**Intermediate Moral Concepts in Research Ethics**

| **Concept and Definition** | | **Arguments** | **Kinds/Limits** | **Legal and Moral Frameworks** | | **Cases Employing Concept** |
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| **Privacy:**  Most generally, privacy is the “right” to be left alone. Those who must respect this right include government, business, our neighbors, and our employers.  **Relational Model**:  X has control over whether Y can access information about X. The nature of the relationship between X and Y will determine what information they must share to establish or maintain that relationship. **(First three columns are elaborations of an unpublished table by Chuck Huff)** | | **Respect Based.** Privacy is essential to the autonomy of the individual. This is like the role reversal test (a’la Kant).  **Property Model**: Privacy concerns the right to control information about your person, Personal Identifying Information or PII. You own this information since you own your person. You have a right to profit from the uses to which others put this information.  **Public Good**: Privacy is not a right but a public good. Society as a whole benefits if its members are allowed certain zones of privacy and intimacy. | **Accessibility privacy** is about access to your person. Earliest references to privacy in constitutional law come from an earlier technology: the camera.    **Decision privacy** is famously involved in the Roe vs Wade case of the right to privacy in making the decision to have an abortion. The idea is that there are some decisions (certainly not all) that are private.  **Informational privacy** is about who has control over information that is about you. | **“The Fair Information Practices**   * **Notice**. Web sites should provide full disclosure of what personal information is collected and how it is used. * **Choice**. Consumers at a Web site should be given choice about how their personal information is used. * **Access**. Once consumers have disclosed personal information, they should have access to it. * **Security**. Personal information disclosed to Web sites should be secured to ensure the information stays private. * **Redress**. Consumers should have a way to resolve problems that may arise regarding sites’ use and disclosure of their personal information.”   Quoted from “Your Online Privacy Policy: An informational paper about drafting your first privacy statement or improving your existing one” TRUSTe White Paper on Privacy:  http://www.truste.org/pdf/WriteAGreatPrivacyPolicy.pdf  (Accessed December 13, 2007) | | **Toysmart**:   * Toysmart creditors wish to sell customer data base—does this violate their privacy? * Toysmart customers shared PII only under strict privacy promises. Do Toysmart promises pass over to their creditors after bankruptcy? * Is privacy property? * If privacy is property who own PII? The individual who generates it or those who would add value to it? |
| **Free Speech**   * The right to express one’s thoughts without government reprisals. * FS can be trumped by other rights such as privacy. * FS does not necessarily protect one from social reprisals nor does it impose on others the duty to listen. | | **Essential to Autonomy:** The autonomous individual requires free speech to develop and share thoughts.  **Public Good**: Free speech is necessary to acquire new and true ideas.   * *If true*. To suppress it would deprive society of truth. * *If partially true*. To suppress it would deprive society of the part that is true. * *If completely false*. To suppress it would deprive the truth of the vitality purchased by defending itself against the false. | **Defamation** is, essentially, harm done to another (usually reputation, honor, etc.) by speech:   * *Libel* = printed defamation * *Slander =* spoken defamation.   *inflammatory* speech is different from *libelous* speech (requires falsity) | OSP and ISP legal responsibility for defamatory content: three analogies   * **Publisher**—If OSP acts as publisher and exercises editorial content, then OSP is responsible for the content of the speech * **Distributer**—If OSP acts as a distributor, then it is not responsible for the content of what it distributes. It is only responsible for timely removal of objectionable content upon notification * **Common Carrier**—The common carrier is responsible neither for the content nor its timely removal. It is only responsible for installing filters that prevent the entry of objectionable content. | | **Biomatrix**:   * Is the truth of speech irrelevant in cyberspace? * In what sense, if any, is an OSP like Yahoo responsible for the defamatory speech displayed within its portals? * Concern of Amicus Curiae: John Doe lawsuits (designed to force OSPs to give out identities of users) could be used to identify and retaliate against legitimate whistle blowers |
| **Property**  Attributes of Intellectual Property:   * Non-rivalrous: my having an idea does not prevent you from having the same idea (Lighting candles from the same match.) * Non-excludable: like the air, it is difficult to contain the spread of ideas. Ideas by their very nature disseminate themselves. | | *Labor theory of property.* Originated with Locke. An argument for property as a natural right. We mix our labor with something and it becomes ours. Problematic in many ways. If we assume property it clarifies our intuition about it. But it fails to establish a natural right as necessary. (From unpublished table by Huff) | *Consequentialist theory of property.* Enshrined in US constitution. Two pronged argument (negative) that not protecting property results in undesirable consequences and (positive) that protecting it results in desirable consequences.  *Social Role theory of (intellectual) property.* Information wants to be shared. It is in the nature of information that it is shared. Control over sharing is essential as is provision for sharing. (From unpublished table by Huff) | **copyright**   * legal right (usually of the author or composer or publisher of a work) to exclusive publication production, sale, or distribution of some work for a specified period. What is protected by the copyright is the "expression," not the idea. Notice that taking another?s idea without attribution may be plagiarism, so copyrights are not the equivalent of legal prohibition of plagiarism.   **patent**   * (special, alienable, prima facie) legal right granted by the government to use, or at least (in cases where other patents that such use would infringe) to bar others from using a device, design, or type of plant that one has created. In the United States restrictions last for 17 years for useful devices, and 14 years for designs. Specific provisions of U.S. patent law may soon change to bring it into conformity with the provisions of other technologically developed countries. To patent a device one must prove that it is useful, original, and not obvious. Patents are subject to challenge in court and may be upheld or overturned.   **trade secret**   * device, method, or formula that gives one an advantage over the competition, and which must therefore be kept secret if it is to be of special value. It is legal to use reverse engineering to learn a competitor’s trade secret. "Know how" concerning research procedures may function as something like a trade secret.   **"Glossary" Online Ethics Center for Engineering 1/31/2006 6:57:46 PM National Academy of Engineering Accessed: Thursday, December 13, 2007 <www.onlineethics.org/CMS/glossary.aspx>** | | **The shrinking intellectual commons.** There is social value in having a common “space” where information is shared (see arguments for intellectual property). Unrestricted exercise of property rights caused damage to the environment. Unrestricted exercise of intellectual property rights may cause damage to the intellectual commons.  **Educational Laptop Case**: Does digitalizing print textbooks violate laws in intellectual property?  **Toysmart**:  Who owns the PII and TGI that I generate? |
| **Justice (Including Equity and Access)**  Justice is giving each his or her due | | **Essential to autonomy**—the individual cannot be fully autonomous without receiving a just share of political and economic goods  **Spheres of Justice Approach**: Walzer argues that there are several distinct spheres of practical activity each with its own principle of distributive justice (Educational, Political, Economic)  **As a Virtue**: Plato: justice is highest of the four cardinal virtues (others: temperance, courage, wisdom) consisting of integration and right ordering of other virtues (= excellences of parts of the soul) | * **Distributive:** dividing benefits and burdens fairly * **Retributive:** fair and impartial administration of punishments * **Administrative:** fair and impartial administration of rules * **Compensatory:** how to fairly recompense those who have been wrongfully harmed by others | **Rawls—Two Principles of Justice**   * *Equal Liberties:*“each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others” (=freedom of speech and assembly, liberty of conscience, freedom of thought, freedom of the person, etc) * *Difference Principle:*“social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage and (b) attached to positions and offices open to all….”   Rawls***, Theory of Justice*** | | **Hughes Case:**  Does the court system provide victims of wrongful dismissal with adequate means of redress?  **Incident at Morales:**  Is international, social justice served by operating under less stringent environmental regulations in other countries? |
| **Patterns**   * *Equality*: equal shares to all * *Merit*: greatest shares to those who deserve it * *Need*: greatest shares to those who need it |
| **Nozick:**  Justice as Entitlement =  Justice in acquisition + Justice in transfer |
| **Safety** | | “A thing is safe is, were its risks fully known, those risks would be judged acceptable in light of settled value principles.” MS 108  “A risk is the potential that something unwanted and harmful may occur.” MS 108  Martin and Schinzinger, **Engineering Ethics**, 108 | **Risk Assessment**: The scientific and exact process of determining the degree of risk.  **Risk Management**: The political process of determining if a certain degree of risk is socially acceptable. Requires the consent of the risk taker  **Risk Perception**: How people perceive risk diverges from how risk is assessed. Dread and unknown factors increase perceived risk without increasing degree of risk  **Risk Communication**: How to communicate risk to risk takers as a part of the consent process. (Concrete language and careful analogies.) | **Advice from Leveson on System Safet**y (Selections taken and quoted from *Safeware: System Safety and Computers*, pp. 510-511)   * Our most effective tool in making things safe is simplicity and building systems that are intellectually manageable * Safety and reliability are different and must not be confused * Placing too much reliance on probabilistic risk assessment is unwise * Building safety into a system will be much more effective than adding protection devices onto a completed design; The earlier safety is considered in the development process, the better will be the results * To make progress, we must stop oversimplifying accidents and recognize their complex, multifactorial nature. Fixing only symptoms while leaving root (level three) causes intact will not prevent the repetition of most accidents. * Human “error” is integrally related to human flexibility and creativity. * Safety is a system problem and can only be solved by experts in different disciplines working together. * Just because the events leading to an accident are not foreseen does not mean the accident is not preventable. The hazard is usually known and often can be eliminated or reduced significantly. * Complacency is perhaps the most important risk factor in a system, and a safety culture must be established that minimizes it * We must learn from the past so that we do not repeat the same mistakes | | **Hughes**  Harmful impacts if computer chips fail under stressful environmental conditions  **Therac-25**  \*Leveson’s comments are relevant here  \*How does one go about designing a system like the Therac-25 to ensure, not only its reliability, but its safety?  \*How does one identify and trace the cause(s) of system malfunctions?  \*Can one prevent normal accidents given that their causes are often related to human flexibility and creativity? |
| **Public**  From Michael Davis, **Thinking Like an Engineer** | | “those persons whose lack of information, technical knowledge, or time for deliberation renders them more or less vulnerable to the powers an engineer wields on behalf of his client or employer” Davis |  |  | |  |
| **Whistle-blowing**  (Richard DeGeorge “ Ethical Responsibilities of Engineers in Large Organizations,” **Business and Professional Ethics Journal,** 1(1): 1-14**.** For criticism see Harris, Pritchard, Rabins in **Engineering Ethics: Concepts and Cases,** 2nd: 197-198) | | *The duty the engineer has to make risk information generally available to the public*  *(This duty entitles engineers the right to the means necessary to carry it out)* | **Morally Permissible**: serious and considerable harm, made known to supervisor, exhausted internal channels  **Morally Obligatory**:  above conditions plus documented evidence and reasonable chance of avoidance of harm | There are different ways of blowing the whistle  1) Inside vs. Outside  2) Anonymously vs. Not anonymously  3) With documented evidence vs. without  4) As a first resort vs. as a last resort  5) To protect public health vs. to promote selfish interests  6) With protection vs. Without Protection | | Other dissent-relevant responses:  1. Gather information  2. Nolo contendere (go along)  3. Negotiate or oppose diplomatically  4. Oppose through confrontation  5. Exit |
| **Conflict of Interest**  A person has a conflict of interest if…  (From Michael Davis, “Conflict of Interest” in **Business and Professional Ethics Journal** 1(4) (1982), 17-27. | | (a) “he is in a relationship with another requiring him to exercise judgment in that other’s service and…” | (b) “he has an interest tending to interfere with the proper exercise of judgment in that relationship” | **Actual**: the outside interest is actually and currently adversely affecting professional judgment.  **Latent**: all that is required for the outside interest to actually and currently adversely affect professional judgment is a change in circumstances.  **Potential**: all that is required for the outside interest to become a latent conflict of interest is a change of circumstances.  *(Davis outlines these levels. Author has applied it to Hydrolevel case in next column)* | | 1. Hydrolevel Case: Mitchell and James join the ASME (= Potential CI)  2. Mitchell and James join the ASME Boiler Committee (= latent CI)  3. Mitchell & James help Hardin draft letter to ASME Boiler Committee (=actual CI)  4. *Letter asks BC for interpretation of Hydrolevel device* |
| **Informed Consent**  Consent of risk taker to understand the nature and breadth of the risk he or she is being asked to take.  **Belmont Report**:  “subjects, to the degree that they are capable, be given the opportunity to choose what shall or shall not happen to them. This opportunity is provided when adequate standards for informed consent are satisfied.” | | FIC is *essential* to autonomy  The *standard threat:* when crucial risk information is not uncovered in risk assessment or is covered up by those with vested interest  FIC has limits regarding *feasibility*. Can individuals veto government projects? (Goods vs. rights or conflicts involving rights and duties) | Conditions  **Information:** research procedure, their purposes, risks and anticipated benefits, alternative procedures (where therapy is involved), and a statement offering the subject the opportunity to ask questions and to withdraw…. **Comprehension:** manner and context in which information is conveyed [and] the information itself.  **Voluntariness:** consent valid “only if voluntarily given….[R]equires conditions “free of coercion and undue influence.” | Institutional Research Boards IRBs) now require documentation of informed consent on research projects carried out under that university’s auspices. This is in response to requirements by federal granting agencies such as the NIH and the NSF.  [**http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.htm**](http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.htm) **(Accessed December 13, 2007)**  **Consenting to the transfer of PII (personal identifying information) online**  ***Opt-in:*** information transferred only with express consent. Default is not transferring information  ***Opt-out:*** information transfer is halted when person to whom PII refers does something positive. Default is on transferring information  **Liability Rules and Property Rules:**  Sagoff: An injunction referring to liability rules stops the activity to protect the individual who proves impact. Property rules require only that the producer of the environmental impact compensate the victim.  (From Spinello and John Dean) | | **Therac-25 Case**   * Patients receiving radiation therapy should be made aware of the risks of this treatment including the possible malfunction of the machine or its software |
| **Research Misconduct or FFP: Plagiarism**  *“Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.”*  **Office of Science and Technology Policy, OSTP,** 2000 quoted in Shamoo and Resnik**: Responsible Conduct of Research,** Oxford, 101 | | 1. “**Fabrication** is making up data or results and recording or reporting them”  2. “**Falsification** is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.”  3. **Plagiarism** is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.” | **A finding of research misconduct requires that**:  1. “There be a significant departure from accepted practices of the relevant research community.”  2. “The misconduct be committed intentionally, or knowingly or recklessly.”  3. “The allegation be proven by a preponderance of evidence.” | | **Inquires into research misconduct generally include three phases**  1. Inquiry  2. Investigation  3. Adjudication where “appropriate corrective actions [are] determined”  Corrective actions can include…  a. reprimand  b. demotion  c. termination  More recently, more forward-looking corrective actions include requiring that the individual take a course in research ethics, write a chapter in a manual on research misconduct, or take the lead in developing training in research ethics. | **Reasons for FFP:**  1) “Keeping incomplete records or research  2) Overemphasis on new discoveries  3) Judging a researcher’s productivity  4) mistreatment of graduate students, post-doctoral fellows  5) What journals demand  6) competitiveness of contemporary science  7) honest but reckless or negligent error”  Quoted from Michael Davis, **Ethics and the University**, 51 |
| **Moral Deliberation**  Principles and decision-making framework are quoted from Shamoo and Resnik. **Responsible Conduct of Research**: 16-18. | | *Using decision-making frameworks, moral principles, and moral values to reach and justify moral decisions.* | **Principles:**  1. *Nonmaleficence*: “Do not inflict unjustified harm to ourselves or other people.”  2. *Beneficence*: “Promote one’s own well-being and benefit others.”  3. *Autonomy*: “Allow rational individuals to make their own decisions and act on them.”  4. *Justice*: Give each his or her due recognizing equality, need, and merit as legitimate patterns of distribution. (Plato’s **Republic**) | Decision-Making Framework quoted from from Shamoo and Resnick:  1. “State or define the problem.”  2. “Gather relevant information.”  3. “Delineate or construct different options.”  4. “Relate the different options to the different values or principles that are at stake.”  5. “Evaluate the different options in light of different values or principles as well as the relevant facts.”  6. “ Check for situational constraints:   * Interest constraints at individual, group, and corporate levels * Resource constraints such as time, personnel, money, and materials * Limits in knowledge and technology necessary to realize solution” | | *Any case that requires deliberation, that is, where there is (1) a factual or conceptual disagreement, (2) a value, virtue, interest, right, good, or duty conflict, or (3) a high probability of harm of significant magnitude and range*  (J. Ferrer discusses moral deliberation and situations likely to trigger deliberation in **Deber Y Deliberación: Una Invitación a la Bioética**, Mayaguez: CePA) |
| **Moral Imagination** | | In moral imagination, “We *portray* situations, *delineate* character, *formulate* problems, and *mold* events. When we act we engage in various forms of creative making: we *compose* situations, *build* relationships, *harmonize* diverse interests, *balance* competing values, and goods, *design* institutional practices, and *orchestrate* interpersonal relations” **(Johnson, Moral Imagination: 212)**  Example: In next column, responsibility takes on meaning as it is metaphorically projected into higher regions of moral “space” | **Moral Responsibility**  Elaborated out of physical experience of stimulus-response.  **Response to relevance** is metaphorically ela borated by projecting it upon minimal, intermediate, and upper moral “spaces”:    1. Minimal moral space of compliance: relevance = rule, response = following rule  2. Falling below minimum: In blame responsibility relevance = transgression and response = punishment  3. In higher moral space, exemplary responsibility occurs where relevance = opportunity to realize value and response = realizing value | 1. Moral concepts are **prototypically** structured moving from paradigm instances to more problematic and peripheral instances.  2. Understanding is created by **metaphor** and **metonymy**. In metaphor, new domains are structured and understood by projecting upon them older, more familiar, and more primary experiences.  3. Moral imagination unleashes new possibilities for action by subjecting a given situation to multiple **framings**. Concepts and image schemas facilitate framing. A given situation can also be framed from different disciplinary standpoints (business, law, engineering, social).  4. The most comprehensive tool used by moral imagination to create meaning is **narrative**. Virtue ethics, for example, understands an action by viewing it in the broader context of a character narrative or the narrative of a moral career. | | **Werhane:**  **1. Malden Mills:** Visionary CEO rebuilds rather than relocates after fire.  **2. Ford Pinto:** Decision not to retrofit Pintos to protect gas tank from perforation indicates a lack of moral imagination  **3. Werhane:** Adam Smith (**Theory of Moral Sentiments**) anticipates moral imagination in his moral spectator construct |
| **Morality**  (Pence, G. 2000. **A Dictionary of Common Philosophical Terms**: 35) | | “what in fact people believe to be right or wrong, or how they in fact act; sometimes contrasts with ethics (the study of how they *should* act)” |  |  | |  |
| **Ethics**  (Pence, G. 2000. **A Dictionary of Common Philosophical Terms**: 35) | | “the branch of philosophy that investigates and creates theories about the nature of right and wrong, duty, obligation, freedom, virtue, and other issues where sentient beings can be harmed or helped. Sometimes contrasts with morality.” |  |  | |  |
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