Ethical Tools for Decision Makers

PD Dr. phil. Peter Schröder-Bäck

Definition & Theses

- Ethics = to advise on decision-making criteria, grounded in philosophical reflection.

- Ethical knowledge needs to be "carried over" to practitioners to support decision making. (= "translational ethics")

- Here, tools – reducing complexity and supporting application of ethical norms and values – are at least a starting point for ethical reflection. Tools can help
  - raising ethical awareness of decision makers,
  - making moral aspects explicit,
  - support ethical justification.

The situation in (health) policy making

„Public health practitioners at all levels of practice reported that they must confront numerous ethical choices, both explicitly and implicitly, in their professional roles every day. They often feel ill-prepared to make the ‚ethical trade-offs' and perceive a need for more education and support to make these decisions."
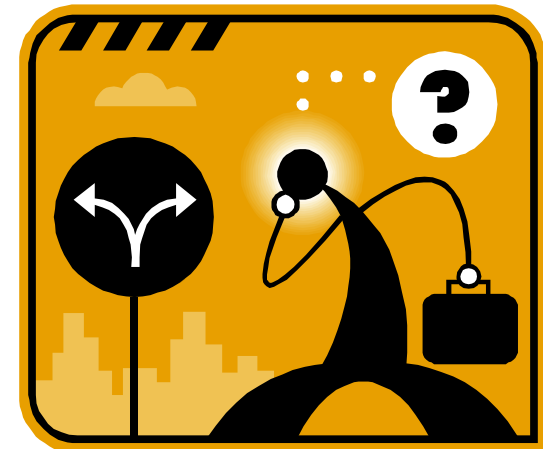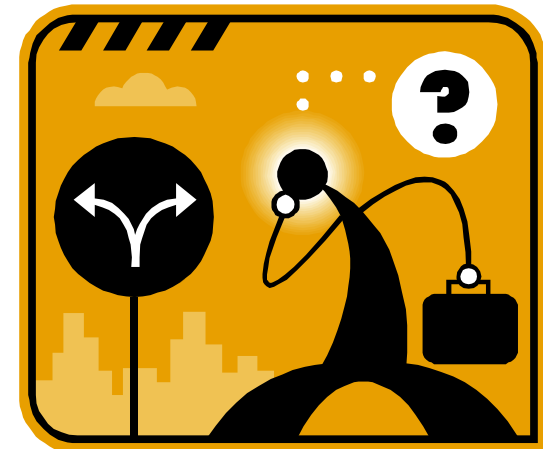
Gaare Bernheim R (2003) Public Health Ethics: The Voices of Practitioners. The Journal of Law, Medicine, and Ethics 31(4)(Special Supplement): 104-109. p. 105.

The situation in (health) policy making

„Public health ... at all levels of ... that they must co... al choices, ... plicitly, in their pro... very day. They often feel ... prepared to make the ‚ethical trade-offs' and perceive a need for more education and support to make these decisions."

What to do?

... within a very limited time / with limited resources?

Gaare Bernheim R (2003) Public Health Ethics: The Voices of Practitioners. The Journal of Law, Medicine, and Ethics 31(4)(Special Supplement): 104-109. p. 105.
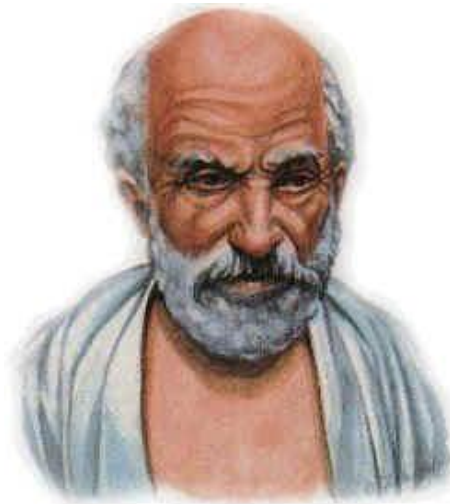
Oh, good old days!

- Turning to authority!
- Asking
  - the priest
  - the oracle
  - the boss
  - ... or in health: Hippocratian framework!

„Hippocrates had nothing to say about public health."

Darragh, Martina; Milmoe McCarrick, Patricia (1998) Public Health Ethics: Health by the Numbers. Kennedy Institute of Ethics Journal 8: 339-358.

Why an („extra")
Ethical Framework for PH?

„A framework of ethics analysis geared specifically for public health is needed, both to provide practical guidance for public health professionals and to highlight the defining values of public health, values that differ in morally relevant ways from values that define clinical practice and research."

Kass, Nancy: An Ethics Framework for Public Health. American Journal of Public Health 91 (11), 2001: 1776-1782. S. 1776.

Experience in Public Health

- Topic of annual discussion now at EUPHA – high demand but in case of conflict, inferior to empirical science activities.

- Public Health Faculty, Associations etc. request consultations, tools, trainings in ethics. Ethics into practice.

- "Doing ethics" in a concise manner (= Quick and dirty?).

- My answer: acquaint (future) practitioners with theories and especially Public Health <u>Ethics tools</u>!

  – *Philosophically founded and normative instruments, built on field-specific frameworks to facilitate decision making in practice.*

- Systematic set of criteria to structure, systematise, support, "simplify" and harmonise (ethically relevant) decision-making and support ethical debates in pluralistic societies.

- Specific for a context (e.g. ethical tool from medical ethics probably not without ado applicable for environmental health).

- Difference:
  - Who is addressed (professionals, policy makers, ...)
  - Aim
  - Structure
  - Values / principles

- Many different forms (principles, set of questions, consensus conference, ...).

- Offer "common ethical standard" and "minimal consensus".

- Have to be developed by academics and practitioners.

Borchers, Dagmar: Ethiktools. In: Schröder-Bäck, Peter; Kuhn, Joseph (eds.) Ethik in den Gesundheitswissenschaften – Eine Einführung. Weinheim: Beltz-Juventa, 2016: 136-146. (direct quotes are own translation)

Ethical tools – Selected challenges

- Finding a balance between:
  - Complexity ←→ simplicity,
  - Theory foundation ←→ "ready to use",
  - Theory foundation / paradigms ←→ pluralism,
  - Expert ←→ lay approach,
  - Being helpful ←→ not instrumentlised (no window dressing!!!).
- Not to be confused with an algorithm or "world formula".

(Cf. Borchers 2016, Beekman/Brom 2007)
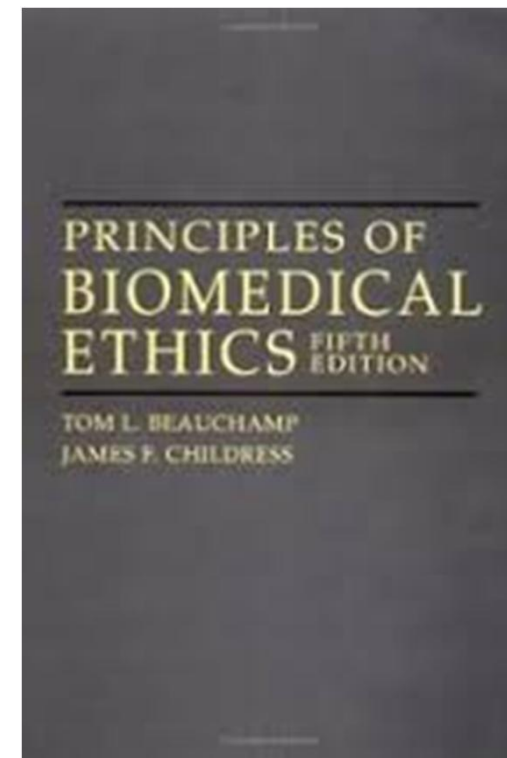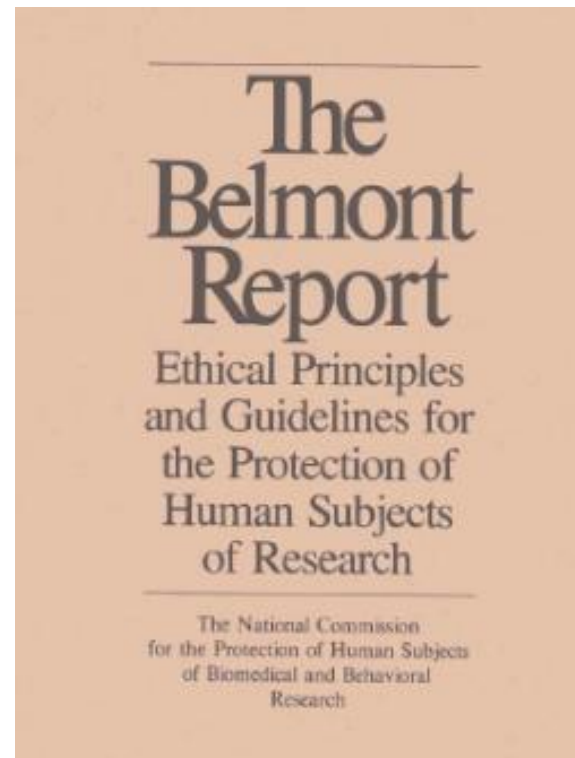
Theory	no	from 5th edition on, maybe
Framework	yes	yes
Tool	yes (3 principles)	yes (4 principles)

Table 1. Five pragmatic values/value sets to supplement the principles of the International Commission on Radiological Protection

Number	Value set	Source	Comments
1	Dignity and autonomy	5, 7, 8, 15	Of the individual
2	Non-maleficence; beneficence	5, 17	Do no harm and do good
3	Justice	5, 7, 8	In the sense of fairness
4	Prudence/precaution	16, 18, 19, 20	Appears in precautionary principle
5	Honesty	8, this article	Particularly in openness and transparency

FULL PAPER

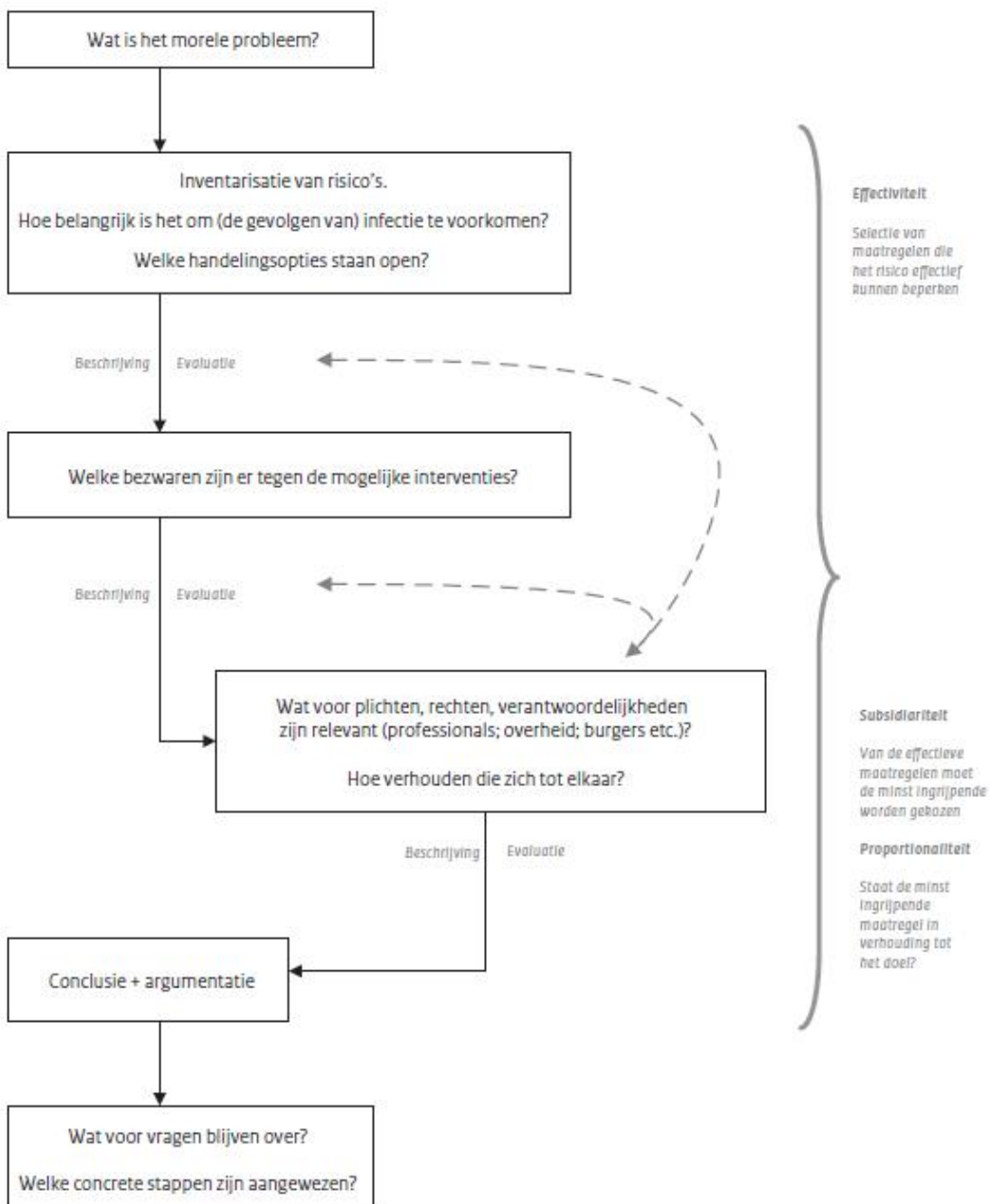# Pragmatic ethical basis for radiation protection in diagnostic radiology

[1]JIM MALONE PhD, FIPEM and [2]FRIEDO ZÖLZER, PhD

[1]School of Medicine, Trinity Centre for Health Sciences, St James's Hospital Dublin, Dublin, Ireland
[2]Department of Radiology, Toxicology and Civil Protection, Faculty of Health and Social Studies, University of South Bohemia in České Budějovice, České Budějovice, Czech Republic

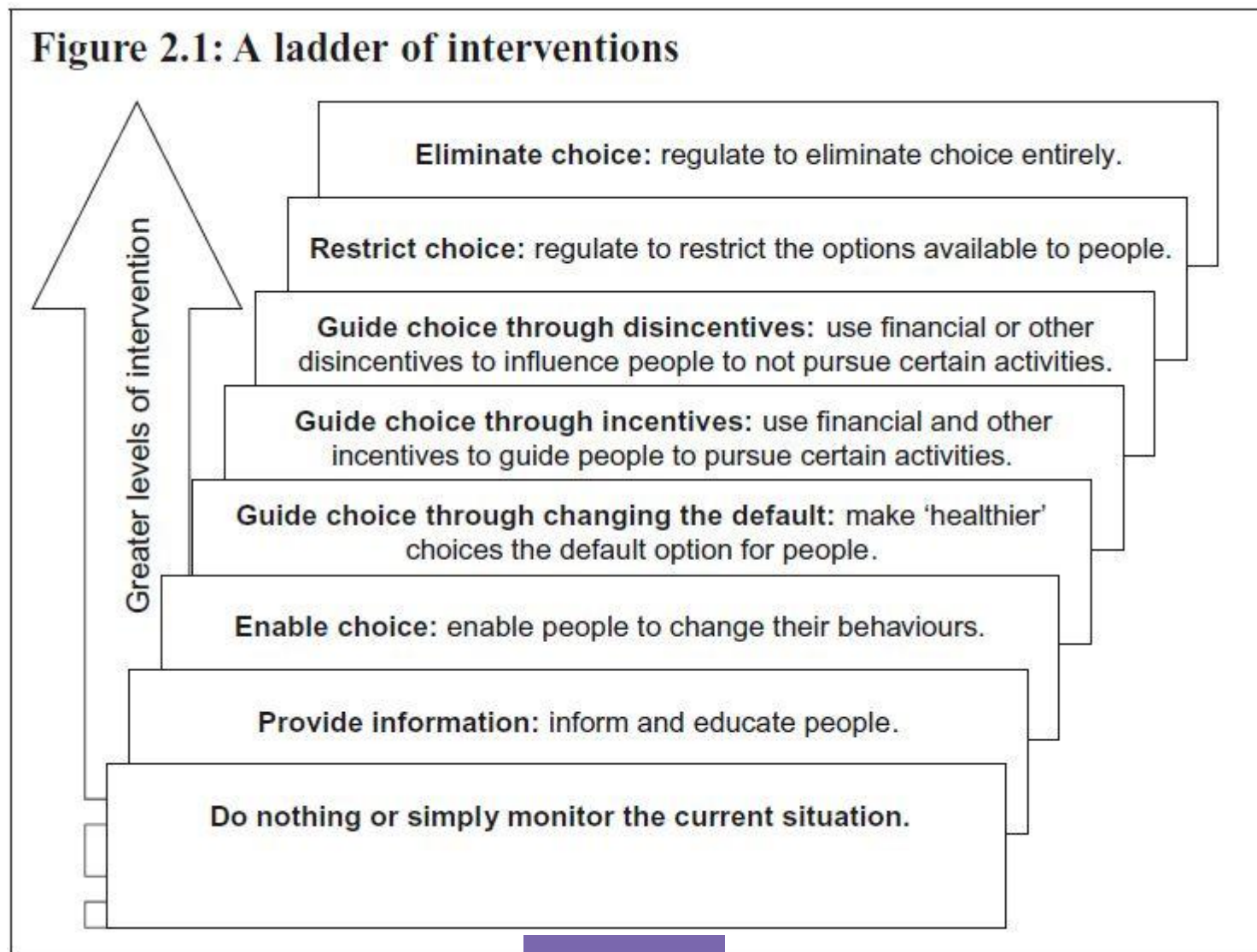STAPPENPLAN CASUSBESPREKING ETHIEK INFECTIEZIEKTEBESTRIJDING

Wat is het morele probleem?

Inventarisatie van risico's.

Hoe belangrijk is het om (de gevolgen van) infectie te voorkomen?

Welke handelingsopties staan open?

Beschrijving   Evaluatie

Welke bezwaren zijn er tegen de mogelijke interventies?

Beschrijving   Evaluatie

Wat voor plichten, rechten, verantwoordelijkheden
zijn relevant (professionals; overheid; burgers etc.)?

Hoe verhouden die zich tot elkaar?

Beschrijving   Evaluatie

Conclusie + argumentatie

Wat voor vragen blijven over?

Welke concrete stappen zijn aangewezen?

Effectiviteit

*Selectie van
maatregelen die
het risico effectief
kunnen beperken*

Subsidiariteit

*Van de effectieve
maatregelen moet
de minst ingrijpende
worden gekozen*

Proportionaliteit

*Staat de minst
ingrijpende
maatregel in
verhouding tot
het doel?*

Rijksinstituut voor Volksgezondheid
en Milieu
Ministerie van Volksgezondheid,
Welzijn en Sport

Ethiek in de infectieziektebestrijding

Speciale uitgave Infectieziekten Bulletin met
casusbesprekingen uit de GGD-praktijk

Figure 2.1: A ladder of interventions

Eliminate choice: regulate to eliminate choice entirely.

Restrict choice: regulate to restrict the options available to people.

Guide choice through disincentives: use financial or other disincentives to influence people to not pursue certain activities.

Guide choice through incentives: use financial and other incentives to guide people to pursue certain activities.

Guide choice through changing the default: make 'healthier' choices the default option for people.

Enable choice: enable people to change their behaviours.

Provide information: inform and educate people.

Do nothing or simply monitor the current situation.

Greater levels of intervention

How I see one possible helpful tool for practitioners and decision makers.

BMC
Medical Ethics

DEBATE   **Open Access**

Teaching seven principles for public health ethics:
towards a curriculum for a short course on ethics
in public health programmes

Peter Schröder-Bäck[1,2*], Peter Duncan[3], William Sherlaw[4], Caroline Brall[1] and Katarzyna Czabanowska[1,5]

1. Conceptual clarifications from a philosophical point of view (public, health, public health).

2. Basic ethical theories.

3. A set of 7 principle ("aide memoire" / "Checklist")

4. A scheme for making judgments.

5. Discussion of case studies – decision making training.

Prima facie Principles

- Respect for Autonomy – Respect the will & value of every single person
- Beneficence – Do good to every single person
- Non-Maleficence – Avoid harm of every single person (as much as possible)
- Justice – Equity, treat people equally, grant universal access to necessary goods and healthy environments etc.

- Health Maximisation – Do good to public by improving the public's health
- Efficiency – Don't waste public resources
- Proportionality – Use the least infringing of necessary interventions

Aide Memoire / Checklist (1)

- **Health Maximisation**
  - On balance: more health than harm?
  - Is the proposed intervention effective and evidence based? Can it improve population health?
  - Does it have a sustainable, long-term effect on the public's health?
  - …

- **Efficiency**
  - Is the proposed intervention cost-effective?
  - Awareness of scarcity of public money; saved money can be used for other goods
  - ….

- **Proportionality**
  - Is the intervention the least infringing of possible alternatives?
  - Are cost and utility proportional?
  - …

Aide Memoire / Checklist (2)

- **Justice**
  - Does the intervention not enlarge social and health inequalities (inequities), but rather works against inequalities (inequities)?
  - Is no one (incl. 3rd parties) stigmatised, discriminated or excluded as a consequence of the proposed intervention?
  - Is the institution proposing the intervention publicly justified and acting transparently?
  - Is the proposed intervention not putting sub-populations at risks of being excluded from social benefits and / or universal access to health care?
  - Does the intervention consider and support vulnerable sub-populations (e.g. migrants)?
  - Does the intervention rather promote than endanger fair (and *real*) equality of opportunity and participation in social action?
  - Does the intervention refrain from eroding senses of social cohesion and solidarity?
  - …

Aide Memoire / Checklist (3)

- **Respect for Autonomy**
  - Is the intervention refraining from coercion and manipulation but rather supports free choice?
  - Is "informed consent" to take part in the intervention implemented?
  - Is self-responsibility not only demanded but possible for every person?
  - Are privacy and personal data respected?
  - If the intervention is paternalistic, is this justifiable? ("burden of proof")
  - Does the intervention raise the ability to exercise autonomy? …
- **Beneficence**
  - Is the intervention of any good to every single person taking part / affected? …
- **Non-Maleficence / Avoid Harm**
  - Will no avoidable harm be done by the proposed intervention to any individual person?
  - Are especially children prevented from harm?
  - …

How to apply the "aide memoire"?

1. *Identify and frame in own words*: What is the underlying moral conflict?

2. *Identify and frame in ethical words*: Which ethical principles are relevant, how can they be specified and might they be in conflict to each other?

3. *Zoom further in*: Do I have all relevant information? Can I get more background information to understand all particularities?

4. Are *alternative solutions* feasible with less moral issues/costs?

5. *Further Specification*: Do the specifications change with more information?

6. *Weighing*: Are all conflicting principles and their specifications still of equal value?

7. What do I *conclude* from the specification and weighing? What would be my *solution* to the problem?

8. *Integrity*: Can I personally accept the conclusion drawn?

9. *Act and convince:* I act according to my judgment and convince colleagues and others also based on ethical reasoning.

Ethical Tools

|	What's meant?	Chances	Challenges	Examples
Normative Tools	Normative Criteria Reduced theoretical complexity	Easy to use, low threshold to use Sensitise for moral conflicts and Support ethical justification *Translate* ethical concepts for practice use	Easy to "misuse" (as fig leave, …) Does not replace ethical reasoning No algorithm Additional methods to resolve conflicts needed Predefined / selected / biased norms & values	"aide memoire", checklist (e.g. Schröder-Bäck 2014) principles & values (cf. Malone/Zölzer 2016, Deborah's presentation yesterday)
Procedural Tools	Scheme or approach to apply "normative tools" or frameworks	Guiding reflection process (sensitation, making judgements, …)	Corset thinking	"how to"-apply GGD NL
Institutions	Public Deliberation processes	Participation Support democracies	Organisation / resources Manipulation / instrumentalisation	Consensus conferences Citizen science approaches

Tools are important – bridges need to be built.

My personal experience as "translator" and intermediary.
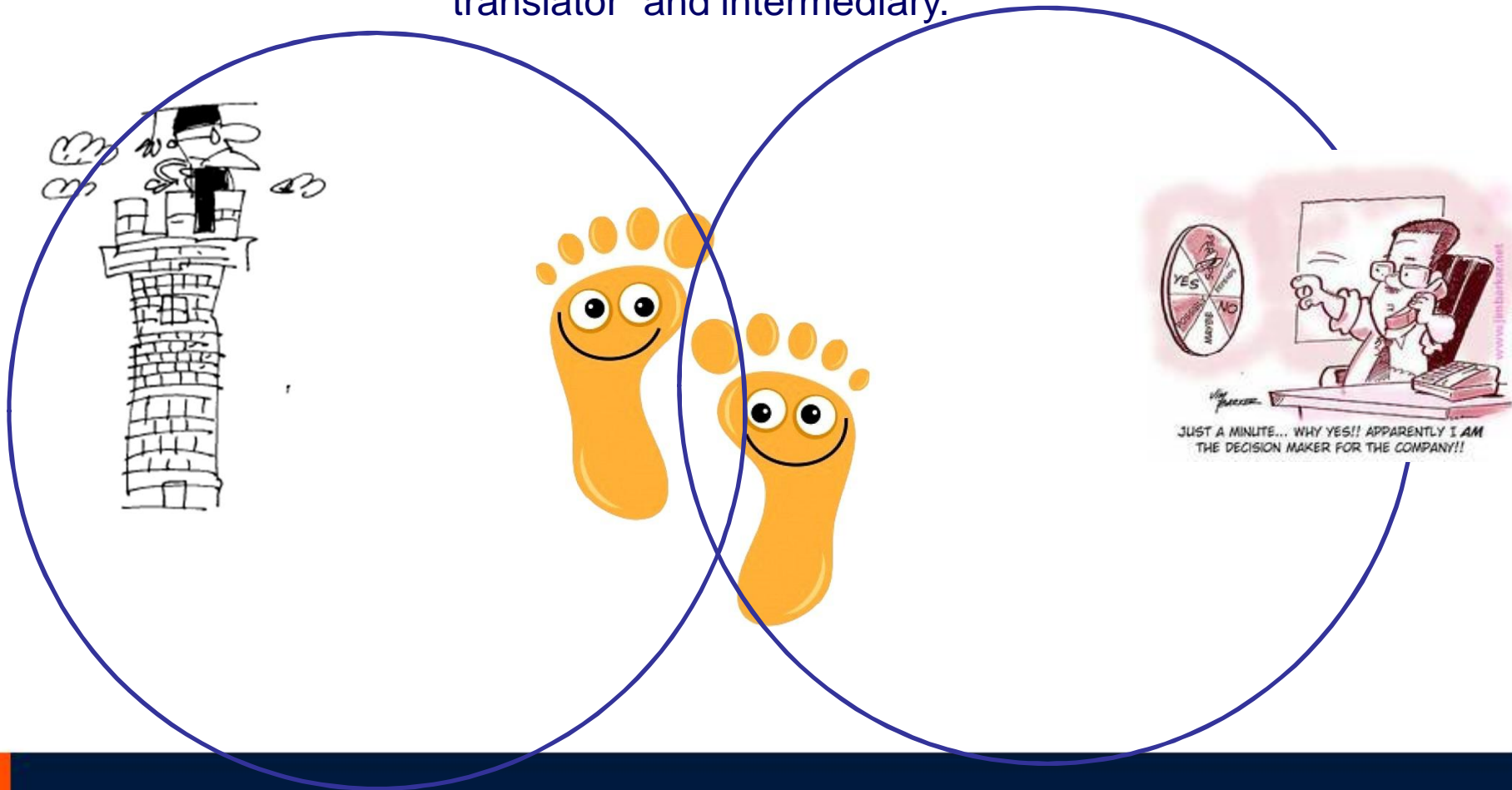
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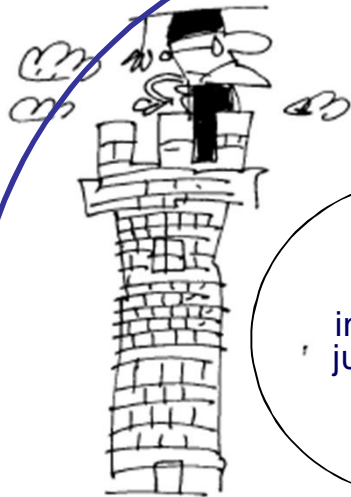
E.g.:
Is state intervention justifiable at all?

E.g.:
Ethics = hinderance.
Or:
I know what is right!

Theories, criteria.
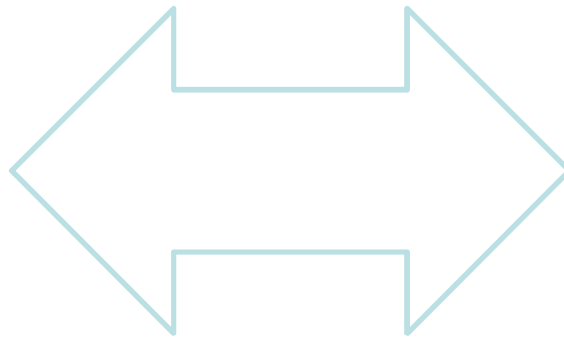
Practical problems, decisions.

"Translational Ethics"

Theories, criteria.

Practical problems, decisions.

"Translational Ethics"

"The European Society for Translational Medicine (EUSTM) [...] defines TM as an *interdisciplinary branch of the biomedical field supported by three main pillars*: *benchside, bedside and community. The goal of TM is to combine disciplines, resources, expertise, and techniques within these pillars to promote enhancements in prevention, diagnosis, and therapies*. Accordingly, TM is a highly interdisciplinary field, the primary goal of which is to coalesce assets of various natures within the individual pillars in order to improve the global healthcare system significantly."

Cohrs et al. 2015
http://dx.doi.org/10.1016/j.nhtm.2014.12.002

JUST A MINUTE... WHY YES!! APPARENTLY I **AM** THE DECISION MAKER FOR THE COMPANY!!

Theories, criteria.

Practical problems, decisions.

"Translational Ethics"

"translate (v.) early 14c., "to remove from one place to another," also "to turn from one language to another," from Old French translater and directly from Latin translatus "carried over," serving as past participle of transferre "to bring over, carry over" (see transfer), from trans- (see trans-) + latus "borne, carried" (see oblate (n.))." http://www.etymonline.com

JUST A MINUTE... WHY YES!! APPARENTLY I *AM* THE DECISION MAKER FOR THE COMPANY!!

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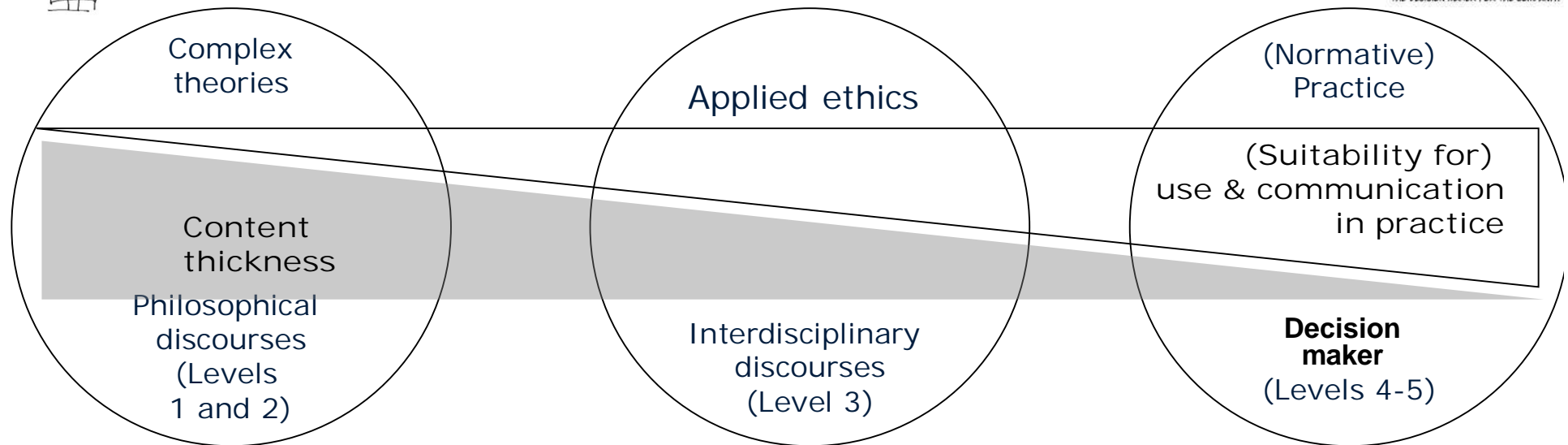
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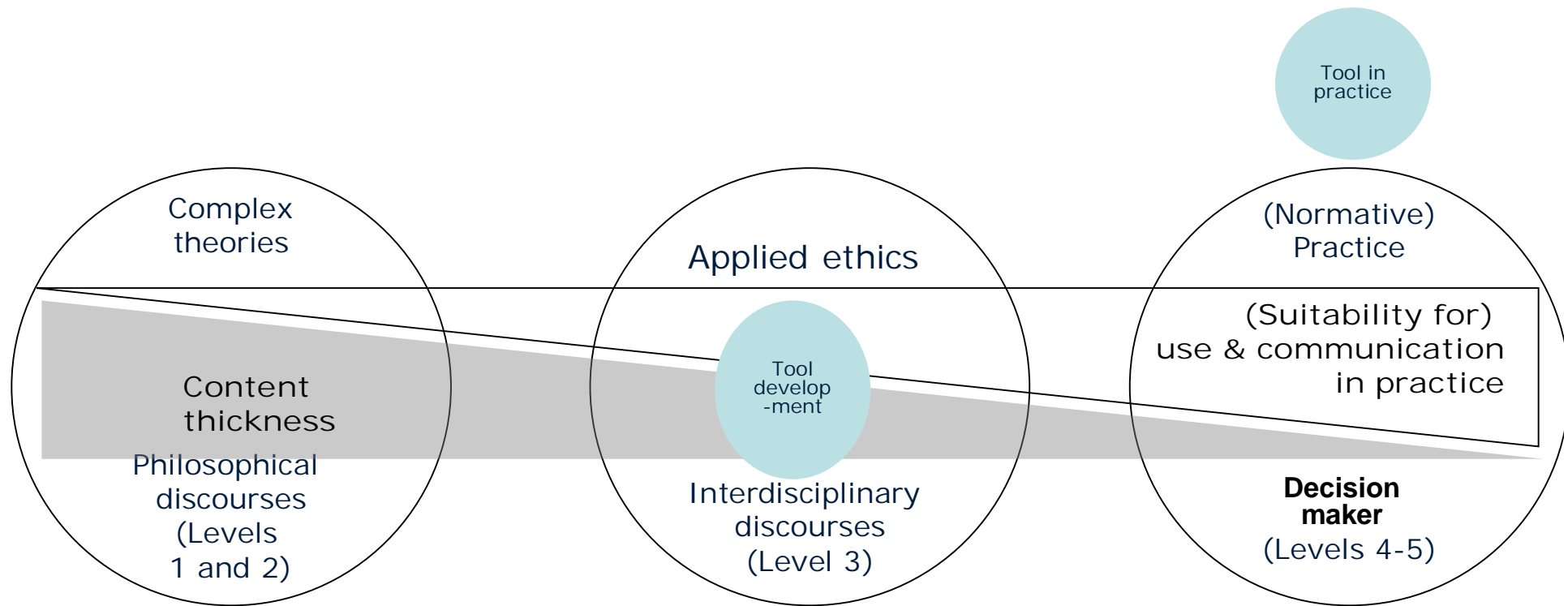
Challenges of ethics in practice

- Practitioners use ethical concepts and refer to authorities (instead of concepts and arguments).
- Understanding what the ethical concepts really mean in practice, what implications might be is unclear or often not well "translated".
- Philosophers discuss "practical problems" often without understanding the real problem (or without connectivity).
- *Disentangling this "ethics translation process" is helpful for discussing this challenge – the following* heuristic *model does not want to do more than drawing attention to this.*

Tools within "Translational Ethics"

Complex theories

Content thickness

Philosophical discourses (Levels 1 and 2)

Applied ethics

Interdisciplinary discourses (Level 3)

(Normative) Practice

(Suitability for) use & communication in practice

Decision maker (Levels 4-5)

Schröder-Bäck et al. (in prep.)
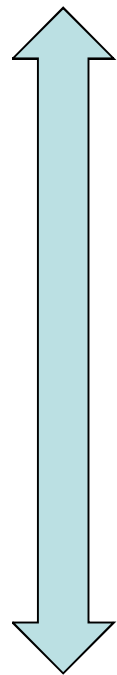
Tools within "Translational Ethics"

Schröder-Bäck et al. (in prep.)

5 levels of translation / carrying over

	"location"	Autonomy
1	Yvory tower	Immanuel Kant "Kritik der praktischen Vernunft" John Stuart Mill "On Liberty"
2	*Philosophical Faculties / research about level 1*	*Onora O'Neill "Autonomy and Trust in Bioethics"*
3	Applied ethics: Interdisciplinary academic discourse, aiming at application	Beauchamp / Childress "Respect for Autonomy" ("mixing" Mill with Kant) → 4 principles (= tool!)
4	*Health sciences research*	*Andermann A, Blancquaert I, Beauchamp S, Costea I (2011) Guiding policy decisions for genetic screening: developing a systematic and transparent approach. Public Health Genomics 14(1):9–16 (referencing: B/C)*
5	German Ministry of Health	Guideline of Commission for Genetic Diagnosis (2013), "autonomy needs to be respected", (referencing: Andermann et al. 2011 [own translation])
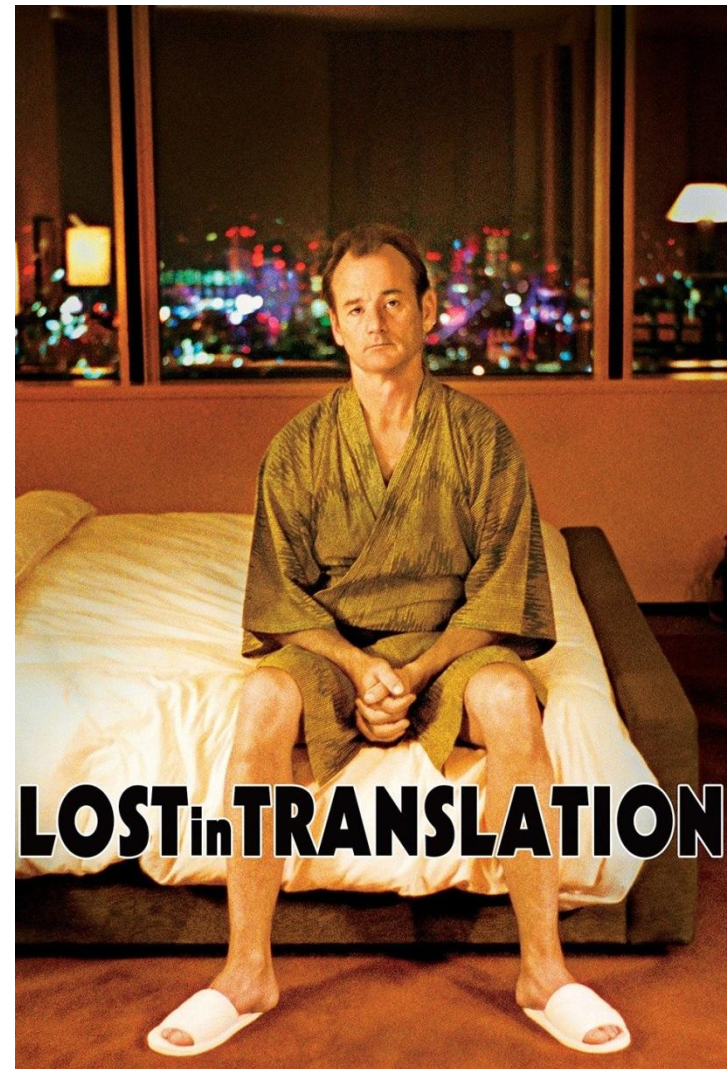
- Different uses of the term "tool", also in different fields & communities.

- Ethical tools are helpful: To detect moral issues and work towards ethical justification in pluralistic contexts.

- Simplicity is a virtue – and "gateway drug"! However, tools cannot be more than a starting point – embedment into more theoretical discourses needs to accompany the more practical discourses.

- Developments of "tools" need interdisciplinary approaches. Also, practitioners need to tell philosophers what they need.

- The "translation process" maybe can be pronounced and further explored.

- We need (more) debate and research about what do practitioners & decision makers want / need and how philosophers can be helpful in making PRACTICE better...

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Peter Schröder-Bäck | Joseph Kuhn (Hrsg.)

Ethik in den Gesundheits-wissenschaften

Eine Einführung

BELTZ JUVENTA

Peter Schröder-Bäck

ETHISCHE PRINZIPIEN FÜR DIE PUBLIC-HEALTH-PRAXIS

Grundlagen und Anwendungen

campus