

CHAPTER 3

METHOD

In this chapter, I will explain and justify the method that was used in order to further develop ethical theory with the use of empirical data, as well as the actual way in which the empirical material was collected. The first section will give a general impression of the way in which empirical research will be used. Section 2 will explain the decision to employ a qualitative research method and to collect the empirical material in the form of cases. The unique contribution that real cases can offer to theory development will be discussed. Section 3 will describe and justify the way in which I have collected the empirical material and section 4 will further explain the way in which I have used the real cases I collected in the further development of ethical theory.

1. MORAL THEORY AND EMPIRICAL RESEARCH

The goal of this study was to further develop and refine ethical theory concerning patient autonomy in a way relevant to medical practice by clarifying the concept of patient autonomy and by reinterpreting the principle of respect for autonomy. As indicated in the Introduction I wanted to do this not only from a theoretical perspective, but also by taking into account, in some way, the judgements, considerations and views held in practice and the factual circumstances and routines guiding that practice. To do this, it would be necessary to learn more about the practice under consideration: that of the hospital. I wanted to know more about the specific moral problems of hospital practice (especially those related to patient autonomy); about the kinds of situations in which these problems arise; about the ways in which they are dealt with; and about the moral experiences, judgements and attitudes of doctors, nurses and patients. Therefore, it was decided to collect empirical material in the form of extensive case histories describing the period of hospital admission for individual patients. The case histories would include information about the problems that arose during admission; about the way in which these were handled; and about the opinions, views and judgements of the physicians, nurses and patients involved in the cases. For the collection of this empirical material, the method of participant observation was chosen, which is a research method developed in the social sciences. The approach to theory development, however, would differ somewhat from that used in the social sciences where theory development is usually directed towards descriptive or explanatory instead of normative theories.

There are several ways in which the results of empirical research can be used in moral reasoning and theory development (Pearlman, Miles & Arnold 1993, Brody

1993). First, empirical research can provide facts that are relevant for moral reasoning. In developing Do Not Resuscitate policies, for example, it is relevant to know the success rate of resuscitation (van Delden 1993); in justifying the use of substituted judgement in decision-making for incompetent patients, it is relevant to know how well substitutes can predict the wishes of the patient (Pearlman, Miles & Arnold 1993), and in evaluating a triage policy for ICU beds, it is relevant to know the consequences in terms of patient well-being (Brody 1993). Empirical research can also be used to 'test' adherence to specific moral policies (van der Maas et al. 1996) or to offer a better understanding of the implementation of moral policies (Pearlman, Miles & Arnold 1993). Sociological or ethnographic empirical research can describe the 'internal morality' of a practice and the moral experiences of moral actors and explain the way in which morality works (Hoffmaster 1992). In these examples, however, empirical research is not used to explain or interpret moral principles or to develop moral theory.

In the literature, two ways are suggested in which empirical research could have a more substantive role in moral reasoning itself. First, it can identify moral issues that are important in practice but have received little attention in moral theory (Pearlman, Miles & Arnold 1993, Brody 1993). Such issues could be starting points for further theory development, and the ways in which these issues are understood and dealt with in practice can offer new insights and suggest new concepts or distinctions. Secondly, the moral judgements and attitudes held in practice can be brought into moral reasoning directly and play the part of 'considered moral judgements' or 'morally relevant facts' in a process of reflective equilibrium (Daniels 1979, Gillon 1996). In this process, considered moral judgements concerning specific problems or situations are confronted with more general rules or principles, and both can be adjusted or refined (taking into account the morally relevant facts) in order to reach a more coherent and consistent network of moral principles, rules and judgements (and more general background theories).

In this present study the starting point is the idea that theoretical concepts and norms can be adjusted, refined or specified through a confrontation with practice. Moral rules and principles are understood as guides to our moral actions, but ones that need to be interpreted and to be made more concrete in order to be 'applicable' in actual situations. Rules or principles do not dictate their own use; both the rules and the situations to which they are applied need to be interpreted before any conclusions can be reached or judgements made. When one tries to interpret practice from a theoretical point of view or to 'apply' theoretical norms and concepts within a practical situation, these norms and concepts have to be specified and to be made more concrete. Actual situations can force one to reconsider the meaning or content of a concept, and moral intuitions or judgements about these situations can urge one to adjust rules and norms. Moreover, practice can resist certain theoretical interpretations and suggest new or different ones. At the same time, theoretical concepts and rules guide our interpretations of and judgements about actual situations. Moral theory can be further developed by going back and forth between principles and practical judgements, by specifying and revising norms and concepts by confronting them with actual situations, and by proposing new interpretations or concepts (cf. DeGrazia 1992). In this way, theory can be better equipped to help

solve real-life moral problems. This study thus links up with both approaches mentioned above. It makes use of the heuristic potential of empirical research to direct attention to new or poorly articulated issues, and it makes use of empirical research to confront theory with the concrete situations to which it is meant to apply in what might be called a form of reflective equilibrium.

2. THE USE OF CASES

The use of - sometimes hypothetical - cases in theory development is not uncommon in ethics, but I believe that there are some advantages in using 'real' (empirical) cases instead of hypothetical ones, some of these advantages being closely related to the reasons for using empirical research in the first place. There are also advantages in using complete comprehensive cases instead of more isolated empirical data such as opinions, facts or separate moments of decision-making. These advantages are discussed in the first part of this section. In the second part, I will explore a number of difficulties regarding the description of real - empirical - cases.

2.1 *Advantages of real cases*

The first advantage of real cases over imaginary ones is that they have a different impact on theory development. Imaginary cases are usually constructed in order to illustrate a specific theoretical point and have a specific theoretical point of view already written into them. They are, as Arras calls them, "theory-driven" (Arras 1991, 37). This can be seen, for example, in the fact that many imaginary cases (though not all of them) are described in such a way that the moral problem is clear. Such cases are discussed in order to analyse or solve that problem. But real life, according to Arras, "does not announce the nature of problems in advance. It requires interpretation, imagination and discernment to figure out what is going on" (Arras 1991, 37). Missing in many imaginary cases are the questions of how the moral problem is determined in the first place and who makes this determination (cf. O'Neill 1988). These questions, however, can have an important impact on the way a situation is analysed and judged. Prejudices can be built into the definition of a problem, and presenting a situation as an example of a specific problem or conflict can blind one to other possible problem definitions. An advantage of real cases over most hypothetical cases is that the morally problematic aspects of the case, if they exist, are not immediately clear. Real cases are more open with respect to problem definition than many imaginary cases.

Imaginary or hypothetical cases are commonly used to determine the moral relevance and weight of specific features of a situation. By varying one aspect of a case, while keeping the others constant, one can learn about the importance of that one aspect. One can also proceed the other way around, keeping one factor constant and changing the rest of the case. Imaginary cases are well suited to these kinds of 'moral thought experiments'. But since these cases are constructed precisely to investigate or illustrate the importance of a specific feature (or some specific



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