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Virtue ethics – an old answer to a new dilemma? Part 1. Problems with contemporary medical ethics

David Misselbrook
Department of Family Medicine, Royal College of Surgeons in Ireland Bahrain, P O Box 15503, Adliya, Bahrain
Corresponding author: David Misselbrook. Email: dmisselbrook@rcsi-mub.com

Summary

The commonest practical model used in contemporary medical ethics is Principlism. Yet, while Principlism is a widely accepted consensus statement for ethics, the moral theory that underpins it faces serious challenges in its attempt to provide a coherent and accepted system of moral analysis. This inevitably challenges the stability of such a consensus statement and makes it vulnerable to attack by competitors such as preference consequentialism. This two-part paper proposes an inclusive version of virtue theory as a more grounded system of moral analysis.

Keywords

ethics, morals, ethical analysis, virtues

Introduction

Consider two fictitious cases: one a small slice of everyday medical life, the other illustrating a huge issue for the National Health Service.

- Case 1. John is a married father with three young children aged between 2 and 6 years. He has gradually become increasingly stressed by his role as both breadwinner and father and wants a way out. His relationship with his wife is stale and unrewarding. He sees his general practitioner because of stress. He is considering leaving his wife and children and moving in with an old school friend 50 miles away. He feels he would be much happier as a single man.
- Case 2. Jane is frail and vulnerable. She is an inpatient following a fractured neck of femur. She finds the healthcare staff to be very rushed, with little personal contact. She is lonely. She does not always manage to feed herself, and sometimes her meals go uneaten.

Medical ethics is now big business, and yet, unlike rocket science, has no single generally accepted theoretical basis from which to work. Rather our ethics has the embarrassment of too many moral theories each vying for a foundational position. While many moral philosophers would see moral values as in some sense real or objective, the conflicting truth claims of basic moral systems leave them wide open to the criticism that morality is nothing more than the expression of preference – a position of moral non-realism.

Existing ethical theories such as Principlism tend to evaluate specific medical decisions and actions. Principlism naturally has its critics.[1–3] In case 1, one can question the scope of our obligations (to what extent does it include a patient's family?) and issues of justice. In case 2, one could invoke beneficence and also talk about professionalism as an adjunct to ethical practice. But such ethical evaluation can be criticised as being driven only by reason alone and not by our shared humanity. Iris Murdoch famously makes the case for love, not justice, to be the central value in ethics.[4] In case 1, 'justice' sees people as loci for competing interests. The justice viewpoint fails to value other morally central types of concern for others and fails to locate moral concern in an interest in, and sympathetic identification with, the concrete other.[5] In case 2, our ethics fails to find a strong enough target to change our practice. We have to skirt around the edges, or invoke other perspectives, as our ethical outlook is defined by human reason rather than human relationships. This contrasts with the concerns of real patients. Following the Francis Report, the Macmillan Fund commissioned a survey showing that 64% of the public believe that 'being treated with dignity and compassion is as important as getting the best medical treatment'.[6,7]

So how then do we tell the difference between right and wrong? Perhaps most of the time it is enough to follow the rules of our particular culture. But how do we justify our cultural rules, and how do we cope with new or difficult cases? Is there any ultimate guide to right and wrong, or are we merely arguing about preferences?

Three systems of morality – a shaky foundation for contemporary ethics?

Historically, the three dominant moral realist systems are virtue-based (or aretaic) morality, utilitarianism and deontology. I will describe their central features briefly to set the scene.

1. Virtue-based morality.

The classical tradition of virtue-based or aretaic morality is typified by Aristotle. In his *Nicomachean Ethics*, Aristotle defines '*eudaimonia*' or human flourishing as the highest good.[8] This is understood as a much richer and deeper concept than mere pleasure. Virtue ethics is based on an acceptance of certain human givens (or a notion of a human nature) as a basis for morality. The person who achieves this rich sense of flourishing is one who embodies '*arete*' or human excellence – a much richer sense of 'virtue' than just doing the right thing.[9]

Arete could be described as excellence of character. Aristotle describes key moral characteristics such as courage, justice, friendship and self-control.[10] Actions are seen as good inasmuch as they express such character traits. An act is only 'good' for Aristotle if it is an expression of an inner excellence. For Aristotle, virtue encompasses both feeling and cognition inasmuch as it describes 'a disposition to choose the mean'.[11] For example, courage would be seen as the optimal point between cowardice and recklessness. Aristotle recognises both the moral virtues such as those cited above and intellectual virtues such as reason and wisdom.

An obvious theoretical problem with virtue ethics is its potential circularity of argument. 'You can tell what is good by what good people do, and you can tell who the good people are as they are the ones doing good things'. Who then is to define the virtues? Presumably for Pol Pot shooting intellectuals was a virtue?

There is a defence again such critiques, and that is to go back to a broadly based and broadly accepted human vision of individuals who are building lives that flourish, within a flourishing society. Few could defend Pol Pot's Cambodia as a flourishing society.

2. Utilitarianism.

Utilitarianism was first widely popularised by Jeremy Bentham in the late 18th century. It is one form of consequentialism – the view that likely consequences of an act alone determine the morality of the act. Bentham's '*Introduction to the Principles of Morals and Legislation*' states that 'nature has placed mankind under the governance of two sovereign masters, pain and pleasure'.[12] Thus utilitarianism defines the good solely in terms of outcome. Utilitarianism seeks as the highest good 'the greatest happiness of the greatest number of the party that is in question'. Acts can therefore only be classed as right or wrong depending on a calculation of the consequences one could reasonably expect from them.

Mill modified Bentham's account of utilitarianism by recognising 'higher' pleasures as more valuable than 'lower' pleasures ('It is better to be Socrates dissatisfied than a fool satisfied'[13]). Recognition of the difficulty of defining net benefits in a diverse society has led ethicists such as John Harris, Jonathan Glover and Peter Singer to modern developments of consequentialism such as welfare utilitarianism and preference utilitarianism that seek simply to maximise welfare or preferences respectively.[14]

3. Deontology or duty-based morality.

Deontological morality is based on our rational duty to follow correct rules of action. It was most clearly described by Kant, again in the late 18th century. Through reason alone, Kant seeks to define our obligations or duties to one another as rational beings. This is most clearly formulated in Kant's 'categorical imperative', which, in its first formulation, states that our duty is to 'act only in accordance with that maxim through which you can at the same time will that it become a universal law'.[15] Kant held that every human being is an end in themselves not to be used merely as a means by others. Respect for one's humanity finds its fullest expression in respect for the humanity of others. Deontology examines the nature of acts themselves. Types of act can be classed as right or wrong according to whether it would be rational for such actions to be universal. Thus, lying is always wrong as all human interaction would break down if everyone always lied.

The conflict of morals

Thus, within the classical and Enlightenment traditions, we have three separate fundamental moral theories, each claiming to be right and each claiming supremacy. The 18th century required systems of knowledge and systems of morals to be founded on principles that were both rational and humanistic and tended to supersede both aretaic and Judeo–Christian morality. From the Enlightenment to the 20th century, the main battle was between deontology and utilitarianism. Each offered a formula relating to the acts committed by an agent, primarily focusing respectively on the nature of the act or the

consequences of the act.[a] This period, therefore, typically leads to moral philosophers taking sides in a polarised debate, as well as both systems being modified to compensate for their inadequacies.

Kantian ethics is fine at instructing a child in what is normally right and wrong. It teaches respect for others, duty to others and integrity. But Kant is of little use when my duties conflict, for each duty must be fully attended to as a matter of obligation. Kant could never have manned the triage station at A&E. Similarly, Kant is of no use in exceptional circumstances – if a crazed bloodstained man with an axe asks 'where is X, I want to kill him' (when X is innocent and I know him to be in the next room) then Kant would not allow me to lie. Thus, Kantian ethics cannot be said to work satisfactorily in a complete or robust sense in the real world. Deontology thus fails Beauchamp and Childress' insistence on coherence of ethical guidance in the real world – Kant's universifiable rules prove not to be universally applicable.[16] Kant on a bad day is dumb.

In contrast, utilitarianism excels at triage, and thus has a strong claim on politicians and public health physicians who face competing claims for limited resources as they seek the greatest good of the greatest number. Utilitarianism is certainly coherent. Unfortunately, utilitarianism is careless of justice. Utilitarianism is notoriously inadequate at attending to the needs of individuals or minorities in the face of competing demands of larger groups. It could easily be used to construct a defence for gladiatorial combat and public beheading so long as it kept the civic peace. It offers little defence for vulnerable or voiceless minorities in our society (or in our hospitals). Utilitarianism on a bad day is dangerous.

Thus, we have two substantive but problematic theories, one strong on individual obligations but weak on resource allocation and the other just the opposite. Surely this is a good starting place for a deal? But how can one do a deal to merge two opposing theories which both claim a place within the moral realist tradition – each theory is claiming first of all to be true rather than just useful? This problem has however been circumvented by the work of Rawls, who in suggesting an ethic based on a new form of social contract, albeit a rather ingenious hypothetical one, manages to combine the best of both systems while mitigating the effects of their respective down sides.[17] Certainly, Rawls' contractarian compromise exists within the moral non-realist tradition. But by the end of the 20th century, it could at least be claimed that the best parts of deontological and utilitarian practice had reached a negotiated truce, and that one could offer a rational, albeit relativistic, basis for moral thought.

[a]This is actually a simplification of Kant's position as he was in fact also concerned with the reason for an act, although not necessarily its motive.

Problems with the late 20th century position

One major objection to both deontological and utilitarian moral theories is they both claim to be right, yet are mutually exclusive. Despite contractarian systems such as that of Rawls that mediate between these two theories this is still a problem for moral realists.

However, it is this sort of compromise that has allowed us to develop consensus approaches such as the generally accepted 'four principal' system of medical ethics espoused by Beauchamp and Childress in the USA and by Gillon in the UK.[18,19] Principlism holds that balancing the four principles of doing good, avoiding harm, respect for autonomy and justice, plus attention to the scope of these principles, offers us the best broadly acceptable method for medical ethics. Principlism is generally supported by the enlightenment moral theories cited above but is derived specifically from deontology via Ross' notion of 'prima facie' duties, reduced by Beauchamp and Childress to their four duties or principles.[20]

And yet problems with current moral theories are becoming ever more pressing. There are three types of problem with post-enlightenment moral theory in general, making one question whether Principlism has any theoretical legs to stand on. These problems will be examined in the second part of this paper and a possible way forward proposed.

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