



Notes on:

The unfortunate mingling of ethics
and law in cases of scientific
integrity

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Point 1:

- Most of the unethical cases are not about fabrication or falsification; cases like the Stapel case in the NL are, after all, very rare.
- Whether or not these extreme can or should be brought to court depends on the legal and scientific regime in the country; for instance in Germany the "freedom of research" is constitutional protected.
- De facto, FFP standards are operative in (most?) countries, whether by law or scientific consensus;

Point 2:

- Many of those active within scientific integrity agree that the real challenge is to change the culture of science. Law does not change cultures; values and ethics do.
- Typically there is more shame connected to acting unethically than to acting illegally.
- Passing judgement on an act in research and science typically presupposes a good scientific understanding.

Point 3:

- Scientific integrity needs courageous institutions willing to put high ethical standards into praxis and to apply them to their own problematic cases.
- The threat of (long, costly, and complicated) legal procedures is far too often reason enough not to apply rigor to breaches of integrity and ethics in science.

Consider example 1 & 2:

- Is 15-25% plagiarized material not enough to pass judgement of gross negligence in scientific practice? Because we cannot prove intent? – But we fail student exams with 4-5% plagiarized material!
- Is it defensible to regard a largely plagiarized introduction to PhD thesis as an error of judgement, and argue that the published material in the thesis is, after all, good enough?

Consider example 3:

- A study XXX wants to couple the data from a big health study with data from social registry (about social problems, unemployment, etc) => ca 30.000 people
- Ca 11.000 people refuse to be part of the research (the coupling of the data);
- By a technical mistake, the researchers receive all data.
- After several years the main researcher with co-authors publish about possible reasons for non-participation on the basis of these 11.000 data.

Further:

➤ Quote about ethics:

” The study protocol XXX was approved by the regional ethics committee and the Norwegian Data Inspectorate. Written informed consent was gathered from all participants. For the nonparticipants, only registry data were used; in principle, this is public information and is made available for research purposes through application to the Norwegian Data Inspectorate.”

Further:

- After threats from the lawyers of the accused party the University with drew its verdict of unethical behavior and gross negligence.
- Recommendations of retractions were not followed.
- Yesterday I found the artichel still in the published literature.

Question:

- Do we further the integrity of science if we apply legal / criminal standards of proof to scientific misconduct / unethical behavior?
- Or implies the mingling of law / lawyers in effect a lowering of the standards of scientific quality (*no damage could be proven, nor intent, nor gross negligence etc.*)?
- Should not scientists as a profession aspire to higher standards than just not being illegal? Does that earn us the trust of the public?