counter-intuitive about the Epicurean (and other utilitarian) evaluations of death. A sudden death is far from consoling for those who care about the dead person.

Shakespeare plays with these ideas in the ironic exchange between Cassius and Brutus as they rationalize the murder of Caesar:

CASSIUS: Why, he that cuts off twenty years of life cuts off so many years of fearing death.

BRUTUS: Grant that, and then is death a benefit. So are we Caesar’s friends that have abridged his time of fearing death? (Julius Caesar Act 3 Scene I).

The reason why the exchange between Cassius and Brutus works as a macabre joke is the obviousness of the fact that a life so foreshortened is a bad thing for the person.

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The end of a life is the end of any further possibility of good experiences, which, even for Epicureans, has to be considered a bad thing. Death in the context of a disaster seems particularly bad because, though many disasters are the result of “natural” events, the fate of the victims is not regarded as a natural death; and the sudden wrenching out of life is seen as a particularly bad-making feature of deaths in disaster contexts.

The final question iii) has a predictably similar response. Although it is important to recognise that *wrongs* are much more abstract concepts than *harms*, since the former are concerned with, amongst other things, the violation of rights, the thwarting of interests and so on, which may not entail corporeal injury, however the basic Epicurean approach is broadly the same. The critics of the concept of the idea of posthumous wrong have pointed to the way in which some theorists are forced to engage in some complex reasoning, entailing retrospective causality, such that the post-mortem wrong becomes a wrong in the life of the previously living person (Feinberg 1984, Pitcher 1984). Others have taken an equally cumbersome and counter-intuitive route. Partridge (1981) argues that though the dead cannot be wronged there is nevertheless a great deal of social utility to be gained from maintaining the fiction that:

the casual slandering of reputation and breaking of promises and wills after a person's death compromise and damage the moral point of view, at enormous cost to the moral order in society and thus to the persons who live and act within the society. (Partridge 1981:260)

Partridge's rather odd conclusion is yet another example where a theorist is forced to advocate a patently implausible solution when the world will not conform to theory. In a similar vein Christopher Belshaw asks “can the dead be harmed?” and offers the following example: “Beth left her body to medical research. And then a second-year

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student thought it would be a good joke to carve his initials into her thigh." (2012: 425)

Although Belshaw does not declare himself an Epicurean he nevertheless adopts the same analytic philosophical approach in which an exploration of the example rests on the meaning of "harm" which, as Belshaw argues, is itself rooted in an "awareness" criterion. This line of analysis leads him to conclude that the action of the student cannot be construed as *harm* to Beth. Belshaw's analysis is carefully developed and it is impossible to do justice to the detail of the argument here. In one sense the reader might be drawn to agree with him that on understanding a harm to be a *known* detrimental event bringing about some adverse internal change or else preventing some specific benefit; then Beth cannot be harmed. However one is also left feeling that this is another example of the blindness to values and that the disgraceful incident described is in danger of evaporating as if nothing of consequence has happened. Others, rather like Partridge, might attempt to give an account of, and here let us use a different term, the *wrongness* of the act; in terms of the potential detrimental effect such acts might have on the living members of society. Though plausible it still does not capture fully the sense of wrong in this example. Part of the problem here is that this type of philosophical analysis is as much concerned with the theoretical implications of the analysis, seeking to establish the truth and validity of the use of certain terms and fearing the possibility of multiplying conceptual entities that might overpopulate their ontologies. Not only might we have the 'harms', 'wrongs' and 'interests' of the living but of the dead too.

Presumably the incident involving Beth is wrong, not because of how it makes others feel on discovering it, but rather people react with shock and revulsion because of the wrongness of the act itself; it is simply wrong to treat a dead person in this way and for those reasons. The act is wrong because it constitutes a violation of values that encompass the dead as the proper objects of care and concern. To a great extent the

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meaning of the terms used; 'wrong', 'harm' and so on are less important than the recognition that feelings of anger, upset and concern are an expression of deeply felt and even more deeply ingrained human responses to violations of things that are valued. To disregard such responses, to trivialise them as sentimental or as born of a misunderstanding is to exhibit a particular kind of blindness. Charles Taylor has, to my mind, a much better analysis when he argues that our moral ontology, the things which have moral meaning for us, are part of the cultural language game. It is therefore misplaced to look for moral meaning by examining the meaning of terms and concepts; to do so is to miss the point:

...the question about truth or falsity of the implied ontological claims is somehow defused. They turn out not to be the point of this language. Asking after them shows a misunderstanding (...) we can't abstract ontological commitments from given utterances; we can only understand these utterances in the context of the whole form of life. The unit judgement is thus the form of life. But a form of life is not something which can be veridical or illusory. It is just what we do... (Taylor 1981: xx)

To return to a more concrete context, Pamela Dix writes that the decision of the Procurator Fiscal not to allow relatives to see the bodies of the Lockerbie victims "...went completely against many people's wishes, who felt that as relatives and friends it was their duty to see their dead" (1998: 1061). Dix goes on to comment upon the universal, if differently expressed, importance of the concept of a duty to the dead. Where the expression of this duty is frustrated by officialdom it often exacerbates the effects of the disaster and certainly has a long term impact upon the recovery of survivors and the bereaved. An Epicurean might well seize upon this comment and argue that it is therefore right to take measures to respect the dead because this is

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instrumental to achieving important welfare goals for the living; but this would be to miss the point. A duty to the dead can only be understood if the dead person features in the relationship, otherwise the duty is a string flying in the wind with nowhere to anchor it.

The dead matter and the dead body matters.

What happens to the body of the dead person matters, yet the body, and perhaps the body in the particular context of disaster management, falls into a liminal state, hovering between statuses in which different authorities make claim to the body and its control. Disaster management approaches that see the body as just another source of danger within the field have been increasingly condemned. Though the evidence suggests that there is little risk from unburied remains it is all too easy to seeing the body, as a source of risk, contamination and disease. Such fears have been used as a justification for the routine disinfection of bodies, for mass burial or cremation without even the most rudimentary attempts to treat the body with respect by giving them an identity and treating it as 'somebody' (Sphere Project Guidelines 2004, Morgan et al 2006).

In their thoughtful reflection on the use of the human body in biology and medicine Jones and Whitaker (2009) talk of the importance and significance of the human relationship with the dead body, to think of a body mistreated is to recognise an "indignity", a wrong that "touches something very deep" (2009:40). Jones and Whitaker also reflect upon the ancient and deep-seated nature of the human relationship with the dead body as reflected in historical and cultural records for example citing the terrible judgement of Moab as chronicled in the Book of Amos (Amos 2. 1-3), for burning the body of the defeated King of Edon, which in those times was considered to be the worst desecration. They also discuss the widespread reaction, in the nineteenth century, to the

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practice of body snatching for the purposes of dissection. Ruth Richardson's definitive account of the history of these practices in the UK points to the significant contradiction that is evident in the anatomists' rationalist and utilitarian justification of the practice and their almost universal personal horror of becoming the victims of the same fate (Richardson 2001). The more recent scandals about the misuse and abuse of human remains only emphasise the strength of feeling and the potential outrage that erupts when those in authority are perceived as misjudging the situation. As many commentators have remarked, the reaction to the Bristol and Alder Hey disclosures was fuelled by irresponsible media hyperbole but that should not distract from the substantial wrong that was done in some instances of organ retention (ref).

Jones and Whitaker argue that the most appropriate attitude towards the dead body is to keep to the fore the idea that the body is 'somebody's body', that it has both an identity and a biography, thus recognising the deep connections between the living and the dead. The idea that the body is 'somebody' reaches out beyond the body as an object for *management* to a set of moral claims around care, respect, dignity, and identity.

Eyre (2002) comments that seeing the body merely as a forensic object, for example, empowers certain authorities, coroner, police, state appointed officials to claim control and manage the body at the same time as disempowering others; the bereaved family and friends. A point echoed very strongly by Pamela Dix (1998) both in her own experience of her brother's death and in the experiences of families involved in other disaster events.

It is possible to rethink disaster management in such a way as to achieve multiple ends, the survival and welfare of survivors as well as the care for the dead; though the latter overlaps significantly with the former in many ways. One of the most rudimentary duties towards the dead is the recognition of them as 'somebody'. Even in the most

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extreme of circumstances a few simple measures can be taken to establish or preserve a dead person's identity. The Pan American Health Organization (PAHO 2004) issue some basic rules which include keeping a simple record and preservation of artefacts, if temporary burial is necessary then keeping bodies separate; all are measures which can help to complete the biography of the person up to the point at which they died, how they were subsequently cared for until their release to family or their eventual appropriate disposal.

The imperative to identify the body is well recognised in many disaster victim protocols (Morgan et al 2009) and it is possible to convey simple directives to guide the care of the dead in disaster contexts which respect the broad values of respect for the dead.

The care of the dead

I began this paper with a critical look at a contemporary turn in bioethical thinking which supports and advances an Epicurean model of bioethics. Though none of the advocates, to my knowledge, have endorsed such a thing I nevertheless see a danger that in advancing an Epicurean approach to bioethics there is a risk that it will endorse certain qualities within medicine and related professions that we have good reason to regret when it comes to the care of the dead. Epicurus's criticism of the 'traditional' approach to death goes hand in hand with fostering a rational objectivity and distancing; what might be called Epicurean 'professionalism'. For Epicurus it was not rational to fear death and thus the management of death both in terms of personal attitudes and behaviour and institutional approaches should be mindful of its unimportance. This same cultivated distancing and objectivity have been a feature of medical, and related professions, training yet there is concern and considerable evidence that medical education does not produce humane doctors (Bleakley et al

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2012). The introduction of the humanities into medical education has been driven by this recognition.

A relatively new profession to be involved in the care of the dead is that of forensic anthropology and similar concerns are starting to be recognised in this context. Soren Blau (2008) comments that the development of professionalism in the context of disaster management whilst a good thing is also marked by a cold formalism that removes the professionals from the context.

Focus, efficiency, and a degree of self-protection are probably necessary qualities for those who are responding to disasters, or working in the field as forensic anthropologists but these must be mediated by humaneness. The debates around the qualities of the profession have emphasised forensic anthropology as an objective and impartial discipline (Rogers and Allard 2002) and a detached and unemotional science (Wright 2006). However, as Blau comments “forensic anthropology is practised in the world... Consequently, forensic anthropologists, ever increasingly engaged in the investigations of mass graves, must develop multifaceted ethical awareness.” (Blau 2008:2)

One of the ways in which humanity can show through is in the quality of the communication between professionals and families. As Eyre (2002) notes, many of the manuals and guidelines for disaster management have evolved from the perspective of the responders’ needs and have a cold utilitarian ‘voice’. Eyre advises that a better place to start is from the perspective of the bereaved and she advises four key professional responsibilities to:

1. Provide honest and accurate information at every stage
2. Show respect for the deceased and bereaved
3. Use a sympathetic and caring approach throughout

4. Avoid mistaken identification (2002:11)

Pamela Dix remarks on a similar theme when she emphasise the importance of not being “palmed off by meaningless platitudes” such as “he didn’t suffer” (1998: 1062). Relatives and friends want to complete the biography of the person they loved by completing the details of their final hours even if this means exposure to uncomfortable and disturbing details. Having access to factual information explained by professionals capable of putting technical detail into layman’s language is much better than being subject to paternalistic omissions of detail. Again one might argue that these approaches are solely geared towards the welfare and interests of the living; but this would only be a partial account. The interests of the living are linked to deeply held values and within that culture of value the dead persist.

Perhaps one of the most evocative contexts in which to illustrate the intimate and interwoven relationship between the living and the dead is that of grief and the necessity of grief for the recovery of individuals and a communities following disastrous events.

Epicurus’s 40th doctrine claims that the happiest of people are those who do not mourn and do not “beat themselves in grief” though as Warren (2004) comments Epicureans accepted that grief is a natural emotion but it is only evaluated by Epicureans in terms of the utility for those still alive. However grief is not solely a matter for the living since the logical structure of grief shows it to be relational, grief requires that there is a particular dead person to whom the grief is directed. Grief is not to be mistaken for depression for example, there is no such thing as ‘endogenous grief’, nor is grief pathological, though it could be turned into something pathological, ‘abnormal grief’, if exacerbated by complications and wrongs. There are well known risk factors for abnormal grief including the nature of the death, whether there is a body to mourn, and

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what happened to the body after death all have the potential to make grief worse (Kubler-Ross 1969, Bowlby 1980, Parkes 1996). The rituals of grief have been shown to be beneficial towards the process of acceptance and recovery and amongst these is the ritual of viewing the body, not to be confused with a forensic procedure for achieving positive identification, but as an act of caring for the dead.

It is clearly unethical to make grief worse, and many of the simple strategies now establishing themselves in manuals and protocols for caring for the dead go a long way to reducing the risks. Grief is necessary for the living and the dead, it is part of the completion of the biography of the dead; the putting to rest.

Conclusion

I began this paper with a few examples of the forms disaster might take. In each of these scenarios there is obvious potential for things going better or worse as a result of the way the situation is managed. An important factor in each scenario is the care of the dead. A sense of the ways in which the dead may be wronged is clear from the actual and potential approaches described, hasty mass burial before identity is established, intrusive media, and voyeurs gaining access to victims, strict forensic protocols and misinformed paternalism. It is true that many of these wrongs are also direct and palpable harms to the living. The loss of a loved one can be compounded by media intrusion or officially sanctioned secrecy. However one cannot fully grasp the nature of the harm unless one recognizes the place of the dead in the values of the living and the starting premise that there are ways in which the dead ought not to be treated.

I have described the body within the public space of a disaster as an object in transition between different claimants, a liminal body seen alternatively as a contaminant, as an obstacle, as a forensic object, and when the media is involved, as a thing of public interest, even as the subject of art (Metinides and Ziff 2012). However I would urge, as

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Jones and Whitaker (2009) put it, that the dead body should always be regarded as *somebody's* body.

I have also argued that there is a risk that certain popular forms of bioethical reasoning if applied to disaster planning have the potential to detract from the thoughtful and important reflection that has advanced the care of the dead in disaster contexts. I have focused in particular on the Epicurean turn in bioethics as a perpetuation of the reductionist, atomistic and autonomy centric trends which overshadow many contemporary bioethical debates. The dead as well as the living are the focus of a duty of care from those managing disaster response strategies, and though there is still great scope for further philosophical reflection upon these issues I would stand by my assertion that the following statements can do much to provoke ethical thinking about disaster management planning.

1. The dead matter
2. The body matters
3. The care of the dead and of the living are intimately connected.

References:

Aristotle. *Nicomachean Ethics*. Trnslated by John Warrington. Everyman's Library. London. Dent (1963)

Blau S (2008) The Powerful Evidence of the Bodies: Ethical Considerations for the Forensic Anthropologist Involved in the Investigation of Mass Graves. *The VIFM Review*. 6.1 (2008): 2-7.

Bowlby J (1980). *Loss: Sadness & Depression. Attachment and Loss* (vol. 3); (International psycho-analytical library no.109). London: Hogarth Press.

Choron J. (1973) *Death in Western Thought*. London. Macmillan.

Woods S. Death duty - caring for the dead in the context of disaster. *New Genetics and Society* 2014, 33(3), 333-347.

Belshaw J. (2012) Harm, Change, and Time. *J Med Philos* 37 (5): 425-444.

Bleakley A. Bligh J, Browne J. (2012) *Medical Education for the Future: Identity, Power and Location*. New York. Springer.

Dorries C. 1999, *Coroner's Courts: A Guide to Law and Practice*, John Wiley and Sons, Chichester.

Dix P (1998) Access to the dead: The role of relatives in the aftermath of disaster. *The Lancet*. 352, Sept. 26. 1061-1062.

Epicurus. (1926) *The Extant Fragments*. C. Bailey (ed.) Oxford. Clarendon Press.

Eyre A. (2002) Improving procedures and minimising distress: issues in the identification of victims following disasters. *The Australian Journal of Emergency Management*. Volume 17 Issue 1 Autumn 2002. 9-14.

Feinberg, J. 1984. *Harm to Others*. Oxford: Oxford University Press.

Jones and Whitaker (2009): *Speaking for the dead Speaking for the Dead: The Human Body in Biology and Medicine*. London, Ashgate Publishing.

Kubler-Ross E (1969) *On Death and Dying*. Tavistock London.

Harris J. In vitro fertilisation: the ethical issues. *The Philosophical Quarterly* 1983; 33:217-38;

Harris J. *The Value of Life*. London: Routledge & Kegan Paul, 1985.

Harris J. Debate. Editorial: Organ procurement: dead interests, living needs. *J Med Ethics* 2003;29:130-134 doi:10.1136/jme.29.3.130

Macklin R (2003) Dignity is a useless concept. *British Medical Journal*. 1(4)19-20.

Metinides E, Ziff T. (2012) *101 Tragedies of Enrique Metinides*. Aperture. New York.

Morgan O, Tidball-Binz, M, Van Alphen D (eds.) *Management of dead bodies after disasters: a field manual for first responders*. Washington, D.C: PAHO, 2006.

Pan American Health Organization. *Management of Dead Bodies in Disaster Situations*

Woods S. Death duty - caring for the dead in the context of disaster. *New Genetics and Society* 2014, 33(3), 333-347.

Washington, D.C: PAHO, (2004).

Parkes. C.M. (1996) *Bereavement: Studies of Grief in Adult Life*; publ. Pelican, London and Routledge, London & New York (3rd Ed).

Pitcher, G. 1984. The misfortunes of the dead. *American Philosophical Quarterly* 21:217-25.

Richardson R. (2001) *Death, Dissection and the Destitute*. Chicago. University of Chicago Press.

Rogers, T.I, Allard, T.T. 2002. Expert testimony and positive identification of human remains through cranial suture patterns. *Journal of Forensic sciences* 49(2): 1-5.

Shakespeare W (1998) *Macbeth*. The Oxford Shakespeare: The Complete Works. Oxford. Clarendon Press.

Singer P (1994) *Rethinking Life and Death*. Oxford. Oxford University Press.

Taylor, Charles (1981:203) *Understanding and Explanation in the Geisteswissenschaften* in S. H. Holtzmann & C.M. Leich (eds.): *Wittgenstein: to Follow a Rule*. London. RKP.

Taylor J, S. (2012) *Death, Posthumous Harm, and Bioethics*. London, Routledge.

Taylor J, S. Death, posthumous harm, and bioethics. *J Med Ethics medethics* -2013-101627 Published Online First: 13 December 2013 doi:10.1136/medethics-2013-101627

Walter T. (2003) Historical and cultural variants on the good death. *British Medical Journal*.327: 218-20.

Walter T (2012) Why different countries manage death differently: a comparative analysis of modern urban societies. *The British Journal of Sociology*. 63(1); 123-145.

Warren J. (2004)*Facing Death: Epicurus and his Critics: Epicurus and his Critics* Oxford University Press. New York.

Williams R. (1990) *The Protestant Legacy: Attitudes to death and illness among older Aberdonians*. Oxford. Clarendon Press.

Woods S. Death duty - caring for the dead in the context of disaster. *New Genetics and Society* 2014, 33(3), 333-347.

Woods S. (2009) Dignity. In: Takala T, Herrisone-Kelly P, Holm S, ed. *Cutting through the surface: Philosophical issues in bioethics*. Amsterdam and New York.

Wright, R. (2006). Tales of atrocity from the grave. *The Australian* 17th May.