CHAPTER 6

Ethics and the Self

Abstract In this chapter we begin the process of rebuilding clinical ethics in health care—from the ground up. Clinical ethics, like all ethics, has its foundation in the self—in a full conception of the person whose thoughts, emotions, and actions must be understood as an integrated whole. It is from that foundation that one can then start building, for all health professionals as individuals, a mature professional ethic that incorporates each person's own history and experience and that integrates those with each person's growing knowledge of a particular field of health care. And because this conception of ethics is so thoroughly grounded in the self, it is a conception that inescapably connects with all health professionals as individuals and that enables them to understand, appreciate, and elaborate their own ethical thinking.

Keywords Health care · Clinical ethics · Implicit ethical framework
Strategic flexibility · Formal and informal ethical discourse · The self
Daniel Kahneman · Fast and slow thinking · Expertise

Becoming a Person

Implicit Ethical Frameworks

Persons training to be health professionals are not blank slates waiting for input. They have at least a couple of decades of interpersonal

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experience behind them—with parents, siblings, other relatives, friends, teachers, classmates, teammates, health professionals, policemen, shopkeepers, workmen, and service personnel of various sorts, among others, not to mention countless brief encounters with strangers in schools, stores, busses, trains, planes, and on the street. They have read novels, watched television, listened to the news, read newspaper stories and magazine articles about current events, and had extended discussions with friends and family about all and any of these. This range of preprofessional human experience is diverse and rich, and provides all of us with wide-ranging exposure to the challenges and conflicts presented in everyday life. Over time, prospective trainees in health care develop, through that experience, their own distinct patterns of thought, emotion, and action—their own relatively stable, though still evolving, personality styles and ways of adult functioning. Embedded in these stable patterns of functioning is each person's mode of relating to other people and of thinking about himself or herself, others, and society—in effect, an *implicit ethical framework*.

Considered as an aspect of the mature or maturing self, this implicit ethical framework is part of what makes each of us a unique person. It influences, if not determines, how each trainee, like any mature adult, thinks, feels, and acts in relation to the world, hour by hour, day by day. As examples, one might be joyful in response to a friend's success in helping out another individual or group; one might be disappointed in oneself for failing to help another person when the opportunity presented itself; one might be pleased at one's courage in standing up against a bully; one might reflect that another person's behavior was mean or selfish or abusive; one might feel distress at something one reads in the paper about some public figure or government official or public policy; one might be appalled to see that a new federal health care program retains barriers to access for the poor; or one might be proud of having published an article that exposed a lie and that presented a needed, and truthful, corrective to a simmering controversy. The examples are endless. We all make judgments about our ethical successes and failures—and about others' ethical successes and failures—day to day, about matters large and small, and typically without even being conscious that we are making ethical judgments.

Interwoven, too, with this fabric of mostly implicit ethical judgments are beliefs and attitudes that scholars in the relevant fields would consider to be sociological, historical, and anthropological/psychological.

That is, we all have views, integrated into our ethical and also non-ethical thinking, feeling, and acting, on such matters as social and economic class, social and political history, and anthropology/psychology, with the last focused on how our own views and those of others are tied in with our social, historical, and cultural milieu. These views may range from the naive to the sophisticated, and they often may have little or no connection with our formal education. Nevertheless, such views are inescapably interwoven with the rest of our thought, emotion, and action, ethical and otherwise.

For the most part, we experience this full range of states and judgments, along with the accompanying feelings, moment by moment, and without moving to a higher or more abstract level of awareness or judgment. We simply *experience*, for example, disappointment or guilt or shame or satisfaction at what we or others have done or failed to do, and we make judgments, ethical and otherwise, moment to moment about the passing scene. We do not reason explicitly or consciously that we are disappointed in a colleague *because* he has failed to do something; we are simply disappointed. Likewise, we typically engage in no formal reasoning process when we make judgments about whether some bit of treatment or an allocation of goods is, say, fair or unfair. We can usually generate the relevant reasoning process if asked, but the reasoning remains, for the most part, unconscious as an integrated, but not explicitly considered, constellation of thought, emotion, and action.

Strategic Flexibility

We are more likely to be conscious of our reasoning, ethical or otherwise, when we encounter some sort of conflict, either within ourselves or with other persons. Conflicts within ourselves are ones that we can work out on our own or through discussions with others, but conflicts with other persons are different. They typically demand that we make explicit our reasons or feelings in an effort to work through any differences. Possible outcomes range from the non-negotiable (because of the law or one person's authority over the other, as with a boss or parent), to agreeing to disagree, to mutually agreeable solutions falling anywhere from one persons' original view to that of the other. These conflicts are part and parcel of our social lives, our encounters with others. Over time, we become increasingly adept at addressing such conflicts, at recognizing which conflicts merit more work than others, and at judging how to proceed based on our perceptions of the other persons involved.

We can let things go, or not; we can push hard for our own original views, or not; and we can attempt to find some middle ground, or not. In effect, as we mature we develop a capacity for *strategic flexibility*—that is, for determining just how far we are willing to extend ourselves, or not, in relation to the expectations or demands of others. But rather than being something that we consciously think through in every particular instance, this capacity becomes, as it were, part of us—an aspect of character, a stable way, for each of us, of dealing with other individuals, with work and family, and with the larger social and political environment.

Not everyone's capacity for strategic flexibility has the same contours. Far from it. In this respect we are all individuals and unique. We range from the confrontational and aggressive to passive and compliant, and everywhere in between. And just where we fall on this continuum will vary across different areas of activity. We care about certain activities and choices, and about certain people and relationships and organizations, more than others. We have our own belief systems—religious, cultural, social, political, and even scientific. And we belong to various forms of organization, ranging from the family to the community to the larger, overarching society, all with their own expectations, demands, and commitments, and all integrated into how we perceive, and act in, the world.

Formal and Informal Ethical Discourse

As we encounter situations that engage our capacity for strategic flexibility, we inescapably make subtle, often in-the-moment decisions and adjustments. The cumulative impact of these decisions and adjustments is that, as we grow and develop, our relatively stable modes of thought, emotion, and action likewise mature and become increasingly nuanced, as do the implicit ethical frameworks embedded within them. To better understand just what's in play here, it's helpful to introduce the long-standing, but often neglected, distinction in moral philosophy (the subfield of philosophy, rather than of bioethics per se) between *formal* and *informal* ethical discourse. *Formal ethical discourse* is the world of philosophical ethics—and of bioethics—with all its abstractions, principles, methods of analysis, and everything else that philosophers learn about when doing moral philosophy within an academic setting or that bioethicists use when invoking the intellectual armamentarium of bioethics to address problems in clinical ethics. *Informal ethical discourse* is basically everything else—all that passes for ethical discussion, analysis, reasoning, and debate outside an academic,

philosophical setting or apart from bioethics-driven discussions in health care. It is what the man or woman on the street, rather than the philosopher or bioethicist, engages in.

The relationship between formal and informal ethics is that formal ethical discourse is, in effect, an effort to describe, abstract from, and capture informal ethical discourse. In *A Theory of Justice* (1971), the landmark twentieth-century work on moral and political philosophy, John Rawls notes that formal ethical discourse, or "moral philosophy," is best understood as "an attempt to describe our moral capacity" (p. 46). Thus, in relation to the particular focus of his book, Rawls states that a "conception of justice characterizes our moral sensibility when the everyday judgments we make [and the supporting reasons for those judgments] are in accordance with its principles." Put more concretely, the task of *formal* ethical discourse is to understand, and to develop what is, in effect, a descriptive theory of, *informal* ethical discourse. And as happens with all theories, if it misdescribes the primary, or first-order, data, it is simply not a good or acceptable theory. In terms of the present chapter, the goal of formal ethical discourse is to expand upon and to systematize what we've referred to earlier as our implicit ethical frameworks—that is, when left to our own devices, how we think, feel, and act ethically.

It is not a question of which is "better"; formal and informal ethical discourses are simply different conceptually, reflecting different levels of generality and different purposes. Considered from a systems perspective, the two types of discourse operate on different levels of complexity (Bateson 2000; Capra 1997; Checkland 1981). Put into the language of the present book, formal ethical discourse may be appropriate for more complicated situations that resist consensus or that raise significant, complex issues of ethics or public policy. The six-stage process discussed in Chapter 5 for addressing ethical problems in health care—if led by a professional philosopher or bioethicist[1]—would potentially come within that description, as would the judicial process discussed at length in that chapter. By contrast, informal ethical discourse provides a flexible, workable approach to the ethics of day-to-day clinical practice, and it is the type of discourse that all of us use every day in confronting ethical challenges, large and small (Scher and Kozlowska 2011).

It is important to emphasize that the distinction between formal and informal ethical discourse is not one about conscious versus unconscious thought. It is not that a philosopher or bioethicist engaging in formal ethical discourse is somehow conscious of what he is doing, whereas the

man on the street (or the health professional) proceeds without conscious reflection. Informal ethical discourse includes the same complement of processes—conscious, unconscious, intuitive, reflective, analytical, critical, concrete, or general—that engage philosophers, bioethicists, and even judges as they partake in ethical or legal thought, discussion, or action. Depending upon the person and the setting, informal ethical discourse ranges from simplistic and straightforward to sophisticated, rich, complex, enlightening, controversial, and even transformational (one thinks at this extreme of such moral leaders, in recent history, as Martin Luther King and Nelson Mandela). And group discussions involving informal ethical discourse can be just as probing and revelatory as any formal analysis.[2] What these myriad instances of informal ethical discourse have in common is that they are all the product not of formal academic discourse but of the particular individuals' efforts, alone or together, to understand and reflect upon their own concrete experience and the challenges that they confront day to day.

Fast and Slow Thinking

Another way of understanding informal ethical discourse and the notion of an implicit ethical framework is through Daniel Kahneman's work in cognitive psychology and behavioral economics, as recognized by the 2002 Nobel Prize in Economic Sciences. In *Thinking, Fast and Slow*, Kahneman (2011, p. 13) notes that *fast thinking*—"variants of intuitive thought . . . as well as the entirely automatic mental activities of perception and memory"—accounts for many of the judgments and decisions we make in our daily lives. But sometimes such processes are inadequate, in which case we "find ourselves switching to a slower, more deliberate and effortful form of thinking. This is the *slow thinking* of the [book's] title."

As a way of illustrating just what he means by fast thinking, Kahneman discusses an example originally presented by the psychologist Gary Klein, in which a team of firefighters was routinely hosing down a kitchen fire. But then,

> the commander heard himself shout, "Let's get out of here!" without realizing why. The floor collapsed almost immediately after the firefighters escaped. Only after the fact did the commander realize that the fire had been unusually quiet and that his ears had been unusually hot. Together, these impressions prompted what he called a "sixth sense of danger."

> He had no idea what was wrong, but he knew something was wrong. It turned out that the heart of the fire had not been in the kitchen but in the basement beneath where the men stood. (p. 11)

As Kahneman emphasizes, fast thinking is not therefore (because it is "fast") naive or uninformed. Indeed, in the example above, as in much of what we consider the exercise of expertise, the thinking was fast and unconscious, yet deeply informed by experience.

In discussing the expert firefighter's "sixth sense of danger," Kahneman notes (p. 11): "We have all heard such stories of expert intuition: the chess master who walks past a street game and announces 'White mates in three' without stopping, or the physician who makes a complex diagnosis after a single glance at a patient." In this context Kahneman quotes Herbert Simon, another Nobel laureate in economics, for his "impatience with the mythologizing of expert intuition":

> The situation has provided a cue; this cue has given the expert access to information stored in memory, and the information provides the answer. Intuition is nothing more and nothing less than recognition. (p. 11, quoting from Simon 1992)

And in describing what Kahneman refers to as fast thinking, Simon remarks:

> In everyday speech, we use the word *intuition* to describe a problem-solving or question-answering performance that is speedy and for which the expert is unable to describe in detail the reasoning or other process that produced the answer. (Simon 1992, p. 155)

Kahneman notes, however, that it would be a mistake to consider fast thinking as limited to experts or even as characteristic specifically of experts. Kahneman writes:

> Expert intuition strikes us as magical, but it is not. Indeed, each of us performs feats of intuitive expertise many times each day. Most of us are pitch-perfect in detecting anger in the first word of a telephone call, recognize as we enter a room that we were the subject of the conversation, and quickly react to subtle signs that the driver of the car in the next lane is dangerous. Our everyday intuitive abilities are no less marvelous than the striking insights of an experienced firefighter or physician—only more common. (p. 11)

In short, what is true of the expert also goes for all of us, every day. We solve problems and answer questions quickly and without engaging in a slow, deliberate thinking process to produce those solutions and answers. The patterns of analysis and thinking are already present in our minds, the product of past experience (including how we have subsequently thought and felt in relation to that experience). When problems and questions arise that fall into patterns that we have previously encountered and that we have analyzed, understood, or otherwise addressed, our response may be immediately forthcoming, needing little or no conscious thought.

In the context of the present chapter, we can understand this fast thinking as, in effect, an integral part of the people we are—part of the way that we respond to the world, and part of our long-term, stable character. Such thinking will range from the trivial ($2+2=4$, which we learned through slow thinking, after which it became fast thinking) to centrally defining elements of our character, as in expressly refusing to fall into the role of a weak, passive female even though one's male companions expect it—a refusal that might well be a product of long thought (=slow thinking) and repeated encounters with the macho "other." What these matters of fast thinking have in common is that no further thought is required. One knows more or less immediately what one knows, and insofar as the situation allows, one acts accordingly.[3]

This analysis of fast and slow thinking applies just as well to our thinking about ethical issues and other interpersonal matters as it does to any other dimension of our lives. That is, as noted above, we increasingly come to develop, as we mature, our own settled ways of interpreting and judging the social and political world. We make judgments every day, and usually with no conscious reflection, about what is, for example, good or bad, fair and unfair, deserved or undeserved, generous or selfish, admirable or shameful, well-intended or mean-spirited. And it's not merely a matter of our making categorical judgments such as "x is unfair." We usually are able, again without much thought, to assess differences in degree, as when we judge something as extremely or very unfair (at one end of the scale of unfairness) to somewhat or slightly at the other, and anywhere in between.

In making such judgments, we are often ably assisted, as it were, by our feelings. That is, it is not as if we make judgments about ethical and other interpersonal, social, or political matters exclusively as abstract

intellectual reflections upon the passing scene. Indeed, as we encounter and make judgments about particular situations, it is often our feelings that provide us with the most reliable—and an instant—measure or indicator of just where we consider those situations to fall on the continuum of fair/unfair, generous/selfish, and so on. For example, if our gut feeling is one of revulsion, we know immediately, and others know immediately, that we judge the situation to be at the extreme end of the ethical continuum. Likewise, we might feel mildly uncomfortable about a situation that, in our fast thinking, we judge to be somewhat, though not extremely, unfair.

Also as mentioned above, others can ask us why we feel that way about such a situation or about any other that has engaged our fast thinking, and we can almost always provide some sort of rationale (which would be considered, of course, instances of informal, rather than formal, ethical reasoning). But sometimes a question from others would lead us to question our own fast thinking, in which case we would then likely fall into a process of slow—that is, more reflective and deliberate—thinking about the situation at hand. And this slow thinking would likely, in turn, eventually become incorporated into, or at least come to influence, our fast thinking.

Some situations will, for one reason or another, demand that we engage in slow thinking. Situations may be too complex, raising various sorts of questions that need to be sorted out. We might be quite confident, for example, that children need to be protected in certain sorts of situations and that adults do not. But, as very simple examples, what about borderline cases such as a mature late teenager or an immature very early adult? Or what about newly encountered situations whose potential risks need to be determined? Other sorts of situations might present conflicts of various sorts. For example, we might have a settled policy (reflected in our fast thinking) of not intruding into the privacy of our good friends, but if one of them is continuing along a path that is clearly self-destructive, we might well start wondering (via slow thinking) whether—and, if so, when—we should say something. Yet another type of situation is one in which our feelings, especially our gut feelings, suggest that something isn't quite right or quite what it appears, though without our understanding why. As with the senior firefighter whose "sixth sense" told him something was seriously wrong, only after the fact is one in a position to figure out, via slow thinking, the source of one's gut feeling.

Dimensions of Interconnectedness

What we can infer from the preceding sections—becoming a person, formal and informal ethical discourse, and fast and slow thinking—is that the ethical thinking of persons, including those preparing for careers in health care, is richly interconnected with the myriad dimensions of the self. Thought, emotion, and action can, of course, be separately out and discussed separately, but they each inform, and each are affected by, the others. These various dimensions of self come together in the notion of strategic flexibility, the process by which people come to determine their commitments and their points of comfort in relation to the world. That is, it is through our capacities for strategic flexibility that we draw the line between action and inaction; in this deep expression of the self, each person's thought, emotion, and action come together to say, "This far and no more." It is a reflection of what things we care about, and how much.

On the eve of becoming trainees, future health professionals have already long engaged in informal ethical discourse that is literally embodied in the thought, emotion, and action of a lifetime. They have already developed their own fast and slow thinking in ethics. And they have also each developed their own unique, nuanced capacities for strategic flexibility. It is against this background that one needs to elaborate a workable approach to clinical ethics.

Notes

1. The reason for this condition is that the four factors that make for the success of judicial processes are not operative for health professionals engaging, by themselves, in the multistep process described by Kerridge et al. (2013) or by others. See Chapter 5.
2. As evidence of just how good such discussions can be—even at a remarkably young age—see subsection "Clinical Ethics Module" in Chapter 10 and Strauss (2018).
3. There is no guarantee that fast thinking is *correct*. Persons can, in their fast thinking, be wrong about particular facts and wrong in making particular judgments. In the domain of ethics, prejudices and stigmas, for example, clearly fall into the category of incorrect fast thinking—though it is fast thinking that can be corrected through slow thinking, potentially replaced by new, fast thinking.

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