

Trust, responsibility and being professional

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Abstract

Trust is the glue that holds a society together. It is more basic than an ethical principle or a value. Without trust we would not have an economy, we would not have a society that functions. For there to be trust, we need people or organisations that are trustworthy. When we become professionals we are subject to stronger obligations to be trustworthy than ordinary members of the public. The public has to trust that the bridges we build, the offices we design and the products we make will work the way we say they will. But the professions can have a narrow view of morality based on the roles they play: this means that a person in their professional role can justify on moral grounds actions that they would not engage in as parents, as sons or daughters or as ordinary members of their communities. This talk discusses the nature of trust and related concepts such as responsibility, virtue, integrity and the dangers professionals face in adopting an ethical position as professionals that they would not adopt in their private lives.

Keywords – trust; principles; responsibility; professions; role morality

Trust as glue

Let's imagine a world without trust. We could not conduct business. We would not feel safe. We would have no intimate life with others. Social life would be almost impossible. We would be in a state of perpetual unease, if not of perpetual war.

Trust is unlike other ethical concepts because it is more basic than a principle or value and should be seen more properly as part of the necessary ground on which a society relies and on which a profession depends. Trust² is central to the proper functioning of the professions. We take for granted that everyone understands what trust is – and at a common sense level, most people do. But what is trust? Trust is a slippery concept that bears closer examination. 'Trust is a highly problematic but recurrent feature of social relationships' that brings a range of benefits such as stable relationships, cooperation, reliable exchanges of various sorts and 'is necessary for even the most routine of everyday interactions'.³ Whatever matters to human beings 'trust is the atmosphere in which it thrives...'⁴

A useful view of trust is expressed in the language of economics by James when he says:

'trust can be viewed as an expectation, and it pertains to circumstances in which agents take risky actions in environments characterized by uncertainty or informational incompleteness.

¹ My thanks to my colleague Alan Tapper. This paper draws on some of his ideas.

² In the Oxford English Dictionary "trust" is "confidence in or reliance on some quality or attribute of a person or thing, or the truth of a statement" Onions, C. ed. (1973). *The Shorter Oxford English Dictionary*. Rev. ed. Oxford: Clarendon.

³ Misztal, B. (1996). *Trust in Modern Societies*. Cambridge: Polity. (p.12)

⁴ Sissela Bok (1979). Cited in Misztal, B. (1996).

To say "A trusts B" means that A expects B will not exploit a vulnerability A has created for himself by taking the action.⁵

There are several types of trust:

- trust that is the property of an individual engaging in the activity of trusting at an interpersonal level;
- trust as a property of social relations, such as those involving exchanges of various sorts⁶ and;
- trust as a property of a social system.

To these we might add a distinction Simpson⁷ makes between emotional trust and rational trust. Rational trust can be conceived of in terms of strategic decisions in which we make an 'assessment of another's good will or the likelihood of cooperation'. This assessment gives us 'the subjective probability with which one agent assesses that another will perform a particular action.'⁸ Emotional trust is allied to what Simpson calls 'reasonableness'. It is reasonable for people to trust others with whom they have an emotional relationship, such as children trusting parents.

Trust is not a matter restricted to interpersonal relations or to relations with institutions, but is increasingly seen as a valued public good.⁹ It remains, however, a problematic matter for institutions and professions generally.¹⁰

Of particular relevance to the professions is the role that trust plays in exchange relationships, those relationships where each partner expects something – goods or behaviour – from the other and where some time elapses between the exchange of goods or services. The main problem with exchange relationships was raised by Thomas Hobbes as far back as 1651 when he made the point that

'he that performeth first, has no assurance the other will perform after, because the bonds of words are too weak to bridle men's ambition, avarice, anger, and other passions, without the fear of some coercive power ... he which performeth first does but betray himself to his enemy'.¹¹

In most cases the trust involved in exchange relations is reciprocal in a number of ways. If I ask for professional help I trust (to one degree or another) that the professional will meet their fiduciary (trust-based) duties and meet my needs. A professional providing help trusts that the client will be truthful and will pay for the service being provided. Exchanges of this type, "based on mutual

⁵ James, H.S. Jr. (2001). *The Trust Paradox: A Survey of Economic Inquiries Into the Nature of Trust and Trustworthiness*. <http://129.3.20.41/eps/mic/papers/0202/0202001.pdf>

⁶ The exchanges can be one-way, two-way, or *n*-way.

⁷ Simpson, E. (2011). "Reasonable Trust". *European Journal of Philosophy*. d.o.i. 10.1111/j.1468-0378.2011.00453.x

⁸ Ibid.

⁹ Misztal, B. (1996). *Trust in Modern Societies*. Cambridge: Polity. (p.2)

¹⁰ Wasserstrom, R. (1975). "Lawyers as professionals: some moral issues." Luban, D. ed. (1994). *The Ethics of Lawyers*. Aldershot: Dartmouth. (pp 1-26).

¹¹ Hobbes, T. (1651). *Leviathan*. Forgotten Books. <http://books.google.com.au/books?id=-Q4nPYeps6MC&lpg=PA94&ots=wQu1FIM08&dq=thomas%20hobbes%20he%20that%20performeth%20first&pg=PA94#v=onepage&q&f=false>. (p. 94)

expectations (obligations) and involving a time lapse [are] underpinned by trust as an instrument of social organization.”¹² Whether it is of the rational or reasonable variety, trust is a social mechanism that is necessary for all social interactions. If trust breaks down, then social interactions generally suffer. If trust in a profession diminishes the profession will become successively less valued – possibly to the point where its status as a profession can be called into question because it does not meet the communal understanding of what a profession is.

Asymmetrical contractual relations

Trust in most exchange relations may be reciprocal but the relationship between client and professionals is essentially asymmetrical. The question is not one of the client trusting those who are demonstrably trustworthy, because trustworthiness does not come automatically with professional status. The client is in a situation where he or she must trust someone whose trustworthiness is not easily verified and who could be in a position to cause considerable harm *or* good. The problem arises because it is difficult to explain to non-professionals without going into the knowledge and research base of each profession what it is that the profession does. Going into the knowledge base is itself highly problematic for non-professionals because at the very least they do not know the specialised vocabulary of the profession. The burden of risk in entering a relationship with a professional is mostly borne by the client. The asymmetry between client and professional is, however, mitigated to a degree by the fiduciary duty professionals owe to clients.

Fiduciary moral duty

Professional ethics might best be viewed as being based in a fiduciary obligation that the professional owes to his or her clients. The nature of this fiduciary ethic is that the professional has an obligation to act in the interests of the client and not in the professional’s own interest. The client comes to the professional in a state of relative ignorance. He does not have the specialised knowledge that the professional does and is in a position where he must trust professionals to use their specialised knowledge to help him – or at the very least not to cause him harm. There are special obligations to clients which a profession should honour, but these obligations are not a function of the relationship between an individual professional and an individual client. The obligations a profession owes to his or her clients arise from a contract between society at large and the professions as society-sanctioned activities.

This fiduciary duty owed by the professions can be considered a special case of a contract based in trust that underpins most, if not all, social interactions – whether the trust involved is, in Simpson’s terms, rational trust or emotional trust. In an environment underpinned by an implied contract based on trust, when I give an undertaking that I will do something, you can legitimately expect that I will do what I said. If I promise you to do something then I have initiated a contract. If you do not keep your promise and my trust in you has been betrayed, I feel hurt in some way and damage has been done to me and to the social institutions we rely on. If it is a professional who has failed to be trustworthy, damage is done in at least three ways: to the contractual relationship between client and professional; to the client; and to the profession itself or, more properly, to the profession’s relationship to the society that sanctions its operation.

¹² Misztal, B. (1996). (p.17)

Bilateral and unilateral contracts of trust

To further clarify some common uses of trust, Let's look at two everyday expressions:

"I'll meet you at the café at 11," and

"I'll take your book back to the library."

In each of these there is an implied contract. But the contracts are different. In the first, there is a bilateral arrangement and in the second, the arrangement is unilateral. In the first there is an implied promise by both parties. In the second the promise is from me to you. In both you have a legitimate expectation that I will do what I said. If I do not meet you at 11 or don't take your book back to the library, I will have wronged you in some way because I would have broken my contract with you or my promise to you. In saying to you that I will do something – and saying it in a way that amounts to promising – I have created an obligation and a right. The two go together. I have an obligation to do what I said and you have a right to expect that I will honour the obligation.

But what has this got to do with me as a professional?

Imagine life as a professional without this thing we call trust. Could we conduct our business at all if we couldn't trust our colleagues, if we couldn't trust the methods we use, if we could not trust ourselves?

Trust is necessary for the professions

It should be obvious that trust is necessary for the proper conduct of professional practice. We need to trust colleagues, but we also need to acknowledge that others place trust in us – putting us under an obligation. The fact that others trust you because you are a member of a profession is crucial and worthy of reflection. But why should we trust the professions? What is it about the professions that makes them worthy of trust? Do the methods of engineering, for example, make engineers trustworthy?¹³ Not alone. There is something in the methods and the discipline of engineering that can give us confidence in the work of engineers and make it worth our while to risk trusting them, but the methods of engineering in themselves tell us nothing about each individual engineer. He or she has to be worthy of our trust and this puts an obligation on engineers and all members of the other professions to behave in such a way that the honour and integrity of the profession are upheld and the client's interests are served.

Trustworthiness and the paradox of trust

Getting to the heart of trust is a difficult project. Firstly, we might distinguish trust from trustworthiness. I may, for example, place my trust in you, but you, in fact, do not have the personal quality of being trustworthy. You may have the (technical) professional competence to be a member of the profession and thus meet a criterion of being trustworthy¹⁴ but not always fulfil all your fiduciary (trust-related) responsibilities. Neither my trusting you nor my need to trust you makes you trustworthy, but nor does your being trustworthy mean that I will trust you. You may be personally

¹³ See Onora O'Neill *Autonomy and Trust in Bioethics* Cambridge: Cambridge University Press. (Ch6).

¹⁴ Rhodes, R. (2007). "The Professional Responsibilities of Medicine." Rhodes, R., Francis, L., and Silvers, A. eds. *The Blackwell Guide to Medical Ethics*. Malden, MA: Blackwell. (p.78)

very trustworthy (having this as a personal character trait) but be a representative of a group whose reputation for what Rhodes calls “role-based trust”¹⁵ is significantly flawed.

It may seem that to strengthen trust we should simply legislate for such things as compliance or create codes designed to ensure it. But any attempts to legislate or codify for trust come up against a paradox in which the more formal effort is put into ensuring trust – efforts such as compliance audits, codes of ethics and the like – the less likely is it that trust will be enhanced.

Trying to address declines in trust have their own problems as “increased demands for trustworthiness and stronger regulation of professionals... have lead (sic) not to a restoration of trust but to claims of escalating mistrust”.¹⁶ In effect, members of the public will ask: if members of that profession are trustworthy, why does the profession need legislation or rules which, if broken, will likely lead to punishment?

In Australia engineers rank in the top five most trusted professions and the public’s perception of their trustworthiness has increased significantly in the past decade. Around 70 per cent of people believe engineers to be trustworthy. Nurses rank highest and lawyers rank 14th having slipped from 35 per cent to 30 per cent of people believing them to be trustworthy.¹⁷ But although surveys of trustworthiness show us the status of the professions they tell us little about the individual professional in front of us. Members of some professions are more likely to be trusted than members of others. That is, potential clients of engineers are going to have more confidence that their vulnerabilities are not going to be exploited than potential clients of lawyers. But the continued perception of trustworthiness depends on each engineer, in each encounter with a client, continuing to demonstrate they are trustworthy as each member of a profession is harmed or benefited to some degree by the actions of other members. What, though, can the public do if they believe that a profession is no longer trustworthy? Can members of the public just withdraw trust?

As we have already seen that trust is a sort of social glue without which society would fall apart. So withdrawing or retreating from trust, *per se*, is not possible if the society is to maintain cohesion. Because withdrawing trust completely is not possible, if the public withdraws trust from a profession it will place its trust elsewhere. In the case of health, declining trust in high-tech and reductionist medical science (to the extent that this is happening) is being replaced by increasing trust in alternative and holistic therapies. What will replace the trust in the established engineering profession if that trust begins to decline? Will ordinary people increasingly go to less qualified people for advice on designing and building, or go to internet sources – as they do to identify and find remedies for health problems – and by-pass to their own detriment sound professional advice?

Being a profession

In looking at trust in the professions, we need also to consider what a profession is. What constitutes a profession is contestable territory, and we need first to distinguish professional activity *per se*, such as we might see in professional golfers, professional basketballers and so on, from the

¹⁵ Ibid. (p.75)

¹⁶ O’Neill, O. (2002). (p.144)

¹⁷ <http://www.roymorgan.com/news/polls/2008/4283/> ;
<http://www.roymorgan.com/news/polls/2010/4518/> (Accessed April 2011)

characteristics of the professions. Most people would agree that being a profession entails the following:

- a substantial formal training;
- an identifiable and substantial body of formal theoretical knowledge;
- the use of significant intellectual ability;
- a self-regulated process for certifying membership;
- a de facto economic monopoly brought about by restrictions on entry;
- conferring social prestige on members, usually accompanied with significant affluence;
- involvement from time to time in matters of the greatest importance to people (such as building safe dams, roads, bridges, houses and offices);
- the existence of significant interpersonal relationships (between professional and client);¹⁸
- and usually a code of ethics or similar.¹⁹
- To be a profession also requires a notion of public service and something of an altruistic spirit or motivation.²⁰ This altruistic spirit should mean that – in addition to helping to train the next generation – a monopoly position is not exploited and that *pro bono* work is taken on.

Professions are self-regulating, in the main, and the maintenance of a profession has a number of consequences. Controlling entry is intended to keep standards high, and usually does, but it also keeps a monopoly on professional knowledge and thereby keeps incomes high. The public may consider the last of these to be the real reason. Public pressure in some areas has had the effect of unlocking some of the monopoly, thus allowing para-professionals to participate and bringing costs down for those who need these services.²¹ There are, however, fairly obvious limitations for the professions in this monopoly-breaking activity.

Maintaining a professional monopoly is largely managed from within the profession itself with the gatekeeping function managed primarily by qualified practitioners. But keeping accreditation in-house, so to speak, brings a number of problems. It does not encourage the profession to change in response to evolving public standards and public perception.²² For example, even if misconduct by a member or a set of members affects the reputation of the profession, the profession “has self-interested reason to ignore or cover up the misconduct so that it does not do damage in the public arena”.²³ Another of the problems with the gate-keeping function taken on by the professions is that it is predicated on a negative test²⁴ of good moral character that may privilege non-engagement with community life. This negative test basically requires that a candidate for admission not have done

¹⁸ Wasserstrom, R. (1975). “Lawyers as professionals: some moral issues.” Luban, D. ed. (1994). *The Ethics of Lawyers*. Aldershot: Dartmouth. (p1n).

¹⁹ Ross, S. (1998). *Ethics in Law*. 2nd ed. Sydney: Butterworths. (p.50)

²⁰ Flexner, A. (1915). “Is Social Work a Profession?” *Proceedings of the National Conference of Charities and Corrections at the Forty-second annual session held in Baltimore, Maryland May 12-19, 1915*. Chicago: National conference of Charities and Corrections; also Bowie, N.E. (1990). “Business Ethics as a Discipline: the Search for Legitimacy”. Freeman, R.E. ed. (1990). *Business Ethics: the State of the Art*. New York.

²¹ Ross, S. (1998).

²² Ibid.

²³ Centre for Applied Philosophy and Public Ethics (2006). “Professionalisation, ethics and integrity systems: summary account . Report for the Professional Standards Council” (p.29).

²⁴ Black J in *Konigsberg v State Bar of California*. 353 US 252 at 262 (1957). Cited in Ross (1998). (p.117).

something wrong. It does not require that they have done something especially good. A candidate for admission who is “inactive, like a vegetable, just pursuing his or her studies, watching television and rarely leaving the house... will meet the test”²⁵ of good character whereas someone with a passionate involvement in social issues, or from a low socio-economic or indigenous background is more likely to have a career-limiting history, including convictions.

Professions and role morality

Professions in the main operate from what might be called a role-morality which involves both moral distance²⁶ from the concerns of ordinary or private morality and a significantly narrowed moral universe that, in some respects, is easy to inhabit because it is less complicated and less ambiguous than the moral world of ordinary daily life²⁷ but which becomes problematic if one inhabits both ordinary and professional moralities, as some professionals almost certainly do.

To be a professional is to take on a social role accompanied by certain behaviours and a peer-influenced world view. We are accustomed to people behaving differently to one group over another – parents, for example, behave differently to their own children than they do to others because they have taken on the role of parent, with all that is attendant on that role in terms of emotional attachment and various forms of obligation. The role we take on can change our moral universe by encouraging us to view our actions through the lens of a role-based morality. A person’s profession will likely change their life and character as for many people a profession is a vocation and not just a career. As professionals we have a client whose interests must be represented and cared for. And built in to the very role of a professional is the need to “prefer in a variety of ways the interests of the client or patient over those of individuals generally”.²⁸ For example, the lawyer’s representation of a client in this preferential way is a duty that comes with the profession.

Each professional takes on a role morality because there are accepted ways of behaving that come with the social role (such as actions predicated on duties to a client). When this role morality is coupled with a specialised moral universe it involves professionals doing things which if they were performed by others would bring strong moral condemnation. A professional engineer, for example, is engaged to design and build something for a client. The rights and wrongs of the task are professionally constrained to instrumental or technical issues: is the concrete the right type? Should we use bolts, rivets or welds? Is the foundation solid enough to support the structure given the geology and the likelihood of earthquakes or weather? Seldom are bigger, social, issues within the purview of the professional because their role constrains them to a narrow moral universe: certain issues just do not come into their moral radar. The role morality and narrowed moral universe both serve to undermine the public’s trust in the profession because from the point of view of ordinary morality, a professional can do things that would not be considered moral if done by someone else or done when not in the role of a professional. For example, it is possible for a lawyer to make use of

²⁵ Ross, S. (1998), (p.117).

²⁶ Postema, G. (1980). “Moral Responsibility in Professional Ethics”. *New York University Law Review*, Vol. 55, p. 63. Luban, D. ed. (1994). *The Ethics of Lawyers*. Aldershot: Dartmouth.

²⁷ Wasserstrom, R. (1975). “Lawyers as professionals: some moral issues.” Luban, D. ed. (1994). *The Ethics of Lawyers*. Aldershot: Dartmouth.

²⁸ *Ibid.*, p.7.

legally available defences that allow a client to avoid their moral obligations.²⁹ In a similar way it is possible for engineers to persevere in building a dam that will dislocate thousands of families from their homes or a road that will destroy a sensitive ecosystem. From within the narrow purview of the profession, the engineer may believe him or herself to be behaving ethically, but from the point of view of ordinary morality, a wrong has been done and the professional engineer is “implicated in the moral wrong done by his client.”³⁰

Professional role responsibilities can create a simplified, if not simplistic, moral world that can seem to be at odds with the community’s perceptions. It is likely that we all make different moral judgements towards different classes of people depending on what role we have. There may be sound reasons for this, but role-differentiated behaviour puts limits on our ability to recognise moral issues and constrains the ways we can choose to act on those issues. The role differentiation of professionals may have a moral cost that many fail to appreciate because they have become accustomed to the normalised practices of a normal working day. They have become used to what they do³¹ and certain actions perceived as wrong in the moral view of the community as a whole simply slip unnoticed under the moral radar of professionals too closely caught up in the role-based morality of their profession.

Privileging their role responsibility over the general public’s view of what is right and what is wrong can put professionals into the position of being regarded by the public as, in effect, “amoral technicians”³² whose task is to employ their knowledge for those who can pay. The public may well construe actions as unethical that from a professional’s perspective are entirely consistent with a professional acting ethically. Contributing to both public misunderstanding and loss of public trust is the fact that professionals generally may, on occasion, use techniques, procedures and practices which in the context of accepted practice are considered part of the technical tool kit but which in other contexts would attract moral disapproval. In playing their role, professionals can “render irrelevant what would otherwise be morally relevant considerations”³³ and run the risk of having their specialised moral universe clash with the everyday morality of the communities they live in.

Moral distance – a dissonance between professional morality and the common private morality of the community – and role responsibility exclude some factors from consideration that an ordinary morality would consider relevant and important. In taking on the moral distance of a professional position, professionals also take on a psychological distance that may separate them from an ordinary morality. This may not be a problem *within* a profession, but will certainly be a problem for the profession’s relations with its clients or the public generally. If misunderstanding of the profession’s position continues, a systemic problem will persist that the profession as a whole needs to address.

²⁹ Postema, G. (1980). (p. 66)

³⁰ Ibid.

³¹ In the words of G.K. Chesterton “...they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment; they only see their own workshop”. G.K. Chesterton, “The Twelve Men”, quoted in Postema, G. (1980). (p69n)

³² Wasserstrom, R. (1975). (pp. 7-10)

³³ Ibid. (p.7)

Having one's moral stance misunderstood or misrepresented is something that is likely to happen to all people who take ethics seriously, and in particular to people who operate from a position of duty or principle. A thinking moral person can deal with this if it is an occasional event but when an entire profession is continually misjudged it is a significant issue.

We all need to be alert so that our professional moral judgments do not diverge from the moral understanding of the communities we serve.