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Moral vulnerability among moral strangers: limits of the principle of permission

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Abstract

This article presents a critical analysis of Tristram Engelhardt's work, focusing on the principle of permission. It is argued that, in a context of intense social inequalities and denial of rights, the application of procedural ethics based solely on the principle of permission can result in the moral vulnerability of individuals and groups who do not share a certain morality. This can expose them to different forms of denial of rights, violence, exploitation, exclusion, and stigmatization. Given this reality, the importance of strengthening a bioethics committed to defending dignity, diversity, human rights, and social justice is highlighted.

Keywords: Vulnerability. Autonomy. Consent. Bioethics. Human rights.

Resumo

Vulnerabilidade moral entre estranhos morais: limites do princípio da permissão

Este artigo apresenta uma análise crítica da obra de Tristram Engelhardt, com foco no princípio da permissão. Argumenta-se que, em contextos de intensas desigualdades sociais e negação de direitos, a aplicação da ética de procedimentos baseada apenas no princípio da permissão pode resultar na vulnerabilidade moral de indivíduos e grupos que não compartilham de determinada moralidade. Isso pode levá-los a serem expostos a diferentes formas de negação de direitos, violência, exploração, exclusão e estigmatização. Diante dessa realidade, destaca-se a importância de fortalecer uma bioética comprometida com a defesa da dignidade, da diversidade, dos direitos humanos e da justiça social.

Palavras-chave: Vulnerabilidade. Autonomia. Consentimento. Bioética. Direitos humanos.

Resumen

Vulnerabilidad moral entre extraños morales: límites del principio de permiso

Este artículo presenta un análisis crítico de la obra de Tristram Engelhardt, centrándose en el principio de permiso. Se arguye que, en un contexto de intensas desigualdades sociales y negación de derechos, la aplicación de la ética de procedimientos basada solo en el principio de permiso puede generar vulnerabilidad moral en los individuos y grupos que no comparten cierta moralidad. Esto puede llevarlos a verse expuestos a diferentes formas de negación de derechos, violencia, explotación, exclusión y estigmatización. Ante esta realidad, se destaca la importancia de fortalecer una bioética comprometida con la defensa de la dignidad, la diversidad, los derechos humanos y la justicia social.

Palabras clave: Vulnerabilidad. Autonomía. Consentimiento. Bioética. Derechos Humanos.

Update

The authors declare no conflict of interest.

The acknowledgment of moral diversity in secular societies, in which moral strangers interact, forms the cornerstone of Hugo Tristram Engelhardt Jr.'s approach outlined in his book *The foundations of bioethics*, originally published in 1986 [1].

Engelhardt contends that moral strangers encompass individuals and groups who lack a shared morality, meaning they do not acknowledge the same moral authority rooted in common values. According to the author, the sole legitimate method to establish ethical connections among moral strangers is through the principle of permission, as it avoids the imposition of external moral frameworks.

In Engelhardt's view, in a secular society that embraces moral diversity—where diverse religious, ideological, and moral perspectives coexist peacefully—striving for ethical consensus among moral strangers becomes unattainable. Because in the absence of shared values and common moral authorities, resolving conflicts through rational, ideological, or religious means is not feasible [2]. Confronted with this dilemma, the author suggests the principle of permission as a basis for impartial, value-neutral contractual relations among moral strangers, transferring the moral authority of decision-making to individuals rather than external moral systems.

The principle of permission emphasizes that the only valid authority to regulate interactions among moral strangers is a specific type of contract founded upon consent, as articulated by the following idea: *do not do unto others what they would not do unto themselves, and do unto them what each person is hired to do* [3].

Engelhardt argues that while moral strangers lack a shared moral identity, moral friends can resolve ethical conflicts by invoking common moral values or authorities, such as sacred texts, religious leaders, professional codes of ethics, or elder family members. Therefore, in relationships among moral friends, the authority of the principle of permission can be supplanted by the shared moral framework itself, whereas such a substitution is deemed illegitimate in relationships among moral strangers [4].

In essence, according to the author, when faced with disagreements and moral quandaries, moral strangers must address their conflicts through procedural, impartial, and contractual ethics, whose legitimacy hinges upon the formal agreement rather than the moral content being discussed.

Engelhardt underscores that despite lacking a moral friendship, moral strangers can still cultivate affectionate relationships. In his view, *moral strangers often effectively function as friends. In fact, individuals are frequently united in marriage with moral strangers* [5].

Conversely, it is also valid to note that moral friends may not necessarily be affectionate friends. Therefore, emotional closeness should not be a prerequisite for moral strangers to establish an agreement based on the principle of permission, nor for moral friends to resolve conflicts based on shared values or authorities.

In his more recent works, Engelhardt began to explore the concept of moral enemies, a notion absent in his earlier writings, defining them as *individuals who employ malevolent and/or non-consensual force against those who are morally innocent* [5].

While much of his earlier work, including the 2000 publication *The foundations of christian bioethics* [6], where he advocates for a vision of religious bioethics grounded in Orthodox Christianity, focused on seeking conditions for legitimate relationships between moral strangers, Engelhardt has taken a different approach in his recent productions, notably in the 2017 book *After God: morality and ethics in a secular age* [7], where Engelhardt spearheads what he describes as a "cultural war" against secular bioethics, no longer believing in the possibility of reaching agreements.

To him, this rupture stems from *the vast disparities between the moral and bioethical assertions of religious believers and those of the secular state in terms of content and justification, leaving no room for compromise* [8]. Engelhardt argues that in recent decades, a form of "secular fundamentalism" has solidified in bioethics, which prohibits religious individuals from *publicly condemning the morality, or rather, the immorality, of actions such as abortion, fornication, adultery, homosexual behaviors, and physician-assisted suicide* [9].

As a foundational premise for the critical analysis of Engelhardt's work, a key issue concerns the complex dynamic among moral strangers within the backdrop of pervasive moral, ideological, religious, ethnic, and cultural polarization worldwide. In this environment, numerous moral factions remain unrecognized as legitimate moral agents deserving of dialogue or acknowledgment of their citizenship rights, rendering any authentic ethical relationship unattainable [10].

In light of this, if establishing ethics rooted in the appreciation of diversity and fostering of coexistence among differences proves unfeasible, the minimum requirement becomes adhering to the paradox of tolerance as proposed by Karl Popper, who suggests that unrestricted tolerance may ultimately lead to the erosion of tolerance itself. According to Popper's assertion, *extending boundless tolerance to those who are intolerant, without a readiness to safeguard a tolerant society against the onslaught of intolerance, will result in tolerance's annihilation* [11].

This premise enables us to recognize the limitations of Engelhardt's concept of moral enemies as articulated in his later reflections, as the notion of "enemies" presupposes that both sides of a moral conflict are actively seeking to assail one another, which, as elucidated by Popper's paradox of tolerance and the forthcoming concept of moral vulnerability, is not always the case.

This impossibility arises because, within intolerant relationships typified by phenomena like homophobia, there is, on the one hand, intolerant rhetoric aimed at negating the identity and rights of homosexual individuals, and on the other hand, there exists the victim of intolerance—the individual subjected to persecution, assault, or exclusion for failing to adhere to the religious morality that condemns them.

The concept of moral vulnerability, as applied in this study, was introduced in *Revista Bioética* by Sanches, Cunha, and Mannes in 2018 [10] as a means to underscore situations wherein individuals are subjected to risks and harm as a result of moral arguments and judgments explicitly defined as correct or desirable, and which are often—though not always—championed by voices representing the prevailing *ethos* in a given society.

For instance, the persecution of Christians due to Islamic dissent in certain Middle Eastern regions, the destruction of *terreiros* (places of worship) of African-based religions by certain Christian groups in Brazil, as well as the resurgence of the denial of civil rights for the LGBTQIA+ population and immigrants in European and American countries, illustrate how moral strangers may be vulnerable, excluded, or stigmatized simply for deviating from the moral standards imposed by those who unilaterally designate them as "moral enemies."

Moral vulnerability, therefore, denotes situations wherein individuals and groups are not accorded recognition of their dignity and rights by moral discourses explicitly upheld by other groups. Consequently, they transition from being merely moral strangers to becoming morally vulnerable [10].

Taking into consideration the perspective of moral vulnerability, this article scrutinizes Engelhardt's principle of permission, bringing forth the question: *Is it feasible to establish a legitimate contractual procedure involving individuals and groups when morality itself is the very cause of their vulnerabilities?*

The principle of permission among moral strangers: a critical analysis

Autonomy holds a pivotal role in bioethics, particularly within Anglo-Saxon schools of thought. Beauchamp and Childress, in their work *Principles of biomedical ethics* [12], regard autonomy as one of the four guiding principles for resolving ethical dilemmas in healthcare. They stress that autonomy should not be viewed solely as an abstract principle or value defining an individual, but rather as a safeguard ensuring that the moral agent's opinions, choices, values, and beliefs are respected. The authors distinguish autonomy as comprising both the autonomous "being" and the autonomous "decision," underscoring the significance of factors such as intentionality, a thorough understanding of pertinent facts, and the absence of undue influences that could sway the decision-making process.

Engelhardt critiques Beauchamp and Childress' characterization of autonomy because they define it in terms of substantive value, imbued with moral content, akin to other equally substantive principles like justice, beneficence, and non-maleficence. Conversely, Engelhardt

advocates situating autonomy within the framework of contractual procedure neutrality, based on his principle of permission [1].

As analyzed by Lysaught [13], drawing from Foucault's categorization, the ethics of contractual procedures do not manifest as morally neutral but are instead imbued with the values inherent to the context in which the contract is established. By demanding an alleged neutrality and naturalizing the conditions under which the principle of permission operates, this principle ultimately legitimizes power dynamics historically entrenched within the given context. Consequently, under the guise of neutrality, procedural ethics founded on permission tend to favor a specific faction: those who hold privileged positions within power structures.

It is not coincidental that Engelhardt, by overemphasizing the purported neutrality of permission-based procedures and normalizing the objective circumstances in which they are applied, finds justification for several of his staunch defenses of the free market, including advocating for the refusal of States to the right to provide public healthcare [14] and endorsing the commercialization of human organs from impoverished individuals to wealthier ones [15].

To better understand the context of Engelhardt's propositions, it is crucial to acknowledge that the author approaches the deepening moral divergences from two potentially contradictory perspectives [16]. On one hand, in his work *Fundamentals of bioethics* [1], he systematically formulates the principle of permission from a libertarian standpoint. On the other hand, in a conservative religious context, he espouses a substantive ethics grounded in the values of Orthodox Christianity [4,7]. In this latter perspective, the author directs particular attention to the escalation of moral conflicts involving what he terms the "secularist" stance of bioethics, that is, the focal point of an ongoing "cultural war" within the field.

From the libertarian viewpoint, as previously mentioned, Engelhardt advocates that ethical debates among moral strangers cannot be resolved through rational argumentation grounded in shared premises or values. According to him, establishing morally binding norms or principles for all rational beings without resorting to coercion or conversion is inherently impossible. This perspective forms the basis for his advocacy of a "marketplace of moral ideas," wherein individuals are *free to pursue their own ends peacefully, even in the absence of a shared moral standpoint or specific conception of justice* [17].

In his work *Global bioethics: the collapse of consensus* [4], published in 2006, Engelhardt discusses the futility of achieving consensus in global bioethics, as well as any universal moral consensus based on secular, rational, and logical arguments. He attributes this impossibility to the existence of diverse moral communities worldwide that disagree and contest the definition of fundamental premises and evidentiary rules concerning ethical, religious, and political matters.

This suggests that the intractable conflict in global bioethics extends beyond the determination of correct or true moral practices and norms; it encompasses the very foundations of morality itself. Faced with the impasse of moral strangers failing to reach agreement on the moral concepts of "right," "fair," "good," or "evil," Engelhardt proposes the procedure based on permission as a means of seeking solutions, even if provisional, for resolving global bioethical conflicts.

Regarding his positions, we must underscore that bioethical conflicts, whether localized or widespread, manifest within concrete contexts characterized by material inequalities that determine positions of privilege or vulnerability in relationships where reaching an agreement becomes feasible [18].

Hence, when implementing the principle of permission, it becomes imperative to consider the diverse circumstances and characteristics that influence the positions of privilege or vulnerability of those involved, including factors such as education, gender, income, sexuality, religion, ethnicity, and economic status, among others. Disregarding these realities would amount to engaging in an abstract philosophical exercise devoid of practical applicability—or worse, in contexts marked by pronounced social and economic inequalities, it could represent a violent and unjust form of exploitation of individuals and groups facing various forms of vulnerability [18].

Furthermore, as highlighted, some individuals involved in moral conflicts may find themselves

in situations of particular moral vulnerability. They may belong to communities that dictate values and norms deemed appropriate, correct, or natural, and their proximity or deviation from these standards may render them susceptible to exclusion, violence, and stigmatization [10].

In this regard, the presumed neutrality of a procedure solely grounded in the principle of permission becomes even more problematic, as it is precisely within this dynamic that moral strangers may transition into states of moral vulnerability.

Moral vulnerability in bioethics: exclusion, stigmatization, and violence

The word "vulnerability," rooted in its etymological origin, conveys susceptibility to injury, harm, and suffering. In the context of bioethics, vulnerability manifests itself in several dimensions, including biological vulnerability, which highlights how certain physical conditions—such as age or genetic characteristics—render individuals susceptible to diseases, and social vulnerability, which emphasizes how inequalities present in the socioeconomic context generates susceptibilities to diseases, violence, and exclusion.

Cunha and Garrafa [18] analyzed how different regional perspectives on bioethics emphasize distinct dimensions of vulnerability. In Anglo-Saxon bioethics, vulnerability is linked to the lack of autonomy; in European bioethics, it pertains to an existential and ontological dimension of living beings; in African and Asian bioethics, vulnerability stems from the emphasis on community and family relationships, respectively; while in Latin American bioethics, the focus is on social vulnerability.

As highlighted, moral vulnerability [10] seeks to underscore a crosscutting dimension of vulnerability, which revolves around susceptibility to suffering within the intersubjective realm of morality itself. This encompasses suffering resulting from discourses that define moral, cultural, theoretical, ideological, or religious standards, making those who deviate from these norms susceptible to various forms of exclusion, stigmatization, or violence.

The proposed definition of moral vulnerability has swiftly found resonance across different studies in bioethics. Sastre and collaborators [19], for instance, employed the concept of moral vulnerability while examining medical students' perspectives on restrictions regarding blood donations from men who have sexual relations with men. Frutos and collaborators [20] looked at moral vulnerability for reasons of gender identity and sexual orientation in higher education in Salamanca, Spain. Alegria [21] delved into the moral vulnerability experienced by individuals living with HIV in serodiscordant relationships. Brotto and Rosaneli [22] investigated expressions of moral vulnerability among family caregivers of patients with rare diseases. Santos and Pereira [23] identified how the moral vulnerability of same-sex families is linked to the imposition of a heteronormative model of marriage. Waltrick and collaborators [24] applied the concept to analyze the vulnerability of athletes concerning issues such as the glorification of body image, doping, moral harassment, and career abandonment.

Numerous other studies continue to utilize moral vulnerability as a parameter for analyzing various bioethical conflicts, including examining violence against older adult women [25], assessing access to healthcare services for indigenous populations [26], LGBTQIA+ communities [27,28], and individuals with amyotrophic lateral sclerosis [29], children and adolescents vulnerabilities while experiencing psychological distress [30], bioethical dilemmas surrounding abortion in Argentina [31], ethical impasses during the pandemic [32], and various other pertinent issues [33,34].

The analysis of conflicts addressed in the variety of publications indicates that the principle of permission or the consent process often emerges as a secondary concern. This is because what is primarily violated in these situations is not merely autonomy in decision-making, but rather the myriad forms of exclusion, stigmatization, and violence that arise at the intersection of vulnerabilities, particularly moral vulnerability.

In many of these conflicts, moral vulnerability stems from a discursive and intersubjective appraisal of behaviors, ideas, and identities, rendering it less conspicuous and more challenging to pinpoint compared to other dimensions, such as the biological or social facets of vulnerability.

Therefore, within the context of heightened disputes over values and worldviews characterizing the early 21st century, along with the deepening of social inequalities amidst economic globalization, Engelhardt's principle of permission not only proves inadequate but may also perpetuate and exacerbate social and moral vulnerability, as it conceals and legitimizes the objective and subjective conditions that shape the contexts in which the purported moral contract is formed.

The perspective of moral vulnerability enables us to recognize how Engelhardt's approach to moral plurality overlooks the fact that it unfolds unequally, particularly in the exercise of rights and in the acknowledgment of the moral agency of individuals and groups facing vulnerabilities. In this conception, in contexts marked by pluralism, moral vulnerability can emerge as a consequence of exclusionary, discriminatory, and stigmatizing moralities.

Moral vulnerability in the face of Engelhardt's principle of permission

According to the arguments presented, in societies characterized by high levels of inequality and exclusion, relying solely on consent as the basis for resolving disputes between moral strangers poses an ethical dilemma in itself. This is because it can exacerbate the various forms of suffering experienced by individuals and groups occupying socially marginalized positions or those diverging from conventional morality.

The issue of consent can also be examined from another angle: under what circumstances can one party consent on behalf of another? Engelhardt makes a distinction between two forms of consent: A) *implied consent: wherein individuals, groups, and states have the authority to safeguard the innocent from non-consensual coercion*; and B) *explicit consent: wherein individuals, groups, and states possess the agency to enforce contracts or establish social rights* [35].

In both scenarios (A and B), moral authority can be wielded to shield any party against actions lacking their consent. However, as mentioned, the inherent risk of relying solely on consent and permission as the sole standards for interactions between moral strangers lies in the fact that the legitimacy of their relationship hinges on both A and B enjoying a minimum level of equality in material rights and conditions and being equally respected in their dignity.

This implies that neither A nor B should be excluded, segregated, or denied agency as moral agents solely because they do not adhere to the values of other moral frameworks, including procedural morality. Otherwise, when a moral stranger finds themselves in a state of moral vulnerability, the principle of consent will be applied disproportionately and illegitimately.

In these instances, it becomes evident once again how moral vulnerability can often—though not always—intertwine with social vulnerability, particularly when individuals and groups experiencing poverty and destitution are marginalized by meritocratic discourses that morally diminish them, labeling them as "incapable," "incompetent," or "lazy."

A complicating factor is that moral vulnerability is frequently less overt than social vulnerability, which can be objectively determined by socioeconomic conditions. While intersubjective, the moral dimension of vulnerability may not even be perceived or acknowledged by the individuals themselves who experience it.

Moreover, this reflection prompts us to consider that while moral vulnerability may potentially manifest in situations of social vulnerability, the latter is not an absolute prerequisite for its identification. Indeed, individuals who share privileged social realities in terms of employment, housing, and income may also experience vulnerability for strictly moral reasons, enduring processes of stigmatization, discrimination, and exclusion within their social circles.

In this regard, we can cite the example of research in the field of bioethics demonstrating how doctors and healthcare professionals at a hospital participating in the legally sanctioned abortion program in the Federal District face exclusion and stigmatization from other healthcare teams who deem the program morally objectionable [36]. In such cases, stigmatization within the same socioeconomic group can unveil a distinct form of human dignity violation associated with moral vulnerability.

Human dignity, moral vulnerability, and the principle of permission

The concept of dignity typically refers to the "formula of humanity" proposed by Kant in the second proposition of the categorical imperative in his work *Foundations of the metaphysics of morals* [37]. In this formulation, Kant underscores the moral obligation to treat every rational being as an end in itself and never merely as a means to other ends.

This normative concept is also enshrined in the *Universal Declaration of Human Rights*, which recognizes human dignity as a fundamental value from which various principles and rights derive. As articulated in its Article 1: *All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood* [38].

However, Engelhardt, consistent with his ethical perspective on procedures based on permission—apparently devoid of moral content—strongly critiques the concept of human dignity and human rights. He views them as mere *slogans* of the prevailing secular morality, incompatible with mediating relationships among those who do not abide by it [39]. Particularly in his rejection of the values espoused in UNESCO's *Universal Declaration on Bioethics and Human Rights* [40], Engelhardt has questioned the foundation of its ethical principles and its disregard for persisting divergences on the subject within the context of global moral pluralism.

On the other hand, from the perspective presented here of moral vulnerability, dignity emerges as a fundamental value. Affirmatively, dignity represents the condition that allows individuals to be acknowledged as legitimate participants in relationships among moral strangers. Negatively, its violation—through exclusion, violence, and stigmatization—renders genuine ethical relationships unattainable [10].

Departing from the Kantian notion that links dignity to rational capacity, one can align with Sanches' viewpoint, which advocates that dignity arises simply from the fact that humans exist and are, at the same time, accepted within the social fabric of their existence. According to the author, *grounding human dignity solely in self-conscious individuals or socially accepted citizens would be akin to anchoring human dignity in a position vulnerable to wide-ranging exploitation* [41], which contradicts the intrinsic equality inherent to dignity.

Furthermore, according to Sanches, *the economic exploitation of individuals by individuals, economic systems, or even governments is often underpinned by an ideological framework wherein the dignity of the exploited is theoretically and practically denied or diminished* [41]. In this context, the author emphasizes the importance of dismantling moral dualisms between life and consciousness, between human being and human person, and between existence and social recognition.

Overcoming these dualisms is crucial for mitigating manifestations of moral vulnerability, particularly amidst the intensification of what Engelhardt termed the "cultural war." Indeed, in such a scenario, the mere existence or recognition of a subject or group as human beings does not guarantee automatic protection of their dignity and rights.

To summarize, violence, economic exploitation, unemployment, discrimination, stigmatization, and exclusion serve as underlying factors fueling fundamentalism and the rising waves of hatred against social and moral minorities worldwide. In this context, disregarding dignity as a fundamental value for bioethics or confining it to certain attributes of consciousness or social recognition also exacerbates the deepening of moral vulnerability.

Final considerations

This study critically examined the relationship between Engelhardt's principle of permission and a specific dimension of vulnerability, which is linked to the denial of recognizing others as moral agents through stigmatization, exclusion, and other forms of denying dignity, as well as inequalities in rights, choices, and opportunities.

It is crucial to note that this critical perspective does not imply neglecting the significance of permission, autonomy, and consent in bioethics discussions overall. Instead, it aims to expand the discourse by considering the objective and subjective contexts in which these principles

operate and relating them to the acknowledgment or denial of dignity and the presence of equality or inequality.

By responding negatively to the question that guided the analysis, that is, by pointing out the impossibility of having a legitimate contractual procedure involving individuals and groups whose morality is the very cause of their vulnerability, we identify important limitations of Engelhardt's principle of permission. Particularly, it may obscure, generate, perpetuate, or exacerbate vulnerabilities, resulting in a dimension of moral vulnerability.

On the other hand, we concur with Engelhardt, particularly in his earlier works, when he asserts that the presence of moral strangers in a pluralistic society does not inherently pose an ethical dilemma. On the contrary, in our analysis, moral diversity is viewed as an ethically enriching phenomenon, reflecting the diversity of cultures, values, religions, ideologies, and ways of life that can thrive within human communities. Nevertheless, when moral disparities lead to forms of vulnerability, a significant issue for bioethics arises. In such instances, it becomes imperative to examine the contexts and procedures that may contribute to the perpetuation of exclusionary and violent dynamics.

In conclusion, we also align with Engelhardt's concerns regarding the challenge of establishing universal ethical principles and values based on modern, Eurocentric rationality. However, our reasons for supporting this criticism differ from his perspective.

While Engelhardt rejects universal ethical values to uphold the supremacy of individual interests over collective ones, we ground this critique in concrete reality and history. We observe how such values have historically legitimized processes like colonization, enslavement, and the imposition of development paradigms that have rendered countless individuals and groups vulnerable. These individuals and groups often do not adhere to the hegemonic morality prevalent in the modern/Western context.

These reflections underscore the necessity for further studies aimed at redefining bioethics. Instead of viewing it as a neutral procedural tool purportedly devoid of substantive values, we advocate for its transformation into a theoretical and practical field dedicated to safeguarding life, dignity, diversity, social justice, and other values related to protecting individuals and groups entrenched in various vulnerable relationships, including those stemming from moral vulnerability.

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