

SOME ASPECTS OF PROFESSIONAL ETHICS

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In this paper I shall try to do the following : to draw attention to the facts of moral pluralism or to ethical frontiers which exist parallel to the universal moral facts of our life. At times we become accustomed to these contradictions. Occasionally contradictions are sought to be resolved by moralists who are also moral philosophers. My second contention is to compare and contrast some varieties of ethical pluralisms in order to understand the nature of professional ethics in a socio-historical context. The peculiarities of a profession and its distinctive features will be dealt with in order to show its dependence on a peculiar situation which gives meaning and significance to a profession. I shall also draw attention to the fact that a change in the situation may immensely modify the nature of a profession. It may also modify the codes of conduct of a particular profession. I shall also make an attempt at understanding the relationship that might exist between professional ethics and general morality taking note of the fact that professional ethics, though nourished by a distinctive professional group, does not establish isolated moral frontiers.

Accepting the fact of moral pluralism, professional ethics justifies its distinctive ethical nature and its various codes of conduct. It does not establish complete ethical relativism. A meaningful dialogue between professional ethics and public morality will safeguard the healthy co-existence of the two. The professions are nourished by the society, the society in its turn is benefitted by the help rendered by the professionals.

Ethics discusses universal moral rules which can be applied everywhere, they relate to mankind in general, the way Kant describes it, 'good' is unconditionally good, it is universalizable. These rules of universal moral application derive solely from the intrinsic human nature. The variety in moral

codes draw our attention to the facts of moral pluralism. There are certain ethical duties which are not universally applicable, these depend on particular qualities exhibited by particular groups. Aristotle observed this : "The morals of a man, he said, are not those of a woman, and the morals of the adult are not those of a child; those of the slave are not those of the master, and so on The observation is on the mark and it has now-a-days a far greater field of application than Aristotle could have imagined. In reality, the greater part of our duties have this character."¹

The duties of the citizen are not the same in an aristocracy as in democracy. Within the family everyone does not have same duties. Similarly duties of a judge are different from the duties of a lawyer, that of a teacher is different from a journalist's, a soldier's duty differs from a hangman's. At times there is a conflict of two types of ethical codes, our duty to treat all human beings equally and a soldier's duty to treat his enemy as non-human. This was the type of conflict which in the Indian context made the protector of Dharma Yuddhisthira raise doubts about the true nature of righteousness. His conscience made him a citizen of the world, his particular station in life forced him to play his role as a Ksatriya. There was a real tension between these two dharmas which was difficult for Yuddhisthira to resolve.

Similar to the duties related to the particular stations of our life, there are the codes of conduct which are restricted to the field of professional ethics. We use the term profession loosely sometimes identifying it with an occupation. *The Dictionary of Ethics*² helps one to trace the history of the term profession. Though we often use the terms profession and occupation synonymously, in answer to the question "What is your profession", one usually refers to one's occupation, all occupations are not professions. The Latin term *professonem* originally meant the making of a public declaration. In medieval Latin, it came to mean the taking of religious vows. The English word profession comes directly from Latin and until 16th Century it meant only the public declaration of religious vows. After that it came to mean an occupation in which learned knowledge is applied to the affairs of others, especially medicine, law, divinity and university teaching. It was the procedure of the medieval universities that the students could be prepared for one of these four disciplines. The oaths affirmed general loyalty to the doctrines of the church and to the disciplines of the university. The

members of these occupations thus came to have special ethical obligations, they had to take oath to do so, which was not required in other occupations.

This conception of a profession now-a-days downplays its religious aspect. It is an understanding between society and those in profession, a bargain from which both sides benefit. The society grants the following benefits to the members of these occupations : the right to a considerable measure of control over their own activities. This includes those in the profession to define for themselves that standards of performance should be obeyed in it. They may also be granted the right to restrict entry into the occupations by imposing licensing requirements. The Society grants these privileges to the members of the occupation that are highly technical and require extensive knowledge. Outsiders will be unable to make reliable judgements about how those in such occupations ought to conduct themselves; therefore, the setting of standards and the enforcement of discipline may best be left to the specialists within.

In return for granting these privileges society receives from the members of such occupations higher quality service. The profession imposes the following ethical requirements upon itself: responsibilities towards clients (or patients), responsibility towards the profession and responsibility towards the society. Usually the interests of the client will be accorded high priority, the professional's technical skills will be viewed as the client's to command for any reasonable purpose. Responsibility towards the profession aims at enhancing the excellences of the profession and maintaining its standing in the eyes of the public. The responsibility to society, though not negligible, is usually accorded a distinctly low priority. Both society and those in the profession will benefit from such a bargain. The ethical status of professionals will thereby become different from those of non-professionals, whose conduct is not governed by bargains of this type. Though this contrast between the ethics of the professionals and those of non-professionals make more sense within a society that has an individualistic ideology such as the free enterprise system which prevails in the economic life of the United States, it is worthwhile to reconsider the professional status that some occupations enjoy in some other societies as well, except in Communist Countries where all workers, whether physicians or coal miners, always should be striving above all to promote the well being of the society³.

Like occupational ethics, professional ethics is restricted to a particular

occupation. It is the specific duty of a fireman, or of a hangman to play their roles meaningfully. It is however the specific duty of a lawyer or of a doctor to work for the benefit of his clients. A professional relationship characterizes professional ethics. A professional is promise bound to render his service in a particular manner. William F. May⁴ has used J. L. Austin's terminology to describe the specific relationship that exists between a professional and his client. Austin drew the distinction between different kinds of utterances : descriptive and performative. Ordinary declarative sentences report a given item of the world. Performative declarations do not merely describe the world, but alter the world of the person. Promises are such performative utterances. The promise introduces an ingredient into the world of the hearer that would not be there apart from the vow. As a performative occasion, the marriage ceremony functions to change the world for two people.

The professional relationship, though less comprehensive and intimate than marriage, is similarly promissory. Taking a client implies a promise to help a distressed person within the limits of one's professional resources. To that degree the promise alters the world of the patient/client. Correspondingly, to go back on a professional promise is world altering. That is why the conditions under which a professional can withdraw from a case must be carefully limited.

The professionals do not display a distinctive set of virtues beyond the reach of others, but the above considerations give a specific connotation to virtues in a professional setting. If we take virtue of truth telling, in medicine it depends more on the truth's impact on the patient's welfare. The debate may concentrate on two different principles, the patient's welfare vs. the patient's right to know. The blunt truth may destroy the patient but the patient has a right to know. The pro-truth tellers would argue that the patient should be informed of the risks that a particular surgery entails. Opponents of truth telling counter that it is easier to manage a dying patient by illusive hope. The objective choices are to tell or not to tell the truth. What is significant in professional ethics is the way the professional delivers the truth, the particular impact it would have on the patient's health and well being. As the lawyer, by his promise to stand by the client through crisis, alters the world of his troubled client; so does the doctor. What characterizes the distinctiveness of professional ethics is something similar to focussing on trust between persons as a fundamental issue in ethics.

As there are as many forms of morals as there are different callings, the scientist's duty is to develop his critical sense, to have an open-mind, the priest or the soldier on the other hand have a different duty. It is also the doctor's duty as it is the duty of the lawyer on occasion to lie. The moral particularisms which we find in according to different duties based on sex, race, occupation, etc. reach its climax in professional ethics. One peculiarity of professional ethics is this : "The distinctive feature of this kind of morals and what differentiates it from other branches of ethics, is the sort of unconcern with which the public consciousness regards it. There are no moral rules whose infringement, in general atleast, is looked on with so much indulgence by public opinion. The transgressions which have only to do with the practice of the profession, come in merely for a rather vague censure outside the strictly professional field".⁵ It is not so in other areas. Moral discriminations on the basis of sex, race, roles etc. are often subjects of rigorous criticism, as change in the situation at times alters the nature of these codes of conduct. In deciding something as right and wrong what matters most is the fact that morality consists of rules of conduct that have sanction. Theft is punished because it is prohibited. Something which is not prohibited, is not wrong. In a society where polyandry is a practice, marrying two or more men at the same time would not make one unchaste : Draupadi remained chaste with such considerations. Today we find roles of man and women tend to vary. What was not sanctioned in a conservative society would be sanctioned in a modern society.

What is peculiar about professional ethics is general public's indifference to its vital issues. One possible explanation is this : "They can not be of deep concern to the common consciousness precisely because they are not common to all members of the society and because, to put it in another way, they are rather outside the common consciousness. It is exactly because they govern functions not performed by everyone, that not everyone is able to have a sense of what these functions are, of what they ought to be, or of what special relations should exist between the individuals concerned with applying them. All this escapes public opinion in a greater or lesser degree or is atleast partly outside its immediate sphere of action. This is why public sentiment is only mildly shocked by transgression of this kind. This sentiment is stirred only by transgressions so grave that they are likely to have wide general repercussions."⁶

Since the society as a whole is not concerned in professional ethics, it is within the professionals that these morals have evolved. These professions and the codes of conduct for each enjoy a sort of moral autonomy. As the professionals are outside the common reach, every occupation cannot be a profession, it is the privilege of a select few which is decided by the following considerations : "The spirit and method of the craft, banished from industry, finds a more permanent home in the profession. Here still prevails the long apprenticeship, the distinctive training, the small scale unit of employment and the intrinsic -- as distinct from the economic interest alike in the process and the product of the work."⁷

It is necessary that restriction on what a professional ought to do cannot come from the general public. If we concentrate on medical ethics, it is very crucial that doctors should have a code to conduct because medical training gives doctor the power of life and death over other people. Untrained men and women cannot easily tell when the expertise is being misused but the doctors can. As such professional self regulation is a need, not a privilege. Codes are also needed because at times the professions are given permission to act in ways that are forbidden to others. Special codes are useful for the further reason that some people have duties to do things which in others would count as acts of supererogation. For example, doctors and par medics have a duty of rescue (unfortunately the duty has been seriously undermined, especially in the USA, by legal arrangements which encourage accident victims to sue their helpers and rescuers).

Codes are needed because it is sometimes necessary that professionals be given permission to act in ways that are forbidden to others. Doctors are allowed to cut people open and to see people undressed; lawyers often have to be given permission to handle their client's money.

These special sanctions made in professional ethics to otherwise prohibited actions, demand an explanation. Recognising the peculiarity of the professional relationship, a professional lawyer or a professional doctor is allowed to safeguard the interest of his client primarily. There should also be ways to safeguard the interest of the public and to maintain the high standard of the profession. How far a lawyer or a doctor can go to protect the interest of his clients or patients? Do the standards of professional ethics keep changing as

there is a change in the nature of the profession? What sort of relationship should exist between professional ethics and public morality?

Why is there a need for professional ethics? Why is this need not felt in the world of business? "There is no general brotherhood of businessmen from which the offender against these sentiments, who does not at the same time overtly offend against the law of the land, is extruded as unworthy of an honourable calling. There is no effective criticism which sets up a broader standard of judgement than mere success."⁸ The professions on the other hand assume an obligation and an oath of service. "A profession", says the ethical code of the American Medical Association, 'has for its prime object the service it can render to humanity; reward or financial gain should be a subordinate consideration'. and again it proclaims that the principles laid down for the guidance of the profession "are primarily for the good of the public". Similar statements are contained in the codes of the other distinctively organized professions. 'The profession', says the proposed code of the Canadian legal profession, 'is a branch of the administration of justice and not a mere money getting occupation.'⁹ These imply that while the profession is of necessity a means of livelihood, the devoted sense which it inspires is motivated by other interests.

Medicine provides the oldest example of a professional code. Some parts of the oath of Hippocrates (460-377 BC) discourage competitive attitudes - which are damaging to doctors and patients alike. There is an obligation to transfer medical knowledge to suitable candidates, to refrain from harming etc. The context of Hippocratic oath was on a different background. Hippocrates and his members were followers of Pythagorean school of philosophy which opposed suicide, abortion and the slaughter of animals in sacrifices etc. It believed that pharmacological products should be used, if at all, only when simpler, more natural cures fail, and they do not practice surgery.

This is completely a different story about the professional spirit of a dedicated doctor. At our time, a professional, a doctor, a lawyer, a journalist or anyone is someone whose driving spirit is to secure financial gain. Plato observed this fall in the professional spirit : "The ethical problem of the profession, then, is to reconcile the two arts, or more generally, to fulfill as completely as possible the primacy of service for which it stands while securing the legitimate economic

interests of its members."¹⁰

In spite of many changes in the nature of the profession, doctors are expected to retain some of the Hippocratic spirit of dedication and healing, righteousness and service. The present controversy about codes of conduct of lawyers, doctors, journalists, etc. would seem to indicate that the professionals have abandoned their high standards of disinterested motives in favour of mercenary concern over fees. However, the root causes for this degradation in professional morals are of a much deeper nature. The professionals as well as the non-professionals are the worst victims of consumerism. The socio-historical contexts of the professions have changed radically, the intimate and the personal relationship that once existed between doctor-patient, lawyer-client, the professional's dedication to service etc. have lost much of its simplicity. Medical profession too has attained some new dimensions as the perspectives evaluating it keep changing. Medicine was valued for its practical as well as its theoretical aspects. Among Greeks, and for Pythagoras, human body was a prison for the soul. Gradually medicines came to be viewed as primarily a science of the body, the Indian stress on the five Sheaths of the soul gave equal recognition to the *annamaya-kōsh* or the body which is nourished by food. The *Lokāyatas* gave sole importance to the human body. The early *Samhitās*, *Āyurveda*, *Carak*, *Susruta*, etc. concentrated more on the science of the body. Hippocrates rejected the theological aspect of medicine but recognised the science of medicine with a value dimension. Thus medicine came to be developed as a science of the body, with a moral dimension which was not required in other branches of science.

The practical and the moral dimensions of medicine can never be ruled out. In making a clinical judgment the practitioner has to take consent of the patients about a legitimate mode of operations etc. Among all the professions, medicine, with its clearly defined moral dimension, is undergoing tremendous change in recent period. Many factors have indirectly influenced the medical profession to give less significance on its value dimension and to concentrate more on its value-free, scientific nature. As a medical practitioner observes: "The underlying problems go far deeper, however, to a group of factors that have been disturbing the economic and ethical patterns of the profession for some years."

It is my opinion that chief among these factors is the great "splintering of medical knowledge" into specifications, which has made some type of group practice inevitable and thus altered the nature of doctor-patient relationship. A second factor is the spread of the insurance principle to medicine, which has intruded a third party between the doctor and his patient and has imposed uniform fee scales in a notoriously non-uniform field. A third factor is the radical treatment of serious disease, which appears when first applied, to verge dangerously upon human experimentation.

The resulting disturbance to the ethical relationships within the profession - of physician to patient and of physician to physician - has brought about vigorous attempts to revise the written code of medical ethics established by the American Medical Association and to enforce the code more effectively¹¹

No profession can survive in isolation. We have observed how in this medical profession a change in the situation has affected the doctor-patient relationship immensely, though it cannot take away completely the moral dimension from a profession : medicine profession can not be reduced to a money-making business solely. What gives the professional code its peculiar significance is that it prescribes some duties to those outside their profession as well. "The group code has narrowed the sense of responsibility by refusing to admit the application of its principles beyond the group. Thereby it has weakened its own logic and its sanction, most notably in the case of national groups which have refused to apply or even to relate their internal codes to the international world. The attempt of professional groups to co-ordinate their responsibilities, relating at once the individuals to the group and the group itself to the wider community marks thus an important advance."¹²

We must admit that it is in relation of the profession as a whole to the communities that professional ethics is least effectively developed. The problem of professional ethics, viewed as the task of co-ordinating responsibilities, of finding a common centre for the various circles of interest, is full of difficulty. In legal ethics too, the moral issue is how far the lawyer may go in promoting the client's cause. Most attorneys today aim at winning decisions at any cost. "Yet over half of today's attorneys are trained in the law without learning to understand the society for which law is created".¹³ In the developed countries steps have been taken to restore the professional excellence. "But a measure of

improvement is on the way. The great universities now require a liberal arts base for law degree. They teach law as an institution of society, as a philosophy, a science and a craft. When enough of their students have been graduated, law will be practiced with a sense of responsibility for the ethics of modern life. At any rate there is a chance that lawyers will accept the obligation to make law serve society".¹⁴ Similar steps have been taken in other professions to bridge the gap between professional ethics and general welfare. "Improvements in anesthesia and pre and post operative care have reduced the risks of operation so much that an unscrupulous surgeon no longer fears to perform unnecessary ones."¹⁵ "The medical profession has taken steps to safeguard the public against the unscrupulous physician. For example, hospitals throughout the country have set up tissue audit committees to examine carefully all tissues removed at operation. If such tissue is found to be normal, the surgeon is called to account. If he continue to remove more normal tissues than is justified, his operating privileges are suspended.

The American Medical Association has aimed to protect the public against unethical medical practices by instigating the establishment of grievance committees in the constituent and component medical society. By January 1953 all of the 48 State associations, the District of Colombia and Howaii had provided committees for hearing and acting on complaints from the public.¹⁶ "This professional spirit of pro-life (not pro-death) emphasis, a concern for public health etc. are still the basic concerns of the medical profession. This spirit is manifested in the IMA' (The Indian Medical Association) following election manifesto published in a newspaper : "We are supporting them not because they are doctors but because as doctors, they are expected to be more responsible'.

. Even after 50 years of Independence a large population of the country is denied safe drinking water and falls victim to water-borne diseases like cholera, typhoid, polio and diarrhoe' Dr. Aggarwal said.

'The Government spends huge sums on guns or personal securities, can't it ensure one basic amenity such as safe drinking water to its people"? he asked. . .¹⁷

Journalistic ethics too is characterized by a concern for public good. The primary duty of a journalist is to report truth rather than falsehood. Yet

newspapers advocate yellow journalism and sensational news items to attract consumer. "The questions that frame the discourse for analysis of specific cases most commonly revolve around such matters as : Was the coverage accurate and complete? Was the reporting fair and balanced? How was the information gathered ? What was the motive of the source of information? What were the consequences of the coverage? Wrestling with these questions afford a critic the opportunity of probing the ethical standards and responsibilities of journalism."¹⁸ However, a responsible press, though a worthy objective, is largely dependent on how individual journalists and news institutions define "responsible". Like in other professions, outside regulation is unthinkable. "Limited, practical mechanisms for fostering and encouraging responsibility and reflection within the media are the only sensible avenues available."¹⁹

Every profession has its own problem of conduct. The medical man has to safeguard the interest of his patient, with due consideration for the health of the whole community. So with the legal profession, so with the architect, the university professor to uphold the necessity of academic freedom against odd currents, so with the journalists, in his difficult situation as the servant of a propagandist press. Professional ethics needs to safeguard public interest as well. The profession's growth is part of the movement by which the fulfillment of function is substituted as a social force for the tradition of birth or race.

NOTES

1. Emile Durkheim. '*Professional Ethics and Civic Morals*', 1957, London: Routledge & Kegan Paul Ltd. P-4
2. Quoted from John K. Roth (ed.), '*International Encyclopedia of Ethics*, 1995. London, Salem Press Inc. P-703.
3. *Ibid.*
4. William F May . *The Virtues in a Professional Setting* P-85.
5. Emile Durkheim. '*Professional Ethics and Civic Morals*. . . . "P-6.

6. *Ibid.*
7. Harold H. Titus, Mosrris - T. Kecton (ed.) '*The Range of Ethics*' 1966. New Delhi, Affiliated East & West Press Pvt. Ltd. 215.
8. *Ibid*, P-216.
9. *Ibid*, P-217
10. *Ibid*, P-226
11. *Ibid*, P-220
12. *Ibid*, P-243
13. *Ibid*, P-237
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*
17. 'IMA to support doctor-candidate' In *The Times of India. New Delhi* (Resident editor, Raminder Singh) The Times of India Press, Feb.7, 1998.
18. Robert Schmuhl (ed) *The Responsibilities of Journalism*, P-11
19. Robert Schmuhl (ed) *The Responsibilities of Journalism*, 1984. New Delhi. Affiliated East-West Press Pvt. Ltd. P-5