

## Section 8. Ethics

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### Universalism versus Contextualism in Bioethics

**Abstract:** The goal of this work is to analyse the paradigmatic concept of universal values important for bioethics such as autonomy, beneficence, justice and developing contextual approaches in resolving the moral questions on bioethics. It also aims to reveal and analyse the importance of universal approaches despite the basic non-eliminability of a context and subjectivity.

**Keywords:** autonomy, contextualism, subjectivity, universal values, metaethic, normativity.

#### I.

In modern civilization different cultures adopt different approaches to resolve ethical issues in spite of the long history of human rights, the constant tendency to unification, and the search for a common denominator. Various questions crop up on the course of this search, which are fundamental to ethical rethinking. Some of these questions are: What is the basis for moral behaviour? What is morality? Why does morality undergoes changes? What is the way of knowing the method that can lead to a right decision in a particular situation? We have to acknowledge not only the differences between the approaches of different cultures to solve the same normative problems, but also the differences between interpretations: When the same methods and postulates are used – autonomy, the principle of beneficence, and the principle of justice – inside one culture.

My approach is that universals are important, and we must cultivate and remember while having a true understanding of them. This true understanding does not mean making a hypostasis for deduction out of them. Therefore, the criticism of Winkler, Hoffmaster, and Keyserlingk is right for the most part. I differ

with them in some points: Morality does not supervene culture and experience, and thus contextualism is rigorously limited from the methodological point of view. Also, universals are deemed important exactly as universals, as an ideal rather than adapted and applied instruments to different cultures — it is where I disagree with Keyserlingk's approach. The sum of universals can be compared with the theory of music and solfeggio: they do not guarantee the creation of a symphony in a particular situation and music will exist without them — but the melodies however will be simplified.

#### II.

Human freedom cannot be separated from being; any deductive argument — a conclusion made out of postulates — or discursive argument (discussions, referendums, etc.) always seem somewhat limited within particular contexts; the human being has to take decisions in a particular situation and face its existential guilt, when all possible variants will have a certain negative tone under the conditions of a rigorous alternative.

Religious postulates, which provide a strict and unambiguous interpretation of many moral issues

and actualize them by its institutions, especially in patriarchal societies, have turned out to be weakened, subjected to reflection in the context of personal freedom as well as in traditions of deep metaphysical rethinking — starting from the Enlightenment. Kant's philosophy should be distinguished in this tradition. Kant's deep epistemological rethinking in —'The Critic of Pure Reason'— also opened the door to deep ethical rethinking, primarily on the continent.

In this context, I shall uphold that it is rethinking of experience supervened by morality — i. e., morality has philosophical-metaphysical roots; exclusively experience is not enough for ethics. With regard to culture, culture is always a derivative of metaphysics with the example of Christianity, which Heidegger called Platonism for the people, while modern European culture supervenes philosophical rethinking of the New Age where we should pay attention to Kant's philosophical rethinking.

However, it was Kant who ennobled the autonomy of the human personality in his moral imperative in which he postulates that the human must not be used as means in any circumstances: the human is always a goal. But the questions remain nevertheless —'How exactly?' and 'What to do in the particular situation?' If a universal postulate does not provide a concrete answer, then is the postulate necessary at all and does its possibility of bringing out a wide interpretation not open Pandora's box for everything?

The approaches to the question 'what to do in the particular situation' are different in the modern bioethics discourse. Contextual approaches, emphasizing a particular situation and particular culture as a whole, have begun to develop; it is the culture that is the course of notion of the good and evil in the latter case.

I shall keep to the standpoint that though contextual approaches can be useful from the tactical and methodological points of view, they are still limited and hypostatization of morality within the context of rigorous opposition to universals is counterproduc-

tive. The problem, on the one hand, arises owing to a misunderstanding of universals and also misunderstanding of culture as a self-givenness but not as a derivative of metaphysics: Platonic, Kantian, of the New Age, etc. Therefore, the contextual approaches, being methodologically productive, remain descriptive in essence; enlargement of the descriptive baggage, with simultaneous elimination of universals, can lead to a situation where the question 'how' will still arise. It would be more difficult to find the answer in this contextual descriptive herbarium due to its inevitable growth, while the landmark of universals used for thinking economy would be lost. As a result, the problems will be multiplied.

The universals do not free the human from the existential guilt. Moreover, religion offers a confession, but modern intentions in the ethical discourse, according to my point of view, are inclined to reduce guilt by givenness of culture. Culture is represented as something fundamental, and independent of the human — i. e., by a certain bypass route of human freedom elimination, and consequently, elimination of responsibility and guilt, as the human has allegedly no power over the formed culture and hence changes synchronously with culture. It means that a certain kind of innocence is supposed for culture itself and dissolution of the human in the culture and hence according to such a contextual strategy both human and culture are innocent. The burden of freedom and guilt is obviously lightened, though the subsequent inevitable step will be the question of culture itself if we proceed from the fact that the human is also able to ask questions about himself.

### III.

Further I will analyse metaethical and normative concepts and also express my point of view to it.

Gerhard Ernst, in particular, distinguishes between metaethical relativism and a metaethical objectivism. As for metaethical relativism:

In der einfachsten Variante vertritt der metaethische Relativist zunächst einmal die folgende sprachphilosophische These: Der Satz „Ein Arzt

darf in der Regel nur aufgrund der informierten Zustimmung des Patienten eine Behandlung durchführen“ hat denselben (kontextabhängigen) semantischen Gehalt wie der Satz „**Gemessen am Maßstab meiner Kultur** darf ein Arzt in der Regel nur aufgrund der informierten Zustimmung des Patienten eine Behandlung durchführen [1, P. 224–225].

Metaethical relativist represents, in the easiest variation, the following linguistic-philosophical thesis: The sentence ‘a doctor may carry out treatment as a rule only on account of the informed consent of the patient’ has the same (contextual) semantic content like the sentence ‘in the value context of my culture a doctor may carry out treatment as a rule only on account of the informed consent of the patient’ (Translated by D. Mentuz).

In this case, we deal with indexical moral relativism. The emphasis is placed on the word ‘my’ culture. The moral absolutism here recognizes that moral representations do not depend on their origins and culture but are universal and have to be observed by all.

It is necessary to distinguish the position of metaethical objectivism, which is not reduced to metaethical relativism and nor to moral absolutism referred to in the above-named positions. According to Ernst, the approach to a solution seems the synthesis of metaethical objectivism and normative relativism, where the latter arises when the assessment of the morality of action is believed to be connected with an action context:

Zum normativen Relativisten wird man, weil man glaubt, dass die Beantwortung der Frage, was zu tun richtig ist, vom **Handlungskontext** abhängt [...] Der normative Relativist glaubt also, dass die Beurteilung der Richtigkeit einer Handlung zwar nicht von allen Kontextfaktoren abhängt, aber jedenfalls von Kontextfaktoren, von denen sie nach Ansicht des Universalisten nicht abhängt [1, 227].

One becomes the normative relativist by thinking that the answer of the question what is right to do depends on the context of the action [...] The normative relativist thinks that the judgement of the

correctness of an action does not depend on all context factors, but, in any case, on those context factors on which it does not depend in the opinion of the universalist (Translated by D. Mentuz).

Normative relativism from Ernst’s point of view explains cultural diversity depending on contingent decisions of a certain culture while the value systems are not withdrawn from reconsideration. And the moral differences, which are basically universal, depends on such decisions or cultures representing the desire ‘to strengthen’ one value universally for all culture systems and ‘to weaken’ other values, depending on a situation or concrete culture which makes the decision. Ernst, therefore, rejects metaethical moral relativism, while the value system is present universally for all — i. e., Ernst takes the position of metaethical moral objectivism and at the same time recognizes standard (normative) relativism as accents of different cultures on particular values from the universal system. Also, the moral absolutism in its popular option, as a hypostasis and the basis for a strict deduction, is rejected, while metaethical moral absolutism is considered quite a clear phenomenon:

Der populäre moralische Relativismus ist abzulehnen, insoweit es sich dabei um eine metaethische Theorie handelt. Das normative Anliegen ist dagegen ernst zu nehmen. Der populäre moralische Absolutismus ist weitgehend abzulehnen, insoweit es sich dabei um eine normative Theorie handelt. Auf der metaethischen Ebene ist diese Position dagegen sehr plausibel [1, 233].

Popular moral relativism is to be rejected in so far as it concerns a metaethical theory. The normative content, however, is to be taken seriously. Popular moral absolutism is to be rejected extensively in so far as it concerns a normative theory. At the same time, this position is very plausible at the metaethical level (Translated by D. Mentuz).

Here it would be possible to agree with three things: denial of popular moral absolutism, which amounts to dogmatism and hypostasis of deduction, denial of moral relativism, which is extreme manifesta-

tion of scepticism amounting to denial of a hypostasis (Under hypostasis here, and even further, I basically mean dogmatization of a particular concept either universally or contextually) of contextualism, and recognition of the fact of a normative variety in the current historical situation in different cultures. I do not agree with the conclusion that diversity in cultures has its origin in the different strengths of emphases made by different societies (cultures) on different elements of the same and universal system of values. In my opinion, the origin of normative diversity is connected with culture and experience, but it does not originate from culture and nor experience. Culture itself is a derivative of something more fundamental. The normative diversity has deeper roots, namely *a systematic reconsideration* (rethinking the experience and intellectually denying something from it) *of experience, which took place and takes place differently in different societies, and does not strengthen and weakens something but is capable to deny*. It means the roots of diversity are in philosophical traditions, and therefore systems on which cultures lean and grow can be absolutely different. Systematic reconsideration, therefore, can come to different results at different times. It does not mean that unity is impossible but that contextualism can serve as a method only of tactical smoothening of a situation — a tool that can bring understanding, but which is not the ontological basis.

#### IV.

Nevertheless, contextualism can serve as an important tactical method in solving specific ethical problems, and it can also serve as a counterbalance to deductive dogmatism.

There are three main principles of applied ethics, those of autonomy, beneficence, and justice.

Ideal moral justification by nature is deductive, problems according to Winkler, arise when people understand that one group of philosophers will act one way in a particular situations and another one — differently, but in the same situation. A solution, according to Winkler, is ‘contextualism’, which is understood by him as follows:

[T]he idea, roughly, that moral problems must be resolved within concrete circumstances, in all their interpretive complexity, by appeal to relevant historical and cultural traditions, with reference to critical institutional and professional norms and virtues, and by utilizing the primary method of comparative case analysis. Applicable moral principles will derive mainly from these sources, rather than from ethical theory on the grand scale [4, 344].

In my opinion, the above-mentioned solution is methodologically reasonable, and decisions are always made in concrete situations and in specific historical conditions. From this, however, it is disputable that the moral principles are the output of these situations; instead, they either precede these situations or are reconsiderations; they are not of concrete single situations or a set of these single situations but are the result of reconsiderations of the large-scale integral eras and expressed in the history of thought.

Further, Winkler analyses the theory of WRE and concludes that a conflict of methodology takes place here. The concrete situation is important, since the decision depends on it. The method of wide reflective equilibrium (WRE) is somehow similar to the coherentism theory of knowledge and is its derivative. The method is described in the following:

There should be a coherence among three divisions of moral thought: our considered moral judgements, a set of principles designed to rationalize and order these judgements, and a set of relevant background theories or understandings about such things as human nature and psychology, the workings of the law and procedural justice, conditions for social stability and change, and the socio-economic structure of society [4, 354].

At the beginning of building a theory, we have our most basic considered judgements. Then, we develop a number of principles to explain the judgements. All the judgements should be brought into a coherent system. Next, we check the principles against the general existing theories, the function-

ing of various institutions, and so forth. There is no epistemological priority of principles. The coherentist system is quite opposite to foundationalism. Principles might be altered or denied, but the complete system must be and stay coherent. The method consists of dialectics of principles, thoughts, situations etc. One main problem of coherentism is that Nobody can say that the whole coherent system is true. A fairy tale can also be a coherent system.

But even in this situation, one can argue that we need a general principle. A crucial question that Winkler raises is:

[To] what extent does direct appeal to normative principle play a determining role in actual moral practice [4, 360]?

It is a fatal question. It is a question of existential guilt. First, it is possible to be sure that there will always be such a context when direct application of the principle is impossible. At the same time, the general principle will still exist for individual, who should make the decision under 'to what extent'.

#### V.

The similar criticism of 'applied' moral philosophy is stated by Hoffmaster [2, 366–389]. His criticism can be divided into internal criticism and external criticism conditionally. Internal criticism aims to show that a moral theory cannot succeed on its own terms, while external criticism points out that a moral theory cannot account for morality, such as the phenomenon of moral change, and, besides the universalism problems (too high uncertainty and abstractness), which are already designated above in Winkler's concept and the problem of an epistemological coherentism in the theory of WRE, it would be reasonable to add what Hoffmaster mentions about morality domains:

Applied ethics is not helpful in addressing some crucial moral issues because these issues challenge assumptions upon which the theoretical edifice of applied ethics is erected. Perhaps the most obvious examples are **debates about the domain of morality**. What moral status, and therefore what moral

protection, do entities such as fetuses, anencephalic infants, animals, and the environment have? [2, 371].

Hoffmaster's postulation is also the fact that morals proceed from experience, and studying of ethnography can be the solution of many problems. At the same time, if this approach is conceived as a way to a certain achievement of understanding at a certain stage, then it can be reasonable. But it is necessary to avoid naturalization of morals in the way of ethnographic descriptivism when ethics can be anything, which leads to the situation of metaethical relativism. By observing these conditions, it is possible to agree with Hoffmaster that ethnographic studies can be useful and constructive contributions for resolving and understanding ethical problem in particular societies.

Another author whose concept regarding the context and the universal values I would like to mention in this essay is Edward W. Keyserlingk. He defends the universality of human autonomy [3, 390–415].

Keyserlingk protects the principle of autonomy from the standard theory of Western bioethics based on three principles, namely autonomy, beneficence, and justice.

The mentioned ethical universal values as well as to the principles of their interpretation, are fixed both in historical evidence since antiquity and in modern documents. The tradition of ancient codes of medical ethics is inspired by such great historical figures as Hippocrates, Claudius Galenus, Percival and others, although those earlier documents pay more attention to the principles of beneficence and physician welfare, and less or no attention to the principle of autonomy. Modern examples of international codes in healthcare are the Nuremberg Code of 1946, and the Declaration of Helsinki of 1964.

Keyserlingk considers that the principle autonomy can be introduced without cataclysms in other not western cultures if not to perceive it dogmatically. Under this principle, it is understood:

Under the umbrella of that principle are typically placed these derived obligations: respect for autonomy, the protection of nonautonomous persons and those with diminished autonomy, informed consent, privacy, and confidentiality [3, 390].

Some philosophers believe that autonomy is more or less a Western value and idea that focuses on a rational agent which exists often in a conflict with others, free of strict social determinations.

Other critics are even more radical; they insist that it is useless to construct universal ethic codes, and it would be reasonable to let each culture to formulate its own code from the understanding of its own moral, social, cultural, and economic context and traditions.

Respect for personal autonomy means an obligation to value the autonomous choices and actions of others — those made by people who are competent, informed, and acting voluntarily [3, 398].

Keyserlingk insists that respect for autonomy in many less developed societies should not be viewed as a destructive import from the West. This can be achieved by taking the indirect route and forsaking short-range approaches: It will not be easy and even possible for every society to change healthcare standards or research practices immediately, given the variety of economic, social, and other factors, which, in many cases, give rise to that conduct.

In my opinion, it is rather a weighed position: First, communication with universal values remains generally important, and second, considering the above methodology, contextualism with reasonable limits may be productive in concrete situations.

### **Conclusion**

In conclusion, I would like to emphasize the following points: the role and correct application of contextualism, the goal of the theory, coherentism and the importance of the WRE theory especially regarding justice, the importance of ethical codes in medical practice, and the goal of the ideal of universality.

The role and correct application of contextualism: nevertheless, contextualism can be a very important method in solving specific ethical problems. It can serve as a counterbalance to dogmatic deduction and also to a pole of abstract universal values, but only when universal values are not rejected by contextualism as something indecent. Otherwise, we will see a hypostasis of a context, which may lead to full moral relativism and disappearance of ethics.

The Goal of The Theory: I agree with critics that it is not necessary to impose on universal values tasks not peculiar to them. Epistemology does not tell us what exactly is true and how exactly in every particular situation we can achieve knowledge, just as solfeggio does not teach us how to compose an ingenious symphony.

Coherentism and WRE theory ‘The Missing Ingredient In Codes of Ethics: Social Justice’: In my opinion, it is necessary to pay close attention to coherentism and to the WRE theory. I consider coherentism as one of the perspectives and productive branches of epistemology. If the majority of statements of coherent system are true, then we can hope that the entire system is true. It would be possible to agree here with Keyserlingk that the principle of social justice is insufficiently presented in ethical codes.

The importance of ethical codes in medical practice: A primary function of ethics is that of affirming the right of the individual patient and the research subject to be protected from unjustified and harmful incursions by the state, the medical and research establishments, or other institutions. And the most compelling and even indispensable moral basis for such a right is the principle requiring respect for personal autonomy.

The goal of ideal of universality: The goal of codes does not only codify the summaries of standards. Aspiration rather than strict deduction is the main task of the ethical theory and universal values reflected in codes.

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