

## **Moral distress, reasons and context: a plea for moderate moral intuitionism**

Moral intuitionism is enjoying a controversial renaissance today, thanks to the wealth of studies in evolutionary and moral psychology. It is a fact of the matter that moral judgments present themselves to the agents themselves as immediate, vivid and robust judgments. Intuitionism consists in taking such appearances seriously and consider them as foundational (no regress) and final. Critics of moral intuitions are both cognitive psychologists and consequentialists. The former advance factual criticisms: moral intuitions are only illusions produced by psychological processes which are not moral in any way. The latter advance normative critiques: intuitionism is dangerous and has to be fought against even though it might be true. In this paper I would like to defend a form of moderate intuitionism, which has the following characteristics: I will argue that genuine moral intuitions exist, and that they have to be given the benefit of the doubt if we want our normative theories to have some hold on practice. Furthermore, intuitionism is useful and promotes moral change, rather than conservatism. It is "moderate" insofar as it admits a role both for reasoning and for context in weeding out genuine from spurious intuitions.

In order to make support this approach, in the first part of my paper, I will discuss doctors' intuitions about what I call "end-of-life acts", a complex set of actions which consist in withdrawing or withholding several types of medications in different context. These observations are drawn from interviews conducted in the context of clinical ethics consultations. Current debates about end-of-life issues in medical ethics suppose a sharp distinction between passive and active euthanasia: passive euthanasia includes the withholding and the withdrawing of treatment, whereas active euthanasia consists in the administration of a lethal injection. The distinction grounds an important normative difference between the two kinds of medical actions. In current legislation in France and other European countries: passive euthanasia is not only allowed but also considered as the preferred course of action if treatment is considered futile. On the contrary, active euthanasia is forbidden as murder. There are three prominent theoretical approaches which ground the distinction; they are based on intention (N. Gorsuch), on causality (B. Brody) or on the relationship between the action and the underlying natural process (P. Foot, D. Callahan). Independently of their intrinsic merit and consistency, I would like to show that all three approaches do not sufficiently account for the moral intuitions of the physicians performing different so-called passive "end-of-life actions". Drawing on cases encountered in clinical ethics consultations, I would like to show that what we can call "end-of-life actions" are not easily distinguished into two separate classes corresponding to active and passive euthanasia respectively. Rather, different actions can be arranged along a continuum from the less to the most "active", where "active" corresponds to a strong intuition that a given action is "morally problematic". Several variables contribute to render the action more or less morally problematic, and correspond to the reasons given by actors to explain their moral intuitions: expected time of death following the action, degree of consciousness of the patient, discomfort caused to the patient, kind of treatment, professional context and wider context.

In the second part of my paper I will discuss two meta-ethical issues related to those findings. Firstly, I shall justify the distinction between what is morally problematic and what is only psychologically difficult for doctors. One may argue that the same act of withdrawing treatment to a conscious patient is only more psychologically difficult than to an unconscious patient, but is ethically equivalent, all other things being equal. This point is particularly important in light of the current debates in evolutionary psychology on the existence of genuine moral intuitions. Indeed, most studies on intuitions about "passive actions" (withholding or withdrawing) tend to interpret the passive bias as the result of several psychological mechanism, such as prospect theory. It will be argued that there are several

marks of genuine moral intuition as opposed to biases, and the difference can be better apprehended negatively, by analyzing the sort of "distress" that violation of the intuitions brings about: moral distress differs from psychological distress on several accounts: the concern about others, persistence over time and robustness in the face of arguments brought about to justify the action which is perceived as distressful. The upshot of this second part will be to give a tentative definition of a genuine moral intuition, in the tradition of moral intuitionism. Also, I shall show that intuitionism constitutes an important meta-ethical constraint on our normative approaches to these issues. I will argue that taking moral intuitions seriously will better account for the moral experience of agents. As a consequence, it allows our moral life to have some hold on practice.

In the conclusion, I shall draw two normative lessons from the analysis of doctor's intuitions. First, there is no contradiction between discursive reason and intuition. Reason serves to describe the implicit norms which account for—but do not justify—a set of interrelated intuitions and hence contribute to weed out genuine as opposed to spurious moral intuitions. In our example, a pragmatic notion of nature can account for intuitions concerning the moral status of several end-of life acts, and thus it can be used to regulate practices. Moreover, in order to determine whether a particular action is, or is not, morally problematic, one should be wary of concentrating solely on either the technical description of the action, or the intention behind it. Rather, several variables characterizing the particular context in which the action is performed make a significant moral difference. Thus, contrary to what is usually assumed, moral intuitions need not be timeless and universal: all they have to be is robust and consistent across similar contexts.