Introduction
Introduction

If we were to acknowledge the interpretive character of our public debates over some of the issues that concern us, we would secure a firm foundation for a deliberative form of democracy. For we would then talk and listen to one another with mutual respect, not simply because political theorists encourage us to do so, but because we recognize the interpretive status of our own positions. We could then no more close our minds to alternative understandings of life and liberty than we can to alternative understandings of our texts. It follows that we could no longer close our minds to the different understandings of our practices with which different understandings of our principles are allied.

Giorgia Warnke

In our practices and social interactions around health care, we are confronted with bioethical issues about which we frequently have fundamentally different ideas. Public debate on moral issues, such as assisted dying, abortion, stem cell research, or distribution in health care reflect significant social dissent and invevitably contrasting opinions on the question of how these practices should be ethically and politically evaluated.

In her book “Legitimate Differences”, Giorgia Warnke (1999) holds that theoretical analyses usually frame such debates as if they were about a clash of two or more opposing moral principles. Yet what is actually at stake is not so much the relevancy of principles, or which principle should prevail over another. What is at stake in these debates is not the conflict about the principles themselves, but rather the way we interpret and evaluate them. In the debate about assisted dying, we see for example, pro-life activists arguing that assistance in dying violates the principle of the intrinsic value of life, while pro-choice activists argue for the legalization of forms of assisted dying on the base of the principle of autonomy. Warnke assumes that these debates are especially troubling to us, because - as members of a Western society - most of us refer at least to a good extent to the same fundamental principles. Indeed most likely all of us believe that life is intrinsically valuable, and that we should have the right to make our own choices freely, as long as this does not interfere with the self-determination of others. And, it might be precisely on account of our assumption that we share these fundamental principles that we are so eager to try to convince others to see specific principles in the same way important to their identity as they are for us. If we all hold these principles to be vitally important, it might, so she argues, not be fruitful to see the dissent simply as over which one of the principles should be more “valid” than another. But if
our conflicts are not about the validity or the prevalence of principles – she asks – what are they about (1999, p. 8)?

Warnke suggests that the dissent in these debates is due to the differences in meaning we give to the principles and to the practices we refer to. More than conflicts about the authority of the right moral principle, we are often confronted with “interpretive conflicts” over the differences in interpretation of these principles and moral practices. These differences in interpretation stem from differences in our moral experiences, personal and social histories, social, political and institutional practices, local traditions and the communities, we identify with and which contribute to our self-understandings.

To see moral dissent as “interpretive conflicts” rather than conflicts over principles, would according to Warnke make quite a difference in the way we would approach one another in moral debates. Only then could we meet one another with “mutual respect”, as we would be aware of the “interpretive status” of our own positions and those of others (see the quote above at the beginning of this chapter). And we would no longer be able to ignore diverse interpretations of practices or judge the claim to different principles other than those we refer to as irrelevant.

But assuming the interpretive character of our moral understandings to be valid, how then should we conceptualize this ethical evaluation and how should we translate it into practice? How to determine what is not only epistemically, but also morally ‘legitimate’? And how to identify – what sometimes seems to be one of the central questions for ethics – a course of action in concrete situations that we can ethically agree to and also possibly share?

Hermeneutic bioethics, the subject of this thesis, sees an answer to these questions in developing a mutually shared process of moral inquiry. Hermeneutic bioethics starts from the premise that our moral understandings and the ethical stances we take, the understandings of our practices as well as the way we adhere to principles, are fundamentally interpretive. I will argue in this thesis that while we need to accept, that we might reason morally from different epistemic viewpoints, this does not necessarily result in ethical relativism. Hermeneutic bioethics sees its task in acknowledging oppositions in their difference and in bringing them into a dialogue about their different moral understandings and mutual claims (Widdershoven and Molewijk 2010). This should lead the parties not only to achieve insight into the different claims of the other, but also to broaden their own perspectives on the issue, alter their own moral reasoning and ethical evaluations. Through this type of dialogical interaction, moral agents can mutually test their moral ideas against each other and eventually elaborate together which course of action might be ethically appropriate in a given situation.

Hermeneutic bioethics, developed over the last decades. There is now a significant body of literature about the theory of hermeneutic bioethics. In this thesis, I want to investigate how hermeneutic bioethics works in practice and what we can learn from this for a theory of hermeneutic bioethics. I will do this with regard to two fields in bioethics: clinical ethics and empirical bioethics. For the investigation of how hermeneutic bioethics can be applied in everyday bioethical work, I will first explain in this introduction the philosophical concepts underlying hermeneutic bioethics and explain its guiding ideas. But before I do that, I will position hermeneutic bioethics within the wider ethical and bioethical development, in order to gain more insight into the contribution of hermeneutic bioethics to the field. I see hermeneutic bioethics itself not as a singular approach, but as part of a broader conceptual methodological shift in bioethics which – in a wider sense – can be called a turn towards a more interpretive approach to (bio)ethics.

The “interpretive turn” in (bio)ethics

Classical ethical approaches, whether of deontological or teleological nature, have typically approached problems of moral concern by establishing theoretical systems that order higher principles, rules, norms or procedures in such a way that, through their correct application, a rational agent could arrive at a reliable justification about the ethically right course of action. Some more, some less dedicated to contextualize the moral problem and to integrate the diverse ethical perspectives into ethical justification, these ethical approaches all followed however the ideal to offer reliable and impartial procedures of rational choice. And they mostly did so by referring to one fundamental principle that served them as ultimate foundation for justification and that was assumed everybody could agree to.

Over the last decades, these ideas about doing ethics have been challenged. Various authors have argued that the scientific ideal underlying this conceptualization of ethics leads to formalistic and abstract justification procedures that do not respond to the richness, complexity and diversity of moral life and ethical decision-making (Fairfield 2002, Walker 2007). This “apodictic way” (Gracia 2001) of conceptualizing and practicing ethics would further disregard the historicity of human reasoning, including ethical reflection itself. Assuming an a-historical moral position would not only be counterintuitive to our multicultural and plural social experiences, but presumes that the issues of moral diversity can be solved from one singular moral point of view. In doing so, one necessarily establishes a selective and exclusive moral perspective over that of others. Against this, moral pluralism shows that not only moral practices, but also the moral principles used in ethical justification are themselves constituted within and bound to particular cultural traditions and moral understandings. These principles derive their sense from their connectedness to specific cultural practices and are related to an entire web of other lived-in principles, norms, moral understandings that illuminate each other within this particular historical context (Warnke 1993, p. 4).

Various authors, such as John Dewey, Michael Walzer, Charles Taylor, John Rawls, Bernhard Williams, Alaisdair MacIntyre, and Richard Rorty – to name but a few – therefore reject the conceptualization of ethics as a type of reasoning that could be imagined to exist independently from specific historical or cultural conditions (Fairfield 2002, p.7). They acknowledge that the referral to certain norms or principles is rooted in local
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...morals and culturally constituted ways of ethical reasoning. Rawls for example argues that given the plurality of our moral life, assuming one specific conception of the “good” and deducing principles of moral justification from there, must make this justification unacceptable for other moral agents who pursue a different conception of the “good” (Rawls 1971). In the light of a pluralistic moral life, assuming one universal ultimate foundation of the idea of the “good”, it would not only seem inappropriate, but also unnecessary. These authors assume that we do not need to justify our judgments from an historical point of view to show that they are ethically appropriate. The validity of moral principles can be sufficiently explained for a specific moral practice by referring to the rich textures of meaning and lived moral understandings present within the particular traditions the practice is situated in. Principles or moral norms must then not be coherently deduced from an overarching foundation, but coherently interpreted with regard to the meaning they possess within a larger community of action and within a net of other principles, normative ideas and moral understandings present in the practices of this specific culture (Rawls 1971, but also MacIntyre 1984, Putnam 1990, Wellmer 2004).

Maybe one of the most prominent and widely used examples of this type of justification is the “reflective equilibrium” of Rawls (Rawls 1971). My understanding of Rawls is that ethical justification is achieved through a broad concept of reflective equilibrium that includes considered moral judgments about a specific situation and more general moral principles, wider norms of practice, ethical theories, relevant situational or practical considerations (Rawls 1971, 48-53). Reflective equilibrium is reached through a process of testing, adjusting and modifying all these various levels of pre-established moral beliefs and reflections in relation to each other, with the aim of increasing plausibility and consistency of the moral argument. Ultimately, this balancing process leads to the establishment of social norms, which are not determined a-priori, but elaborated through this dialectic process and are assumed to be stable “for the time being”.

Warnke identifies a shift in the conceptualization of political philosophy and ethics among these different authors, which she refers to as the “interpretive” or “hermeneutic turn”:

“The interpretive turn in political philosophy abandons the attempt to ground universally valid principles of justice in features of human action or rational choice and attempts, instead, to articulate those principles of justice that are suitable for a particular culture and society because of that culture’s and society’s traditions, the meanings of its social goods and its public values.” (Warnke 1993, p.158)

What she sees at work here is a change in the way in the way ethical critique of social practices is conceptualized. Clearly, most of the above-mentioned authors, in whose works she sees part of this shift, do not understand themselves as hermeneutical thinkers. What Warnke seeks to underline, however, is the interpretive character of moral evaluation, assumed in their work. This type of ethics refutes firm foundationalism and it is not interested in constructing argumentative procedures and ethical theories to help deduce ethical justifications in a theoretically-abstract way. On the contrary, it reveals and interprets moral understandings that already exist in the cultural practices in question and articulate a moral argumentation on the basis of norms that are already present in this particular historic context. According to Warnke this type of ethics, “can be called hermeneutic, because it takes a culture with its set of historical traditions, practices and norms as the analogue of a text. Its aim is no longer to construct procedures for an unconditioned choice of political principles. Instead, it attempts to uncover and articulate the principles already embedded in or implied by a community’s practices, institutions and norms of action.” (Warnke 1993, p.5)

Besides the “reflective equilibrium” of Rawls (1971), she also identifies this interpretive approach in the “interpretation of shared social understandings” in Walzer (1983), and in the idea of “accommodation” of different principles based on “social meanings” in Taylor (1985). But actually, one could argue that these ideas were already present in the work of the early American pragmatists (Dewey 1998, Peirce 1992) and hermeneutic thinkers (Heidegger 1927, Gadamer 1960).

In bioethics, the influential principlist approach of Tom Beauchamp and James Childress seems to be part of this interpretive turn. Over the various editions of “Principles of Biomedical Ethics”, Beauchamp and Childress refined their approach and apparently aligned it with this interpretive approach to social criticism. While in the first three editions, they defended a deductivist method of justification, from the fourth edition (1994) on, they proposed their mid-level principle approach in a coherentist framework referring to Rawls’ “reflective equilibrium” and supplementing it with a common morality theory. Their highly practical approach is, as they argue, derived from the fact that these four mid-level principles incorporate “considered moral judgments” of various moral standpoints inside and outside the practice of health care. Their approach would therefore satisfy the requirement for pluralism required by the multicultural and multi-professional settings of medical care and would also be closely linked to the actual practices of health care. As is the case with many other approaches to bioethics today, Beauchamp and Childress incorporate the model of reflective equilibrium. Yet different from others, they back the idea of reflective equilibrium up with a common morality theory, which allows them to assume a list of ten “universal norms shared by all persons committed to morality, the common morality” (2013, p. 3, italics in original). These include, among others: do not kill; do not cause pain or suffering to others; prevent evil or harm from occurring; nurture the young and dependent, and obey just laws.

In contrast to the previous critique on the a-historical character of their version of common morality, in the seventh edition (2013) Beauchamp and Childress underline in particular that they consider common morality neither to be a-historical nor a-priori:

“The origin of norms of the common morality is no different in principle from the origin of the norms of a particular morality for a profession. Both are learned
and transmitted in communities […] the common morality comprises moral beliefs (and what all morally committed persons believe), not standards that exist prior to moral belief” (Beauchamp and Childress 2013, p. 4).

However, if one reads the claim to historicity in the context of the way in which both authors generally present their approach, one remains puzzled, as the role they attribute to the common morality within their entire approach seems on the contrary to point to the opposite conclusion. While they underline that a moral theory, which a priori excludes the possibility of historical change of its higher norms, would be dogmatic, they hold a change of socially acceptable norms in the common morality to be theoretically “conceivable, however unlikely” (2013, p. 413). Likewise, they attribute a foundational function to the common morality, seeing it as the universal “basis for evaluating and criticizing customary moral viewpoints” (2013, p. 411). All balancing of norms and moral beliefs should be achieved with respect to this “body of central initial norms” (2013, p. 404) and no norms could be “justified if they violate norms in the common morality” (2013, p. 5). Oliver Rauprich (2008) already criticized the sixth edition that stated as such common morality was not thought to be effectively questionable or alterable, as a dialectic process of reflective equilibrium would assume all elements of moral beliefs to be included (similarly Walker 2007 for the 6th and Kukla 2014a for the 7th ed.). One is therefore led to believe that either the historicity they attribute to common morality is simply alleged and without consequences for moral reasoning, or the use of reflective equilibrium within their approach is flawed. If one assumes – as they do – common morality to be theoretically open to change, but unlikely to be changed in practice, common morality becomes de facto a dogmatic fixed point. The historicity of moral practice (which is formally acknowledged in the conceptualisation of common morality as a corpus of substantive norms that have developed historically) then has no real consequence for ethical reasoning, as common morality is then no longer thought to be connected to actually lived moral life, social practices, customs or specific epistemic conditions of moral knowledge. Wide reflective equilibrium requires that norms of the common morality could not only in theory but in practice be questioned and altered in the process of confronting them with more practical convictions, moral experiences and norms active in social practices (Kukla 2014a). Whenever an element that contributes to the balancing process is assumed to be fixed, the idea of ‘equilibrium’ itself is challenged.

Some clarity in their argumentation could be achieved if they would not use the terms “common” and “universal” as synonyms, or better: if they would not assume that what is “common” in morality would at the same time also be “universal” (something with regard to which until now all empirical attempts have failed to find proof (Kukla 2014b)).

Maybe Beauchamp and Childress attempt to accommodate too much, when referring to the coherentist model of reflective equilibrium, while at the same time ‘backing it up’ with a common morality that serves as its ultimate foundation. Their current edition of their theory aims to combine historicity, on the one hand, with foundation-
Walker 1993). Moral vocabularies are not neutral descriptions of what is happening, but implicitly convey the evaluative concepts specific to cultural practices and social experiences. Our differences in social situatedness and embodiment generate different epistemic conditions for moral perception and thus necessarily lead to different moral understandings, which make our ethical reasoning particular (Lindemann et al. 2009, Walker 2007). Experiences, even though (often) sharable, might be so particular that accessing and representing each other’s position seems only partly possible (Scully 2009). Finally, phenomenologists have emphasized taking the conditioning force of contextual factors and social interactions into the resolution of ethical conflict into account. Richard Zaner and Georg Agich have argued that already the description of what is ethically at stake in a certain situation is constituted precisely by the involvement in the interactions surrounding ethical issues themselves and that these ‘involved’ and sometimes biased descriptions—if not critically reflected—could negatively influence our normative evaluations (Zaner 1995, Zaner 2005, Agich 2001, Agich 2005).

All these approaches highlight in one way or another the interpretive character of our moral positions and hold that both responsible knowing and practice in bioethics require reflexivity upon the particularity and historicity of one’s own epistemic view (Lindemann et al. 2009). Taking the interpretative character of our moral reasoning seriously must lead to the conclusion that there is no abstract or superior “view from nowhere” (Nagel 1986), capable of allowing one to have an “impartial” starting point for moral evaluation. Further still, if we really take the interpretive character of our moral reasoning seriously, and thus acknowledge the epistemic differences of our moral perceptions, a monological ethical evaluation of moral conflict relying on the judgment of a single ethicist seems to be a rather problematic option. This is why hermeneutics as well as pragmatic approaches have developed participatory and democratic approaches to ethics in health care; their aim is not simply to take all relevant perspectives into account (while still relying on a privileged perspective in decision-making), but to seek to verify the soundness of argumentation and ethical evaluation through conversation by testing moral claims against each other (Widdershoven et al. 2009; Widdershoven and Molewijk 2010; Walker 2007; Lindemann et al. 2009; Verkerk and Lindemann 2009). Hence, one could legitimately argue that here the “interpretive turn” has become much more accentuated: the balancing of considered moral judgments with more general norms and principles is achieved, rather than through an abstract investigation of shared social meanings, through the actual encounter and shared social inquiry between the moral agents involved in moral life.

What I called here with Warnke the ‘interpretive turn’ in bioethics, represents only a possible reading of historical streams in the field. What seems interesting to me, however, is to see that there are currently more and more voices in (bio)ethics proposing participatory and democratic forms of social and political engagement and ethical reasoning. What I will present here in a more narrow sense under the term ‘hermeneutical bioethics’, is just one voice among several in this “interpretive turn” – one, while being rooted in the tradition of philosophical hermeneutics, would possibly not be thinkable without its own historical situatedness and dialogue with other positions in this greater move towards an interpretive conceptualization of ethics.

Philosophical hermeneutics

Philosophical hermeneutics explores the conditions of human understanding and the role of interpretation in every-day life (the Greek ‘hermeneuein’ means interpreting). Hermeneutics maintains that one characteristic of being-in-the-world as human beings is that we relate to all we meet in an interpretive way. Martin Heidegger holds that rational reflection, including theoretical reasoning, never starts without presupposition from a neutral place outside the realm of our social practices. In Being and Time, he argues that before we embark upon rational reasoning, we are already in possession of a pre-linguistic, practical knowledge that comes from our practical engagement with the world (Heidegger 1927). We already know how to behave in practical matters before we start to reflect upon our actions. Together with our prior experiences, this practical knowledge forms what Heidegger calls the “fore-structure of our understanding” (1927, p. 150), which builds the matrix against which we interpret whatever we perceive in life. When we approach something new, we always do this against the backdrop of the knowledge we already have about our being-in-the-world. Everything we understand, we actually understand in the light of our own fore-conceptions (prior experiences, assumptions, preconceptions). Even scientific thinking cannot circumvent this fore-structure of understanding.

Similarly, Hans-Georg Gadamer emphasizes that our reflection evolves within a particular tradition of language and thought, which makes us read (moral) life in a certain sense rather than another (1960). Every act of understanding something is an act, so Gadamer, of understanding oneself within a world. When we start to understand something, there is no initially pure and objective understanding of an object, which we then apply to our specific question we have towards this object. It is rather that understanding and the application of what we understand about our specific context occur simultaneously, because in attempting to understand something we are actually seeking to understand what this something means for us. This is most evident when reading literature: when we read a novel, we can do little else but make sense of it in personal terms (Warnke 1993). We immediately apply the moral propositions and perceptions articulated in the novel to our own way of perceiving and to the experiences we have had, to who we believe we are now and how we project ourselves towards the future. For ethics, this is equally true: I cannot understand the content of a moral law or a specific ethical principle without imagining how they could work in moral situations I am familiar with, and without integrating them into the rich context of other things I know, for instance, my personal experience and self-understanding, my normative expectations in relationships, the knowledge I have about societal rules, institutions and traditions, or my values and the variety of normative claims I have towards...
myself and others. “Understanding a text,” in Gadamer’s words, “means always already, to apply it on ourselves” (1960, p. 401).

Understanding is thus characterized by a process of interpretation and meaning-making, in which we translate what we understand into our situation. Fore-understandings, Gadamer insists, are unavoidable, but not necessarily negative, because we use the fore-structure of our understanding in a positive, i.e. meaning-making way. The fact that we understand against the backdrop of practical and social knowledge we already possess, is simply part of our epistemic condition of being-in-the-world.

Heidegger and Gadamer acknowledge that in this way understanding is characterized by a circle between what we understand and what we already know. Both insist, however, that we are not blindly exposed to it (Grondin 1991). We can rather get aware of the circular structure of our understanding and engage in critical reflection of our fore-conceptions, so that the things can assert themselves to us in their difference (Gadamer 1960, p. 253). Even though we will never get the entire fore-structure into the view and thus arrive at a presuppositionless, objective understanding, we are, says Heidegger, able to become aware of the fact that we reason on the basis of our fore-understandings. We can also try our best to avoid our pre-conceptions implying a too restrictive or parochial view, which would prevent us from being open and thus distort the truth of the other to such a degree that the other could not recognize herself in our interpretation. In negotiating our understandings with the other through dialogue, we can review and refine our pre-understandings. The hermeneutic circle is thus not a vicious one. If we follow Heidegger’s advice and do not try to understand how best to “get out of the circle, but how to get into it in the right way” (1927, p. 152), we might be able to refine and develop our preconceptions and broaden our perspectives in the encounter with a text or with the other in a dialogue. The process of understanding is thus a process of weighing what we know from the other against our own fore-understandings in a dialectical, dialogical way. In this dialogical process, by becoming aware of the incongruence between our preconditions and the information we receive from the other, our fore-conceptions are altered and we understand in a new way. The fact that our understanding is always mediated through our fore-structure, that we therefore do not achieve an objective insight into things, and that we consequently will never be able to understand the other exactly the way she does herself, is, according to hermeneutics, part of the finitude of human existence. ‘Responsible knowing’ in ethics (Lindemann et al. 2009) starts with the assumption that human understanding moves within these limits and acknowledges that for the purpose of clarifying our different viewpoints we engage in conversations, that, while hopefully leading to better and refined understandings, will never converge in an absolute and objective knowledge of the situation.

Hermeneutic bioethics

Since the 1990s, some bioethicists have been aware of the hermeneutic nature of medical practices, the interpretive character of medical judgments, and the hermeneutic application of scientific knowledge within the practical context of patient care (Leder 1990, Cooper 1994, Svenaeus 2000a, Mordacci 2005). A few attempts have been made to frame the challenges in the physician-patient-relationship in hermeneutic terms (Emanuel and Emanuel, 1992; Svenaeus 2000b; Widdershoven, 1996, 2002). Hermeneutic methods in bioethics have been applied since the 1990s (Carson 1990, Leder 1994, Cattorini 2001, Cadore 2005, Widdershoven and Abma 2007, to name but a few), mostly in the field of clinical ethics (Widdershoven 2005, Cadore 2005, Vieth 2011). While in social-empirical research in medicine, hermeneutics as a research method has been more widely used (Whitehead 2004), there is also an increasing body of bioethics studies that use a hermeneutic empirical approach (Scully et al. 2004, Haines et al. 2008, Widdershoven and van der Scheer 2008, Widdershoven et al. 2009, Rehmann-Sutter 2010, Rehmnn-Sutter et al. 2012, Molewijk and Widdershoven 2012, Carnevale 2013).

Together with other approaches mentioned before as part of the ‘interpretive turn’, hermeneutical bioethics shares the belief in the historicity and social situatedness of normativity, as well as skepticism about the possibility of foundational theories and objective, third-person justifications in ethics. In contrast, however, it accentuates the importance of dialogue and the practical character of ethics (Fairfield 2002). Starting from the idea that our moral understandings and ethical positions are fundamentally interpretive, hermeneutical bioethics looks to experience and social practices as the source for ethics (Widdershoven and Molewijk 2010; Abma et al. 2009). It assumes that our social practices incorporate a whole range of social norms and practical rules that nourish our moral understandings. These practical moral understandings pave the way for the normative claims that we make to each other. Giving reasons for a specific moral claim therefore includes a reflection on the moral practices and social relations and interactions in which such a claim is settled.

Yet if our moral understandings, including our ethical principles and normative theories, are interpretive, we cannot assume that we are able to explain or justify them exhaustively through abstract, objective reasoning, or further still, from an exclusive monological perspective. Other interpretations and counterarguments distinct from those perceived by a single-minded or abstract validation may nevertheless be raised, especially by those who reason from different epistemic conditions than ours. Aristotle was the first author to acknowledge that in the realm of ethics, where we are only capable of giving ‘opinions’ (gr. δοξά), and not certainty of judgment, “discussion or dialogue with others is the best way we have to improve our knowledge and to make wise decisions” (Gracia 2001, 89). Precisely because moral truth cannot be objectively established, and given that in any case we have to decide what is morally the best course of
action, hermeneutics assumes dialogue to be the best, because the most inclusive form of moral reasoning. A central tenet of hermeneutics is that in our ethical evaluations, practical knowledge – i.e. the knowledge that we have through acting in the world – takes priority over theoretical knowledge. Hermeneutics recognizes that our practical doings in social life always provide us with basic practical moral understandings about how to do things, how to relate to each other or what to perceive as morally right or wrong. This practical knowledge, coming from our experiences of living together, is present to us in embodied moral norms, which inform us most often in a pre-reflective way of how to move within the social spheres (Heidegger 1927, Taylor 1999, more explicitly in Bourdieu 1990, Scully 2009) and are often stored and experienced through our body (such as physically expressed feelings, for instance, of heaviness or tightness when experiencing guilt or unease when infringing these norms). Practical knowledge is a complex texture of internalized social norms, expectations, bodily perceptions, personal beliefs and experiences, codes of communication and interrelations, nurtured by various social commitments and relationships.

For example, if I feel morally uncomfortable while getting accused by others of behaving morally incorrectly, this is because my conscious or unconscious moral understandings are questioned or are in conflict with those of others. An answer for my concrete moral questions will only be satisfactory for me, if it is responsive to and found through the ‘thick’ moral understandings I rely on in my social practices. In contrast to this, theoretical knowledge is relatively ‘thin’ and might not easily be connected to what is meaningful for me. Without some substantial ‘translational work’ into my personal moral understandings and values, theoretical principles alone are unlikely to motivate me to act morally right or cause me to change my mind. Abstract theoretical knowledge might help to structure or give critical insights and alternative understandings but connected to what is meaningful for me. Without some substantial ‘translational work’ into my personal moral understandings and values, theoretical principles alone are unlikely to motivate me to act morally right or cause me to change my mind.

Abstract theoretical knowledge might help to structure or give critical insights and alternative ways of seeing the situation, but can itself “be connected to particular instances [again] only by a thick tissue of perceptions and interpretations” (Walker 1993, p. 34). To understand a theoretical principle or abstract ethical norm as meaningful, I have to read it through the practical knowledge and moral understandings I already possess. Hence, hermeneutic bioethics takes the practical knowledge people already possess as the central reference point for ethical evaluation. This is not to say that our basic practical moral knowledge is always right or cannot be criticized or altered. By making such practical knowledge explicit and relying on it in the process of giving and evaluating moral reasons (while not excluding wider societal norms and insights that stem from theoretical considerations in the process of reflection), moral inquiry arrives at an ethical evaluation in a practical sense, whereby evaluation is sustained not by pure axiomatic, theoretical reasoning, but mainly by practical wisdom. Practical wisdom, according to Marta Nussbaum’s translation of Aristotle’s notion of phronesis, is “non-inferential, non-deductive; it is, centrally, the ability to recognize, acknowledge, respond to, pick out certain salient features of a complex situation” (Nussbaum 2009, p. 305) and by considering all relevant features coming up with a judgment of what should be done in this situation. This ability, rather than through cognitive learning, “is gained only through a long process of living and choosing that develops the agent’s resourcefulness and responsiveness” (ibid.). Gadamer went a step further in his interpretation of the Aristotelian notion of phronesis seeing it as the main capacity that sustains the hermeneutic act in general (Gadamer 1960, pp. 317). In the hermeneutic experience – and this is one of the central theses of Truth and Method – understanding, interpreting and applying are not three distinct activities, happening sequentially, but they are enmeshed within one and the same act of understanding as every understanding involves interpretation and each interpretation means to apply ones understanding to concrete or imaginary (moral) situations. Phronesis is thus the capacity to enact these three features in the act of (moral) evaluation.

Hermeneutics assumes that we differ in the interpretation of our moral experiences, just as we differ in the fore-understandings we bring to a situation of moral concern and on the basis of which we interpret what is morally at stake. Yet the fact that we start from different fore-understandings and moral experiences also signifies that there are necessarily different ways of understanding a moral situation, which all entail a claim to validity (Walker 2009). While not all moral understandings are endowed with equal ethical legitimacy in a given situation, we cannot maintain that only one ethical justification or solution to a moral problem is right (Warnke 1993, p. 131). Hermeneutic bioethics goes beyond the idea that there is a single moral truth or only one “synthetic best answer” (ibid.) to a specific moral problem, and acknowledges instead that moral judgment is interpretive, while at the same time – because bound to a particular fore-understanding based on particular experiences, practices and embodiment – anything but arbitrary. However, as situations of moral concern ask for an answer of how best to act, the aim of any ethical inquiry in hermeneutics remains with the search for concrete practical ethical resolutions to a moral problem that can be jointly agreed upon by the participants.

These assumptions have several important consequences:

First, the importance of the exploration of subjective meaning: If there is no single moral truth, but a diversity of moral understandings, we need to acknowledge that our conflicts may not be settled by identifying the most relevant or valid fundamental principle, but by investigating how we interpret principles in the light of our particular experience and local epistemic traditions. What has to be investigated are our differences in subjective meaning-making and particular moral understandings. Acknowledging this makes an important difference, as it brings the moral debates and the way we approach each other in them on different grounds. By acknowledging the diversity of our moral understandings, we no longer have to desperately try to convince the other that our ethical position is the right one, but can admit that each of our perspectives is interpretive. We are thus able to open up to the perspective of the other, while knowing that our own interpretation is contextual as well and temporary and can therefore also be subject to change. From the experience of their own approach to clinical ethics, which they call “moral case deliberation”, Widdershoven and Molewijk
(2012) describe how important this insight is to getting moral deliberation started in a group of health care workers. Moral deliberation follows the approach of pragmatic hermeneutics (Widdershoven and Abma 2007; Widdershoven and van der Scheer 2008, Abma et al. 2010). At the beginning of each moral deliberation, the facilitator invites the participants to actively let go of the idea that there should be one single ethical solution to a given moral problem. Without the group acknowledging this, they might waste time arguing or stubbornly challenge one another. They stress that openness to the other party is a vital prerequisite for good and fair hermeneutic dialogue.

Second, ethical evaluation through a dialogical process: On the basis of the plurality of moral understandings, hermeneutic bioethics sustains that moral conflict cannot be solved from an outside position in a monological way (for example through a single bioethicist who listens to everybody and then deduces the morally right thing to do from an ethical theory). As our interpretations of relevant principles are bound to our specific moral understandings, it seems also inappropriate to deduce a solution from a seemingly objective canon of a priori established principles. If we assume there is no such thing as ‘only one moral truth’ and if moral understandings are bound to particular bodily experiences and local epistemic conditions, then it seems much more promising to address our moral issues in a dialogical way where moral understandings are brought to the table, negotiated and shaped together by the participants (Warnke 1999, Widdershoven and Abma 2007). In the context of hermeneutical bioethics, the dialogue between different moral perspectives is therefore of primacy concern. This regards not only clinical ethics, where we are confronted with actual moral disagreement between people, but also policy-making at an institutional level where several perspectives – especially those of marginalized groups – have to be included, but also new models for bioethical empirical research. If bioethics is ultimately about the improvement of practice, then real improvement can only be achieved, according to hermeneutics through a large inclusion of and dialogue between authentic first-person representations of particular moral experiences and claims.

The result of a hermeneutic dialogue lies not just in a normative orientation, but – as Gadamer puts it – also in the “recovery of the communicatively shared sense of meaning (die Wiedergewinnung der kommunikativen Sinnhabe)” (Gadamer 2004, p. 51). Working together towards a “communicatively shared sense of meaning” does not mean that all participants understand exactly the same thing or, further still, that we would all understand or agree upon the same moral content or the same interpretation. Rather, it means that we obtain mutual insights (to the best extent possible for us and based on our own fore-understandings) into the other persons’ moral reasons. From the perspective of hermeneutics, this process of understanding another includes that the others’ assertions need to make sense to me: understanding someone does not mean that the understandings between both dialogue partners are congruent (which is impossible on account of our different fore-understandings), but that I scrutinize the others’ assertions until they make sense to me and until the other affirms to me that what I understand from her comes close to what she wants to say. This does not mean that we also automatically share each others’ values and maybe I will not be able to understand her every meaning, but I do understand her on the basis of my own and her practical knowledge of things and of our shared dialogue about it.

Third, the importance of moral learning: Because we recognize our own moral position as interpretive and ‘just one among others’, we have to acknowledge that we can learn from each other (Warnke 1999, Widdershoven and Abma 2007). In moral dialogue, participants not only describe their positions, but explain what they hold as right to each other by giving reasons and connecting their reasons to their values and broader moral understandings. By making ourselves intelligible, giving reasons for what we hold as right and gaining insights into alternative moral descriptions and ways of justification, we can begin to revise and refine our own views. Differences between moral perspectives are thus no longer seen as something to overcome or to avoid, but as an opportunity for transformation and the refinement of ethical evaluation. By gaining insight into the legitimate claims of others, we can learn about alternative ways of experiencing and evaluating the same moral situation. This might then challenge our assumptions and result in our modifying or correcting our ethical evaluation and the moral claims we have towards ourselves and others. By exchanging with one another, we not only understand the limits of our own points of view, but eventually we also become aware of how our arguments are connected to our identities and our local epistemic conditions. Through this dialectical and enriching process of moving back and forth between our various knowledge claims, moral perceptions and reason-giving, we are able to negotiate and shape together how we want our moral practices to develop. The ethical knowledge we gain and the decisions we take through this are relational and dialogical and reflect the conversation as it happens in this specific place at this particular time.

Fourth, consequences for the role of the bioethicist and ethical theory: The primacy of dialogue shifts the conceptualization of ethics. Morality is not perceived as theoretical, ‘interventional ethics’ that serves the purpose of proposing and justifying ethically defendable solutions to single morally contentious issues, but as a transformative and “continuous interpersonal process of holding ourselves and others to account for what we value, negotiating responsibilities, making ourselves morally intelligible, and constructing and reconstructing our moral views of how best to go on together” (Verkerk and Lindemann 2009, p. 239). This also has consequences for the role of the bioethicist and moral theory in the process of ethical evaluation. Instead of giving prescriptive, specialized advice for moral action (as conceptualized by many monological approaches), the bioethicist guides and facilitates the process of dialogical inquiry between participants, while being part of this process him- or herself, in the sense that he or she is not a professional advisor super partes, but participates, among others, in the process of finding ethically just solutions to a problem. Moral theory then is not the ultimate foundation for ethical judgment, but serves to make the dialogical process richer and more coherent (for a detailed analysis of this point see chapter 2).
Chapter 1

Beside these four features, hermeneutic bioethics is characterized by some other important aspects: One is that hermeneutic bioethics itself contains normative assumptions towards its own practice. The normative dimension inherent in hermeneutic bioethical practice includes practical aspects as hermeneutic openness, mutual recognition and respect for other points of view, the willingness to be called into question, enhancement of participation and large inclusiveness of viewpoints. As such, hermeneutic bioethics strives for greater transparency and more democratic processes of ethics in health care systems.

Further, hermeneutics has traditionally been skeptical about an overemphasis of method over truth (Gadamer 1960). This skepticism is based on the idea that all processes of ethics in health care systems. Such, hermeneutic bioethics strives for greater transparency and more democratic recognition and respect for other points of view, the willingness to be called into question, enhancement of participation and large inclusiveness of viewpoints. As such, hermeneutic bioethics strives for greater transparency and more democratic processes of ethics in health care systems.

Research question

As mentioned above, hermeneutic bioethics is a relatively recent approach. Although there is a growing body of theoretical debate, and a growing number of practical experiences are being reported, it is not always clear how a hermeneutic-ethical approach is to be applied in practice. In this thesis, I will attempt to investigate more concretely how hermeneutic bioethics works in practice and what we can learn from this for a theory of hermeneutic bioethics. In order to do this, I will go into two fields of practicing hermeneutical bioethics: clinical ethics support and bioethics research. In Chapters 2 to 4, I will present examples of practicing clinical ethics support from a hermeneutical perspective. In Chapters 5 to 8, I will present the results of an empirical research project on terminally ill patients’ wishes to die. This research project used a hermeneutic research frame. In the light of the theoretical outline of hermeneutic bioethics presented in the introduction and the findings of the main publications of this thesis, I intend to investigate in the discussion chapter how hermeneutic bioethics is applied in both areas of bioethics and how it actually works in practice. Also in the conclusions, I will address some questions or aspects to be developed further for both the theory and practice of hermeneutic bioethics. Before presenting the studies, I will briefly introduce the two practice fields for hermeneutical bioethics.

Clinical bioethics from a hermeneutic perspective

Clinical bioethics responds to practical ethical problems that arise during encounters between health care workers, patients and families in everyday clinical practices. The reasons for ethical problems in clinical practices are manifold and well known. The growth and differentiation of biomedical technologies in the second half of the 20th century have led to a significant increase of ethical uncertainties and to a new range of complex ethical choices in everyday health care practice. Wide-ranging societal, cultural and political changes brought a differentiated landscape of moral pluralism and recognition of individual rights. This has significantly changed the physician-patient relationship. Patients wanted to have more decisional authority and not to be paternalized by health care workers, while at the same time, due to the increasing medical specialization and fragmented health care processes, the traditionally close relationship between physician and patient has tended to move towards more anonymous care pathways. Financial restrictions on health care, as well as improvements of quality management policies make ethical decision-making even more challenging.

Clinical ethics offers support in addressing these ethical issues of everyday clinical practice though various service and institutional interventions: the work of health care ethics committees or clinical ethics support of various kind (prospective or retrospective ethics consultation through a group or through a single bioethicist for individual cases, moral case deliberation groups to foster moral learning or policy development (see Dauwerse et al. 2011)) or more informal events, such as ethics cafes,
discussion groups that try to engage the public and health care professionals in mutual moral reflection.

Hermeneutical bioethics is just one among many approaches to clinical ethics. As outlined above, clinical ethics interventions in a hermeneutic perspective aim at fostering a climate of dialogue and moral learning by encouraging people into communicating with each other (Widdershoven and Molewijk 2010). This is different from offering an expert-advice to physicians or nurses in situations of moral crisis. Hermeneutical clinical bioethics is committed to enhancing health care practitioners’ capability to engage with each other in moral discussion, to critically make each other intelligible by giving reasons and work towards a climate of moral consciousness within health care institutions (Boitte 2005). One of the main tasks of hermeneutical bioethics is to support local healthcare communities in engaging in deliberative processes and thus help them to be more capable to respond to issues of moral concern. Martin Kettner (2011) explains that by enabling participants in the health care system not only to address ethical issues in a reflective process, but by also teaching them how to go through these reflective processes by themselves, is a concrete means for empowerment of their autonomy. By furthering people’s ability to reflect on personal, professional or institutional values with regard to whether and to what extent they are consistent with other reasons and goals one holds as right, moral self-accountability and moral responsibility of health care participants is enhanced.

Bioethics research from a hermeneutic perspective

The research aim of empirical bioethics is generally to investigate how the normative operates in local practices and discover how the normative quality of these local practices can be improved through its findings. Empirical bioethics assumes a cyclical process “in which ethical analysis and empirical data collection inform each other in an interactive cycle” (McMillan and Hope, 2008, p.19; also Rehmann-Sutter et al. 2012).

Empirical research carried out in a hermeneutic perspective takes up much of what has been outlined above for hermeneutical bioethics in general, and applies it to empirical research methodologies. There are numerous texts on hermeneutic research in general outlining diverse understandings of hermeneutical empirical research (Alvesson and Skoldberg 2008, Smith et al. 2009). They all share the belief that practitioners are equipped with practical know-how that is normatively relevant and that needs to be made accessible to, and injected into serious ethical debate about practical moral issues, in order to anchor moral debate in practical moral understandings and foster a continuous reflexive exchange between the two. Hermeneutic empirical research focuses on meaning (Smith et al. 2009), investigating not only what a person holds as morally right, but also what it is that makes the moral claims meaningful to that person.

Hermeneutic empirical bioethics uses the various research methods available, from qualitative interviews or focus groups (sometimes combined with quantitative instruments) exploring normative practices and convictions, to interventions of action research that aim at stimulating direct changes in moral practice or policy development. For hermeneutics, in all these research methods, dialogue is central (Widdershoven and van der Scheer 2008, Abma et al. 2010). According to their research aim (knowledge generation for ethical evaluation or direct practice improvement on a local level) different research tools are nonetheless dialogical to differing degrees (see discussion chapter). Hermeneutic researchers see themselves as participants and facilitators (and not as privileged experts or distant observers) in the process, which means that during the research process they draw on their own practical knowledge and particular moral views, while at the same time facilitating the research process during the interview and conducting data analysis through their wider ethical theoretical knowledge and facilitating skills.

Our research project “Terminally ill patients’ wish to die. The attitudes and concerns of patients with incurable cancer about the end of life and dying”, that will be reported in the second part of the thesis, was based on a hermeneutic and phenomenological approach that I will discuss in detail in the discussion. The project was a four-year long interview-study we undertook in different palliative care settings in Basel, Switzerland, with 30 palliative patients, their families and health care givers. The project investigated the experience, the meaning and structure of wishes to die of palliative patients in the last days of their lives receiving palliative care.

The normative aim of good care and assistance for patients at the end of life, requires professionals who offer assistance develop an accurate understanding of the narrative structure and the content of a wish to die statement. Our study aimed to contribute to this practical ethical task. While most qualitative research at the time the project started, was based on information from a third-person perspective (interviews with relatives or health care workers from patients who died), from a hermeneutic approach it seemed important to get access to the first-person account of experiences when having a wish to die. We therefore decided to interview patients themselves.

In line with our hermeneutic approach, we assumed that wishes to die are—as any type of moral thinking—“narrative in pattern” (Walker 2007, p. 75). We assumed these wishes to be expressions of a process of meaning-making, reflection and (moral) evaluation. We started from the idea that wishes to die are situated within a particular setting between particular people at particular points in time, and are to some degree influenced by this setting and these relationships. Broader moral understandings of the patients’ statements as well as of those important to them, what they know or not know or think about each other, are therefore important for deciphering the way in which a person at the end of life makes up his or her mind. For this reason, we not only interviewed the patients, but also their family caregivers and health care workers.
Outline of the thesis

The first part of the thesis focuses on how hermeneutic bioethics actually works in the field of clinical ethics. Chapter 2 presents a reflection on the epistemological and anthropological premises underlying different ways of conceptualizing and practicing bioethics – we call these the “monological” and the “dialogical” approach (based on Taylor’s definition). By referring to a case study, we argue that these different conceptualizations of ethics lead to different ways of practicing clinical ethics support, to different ideas about the role of the bioethicist and of ‘facilitating’ or using bioethical theory in the process of clinical ethics support. Within the thesis, this article explains the epistemological and anthropological premises underlying hermeneutical bioethics as a dialogical approach.

In Chapter 3, we further explain the work of clinical ethics support, its communalities and differences compared to other consultation services in the clinic concerned with ethics (pastoral care and psychosomatic counseling), and discuss the role of the ethicist from a hermeneutical perspective.

The fourth Chapter presents a critical reflection on a concrete case study, the experiences of the bioethicist during this ethics case consultation and the doubts and open questions that remain for the ethicist even if a consultation is apparently successful. The second part of this thesis, divided into four articles, provides an example of how hermeneutic bioethics works in the field of bioethical research. Findings are presented from the research project “Terminally ill patients’ wish to die. The attitudes and concerns of patients with incurable cancer about the end of life and dying.”

The fifth Chapter presents two in-depth case analyses, exploring the experience of ambivalent wishes to die of palliative patients near the end of life and the reactions of others to their wishes to die. Chapters 6 and 7 present the main findings of the research project regarding the phenomenological structure of wishes to die in palliative patients on the basis of interviews with patients, their families and their health care givers. While Chapter 6 illustrates the different intentions expressed through a wish to die, Chapter 7 reports on the various underlying reasons, meanings and functions of patients’ wishes. Chapter 8 then gives an overview of the entire findings and the phenomenological model of the ‘anatomy of the wish to die’ by referring to a case study from the research.

In the final Chapter, the discussion, I will reflect upon the examples of clinical practice and research presented in the previous chapters and evaluate them in light of the four points that I consider characteristic of the theoretical framework of hermeneutic bioethics as developed here in the introduction (1. The importance of the exploration of subjective meaning; 2. Ethical evaluation through a dialogical process; 3. The result of moral learning, and 4. Consequences for the role of the bioethicist and ethical theory). Thereafter, I will elaborate points to consider for the further development in the theory and practice of hermeneutic bioethics.

References


