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ABSTRACT

Socrates' contention was that the sophist misconstrues the sphere of ethics. Although the sophist presents a systematized moral world, no experience is implied. This can be applied to the new professionalism in the teaching of ethics. Loosening the creative tension of perceived responsibility effectively closes down the real moral decision. The contemporary notion has the ethicist as co-worker to the scientist. The degree to which professional ethics can be charged with error is measured subjectively. The attempt has been to restrict ethics to rule-making and method-devising. Concern with rules may disclose an intensification of professional competition. Professional ethics borrows from the law of methodology. Teaching ethics requires more than reference to a body of knowledge or jargon. (JN)

The Moral Dangers of Professional Ethics

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Abstract

Socrates gives warning of the claims of the professional ethicists of his time, the sophists. If their professionalism is understood to be his worry, then a critical look at the structure and method of today's profession is indicated. Taking a look at a recent address by John Rawls, I trace a retract from the real context of moral action: confronting the dilemma of one's ignorance of what to do in the face of the necessity to act. In the name of "objectivity", in the study of rules, in the stress of judgment, in the alliance with legality, professional ethics turns from the moral openness of the dilemma toward the creation of a shared paradigm of moral knowledge. The culmination of these four stages is the moral expert who, on close examination, has much in common with the social manager or engineer. I conclude that an inconsistency between professionalising ethics and teaching it exists, and that our choice must be for a vital, creative, and nonprofessional subject.

The Moral Dangers of Professional Ethics

1. Socrates, in the Crito and the Euthyphro, asks who is qualified to teach moral philosophy. I ask it as a person who has tried teaching ethics, and one who is professionally recognized as qualified to teach it, and who is bothered by the conflict between the qualifications and the duties of teaching. I am not raising the spectre of a new sophism, or invoking moral values for the sake of dispensing with traditional teaching methods. I am wondering whether the very concept of a set of standards of the profession, is consistent with formulating and imparting ethical knowledge. Simply, can one be a professional ethicist and still "remain true" to the subject-matter of ethics?

Socrates' bone of contention, as it comes down to us, is that the sophist, in pursuing his art, misconstrues the sphere of ethics. This is rather more than calling sophistry a "routine", one that produces pleasure and gratification but has no truth-claim, as he does in the Gorgias.[1] It is more the idea that the sophist presents objectifications, a product, a systematized moral world, a structure hemmed in by implications, but no experience. This thought can be re-applied to the new professionalism. Part of Socrates' diagnosis of the failing, can be traced to the transmitting of knowledge by written (as opposed to spoken) language. It is the reliance on langue, rather than on parole, which itself expresses Socrates' critical concern, and too, the concern of the teacher as opposed to the theorist of ethics. Linked with that concern is that something vital to the moral matter is lost in discourse. What is this evanescent element? The security and

certitude offered when the moral universe appears full-blown, completed, reified, set, stands poised against the risk of choice and commitment the moral subject must face. Loosening the creative tension of perceived responsibility effectively closes down the real uncertainty characterizing real moral decision. The very professional hypothesis that moral instruction is purveying of moral system "in a cool hour" (to use Sidgwich's revealing attitude) is what comes open to question under Socrates' indictment. Do we inculcate an unethical detachment in our pupil, as we gear them up for the "real world" with a dose of theoretics?

It also is true that, with systems and technologies having changed the face of moral universe, an immediate return to the direct confrontation in choice that sparks one's living up to an ethical potential is more difficult. It is all the same necessary. We use tools we have been given. Investigating critically the moral limits of a professional society of ethicists can reveal the moral knowledge now obscured. At least, this is my working hypothesis. My strategy will be to discuss morality embodied professionally, relying on a foremost exponent of such views, John Rawls, and to counterpose to it the viewpoint of morality, creatively conceived.

2. What the ethics espoused by professionals and not the private view each may hold relative to some life problem (since then, presumably, the gap between professional and layman collapses), is expressed in the public views presented at professional meetings, published in professional journals, communicated formally or informally to colleagues and advisees, offered in lectures, seminars and

classrooms of accredited professional schools of ethics and philosophy. Professional communication is the medium for transmitting a shared paradigm of moral knowledge; as such, it is endowed with a seeming life of its own. To itself and the community it serves, it appears the sine qua non for expressing ethical knowledge. It embodies a tradition, lives in the reference to certain texts ("classics" and their epigones), advances by argument and counter-argument within the frame of a reference. As epistemology, it represents a closed universe, requiring no confirmation from sources beyond it, sanctioning none. The self-enclosure of professional moral concern is ably articulated by John Rawls, when he served as past president of the American Philosophical Association. Rawls, in his presidential address, advances the claim that, as philosophers,

> we can best proceed by studying the main conceptions found in the tradition of moral philosophy and in leading representative writers, including their discussions of particular moral and social issues.[2]

His talk embodies, a call to text, a reminder of tradition and lineage, an exhibition of a shared methodology, and the presumption that method in ethics is the most sharable element.

Corollary to his call is that we drop what is "only contingent" in our ethical ways of thinking and doing. These are, largely, intuitions into what presently signifies the subject, together with his/her ethical potentials. The moral subject ("myself") and its aura of potencies is, after all, immune to definition, risk-bound in its possible actions, not necessitated by theory in its deliberations, and unresigned by its commitments. It is the antithesis of "objectivity".

What then is the task of the professional ethicist? It has an uncomfortable semblance to "arm chair" morality. Rawls says:

> One thinks of the moral theorist as an observer, so to speak, who seeks to set out the structure of other people's moral conceptions and attitudes.[3]

The professional philosopher, rather than engaging his/her actual judgments and decisions, collates those of other agents. His role, much as a professional anthropologist or linguist (clearly Rawls' models) is distinctly as a third-person. He is asked to find the essence ("set out the structure") of actual moral life. What is essential is the unchanging element, hence, that which has little or nothing to do with the dialectic and dialogical movement characterizing moral reflection. The "reflective equilibrium", which is the desideratum Rawls seeks, is in effect a reflective removal from the scene of moral performance. There, the theorist peers into the deep gulf separating him from preparation, initiation, and action.

The contemporary notion has the ethicist as co-worker to the scientist. A "scientific ethics" is more than a positivistic fantasy. It is core curriculum in professional schools. But, could this be so much posturing and gesturing on the part of the profession, vis a vis teaching ethics? Could a reflective "science" of morality simply remove one from where the action is, and place one in the mind of the social engineer of policy maker? Certainly, the field of immediate responsibility, of the subject who does not know what to do, becomes, to the observer of morality, a distraction. And this is odd. Not that model construction has no place in ethics, but that to give it primacy

is to suggest divorce from any commitment born into action, to show detachment from responsibility as the way to resolve all moral dilemmas and apparently to buy future security for the agent in a world of moral turnabouts and reversals. When ethics attact its data as physics would with a theory, the creative tension of an unadorned confrontation with moral perplexity evaporates. It is to put on, as professional ethics does, the face of detachment.

A case could be made for claiming that the detached professional interest I am describing arises with Hume's insistence on observation in ethics. Hume's sense of observation is penetrating sympathetically the moral consciousness of others, at the same time remaining unbiassed in one's own moral judgment.[4] But ethics for Hume quickly moves beyond the ideal observer, into the practitioner of virtues, dispositions well-pleasing to actor and audience alike. By contrast, professional ethics fixes upon an ethics of saying, not of doing. What is important are the predicates by which one's act gets qualified, not what one does. What is important is the theoretical frame in which one describes one's undertaking, not the acts themselves. Ideal ethics begins to crowd out the ethics of real performance. This loss, however, does not strictly derive from Hume. Tradition must be reaffirmed in each age. The tradition reaffirmed reflects the moral needs at work at the time. Plossibly, a case could be made that the present needs are to promote a paradigm of relative stability, in the face of societal instability and dissolution of the personal. An observer's ethics, moreover, does provide a methodology which eliminates intra-subjective factors of choice. It obviates the irreducibly unique.

But Hume can be held culpable in another way. Any act initiates a chain of events that changes the viewpoint held by actor before the performance. The fact of moral transformation underlies all moral action. Hume's insistence, in shifting attention to an ideal observer and to omnipresent moral statements, is a means of eliminating the ambiguous and equivocal assertions of the actual world. The failure of his move is repeated in the failure of professional ethics. Both ignore the gap between moral knowledge and the immediate situation. Both elevate the moral intellect to the extent of vitiating the creative element that can be born in the thick of moral activity.

3. There is the wider question which now has to be raised. How is the fantastic fascination with rules, regulations, procedures, methods, and logics in ethics to be explained? Think back on Rawls' conception of ethics. It places value in figuring out what it means to do something in terms of regulations defining that kind of doing. It seeks to manage procedural questions of decision before they arise in fact, by establishing structures of all possible situations. It expouses a procedual objectivity so as to be freed from the vagaries of the agent and his/her ethical potentials. To find out <u>about</u> acting morally perhaps presumes that acting thereto can be avoided.

Consider under ordinary circumstances to what extent a focus on regulations is warranted, e.g. in setting up a game. Initially we need to know things like what it takes to win, how various kinds of player interchange work, how to make a move, under what conditions one is penalized. We need to know what the game looks like in order to have an idea of what to do when the time to play comes. After a

certain point, however, the demand to elaborate procedure becomes something else, more like a refusal to face what lies beyond the planning state. All significant consequences simply cannot be planned for. At this point, the continued call for procedural preparation begins to look more like an avoidance of agency than a concern for getting it right. To engage in a game requires a certain level of control, a handle on the rules.

The degree professional ethics can be charged with this error can be measured by its fear of the subjective. The subjective stands as an element intractable in procedural matters. Yet, the exception to the rule is integral to actual ethical reflection and decision. Rejecting the moral subjective begins with logical positivism's equation of moral utterance with gustatory exclamation: "Yech, cauliflower" has the same cognitive value as "Murder is bad". Even in revising this extreme non-cognitivism, the subjective is relegated to the level of prejudice and pre-judgment. Rawls again writes:

> . . .in studying one must separate one's role as a moral theorist from one's role as someone who has a particular conception.[5]

Rooting out the subject is the other side of devising a fool-proof procedure, schematizing the situation. If the attempt is to restrict ethics to preplanning, rule-making, and method-devising, both are possible. But if ethics pertains to what there is in the doing of it then over-attending to preplanning is a lapse in responsibility to subject-matter. Ethics, professionally taught, is subject-less.

4. The essence of the rule, from Wittgenstein on, is contained in the definition of an act in terms of how one can go wrong in it. The rule describes what normally counts as the criteria of success for acting. Judging what has been done notes how the act misses the mark. Without the judgment, the intelligible character of the act cannot be guaranteed. There is much to be said for the analytic power thereby generated. I simply want to make two comments. The first is about the limits placed on moral action in committing oneself to the rule. The second is about how such limits reflect the state of affairs existing professionally.

There is one striking fact about engaged moral activity. Wherever the imperatives are sensed in their immediacy and urgency, all judgments of the success of acting are beside the point. When it is absolutely essential to come to some act morally (a decision to be honest in giving information, or to save some innocent victim of tragedy), the act itself actively occupies the attention. The point is not only that agency does not, given the stress of a situation, have time to exercise the reflective capacity needed to assay success. It is more that such a capacity is a device of "a cool hour", and being artificial, it distracts one from the ground of doing. I am not merely thinking of acting under duress, but of any action where one intensely feels a moral stake in what one does--and without that stake, does not the moral component become enigma, delusion, or dispirit? A judging and success-oriented capacity looks away from the moment of ethical contact, towards the will-of-the-wisp structure cum system. In this, rationalistic ethics is born, in, as Rawls puts it, "an equilibrium that

satisfies certain conditions of rationality."[6]

The identification of rationalistic ethics with a certain professional orientation was clear to Weber, (and have subsequently been elaborated by Parsons.)[7] To be a professional is to agree to certain standards of reward; prestige and recognition, upward mobility, and career advancement. It is also to accept a colleagual form of association, the authority of a professional organization, and the notion of duty to profession. Rules in this context reflect the formal character of personal relations in a structure where there is competition for prestige. Rules become an issue only after the spontaneous interaction between persons is insufficient to give meaning to their contact, when personal identity classes to be wholly an embodiment of value but is defined by credentials, licenses, and reputations. Rules fill the gap in which formerly moral personalities communicated.

Concern with rules may disclose an intensification of professional competition. In passing, also, the current focus on utilitarianism likewise reflects a professional orientation. With the shift from the act to whether one is going to succeed comes the notion of ethical reward. The one factor motivating action becomes attaining the goal. Utilitarianism ("universal hedonism" as Sidgwich puts it) embodies the notion of advantageous consequence, in its calculation of right action. Doing right is trying to act so that the intended consequences are good acting to gain an ethical reward. The stress on the end-product of acting, derived from a professional preference, obscures the creative springs of the actual moral situation.

5. From rules for success and elimination of the moral subject,

professional ethics begins to borrow heavily from a related profession, the law. This may evoke memories of the paternal arrangement J.S. Mill once saw between ethics and the law.[8] It means two things. It first heralds a return to the contract as the model relation holding between moral persons. All duties are reduced to duties one has contracted into. The idea of duties to self, it follows, is a contradiction in terms. The whole field of obligation vanishes in which a person actualizes his/her own ethical potentials. Further, since contracting into a situation engenders social, rather than natural obligations, a general account of moral rules will begin (as Kant saw) from justice. Virtue becomes secondary. Enforcement is socially disciplined. The stress on personal responsibility, necessary to move moral theory, is weakened by the entry of legalistic thinking.

Secondly, professional ethics borrows from the law the methodology of respect. Kant suggests that morality is to the law as love is to respect.[9] When an ethics is based on love, its focus is on issuing positive injections to aid in one's own or in other's moral development. By contrast, an ethics of respect is based on the prohibition not to interfere in one's own or another's ethical history. Legalism then, in catering to this negative attitude, supplies little challenge to an agent's self-love. Legalistic ethics becomes a means of adjudicating competing claims of self-interest arising within a social organization. Only where individual rights have been ignored, defeated, or disrespected can the panoply of principles ethics utilizes come into play. Only when disrespect to a social contract violates rights is there claim to moral redress. The domain of ethical thought has been thereby

narrowed. Moral action, which frequently arises without any apparent entitlement, right, or claim, and which assists a person's real development, gets eliminated. Ethics is reduced to a case-study.

This might seem an unduly harsh judgment regarding professionalism. Social responsibility could describe the new demands on the professional ethicist which an alliance with legal methodologies. It is, however, a serious question whether such responsibility can be faced, much less discharged, without a prior commitment to integrate the moral field of action into one perspective. Regimentation of any profession, it is true, has the effect of creating persons having claim to expertise in the kind of knowledge the profession touts. The meteoric rise of the moral expert, the ethicist who, is qualified to work out solutions, publish texts, and dictate positions is a current feature of professionalism. Because he has acquired the analytic ability who is better skilled in investigating the problems of say euthanasia, distribution of surplus tax revenues, or the death penalty? Professional ethicists sit on government panels, consult with municipalities, work in tandem with research foundations and military strategists. The move from expertise to policy making is an essay one. The newest role of the professional ethicist is the policy maker/social engineer. Ethics has thereby moved into the field of social science.

What does this move mean? The collapse of an autonomous moral force behind ethical thought, characteristic of professional ethics, creates a vacuum. Where once the unfolding activity of the subject was focus of moral thought, now the societal unit--the individual citizen--is the concern. Professional morality, while retaining the guise of a critical discipline, becomes the ally of social management. And with the loss of

autonomy, supporting both is the myth of credentials. Credentials, when recognized by our professionally run society, "substantiate" the quality of the ethicist's moral judgments. More then anything, this fact recalls us to the self-serving alliance between Meletus, Socrates' moralistic accuser, and Anytus, the ruler of state. It is not difficult to see the nerve of socratic resistence to sophistic professionalism is the danger of a clique ethicists, and their potential alliance with reactive forces. This forebodes much today.

6. Conclusion. Implicit in my treatment has been the assumption that teaching ethics requires more than reference to a body of knowledge, a shared paradigm, a jargon. The additional element represents the subject's inexorable confrontation with his/her own moral obscurity in the hopes of achieving informed decision. Elimination of the dilemma from the discipline, whatever advantages result in accrediting schools and training in careers, eventuates in an abstruse and a technical subject-matter. In turn, the fact that ethics can be more easily taught this way shows something about the socratic anxiety I allude to above. Socrates' worry is that the transmitting of information about rules and regulations is basically a social function, not a moral one. It stops short of ethical knowledge. And, Socrates worries, in the name of moral teaching, a whole society can forget the center of ethical thinking, and forsake it for the perimeter.

NOTES

1. Gorgias 462c.

2. "The Independence of Moral Theory", Proceedings and Address of the American Philosophical Association, Newark, Delaware, XLVIII, 1974-75, p. 7.

3. idem

4. D. Hume, Treatise of Human Nature, London, 1739. "Of Virtue and Vice in General"; cp. R. Firth, "Ethical Absolutism and the Ideal Observer", Philosophy and Phenomenological Research, Vol. 12, 1952, pp. 317-345.

5. op. cit.

6. ibid, p. 8.

7. M. Weber, "Bureaucracy", in Gerth and Mills, eds., From Max Weber, Oxford University Press, New York, 1946

8. T. Parsons, "Professionalization", in D. Sills, ed., International Encyclopedia of Social Science, XII, MacMillan, New York, 1968, pp. 536-574.

   "On Liberty", especially, chapter IV, "Of the Limits to the Authority of Society over the Individual".

9. The Doctrine of Virtue, tr. M. Gregor, Harper and Row, New York, 1964, introduction.