A Critique of Principlism: Virtue and the Adjudication Problem in Bioethics

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INTRODUCTION

Bioethics does not have an explicitly stated and agreed upon means of resolving conflicts between normative theories. As such, bioethics lacks an essential feature – *action guidance* — an effective translation from theory to practice. While the normative approaches and historical precedents of bioethics may discourage overtly egregious acts, the bioethical discipline does not offer decisive guidance in situations with multiple competing normative approaches. For example, Utilitarians and Kantians offer diametrically opposed guidance in emblematic cases like the trolley problem in which saving a greater number of people conflicts with the imperative to treat persons as ends-in-themselves rather than a means to an end. The predominant framework in bioethics, principlism, also suffers from a lack of action guidance.[1]

The consequences of a 'toothless' bioethics impeded by misaligned principles and conflicting normative theories are disastrous – not only in death count but also in moral injury and societal fracture. This paper argues that while there is no 'one theory to rule them all,' a virtue-based approach to bioethics can ameliorate the adjudication problem.

Bioethics ought to embody moral strength but has often provided indecisive guidance due to its awkward theoretical architecture. In defence of bioethics, many actors control societal level decision making. Thus, the onus does not rest entirely on bioethicists but also leaders in government and healthcare. This paper critiques principlism as internally incongruous, as it is composed of elements from multiple ethical theories. Understanding this, it is seen that the entirety of theoretical bioethics, as composed of conflicting normative approaches, also suffers from this action-guidance problem.[2]

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I. The Birth of Bioethics Amid Tragedy

Bioethics was born out of tragedy. During the Nuremberg Trials of 1946-47, a cohort of French, American, British, and Soviet judges forced the Nazi doctors and architects of the Holocaust to stand trial for their egregious actions and feel the firm hand of justice. In an example of *ex post facto* law, the global community identified unethical action and indicted Germans for breaking natural law.[3] As a result, the Nuremberg Code arose to prevent crimes against human research subjects. It outlines the parameters of ethical research and is a foundational document of modern bioethics.[4] Early bioethics pronounced immorality and offered decisive guidance, laying the groundwork for an internationally unified theory of negative morality – that which is *never* permissible.

Tuskegee was another foundational tragedy in the history of bioethical discipline. In 1932, the US Public Health Service recruited six hundred African American men from Macon County, Alabama for a study on the effects of untreated syphilis.[5] The researchers failed to obtain informed consent and intentionally withheld information regarding the disease or the nature of the study. The researchers did not offer any men the cure, penicillin, which was discovered midway through the experiment. Many men died during the study. The perpetrators evaded justice until 1972. Tuskegee sparked a new paradigm of bioethics, including the US federal policies, the establishment of ethics review boards, and informed consent as a core tenet of biomedical practice.[6] The National Research Act of 1974 and the Belmont Report of 1978 laid new ground for research ethics and set the tone for the contemporary practice of bioethics.

II. The Rise of Principlism

These two cases demonstrate the nature of the early days of bioethics. It largely lacked high-level theory and appealed more to generally agreed upon moral facts–and common-sense morality. However, as medicine advanced, increasingly complex biomedical issues created problems that required greater appeals to theory.[7] The "heroic" phase of bioethics saw "theorists aspire to construct symmetrical cathedrals of normative thought."[8]

In the wake of the Tuskegee Syphilis Study, Tom Beauchamp and James Childress helped draft the Belmont Report, a bulwark intended to prevent future atrocities in human research trials. The document aimed to curtail the utilitarianism implicit in medical research and add essential considerations of the subjects themselves, including respect for persons, beneficence, and justice.[9] It also served as the bedrock of the theoretical architecture of principlism.

In 1979, Beauchamp and Childress' published *Principles of Biomedical Ethics*, which is arguably the most influential text in bioethics scholarship. It attempts to incorporate some main theoretical approaches to ethics in a unified moral theory: autonomy reflects the work of Kant; beneficence aligns with utilitarianism; non-maleficence is reminiscent of Hippocrates; and justice borrows heavily from Rawls.[10] These four principles have become canonical in academic bioethics. However, doubts remain as to their effectiveness in guiding action toward ethical aims given how scholars contend that "ethical expertise cannot be codified in principles."[11]

III. A Critique of Principlism

Clouser & Gert say:

> *At best, 'principles' operate primarily as checklists naming issues worth remembering when considering a biomedical moral issue. At worst 'principles' obscure and confuse moral*

> *reasoning by their failure to be guidelines and by their eclectic and unsystematic use of moral theory.*[12]

To this point, principlism is no more than a *flashlight* – a tool to illuminate the ethical landscape. Viewing cases through the lens of moral principles can reveal the salient moral features, but it ultimately provides no guidance for adjudication, hereby referred to as the *adjudication problem*. Consequently, the doctor's moral intuition has *de facto* weight, and the principles are merely a *post hoc* justification for any given action they choose.

Using the four principles to decide the right course of moral action is "tantamount to using two, three, or four conflicting moral theories to decide a case."[13] Principlism attempts to reap the benefit of multiple ethical theories, each with unambiguous goals. When blended, the result is discordant directives. These conflicting principles "provide no systematic guidance" for real world dilemmas.[14]

Other ethical theories have faults too. Kantians leave no room for exceptions for exigency, and utilitarianism 'crosses the line' far too often. At least these theories decisively guide action and provide unambiguous justification for doing so. Utilitarianism is quite measurable: "Provide the greatest good for the greatest number" – sure! Done. Kant's ethical imperative has a clear rule: "Never treat humans as a mere means to an end" – certainly, will do. Principlism merely provides "a check list of considerations" that doctors can cross off one by one before going about their originally intended course of action.[15] Worse, the internally disharmonious nature of principlism allows doctors to justify ethically dubious decisions.

An important goal of bioethics is avoiding the following scenario: a doctor faces with a moral dilemma. He can choose Option A or Option B. Let's say B is morally preferrable on a consensus view. However, his moral intuition guides him toward Option A. Having completed his required course on biomedical ethics in medical school, he recalls a few theories which are relevant to his case. He considers the four principles but autonomy conflicts with beneficence, which does not yield a straightforward, practical directive, so he disregards principlism for the case at hand. Kantian ethics disagrees with his intuition, but utilitarianism may support it. He goes ahead with Option A, claiming utilitarianism supported his actions. He, therefore, provides *post hoc* justification for Option A, using whichever theory agrees with his judgment.

Reliance on intuition when the principles conflict is an intractable problem "unless one is willing to grant privileged epistemological status to the moral judgments (calling them "intuitions") or to the moral principles (calling them "self-evident" or otherwise a priori"). [16] Neither deserves a privileged epistemological status. Moral intuitions can possess prejudice or ignorance, and moral principles can demonstrably conflict, offering no guidance. Realistically, most people "pay little attention to theories when they make moral decisions," and when they do, *post hoc* rationalization often follows. When discipline is used as an afterthought, it provides justifications for potentially unethical actions.

IV. Virtue Ethics: A Provisional Solution

Virtue ethics may provide a workaround. It emphasizes the disposition and character of the moral agent instead of abstract theories, making it a practical choice. As Jacobson writes, "ethical dictates cannot be codified in general rules applicable to particular situations by someone who lacks virtue."[17] Ethical theories can still highlight moral lapses and dilemmas, but since they do not decisively guide action, bioethics must focus on moral agents' decision-making abilities.

Aristotelian virtue as a provisional solution to the adjudication problem also accounts for the "multiple and heterogeneous" particularities which other theories often neglect.[18] Aristotle said that "phronesis [practical

wisdom] deals with the ultimate particular and this is done by perception (*aisthesis*) rather than science (*episteme*)."[19] Scientific knowledge in the case of bioethics may appropriately refer to medical facts. Perception refers to the moral intuition of an individual agent as applied to a given scenario. Jonsen goes further, however, interpreting this perception as "the appreciative sight of a constellation of ideas, arguments, and facts about the case, seen as a whole."[20] *Phronesis,* or practical wisdom*,* is the cardinal virtue of Aristotelian virtue ethics. It enables the agent to consider the relevant facts and act in the most prudent, courageous, or tempered manner. This paper proposes that in the face of intractable theoretical disagreements, the only way forward for bioethics is to educate bioethics practitioners and students in this tradition.

V. Counterargument

So far, this paper has argued that bioethics is relatively toothless and needs to give clear guidance due to theoretical disagreements and the intractable differences between normative approaches. And yet, some may object to the notion that bioethics *ought* to have these proverbial teeth. In this view, bioethics merely acts as a sounding board for those in executive roles (doctors, lawyers, politicians) to better understand the moral landscape of the problem. To them, bioethics' failure to decisively guide action is acceptable because it *should not.* If this is the case, then bioethics need not speak with one voice and should cherish the long-standing, obstinate disagreements between different theoretical camps. But this paper contends the opposite. If bioethics continues to offer conflicting imperatives and fails to demonstrably guide individuals, hospitals, and society toward clear ethical aims and outcomes, it has failed as a discipline.

One might argue that virtue theory is not an ideal framework to replace principlism because individuals approach ethical problems in many ways based on features of their character and background. Injecting one's character into moral decisions can lead to bias. As Carl Elliot writes, "how a moral problem is described will turn on an array of variables: the role and degree of involvement in the case of the person who is describing it, the person's particular profession or discipline, her religious and cultural inheritance-indeed, with all of the intangibles that have contributed to her character."[21] Self-awareness may counteract personal biases in moral decision making.

VI. Limitation

Virtue ethics is only a *provisional* solution to the adjudication problem for two reasons. One, not everyone is inherently virtuous, and two, theoretical differences may be resolved. If deontology and consequentialism can be incorporated into a unified theory for bioethics, then virtue ethics may not be necessary. On a certain view, it would be ideal for ethics to be computational – plug in the relevant variables and receive the morally correct answer. Arguably, principlism was an attempt at such a matrix, but it ultimately failed as a unified theory. Rather than waiting for a perfect unified theory, we must count on the genuine virtue of the moral agents who make ethically important decisions from policy to bedside. If practical wisdom is not a characteristic of these agents, then their decisions will not be as ethical as they ought to be, and no theory is the panacea to such a problem.

CONCLUSION

Bioethics emerged out of unified responses to clear cases of moral depravity, like the Holocaust and Tuskegee, and perhaps bioethics is most appropriate for such cases which are conducive to moral certitude. At minimum, bioethics offers meaningful guidance in cases where the relevant duties align with beneficent consequences. For example, in both the Nuremberg and Tuskegee cases, abrogating fundamental duties

to humanity led to grievous consequences. The principles developed in the wake of such problems led to a conflict between autonomy and beneficence, which perhaps mirror the conflict between Kantian deontology and utilitarianism. Bioethics excels when deontology and utilitarianism are aligned, but most of the time, they are not. In such instances, virtue is needed to adjudicate conflicting normative approaches and resolve theoretical tensions with practical wisdom and courage.

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