Chapter 11

The Ethics of Risk in Psychiatry: The Interplay Between Risk and Probability

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ABSTRACT

Psychiatric medicine poses specific ethical problems relating to the particularity of the illnesses and of the patients. It intends to cure and to the nature of the treatments it prescribes. Its differences with the other branches of medicine have been highlighted for a long time. The psychiatric patient worries his family circle to a greater extent and in different ways than any other patient. This chapter explores the ethics of risk in psychiatry.

INTRODUCTION

If you took the maximin principle seriously then you could not ever cross a street (after all, you might be hit by a car); you could never drive over a bridge (after all, it might collapse); you could never get married (after all, it might end in a disaster); etc. If anybody really acted this way he would soon end up in a mental institution (Harsanyi, 1980).

Psychiatric medicine poses specific ethical problems relating to the particularity of the illnesses and of the patients it intends to cure and to the nature of the treatments it prescribes. Its differences with the other branches of medicine have been highlighted for a long time. The psychiatric patient worries his family circle to a greater extent and in different ways than any other patient because, as Pascal expressed it himself figuratively, “…a lame man recognizes that we are walking straight, while a lame mind says that it is we who are limping…” (Pascal, 1995, p. 25). So one may fear that the sick person should not pass the same judgment on life as ourselves, that he might be more prone to suicide than the other patients, and that, if he does not turn his aggressiveness against himself, he might turn it against others—his family, the farther circle, the nursing team, the other sick persons if he is at the hospital—this fear, whether it be justified or not, is increased by the fact that, even if one is not trained to understand what view the psychiatric patient has of his own life, that view necessarily eludes us, and that, even if we have received

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this training, it often remains beyond our grasp. Hence, even if any medical relation always happens in a legal context, the pressure of the law is stronger in psychiatric medicine than elsewhere, in the other departments of medicine: one may lock up people against their will, and consider likewise this confinement as a part of a treatment in constraining the patients to cure them; one may contravene the most overt desires of the patient; one may deeply and unilaterally change, for him, the balance of rights and duties which is at use for the other members of society; one may also change, just as drastically, the share and equilibrium between private life and public life: so, it is possible that the relations that the psychiatric patient may have with members of her/his family and friends be considered as items to be added to the medical file. Certainly, the matter is neither to punish the patient for some imaginary transgression he could have committed; nor is it to humiliate him; but the categories which we need and that are used in order to think about ethics, so much so that they have become more and more accepted by the law “I mean the autonomy of decision that has been described, for one or two decades, as the patient’s own responsibility, and the cluster of rubrics that derive from autonomy such as the respect of the person, of personality (Kant, 1996), of dignity, of consent or of informed consent- seem particularly at odds with the settlement of a great number of psychiatric problems. It is not true that the patient’s autonomy is always respected in psychiatry merely because it is impossible; the circumstances do not lend themselves to it.

Everybody knows the answer when we try to contest the usual insistence on preserving firmly the categories in which we want or imagine it necessary to confine ethics, even where they are the least appropriate: they behave as if the patient were willing himself what is done for him, as if, when he was still sound, if one day he was in such a state, he could consider himself as suffering the illness he is now suffering. For the sake of his own autonomy he would have accepted to be deprived of it; in the name of his/her liberty, he/she would have accepted that another or others, supposed to be more reasonable, use it, during the time he is cured and to be cured. In other terms, in order for ethics to keep its value system, it is necessary to build fictions which are so contradictory, imaginings which are so insane, representations which are so inconsistent and contorted that those fictions are no more than “ fallacies “, stories that are told but are radically false and deprived of any grasp on reality. However, if we want to prove more innovative than by erecting precarious scaffoldings or by perching nonsenses upon stilts, it is necessary to try to give emphasis to other categories in ethics, nearer to the utilitarianism which prefers to speak of individuals than of persons; those other categories stem rather from utility, that is in pleasure and displeasure or the suffering of an individual or of the society of which he is a member, or -if we prefer- rather from the preferences of the individual or the well-being of the society than from the impossible autonomy of the person (at least in certain conditions); they enhance risk and probability.

I start precisely from those notions of risk and probability to found the triplicity -individual/preference and well-being/ taking risk and probability- that looks less rhetorical than the ethics of the person and better suited to the needs of psychiatry. We have not yet spoken of risk, as being related to probability, whereas it constitutes one of the most important categories of all the domains of medicine, but perhaps particularly of psychiatry, because risk is here greater than elsewhere in the cure and it is of a nature different from that of everything that may happen elsewhere. Many medical acts are admittedly high-risk for the doctor; but usually the doctor may be relieved of a great weight for having taken the risk of surgery, of a treatment, of premature departure of the patient from the hospital, or of her/his returning too early to work, when the patient takes it upon herself/himself to accept a share of responsibility, deliberately, fairly, knowingly, with the assistance of her/his family or of a trusted person. The risk is greater for the doctor in psychiatry because the latter help that the patient can bring her/him, in the medical decision, although not null, cannot be considered as really and clearly contractual and shared as the former. The
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