MORAL RESPONSIBILITY AND INSTITUTIONS

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Overview of the talk

- What is organisational ethics?
- The drivers behind the need for more investigation
- Why it is an important area of study for bioethics and law
- How can institutions become more moral?

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WHAT IS ORGANISATIONAL ETHICS?

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- It is increasingly recognised that much of health care professionals' moral behaviour is constrained, constructed and delineated by the organisational context in which they work
- Attention should be given to the environment to make sure it is supportive of good ethical practice,
- Not just focussing on individual relationships and encounters
- This is reflected in the growing body of work in the area of 'organisational ethics' (Spencer et al, 2000)

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- Organisational ethics concentrates on the ethical aspects and functions of organisations themselves rather than on individual relationships and encounters.
- It can be defined as the examination of, ‘the ethical implications of organizational decisions and practice on patients, staff and the community.’

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The organisation is taken as the focus of ethical inquiry and is not reduced to it is constituent parts (for instance the individuals that work in it).

Such a reduction can lead to a neglect of how the organisation as a whole functions ethically; the organisational culture that is created and how this effects staff, patients and the wider community; and the policies and mission statements it produces.

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- The importance of organisational ethics is primarily because the organisational setting is what influences and, in some cases, determines how those within the organisation (both staff and patients) can and do act.
- The organisation sets the context for behaviour - the culture of an organisation can either act as a barrier or facilitator to good ethical practice.

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The drivers behind organisational ethics

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- The changing face of medicine
- Changes in healthcare practice
- Increasing marketization of health care

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Changing face of medicine

- More complex organisations
- Health care is now delivered by increasingly complex organisations and these organisational forms mediate the relationship between the patient and the professional.
- Many authors have noted the trend towards the industrialisation of health care, where previously doctors were in charge of care and delivery, now medicine has become increasingly commercial, and corporatized.

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Changes in healthcare practice

- Changes such as the increasing importance of:
  - evidence based medicine
  - guidelines
  - population focussed medicine
- Designed to predict costs and outcomes, have all reduced the importance of the individual and professional ethical codes
- This has meant that increasingly management, guidelines and policies, and government regulations are the locus of decision-making.

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- Practitioners expect to be able to practice ethically.
- This can create a tension between an individual's professional ethics and the demands of the organisation, if there is an organisational culture which restricts an individuals' ability to practice ethically
- There is a substantial literature, particularly in nursing, that charts the problems created by practitioners not being able to practice in accordance with their personal ethics and professional ethics codes due to situational constraints.
- This can lead to moral distress, high staff turnover and burnout.

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It is often systemic elements that prohibit professionals acting towards the patient as they would wish:

- lack of time for each patient;
- inadequate staffing levels;
- poor facilities;
- cumbersome bureaucracy;
- poor follow up;

Rather than any personal moral failing or lack of care.

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Marketization of medicine

- Much of the work done on organisational ethics comes from the US
- These discussions have been prompted by the dual responsibilities of organisations to run as businesses while at the same time providing a social good such as health care and the increasingly involvement of intermediaries in health care
- It has grown in the US has grown with the changing face of their health care provision and the development of managed care (Spencer et al, 2000, Pearson et al, 2003)
- For example, in 1995 the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) in the US developed standards to ensure that hospitals' business practices were conducted ethically

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This is a recognition that the boundary between clinical ethics and business ethics breaks down in health care provision and that business practices need to subjected to ethical scrutiny in the same way as the doctor- patient relationship is in clinical ethics (Schyve, 1996).

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In the UK - Health and Social Care Act 2012

- There has been continuity in health care policy from Thatcher's first government in 1979, culminating in the 2012 Act.
- These reforms build on a re-conceptualisation of health care provision
- The gradual movement towards the privatisation and marketisation of the NHS
- The split between commissioning and providing was and is a significant schism with the NHS as it was originally conceived

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AIHO
Association of Independent Healthcare Organisations

- From a near state monopoly of health care provision we now have a health service characterised by a wider diversity of providers.
- For example, in 2003-04 99,000 operations were provided to NHS patients by independent providers
- There are, currently, almost 2,500 independent hospitals and clinics offering a wide variety of services
- At current figures there are approximately 40 social enterprises operating that have been created under the Right to Request (Cabinet Office, 2012).

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Why is organisational ethics an important area of study for bioethics and law

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- There is an increasingly recognition that to improve the quality of health care attention needs to be paid to the ethical aspects as well as the clinical.
- The Quality Care Commission has, as part of its quality measurements, a focus on peoples' right to be treated with respect, compassion, kindness and dignity (QCC, 2010).
- Nelson et al argue ethical problems reduce the quality of care and there is, 'potential to address ethical issues using well-established quality improvement approaches.'
- Quality improvement mechanisms operate at an organisational level and considerations of organisational ethics need to be integrated with these mechanisms at this level.

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Why clinical ethics is not enough

- There is a need for a branch of applied ethics that focuses on the organisational aspect specifically, rather than expecting that these issues will be addressed by other areas of applied ethics, i.e. clinical ethics.
- Organisational ethics does not supersede clinical ethics, but works alongside and extend this area of inquiry.
- There are two reasons why clinical ethics needs to be supplemented with organisational ethics.
  - The benefits of seeing the organisation as a moral entity
  - Need for different ethical theories to analyse problems

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The benefits of seeing the organisation as a moral entity

- The focus in clinical ethics is the practitioner-patient relationship and the issues that arise from this, the organisation is not seen as a moral entity and therefore not studied as such.
- If the organisational level is taken as the site of ethical analysis, then the organisation can be conceptualised as a moral agent.
- It can be argued that individuals make up an organisation but organisations are not fully reducible to their individual component parts.
- Plato's theory of the state encompassed this idea that the state's identity depends, but is not reducible to, its individual parts. Therefore, as organisations have a non-reducible identity they can be bearers of moral responsibility.

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This does not absolve individuals from moral responsibility in an organisational setting, but it means that the organisation can also be judged on whether it has acted morally or fulfilled its moral responsibilities: ‘organisational accountability is as important as individual accountability.’

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Need for different ethical theories to analyse problems

How a health care organisation can ethically carry out its multiple roles. Spencer et al argue that health care organisations have social, clinical, economic and professional roles that come together to inform their obligations to patients, staff and the wider community, such roles are:

1. The health and well-being of patients and patient populations
2. Professional excellence
3. Long-term organisational viability including economic stability
4. Community access
5. Public health

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Thus

- These wider obligations and duties are not captured by theories commonly used in clinical ethics such as individual autonomy and therefore to conceptualise the ethical functioning of the organisation as a whole additional theoretical tools are required.
- Spencer et al use stakeholder theory with perspectives from clinical, professional and business ethics to theorize how a health care organisation can ethically carry out its multiple roles.

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HOW CAN ORGANISATIONS BE MORE ETHICAL?

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I will now consider if a programme of organisational ethics could address some of the ethical concerns raised by the changing face of medicine and medical professionalism

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Organisational ethics programmes

An organisational ethics programme is desirable for any health care organisation and this can play the role of:

‘formulating and critiquing goals, determining the appropriateness and moral valence of alternative means to these goals, evaluating habitual behaviours and serving as an internal monitor for the way the institution conducts its activities.’ (Spencer et al, 2000:209)

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Elements of an organisational ethics programme could include attention to:

- 'Mission/vision/values
- Ethics guidelines, e.g., organizational code of conduct, professional codes of ethics, accreditation standards
- Organizational policies, e.g., conflict of interest, access to care for the uninsured, end of life care, fund raising, disclosure, intellectual property
- Ethical decision-making frameworks, e.g., accountability for reasonableness
- Ethical leadership, e.g., board ethics committee, senior management champion, ethicist
- Evaluation, e.g., accreditation standards, staff performance evaluation, quality review (Gibson et al, 2008:248)

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For instance

Joint Commission on Accreditation of Hospital Organisations has a section on Organization Ethics as part of the accreditation process:

- ‘RI.1.10 The hospital follows ethical behavior in its care, treatment, and services and business practices.
- RI.1.20 The hospital addresses conflicts of interest.
- RI.1.30 The integrity of decisions is based on identified care, treatment, and service needs of the patients. (JACHO, 2008)

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- This form of accreditation could be a model for the UK.
- All providers have to be registered with the Care Quality Commission (CQC) and they are inspected at regular intervals to ensure they are providing care of a suitable standard.
- These existing quality monitoring processes could be extended to set out the standards for organisational ethics.
- As part of their submission to the CQC providers could be formally required to address the ethical aspects of their operation by demonstrating what policies, awareness and practical measures they have taken to address the overall ethical quality of their organisation.

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CRITICISMS OF ORGANISATIONAL ETHICS

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- There are possible limitations with such an approach.
- Quality governance programmes have been argued to be largely exercises in setting up procedural requirements that have little impact on quality.
- This is reflected in recent moves towards measuring outcomes for patients and not just focussing on monitoring processes.
- In the area organisational ethics, such outcomes may be very hard to specify.

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Can an organisational ethics programme be truly critical if it has to operate within an organisation and with its blessing?

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For a critical organisational ethics, need a greater recognition of socio-cultural elements:

- a recognition of the social context of HCOs and the power structures that operate both within and outside HCOs;
- a broader conception of stakeholder involvement – involving all staff, patients and the wider community and public – to ensure that HCOs operate in the best interests of the whole community – and to determine what these best interests might look like

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CONCLUSIONS

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Practical challenges

- People under too much pressure to institute change like this
- Complexity of emerging system
- Ethics seen as nebulous and not important
- How progress/success is measured

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Research challenges

- What is the organisation and how can it have an ‘ethic’ or be ‘ethical’
- Unit of analysis – how do we capture data on a collective phenomenon? Often research is done asking individuals about the culture of their work place and then data is aggregated
- Considering appropriate methodologies for studying the social and ethical contexts of organisation – qualitative or quantitative or mixed methods?
- Clarity over aspects to be studied and how they relate to organisational aspects

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