

Scientific Contribution

A new rejection of moral expertise

Christopher Cowley

School of Medicine, University of East Anglia, Norwich NR4 7TJ, United Kingdom (E-mail: c.cowley@uea.ac.uk)

Abstract. There seem to be two clearly-defined camps in the debate over the problem of moral expertise. On the one hand are the “Professionals”, who reject the possibility entirely, usually because of the intractable diversity of ethical beliefs. On the other hand are the “Ethicists”, who criticise the Professionals for merely stipulating science as the most appropriate paradigm for discussions of expertise. While the subject matter and methodology of good ethical thinking is certainly different from that of good clinical thinking, they argue, this is no reason for rejecting the possibility of a distinctive kind of expertise in ethics, usually based on the idea of good justification. I want to argue that both are incorrect, partly because of the reasons given by one group against the other, but more importantly because both neglect what is most distinctive about ethics: that it is personal in a very specific way, without collapsing into relativism.

Key words: ethical expertise, ethical judgement, ethical relativism, moral expertise, moral judgement, moral relativism

Introduction

Ethicists seem to be everywhere today. Not only do they serve on hospital ethics committees and research ethics committees, as well as advise healthcare practitioners directly in the clinical setting, but they also testify in court, advise legislative committees, and of course teach ethics to students and practitioners of the professions. In doing so they seem to be claiming a type of expertise, alongside that of the many other kinds of expert witnesses, advisors and teachers. By background, many ethicists seem to be philosophers, and it is the philosopher–ethicist I shall be focusing on in this critique. More specifically, I shall examine the claim that a successful training in academic philosophy necessarily gives one the sort of ethical expertise that would be relevant in dealing with the problems typical of the clinical setting. My rejection of the concept of moral expertise is not new; but the grounds for my rejection are.

Kinds of moral expertise

As Bruce Weinstein points out, the term “moral expertise” can be interpreted in a number of ways (Weinstein, 1994). First of all, any expert can be “descriptive” or “performative.” A descriptive

expert has the capacity to make claims about his expert subject that are well justified, where such justification involves at the very least the belief – sufficiently widespread among a recognised community of such experts – in the quality of the justification. A descriptive expert need not justify every claim he makes on a topic within his field, but he must in principle have the capacity to so justify it if called to do so by his peers. Most academics are descriptive experts in this sense.

A performative expert is widely recognised as being able to “get it right,” but without being able to justify or explain how he got it right. This can also be described as showing good judgement in that field. Many athletes and musicians discover and nurture talents to a high level where most of their decisions end up being inarticulately intuitive.

With this in mind, Weinstein then describes two kinds of descriptive moral expertise which are *not* problematic. First, there is expertise in “descriptive ethics,” which is more akin to anthropology (I shall henceforward call this “anthropological expertise”, itself a kind of scientific expertise), and he cites Charles Curran’s 1978 account of philosophical and religious positions on abortion; (Curran, 1978). An empirical survey is carried out, the data analysed, and substantive non-moral conclusions are drawn. Curran’s claim to expertise lies in his skilled gathering and analysis of the data, and in the quality of his attempts to justify the

conclusions with reference to the data and analysis. The greater his skill in data gathering and analysis, and the more robust his justifications, the more likely it is that his conclusions will be *true*.

Second, moral expertise can also be interpreted as “expertise in moral theory or meta-ethics.” This is one legitimate area of philosophical enquiry alongside other areas such as metaphysics and the philosophy of mind, and will comprise fairly arcane debates surrounding, say, the ontological status of moral value and obligation. Here it will not be problematic to say that a certain expertise is acquired and deployed by professional academic philosophers alongside their knowledge of the relevant terminology and history of the debates. As with “descriptive ethics”, however, any substantive conclusions that are reached are themselves *non-moral*, and so this kind of expertise is better termed “philosophical”.

The critique in this paper is *not* levelled against either of these two forms of expertise, but against the two remaining types in Weinstein’s useful taxonomy: “descriptive expertise in normative ethics” and “performative expertise in living a good life.” The descriptive expert, according to Weinstein, is able to make expert *moral* judgements about what, morally, ought to be done in this situation, and has the capacity to justify such judgements. The performative expert is able to “get it right” without necessarily having the capacity to justify the judgement or explain how he got it right. Both of these types of putative moral expertise, as just described, assume a great deal, and it shall be one of my purposes to expose these assumptions as false or unwarranted. However, I do not have the space to discuss performative expertise properly, and so shall restrict the following mainly to descriptive moral expertise.

The Professionals’ critique

I want to examine some points in the debate surrounding descriptive expertise to date. There seem to be two basic positions in the debate, which I shall crudely label the Professional position and the Ethicist position. Here is Ruth Shalit, a Professional, arguing that there is no such thing as descriptive moral expertise:

“Clinical ethics” is not medicine, which is to say it is not science, which is to say it is to a very large degree whatever anyone wants it to be [...] The surgeon’s recommendation rests on an agreed-

upon set of facts and criteria [...] The philosopher’s recommendation depends on a set of criteria that is not agreed upon, but varies from culture to culture and, more and more, from individual to individual. One man’s categorical imperative is another man’s heresy. (Shalit, 1997, p. 24)¹

This is essentially an empirical claim: there seems to be a lot more ethical disagreement around than there is clinical disagreement. In addition, ethical disagreement seems more intractable and entrenched, while clinical disagreements will often be based on agreement about what would constitute a resolution to the disagreement. If you and I disagree about whether these are symptoms of disease X or disease Y, we at least agree about the definition of X and Y, and about how an autopsy would eventually corroborate one or the other position, i.e. would reveal the fact of the matter.

Clinical expertise – a set of relevant skills and knowledge – is something acquired in a specialised training, with a formal accreditation procedure. Without such training, a non-expert cannot rationally disagree with an expert (within certain limits): if the dentist tells me I have to have my molar out, then I have no rational grounds by which to doubt his judgement. There will be certain limits defined by lay knowledge of dentistry, beyond which I might at least like to get a second opinion – if the dentist recommends amputating my foot, say – but within these limits there can be no serious disagreement between us. Any of my hesitations could in principle be met by the dentist’s statement of: “*if* you had the relevant training and experience, I would be able to explain to you exactly what I am proposing to do, and why; and you would come to agree with me that it is for the best.”

This does not seem to be the case in ethics, precisely because all of us feel competent to pass ethical judgement on doctors and dentists, prime ministers and priests. Of course, just because we *feel* competent does not mean that we *are* competent: a lot of us feel competent to express opinions on complicated issues of sports and politics all the time, and yet we recognise experts in both fields. But, the Professionals reply, this feeling of competence *persists* in the presence of a putative ethical expert, in the way it cannot persist – again within limits – in the presence of an expert of sports or politics. If I, with my political knowledge derived solely from tabloid newspapers, wander into an academic conference of political scientists, I ought to at least hesitate before voicing an unsupported opinion, because I lack the particular kind of confidence that comes from wide reading and

discussion on the subject. One's ethical judgements, on the other hand, are not coloured by this kind of confidence or by its lack.

No one would be satisfied with a statement of: "X is the morally right thing to do, but you do not have the expertise to understand why, so you will just have to trust me." And it can be no accident, the Professionals conclude, that there is no Nobel prize in ethics, no quiz show contestants specialising in ethics, no diplomas in advanced ethics, and no child geniuses in ethics. One might summarise this latter point by saying, along with Ronald Suter, that there are no criteria by which to distinguish experts from non-experts in ethics (Suter, 1984).² As a result, any attempt to solve an ethical disagreement by bringing on an "expert" will shift the subject of the disagreement to the issue of who is and is not an expert.

The Ethicists' reply

The first response made to the Professionals' critique is to point out the difficulty of quantifying disagreement. There is, after all, plenty of intractable *disagreement* in science (for example, in speculation about unobservables such as subatomic particles, black holes and genetics), and there is plenty of *agreement* in ethics (for example, about the evil of slavery and of the Nazi regime, or about the moral obligation of using readily available anaesthetic on a child about to undergo painful surgery). Indeed, the complex society as we know it would be impossible without widespread moral agreement about what constitutes a good reason to hire, to fire, to pay or obey.³

So – and this is the second response – the Ethicists accuse the Professionals of arbitrary chauvinism: why should they take science as the paradigm of knowledge, expertise and disagreement? They seem to be criticising ethics for not being more like science. But ethics is fundamentally different as a domain of human enquiry, and therefore has different notions of expertise and agreement. The difference, for someone like Scott Yoder (1998), lies in the different *grounds* of the two domains: in science it is factual evidence, while in ethics it is justificatory reasons. As such, Yoder says, the Professionals' criticism amounts to a demand that there be moral facts analogous to scientific facts, that can be discovered and known:

I want to argue that expertise in ethics is not dependent on the existence of objective moral knowledge and that one can acknowledge expertise in ethics while remaining agnostic about objective

moral facts. The key is to see that expertise in ethics is connected with justification – a claim to ethics is not based on the truth of one's judgements but on one's ability to provide coherent justification for them (Yoder, 1998)⁴

Once one accepts this, then one *can* plausibly argue that some people can provide more coherent justification and better arguments than others – and this is a skill that can be improved by training, as in any area of expertise. This expertise will also include more generic skills such as sound inference, sensitivity to contradiction, precise elucidation of concepts, and the imaginative exploration of implications and assumptions. The question then arises as to whether the philosopher is uniquely placed to offer such skills, or whether any training in the modern university should – at least in principle – suffice. If the Ethicists' argument was simply that doctors and nurses should be taught critical thinking skills, it would be hard to disagree with that. However, the Ethicists remind us of the philosophers' experience in dealing with problems requiring an unusually high degree of conceptual elucidation, logical consistency and justificatory support. Above all, the moral philosopher has a special kind of intellectual experience in dealing with hard cases, as Albert Jonsen describes:

The expertise of the clinical ethicist arises from their encounter with many cases, among which they can see analogies, and from their educated understanding of various meanings of rules and maxims [...] that are referenced in such cases. Expertise results from experience: seeing many cases over time and noting their similarity and dissimilarity. (Jonsen, 1993, p. 436)

My response to the Ethicists

There are some other points made by both sides, but I hope this outline will suffice for my purposes. I want to start by challenging the Ethicists' shift from facts to reasons as grounding objective enquiry: as I see it, this does not deal with the Professionals' critique because the reasons in question are supposed to be *just as objective* as the facts they are meant to replace. That is, the propositions "ethical judgement X is well-justified" and "moral reason Y is a strong and relevant reason for doing Z" themselves admit of truth values. Indeed, the reasons are supposed to supervene on the facts, so that if two situations are relevantly similar in their factual descriptions,

then they will generate the same moral reasons. So in the same way that the facts are assumed by the Professionals to speak for themselves, so too the reasons generated by the facts can be read off by the Ethicists, absent any identifiable cognitive distortion or overwhelming prejudice; and not only the reasons, but the relative strength and relevance of the reasons can also be read off, allowing a discovery of the most justified course of action, “all things considered.” To put it another way, the Ethicists expect to *converge* upon the right thing to do, once all the reasons are in, in the same way as the Professionals expect to converge upon the factual truth.

Now I want to pick up on one thing the Professionals were saying about ethical disagreement, namely that it seems more intractable than scientific disagreement. And it should be obvious here that the Ethicists’ shift to reasons will not meet this objection. The Ethicists are right to stress that there is plenty of agreement about what constitutes a strong and relevant reason, but this agreement has the shape of limits within which there is some room for what I might call legitimately intractable disagreement about the reason – “legitimately” as opposed to bloody-mindedly or whimsically, for example.

Consider the following schematic conflict between a “Doctor” and a “Manager.” The Doctor has an employment contract with the Hospital Trust, and the Manager is partly in charge of making sure that the Doctor complies with that contract. One day the Doctor’s infant son becomes ill, so the Doctor decides to stay at home to look after him. Now the employment contract stated precisely that in exchange for such-and-such a salary and benefits, he was committed to perform such-and-such tasks; he could only miss work for “good reasons.” Most of the time, the Doctor would be in entire agreement with the Manager about what would and would not constitute a good enough reason to miss training: a family bereavement would, and a favourite soap opera would not.

But within such limits, on the matter of his son’s illness, let us say they disagree strenuously. And here is the point: even if they were as informed as one could expect them to be (of implications, consequences etc.), even if both parties were as open-minded as one could expect them to be, even if the contract between them were as explicit and precise as possible, it is easy to imagine such a disagreement persisting to the point where even *hypothetical* or *ideal* convergence could not be rationally expected as necessary – precisely unlike the case in science, no matter how prevalent

disagreements may be over, say, the best interpretation of a symptom.⁵ This is not to deny that either the Doctor or the Manager might later come to change their minds, but such an event could not plausibly be interpreted as convergence upon the singular truth (of whether the Doctor was or was not justified in taking time off work) because it would lack the necessity generated by rational answerability to such truth.

In one sense, of course, the disagreement would eventually have to be settled, but such a settlement would be *political*, and would inevitably fail to persuade – in the full sense of rational assent – one of the parties without the offer of subsequent trade-offs and compromises.

If such a persistent disagreement is legitimate in the relatively explicit contractual relationship of the Doctor and the Manager, imagine how much more disagreement is legitimate in the ordinary non-contractual relationships we have with others, from complete strangers to intimates.

The Ethicists have misconstrued the role of reasons in moral perception, deliberation and action. The *meaning* of the situation to a specific individual, the way that individual experiences the situation, will be revealed by the moral judgements he finds himself inclined to make to explain his action, and by the moral reasons (and the sorts of moral reasons) he finds himself inclined to deploy in support of the action. Moral reasons and judgements are always declared within an embodied moral perspective on the situation, and as such they should not be taken as putatively accurate reports of a singular objective reality.⁶

That is what makes the disagreement “legitimate”, and why there are no grounds for believing one or both parties to be necessarily guilty of some sort of epistemic failure. The reasons are not there in the situation, to be discovered and applied by whomever stumbles across them. As such there is no way that either the Doctor or the Manager can claim privileged access to the “best” or “correct” reasons, in the way that my expert dentist can claim privileged access to the facts most relevant to the treatment of my and everyone else’s teeth. If neither the Doctor nor the Manager change their mind, or cave in for political reasons, then at a certain point all that one will be able to say to the other is “this is the way I see it.” As such, within relevant limits (see below), *we are all ethical experts*, and so effectively none of us are.

Finally, it is impossible to say whether the Doctor or the Manager perceived the situation “aright” – for any observational judgement in favour of one or the other would itself be that of an

embodied moral critic, viewing the situation through *his own* perspective. The only justification for attributing error to one or the other will involve the transgression of the limits of conceptual intelligibility. Were the Doctor to miss a workday in order to see his favourite soap opera – and to give this as a reason to the Manager – then the Manager would be justified in thinking that the Doctor did not fully understand the terms of his original contract, or indeed of the concept of a promise at all. (Either that or a new contract would have to be negotiated to allow for the Doctor's new *prima donna* status.)

My position is not relativism

This might seem to be a simple reiteration of the Professional critique: ethics is essentially a matter of individual preferences, and ethical disagreement is no more than the expression of independent preferences, like my preference for beer and yours for wine. Although there can be expertise in recognising the quality of this wine over that, there is no expert who will pronounce wine in general to be better than beer.

But my account is neither solipsistic or relativistic. First, because of the widespread agreement in the conceptual limits to, say, what constitutes a good reason; the fact is that there *must* be enough agreement for society to function at all. Some are surprised that a vague-sounding word like “reasonable” can figure so prominently in so many areas of the law; and yet it does work well enough because of agreement on the limits of its application as a concept.

Second, none of us behave *as if* relativism were true in ethics; whereas we *do* behave as if relativism were true in our discussions about the merits of beer over wine. I am not going to try to persuade you that “in fact” you prefer one to the other, I am not going to try to expose your declared preference as a “mistake.” No, I can only wait upon your declaration and take that as incorrigible. To put it another way, it does not really *matter* what your preference is, and I am not particularly *bothered* by it.

But the subject matter of ethics clearly matters to all concerned. Not only because what is often at stake is the suffering or wellbeing of another person, but also because our spontaneous reactions to others' actions reveal that we take them seriously as moral beings. The Manager was genuinely upset by what he sees as the Doctor's flagrant misperception of his contractual duty; and the

Manager would not himself describe such a reaction as a “prejudice” or a “preference”. No doubt the Manager could give intelligibly relevant reasons for his condemnation of the Doctor's behaviour, but such reasons ultimately depend on the way the Manager experienced the situation within his perspective.

Does this not amount to saying that the Manager judged what he thought was right-for-the-Manager? No, because the Manager's perspective does not itself enter his deliberation at the moment of deliberation: he does not say relativistically “given my perspective, what ought to be done?” Instead, he says “what ought to be done?” *tout court*. Within his perspective he does not contemplate *his* world, or the world-for-him; he contemplates *the* world, and in that world is the Doctor behaving in a matter that objectively deserves moral condemnation.

The impotence of ethical theory

Because of the distinctly personal nature of ethical perception within the aforementioned limits, this means that reasons lack their supposed independent normative force. In addition, all these fancy ethical theories and principles lack normative force in the same way. Just as reason X will outweigh reason Y for the Doctor but not for the Manager – where X and Y are both good, relevant and intelligible reasons – so too will, say, consequentialist considerations outweigh considerations of justice for the Doctor but not for the Manager. In such cases the theory comes *too late* to guide action, most often because the very description under which the agent experiences the situation will already determine the outcome of deliberation. To say “I am acting for reason X rather than reason Y” or “I am acting to maximise utility rather than to be just” is no more than to say “here is how I see the situation; here are the obligations I experience as most binding upon me.”

The faith of moral philosophers in the arbitrariness of reasons is thus greatly exaggerated. Jan Crosthwaite, for example, is not alone in declaring that “the only validation for moral judgements is the reasoning which supports them” (Crosthwaite, 1982, p. 372). Against her, I claim two things. First, a great deal of moral experience will be direct and intuitive, without any plausible validating reasons that could be given, or indeed without any reasons that others would expect to be

given. In addition, the paradigmatically non-rational emotions make an essential contribution to moral experience. One example might be the basic wrongness of gratuitous killing. If a person does not already *see* it as wrong, does not feel a natural repugnance to it, there is not much by way of non-question-begging reasons that I, a so-called ethical expert, can give to persuade him. Second, the moral reasons I give (i) reveal the details of my moral experience of the situation and (ii) appeal to you to see the situation in the same way. As such there will often be a point where the putatively validating reasons – and the principles, theories, assumptions backing them up – *run out*, and I am left saying “do you not see?”, without any possible further validation.⁷

The distinctive thing about *my* moral judgement is that it is *up to you* whether or not you accept it, let alone adopt it as your own. Of course you can be bullied, bribed, deceived or threatened into accepting it, but we are not talking about those sorts of judgements here. Instead, genuine ethical persuasion is very different from persuasion about matters of fact. However, the Professionals are wrong to think that such persuasion therefore becomes contingent to the point of being whimsical. If you are morally serious, then you will only accept my moral judgement if you consider it to be objectively valid, or if you consider my moral reasons to be objectively good ones, in other words, if you are brought to see the situation the way I see it. Whether my reasons find purchase in your deliberation, however, is – again within limits – often a contingent matter.⁸ As such, ethical judgements comprise an awkward hybrid, with elements of both discovery and invention.

When I am ethically perplexed, I can seek advice, and there may be plenty forthcoming. But I cannot abdicate the decision to someone else in a way that would shift responsibility and blame onto that person, in a way that I can to the dentist or cartographer. After all, when I receive even the best moral advice I shall have a new problem about whether to accept that advice, and to make it *mine*, at which point it is no longer your advice but my decision. As Rush Rhees puts it, in a moral problem nobody can tell me what I ought to do, not because the subject is difficult, nor because it depends on something to which I alone have access; “mainly it is that the question is not answered until I answer it” (Rhees 1999, p. 75)

It should now be obvious how silly moral philosophers can sound when their expertise is challenged. Here is David Brink:

Lay persons are typically willing to defer to theorists or theoretical debate on matters scientific, but they seem largely uninterested in profiting from theoretical work that has been done in moral and political theory. [...] Most laypersons, even those with strong moral sensibilities, seem largely unaware of, or uninterested in, even the outlines of theoretical work in ethics. (Brink 1989, p. 207)

Brink seems genuinely surprised that people do not come to consult him about ethical problems. I find this quotation comical in its rather touching optimism, although it also suggests a simmering resentment that ethicists like himself have not yet been awarded the recognition and deference (and salary?) he clearly feels he deserves.

Finally, in terms of Weinstein’s second category – performative moral experts – some historical persons clearly had a widely acknowledged moral authority: Jesus, Gandhi, Martin Luther King. But this is surely a much more complicated phenomenon than narrow institutional specialisations. Importantly, such moral wisdom is accessible to anyone, not just philosophers. Perhaps priests, novelists, and psychoanalysts have a better than average moral imagination, a greater sensitivity to other people’s feelings, a capacity to see the moral relevance of certain facts or counterfactuals, a capacity to ask the awkward moral questions articulately. But this is not the same thing as a more reliable access to the moral fact of the matter of what some other person should do in these circumstances. Nor does it make King immune to moral criticism in the way that my dentist is mostly immune to criticism from non-dentists about his dental activity: anyone can morally criticise King’s notorious philandering, for example.

Similarly, there is certainly room for me to admire my friend for his moral wisdom, but this does not mean that I ask him to solve my moral problems for me. What it could mean is that he is able to re-describe the problem by e.g. drawing an analogy, describing a precedent, exploring consequences, in such a way that makes my deliberation clearer – but it is still my deliberation that leads to my choice of action. One important component of my friend’s wisdom will be that he knows *me* much better than the dentist can or needs to. And this is important for locating the problem not only within the situation, but also within my perspective of the situation – my friend understands better than most what I see and where I am coming from. But in such cases we have moved far away from the notion of a public authority in a discipline, since my friend is only an expert on me.

Substantive conclusions

In line with the above, I have two suggestions. First, that the word “ethicist” be banned because of its misleading phonetic associations with (i) genuine experts such as anaesthetists and physicists or with (ii) ideological proponents such as Communists or Baptists. Besides, the term is ugly and unnecessary in an age of rampant neologisms: the ethics in the clinic should be the same ethics – using the same ethical concepts – as the ethics of ordinary life. Second, a moral philosopher has no *special* role to play on a research or clinical ethics committee. There is a case for having a lay member, but this post could be filled by anybody who is interested in the subject matter and who is articulate and imaginative, with some skills in critical thinking regardless of their particular academic specialisation. But this falls far short of the work that the concept of “moral expertise” is expected to perform. The mistake is to believe that moral philosophers have some added authority to which non-philosophers should defer just as I defer to my dentist: such a belief would make the philosopher’s behaviour not “professional”, but presumptuous, moralistic, and preachy.

Notes

- For similar arguments see Noble (1982), with responses in defence of the possibility of ethical expertise by Peter Singer, Daniel Wikler, Tom Beauchamp and Jerry Avorn in the same volume. For another take on the Professional argument, see Scofield (1993), together with responses in the same volume. See also Scofield (1995).
- Weinstein quotes the same source (p. 64), and responds that “adequate standards [to distinguish experts] have simply not yet been formulated,” clearly implying an optimism about formulating them in the future. But it is hard to imagine what such standards might even look like, if they have not been formulated in the last 2000 years of philosophical discussion about ethics.
- By this I mean a descriptive, not a normative claim.
- I referred to an electronic version of Yoder’s articles, and so I cannot give any standardised page reference.
- It is important to distinguish the relationship (i) between experts and non-experts, from that (ii) among experts. According to my admittedly simplistic schema, the non-expert dentist is not in a position to disagree about the fate of his molars. Obviously, however, two experts in a single given field can and often do disagree. But again, this is unlike ethical disagreement because, revealingly, there is enough agreement among the experts to design relatively similar curricula and textbooks in their professional schools.
- I borrow the term ‘perspective’ from Peter Winch: see his use of the metaphor in his (1972a) and (1972b). This use should be contrasted with that of Jan Crosthwaite (1982), *passim*. Winch’s use applies to the individual, Crosthwaite’s use applies to the class of ethical experts.
- It is interesting that Crosthwaite herself seems to allow something along the lines of my response, but only under the label of moral *wisdom*, not expertise, and only in a cautious footnote: wisdom “seems to allow for an understanding of moral issues and right action which need not be reflective in the way that I am interpreting moral judgements which flow from the philosophical moral expertise” (Crosthwaite 1982, n. 12 p. 372).
- As will be obvious, I am here assuming the truth of Bernard Williams’s reasons-internalism; see Williams (1981).

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