Kantian Constructivism as a Tool to Face Irrational Demand: In the Clinical Field

Morelli J*

Researcher, University of Padova, Italy

*Corresponding author: Jacopo Morelli, PhD, Researcher, University of Padova, Italy, Email: jacopomorellifilosofia@gmail.com

Abstract

This article tries to put a metaethical framework, Kantian constructivism, to the applied test, specifically of the biomedical field. After briefly introducing and defining the branch of practical reasoning, I will show what Kantian constructivism is and what it can do in practice to face moral dilemmas. I will then argue that in the biomedical field it is possible to have behaviors, both on the part of patients and health practitioners, that can be addressed as practical irrationality, and that we can address moral dilemmas more effectively with the tools provided by Kantian constructivism. In arguing this I will focus on the analysis of a rare disease of a little girl and the demands of her parents.

Keywords: Bioethics; Practical Reasoning; Moral Dilemma in the Clinical Field; Rare Diseases; Ethics Committee

Practical Reasoning and the Limits of Instrumentalism

Practical deliberation is reasoning to figure out what one should do by assessing and weighing reasons for actions. Bioethicists and those directly involved in addressing difficult moral situations in health care settings have the burden of deliberating in contexts that are often unclear; therefore, it is necessary to provide clarity as to what is meant by practical reasoning, and whether and how incorrect and invalid reasoning can be distinguished from correct and valid reasoning. Practical reasoning is indeed usually described as goal-directed reasoning from an agent's scope, and from some action selected as a means to carry out the goal, to achieve the action [1][1]. This is called instrumental rationality, and instrumentalism is the doctrine according to which all practical inferences are means-end inferences; therefore,

providing a practical justification in the instrumentalism framework is merely showing that a proposed end is a means to a further end. So, if I want to lose weight, by practical reasoning I can find good or bad habits that are suitable to my end, and I can do that efficiently or not (including sweets in every meal would manifest poor deliberation for example). The question of rationality is thus only relative to how we justify the means, namely the way in which we demonstrate how the means really enable the end to be achieved.

This is a natural position at which to arrive at reflection; for what could possibly be adduced in support of a practical conclusion except its addressing a goal or desire already possessed? In fact, this form of rationality has usually been viewed as the single unproblematic[2] substantive norm of

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[1] This line of thought can be traced back to the philosophy of David Hume, who famously asserted that 'Reason is, and ought only to be the slave of the passions' (Hume 1978, 415).

[2] But within the discussion several issues emerged on which no common answer was found. For example, if this conception of instrumental rationality represents a binding norm of practical reason, then we are open to rational criticism to the extent we fail to exhibit this kind of instrumental consistency, regardless of whether we want to comply with the principle or not. This is usually followed with the assumption that there is no room for

practical reason [2]. However, not only instrumentalism has its limits, but after a closer look, it seems to be self-contradictory, as shown by Millgram. Since any chain of practical inference will terminate in a desire that one just has, primitive, we have the problem of arbitrary desires[3] [3]. The explanation for taking the perception of some secondary quality to provide a reason for action will involve a non-instrumental pattern of practical inference, and this is why instrumentalism is an insupportable view of practical reasoning: there are desires that cannot be justified in instrumentalist terms, and justifying it requires abandoning instrumentalism.

All these limitations are even more evident in versions of ethical theories that are based on instrumentalism. In fact, since a moral theory is very roughly a theory about what one should do, and a theory of practical reasoning is a theory of how to figure out what to do, the two kinds of theories are related as a theory of product to a theory of process[4] [4]. An ethical theory that is based upon instrumentalism is, for example, utilitarianism, which recommends taking actions that maximize utility. There have been different ways of understanding the notion of utility, and so there have been correspondingly different varieties of utilitarianism in play. Nineteenth-century utilitarians took the mental states such as pleasure and pain to be the core of the notion of utility and disutility, but later on, the mattering-makers became propositional attitudes, namely desires and preferences. Millgram (2005) argued that both these positions forget that these mental items are there to do something: both pleasure and desire have cognitive functions that cannot be maximized above them. The point of pleasure and desire is precisely to guide choice; utility can only be then an indicator of change

in our well-being, not a goal, therefore maximization of utility of all future pleasures and desires is not something desirable.

Among the ethical theories that have tried to dispense with instrumentalism, there is certainly a broad family of constructivist theories. According to the constructivist, and specifically the Kantian constructivist, practical reason is governed by constitutive principles, and what makes these constraints normative is precisely their relation to the will of the agents[5] [5]. All practical inferences that are in accordance with our constitutive principles of practical reason are valid inferences; and is precisely thanks to these inferences that we can construct moral principles that can guide us in taking actions in the everyday life.

Kantian Constructivism and Rational Deliberation

Kantian constructivism, as just said, is an ethical theory according to which moral principles are constructed through a specific process of rational deliberation. The construction of moral principles performs the fundamental epistemological function of selecting which facts have moral relevance: one starts with uncontroversial construction materials (like human beliefs and attitudes toward non-moral facts such as, for example, the natural psychological sense of repulsion in torturing another human being) and arrives through an appropriately specified procedure at principles that are independent of subjective attitudes (i.e., the moral principle "torture is wrong"). To adapt North's phrasing: a key strength of such an approach is that constructivism can justify principles of justice without invoking controversial metaphysical questions about the existence and nature of moral entities, whilst at the same time explaining the moral objectivity of principles of justice in a way that is authoritative for agents.

The principles constructed in this way are objective in at least two senses: 1) that they are constructed by a procedure that starts from non-moral facts that can be verified by all rational agents (the material of constructions' objectivity) and 2) that they are validated through our constitutive principle of reasons (the constitutive objectivity). The procedure of construction 1) starts precisely from the selection of facts that have moral relevance. Let us provide an example of how, starting from some objective construction materials, we can arrive at moral principles according to constructivism. Take the moral principle, "harming others is

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rational criticism of peoples' ends, but only for Weberian Zweckrationalität: the rational determination of means to the realization of ends that are taken to be given, as a matter of human psychological fact (Wallace 2020), but not everyone is inclined to endorse this. In an influential paper titled "Deliberation is of Ends" Aurel Kolnai (1962 [2001]) floated precisely the idea that, very often, our goals are not definite enough to serve as the starting point for means-end reasoning. See the note below to see how this applies especially to clinical case.

3   Some instrumentalist thinkers, as mentioned in the previous note, have no problem in admitting that since there are no straightforward criteria for reasoning successfully on arbitrary desires, practical deliberation about final ends is not a true form of reasoning. But how is one supposed to clarify one's largest and most important ends, if not by reasoning about them in some way? Practical reasoning must consist not only in figuring out how to get what you want, but in figuring out what exactly it is you want in the first place, what is the right thing to want and to do in that place, and this is a matter of further specifying your ends. This is even more evident in applied fields, such as bioethics and especially clinical ethics. Before searching for the means to return the patient to health, the physician must first decide what health, in these circumstances, would be.

4   According to Millgram, the right way to do moral philosophy is precisely to start with the theory of practical reasoning behind the ethical theory. We should, before "appealing to any substantive moral theory, determine which theory of practical reasoning is correct" (Millgram 2005).

5   The principles of practical reason are therefore constitutive principles of rational agency, binding on us insofar as we necessarily commit ourselves to complying with them in willing anything at all. The realm of the normative, on this approach, is not pictured as a body of truths or facts that are prior to and independent of the will; rather, it is taken to be 'constructed' by agents through their own volitional activity.

wrong." The process of arriving at this principle starts from uncontroversial natural facts: physiologically, a perception such as pain is expressed at the brain level as the result of a series of information coming from the periphery and transported via nerve endings to higher control centers, where it is processed. Thus, the subject experiences pain and the highly unpleasant sensation it entails. From this physical fact, specifically the final qualitative experience, we come to theorize the principle that it is best to avoid pain. Both components are needed to arrive at this principle: the natural fact and the human reason that reflects on it. From this simple combination comes a moral judgment, "it is better to avoid pain." These moral judgments, however, are almost never created according to such an individual and abstract procedure, but always by a subject that is placed in an intersubjective context. That is why the principle "it is better to avoid pain" is not declined solely for my own self-interests, but for all others, for all people whom I consider to be rational[6] [6], and became "harming others is wrong"; we universalize the principle that it is better to avoid pain because we recognize, rationally, that other people come to the same conclusions, and wish to live in a society where we do not experience unnecessary pain[7] [7].

But the validity of the procedure is not merely guaranteed by the objectivity regarding the material of construction but also by 2) the constitutive principles of reason itself. Since we are rational agents, we have principles that are ineliminable from reasoning itself, which constitute it and are its foundation[8] [8]. The difference between these constitutive norms and the materials from which the construction starts is subtle: both are not constructed, but these meta-norms are formal (in the dual sense of not imposing empirical content

and in the sense of structuring the reasoning itself), whereas the materials are contingent natural facts of the world. Only the facts of the world can be understood in an ontological sense, while the constitutive norms are to be understood in an epistemic sense.

So, what are some of these constitutive principles of practical reason? Firstly, the acceptance of our nature of being rational agents, thus free from coercion and able to act according to reasons, in a simple word: autonomous. Autonomy is an ineliminable condition of practical reasoning, because if we did not represent ourselves as free, there would be no point in deliberating on the reasons for action, and that is precisely why it is a constitutive norm. Likewise, I know that I am situated in an intersubjective world[9] [9], that I am not the only subject, but that I am placed in co-existence with a plurality of agents other than myself. The rational animal deliberates on the basis of reasons that considers binding for all relevantly similar beings (namely all other animals endowed with reason). This requirement of universality is a constitutive principle of practical rationality precisely because, as rational but finite agents, we find ourselves acting in pluralistic contexts, characterized by the presence of agents who, like us, are not determined by their nature and therefore are forced to deliberate about what to do and the desires they wish to pursue.

From the simple self-reflexive observation of our being autonomous agents, placed, however, in a world with other agents, who in a certain way limit us[10] [10], we understand that it is correct to consider as valid reasons only those considerations that can be conceived as matters of universal legislation. This demand for universalization is a meta-norm that is correct only in the sense in which it adequately expresses the intersubjectively shared conception of rational identity. An argument is correct not because it is assumed as such by the subject himself, according to personal standards of coherence, but because it is judged as intersubjectively rational by a plurality of rational agents, hence universal. Normative principles must be constructed through reasoning procedures aimed at intersubjective justifiability, which guides us in reducing the range of morally licit actions, though not clearly determining it.

A Kantian Analysis of a Clinical Case

Let us immediately try to use the tools of practical reasoning (understood as public and intersubjectively rather than instrumentally) to analyze some controversial cases

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6   Against these kinds of arguments could be raised the singular case of self-injurers. Should they simply be considered irrational because they take pleasure in experiencing unpleasant feelings? Actually, this deviance of theirs, whether biological or cultural in nature, should be judged irrational simply because it does not extend to other people. That is to say, the self-injurer is unable to provide arguments for feeling pain to be a standard and desirable situation for everyone. As we will see later, not only the will to create a world of people in pain would not overcome the CI-procedure, but self-injurers fails more profoundly in one of the main characteristics of rationality, which is the publicity of reasons. This is the same technique that Gibbard (1990) implements with regard to anorexics.

7   In this sense, moral principles seem to be reduced to laws, according to certain positivist theories of law (Kelsen, 1952), but there are cases where they simply fall within the choice of the individual while being rationally universalizable, such as the principle "it is wrong to eat three jars of Nutella in a row," which is easily arguable for all rational agents, but likewise would be superfluous if it became law. The peculiar distinction between moral principles and political laws is an interesting topic but cannot be dealt with here. For further discussion, see, for example, Sidgwick (1907) or Ross (1939).

8   However, this does not imply that rational but also imperfect human beings (O'Neill 1975) are always able to adopt the constitutive norms adequately and fully (Korsgaard 2009). Again, we will focus on this aspect on the next chapter.

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9   Which is not to be understood in a metaphysical sense, but, for example, as communication (Habermas, 1984).

10   Even simply because we have obligations to them, as they have obligations to us (Richardson 2018).

submitted to ethics committees. In this paper, I will focus on analyzing the case of Luna[11][11], drawn from the experience of an ethics committee for clinical practice in the Veneto region. Luna has been diagnosed with Hurler Syndrome, the most severe form of a rare disease, Mucopolysaccharidosis type I (MPS I, OMIM 252800), which is caused by the deficiency or complete absence of enzyme α-L-iduronidase activity. Inadequate activity of this enzyme leads to the accumulation of glycosaminoglycans throughout the body, resulting in progressive multisystem deterioration. Although MPS I is associated with a continuum of disease presentations, it has traditionally been divided into three clinical phenotypes. Hurler syndrome, the most severe form, typically manifests during the first year of life. Affected children rapidly develop significant cognitive impairment and somatic disease in multiple organ systems, leading to death within the first decade. The attenuated forms of MPS I, known as Hurler–Scheie syndrome and Scheie syndrome, are characterized by later onset of symptoms, longer life expectancy, and mild or no central nervous system (CNS) involvement. Symptoms found across the entire MPS I spectrum include corneal clouding, organomegaly, cardiac valve abnormalities, joint contractures, and dysostosis multiplex [12].

The parents had been promptly informed, regarding life expectancy and the prognosis: although there is no cure there are some treatments, including enzyme replacement therapy, bone marrow transplant, hematopoietic stem cell transplant, and targeted symptom management. This will only allow for relief of Luna's pain and perhaps grant her a couple more years of life. However, the family does not accept this course of treatment. They will only consider therapies that have a chance of saving their daughter and providing her with a normal life[12]. If the doctors claim that there is no possible long-term treatment for their child, they will take Luna to another hospital.

How to solve this situation[13]? [13] It is necessary to clarify the arguments (logical-argumentative side) but understand the attitudes (personal-emotional side). Understanding the situation of Luna's parents, and how much they wanted this child, makes it more understandable that they desperately want to cling to an albeit remote miracle, but it does not, however, make their attitude justifiable[14] [14]. Their

demands are against the well-being of their child, despite the fact that they claim they are for their son's long interest. This can be shown by simply unpacking their arguments to detect the inconsistency that binds them.

If, after it has been calmly explained that seeking miraculous cures to save their daughter will only worsen her condition that could have been at least partially improved with the proposed treatments, the parents continue to demand those miraculous cures, there is nothing wrong with calling their actions irrational. To make it easier to show this inconsistency of the public reasoning we can subject parents to a test of the universalization of their demands, or more simply to a test of identification from the outside: how would they externally judge parents who were behaving in the same way?[15] [15] But if they continue to refuse reasoning, then what is the right thing for practitioners to do? Overcoming the parents right to choose for their child?.

Can the Right to Life be Superseded by the Right to Choose for One's Child?

Have the parents a right to decide for the health of their daughter, albeit against all scientific evidence on the choice of such treatment? Instinctively it seems we are simply led to affirm that is mandatory for physicians to ask parents for consent before performing medical interventions on their children. But what should be done when this consent is refused? This is a practical problem that happens every day in most of the hospitals; take the staple example of a JW child who is critically anemic, but the child's parents refuse consent for a blood transfusion on religious grounds. These cases are often left as legal vacuums: consequently, it is up to the doctor to decide what to do, and only then will there then be complaints and appeals, with judges having to check whether the doctor behaved properly or not[16] [16].

Philosophers have tried to develop a coherent framework to tackle these difficulties. Gamble and Pruski (2021) provided a proposal according to which the determination to grant decision-making powers to parents should be exclusively based on the parents' appreciation of the medical evidence, awareness of their child's clinical condition, and

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11   This is a fictional name created for protecting the privacy of the real parents.

12   It seems important here to specify that Luna was the only daughter of the couple, A child who has been long awaited and strongly wanted. However, while we can understand their feelings, we cannot accept the results of their deliberations, as we will argue.

13   Of course, the practitioners could simply accept the decision of Luna's parents and leaving the 'hot-potato' to another hospital. But they wanted to do what is right, meaning what it was truly best for Luna.

14   It is the classic philosophical distinction between motivation (what is

chosen as the reason for an act from an agent) and justification (what reason can justify an agent's action). See Alvarez (2016) for a reconstruction of the debate.

15   Clearly this should be done while trying to maintain an impersonal judgment not influenced by the emotions of the moment.

16   Regarding the JW and other similarly cases it has to be noted that some states have tried to legislate ahead of time. Since 1944, the US Supreme Court made a foundation ruling on the rights of parents to extend their religious beliefs to their children: 'Parents may be free to become martyrs themselves. But it does not follow that they are free, in identical circumstances, to make martyrs of their children.'

their attitude towards the child. They formalize the proposal as follow: if a child's parents are 1) prima facie caring, 2) can meaningfully engage with the relevant medical evidence for benefit and harm, and 3) intend the child's health, they are considered capable of both giving and refusing consent to a procedure. Parents fulfilling these three conditions are deemed able to determine what is in the best interests of their child – a complex cultural and moral decision[17] [17]. Parents that do not meet these conditions could be regarded as malevolent (conditions 1 and 3) or grossly incompetent (condition 2) [18-24]. Luna's parents can thus be regarded as both malevolent and incompetent according to this framework. And thus, they cannot meaningful refuse the proper treatment proposed by the doctors [25-30].

Conclusion

This paper was intended to show how practical reasoning, with the right tool, can have important applications in the clinical field. The philosophy of actions does not allow us to arrive at an ultimate system applicable to every case, but they do provide the right tools to enable healthcare practitioners to analyze in the most appropriate and suitable way the individual cases that they will face every day. Developing an ethical vocabulary does not require us to memorize authoritative principles, but to learn a common language that enables one to deal with situations in which moral dilemmas are present. Despite this virtuous indeterminacy, the openness to the specifics of each case presented, it would be useful to have more precise guidelines on the administrative side of the hospital. What would be needed would actually be a top-bottom change in structure and organizations, for example providing an international network of ethics committees among the various hospitals, not only for moral doubts and dilemmas, but also and especially for best practices. And it is precisely through such solutions that an ethical alphabetization develops, a literacy that does not simply accept everyone's moral values as given but analyzes them with the tools of practical reasoning.

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17 There is undeniably a degree of subjectivity in all three of these criteria. It is not easy, for instance, to neatly define what engaging with medical information and evidence means. However, the challenge of some ambiguity also holds true for most of the ongoing standard for consent.

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