

Letter to editor:

Ethical exceptionalism: can publishing rules be manipulated to give the impression of ethical publishing?

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Abstract

Faced with increased threats, biomedical publishing is fortifying its publishing fortress. More rules, greater ethical standards, more verification steps, stricter penalties all seem to characterize a publishing environment that has become considerably hostile, and aggressive. It does not help that the system is being increasingly exploited by unethical individuals or groups, either intellectually or financially, and now monitored by an equally aggressive post-publication science watchdog vigilante movement. When extremes build up within a system, they create intolerable stress and at some point, the system will explode. In the past few years, biomedical publishing has witnessed several important ruptures to its integrity and a concomitant rise in the power of influence of ethical groups or organizations who have been entrusted, in some cases self-entrusted, with creating and monitoring the evolution of the ethics rules that the vast majority of biomedical academics are then expected to follow. This paper puts forward a hypothetical argument that “ethics” associations, or publicly acclaimed ethics specialists, are also subjected to the same corrupting forces as authors, editors or publishers. Despite this, none are being scrutinized, or being held accountable in an independently verifiable manner. “Ethical” power holds great marketing value for for-profit publishers. This paper examines hypothetically how “ethics” associations could become corrupted, could accumulate excessive power, or could manipulate rules to create a dual system of ethics to favor themselves.

Keywords: corruption; decision-making; ethics; policy; power; pseudo-ethics; tyranny

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Introduction: how did publishing get to this point?

We are in what appears to be an unprecedented age of pure, unadulterated and blatant fraud in biomedical science publishing, making it extremely challenging for all parties involved because the abuse of stated rules breeds mistrust.¹ Naturally, this does not mean that all parties are guilty of unethical behavior, and there are no doubt many passive observers who are innocent victims of others' actions, either those who disrupt the rules (e.g., unethical authors), or those who create the rules (e.g., editors or publishers). Those who disrupt the rules and abuse the system simply invoke a new wave of rules, and the entire system becomes stricter, and tougher to navigate, leading to the increased “militarization” of biomedical publishing.² For example, the detection of a single case of plagiarism or figure manipulation in a high level journal (until now still incorrectly associated with a high journal impact factor) might not raise any alarm bells. However, the detection of a few cases of

such errors within a journal – which usually start off as a highly improbable surprising exception, or “black swan event”³ – would indicate that not all is well at a journal, and that traditional peer review has failed, at least in terms of detecting several quality- and ethics-related aspects.⁴ Such cases may then trigger greater scrutiny of authors' submissions, introducing more checks and balances, or may cause publishers to examine the efficiency of the editorial screening process. New software might be introduced, and rules may be expanded, or altered, to accommodate such new challenges. Ultimately, authors and publishers are paying the price, the former by being exposed to more stressful verification and submission steps with a subsequent diminishing of their rights⁵, the latter by having to invest in stronger and better technologies and methods to avoid any form of fraud or abuse. Nowadays, not a single day seems to go by without some scandal or headline involving science, or publishing, or both, involving mistakes – some

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serious – by authors, editors or publishers in a system that was once believed to be robust and fail-safe. This indicates that science is truly in a state of extreme fluidity and change caused by increased scrutiny and critique, both inward, and outward. Some of the problems do not seem to have any solutions yet, and the academic community is grappling to seeking ways, in some cases very proactively, to find solutions to these problems. Ways to detect and prevent several situations seem to be the talking point nowadays on many scholar's minds and some of the solutions are refreshingly attractive, useful, and positive. This includes ways to improve replicability by making peer review open, requesting authors to make data open with their submission, i.e., the so-called open data movement, in a belief that this open science trend may bring greater transparency and improve the replication of studies. By making publishing more transparent and by making all literature available, or open access, is one positive way of addressing these limitations, but this movement has become deeply corrupted by some fraudulent journals and publishers who have sought to exploit the open access business model for money, flaunting publishing ethics and conducting next to no peer review, all while falsely advertising peer review on an ethical platform.⁶

Incorrect ways of dealing with these issues: bending ethics through power fortification

Through all of these processes, who makes new rules and who implements them? Whose principles are upheld? And are those rules valid for all? Should those who create such rules, as well as those rules, be respected, and why? As science publishing moves into a new era where authors, editors and publishers are being increasingly scrutinized, very surprisingly, almost nobody seems to be observing or scrutinizing the “ethics” associations that are developing and fortifying new and more rules for biomedical scientists.

So how does one manage to bend ethical publishing rules without making them sound unethical? One effective way to achieve this is for an individual or a cluster of individuals, to appoint themselves as ethical leaders. Even without any formal ethical training, they could collectively create a set of rules that then appear to be a set of ethical guidelines, provided that such a group could gain enough traction, and member adherence. With their new-found status, such individuals could then claim to be ethical leaders, limiting external challenges to that group. An analogy could be a plain-clothes person in the

street who wants to be vigilant because they perceive dangers in the street where they reside. Faced with perfectly valid concerns for their safety, or for the safety of their community, such individuals, who might very validly be concerned, for example, with the safety of their neighborhood, might find several colleagues, neighbors, or friends, who share the same concerns. Fear is a powerful unifying factor, not only to protect those within the group, but also to repel those against which the group is formed. Joined by mutual fear, or concern, a group then informally forms to maintain a watch over their neighborhoods' security, initially calling themselves a neighborhood watch. As others find solace and comfort in that state of “protection”, and fortified by principles of vigilantism, a group of such individuals eventually elevate their status to community policemen, as trust in them expands, thus empowering them more. Pretty soon, a group of “armed” individuals evolves that went from passively monitoring security and raising awareness, to actively enforcing rules and self-created laws for neighborhoods that they deemed as being dangerous. In other words, hypothetically, a small set of a community can isolate itself, create its own rules and loose organization, and then begin to implement rules on individuals with precisely the same status in their community, i.e., other civilians. The only problem with such vigilantes is that they are not trained policemen, invalidating not only their self-acclaimed status, but also their self-appointed power.

Is it possible that “ethics” associations that currently exist may have evolved in this way and that they may be displaying such vigilante-type properties, self-protectionism or resistance to external influence? This paper serves as a hypothetical foundation for such a possibility.

It's time to scrutinize “ethics” associations

As we enter an entrenched state of post-publication peer review in biomedical publishing⁷, the rise and expansion of “ethics” associations needs to be increasingly closely examined, as do their intra- and inter-association relationships. The objective is to ensure that transparency and accountability apply not only to authors, editors and publishers, who are all watching each other, but also to “ethics” associations, who are currently not being watched. I recently raised awareness about the importance and need to carefully watch the actions of science watchdogs⁸ who have emerged as a very aggressive movement, implementing a highly impositional form of post-publication vigilantism, but without

anybody watching them, or regulating their activity. As it currently stands, vigilantism is in free-fall. So, the only gap that currently exists in the vigilantism of this entire process is vigilantism over “ethics” associations, their leadership, and their actions. In the ethics pyramid scheme, such individuals are, by default, those who hold the highest level of moral and ethical authority, and thus any ethical infraction, even if minor, should be treated as a very serious *faux pas* and violation of science publishing values. There must be a zero tolerance approach to inconsistencies, opacity, lack of accountability, poor communication, hidden conflicts of interest (COIs) or any other practices which they, or others, have determined as being unethical, or potentially unethical, for the biomedical authorship and editorship, but which they do not hold to the same level for themselves.

Science publishing ethics are currently established by large “ethics” associations, run by committees who the biomedical authorship has automatically – without question – assumed to be valid. In several cases, their links to industry, if any, are taken for granted, or overseen, and the ethical elite has become a class of untouchables, protected by the same individuals for whom they have established ethical rules. In other words, current biomedical science publishing ethics currently relies on limited sets of rules that have been, for the greater part of for-profit publishing, been established by limited groups of self-appointed individuals, within “ethics” associations, or by individuals with strong links to the for-profit publishers or industry. Such associations offer an ethical “mask”, which forms an integral part of a publisher’s business and marketing platforms. Similar close links in any sector of society or business could loosely be inferred to as corruption or, if between family members, cronyism. Yet, oddly, the issue of ethical cronyism or corruption has never been abridged in the biomedical science publishing literature. Why not? This aspect needs to be urgently addressed, especially as biomedical publishing witnesses the rapid rise of select “ethics” associations, who have now become “ethics market” leaders, dominating current global biomedical publishing, including, but not exclusively, COPE (Committee on Publication Ethics), the ICMJE (International Committee of Medical Journal Editors), WAME (World Association of Medical Editors), the CSE (Council of Science Editors), EASE (European Association of Science Editors), and PIE (Publication Integrity and Ethics). This paper forms part of an exploratory series to better understand the “ethics”

associations that are imposing their sets of rules upon the global biomedical academic community.

The evolution of ethics in biomedical publishing

In days gone by, when most journals were published by academic societies with self-established norms and ethics, ethical rules were in the hands of the editor boards of those society journals. A self-regulating community had the ability to set its own standards, and higher ethical and publishing norms and standards automatically attracted new authors and society membership as strict peer review and editorial responsibilities bred a robust published literature. As large, for-profit commercial publishers began to expand, and fortify their hold on the publishing market, they began to outsource ethics. Societies unable to compete with for-profit created journals, began to outsource their publishing operations to the same for-profit publishers, having to submit to their sets of ethics and regulations. In some cases, emboldened by their fame and academic glory, some science and medical editors began to envision how they could expand their vision of “ethics”, as a successful part of the publishing academic and/or business model, to others. This was achieved by creating “ethics” associations using industry insiders who would then be entrusted with creating guidelines of what appear to be an “independent” group or individuals who would set a standardized set of parameters. These “ethical” publishing parameters, or guidelines, could then be applied as an “ethics standard” for a wide range of academic societies. Such societies include those who self-publish their journals, or, in the case of societies with insufficient technical resources or marketing reach, by for-profit publishers who would enter into a contract with such societies, which entrusted such publishers with the publication of their journals, for a fee. Part of the contract implies cohesion to the ethical principles established by their seemingly independent “ethics” association.

So, not only did for-profit commercial publishers gather economic power and an increased publishing market, they began to accumulate “ethical” power, making the ethical decisions by editor boards of journals that entered into a contract with them, almost redundant. The current situation in science, technology, engineering and medicine (STEM), as well as arts and humanities, publishing is now a dominant group of for-profit commercial publishers⁹ with several industry insiders among the ranks of their “ethics” association, who have established rules for those publishers, to offer them ethical

protection and “guidelines”, which they then impose – under threat of exclusion – on the editors of their member journals from which they derive profit. This trickle-down “ethical” imposition then extends itself to authors, who are under constant threat of exclusion from member journals of such “ethics” associations. A rock-solid tyrannical structure is thus implemented, with legal teams ready on the sidelines, ready to pounce on any individuals who may pose a threat to this structure, or its economic basis, by challenging its ethics. To give the impression of neutrality, some “ethics” associations registered as charities, or as non-profit organizations, even while gathering profitable membership fees. This gives the impression of a powerless group that is simply lending a service, in this case, leasing out “ethical” rules, guidelines, or publishing advice, incorporating an “ethical” component to the for-profit publishing model, for a small fee. Ethics thus becomes deeply entrenched as part of the business model, but is falsely projected as a warm, embracing and accommodating aspect of STEM publishing.

This leads to a situation in which the rules are created and imposed by the publishers and their tag-team “ethics” associations, but the ethical responsibility, i.e., of enforcement, lies on editors’ shoulders. What has now evolved is a neat business model in which ethics is marketed as one integral part of the journal and publisher’s profile, reaping thus an “ethical” image, while placing the burden of ethical enforcement in the hands of editors. In recent times, with increasing cases of retractions, the ethical burden has started to shift to the publishers, who have increasingly failed to curtail a wide range of ethical infractions and abuses of their publishing platforms. Pressure is thus increased on “ethics” associations to be more productive, which they do by creating novel and sometimes redundant or non-sense rules or regulations, more complex layers of guidelines, each with its own fancy acronym.

Amazingly, throughout this entire process, including the growth, expansion and solidification of power, nobody has been scrutinizing the functionality and the ethical basis of these “ethics” associations, or they have been turning their heads. Thus, one smart way of creating ethics and ethical rules and parameters, guidelines if you wish, for the masses of academia, is to outsource ethics, as if it were an independent body with power, shift that power of control to the publishers, while shifting the power of responsibility and the burden of enforcement, onto the shoulders of editors. This is a smart and profitable business

strategy that increases profitability at a minimum of costs and responsibility. And this may be the state in which we currently find biomedical publishing, at least among the largest for-profit commercial publishers. However, the tide may be shifting as clashes and scrutiny of “ethics” associations and their modus operandi begin to increase.

How can “ethics” associations bend the rules, even unethically, and yet still appear ethical?

Within such a cocooned (i.e., self-protecting) environment, it makes sense that a dual set of ethics can easily evolve, perhaps even consciously, or carefully planned, i.e., connived, but this might be more difficult to prove, because it could be extremely carefully crafted and edited, slowly, over time, masqueraded by apparent adherence over time. For example, an academic with inappropriate ties to industry, but who fails to disclose those ties, could be labelled as not disclosing COIs, financial, personal or professional. Under the ethical guidelines imposed by these “ethics” associations, overlooked by the publisher, and enforced by the editors, who in essence form a 3 : 1 axis of ethical power over authors, such hidden COIs would then be labeled as unethical, and in extreme cases, could lead to the retraction of an author’s paper, leaving authors very little power to challenge this overpowering decision. However, are the members of such “ethics” associations immune to the same rules concerning COIs, is anyone examining possible exceptions, and should they be granted such immunity? In other words, is there a state of ethical exceptionalism in STEM publishing? To date, this theory has rarely been tested, precisely because ethics is offered strong legal protection by for-profit publishers as it forms part of the publisher’s image, and brand.

The same possibility of ethical exceptionalism applies to issues such as plagiarism or self-plagiarism, which are generally considered to be unethical, less so – or at least debatable – in the latter case.¹⁰ Imagine that a rule regarding self-plagiarism is imposed upon the authorship, but that members of “ethics” associations are immune to, or exempt from, the same set of rules. Despite this risk or possibility, which increases as power related to ethics becomes more concentrated and centralized, few, if any academics, are investigating the potential existence of this dual layer of ethics, one for the authorship, and one for the “ethics” associations. This risk has now become real, with evidence beginning to develop to support the hypothetical ideas laid out in this paper. The existence or the implementation of a two-layered

ethical stratum would undermine the ethical nature of such “ethics” associations, and their members.

More specifically, but still hypothetically, imagine that an “ethics” association creates a set of ethical guidelines, or ethics rule book. Imagine further, within those guidelines, that a clause is added that benefits its own members, but works differently for its target audience, i.e., one set of rules for the “ethics” association, and a separate set of rules for academia. In such a dual-ethics system, undeclared COIs and self-plagiarism, for example, would be unethical for authors and academia, but ethical – or at least acceptable – for members of that “ethics” association. The risk increases as such “ethics” associations accumulate power, spread globally and become widely adopted and implemented.

This paper has laid out a theoretical argument, and not specific to any “ethics” association, that shows how ethics could be abused, or how the ethical hierarchy could be manipulative of such power of ethics to suit their own narrative and political and professional

ends. What may initially start as a fairly innocent and virtuous objective, may evolve, in extreme cases, into tyrannical monopolization of ethics, run by a close-net group of friends, colleagues or an inbred network of ethical cronies. The ethical corruption of an “ethics” association is not an issue to be dealt with lightly, and if any signs exist that such an event is taking place, then this places the entire biomedical community in immediate danger, and could result in the loss of complete trust among members of the STEM community.

This paper thus has, as its core objective, to discuss a potential hypothetical situation, but as a realistic possibility, especially as each member of the publishing network is seeking stronger ways to survive, and better ways to solidify power and control over the publishing process.

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