The “Ethics” Expertise in Clinical Ethics Consultation

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The nature, possibility, and implications of ethics expertise (or moral expertise) in general and of bioethics expertise in particular has been the focus of extensive debate for over thirty years. What is ethics expertise and what does it enable experts to do? Knowing what ethics expertise is can help answer another important question: What, if anything, makes a claim of expertise legitimate? In other words, how does someone earn the appellation “ethics expert?” There remains deep disagreement on whether ethics expertise is possible, and if so, what constitutes such expertise and what it entails and legitimates. Discussion of bioethics expertise has become particularly important given the growing presence of bioethicists in the clinical setting as well as efforts to professionalize bioethics through codes of ethics and certification (or quasi-certification) efforts. Unlike in the law or in engineering, where there may be a body of knowledge that professional organizations or others have articulated as important for education and training of experts, ethics expertise admits of no such body of knowledge or required experience. Nor is there an entity seen as having the authority to articulate the necessary scope of knowledge. Questions about whether there is such a body of knowledge for particular areas within bioethics have emerged and played a central role in professionalization efforts in recent years, especially in the area of clinical ethics.

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The nature, possibility, and implications of ethics expertise (or moral expertise) in general and of bioethics expertise in particular have been debated extensively for over 30 years (e.g., [Singer, 1972](#); [Frey, 1978](#); [Noble, 1982](#); [Weinstein, 1994](#); [Yoder, 1998](#); [Cowley, 2005](#); [Crosthwaite, 2005](#); [Cholbi, 2007](#); [Varelius, 2008](#); [Archard, 2011](#); [Cowley, 2012](#)).

Questions about ethics expertise include: what is ethics expertise and what does it enable experts to do? One might, for instance, hold that it includes having skills in reasoning about moral concepts and moral arguments; knowing the different types of moral theories and arguments developed throughout history; and having developed a “critically examined moral perspective” that allows one to make judgments ([Crosthwaite, 1995](#)). Alternatively, one might describe the ethics expert as one who, when matters of right and wrong are at stake, knows how to and then actually collects relevant information, chooses the information that is relevant to a moral question, assesses that information, and then decides what is right and wrong ([Singer, 1972](#)). A third possibility is that ethics experts are not to make judgments about what is right and wrong but rather to support other people who are making such decisions by serving as guides and facilitators. Their function is to clarify moral concepts and help decision makers to see where their reasoning might be flawed. Similar to this view is the claim that the ethics expert is “someone who knows what people ought to do or at least is capable of helping people see more clearly (perhaps through questioning) what they have good moral reasons for doing” ([McConnell, 1984](#), 194–95). Thus, one important aspect of the literature on ethics expertise concerns definitions and framing the discussion.

Knowing what ethics expertise is can help answer another important question: what, if anything, makes claims of expertise legitimate? In other words, how does someone earn the appellation “ethics expert”? In answering this question, special attention has been devoted to examining whether being a moral philosopher or having training in moral philosophy is necessary, sufficient, neither, or both ([Frey, 1978](#); [Gesang, 2010](#); [Archard, 2011](#); [Cowley, 2012](#)). Even if we establish the connection, or lack thereof, between training in moral philosophy and ethics expertise, we might still ask: what is the relationship between being virtuous or behaving ethically and being an ethics expert? Or, must ethics experts be motivated to follow their own advice and behave ethically ([Cholbi, 2007](#))?

Of note in thinking about the possibility of ethics expertise is that there is a debate at all. We rarely hear of disputes about whether it is possible to be a legal expert or an engineering expert ([Driver, 2006](#); [Varelius, 2008](#); [Gesang, 2010](#)). We do not find people arguing, for example, that we all have legal expertise since we routinely make judgments interpreting what the law allows or prohibits in our daily lives. Yet in the literature on ethics expertise, we do find arguments that the ethics expert is no better suited than anyone else to make judgments about what is ethical ([Cowley, 2005, 2012](#)). Unlike in the law or in engineering, where there may be a body of knowledge that professional organizations or

others have articulated as important for education and training of experts, ethics expertise admits of no such body of knowledge or required experience. Nor is there an entity seen as having the authority to articulate the necessary scope of knowledge. Questions about whether there is such a body of knowledge for particular areas within bioethics have emerged and played a central role in professionalization efforts in recent years, especially in the area of clinical ethics.

Some commentators point to differences between ethics and other areas where expertise is readily recognized. Among people who might be considered ethics experts, there can be much disagreement over what is right or wrong, what is permissible, and how one can make such judgments. Whether such disagreements affect the plausibility of ethics expertise claims is contested (Agich and Spielman, 1997; Meyers, 2007; Archard, 2011).

The concept of ethics expertise has been used both to describe and to question the work of bioethicists. There remains deep disagreement about whether such expertise is possible, and if so, what constitutes such expertise and what it entails and legitimates. The discussion of ethics expertise in bioethics largely revolves around two debates: one about the nature of ethics expertise and the other about the nature of bioethics. Questions about the nature of ethics expertise very broadly involve thinking about the connection between knowledge of moral philosophy (normative theory, applied ethics argument, and descriptive ethics) and the practical exercise of good moral judgment. Questions about the nature of bioethics tend to revolve around the relationship between philosophy, the life sciences, and the social sciences. These questions tend to focus on the potential mismatch between theoretical constructs and the empirical details of practical contexts and can involve deep methodological differences, particularly when it comes to questions of practical moral authority. In the background of both debates are important issues about authority and, more particularly, the authority of ethics experts to make claims about practical decisions.

Three domains feature prominently in discussions of bioethics expertise: courts (McAllen and Delgado, 1984; Agich and Spielman, 1997; Kipnis, 1997; Wildes, 1997; Spielman and Agich, 1999); the clinical setting (Meyers, 2007; Steinkamp, Gordijn, and ten Have, 2008; Kovács, 2010; Rasmussen, 2011; Slowther and McClimans, 2012); and public policymaking and government commissions (Brock, 1987; Kamm, 1990; Powers, 2005). As with general ethics expertise, critical questions here include: what is bioethics expertise? What counts or should count as bioethics expertise? What constitutes evidence of bioethics expertise? For instance, must one have a certain type of education, specific experiences, or mastery of particular content?

Discussion of bioethics expertise has become particularly important, given the growing presence of bioethicists in the clinical setting (Fox, Myers, and Pearlman, 2007), as well as efforts to professionalize bioethics through codes of ethics and certification (or quasi-certification) efforts (Kodish et al., 2013).

In this issue of the *Journal*, several authors continue the assessment of moral expertise in clinical ethics consultation.

In “Keeping it ethically real,” Dien Ho offers a two-pronged argument in support of ethics expertise. He argues, first, that the standard argument against the possibility of ethics expertise (what he calls the “skeptical argument”) is unsound in its premise that such expertise requires possessing a correct moral theory. Second, he offers a way of approaching moral disputes that makes progress in such conflict possible without accepting any particular theory. Ho argues that by accepting some basic rules of moral dialogue, for example, agreeing to offer reasons for decisions and judgments, progress and resolution can be achieved in moral disagreements. Thus, he argues, ethics expertise in clinical ethics consultation is possible. Although he recognizes the work still to be done in articulating the “philosophy and psychology of moral deliberations,” he concludes that “an ethics expert is one who is well-versed in logical reasoning, who can identify structures of arguments and help draw supported conclusions, and who possesses knowledge of relevant accepted practices” (Ho, 2016, 381).

Lisa M. Rasmussen makes a related argument in “Clinical ethics consultants are not ‘ethics’ experts—but they do have expertise.” She, too, responds to standard arguments against ethics expertise as a first step. Such arguments assume that justification can only be certain and use our lack of certainty to undermine the possibility of ethics expertise. However, she argues, what is really involved in clinical ethics expertise is normative expertise, which is not equivalent to ethics expertise as theorists have understood it. Clinical ethics judgments *are* decisions about what ought to be done, but the normativity of the “ought” is not merely moral; it is an all-things-considered judgment. Therefore, she argues, “[t]he expertise that clinical ethics consultation can offer is expertise in making all-things-considered judgments within a certain context” (Rasmussen, 2016, 397).

Leah McClimans and Anne Slowther consider the comparisons that have been made between expertise in science and expertise in ethics. Many argue that ethics expertise lacks the legitimacy that medical or scientific expertise offers, and they use differences between the fields to point out the comparative weakness or limits of ethics expertise. McClimans and Slowther consider the examples of science policy advising and evidence-based medicine to demonstrate the vital role judgment, experience, and context—all value-laden—play in policymaking and clinical diagnosis and treatment. Value judgments are inescapable, even in science. As they put it, “as moral experts clinical ethicists do not offer decisive opinions, but then neither do clinicians or scientists. To think otherwise is to misunderstand the nature of expertise” (McClimans and Slowther, 2016, 414). As a consequence, they argue for value transparency in the rendering of expert opinions; this makes clear the grounds on which a recommendation is being made and allows for discussion and debate.

Mark Sheehan and Ana Iltis examine the concept of expertise in general, showing that “[f]or someone to be an expert in X, there must be something that he can do or that he knows that nonexperts cannot do or know, or he has to be better at knowing/doing X than nonexperts” (Iltis and Sheehan, 2016, 418).

They apply this understanding of expertise to ethics expertise and to clinical ethics consultants (CECs) in particular. They argue that the variety of ways in which the terms “ethics expertise” are used reflect significant differences concerning the proper domain over which an ethics expert has expertise. The proper domain of ethics expertise is knowledge of what ought to be done, rendering it implausible to call CECs ethics experts. CECs have expertise, but it is not ethics expertise. They suggest that care should be taken to distinguish the role and expertise of CECs so as to avoid confusion with ethics expertise.

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