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The need for a professional ethic: International Perspectives

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The need for a professional ethic: International perspectives

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Abstract

This article examines the reason for the recent interest in ethics, and considers its deontological and consequentialist bases. It is noted that ethics may be taught directly, or incidentally as part of other instruction. Experience has shown that teaching it directly has considerable merit in that this makes ethical issues explicit rather than implying that they are a less important part of professional practice. In such a way the "knowing" of ethics becomes insightful understanding rather than a superficial piece of information. It is clear that ethics should not be considered a quasi-legal entity. Ethics is about human values; about best aspirational standards; about creative and remedial issues; and about operating with goodwill (Whereas the law is seen as setting minimum standards, using the adversarial approach, and inviting sanctions for breaches). In convincing professionals about the merits of ethics there are three basic types of argument; the rational explanation of its merits; empirical data showing the benefits and the use of appropriate case studies. Most civilised countries have a code of professional ethics (or code of conduct). It is also clear that although the length of such codes varies there is substantial agreement about what a code should contain. To illustrate these principles various practical illustrations are given, and helpful principles suggested. Finally it is noted that discussions of ethics are particularly significant as they provide a forum in which issues of value may be discussed in a constructive and non-confrontational context.

Introduction

A surgence of interest in ethics seems to be one characteristic of modern times. This interest seems to be a reaction to recent demonstrations and assertions which appear to contradict our fundamental views about the nature of a fair society. The advent of economic rationalism as government policy, the assertion of economic power for political ends evidenced in various national conflicts, and the exploitation of workers in third world countries are prime examples.

The interest in ethics also seems to stem from breaches of deontological principles rather than just consequentialism. We believe that all children have a right to clean drinking water not because they then make better workers but rather because clean drinking water is a right in itself, a point that is clearly implied in the International Convention on the Rights of the Child; we condemn torture not because it is bad for business but because it is utterly contemptible. Those interested in reading more on human rights might consult Janis, Kay & Bradley (1995) for a comprehensive guide to European human rights, and the geographically wider ranging work on human rights by Gandhi (1995).

Good ends may be pursued by unworthy means. Many years ago a psychology registration board heard a case in which a behaviorally oriented psychologist used a cattle prod to decondition

incontinence in a boy with learning disabilities. The board held that this was infamous conduct - no matter how worthy the motives.

Whatever the reason for this nascent interest in ethics, an ethical code is an indispensable part of professional life. Together with such factors as high-level training and formal recognition, it is one of the marks of a profession.

We "know" about ethics, but we 'know' in different ways. It is unfortunate that in English we do not have words which distinguish different forms of knowing. Some European languages make this valuable distinction: the German kennen and wissen; the Italian conoscere and sapere, for example - knowledge of acquaintance and knowledge by understanding. We ken John Peel with his coat so grey but we understand the role of hypothesis testing. It is not uncommon to find that professionals are acquainted with ethics, and use them: how much better it would be if they were understood at a deeper level - but perhaps that is asking more than is reasonable. For our purposes it is sufficient that we are sensitised to values, to identifying such issues, to knowing how to prevent and knowing how to resolve ethical dilemmas.

Perhaps one of the most valuable points that we might consider is that ethics is not a substitute for law. It would be crass to suggest that morality in general has no part to play in framing and exercising laws. In the 1960s there was a lively debate between Professor Hart and Lord Devlin on the actual and the desirable intrusion of morals into the law. On the one hand we cannot imagine a system of law in which moral principles were totally absent; nor can we imagine a system of law in a pluralist society in which one set of moral principles held entire sway. It is just such issues that lie at the core of the Hart-Devlin debate (Hart, 1963; Devlin, 1965).

Since we have a reasonably good system of law why do we need to invent an overlay? The answer to this issue is that ethics has one role to play and the law another. It is the function of law to set standards and exercise sanctions when those standards are breached. It is the function of codes of ethics to set and maintain aspirational standards of human value: ethics does not have the primary function of acting quasi-judicially but, rather, of acting as an agent to encourage, promote and foster appropriate value standards. When ethics committees become functionaries of codes of conduct and have to resolve cases, then they become more legalistic. At the extreme end they will, of course, start to look like quasi-judicial bodies - but that is not their primary purpose.
Ethics is about real-life problems - not just verbal ones. There is a delightful illustration about the philosopher Cyril Joad, who lived out of London. His train did not ordinarily stop at his station, but on one unscheduled occasion it did so stop. Joad alighted, at which the porter shouted, "this train does not stop at this station". "That's all, right", said Joad, "I did not get off."

Perceived barriers to being ethical

The perceived barriers to ethical behaviour are numerous and include its relevance, its economic value, the way that it intrudes into matters beyond its scope, that it is time consuming, that it is costly, that it is imprecise and that it encourages whistle-blowing. Some of this may or may not be true but the argument is similar to that on education: if you think it is expensive try the cost of ignorance.

As to the economic value of ethics, in the short term non-ethics may be profitable. An educational consultant in private practice, for example, might extend the number of consultations beyond what was reasonable. In the short term he or she could get away with it and make a profit, but in the longer term would be known by reputation and avoided. "If it is waxen, vertical and has a chequebook it is a client" has but short-term gains. The essence of being a conman (conperson) lies in just that same principle. Ethics may take time to consider: lack of such consideration could well put a professional time-bomb in your career luggage.

The really hard cases may well involve an element of whistle blowing. The question of how one can tell a genuine whistle-blower from a real nuisance is easy to answer: we cannot tell until after the event and all of its corollaries. Only by hearing their concerns do we know if whistle-blowers are well motivated and evidentially backed. Were we to face no critics, no whistle-blowers, no robust professional interchange or any of the other challenges of life, then we would have a very different society, and one that we would probably not admire.

Convincing the uncommitted

Given that we value ethics, how do we convince those less committed? There are at least two strategies here: one is to attempt to raise the overall level in the belief that the general rise its standards will lift those lowest in ethical rating; the other is to target particular people or groups who are most in need or accessible to conviction. This is not an either/or argument; we can attempt both.

Among the strategies that might help convince the uncommitted are case studies selected so as to be relevant to the interlocutor of the moment. The consequentialist view is that ethics keeps you out of trouble; that it is good risk management in that there is evidence that it may make promotion more likely, or at least that the absence of a good reputation is a barrier to promotion; that good ethics is shown to make educational facilities more attractive and prestigious; and that it improves work output.

Among the rational arguments are that good ethics improves morale and avoids debilitating arguments and attracts and keeps good staff; and that an ethical environment is one more pervasively beneficial to good education as well as fostering the value of ethics indirectly. Hard sell and religious-style preaching seem less effective than good role models. Occupying the high moral ground conveys a "holier than thou" attitude which is not only counterproductive but also invites inquiry into the moral perfection of those who make such claims to holiness.

We need to convince several important sources in order to convey the merits of ethics. These sources include, primarily, those being educated. They also include teachers, trainers, opinion leaders, the media, parents anal guardians, and "significant others". While this may seem a formidable list it is one that we might bear in mind to use as the occasion arises.

Current status of ethics awareness

It is clear that the professional societies are the mainstay of ethics. Their codes are available on their website of the British Psychological Society, the psychological societies of Australia, Canada,

New Zealand, Japan, Singapore and Chile, for example. Numerous European countries have codes which are vigorously promoted and utilised. There are also international societies that have their own codes. The International Society for Analytical Psychology has a code which, understandably, is oriented to the particular interests of this focused membership.

One interesting development is the meta-code of the European Federation of Professional Psychological Associations. This meta-code is set out in such a way as to provide overarching ethical precepts to which the member countries conform. The meta-code leaves the national codes in place with respect to particular content and issues of dealing with cases.

The American Psychological Association code is about 10,800 words; the Australian Psychological Society code about 5,800 words; the Canadian Psychological Association code about 12,300 words; and the New Zealand Psychological Society code is just over 3,000 words. Singapore has a 3,500-word code and Lithuania one that is a mere 1,500 words. Understandably, a meta-code is briefer than a national code: the European metacode is about 1,600 words.

All the codes seen cover the same basic ground even though some of the terminology changes. No disparity of principle is found. Understandably, those codes specific to a branch of psychology have much more detail on their topic area. The American Association of Sex Educators, Counsellors and Therapists has a code that is 3,500 words long and gives excellent coverage. It also makes a resolute point of the need for strong self-regulation rather than reliance on the strict letter of the code.

Registration board codes are shorter in many places as they have the national society codes as a point of reference. Indeed in some places, New Zealand for example, the code of the national psychological society is binding on those state registered to practice. In other places the code has only persuasive force.

A perusal of codes show some to be legalistic, others to be aspirational. Where they are legalistic, this writer at least sees them as being proscriptive; those which are brief and less legalistic are seen as aspirational. The length of codes may vary as a function of the absolute number of psychologists in the nation, the number of lawyers involved with the national society and the national tendency to monitor rigorously, rather than an inherent tendency to wickedness.

Interestingly, some codes are entitled "code of conduct", while others are called "code of ethics". Several codes make the distinction and have a code of ethics consisting of principles, and a code of conduct which prescribes and proscribes. Some societies make the distinction between an ethics committee and a disciplinary committee. A major function of the ethics committee is to consider and evolve the code, leaving the disciplinary committee to deal with cases. The major drawback of this system is that if the two committees are comprised of different people the benefits of the practical knowledge of cases may be less well appreciated. On the other hand it does leave the ethics committee free of time and case constraints.

Ethics as a stabilising force

There are several good reasons for being ethical. Among them are the need to protect the vulnerable, to enhance the reputation of the profession and to improve the quality of life. Behind these lie another less appreciated reason - to reduce the seeming capriciousness of the world. It is one of the marks of a professional that experts not only do things well but do them consistently well. One would think lowly of a surgeon who "lost" patients at random, of pilots who randomly damaged their aircraft five times in a hundred, teachers who capriciously traumatised their charges and food producers whose factories caused random bouts of salmonella poisoning. Conformance to ethical principles is one way of fostering stability.

Identifying ethical problems

There are at least four stages to helping in ethics: the first is to identify ethical problems; the second is to prevent such problems occurring; the third is to resolve ethical dilemmas when they arise; the fourth is to have policies for dealing with whistle-blowers. An apple for the teacher is a nice gesture, a crate of champagne for the examiner before marking is not. The guiding principle here is the value of the gift, the intent and the way in which such a gift might compromise professional objectivity (a neat definition of a conflict of interest).

Examples of practical problems

Ethics committees in educational research may be involved, in trying to decide whether or not a study is so poorly designed as to bring the proponent and the institution into disrepute. At one extreme a refusal could be construed to mean that the function of an ethics committee is to sit in judgement on research designs - which are not properly within its province. On the other hand it could be argued that badly designed studies are a matter of value judgement and reputation, and in that sense properly part of the ethics committee's function. In practice the decision seems to be intervention where the methodology is so blatantly flawed as to be a waste of participants' time or to bring the institution into disrepute. It is not the committee's function to decide (say) which psychological or educational test might be more appropriate where an expert has given his or her opinion.

Another problem is the boundary between keeping confidences and revealing where there is a perceived real danger. In the Tarasoff case in California a student informed his university therapist that he intended to kill Ms Tarasoff. The counsellor informed the police but not Ms Tarasoff. The California Supreme Court ruled that the university had a responsibility ("a duty to protect') to warn others of the student's potential violence. This is a prime example not only of needing to warn but also of needing to warn the potential victim.

Debriefing after events that may be traumatising is the subject of debate. The question "Are you alright?" is not sufficient - nor is it enough to have debriefing done by someone with no training, qualifications or professional interest.

A number of educational institutions are now allowing, and even encouraging, group projects for which marks are assigned on the basis of the group work rather than individual work. In such

groups it is possible for some members to be relatively passive recipients of the group mark, having contributed less than they should. This situation might be regarded as a form of plagiarism - something that is of vital concern when awarding individual marks. Group members may be protective of academic lame ducks and thus qualify the non-contributors for marks that they do not deserve.

Another problem in an educational setting is that of relations of teachers to former students. This is not quite the same client relationship that (say) a clinical psychologist has to client who has been in deep therapy for two years. It is understood that where the student is an adult, and there is no longer any formal relationship, that a personal relationship may develop. The student's vulnerability has diminished to negligible proportions, and the duty of care should consist in keeping professional confidences. It is not uncommon for supervisors and postgraduates to become colleagues and friends after graduation - and that is to be admired. However, the ethical canons of dignity, responsibility and equitability still apply, and may be breached by such relationships.

Educational and child psychologists work with other professionals in peer relationships, and here the operative word is "peer". Where someone is not formally trained or formally recognised the psychologist is enjoined not to behave as if the unqualified person were a peer. A psychologist would not, for instance, work with an aromatherapist as though the aromatherapist were as qualified and competent as someone properly trained and recognised. To do so would be tantamount to saying that training in educational psychology was worthless. For some esoteric callings the notion of formal recognition and long training is not present. There are no formal bodies to call miscreants to account and no code by which their operations may be judged.

Having guiding principles is helpful in preventing such problems. As has been noted, one of the points of codes is to capture the experience of cases and to express them in a form which is helpful, In this sense codes are consequentialist entities - and that is as it should be.

Resolving ethical dilemmas

When ethical dilemmas arise the first call is to attempt to resolve them informally to the modified satisfaction of the complainant and the subject complained about, and with reference to ethical canons. To this end a decision list is helpful, and consists of a series of questions or issues to be addressed. The first is to identify that the problem is an ethical (and not some other sort of) dilemma: if it is, one would want to know exactly what part of the code had been breached. With this established then the next questions are exactly who the complainant is, what the complaint is and against whom the complaint is being made. When that is clear the next stage is to collect evidence, statements and allegations.   A mediator is then in a position to do much good. For an elaboration of these issues see Francis (1999), and for an American point of view see Koocher & Keith-Spiegel (1991).

Experience with informal discussions between the two parties and a mediator has yielded some excellent solutions. The chairperson of an ethics committee, or some such person, could sit with the parties and clarify the situation and proffer solutions for consideration. The present writer has found that with this technique the majority of cases can be resolved to the agreement of both parties. Sitting informally around a coffee table, perhaps with a glass of sherry, works wonders.

Creative solutions often work not only because of their originality but also because they put forward potential solutions which neither party has canvassed. They do not therefore deal with positions which need to be defended. For example, one breach of confidence case involved an aggrieved client and a very experienced psychologist who had behaved incautiously. In the informal hearing the psychologist acknowledged that he had acted out of character, and very stupidly. The complainant was asked if a letter from the appropriate ethics committee rioting that the psychologist's action had been contrary to the code and ill advised, and that he had been foolish, would suffice. The client agreed: the complaint had been noted, action taken, a point made against the psychologist's record and honour satisfied, without destroying the psychologist's career.

Ethical gradualism

When confronted with an ethical dilemma the temptation is to look for the perfect solution. This chimera is rarely to be found. Given that it is difficult to find the perfect solution to a problem we could adopt the principle of finding the best solution that we can manage in the circumstances. In the face of the political and commercial imperatives that drive so many decisions, perhaps we might contemplate the adoption of "constant improvement". In dealing with a problem, we need to ask ourselves if the solution leaves the situation improved, and acts as a learning experience. For example, a consultation with a mother bringing a child for intelligence testing might reveal that the supposed problem was riot the child's intelligence but, rather, the psychiatrically disturbed mother,

There is no easy solution to such a problem, and it involves the question of who, exactly, is the client - child? Mother? Father? School principal? Teacher? In such circumstances there are additional problems such as the confidentiality of the report, the responsibility to notify if the disturbance is a danger to the child, and the rights of parents to determine the treatment and future of their children. In such a complicated situation the particular solution that is adopted will be largely determined by the interplay of legal obligation and the rights of the direct "client across the desk".

Whatever solution is adopted should at least conform to the canons of leaving the situation improved and of providing a learning experience. A minimal solution might be to report that there was nothing inherently wrong with the child's intelligence and leave it at that. Another might involve talking to the school principal, bearing in mind the psychologist's obligation to the child and to preserve confidentiality; yet another might involve talking to the mother and to the family GP. Whatever solution is adopted will be a compromise which takes into account a number of factors, each of which has some relevance. In making such decisions it is inevitable that different solutions will suggest themselves. The one question that we can always ask is, "Does the solution make the best compromise outcome, and does it leave the situation improved for each of the interested parties?"

A series of such problems, each solved by the gradual improvement method will, in the long run, probably bring about better ethics than aspirations to moral perfection. We need, however, to recognise that this idea could be used as a means of not trying harder: that is a risk to be taken and made known.

Suggestions

Ethics is seen as one of the major marks of a profession; as such it is worthy of the most serious attention. The seeming barriers to being ethical are easy to understand, and therefore potentially avoidable. Among the major considerations are those of being aspirationally oriented, or operating with goodwill, and being aware of the ready means of identifying, preventing, and resolving ethical dilemmas. Starting at the least confrontational end, the identification of an ethical problem should be to look for a solution that is informal, satisfactory to the parties involved, and adds something to the sum of ethical knowledge.

Where ethical issues are involved the first action should be remedial rather than punitive. It is the function of the law to set minimum standards, and to apply sanctions where such standards are breached. The prime function of ethics is to set aspirational standards and admire and reward where they are achieved.

Character is formed as much by circumstance as by reactions to it. Indeed, it is a good marker of personality to see how someone reacts to adversity. It would be a sorry circumstance if every generation were obliged to repeat the mistakes of the past. Arguably, it is one of the prime functions of codes of ethics to capture past experience, to find the underlying principle, and to express it in such a way as to guide future action. Thus the notion of keeping confidences, of being circumspect with the vulnerable and using special skills and knowledge in a constructive way all have an underpinning in the principle of fairness and equity. Where sanctions need to be applied it would be useful to have a graded scale ranging from an apology for a wrongfully brought case, through minor sanctions (such as a verbal warning), through more severe penalties (such as a formal reprimand), through to being struck off with ignominy The extreme end of that scale would be referral to the police on a criminal charge.

The overwhelming majority of our colleagues act in a properly ethical fashion, often having had ethical values inculcated informally. It is worthwhile considering how we might now move to more formal induction, being mindful of not making the process too rigid and rule bound, but seeing it is as an engaging and worthwhile function of our increasing professionalism.

One interesting consequence of the common international approaches to ethics is the fostering of international amity. Debates about what should go into a code provide a forum within which value systems may be debated in a rational framework and with the absence of rancour which might otherwise attend such debates. In this way we have the chance to both foster ethics and to promote international amity.

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