

Complex Cases: Residue of Moral Regret

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Disclosures

- None for either speaker

Road Map

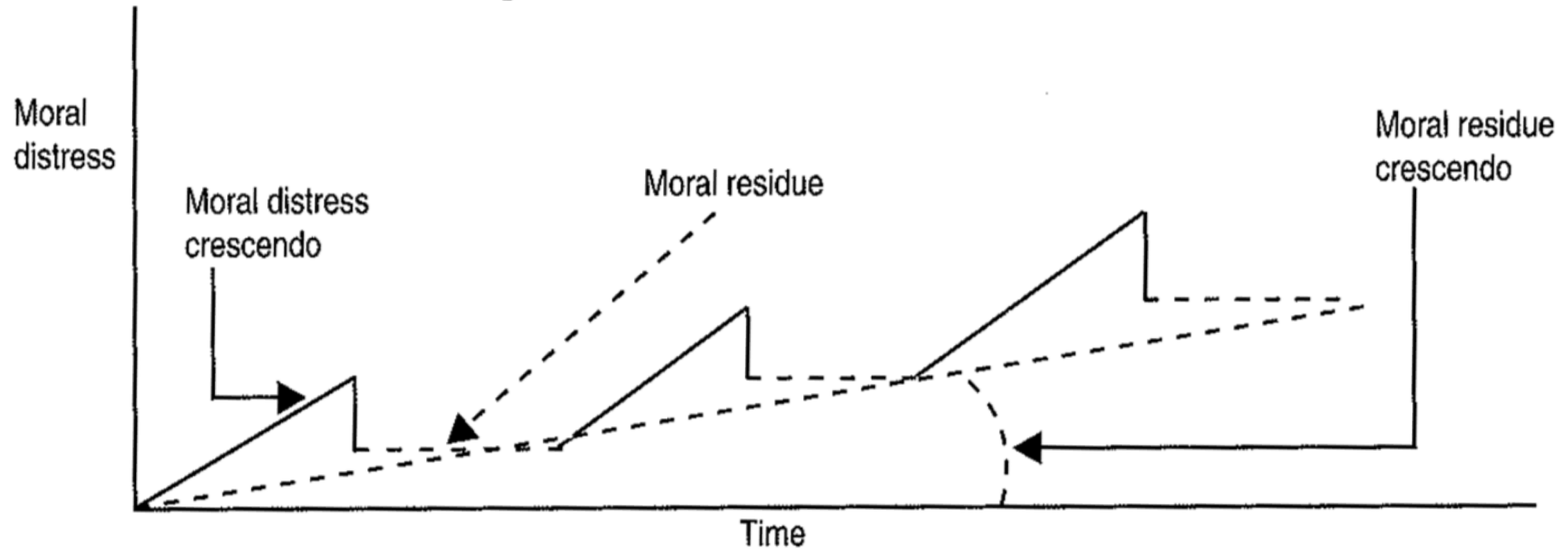
- Moral regret, moral distress, and moral residue
- Case with a clinical focus
- Case with a systems focus
- Discussion

Moral Regret

- Regret (New Oxford American Dictionary)
 - Verb – feel sad or disappointed
 - *I regret...*
 - Noun – feeling of sadness or disappointment over something that has happened or has been done
 - *She expressed her regret...*
- Moral Regret
 - Sadness or disappointment in situations of moral consequence
 - Implies presence of other competing claims of compelling moral significance

Moral Distress and Moral Residue

Figure 1. Model of the Crescendo Effect



Differences

Moral Regret

- In response to an action (looking back)
- Moral course of action is uncertain
- Intrinsic

Moral Distress

- In response when action is required (looking forward)
- Moral course of action is known but constrained
- Extrinsic

Moral Regret



Moral Regret

- Sometimes there is no good or right answer
- Who suffers from moral regret?
- Manifestations
 - Bruised → emotional fatigue
 - Callused → biases
- Not *necessarily* a “bad” thing to be done away with or prevented
 - Sign that we are still able to see and understand another’s suffering
 - Indication of having walked alongside suffering

Sources of Moral Regret

- Other claims of moral significance
 - Competing duties
 - Conflicting principles
 - Differing views of “good”
- Inadequate ethical framework(s)
 - Does not explain pain / suffering
 - Application of ethical framework is unclear
 - Inability to adjust to the changing situation
- Inadequate information
- Bad outcome

Case Presentation – Ashley

- 34 year old female, currently EGA 23 weeks
- Anatomy scan at 19 weeks → cardiac abnormality at community facility → referred to LLUH
- 21 weeks → confirmed hypoplastic left heart syndrome
 - Atretic mitral valve, hypoplastic left ventricle, severe hypoplasia of the aortic valve and ascending aorta
 - Restrictive atrial septum

Case Presentation – Ashley

- 22 weeks → met with pediatric cardiology and neonatology
 - Spoke with physician friend
 - Spoke with parent of child with similar heart condition
- 23 weeks → met with maternal fetal medicine
 - Requested to decline surgical intervention for her child's heart defect
 - Requested pregnancy termination

Case Presentation – Ashley

- 3 prior miscarriages
- S/p infertility treatments with 2 failed rounds of IVF
- Spontaneous conception



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OPERATING POLICY

CATEGORY: CLINICAL MANAGEMENT

SUBJECT: PREGNANCY TERMINATION
GUIDELINES

CODE: M-141

EFFECTIVE: 10/2014

REPLACES: 06/2011

PAGE: 1 of 2



OFFICIAL STATEMENTS

GUIDELINES

Abortion

Oct 12, 1992

Many contemporary societies have faced conflict over the morality of abortion.* Such conflict also has affected large numbers within Christianity who want to accept responsibility for the protection of prenatal human life while also preserving the personal liberty of women. The need for guidelines has become evident, as the Church attempts to follow scripture, and to provide moral guidance while respecting individual conscience. Seventh-day Adventists want to relate to the question of abortion in ways that reveal faith in God as the Creator and Sustainer of all life and in ways that reflect Christian responsibility and freedom. Though honest differences on the question of abortion exist among Seventh-day Adventists, the following represents an attempt to provide guidelines on a number of principles and issues. The guidelines are based on broad biblical principles that are presented for study at the end of the document.**

4) The Church does not serve as conscience for individuals; however, it should provide moral guidance. Abortions for reasons of birth control, gender selection, or convenience are not condoned by the Church. Women, at times however, may face exceptional circumstances that present serious moral or medical dilemmas, such as significant threats to the pregnant woman's life, serious jeopardy to her health, severe congenital defects carefully diagnosed in the fetus, and pregnancy resulting from rape or incest. The final decision whether to terminate the pregnancy or not should be made by the pregnant woman after appropriate consultation. She should be aided in her decision by accurate information, biblical principles, and the guidance of the Holy Spirit. Moreover, these decisions are best made within the context of healthy family relationships.



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The Seventh-day Adventist Church's "Guidelines on Abortion" states, "Abortion should be performed only for the most serious reasons." The Church does not condone abortions for reasons of birth control, gender selection or convenience. Exceptional circumstances may be considered such as when they present significant threats to the pregnant woman's life, serious jeopardy to her health, pregnancy resulting from rape or incest, and severe congenital defects carefully diagnosed in the fetus that will result in neonatal demise or survival with no or minimal cognitive potential.

Ethics Question

Does this request for abortion conform to LLUH's policy?

Sources of Moral Regret

- Other claims of moral significance
 - Does our moral duty to the fetus change with the degree of severity of the congenital defect(s)?
 - Does our moral duty change with the depth of our expertise?
 - Do we have a moral duty to advancing the boundaries of palliative or curative procedures / treatments / medications?

**Leonard L. Bailey
Cardiac Intensive Care Unit**



Sources of Moral Regret

- Other claims of moral significance
 - Does our moral duty to the fetus change with the degree of severity of the congenital defect(s)?
 - Does our moral duty change with the depth of our expertise?
 - Do we have a moral duty to advancing the boundaries of palliative or curative procedures / treatments / medications?
 - What is my duty as a clinical ethicist vs a physician?
 - Do we have a moral duty to LLUH's policy on abortion?
 - Do we have a moral duty to the Adventist church's statement on abortion?
 - Do we have a moral duty to the ideals of medicine?
 - Does our moral duty change depending on our view of what is "good" for the fetus?
 - Does our recommendation come with longstanding moral responsibility?

Sources of Moral Regret

- Other claims of moral significance
- Inadequate ethical framework(s)
 - Principleism (e.g. autonomy) – does it help us answer how to weigh / assess pain and suffering?
 - Narrative ethics (e.g. contextual relationships) – does our relationship with the patient obligate us to perform the abortion?
 - Virtue ethics – can you still be a good clinician and participate in abortion?

Sources of Moral Regret

- Other claims of moral significance
- Inadequate ethical framework(s)
- Inadequate information
 - How sure is sure (prognostic accuracy)?
 - How does Ashley know she cannot raise a child with special needs?

Sources of Moral Regret

- Other claims of moral significance
- Inadequate ethical framework(s)
- Inadequate information
- Bad outcome
 - To the mother
 - To the fetus if carried to term

Moral Regret

- **Sometimes there is no good or right answer**
- Who suffers from moral regret?
 - Clinicians
 - Systems
- Systems and clinicians must find a way to grapple with the residue of moral regret

Case Presentation – Ashley

- If carried to term, acceptable for parents to decline aggressive treatment and opt for hospice → thus, lethal condition
- Patient – physician (system) relationship obligates action
- Abortion performed

Moral Regret

- **Sometimes there is no good or right answer**
- Why was I particularly affected?
 - Knowledge
 - Clinical role
 - Incomplete information
- Systems and clinicians must find a way to grapple with the residue of moral regret
 - Do we have a theological answer?



Dennis deLeon, MD

The case: a general surgery group practice

- Dr. “S”
- One of 4 hospital-employed partners
- Partner/whistleblower is irate:
- “He’s doing something unfair”
- “Moral” Distress? Equity issue?



Investigation



- IT professionals; med group and med staff leaders; legal counsel; and particularly an independent surgeon reviewer all investigate
- Explanation and Findings:
- Dr. S is using electronic medical records in, at the least, unorthodox ways

Analysis



- Partners:
- “Unethical!”
- Possible HIPAA issue.
- Money motive; greed.
- No doctor-patient relationship.
- Not ‘on call!’
- ‘Trolling’ the record.

Analysis



- Searching records?
 - Legitimate instances
- HIPAA?
- Medical staff violation?
- Medical group employment violation?
- HARM?
- Record Review

Analysis



- Record Review:
 - - Case selection for surgery
 - Quality outcomes
 - Process: turnaround
 - Patient satisfaction
- Population health?
- Community benefit?

Guidance from ethics codes: Public health

- “Public health should achieve community health in a way that respects the rights of individuals in
 - the community.”
-
- Principle 2 of 12; Principles of the Ethical Practice of Public Health; V 2.2, c2012 The Public Health Leadership Society, American Public Health Assoc



Guidance from ethics codes: AMA

- “... shall safeguard patient confidences and privacy within the constraints of the law.”
- Principle IV of IX, AMA Principles of Medical Ethics; Appendix C; c2001
- “Patients are entitled to expect that the sensitive personal information they divulge will be used solely to enable their physician to most effectively provide needed services.”

AMA Opinion 3.2.4



Ethics codes: AMA (cont)

- “Physicians who collect or store patient information electronically, whether... in their own practice or through contracts with service providers, must:...
- (b) Describe how the confidentiality and integrity of information is protected if the patient requests.”
- Opinion 3.3.2; AMA Principles of Medical Ethics



Moral Distress – Moral Injury – Moral Residue

- SYSTEMS!
- Big Results – require Big Data
- Erosion of trust. Secrecy.
- Widening the circle of care
 - Inpatients; Outpatients; PEOPLE
- Ethical Climate



- Not only must justice be done.
- It must also be seen to be done.



Discussion

- What are the sources of moral regret that you've experienced?
- What are ways in which moral regret has changed your actions?
- How does moral regret manifest itself in your system, if it does?
- How can moral regret be assuaged?

*Extending
the healing ministry of
Christ*