

How to go from principles to cases & How to resolve disagreements

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How to go from principles to cases

- (1) Consequentialism (or Utilitarianism) – the view that only consequences matter.
- (2) Deontology – the view that ethical issues should be decided on principles, such as principles regarding fairness, justice, desert, and rights.
- (3) Nonconsequentialism – both consequences and deontological considerations are relevant and important.

The Four-principle Approach

- **Respect for autonomy:** respecting the decision-making capacities of autonomous persons; enabling individuals to make reasoned informed choices.
- **Beneficence:** this considers the balancing of benefits of treatment against the risks and costs; the healthcare professional should act in a way that benefits the patient
- **Non maleficence:** avoiding the causation of harm; the healthcare professional should not harm the patient. All treatment involves some harm, even if minimal, but the harm should not be disproportionate to the benefits of treatment.
- **Justice:** distributing benefits, risks and costs fairly; the notion that patients in similar positions should be treated in a similar manner.

(proposed by Beauchamp and Childress)

- The four-principle approach could be understood as an approach based on consequences and principles: (see next slide).

- **Respect for autonomy:** respecting the decision-making capacities of autonomous persons; enabling individuals to make reasoned informed choices. **(deontology-based &/or consequence-based)**
- **Beneficence:** this considers the balancing of benefits of treatment against the risks and costs; the healthcare professional should act in a way that benefits the patient **(consequence-based)**
- **Non maleficence:** avoiding the causation of harm; the healthcare professional should not harm the patient. All treatment involves some harm, even if minimal, but the harm should not be disproportionate to the benefits of treatment. **(consequence-based)**
- **Justice:** distributing benefits, risks and costs fairly; the notion that patients in similar positions should be treated in a similar manner. **(deontology-based)**

- One question is: Is the four-principle approach or the non-consequentialist approach better?
- My own view: The non-consequentialist approach is better for the following reasons:
 - (1) The number 4 is not magical.
 - (2) The non-consequentialist approach can explain something that the four-principle approach cannot. E.g., the four-principle approach seems to exclude the principle of **desert** (or what one deserves), for instance.

- Suppose the hospital can save either A, or B, from liver cancer, but not both (because of shortage of resources). Who should we save?
- Suppose A and B have the same age, and life expectancy. Suppose further that A's liver cancer was caused by **genetic disposition**. But B's liver cancer was caused by his/her excessive **alcohol consumption**.

- Everything else being equal, should the hospital save A, rather than B?
- If yes, there may be a principle of **desert** that is relevant in distributing medical resources.
- (I assume that the principle of justice – according to the four-principle approach – is in effect a procedural principle of fairness and is different from the principle of desert.)

- Therefore, I would prefer the theory of **non-consequentialism** (because it is not restricted to only 4 principles).

So, we need to take account of both **consequences + deontological considerations.**

- There is **NO algorithm** (mechanical procedure) to arrive at the right answer.
- We must use **reasons** (or **principles**).
- We must be prepared to accept that a reason R for doing an act in circumstances C1 may not be a good reason for doing the same type of act in circumstances C2 ("**Contextualism**").
- E.g., we should be truthful if a stranger asks us where the library is.

- But suppose an evil guy wants to rape and kill an innocent girl, should we be truthful to him -- if he asks us where she is?
- Obviously not. (The German philosopher, Immanuel Kant, seems to think that we must be truthful even to this evil guy. But almost everyone would hold that Kant is mistaken.)

- In the present case, there may be a case for screening a patient with HIV test if the end result (in case it is positive) could direct the physician with better medication.
- Otherwise, considerations of privacy (or confidentiality) would dictate that we not test him with HIV test without his consent.

- Question:
- Is there an ethical case for conducting the HIV test with an unconscious patient, if his presentation shows a reasonably high chance of having HIV, and if such knowledge could benefit his spouse – for fear that she might have caught it via him?

Given the knowledge that the patient has HIV:

- Fact: The wife was upset for not knowing about his HIV earlier.
- But does she have a right to such knowledge?
- If so, on what grounds?
- If not, might there be reasons for informing her anyway?

Reasons for disclosure

- (1) The wife will be alerted that she might have caught HIV through him.
- (2) The family can better decide on the specialist hospital to which they should transfer him. (Suppose there are specialists on HIV.)

Reasons against disclosure

- (1) Privacy (or confidentiality) – even against the spouse.
- (2) No real benefit.
- (3) Makes situation worse if the patient contracts HIV from other people, and if the knowledge gives no real benefit – because his wife would get upset and blame him.

My own view

- I believe that because the woman is the patient's wife, the hospital should inform her about his having been contracted HIV.
- This is so for two reasons: First, HIV is deadly, or potentially deadly. Second, the wife might have contracted the disease from her husband, or vice versa. In either case, she would benefit from having such knowledge.

Reasons for disclosure after death?

- **For:**

- (1) The wife can test whether she has contracted HIV from the patient.

- **Against:**

- (1) Privacy (or confidentiality) persists beyond death.

- Questions:
- Instead of informing the spouse directly of the deceased's HIV infection, is it better for the physician-in-charge to ask the spouse (tactfully) whether she has had sexual relation with the patient for the past 1/3/5 years?
- Or should the physician simply tell her in no unequivocal terms?

How to resolve disagreements

- The only substantive way to resolve a disagreement would be:
- (1) to reflect and consider other people's reasons;
- (2) ask "why do I disagree with him/her?"
- (3) consider whether anyone is being too rigid (consider "Contextualism").

Suppose reflection does not help:

- If the disagreement persists, the team could resolve the disagreement in a pragmatic way – i.e., procedurally – through some kind of voting:
- (1) adopt the appeal court's rule: take the majority side; or
- (2) the physician-in-charge has an extra vote in case there is a tie (similar to a company's voting to some extent: the chairman votes to break tie).

- (3) the physician-in-charge has the final say. (Not desirable, if everyone else disagrees with him/her.)
- One of these rules need to be adopted and known among the team-members **in advance**.
- Question:
- Which procedure is most reasonable?

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