



HTAi 2009  
Preconference workshop Methods for ethical inquiry

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## Context: role of ethical inquiry in HTA

“Assessment of medical technology combines information about safety and efficacy with social values, costs, side effects, acceptability, and legal issues to reach conclusions about the value of the technology under study.”

Bailar JC, & Mosteller F, Medical uses of statistics, NEJM Books, Boston, 1992. (p. 393)



“Technology assessment is a form of policy research that examines short-term and long-term consequences (for example, societal, economic, ethical, legal) of the application of technology.”

Banta HD, Luce BR, Health Care Technology and its Assessment. OUP, 1993 (p. 61)



## Context: obstacles

“The social implications of a new or existing technology can be the most challenging and difficult aspects of evaluation. Any decision to develop or use a health care technology inevitably rests on value judgements. Social and cultural factors are completely intertwined in questions concerning the place of technology in health care. At the same time, the methods for assessing social implications of health care technology are relatively undeveloped and few mechanisms exist to take action based on the results of such evaluations. Society does not seem to have enough confidence in social scientists and others dealing with social issues to insure that results of this type of assessment are used in policy-making.”

Banta & Luce, 1993 (p. 132)



## Singularity of ethical inquiry

Inquiry into safety and clinical effectiveness:

Interventions produce (or fail to produce) differential outcomes in patients that can be observed using specific, more or less sophisticated measurement techniques.

To enhance the correct (i.e., causal) interpretation of these observations, we use randomization, allocation concealment, blinding, valid, reliable and responsive measurement instruments, imputation techniques, statistical modeling, analysis on the basis of intention to treat, etc.



Could 'ethical aspects' associated with the use of a health care technology' be considered as a specific 'outcome' that can be studied in this way?



No principled reason why this should be impossible



## For example: ECMO for neonates with diaphragmatic hernia

When introduced in NIC: RCT, comparing conventional optimal support with ECMO; endpoints: survival, severe complications resulting in lasting disability, costs, and 'moral anxiety' among those directly involved (parents, ECMO team)





“Moral anxiety” can not be observed and researched in a way, similar to, for instance, survival.

It is a subjective experience, which requires different type of measurement (qualitative research?)

In that sense, we may, should, and indeed can be equally critical as in the case of quantitative research.

Conceptually it is not, however, different from, for instance, research into quality of life (which, inherently, is a subjective experience).



## Great leap forward, but...

We would still be missing a crucially important aspect of ethics





## Contingent nature of our findings

Is everything alright if there is nothing wrong?

When those who were directly involved (parents, ECMO team) did not experience any moral anxiety to speak of, can we then intelligibly ask whether they should, perhaps, have had such experience? (cf. BMJ, debate about waiving informed consent)

The difference between descriptive ethics and normative ethics!



## Normative ethics:

What is the correct interpretation of this situation, act, consequences, etc, in terms of their moral acceptability?

Leading to a moral judgement.

Action-guiding / decision-supporting



How do we arrive at a moral judgement?

Are there any ways of doing this in such a way,  
that we can be (more) confident about its  
outcome?

This workdhop: explore strengths & weaknesses of  
casuistry as a method for ethical inquiry.



Why casuistry?

Are there any other options?



## Format of the workshop

Explanation of the method

Example

Annette Braunack: empirical research in ethical inquiry

Assignment: ECMO

- Deliberation in small groups
- Presentation of the conclusions of each group

Bjorn Hofmann: wrap up / what have we learned / reflection on methods in ethical inquiry



## Casuistry: definition

“Casuistry can be defined as the interpretation of moral issues, using procedures of reasoning based on paradigms and analogies, leading to the formulation of expert opinion about the existence and stringency of particular moral obligations, framed in terms of rules or maxims that are general but not universal or invariable, since they hold with certainty only in the typical conditions of the agent and circumstances of action.”

Albert Jonsen, *Theor Med* 1991; 12: 295 – 307.



## A casuistic approach to ethical inquiry

Inquiry starts with

moral perplexity:

Wondering whether something (some act, or omission, or situation) that we see, or hear about, is morally problematic.

Moral perplexity presupposes, besides knowledge of the case, some degree of moral commitment, and some working knowledge of moral values. How else could we be perplexed?



## Moral perplexity > moral hypothesis

Moral hypothesis:

What we observed and caused moral perplexity is morally wrong because it belongs to the class of situations / acts etc. that are classified by the moral concept of [.....]. (e.g., respecting autonomy, social justice, etc)

Basically, according to this model, correct moral reasoning is a matter of correct classification.



## Inherent uncertainty: open-texture of moral concepts

Moral concepts are open-textured: there are no criteria that are both necessary and sufficient to judge whether 'A' belongs, indeed, to the sort of acts, situations, etc., classified by concept 'B'.

Instead, criteria for correct classification are implicit in 'paradigmatic cases'.



## Moral judgement

Moral judgement = statement about the probable truth or falsity of the initial hypothesis, based on a moral inquiry.

Moral inquiry:

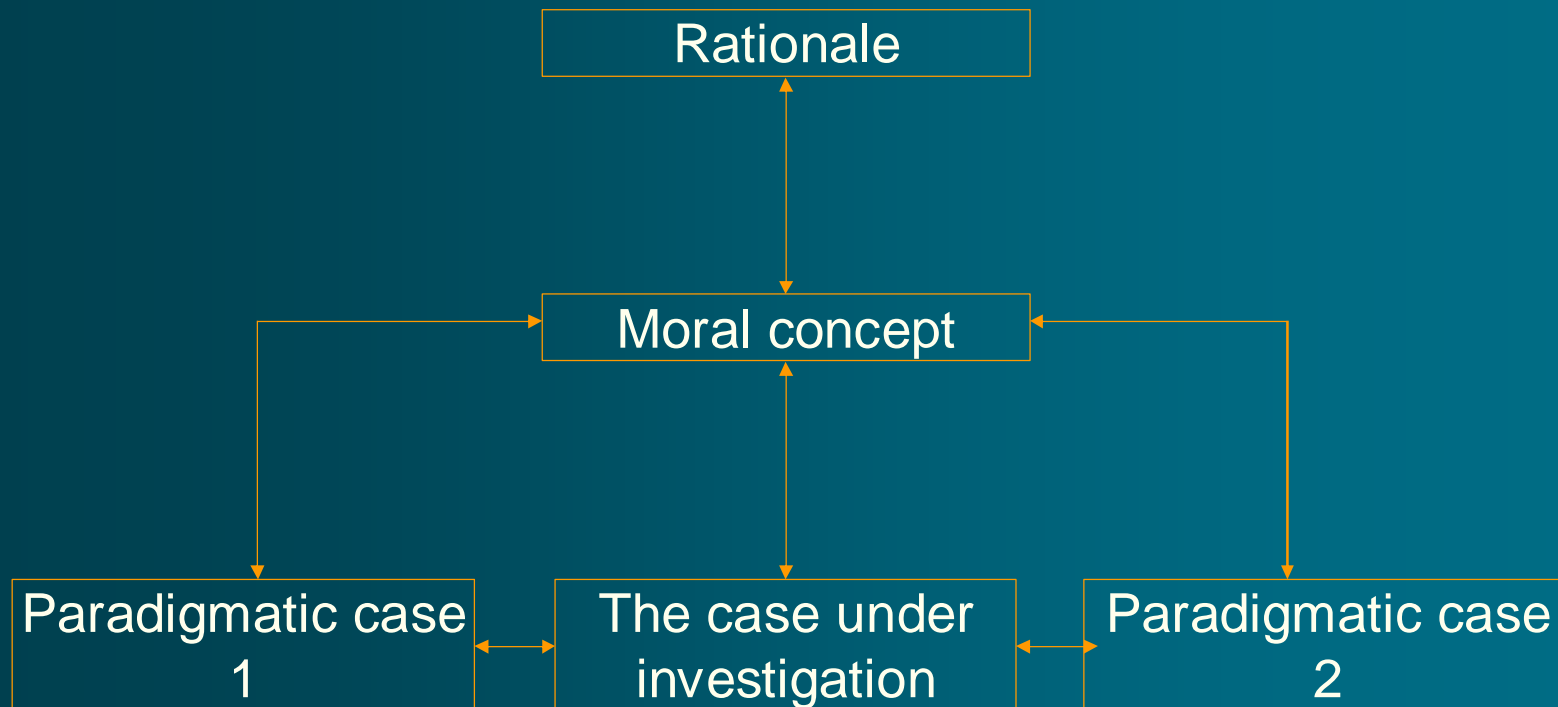
Is the proposed explication of the moral concept correct?

Ascertain by comparing this case with paradigmatic cases: are there any relevant differences / commonalities?

In case of doubt / competing views, address the rationale of the moral concept: Why is it important in the first place?



## Scheme of the model of moral argument





## Case presentation

“A resident in obstetrics is called late at night to see a young woman whom he does not know. On reviewing her chart he sees that she is in the terminal stages of ovarian cancer. Entering her room, he notes her emaciated state and obviously great pain. She pleads, “let’s get this over”. The resident administers a heavy dosage of morphine and Debbie dies within an hour of the respiratory depression induced by the morphine.”

(From: Albert Jonsen, 1991)



Moral perplexity: did the resident do the right thing? What he did brought an end to the obviously intense suffering of the patient. But is a physician allowed to kill a patient, even when the patient asks for this, in order to achieve this?

Moral hypothesis: what the physician did was morally wrong because it belong to the class of acts that are classified by the moral principle that taking a human life is wrong.



But is it always wrong to take a human life? Are there exceptions / situations where this may be justified, and is this case such an exception?

War.

Self-defence.

Capital punishment.

Extreme suffering with no prospect whatsoever of survival (e.g., trauma team)



War: killing = part of the game; does not apply to medical practice

Self-defence / capital punishment: clearly not applicable

Terminate suffering in a hopeless situation: not killing would prolong suffering without any prospect of benefit. Can the case be thus classified?



The case differs from the trauma case, in that:

Relief of suffering could have easily been achieved by other means, not causing the patient to die;

Some benefit from prolonging life can not be completely excluded.

The authenticity of the request is questionable



(provisional) conclusion from the argument:

Moral judgement: the initial moral hypothesis was probably true (valid), and the behaviour of the resident was morally wrong because it is an instance of unjustified taking of a human life.

(respecting the patient's autonomy would not justify this, because we are uncertain about the authenticity of the request; relief of suffering would not act to justify his behaviour, because this could have been achieved without causing the patient to die)



## How does this relate to HTA?

Morphine = medical technology

An HTA of morphine, comparing it with relevant alternatives (e.g., Midazolam) could be conducted, comparing them in terms of effectiveness (control of suffering) and 'inadvertent' events (situations that either have, or should have caused moral perplexity as illustrated before)

Feasibility of controlled trial somewhat questionable; alternative; observational study.



## Assignment:

Develop an argument, using a casuistic model of moral argumentation:

The case is: Extracorporeal Membrane Oxygenation (ECMO) for neonates with diaphragmatic hernia.

The case has caused 'moral perplexity' because it was felt that parents are forced to give consent, they are 'put up against the wall'.

Formulate a moral hypothesis ('the practice is morally problematic because it belongs to the kind of practices that are classified by the moral concept of ...')

Provide examples that might serve as relevant 'paradigmatic cases' that may help to make up our minds about this particular case

Identify similarities and differences, and discuss their relevance to the case at hand.



## Assignment, continued

Try to resolve uncertainties by taking recourse to the rationale of the moral concept.

Formulate a conclusion (a moral judgment of the case)

Reflection: strengths and weaknesses of the casuistic approach



## Programme

- |               |                                                                         |
|---------------|-------------------------------------------------------------------------|
| 09:00 – 09:05 | welcome & introduction by<br>Christa Harstall                           |
| 09:05 – 09:35 | The method of casuistry, by<br>Gert Jan van der Wilt                    |
| 09:35 – 10:00 | Empirical research in ethical<br>inquiry, by Annette Braunack-<br>Mayer |
| 10:00 – 11:00 | discussion in 4 groups (n =<br>7), the ECMO case                        |
| 11:00 – 11:30 | 4 brief presentations, of ca. 5<br>minutes each                         |
| 11:30 – 12:00 | wrap up by Bjorn Hofmann                                                |