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Patterns of Practice: A Useful Notion in Medical Ethics?

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ABSTRACT

This paper introduces the notion of patterns of practice and shows the extent to which it is useful at the level of practice and at a profound philosophical level. The notion makes deep connections with ideas in the realm of the philosophy of language and thought and, in addition, it connects to virtue ethics. Using the example of whether or not to admit someone using compulsory powers or whether to treat them in the community, the notion of patterns of practice can be used to demonstrate the internal and external coherence of decisions in psychiatric care and thus to offer clinical and ethical justification.

Introduction

My aim is to suggest that the notion of patterns of practice might provide a useful way to think about ethical decision making. An immediate point to note is that, if this is so, patterns of practice might be useful not only in the clinical field, but wherever ethical decisions have to be made: in political life or in the financial world for instance. It is also only honest to acknowledge that this aim should, in large measure, be fairly easily achieved. Our ethical decision making, whether in clinical, financial or political settings, will sit within some pattern of practice or other. At least, most ethical decisions will be describable in terms of a pattern of practice. Only highly idiosyncratic or aberrant decisions are likely not to conform to some pattern or other; and, even then, their idiosyncratic or aberrant nature is likely to reflect the precise fact that they stand outside normal patterns of practice. So, of course patterns of practice – as a notion – can provide a way to think about ethical decision making! My aim, however, is easily achieved only *in large measure*. The more interesting point is *the extent to which* the notion of pattern of practice is *useful*. My suggestion is that it is useful at the level of practice and at a profound philosophical level. Indeed it is a notion that brings these levels together.

What are Patterns of Practice?

Patterns of practice are ubiquitous and pervasive. At a superficial level, we can hardly escape the extent to which our lives are patterned. Our routine behaviours, eating and sleeping say, tend to conform to patterns and we suffer when the behaviours are too radically disturbed. Social behaviour is also deeply reliant upon patterns of practice: safe driving, for instance. Even good manners are a matter of accepting certain patterns of practice and it is disconcerting when such codes of practice are ignored. Cultural patterns of practice can be observed in sporting arenas around the world, or in concert halls, with subtle and not so subtle differences depending on the precise type of sport or brand of music.

At a deeper level, perhaps, in the case of religions we speak of patterns of prayer or worship. There is an obvious philosophical debate to be had concerning whether such patterns merely reflect different socio-cultural traditions, or whether the practices themselves are in some deeper sense constitutive of religious belief. To be of a particular religion is to engage in (and with) its patterns of worship. To fail to go to Mass on Sundays is to be a lapsed Catholic. Like other religions, Islam dictates certain practices: "Recite from the Koran as many verses as you are able… Attend to your prayers, render the alms levy… Implore God to forgive you…" (Dawood 1956, p. 410). To disregard the precepts of any religion wilfully and persistently would be incompatible with the practice of the religion.

Something very similar can be said about clinical practice. Medical practice is full of patterned responses. We learn to take and report a history in a standard way. Particular routines for the examination of a patient are pursued. Particular symptoms and signs trigger certain investigations. One set of complaints triggers immediate admission to hospital; different complaints might prompt a referral to social services. Although there may be regional variations and occasional innovations in precise practice, if the pattern of practice is woefully wrong the doctor risks losing his or her licence to practice. Clinical patterns of practice also pervade how we communicate with patients and carers, how we think of them (e.g., as cases or as people) and ultimately how we treat them.

So far I have: (a) shown the extent to which our personal and social lives are patterned; (b) gestured at the possibility that patterns of practice might not just reflect our beliefs, but might play a constitutive role in them; and (c) indicated how clinical practice is also

patterned in a pervasive and ubiquitous fashion. Before moving on to consider the extent to which the notion of patterns of practice might be useful, I shall pause to consider two particular ways in which the idea of practice proves profound: first, in the context of the philosophy of thought and language; secondly, in connection with virtue ethics. In both cases I shall be drawing on the work of philosophers, which I can neither emulate nor adequately describe, but which helps to underpin my suggestion about the extent of the usefulness of patterns of practice in medical ethics.

Patterned Language

To say that language is patterned might be to make a purely linguistic point about the structure of language. Wittgenstein's claim that, "To understand a language means to be master of a technique" (Wittgenstein 1953, §199) might be taken simply at this linguistic level. But Wittgenstein's interest was in philosophical issues to do with meaning. In this regard, in his famous discussion of rule-following, he pointed to the normative nature of our descriptions of mental states. In other words, when I say that I understand something it entails that certain things are or will be the case. The mental state seems to exert its normative constraints over things which are not even now in existence; for if the content of the mental state is to have meaning, certain things in the world must be or will be true. Mental states with content – that is, my true beliefs, thoughts, wishes and so on – just like rules (which govern the future), are similar in that they exhibit this normativity.

> "A wish seems already to know what will or would satisfy it; a proposition, a thought, what makes it true – even when that thing is not there at all! Whence this determining of what is not yet there? This despotic demand?"
>
> (Wittgenstein 1953, §4 37).

The conclusion of Wittgenstein's famous rule-following discussion "is that understanding cannot be further explained other than as an ability to enact a practice…" (Thornton 1998, p. 35).

According to Wittgenstein: "… there is a way of grasping a rule which is not an interpretation, but which is exhibited in what we call "obeying the rule" and "going against it" in actual cases. …And hence "obeying a rule" is a practice" (Wittgenstein 1953, §§201-2).

In the course of presenting his interpretation of Wittgenstein, Thornton puts it thus:

> "When one comes to understand the meaning of a word, one acquires an ability to use it correctly which cannot be further explained. One simply masters a practice or technique…Understanding a meaning is a piece of "know-how", a practical ability. One way of putting this is to say that meanings and rules are individuated by practices and that understanding a meaning or a rule is thus individuated by the practice over which one has mastery"
>
> (Thornton 1998, p. 90).

When Wittgenstein himself is talking about how he might justify following a rule in the way that he does, he says:

> "If I have exhausted the justifications I have reached bedrock, and my spade is turned. Then I am inclined to say: "This is simply what I do""
>
> (Wittgenstein 1953, §217).

In this adumbrated account we see that certain types of mental state (understanding, remembering, meaning and the like), represented by linguistic practices, are rule-governed. Their rule-governed nature manifests an essential normativity, but what this boils down to is a matter of practice. There are, of course, alternative interpretations of normativity (cf. Thornton 1998), but on the one being considered here the normativity of mental states amounts, somewhat shockingly, to a mere practice: "This is simply what I do".

Those aspects of our life that seem so essential to our make up as human beings – our ability to think, understand, believe, hope, remember – turn out on this interpretation to be practices, things that we do in a particular way simply because was are thus. These patterns of practice reflect our standing as agents of this type in the world. This is simply how we act in the world. The important point is that we act normatively. As Luntley says:

> "… our thinking lies in the pattern of our actions, where actions are causal encounters with the world. The normativity of thought is the normativity of the pattern/structure of our causal encounters… We say that the patterns of our causal encounters with the world are irreducibly normative… Some of the patterns that physical things, like us, get into are normative patterns"
>
> (Luntley 1999, p. 345).

The argument I have been wishing to imply, therefore, is this: language and thought is essentially normative; normativity is a matter of practice; thus, at heart our lives as embodied agents are situated in a realm of practices (Hughes 2001). Hence, the notion of patterns of practice makes a profound link with our standing as human beings of this sort (with minds and language) in the world. These patterns of practice involve (constitutively) normative constraints, the despotic demand that we live thus and so, because this is how we are. In other words, there is an essential link between our actions, what we do, and how we have to be as human beings in the world. Elsewhere Luntley has said:

> "The moral world has its being in, it rests upon, what we do and how we act. It is in our actions and the way we treat one another that values come into being and are preserved in being"
>
> (Luntley 1995, p. 218).

With this thought I shall turn to a connection between patterns of practice and the virtues.

Patterns and Virtues

The emphasis on action and practices might, at first blush, seem to sit uncomfortably with virtue ethics where the emphasis is more on the agent than the action. Whilst it is true that virtue ethics stresses what the person *becomes* by acting this way or that (rather than, say, the consequences of actions), it is also true that virtue ethics is concerned with actions themselves inasmuch as these are specified by the virtues. As Hursthouse (1999) says, "Not only does each virtue generate a prescription – do what is honest,

charitable, generous – but each vice a prohibition – do not do what is dishonest, uncharitable, mean" (p. 36). To these prescriptions and prohibitions virtue ethics adds a corrective by focussing attention on how the action is performed. The right action, done badly, might be as harmful as the wrong decision.

Hursthouse (1999) went on to argue that, even if virtue ethics can generate action guides (i.e., "do this" or "don't do that"), there are reasons to pull back and consider *the agent* in our judgements of moral action. For one thing, she argues, this allows room for regret, even if the right action has been performed. With explicit reference to medical practice she contends: "… if someone dies, or suffers, or undergoes frightful humiliation as a result of [a doctor's] decision, even supposing it is unquestionably correct, surely regret is called for. A dose of virtue ethics might make them concentrate more on how they should respond, rather than resting content with the thought that they have made the right decision" (Hursthouse 1999, p. 48).

Hence, the notion of patterns of practice links to virtue ethics not simply because of the way action can comprise a practice, but also because *how* we act – with regret, compassion, integrity and so on – is conveyed by the notion: our patterns of practice include not only actions but also demeanours and dispositions.

There is another subtle way in which a link can be made between virtue ethics and patterns of practice. To those who are not predisposed to virtue ethics as a normative theory this may seem contentious and I suggest the link tentatively. Whilst discussing religious practices I suggested that such practices are in some sense not just reflective of religious beliefs but constitutive of them. Similarly, it might be argued that moral practices do not just reflect ethical beliefs, but play a role in constituting them. There is something heretical in this because the normal presumption in medical ethics is that we use normative ethical theories to judge our actions, whereas I am suggesting that – in some albeit sketchy way – the normative simply emerges from the action. We might say that the normative is immanent.

Virtue ethics, it seems to me, squares with this view because it suggests the importance of what I become by what I do. It is as if we do not need the normative theory first, but rather the actions show us the possibilities for human beings. In an analogous way MacIntyre (1985), in his seminal study *After Virtue*, gave an account of the virtues that proceeded through three stages. The second and third stages considered the narrative unity of a whole life and the importance of an ongoing social tradition. But his account begins with practices. Other moral philosophers start with passions or desires or some conception of duty or goodness. But in such cases MacIntyre suggests, "the discussion is all too apt to be governed from then on by some version of the means-ends distinction according to which all human activities are either conducted as means to already given or decided ends or are simply worthwhile in themselves or perhaps both" (MacIntyre 1985, p. 273). MacIntyre continues:

> "What this framework omits from view are those ongoing modes of human activity within which ends have to be discovered and rediscovered, and means devised to pursue them; and it thereby obscures the importance of the ways in which those modes of activity generate new ends and new conceptions of ends"
>
> (MacIntyre 1985, p. 273).

Once again, of importance here is what we become by what we do and the possibility that practices have the potential to enlarge our view of human flourishing. A key feature of the virtues is that they require a prior account of certain aspects of social and moral life in terms of which they can be defined and explained (MacIntyre 1985, p. 186). The concept of a virtue requires a background against which to be made intelligible. The notion of a practice, which forms the first stage of the background, is defined by MacIntyre in a technical way:

> "By a "practice" I am going to mean any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realised in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended"
>
> (MacIntyre 1985, p. 187).

The idea here is that in order to pursue certain human goods, which help to constitute human flourishing, we have to engage in practices, where a practice itself aims at what is excellent for human beings. Football, chess, architecture, history and medicine would all be examples of practices in this sense. Furthermore, according to this definition, such practices are patterned in a way that allows the possibility that they will reveal to us new and perhaps unexpected ways to flourish as human beings. From this virtue ethics perspective, the immanence of normativity is seen in the way that, within patterns of practice, conceptions of human goods are discovered and rediscovered through the actions of agents and by what they thereby become. Once a framework or pattern of practice is adopted there is a normative constraint on how things should go. The success or otherwise of a particular person engaged in a specific practice is not something that is open to subjective fiat. There is a normative constraint on what counts as an excellence in a particular pattern of practice; but this constraint is internal to the practice; the normativity is quintessential despite ultimately depending on what people 'simply do'.

Thus, the notion of patterns of practice can be employed to do some difficult philosophical work in connection with thought and language as well as in the sphere of morals. I want now to come back to clinical practice and psychiatric practice in particular. The ethical question will always concern why one pattern of practice is better or worse than another. How do we justify community treatment over against in-patient admission? I do not intend to deal with this particular issue in detail, but merely to indicate the form of the argument. In order to do this I require an overview of how patterns of practice are justified.

Justifying Patterns of Practice

The clinical problem is this: there may be different patterns of practice with respect to particular decisions. One community mental health team (CMHT) might try very hard to keep people in the community in their own homes for as long as possible. Whilst this sounds laudable – it is what clients tend to say they would want and, therefore, it respects their autonomy – it does impose a good deal of stress on some family carers and there is always the risk that something will go wrong. The risk of self-harm is harder

to contain in the community. Contrariwise, another CMHT tends to admit people very readily to an in-patient assessment ward. There are obvious concerns about this tendency in terms of cost, stigma, institutionalisation, lack of respect for autonomy, the possibility of worsening behaviour learned from other in-patients and dependence, not to mention the loss of liberty, especially if compulsion is required under mental health legislation. But, on the other hand, the admission might instantly de-escalate a tense situation for all concerned in the community and reduce the risk of violence towards self or others.

So there are two patterns of practice. Whilst I have said that the *clinical* problem is deciding between them, it is also an *ethical* problem: which pattern of practice is from both the clinical and the ethical points of view to be preferred? How do we justify one over the other? In passing it is worth noting that one way in which the notion of patterns of practice might be useful is *precisely because it brings together the clinical and the ethical;* and in addition it brings in the legal, the psychological, the social, the spiritual and any number of other potential aspects of a practice. Recall that MacIntyre (1985) defined a practice, in part, as a "complex form of socially established co-operative human activity". Whereas it is all too easy for there to be a discontinuity between clinical practice and ethical theory, or at best the latter is imposed on the former, the notion of patterns of practice inherently involves the complexity of clinical practice, whereby biological, psychological and social considerations do not exhaust the possible levels of human involvement, which are likely also to involve ethical, spiritual, legal dimensions and so on.

The other word used by MacIntyre (1985) in his definition of practice was 'coherent'. I would argue that the coherence of a pattern of practice is the way in which it must be justified. This is to recommend a coherentist account of justification, which is often pitted against a foundationalist account. But recall that Wittgenstein spoke of "bedrock", suggesting foundations, and then promptly appealed to a practice: "this is simply what I do". It might be that we do not need to enter further into this dispute: perhaps patterns of practice can be foundational too, but they also require a mixture of internal and external coherence. Whether there is some "ultimate" pattern of practice on which others rest and against which, therefore, judgements can be made when other patterns of practice clash, needs further consideration (Hughes 1995). But it is worth noting what Wittgenstein says in response to a question he puts to himself about judging the rightness of an action (where he is talking about obeying an order). He asks us to imagine ourselves as explorers in an unknown country with a strange language. He asks how in that country you would be able to judge whether orders were being given, understood, obeyed and so on. Then he states:

> "The common behaviour of mankind is the system of reference by means of which we interpret an unknown language" (Wittgenstein 1953, §206).

This brings to my mind a picture of patterns of practice around particular words or phrases, with broadening patterns of practice as we expand to language and, finally, "the common behaviour of mankind" when we start to think of language itself. And why should this picture not have some sort of application in the moral field? There may be local justifications for calling a particular practice virtuous, but in the end we need something common: shared beliefs about what constitutes human flourishing.

Leaving the broader debate in favour of coherentism aside, I suggested above that there is a need for internal and external coherence. The first CMHT would be indulging in an internally incoherent pattern of practice if they strove to keep people in the community unless they lived in houses with yellow doors. The pattern of practice would be incoherent because it lacks consistency. If there were a good reason to discriminate against people in houses with yellow doors – if it signified a strange sect with a propensity to violence for instance – then this consideration would need to be built into the complexity of the pattern of practice, which would thereby retain its coherence. Or, there could be different patterns of practice for people with yellow and non-yellow doors. More seriously, there might be different patterns of practice, because of resources, depending on whether the crisis occurs on a weekday or over a weekend. This in turn raises the question about external coherence. Is the pattern of practice of the first CMHT better than that of the second? And is the weekend or weekday pattern of practice to be preferred?

Well, before moving away from these particular patterns of practice it might still be worthwhile to consider their internal coherence. MacIntyre (1985) spoke of "co-operative human activity through which goods internal to that form of activity are realized". The first CMHT needs to ask itself what the internal goods are at which its pattern of practice aims. The aim might be delineated by the virtue of respectfulness, in which case the CMHT would need to assure itself that variations in its pattern of practice (e.g., in response to weekends or yellow doors) still conveyed appropriate respect towards the person. If we imagine that they have to admit that they simply cannot strive towards respect at weekends, then to this extent they lack internal coherence. This internal incoherence will need to be weighed up against the putative coherence of the second CMHT, who always aim at both benevolence and fidelity: doing good and staying true to their patients. Of course, it can be questioned whether you always do good to people by pursuing a pattern of practice that inevitably leads to in-patient admission. But this is again to stress internal coherence. But here I have been gesturing at the possibility of external comparisons of internal coherence.

True external coherence comes when we ask how this particular pattern of practice squares with our other patterns of practice or with the patterns of others. We must judge coherence within a broadening field, finally against something akin to "the common behaviour of mankind". For instance a pattern of practice that encouraged compulsory admission would have to be squared with those other practices that valued liberty and autonomy. A pattern of practice that compelled psychiatric admission and treatment on those with political views at variance with the state would have to cohere with those patterns of practice that foster democratic rights and justice or show them to be incoherent. By implication there is a connection – made by the interconnecting and overlapping of our patterns of practice – between an inclination to admit someone to a ward against their wishes and the pattern of practice embodied in our politically democratic institutions. Obviously there is no easy way to compel a regime (or a person) to check its own patterns of practice against others, but this refusal to openness itself represents a pattern of practice that would be repudiated by other human practices. The iterative process of checking our patterns

of practice for internal and external coherence might itself be regarded as a manifestation of human flourishing.

For the sake of external coherence the inclination to use compulsory treatment should be modulated by our libertarian values. The weighing up of these different values can occur as an overt comparison between patterns of practice. More likely the process of balancing and assessing occurs naturally within the broad patterns of practice that constitute our clinical and ethical lives. When values are shared between patterns of practice, there is no incoherence; but when values are diverse, we have to look elsewhere in order to figure how our patterns of practice might cohere. Thus, the business of assessing coherence between patterns of practice aligns with values-based practice (Fulford 2004): both reflect how in real life we must deal with diversity.

Clinical practice inevitably involves negotiating between values and navigating between patterns of practice. The aim is to find a way through and, according to the line I have been pushing, the form of the argument will always involve looking at patterns of practice for internal coherence and checking that any particular practice coheres with our broader patterns of behaviour and demeanour. In short, we justify particular cases by reference to our broader forms of life. And, inasmuch as these broader patterns of practice constitutively express the aims and aspirations of human beings generally, inasmuch as they manifest an essential normativity, they can be regarded as embodying something given for human beings like us.

> "What has to be accepted, the given, is – so one could say – forms of life"
>
> (Wittgenstein 1953, p. 226).

Conclusion

I have suggested that the notion of patterns of practice provides a useful way to think about ethical decision making. I have suggested that this notion is useful both as a way to justify particular practices and as a way to uncover the connections between moral decisions and deeper philosophical concerns about the constitutive nature of normativity in our lives. Not only, therefore, might patterns of practice be clinically useful as a way of situating our ethical decisions and judging them for coherence, but also, through reflecting on patterns of practice, our ordinary clinico-ethical decisions are located in the broader patterns of human life.

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