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Can There Be Such a Thing as Ethical Expertise?

Abstract: Ethics in the 21st century is threatened by a split between practical philosophy as a full-blown academic discipline and applied ethics as pragmatic problem-solving inside the political process. The place of the professional philosopher sitting on medical and other 'ethics committees' as an 'ethical expert' is somewhere in between. But where exactly? How is his role defined? Is the expertise he brings to bear on practical decisions of a purely technical or of a substantially moral kind? These issues are discussed both 'from the outside' and 'from the inside'. First, some of the theoretical controversies surrounding 'ethical expertise' are discussed on the background of a rapidly growing literature in the field. These are then related to the realities of commission work as they confront the academic ethicist in practice.

1. The Increasing Contribution of Ethics Experts to Advisory Bodies

Academic philosophers in Germany are hesitatingly leaving the ivory tower and assuming public roles. Moral philosophers increasingly sit on ethical boards and committees whose concern is to control and supervise human research and animal experimentation and to issue recommendations on questions of principle in morally sensitive and controversial areas such as medical research, environmental protection, sustainability and the protection of animals.

Though the number of these philosophers is still small, with the consequence that they often meet in commissions on highly diverse issues, they usually have a certain impact on the way these commissions work and on their results. These range from advisory statements like those of the German *Ethikrat* or the *Zentrale Ethikkommission* of the *German Federal Chamber of Physicians (Bundesärztekammer)* to quasi legislative acts like the directives of the *Scientific Advisory Board of the Bundesärztekammer* on the criteria for the determination of brain death or the *Permanent Organ Transplant Committee* authorised by the German Organ Transplant Law to determine the allocation of organ transplants to patients. A moral philosopher presided from 2002–2011 over the *Central Ethics Commission for Stem Cell Research* instituted by the German Stem Cell Law. Furthermore, moral philosophers have been increasingly taking on advisory functions on the European level. For example, one German philosopher had a considerable influence within the steering committee appointed by the

Council of Europe to draw up the *European Convention on Human Rights and Biomedicine (Oviedo Convention)*.

The trend to an increased presence of philosophers in commissions and committees dealing with normative questions of public interest is understandable in view of several coinciding developments. First, bodies of the relevant kind underwent a rapid process of growth starting in the 1980s. Dogmatic judgements (on whatever basis, professional, value ethical, religious) were more and more replaced by discursive and procedural approaches to ethics consultation and ethical decision. In the clinic, for example, decisions on 'hard cases' were no longer monopolized by leading physicians but were successively handed on to ethics committees and ethics consultants. In the public sphere, the authority to pass judgement and to resolve conflicts without recourse to courts of law was more and more passed on by the legislature to advisory bodies and commissions, one of the earliest being the British *Warnock Commission* (cf. Warnock 1985) whose recommendations on how to regulate embryo research and reproductive medicine were accepted without modification by both Houses of Parliament.

Second, the positions traditionally held by theologians were successively taken by secular moral philosophers, a reflection of the fact that church doctrine has become less and less representative of society as a whole. A growing need was felt for an ethical orientation that takes fully in account the ethical pluralism of society without sacrificing its fundamental values. Third, philosophers with the corresponding aptitude and dedication made themselves known only recently. In significant contrast to the tradition of moral theology, practical issues were only rarely part of the curriculum in ethics as taught in the universities. 'Applied ethics' and 'bioethics' were only recently accepted as academic subjects of their own. Still, the number of specialists in these fields is rather small, presumably because of the rather bad prospects concentration on the field holds for the applications for academic posts.

2. A Fundamental Puzzle

There is a fundamental puzzle in what is expected of moral philosophers in the diverse bodies of which they form part. What exact role is the philosopher supposed to play? It is easier to say with what his role is *not*. He is not, or at least not only, expected to represent the general public or certain groups of society, even if he in fact sometimes takes on this role. That the moral philosopher is appointed *qua* moral philosopher and not only as a representative of a certain social group can be seen by the labels which he is given, such as the label 'ethics expert' or the label 'representative of the ethical sciences'. On the other hand, the very artificiality of these definitions reveals the embarrassment of not really knowing what these experts are experts for, and, in particular, what the basis is for the expert status ascribed to them.

This embarrassment goes deeper than it appears. It is rooted in the deeper question whether there can be such a thing as an 'ethics expert' in the first place. This question is a truly philosophical, i.e. fundamental and conceptual question.

The problem is: Is the concept of an 'ethical expertise' coherent? What does it mean to possess this kind of expertise? What is the relation between ethical expertise and the status of being an ethics expert?

It would seem that ethical expertise is more or less coextensive with the status of being an ethics expert. Expertise is, after all, the distinguishing property of experts, and where there are experts there is expertise. This correlation is, however, explicitly denied by some participants in the debate. Thus, Arthur Caplan, himself an experienced ethics expert who was part of a great number of different ethics committees, thinks that there can be ethics expertise but no ethical experts (Caplan 1992, ch. 2). His argument is that the status of an expert is necessarily something exclusive and that it is conceptually impossible that everyone can be an expert for a given domain, whereas it is conceptually possible that all and everyone is in the possession of expertise for a given domain. Being an expert is correlated with a special status and a special authority, whereas expertise has nothing distinctive in the case everyone has it. If everyone were equally apt at cooking Peking duck, we would be justified to ascribe the relevant *expertise* to everyone but not to single out anyone as an *expert* in Peking duck cooking.

I do not think that we should accept this argument. Expertise seems to be a special and distinctive capacity in the same way as the status of being an expert is a special and distinctive status. Both are contrastive notions. They require a background of normality in which the relevant expertise is absent. Even if all Chinese, for example, had expertise in Peking duck cooking, this could only be said if there is a contrast class of other nationalities the members of which lack this particular expertise. Exactly the same holds for their corresponding expert status. Instead of falling apart, expertise and expert status seem to be strictly correlated so that there is no logical leeway for discrepancies. Both predicates refer to something special or distinctive in relation to a presupposed baseline of non-expertise and non-expertship. What has to be borne in mind, however, is that both distinctive capacities can be so highly specialized, and even parochial, that they have no chance to gain social recognition. An expert in Peking duck cooking is just that and not necessarily an expert in anything else. An expert in the ethics of physician-patient-relations or in informed consent is just that and not necessarily an expert in other fields of medical ethics. Indeed, with the expansion applied ethics underwent during the last twenty years ethical expertise is going though a process of specialization and differentiation, so that the expert in medical ethics is not automatically an ethics expert *tout court*, and even an expert concerning physician-patient-relations is not automatically at the same time an expert in organ transplantation or reproductive medicine. In a certain way, this implies a certain weakening of the role of the ethics expert in social respects (a role by which Caplan's argument seems to be inspired). The ethics expert is not necessarily a public figure with a certain informal authority who might be the appropriate person to consult in ethical questions of general societal relevance. On the contrary, many ethical experts who fully deserve this status work far removed from public attention in relatively closed circles and are known

only to other experts, themselves beyond the focus of the general public and the media.

There is by now not only a steadily growing literature on the question of ethical expertise (cf. Singer 1972; 1988; Caplan 1992; Weinstein 1994; Yoder 1998; Kaminsky 2006; Varelius 2008; Agich 2009; Gesang 2010) but also a remarkable convergence of opinion about how far to assign moral philosophers an expert status. First, there is full consent on the fact that moral philosophers in general possess certain distinguishing capacities. They are expected to know a good deal about ethical theories, systems of moral norms and professional moral codes. They are expected not only to be able to lecture on basic ethical concepts and principles, but also to apply them to recurring situations in which these principles conflict, and even to concrete cases. They are expected to have developed a feel for knowing which moral problems arise for which moral opinions in certain decision making situations, and which principles and viewpoints are likely to be brought to bear by those making the decision. They are expected to be able to understand and empathise with the viewpoint of others, distancing themselves more or less from their own personal values. After all, the distinguishing mark and one of the strengths of the moral philosopher is not the strength of his moral commitment but his ability to distance himself from this commitment. The ethical standpoint is a *theoretical* standpoint. The typical statement of the moral philosopher is not categorical, like that of the moral preacher, but hypothetical: What do certain principles lead to in what types of situations? What problems, difficulties, and intuitive or counterintuitive consequences confront someone holding these principles? Which positions are compatible with one another and which are not? Getting involved with questions of such a hypothetical nature requires a certain independence and composure which is not everyone's cup of tea, especially when one is occasionally taken to be unprincipled by those strongly committed to their principles.

These qualifications, however relevant they are, do not turn an *ethics* expert into a *moral* expert. A moral expert would be one who knows which norms and values are the *correct* ones, in a sense of 'correct' by which correctness is understood as something more ambitious than simple conformity with widely accepted standards. In spite of the astonishing rise of moral realism and other kinds of objectivist metaethics in the last twenty years, it must be doubted whether moral convictions can be as securely affirmed as convictions of a factual nature. In general, moral convictions cannot be conclusively proved but depend upon plausibility considerations accepted by most but rarely by all participants in the debate. Though it might be argued that moral judgements inherently claim universal validity even in cases in which they do so only implicitly, there is no guarantee that the universal validity claimed corresponds to a factual universal consensus. This is nowhere more evident than in the context of questions that seem to defy even the most sustained efforts at ethical compromise, such as the question of the moral status of human embryos and the moral status of subhuman animals. It is highly doubtful whether there will ever be, even after long and concentrated discussion, something like a Peircean 'fixation of belief' on questions of practical morality depending on fairly fundamental controversial

issues such as those involved in abortion and vegetarianism. It must be conceded, however, that only a small fraction of moral problems under debate in commission work are of this ultimately irresolvable nature. In the majority of cases the issues handled are amenable to a reasoned consensus formation on a less fundamental level and on the basis of shared values and principles. What is controversial in these cases, is less which values or principles are taken as valid but how the values and principles taken as valid are to be interpreted in view of the particular situation at hand.

The fact that an ethics expert does not *ipso facto* count as a moral expert does not, however, imply that the ethics expert must therefore refrain from taking a stance on fundamental moral issues or leave moral judgement to others. Nor does it imply that his judgements are in no way privileged in relation to the moral judgements of ethical laymen. It is important, however, to acknowledge that his judgement is no longer fully covered by his expert status. As a moralist he makes judgements on the same basis as non-philosophers, that is, based on his own personal moral judgement. The only privilege he can claim for himself is that the way in which he reaches his moral conclusion is significantly different from the way ethical laypeople reach their moral conclusions: It is more considered, better thought out, more aware of inconsistencies and incoherences, and perhaps less partial and opportunistic. If there is a difference qualifying him to be heard before deciding on ethically sensitive issues it is the *modality* rather than the *substance* of his judgement.

These differences, though at first sight more insubstantial than it is commonly thought, are nevertheless important. They may even be held to be necessary conditions for dealing with normative questions in a rational way.

First, the ethics expert will usually profit both from his expertise and his professional experience by basing his judgements on *arguments*. He can be expected not to lay himself open to attack through basing his arguments on simple authority or tradition. Even if the positions he takes toward a controversial issue are ultimately not amenable to anything like proof or verification, his willingness to base them as far as possible on arguments will open the way to a rational discussion based on the "forceless force of the better argument" (Habermas) instead of the force of persuasion and manipulation. This is highly relevant to moral discussion because experience shows that even intelligent and well-informed persons often have great difficulties to observe standards of rationality in moral arguments (cf. Singer 1988, 161). The sometimes glaring lack of rationality in moral judgement seems to be the price to be paid for their function of providing emotional stability and defining a more or less fixed personal identity. The role of a *defensor rationalitatis* is, however, not the exclusive possession of the academic ethicist. It is, as Peter Singer states in the same context, "open to any reasonably intelligent person who is prepared to put some time into [clear thinking]" (ibid., 154).

Second, the arguments of the moral philosopher can be expected to be much more explicit and elaborated than those of the layman. He can be expected to have a more differentiated and nuanced view of complex cases than the philosophically unenlightened everyday observer. That means that if ethical expertise

is less seen as some kind of superior *knowledge* but as some kind of superior *skill*, a good case can indeed be made for the possibility of ethical expertise. As the American medical ethicists Yoder remarks:

> "The key is to see that expertise in ethics is connected with justification— a claim to ethics expertise is not based on the truth of one's judgements but on one's ability to provide a coherent justification for them." (Yoder 1998, 13)

Only that this does not exclude that two ethicists may have ethical expertise to the same degree and nevertheless differ in the decisions and strategies they single out and recommend as morally optimal. *Ethical* expertise must not be mistaken for *moral* expertise. Ethical expertise concerns the correctness of which judgements follow from what premises but not the correctness of these judgements absolutely. The expertise of the ethical expert is, in a way, hypothetical. As far as the moral philosopher is an expert, he is at best a "semi-expert" (Gesang 2010, 158).

Over and above this kind of 'hypothetical' expertise, is it possible for the ethics expert to lay claim to further cognitive privileges? Occasionally the theory is heard that the moral philosopher's morality is superior to that of the practitioner, at least as far as the ability to reflect and to differentiate goes. In one of the earliest articles on moral expertise, Peter Singer claimed:

> "Someone familiar with moral concepts and with moral argument, who has ample time to gather information and think about it, may reasonably be expected to reach a soundly based conclusion more often than someone who is unfamiliar with moral concepts and moral arguments and has little time. So moral expertise would seem to be possible." (Singer 1972, 116f.)

True, the moral philosopher is to a greater degree relieved from the practitioner's daily decision making routine, he has leisure in which to ponder on questions of a more abstract sort, he is free from organisational blindness and institutional constraints and more independent from the expectations of his profession and society. The independence of the moral philosopher is, however, easily overestimated. Whilst it can often be difficult for the practitioner to distance himself from a habitual and accepted routine, it can also be just as difficult for the moral philosopher to free himself from his favourite principles. In addition, the practitioner often has the advantage of simply being closer to the actual situation. At least, in many cases, he is better equipped to understand the position of those affected by the decisions made and to judge their psychological impact. If there are grounds to privilege the judgement of the moral philosopher these count only *pro tanto*. They can be overridden by other aspects.

This does not mean, however, that the practitioner is as such better equipped to function as a moral expert. It is true, in many cases the practitioner will have the more intimate knowledge of the practical problems that have to solved by, among others, moral deliberations. Moreover, he may be in a better position

than the theoretician to empathize with those involved in morally unclear or morally complex situations, perhaps because he has undergone a special kind of training, or simply has much more experience with situations of the kind to be judged. Examples that come to mind are hospice work or medical care for the homeless, i.e. domains in which highly unusual background conditions have to taken into account and in which caretakers have to acquire highly specialized competences to do justice to those they care for. But, again, I do not believe that these facts change anything substantial in my scepticism about the possibility of moral expertise, taken as a superior avenue to moral knowledge. Intimate familiarity, sensibility and empathy can go together with a great number of different value orientations and norms. A consultant in a state-run counselling institution can be knowledgeable, sensitive and empathetic to the same degree as a consultant in a corresponding catholic institution and nevertheless give quite different, and even opposite, advice in questions such as family planning, abortion, or heterological insemination.

3. The Ethics Expert in Practice

To judge from experience, everything points to the fact that it makes very good sense for the ethics expert to become involved in advisory work. This is due to the fact that in most situations in which the philosopher's advice is required there is an essential lack of clarity about the ethical concepts and principles that can or should be brought to bear on it. This is regularly the case in biomedical ethics with such terms as human dignity, autonomy, distributive justice and quality of life. Wherever such ambiguous and controversial conceptions bear the brunt of an argument, the analytical competence of the moral philosopher is crucial. Even those terms which seem straightforward, such as benefit and harm, present far-reaching interpretation problems which keep a moral philosopher busy. Must a benefit or harm always be experienced as such by a beneficiary or a victim? Can someone be harmed after his death? Can someone be harmed by the simple act of letting him live (as in the question of 'wrongful life')?

Quite a number of philosophical ethical advisors make an attempt to solve practical problems in a *pragmatic* spirit, leaving aside the age-old debates about foundations and starting not from controversial basic principles but from *axiomata media* on a medium level of generality for which consensus is easier to achieve. There are roughly three models of such a 'pragmatic' approach implicitly followed: principlism, moral minimalism, and a 'moral common sense' approach invoking conventional morality in a quasi Aristotelian way. The problem with all three approaches is that they have serious limitations. By ignoring differences in fundamental principles (e.g. between Kantianism and utilitarianism) and trying to establish a consensus on a non-fundamental level they cannot really account for the deep dissension that pervades large areas of applied ethics.

Principlism refers to the approach made popular by Tom Beauchamp and James Childress but in many ways anticipated in Schopenhauer's reconstructive ethics (cf. Birnbacher 1990). Beauchamp and Childress propose

to debate and to reach a consensus on practical problems in medical ethics by
reference to a quartet of moral commonplaces or *topoi* by which most moral
dilemmas can be adequately described and analysed: non-maleficence, auton-
omy, beneficence and equality (Beauchamp/Childress 1994). This approach is
widely used by ethical advisors all over the world, especially by those with a
medical rather than philosophical background. *Moral minimalism* is the theory
that there is an indisputable minimum of moral norms ultimately based in el-
ementary human interests. Its most well-known formulation is that of Bernard
Gert (cf. Gert 1998) whose canon of ten 'moral rules' imitates the old testament
decalogue not only in language but partly also in substance:

1. Do not kill.
2. Do not cause pain.
3. Do not disable.
4. Do not deprive of freedom.
5. Do not deprive of pleasure.
6. Do not deceive.
7. Keep your promises.
8. Do not cheat.
9. Obey the law.
10. Do your duty.

A similar minimalist approach was adopted by the German ethicist and legal
philosopher Norbert Hoerster in his defences of a liberal position towards e.g.
abortion and euthanasia (cf. Hoerster 1995; 1998).

Both approaches have considerable merits but also serious limitations. The
first limitation is that they leave most practical problems—and nearly all of
those arising in committee work—underdetermined. In both theories, the rules
are treated as prima facie rules which leave room for exceptions, and both the-
ories are rather non-committal in regard to the relative weights to be assigned
to these rules in cases of conflict. In contrast, the complex and controversial
issues discussed in ethical boards usually involve more than one of these rules
so that a decision has to be made as to relative priorities. Furthermore, the
rules of both theories are open to different interpretations with widely diverging
consequences for concrete medical practice (cf. Birnbacher 1994). In practice,
the interpretation implicitly or explicitly chosen will be influenced both by the
moral intuitions about the individual case and by the basic principles held by the
person in question. A utilitarian reluctant to recognise any direct obligation to
preserve non-sentient human life is likely to give the principle of nonmaleficence
an interpretation quite different from that given by an adherent of traditional
Christian ethics with its emphasis on preserving human life even in its non-
sentient and germinal forms. In other contexts, the Utilitarian is likely to be
more sympathetic than the traditional Christian moralist to the idea of talk-
ing of 'harming' even in cases in which something is *not* done that would have
changed the course of nature for the better.

The second limitation of both variants of a pragmatic ethics is that they are
too 'minimalist' to capture the substance of each individual moral belief system.
By restricting themselves to the greatest common denominator of ethical beliefs

they leave out what is most crucial in their moral beliefs to those who hold these beliefs. This applies in particular to the notoriously controversial moral beliefs about human dignity, sanctity of life, and distributive justice. The use made of the concept of human dignity in contexts in which neither individual interests nor any of the four principles of Beauchamp and Childress in their standard interpretation are at stake, is covered by neither of two variants of pragmatic ethics. Exactly this use is, however, highly characteristic of the German debate on bioethical issues such as surrogate motherhood, embryo research, germ line genetic intervention and human cloning (all of which are forbidden by law).

It must be doubted whether the appeal to a moral 'common sense' favoured by the third, neo-Aristotelian, approach is of very great help in this dilemma. The existence of a 'common sense' relevant to the questions at issue is improbable to the same degree that these issues are controversial enough to come up for discussion in ethical boards. Furthermore, the 'consensus' or 'agreement' invoked by the adherents of this approach (such as H. Lübbe, O. Marquard, or L. Honnefelder) tends either to be too vague to cut any ethical ice or to be fictitious, reflecting the principles of the individual philosopher more than any real social consensus. It is unclear, moreover, what normative force the conventional wisdom of a moral 'common sense' can have. Conventional morality is a result not only of sound reasoning but also of a variety of cultural traditions and historical contingencies. In consequence, recourse to conventional morality bears the risk not only of ethical heteronomy, but also of an indefensible moral conservatism. Moral innovation, such as the notion of human rights in the 18th century, the idea of an ethics of animals in the 19th or the idea of responsibility for the conservation of nature in the 20th, must first assert itself within the leading spirit of the times. If such a thing as moral progress exists, it certainly does not always come from the centre of society or culture, but just as often from its fringes.

What follows from the limitations of the most common forms of a 'pragmatic' approach to moral questions for the ethics expert? One obvious consequence is that the 'received views' on which the pragmatic approaches rely in one way or the other cannot serve as *criterial* principles by which controversial issues can be settled. This does not imply, however, that they are simply redundant and can be left to themselves. Their function is pragmatic rather than adjudicatory. By establishing an initial consensus on what aspects are in principle relevant to a given topic, but without assigning weights to these aspects or prejudging questions of priority, they can play an important *integrative* role, a role that is especially important in cases of seemingly irresolvable conflict. By committing all concerned parties to an agreed reference frame that does not decide the issue but must be filled out by detailed discussion, reference to agreed opinion and 'common morality' furthers a climate of mutual respect, tolerance and fair-play and serves as a door-opener to a disciplined and constructive discussion.

It would be wrong to think, however, that the ethical expertise of the ethics expert, or his moral views, stand in the fore of his everyday activities. Most of the time the ethics expert is engaged as a 'generalist', identifying latent moral problem areas, working on the recognition of insufficiently represented interests and

standpoints, and, in situations of conflict, mediating between opposing points of view. The very fact that on each advisory and decision making committee representatives of a certain leading discipline dominate the discussion (doctors on medical boards, natural scientists on boards for the protection of animals, social scientists and engineers in bodies dealing with technical risks) creates the risk of a distorted or at least biased view of what is at stake in a given issue. Natural scientists rarely have a feeling for the social awareness and acceptance of what they do and for the *symbolic* value of controversial scientific, technical and medical innovations. Social scientists, on the other hand, tend to take these values as givens without making the effort to test them against criteria of rationality and adequacy. In view of this the ethics expert often feels it to be his task to make a 'moral diagnosis' with the objectiveness of an outsider who looks beyond the scope of each subject and brings those aspects of the problem into discussion which tend to be neglected by insiders.

If the fronts of two conflicting sides harden, the ethics expert is landed with an important mediatory task: to make the views and perspectives of one side understandable to the other. He feels called upon to put right prejudices, mistaken beliefs and myths, and to clear the way for a disciplined, discriminating and rational exchange of arguments. Despite his neutrality, however, it is possible that polarisation, defamation and dreadful simplifications, such as those that spread throughout German bioethical discussion in the 1990s may force the ethics expert to leave his neutral mediatory stance and to side with one of the parties.

4. The Ethics Expert—Target of Mixed Feelings

The ethicist engaged in advisory work is a target of ambivalence no less than other people engaged in political activities in the widest sense: Admiration and esteem are intermingled with aversion and suspicion. On the one hand, the truly 'practical' practical philosopher is highly praised, among his peers as well as by the general public, for his stepping out of the ivory tower and for his courage to take risks his purely academic colleagues do not have to face. His decision to take active responsibility for the course of things in the real word is not only received with respect but often also with a good deal of genuine admiration. At the same time, it cannot be denied that even within his own profession the ethics expert does not have the best of reputations. By the very fact that he engages himself with problems of application, he betrays 'philosophical purity' in the eyes of many of his more academic colleagues. He is also a subject of suspicion because, by being mixed up in the dubious game of political discourse, he is thought of as someone who argues strategically rather than honestly and therefore undermines the intellectual integrity of the profession as a whole. Since, according to leading philosophical thought, normative statements are not capable of being literally true, a latent charge of frivolity and of the philosopher having sold his soul to everyday politics overshadows the whole school of applied ethics. As long as applied ethics is not based on truths, that is, on a definitively valid theory,

it should better be left to preachers, gurus and politicians. It is no accident, therefore, that the typical question specialist philosophers ask an applied moral philosopher is 'Do you do any real philosophy apart from *this*?'

The reservations and accusations coming from the public sphere and the media lead in a different direction. On the one hand the moral philosopher is accused of being the dogsbody to certain powerful factions, opinions and interests (and consciously or unconsciously making himself a slave of governmental, political and economic powers). On the other hand there is the charge that he presents a risk to others and consciously or unconsciously undermines important social value orientations. As far as *structures* are concerned the ethics expert is too conservative, whilst when it comes to *values* he is not conservative enough. Both of these charges are marked by an unusual rigour which often goes as far as being slanderous, together with conspiracy theories quite out of touch with reality. According to these theories the practical philosopher's undermining of important value orientations is seen less as the result of individual error, but far more often as the result of a planned subversion, either by the government or by interest groups.

Rationally considered, the practically committed moral philosopher can hardly avoid the charge of being a 'dogsbody' or of collaborating in what is sometimes called 'service ethics'. Because every moralist has, and indeed must have, an interest in the practical application of his moral ideas, he will naturally seek those who offer him the chance to realise his goals effectively. What looks from the outside like a one-sided exploitation of the moral philosopher by his powerful 'clients', is in fact usually the result of a deliberate co-operation from both sides. In addition, it is virtually unavoidable that every practically committed moral philosopher incurs the accusation of 'submissiveness' by those who oppose his opinions. Distinctively restrictive positions in many questions of bioethics are suspected of complying with the wishes of the church (on the part of anti-church circles), whilst distinctively liberal positions are suspected of offering their services to economical interest groups (on the part of the left). The background to this is an insufficient preparedness to acknowledge the pluralism of moral plausibilities: If someone thinks differently from ourselves, we easily assume that he either has strategic reasons for doing so, or has been led astray. Thus, the moral philosopher who takes a middle stand between the extremists must be prepared for accusations of 'submissiveness' from both sides. He who takes a middle stand in the animal rights debate, for example, will find few supporters, not only from those who are strictly opposed to animal experimentation but also from those representing research interests.

The charge of being a risk to others and of being subversive are as hard to avoid. First because, as Schopenhauer rightly noted, the moral philosopher's striving after intellectual honesty can easily be seen as "a sacrilegious attack on sacred affairs of the heart" (*Foundation of Morals*, §1). He who judges using reason instead of conscience, is a shifty fellow from the very start. Secondly because, where issues of an explosive nature are concerned, the moral philosopher (as long as he does not swim with the spirit of the times or flee with empty phrases) cannot avoid giving offence to one faction or another through his moral

position. Differently from scientific contexts, these factions will not only charge him of intellectual, but also of moral offence. The moral philosopher who makes mistakes in moral issues is not only a bad thinker, but also a bad person and worthy of moral contempt. At the very least he is a potential danger to others in that his competence and authority as a moral philosopher (or as a moralist, preacher or rhetorician) can be used either by himself or by others to proselytise.

In contrast to the charge of exploitation, the charge of being a risk to others must be taken seriously. Not only in the way that dangerously held beliefs can endanger the moral philosopher himself (as in the case of Socrates) but also in the way that the moral philosopher must objectively estimate and consider the risks of presenting his moral beliefs in public. The moralising philosopher is accountable for the unintended but predictable consequences of his publicly held moral standpoint, in the sense of what was coined "Ethikfolgenethik" by Odo Marquard, the ethics regarding the consequences of ethics. He cannot shake off the responsibility for these consequences by simply ascribing them to the plausibility of their contents. Whether a certain view is correct is one thing; whether it is correct to make it public is another. The practising ethicist in his role of a public figure is no more exempted from moral norms than the representative of other professions, and especially moralists of a more or less consequentialist observance risk inconsistency by discounting the consequences of their own practice in the role of ethical experts.

The ethics expert is, however, rarely troubled by the charge of being a risk to others. This is because this risk is often bound to value positions the holder of 'dangerous' positions does not share. In this way those who should be primarily affected by so-called 'Slippery Slope Arguments' are generally the least impressed. He who is for the official lifting of the control on drugs or for free abortion, cannot be affected by the Slippery Slope risks of methadone treatment or a law allowing the termination of a pregnancy within the first three months. The argument of the Slippery Slope will only make an impression on the moral philosopher as far as his own values are endangered—a situation that is often not recognized as such by those who consider their own values so irrefutable that they cannot imagine the possibility of there being alternative values, let alone empathise with them. Furthermore, what the moral philosopher tends to consider openness and composure is easily disparaged as coldness and inhumanity depending on the focus of moral sympathy. To come back to the example of animal experimentation: If the focus is laid primarily on the sick who can be helped by the progress made possible by animal experiments, the charge of inhumanity will undoubtedly be brought against the moral philosopher pleading for restrictions of animal experiments for ethical reasons. This same charge, however, will also be brought against him by animal rights supporters for his very readiness to justify animal experiments even under very restrictive conditions.

In short, the moral philosopher leaving the ivory tower does not only need good reasons and sound theories, but also, and above all, good nerves.

Bibliography

Agich, G. J. (2009), The Issue of Expertise in Clinical Ethics, in: *Diametros* 22, 3–20

Beauchamp, T. L./J. F. Childress (1994), *Principles of Biomedical Ethics*, 4th ed., New York

Birnbacher, D. (1990), Schopenhauers Idee einer rekonstruktiven Ethik (mit Anwendungen auf die moderne MedizinEthik), in: *Schopenhauer Jahrbuch* 71, 2644

— (1994), Two Methods of Doing Bioethics, in: Pauer-Studer, H. (ed.), *Norms, Values, and Society*, Dordrecht, 173–185

Caplan, A. L. (1992), Moral Experts and Moral Expertise: Does Either Exist?, in: *If I were a Rich Man could I Buy a Pancreas? And Other Essays on the Ethics of Health Care*, Bloomington–Indianapolis, 18–39

Gert, B. (1998), *Morality. Its Nature and Justification*, New York

Gesang, B. (2010), Are Moral Philosophers Moral Experts?, in: *Bioethics* 24, 153–159

Hoerster, N. (1995), *Abtreibung im säkularen Staat. Argumente gegen den §218*, 2nd ed., Frankfurt

— (1998), *Sterbehilfe im säkularen Staat*, Frankfurt

Honnefelder, L. (1996), The Concept of a Person in Moral Philosophy, in: Bayertz, K. (ed.), *Sanctity of Life and Human Dignity*, Dordrecht, 139–160

Kaminsky, C. (2006), Über Funktion und Rollen von 'Ethik-Experten' in konkreten Moraldebatten, in: Kaminsky, C./O. Hallich (eds.), *Verantwortung für die Zukunft. Zum 60. Geburtstag von Dieter Birnbacher*, Berlin, 211–232

Lübbe, H. (1978), Philosophie als Aufklärung, in: *Praxis der Philosophie. Praktische Philosophie. Geschichtstheorie*, Stuttgart, 5–34

Marquard, O. (1981), Abkehr vom Prinzipiellen, in: *Abkehr vom Prinzipiellen. Philosophische Studien*, Stuttgart, 4–22

Singer, P. (1972), Moral Experts, in: *Analysis* 22, 115–117

— (1988), Ethical Experts in a Democracy, in: Rosenthal, D. M./F. Shehadi (eds.), *Applied Ethics and Ethical Theory*, Salt Lake City, 149–161

Varelius, J. (2008), Is Ethical Expertise Possible?, in: *Medicine, Health Care and Philosophy* 1, 127–132

Warnock, M. (1985), *A Question of Life. The Warnock Report on Human Fertilisation and Embryology*, Oxford

Weinstein, B. D. (1994), The Possibility of Ethical Expertise, in: *Theoretical Medicine* 15, 61–75

Yoder, S. D. (1998), The Nature of Ethical Expertise, in: *Hastings Center Report* 6/28, 11–19