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Forced Execution of the Elderly: *Old Law*, Dystopia, and the Utilitarian Argument

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Abstract: This essay focuses on a play that Thomas Middleton co-authored on the topic of forced execution of the elderly, *The Old Law* (1618–1619). Here, the Duke of Epire has issued an edict requiring the execution of men when they reach age eighty and women when they reach age sixty—a decree that is justified on the basis that at these ages, they are a burden to themselves and their heirs, as well as useless to society. I argue that *Old Law* responds to an issue as old as Plato and as recent as twenty-first century dystopic fiction: should a society devote substantial resources to caring for the unproductive elderly? The conflict between Cleanthes and Simonides about the merits of the decree anticipates the debate between proponents of utilitarian economics and advocates of the bioethical philosophy that we today describe as the Ethics of Care.

Keywords: Geronticide; utopia; dystopia; allocation of health care resources; aging

1. Introduction

Following the publication of the new Oxford edition of Thomas Middleton’s collected works [1], Middleton, who lived from 1580–1627, has emerged as one of Shakespeare’s most distinguished contemporaries [2]. This essay focuses on a comedy that Middleton co-authored on the topic of forced execution, *The Old Law* (1618–1619) ([3], p. 165). The Duke of Epire has determined that the elderly are unproductive, a burden to themselves, their heirs, and to the state. Accordingly, men will be executed at age eighty and women at age sixty. Two sons debate the wisdom of the decree: one, eager to accelerate his inheritance, defends the expediency of terminating the lives of useless elders; the other, devoted to his own father, criticizes the decree as monstrous and unnatural.

I suggest that we take *Old Law* seriously, and not dismiss it as a frivolous comedy addressing a preposterous scenario. It was no laughing matter to be old in early modern England: if impecunious, one was subject to the misery of the Poor Law regime; if affluent, one was vulnerable to the greed of one's offspring. I argue that the authors of *Old Law* took aim at the assumption that the elderly were inevitably a useless drain on society. I further argue that the play makes a strong argument for the recognition of inter-generational dependency and the obligation of each generation to care for its elders not only out of gratitude but in hopes of receiving similar care in turn. This play invites us to reject simplistic arguments of expediency in favor of a more sympathetic and generous approach to the human condition.

Old Law is a utopian satire that critiques its society's denigration of the elderly. Utopian literature has by its very nature a reformist agenda, and typically serves as a critique of current social structures. Because utopia is counterfactual, it explores what may be possible or impossible as an ideal against which the real world can be measured ([4], p. 26). Conversely, dystopian literature imagines a world that is considerable worse, and sends a warning about current trends. Lyman Sargent proposes a thematically neutral definition of "dystopia" as "a non-existent society described in considerable detail and normally located in time and space that the author intended a contemporaneous reader to view as considerably worse than the society in which that reader lived" ([5], p. 9).

I begin this essay by situating *Old Law* as a response to Sir Thomas More's *Utopia*, where the elderly receive generous care. I next turn to a discussion of *Old Law*, with particular emphasis on the inter-generational debate. I then consider dystopian sequels to *Old Law*, including works by Anthony Trollope, P.D. James, and Kurt Vonnegut, in which the elderly are "released" to make room for the younger generation. Finally, I argue that the conflict between Cleanthes and Simonides about forced execution of the elderly anticipates the debate between proponents of the utilitarian Numbers Calculus and advocates of the bioethical philosophy that we today describe as the Ethics of Care. While utilitarianism as such does not arise before Jeremy Bentham and Adam Smith, the obligation of the adult child to care for his or her parent and the expediency of caring for the elderly are age-old problems.

2. More's *Utopia*: the Argument that Caring for the Elderly Makes Sense for the State

Sir Thomas More's *Utopia* (1516) is a direct source for *The Old Law*. In this landmark work, the traveler Raphael Hythloday describes all aspects of the society of the Utopians—political, social, cultural, and economic—to invite comparison (generally unfavorable) to sixteenth century England. More's *Utopia* replies to Plato, who, in *The Republic*, reserved medical care for those who are basically healthy but who suffer occasional illness, accidental injury, or battle wounds ([6], 408b, 410a). In contrast, in *Utopia*, the ill receive the best possible care in attractive and well-furnished hospitals ([7], pp. 92–93). The counsels of the elderly are heeded with respect. For the Utopians, it is a disgrace to abandon an aged spouse:

None are suffered to put away their wives against their wills, from any great calamity that may have fallen on their persons, for they look on it as the height of cruelty and treachery to abandon either of the married persons when they need most the tender care of their consort, and that chiefly in the case of old age, which, as it carries many diseases along with it, so it is a disease of itself (p. 137).

While “in all other places... every man only seeks his own wealth... for in other commonwealths every man knows that, unless he provides for himself... he must die of hunger, so that he sees the necessity of preferring his own concerns to the public” (p. 95), the Utopian can do without money and subordinate his private interest because the state will take care of him in old age. Thus, by providing care for those who can no longer work, the Utopians have both eliminated much anxiety and discouraged the accumulation of private property that is inconsistent with their communistic economic structure. Given the design of their state, Utopians could argue that extending unlimited medical care was just as pragmatic as Plato’s resource-conscious restriction on treatment.

Utopia does not shrink from the reality that there are incurables who, despite the best of care, experience pain. For these individuals, voluntary euthanasia is offered as an option—a merciful treatment when there is no cure and the patient is in pain.

I have already told you with what care they look after their sick, so that nothing is left undone that can contribute either to their care or health; and for those who are taken with fixed and incurable diseases, they use all possible ways to cherish them and to make their lives as comfortable as possible. They visit them often and take great pains to make their time pass off easily; but when any is taken with a torturing and lingering pain, so that there is no hope either of recovery or ease, the priests and magistrates come and exhort them, that... they should no longer nourish such a rooted distemper, but choose rather to die since they cannot live but in much misery... (pp. 50–51)

Those who elect to end their life do so painlessly through opium or starvation, but those who choose to continue living receive the same high level of care as before.

Middleton’s contemporary, Sir Francis Bacon (1561–1626), also advocated euthanasia in hopeless cases. He advocated that when all hope for recovery is gone, physicians should “mitigate pain and dolor” and help the dying patient “make a fair and easy passage from life” ([8], p. 212). John Donne (1573–1631) similarly argued that taking one’s life is not in all cases sinful, but can be a courageous and even pious act [9].

As Jeffrey Masten observes, there is a vast difference between euthanasia, the good and self-inflicted death discussed in *Utopia*, and forced extermination of the elderly in *Old Law* ([1], p. 1332). Yet the play follows More’s *Utopia* in valorizing the elderly and rejecting arguments of expediency that the costs of their maintenance are too high to be borne. Anthony Ellis comments that the authors of *Old Law* offer an “overt and satirical defense of old age,” resisting the traditional pattern of comedy which marginalized the elderly and required that “youth triumph over age” ([10], p. 69).

Old Law is written against a backdrop of concern about the drain of the unproductive elderly on English society. In 1640, life expectancy at birth was thirty-two years; only five percent reached the ripe age of 60 [11,12]. On the other hand, Englishmen and Englishwomen who survived to the age of twenty five might live thirty more years ([13], p. 341).

It is perhaps not coincidental that sixty is the age of forced execution under the ducal decree. Keith Thomas points out that sixty was “the age of incipient decrepitude” when a man was excused for compulsory labor, military service, or court attendance ([14], p. 236). This retired status occasioned hostility, not respect, for the old man was now a burden on the state. It was testamentary practice for the solvent elderly to bequeath their goods to their children. However, the expectation of legacy provided one’s offspring with an incentive to realize that inheritance. In a popular tale, an old man

who leaves his estate to his son is at first seated at the upper end of his son's table, then moved to progressively inferior positions at the table, next banished to the servants' table, and finally set on a couch behind a door covered with sackcloth (p. 237). While ideally the aged and infirm parent dies surrounded by devoted and nurturing family members, frequently this was not the case. Richard Houlbrooke writes: "The dying all too often suffered from their relatives' greed and ill feeling rather than their grief. Kinsfolk were frequently described as hovering round the deathbed in hope of gain, or putting pressure on the dying to favour them in their wills"([15], p. 134).

This intergenerational conflict is manifest in *Old Law*.

3. What's Wrong with Executing the Elderly? *Old Law's* Response to the Expediency Argument that the Elderly Are Superfluous

Duke Evander, the ruler of Epire, has issued a decree requiring execution of men over eighty, women over sixty, and individuals below those ages if they are senile. In the main plot, the playwrights juxtapose two sons who take directly opposite views about the desirability of forced execution of the elderly. In the subplot, comical lower-class characters seek to shed their spouses.

The play opens with a discussion between venal lawyers and two sons over the legitimacy of the decree. The "bad son," Simonides, is anxious to know whether the law is "firm" so that he can realize an early inheritance from his father (Act 1, sc. 1, l. 1). In contrast, the "good son," Cleanthes, looks for an escape clause to preserve his aging father. In foolish Latin gibberish, the servile lawyers reassure Simonides that the law is firm:

Nothing more strong, sir,
It is secundum statutum principis
Confirmatum cum voce [senatus],
Et voce [republicae], nay, consummatum
Et exemplificatum. (Act 1, sc. 1, ll. 12–16).

Here the play critiques use of Latin in the courts of Renaissance England—language that was literally foreign and generally unintelligible, obscure jargon that could mask injustice. The oily lawyers flatter Simonides by agreeing with him that never since the days of Ancient Greece was "a law more grave and necessary" (Act 1, sc. 1, l. 50). To Cleanthes, on the contrary, there "is no rule in justice" that can provide grounds "to kill innocents" (Act 1, sc. 1, ll. 99–100). The lawyers respond that Cleanthes has a conscience, but does not understand the law (Act 1, sc. 1, ll. 101–02). When Cleanthes asks the lawyers to find a loophole to save his father, they reply with the preposterous suggestion that one could argue that since one does not reach majority until one age 21, one might contrive the argument that execution should be deferred until a man reaches 101 (Act 1, sc.1, ll. 189–91). Cleanthes sarcastically comments that the edict is "very fairly gilded" (Act 1, sc. 1, l. 164)—as indeed it is, motivated by sons' desires to inherit their fathers' wealth. Cleanthes is a loyal son who would gladly pay "large fees" in support of the "good cause" of preserving his father (Act 1, sc. 1, ll. 90–91).

Duke Evander's edict requiring that men be executed at eighty is justified in the interest of the state. The rationale is that octogenarian men can no longer bear arms or assist the state by their counsels; their longevity should be as wearisome to themselves as it is to their heirs:

That these men, being past their bearing arms to aid and defend their country, past their manhood and livelihood to propagate any further issue to their posterity, and, as well, past their counsels (which overgrown gravity is now run into dotage) to assist their country; to whom, in common reason, nothing should be so wearisome as their own lives; as, it may be supposed, is tedious to their successive heirs, whose times are spent in the good of their country, yet, wanting the means to maintain it, are like to grow old before their inheritance born to them come to their necessary use. (Act 1, sc. 1, ll. 139–50)

Because women are never useful for defense or in government service, but are only useful for “propagation of posterity,” the decree provides that they are to be executed when they are no longer fertile, at age sixty (Act 1, sc. 1, ll. 152).

We are now introduced to Creon, father of Simonides, and Leonides, father of Cleanthes. Creon feels that he is “troublesome to life now,” and worthless to the state (Act 2, sc. 1, l. 87). Creon’s suffering when he feels that he has outlived his usefulness presents a moving moment that elicits our sympathy. He tells his wife Antigona that he feels no sorrow at threatened loss of life:

Sorry for what, Antigona? For my life?

My sorrow’s that I have kept it so long well

With bringing it up unto so ill an end. (Act 1, sc. 1, ll. 217–19)

Emily Hopkins examines characters in plays by Sophocles, Euripedes, Seneca, and Shakespeare who believe that they have “overlived,” a phrase taken from Adam’s words in *Paradise Lost*: “Why do I overlive, / Why am I mocked with death, and lengthened out / To deathless pain” [16]. The agony of tragic “overliving” arises not when the protagonist dies, but rather when he goes on living, experiencing unbearable pain ([17], p. 115). I suggest that Creon experiences the anguish of having lived too long, a wish to die in spite of his mental acuity and loving wife, because of the ingratitude and disloyalty of his son Simonides.

Because the edict is so inconsistent with natural law and conscience, Cleanthes urges his father to flee to the forest (the place of refuge not only in early modern drama but in dystopian literature generally). For reasons similar to those that motivated the condemned Socrates to refuse to flee Athens in Plato’s *Crito* [18], Leonides initially rejects his son’s proposal that he flee to escape his city’s law.

I must not shame my country for the law.

This country here hath bred me, brought me up,

And shall I now refuse a grave in her? (Act 1, sc. 1, ll. 402–04).

Cleanthes and his wife Hippolita, who is equally devoted to Cleanthes’s father, assure Leonides that it is morally acceptable to evade this “unnatural law” by seeking refuge in the forest (Act 1, sc. 1, l. 408). This emphasis on the dichotomy between positive law and natural law, between loyalty to the ruler and loyalty to *philoï*, lies at the heart of the play. *Old Law* revisits *Antigone* in that there are conflicts between the obligations of natural law and royal edit, and between the values of obedience to the state and loyalty to family (*philoï*). In *Old Law* as in Sophocles’s tragedy, there is a decree so contrary to conscience that disobedience is justified, if not morally required. But Simonides argues that “none can be a good son and a bad subject,” for if princes are “the people’s fathers,” it is unfilial as well as treasonous to flout the Duke’s edict (Act 5, sc. 1, ll. 197–199, 208). *Old Law* justifies evasion

of the Duke's edict by showing that, far from implementing justice, here the regime of positive law has become a perversion.

Unfortunately, Hippolita ill-advisedly shares the location of the hiding place with her supposed friend Eugenia, who has an aged husband. Eugenia is in fact most eager to rid herself of the "old clog" Lisander, and to enjoy a bevy of young suitors who are eager to bed and wed her (Act 2, sc. 2, l. 2). Eugenia reveals the hiding place to her suitor Simonides, with the result that Leonides and Cleanthes are arrested.

In the subplot, lower-class characters seek to rid themselves of their wives. Gnothoes, a clown character, attempts to send his own wife, Agatha, to her death by having the parish clerk revise her birth date in the churchbook so that she appears a year older than her true age. Instead of being as the clerk claims a "dial that goes ever true," the churchbook—for a fee—can readily be changed (Act 3, sc. 1, l. 20). In response, Agatha "pleads her belly," claiming that she is pregnant and thus entitled to a five-year postponement. Given that a primary rationale of the edict is that the elderly are "fruitless" (Act 1, sc. 1, l. 110), Agatha hopes to foil her husband because she is fruitful: "the law, I know, craves impotent and useless, / And not the able women" (Act 3, sc. 1, ll. 256–57).

In response to the duke's edict, younger spouses of all social classes seek to shed their older partners in favor of wealthier or more alluring partners. Because *Old Law* is so centered on filial piety, one can miss the point that devaluing the elderly threatens the institution of marriage as well as inter-generational relationships.

A further mockery of justice comes in Act V: Simonides and his cohorts preside as judges in a carnival trial whose outcome will facilitate their own inheritance. Cleanthes is brought before this kangaroo court. Simonides and the other young bucks are resolved that "whatsoe'er we do, / The prisoner shall be sure to be condemned" (Act 5, sc. 1, ll. 6–7). *Old Law* here criticizes the practice of allowing judges to preside in trials where they have a personal stake—a serious problem that pervaded early modern courts. As Cleanthes argues, Simonides and his ilk are not only unfit to sit as judges, they should in fact be condemned as "parricides"—guilty of "unnaturalness in humanity":

This were the judgment seat.
 We [k]now the heaviest crimes that ever made up
 Unnaturalness in humanity,
 You are found foul and guilty by the jury
 Made of your fathers' curses which have brought
 Vengeance impending on you, and I now
 Am forced to pronounce judgment of my judges.
 The common laws of reason and of nature
 Condemn you ipso facto! You are parricides... (Act 1, sc. 1, ll. 225–33)

Cleanthes condemns Simonides and his allies for their unnatural behavior in laying "subtle trains to antedate their years" and laughing their fathers "to their graves" (Act 1, sc. 1, ll. 178–79):

Where are your filial tears,
 Your mourning habits, and sad hearts become,
 That should attend your fathers' funeral? (Act 5, sc. 1, ll. 171–73)

Cleanthes's stance as the wise young man, a censor of society's morals, has occasioned critical disagreement. When Lisander, an elderly husband tries to appear young by dying his beard, Cleanthes describes his unnatural behavior as "shameful"... "mix't monstrousness"(Act 3, sc. 2, ll. 211, 222). Simonides berates Cleanthes as a "grey young man / The youth of fourscore (Act 5, sc. 1, ll. 33–34). George Rowe writes that to act other than one's age is to be culpable of "monstrousness," thus problematizing our interpretation of Cleanthes purity ([19], p. 197–99). In contrast, James Helm reads Cleanthes as an example of the *puer senex* figure, and notes Cleanthes's identification with that exemplar of filial piety, Aeneas, who carried his father on his back to save him [20]. I concur with Helm's reading: in evaluating Simonides's criticism of Cleanthes for acting older than his years, we must consider the source. What *Old Law* condemns is not the act of a young man behaving wisely (Cleanthes), but the folly of an old man trying to pretend that he is young (Lisander) and the cruelty of rushing to the grave spouses and parents before the time is ripe.

The play concludes with a comedic ending: the Duke reveals that his decree ordering that the elderly be executed was only a ruse. The clown Gnothoes pleads that he simply followed the edict in seeking to dispatch his wife because he is a dutiful subject:

If further your grace examine it, you shall find I show myself a dutiful subject and obedient to the law – myself (with these, my good friends and your good subjects), our old wives, whose days are ripe and their lives forfeit to the law (Act 5, sc. 1, ll. 396–401).

The Duke rejects Gnothoes's argument "For offering up a lusty able woman / Which may do service to the commonwealth (Act 5, sc. 1, ll. 447–48.)

The actions of Cleanthes and Leonides in disobeying the edict are vindicated when the Duke rebukes Simonides and his fellow courtiers. As it turns out, the Duke has safely lodged the aged fathers in an edenic setting until the last act when they emerge safe and sound. Leonides describes the sojourn as a foretaste of paradise:

A place at hand we were all strangers in,
So sphered about with music, such delights,
Viands, and attendance, and once a day
So cheerèd with a royal visitant,
That oft-times (waking) our unsteady fantasies
Would question whether we yet lived or no,
Or had possession of that paradise
Where angels be the guard (Act 5, sc. 1, ll. 602–09).

Because the Duke in fact hid the aged fathers and shares what Masten calls Cleanthes's "family values", the apparent conflict between duty to ruler and duty to father is resolved. "There seemingly is no longer a conflict between governmental and familial authority" ([21], p. 452).

The play ends with the Duke's reassurance that "The good needs fear no law / It is his safety, and the bad man's awe" (Act 5, sc. 1, ll. 623–24). Notwithstanding the happy ending, this is a tragicomedy whose ending fills us with disquiet. The last-minute justice that is achieved leaves the unsettling prospect of a near misfire. Contrary to Duke Evander, the law has not shown itself to be strong enough to be "the safety" of the good, or the "awe" to the evildoer. On the contrary, the officers of the law—

the lawyers and the parish clerk—are amoral and corruptible. Far from being in awe of the law, Simonides and his courtiers, who can't wait to rid themselves of aged parents, display confidence in a legal process that will favour forced execution. What would have happened to Agatha had she not been blooming, or to the male characters if they were senile or disabled? The play is silent on these tough questions and instead rejects the assumption that individuals above a certain age will inevitably be physically and mentally feeble.

We turn to the critical question: What's wrong with Simonides's argument?

Simonides praises forced execution of the superfluous old men in pragmatic terms:

Are there not fellows that lie bedrid in their offices
That younger men would walk lustily in?
Churchmen that even the second infancy
Hath silenced, yet hath spun out their lives so long
That many pregnant and ingenious spirits
Have languished in their hoped reversions,
And died upon the thought? (Act 1, sc. 1, ll. 31–37)

In rebuttal to Simonides, *Old Law* presents potent arguments in favor of supporting elderly members of the community who can no longer serve the state with their arms or counsel. First, the primary interest of those who support Duke Evander's edict is to pursue self-interest, not to serve the state. The young men who seek to hasten their fathers' death—Simonides and the first and second courtiers—by their own admission intend to spend their inheritance on fashionable clothes and high living (Act 2, sc. 1, ll. 220–33)—vain and wasteful pursuits. As Creon (Simonides's father) bitterly remarks, the money that is saved on hospitals once the elderly are executed “may be used for stews and brothels” (Act 1, sc. 1, l. 214). Eugenia seeks to hurry her spouse to the grave so that she can satisfy her lust with young suitors. At the nether end of society, the cook and the clown want to shed their spouses to marry wealthier women. The Duke's edict is a “fairly gilded law” (Act 1, sc. 1, l. 164) that is financially driven. In early modern usage, the term gilding could refer not only to an object overlaid in gold or tinged with a golden color, but also the use of “disguised words” or “the setting up [of] wealth against honesty” [22].

Second, the community is guilty of gross ingratitude when it executes elderly citizens who, while in their prime, contributed significantly to its welfare. For Cleanthes, parents are “trees / Which we had shelter from” (Act 1, sc., 1, l. 70). The father is like a “root” that “bleed[s] out his livelihood” to his branches; gratitude requires that the father be comforted in “fruitless winter”:

Does the kind root bleed out his livelihood
In parent distribution to his branches,
Adorning them with all his glorious fruits,
Proud that his pride is seen when he's unseen?
And must not gratitude descend again
To comfort his old limbs in fruitless winter? (Act 1, sc. 1, ll. 317–22)

In contrast, for Simonides, “old trees” must be downed as they keep the young plants “from the sun” (Act 1, sc. 1, l. 73) Cleanthes appeals to nature to turn against those who act “unnaturally” to their parents:

Nature, as thou art old,
If love and justice be not dead in thee,
Make some pattern of thy piety
Lest all do turn unnaturally against thee... (Act 1, sc. 1, ll. 329–32)

Just as children should be grateful to their parents, the state should be grateful to elders when they are no longer productive. In his youth, Simonides’s father Creon served his country as a soldier, and “never turned [his] back” upon his foe (Act 1, sc. 1, ll. 224–25). Creon is a prototype of the old soldier neglected by the state because he can no longer bear arms—someone who would have been supported with an ample pension in More’s *Utopia*.

Third, the rationale of the edict of forced execution fails because instead of being senile, the older men are mentally agile and physically active. Far from being “lost in judgment”, his wife Antigona describes Creon’s household management as “wise and virtuous” (Act 2, sc. 1, ll. 98, 101–03). Antigona’s plea for her husband casts in relief their son Simonides’s ingratitude for his father’s governance. In contrast to the dignity of Leonides and Creon, a third old man, Lisander, at first seems a stock figure in the hackneyed convention of January/May marriages. He is envious of his wife’s suitors, virile young men so eager to bed Eugenia that they cannot wait a few weeks until Lisander’s demise. The old man dyes his hair and beard a vivid black—foolish vanity. But Lisander finds a second youth, and bests his wife’s suitors in a sword play, obvious phallic sport.

Contrary to Simonides’s argument, older figures are capable of growth and able to offer sage counsel. In the last act, Lisander is given one of the most important speeches in the play, one that shows his personal development and new-found wisdom. He is not too old to learn

That difficult lesson, how to learn to die.
I never thought there had been such an act,
And ‘tis the only discipline we are born for.
All studies as are, are but as circular lines
And death the centre where they must all meet. (Act 5, sc. 1, ll. 112–19)

Given high mortality, concern about dying and salvation preoccupied early modern England. Preachers taught their parishioners how to prepare for death; their sermons intended to mitigate fear of death and provide comfort for those approaching the final passage [23]. There was a gradual evolution from a Catholic way of dying involving the administration of last rites by a priest, to a Protestant model that eliminated Purgatory and emphasized the art of dying well ([24], p. 17). There was an abundance of sermon literature on *ars moriendi*; sermons by Jeremy Taylor were especially influential [25]. When Lisander first appears in the play, we dismiss him as a buffoon whom we cannot possibly take seriously, but from the mouths of old men come pearls of wisdom about the importance of preparing for one’s death.

Finally, Simonides’s argument that forced execution is logical ignores intergenerational dependency: today’s adult son will become tomorrow’s elderly father, who will require care from his

own son. As Cleanthes warns Simonides and his followers, if the Duke's edict is indeed "firm" and enforced, one day, their own sons "will hurry you, their fathers, to your graves" (Act 5, sc. 1., l. 236).

4. *Old Law's Grandchildren: Forced Execution in Dystopian Fiction*

The playwrights of *Old Law* were prescient in describing a dystopia where the younger generation seeks to rid itself of the burden of caring for the aged. In more recent dystopic fiction, authors describe societies which justify the execution of the elderly in order to serve utilitarian objectives.

Anthony Trollope's *The Fixed Period* (1882) closely follows the plot of *Old Law*. Britannula is a prosperous land resembling the mother country in many respects, save that it has adopted a law requiring that at age 67, each resident is to be "deposited" in a college. After a year of contemplation, the elderly man or woman is executed. President Neverbend justifies the law on utilitarian grounds. The sum saved "would keep us out of debt, make for us our railways, render our rivers navigable, construct our bridges, and leave us shortly the richest people on God's earth!" ([26], p. 3) The rationale of the law quotes Duke Evander's edict: old men are not productive:

The good of the commonwealth,—and his own,—requires that, beyond a certain age, he shall not be allowed to exist. He does not work, and he cannot enjoy living. He wastes more than his share of the necessaries of life, and becomes, on the aggregate, an intolerable burden (p. 147).

In contrast to geronticide in *Old Law* which is imposed by ducal edict, in Brittanula, the fixed period was enacted by democratic process. The law is justified not only by the savings to the state but also as a mercy to the frail and feeble elderly:

It consists altogether of the abolition of the miseries, weakness, and fainéant imbecility of old age, by the prearranged ceasing to live of those who would otherwise become old... This should be prevented, in the interests both of the young and of those who do become old when obliged to linger on after their "period" of work is over (p. 2).

It is just too costly to maintain the old when society is already charged with supporting the young and the disabled:

Statistics have told us that the sufficient sustenance of an old man is more costly than the feeding of a young one,—as is also the care, nourishment, and education of the as yet unprofitable child. Statistics also have told us that the unprofitable young and the no less unprofitable old form a third of the population. Let the reader think of the burden with which the labour of the world is thus saddled. To these are to be added all who, because of illness cannot work, and because of idleness will not. How are a people to thrive when so weighted? (p. 2)

Despite all this sound reasoning, the first member of the community who reaches the prescribed limit, an alert and prosperous landowner named Crasweller, seeks to avoid his death sentence. Crasweller's daughter Eva pleads with Neverbend to spare her father, as does her fiancé, Neverbend's own son Jack. Trollope borrows from *Old Law* the contrasting viewpoints of two young men who wish to marry Crasweller's daughter and only heiress. One selfish suitor for Eva's hand eagerly advocates Crasweller's execution, but Jack, who genuinely loves the young woman, opposes the edict. Neverbend resists Eva's and Jack's entreaties. His rationale recalls the justification for Duke Evander's edict:

The old and effete should go, in order that the strong and manlike might rise in their places and do the work of the world with the wealth of the world at their command. ... [H]ow large a proportion of the wealth of the world remains in the hands of those who have passed that age, and are unable from senile imbecility to employ that wealth as it should be used! ([24], p. 93)

Crasweller is rescued as the British Navy intervenes in the nick of time to prevent the barbarous execution (and allow Jack to marry Eva):

“Did you really mean to kill the old men?” said Lord Alfred Percy to me one day; “regularly to cut their throats, you know, and carry them out and burn them.” “I did not mean it, but the law did.” ([25], p. 149)

In twentieth-century dystopian fiction, we find scenarios in which the elderly are forced to commit suicide—for reasons that are eugenic, not financial. In Kurt Vonnegut’s short story, “Welcome to The Monkey House” [27], a burgeoning population threatens to exhaust society’s resources. The elderly are lured into “suicide parlors” through sexy hostesses and other inducements. In P.D. James’s *The Children of Men* [28], Great Britain is running out of people and resources—no babies have been born in 26 years and the men are infertile. A dictator rules England as society struggles to survive. One of the techniques that the government uses to avoid waste is to encourage mass euthanasia, a ritual called the Quietus where elderly are executed in mass drowning. Although this suicide is supposedly voluntary, those who resist the state’s encouragement are compelled to end their superfluous existence. In both *Monkey House* and *Children of Men*, the logic of exterminating the elderly is utilitarian: When there is not enough food and other necessities, doesn’t it make sense to exterminate the elderly so that society can spend its remaining resources on its younger and presumably more productive citizens?

Jean-Michel Truong’s *Eternity Express* (2003) provides a frightening twenty-first century variant far removed from Vonnegut’s humorous satire [29]. In this dystopia, where again population has outstripped resources, the elderly are transported via luxury train to a supposed luxury retirement community in remote China, Clifford Estates. But in fact, shortly after arrival, they will be incinerated. The new ruler of China adopts a utilitarian logic to justify this outcome: it is unsustainable to continue the status quo, where the life chances of the potentially productive young are subordinated to maintain and extend the longevity of octogenarians. After sixty-five, only palliative care should be provided. In effect, society must apply the principles of triage that medical personnel perform during war or other emergency situations. There are just not enough resources to go around: “Il faut que certains meurent pour que le plus grand nombre vive (Some must die so that the greater number live) ([26], p. 209).

It is instructive to compare *Old Law* to twentieth and twenty-first century dystopian texts in which the elderly are forced to kill themselves. First, it is greed, rather than population or resource constraints, that motivates Simonides and his fellows. Second, through Cleanthes, the play makes the point that, far from being expedient, abuse of the elderly is self-defeating. Today’s adult son is tomorrow’s elderly sire, dependent on the next generation for care and support. In twentieth century dystopic narratives, the regime masks the intent to do away with the elderly. In dystopic films such as *Logan’s Run* (1976) and *The Island* (2005), individuals are programmed for “release” as they age, an execution which is either concealed from the general population or disguised as a magical “renewal” [30]. An interesting feature of these films is the vulnerability to “release” of young adults: thirty is the release date in *Logan’s Run*. The message shifts from focus on whether it is worthwhile to care for the elderly to an environmental warning that, because population growth is outstripping

resources, one day society will no longer be able to support even individuals who are still in their prime.

5. Current Debates on Elder Care: An Insight from *Old Law*?

Both *Old Law* and its dystopian descendants postulate a world in which the elderly are put to death against their will because they represent a waste of resources. The justification may be financial, eugenic, or ecological, but in either case the remedy, geronticide, is a crime. Due to anxiety that about the potential for euthanasia to be involuntarily imposed, the minority of states that have enacted physician-assisted suicide statutes restrict assisted suicide to those who are terminally ill, after procedures are followed intended to assure that the procedure is informed and voluntary. What, then, is the continuing relevance of *Old Law* and the pertinence of the Ethics of Care? The live issue in most of the western world is whether it is utilitarian to continue to affirmatively devote the resources necessary to keeping the elderly alive through expensive and heroic measures. As the population ages and as medical technology improves, there is a tension between an Ethics of Care that supports enhancing the lifespan of the elderly versus utilitarian arguments that would devote scarce dollars and therapies to younger and more productive members of society.

While geronticide might seem a far-fetched, dystopian nightmare, the question of whether and how to distribute health care resources as our population ages is, of course, a topic of extensive commentary [31–33].

Advocates of the Fair Innings theory hold that if all else is held equal, one should devote the scarce resources to prolong the life of younger individuals who have not yet had their “fair innings.” Alan Williams suggests that “[o]lder people should be given lower priority because they have already lived a long life, and other people should be given the opportunity to live as much” [34]. Daniel Callahan proposes that government funding of eldercare should be limited to routine medical treatments that would relieve pain for patients who have lived a normal life span ([35], p. 116). In lieu of paying for life-extending care, Callahan would restrict care to palliative treatments that move “towards a “tolerable death” (p. 66). Callahan argues that a utilitarian approach to health care rationing is inescapable: “Unless one is prepared to say that the elderly should have an unlimited right to health care under Medicare regardless of cost and however marginal the benefits, then one has in principle opened the door for health care rationing” ([36], p. 15).

Marshall Kapp criticizes Callahan on grounds that recall Cleanthes’s critique of Duke Evander’s edict [37]. Kapp argues that age-based rationing falsely assumes that the elderly are a physically and mentally homogeneous group, ignoring the immense variability among different older individuals. Further, such rationing sends a wrong message to the younger generation:

Such a policy would send a negative public message about the old... It would reinforce prevalent biases about the negative social worth of the elderly. In a related vein, explicit rationing according to age would threaten to fragment the ethical and social covenant binding different generations to each other at present, replacing interdependence with officially sanctioned age-group competition (pp. 326–27).

I argue that *Old Law* anticipates the ethical philosophy that we today describe as the “Ethics of Care”. While the utilitarian approach relies on a calculation of what policy will achieve the greatest

good for the greatest number, Care Ethics valorizes caring for those in need and prioritizes personal interconnectedness. Virginia Held provides the care ethicist's approach to the parent's duty to care for the young child and the adult child's duty to care for the aged parent:

First, the central focus of the ethics of care is on the compelling moral salience of attending to and meeting the needs of the particular others for whom we take responsibility.... The ethics of care recognizes that human beings are dependent for many years of their lives, that the moral claim of those dependent on us for the care they need is pressing.... All persons need care for at least their early years.... Many persons will become ill and dependent for some periods of their later lives, including in frail old age, and some who are permanently disabled will need care the whole of their lives. Moralities built on the image of the independent, autonomous, rational individual largely overlook the reality of human dependence and the morality for which it calls [38].

Eva Kittay similarly argues that since all humans experience periods of dependency, certain to occur in childhood and often occurring in illness and old age ([39], p. xii), generational interdependence is a biological reality and independence is a fiction:

My point is that this interdependence begins with dependence. It begins with the dependency of an infant, and often ends with the dependency of a very ill or frail person close to dying. ... [W]e have been able to fashion the pretense that we are independent—that the cooperation between persons that some insist is interdependence is simply the mutual (often voluntary) cooperation between essentially independent persons (p. xii).

Care ethicists argue that we should act in anticipation of those periods of the life cycle when we will become dependent on family members or on the community as a whole. Daniel Engster argues for the rationality of extending care to others:

Since all human beings depend upon the care of others for our survival and basic functioning ... we must logically recognize as morally valid the claims that others make upon us for care when they need it, and should endeavor to provide care to them when we are capable of doing so without significant danger to ourselves, seriously compromising our long-term well-being, or undermining our ability to care for other individuals who depend on us [40].

6. Conclusions

What insights does *Old Law* have to offer to the current dialogue about whether the present generation of young adults should consider themselves their parents' keepers? *Old Law* anticipates the Ethics of Care, and the recognition that society depends upon our caring for each other across generations. Today's adult child supports his or her parent not only out of gratitude, but in the hope that his or her own child will take the lesson and provide support when an adult now in his prime begins to fail. *Old Law* supports care for the elderly as a practical and sensible way of ordering society: if we do not care for our parents, how will we teach our children to care for us when we grow old? There is a moving moment in Act One when Leonides doubts the security of the plan that Cleanthes has proposed to hide him in the woods. Cleanthes reassures his father:

By what means Sir? Why there is but one body in all this counsel,

Which cannot betray itself;
 We two are one, one soul, one body, one heart,
 Think all one thought. (Act 1, sc. 1, ll. 458–61)

Today it seems as if care for the elderly is a zero sum game, both in terms of dollars and time, where the generations engage in a tug of war. Cleanthes reassures his father that he is so organically tied to the parental root that he sees himself as one with his parent.

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