



Medical professional's duty to treat v/s right to refrain from treatment: Kantian deontological approach in the context of pandemics

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Abstract

It is assumed that medical professionals are obliged by duty to treat patients and perform in accordance with code of conduct of their medical profession. Besides that they must maintain a standard of care for all and that must follow from one's inner moral intent. However the present standards and code of medical ethics became questionable during the Covid-19 pandemic. This is because physicians assumed their right to refrain from treatment of affected patients while at the same facing the guilt from realising their duty to care. The ethical problem at hand is whether such physicians who neglect their duty should be disciplined by penalties or should they be allowed to claim the legitimacy of autonomously choosing their right to decline treatment.

This issue is examined so as to search for some guidance for under-developed or under resourced countries have different medical conditions as compared to developed countries . The deontological views of Immanuel Kant will be considered to look through this moral dilemma during pandemics.

Keywords: Duty to care, Covid-19, pandemic, deontological ethics, Immanuel Kant.

Hypothesis : Appeal to personal interest for medical practitioners is morally acceptable even if it does not accord with their professional duty to treat.

Introduction

The situation of a pandemic that involves a highly infectious disease such as COVID-19, whose mode of transmission is indeterminable causes greater moral conflict among medical practitioners. PPE kits may be insufficient in quantity considering the rapid growth of patients needing urgent care in ICUs. Under these

conditions, medical practitioners have to respond, in the clinical setting facing multiple patient entries on a daily basis.

In such a condition doctors and other medical practitioners face difficult professional moral dilemmas

- (1) Should they “do their duty” and treat a patient of COVID-19 infection, despite lack of quality PPE Or,
- (2) Can they, as part of professional right of autonomous judgment, “refrain from treatment,” vis-a vis inadequate PPE and high personal risk of infection during a global pandemic like this ?

The common man must also be aware of inadequate hospital preparedness for such pandemics while realising the obligations of hospital management authorities to protect their employees and avoid risk. Medical professionals have had to face this moral dilemma even in hospitals in developed countries and they usually choose to resolve this moral dilemma by performing their duty, despite personal risk of infection. Such a moral dilemma during the Covid-19 pandemic has arisen from situation like :

1. Total or partial lack of quality PPE in hospitals and clinics.
2. Limited ICU beds and isolation wards.
3. The increasing number of patients and prolonged stay vis-a vis COVID-19 which is beyond the capacity of hospitals and its resources.
4. Stigma attached to COVID-19 that compels public not to disclose suspected possible infection when presenting for medical care thereby placing medical practitioners at risk.
5. The increased burden of treatment on government hospitals as private hospitals are unwilling to treat patients having COVID 19 .

In addition to exercising professional right by a medical practitioner in a developing country in the above situations, there is the further administrative decision to be taken by hospital authority in the event a physician fails to be present for duty or even plainly refuses to treat patients suspected or confirmed to have contracted COVID 19.

Considering the duty to treat

Various infectious diseases in recent decades, such as SARS-1 (2003), H1N1 influenza (2009), MERS (2012), Ebola (2014–2016), have often engaged governments across world in the task of planning structured preparedness as well as preparing medical practitioners for becoming “front-line” medical care.

Current medical situation is such that most medical practitioners are not trained to manage infectious disease that cause epidemic or pandemic. Training in such situations is important for the fact of being capable of doing duty to provide care. This then ensures considering the right of autonomous judgement and choice more explicitly, as the medical practitioner only then counts as volunteering to provide due care despite personal

risk. Thus it is only then the “scope of duty” is challengeable when one is expected to practice outside his or her medical specialty.

The utilitarian argument here is that there is maximum social benefit in patient care than the personal risk to the physician, as maximum benefit is considered over and above minimum collateral damage.

Thus given the entire background of inadequacy in everything important, it must be acknowledged that medical practitioners face genuine moral dilemmas given their conflicting personal life obligations. Besides this, they have duties not only to the present generation but also to a near-future generation of patients in the face of future unseen impact of pandemic.

Medical practitioners, like others, are autonomous moral agents capable of self-determination vis-a vis personal interests and professional duties, despite institutional ethical code constraints.

The American Medical Association Ethical and Judicial Council dictates, “A physician may not ethically refuse to treat a patient whose condition is within the physician’s realm of competence..” The Hippocratic Oath, central to medical codes of ethics, requires physician to consider this: “I will use.....my greatest ability and judgment, and I will do no harm or injustice to them”

Is it not an injustice to patients, when a doctor refrains from duty in an emergency situation?

Immanuel Kant’s Deontological Ethics: Weighing duty to care and right to refrain during pandemic

‘Duty to care’ in terms of medical profession is understood to mean that a practitioner is obligated to treat patients in day to day circumstances. The problem around duty to treat is in conflict when routine is changed to emergencies, like the COVID-19 pandemic. This the discussion over this supposed duty to treat and care arises as some physicians exercise their right to refuse to provide medical care. It is here that the definition of ‘duty to care’ becomes ambiguous.

Immanuel Kant’s ethics of duty seems relevant to resolve this issue. In his Groundwork for the Metaphysics of Morals, Kant states “the identification and corroboration of the supreme principle of morality” which he calls the “categorical imperative.” Categorical Imperative is a moral principle which requires us to act on those principles that are laws in themselves. It is a truth of reason and, therefore, all rational creatures are bound by this principle and at the same time it represents human capability to autonomy and respect for all humanity.

1. First Categorical Imperative

Act only according to that maxim through which you can at the same time will that it should become a universal law principle that you can will to become a universal law.

A newly trained medical practitioner at the time of graduation from medical school takes an oath to treat patients suffering from infectious diseases. Thus when such a physician refuses to treat a patient suffering from COVID-19, he violates his oath thereby. Considering this professional duty to be grounded in the first categorical imperative of universal moral law, one may argue that the physician does not act from a motive of duty that is expected by this principle, and hence acts immorally.

2. Second categorical imperative

Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end.

It suggests that any medical practitioner should treat her/his patients in the same way that s/he desires to be treated if s/he were a patient suffering from the same disease. Thus, if a physician refuses to treat patients, in effect treating them as a mere means, this fails the essence of the second formulation where Kant believes that rational beings are those that both give and need respect.

3. Third Categorical Imperative

Rational beings jointly constitute a community of agents who can accept only those laws that they have given to themselves.

This indicates that we must will maxims that can be at the same time universal, but which do not overstep on the freedom of ourselves nor of others. If a physician commits to his duty to patients where it is clinically warranted, but avoids doing this duty when (s)he suspects a personal risk, then this would not be morally acceptable.

In his Lectures on Ethics, Kant discusses the notion of emergency and explains why one acts differently in an emergency situation. Undoubtedly the Covid-19 pandemic has created a world-wide public health emergency with medical professionals having no clear clinical protocols to guide them. In this scenario, I consider Kant relevant in emergency situations like these.

Kant's analysis of the notion begins with the claim that:

“whoever may have told me a lie, I do him no wrong if I lie to him in return, but I violate the right of mankind; for I have acted contrary to the condition, and the means, under which a society of men can come about, and thus contrary to the right of humanity”.

Thus comes the question of moral certainty in times of crisis situations. Like now, the clinical protocols so far established for normal situations cannot be considered to align with emergency situations like pandemics. So in pace with Kant's view, I argue that even if one is committed to duty to care and treat, his motive to duty may be misused and abused by anyone as Kant argues “...since men are malicious...”, we often invite danger by sincere observance of the truth. It is in this context that the concept of the necessary lie has arisen.

If one says that s/he steal, kill or cheat from necessity, then it can be said that even the case of emergency can override the whole of morality, since if that is the plea, it rests upon every individual to judge whether he deems it an emergency or not for it is already mentioned that in emergency the moral rules are not certain. Then, for Kant, the usual rule of a physician's duty to treat is undermined. And since it is uncertain, morality cannot be applied strictly.

Individual's autonomy to decide and choose as he wills, therefore, permissible without imparting guilt for having violated the usual strict rule of morality. That is to say, as Bernard Williams puts it, one does what is "normally morally wrong but morally permissible in certain circumstances".

We then come to Kant's distinction of perfect duties and imperfect duties. Perfect duties to self, may include prohibition of lying and suicide, specify proper actions which we ought to refrain from in any circumstance. Perfect duties to others can be duties of right that others have and thus enforceable as law.

Imperfect duties to oneself such as following passions or hobbies that cause self-perfection or self-improvement and imperfect duties towards others such as beneficence instruct agents to include certain obligatory actions into their maxims. Imperfect duties are conditional in the sense that they can be exercised only and only if they do not violate any perfect duties.

The reason for this, according to Kant, is that violation of imperfect duties if universalized generate only a contradiction in what one wills i.e. only related to oneself. However violations of perfect duties if universalized causes a strong contradiction in thought which is universalizable. Imperfect duties always are over and above perfect duties since they do not require any specific actions, but only a commitment to personable ends .

Considering the above distinctions of duties, one may ask --- can medical practitioners appeal to different limits of duty to care for patients because they have an imperfect duty of right towards their own family?

Kant's notion of duty in an emergency situation have a significant relevance in answering this question. Physician's obligation to family members overrides the demandingness of the duty of beneficence and further diminishes duties they have in emergency situations like COVID19. Given the undeterminable features of the disease, institutional incapacity for effective treatment, and the lack of sufficient and quality PPE makes the situation risky for physicians. Thus by this line of reasoning, medical care to COVID-19 patients under this set of institutional and resource inadequacy is a violation of perfect duty of self-protection. Hence, imperfect duties to treat COVID-19 patients or any emergency situation is not obligatory nor unconditional for medical practitioners whether in developed countries or developing countries.

However, in his Lectures on Ethics Kant has also spoken on moral sympathy. Motivated by moral sympathy for a patient having an infectious disease, while ignoring the risk to her/his life, a doctor may autonomously decide to treat. But, that is just a "sacrifice" out of goodness.

For Kant, one may render help, but not to one's disadvantage. Kant argues that, "A person can indeed serve as a means for others, by his work, for example, but in such a way that he does not cease to exist as a person and an end." If a doctor, as a matter of public interest, chooses to treat patients even during pandemics and, in

doing so, has lost her/his life, then Kant would say, s/he has given up life “in order to have lived in an honourable way”

Conclusion

The above analyses of Kantian Deontological Ethics identified several propositions of an emergency and thus can be considered as recommended ethical framework for physicians and hospital authorities during pandemic. However these guidelines can be held as most applicable in under resourced and under developed countries but they can be seen relevant to developed countries as well where issues of inadequate PPE supply uncontrolled spread of infection is present. At the same time these guidelines may hold true even for any future outbreak of diseases.

During a pandemic both physicians and hospital authorities must acknowledge that physicians are placed in novel moral dilemmas that involve conflicting obligations, in which case individual physician autonomous judgment as to disposition of these dilemmas must be respected to the point of allowing reasonable deference to this judgment. Even if there is availability of proper training and specialization in infectious disease control, critical care medicine, etc which ensures a physician's duty to treat COVID-19 patients, but even then this remains a conditional and not an absolute duty.

Physicians rejection for treatment of Covid 19 patients should not be used as a matter of guilt against them as even WHO recommends that during emergency , even if professional codes of ethics obligate duty to care however "Health care providers will have to weigh the demands of their professional roles against other competing obligations to assess their own health and to families and friends"

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