Understanding moral problems: A repertoire of practices

Collaborative improvement of moral deliberation methods: An exercise in living ethics

PROJET ÉTHIQUE VIVANTE

UNITÉ DE RECHERCHE EN ÉTHIQUE PRAGMATIQUE DE LA SANTÉ

IRCM Institut de recherches cliniques de Montréal

Inspiré par la vie.

Table of contents

Introduction 2

Structure of the repertoire of practices 2

Elements considered to discern the moral nature of the problem 3

Actions and approaches taken to discern the moral problem 7

Elements considered in preparation for addressing the problem 9

Actions and approaches taken to prepare for addressing the problem 11

Modulating factors 13

Challenges and Limits 15

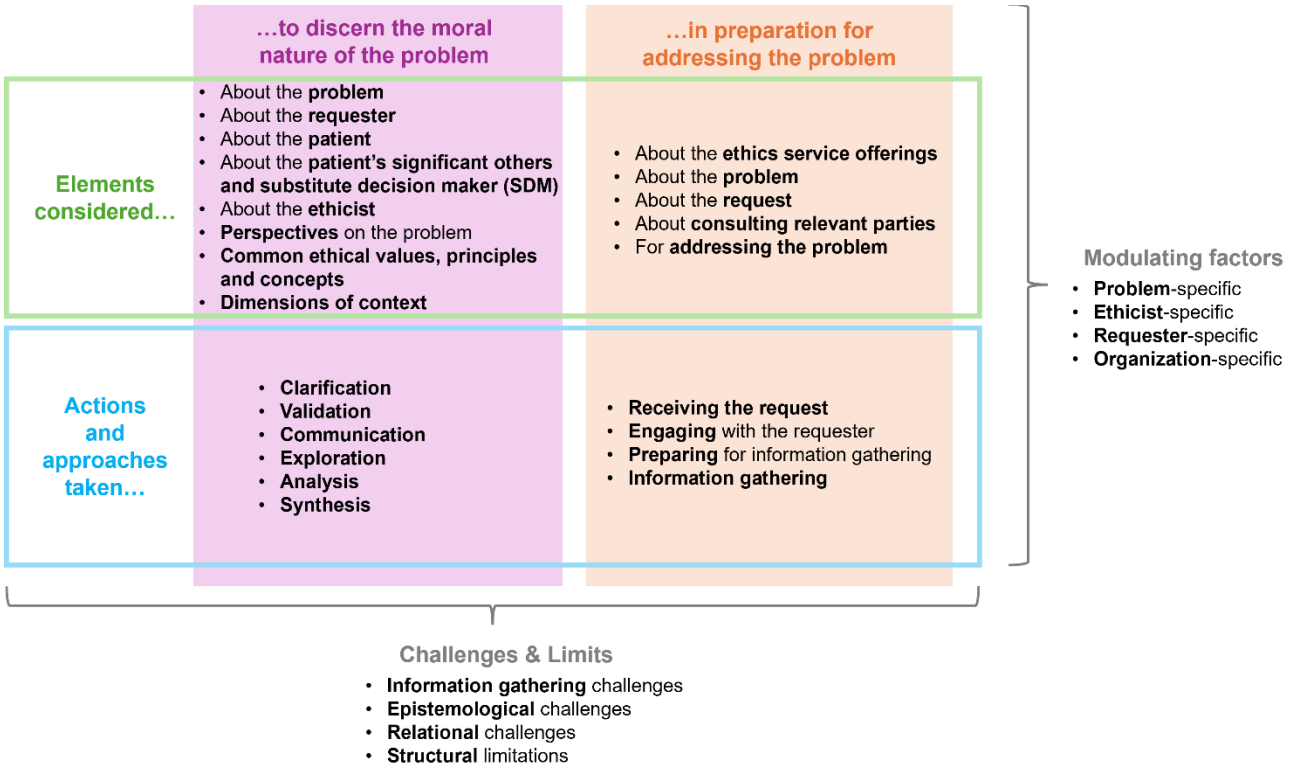
Introduction

This repertoire lists practices enacted by a group of Canadian clinical ethicists in the context of clinical ethics consultations. It was developed based on individual interviews and co-creative work as reported in **Understanding clinical ethics situations: a co-created repertoire of practices** (Racine et al., *BMC medical ethics*, 10.1186/s12910-026-01424-4. https://doi.org/10.1186/s12910-026-01424-4). This project was funded by the Social Sciences and Humanities Research Council of Canada (SSHRC). The members of the team make this directory available to the research community in open-source format so that it can be freely adapted and used by ethicists, clinical ethics services and other interested parties.

This repertoire presents the practices and observations retained under the following themes:

1) Elements considered to discern the moral nature of the problem
2) Actions and approaches taken to discern the moral nature of the problem
3) Elements considered in preparation for addressing the problem
4) Actions and approaches taken to prepare for addressing the problem
5) Modulating factors
6) Challenges and limits

Structure of the repertoire of practices



Elements considered to discern the moral nature of the problem

These are elements that are considered to discern the moral nature of the problem. They are grouped according to who or what they pertain to.

About the problem:

- The facts
- Potential misunderstandings about the facts
- The people affected by the problem
- The harms/implications of the problem
- The feelings associated with the problem
- Why the problem is important
- The central concern in the problem
- The values at stake and in tension
- Sources of uncertainty about the problem
- Issues that may affect understanding of the problem
- The specific characteristics of the problem
- The words used by the relevant parties to describe the problem
- Potential biases and knowledge gaps in understanding the problem
- Aspects of the problem that determine how to apply the values
- The type of problem according to a specific typology or framework, shared or particular to the individual gathering information about the problem
- Disagreements between patients* and caregivers or between patients and team members on end of life, consent, best interests, etc.
- Distinctions between values conflict, values uncertainty, and values constraints

About the requester:

- Who is the requester
- The concern(s) of the requester
- The requester's expectations for the outcome
- The words used by the requester to describe the problem
- Previous steps/measures taken to address the problem
- Aspects of the problem that cause the requester confusion or distress
- What the requester considers to be the problem
- The extent of the problem according to/for the requester
- The requester's position/positionality

About the patient:

- Their wishes
- Their preferences
- Their values as related to the problem identified

- Their cultural or religious beliefs and backgrounds
- Their diagnosis
- Their prognosis
- Their socio-demographic characteristics
- Their position/positionality
- Their significant others (families and friends – including found family and extended kin networks)
- The issues they face
- Their experiences with the healthcare system
- Their interactions with the interdisciplinary healthcare team
- Their insurance status (whether they are uninsured – this may impact the type of care they can/will receive)
- Their level of understanding and decisional capacity
- Their care trajectory
- How they perceive their care trajectory
- What informs their perspective
- Any parts of the patient's story that do not appear on the medical chart but are salient to the understanding of the ethical concern

<u>About the patient's significant others and substitute decision maker (SDM):</u>

- Their relationship with the patient
- Their relationship to the patient's significant others
- Their understanding of the patient's wishes, preferences, and values
- Their perception of the patient's best interest
- Their ability to determine the patient's best interest
- Their experiences with the healthcare system
- Their interactions with the healthcare team or administration
- The difficulties they face in supporting the patient or acting as SDM
- What informs their perspectives

<u>About the ethicist:</u>

- Their relationships with others involved in the request
- Related moral problems to which they have previously been exposed
- Their previous experience and professional/disciplinary background

<u>Perspectives on the problem:</u>

- Of the patient
- Of the patient's significant others or representative
- Of members of the healthcare team
- Of other ethicists
- Of members of the ethics committee (if applicable)
- Consensual perspectives or areas of consensus
- Diverging perspectives

- Perspectives that should be considered
- Represented perspectives
- Missing perspectives (e.g., perspectives of relevant communities or sub-communities such as the patient's religious or cultural group)

Common ethical values, principles, and concepts:

- Autonomy
- Beneficence
- Best interests
- Equity
- Quality of life
- Respect
- Harm reduction
- Non-maleficence
- Justice
- Safety
- Trust
- Transparency
- Solidarity
- Relationships
- Principles and values in tension

Dimensions of context that affect the understanding of the moral problem:

- Clinical
- Cultural
- Legal
    - Relevant healthcare legislation and concepts
    - Legal aspects that could affect the trust of the clinical team
    - Human rights
    - Legal and deontological (professional) norms*
- Organizational
    - Relevant guidelines, policies, and practices
- Psychosocial
- Structural/Systemic
    - How forms of discrimination (e.g., ableism, ageism, classism, racism, sexism) shape the problem and understanding of the problem
- Relational
    - Power dynamics between affected or relevant parties
    - The relationship between the patient, the patient's significant others, and the healthcare team
    - How the healthcare team reacts to/perceives the patient's behavior
    - The complex interpersonal dynamics within the healthcare team
    - The complex interpersonal dynamics between the patient and their significant others

- The complex interpersonal dynamics between the patient's significant others
- Relationships that relevant parties might be trying to preserve by not saying things
- The posture adopted by the ethicist in relation to the relevant parties
- The extent to which the therapeutic relationship is undermined/broken

* The term patient may include the patient, the patient's representative, and/or the substitute decision maker

** Deontological norms here refer to professional deontological codes and codes of ethics

Actions and approaches taken to discern the moral problem

These are actions taken to help understand the moral nature of the problem. They are grouped into different broad categories of actions.

Clarification:

- Being careful not to assume understanding. Clarifying...
    - The facts
    - How relevant parties perceive/describe the problem
    - Any jargon or coded language (e.g., “difficult patient”) used by relevant parties
    - What relevant parties are most concerned about
    - Any elements lacking clarity
- Paying attention to any clarifications provided by relevant parties

Validation:

- Validating and refining the understanding of the problem with...
    - The requester
    - The healthcare team
    - The patient or patient’s significant others (including the patient’s SDM)
    - Other ethicists or members of the ethics committee, attending to the ethical considerations they raise
    - Other departments or services within the organization (e.g., Legal Service, Human Resources, DEI (diversity, equity, and inclusion) committee, Patient Relations, Social Work, Indigenous Patient Navigator, Clinical Support, etc.)
    - Literature on the subject
    - The patient’s medical chart or alternatively, choosing not to consult the chart to avoid being unduly influenced by what has or has not been recorded in the chart or to preserve patient privacy
- Taking a step back, taking the time, and taking the necessary steps to ensure a good understanding of the problem

Communication:

- Adopting an active listening mode
- Dialoguing with relevant parties rather than relying on a list of formal questions
- Letting the requester freely describe their perspective of the problem and how they feel about it
- Encouraging the requester to take a thoughtful and measured approach to the problem, balancing reflection with the urgency of action as required
- Asking questions in a way that helps relevant parties reframe their own perspectives and explore underlying reasons related to the problem
- Using an accessible ethics vocabulary
- Nurturing and maintaining a non-hierarchical environment where relevant parties feel comfortable sharing their perspectives and dialoguing

- Directing attention and discussion towards the patient's wishes, best interests, perspective, and needs to get a more accurate understanding of the problem

Exploration:

- Exploring with the requester/relevant parties
    - Values or norms related to the problem
    - The initial discomfort prompting the request
    - Moral considerations
    - The perceived moral conflict

Analysis:

- Determining the most appropriate ethical method/approach for understanding the problem
- Considering potential implicit biases
- Ensuring that the facts are well understood
- Noting aspects of the problem that are under-addressed and should be addressed
- Making sure that the perspectives of all relevant parties have been heard and considered
- Reflecting on why the problem has been referred to the ethics service
- Being open to the possibility that the problem may be quite different from what was originally described or anticipated
- Looking for normative issues that have been raised
- Paying attention to non-verbal cues when communicating with relevant parties
- Paying attention to, recognizing, and reflecting on one's position in relation to the reported problem (e.g., privileges, role, implicit biases, identity, relationship to territory)
- Being vigilant in approaching sensitive problems or those likely to attract legal or media involvement
- Using intuition as an experienced ethicist to bring out hidden or unspoken issues/sub-issues
- Considering a plurality of ethical methods/approaches in understanding the problem to consider it from multiple angles

Synthesis:

- Articulating the various elements in writing
- Reframing/reformulating the problem in ethical terms
- Identifying the ethical question(s) at the heart of the matter
- Synthesizing the information gathered in the form of an emerging narrative

Elements considered in preparation for addressing the problem

It is important to note that these are the steps taken before addressing the problem, and not the actual actions taken to work through the problem. They are grouped according to who or what they pertain to.

About the ethics service offerings:

- The need for a formal or informal process/consultation
- Whether the problem relates to clinical or organizational ethics (or some hybrid)
- The role and possible contribution of the ethicist
- Other services/departments consulted
- The ethicist that is best placed to deal with the problem depending on...
    - Availability
    - Expertise
    - Position in relation to the problem
- The requester's experience with the ethics service and relevant perceptions of the ethics service
- The requester's needs, expectations and motivations
- Resources/services to be included in the process
- Compatibility of the request with the services offered, current capacity, and the mandate of the ethics service, or with another service in the healthcare setting

About the problem:

- Sensitivity/media coverage/public perception
- History (if there are previous requests)
- Institutional issues or constraints that may affect addressing the problem
- Level of urgency
    - Whether the problem needs to be dealt with quickly for medical, legal, or publicity reasons, or because of the distress it generates within the clinical team
- Duration/extension in time, i.e., both how long the situation has existed and how much time it is anticipated will be required to resolve it
- Complexity, depending notably on…
    - Whether there are differing perspectives on the problem between members of the clinical team
    - The ethicist's ability to anticipate how the ethics committee (if applicable) would view and address the problem
    - Who the requester invites to the consultation
    - The diversity of perspectives involved
- Relation to other known problems in the healthcare setting (e.g., is this a recurring theme?)
- What form of ethics support will be most effective to address the concern (e.g., Is it best addressed by a consultation about a specific case or a more general education session related to the topic but not the particular case? Is a series of consultations needed, or a single meeting?)

About the request:

- Origin
- Format (e.g., email, telephone, in-person)
- Previous steps/measures taken
- Sufficiency of information provided in the request
- Persons involved/mentioned (e.g., whether the request comes from or concerns a person of power within the organization)
- Their expectations for the outcome
- Expectations of the requester (e.g., do they expect support/recommendation in a 10-minute phone call, or are they receptive to more comprehensive involvement?)

About consulting relevant parties:

- Who should be consulted
    - Whether or not to speak with the patient or consult the patient's chart
    - Whether or not to consult the patient's significant others or SDM
    - Whether or not to consult other members of the ethics committee/service
- How to consult interested or affected parties
    - The safest and most effective ways of gathering information
    - Whether an interdisciplinary consultation is appropriate
    - Whether a videoconference consultation is appropriate
    - Whether the tool of communication (e.g., e-mail vs phone) used will relay the same information
    - The best way to involve/consult another ethicist

For addressing the problem:

- Alternatives and potential compromises
- Relevant legal and policy considerations to help clarify potential options
- Who is the legally or organizationally authorized decision-maker
- Possible options to address the concern and their justifications...
    - That take into account relevant parties' perspectives and values, their strengths, and their weaknesses
    - The most extreme, radical, or opposing options
    - The options that best fit the facts
    - The most ethically justifiable options
    - Legal options and potential ethical options beyond the law
    - Options preferred by organizational leaders (e.g., Risk, Legal, Public Affairs, Senior Management)
- Relevant cultural and religious considerations to help clarify potential options
- Processes for resolving moral problems to which the ethicist has previously been exposed
- The need to unravel certain complex interpersonal dynamics within the clinical team beforehand
- Whether the patient's level of capacity has been already assessed or should be
- Which ethical approach/method the relevant parties and/or the ethicist are most likely to resonate with

Actions and approaches taken to prepare for addressing the problem

These are actions taken in preparation for addressing the problem. It is important to note that these are the actions taken before addressing the problem, and not the actual actions taken to work through the problem. They are grouped into different broad categories of action.

Receiving the request:

- Receiving, reading, and interpreting the request…
    - By telephone
    - By e-mail
    - Via an online form
    - Through informal conversations
    - Through an invitation to a consultation
    - Through formal consultations
    - Following the internal triage process
- Consulting other members of the ethics service or redirecting the requester if it is not clear whether the problem falls within the mandate of the ethics service
- Being flexible when triaging requests
- Noting any timelines associated with the request

Engaging with the requester:

- Letting the requester freely describe the problem and express their needs
- Asking the requester to summarize/clarify the problem
- Exploring...
    - Their needs and expectations
    - Their sense of urgency/discomfort
    - Their perception of the next steps
    - Who is affected by the problem
    - Who to consult as part of the process
    - How to consult them (e.g., contact details, consultation procedures)
- Clarifying the role of the ethicist and the mandate of the ethics service

Preparing for information gathering:

- Approaching/inviting relevant parties to share their perspectives
    - Clarifying the role of the ethicist and the mandate of the ethics service
    - Explaining the benefits of a consultation to encourage participation
- Obtaining the agreement of the care team and the patient to meet with the patient and/or their significant others as appropriate, or proceeding without such agreement
- Informing the most responsible physician and/or the relevant parties of the consultation request if possible/relevant while being as open and transparent as possible about the request for ethics support
- When possible, obtaining the patient's consent to consult their medical records

- Setting up a meeting with those who are affected by or interested in the problem in the context of organizational issues

Information gathering:

- Reviewing the patient's medical chart to identify relevant healthcare professionals and gain a deeper understanding of the issue, or alternatively, choosing not to consult the chart to avoid being unduly influenced by what has or has not been recorded in the chart or to respect their privacy
- Consulting the individuals involved in the problem (e.g., the patient, the care team, the patient's significant others, the unit manager), individually or in groups, to gather information about the problem
    - Gathering information about the patient via the care team rather than directly from the patient when preferable or necessary
    - Consulting the care team as a group, if possible, to gain an interdisciplinary understanding
    - Consulting informally, or individually, relevant parties who may be reluctant to share their perspectives in an open meeting
    - Avoiding gathering information on aspects of the problem that are not essential to the ethical question or concern
    - Encouraging in-person (when possible and applicable) consultations to facilitate trust-building interaction with relevant parties
    - Adapting the consultation process to the availability and context of relevant parties
- Consulting relevant departments or services within the organization to better understand other dimensions of the problem
- Documenting relevant information for the patient's care journey or for the team in the patient's chart, in an email, or in the form of a report

Modulating factors

These are the various factors that impact the process of understanding moral problems. They have been grouped according to who or what they pertain to.

Problem-specific:

- The large variability of the problems that are reported
- The uniqueness of each problem
- Time required to respond
    - ➢ Those factors influence the people met, the number of consultations, and the linearity of the process

Ethicist-specific:

- Education and training
- Previous experiences as an ethicist and/or healthcare professional
- Interests
- Values
- Ability to access support and experience from colleagues either within the organization or through communities of practice, etc.
- Positionality
- Differences about interpretations of divergent norms
    - ➢ Those factors influence the methods chosen to understand moral problems, the problems that will be perceived as complex, the level of attention to certain elements of the problem, the amount of information gathered to understand the problem, and the speed/ease of understanding the nuance/complexity of certain problems

Requester-specific:

- Their expectations
- How much time/interest they have in engaging with the ethics service (e.g., do they want a recommendation after a 20-minute phone call)

Organization-specific:

- The availability of administrative support in the triage of requests
- The degree of freedom permitted in the use of ethics methods/approaches
- The mandate of the ethics department and the organization, and how much control the ethicist has over the mandate of the service
- Power dynamics within the ethics service and organization, notably relationships of mutual trust and respect between the ethics service and the organization and/or its leadership
- Structure, policies and location of the organization
- Differences between organizational policy and any applicable college standards

- Those factors influence the types of problems reported and dealt with by the ethics service, the types of methods chosen to understand moral problems, and the people consulted

Challenges and Limits

These are challenges and limits that can influence the process of understanding moral problems. They are grouped according to what they pertain to.

Information gathering challenges:

- Insufficient information in requests, making it difficult to fully understand the problem
- E-mail exchanges can slow down information gathering, leading to frequent back and forth with relevant parties
- Limited time to gather all necessary information before meeting relevant parties
- Repetition of information can give a false impression of full understanding
- Time and availability constraints make it difficult to organize meetings with all relevant parties
- Potentially infinite amount of information to collect on the problem
- Hybrid nature of the healthcare environment – e.g., people working from home with computers and cell phones, people on site, impacts types of information gathering that are possible or preferred
- The patient or their substitute decision-maker consent or refusal of consent to discuss personal health information impacts who is involved

Epistemological challenges:

- Difficulty in discerning the organizational dimension of moral problems
- Complexity of taking into account the patient's perspective and power issues with the care team, especially when the ethicist does not meet the patient directly
- Coded language can obscure and hinder understanding of moral problems
- Difficulty in pinpointing the moral nature of the problem, especially when it is intimately linked to the context
- Legal formulations of problems can restrict moral understanding by focusing solely on legal aspects
- The clinical dimension of the problem often distracts relevant parties from the moral nature of the problem
- Difficulty in objectively categorizing moral problems (e.g., "complex problems")
- The ethicist's previous experiences can lead to over-confidence or a lack of confidence in understanding problems
- Less holistic understanding of the problem when requests take the form of informal consultations and when the need is to help people move forward
- The requester's choices may limit the possibility of meeting other relevant parties in order to obtain a complete understanding of the problem

Relational challenges:

- Relevant parties do not always appreciate the relevance of the process of understanding
- Difficulty interacting directly with patients, especially when the healthcare team is not amenable to this approach
- Clinicians do not always attend ethics consultations, or sometimes allocate too little time for them

- Difficulty in consulting patient's significant others, who may be mistrustful of the healthcare system and of the ethics process
- Challenge of validating the perspectives of all relevant parties while acting as a mediator
- Challenge of maintaining the dynamics of the ethics consultation when many relevant parties are involved
- Time and care are required to gain trust and interact with people in positions of power from the organization
- Relevant parties do not always wish to involve the ethicist/ethics committee in the consultation process
- Difficulty in maintaining commitment from all relevant parties throughout the process
- Clinicians do not always recognize the existence of an ethical problem, or sometimes refuse to be consulted
- Maintaining a good collaboration with the legal team is sometimes tricky due to possible tensions between the recommendations of the legal counsel service and those of the ethics service
- Differing views on the respect of privacy
- Potential conflicts of interest for the ethicist such as maintaining good relationships with the care team vs. taking an approach others might dislike
- Power dynamics and institutional politics may distort or influence the nature of engagement
- Family members may not want the clinical team to be informed of their concern(s)

Structural limitations:

- Risk of unduly restricting what counts as a moral problem and what does not
- The mandate of the ethics service is often limited to understanding specific problems, without the possibility of fully engaging with the clinical situation as a whole
- The small size of ethicists' teams/professional community limits their ability to validate their understanding of moral problems with each other
- Ethicists serving a large geographical area remotely can be hindered in grasping the problem and the process of understanding
- The legislation restricts who is considered an interested/affected party
- The mandate of the ethics service does not include enforcement/compliance/professional practice
- Time constraints and pressures can be a barrier to good processes and outcomes
- Financial barriers to more ethically defensible outcomes are also common (e.g., discharge destinations may be suboptimal, rehabilitation care in community may be too costly, medications or home care may be unaffordable to many patients)