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## Debate 1

# Professional ethics

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In his article *Professions as the Conscience of Society* Paul Sieghart (1) makes a number of points about the nature of ethics, about law and about human rights. I wish however to concentrate some critical comments on the central area of his argument – his account of professional ethics (2).

I shall begin with his point that the principal feature of a professional relationship is the gross inequality of power between the client and the professional – ‘the patient or client is weak, vulnerable and in need of help; the professional is strong, skilful, and specially qualified to help’. When Mr Sieghart says that this is ‘the principal feature’ of a professional relationship I do not know whether he means that it is a sufficient condition of one. If he does he is mistaken, for if I take my car for servicing, or if I ask a surveyor to look for dry rot in my roof, or if I ask my travel agent to recommend a hotel then I am in the same sense vulnerable to the good will of others as I would be if I asked my lawyer to arrange for the conveyance of a house or if I asked my doctor to check my blood pressure – in each case I have the needs and they have the skills. It may be however that all Mr Sieghart means is that ‘gross inequality’ of vulnerability/skill is a necessary (but not sufficient) feature of the professional relationship. Even that is arguable however, for if anything is a profession music is, and it is only in some trivial sense that the ‘gross inequality’ or ‘vulnerability/skill’ analysis could be applied to a performer/audience situation. It will indeed be an implication of my general position that it is not possible to find features which are sufficient for defining a professional relationship.

Mr Sieghart attaches much greater weight to a second point about the professional situation characterised in terms of inequality of power; that ‘altruism is paramount and self-interest has no place’, whereas ‘in every other market in the supply of goods or services . . . no one will expect you to behave otherwise than as an ordinary supplier of scarce skills in an open market – that is, to pursue your own self-interest, provided only that you practise no overt deception. This, as it seems to me, is what ultimately distinguishes a true profession from any other trade or occupation.’

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### Key words

Professions; professional ethics.

This argument is seriously confused (3). The confusions arise from the running together of empirical, conceptual, and moral claims. When he says that in the professional relationship ‘altruism is paramount and self-interest has no place’ (my italics) Mr Sieghart seems to be making empirical claims about how professionals *in fact* behave, just as when he refers to expectations of self-interest in the market he seems to be making an empirical claim. But as a matter of empirical fact it is not obviously true to say that all professionals are altruistic whereas all other occupations are self-interested. Doctors and lawyers in particular have had a bad name throughout history for being more interested in their fees than in their patients and clients. It may be however that this interpretation is unfair, and that Mr Sieghart’s thesis is a conceptual one. This second interpretation is supported when he speaks of altruism as the distinguishing mark of a ‘true’ profession or says that ‘by definition’ the client is weak and the professional strong. In other words, on the conceptual interpretation the thesis is that, whatever actual doctors or lawyers may do, the doctor *quâ* doctor and the lawyer *quâ* lawyer aim at the good of their clients whereas other jobs aim at self-interest. But this will not serve either to distinguish professionals from others. Certainly it is true that the doctor *quâ* doctor aims at alleviating suffering and not at self-interest, but equally it is true that the mechanic aims at repairing cars and not at self-interest, and the baker aims at baking and not at self-interest. If it is replied that the mechanic and the baker are also businessmen and as businessmen must aim at their own profit, then that again is necessarily true, for aiming at profits is what businessmen by definition do. But equally doctors or lawyers are fee-earners and in the same sense earning fees is what fee-earners necessarily do. And people in all occupations must in the same way be businessmen or fee-earners and make a profit, or they will not be able to live. If the point is thirdly that, *morally speaking*, doctors and lawyers *ought not* to aim at self-interest in the form of exorbitant fees, then that is true, and equally those in other occupations ought not to aim at self-interest in the form of undue profits. In other words, there is nothing to distinguish the professional from other occupations in terms of the criteria of self-interest and altruism; the moral point is simply the one on which we can all unite – we ought not to be unduly self-interested.

Mr Sieghart suggests a second distinguishing mark of the professional – that he serves a ‘noble’ cause. The argument for this is not clear, but it seems to have two strands in it, the first of which goes somewhat as follows. Doctors and lawyers could sometimes further their own interests, or indeed the interests of their patients and clients, by wrongful practices such as poisoning or the deception of a court. But they have a duty not to do so. The origins of this duty could lie in the fact that as members of the same species we have duties not to harm each other. But this principle does not hold in the real world, as for example in the business community. The duty must therefore derive from a criterion applicable to professionals but not to others – namely, that they serve a ‘noble’ cause, such as health or justice.

But the ‘noble’ cause criterion will not serve this purpose, not just because it is too vague to be of help, but also because it seems to apply much more generally than Mr Sieghart would welcome. For example, the farmer could be said to serve the noble cause of sustaining life, and the manufacturer or retailer of undergarments could be said to serve the noble cause of ministering to our comfort, and the travel agent the noble cause of self-development. . . . The solution may be to drop the idea of ‘noble cause’ in this context and return to the more familiar idea, which Mr Sieghart rejects, that we have duties not to harm each other because we are members one of another. Mr Sieghart rejects this because it does not hold in the real world. No doubt this is true in the sense that people – businessmen, lawyers, doctors etc – do not always in fact do what they morally ought to do, but that does not invalidate it as a moral criterion.

It may be however that Mr Sieghart would wish to stress the second strand in his argument here. He hints at the idea that occupations in the free market are necessarily in a competitive situation, and a competitive situation is one which encourages the pursuit of self-interest and recognises no duty not to harm a competitor, whereas professionals are not in competition with each other and pursue a noble cause instead. In reply to this argument we can say that competition need not be morally bad if it is concerned with providing the best service at the lowest price. If as a result of the competitive process someone goes out of business it is tendentious to suggest that they have, in some morally culpable way, been harmed. Moreover, competition has in the past and does still exist even in the professions. The extent of it turns largely on the extent of the professional monopoly, how fees are paid etc. The legal profession, in Scotland at least, even allows discreet advertising! This does not at all imply that doctors or lawyers do not or ought not to see themselves as serving ‘noble’ causes, but they have no monopoly of noble causes.

Various conclusions are suggested by this critique, all of which require more argumentation than is appropriate in a discussion note. First, it is difficult, perhaps impossible, to provide necessary and sufficient criteria

for defining a profession – the concept changes historically and is unclear at the edges. For example, if surgery, say, is now a profession, it was not always thought to be so. Secondly, supposing we do set up a concept of a profession we cannot (logically) derive from it any account either of how professionals do in fact behave, or of how they morally ought to behave, far less the conclusions that they do in fact or ought to behave better than shopkeepers. Thirdly, moral duties are one and the same for all of us; the shopkeeper has a duty not to overcharge us and so has the lawyer, the mechanic ought not to lie about what he has or has not done to our car, and the doctor has the same duty not to lie about what he has or has not done to our body. It is true that a doctor has a much greater range of moral problems than a mechanic, but then a schoolteacher will have a greater range of moral problems than a lawyer. The *range* of the moral problems does not suggest that there are different standards for settling them, or that we should pretend that there is a special sort of morality, ‘professional ethics’, which applies to some sections of the community but not others. Fourthly, the idea of ‘professional ethics’ is not only redundant but pernicious, for it serves to protect lawyers and other professionals from public disquiet about their practices. If the standard of professional practice in law and medicine is improving (which I do not assert) it is more as a result of consumer pressures such as patients’ rights movements, competition in such matters as conveyancing, a better educated public, journalistic investigations, and other ‘market-orientated’ devices than by ‘professional ethics’. As an example of ‘professional ethics’ let us remember that when there was a public outcry against virginity tests carried out by doctors at Heathrow Airport on Asian women immigrants a spokesman for the Ethical Committee of the British Medical Association (BMA) (4) said that whereas such tests may have been morally wrong there was nothing unethical about them! My conclusion expresses a profound cynicism about the professions, but I am not more cynical about them than Mr Sieghart is about business, and indeed every other job except law, medicine and the priesthood.

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## References and notes

- (1) Sieghart P. Professions as the conscience of society. *Journal of medical ethics* 1985; 11: 117-122. See also: Anonymous. Medicine, profession and society [editorial]. *Journal of medical ethics* 1985; 11: 59-60.
- (2) I shall not follow Mr Sieghart in including the priesthood as a profession for whereas it has some features in common with professions it is essentially different.
- (3) The confusions were first pointed out by Plato, *Republic* 346.
- (4) As quoted in *World medicine* 1979 Mar 10:99.