

12-1-1991

Deciding for Others: The Ethics of Surrogate Decision Making / Book Review

Frederic G. Reamer

Rhode Island College, freamer@ric.edu

Follow this and additional works at: <http://digitalcommons.ric.edu/facultypublications>

 Part of the [Ethics and Professional Responsibility Commons](#), and the [Social Work Commons](#)

Recommended Citation

Reamer, Frederic G., "Deciding for Others: The Ethics of Surrogate Decision Making / Book Review" (1991). *Faculty Publications*. Paper 180.

<http://digitalcommons.ric.edu/facultypublications/180>

This Book Review is brought to you for free and open access by the Faculty Books and Publications at Digital Commons @ RIC. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Digital Commons @ RIC. For more information, please contact hbenaicha@ric.edu, andrewjasondavis@gmail.com.



Review: [untitled]

Author(s): Frederic G. Reamer

Source: *The Social Service Review*, Vol. 65, No. 4 (Dec., 1991), pp. 640-643

Published by: [The University of Chicago Press](#)

Stable URL: <http://www.jstor.org/stable/30012435>

Accessed: 14/02/2011 13:16

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/action/showPublisher?publisherCode=ucpress>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



The University of Chicago Press is collaborating with JSTOR to digitize, preserve and extend access to *The Social Service Review*.

find this book a valuable resource. I would have liked to see Samuels more consistently use the organizing framework of her book and the insights provided from the often excellent review of the literature to more adequately examine many of the issues introduced.

Gunnar Almgren
University of Chicago

Deciding for Others: The Ethics of Surrogate Decision Making. By Allen E. Buchanan and Dan W. Brock. Cambridge, Mass.: Cambridge University Press, 1989. Pp. 422. \$49.50 (cloth); \$16.95 (paper).

One of the sadder features of life is that some individuals lose or never develop the ability to make decisions for themselves. Limitations due to age, mental disability, or physical disability sometimes interfere with individuals' capacity to make important judgments about their medical treatment, financial arrangements, and other personal matters.

Social workers, of course, frequently encounter situations in which important decisions need to be made about incompetent clients. Practitioners in a community mental health center, for example, may be involved in decisions about involuntary commitment of a psychotic client. Social workers in a day-treatment program for the elderly may face similar involvement in decisions about nursing home placement of clients with degenerative neurological disorders. Social workers in hospitals may be involved, at least indirectly, in decisions about the future care of a patient who is in a persistent vegetative state.

In these instances, social workers and other professionals face the daunting task of orchestrating or honoring surrogate decision making. To date, however, professionals have had little in the way of systematic guidance to help them clarify the pertinent issues and map out an appropriate decision-making strategy. This is particularly unfortunate given the increasing demand for surrogate decision making due to the decrease in number of early deaths as a result of major communicable diseases, the greater availability of medical interventions that prolong life, the increased use of medication that impairs decision-making ability (e.g., toxic cancer drugs), and devices that limit individuals' ability to communicate their wishes (e.g., respirators).

Deciding for Others goes a long way toward filling this significant gap. Allen Buchanan and Dan Brock, both well known and respected ethicists, offer an unusually comprehensive and well-organized overview of surrogate decision making relevant to three vulnerable populations that are of considerable interest to social workers: minors, the elderly, and the mentally ill. Their principal goal is to "provide the ethical and conceptual framework for enlightened public policy and individual choice, not to advance comprehensive, highly specific policy proposals or to offer definitive answers or exhortations to the individual faced with hard, concrete ethical choices" (p. 7).

Drawing on a combination of rigorous philosophical and policy analyses, Buchanan and Brock address a number of compelling issues related to the determination of competence and the institutional arrangements needed to make decisions (mainly medical) for individuals unable to make them for themselves. Much of their initial discussion focuses on several thorny issues concerning the determination of competence (and incompetence)—how competence should be defined and assessed, operational measures for determining competence, who ought to make decisions about an individual's competence,

and the development of appropriate institutional mechanisms to ensure that determinations of competence are made in an accurate and responsible way.

Buchanan and Brock argue that several bottom-line criteria must be met to establish competence: the capacity to understand and communicate about relevant options; the capacity to reason and deliberate; and the presence of a "set of values or conception of the good" (p. 23). They focus quite appropriately on situations in which there is a conflict between an individual's right to self-determination and well-being, for instance, when an individual wants to terminate some form of lifesaving—but perhaps painful—treatment. Although Buchanan and Brock offer their own perspective on the way to resolve these distressing conflicts, they wisely acknowledge that no single standard exists to determine the "right" outcome. Instead, they conclude, professionals must emphasize the process involved in making such determinations about individuals' competence and judgments about the merits of their preferences. "The core of the controversy is the different values that different persons assign to protecting individuals' well-being as against respecting their self-determination. There is no uniquely 'correct' answer to the relative weight that should be assigned to these two values, and in any event it is simply a fact that different persons do assign them significantly different weight" (p. 41). "An adequate standard of competence will focus primarily not on the content of the patient's decision but on the *process* of the reasoning that leads up to that decision" (p. 50).

Buchanan and Brock make a particularly important point about the competence threshold that must be crossed in order to justify professionals' paternalistic intervention on behalf of incompetent clients. Many professionals assume that there is some sort of objectively defined minimum threshold of competence that determines whether clients have the ability to make their own decisions. That is, individuals either are or are not competent. Buchanan and Brock argue persuasively, however, that this standard, which they call a "fixed minimum threshold conception of competence," is much too simplistic. Instead, professionals must make competence determinations case by case and decision by decision, taking into consideration such factors as the degree of risk involved, alternative options available, the extent of pressure applied on the client, and so on. One important implication of this perspective, which the authors call a "decision-relative conception of competence," is that, at a given moment in time, a client may be competent with respect to some decisions but not others. Also, a client's competence may change over time. The net result of this point of view is that an individual's decision-making capacity in any given instance, which may range from low-minimal to high-maximal, is a function of the degree of risk involved in carrying out his or her own preferences when compared with possible alternatives.

Buchanan and Brock provide a useful summary of three well-accepted mechanisms and principles to guide surrogate decision making when an individual has been deemed incompetent: the advance-directive principle, the substituted-judgment principle, and the best-interest principle. An instructional advance directive is an instrument by means of which a person, when competent, specifies which types of treatment he or she wishes to have or not have should he or she become incompetent; these are often called living wills. With a proxy advance directive—typically called a durable power of attorney for health care—a competent individual designates some other individual to serve as a surrogate decision maker should the person become incompetent.

The substituted-judgment principle, in contrast, assumes that a surrogate (e.g., a spouse, parent, or some other close relative) is to choose as the client would choose if he or she were competent and aware of available intervention

options and relevant facts related to treatment. Finally, the best-interest principle assumes that a surrogate decision maker is to choose what will best serve the client's interest.

As Buchanan and Brock note, these guidance principles are used in a variety of circumstances and may conflict. For example, a surrogate's assessment of the best interest of an incompetent elderly client with Alzheimer's disease may clash with preferences expressed by that individual in an advance directive. The authors' discussion of these possible conflicts is particularly important to social workers who may be caught in the web of all-too-common disagreements among family members, lawyers, physicians, and other agency personnel.

Social workers will find especially useful the authors' explicit focus on issues pertaining to minors, the elderly, and the mentally ill. With respect to minors, Buchanan and Brock alert readers to the developmental issues that need to be taken into account when making some form of surrogate judgment. Practitioners concerned about informed consent, for example, need to consider that children's orientation toward the future and their ability to reason vary and evolve as children mature.

The authors pay particular attention to decisions that may need to be made for incompetent elderly who are in a coma or who suffer from degenerative neurological disorders such as Alzheimer's disease and Parkinson's disease, cerebrovascular accidents, acute or chronic depression, mental retardation, psychosis, or severe personality disorders. Buchanan and Brock broach a number of complications involved in decisions concerning medical care for these clients, estate management, placement in a nursing home, hospice program, or psychiatric institution, and participation in medical or social science research.

The authors also emphasize surrogate decision making involving the mentally ill, particularly the homeless. They confront head-on the enduring debate about criteria used to commit and treat mentally ill individuals involuntarily.

There is tremendous substance to this book. One cannot breeze through it casually. Nearly every page is packed with thoughtful and thought-provoking claims, and readers should be willing to wrestle with these occasionally controversial and debatable assertions.

A particularly appealing feature of *Deciding for Others* is the authors' willingness to acknowledge diverse opinions about the proper balance between respect for clients' right to self-determination and professionals' duty to protect them from harm (professional paternalism). This is clearly among the most challenging ethical dilemmas facing social workers, in light of their simultaneous embrace of clients' right to self-determination and well-being. In the final analysis, Buchanan and Brock present a very balanced view concerning this healthy and essential tension: "There is no reason to believe that there is one and only one optimal trade-off between the competing values of well-being and self-determination, nor, hence, any one uniquely correct level of capacity at which to set the threshold of competence—even for a particular decision under specified circumstances. In this sense, setting a standard for competence is a value choice, not solely a scientific or factual matter" (p. 47). Although one can take issue with a number of the authors' assertions about the determination of competence and the role of surrogates, the content of this book hits the mark. The breadth and depth of the discussion are impressive. One concern I have, however, is that some readers may be scared off by the abstruse philosophical discussion that shows up in some sections of the book, particularly related to the determination of competence, the nature of self-determination and well-being, the nature of a "person," and paternalism. Some of the prose is more appropriate for philosophers than practitioners. Readers may also

have some occasional trouble with the authors' writing style, which shifts back and forth between very focused, practical guidance and highly theoretical, abstract speculation about traditional philosophical constructs. (I should add that the extraordinarily large number of typographical errors is rather distracting.)

Although *Deciding for Others* was not written by or for social workers, there is no question that the book has a great deal to offer the profession. Social workers who serve incompetent clients inevitably face some form of surrogate decision making. There is no question that this book can add considerable discipline to social workers' involvement in these decisions.

Frederic G. Reamer
Rhode Island College

Mapping the Moral Domain: A Contribution of Women's Thinking to Psychological Theory and Education. Edited by Carol Gilligan, Janie Victoria Ward, and Jill McLean Taylor with Betty Bardige. Cambridge, Mass.: Harvard University Press, 1988. Pp. 313. \$30.00 (cloth); \$12.95 (paper).

In Carol Gilligan's groundbreaking book *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982), she concludes that females and males have "different voices" when it comes to moral decision making. Here Gilligan and her colleagues at Harvard University's Center for the Study of Gender, Education, and Human Development make even stronger claims about what the silencing of women's voices has meant for theories of human development and for American culture at large.

Gilligan and her colleagues have softened her earlier dichotomy, calling the findings of different perspectives "gender related," not "gender specific." By this she means that most boys espouse what she terms a "justice" or "autonomy" point of view, and most girls demonstrate a "care" or "connection" perspective. With a little probing, however, both boys and girls usually can answer moral dilemmas from the other gender's perspective.

In Gilligan's typology, the justice or autonomy mode "implies a view of the individual as separate and of relationships as hierarchical or contractual" (p. 8). "Responsibility" in this framework means making a commitment and sticking to it. Moral maturity means abiding by abstract principles and not being swayed by others' opinions. As Gilligan rightly points out, most current developmental theory, written by men and, in the past, overwhelmingly based on male subjects, posits this type of autonomy as the apex of development. In contrast, the care or connection mode, which is espoused more frequently by girls, implies a "view of the self and other as interdependent and of relationships as networks created and sustained by attention and response" (p. 8). Here, responsibility means being aware of the other's feelings and needs. In the words of one of Gilligan's teenage respondents, it is "seeing what they need and seeing what you need . . . and taking the initiative" (p. 7).

For both Freud and Piaget, this second type of thinking is a mark of immaturity, a sign of a certain lack in the subject's capacity to separate herself from her context in order to make an independent, principled decision. For them and the theorists following them, this quintessential female trait is a mark of female inferiority, not a badge of honor as Gilligan portrays it.

What makes Gilligan's positive portrayal of these female traits even more provocative, however, is that many contemporary feminists, though starkly