

# 1 - PRINCIPLES AND THEORIES

## CHAPTER 1 - MORAL REASONING IN BIOETHICS

**Morality:** Concerns beliefs regarding morally right and wrong actions and morally good and bad persons or character

### ETHICS AND BIOETHICS

- Morality is about people's moral judgements, principles, rules, standards, and theories - all of which help direct conduct, mark out moral practices, and provide the yardsticks for measuring moral worth.
- Morality is used to refer generally to these aspects of our lives ("Morality is essential") or more specifically to the beliefs or practices of particular groups or persons ("Kant's morality")
  - **Moral:** Pertains to morality; Synonym for right or good
  - **Immoral:** Wrong or bad

**Ethics:** The study of morality using the tools and methods of philosophy

**Philosophy:** A discipline that systematically examines life's big questions through critical reasoning, logical argument and careful reflection

- **Ethics:** Aka moral philosophy; A reasoned way of delving into the meaning and import of moral concepts and issues and of evaluating the merits of moral judgements and standards
  - Seeks to know whether an action is right or wrong, what moral standards should guide our conduct, whether moral principles can be justified, what moral virtues are worth cultivating and why, what ultimate ends people should pursue in life, whether there are good reasons for accepting particular moral theory, and what the meaning is of such notions as *right, wrong, good, and bad*

**Descriptive Ethics:** The study of morality using the methodology of science

- Its purpose is to investigate the *empirical* facts of morality - the actual beliefs, behaviours, and practices that constitute people's moral experience

### ETHICS VS. DESCRIPTIVE ETHICS

- Ethics - How we ought to live?
- Descriptive Ethics - How do we in fact, live?

### BRANCHES OF ETHICS

#### NORMATIVE ETHICS

**Normative Ethics:** The search for, and justification of, moral standards or norms

- These moral standards are often moral principles, rules, virtues and theories
- **Purpose:** To establish rationally some or all of these as proper guides for our actions and judgements
- **Questions:** What moral principles, if any, *should* inform our moral judgements? What role *should* virtues play in our lives?? etc.

#### METAETHICS

**Metaethics:** The study of meaning and justification of basic moral beliefs

- **Questions:** What does it mean for an action to be right or for a person to be good?

- Does *right* mean “has the best consequences”, or “produces the most happiness” or “commanded by God”?
- *Purpose*: To explore these and other equally fundamental questions such as “What, if anything, is the difference between moral and nonmoral beliefs? Are there such things as moral facts? If so, what sort of things are they, and how can they be known? Can moral statements be true or false - or are they just expressions of emotions or attitudes without any truth value? Can moral norms be justified or proven?”

## APPLIED ETHICS

**Applied Ethics:** The use of moral norms and concepts to resolve practical moral issues

- *Purpose*: To employ moral principles, theories, arguments or analyses to try to answer moral questions that confront people every day
- *Questions*: Many such questions relate to a particular professional field such as law, business, or journalism

## BIOETHICS

**Bioethics:** Applied ethics with a focus on healthcare, medical science and medical technology

- *Questions*: Is abortion ever morally permissible? Is a woman justified in having abortion if prenatal genetic testing reveals that her fetus has a developmental defect? etc.
- The heart of bioethics is moral philosophy, fully informed bioethics can't be done without a good understanding of the relevant nonmoral facts and issues, especially the medical, scientific, technological, and legal ones.

## ETHICS AND THE MORAL LIFE

**Nonmoral Norms:** Other sorts of norms that we apply in life

- Aesthetic Norms - Help us make value judgements about art
- Etiquette Norms - Polite social behaviour
- Grammatical Norms - Correct use of language
- Prudential Norms - What is in one's interests
- Legal Norms - Lawful and unlawful acts

## FEATURES OF MORAL NORMS

**Normative Dominance:** Moral norms are presumed to dominate other kinds of norms

- **Overridingness:** When moral considerations override other factors
- Example - An aesthetic norm might imply that homeless people should be thrown in jail because they're unsightly, but moral norms demand human treatment

**Universality:** Moral norms have universality - they apply in all relevantly similar situations

- Characteristic of all normative spheres; Logic demands it
- Example - If it is wrong for you to lie in a particular circumstance, it is wrong for everyone in relevantly similar circumstances to lie

**Impartiality:** Everyone should be considered equal, and everyone's interests should count the same

- Prohibits discrimination against people merely because they are different *when there is no good reason*
  - Example - Casting a white man for a black role is not discrimination

- Example - “Murder is wrong for everyone”, not just “murder is wrong for everyone, except me”

**Reasonableness:** To engage in the essential, unavoidable practices of the moral life

- All moral judgements must be the result of careful reflection in which we arrive at good reasons for accepting them, reasons that could be acknowledged as such by any other reasoning persons
- Example - Saying that physician-assisted suicide is always morally wrong, but then you have to provide justification in our argument
- We can feel things and it can be useful to empathize, deepen our understanding of human suffering and sharpen our insight on the consequences of our moral decisions, but they can't be used as justification, as they can mislead us by reflecting not on moral truth but on our own psychological needs, biases, or our concern for personal advantage

## MORALITY AND THE LAW

**Laws:** Norms enacted or enforced by the state to protect or promote the public good

- Specify which actions are *legally* right or wrong, but they could still be judged *morally* right or wrong and sometimes these two judgements won't agree
- Example - Lying to a friend about a personal matter is immoral but not illegal

**Legal Moralism:** Notion that something may be illegal solely on the grounds that it is immoral, regardless of any physical or economic harm involved

- Underlies debates about the legalization of abortion, euthanasia, reproductive technology, contraception and other practices

## MORAL OBLIGATIONS AND MORAL VALUES

**Moral Obligations:** Concern our duty and what we are obligated to do - about conduct, how we ought or ought not to behave

- Primarily about actions - we may look to moral principles or rules to guide our actions, or study a moral theory that purports to explain right actions, or make judgements about right or wrong actions

**Moral Values:** Concern those things that we judge to be morally good, bad, praiseworthy or blameworthy

- Words are used to describe persons, their character, or their motives
- Actions are morally right or wrong, but persons are morally good or bad - a good person can do a wrong thing, and a bad person can do something right
- Actions are also judged based upon the intent behind them

**Right Action:** "Obligatory" or "permissible"

- *Obligatory* - one that would be wrong not to perform
- *Permissible* - one that's permitted, it's not wrong not to perform it

**Wrong Action:** "Prohibited" - one that would be wrong to perform

**Supererogatory Action:** One that is "above and beyond" our duty; Praiseworthy; good, but not required

## MORAL PRINCIPLES IN BIOETHICS

- Moral principles are indispensable to moral decision-making
- Moral principles are drawn from moral theory
  - **Moral Theory:** A moral standard on the most general level

**Absolute Principle:** Applies without exceptions

- Example - If the absolute principle demands we shouldn't lie, then we never lie, regardless of the circumstances or consequences

**Prima Facie Principle:** Applies in all cases unless an exception is warranted

- Exceptions are justified when the principle conflicts with other principles and is thereby overridden
- Example - Physicians have a prima facie duty to be truthful to their patients as well as a prima facie duty to promote their welfare; If telling the patient might somehow result in his death, the physician might decide that the duty of truthfulness should yield to the welfare duty

## BASIC PRINCIPLES

### AUTONOMY

**Autonomy:** A person's rational capacity for self-governance or self-determination; The ability to direct one's own life and choose for oneself

- *Autonomous persons should be allowed to exercise their capacity for self determination*
- Autonomous persons have intrinsic worth precisely because they have the power to make rational decisions and moral choices. They, therefore, must be treated with respect, which means not violating their autonomy by ignoring or thwarting their ability to choose their own paths and make their own judgements.
- Respect for autonomy puts a restraint on what can be done to an autonomous person (i.e. nothing without consent), not just physically.
  - Autonomy involves the capacity to make personal choices, but choices cannot be considered fully autonomous unless they are fully informed.
- Lying is wrong because it undermines personal autonomy.

**Informed Consent:** Patients must be allowed to freely consent to or decline treatments and they must receive the information they need to make informed judgements about them

- Some people are not capable of autonomy - drug addicts, alcoholics, babies, etc. - in these cases, the decisions are forced upon parents, guardians, or health care workers
- Autonomy is a *prima facie* - for the good of others, a person's autonomy may be curtailed to prevent harm to others

**Paternalism:** The overriding of a person's actions or decision-making for her own good

- *Weak Paternalism:* When some cases of paternalism are permissible to many people
  - Example - Psychotic patients are temporarily restrained to prevent them from injuring or killing themselves
- *Strong Paternalism:* The more controversial cases of paternalism that are morally objectionable
  - Example - Researchers hoping to develop a life-saving treatment by giving an experimental drug to someone without his knowledge or consent

### NONMALEFICENCE

**Nonmaleficence:** Asks us not to intentionally or unintentionally inflict harm on others

- Most widely recognized moral principle; "Above all, do no harm"
- *We should not cause unnecessary injury or harm to those in our care*
- Health professionals must exercise "due care" - it is impossible to expect that health professionals will never harm anyone, but we do expect them to use due care
  - **Due Care:** Act reasonably and responsibly to minimize the harm or the chances of causing harm
- Subjecting patients to unnecessary risks is wrong even if no damage is done

### BENEFICENCE

**Beneficence:** Constitutes the very soul of morality; Enjoins us to advance the welfare of others and prevent or remove harm to them

- *We should do good to others, not only in just avoiding inflicting pain and suffering, we should actively promote the well-being of others and prevent or remove harm to them*
- Some argue that there is no general duty to help others - we're not obligated to aid the poor, feed the hungry or tend to the sick; They are supererogatory
- In certain professions, benefiting others is obligatory and basic

## UTILITY

**Utility:** We can't always *just* benefit others or *just* avoid harming them - we should do what yields the best overall outcome - the maximum good and maximum evil

- *We should produce the most favourable balance of good over bad (or benefit over harm) for all concerned*
- Defining precept of the moral theory of utilitarianism
- Also used to as a stand-alone moral principle to resolve dilemmas
  - Ex. When choosing between two forms of treatment for a patient, this principle would require that the physician take the less invasive, safer route
- Plays a major role in the creation and evaluation of the health policies of institutions and society - perfect beneficence or maleficence is impossible, so the principle of utility is used to make trade-offs and compromises

## JUSTICE

**Justice:** Refers to people getting what is fair or what is their due

**Retributive Justice:** Concerns the fair meting out of punishment for wrongdoing

- Is justice served only when people are punished for past wrongs or when people are punished, not because they deserve it, but to deter further unacceptable behaviour

**Distributive Justice:** Concerns the fair distribution of society's advantages and disadvantages

- Majorly debated in bioethics, in particular who gets healthcare, what or how much they should get, and who should pay for it
- *Equals should be treated equally*

## THEORIES OF JUSTICE

**Libertarian:** Emphasize personal freedoms and the right to pursue one's own social and economic well-being in a free market without interference from others

- Individuals are entitled only to what they can acquire through their own hard work or ingenuity - government should not be in the business of helping the socially or economically disadvantaged

**Egalitarian:** A just distribution is an *equal* distribution

- Social benefits should be allotted so that everyone has an equal share

There are other theories that try to fuse together these two theories - they exhibit a healthy respect for individual liberty and limit governmental interference in economic enterprises, while mandating that the basic needs of the least well-off citizens be met.

## ETHICAL RELATIVISM

**Moral Objectivism:** At least some moral standards are objective

**Moral Absolutism:** The belief that objective moral principles allow no exceptions or must be applied the same way in all cases and cultures

**Ethical Relativism:** Moral standards are not objective, but are relative to what individuals or cultures believe

- There are no *objective* truths, only *relative* ones

- An action is morally right if endorsed by a person or culture and morally wrong if condemned by a person or culture.

**Subjective Relativism:** The view that right actions are those sanctioned by a person

**Cultural Relativism:** The view that right actions are those sanctioned by one's culture

- This doctrine could be good for ending conversations ("Your truth is not my truth"), but would be hard to maintain consistency - some moral norms are more important to enforce than others

## ANTHROPOLOGY AND MORAL DIVERSITY

- Differences in moral judgements from culture to culture do not in themselves prove a difference in moral standards
  - Example - There is no society where bravery is despised and cowardice held up in honour, in which generosity is considered a vice and ingratitude a virtue.
- The relations between valuation and meaning are invariant.

## SUBJECTIVE RELATIVISM WRONGS

- Conflicts violently with commonsense realities of the moral life
  - Doctrine implies that each person is morally infallible - if someone sincerely believes his action is morally right, their approval will make the action right, and if his approval is genuine, he can't be mistaken
- Moral disagreement is an illusion - people can only express their own personal taste, feelings or preferences on the issue

## CULTURAL RELATIVISM WRONGS

It seems to make much more sense than subjective relativism. The argument in its favour often goes:

1. If people's moral judgements differ from culture to culture, then moral norms are relative to culture, meaning there are no objective moral standards.
2. People's moral judgements do differ from culture to culture.
3. Therefore, moral norms are relative to culture, so there are no objective moral standards.

These premises all follow logically, but the truth is another matter.

### PREMISE 2

True - different cultures have different beliefs on matters such as infanticide, polygamy, euthanasia, etc.

### PREMISE 1

False

- From the fact that cultures have divergent moral beliefs on an issue, it doesn't logically follow that there is no objective moral truth to be found. Disagreements on a moral question may simply indicate that there is an objective fact of the matter but that someone or everyone is wrong about it.
  - Example - Someone says there's life on Mars, and someone says there's no life on Mars; Just because there is a disagreement, doesn't mean that there's no objective truth about life on Mars
- A conflict between moral beliefs does not necessarily indicate a fundamental conflict between basic moral norms - cultures can have disagreements, not because their basic moral principles clash, but because they have differing nonmoral beliefs that put these principles into a very different light
  - Example - In one culture, it is their belief that people go to Heaven in the body that they died in, so they kill their parents before they are feeble. While we as a society would

condemn this practice as we appeal to the moral precepts urging respect for parents and human life, they would use the same argument to say that they want their parents to live in Heaven in good health.

Another problem:

- Cultural relativism implies moral infallibility, but cultures have also approved of things such as ethnic cleansing, slavery, racism, holocausts, etc.
- Related to this problem is that cultural relativism implies that we cannot legitimately criticize other cultures - each society is its own maker of the moral law
  - Example - If the people in Germany approved of the extermination of millions in World War II, that would mean they were correct.

And another:

- Cultural relativism implies that moral progress can't exist, because in order for there to be progress, there must be an objective, transcultural standard for comparing cultures of the past and present

And another:

- Cultural relativism can't really explain the moral status of social reformers such as Martin Luther King Jr, Gandhi, or Susan B. Anthony - if cultural relativism is true, social reformers could *never* be morally right.

And another:

- We belong to many social and cultural groups - if you can't tell which culture you belong to, you can't tell which cultural norms apply to you

And another:

- People tend to believe cultural relativism because it allows for **cultural tolerance**, but cultural relativism doesn't necessarily lead to tolerance and certainly does not logically entail it - according to cultural relativism, cultural intolerance could be morally permissible if the society approves it. Also, to endorse universal tolerance would mean to create an objective moral norm, thereby abandoning cultural relativism.

## ETHICS AND RELIGION

**Divine Command Theory:** Right actions are those commanded by God, and wrong actions are those forbidden by God - God is the author of moral law, making right and wrong by his will

- Problem - Are actions morally right because God commands them, or does God command them because they are morally right?

### OPTION ONE

God creates moral law - If actions are morally right because God commands them to be so, then it is possible that any actions are morally right. There is no standard to judge whether these acts are right or wrong.

- Defendants then say that God would never command something evil because God is all-good, but then critics say this:
  - If God makes the moral law, then the moral term *good* would mean "commanded by God", but then "God is good" would mean "God does what God commands" or "God is what God is" which tells us nothing about the goodness of God. "God's commands are good" would translate as "God's commands are God's commands".

## OPTION TWO

Right and wrong are independent of God's will. Moral standards are external to God, binding on both God and mortals. God, therefore, is good because he abides perfectly by the moral law and guides the conduct of believers accordingly.

## MORAL ARGUMENTS

**Moral Reasoning:** Critical reasoning in ethics, which employs the same general principles of logic and evidence that guides the search for truth in every other field

### ARGUMENT FUNDAMENTALS

**Argument:** Patterned set of assertions; One statement providing support for another statement

- **Premises:** Supporting statement
- **Conclusion:** Supported statement

**Statement:** An assertion that something is or is not the case and is therefore the kind of utterance that is either true or false

An argument is NOT synonymous with persuasion - an argument provides us with reasons for accepting a claim whereas persuasion doesn't give any reasons for accepting a claim.

A good argument includes:

- Solid logic - The conclusion should follow logically from the premises and there must be a proper logical connection between support statements and the statement supported
- True premises - What the premises assert must in fact be the case

### BASIC ARGUMENTS

**Deductive Arguments:** Intended to give *logically conclusive* support to their conclusions so that if the premises are true, the conclusion must absolutely be true.

- Validity is a structural matter, depending entirely on how an argument is put together
- Truth concerns the nature of the claims made in the premises and conclusion
  - A valid argument could have true or false premises and a true or false conclusion
- Good deductive argument is *sound*

Example -

1. It is wrong to take the life of an innocent person.
2. Abortion takes the life of an innocent person
3. Therefore, abortion is wrong.

**Inductive Arguments:** Give *probable* support to their conclusions; Can only establish that if their premises are true, their conclusions probably true

- *Strong Arguments* - If the premises are true, their conclusions are very probably true
  - Example -
    1. 85% of students at this university are Republicans.
    2. Sonia is a student at this university.
    3. Therefore, Sonia is probably a Republican.
- Good inductive argument is *cogent*
- *Types of inductive arguments:*
  - Generalizations
  - Analogies
  - Predictions
  - Causal

**Conditional Premise:** A premise consisting of a conditional, or if-then, statement

- Example -
  1. If the surgeon operates, then the patient will be cured. | If p, then q
  2. The surgeon is operating. | p
  3. Therefore, the patient will be cured. | Therefore, q
- The *if* part is known as **antecedent**, and the *then* is called the **consequent**.
  - **Modus ponens:** Affirming the antecedent
    - Any argument having this form is valid
  - **Modus tollens:** Denying the consequent
    - Any argument using this form must also be valid
- Affirming the consequent and denying the antecedent are *INVALID* forms of arguments.

## PATTERNS OF MORAL ARGUMENTS

**Moral Argument:** An argument whose conclusion is a moral statement, an assertion that an action is right or wrong, or that a person or motive is good or bad

Example -

1. It's wrong to take the life of an innocent person.
  2. Abortion takes the life of an innocent person.
  3. Therefore, abortion is wrong.
- At least one premise is a moral statement asserting a general moral norm such as a moral principle
  - At least one premise is a nonmoral statement describing an action or circumstance
  - The conclusion is a moral statement expressing a moral judgement about a specific action or circumstance

Nonmoral premises can't support a moral judgement nor can a moral premise alone form a conclusion.

## FALLACIES IN MORAL REASONING

**Straw Man:** Misrepresentation of a person's views so they can be more easily attacked or dismissed

- Example - You argue that because an immunization program will save the lives of thousands of children and will likely cause the death of only 1 child out of every 500,000, we should fund the immunization program. But then your opponent replies that you think the life of a child isn't worth much. Thus your point has been distorted, made to look extreme or unsavory—and is now an easier target

**Appeal to the Person:** Similar to the strawman fallacy, it disregards or rejects any statement on the grounds that it comes from a particular system

- Example - You can ignore Susan's views on abortion. She's a Catholic

**Appeal to Ignorance:** Tries to prove something by appealing to what we don't know - either a claim is true because it has not been proven false, or a claim is false because it has not been proven true

- Example - No one has proven that a fetus is not a person, so it is in fact a person. OR It is obviously false that a fetus is a person because science has not proven that it is a person.

**Begging the Question:** Trying to prove a conclusions by using the very conclusion as support

- Example - The Bible says that God exists. The Bible is true because God wrote it. Therefore, God exists.

**Slippery Slope:** Arguing erroneously that a particular action should not be taken because it will lead inevitably to other actions resulting in some dire outcome

- Example - If dying patients are permitted to refuse treatment, then soon doctors will be refusing the treatment on their behalf. Then physician-assisted suicide will become rampant, and soon killing patients for almost any reason will become the norm.

## EVALUATING PREMISES

**Empirical Belief/Claim:** One that can be confirmed by sense experience (observation or scientific investigation)

- Most nonmoral premises are empirical claims
- In bioethics, among the most controversial nonmoral premises are those affirming that a medical treatment or program will or will not have a particular effect on people
- Critical reasoning in bioethics demands that we always seek the most reliable evidence available and try to assess its worth objectively
- Requires that our empirical claims be supported by good empirical evidence and that we expect the same from others who make empirical assertions

## SUPPORT FOR MORAL PREMISES

- Other moral principles - appealing to a higher-level principle
- Moral theories - a general explanation of what makes an action right or a person or motive good
- Our most reliable moral judgements - moral judgements we deem plausible or credible after careful reflection that is as unbiased as possible

**Counterexamples:** Instances in which the moral principle in question seems not to hold

## ASSESSING WHOLE ARGUMENTS

**Step 1. Study the text until you thoroughly understand it.**

**Step 2. Find the conclusion.**

**Step 3. Identify the premises, both moral and nonmoral.**

# CHAPTER 2 - BIOETHICS AND MORAL THEORIES

## THE NATURE OF MORAL THEORIES

**Moral Theory:** Explains why an action is right or wrong or why a person or a person's character is good or bad' Tells us what it is about an action that *makes it right*, or what it is about a person that *makes him or her good*

**Moral Theorizing:** Making, using or assessing moral theories or parts of theories

- Often done without recognizing that the theory is playing a part

**Theories of Right Action/Theories of Obligation (Duty):** Moral theories that concentrate on right and wrong actions

**Virtue-Based Theories:** Moral theories that focus on good and bad persons or character

## HOW DO MORAL THEORIES FIT INTO EVERYDAY REASONING?

- They can figure directly into our moral arguments - moral arguments contain both moral and nonmoral premises
  - A moral premise can consist of a moral principle, a moral rule, or claim expressing a central tenet of a moral theory - the moral standard of a theory thus becomes the premise of an argument
- Theories can have an indirect impact on moral arguments because principles appealed to are often supported in turn by a moral theory - principles can be either derived from or supported by the theory's account of right and wrong action
- To be truly useful, however, moral theories must be filled out with details about how to apply them in real life and the kinds of cases to which they are related.
- As well, there is more to morality than can be captured in the general norms of a theory.
- Our moral deliberations, therefore, involve both the general and the particular
  - When deciding if an action is right or wrong we look to the theory for guidance, and from there, we can look at a set of moral principles that apply
  - If principles lead to conflicting choices, we look at theory again, and take into account our judgements
    - If the judgements and moral theory are consistent, it gives us further assurance that the decision is correct
    - If they don't align we must decide which to revise or discard
  - If our judgements are deemed more credible, we may adjust the moral theory
  - If the theory seems more credible we may conclude our judgement is untrustworthy
- Both considered judgements and moral theories are highly respected and widely used

## INFLUENTIAL MORAL THEORIES

**Consequential Moral Theories:** The rightness of actions depends solely on their consequences or results; What or how much good the actions produce

**Deontological/Nonconsequentialist Moral Theories:** The rightness of actions is determined not solely by their consequences but partly or entirely by their intrinsic nature; Rightness depends on the kind of action

## UTILITARIANISM

**Utilitarianism:** The view that right actions are those that result in the most beneficial balance of good over bad consequences for everyone involved

- Maximize the nonmoral good of everyone affected

**Act-Utilitarianism:** The rightness of actions depends solely on the relative good produced by *individual actions*

- An act is right if it produces a greater balance of good over bad than any alternative acts; Weighing the effects of each possible act

**Rule-Utilitarianism:** Focuses on rules governing categories of acts

- Right action is one that conforms to a rule that, if followed consistently, would create for everyone involved the most beneficial balance of good or bad - rule maximizes good

## JEREMY BENTHAM VS. JOHN STUART MILL

Jeremy Bentham (1748-1832)	John Stuart Mill (1806-1873)
<ul style="list-style-type: none"> <li>• Happiness is one-dimensional: It is pleasure, pure and simple, something that varies only in the amount that an agent can experience</li> <li>• The moral ideal would be to experience maximum amounts of pleasure</li> </ul>	<ul style="list-style-type: none"> <li>• Pleasures can vary in quality as well as quantity</li> <li>• There are lower (inferior indulged by the glutton) and higher pleasure (more satisfying such as search for knowledge and appreciation of the arts)</li> </ul>

## CLASSIC UTILITARIANISM

- **Hedonistic** - utility to be maximized is pleasure (happiness), the only intrinsic good
- **Impartiality** - we must not only take into account the happiness of everyone affected, but also give everyone's needs or interests equal weight
- **Total Quantity of Net Happiness** must be maximized, not rationed in any particular amounts among the people involved

## UTILITARIANISM AND BIOETHICS

**Example:** Johnny wants to be euthanized

- *Act-Utilitarianism* would say that you should kill him for the happiness of his family, to end his agony, and to end the distress and frustration of the physicians and nurses. Lethally injecting him, however, would be against the law
- *Rule Utilitarianism* would ask which rule if consistently followed would produce the greatest happiness. "Do not kill seriously impaired children, regardless of their suffering or the wishes of their parents." OR "Killing seriously impaired children is permissible if they are suffering severely and improvement is hopeless." Depending on which rule they decide on, their decision could be different.

## UTILITARIANISM AND THE GOLDEN RULE

- Utilitarianism - everyone should be happy
- Golden Rule - do as you would have others do to you
  - Both are for the good of others

## KANTIAN ETHICS

- The core of morality consists of following a rational and universally applicable moral rule and doing so solely out of a sense of duty

**Categorical Imperative:** A command to do something that applies without exception or regard for particular needs or purposes

- All our moral duties are expressed in this form

**Hypothetical Imperative:** A command to do something if we want to achieve particular aims

## THE CATEGORICAL IMPERATIVE

- A single moral principle that, through reason and reflection, we can derive our duties
- “Act only on that maxim through which you can at the same time will that it should become a universal law”
  - Our actions have logical implications - they imply general rules, or maxims, of conduct
- “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.”
  - The inherent worth of persons derives from their nature of free, rational beings capable of directing their own lives

## PRINCIPALISM

- Utilitarianism and Kantian ethics can't encompass all of ethics - they are too simple
  - The absolutism of these two theories might cause conflicts that can't be resolved

**Principlism:** A theory with two or more main principles that are weighed against each other to determine the right actions

- W.D. Ross advocated a form of principlism that included several strong duties
  - Tell the truth, keep promises, distribute benefits and burdens fairly, benefit others, refrain from hammering others, make amends for causing injuries, and repay services done
- Tom Beauchamp and James Childress argue four prima facie principles
  - Respect autonomy, promote happiness (beneficence), refrain from harming others (nonmaleficence), and distribute benefits and burdens fairly (justice)

## CRITICISM

- The lack of stable formula or procedure for assigning weights to principles to see which is strongest - principles don't have preassigned weights
  - Advocates say that the weighting process is rational, generally reliable, and not excessively subjective

## NATURAL LAW THEORY

**Natural Law Theory:** Right actions are those that conform to moral standards discerned in nature through human reason

- All of nature is **teleological**, meaning it is somehow directed toward particular goals or ends, and humans achieve their highest good when they follow their true, natural inclinations leading to these goals or ends
- Humans are *rational* beings empowered by reason to perceive the workings of nature, determine the natural implications of humans, and recognize the implications therein for morally permissible actions

## ST. THOMAS AQUINAS

- God is the author of natural law who gave humans the gift of reason to discern the law for themselves and live accordingly
- To do and promote good and avoid evil

Natural law doesn't provide a relevant moral rule covering every situation, but it does offer guidance through general moral principles, some of which are applied universally and absolutely

- Example - Killing the innocent, lying, using contraceptives, adultery, blasphemy, and sodomy

**Doctrine of Double Effect:** Performing a bad action to bring about a good effect is never morally acceptable, but performing a good action may sometimes be acceptable even if it produces a bad effect, if the bad effect is not intended although foreseen

## FOUR TESTS OF MORAL PERMISSIBILITY

1. The action itself must be morally permissible.
2. Causing a bad effect must not be used to obtain a good effect (the end does not justify the means).
3. Whatever the outcome of an action, the intention must be to cause only a good effect (the bad effect can be foreseen but never intended).
4. The bad effect of an action must not be greater in importance than the good effect.

## RAWLS' CONTRACT THEORY

**Contractarianism:** Moral theories based on the idea of a social contract, or agreement, among individuals for mutual advantage

- Most influential form by John Rawls uses the notion of a social construct to generate and defend moral principles governing how members of a society should treat one another
  - Required principles are those that people would agree to under hypothetical conditions that ensure fair and unbiased choices - if the social contract is fair, the principles themselves will be just and will define the essential makeup of a just society
- **"Original Position"** - Starting point; A group of normal, self-interested, rational individuals come together behind a "veil of ignorance" (they don't know anything about each other) to choose the principles that will determine their basic rights and duties and their share of society's benefits and burdens
  - Because they are unaware of each other's status, they won't pick any principles that disadvantage any group, because they might be members of that group
- Given this original position, we would arrive at these four fundamental principles
  1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
  2. Social and economic inequalities are to be arranged so that they are both:
    - a. to the greatest benefit of the least advantaged ... and
    - b. attached to offices and positions open to all under conditions of fair equality of opportunity.
  3. The demands of the first principle must be met before the second principle, and the demands of (b) must be met before (a)

## VIRTUE ETHICS

**Virtue Ethics:** Focuses on the development of virtuous character; Character is the key to the moral life, because from a virtuous character, moral conduct and values will arise

**Virtues:** Ingrained dispositions to act by standards of excellence, so having the proper virtues leads as a matter of course to right actions properly motivated

- Determines right action by asking what a truly virtuous person would do

**Eudaimonia:** Happiness, the good life, "human flourishing"; The highest goal of humanity (Aristotle)

- Virtue ethics insists that we *aspire to moral excellence* - goal-directed not rule-guided
- Character is not static - we can become more virtuous by reflecting on our lives and those of others, practicing virtuous behaviour, or imitating moral exemplars

- Not only must we act with virtue, we must also have the proper motives
- Fits well with the emphasis on virtues that has always been part of the healing arts

### CAN VIRTUE BE TAUGHT?

- Moral virtues can only be learned through practice, by *living* the virtues

### THE ETHICS OF CARE

**Ethics of Care:** A distinctive moral perspective that arose out of feminist concerns and grew to challenge core elements of most other moral theories; Shifts focus to the unique demands of specific situations and to the virtues and feelings that are central to close personal relationships

- Draws inspiration from the notion that men and women have dramatically different styles of moral decision making - men focus on principles, women focus on empathy
- Caring is an essential part of morality, and most influential theories have not taken it fully into account. Most moral theories push the principle of impartiality too far - impartiality would mean we value everyone equally, but personal relationships are always closer - and downplay the importance of emotions, attitudes and motivations
- This ethic is good for healthcare professionals

### FEMINIST ETHICS

**Feminist Ethics:** An approach to morality aimed at rethinking or revamping traditional ethics to eliminate aspects that devalue or ignore the moral experience of women

- Traditional ethics targets:
  - Women's moral concerns are not as important as men's
  - Women are morally inferior to men (less mature or less rational)
  - The moral issues that arise from domestic or private life are inconsequential
  - The concepts or virtues traditionally associated with women in Western cultures (community, nature, interconnectedness, caring, etc.) are not central to morality
  - Abstract individuals as fundamentally autonomous agents, aware of their own preferences and values, motivated by rational self-interest (not always selfish)
- Defined by a distinctive focus on these issues rather than a set of doctrines
- Moral reflection must take into account the social realities

### CASUISTRY

**Casuistry:** A method of moral reasoning that emphasizes cases and analogy rather than universal principles and theories from which moral judgements are supposed to be deduced

- Reasonable moral judgements are arrived at by paying careful attention to specific cases and circumstances - judgements are made by analogy with similar cases
- Problems in moral reasoning arise when theories and principles are strictly applied without regard to the relevant details of the cases

### PROBLEMS

- Paradigm cases can't speak for themselves or inform moral judgement by their facts alone - a recognized and morally relevant norm must connect the cases to interpret, evaluate, and link
- Casuists hold that justification comes from a society's traditions, values or conventions, but it seems that a solid set of principles or standards would be necessary to counteract the bias, arbitrariness, or vagueness of these influences

# CRITERIA FOR JUDGING MORAL THEORIES

- Judging a moral theory is like a scientific theory:
  - The superior theory is the one that fares best when judged by generally accepted yardsticks known as the *scientific criteria of adequacy*
  - Criteria involved include:
    - **Fruitfulness:** Whether the theory makes successful predictions of previously unknown phenomena
    - **Conservatism:** How well a theory fits with established facts

## MORAL CRITERIA OF ADEQUACY

**Criterion I:** Consistency with our considered moral judgements/moral common sense

- We arrive at these judgements after careful deliberation that is as free of bias, self-interest and other distorting influences as possible - these judgements are granted considerable respect and are taken into account in their moral theorizing
- We're entitled to trust these judgements unless proven otherwise, so any moral theory that is seriously inconsistent with our considered judgements are badly flawed
- Our considered moral judgments may give us good reasons for altering or even rejecting our moral theory. But if our moral theory is coherent and well supported, it may oblige us to rethink or reject our considered judgments.
- **Reflective Equilibrium:** A balance between moral judgement and moral theory

**Criterion II:** Consistency with the facts of the moral life

- Moral theories should be consistent with background knowledge - the *moral* background knowledge, the basic, inescapable experiences of the moral life, such as making judgements, disagreeing with others on moral issues, being mistaken in our moral beliefs, and giving reasons for accepting moral beliefs
- It is possible that we're deluded about the moral life due to our feelings, but our experience gives us good grounds to take the commonsense view until we have reasons to believe otherwise

**Criterion III:** Resourcefulness in moral problem-solving

- A resourceful theory is better than a theory that is not plausible or useful - can help us identify morally relevant aspects of conduct, judge the rightness of actions, resolve conflicts among moral principles and judgements, test and correct our moral intuitions, and understand the underlying point of morality itself

## APPLYING THE CRITERIA

- The criteria help us make broad judgements on rational grounds about a theory's strengths and weaknesses. We must use them as guides, relying on our best judgement in applying them

# 2 - MEDICAL PROFESSIONAL AND PATIENT

## CHAPTER 3 - PATERNALISM AND PATIENT AUTONOMY

### SHADES OF AUTONOMY AND PATERNALISM

**Autonomy:** A person's rational capacity for self-governance or self-determination

- An individual's power to deliberate about available options, to choose freely among those possibilities, and to act accordingly

**Autonomy Principle:** Autonomous persons should be allowed to exercise their capacity for self-determination

**Paternalism:** The overriding of a person's actions or decision-making for his own good

- **Weak Paternalism:** Paternalism directed at persons who cannot act autonomously or whose autonomy is greatly diminished
  - Not generally considered an objectionable violation of autonomy, because patients are already substantially nonautonomous to some degree
  - Its purpose is generally to protect people from harm while they are nonautonomous, to determine if they are in fact nonautonomous, or to restore them to full autonomy
- **Strong Paternalism:** The overriding of people's actions or choices even though he is substantially autonomous
  - Cases involving strong paternalism often provoke debate and sometimes legal wrangling
- Some people argue against all cases of strong paternalism, while others argue that the requirement for paternalism should not be consent, but beneficence (for their welfare)

### REFUSING TREATMENT

In the past, patients weren't allowed to refuse treatment if they had dependent children or if they were not terminally ill. Court rulings have now reversed the trend, and a competent patient has a right to reject recommended treatments, even life-saving ones. It is not *patient autonomy over physician or nurse beneficence*.

### PHYSICIAN AUTONOMY

**Physician Autonomy:** The freedom of doctors to determine the conditions they work in and the care they give to patients

- Both physicians and patients are inundated with arbitrary treatment regulations and financial punishments for "out-of-system treatments"
- Physicians have added pressures from:
  - The pharmaceutical industry inducements that encourage the use of expensive treatments of marginal efficacy
  - Penalized from low productivity, which threatens their willingness to discuss complex patient problems, even those that are likely to affect the patient's health
  - Physician reimbursement patterns encourage procedure-oriented interventions and minimize counseling, in spite of the greater benefit of brief counseling for patient health

### ADVANCE DIRECTIVES

**Advance Directives:** Allows you to express your values and desires related to end-of-life care

- Decide whether you would want to stay alive as long as medically possible, or long enough to see important events, or if you don't want to prolong your life at all

## FUTILE TREATMENT

**Medical Futility:** The alleged pointlessness or ineffectiveness of administering particular treatments

- Physicians are not obligated to provide treatments that are inconsistent with reasonable standards of medical practice
- Most times, a compromise is reached with a specific period or goal

## APPLYING MAJOR THEORIES

- Utilitarianism
  - Maximize good for everyone involved - it's ok to breach confidentiality, or mislead patients sometimes; it may be morally permissible to override a patient's refusal of treatment or reject the use of requested futile treatments
  - Act- and rule-utilitarians can disagree dramatically on these matters
- John Mill Utilitarianism
  - People should typically be permitted to decide what is to be done to their own bodies
- Kantian Ethics
  - Respect for the rights and autonomy of persons - requires physicians to honour a patient's treatment, informed consent is necessary, and withholding information is out of the question
  - Medical futility - if the physician believes it's pointless, then it is morally permissible
- Natural Law Theory
  - Deny a terminally ill patient's response to be given a lethal injection or have ordinary life-sustaining measures stopped so she could die
  - Roman Catholic Church says that if the patient is hopelessly ill they have the right to refuse extraordinary life-sustaining treatments

- A major moral issue in patient-provider relationships is how to handle the truth- specifically, whether doctors and nurses should always tell the truth to patients and whether doctors and nurses should ever reveal the truth about their patients to others.

- Paternalism and Deception

- The truth could be harmful, unsettling, and depressing – so why inflict it on vulnerable patients? In a famously blunt formulation of this view,
- An early-twentieth-century physician declared that to be compassionate and gracious, doctors “must frequently withhold the truth from their patients, which is tantamount to telling a lie. Moreover, the physician soon learns that the art of medicine consists largely in skillfully mixing falsehood and truth”
- Nowadays most physicians value truth-telling. Professional standards also encourage it while counseling sensitivity in conveying vital information to patients.
- The moral problem of truthfulness still presses both physicians and patients, prompting questions with which they still wrestle.

§ Is it morally permissible for a physician to lie to a patient?

§ Does a physician’s duty of beneficence sometimes justify deception?

§ Does respect for patient autonomy rule it out?

§ If there are exceptions to a duty of truthfulness, what are they?

- A lot of stuff talking about whether patients knowing the truth or not is better. It does harm both ways, but which way is more morally correct.
  - § Some argue that patients don’t want to know the truth, especially if the prognosis is grim.
  - § Others say that when physicians deceive a patient, they fail to respect his autonomy by constraining his ability to make informed choices. They compel him to make important decisions in a fog of distorted or missing information.
  - § Some contend that deceiving a patient is permissible only when the deception is small and the benefits to the patient are great.

- Confidential truths

- Confidentiality

§ Concerns patients imparting information to health professionals who promise, implicitly or explicitly, not to disclose that information to others. It is an

obligation or pledge of physicians, nurses, and others to keep secret the personal health information of patients unless they consent to disclosure.

### § Hippocratic Oath

- Has the physician say “Whatever I see or hear, professionally or privately, which out not to be divulged, I will keep secret and tell no one.”
- Consequentialist can argue that unless patients are able to rely on a physician to keep their secrets, they would be reluctant to reveal truthful information about themselves – information needed if the physician is to correctly diagnose their illnesses, devise effective treatments, and provide informed prognoses.
- Nonconsequentialist can argue from the principle of autonomy the idea that people should be allowed to exercise their capacity for self-determination.

### § They have a right to privacy

- The authority of persons to control who may possess and use information about themselves.
- Applying Major Theories

- Kantian ethics

§ The morality of truth-telling and confidentiality seems unambiguous. Physicians who adopt the means-end formulation of the categorical imperative, for example, seem committed to an absolute duty of preserving both. In the Kantian view, treating people merely as a means to an end is impermissible, a violation of the principle of autonomy.

- Utilitarian

§ For act-utilitarian, the morality of truth-telling and confidentiality must be judged case by case, the right action being the one that maximizes the good for all concerned. In each instance, physicians must decide carefully what to disclose to a patient, calculating the impact that any disclosure would have on the patient, her family, and everyone else involved.

§ For rule-utilitarianism they try to regulate actions by rules that, if generally followed, would result in the best consequences, everyone considered. A rule-utilitarian might argue that the greatest amount of good is produced by a rule stating that a physician should, with care and sensitivity, tell patients the truth about their condition. This rule would presumably not only be beneficial

to patients, but also help foster trust in patients for their physicians and for medicine generally.

- Virtue Ethics

§ Many who favour this moral outlook might contend that if a physician cultivates the virtues of honesty and fidelity, he will be more likely to communicate truthfully with patients, to keep his promises to them, and to maintain their confidences. More-over, if he possesses the virtue of compassion, he will be sensitive to the effect that blunt truthfulness could have on patients and will adapt his truth-telling accordingly. He will also be able to empathize with patients and understand why confidentiality matters so much to them.

# 3 - LIFE AND DEATH

## CHAPTER 7 - ABORTION

### STARTING POINT: THE BASICS

**Aristotle's View** - "Let there be a law that no deformed child shall live and if couples have children in excess, let abortion be procured before life and sense have begun."

**Hebrew and Christian Views** - Do not denounce abortion, and do not suggest that the fetus is a person

- The penalty for murder is death, but if the man causes the woman to have a miscarriage, but she is not harmed in any other way, the penalty is only a fine. Thus, causing the death of a fetus was not considered murder.
- **Christians** - Generally condemn abortion, though views have changed over the centuries
- **Roman Catholics** - The unborn is a full human being from the moment of conception
  - 12th century - The church came to the view that an embryo cannot have a soul until the moment of conception, inspired by Aristotle
  - Thomas Aquinas - Male embryos are formed 40 days after conception, and female embryos are formed 90 days after conception; Killing a fetus is always sinful, but not murder until after it's formed
    - 1312 - This doctrine became the church's official position
  - Late 19th century - Ensoulment happens at conception, and any abortion after that point is the killing of a human person

**Judaism** - Fetus has immense worth as a potential human life, but it becomes a full human person only at birth

- Abortions are allowed if the fetus threatens the life or health of the mother, but disallowed for fetuses with genetic imperfections
- Some authorities say that abortion is permitted until birth, even if the mother's life or health is not in jeopardy, if only to avoid the pain, anguish or hardship that a birth would bring.

**English Common Law** - Abortion is a crime only if performed after quickening

- **Quickening** - When the mother first detects fetal movement

**American Law** - Followed the English Common Law, until early 1800s, when laws were passed to allow abortion after quickening if it saved the life of the mother, but within the next 100 years, abortion laws became stricter, banning all abortions but those thought to preserve the life of the mother

- 1970 - The American Medical Association (AMA) and the American College of Obstetricians and Gynecologists were officially advocating less severe abortion policies
  - "It is recognized that abortion may be performed at a patient's request, or upon a physician's recommendation"
  - 1973 - Supreme Court case of *Roe v. Wade* made abortions before viability legal

**Viability** - The development stage at approximately 23 to 24 weeks of pregnancy when the fetus may survive outside of the uterus; Babies born at this stage are at high risk of severe disabilities

**Gestation** - Development from fertilization to birth

- First trimester (0-12 weeks); Second trimester (13-24 weeks); Third trimester (25 weeks to delivery); Babies delivered before 37 weeks are premature

## TYPES OF ABORTION

**Abortion** - Ending of a pregnancy

- **Spontaneous Abortion/Miscarriage** - Abortion due to natural causes; i.e. birth defect or injury
- **Induced Abortion/Abortion** - The intentional termination of pregnancy through drugs or surgery
- **Therapeutic Abortion** - Abortion performed to preserve the life or health of the mother; Generally thought to be morally permissible

## METHODS TO PERFORM ABORTIONS

1. *Suction Curettage/Vacuum Aspiration* - Used in the first 12 weeks of pregnancy (90% of abortions); Doctor inserts a thin, bendable tube through the opening of the cervix into the uterus and, using a vacuum syringe or a machine or hand pump, suctions the contents of the uterus out through the tube
2. *Dilation and Evacuation* - The cervix is widened and both suction and forceps are used to extract the fetus and placenta
3. *Drugs* - Used in the first 7-9 weeks of pregnancy
  - a. *Mifepristone* (aka RU-486 or the abortion pill) - Interferes with the hormone progesterone, thinning the lining of the uterus and preventing the implantation of an embryo
  - b. *Misoprostol* - A prostaglandin (hormonelike substance) - Prompts the uterus to contract, forcing the embryo out
  - c. Mifepristone is normally taken first, then misoprostol is taken up to three days later; This causes abortions 95% of the time

Risks in abortion are very low, especially the earlier the abortion. Less than 1% of women having early abortions experience complications, and less than 2% of those having later abortions do. The chances of a woman dying in childbirth are 10 times higher.

## THE LEGAL STRUGGLE

### ROE V. WADE

- Norma McCorvey aka “Jane Roe” sought a nontherapeutic abortion in Texas, where it was illegal
- It was taken to the US Supreme Court, which sided with the federal court, declaring in *Roe v. Wade* that no state can ban abortions performed before viability

The Court decided that since the guaranteed right of personal privacy that limits interference by the state in people’s private lives, this right encompassed a woman’s decision to terminate her pregnancy.

- The Court noted “this right is not unqualified and must be considered against important state interests in regulation” - It balanced out women's rights and the state interests by trimester of pregnancy.
  - In the first trimester, the woman’s right to end her pregnancy cannot be curtailed by the state. In the second trimester, the state may limit - but not entirely prohibit - the woman’s right by regulating abortion for the sake of her health. After viability, the state may regulate and even ban abortion except when it is necessary to preserve her life or health.
- Another note from the Court - “person” doesn’t include the unborn.

### RIGHTS TO ABORTION

1. A woman can be required to give her written informed consent to abortion

2. The government is not obliged to use taxpayer money to fund abortion services
3. Parental consent or a judge's authorization can be demanded of minors under age 18 who seek abortions
4. A state can forbid the use of public facilities to perform abortions (except to save the woman's life)
5. A woman who consents to an abortion can be required to wait 24 hours before the procedure is performed
6. A state can mandate that a woman be given abortion information
7. States may not prohibit abortions necessary to preserve a woman's life or health

## LATE-TERM ABORTION

**Intact Dilation and Extraction (D&X)/Partial-Birth Abortion** - The woman's cervix is dilated, the fetus' torso is drawn manually or with medical instruments through the birth canal, and the brain is suctioned out and the skull collapsed so the head can also be withdrawn. Depending on the length of gestation and many other variables, some of the fetuses aborted in this way may be viable, and many are not.

- **2003** - President Bush signed the Partial-Birth Abortion Ban Act, outlawing late term abortion

## PERSONS AND RIGHTS

### MORAL PERMISSIBILITY OF ABORTION VIEWS

**Conservative View** - Abortion is never morally acceptable, except possibly to preserve the mother's life, for the unborn is a human being in the full sense

**Liberal View** - Abortion is acceptable whenever the woman wants it, for the unborn is not a human being in the full sense

**Moderate Stance** - Falls between two stances, rejecting the both the conservative's zero-tolerance, for abortion, and the liberal's idea of abortion on request. Some - but not all - abortions may be morally justified

- Conflicts between conservative and liberal views often arise over the nonmoral facts, such as the nature of the fetus and over the meaning and application of moral standards.

### CONSERVATIVE VIEWS ON ABORTION

- Based on the wrongness of killing innocents

The argument is as follows:

1. The killing of an innocent human being is wrong
  2. The unborn is an innocent human being
  3. Therefore it is wrong to kill the unborn (abortion is immoral)
- The problem lies in *Premise 2*, where the human being means an entity that is biologically human, a member of the genetically distinct human species, but in *Premise 1*, human being refers to an entity having all the psychological attributes and capacities that we normally associate with the possession of full moral rights - what philosophers call a person.

The new argument:

1. The killing of an innocent person is wrong
  2. The unborn is an innocent person from the moment of conception
  3. Therefore it is wrong to kill the unborn (abortion is immoral)
- *Premise 1* is true, but *Premise 2* is argued between liberals and conservatives

## ARGUMENTS ABOUT PREMISE 2 FROM THE CONSERVATIVES

In the continuous process of development from zygote to adult human, there seems to be no precise point at which the entity becomes unmistakably a human being (with a right to life). The most plausible view therefore would be that personhood begins at conception.

- At conception, a full complement of genetic information is present to propel development of a completely formed, mature human.
- Critics respond that just because there is no line that can be drawn, doesn't mean there is no difference to be observed between the two phenomena.
  - Ex. There's no specific point where a frog turns into a tadpole, but we know there is a difference between the two.
- Another argument that a zygote cannot be an individual human being, is that in the first two weeks of existence, it consists of a set of undifferentiated cells

Another argument from conservatives is ignoring whether or not a fetus is a person, but that it is a *potential* person and thus has the same right to life as any existing person.

- The difference between human beings and other life is the capacity human beings enjoy for a specifically rich kind of life. The life a human already enjoyed can't be taken away, only its prospect of such life in the future, but this prospect is possessed as much by an infant or fetus.
- A common response to this argument is that there is a lot of difference between:
  1. Possessing a particular trait that gives you a right
  2. Having the *potential* to develop a trait that gives you a right
    - Ex. All pre-adolescents have the potential to reach the age of 18 and vote, but nobody should get the right to vote before 18
- Another argument is that if the zygote is a potential person, the other entities must also be potential persons with a right to life, such as the human ovum, spermatozoa, and countless other cells in the human body.

## LIBERAL VIEWS ON ABORTION

- The unborn is not a person, not a full human being and therefore does not have a right to life
- Simply being a hominid, a creature with human DNA, is not sufficient for personhood, and to do this is *speciesism*
  - Since whatever properties that make us persons could conceivably be manifested by a nonhuman species, merely being a member of the human species cannot be sufficient for personhood status.

## FIVE TRAITS ESSENTIAL TO PERSONHOOD

1. Consciousness and the capacity to feel pain
  2. Reasoning
  3. Self-motivated activity
  4. The capacity to communicate
  5. "The presence of self-concepts, and self-awareness, either individual or racial or both"
- The conservatives counter this - the standards are too high, as cognitively impaired individuals don't fulfill all these requirements and therefore are not persons and do not have a right to life.
  - The liberals counter the counter - even if cognitively impaired individuals do not qualify as persons, we may still have good reasons for not killing them - they are valued, or policy to killing them would be harmful (causing a general devaluing of life, or encouraging unnecessary killings). Additionally, personhood status of many cognitively impaired individuals is unclear, so a policy of regarding them as less than persons is risky.

## BIGGEST COUNTER TO LIBERAL ARGUMENT

- It sanctions infanticide - a fetus is morally permissible because it's not a person, so killing an infant must be acceptable as well. Additionally, a fetus just before birth and an infant are biologically almost indistinguishable.
- There are two arguments for that:
  1. An infant has some moral standing, whereas a fetus does not
  2. Infanticide is condemned for reasons of social utility

## MODERATE VIEWS ON ABORTION

- Fetus achieves personhood at a point somewhere *between* conception and birth, either at viability, when fetal brain waves occur, or at some other notable point
- The moral standing or right to life of the fetus increases gradually as it develops, or there is an indistinct threshold stage beyond which the fetus has significantly increased moral standing.

**Judith Jarvis Thompson** - An unborn might be a person from the moment of conception, but abortion may still be morally justified as the fetus is using another person's body to live.

- *Violinist analogy* - You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you."
- In the same way, abortion should only be justified if the fetus takes up residence without the women's consent, i.e. when pregnancy is due to rape or failed contraception.

## APPLYING MAJOR THEORIES

- Utilitarianism
  - Abortion is morally permissible because without this option, women (and society) would suffer terrible consequences.
  - Can also appeal to quality of life of the infant or child
- John Mill Utilitarianism
  - A woman must be allowed the freedom to decide what happens to her own body, which includes the attached fetus - we may not interfere with a person's capacity for self-determination except to prevent harm to others
- Kantian Ethics
  - Depends on whether or not the unborn is a person - if it is, then it has inherent worth and therefore cannot be treated as merely a means to an end. Sometimes, even if the unborn is a person, however, a woman can act out in self-defense against the fetus.
- Natural Law Theory
  - The fetus is an innocent person from conception and directly killing any innocent person is wrong. The doctrine of double effect allowed *indirect* killing of the unborn, i.e. therapeutic abortions

# CHAPTER 8 - REPRODUCTIVE TECHNOLOGY

**Assisted Reproductive Technology (ART)** - Through ART procedures, doctors can fertilize a woman's egg in a laboratory dish to produce an embryo that can be implanted in any normal uterus.

1. Test ART embryos for genetic abnormalities before implantation (and cull defective ones)
  2. Mechanically bring together selected sperm and eggs in fallopian tubes for fertilization
  3. Freeze embryos, eggs and sperm for later use (and possible destruction)
  4. Create embryos from donor eggs and sperm to offer up for adoption
  5. In a sterile laboratory container, fertilize an egg by injecting it into a single sperm cell
- Makes a reproductive surrogate possible - a woman who gestates a baby for others who may or may not be genetically related to it.
  - Also makes human reproductive cloning a possibility
  - Meant to address the problem of infertility, but is highly controversial

## IN VITRO FERTILIZATION

**Infertility** - The inability to get pregnant after one year of unprotected sex

- Can happen if ovulation doesn't occur, either sperm or egg is of low quality, the fallopian tubes are blocked (maybe due to malformation or injury), the embryo is abnormal, or implantation is unsuccessful
  - 90% of these cases can be treated with drugs or surgery, but increasing amounts of people are turning towards in vitro fertilization

**In Vitro Fertilization** - The uniting of sperm and egg in a laboratory dish instead of inside a woman's body; *in vitro* means "in glass" vs. *in utero* meaning "in the uterus"

- The idea is to create embryos that can be transferred to the woman's uterus, where they can develop to term.

## STEPS TO IN VITRO FERTILIZATION

- 1. Ovarian Stimulation (Superovulation)** - The woman takes ovulation stimulants (fertility drugs) to prompt her ovaries to produce several eggs at once instead of the usual one per month. Standard IVF procedure calls for multiple eggs because often some of them will be defective, and not every embryo may implant or develop properly once transferred to the uterus.
- 2. Egg Retrieval** - When the eggs are ready, they are extracted from the egg sacs, or follicles, of the ovaries - usually a 30-minute outpatient surgery. In a typical egg retrieval, an ultrasound-guided needle is inserted into the vagina, through the vaginal wall, and into the ovaries to the egg-bearing follicles. One by one, the eggs are suctioned out through the needle.
- 3. Insemination/Fertilization** - The retrieved eggs are inspected, and the ones judged to be of highest quality are mixed with sperm (a step called insemination), which results within a few hours in sperm cells penetrating the eggs (fertilization). Typically some eggs will not fertilize, and occasionally none will. Sometimes the chances of fertilization are greatly increased by a technique known as intracytoplasmic sperm injection (ICSI), in which an egg is pierced and a single sperm cell is injected into it.
- 4. Embryo Culture** - After fertilization, the embryos are left to grow in a culture medium. Within 48 hours, each one consists of 2 to 4 cells; in three days, 6 to 10 cells. Around the third day, fertility experts can screen the embryos for genetic diseases using a technique known as pre-implantation genetic diagnosis (PGD). Only embryos found to be free of defective genes are selected to be transferred to the uterus.

5. **Embryo Transfer** - Delivery of embryos to the uterus is generally painless and is performed in the doctor's office up to six days after egg retrieval. To increase the chances of pregnancy, two or more embryos are usually transferred at once. The embryos, along with fluid surrounding them, are placed in a long, straw-like tube called a transfer catheter. Then the catheter is eased into the vagina and through the cervix, and the embryos are pushed from the tube into the uterus. If all goes well, an embryo implants in the uterine lining.

## VARIATIONS TO THESE STEPS

**GIFT** (Gamete Intrafallopian Transfer) - Ovarian stimulation and egg retrieval proceed as they do in IVF, but then the eggs and sperm (gametes) are transferred together to a fallopian tube to fertilize

- Rarely used (less than 1%) but it is an option for some who prefer that fertilization take place inside the body

**ZIFT** (Zygote Intrafallopian Transfer) - The procedure depends on fertilization occurring in vitro, but an embryo (zygote) is transferred not to the uterus but to a fallopian tube.

- Some believe that this increases the chances of implantation, but it also constitutes less than 1%.

Couples are not generally limited to using their own sperm and eggs - sperm and egg donors.

## PROS AND CONS TO IVF

**Pros** - It helps people overcome infertility

**Cons** - IVF is expensive, and its success rates are much lower than most people think.

- Average cost is \$10,000 to \$15,000
  - One attempt, called a **cycle**, typically includes the steps from retrieval to transfer, typically lasting two weeks
- A live birth is only the outcome of about 25% of IVF cycles where the woman's own eggs are used, and it varies with age (older, lower chances of live birth)

## HEALTH RISKS OF IVF

- Woman - Physical demands of the IV process can be uncomfortable, inconvenient and stressful
  - Surgery has a low risk of side effects - bleeding, infection and damaged tissue
  - Chances of complications from taking the fertility drugs - abdominal pain, memory loss, mood swings, nausea, temporary allergic reactions, and headaches.
  - **Ovarian Hyperstimulation Syndrome** - Swollen and painful ovaries
  - Multiple pregnancies (caused by transfer of several embryos at once) increase the risk of high blood pressure, anemia, gestational diabetes, and uterine rupture.
- Child - ART techniques may lead to birth defects, low birth weight, and diseases such as cancer, but this has not been proved to be causal, because it could be related to the infertility itself.
  - Multiple pregnancies dramatically raise the risks to children's life and health
    - Chances of prenatal and postnatal death are higher than for single pregnancies and premature birth is much more likely
      - Prematurity increases risk of cerebral palsy, blindness, heart defects, serious infection, respiratory distress syndrome, and other grave maladies.
    - Chances of birth defects and low birth weight also arise from multiple pregnancies

To control multiple pregnancies, practitioners try to use **fetal reduction/selective abortion** to eliminate some fetuses in utero, which carries a risk of miscarriage.

## CRYOPRESERVATION

Embryos are frozen or cryopreserved for future pregnancies. Drawbacks to this are that the cryopreserved embryo is less likely to result in live births than unfrozen embryos are, and most embryos don't live through freezing and thawing.

- Embryos can remain in cryostorage for years because couples divorce, die, change their mind about pregnancy, or can't decide what to do with them (donate or not).

## ETHICALITY OF CRYOPRESERVATION

- If the couple doesn't want the baby, what happens to it?
  - Donate to an infertile couple
  - Donate them to research
  - Destroy them

## ETHICAL DEBATE OF IVF

Many arguments object to only one step or the outcome of the technology, but most debate about the moral acceptability of IVF itself - whether or not it should be used.

- Objection to IVF because:
  - Of the potential to cause birth defects and disease in children
    - Argument - The children would not be alive anyways, so to bring them into the world with severe defects is better than not being alive at all
    - Another argument - Children with interest in existing are waiting to exist, where it is worse than being alive, and their existence is being thwarted by failure of technology, which thus negates their interest in existence, thereby harming them
  - Of the magnitude of the risk
  - It undermines the value we place on offspring - children are inherently valuable, but the reproductive technology tempts us to view them as manufactured products and things that can be bought
    - Argument - Children who are made through ART are just as loved as those who aren't
  - In a religious view - It breaks the natural connection between procreation and sexual intercourse in marriage
    - Argument - This has little credibility outside of the religious tradition; The IVF can't damage relationships
  - In changing family relationships - children will have many parents (those who donated the egg/sperm, the woman who carries the baby, and the people who raise the baby)
  - It enhances women's freedom by multiplying their reproductive choices
    - Argument - The pressure from patriarchal society for women to establish their worth by becoming mothers is so powerful that their choices regarding reproduction are not free but coerced; In this sense, IVF is reinforcing social stereotypes
- In defense of IVF:
  - People appeal to autonomy or individual rights
    - "Procreative liberty" - the freedom to reproduce or not to reproduce, including the use of IVF

# SURROGACY

**Surrogate** - A woman who gestates a fetus for others, usually for a couple or another woman

- Contracts with them to carry the pregnancy to term, to relinquish the baby at birth, and let them legally adopt the baby
- **Traditional Surrogacy** - Sperm from either the couple’s male partner or donor is used to artificially inseminate the “surrogate mother”, making the baby related to the sperm donor and the surrogate mother
- **Gestational Surrogacy** - The surrogate receives a transferred embryo created through IVF using the sperm and egg of others (the contracting couple or donors); Because the gestational surrogate/carrier doesn’t contribute her own egg, she has no genetic relation to the baby.

Parents	Traditional Surrogacy	Gestational Surrogacy
<b>Genetic Mother</b> (donates the egg)	Traditional surrogate	Prospective mother
<b>Gestational Mother</b> (carries the pregnancy)	Traditional surrogate	Gestational surrogate/carrier
<b>Social Mother</b> (raises the child)	Prospective Mother	Prospective Mother
<b>Genetic Father</b> (donates sperm)	Prospective Father (normally)	Prospective Father

- People may opt for surrogacy because the woman has an abnormal or no uterus or because she suffers from health problems that make pregnancy dangerous, and in both kinds of surrogacy, the intended parents generally want a biologically related child, making adoption less attractive

## LEGALITY

- Surrogacy arrangements are generally complex and legally unsettled.
  - Specifications of the surrogate mother, the involvement of the intended parents in the pregnancy, permissibility of abortion in fetal abnormalities, the arrangements for adoption of the child, and the money to be paid to the surrogate (including compensation in case of miscarriage) are all different depending on the surrogacy.
  - Whatever the financial arrangements, they cannot be construed as transactions involving the buying or selling of children as it is illegal. Payment is regarded as compensation for her time and effort or her diminished job opportunities.
- State laws on surrogacy are also varying.

Eggs from children who have cancer can be taken, matured to be viable and frozen so that if the child is left sterile from chemotherapy, they will still be able to have children in their future.

## CASE STUDY OF “BABY M”

- Mary Beth Whitehead agreed to have Mr. Stern’s child, using his sperm. When the baby was born, she refused to give it up. The New Jersey court ruled that it was the Sterns’ baby, but it was then brought to the New Jersey Supreme Court where it was ruled that Whitehead was the legal

mother, but, in the best interests of the child, Baby M should live with the Sterns and Whitehead should have visitation rights.

## ETHICAL DEBATE OF SURROGACY

- It amounts to selling children, which is a blatant affront to human dignity.
  - Argument - The surrogate is simply relinquishing her right as a parent to have a relationship with the child; She's forfeiting her right, not selling it
  - Another argument - Surrogacy provides a socially valuable service which should be paid for
- It's not that different from adoption, in which the biological parents give away their children
  - Argument - The purpose of adoption is to provide a means for placing children in families when their parents cannot or will not discharge their parental responsibilities
  - Counterclaim - Surrogacy can be viewed as prenatal adoption

## CLONING

**Cloning** - The asexual production of a genetically identical entity from an existing one

**Clones** - Genetically identical entities, whether cells, DNA molecules, plants, animals or humans

- Cloning to propagate plants is commonplace, scientists clone human and animal cells for research purposes, molecular biologists often clone fragments of DNA for study, and twins are natural clones.

**Twinning** - A form of cloning that is a duplication of twins - in an IVF, they produce an embryo (zygote) and when it consists of two to four identical cells, they separate them and let them grow into discrete but genetically identical organisms

**Reproductive Cloning** - Creation of a genetic duplicate of an adult animal or human, which is the most debated form of cloning

- **1997** - First cloned adult sheep named "Dolly"

**Therapeutic/Research Cloning** - Cloning for other purposes

## STEPS FOR CLONING

1. Extract the DNA-packed nucleus from an egg cell (creating an enucleated egg)
2. Replace the egg's nucleus with the donor nucleus of an ordinary body (somatic) cell from the adult individual to be cloned (it's also possible to use cells from existing embryos)
  - a. The somatic cell and egg could be from the same person or different people. If it is from different people, the largest portion of DNA will be from the nucleus donor.
3. Stimulate the reconfigured cell with chemicals or electricity to start cell division and growth to the embryo stage
4. Transfer the cloned embryo to a host uterus for development and birth

To date, no human cloning has occurred yet, and will likely not occur anytime soon as there are serious concerns about the safety and ethics of human reproductive cloning.

- Human cloning has high rates of serious birth defects.

## ETHICAL DEBATE OF CLONING

- **Genetic Determinism** - If you clone someone, they'll all turn out the exact same as that person, and you can thus create an army of that person.
  - Argument - This isn't true, genetics don't determine everything.
- People could benefit from it, such as those who want a genetically related child, but have no sperm or eggs to make a child.

- People also argue that cloning falls under their reproductive rights, which doesn't override all other considerations, but it carries great weight - **procreative freedom**
- It violates the right of the resulting clone - the right to a unique identity.
  - Argument - Genetic uniqueness is not needed for personal uniqueness
- It violates what has been called "a right to ignorance" or a "right to an open future" - the clone might believe that his future is already set, diminishing his sense of personal freedom and future possibilities
  - Argument - The twin would only think such a thing if someone acts in a way that unintentionally leads him to think this
- Cloning is an unnatural, deviant way of bringing children into the world
- Cloning replaces natural procreation with the artificial *manufacture* of children as products - cloning is dehumanizing

## APPLYING MORAL THEORIES

- Utilitarianism
  - There is a net gain in the use of IVF and surrogacy arrangements, and would likely endorse cloning if its risk to children could be decreased to an acceptable level
    - IVFs - Low risk of birth defects and maternal complications is outweighed by the happiness of the infertile couples and the loss of embryos is not a major factor
    - Same with surrogacy
  - Other utilitarians could say that cloning and IVF are impermissible because the considerable money spent on them could yield far more happiness if spent on other things
- Rule-Utilitarian
  - Technologies often increase net happiness in particular cases, but would oppose a public policy that allowed their use
- Kantian Ethics
  - Could oppose or defend reproductive technologies
    - IVF, surrogacy and cloning treat children as a means rather than the end
    - IVF, surrogacy and cloning create children so that parents can love and respect them as their offspring, and it doesn't matter how they're brought in
- Natural Law Theory
  - All reproductive technologies must be rejected
    - IVF - Defies the natural link between procreation and sexual union, and involves the destruction of human embryos, each of which has a right to life
    - Surrogacy - Procreation outside of marriage and an affront to the integrity of the family
    - Human cloning - Unnaturally separates procreation from sex and is a violation of the rights of the child

# CHAPTER 10 - EUTHANASIA AND PHYSICIAN-ASSISTED SUICIDE

## CASE STUDY OF TERRI SCHIAVO

- Terri's heart stopped, and when she was finally resuscitated, she had suffered catastrophic irreversible brain damage.
  - Her husband, Michael Schiavo, became her legal guardian and said that Terri would rather die than be artificially sustained
  - Her parents argued that she would wake up eventually and should thus be sustained
- The legal war dragged on, with a vast amount of people, including President George W. Bush, the legislators, members of congress, religious leaders, bioethicists, pro-life groups etc. weighing in on the situation
- Eventually, federal courts sided with the husband, and her feeding tube was removed.

## DECIDING LIFE AND DEATH

**Euthanasia** - Directly or indirectly bringing about the death of another person for that person's sake

- Derived from Greek meaning "good death", evoking the idea that causing or contributing to someone's end may bestow on that person a good
- There are two forms of euthanasia:
  - **Active Euthanasia** - Performing an action that directly causes someone to die; "Mercy killing"; Illegal and officially condemned
    - Ex. A lethal injection
  - **Passive Euthanasia** - Allowing someone to die by not doing something that would prolong life; "Letting die"; Legally and officially endorsed by the medical profession
    - Ex. Removing a feeding tube or ventilator

**Voluntary Euthanasia** - Situations in which competent patients voluntarily request or agree to euthanasia, communicating their wishes either while competent or through instructions to be followed if they become incompetent (ex. vegetative state)

- Incompetent includes incapacitate adults, infants and small children

**Nonvoluntary Euthanasia** - When patients are not competent to choose death for themselves and have not previously disclosed their preferences

**Involuntary Euthanasia** - Bringing about someone's death against her will or without asking for her consent while she is competent to decide

- Illegal and considered morally impermissible

Combining these terms together, we can come up with four kinds of euthanasia:

1. **Active Voluntary** - Directly causing death (mercy killing) with the consent of the patient
2. **Active Nonvoluntary** - Directly causing death (mercy killing) without the consent of the patient
3. **Passive Voluntary** - Withholding or withdrawing life-sustaining measures with the consent of the patient
4. **Passive Nonvoluntary** - Withholding or withdrawing life-sustaining measures without the consent of the patient

**Physician-assisted Suicide** - A patient takes his own life with the aid of a physician

- Legal in Washington, DC and seven states, and other states are allowed to legalize as they see fit

## DEFINING DEATH

- A new definition for death is needed - traditionally, it was understood that death occurs when breathing and heartbeat cease, but now modern medicine can keep the heart and lungs going artificially

**1968, Harvard Medical School** - An individual should be judged dead when all brain functions permanently cease

- Some physiological processes such as respiration are partly independent of brain functions, and individuals that many would regard as dead may have some residual brain activity

Another definition is that individuals should be considered dead when the higher brain operations responsible for consciousness permanently shut down

## AUTONOMY, MERCY AND HARM

### ETHICAL DEBATE OF ACTIVE VOLUNTARY EUTHANASIA/PHYSICIAN-ASSISTED SUICIDE

#### FOR EUTHANASIA

1. **Principle of Autonomy** - A person's inherent right of self-determination; Respecting autonomous persons means respecting their autonomous choices, including how they want to end their lives
  - Their right to die, however, doesn't force the duty on others to help in dying
2. **Principle of Beneficence/Mercy** - If we are in a position to relieve the severe suffering of another without excessive cost to ourselves, we have a duty to do so
  - If a competent, hopelessly ill patient in unrelieved agony requests help to be put out of his misery, we may have a duty to bring about his death.
  - Argument - Torment can always be relieved without resort to lethal means

#### AGAINST EUTHANASIA

1. **Difference between Active and Passive Euthanasia** - Killing is wrong, letting die is permissible
  - In the first, a person causes death, in the second, the disease causes death
  - Argument Example - In the first case, Smith stands to gain a large inheritance if anything should happen to his six-year-old cousin. One evening while the child is taking his bath, Smith sneaks into the bathroom, drowns the child, and arranges things so that it will look like an accident. In the second, Jones also stands to gain if anything should happen to his six-year-old cousin. Like Smith, Jones sneaks in, planning to drown the child in his bath. However, as he enters the bathroom Jones sees the child slip, hit his head and fall face down in the water. Jones is delighted; he stands by, ready to push the child's head back under if it is necessary, but it is not necessary. With only a little thrashing about, the child drowns all by himself, "accidentally," as Jones watches and does nothing. Now Smith killed the child, while Jones merely let the child die. That is the only difference between them. Did either man behave better, from a moral point of view?
    - Counterclaim - This is not the same, because they are both *prepared to kill*. If Jones was ready to let his cousin die, but not ready to kill him, then Jones would be judged less harshly than Smith
2. **Difference between Intending Someone's Death and Not Intending it, but Foreseeing it** - It is wrong to intentionally harm someone (cause death) and produce a good result (release from suffering), but it is permissible to do something intended to produce a good result (release from suffering), even if the action leads to unintended but foreseen harm (death)

- Ex. It would not be morally acceptable for a physician to give the patient morphine to kill her, but it would be if she gave the same amount to ease her suffering, even if she will die as a result.
- Argument - It's hard to draw the line of intended and unintended
- Another argument - Even if it is wrong to intentionally do harm to bring about good, directly intending a patient's death may still be permissible because to her, *death may not be harm*

3. **Appeals to Bad Consequences** - Consider the ramifications of legalizing or widely accepting these practices; Logical shape is the slippery slope: Allowing active euthanasia or physician-assisted suicide will inevitably lead to heinous extensions or perversions of the original practices

- A policy permitting active voluntary euthanasia or assisted-suicide will lead to unjustified killing
- More evidence is needed on this point, and it's not in and of itself a complete argument

## APPLYING MAJOR THEORIES

- Utilitarianism
  - Can adopt different views depending on how they define good to be maximized
- Classic Utilitarianism
  - Good is happiness, so good would be determined by how much happiness various actions could produce for everyone involved.
- John Mill Utilitarianism
  - There's more to consider in making moral judgements than net happiness
  - **Preference Utilitarians** - Right actions are those that satisfy more of a person's preferences overall
  - Therefore euthanasia is good if life will frustrate more of the person's future preferences than satisfy them
- Rule Utilitarianism
  - Most slippery-slope arguments are from rule-utilitarians
- Kantian Ethics
  - Suicide is prohibited because it treats persons as mere things and obliterates personhood
  - Competent persons must not be killed or permitted to die
  - No opinion on incompetent people
- Natural Law Theory
  - Permits actions that have unintended but fatal results

# 4 - JUSTICE AND HEALTHCARE

## CHAPTER 11 - DIVIDING UP HEALTHCARE RESOURCES

### HEALTHCARE IN TROUBLE

- Healthcare is so expensive, most can't afford it without some type of health insurance, which is also expensive to the point where the main reason for lack of coverage is the high cost

Three main reasons for lack of coverage:

- High cost of insurance
- Absence of coverage acquired through employment
- Ineligibility for public coverage

The risk of death for those without coverage is 25% higher.

**Medicare** - The public health insurance program that covers people over 65, and those under 65 with permanent disabilities

**Medicaid** - A publicly supported program that covers some under-65 low-income people including children and the disabled

- Coverage varies from state to state and doesn't apply to everyone
- USA's overall healthcare quality is not better than that of other countries, yet it spends more on healthcare than any other country

**Managed Care** - A system for providing care to a particular group of patients (members of the system) using regulatory restraints to control costs and increase efficiency

- Benefits of Managed Care - People get healthcare for discounted prices from the plan's network of providers; They control costs by influencing the kind and amount of care that providers offer and by restricting the choices that members have
- Concerns of Medical Care - Providers may cut corners, decide not to order necessary tests, pay less attention to patients' needs, or refuse to treat certain serious health problems; It may force physicians to try to serve both the patient and organizational efficiency

**Patient Protection and Affordable Care Act (ACA/Obamacare)** - Signed into law in 2010 by President Barack Obama to attempt to provide health coverage to many more Americans and contain the insidious rise of healthcare costs

### THEORIES OF JUSTICE

**Justice** - In general, people getting what is fair or what is their due

**Distributive Justice** - Justice regarding the fair distribution of society's advantages and disadvantages, or benefits and burdens, including income, property, employment, rights, taxes and public service

### LIBERTARIAN THEORIES OF JUSTICE

**Libertarian Theories of Justice** - The benefits and burdens of society should be distributed through the fair workings of a free market and the exercise of liberty rights of noninterference

- *The Role of the Government* - To protect the rights of individuals to freely pursue their own interests in the economic marketplace without violations of their liberty through coercion, manipulation, or fraud

- Governments may use coercion, but only to preserve liberty, but beyond this, the government has no obligation to adjust the distribution of benefits and burdens among people
- People may have equal rights or equal worth, but that doesn't entitle them to an equal distribution of society's benefits

According to this view, no one has a right to healthcare, and a government program using tax dollars to provide universal healthcare or even healthcare only for low-income families would be unjust.

- Healthcare can only be accepted if it is freely endorsed and financed by those who participate in it

## UTILITARIAN THEORIES OF JUSTICE

**Utilitarian Theories of Justice** - A just distribution of benefits and burdens is one that maximizes the net good (utility) for society

- Some allocations of society's resources are more beneficial overall than others
- Rules can be enforced by society and that can override considerations of utility in specific situations

**Rule-Utilitarian** - Consistently following the rules may maximize utility generally, although rule adherence in some instances may not produce a net good

- A utilitarian might support a system of universal healthcare insurance, or a qualified right to care, or a two-tiered plan in which government-supported health insurance is combined with the option of privately purchased health coverage for those who can afford it

## EGALITARIAN THEORIES OF JUSTICE

**Egalitarian Theories of Justice** - Important benefits and burdens of society should be distributed equally

- *Unlike the Libertarian* - To achieve greater quality, the egalitarian would not be averse to mandating changes to the distribution of society's goods or to interfering in the workings of a free market
- *Unlike the Utilitarian* - Not allow utility to be the ultimate overriding consideration in a system of distribution
- Healthcare systems give equal access to all legitimate forms of healthcare that offer a guaranteed minimal level of healthcare for everyone, or provide care only to those most in need

**Human Rights Approach** - We can best achieve just distributions of health and healthcare by ensuring that human rights in general are respected

## A RIGHT TO HEALTHCARE

While most people do agree that adequate healthcare would be good for everyone, some assert that people have a moral *right* to healthcare.

**Right** - An entitlement, a bonafide claim, to something

- A person's rights impose duties on others, either
  1. Duties not to interfere with that person's obtaining something
  2. Duties to help that person in her efforts to get something
- **Negative Rights** - Those that entail the former
- **Positive Rights** - Those that entail the latter

Summary of Views

- **Libertarians** - Likely to deny that there is a right to healthcare, generally accept negative rights and disallow positive rights

- **Utilitarians** - Admit a right to healthcare, though it would be called a *derivative right*, a rule ultimately justified by assessments of utility
- **Egalitarians and Others** - Can accommodate a right to healthcare and interpret it in the strong sense of being an entitlement that ultimately outweighs calculations of maximized utility

## WHY DO PEOPLE BELIEVE THERE IS SUCH A STRONG RIGHT TO HEALTHCARE?

- Norman Daniels - Such a right can be derived from one of the principles of justice, specifically the right to “fair equality of opportunity”
- John Rawls - Everyone is entitled to an equal chance to obtain the basic goods of society
  - Disease and disability diminish people’s “normal species functioning” and thus restrict the range of opportunities to its citizens, but healthcare in all its forms preserves for us the range of opportunities we would have, were we not ill or disabled, given our talents and skills

## WHAT DOES HEALTHCARE RESOURCES INCLUDE?

- Some think that the right encompasses universal equal access to all available healthcare resources, but that’s not technically or economically feasible - a right to healthcare must have limits
- Many others argued for a weaker right to a “decent minimum” level of healthcare
  - There would be two tiers to healthcare, the first being a universal available, publicly supported, and guaranteed for all in need and the second tier of healthcare services would be available in the free marketplace for those who can afford them
- Allen Buchanan - Rejects the idea to a decent minimum of care, but understands its attractions
  - Although there is no right to a decent minimum of healthcare, there must be a societal duty
    - For example, healthcare as compensation, or who have suffered unjust harm, or for those who performed honourable service in society (i.e. wounded soldiers)
  - **Enforced Beneficence** - To maximize the practical effect of our moral obligations of charity or beneficence regarding healthcare for those in need

## THE ETHICS OF RATIONING

**Rationing** - Broadly, it means parceling out important limited goods

- Example - Medicare and Medicaid allot healthcare to the elderly and the poor

**Macroallocation** - On a larger scale of the total healthcare system, what portion of society’s resources should go to healthcare and how this allotment should be used

**Microallocation** - On the scale of individual patients and providers who should receive specific resources

- Example - Organ transplants

## WHAT CRITERIA SHOULD BE USED TO DECIDE THIS?

- **Egalitarian** - Focus on justice and moral equality of persons
- **Utilitarian** - Maximize benefits to the patient and society

## QALYS (QUALITY-ADJUSTED LIFE YEAR)

- A utilitarian approach to measure objectively the benefits that each treatment is likely to give each patient

- One QALY is equivalent to one year of life in good health, and a year of life in poor health is equal to less than 1 QALY. The lower the quality of life for a person in poor health, the lower the QALY value. Thus, they gauge a treatment's impact by trying to take into account both the length and quality of life
  - Example - There are two donor hearts, but three recipients, two who are young and one who is old. A transplant for either of the two younger ones would yield 10 QALYs, but for the elder, one would give 5 QALYs.

### CRITICISM OF QALYS

- It could lead to morally unacceptable decisions
- It discriminates against older people and the disabled
- These objective measurements cannot accommodate the subjective nature of people's assessments of the value of their own lives
- The social value of people's lives - Would the medical student get a transplant versus the poet or prostitute?
  - In certain cases, the social value of people's lives would outweigh others, but in most, how can people decide?
    - Example - Nelson Mandela needed a liver in 1992, versus a random kid who also needs a liver
    - Example - Injured physicians and nurses should be treated first to help other survivors