ARTICLE

Synopsis of Psychiatric Ethics: Based on Six Papers Published in Australasian Psychiatry

Michael Robertson MB BS FRANZCP

Director of Psychiatry, Royal Prince Alfred Hospital and Sydney South West Area Health Service (Eastern Sector), and Clinical Lecturer, Discipline of Psychological Medicine, University of Sydney, Sydney, Australia.

Garry Walter MB BS BMedSc PhD FRANZCP

Professor of Child and Adolescent Psychiatry, Discipline of Psychological Medicine, University of Sydney, and Area Clinical Director, Child and Adolescent Mental Health Services, Northern Sydney Central Coast Health, NSW, Australia.

Abstract

This invited synopsis summarises a series of six papers recently published in Australasian Psychiatry, in which the authors critiqued various normative ethical theories as they might be applied to the field of psychiatric ethics. Professional contractarian ethics, virtue ethics, the ethics of care, principles based ethics, deontic ethics, utilitarianism and more recent approaches, such as postmodern ethics and discourse ethics, were evaluated on theoretical and clinical grounds. The overall conclusion of the series was that, whilst all the normative approaches to ethical quandaries in psychiatric ethics have merit, the particular issues which differentiate psychiatry from other medical fields suggest that all also have significant limitations.

Utilitarianism and Psychiatry

The subject of psychiatric ethics has been traditionally taught by giving lectures and workshops, recommending seminal texts (e.g. Bloch, Chodoff, & Green, 1999) and classic articles (e.g. Appelbaum, 1990; Gabbard, 1994), supervising and teaching at the 'bedside', and, regrettably rarely, via courses on bioethics. In this invited paper, we summarize a 6-part series on psychiatric ethics, recently published in Australasian Psychiatry, in which the authors set out to provide a critical overview of themes and normative theories of ethics relevant to psychiatry and psychiatric practice, and to "road test" them against a problem that might be encountered in clinical practice. The authors were hopeful that, as a teaching resource, the series would not only complement, but also build on information on psychiatric ethics available elsewhere.

Paper 1: Professional Ethics and Psychiatry

This paper argued that, as a professional enterprise, psychiatry comprised a set of specific skills and knowledge that are applied beneficently, or specifically for the 'common good' of society. The issue of what constitutes the 'common good' represents a problem in that expectations such as public safety place the psychiatrist in a position of tension between professional ethics and the Hippocratic ideals of ethical conduct. This tension is based upon the problematic assumption of moral equivalence between the law and ethics. This issue was explored in a subsequent paper (Robertson & Walter, 2008), in which many of the quandaries unique to psychiatric ethics could be considered manifestations of the so-called "dual role dilemma", in which the psychiatrist is placed in a position of tension between their responsibility to their (Robertson & Walter, 2007c) patient, and their responsibility to third parties, such as the community, the legal system or third-party payers.

Paper 2: Virtue Ethics and the Ethics of Care

The second paper of the series considered the ethics of virtue and the ethics of care in the light of psychiatric practice. The two were considered together, given that they both identified desirable qualities in the ethical agent, as well as presenting similar problems in their adaptation to quandaries in psychiatric practice. The ethics of care (Baier, 1985; Gilligan, 1982; Noddings, 1984) provide a compelling critique of the rational theories of Kant or utlility in that these theories fail to acknowledge the particularity of a situation, especially in regards to relationships, and are based on abstract, decontextualised notions of justice. They also neglect the

fundamental human impulse to provide care in relationships – personal or professional. Care ethics have been argued to provide a "different voice" in psychiatric ethics (Adshead, 2002; Bloch, 2007). Applied to clinical settings, care ethics calls for a more pluralistic view of ethical quandaries in psychiatric practice, prompting a more holistic approach to ethical dilemmas than abstract, rational ethical theories.

The consideration of the ethics of virtue in relation to psychiatric ethics emphasized a desirable set of qualities, akin to the 'trained habits' identified in the *Nichomacean Ethics* (Aristotle, 1998). Amongst these cardinal virtues, *phronesis* or practical wisdom was the most apt for approaching the ethics of psychiatric practice. Applied to psychiatric (or any clinical) practice, *phronesis* encourages the consideration of multiple perspectives and issues in evaluating a dilemma and its course of action, as well as a mode of reflection upon choices made in resolving ethical quandaries (Tallmon, 2001). This mode of moral reflection is most starkly identified by Arendt's observations of the trial of Adolf Eichmann in Jerusalem (Arendt, 1963). The other perspective of virtue ethics in relation to psychiatry is MacIntyre's notion of virtue as equating with discharging the duties of citizenship – "*agathos*" (MacIntyre, 1984). This alludes to the issue of the beneficent application of wisdom and skill identified in the earlier paper on professional ethics.

Although both care ethics and the ethics of virtue reflect fundamentally desirable human qualities, neither provides a comprehensive account of psychiatric ethics or a helpful means of resolving ethical quandaries in psychiatry. The paper finds some middle ground in the work of RM Hare (Hare, 1993). In a process similar to Rawls' "reflective equilibrium" (Rawls, 2001), Hare argues for "levels of moral thinking" in psychiatry. The 'intuitive level' is more akin to virtue ethics, or we would argue the ethics of care. The critical level is at the level of practical decision making and has no appeal to moral intuitions. To Hare, it is more akin to the utilitarian position. In this scheme, practical decisions, usually based on the grounds of utility, are reflected upon with the tenets of virtue and care in mind. Such an approach is discussed in a more practical light by Bloch and Green (Bloch & Green, 2006).

Paper 3: Principles-Based Ethics

The third paper in the series evaluated the utility of principles-based medical ethics (Beauchamp & Childress, 2001) as a tool for resolving ethical dilemmas in psychiatry (Robertson, Ryan, & Walter, 2007a). Apart from the critiques of the 'four principles' approach (Clouser & Gert, 1990; Engelhardt, 1996; Harris, 2003), the main limitation in their application to psychiatric ethics is the apparent diminution of autonomy in the patient (Radden, 2002), thus affecting the evaluation of the prima facie dilemma. Given the notion that autonomy is "first among equals" of the four principles in Western settings (Veatch, Gaylin, & Steinbock, 1996), this is particularly problematic. The paper concludes that the four principles offers a form of procedural morality which can be utilised in conjunction with the form of ethical reflection highlighted in the second paper of the series.

Paper 4: The Method of Casuistry

The fourth paper examined the potential applications of the method of casuistry to psychiatric ethics (Robertson, Ryan, & Walter, 2007b). The revival of casuistry (Arras, 1991; Jonsen & Toulmin, 1988; Miller, 1996) provides an approach to reasoning in psychiatric ethics which directly attempts to resolve quandaries by providing a workable and practical methodology. The method of casuistry approximates the legal arguments of common law by adopting a taxonomic approach to 'paradigm' cases, using a technique akin to that of normative analogical reasoning. Casuistic reasoning involves the parsing of a particular ethical quandary or dilemma, considering maxims such as clinical need, the context of the decision, quality of life and the patient's perspective. Once this is done, a particular standard or "paradigm" case (akin to a case-law precedent in a legal setting) is established a series of similar cases is assembled, creating a taxonomy of cases. The case under consideration is placed within the sequence depending upon the similarities and negatively relevant differences to the paradigm case. As such, if the case under consideration and the paradigm case are very similar, there is a stronger argument that the conclusion to the case under question should be similar to the paradigm case.

As a method of ethical reasoning in psychiatry, casuistry suffers from a paucity of paradigm cases and its failure to fully contextualize ethical dilemmas by relying on common morality theory as its basis. There are few paradigm cases in psychiatry, although the Tarasoff case (relating to duty to inform of imminent risk to others) (1976) and the case of Daniel M'Naghten (1843) (relating to diminished responsibility due to psychosis in the case of homicide or attempted homicide) are well recognised in the literature. Moreover, the establishment of paradigm cases would require broad consideration of many views within both the community and mental health profession, highlighting a potential for discourse ethics (see below) to be a methodology relevant to casuistry.

Paper 5: Utilitarianism and the Ethics of Duty

The fifth paper in the series (Robertson, Morris, & Walter, 2007) considers two of he most well known normative ethical theories, utilitarianism and Kantian ethics of duty. Utilitarianism as a basis of psychiatric ethics was considered in detail in a previous issue of this journal (Robertson & Walter, 2007a, 2007b). Utilitarianism is a well-established moral philosophy and has significant instrumental value in dealing with common ethical problems faced by psychiatrists. The two main criticisms of utilitarianism, specifically the 'quantification problem' and the responsibility for consequences which are potentially repugnant are very relevant for psychiatry. Utilitarianism has significant output value and approximates decisions of public policy. Despite this, utilitarianism's fundamental limitation in psychiatric ethics is the fact that decisions based upon the grounds of utility frequently place the psychiatrist at odds with the Hippocratic injunction 'primum non nocere'. This underscores the need for the kind of higher level of reflection, as discussed earlier in this paper.

In highlighting the notion of obligation to 'perfect' and 'imperfect' duties, Kantian ethics provides the pretext for the current codes of ethics for various professional groups of psychiatrists. The criticisms of Kantian ethics are a relevant critique to their providing a foundational construct for psychiatric ethics. Kant's valorization of reason, in particular moral reasoning, as the core of human autonomy has served liberal moral philosophy well. The notion of autonomy as the capacity for self-regulation is at the core of much deliberation in bioethics, yet in psychiatric ethics the disturbance of autonomy brought about by psychiatric disorder is at the core of many ethical quandaries faced by psychiatrists. Hegel's criticism of the 'empty formalism' of Kant (Hegel, 1952), O'Neil's concerns about conflicting duties, the abstraction and neglect of emotions (O'Neil, 1991) are all limitations in their application to psychiatric ethics. The decontextualised nature of the Kantian categorical imperative is particularly troubling, as corrupted and misguided forms of obligation to duty have been associated with the excesses of Nazism (Arendt, 1963) – as MacIntyre notes, "Anyone educated into the Kantian notion of duty will, so far, have been educated into easy conformism with authority" (MacIntyre, 1998) p. 191.

Paper 6: Newer Approaches to the Field

The final paper in the series considers approaches to ethics, which have emerged in response to the perceived failures of Western moral philosophy. The spectre of the Holocaust provoked a crisis in Western moral philosophy, prompting the advent of post-modernism (Lyotard, 1984). Post-modern professional ethics are well articulated by Hugman (Hugman, 2005), who nominates the work of Bauman (Bauman, 1993), MacIntyre (MacIntyre, 1984, 1988) and Foucault (Foucault, 1997) as the key ideas of post-modern ethics. Our distillation of this corpus of work is that the post-modern approach to psychiatric ethics seeks to define the perceived obligations and values psychiatrists hold in their dealings with individual patients and how these relate to broader conceptions of the good in professional and social settings. Far from suffering from the traditional criticisms of post-modernism of "anything goes", such approaches to ethics emphasise the need to return to individual considerations in moral reasoning. There is thus a coalescence between these approaches and those of the feminist ethics of care.

Related to this critique of traditional liberal Western philosophy, the articulation of the method of discourse ethics (Benhabib, 1992; Habermas, 1990) also seeks to move beyond grand theories or the "metanarratives" of Enlightenment philosophy. Discourse ethics sees ethical norms generated by a process of a discourse procedure, in which all members of a discourse are able to express their views.

Discourse ethics allows the generation of moral 'norms', which are universal in as far as all those affected by them can accept their consequences. Applied to professional ethics, psychiatrists are members of a large group engaged in a discourse with diverse parts of society, yet exist within small moral communities (Turner, 2002) in which micro-discourses are compatible with different individual ethical positions.

Conclusion

As we have argued in this series of papers, no one normative theory of ethics is perfectly suited to the complexities of psychiatric practice. All of the theories contribute a valuable perspective to the field, but they all fail to fully apprehend the complexities of psychiatric disorder and its treatment. These complexities lie in the unique vulnerability of the psychiatric patient, the uniqueness of many aspects of psychiatric treatment and the intricate and powerful relationship between the psychiatric profession, the law and other social institutions.

More than any other field of medical endeavour, psychiatry is a socially constructed enterprise. Many aspects of the knowledge of psychiatric disorder and treatment are predicated on social norms and expectations. Moreover, the values that psychiatrists hold as a group emerge in specific social and cultural settings and are therefore relative to others. Such apparent axiological relativism calls into question the validity of universal codes of ethics, such as the World Psychiatric Association's Declaration of Madrid (WPA, 1996). In the light of the human rights abuses perpetrated throughout the recent history of psychiatry, the intuitive notion is that there must be some moral universals. It is not reasonable to assume a moral equivalence between coercive psychiatric treatment based on non-therapeutic public safety grounds, and the murders of psychiatric patients by their psychiatrists in the Aktion T4 programme in Nazi Germany. Nor is it reasonable to turn a blind eye to seemingly improper conduct by individual or small groups of psychiatrists based on some form of intellectually lazy moral relativism. In the moral awakening since 1945, notions such as basic human rights have been assumed to be a naturalistic phenomenon. The challenge to the field of psychiatric ethics - a challenge to share with students and fellow teachers - is to achieve a balance between such universal human values and the particularism of different psychiatrists working in different societies at different points in history.

Funding and Support: *Nil*

Competing Interests: *None*

Acknowledgements: *None*

References:

Adshead, G. (2002). A Different Voice in Psychiatric Ethics. In K. Fulford, D. Dickenson & C. Murray (Eds.), *Healthcare Ethics and Human Values* (pp. 56-62). Malden: Blackwell.

Appelbaum, P. (1990). The parable of the forensic psychiatrist: ethics and the problem of doing harm. *International Journal of Law and Psychiatry*, 13, 249-259.

Arendt, H. (1963). *Eichmann in Jerusalem: a Report on the Banality of Evil*. London: Faber & Faber.

Aristotle. (1998). *The Nicomachean Ethics* (D. Ross, Trans.). Oxford: Oxford University Press.

Arras, J. (1991). Getting down to cases: the revival of casuistry in bioethics *Journal of Medicine and Philosophy*, 16, 29-51.

Baier, A. (1985). What do Women Want in a Moral Theory?" *Nous*, 19, 53-63.

Bauman, Z. (1993). *Postmodern Ethics*. Oxford: Blackwell.
Beauchamp, T., & Childress, J. (2001). *Principles of Biomedical Ethics (5th Edition)*. New York: Oxford University Press.
Benhabib, S. (1992). *Situating the Self: Gender, Community, and Postmodernism in Contemporary Ethics*. New York: Routledge.
Bloch, S. (2007). Care ethics: what psychiatrists have been waiting for to make sound ethical decisions. *Psychiatric Annals* 37, 787-791.
Bloch, S., Chodoff, P., & Green, S. (Eds.). (1999). *Psychiatric Ethics - 3rd Edition*. New York: Oxford University Press.
Bloch, S., & Green, S. (2006). An ethical framework for psychiatry. *British Journal of Psychiatry*, 188, 7-12.
Clouser, C., & Gert, B. (1990). A critique of principlism. *Journal of Medicine and Philosophy*, 15, 219-236.
Engelhardt, H. (1996). *The Foundations of Bioethics 2nd Edition*. New York: Oxford University Press.
Foucault, M. (1997). *Ethics: Subjectivity and Truth - the Essential Works of Foucault 1954-1984 (Vol 1)* (R. Hurley, Trans.). Harmondsworth: Penguin.
Gabbard, G. (1994). Psychotherapists who transgress sexual boundaries with patients. *Bulletin of the Menninger Clinic*, 58, 124-135.
Gilligan, C. (1982). *In a Different Voice: Psychological Theory and Women's Development*. Cambridge, MA: Harvard University Press.
Habermas, J. (1990). Discourse Ethics: Notes on a Program of Philosophical Justification. *In Moral Consciousness and Communicative Action*. Cambridge, MA: MIT Press.
Hare, R. (1993). *The philosophical basis of psychiatric ethics*. New York: Oxford University Press.
Harris, J. (2003). In praise of unprincipled ethics. *Journal of Medical Ethics*, 29, 303-306.
Hegel, G. (1952). *Philosophy of Right*. Oxford: Clarendon Press.
Hugman, R. (2005). *New Approaches in Ethics for the Caring Professions.* Basingstoke: Palgrave Macmillan.
Jonsen, A., & Toulmin, S. (1988). *The Abuse of Casuistry.* Berkeley: University of Berkeley Press.
Lyotard, J.-F. (1984). *The Postmodern Condition - A Report on Knowledge*. Manchester: Manchester University Press.
M'Naghten's Case (1843) http://www.bailii.org/uk/cases/UKHL/1843/J16.html (accessed Nov 15 2007).
MacIntyre, A. (1984). *After Virtue*. Notre Dame: University of Notre Dame Press.
MacIntyre, A. (1988). *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press.
MacIntyre, A. (1998). *A Short History of Ethics*. Milton Park: Routledge.
Miller, R. (1996). *Casuistry and Modern Ethics* London: University of Chicago Press.
Noddings, N. (1984). *Caring: a feminine approach to ethics and moral education*. Berkeley: University of California Press.
O'Neil, O. (1991). Kantian Ethics. In P. Singer (Ed.), *A Companion to Ethics* (pp. 175-185). Oxford: Blackwell.
Radden, J. (2002). Psychiatric Ethics. *Bioethics*, 16(5), 397-411.
Rawls, J. (2001). *Justice as Fairness: A Restatement.* Cambridge MA: Harvard University Press.
Robertson, M., Morris, K., & Walter, G. (2007). Overview of psychiatric ethics V: utilitarianism and the ethics of duty. *Australasian Psychiatry*, 15, 402-410.
Robertson, M., Ryan, C., & Walter, G. (2007a). Overview of psychiatric ethics III: principles-based ethics. *Australasian Psychiatry*, 15, 281-286.
Robertson, M., Ryan, C., & Walter, G. (2007b). Overview of psychiatric ethics IV: the method of casuistry. *Australasian Psychiatry*, 15, 287-291.
Robertson, M., & Walter, G. (2007a). A critical reflection on utilitarianism as the basis for psychiatric ethics I: utilitarianism as an ethical theory. *Journal of Ethics in Mental Health, 1(2)*.
Robertson, M., & Walter, G. (2007b). A critical reflection on utilitarianism as the basis for psychiatric ethics II : utilitarianism and psychiatry. *Journal of Ethics in Mental Health, 1(2)*.
Robertson, M., & Walter, G. (2007c). An overview of psychiatric ethics I: professional ethics and psychiatry. *Australasian Psychiatry* 15 201 - 206.
Robertson, M., & Walter, G. (2008). The many faces of the dual-role dilemma in psychiatric ethics. *Australian and New Zealand Journal of Psychiatry* 42, 228-235.
Tallmon, J. (2001). Casuistry. In T. Sloane (Ed.), *Encyclopaedia of Rhetoric* (pp. 83-88). New York: Oxford University Press.
Tarasoff v. Regents of the University of California 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 1976.
Turner, L. (2002). Medical facilities as moral worlds *Journal of Medical Ethics: Medical Humanities*, 28, 19-22.
Veatch, R., Gaylin, W., & Steinbock, B. (1996). Can the moral commons survive autonomy? (includes commentaries)(In Search of the Good Society: The Work of Daniel Callahan. *Hastings Center Report, 26*, 41.
WPA. (1996). World Psychiatric Association - Madrid Declaration on Ethical Standards for Psychiatric Practice *http://www.wpanet.org/generalinfo/ethic1.html (accessed 23 Nov 2007).*

Address for Correspondence:

e-mail: *mrobertson@med.usyd.edu.au*