Perspectives on Applied Ethics

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Preface

Applied ethics is a growing, interdisciplinary field dealing with ethical problems in different areas of society. It includes for instance social and political ethics, computer ethics, medical ethics, bioethics, environmental ethics, business ethics, and it also relates to different forms of professional ethics.

From the perspective of ethics, applied ethics is a specialisation in one area of ethics. From the perspective of social practice applying ethics is to focus on ethical aspects and implications of that particular practice.

The Erasmus Mundus Masters Course in Applied Ethics is supported by the European Union. The programme is a collaboration between three European universities; Linköping University, The Centre for Applied Ethics, (Sweden), Utrecht University, the Ethics Institute, (The Netherlands), and the Norwegian University of Science and Technology, Department of Philosophy, Programme for Applied Ethics (Norway).

Each year, the programme starts with a common introduction for all students. During this introduction, the teachers present different perspectives on applied ethics. In this volume the introductions are published. They give a broad view of different aspects on applied ethics.

Göran Collste
Programme coordinator
In this lecture I will comment upon one of the texts that you have read for this introductory meeting, Paul van Tongeren’s “On the beginning of ethics”. I agree with many of the theses and observations in his article, but still I think there are some difficulties worthy considering. I will concentrate on them. The first one concerns the interpretation of the main question in his article.

A central statement in van Tongeren’s text is his proposal that there is a specific birth of ethics and that it took place in Book I of Plato’s Republic. He explicitly writes: ”Let us read the first book of Plato’s Republic, where the birth of ethics takes place, with all the labour and pains that go with it”(p. 40). And it is Socrates that brings about that birth when he “begins almost immediately with an ethical question: ‘What is justice really?’” (p.40).

Birth

How shall we understand this van Tongeren’s statement? Is it (1) a historical statement? And if so, shall we interpret it just (a) literally or shall we give it (b) a more loose interpretation, e.g. that the birth occurred in ancient Greece around 400 BC and that Socrates and Plato were involved? If we choose (a) we must decide whether we are talking about Socrates as a literary figure in the dialogue or about the historic person Socrates. Is it, then, the span of time when Plato wrote the dialogue about 375 - 370 BC that we shall suppose to be the date of the birth or, if we suppose that the conversation in the dialogue between Socrates and his friends really took place sometime, is it when this conversation occurred, which must have been at least some thirty years earlier? But, of course, we do not even know if there was such a conversation.
Even if it is obvious that van Tongeren want to connect the birth of ethics with Plato’s famous dialogue, it is also evident that he takes Socrates, the historic person, as the inventor of ethics. Therefore, I think it is fair to interpret his statement in a loose way, e.g. as (b) above, and, thus, avoid the problems just mentioned of interpreting literally. A birth of ethics in the classical period in Greece with Socrates as a main actor is also something that many historians and philosophers would agree on.¹

But perhaps van Tongeren’s main idea is not primarily to state a historical fact. In his text he takes a lot of pain to refer to conditions - historical, social and psychological - causing or contributing to a birth. Maybe his statement about the birth in the Republic rather should be taken as telling us when some necessary and sufficient conditions for a birth of ethics are fulfilled? Then his main idea perhaps would not be an exact dating of a birth of ethics, but instead (2) a statement that ethics is born (or can be born or must be born) whenever (and wherever) certain social conditions are the case. In his text he introduces us to some conditions of that kind. In my opinion such a thesis would be philosophically more interesting than the pure historical dating of a birth. His thesis would then be that, given some degree of uncertainty about how to behave towards one another, some degree of instability in society related to a mixture of cultures, etc, ethics may or must be borne. I guess that van Tongeren would choose the stronger statement, i.e. that ethics must be borne. He seems to suggest a kind of causal connection here.

However, I do not say that we have to choose between (1) and (2). It is easy to see that they can be combined and I think that that is what van Tongeren wants to do. But it is possible only if we choose (1) in the loose interpretation (b). Then (2) will tell us which the conditions for a birth are and (1) tells us when these conditions are fulfilled for the first time. If we choose (1) in the literally interpretation (a) the arguments must instead deal with texts and their relation to other texts and not with e.g. more general social conditions. Thus, (a) cannot be directly combined with (2). That is a second reason to choose (b) as what van Tongeren intended.

¹ Already Henry Sidgwick in his Outlines of the History of Ethics (1886) wrote: “Socrates is the main starting-point from which all subsequent lines of Greek ethical thought diverge: speculation on conduct before Socrates are, to our apprehension, merely a kind of prelude to the real performance” (p. xviii).
Ethics

Ethics shall be born. But what does van Tongeren mean by “ethics” here? He starts by talking about “the beginning of the philosophical discipline we now call ethics” (p. 35), but very soon it becomes clear that what he means is “ethical reflection” (p. 36ff). There was a period in history, in archaic times, when ethical reflection did not exist, he says. Yet, van Tongeren makes clear that he believes that also in these archaic times there were ethical opinions of a normative kind (p. 36). But they were, he supposes, connected to individuals’ places and roles in society and not to them as persons. Such was the situation before ethics was born. Thus, concrete normative statements not connected to persons, even if they use moral terms like “duty” or “right” are not taken to constitute ethics in his opinion. Ethics, in van Tongeren’s opinion, must be something more and also something else. Of course, one can argue that this is an unjustified restriction on the scope of “ethics”. But let us accept it without any discussion here.

What is, then, ethical reflection? I think we have to make a distinction between ‘ethical reflection’ meaning (1) reflection within ethics and (2) reflection about ethics. Reflection (1) within ethics will be an attempt to test and to give reasons for our normative moral convictions, to make clear the relations between our different ethical statements and to try to create coherence among them. Then our reflection tries to give us a credible morality and it helps us, in a more ‘intellectual’ way, to be aware of e.g. which our duties and rights are. Reflection (2) about ethics is what we call meta-ethics, where a main question is what we mean by the ethical terms or moral words. What is the meaning of ‘duty’ or ‘right’ or ‘morally good’? I do not find van Tongeren quite clear on whether he is talking about (1) or about (2) or, perhaps, of both, without making a distinction between them. However, the meta-ethical questions are explicitly formulated at several loci in his text, so it is obvious that we at least should be inquiring about the birth of meta-ethics. He says:

In such a period a need for ethical reflection is awakened because questions inevitably arise about what was previously taken for granted: *What is the real meaning of those concepts* we use to describe people’s moral qualities and on the basis of which we ascribe praise and blame? [my italics], (p.39).
Socrates’ question, that will give birth to ethics, is then put forward as “What is justice really?” Van Tongeren also states that Socrates is asking for “the definition of justice” (p. 40). Thus, meta-ethics must be included.

However, the argumentation is not only concerned with an uncertainty about the meaning of ethical words. While contrasting a more stable and static archaic period with a changing, socially uncertain and sceptical classical period, the uncertainty cannot be limited to the meta-ethical questions. I think the situation van Tongeren so vividly illustrates also, and perhaps more convincingly, shows us an uncertainty about how one should or ought to behave; not just what we mean by ‘duty’, but what actions are my real duties; not just what ‘good’ means, but also when e.g. a doctor is a doctor a good doctor, or what is required of a good doctor, etc.\(^2\) \textit{i.e.} important questions seem to be normative ones. Thus, even if van Tongeren explicitly is talking about (2), the meta-ethical questions, his argumentation also invites us to interpret ‘a birth of ethics’ also as a birth of reflection within ethics, a birth that means a search for the right way to behave and for reasons and explanations for why we should behave so and so, and for new and more well-argued answers to such questions. Of course, it is possible to argue that to settle questions connected with (1) we need first to take stand on questions concerning meaning, \textit{i.e.} (2). Socrates would certainly argue like that.\(^3\) Therefore the important thing to settle might be when people first seem to be aware of the meta-ethical questions (2). But if that argument also is van Tongeren’s, I cannot say.

**Argumentation**

According to van Tongeren we can divide ancient history in periods with fairly constant and general characteristics. We must emphasize that he is limiting his discussion to early Europe, leaving out \textit{e.g.} old Chinese or Indian cultures. He deals specially with two such periods, a classical period from 600 BC to 300 BC and an archaic period embracing some centuries preceding the classical period. In the archaic period

\(^2\) Cf p. 39, where van Tongeren is talking about a good doctor.

\(^3\) It is a central thought in Socrates’ argumentation, that before you can say something substantial about X, you must know what X is - and that can only be known by formulating an adequate definition.
“evaluation was still unproblematic” (p. 36), according to van Tongeren. “As a result of their age, sex, family and function, people had a fixed place within a society which was closed, static and transparent” (p.36). One cannot talk about persons in a more general way, he says. All rules of behaviour were connected to roles and positions in society. Society but also the rules were static and they were not questioned. As all valuation is related to roles, one cannot ask “what ‘goodness’, ‘virtue’ and ‘justice’ are in themselves” (p. 37). Thus, the stability of society and the connection of normative statements with roles and positions in society warrant that no questioning, no ethical reflection can occur in such a society. Therefore, in the archaic period there is no ethics and there is no need for one.

In the classical period the static society breaks up. “The gap between the archaic and the classical periods was caused by immense changes taking place in the domains of politics, economy and culture” (p. 38), van Tongeren says. Through wars and expanding trade people became aware of other cultures and other habits and systems of evaluation. We got a mixture between cultures. The old structure of society was undermined and there was no longer a stability in roles and positions in society. “Who was once a king might become a subject […]” (p. 38). As the roles are no longer fixed, it is natural - or perhaps also necessary - to notice and to concentrate on the person behind the different roles and also to start evaluating behaviour in a more general way. In the classical period “[n]othing is fixed; everything is uncertain. It will become clear that, in such a period, the meaning of normative concepts is also problematic”, van Tongeren states (p. 38). Thus people - and especially Socrates - start to inquire and to ask questions about the meaning of the moral concepts. According to van Tongeren that inquiry constitutes the beginning of ethics.

If we shall take his thesis as the pure historical one, I think the argument so far best supports the loose interpretation (b), saying that ethics was born in Greece during the classical period. (To connect it more directly to (a) and Plato’s text in the Republic is not easily done.) His argument also states that the cause of birth - I think the right concept here should be ‘cause’ - is the fundamental change in social conditions that occurred at that time in history.

If we take the argument to be a strict historical one, we must, of course, ask for the truth of the statements in the description. Is it true that there was such a fundamental contrast between the two periods? I
think we cannot be so sure about that. The characteristics of the long archaic period also seem to be problematic. Was archaic society really as static and role-centred as he supposes? The description may fit some small Greek city-state, e.g. Pylos or Mykenae, in the so called Homeric age, but we cannot take it as a characteristic of the whole period. It is in fact enough to read Homer’s texts to know that you even in these days could be a king one day and a slave the other. The knowledge of other states and their habits and moral evaluations was probably limited, but we must suppose it to be successively growing during the period as trade and commercial contacts developed. The period is also full of different wars, bringing states in contact with each other. It would be more true to history, I think, if we suppose a gradual development from one period into another and also a gradual change in stability, knowledge, habits and evaluations. But if that is a more true picture of history the argument about when the birth of ethics really happened will be weakened and even be made problematic.

However, it is evident that van Tongeren is aware that his description is not correct in details. Instead it is a kind of simplification and idealisation, he says. “[…] our sketch of the archaic period in these very broad terms is from the point of view of those who spoke about that period as ‘the good old days’ when people ‘knew what was what’, the period when everything that we ‘now’ experience as fleeting and uncertain was all so much more clear. […] Our description of the archaic period has succumbed to a Romantic idealization of the past” (p. 4).

van Tongeren’s argumentation is in many respects parallell to Alasdair MacIntyre’s in his second chapter of A Short History of Ethics (1966). MacIntyre is there focusing on the Homeric age with its heroes and kings and characterises that period as a period when moral statements were descriptive in content and also directly related to roles in society. Social changes later gave birth to ‘ethical reflection’. “Social changes had not only made certain types of conduct, once socially accepted, problematic, but had also rendered problematic the concepts which had defined the moral framework of an earlier world” (p. 5). MacIntyre also argues, as van Tongeren does, that the concept of personhood comes in later in history and that virtue, arete, changed from being connected to roles or functions to be connected to humans as persons. “For ‘arete’ now denotes not these qualities by means of which a particular function may be discharged, but certain human qualities which may be divorced from function altogether. A man’s ‘arete’ is now personal to himself; it has become far more like what modern writers think of as a moral quality” (p. 9). “For the idea of a single moral order has broken down. It has broken down partly because of the breakdown of formerly unified social forms” (p.10).
In a way this admittance might limit my criticism above. The description was not intended to be historically correct, as I supposed. But still, if it is not a true description, in what way can it be used to prove a historical statement about the birth of ethics? It seems as if van Tongeren’s admittance of this idealisation brings about an annulment of his text as an historic argumentation.5

Of course, this does not mean that the loose thesis (b), cannot be true. I think it is. There are reasons to believe that ethics, i.e. meta-ethics, first appeared in ancient Greece around 400 BC. The most important argument, in my opinion, is the purely empirical one, that we in fact do not know of any earlier explicit formulation of the meta-ethical questions. We know of a lot of other works and thoughts from even earlier (and thus pre-socratic) time in the Greek culture that could be called ‘ethical’ works - works of poets as Hesiod, works of the Pythagoreans - but they are not meta-ethical. But in Plato’s dialogues we find meta-ethical questions. Aristotle must also be considered as reliable when he tells us that Socrates asked for definitions of ethical concepts and was the first one to do that. In his Metaphysics he says:

Socrates, however, was busying himself about ethical matters and neglecting the world of nature as a whole but seeking the universal in these ethical matters, and fixed thought for the first time on definitions; (Aristotle, 987b, 1-4)

Far further in the same text he comes back to Socrates’ contributions, and again:

But when Socrates was occupying himself with the excellences of character, and in connexion with them became the first to raise the problem of universal definition (Aristotle,1078b, 17-20)

Thus, Aristotle believes in (b) and I think one should do that, but perhaps from other reasons than the ones van Tongeren puts forward.

However, there is an important truth in what van Tongeren says about the conditions for a birth of ethics, i.e. in what I named thesis (2) above. In a situation when we notice that other societies, cultures or countries

5 I believe that van Tongeren makes his idealisations in order to get the conditions for a birth of ethics to appear more evidently. If the contrast in circumstances between an earlier period without ethics and a later with ethics is sharp and clear, that will be a guide to what to believe about the causal conditions for a birth of ethics. That is true. But, if we idealise to get this sharpness, the argument loses its value as a history argument.
have other and differing systems of evaluating behaviour, it is natural
that we start asking why it is so and which system - if any - is the right
one. The same can be said about a situation when our own, perhaps so
far static and stable, society rapidly changes in habits and structure. What
we had taken for granted is not there any more. When we utter normative
statements in such a situation, it must be very natural to start asking our-
selves also what a normative statement really is and that we formulate
strict meta-ethical questions about the meaning of ethical terms, such as
‘right’ and ‘good’, etc? Yet, I would not say that we must formulate such
questions, but in a way it seems very natural that we do that.6 It might
certainly be the case that such conditions existed in Greece about 400
BC. That would contribute to the explanation of why there was a birth of
ethics. But, as I put forward above, it is also true that such conditions ex-
isted in archaic times, without any birth of ethics happening - at least as
far as we know. There are no early documents or other indications prov-
ing the existence of meta-ethical reflection. But in Plato’s texts we have
the meta-ethical questions explicitly formulated. To settle the historical
question, I think we have to rely on what can be showed by texts and
other historical sources. What may be stated is simply that we know of
no meta-ethics before the time of Socrates and Plato, neither in western
culture, nor in other cultures.

**Thrasymachus and relativism**

“The age is pregnant with ethical questions but a midwife is still
needed to help give birth to them” (p. 40), van Tongeren says, and that
midwife is supposed to be Socrates and the birth will occur in Book I
of Plato’s *Republic*. I have already pointed out that it is unclear how
such a statement should be interpreted. Are we talking about a discus-
sion that we believe once took place between historic persons or are we

6 The thesis (2) about the conditions for a birth of ethics is formulated for and used
on a social and collective level. But it might also be transformed to the individ-
ual level saying something about when a person starts (or have reason to start)
asking meta-ethical questions. When van Tongeren says “Ethics is born the
moment we recognize that we do not know the true answers to our question” (p.
44), I think it reasonable to interpret “moment” as a moment in an individual
life, and, as a consequence, “we” as any individual. That ‘ethics is born’ (in our
life), then seems to mean just that we as individuals have become aware of a
certain problem and have started asking questions.
talking about something happening in the text? If we just stick to texts, I think we can find ethical or meta-ethical questions earlier in the list of Plato’s dialogues. *e.g.* in *Gorgias* or *Protagoras*. - But let us leave these problems and look at what happens in Book I of the *Republic*.

According to van Tongeren there is a relativistic ‘threat’ to ethics, represented by the sophists and, in Plato’s text, especially by Thrasy-machus. The relativism van Tongeren associates with the sophists and Thrasy-machus is a (1) meta-ethical or semantic relativism, a relativism in the meaning of the ethical words or concepts. “More than anyone else, they [*i.e.* the sophists] were convinced that the meaning of the normative concepts was relative. Depending on the circumstances, people will have different opinions about what these concepts really mean” (p. 42). According to the more common form of relativism when discussing ethics it is instead (2) what is considered to be good or just or a duty, or what normative statements that are true or believed true, that is relative to circumstances, persons or cultures. Of course the sophists embraced (2) as well.

But it is important to distinguish between (1) and (2).

What I will question here is just a detail in the exegesis of Thrasy-machus’ argumentation in the *Republic*. Is he really defending a semantic relativism (1)? Even if his definition of justice *implies* a form of semantic relativism, Plato - and Socrates in the text - does not seem to take his definition to be a relativistic threat. In fact, the arguments do not deal with relativism at all. Thrasy-machus might believe in (2), and perhaps he thinks his definition of ‘justice’ will give a reasonable explanation of (2). But he is not stressing relativism in the meaning of justice.

His definition of ‘justice’, which he says is a “different and far better definition” (Plato, p. 64, *337d*) is formulated like this: “I define justice or right as what is in the interest of the stronger party” (Plato, p. 65, *338c*). The following argumentation shows his position:

Each ruling class makes laws that are in its own interest, a democracy democratic laws, a tyranny tyrannical ones and so on; and in making these laws they define as ‘right’ for their subjects what is in the interest of themselves, the rulers, and if anyone breaks their laws he is punished as a ‘wrongdoer’. That is what I mean when I say that ‘right’ is the same thing in all states, namely the interest of the established ruling class, and this ruling class is the ‘strongest’ element in each state, and so if we argue correctly we see that ‘right’ is always the same, the interest of the strongest party (Plato, p.66, *338e-339a*).
What Thrasymachus is saying is that the meaning of ‘justice’ or ‘right’ is “the same thing in all states” and “is always the same” [my italics], but as those who are the strongest party (the reference) vary from one state to another, you also get a variation in what things or actions or institutions are considered as just or right. I think Thrasymachus would say that he had discovered the “true” definition and that his definition could be used to explain why there is a relativism on the normative level. I think he also had the opinion that we all in our hearts know that this is the true meaning, but that we are a little ashamed of letting our conviction be expressed in words. Thrasymachus himself has no such troubles. What Socrates then argues against is not a semantic relativism, but the suggestion that Thrasymachus’ definition should be taken as the true one. By showing that Thrasymachus position involves different contradictions and false presuppositions (besides being disgusting), Socrates concludes that the definition must be dismissed. I think one can distinguish six different arguments against Thrasymachos in the text, but no one concerns relativism (Plato, p. 66-86, 339c-354c).

However, I agree that if we use Thrasymachus’ definition and substitute the names of different persons or groups for “the stronger party”, we will get different “sub-definitions” with different meanings, and, in a way, also a form of semantic relativism. That is true. But that is not discussed in the Republic. Still, of course relativism, semantic or normative, is a kind of threat to ethics.

**Relativism and traditionalism**

There is also another threat to ethics and that is, according to van Tongeren, “the strategy of restorative traditionalism”, which will correspond to the situation in the archaic period, when people did not formulate any meta-ethical questions. This strategy involves “that the answer [i.e. to an meta-ethical question, my remark] is pregiven, that we only need to listen to the authorities and follow them obediently” (p. 44), while the relativistic strategy “says that there is no true answer, so that we can ourselves determine which answer we would like to prevail”(p. 44). But both these are threats to ethics.

I think that what van Tongeren says about these threats to ethics also tells us something more about what ethics in his opinion is. So far we have identified it with ethical reflection, and more precisely with meta-
ethical reflection. The ‘reflection’ part is here important. For van Tongeren, as I interpret his text, ethics and reflection also stands for an activity. It is something we do. We inquire into the meaning of ethical concepts. We ask questions and we try to answer them. The threats from the traditionalist and the relativistic strategy then consist in rendering this reflection as an activity meaningless. Why should we bother if the answers are given already and besides self-evident? Why should we bother if there is no answer to find? But let us more in detail speculate about what the two strategies would involve.

The traditionalist strategy (TS) seems to state:

(i) there are true and definitive answers to meta-ethical questions
(ii) there is a method to achieve knowledge of these answers
(iii) we know the method (e.g. “Ask the authorities!”)
(iv) the authorities know the answers and we also know them through the authorities

The relativistic strategy (RS) seems to state:

(i) there are no true and definitive answers to meta-ethical questions
(ii) the existing answers (that cannot be said to be true) are relative to situations, persons or cultures
(iii) we know of no method to establish a true answer
(iv) there is no such method (as there are no true answers)

Maybe I have tried to draw out too much from van Tongeren’s rather brief formulations. But, let us suppose that the two strategies are correctly characterized and that they have this content. Ethics - ethical reflection - is threatened by both. I think he means that TS and RS are extremes and should not be regarded as forms of ethics. Ethics must stay somewhere ‘in between’. But which components from TS and RS could be characteristics also of ethics and which ones must be rejected, if ethics also would be a meaningful activity?

If ethical reflection should be meaningful to us, we must, I think, believe that there are true answers to get. We shall, thus, accept TS (i). It is also reasonable that we accept TS (ii), saying that there is a method for achieving the answers. If there is not, how could we inquire? But either we do not know this method yet or, if we believe we know it, it has
not yet given us any definitive answer. Therefore, concerning TS (iii) no strict opinion is required for a meaningful activity, but TS (iv), that states that we already know the answers, must, of course, be denied. As ‘ethics’ accepts (or presupposes) TS (i) and TS (ii), RS (i) and RS (iv) must be denied. RS (iii) again, is open. RS (ii) can be accepted, at least if we primarily interpret it as a statement saying that all existing solutions so far are in error.

Ethics, then, is a search “for a true answer to a pressing question” and it starts with a rejection of “merely apparent knowledge” (p. 44) and a recognition that we do not know yet, van Tongeren says. However, the stress upon the activity component in ‘ethical reflection’ has at least one a little puzzling consequence. What happens if our inquiry leads us to an answer which we have all reasons to believe to be true? That would mean the end of our inquiry. Then, to go on inquiring would not be meaningful. Thus, a successful inquiry will put ethics or ethical reflection to an end. This is also van Tongeren’s opinion. About the discussion in the Republic he says:

[…] for although Socrates poses the question of justice, we shall see that his interlocutors immediately try to give an answer which would be definitive. And were they to succeed in this, the question would never again have to be asked and there would be no place for ethical reflection. Ethics would come into the world stillborn, only to be re-buried once more (p. 40).

I agree that this will be the consequence if we stress the activity component of ethics or ethical reflection. But are there really reasons for doing that? Isn’t the activity just a kind of means to reach the things we are interested in and the things that are important in meta-ethics? A convincing answer may put an end to the activity, but does it also bring ethics to nothing? From a ‘commonsensical’ point of view the idea that a successful ethical inquiry will put an end to ethics appears almost as a contradiction. Instead it seems very natural to say that true and definitive answers to the meta-ethical questions (if we could get them) must be important parts of a ‘surviving’ ethics or ethical reflection. Maybe that is a weak argument, but I think it shows that it cannot be correct to emphasize the activity component of ethics and leave out things more connected to the content of meta-ethics. To avoid the absurd consequence it would be better, I think, to stress ethics as a product of a certain reflective activity. But if so, that means that we must again go back
to the fundamental questions about the meaning of ‘ethics’ and ‘ethical reflection’.

It is evident that Socrates’ interlocutors in Book I did not succeed in finding true and definitive answers. Many so-called ‘socratic’ and early dialogues of Plato end with just an *aporia* - a difficulty, and a ‘we do not know’. The conceptual questions that these dialogues focus on are left unanswered. But how is it in the *Republic*? Do we get any true answers? In the discussion in Book I we are still without an answer. That is true. If ethics was born there, it is still living at the end of that book. But what if we involve the other books of the *Republic*? The *Republic* is not an ordinary socratic dialogue, where Socrates puts questions, examines different answers and rejects them all. Socrates’ role here is not limited in that way. Instead we really get an answer to the conceptual question. It is a complex answer and it is given step by step. Socrates’ idea is that we can better understand the moral concepts if we apply them at a macro level to a state. Then, by analogy we can understand how to apply them to individuals. Socrates answer in the *Republic* is that justice is a certain harmony (or balance) that takes place in a state or in an individual when the parts (of the state, *i.e.* the classes, and of the self, the soul, *i.e.* human abilities, capacities) fulfil their proper and given role. - How shall we now understand what has happened? Has Socrates given birth to ethics, just to put it to death, immediately and by himself.? Obviously this must be the consequence if we accept a definition of ‘ethics’ emphasizing activity. We do in fact get an answer. Or can we perhaps say that ethics is still living if we, *the readers* of Plato’s text, do not fully accept Socrates’ answer?

I will not try to answer that question. It is evident that to decide we will have to start with the understanding of ‘ethics’ and ‘ethical reflection’ once again. To take our own reflection back to these basic concepts might also be a good start for our further studies of ethics in the Masters Course.

References


In this introduction to applied and professional ethics I will in the first part address the following questions:

1. What is applied ethics?
2. When and why did applied ethics appear?
3. How do we do applied ethics?

In the second part I will introduce professional ethics. What is professional ethics and how can one distinguish professional ethics from applied ethics? I will argue that the moral content of professional ethics is a result of professional relations. I will also argue that professional ethics can be understood as a kind of virtue ethics.

**Applied ethics**

Morality is a natural feature of human life. Human beings are social beings engaged in social interactions. As human beings we can not avoid making judgements about what is right and wrong, what one should do and what is valuable. We engage in ethics when we start to reflect on our moral judgements and actions; why is this right? What is the reason for this act? Can it be justified? Hence, ethics is the reflection on morality or - one might say - the theory of morality.

We act in different capacities and roles and, hence, moral judgements and actions are made in different social contexts such as health care, politics, work and school. In health care moral issues are related to life and death and the well-being of humans: Should we by any means retain life-saving measures? Should we introduce screening for
genetic diseases? In politics judgements often concern value conflicts; the decision maker must choose an alternative that might promote one or the other value: equality, liberty, well-fare etc. Applied ethics is the art – or science – of reflecting on moral dilemmas and moral problems in different social contexts. One of the most influential philosophers in the field of applied ethics, James Childress defines applied ethics as follows:

> The terms “applied ethics” and “practical ethics” are used interchangeable to indicate the application of ethics to special arenas of human activity, such as business, politics and medicine, and to particular problems, such as abortions. (Childress, 1986)

The number of “special arenas” has constantly increased, and, hence, applied ethics is an expanding field. Medicine was a starting point. It was followed by politics and business. Now more and more human activities are assessed from an ethical point of view: farming, animal breeding, technology etc. Lately I even came across a research project in “space ethics”! Hence, applied ethics has since the 1970th developed as a discipline with numerous sub-disciplines: medical ethics, animal ethics, environmental ethics, business ethics, research ethics, technology and ethics, ICT-ethics, politics and ethics, etc, each with its own conferences, journals and academic associations.

However, one phrase in Childress’ definition should make us cautious. What does he mean when he says that applied ethics indicates “…the application of ethics to special arenas of human activity”? The expression mirrors perhaps a simplified, deductive view of applied ethics. The view that applied ethics is just an application of ethical theory to practical problems has been questioned by many authors. In contrast, they stress that applied ethics implies interplay between theory and practice, between experience and reflection and between intuitions and principles. (Winkler and Coombs, 1993, Beauchamp, 2003)

**When and why did applied ethics appear?**

In a famous expression philosopher Stephen Toulmin said that “Medicine saved the life of ethics”. In the 1960s ethics was in decline. Most moral philosophers worked with conceptual and epistemological questions. Not many were engaged in normative ethics and even fewer bothered to analyse moral problems in the real world. As a conse-
quence academic ethics was by many considered as one of those peculiar philosophical subjects. In the beginning of the 1970s the situation changed. Medicine saved the life of ethics; there appeared new and acute moral problems in medicine that had no ready-to-hand answers. Ethicists were wanted!

The rise of applied ethics had many reasons. Let me mention three:

During the 20th century the Western world had experienced a period of secularisation. Fewer and fewer people attended the church services and fewer and fewer people asked for moral advice from the Church. In the words of sociologist Max Weber there was a change from "moral heteronomy" when moral answers were provided by an authority, often the Church, to "moral autonomy" when the individual him/herself had to formulate an answer. And this development took place at a time when in medicine, as well as in other social arenas, new and difficult moral problems arose: should there be limits to pre-natal diagnostics? Should euthanasia be allowed? How to manage new genetic possibilities like stem cell research and human cloning?

A second, complementary explanation for the rise of applied ethics relates to new moral problems facing the society due to new technical possibilities. For example: in neo-natal intensive care the possibilities to save very early born babies increased continuously. But in many cases the babies were saved to a short and handicapped life. Where should the doctor draw a borderline? When should a baby be saved and when let die? Another example from another area: through the development of computer technology it became possible to store more and more information, including information about individuals. However, this development may threaten a right to privacy. How should the need for information be balanced against the protection of privacy?

The problems mentioned are examples of what in ICT-ethics (Information and Communication Ethics) have been called "policy vacuums": we do not know how to handle the new situations and we lack moral and legal concepts and principles to deal with them. Thus, the rise of applied ethics can be explained by a need to fill policy vacuums.

Developments in social science and humanities often mirror social change. At the end of the 1960s and the beginning of the 1970s the student movement and the New Left challenged the established society. There were heated discussions over topics such as the Vietnam War, social injustices, poverty in the third world, inequality between men and women and the maltreatment of animals. Many philosophers were
engaged in the discussions. From this perspective, the rise of applied ethics can be seen as a philosophical response to a new social situation.

Let me illustrate the rise of applied ethics in the 1970s with three books published during the decade. They can still be considered as the three most important works in the modern history of applied ethics.

The first book is John Rawls’s *A Theory of Justice*, published in 1971. *A Theory of Justice* is a comprehensive and theoretical investigation of the meaning and justification of justice. Partly in opposition to utilitarianism, Rawls argues for a neo-Kantian contract theory and ends up with two principles of justice that, according to Rawls, incorporate the meaning of justice. Furthermore, Rawls develops a method for justification of moral beliefs, called “reflective equilibrium”, that is still the most influential in the field. With the publication of *A Theory of Justice*, the discussion of justice became a key issue in applied ethics and it has remained so ever since. The commentaries and critiques of Rawls’s theory number thousands.

The second contribution to applied ethics I will refer to is Peter Singer’s book *Practical Ethics*, published in 1979. In *Practical Ethics* Singer discusses a number of topical moral issues from a utilitarian perspective. Among the issues discussed is war, poverty, abortion, euthanasia, treatment of animals etc. Singer argues in a compelling way and he does not hesitate to draw radical and often also contra-intuitive conclusions. Singer’s critique of the principle of human dignity led to heated controversies and he was even banned from speaking publicly in Germany.

The third book is a contribution to medical ethics that is considered as the modern classic in the field. One of the authors, Tom Beauchamp is a utilitarian philosopher, while the other, James Childress, belongs to the Kantian tradition. One aim with the book *Principles of Biomedical Ethics*, first published in 1977, was to construct ethical principles at a medium level acceptable for people belonging to different moral traditions, religious backgrounds and philosophies. Beauchamp and Childress proposed the following four principles as basis for moral decision making in medicine: the principle of non-maleficence, the principle of beneficence,

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1 Here one could also have mentioned Singer’s book Animal Liberation, appearing two years earlier, but Practical Ethics covers a wider spectrum of issues and has – I would argue - played a greater role. Besides, a chapter in Practical Ethics deals with the questions elaborated in Animal Liberation.
the principle of respect for autonomy and the principle of justice. Other authors have suggested that these four principles also might apply to other areas in applied ethics, like research ethics, business ethics etc.

Common to these three works in applied ethics is that each of them in a profound way has influenced the discussion in applied ethics. They can thus be labelled “the classics” in applied ethics.

What was new?
The turn to applied ethics took place in the 1970s and 80s. The turn implied that many philosophers changed their focus. Moral philosophers were traditionally engaged in analysing moral semantics and other issues in meta-ethics. Now, more and more philosophers worked with moral problems in society. However, the turn to applied ethics was not a turn away from issues in meta-ethics. The discussion about methods in applied ethics and theories of justification has been lively and different alternatives has been suggested; “principlism”, specificism, case-based theories (casuistics) and Rawls’s theory of reflective equilibrium.

The turn to applied ethics was a turn from descriptive ethics to normative ethics. Many mid - 20th century philosophers believed that works in ethics, as a philosophical discipline, should be restricted to describing and analysing doctrines and theories. It was not appropriate for academic philosophers to engage in normative argumentation. For example, in his inaugural lecture in 1911 the Swedish philosophers Axel Hägerström emphasised that “Moral philosophy should not be a subject in morality but a subject about morality” (Hägerström, 1966). Both Rawls and Singer took a different position: according to their views it is for ethicists both possible and honourable to take a stand – what is important is that one has good arguments!

However, one may still question if the turn to applied ethics in reality was something new. Brenda Almond argues that “…the inception of applied philosophy /including applied ethics/ coincides with that of the Western philosophical tradition as a whole” (Almond, 2000, p.13). She mentions the pre-Socratic philosopher Thales (c.585 B.C.) as a pioneer in the field of ethics and economics! Other examples of important contributions to the history of applied ethics are works of Plato and Aristotle, philosophers who among other things worked in the area of ethics and politics (for example, Plato: *The Republic*, Aristotle: *Politics*).
Later philosophers engaged in applied ethics include Immanuel Kant, John Locke and John Stuart Mill, all of them inspiring authors for present-day ethicists.

Applied ethics also has its roots in theological ethics. As one classical example one can mention Augustine’s (5th Century) and Aquinas’s (13th Century) theory of a just war. The conditions they set up for a war to be just, for example that it must be fought with right intentions, waged by a legitimate authority and to redress a wrong suffered are still highly relevant in the present discussion on just war. Furthermore, ethicists in both the Catholic and the Protestant tradition were among the first to engage in medical ethics. (See for example; Ramsey, 1970, Häring, 1974)

**How?**

How, then, do we carry out applied ethics? What methods are used? These questions have many answers and the methodological discussion in applied ethics is intense. I will illustrate the discussion with a much-discussed issue in recent bioethics; the question how to deal with very early born babies, so called neonates (Bermudez, 1996, Reblagiat, 2000).

Advances in perinatal medicine have dramatically improved neonatal survival in every industrialised country. It is now possible to save babies born in the 23rd to 24th week of pregnancy. However, a great number of the babies who survive through “aggressive” treatment will have different kinds of persistent handicaps as a result of their early birth. Is it anyway legitimate, or maybe even a moral duty, to save them?

When facing this kind of dilemma there are different ways to come to a decision. Let me mention two extremes. One can in line with the traditional practices of the medical profession let the doctor decide. He or she has earlier experience of this kind of dilemma and has acquired a moral sensitivity and intuition that will help him or her to make a decision. The doctor decides with reference to praxis and earlier similar cases.

Another way to come to a decision is through applying a moral principle to the case in question. For example, a utilitarian philosopher can reason in the following way. When making moral decisions, one should choose the alternative action that, compared with other alternatives, will increase the amount of pleasure and/or decrease the amount of pain in
the world. Thus, in applied ethics one shall always and only act in accordance with the principle of utility. Let us assume that in this particular case it is obvious that the life of the neonate will produce more pain than pleasure. Thus, the correct moral solution is to let it die. The decision is based on an application of a - supposedly valid - moral principle.

There are good reasons for both these methods of decision-making. The first method, the one used by the doctor, is anchored in medical practice. The doctor is here led by *phronesis*, to use Aristotle’s concept. Through experience, personal as well as experience acquired through a tradition of professional practice, the doctor has acquired a skill to find the right solution after a careful examination of the specific case. This kind of decision is sometimes called “intuitive”, but intuition is perhaps too vague a concept. Let us instead use the concept “considered judgement” to emphasise the fact that this kind of judgement is not the bare result of an accidental emotion.

However, there are problems connected with this method for ethical decision making. In the case of perinatal treatment, the praxis between different doctors and different clinics varies. This is a very clear result of the EURONIC –studies (European Study on Parent’s Information and Ethical Decision Making in Neonatal Intensive Care Units). Some doctors believe that they should use all technical means available in order to rescue the child. Others think that in some cases, non-treatment and even a more active intervention through administering drugs with the purpose of ending the neonate’s life are the better alternatives. (Rebagliato, et al, 2000) Who is right? When questioned, for example by an ethics committee with a commission to formulate some rules for this kind of decision, the doctor will not have so much to say. He or she can refer to his/her own intuition and practice, but not much more.

The advantage with the second method, i.e. the philosopher’s way of coming to a decision, is that, when questioned, he or she can point to some well-argued principles in defence of a decision. The utilitarian principle has a firm place in Western moral thinking and is then, presumably, well founded. However, when applied to the decision in the specific case of saving or not saving a neonate, it is made at a distance and unrelated to the specifics of the particular case. It is, to use Ronald Dworkin’s concept, philosophy made “from the outside in” (Dworkin, 1993).

Now, what shall we do if the decision made by the doctor comes into conflict with the decision formulated by the philosopher? We can not
do both - which decision is more reasonable? When raising this question we can relate our discussion to the method of reflective equilibrium (RE). (Rawls 1971, Daniels, 1996).

Moral problem solving has to take different aspects of a case into consideration and it often implies work at different levels of abstraction. Thus, it is central for the method of reflective equilibrium to relate different aspects of an ethical problem in order to achieve a fuller understanding of a case. In this way, RE is by nature inclusive. In the case just mentioned, the RE approach would - so to say - be to invite both the doctor and the philosopher to the process of finding a solution. The presupposition is then that both the doctor’s considered judgement and the moral principles referred to by the philosophers are relevant inputs!

RE is a method for applied ethics, but a method for doing what? Is it a method for structuring argumentation in applied ethics, for decision making or perhaps a method for justification? The answer is that it is a method used for all these tasks, although one may choose to use it only for one or the other. When RE is used as a method for structuring argumentation the point is to identify and relate different relevant aspects of a case. The moral intuitionist would – in the case of the neonates - say that the intuition of the doctor is the only relevant aspect for decision-making. The moral principlist, on the other hand, would say that application of a principle is the only relevant procedure. From the point of view of RE, both contextual intuitions at the particular level and moral principles are relevant.

When using RE as a method for structuring ethical debates, one asks for all the relevant aspects of a case. What moral considerations are then relevant in the case of the neonates? So far we have two proposals. One is the doctor’s considered judgement, the other the principle of utility. However, we can easily identify more relevant moral considerations. The parents’ views are one. To take the parents’ views into consideration would be in line with the principle of autonomy. There are also other moral principles than the principle of utility and the principle of autonomy that are candidates: while one alternative action is to let the baby die, or even actively kill it, the principle of human dignity seems – at least prima facie - to be relevant. Of course, one also has to know the facts of the case – but not any facts. In our example, it is important to know the prognosis for survival of the neonate, as well as the prognosis for persistent injuries. How, then, can we decide what facts are relevant? The relevant moral intuitions and moral principles deter-
mine this. For example, the eye colour of the baby is not relevant because there are no moral implications of that fact, while the possible persistent injuries are relevant for anyone who sees human suffering as a relevant aspect of normative ethics.

So far, we have discussed RE as a method for structuring ethical argumentation and ethical discussions. Let us now use it as a method for decision-making. We have to decide what to do with the neonate. When facing this moral dilemma it is obviously a difficult task to come to a decision. The involved persons, i.e. the doctors, nurses, parents etc may have different moral intuitions. There is also more than one moral principle that is, prima facie, relevant. Besides the principle of utility, emphasising the relevance of the possibility of the neonate’s suffering, the principle of autonomy would stress the parents’ right to influence and the principle of human dignity would, at least according to one common interpretation, say that human life is inviolable and, thus, that there is a moral obligation to save the life of the neonate. When using the RE-method, the task so far is to identify all the relevant aspects and put them on the table.

The next step is to come to a decision. A possible way to proceed is the following. Let us assume that according to the doctor’s considered judgement the neonate should be saved. This view is presumably based on the experience of earlier similar situations when injured patients have been treated although their future lives would contain suffering. This judgement coheres with the principle of human dignity (at least when interpreted that human life is inviolable). On the other hand, saving the neonate will perhaps come into conflict with the principle of utility. Let us, then, go back to the case and look a little closer to the situation. We assume that in this particular case, it becomes clear that the neonate will not survive more than a couple of months. Further, she will live this short life partly unconscious, and with a lot of suffering. Would it not then be a relief for her if we let her die? Yes, one could say, in this particular case the doctor’s intuition led astray and should be corrected by the principle of utility. But what about the principle of human dignity, does not that still forbid this alternative? Well, maybe in this case, in line with Henry Richardson’s suggestion, we should specify this principle (Richardson, 2000). The specified principle of human dignity then reads: “Human life is inviolable (and thus there is a moral obligation to save it) except when what remains of it is a short period of severe suffering.” And so it goes. The reflective process goes back and forth, from the par-
ticular intuitions to the moral principles and back again etc. Finally, a standpoint when modified principles and considered judgements coincide, for instance in a specified principle, is hopefully achieved. The process of reflective equilibrium has come to an end.

We have come to a decision, but is it justified? Yes, if all morally relevant aspects are considered, all affected persons involved are listened to and their views are taken into account, i.e. the RE is intersubjective, and no new aspect is added that would upset the equilibrium, we consider the decision justified. (Reuzel et al, 2001) This is a kind of provisional justification but perhaps this is the best we can achieve in a plural society.

**Should the ethicist give moral guidance?**

The case of the neonate raises also another important question in applied ethics. Should the ethicist provide an answer and recommend a decision or should he or she only provide information about, for example, methods for decision making, relevant ethical principles and previous decisions on similar cases? Different ethicists answer this question differently. According to the above mentioned Peter Singer, there are no restrictions for the ethicist against arguing for particular positions in applied ethics provided one has good arguments. Hence, Singer himself argues vigorously for liberal immigration policies, for generous aid to poor countries, against hunting etc. (Singer, 1977, 1979)

A less normative position is advocated by Ronald Dworkin. According to Dworkin, under the methodological programme of “philosophy from the inside out”, the primary task of the ethicist is to listen to conflicting views, to interpret and even reconstruct them in order to find out their ethical substance and to clarify if, and in that case how, they are related. According to Dworkin’s view, the ethicist’s role is rather one of an interpreter and moderator than a judge. (Dworkin, 1993)

**Professional ethics**

Professional ethics emanates from moral reflection in work. There is a connection between applied ethics and professional ethics. One might even say that professional ethics mirrors applied ethics. Professional ethics of for example doctors, nurses and occupational therapists has its
counterpart in medical and health care ethics, a branch of applied ethics. Professional ethics of businessmen has its counterpart in business ethics etc. However, there is also an important difference between professional ethics and applied ethics. Professional ethics has its basis in the practice of a profession while applied ethics primarily is an academic endeavour.

Professional ethics is the ethics of professional life or the ethics of work. Work can be defined as activity resulting in products or services done for payment. What is then the difference between professional work and non-professional work? The following distinguishing criteria of professions are often mentioned:

1) education
2) importance in services provided
3) professional degree
4) professional association
5) autonomy of work
6) ethical code

From an ethical point of view, in particular the fifth criterion, autonomy, is important. For example, work on an assembly line is not autonomous but instead decided by another person, i.e. a manager or an engineer. The worker him- or herself lacks autonomy. Hence, he or she rarely makes any decisions or confronts ethical dilemmas in work. In contrast, a doctor may during a working day take many decisions about diagnosis and treatments that are important for the life and well-being of the patients.

However, one can overemphasise the distinction between professional and non-professional work. In respect to autonomy the differences between professional and non-professional work are diminishing in modern work life. On the one hand, more and more jobs are professionalized according to the above criteria. For example, due to modernisation and advanced technology higher education is nowadays needed for many so called blue-collar jobs. On the other hand, there is a parallel development towards less autonomy for traditional professions. For example, health care policies and regulations more and more restrict the autonomy of doctors in public health care.

What is then the moral content of professional ethics? First, there are moral norms and duties that are common to all or at least to most differ-
ent occupations. These can be divided according to a professional’s relations:

1) Relations to people dependent on professional work and service. These relations include for example relations between teacher and pupil, doctor and patient, salesmen and customer and they generate professional moral norms like honesty, trustworthiness, care and safety.

2) Relations to workmates. Almost all employees have workmates and colleagues. The relation between workmates generates professional moral norms of loyalty and solidarity.

3) Relations to employers. Much professional work is done as employment regulated by a contract. A professional stands in a relation to an employer. Even these relations generate moral norms, for example of loyalty and confidentiality.

Thus, different kinds of professional relations generate different moral norms. These norms provide a basic moral framework of a profession. However, they are valid prima facie. If the professional moral norms comes into conflict with other moral norms, for example with common morality, they may be overridden. One example of this kind of conflict of norms: Assume a lawyer who has a special obligation to defend his or her client. Her client is accused of preparation for murder. However, the evidence is not waterproof and the lawyer has a chance to get the accused free. At the same time, the lawyer is convinced that if the accused person is set free, he will realise his plans. How shall the lawyer act? Should she by all means try to get the client free?

There might also be conflicts between norms generated by the relation to an employer and external moral norms. An example: An engineer finds out that her company in secret is dumping waste in a neighbouring lake. Should she inform the authorities even at the cost of being accused of not being loyal to the employer?

These kinds of conflicts between professional norms and ordinary morality may be more or less difficult to solve. In this situation it is helpful to have a professional organisation to consult, assuming of course that the professional organisation has a conscious ethical profile. Parallel to an increased interest in professional ethics, more and more
professional organisations have formulated their professional codes of ethics. The oldest and most well known professional code is the Hippocratic Code for doctors from the 4th Century B.C. It states e.g. that

“I, the doctor, will prescribe regimens for the good of my patients according to my ability and my judgement and never do harm to anyone.”

The Hippocratic Oath is still the basis for doctors’ professional ethics, although some of the content is changed.

A professional code of ethics normally contains two parts. In one part, often an introduction, the common goal of the profession is stated. For example, the code of ethics of the Swedish Association of Engineers begins with the following statement:

“The duty of the engineer is to improve technology and technical knowledge towards more efficient use of resources without detrimental effects”.

A second part contains rules for behaviour. As an example, I will take the Swedish Code of Ethics for Occupational Therapists. Occupational therapists work “…to improve the capability of patients to live a worthwhile life in accordance with their wishes and needs and in relation to the demands of society.” Hence, rules how to relate to patients are in the forefront. A paragraph dealing with patient relations states:

**“Patients/clients”**

The patient/client is entitled to be *treated with respect*, which means that:

- The therapist shall respect the right of the patient/client to a private life.
- The therapist shall obtain such information only as is necessary for the treatment.

The patient/client is entitled to *make his own decisions*, which implies that:

- The therapist bases the measures on the wishes and needs of the patient/client.
The therapist endeavours to draw out the wishes and needs of the patient/client in those cases where the patient’s/client’s own capacity to express them is reduced.

The therapist shall provide information on alternative occupational therapy measures, their purpose and expected benefits.

The therapist only initiates measures with the expressed permission of the patient/client.

The therapist gives the patient/client the information necessary to make decisions by regularly providing information about the object of the measures, the methods, the patient’s/client’s contribution, the consequences for the patient’s/client’s other conditions and his/her expected benefit from the treatment.

The patient/client is entitled to confidentiality, which means that:

- The therapist shall comply with statutory obligations (secrecy) and use information about the patient/client with discretion so that the patient/client does not suffer harm and his rights are not violated in any way.
- The therapist shall not disclose information provided, except in so far as is statutorily provided otherwise.”

We notice that the code specifies how the principles of respect, autonomy and privacy can be applied to the practice of an occupational therapist.

What, then, is the purpose and function of a professional ethical code? A code of ethics for professions might have the following functions. First, it can help and guide professionals facing difficult moral decisions. Secondly, it is a reference for those professionals who want to act fairly. When finding that a colleague is acting in a morally wrong way, a code of ethics is a point of reference. Thirdly, a code can improve the professional ethical standard. That presumes however that there is an on-going discussion about the code.

**Professional ethics as virtue ethics**

Professional ethics is developed within a community of professionals. For older and established professions, professional ethics is the result
of a tradition of moral thinking. What are the characteristics of a “good” doctor or a “good lawyer”? This question is often discussed within professional ethics. From this angle, professional ethics can be described as a kind of virtue ethics.

Philosopher Alasdair MacIntyre has developed a theory of virtue ethics. The concept of virtue presupposes a human practice and “internal goods”. The internal goods are those goods that are constitutive of the practice. MacIntyre defines practice in the following way:

“By practice I am going to mean any coherent and complex form of socially established cooperative human activity through which goals internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended.” (MacIntyre, 1982, p.187)

Let us now apply MacIntyre’s concepts to professional ethics. A profession is a kind of “practice”. Accordingly, there are standards of excellences and internal goods that are definitive of a profession. In his or her work, a professional aims at realising these standards and goods. They are also giving legitimacy to a particular profession while they answer the question: what is the point or aim of the profession? For example, what is the point of engineering? Engineers could – in line with the above mentioned code of ethics - answer: the aim of engineering is “…to improve technology and technical knowledge towards more efficient use of resources without detrimental effects”.

It is partly a cognitive process to learn the standards and goods of a particular profession. However, it is not sufficient to know about them. The professional has to acquire them. They should become an integrated part of his or her character. Acquired traits of character are called virtues. According to MacIntyre,

A virtue is an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods. (ibid, p. 191)

Hence, in accordance with our application of MacIntyre’s concepts to professional ethics, professional virtues are those virtues that are necessary in order to realise the standards and goods of a profession. The “good” or virtuous professional is the one who has the capacity as well
as the desire to live up to the standards in order to make the right decision in problematic moral situations. This capacity is acquired through reflective practice.

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Introduction

On September 11th 2001 the Twin Towers in New York were attacked by terrorists. Osama bin Laden and Islamic fundamentalists were held responsible for the act. Was this a morally right or wrong act, and why? The terrorists appeared to be proud of eventually having demonstrated that they were able to revenge what they conceived as wrongdoing by the US towards the Moslem world. On some accounts this act was considered legitimate because they were proud. This is the rationale underlying the concept of justified war. On a different account, however, this act is judged as wrong because the performers were proud: it was considered to be even worse than an “average” murder. Who is right and who is wrong, and how should we reason about it?

In the opinion of Osama bin Laden the world trade centre (Twin Towers) and Pentagon are symbols of American sovereignty, and hence these targets become legitimate targets for attack. On this view the terrorist action was supposed to be a reaction against US’ war against Islam. If we try to look at this argument in favour of legitimating this action there might be two candidates for an answer: (i) the act was legitimate because it will reduce the capability of the US to fight Islam. (ii) The act was legitimate because it will undermine US morale to continue the war. Both of these answers make an appeal to the consequences of the act, and the legitimacy partly depends upon whether the consequences come through.

The two opposing answers in the example just presented demonstrate a problem about moral relativism: An action is right for someone if it is justified by reasons that are available to the person. The problem is, however, that moral relativism endorses both Osama bin Laden and also those who profoundly disagree with terrorist actions. This problem gives
rise to paradoxes as it allows for opposite views of the same action. For some actions the result of relativism is that they are both ethically right and ethically wrong. This holds for many actions that are both condemned and defended today, although not by the same individuals or groups. Some relevant examples are female mutilation, abortion, euthanasia, discrimination of women and homosexuals, and ‘payback spearing’ among Australian aboriginals. As an example, someone who is found guilty of murder is speared in the leg as part of the punishment. In Australia this practice has been partly accepted, and offenders have on several occasions been sentenced to shorter sentences because of the likelihood of being speared upon returning to their communities.¹ On a relativist account we would have to conclude that this form of punishment is legitimate because we may appeal to reasons that are available to those who are involved. One obvious problem is, however, that certain morally important aspects are not taken into considerations – for instance that some people rather argue that there ought to be one law for everyone, and also the judgment that corporal punishment is barbaric, and hence it is not in compliance with modern law that requires equal treatment in equal cases. All that relativism can offer is the answer that right or wrong is relative, in the case of payback spearing: relative to culture. Why is this answer not satisfactory?

According to relative standards of justice we get a plurality of different standards of justice. The opposite position, holding that there ought to be one standard of justice, makes an appeal to one standard of justice. As an example, let’s consider a revenging murder. The first position, i.e. the relativist position excuses “my culture made me do it”, whereas the absolutist position, in appealing to one common standard of justice for all, blames “my culture made me do it”.

**Two further questions about relativism**

There are two different aspects to take into consideration about relativism. On the one hand, there is the question of truth and falsity. This concerns the intellectual or meta-intellectual dimension. A different aspect has to do with implications of relativism for morality, i.e., questions of right and wrong. Such questions are moral, or normative. This distinction among relativist questions indicates another important distinction to be

¹ The example is drawn from Neil (2002), p. 7.
made, at least at an analytical level: should we just understand others, or should we additionally also judge them? Does multiculturalism and moral relativism imply each other? The underlying question is then whether our understanding of others (individuals, cultures) without judging would imply respect for plurality, and hence, whether judging implies that we illegitimately impose our own standards on others?

Part of the problem is due to the quality of the values in question. Unlike questions about for instance outside temperature, there is no absolute measure to make a reference to. No independent standard is available when it comes to normative questions. Rather than being independent, the reference is dependent upon context. The further problem is then that the standards that we refer to in the case of relative standards are not themselves justified. Let us have a look at the following definition of moral relativism:

(a) Moral claims are true only relative to some standard of framework.
(b) This standard of framework is not itself uniquely justified.²

Is this a coherent position?

The answer depends on whether we regard (a) and (b) to be epistemic or moral claims. If they are considered epistemologically the question is about truth or falsity, and thus, it becomes incoherent: One cannot consistently argue that it is true that moral claims are true only relative to some standard of framework, and simultaneously hold that my particular standard is true, since it is not uniquely justified. In other words, (a) does not accept an exception for me. On the other hand, if we consider the two statements above as a definition of moral relativism, we may argue that no moral claim is absolutely true, but nevertheless it is true that (a).

Moral relativism and value pluralism

Part of the problem about moral relativism is the envisaging of a normative position that is exempted from moral judgment. This is the case if we believe that we can coherently understand without judging, for

instance practices that many people strongly disapprove of, like female mutilation or women being banned from education or employment outside the home, or ethnic cleansing. Rather than taking a relativist stance we could argue in favour of value pluralism. According to the latter, we could conclude in the following way:

- Conflicting goods might both be valuable.
- We should recognise and respect other cultures.
- Recognition requires substantive judgment and not only formal or epistemic judgment.

As an example of value pluralism, we could consistently hold both that “community cohesion matters morally” which is more true of many Eastern societies than of Western, and at the same time hold that “individual freedom matters morally” which comes closer to Western ideology than to Eastern ideology.3

According to this interpretation of value pluralism we do not have to commit ourselves to moral relativism. While undertaking a substantial judgment we thereby show respect for those with whom we disagree, by being willing to get into argumentation with them. The examples of contested practices mentioned above are objectionable from a human rights perspective, and it can hardly be argued that we show respect for the plurality of opinions if we just leave such examples unquestioned. The relativist solution would be to leave it exactly there, making an appeal to the claim that moral judgments are only relative to some standard of framework. The important and difficult question to be treated is whether or not it would be legitimate to interfere with such condemnable practices. If we choose not to interfere even if we strongly condemn human rights abuses, it is tantamount to stating that these acts are right because they are permissible on moral standards of the people who perform them. This position is hard to defend in a world where we are continuously reminded that conflicting norms are not only relative to particular cultures; rather, it is the case that conflicting norms and moral conflicts are equally prevailing within just as well as between cultures. This is essential to the question whether non-interference demonstrates recognition and respect.

3 I owe this example to Neil (2002), chapter 8.
Above it is indicated that interference is associated with substantial judgment as opposed to merely formal judgment, and hence it also demonstrates involvement with the individuals or culture in question. Non-interference is closer linked to a policy of neutrality which should not necessarily be identified with recognition and respect.

Positive and negative tolerance

One obvious dilemma regarding tolerance is on the one hand that intervention is accused of brutally imposing our own standards on others, whereas non-intervention, on the other hand, may be accused of giving support to brutal practices. When abstaining from substantive judgment it is easy to claim that non-intervention is the best suited strategy for showing respect. In the following we shall argue that it is hard to find a justification of relativism conceived as formal judgment of differences in the name of tolerance.

Part of the debate on intervention and non-intervention is related to the topic of group rights. The opposing views on this issue has much to do with different judgments of tolerance. According to Adeno Addis, tolerance requires that we engage in the other, the alien, as opposed to merely tolerating by leaving her alone.4 His concept of tolerance is closely related to Isaiah Berlin’s concept of positive freedom.5 The difference between positive and negative freedom is expressed in the following:

[N]egative freedom is freedom from external obstruction, for example from state intervention or that of others … Positive freedom is often interpreted not as freedom from obstructions, but as freedom to form one’s own life, individually or collectively.6

Addis introduces the concept of pluralistic solidarity when he discusses positive tolerance. In his own words:

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5 Berlin (1969).
And to treat those forms of life with respect means to engage them, not simply to tolerate them as strange and alien.\textsuperscript{7}

Whereas Addis and Taylor emphasise the importance of substantive judgment and positive freedom and tolerance in multicultural conflicts, Chandran Kukathas rather defends negative tolerance in such cases. According to him, a main point is that there is a need for many authorities in multicultural societies, and he looks upon all standpoints as part of the domain of public reason. In his own words:

\begin{quote}
[W]hy should regarding toleration as the key to the liberal commitment to free discussion and criticism of all standards and judgments, lead to toleration being accorded any independent value in circumscribing relations with nonliberal minorities?\textsuperscript{8}
\end{quote}

Behind this utterance lies a criticism of Western liberal conception of tolerance which is closely linked to a concept of reason. In his view, tolerance is important independently of whether it contributes to reason. His example of reference is to groups that seek to withdraw from communication with others, like the Amish and the Hutterites. Those who want to withdraw from modern societies represent alternative views within the domain of public reason, on his account. On this ground he defends a principle of non-intervention towards illiberal groups. Addis, on the other hand, argues against Kukathas that such a concept of tolerance runs the risk that minority groups are being reduced to private organisations. For this reason he argues that secession or political divorce does not reflect tolerance.\textsuperscript{9}

From the arguments presented above we will now return to the question whether there is a possible justification of relativism in the name of tolerance. Since relativism tends to be based on formal (non-substantive) attribution of value to particular norms, it follows that it goes well along with a negative concept of tolerance. A thicker concept of tolerance, like the one rooted in Addis above, does not appear to be consistent with relativism, as it requires a judgment of the substantive content of the norm in question.

\textsuperscript{7} Addis (1997), p. 121.
\textsuperscript{8} Kukathas (1997), p. 80.
\textsuperscript{9} Addis (1997).
Import-attributing feelings

Problems about the concept of negative freedom which are closely related to negative tolerance are discussed by Charles Taylor, as well. He emphasises the importance of recognition of and respect for cultural diversity in his discussion of strong evaluations and import-attributing feelings. The main idea is that some feelings are important to questions of who we are, whereas others are not. Following this argument further, it implies that some kinds of intervention make a difference whereas others do not. The distinction between traffic light regulations and lack of freedom of religion can serve as examples: Most people do not feel infringed upon by traffic lights that prevent them from moving around completely freely, whereas many people, although not all, feel that they are hindered in some important respect if they are not allowed exercising their religion freely. The reason why is because the latter concerns import-attributing feelings. One very important point of this argument is the diversity of import-attributing feelings that cannot be captured in a negative concept of tolerance, nor by a merely making formal judgment of the differences, as the relativist does. Relativism tends to be based on formal attribution of value to particular norms. The immediate problem is, however, that attribution of particular significance to particular values cannot be performed \textit{a priori}, that is independent of engagement with substantive judgment of the value in question.

According to Taylor, different ethnic affiliations are expressed by attributing particular importance to the differences. The following example demonstrates the point just discussed above. The example is about two Indian brothers who go through various changes in import-attributing feelings due to migration. One of them changes and becomes more conventional than he was before migration (from India to Norway); whereas the other strongly underestimates the importance of traditional roots and refers to himself as a cosmopolitan. They both want to be recognised and respected on the basis of conflicting strong evaluations and import-attributing feelings. Traditionally based identity is important to one, but not to the other.

How could the relativist possibly show equal respect to both brothers in the example just presented? If one does not attach importance to relig-

\begin{itemize}
\end{itemize}
ions and ethnic affiliation, one does not respect the fact that religion and ethnicity concerns differences in import-attributing feelings. In other words, respect for different ethnic affiliations is expressed by attributing particular importance to the differences. But in order to avoid someone being discriminated against because of a particular ethnic affiliation, the differences must have equal meaning attributed to them. As our example clearly demonstrates, such a conclusion would be absurd, and not compliant with the experience that the Indian brothers in the example bear witness to: a particular ethnic affiliation has an import-attributing value only to one of them. Consequently, it turns out to be a genuine dilemma to recognise ethnic differences with equal respect, through an *a priori* attribution of equal significance to the differences.

Ethnicity and religion are often held to be the paramount values when import-attributing feelings are discussed. Contrary to this, Thomas Pogge rejects the claim that ethnicity is to be more basic than other types of criteria for affiliation and identification, and claims that precisely the freedom to choose what affiliation is the most important, must be respected. 12 People with claustrophobia, who therefore cannot travel on the underground, or fat people who cannot be elected as members of parliament because the chairs are too small, should in principle be able to demand special treatment in the form of tax exemption, and generally as compensation for involuntary inconveniences they may endure. 13 The example is meant to show that the reasoning for awarding group rights does not necessarily put ethnicity in a class by its own. From a liberal, Rawlsian notion of justice Pogge argues that equal treatment of different groups implies that ethnicity should not be attributed a greater significance than many other affiliations and identifications that people may have. I think the above reflections clearly demonstrate that we can hardly decide *a priori* exactly what values might be import-attributing. In order to show respect for cultural differences we need in the first place to know how people themselves assign significance to particular values.

12 Pogge (1997).
Recognition and equal respect

The principle of equal respect for differences is discussed by Charles Taylor.\textsuperscript{14} It implies that both equality and difference are (politically) recognised within the public domain. On the one hand, recognition interpreted as equal respect comes to mean “politics of equal respect”; while on the other hand it comes to mean “politics of difference”. The latter includes both an identical basket of rights and unique identity of the individual or group.\textsuperscript{15} In other words, equal respect demands both equal and different treatment of others. A main point in Taylor’s argument is that the demand for equal recognition ought to extend beyond an acknowledgment of equal value for all humans potentially (which would be the Kantian notion of equality), and also include the equal value of what humans have made of this equal potential. To respect the universal potential for forming and defining identity, is to acknowledge the possibility that two different cultures – say the European and the Zulu – have the same potential for culture formation, but the actual culture of one of them might still be less valuable than the other.\textsuperscript{16} Taylor criticises the utterance “When the Zulu produce a Tolstoy we will read him”, not primarily because it reflects European arrogance, but because it is morally mistaken about the principle of human equality. The main error of this utterance is not a particular mistake in evolution, but a denial of a fundamental principle.\textsuperscript{17}

The principle of equal respect requires recognition of the particular differences. Every culture contributes to worth in different ways, according to Taylor, and thereby become worthy of recognition. In assigning equal worth to every culture we might ignore this difference. As a result, we implicitly invoke our standard to judge other cultures, and thereby make everyone the same. But, as Taylor says:

\begin{quote}
If all cultures have made a contribution to worth, it cannot be that these are identical, or even embody the same kind of worth. To expect this would be vastly to underestimate the differences.\textsuperscript{18}
\end{quote}

\textsuperscript{14} Taylor (1992).
\textsuperscript{15} Taylor (1992), p.30
\textsuperscript{16} Thorseth (1999), p. 36.
\textsuperscript{17} Taylor (1992), p. 42.
\textsuperscript{18} Taylor (1992), p. 71, footnote 41.
This argument supports the criticism that has been brought forth above about moral relativism. What Taylor here tries to establish is that the differences are just as important as the similarities between individuals and cultures when it comes to questions on recognition and equal respect. In Taylor’s thinking this perspective is part of his theory of identity formation conceived of as profoundly dialogically constituted and developed.

**From moral relativism to value pluralism**

In the above we have criticised moral relativism, not because it is necessarily incoherent, but rather because it does not pay attention to the particular differences that are important for recognition of particular identities and cultures. We have also criticised the lack of common standards for judging between different cultures. A position opposite to relativism could be absolutism, holding that one overarching moral standard should be applied. A third alternative is value pluralism that recognises the differences, but still makes an appeal to some moral claims that are non-relativistically true:

[Value pluralism] does not advocate respect for all moralities, no matter what, but places constraints on what counts as a moral system worthy of such respect. It therefore leaves open the possibility that we will be able to condemn some moral systems … when the values they enshrine are not in fact real goods. … There is the real possibility that any particular morality could … turn out not to be worthy of respect. [If … it is worthy of recognition, our recognition will be substantive, and not purely formal.]

One of his examples of a moral claim that is non-relativistically true is: “Individual freedom matters morally” since it would be compatible with both Asian collectivism and Western individualism.

Some people, like Neil above, have argued that this form of value pluralism might be conceived as a kind of moral relativism. In order not to confuse relativism with pluralism, I would rather recommend that pluralism be reserved for a position that does apply some non-relativistic standard of substantive judgment.

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As we can see from the above, both Taylor and Neil defend pluralism on partly the same ground, in particular in distinguishing between formal and substantive judgment. I think this is the important point that we ought to pay attention to. In a world of cultural and multicultural conflicts we need to be able to distinguish between morally acceptable and morally unacceptable behaviour and moral systems.

Concluding remarks

In conclusion, we will point out the main points in the argument above:

(i) Putting all values on the same par shows disrespect for the differences, and it undermines value pluralism.

(ii) Attributing significance to particular values is a dialogical enterprise that cannot be purely formal.

(iii) Hence, value pluralism requires substantive judgment of the differences.

The standard by which we make moral judgments is not only substantive as opposed to purely formal. Additionally we also need a standard for criticising norms and practices that we find intolerable and dehumanising. Different solutions have been suggested, among them, some common standard of rationality that applies in particular to the public domain. John Rawls is an exponent of this solution, especially by his concept of ‘the veil of ignorance’, behind which people rationally choose the institutions that neither advantages nor disadvantages anyone.22 An obvious problem about such a solution is that it is deeply rooted in Western standards of rationality, among others, due to the strong weight that is put on individual autonomy. In many Eastern countries collectivism is embraced to a large extent, and it is conceived as partly incompatible with Western individualism.23 Charles Taylor’s position can be seen as a solution to the problem of reconciling differences among ethical systems:

The crucial idea is that people can bond not in spite of but because of difference. They can sense, that is, that their lives are narrower and less full alone than in association with each other. In this sense, the differ-

22 Rawls (1971).
23 Madsen and Strong (2003).
ence defines a complementarity. This does not preclude criticism of moral systems, instead, it requires, for the criticism to be valid, that it is predicted on a broad understanding of what the practices mean in their context.

If we view pluralism in light of Taylor’s politics of recognition, where identity is seen as fundamentally dialogically established and developed, any recognition will be dependent upon the dialogues that constitute the different identities. Following this line of thought, we may now see that judgments of others at the same time concern the person who undertakes the judgment, as long as we do not deny a relationship with those we are judging. This way of reasoning is also reflected in Stanley Cavell’s understanding of how we could criticise for instance the institution of slavery without dehumanising. In Stanley Cavell’s words:

[W]hat[a man who sees certain others as slaves] is missing is not something about slaves exactly and not exactly about human beings. He is missing something about himself, or rather something about his connection with these people, his internal relation with them, so to speak.

The important point to draw from this, and which is also consistent with the remaining arguments above, is that value pluralism requires admission of a relationship with the others in relation to whom we define our identity. What is at stake is not so much how we judge different others, but rather how we could allow others to see us. Value pluralism is then envisaged as a system where the most important enterprise would be to gain recognition of oneself.

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Moral Principles and Justification in Applied Ethics

Marcel Verweij

Introduction

It is not uncommon for people who engage in practical moral discussions to appeal to moral principles to argue for their point of view. This holds for ethicists working in practical contexts as well as for professionals who have had some training in ethics. Apparently, particular moral judgments are considered to be more reliable if they can be backed up by a more general (if not universal) moral principle. This assumption may not seem very controversial at first sight, but recent debates in moral philosophy and applied ethics have questioned the apparent status or authority of moral principles for moral deliberation. Hence it makes sense to explore in more detail what it means to ‘appeal to a moral principle’ and whether and why it may be a sensible way to argue for a point of view. In this chapter I aim to do that by exploring the roles of principles in moral theory and practice and by discussing some major critiques of principles in (applied) ethics. I will argue for a modest role of appeals to moral principles in practical ethical deliberation. Principles – and, for that matter, moral theory, should neither be considered as primarily a decision procedure or tests for our particular moral judgments, nor should they be seen as justificatory ‘devices’ for such judgments. Yet they may fulfil important roles in ethical theory and practical moral enquiry.

In a recent paper in the Journal of Medical Ethics, Christopher Cowley (2005) argues that the dominant conception of health care ethics, Beauchamp and Childress’s principlist approach, is at best pointless and at worst dangerous for the practice of medical ethics. Cowley’s argument in a way goes beyond principlism as such – his general accusation is that appeals to a moral principle or theory may offer bioethics a
more ‘scientific’ character that is completely inappropriate. Appeals to principles or moral theories like consequentialism do not provide what people expect them to do: to clarify moral problems and justify moral beliefs. Moreover, the danger is that students will understand principles to be ‘bodies of knowledge’ that need to be learned in their professional education, just like the basic principles of immunology need to be learned in medical school. Knowing the theory and the principles is an important element of being an expert. The technical language of bioethics is however not obviously superior to the moral vocabulary which students have acquired during childhood, adolescence, and early adulthood. Given that students and professionals will not easily abandon the vocabulary that partly constituted their moral education, a wedge may arise between on the one hand the ethical concepts (principles) they learn to use in practice, and which use suggest some form of expertise, and on the other hand, the common sense moral views that in fact do drive their ethical behaviour. Moreover, appealing to the technical language of principles undermines moral responsibility:

“...the jargon of medical ethics alienates the decision from the decision maker. As long as he follows the Four Principles recipe and solves the problem, he can go home and sleep well.”

Much of Cowley’s critique is plausible, and it certainly makes sense for teachers in (bio)ethics to present and discuss a much richer concept of practical ethics than just a set of principles. One of the authors criticised by Cowley is Raanon Gillon, a prominent defender of principilism, who states that anyone can use the four principles to “explain and justify, alone or in combination, all the substantive and universalisable claims of medical ethics and probably of ethics more generally” (Gillon, 2003). This claim is not just overly optimistic, but, more importantly, misplaced given the assumptions about what a principle or a moral theory can ‘do’: to justify our judgments and to guide moral decision-making. Yet Cowley seems to presuppose something similar in his critique of the ‘spurious technocratic jargon’ of ethics:

“There are no better examples of such jargon than ‘consequentialism’, ‘deontology’, and the ‘Four Principles’. At best, they cannot do the work they were designed to do, and at worst, they can lead student and practitioner into ignoring their own healthy ethical intuitions and vocabulary.” (Cowley, 2005).
If we assume that moral principles and ethical theory are primarily ‘designed’ to solve problems, guide decision making and justify our moral judgments, then all the problems which Cowley sketches are real. However, I don’t think we should accept that assumption, and it may be worthwhile to reflect more in detail on the roles of principles in ethical reflection. To conceive moral theories and principles as ‘problem solvers’, or anyway devices that can do some decision-making supportive or justificatory work is a misunderstanding of theory and principles in the first place. Let us start with one example of an appeal to principles.

A problem case and threefold critique of principles

A serious moral problem in research ethics is how cancer patients can or should be recruited for phase-1 pharmaceutical studies. The aim of such trials is to study the toxicology of increasing doses of mostly cytostatic drugs, in order to find the maximum dose (that is supposed to have most effect) that is still tolerable for the patient. This is an essential step in the development of new potentially effective drugs in oncology. Research subjects in this context are often terminally ill cancer patients, for whom there is no curative treatment left. One of the moral problems in this area is that many patients will volunteer to participate, because they see the experimental treatment as their last possibility for a cure. The chances however that they will benefit, are extremely small, and anyway, the aim of the study is not to give patients the best possible treatment, but to find the maximum tolerable dose is of a toxic drug. Obviously this means that the burdens of treatment can be severe. Is it justified to ask patients who are terminally ill, to enter in this study?

One possible response would be to argue that including such patients in the trial is justified if they are well-informed about the aim of the study and about the risks and benefits of the study, and if they do want to participate. The judgement “We should ask these patients whether they want to participate” may then be supported by invoking the principle of respect for autonomy, which is normally considered to be the justificatory basis for informed consent (Beauchamp & Faden, 1986; Beauchamp & Childress, 2001).¹ The appeal to this principle may suggest that there is a strong basis for asking consent, but few bioethicists (or medical practitioners for that matter) would accept that this is sufficient to conclude

¹ For a different rationale for informed consent, see O’Neill (2003).
and close further ethical deliberation. The insufficiency of appealing to principles can be explained in terms of a number of critiques of moral principles that have been raised more generally.

A first common critique is that principles are much too general or abstract to provide either practical guidance in moral decision-making, or offer a direct justification for particular judgments. Principles need to be applied to cases, and such application will raise a lot of questions about the content and scope of the principle. For example, it is not obvious at all what ‘respect autonomy’ would involve in a case like this. Disclosing information about possible interventions may often be a prerequisite of respect for autonomy, and obtaining consent may fit well in this picture. Yet, in a case like this, a terminally patient might experience the request to participate to a study on a new, potentially effective drug, ‘an offer she cannot refuse’. It is not a priori clear whether consent in such circumstances is to be considered as autonomous choice. Hence, there is a large gap between the abstract principle of respect for autonomy and the particular judgement that this patient must be informed about the possibility to participate in a trial. Ethical analysis and moral judgment are required to fill that gap, and to make clear whether respect for autonomy indeed does support such a conclusion.

Second, invoking the principle of respect for autonomy cannot settle the matter because other considerations, including other principles, may equally apply, and point to other directions. Hence, unless we assume a moral theory in which all principles and reasons can be reduced to one most fundamental moral consideration, we still need to make moral judgments in which conflicting considerations are weighed. In the case at hand: other health care professionals may appeal to the principle of non-maleficence, and explain that participation in a phase-1 trial will lead to burdensome side-effects and amount to further suffering for patients who are terminally ill. Again, this appeal to a principle raises more questions than it does ‘solve’. The issues are empirical and moral: Will participation always result in a further decline of quality of life? How are the burdens of the experiment to be weighed against the energy some patients derive from ‘doing whatever they can to fight the disease’? But also questions arise about how considerations of well-being and harm (as contained in the principles of beneficence or non-maleficence) relate to considerations of autonomy: Shouldn’t physicians defer to a patient’s own assessment of risks and benefits of participation in research? Or should physicians only request a patient to
participate if they have come to prior assessment that the risks and burdens are acceptable? If we assume that bioethics cannot be reduced to one principle, but that several independent moral considerations can apply, then we must accept that invoking a principle can only be a small step in the process of moral deliberation.

Third, even disregarding the problem that principles are much too general to offer practical guidance, and the problem of conflicts between various principles, it remains questionable what is gained at all by appealing to a principle. The assumption seems to be that moral judgments are more trustworthy if they can be supported by a principle. Or that we need to invoke a principle to justify and anchor otherwise free-floating moral judgments. The trustworthiness of principles in moral justification will be the topic of the second part of this chapter. Before I will go into that, it makes sense to offer some more clarification about what principles are, and this may also help to respond to the first two critiques.

### Moral principles and moral theory

Mark Timmons (2002) defines moral principles as very general moral statements that specify conditions under which an action is right or wrong. Not all general moral considerations are immediately considered as principles. Some additional features can be put forward to distinguish principles from other considerations (Verweij 1998). First, principles are requirements of strong binding force; they imply obligations that must be fulfilled. In this sense, principles can be distinguished from moral ideals: principles specify what is right and wrong, whereas ideals indicate what sort of actions and practices are admirable; they point out directions for improvement of current practices. The strong binding force of moral principles does not necessarily imply that all principles must be absolute – leaving no room for exceptions. Most authors who defend a pluralist moral theory will reject the idea that the basic principles of their will be absolute; in cases of conflict the correct moral choice might imply that one principle is overruled by another.

Second, principles are normally universal in form, and hence go beyond what is required for a particular person in particular circumstances. This is obviously a feature that explains the attraction of appealing to a principle: if someone can support her point of view by appealing to a universal moral principle, then apparently she is not just
presenting her own point of view, but something that goes beyond the personal and the particular.

Third, principles are in some sense *fundamental*. The fundamental nature of moral principles can be understood in different ways. One sense is that fundamental considerations cannot be reduced to some other concept. For example, some will argue that that considerations of autonomy cannot be reduced to considerations of welfare – whereas welfarists will hold that all moral considerations can be reduced to concerns about welfare. But often this non-reducibility will also have implications for moral status and justification: it may imply that a fundamental principle serves as the basis or foundation of many other (less basic) moral beliefs.2

In some moral theories, this last feature is more prominent than in others. For utilitarians, the principle of utility *is* indeed fundamental in this foundational sense. Other considerations can only derive their justification from applying the principle of utility. Something similar – though much less directly – holds for the Categorical Imperative in Kant’s theory, which provides the normative foundation for his system of duties to others and to oneself. ‘Foundational’ principles can also co-exist in a *pluralist* theory, such as Ross’s intuitionism. Ross (1930) distinguishes seven fundamental moral principles, which we intuitively can see as justified. The principles cannot be reduced to each other, hence they are independent concepts, but they also provide the basis for further (less fundamental) moral beliefs.

In their *Principles of Biomedical Ethics*, Beauchamp and Childress partly depend on Ross’s theory (notably the pluralism, and the *prima facie* character of basic duties). In previous editions of their book, they did not see the principles as fundamental considerations, but as *mid-level* moral considerations between particular judgments and general moral theories. Beauchamp and Childress argued that their principles can be justified on the basis of different normative, e.g. consequentialist and non-consequentialist, theories. In the last edition however, they

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2 These features of ‘principles’ are all more or less formal; that is, accepting such features does not necessarily commit one to a specific normative or meta-ethical theory. In a previous paper on moral principles (Verweij 1997) I also mentioned a fourth feature, namely that principles can be seen as summarising ‘our own moral experience together with that of a whole community’ (Heeger 1992). This feature does imply a coherentist meta-ethical account of the relationship between ethical theory and morality, and therefore I do not adopt it in this general discussion.
left the idea that the principles are on a mid-level between theory and practical judgments, but emphasise that the four principles express central values of common morality.

Although most theories will aim at specifying a small number of basic moral concepts, other theories may give room for a large range of principles. Scanlon’s contractualism (1998) is an interesting example. Scanlon’s theory is an account of moral wrongness: that is, he sees his theory primarily as a philosophical enquiry into the nature of morality (Scanlon 1992). Yet the theory also has clear normative implications. Morality, according to Scanlon, involves the justification of our actions to other persons. Treating others as rational beings involves treating them in ways they cannot reasonably reject. There are no a priori principles that specify which acts are morally justified and which are not, but we can, as it were, construct or find such principles if we reflect on what we owe to each other. Scanlon’s theory allows for the possibility that several different sets of principles cannot be reasonably rejected, which indicates, that, in his view, moral principles may not be fundamental in the most strict sense, that is, they do not provide for the groundwork of all other moral judgments.

The practical and theoretical aims of moral principles

It may be clear by now that, in different theories, moral principles have a different place and status. Therefore, if one is aiming to support (or criticise) practical moral judgments by appealing to a principle, one should at least have an idea in what sort of theory the principle is embedded. The normative theoretical framework in which the principles are embedded will have implications for the extent to which principles can be “used” to guide moral decision making. Mark Timmons distinguishes two aims for normative theory: a theoretical aim and a practical aim. The practical aim is

“…to discover a decision procedure that can be used to guide correct moral reasoning about matters of moral concern.” (Timmons, 2002, p. 3)

The main theoretical aim is, on the other hand

“... to discover those underlying features of actions, persons, and other items of moral evaluation that make them right or wrong, good or bad.” (Timmons, 2003, p. 4).
By fulfilling this aim, a moral theory expresses the underlying *unity* behind the diversity of moral phenomena. Principles thus do not just provide for a foundation for a broad range of moral beliefs, but also ‘hold these together’ (Verweij, 1997).

It may seem to be ideal if moral principles can fulfill both aims, theoretical and practical, at once. Most utilitarians would argue that the principle of utility indeed does accomplish such a dual aim. Utilitarianism explains what makes right actions right: their tendency to promote utility. Utilitarianism also provides for a decision procedure for moral deliberation: the principle of utility implies that one should compare various alternatives for action, explore the consequences of all options, and choose for the action that maximises utility.

However, many critics (and even some proponents) of utilitarianism doubt whether the principle of utility can or should fulfill the role as a decision making procedure for moral deliberation. More general, many moral philosophers will deny that any moral principle that satisfies the theoretical aim, must also satisfy the practical aim of normative theory. Hence, although a moral principle may help us to understand what makes certain actions wrong (e.g. we know that a physician should not treat a competent patient without consent, but why would that be so?), it may not be very helpful to determine how one should act in a complex situation – especially not when several initial moral beliefs may conflict (e.g. should terminally ill cancer patients be included in a phase-1 trial?). It is questionable, for example, whether Kant’s categorical imperative is to be considered as a decision procedure for moral deliberation in moral dilemmas. Kant’s *Grundlegung zur Metaphysik der Sitten* is first of all an attempt to provide for a normative foundation for our common sense moral views.

To what extent can we expect moral theories to guide us in practical deliberation in complex dilemmas? In his discussion of various moral theories, Timmons argues that the strongest interpretation of most theories, including Kantian theory, utilitarianism, and natural law theory, would lead to some form of what he calls *limited moral pluralism* (Timmons, 2002, p. 267). Such a theory would (like in Ross, or Beauchamp and Childress) entail a number of moral rules or principles, specifying basic moral duties, but the theory will only provide limited guidance for how to deal with conflicts of duties. Hence, one cannot determine correct moral judgment in a problem case, simply by applying such a theory.
As a provisional conclusion let me return to the first two critiques of appeals to principles. First, principles are much too abstract to provide for practical guidance in moral problem situations, and, secondly, in a pluralist approach, principles will often conflict, and provide little guidance for how to deal with such conflicts. The discussion so far may indicate what response could be given to both critiques: the role of moral principles in determining correct moral judgments should not be over-emphasised. This holds for complex dilemmas, where basic moral beliefs may be in conflict. But even in our initial application of an abstract principle to a specific situation, moral judgment, *phronesis*, and substantive reflection is required for developing an idea of what the principle could mean in this specific case. The problem case about research in oncology illustrated how the implications of a principle of autonomy may not be a priori clear. Therefore, appealing to a moral principle should never be the final step and conclusion of ethical deliberation. It might be a sensible way to start and guide further analysis and reflection, raising questions like “Why would autonomy be important in this case?”; “What would respect for autonomy imply in a case like this?”; “Would a patient’s choice to participate in the trial be constrained in some sense?”; but also: “Can it be right to offer this patient such a choice in the first place?” Some of these questions may be most clarified with theoretical reflection on the concept and value of autonomy. Some other aspects however may be more fruitfully explored by discussing moral judgments about earlier cases that were more or less similar, or by means of analogies and hypothetical cases that help to criticise initial moral judgments about the case at hand. In this way, practical ethical reflection does not only consist in bridging the gap between general moral principles and particular judgments, it may also contribute to further understanding of a principle and even to critique and adjustment of such a principle.

**Foundationalism and Coherentism**

The third critique of appealing to principles in moral argument is that such an appeal only makes sense as a form of justification if the principles themselves are justified.

One extreme answer to this question is to reject moral principles and rules altogether. Authors such as Jonathan Dancy and Margaret Little
argue that there are no general criteria for right and wrong action. Any attempt to formulate general moral principle will be haunted by the problem that each generalisation must admit many exceptions. More importantly, they will hold that moral truth is essential particular, and not to be found on a general or universal level. A discussion of particularism however goes beyond the scope of this chapter.³

In normative theories principles do play a central role, and a plausible theory will also make clear that these principles do have a firm basis. It is common to distinguish two general approaches to ethical justification: foundationalism, and coherentism.

A normative theory can be considered as foundationalist if

(1) the theory consists of a (non-empty) set of fundamental moral propositions, that each can be justified without appeal to any other moral propositions, and
(2) all other moral propositions derive their justification (at least partly) from one or more of the fundamental propositions.⁴ (Timmons 1987)

The main question then is: how can fundamental moral propositions be justified?⁵ Some foundationalists will follow Sir David Ross and answer that the basic propositions in their theory do not need further justification. We can understand and see that fulfilling a promise, or promoting the good of other persons, is prima facie right – we do not need independent evidence for that. The truth can be grasped by an exercise of intuition. As mentioned before, Ross distinguishes seven fundamental principles of prima facie duty, that he thinks are self-evident,

“… not in the sense that it is evident from the beginning of our lives […] but in the sense that when we have reached sufficient maturity and have given sufficient attention to the proposition it is evident without any need of proof, or evident beyond itself.”

³ See Hooker & Little (2000) for contributions of the most important contributors to the debate between generalism and particularism.
⁴ Note that this definition allows that the propositions at the foundation refer to particular moral beliefs – hence it is not necessarily so that the foundation of a moral theory consist of (general) principles.
⁵ I will follow Timmons’ distinction between various types of moral foundationalism (Timmons 1987).
Although few people would deny that we have basic duties of fidelity (promise-keeping), justice, beneficence, etc. and many may even agree that such duties do not need further justification. However, Ross’s intuitionism is somewhat unsatisfactory as a foundationalist theory, because it does not give further explanation of the thesis that these seven duties are indeed fundamental, and it does not offer any underlying connections behind the basic principles. Hence the theory seems to offer little more than an ‘unconnected heap of duties’ whereas one would expect a theory to offer some coherent structure and rationale of moral phenomena.

Such an unconnected heap of principles is certainly unsatisfactory for a second group of foundationalists, namely those who argue that fundamental moral principles find their justification in certain basic (non-moral) beliefs or propositions that we must endorse. Kantians appeal to certain necessary features of persons, more precisely, of rational agency. Others find a non-moral foundation in facts about human psychology (e.g. Richard Brandt); in the logic of moral discourse (e.g. Richard Hare) or in authoritative (e.g. Divine) commands. There is an obvious attractiveness to such a foundationalist project: the theories aim to provide a strong basis normative basis for morality that is independent from the diverse moral convictions that people in fact have. If the normative foundation of morality is independent of the content of actual moral beliefs, then it is clear that the fundamental moral principles of the theory apply to anyone.

Yet this feature also raises an important question: how could the groundwork, including the fundamental moral principles, of any plausible moral theory, be fully independent from our moral convictions – especially those which are widely shared within and among communities? If ethical theory is to explain moral phenomena, including our shared moral beliefs, emotions and practices, then obviously it should take those phenomena into account. Some philosophers take this thesis very seriously and argue that any plausible moral theory should start with our basic common sense moral beliefs. One might then either opt for a Rossian-type of intuitionism, or seek a non-foundationalist justification of basic moral beliefs. Coherentists like John Rawls and Norman Daniels take this latter route. Their method of justification in ethics is to seek and construct coherence among a broad range of moral and non-moral convictions: psychological facts, theories about personhood and rationality, but also considered moral judgments and moral principles. The idea is that one can formulate provisional principles that
summarise a large range of well-considered moral judgments; and sub-
sequently to critically reflect on these principles in the light of (moral
and non-moral) background theories and further moral judgments, and
other sources. This process should lead one to adjust, refine or reject
principles; but in the same way one should scrutinise (and adjust, refine
and reject) practical judgments and background theories. The (ideal)
goal is then to find a reflective equilibrium in which all considerations
fit together in one coherent view (Rawls 1971; 21, 579). Hence, in this
approach, practical moral judgments and general moral principles are
justified to the extent that there is mutual support and coherence among
the broadest set of moral and non-moral beliefs.

One interesting feature of coherentist approaches in ethics is their
openness to moral progress and change. In a coherentist model, no
element (including moral principles) can be immune to critique and ad-
justment, and therefore ethical reflection can always be reason for re-
thinking the content and implications of even fundamental moral prin-
ciples. Technological developments, scientific progress, changing prac-
tices, and natural and human disasters nowadays create numerous unfo-
reseen moral problems – problems that necessitate us to rethink and ad-
just even basic moral beliefs.

Although the idea of seeking coherence through mutual critique and
adjustment of different moral considerations does offer an attractive
model for practical reflection in applied ethics, it also raises problems.
One is that the status of moral principles may become unclear if prin-
ciples can be as easily adjusted or rejected as particular moral judg-
ments. Should principles not have a privileged status? Elsewhere I have
argued that in a reflective equilibrium approach, principles can be un-
derstood as relatively (though not completely) stable propositions that
are trustworthy: if a principle survives criticism over time, in various
contexts of reflection then one has good reasons to trust the principle,
and little reason to put it aside if it does conflict with one intuitive mor-
al judgment in a particular case (Verweij 1997).

Seeking coherence in applied ethics
Is the idea of reasoning back and forth between general principles and
particular judgments, to test such beliefs and seek mutual support and
coherence, only available for philosophers and ethicists who subscribe to
a non-foundational meta-ethics? In the first part of this chapter I have argued that any application of a general moral principle requires interpretation and moral judgment. Such interpretations involve analysis of core concepts, exploring and assessing factual issues, seeking analogies with earlier decisions; more general, to suggest, explore and test various possible implications of a principle in the light of a broad range of moral and non-moral considerations. Such application will also help one to gain a better understanding of what the principle might mean. Hence, applied ethics is a much more complex enterprise than deriving the correct practical judgments from fixed moral principles. Even the ‘simple’ application of moral principles to specific cases requires ways of reasoning that are similar to the coherentist method of reflective equilibrium. This is not just true for ethicists who endorse a coherentist meta-ethics, but also for those who accept a foundationalist groundwork for morality. Apart from some utilitarians, probably few foundationalists will assume that particular moral judgments can only be shown to be correct if they can be deduced from the foundational principles, and that judgments that cannot be derived directly from a principle are unfounded (Scanlon 1992). The groundwork of general moral principles may be fixed, but if a principle is to be applied, this will require interpretation; including adjustment, refinement or rejection of proposed interpretations of the principle. Hence seeking reflective coherence among (interpretations of) principles and moral judgments may be part of the foundationalist’s perspective on applied ethics as well.

To conclude: it is a misunderstanding of moral principles and ethical theory to see principles as devices designed for answering moral problems, or as general moral statements beyond doubt which can offer direct support for particular moral judgments. This holds for principles in most moral theories. In moral debate and deliberation, appealing to a principle can offer an interesting and fruitful start of further reflection – it cannot and should not end discussion.

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1. Introduction

Applied ethics and the role of applied ethicists in modern societies takes often place in the contexts of law and legislation. In this paper I defend that it is necessary for applied ethics to reflect on the place law has in modern pluralist societies. I defend that it is helpful for applied ethics to consider legislation from an expressive-communicative perspective. This can help us to see how law interacts with moral problems in modern society. What such an expressive-communicative perspective could mean, however, needs further clarification. In this paper I want elaborate the expressive-communicative function for concrete legislation: animal protection legislation in the Netherlands.

The expressive-communicative function of legislation should be distinguished from two classical functions of legislation; codification and modification. With codification we mean that laws codify the dominant of shared morality of a society. A legal norm reflects a shared or dominant norm, e.g. the protection of human life against murder. With modification we mean that laws modify the behaviour of citizens (with the threat of punishment). A legal norm enforces societal wanted behaviour, e.g. paying of taxes.

According to this expressive-communicative function of law society communicates - by adopting certain legislation - values as impor-

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6 Burg, W. van der, 1996. 'Legislation on Human Embryos: From Status Theories to Value Theories' Archiv für Rechts- und Sozialphilosophie 82/1:73-87: 80v: ‘Legislation can be the expression of the self-image of a society, an expression
tant (expressive function). This expressive function, however, is not limited to legislation; policy-papers, official speeches and so on also express important societal values. The expressive function of legislation, however, is more profound. Values are not only formulated but are also endorsed as guidelines for acts. They are transformed into an authoritative framework, which functions as a conceptual framework for legal discussions on the acceptability of certain acts. The expressive-communicative function builds on the classical roles of legislation, it expresses (codifies) and communicates authoritatively (modifies) on the basis of a dominant societal morality.

The expressive-communicative function, however, does more. It constitutes an audience. It fosters the homogeneity of the persons it is addressed to: individuals become an audience because they share a certain language. This is not ‘ordinary’ language but the language in which they discuss the co-ordination and evaluation of human acts. These discussions are primarily legal discussions and they are held within the judicial forum. According to the expressive-communicative function of legislation, the concepts of this legal framework can – under certain circumstances – transcend the legal sphere. They can extend into the sphere of morality. In that case, the legal framework pre-structures the moral discussion.

Legislation is – in democratic societies – most times based upon a certain form of societal agreement. An open and democratic society can not function if there is no practical agreement about the legal force of legislation (codification). In the expressive-communicative function of legislation, this agreement is transformed into moral framework for moral deliberation outside the direct scope of the legislation. It enforces a certain conceptual framework on the discussion. In these cases legislation re-creates practical societal agreement as a morality of the public domain.

In order to illustrate the expressive-communicative function of legislation, I will look at the animal-protection legislation in the Netherlands. In order to do so, I will first (2) give a sketch of the animal-protection legislation in the Netherlands. Secondly (3) I will show in

what way this legislation constitutes an audience with a common framework. Thirdly (4) I give an example of the discussion on animal biotechnology. This discussion shows in what way legislation pre-structures societal moral deliberation. I end (5) this paper with some concluding remarks on the consequences of the interactive paradigm for those who want to criticise this pre-structuring.

2. Animal protection legislation in the Netherlands

Legislation to protect animals is widespread. In many western countries cruelty towards animals is forbidden. The classical reason for animal welfare legislation is not the animal itself, but the consequences for interhuman morality of cruel behaviour towards animals. Indifference to the suffering of an animal - or worse, pleasure in its suffering - seems to degrade a person’s moral quality. It extinguishes important human properties, necessary for interhuman morality. This classical reason for legislation against cruel acts has always been mixed with another reason. Cruelty towards animals is wrong, because animals can suffer and animal suffering is bad in itself. In the famous words of Jeremy Bentham: ‘The Question is not, Can they reason? Nor, Can they talk? But, Can they suffer?’

These two reasons, human degradation and animal suffering constitute together the central argument for animal-protection legislation in western society. This combination has been seen as important enough to override the principle of liberty. In recent moral discussions animal suffering becomes a more and more important reason for animal-protection legislation. In dominant legal theories the moral quality of a persons act is hardly ever in itself enough reason for criminal law. Leg-

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8 Immanuel Kant 1803, 1§17
10 In the words of one of the Godfathers of liberalism, John Stuart Mill (J.S. Mill 1848. Principles of Political Economy 1848 Book V, Ch. XI, §9.): 'It is by grossest misunderstanding of the principles of liberty, that the infliction of exemplary punishment on ruffianism practised towards these defenceless creatures (animals fb.), has been treated as a meddling by government with things beyond its province, an interference with domestic life. The domestic life of domestic tyrants is one of the things, which is the most imperative on the law to interfere with;' J.S. Mill 1848. Principles of Political Economy 1848 Book V, Ch. XI, §9.
islation that is only backed by arguments rooted in legal moralism is not very popular (cf. Joel Feinberg).

One can witness this gradual shift from human centred reasons towards animal centred reasons in The Netherlands. In the Netherlands this change was ‘officially’ completed in 1981. In that year the government issued the memorandum ‘Rijksoverheid en Dierenbescherming’ (National Government and Animal Protection). In this memorandum Dutch government endorsed - what is called - the ‘intrinsic value’ of the individual animal as an explicit point of departure for its policy regarding the human-animal relationship. In this context the ‘intrinsic value’ of an animal means that animals are not ‘mere things’. All different and conflicting arguments in favour of the idea that animals are proper objects of moral concern are brought together under the heading of the ‘intrinsic value’ of animals. The recognition that animals themselves deserve our moral concern has become a cornerstone of animal protection legislation. The recognition that animals are proper objects of moral concern implies that in judgements about the acceptability of human actions the consequences for animal welfare are relevant. For instance, seeking economic benefit in animal husbandry should be limited by the consequences it has for the welfare of the animals involved. On this cornerstone there seems to be broad agreement, the precise content and its (ethical) rationale, however, remain object of societal discussion.

The idea that animals are proper objects of moral concern is not typical Dutch. In most western societies there is an agreement that certain animals (including at least mammals but most times all vertebrates) are proper objects of moral concern. It is even endorsed - although not in ‘intrinsic value’-language - by the European Union (EU). During the Inter-Governmental conference of the European Union in Amsterdam (June 1997) animal welfare has been given a new status. In the treaty of Amsterdam is written: ‘The high contracting parties, desiring to ensure improved protection and respect for the welfare of animals as sentient beings have agreed upon the following provision which shall be annexed to the Treaty establishing the European Community: In formulating and implementing the Community's agriculture, transport, internal market and research policies, the Community and Member States shall pay full regard to the welfare requirements of animals (...).’

11 Draft treaty of Amsterdam (Conf.4001.97) Chapter 8.M 'Animal Welfare'.

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This consensus could be considered as a clear point of departure for legislation. It has a wide and strong support and this support comes to light in pressure on the government to enforce animal-welfare in legislation. In the Netherlands this resulted into two laws to protect animals. One could say that this basic idea is codified in these two laws.

These are the Animal Health and Welfare Act (AHWA) and the Experiments on Animals Act (EAA). As an analysis of the history of these acts show, the strong support for (effective) animal-protection legislation is quite recent.\(^{12}\)

The **Animal Health and Welfare Act** functions, since 1992, as a general legal framework. The following points are relevant:

- This is an Act of the Ministry of Agriculture, Nature Management and Fisheries.
- This Act has (partly) a ‘no, unless’-structure: certain acts regarding animals (like surgery without veterinary necessity) are forbidden, unless explicitly allowed in special regulations. There is, for instance, a special regulation for surgery without veterinary necessity on animals in certain cases. Only those surgical practices that are explicitly mentioned in this regulation, such as removing horns from cattle with designated techniques, are allowed.
- This Act created a Council on animal matters. The mission-statement of this Council shows what it aims at: ‘The Council is a consultancy body which issues recommendations to the Ministers involved on policy in the fields of animal health, welfare and biotechnology. (...) The Council aims to present broadly supported opinions, and determining its opinions, the Council will balance all relevant aspects. In addition to health and welfare of animals, account must be taken of ethical and economic aspects.’
- The members of the council are representatives of business organisations (like the Dutch Meat Board), social organisations (like the Dutch Society for the Protection of Animals), and various experts (like animal welfare scientists and veterinarians).

\(^{12}\) I make an analysis of the history and content of animal-protection legislation in: F.W.A. Brom, 'Background of the use of "intrinsic value of animals" in the Netherlands' In: M. Dol et al. (eds), Recognising the intrinsic value of animals: beyond animal welfare. Assen: Van Gorcum 1998 (forthc.).
The Experiments on Animals Act, operative since 1977, changed in 1996 into (more or less) a codification of the voluntary practice of most institutions. A governmental committee prepared the EAA of 1977. This committee concluded that it is not realistic to outlaw animal experiments, but that there are sufficient reasons to regulate animal experiments. The most important reason is protection of the animal.\(^\text{13}\)

The following points of this Act are relevant:

- This is an Act of the Ministry of Public Health, Welfare and Sports.
- It allows an animal experiment only if:
  1. its goal is a) directly or indirectly in the interest of human or animal health or food, or b) to get an answer on a scientific question;
  2. the value of the goal outbalances the discomfort of the animal involved; and
  3. according to an accepted view among experts there is no alternative.
- A local and partly independent Committee has to assess and approve the experiment according to these criteria.

3. Constituting an audience

As said, animal protection legislation (AHWA and EAA) is based on the societal ‘consensus’ that animals themselves deserve our moral concern. It is based on the recognition that animals are proper objects of moral concern. It provides a legal framework to implement the implications of that judgement, by creating legal norms for judgements about the acceptability of human actions regarding animals. It safeguards that in these judgements animal welfare is not neglected. In this way these acts can be seen as the end of a moral development in society. These laws codify the ‘dominant’ morality of the society. In this codification society expresses that animal protection is an essential value. It communicates by these acts the value of animal protection to its members, expecting that they will implement it in their actions.

\(^\text{13}\) Dobbelaar, M.J., z.j. 'De Wet op de dierproeven' In: H. Smid (ed.) Dierproeven in de moderne samenleving. Feiten en meningen over het gebruik van proefdieren Deventer: Ankh-Hermes 105-111: 106.
The interactive paradigm shows that the codification of society’s dominant morality is not the only thing these Acts do. The expressive-communicative function goes beyond the codification of the dominant moral position; legislation creates a public framework upon this dominant position. This process works for both laws in a different way.

Firstly, the Animal Health and Welfare Act. This Act requires public moral discussions because it is only a regulatory framework that has to be implemented. The Council on Animal Matters advises the government on the concrete regulations based on the Act. The Animal Health and Welfare Act has a ‘no, unless’-structure, which makes detailed discussions on concrete regulations necessary. Therefore detailed technical and moral discussions are held within this Council. The different groups that are present in this council have different interests and different moral points. But the necessity of concrete regulations forces them to cooperate. They discuss together the necessity of concrete regulations and their discussions are structured by the law’s conceptual scheme. By having these discussions the members of the Council are recreated into an audience of the law with a common language.

The members of the Council, however, are not just individuals. They represent societal groups. And they have to defend their agreements (compromises) with the other members of the Council. The people they represent want to understand why they accept certain Council statements. In the discussions with people they represent, they tend to use the same language as they use inside the Council. In this way the framework expands beyond the people directly involved.14

A comparable process is started by the Experiments on Animals Act. This Act provides in local Animal Experimentation Committees that assess and approve (or disapprove) concrete animal-experiments. The establishment of these ‘external’ decision-makers has implications for the moral discussions on the acceptability of concrete experiments. These discussions start within these committees, but later they expand beyond these committees into the community of scientists. Scientists try to determine in advance whether a certain experiment has a chance of being accepted. If not, it is not worth planning. These discussions on the acceptability of experiments are structured by the conceptual scheme that is

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14 For instance, the common language will be used in articles in the periodicals of the organisations involved.

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provided by the law. In this way the community of animal-scientists is recreated into an audience with a common language.\textsuperscript{15}

The framework, however, can expand beyond the community of animal-scientists. Animal experiments are controversial. Scientists who perform animal experiments are often confronted with critical questions. In answering these questions, they defend themselves. In this defence they tend to use the normative language in which these experiments are discussed and assessed in the Animal Experimentation Committees. The way a certain experiment is justified inside a committee creates a basis for defending these experiments outside such a committee. In this way the language provided for by the law, expands beyond its legal scope and becomes a part of the language in which the society publicly discusses animal experiments as moral questions.

Animal protection-legislation not only creates a common moral framework, it also strengthens the consensual point of departure: Animals, as sentient beings, are proper objects of moral concern. This makes animal welfare an important value; not because of human feelings towards animals, but because of the animals themselves. This is restated by the recognition of the intrinsic value of animals. The implication of the recognition of the intrinsic value is that the doubts whether animals are \textit{really} able to suffer are rendered harmless. These doubts exist as the ongoing discussion on animal consciousness show.\textsuperscript{16} As Jan Vorstenbosch argues, it ‘is not possible to reach watertight conclusions on whether animal consciousness exists on the basis of empirical evidence concerning animals. Therefore, it becomes important to consider the belief in animal consciousness from the point of

\textsuperscript{15}Cock Buning, Tj. de, 1998. ‘Limitations of the Contribution of Ethics Committees to Public Debate’ In: R. von Schomberg & P. Wheale (eds), The social management of biotechnology. Hampshire: Avebury (forthc.): ‘The philosophy behind the (voluntary erected) AEC’s is one of self-regulation. The idea was that moral values have to become internalised by those who are the actual moral actors, the researchers in this case.’

\textsuperscript{16}It is for instance defended that ‘to experience suffering both a well-developed prefrontal cortex and a right neocortical hemisphere are necessary. Since the prefrontal cortex is phylogenetically the most recent structure, the analogy postulate leads to the conclusion that most animals are unable to experience suffering (...) it is concluded that emotional experiences of animals, and therefore suffering, may only be expected in anthropoid apes and possible dolphins.’ B. Bermond, ‘The myth of animal suffering’ In: M.Dol et al. (eds.) Animal Consciousness and Animal Ethics, Assen: Van Gorcum 1997, 125-147: 125
view of what we may call the ethics of belief, the standards and "belief-policies" that we may or ought to use to reach a justified stand-point in such "problematic" cases.\footnote{J. Vorstenbosch, 'Conscientiousness and consciousness: How to make up our minds about the animal mind?' In: M.Dol et al. (Eds.) Animal Consciousness and Animal Ethics, Assen: Van Gorcum, 32-47.} A consequence of the recognition of the intrinsic value of animals is that scientific and philosophical uncertainty about animal consciousness states (within public morality) no decisive argument against the value of animal welfare. As long as we are not sure that animals cannot suffer, we leave (scientific or philosophical) doubts aside and stay on the safe (common sense) side and take it for granted. In public morality the burden of the proof is changed. This changing of the burden of the proof is not limited to the question of animal suffering. The 'no, unless'-structure of the AHWA implies that human actions that may be detrimental to animal welfare are only allowed after the animal welfare is guaranteed or after enough good arguments are given. The burden of the proof lies upon those who want to engage in these actions. Just an appeal to 'scientific or economic freedom' states in itself not enough reasons.

In this way, animal protection legislation creates a conceptual framework with a certain content. This framework is not only a point of departure for societal discussions but also its point of reference. This framework functions as source for normativity and it fosters moral discussions on the acceptability of concrete human actions with animals. It recreates the abstract consensus that animals are proper objects of moral concern into a morality in which the acceptability of human actions regarding animals can be discussed.\footnote{See: Gerald Postema about a morality that "not only provides the environment within which members act, but it directly shapes their sense of the meaning and value of the actions about which they deliberate. It provides content, not just context." in: 'Public faces- private places: liberalism and the enforcement of morality.' In: A.W. Musschenga, B. Voorzanger, A. Soeteman (eds.), Morality, Worldview and Law; The Idea of a Universal Morality and its Critics. Assen: Van Gorcum 1992. 153-175: 164.}

4. Pre-structuring public moral debate

Animal-protection legislation recreates by its communicative-expressive function societal agreement that animals should be consid-
erected as objects of moral concern, as a framework that functions as a source of normativity in public discussions. This framework functions as a kind of ‘public morality’. It changes the way in which ‘animal issues’ are discussed. I will illustrate this with the discussion on the licensing-system for biotechnology applications to animals.

Under Section 66 of the Animal Health and Welfare Act it is not allowed to apply biotechnology to animals without permission from the minister of Agriculture, Nature Management and Fisheries. The minister decides about a licence application after hearing the Committee on Animal Biotechnology. With respect to this decision two criteria are given in the Act: it is stated that a licence may be given only if (1) there are no unacceptable consequences for the health and welfare of the animals and if (2) there are no (other) ethical objections. This licensing-system is a ‘no-unless’-system. Animal biotechnology is not allowed, unless one gets a license for a specified project.

This licensing-system is based upon a report of the Advisory Committee on Ethics and Biotechnology in Animals. According to this Committee such a licensing-system is necessary because animal biotechnology is ‘morally problematic’. With ‘morally problematic’ is meant that at the same time there seem important moral arguments in favour and against animal biotechnology, without a clear and general way of balancing these arguments. The Advisory Committee defended that a public case-by-case assessment of animal-biotechnology experiments was necessary.19 In this paper I am not interested whether the Government rightly followed the advisory committee. For now it is important that this licensing system was based upon the conviction that animal biotechnology is morally problematic.

The implementation of this section caused severe criticisms from the part of the scientific community. The Royal Netherlands Academy of Arts and Sciences opposed to this licensing-system. In 1995 its committee on medical science wrote a memorandum on ‘public health and

biotechnology’ in which the ‘no-unless’ policy is criticised. The committee proposes to exclude 95% of animal biotechnology because it is important for public health. Also in 1995 (9 October) the Royal Academy held a private meeting on ethics and science. Its proceedings were published and sent to the government. In his presidential address P.J.D. Drenth said:

‘To put things clear: first it would not be justified to prohibit scientific research, only because its results can be misused. That would be the end of all scientific research. Secondly, it is also impossible to know all consequences in advance. Therefore the ‘no, unless’ clause in animal experiments is not sensible. It doesn’t match creative science.’20

At the same meeting the academy-member and philosopher L.M de Rijk defends that the only sound philosophical reason for legislation against cruel acts towards animals is human dignity. According to him ‘animal rights’ is conceptually impossible, and therefore the only sound philosophical basis for animal protection is that torturing animals is undignified.21

These criticisms were ineffective. I confine myself to the reaction of the minister of Agriculture, Nature Management and Fisheries. In the Explanation on the Animal Biotechnology Decree - an implementation of the licensing-system of the Act - he writes:

‘Although the significance of the research to the public is in general beyond dispute, this does not mean that every biotechnology application with this purpose shall be justified. What matters besides the religious considerations about especially where human intervention in nature should stop is the extent to which the animals involved in the project are affected. Affected is used in a wide sense, including damage to the animal’s integrity or intrinsic value and hampering the animal's potential to normally function using the instruments that are specific to the species it belongs to.’22

The licensing system in itself was beyond discussion. But to cope with the criticism a meeting was held. The minister writes in the Explanation:

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20 Drenth, P.J.D. 1995. 'Inleiding' In: P.J.D. Drenth et. al. Wetenschap en ethiek Amsterdam: KNAW (Mededelingen van de Afdeling Letterkunde, Nieuwe Reeks, 58/6) 7-10: 8. (Trans. F.B.).
‘Because of this on 9 May 1996 a meeting was held that was attended by representatives of the Royal Netherlands Academy of Arts and Sciences, the Dutch Society for the Protection of Animals and the Committee on Animal Biotechnology to be. The aim of the meeting was to discuss how objections to the proposed licensing system might be minimised and how the system might operate best.’

The Act makes it possible to designate specific categories of biotechnology applications as acceptable without first reviewing them or to completely ban them. This was what the committee on medical science of the Royal Academy had proposed. The reaction of the minister:

‘The Academy underlines the desirability of such exceptions where fundamental biomedical research into the nature of human disease processes is concerned. As soon as prompted by the results of the individual reviews, I shall implement this Section. The world of science and other parties shall be involved at an early stage.’

The possibility of exceptions, however, had already been promised (in a much earlier stage) to the parliament.

One could say that the Royal Academy attacked the moral conviction that animal biotechnology creates a moral problem with arguments outside the conceptual scheme of the animal protection legislation. Their opposition had no (very little) concrete result. From an expressive-communicative perspective one could defend that the reason why the criticism of the Academy was not effective is because the criticism did not fit within the pre-structured moral framework. It was out of line with the public debate. The language in which it is formulated has no connection with the public morality as it is created by the animal protection legislation. It therefore could not be effective. If government would have accepted this criticism of the Royal Academy, it would implicitly have acknowledged that its basis for animal protection legislation was wrong.

The criticism of the Royal Academy even strengthened the idea that legal control on animal biotechnology is necessary. It was said that the arguments in favour of animal biotechnology brought forward by the Royal Academy showed that they did not understand the problems caused by it. Even if they are right that – all things considered – animal biotechnology is justifiable, they still did not show enough empathy for

23 Ibid.
24 Ibid.
the problems caused by it. As one of the involved politicians said in a private meeting:

‘If these are the arguments used to create exceptions for biomedical research, the case-by-case assessment seems necessary. If not to forbid a certain project, then to develop the moral sensibilities of the scientists involved’.

5. Criticising the framework

The interactive paradigm of legislation shows that law can form a point of reference in moral discussions. This is especially the case when legislation is based upon a societal agreement the impact of which is not sufficiently conceptualised in moral terms. Once this agreement is restated in legislation, the law becomes an authoritative source for the concrete normative implications of this agreement. One could even say that the societal agreement is recreated into a moral framework for the public domain.

The creation of such a framework is not meaningless. Moral discussions on public policy can hardly become effective when this framework does not support them. As an analysis of the opposition of the Royal Academy shows, no (very little) concrete result emerges from a criticism out of line with the public debate.

This analysis shows a danger of the expressive-communicative function of legislation. Once legislation is created, it seems impossible to criticise the framework. Deviant voices are silenced and some members of society seem to be excluded from important public debates. This exclusion, however, is not necessary. The recreation of societal agreement into a conceptual framework is not inescapable. No closed system is created. The interaction of law and morality does not form an inescapable morality, but creates a conceptual framework. And without such a framework discussions are impossible. This becomes clear when we look at the recognition of the so-called ‘intrinsic value of animals’. An open, unclear and underdeveloped framework is created because the precise content and ethical rationale of this recognition is open for the debate, at the same time a firm point of departure has been ensured: animal protection has to be based upon the fact that animals themselves are object of protection and not on the protection of the feelings of animal lovers or on the dignity of those acting with animals.
How then, can those who are critical towards the moral framework effectively criticise it? Or, in other words, what should the Royal Academy have done? In answering this question it is important to make a distinction between different levels of criticism. One can be critical towards:

- the moral presumptions behind the legislation
- the framework that is built upon these presumptions
- the conclusions that are drawn in a specific case (or range of cases)

Each of these levels of criticism asks for a different action. For each of these levels it is important to make clear precisely against what one is critical, and which alternative position one proposes. Only if one can make clear that the alternative position is acceptable, one has succeeded in effective criticism. This means for the position of the Royal Academy.

- **If** the Royal Academy is critical towards the moral presumptions behind the legislation, that is if it doesn’t accept that animals are *themselves* proper objects of moral concern, **then** it should not limit itself to criticise the scope of the current licensing-system. L.M. de Rijk, for instance, should make clear why he thinks that Human Dignity creates a morally better argument against cruelty towards animals, in stead of stating that it is the only sound philosophical position.

- **If** the Royal Academy is critical towards the framework created by the legislation, that is if it doesn’t accept a ‘no unless’-policy with a licensing system, **then** it should make clear in what way the *shared* presumptions can to be worked out. P.J.D. Drenth, for instance should make clear in what way he thinks one can match animal protection with ‘creative science.’

- **If** the Royal Academy is critical towards the conclusions that are drawn for 95% of animal biotechnology, **then** it should make clear why the value of public health *ipso facto* outbalances the value of animal-protection.
6. Conclusion
Legislation recreates societal agreement as a conceptual framework for moral deliberation. Such a framework gives structure to societal moral deliberation. This is necessary, because without such a framework discussions are impossible. Such a framework, however, implies that those who want to criticise it, need to formulate precise criticism. Otherwise, they won’t be heard.

For applied ethicists and the field of applied ethics this perspective has two lessons:

- Moral discussions in a society cannot be analysed with philosophical instruments alone. The structure and the history of a society – as reflected in its legal system – play an enormous role in the structure of the debate and in the concepts used. Ignoring this aspect of societal debates makes applied ethics ineffective
- Unclear and open notions – like the so-called ‘intrinsic value of animals’ – can play an important role in public moral debates. They can function as consensual focus points. By endorsing these notions a society expresses a shared moral intuition (e.g. that animals are proper objects of moral concern). Applied ethics should move beyond a philosophical conceptual analysis of these concepts. It should not solely focus at the unclear meaning of the notion and its open multi-interpretable content, but it should take its societal function into account. Only then, it can criticise the notion adequately, e.g. for not giving a fruitful and acceptable direction to the shared moral intuition.

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Case: the cloning of dr. Hwang

In May 2004 an astonishing article appeared in the prestigious journal *Science*. The South Korean scientist Woo Suk Hwang and his team reported that they had cloned a human embryo – a blastocyst – and derived stem cells from it (Hwang et al. 2004). Many people considered this an important scientific breakthrough, although certainly an extremely controversial one. Never before had this been done. One and a half year later, Hwang made the headlines again. He had now been forced to admit scientific fraud. He had fabricated the results. He had neither cloned a human embryo nor derived any embryonic stem cells from it (Normile et al. 2006).

This case raises ethical issues of two kinds. The first concerns scientific misconduct. Why does a scientist of high reputation make himself guilty of scientific fraud? What drives him? Everybody agrees that such behaviour is ethically unacceptable. The ethical problem is how to prevent it. What kind of measures should be used? Which measures are truly efficient?

The second ethical issue concerns whether or not human cloning is ethically acceptable, given that it is possible to carry out, and whether or not it is ethically acceptable to derive stem cells from an embryo, resulting in the death of the embryo. Some people accept human cloning, while others do not. Some accept therapeutic cloning only, but not reproductive cloning. Some accept the derivation of embryonic stem cells with the effect that the embryo dies, while others do not.

We see that ethics and science can be closely related, but what is ethics and what is science and how should their relation be described more precisely?
Ethics and science

There are many different definitions of “ethics” and many different ways of relating it to “morality”. Some prefer to make a clear distinction between the two, others use the terms in the same sense. Those in favour of a distinction often define “morality” as views on what is right and wrong in human action and “ethics” as theory of morality. I follow this line but would like to stress the active nature of ethics. Ethics is an activity. It is something you do. When I use the term “ethics” I therefore mean reflection on what is right and wrong in human action, e.g. in scientific research. The result of such reflection might be a theory of morality, but not necessarily so. Let me also point out that in traditional ethics we are often considered to have direct duties only to other humans. In the present-day ethical debate, however, it is common to include also animals. Some ethicists even argue that we have direct duties to all living beings and to the environment.

If we turn to the term “science” we see the same plurality of definitions. In the English language, “science” refers to the natural sciences and social sciences but not to the humanities e.g. philosophy. Science in this sense concerns search for new knowledge, but what characterizes this search? There are many different answers to this question. I suggest that science is a critical, methodical, and intersubjective search for new knowledge.

Scientific search for knowledge is critical, because ideally it does not accept anything dogmatically but is always prepared to revise and even renounce earlier results, others’ as well as one’s own. According to the philosopher Karl Popper, criticism is the key feature of science (Popper 1979 (1972)).

Moreover, scientific search for knowledge is characterized by being methodical. However, there are different views on what this means more exactly. Popper argued that science is hypothesis-driven. The scientist comes up with a hypothesis and tries to falsify it by carrying out an experiment. Popper also stressed that science proceeds in an evolutionary manner by small steps. The results of various experiments are added to each other, slowly increasing out knowledge (Popper 1979 (1972)). Thomas Kuhn, on the other hand, had a revolutionary view. Periods of “normal science” are interrupted by “revolutions” when old “paradigms” are replaced by new. Paradigms are shared patterns for
what constitutes good science. These paradigms can be viewed as “coloured glasses” influencing the observations and experiments. They include prescriptions of what is to be studied and how. According to Kuhn, science is characterized by different methods and basic concepts at different periods of time. For example, physics was radically different before and after Einstein, and biology was radically different before and after Darwin (Kuhn 1970 (1962)). Kuhn’s theory concerns the natural sciences in which paradigms succeed each other over time. Other philosophers of science, however – inspired by Kuhn – have applied the idea to the social sciences and argued that here many different paradigms, suggesting different methodologies, may co-exist.

Finally, science is intersubjective. It is not completely objective because of our coloured glasses, but other scientists may check a particular experiment or observation. An experiment or observation should be possible to repeat. A clear example of the intersubjective nature of science is the peer-review system of scientific journals.

Let me clarify that the above rather vague stipulative definition of “science” is merely a normative proposal, but one which is in line with most theories of science as well as scientific practice.

Now, how can ethics and science in these senses be related? I would like to broaden the scope and talk not only about ethical constraints on scientific work but also about how scientific results may be relevant to ethics. I understand the relation of ethics and science as interdependence (cf. Barbour 1992, pp. 26-33).

Relevance of science to ethics

Science might be considered relevant to ethics in at least four different ways.

First, science may provide knowledge that is relevant to ethical decision-making. For instance, knowledge about viruses is relevant to ethical deliberation regarding pandemic influenza. Many would say that ethics should be based on facts established by science or at least not contradict such facts. However, given the fallible character of science, today’s “facts” might be rejected tomorrow, although this risk should not be overstated. Moreover, it can be discussed whether science should be the only basis for ethical deliberation. Such a view would be “scientistic” and too narrow a standpoint. In actual life, we
cannot always base our decisions on science; we rather ground it on everyday experience.

Secondly, science may predict the consequences of our decisions, e.g. medical, social, or environmental consequences. These predicted – more or less certain – consequences may good (“benefits”) or bad (“risks”). Most ethicists consider consequences ethically relevant, although some argue that they do not signify all there is to ethics; some actions or types of actions may be right or wrong in themselves independently of their consequences. It is important to note, however, that even if we consider consequences ethically relevant, and even if science may provide more or less reliable predictions of consequences, science cannot by itself justify which consequences are good and which are bad. This is the task of ethics. Take, for instance, the consequences of research on cloning. We know from experiments with animal cloning that there is a high risk that animal clones will be abnormal. On the basis of this scientific fact, it can be argued that in human cloning there is similarly a high risk that human clones will be abnormal. Such a risk is perhaps not decisive – there might be ways of avoiding these problems – but it is certainly ethically relevant (cf. Nordgren 2006).

Thirdly, science may contribute to the worldview within which our decisions are made. Scientific findings may support or undermine our beliefs about the world we live in.

Finally, science may show us constraints on human behaviour that are ethically relevant. Normative proposals that are intended to really make a difference in practical human life must possible for creatures like us to live up to. “Ought” implies “can”. Ethics must be biologically, psychologically, and socially realistic. Scientific findings may provide ethically relevant insights into “human nature”.

Let me exemplify these last two ways in which science may be considered ethically relevant by discussing the use of the theory of evolution in pro and con arguments regarding animal experimentation (cf. Nordgren 2002).

According to James Rachels, the theory of evolution may contribute to the world view in such a way that it “undermines” the idea of a special human dignity. The moral idea of putting humans into a special moral category may be based on the assumption that there are clear qualitative differences between humans and animals. The theory of evolution, however, undermines this idea by stressing the close relationship between humans and other animals and by pointing out
that the differences are quantitative rather than qualitative. Moreover, Rachels argues that the theory of evolution supports “moral individualism”, i.e., the view that individuals should be treated on the basis of their own particular characteristics, not on the basis of their belonging to a group, for instance, a particular species. This view implies that if it is wrong to use humans in experiments, then it is also wrong to use animals, unless there are relevant differences between them that justify a difference in treatment. Rachels argues that no such differences can be found with regard to animals that lead “biographical lives”, i.e., lives that are characterized by history, character, actions, interests, and relationships. Therefore, he is in general critical to experiments on animals that lead such lives (Rachels 1990).

Lewis Petrinovich, on the other hand, has presented an argument in favour of animal experimentation that is based on evolutionary theory, or – more precisely – on evolutionary psychology. According to his argument, humans – as all social animals – are speciesist by nature, and this fact puts constraints on human behaviour that should be taken seriously in normative ethics. Petrinovich does not mean that animal interests should not be considered ethically relevant, only that vital human interests may outweigh them. Examples of such vital interests are animal experiments in biomedicine in order to understand disease processes and develop therapies. To require that humans should not use animal experimentation in order to find cures for their sick children would be too demanding because it would contrary to our evolved human nature. A biologically and psychologically realistic ethics has to accept these constraints (Petrinovich 1999).

Both arguments stress the relevance of the theory of evolution for normative ethics but attempt explicitly to avoid the fallacy of deriving “ought” from “is”. This fallacy is sometimes called “the naturalistic fallacy” or “Hume’s law”. Neither designation is quite adequate, however. The term “naturalistic fallacy” is often reserved for the fallacy of defining values in terms of facts. The designation “Hume’s law” is better, however Hume himself actually based his ethics on human nature or, more precisely, on our natural moral sentiments. What he argued against was rather the attempt to base human ethics on non-human nature (cf. Nordgren 2002). Moreover, the real problem is not whether it is logically possible to derive an “ought”-statement from an “is”-statement; such a derivation would formally require another statement – e.g. “If “is”, so “ought”” – functioning as a bridge between
these two statements. The real problem concerns which “is”-statements are relevant for which “ought”-statements, and this is a matter of judgment rather than formal logic. Which “is”-statement is ethically relevant for the use of animals in experimentation: an evolutionary based statement about the similarity between humans and other animals that lead biographical lives – as suggested by Rachels – or an evolutionary based statement about our speciest human nature – as suggested by Petrinovich? And, if both “is”-statements are ethically relevant, which statement carries most weight in ethical deliberation?

**Ethical constraints on science**

Now, we turn to ethical constraints on science. Such constraints are the concern of research ethics. Ethics may provide constraints on science in at least four different ways.

First, there is the **self-regulation of the individual scientist**. The scientist may put certain ethical constraints on himself/herself. To adhere to such ethical norms is a matter of personal integrity, and this is a key virtue of a scientist. Some people argue that such virtuous self-regulation should be considered the basis of research ethics. I agree. However, it is vital not to be naive. Most people do not commit murder, but some do, and therefore laws are necessary. Similarly, not all scientists abide to a high morality, as indicated by the atrocities of Nazi doctors in the World War II German concentration camps and by the case of Dr. Hwang presented in the introduction.

Secondly, we have the **internal regulation by the scientific community**. The sociologist of science Robert Merton described several years ago this regulation in terms of the acronym “CUDOS”: Communism (sharing data and results), Universalism (political and social factors are not allowed to play a role), Disinterestedness (search for truth regardless of personal interests), and Organized Scepticism (requesting evidence) (Merton 1973). An important example of internal regulation is the Helsinki Declaration issued by the World Medical Association in 1964 (with several revisions; the last one from 2004). Its key idea is voluntary informed consent (World Medical Association 2004 (1964)). A common feature of many internal regulations is an ethical concern for human research subjects. However, there is also another type of internal regulation, namely regulation against scientific
fraud, e.g. fabrication and plagiarism. An example is the Vancouver Declaration issued by the International Committee of Medical Journal Editors (International Committee of Medical Journal Editors 2006).

Thirdly, there is the external regulation by society. Internal regulation may not be considered sufficient. Science may be viewed as too important to be left to the scientists themselves. Politicians, as the representatives of the people, should also regulate research. This political steering of science can be conducted on a national level as well as an international one. An historically very important example is the Nuremberg code from 1947, which was a direct response to the Nazi experimentation on human subjects (Nuremberg Code 1947). Another example is the European Convention on Human Rights and Biomedicine from 1997 with the addition from 1998 condemning human reproductive cloning as contrary to human dignity (Council of Europe 1997 (with addition 1998)). A third – even more recent – example is UNESCO’s Universal Declaration on Bioethics and Human Rights from 2005 (UNESCO 2005).

However, such ethical declarations by political organizations may not be considered sufficient, either. Therefore, we have fourth type of ethical constraint on science, namely legal regulation of research. Such legal regulation may be based – at least partly – on ethical considerations. In Sweden, for example, there are laws regulating animal experimentation and the storage of human tissue for research.

Moral responsibility of scientists
I will now discuss in more detail a few different aspects of ethical constraints of science. I will do so by focusing on “responsibility” or rather “moral responsibility”.

The rhetoric of “responsibility” is very common in the research ethics debate, but also in political and religious discourse. However, the term is elusive and seldom defined. It is also a rather new in ethical discourse. The term “responsibility” first appeared in the 17th century but has its etymological roots in the Latin word “respondeo”. This word has two different but connected root meanings. First, it has to do with “answering”. For example, it could be a matter of responding when called upon in a legal court. In its second sense, “respondeo” is related to “accounting”. Due to promises or financial debts, we owe
things to others. One may also view accountability as a special form of answering to others (Nordgren 2001 p. 1).

The term “responsibility” is often used as shorthand for “obligation”. This means that it refers to some kind of normative content. This content can be understood in at least two different ways. First, responsibility can mean “obligation to act in accordance with a set of well-defined rules”. Here responsibility is strictly rule-governed. Second, responsibility can mean “obligation to make appropriate judgments in particular situations even when strict rules are not applicable, and to act in accordance with these judgments”. In this sense, responsibility is not connected in a simple way to a set of rules but includes an irreducible element of discernment. A person might have responsibility for a certain area – e.g. a governmental agency – but it is not determined in advance how she should decide or act in each particular situation. She must make a judgment on a case-by-case basis (Jonsen 1968, p. 69).

In discussing moral responsibility in science, I find it useful to distinguish responsibility “of”, “to” and “for” (Nordgren 2001, pp. 51-83). The aspect of responsibility “of” refers to those who are responsible such as individuals and groups. “To” applies to people, animals, etc. “For” applies to actions and their consequences, but not to people, animals, etc. When applied to science, the three aspects can be caught in the following three questions:

- Who is responsible in science? (responsibility of)
- To whom and to what are scientists responsible? (responsibility to)
- For what are scientists responsible? (responsibility for)

In this brief paper, I will not give any definite answers to these questions. I will rather present a few problems related to each of them.

The first aspect concerns the responsibility of scientists, but do all scientists have the same responsibility? For instance, is there a difference in responsibility between senior researchers and junior researchers? Is there a difference in responsibility between scientists at universities and those in private companies? Moreover, what responsibility lies with the individual scientist, the research team, and the scientific community at large? In the case of Hwang, what was the responsibility of Hwang himself and what was the responsibility of his research team – to be sure, his collaborators were co-authors of the fake article?
The second aspect – responsibility to – is also vital. Research may affect many different parties, e.g. human subjects, funding agencies, and the general public. Which parties are scientists responsible to? What about future generations: in what sense can scientists be said to be responsible to them? And what about animals? Hwang’s team also carried out experiments on animal cloning. Do scientists have a direct responsibility to animals? Moreover, do scientists have any responsibility to the environment?

The third aspect is responsibility for. Scientists are responsible for their actions and their consequences. Here we may focus on the different stages of research and its application: choice of subject (topic), the research process in the narrow sense (empirical and theoretical work), publication, and application (use). All agree that scientists are responsible for their choice of subject, the research process in the narrow sense and the publication of their results, although there are controversial ethical problems at each stage. In fact Hwang was criticized with regard to each of these stages: choice of subject (human cloning), the research process (experimentation on human embryos and animals), as well as publication (fabricated results).

What about the responsibility for application? Do scientists have responsibility for applications of their results that other people make? This issue is rather controversial. Some would argue that it is those who make the application that are responsibility, not the scientist. These other people could be other scientists, industrialists or politicians. Other people argue that scientists cannot hide from responsibility. They should do what they can to ensure an ethically responsible use of their results. A historically important example is the philosopher and Nobel Prize Laureate Bertrand Russell. He stated:

\[ \text{It is impossible in the modern world for a man of science to say with any honesty, “my business is to provide knowledge, and what use is made of the knowledge is not my responsibility.” (Russell 1960, pp. 391-392)} \]

Russell’s major concern was the use of physics in constructing the atomic bomb. Today many would rather focus on the responsibility of scientists for the applications of the life sciences, e.g. genetics (Nordgren 2001). With regard to Hwang, many feared the consequences in the case his research on human cloning would be successful and widely applied.
Let me finally stress, however, that responsibility may not only be a matter of saying “no”. It may also be a matter of saying “yes” for the benefit of humankind. The difficult problem is, of course, to judge which possible scientific applications are good and which are bad. And this is the delicate task of ethics. For instance, many would argue that human therapeutic cloning – which Hwang tried to carry out – is ethically acceptable but not human reproductive cloning. In therapeutic cloning, one tries to find a cure for serious diseases by using stem cells from an embryo cloned from the patient herself – the point is to avoid rejection of the stem cells due to immunological reaction. In reproductive cloning, on the other hand, one tries to help infertile couples to get a child, in case no other assisted reproductive technology would be efficient. In both types of cloning, the nucleus of a donated egg is replaced by the nucleus of a somatic cell. In therapeutic cloning, the embryo dies when the stem cells is derived from it when it is around five days old (at the blastocyst stage). In reproductive cloning, the embryo is inplanted into a surrogate mother, develops, and is eventually born.

Conclusion
In conclusion, ethics and science are interdependent. Ethics is science-dependent, because scientific results may be relevant to ethics. Moreover, science is ethics-dependent, because there should reasonably be certain ethical constraints on science. So, no ethics without science and no science without ethics!

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A conference arranged by The Research Council of Norway\(^1\) in June, 2001, invited scientists, politicians, representatives of industry and commerce, scientific and public administrators and others to discuss the future of molecular biology in Norway. The conference was titled: “The biotech society – where are we heading?” and was intended as a discussion of how Norway should respond to the massive international investments being made in molecular biology following the completion of the Human Genome Project. The discussion at the conference was intended to explore the future of molecular biology from a broad scientific, social and political perspective. This no longer seems to be a particularly unusual or controversial strategy. At least when it comes to biotechnology related research, the traditional ideal of scientific autonomy has been called into question by many scholars, politicians and scientists. It has often been maintained that society should welcome new strategies for the assessment of biotechnology, because the field is economically and environmentally risky and because it involves values that are highly contested. Many now recognize that choices concerning biology need to be assessed in a wider political and social context.

The problem, however, is that we do not quite know how such assessments should be carried out, because more unified evaluations challenge existing divisions between scientists, engineers, and politicians. This situation represents severe challenges for applied ethics as the tra-

ditional divisions between the epistemic and ethical-political normative discussions are challenged. To overcome this challenge we need to pay attention to the dynamic relationships between activities we recognise as scientific and political. This was for long a neglected topic of inquiry, and accustomed ways of separating the two normative discourses, the epistemic and the ethical-political, needs to be seen as part of the explanation of this neglect. The way we are accustomed to approach or stage normative problems with regards to science and technology appears to be part of the problem of our difficulties of resolving them. I find the notion of the social contract a useful point of departure for discussing these matters.

**The social contract between science and society**

The social contract is a partnership between science and society established in western democratic societies, in which science offers society knowledge and technological possibilities, and in return, science is given autonomy and grants. This contract needs to be understood as a historically negotiated implicit agreement that has basically been found acceptable and favourable for everyone affected by it. Various scholars have now called for renegotiation of the contract, questioning whether the contract really does serve the purpose it was carefully designed to do, namely to unleash the powers of science while simultaneously preventing abuse of power (Winner (1993), Guston and Keniston (1994), Lubchenco (1997), Gibbons (1999), Demeritt (2000) and Gallopín, Funtowicz, O’Connor and Ravetz (2001). The first step is to articulate the commitments which are underlying the contract and which are taken for granted. I will refer to David Guston’s (2000a,b) presentation of the contract.

The partnership between science and society raises an immediate democratic problem of delegation. The scientists are the ones who have expert knowledge, and their work and products cannot be reviewed by non-scientists. How then, can public authorities guarantee that science will be reliable, efficient and socially acceptable? Guston pinpointed three elements that explain how this problem of delegation has been handled under the terms of the social contract.
First, the partnership is based on mutual trust. The scientific community has to trust the integrity of the politicians and their ability to provide a just and enlightened deliberation process. Likewise, in order to delegate to the scientific community the power to set parameters for these important matters, the political community has to trust scientists’ integrity and their ability to maintain and assure reliable self-regulating mechanisms (such as peer review). Second, a linear model of change is assumed. The linear model assumes that research results are easily translated into economic and other benefits; if money is invested into research and development, the assumption is that the output will be, by and large, beneficial for society. Third, the partnership relies on an institutional and conceptual separation between politics and science. The reliance on self-regulating mechanisms on the one hand and confidence in the utility of research on the other hand is strengthened by the belief that science is a self-vindicating enterprise. Science works best if it is left alone; it maintains its self-regulating mechanisms from within, which in turn ensures the integrity and reliability of research. As such, scientific activity needs to be understood as having intrinsic value; only if science is granted autonomy can the results of science be beneficial to society.

The three elements of the contract clarify how it can ensure reliable science and legitimate politics. The sustainability of the contract hinges on the common agreement that the contract brings as a lucky coincidence: Good science as well as just and wise politics are both best safeguarded if interest, values and political hopes are cordoned off from the sphere of research. The contract implies that everybody endorses the same ideals and accepts the same commitments. Everybody should make certain that the world of research and fact are kept separate from the world of politics and values.
The philosophical discourse that serves in the investigation of the rationale behind the fortunate coincidence of the social contract has itself been organised according to the boundaries constituted by the contract in two separate lines of investigations. On the one hand are epistemological discussions, aimed at clarifying what genuine science is; on the other hand are political discussions aimed at clarifying the characteristics of a desirable deliberative procedure for assessing scientific results and technological products. Philosophers, then, has tried to clarify the conditions for true scientific activity on the one hand and true political activities on the other hand, downplaying interest for how the two activities interact.

The terms of the contract now appear to be violated on a regular basis in biotechnological research. It is not by chance that hybrid words, such as biotechsociety, appear and thrive in the vicinity of modern biology as traditional boundaries between scientific, technological and political activities have eroded. Researchers complain of lost freedom, due to increasing linkages between industry and research on the one hand and politicians’ increasing eagerness to regulate research practices on the other. For their part, politicians are not prepared to grant scientific communities autonomy due to strategic, ethical and economic reasons.

Are there good normative reasons for accepting such violations of the social contract? If science is in transition, what changes should be welcomed and what should be resisted? In the following I discuss two set of approaches. There are a set of normative approaches that argue the need for either enforcement or adjustment of the ideals of the contract in certain circumstances. Then there are a set of empirical-descriptive studies of how scientific knowledge is produced. These studies indicate that the ideals of the social contract, enforcing a separation of political and scientific activities, are counterproductive with regards to scientific knowledge production. The presentation of these two set of approaches leads forwards to an applied ethics situated in explorations of how scientific and political activities are and should be intrinsically linked.

Enforcing or adjusting ideals of the social contract

I find two influential scientific responses of the 1990s illustrative of the call for enforcement of traditional ideals. These are the responses re-
ferred to as "science wars" and "science literacy programmes". These strategies seem to assume that there is basically only one answer to the various problems scientist encounter; namely education, whether it concerns the problem of recruitment to the natural sciences, public scepticism, or politicians eager to regulate the internal affairs of science. The call for enlightening education is shaped by the traditional accounts of change. In the case of the discussions on the future of molecular biology, biological, technological and social activities should be seen as three independent and successive arenas of activities. There is biology (producing knowledge), there is technology (applying knowledge) and there is society (assessing knowledge).

One may understand these responses as attempts to restore the social contract and secure democratic processes by strengthening the educational sectors of the natural sciences. The proponents of science literacy programmes have argued that, since decisions about the future of science are to be made by political institutions, politicians and science administrators need to have a basic knowledge of science. And symmetrically, if the political institutions are not to be overruled by the judgements of scientific experts, politicians need to be scientifically literate. While the science literacy programme calls for enlightenment outside academic circles, science wars is a heading that describes various attempts to debunk the ignorance of scholars who are seen as having invoked a war against the natural sciences. Scientists within the humanities and social sciences are the ones who have come to provide the public as well as science administrators with flawed understandings of science. These scholars have been accused of systematically undermining the authority of science, which in turn has been partly blamed for the crisis in recruitment, the rise of irrational public distrust and lack of willingness to stake a lot on science (Gross, Levitt and Lewis (1996), Gross and Levitt (1994), Ross (1996)).

These responses assume the ideals of the social contract to be in order as they are. Various authors, like Silvio Funtowitz and Jerome Ravetz (1990) has however argued normative reasons for adjusting the ideals in certain circumstances. Funtowitz and Ravetz have drawn attention to research fields where decisions have to be made even though facts are uncertain, values are in dispute and risks are high. These situations do not fit the normal conditions of the social contract, and should therefore not be treated normally either. The spheres of politics and science are then often blurred to such an extent that the ideal of the sepa-
ration of the two is counterproductive. This is not a marginal phenomenon, they argue; instead, society must accustom itself to making decisions under such conditions. Our life conditions are increasingly bound by situations where entry words as uncertainty, values, risks and the urgency of decision have become predominant. These situations need in their view to be considered “post-normal”, calling for post-normal type of governance.

The threat of global warming has become a paradigmatic case as it brings out a fully fleshed out combination of the four. The field of biotechnology suits demonstration purposes as well because values are often at dispute in the field even with regards to research methods as well as research goals. This has become evident in the controversy over stem cell research or in the controversies following the rapid advancement of diagnostic tools that are unaccompanied by any therapeutic counterpart. The intrinsic value of knowledge has been questioned in these cases. Do we want to know about our predisposition to certain diseases or disorders? Do we want to realise the technological opportunity afforded by the cloning of a human being? The risks of the outcome of research are likewise often discussed within the field, as in xeno-transplantation or in the controversies about genetically modified organisms.

Arguments for post-normal strategies then, is based on arguments that modern societies have come to be risky and morally controversial due to the way our society has come to be marked by science and technology. Post-normal strategies should for these reasons be imposed, which usually imply calls for various ways of including lay-people or stakeholders in science and technology governance. Public opinion on say, embryonic research, should be one way or another, as in citizen panels, taken into account and empowered in order to influence the course of events.

Traditional distinction between scientific and political activities underlies the arguments of Ravetz and Funtowicz. The key entry terms for their call for recognition of political dimensions of science are “values” and “uncertain facts”, hence the need for enforcement of public participation in science governance. A related, but different perspective is derived from the field of science and technology studies (STS). This field has emerged out of empirical studies of scientific knowledge production. The political dimensions of science needs to be analysed in terms of how scientific knowledge is produced. The argument here is not that
scientific autonomy needs to be restricted because science is not value-free and/or not supplier of solid facts for political decision making. The argument is rather captured in the slogan “science is politics by other means”. The insights from STS makes a difference for how governance of science is to be done. What we need to take into account, Michael Gibbons et al. (1994) and Helga Nowotny et al. (2001) argue, is the fact that research practices are changing. In modern science, like biotechnology, we see the emergence of novel modes of knowledge production.

**Novel modes of knowledge production**

Gibbons, Nowotny and their colleagues have drawn attention to changes that have occurred in recent decades. The standard contract relies on the ability to assign professional identities in accordance to some stable and well-defined boundaries within disciplines, between public and private research institutions and founding agents as well as between pure and applied research. The trend now, however, as in molecular biology, is that fields are developing in between disciplinary and institutional boundaries. Traditional institutional boundaries have eroded, as bonds are formed that cut across the boundaries of industry, research and politics. The old ideals embedded in the social contract, Gibbons and his colleagues argue, cannot apply, and attempts should not be made to apply them in this situation. The old ideas are captured in the very notions of (first of all the natural) science and in understandings of research. A shift has occurred in the practices that we need to take into account conceptually and institutionally. We need to “re-think science” in order to comprehend the shift from what they call Mode 1 to Mode 2 type of research that has occurred.

“No judgement is made as to the value of these trends – that is, whether they are good and to be encouraged, or bad and resisted”, Gibbons et al. (1994:1) write in their introduction to *The New Production of Knowledge*. Their starting point is the description of these trends, arguing for the need for better understanding of current shifts in the way knowledge is being produced before passing normative judgments. The Mode 2 conditions, I would say, needs to be articulated and digested in order to facilitate a better, more enlightened discussions of what should count as an ideal model of the relationship between scientific and politi-
cal activities. They seem to suggest however, that Mode 2 type of re-
search, that confuse traditional ideals and professional identities, is ac-
companied by a process of restructuring of ideals. Novel decision-
making structures have emerged in parallel to changes in the means of
knowledge production. Although research has become more entangled
with politics and industry, it has simultaneously been forced to take more
considerations into account in the process of producing knowledge. Sci-
ence is more socially accountable as it needs to attune itself to the social
realities it is affecting. The result is the production of knowledge that is
not simply reliable or robust inside the walls of the laboratory, but also
“socially robust”.

The conference title: "The biotechsociety – where are we heading?"
captures the idea of socially robust science quite nicely. The three ar-
eas, science, technology and society, were here compressed into a sin-
gle word followed by a question that one could read as: where are we
heading as a collective? Decisions and actions made in one of these ar-
eas affect decisions and actions made in the others. The activities we
recognise as scientific and technological are from this perspective not
conceptualised or investigated as independent of the ones we recognise
as political. The conference agenda could, it appears, be phrased as:
"When producing reliable knowledge and constructing functional tech-
nological devices, public and private as well as economic and social in-
centives are woven into each other. Scientific, technological and social
changes come together, responsibility is thus distributed among us all -
what do we do about it?"

The conference represented an attempt to deal with the matter. At the
core of the conference was a national plan designed to empower Nor-
wegian society as it entered the biotechsociety. The message of the
conference announcement was quite clear: Like it or not, biotechnology
has come to stay, we are heading for a biotechsociety. The question was
not whether or not society would be marked by biotechnology, the
question was rather: what direction would we like our biotechsociety to
take, where should the decisions be taken and who should take them?2
To discuss how Norway might best enter the new biotechsociety that
conference organizers saw coming, a broad spectrum of questions had

2 “Bioteksamfunnet – hvor går vi?”, a folder inviting participants to the confer-
ence. Further discussions and reports about the conference are found in
Forskning (9) 2001 nr 3, as well on the Research Council of Norway’s web
pages (http://www.forskningsradet.no).
to be raised at an early stage. What sector could Norway compete in, what kind of expertise did our nation need, what was ethically questionable, politically feasible and industrially realizable?

Our common future was presented as critically dependent on our nation’s involvement in the coming field of “functional genomics” that followed the Human Genome Project. Combined scientific, technical and social issues had to be addressed from the start. The conference promoted functional genomics by addressing the challenges posed by fields such as medicine, the fish industry and food production sector. These areas could benefit from this emerging technology on their own terms if they changed or reoriented their practices towards genes, and invested in the people and machinery needed to liberate the genes potential for their respective practices. The attempts to coordinate the development patterns of different research fields and activities were supplemented by a call for a corresponding sensitivity to social, ethical and political concerns. The innovative biotechnological research in question was expensive, economically and environmentally risky and politically controversial.

A robust scientific, technological and social package had to be constructed in order to ensure scientific reliability, scientific and industrial competitiveness as well as political acceptability. These issues could not easily be separated, definitely not in the normative successive order of science, technology and society. The scientific community, along with the science administrators that arranged the conference, had an idea of what the constituents of such a package should be, and they tried to argue the case in public. One could say the conference was a site for negotiations where a possible scenario of what a Norwegian biotech society would be was put on trial in a melting pot of scientists, politicians, scientific and public administrators, representatives from industry and commerce as well as non-governmental organisations.

The conference represented a way of involving citizens which is somewhat different from the one that stakeholder models would nurture, paying particular attention to strategies of lay-people participations. The participants were all experts in the sense that they had important input to the question of how our common future was to be shaped. One could rather argue that the conference strategy could be legitimised with reference to Habermas’ (1994) ideals of deliberative democracy. This would however not capture the core point of Gibbons et al. The conference reflected Mode 2 condition of research; various
social activities could be seen as part and parcel of the knowledge producing process. The conference reflected a process where science is already being shaped in a broad social and technological context. The focus lies on conditions for robust knowledge production, that is, knowledge and technological products that will be feasible and realisable within the society that conditions research.

Gibbons et al. have however not sufficiently incorporated a normative perspective. The notion of socially robustness extends, but basically remains within the tradition that has discussed the epistemic character of science in terms of a “stability thesis”, argued by STS scholars. The activity of natural sciences has generally tended, within STS works of the last two decades, to be studied as an ordering activity directed towards creating stable orders (Galison (1987), Latour (1987), Pickering (1995), Hacking (1992), Rheinberger (1997), Knorr-Cetina (1999)). Gibbons et al. inscribe ethics and politics into the epistemic framed stability thesis. This creates the difficulty of settling the question of what should count as legitimate robustness. Scientific and political activities stand in danger of being understood as one and the same activity, endangering the distinctions between right and might these distinctions were to secure.

**Temporality**

Funtowitz and Ravetz, and partly Gibbons et al, I suggest, have difficulties with in developing sound alternatives to the social contract because they do not pay enough attention to the question of how socio-scientific changes come about. The problem is that they do not analyse or challenge the theoretical understanding of change embedded in the social contract. On the contrary, their rhetoric seems to hinge on their respective understanding of the “normal” or “mode 1” conditions, which contrasts to the “post-normal” or “mode 2” conditions. The problems at hand are rooted in commitments to, and accustomed ways of, separating science and politics, conceptually and institutionally, reflected in accustomed ways of separating epistemic and ethical-political normative issues. As a result, analysis of temporal shaping of scientific and political activities has not only escaped scholarly interest but also, when it does, created severe challenges for normative reflection.
Bruno Latour’s (1993) analysis in *We Have Never Been Modern*, explain why the commitments of the social contract enforce a downplaying of intellectual interest for exploration of temporal relation between scientific and political activities. In Latour’s analysis, the crucial commitment of the standard contract, that the scientific and political activities are to be separated, merely articulates the visible and explicitly acknowledged part of what Latour described as the “modern constitution” or the “modern settlement”; that is, how we have come to organise ourselves and chosen to live with science and technology in modern societies.

The normative ideals of the social contract correspond to what Latour describes as the "work of purification": The realm of fact and value, nature and society should carefully be purified, separated and subsequently treated in different realms. Everybody should see that this is done properly. But the modern settlement is not understandable without seeing how the work of purification relates to the "work of translation". The work of translation is the work that creates, sustains and transforms the blending of science, technology and society, as extensively demonstrated in many case studies within STS. The conference of the future state of our biotechsociety demonstrates a situation where such complex associations were being negotiated, sustained and possibly reshaped. The dynamics of socio-scientific developments that take place and always have taken place as a work of translation, have not commanded intellectual attention precisely because of our common normative commitments to the work of purification. In Latour’s analysis, the work of purification facilitates translation by rendering it invisible. The proliferation of hybrids like the biotechsociety may go unnoticed because everybody is obliged to make sure that the work of purification is performed properly.

The commitments of separating science and politics draw attention away from practices of crucial ethical and political relevance. The ideals of the social contract hide the effect of the work of translation and may thereby conceal the most important aspects of what we need to take into account in order to take responsibility for our future common condition. Our well-intended efforts to fulfil our moral obligations may in fact hinder us as long as we are committed to the ideals of the social contract. It is not only our will, then, but also our practices and the lines of reasoning we attend to that hinder us.

We need to focus on what theoretical grip on the world we are developing in order to illuminate and evaluate changes brought about in the
world. Latour invites us not to put objects like "science" or "society" at the centre of our analytical attention, but instead to turn our attention to the processes where science and society are simultaneously shaped. The call for this shift carries an invitation to rethink why we find it important to make and safeguard distinctions of this sort and pursue them the ways we are accustomed to. His invitation also carries a promise. As soon as we realise the hidden work of translation that comes along with the work of purification, as Latour (1993:11) explains in his introduction to *We Have Never Been Modern*, our minds and patterns of obligations are no longer bound by modernity. At the same time that we become aware of the work of translation, we will, in retrospect, understand that we were in fact never actually modern because the two sets of practices have always been at work.

The important lesson I want to draw from Latour is that scientific activity of clarifying why things are as they are is intrinsically linked to the political activity of determining how human beings should accommodate to the order described and shaped by science. The crucial point follows from the emphasis on temporality. Scientific and political activities do not need to be understood as one and the same activity. The important thing is that we need to regard the two activities as temporally entangled, and not, like we are accustomed to, think of the two activities as basically atemporal and uncoupled.

The challenge for applied ethics in this situation has both theoretical and methodological components. Ethical-political aspects of research are being temporally addressed in and through the research process itself. The challenge is to better theorize how this happens which I believe calls for a normative measures of theories in the sense that theories needs to be evaluated in terms of how they make us better able to cope with urgent matters. The question at hand is the question of how the biotechosociety is to be well-constructed where scientific, technological and social issues already is taken into account. Normative analyses needs to be situated in the practices where the biotechsociety is being constructed, pursuing the joint task of describing and prescribing, revealing and conveying, aiming at explicating the implicit in ways that leads forwards to the better.
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