

A TITULAR EUROPEAN GROUP ON ETHICS?

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An empirical analysis
of the EGE's moral
philosophy and its
policy implications

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Summary

The EU's democratic deficit has been a concern for EU critics for a long time. The European Group on Ethics, an advisory organ of the European Commission, has concerned some because of its institutional background. This concern about the context of the EGE raises concern about the content of its publications, termed Opinions. Using a qualitative text analysis, this thesis looks at the Group's moral philosophy: its use of ethical theories, scopes of moral concern and philosophical arguments. It also looks at the European Commission to uncover the influence of the EGE on its executive. Some EGE members were happy to share their perspectives in interviews.

The results show that the EGE is a pragmatic and legalistic organisation whose composition aims to represent the diversity of Europe. This means it uses a plurality of ethical theories (lately focused more on rights), its scope of moral concern is focused on humans and the arguments it uses are mostly legal. This legalism and pragmatism comes at the cost of philosophical validity. The Commission displays a similar moral philosophy, with subtle differences: it is more focused on interests, it is more nationalistic and its legalism is not a problem for the executive branch of the EU.

The results show that there is a trade-off between pragmatism and legalism on the one hand, and philosophical validity on the other. At the moment, the EGE verges strongly towards the former side; perhaps too strongly, as its many legalistic argumentations cannot withstand critical philosophical scrutiny. Perhaps the EGE is only a titular European Group on *Ethics*, i.e., in name only.

Table of contents

1	Introduction.....	7
1.1	Background.....	8
2	Analytical framework	11
2.1	Ethical theories.....	12
2.2	Scope of moral concern.....	20
2.3	Quality of argumentation.....	23
3	Methodology	25
3.1	Source selection	25
3.2	Fragment selection.....	25
3.3	Coding.....	26
3.4	Interviews	27
4	Results	29
4.1	The Opinions.....	29
4.2	Commission proposals.....	40
4.3	Interviews	47
5	Conclusion	51
6	Discussion	53
6.1	Scientific relevance.....	53
6.2	Societal relevance.....	54
7	Bibliography.....	57
8	Annex: interview questions.....	63
8.1	Ethical theories.....	63
8.2	Scopes of moral concern	64
8.3	Quality of argumentation.....	64
8.4	Influence on European Commission.....	65

1 Introduction

A vast literature surrounds the so-called democratic deficit of the European Union. This is the contested idea that the EU is more of an oligarchy than a democracy, because its decisions are not really influenced by the will of the EU's citizens. Critics of the EU's democratic deficit focus on many different organs of the EU. Lately, criticism arose over the EU's rejection of a Greek referendum on its reform policy, which – allegedly – once again showed the EU's determination to rule the people instead of representing them.

It has been argued that the most problematic aspect of the EU's democratic deficit, if it exists, is the European Commission's "excessive delegation" (Crombez, 2003, p. 116). The European Commission is the executive part of the EU's *trias politica* and has the power to propose regulation and manage its subsequent implementation. Many advisory groups of the Commission remain largely in the dark, while significantly influencing EU policy, which poses a threat to democratic and transparent governance. Political scientists hold the view that "in reality, most decisions are taken [in committees outside public view], and are merely formalized by more visible bodies" (Lelieveldt & Princen, 2011, p. 245).

One group that has frequently raised such concerns is the European Group on Ethics in Science and New Technologies (EGE). The EGE has sprung forth out of the Group of Advisers on the Ethical Implications of Biotechnology (GAEIB), created in 1991, that the then European Economic Community instituted to deal with the moral questions related to the various pieces of legislation on biotechnology that were (to be) implemented in the 1980's and 1990's (Plomer, 2008). The GAEIB was replaced by the EGE in 1997. Its current purpose, according to its mandate, is "to advise the Commission on ethical questions relating to sciences and new technologies" (EGE, 2012). These advices, termed Opinions, may be requested by the Commission and may be provided without request.

This thesis will look into the EGE and its Opinions. While case studies into the EGE have been done, no systematic analysis of the EGE's Opinions has been performed and this thesis will aim to fill that knowledge gap by systematically analysing the moral philosophy of the EGE. This thesis will also look at the impact of this moral philosophy on EU policy. To that end, this thesis will answer the following question and sub-questions:

What is the influence of the moral philosophy of the European Group on Ethics in Science and New Technologies (EGE) on EU policy?

- *What is the moral philosophy of the EGE?*
 - a. *Which ethical theories does the EGE use?*
 - b. *Which scopes of moral concern does the EGE use?*
 - c. *Which philosophical arguments does the EGE use?*
- *Is the EGE's moral philosophy reflected in EU policy?*
 - a. *Which ethical theories are found in EU policy?*
 - b. *Which scopes of moral concern are found in EU policy?*
 - c. *Which philosophical arguments are found in EU policy?*

The previous short Introduction is followed by a longer, more in-depth background of the EGE and of the literature that has already been published about it. Chapter 2 will look into the analytical framework and chapter 3 will look into the methodology. The results follow in chapter 4, followed by the conclusions (chapter 5) and a discussion of the conclusions' implications (chapter 6).

1.1 Background

The main focus of the European Group on Ethics in Science and New Technologies (EGE) is, as its full name aptly suggests, biotechnology and science, but other topics are covered as well, many related to sustainability (EGE, 2014). Several of its Opinions are closely related to the sustainability of the European food supply¹. Moreover, some are related to the sustainability of our energy production². Some are related to animal ethics, which, as has been argued by some (e.g. Rawles, 2008), should be a part of our definition of environmental sustainability³. All in all, the EGE has plenty to say about sustainability, which makes its Opinions all the more significant, since sustainability challenges are arguably the most important of the 21st century (Jones & Jacobs, 2007).

The EGE's moral publications, "Opinions", are not legally binding for any (European) actor (Plomer, 2008). Correspondingly, the EGE does not have a firm constitutional basis, being instead mandated by Decisions of the President of the European Commission, most recently in 2011 for a period of five years (Plomer, 2008; The President of the European Commission, 2011). Still, some of the EGE's Opinions have been shown to have a significant influence on European policy (Busby, Hervey, & Mohr, 2008).

Busby, Hervey and Mohr (2008) describe three instances of significant EGE influence out of the three Opinions they looked into, that obviously do not exhaust the potential examples (p. 810, footnote 51). In these three cases, the EGE's Opinions either served as a basis or a legitimation for Directives on biotechnology, or were used by other (national) ethics boards as moral guidance (Busby, Hervey, & Mohr, 2008). So while the EGE does not have a constitutional legal basis, its recommendations (or at the very least some of them) do seem to resonate in EU policy, leading to a discord between the EGE's mandate (Decisions of the president of the European Commission) and influence – its influence being much larger than its mandate would justify.

This is compounded by the apparent lack of neutrality of the EGE in the sense of being democratic and representative. Given its influence and shaky mandate, one would hope that the EGE would at the very least be free of pre-existing biases in one or another moral direction, that might steer EU policy to conform to one morality or another. Unfortunately, it appears that neutrality is not guaranteed by the EGE's appointment procedures.

In a sense, being democratic (elected) would absolve the EGE of the accusation of undue influence, as its potentially non-neutral moral philosophy would then be legitimated by its democratic basis. However, the EGE is not democratic as its 15 members are not elected, but are appointed by the President of the European Commission (for terms of five years, renewable two times). Furthermore, its composition is not representative, as its "members are nominated *ad personam*" (EGE, 2012), i.e. for their personal qualities, and not with the goal of a representative composition in mind. While the EGE's composition should, according to its mandate, be "pluralist", it should not necessarily be representative (EGE, 2012).

So much for democracy, then, but there is still the technocratic alternative. Again, in a sense, a technocratic composition of professional ethicists, basing their decisions exclusively and independently on knowledge (Lelieveldt & Princen, 2011, p. 244), might also absolve the EGE of the accusation of undue influence, since its Opinions would then be at least based on professionalism and

¹ "The use of performance enhancers in agriculture and fisheries" (Opinion № 1), "the legal protection of biotechnological inventions" (Opinion № 3), "the genetic modification of animals" (Opinion № 7), "cloning techniques" (Opinion № 9), "animal cloning for food supply" (Opinion № 23), and "modern developments in agricultural technologies" (Opinion № 24) (EGE, 2014).

² "Synthetic biology" (Opinion № 25) and "research production and use of energy" (Opinion № 27) (EGE, 2014).

³ "The 5th Research Framework Programme" (Opinion № 10) (EGE, 2014).

neutrality. In this aspect as well, however, the EGE fails to eradicate our concerns, as its members are not all professional ethicists. Instead, following the mandated requirement that its members are to be “independent, pluralist and multidisciplinary” (EGE, 2012), they come from various fields, such as science, law and organised religion (Plomer, 2008, p. 843). Professional ethicists are in the minority. Plomer confirms that the requirements of pluralism and independence seem to be antonymous: “the recent appointment of new members of the EGE with public religious affiliations is *prima facie* at odds with the requirement that the members of the EGE should be independent” (2008, p. 844). No less than six of the EGE’s 15 members are trained (Christian) theologians, which is obviously not a neutral, technocratic moral position, raising concerns about whether the mandated independence is actually realised.

Clearly, then, even though an ethics commission could be a valuable asset to the European Union, there are a number of issues with the EGE’s mandate and composition. The concerns about its undue influence have not been relieved by its selection procedure: its composition is not neutral in two of the most straightforward senses of the word and so its mandate still does not justify its influence.

These are all issues about the *context* of the EGE’s Opinions, but they raise questions about the *content* of the Opinions. If the EGE’s legitimacy and composition are so precarious, what is it actually publishing? What is the EGE’s moral philosophy – the most basic ethical principles that guide its advices, and the scope of application for those principles? What are the arguments it uses to support these positions and are they convincing?

Perhaps even more importantly, what is the EGE’s influence? Clearly, the Group’s background does not sanction a large policy influence. While several researchers, inspired by the EGE’s apparent controversiality, have looked into different aspects of the Group, both moral and legal (Busby, Hervey, & Mohr, 2008; Plomer, 2008; Mohr, Busby, Hervey, & Dingwall, 2012; Kerr, 2003), none have systematically analysed *all* of the Group’s Opinions to uncover the nature of its moral philosophy and its consequential influence on EU policy. This is an urgent task: the EGE has given us plenty of reason to be suspicious.

2 Analytical framework

The analytical framework defines the concepts that are used in the research process and describes, where appropriate, the links between those concepts. This section of the thesis discusses these, focusing first on ethical theories⁴, then on scopes of moral concern and finally on fallacies.

Ethical theories and scopes of moral concern are, in this thesis, taken to be the two elements that constitute an individual's (or an organisation's) moral philosophy. The ethical theory determines the concepts one uses to determine right and wrong. The scope of moral concern determines to whom right and wrong can be done. Together, they constitute a complete moral philosophy.

$$\text{Moral philosophy} = \text{ethical theory} * \text{scope of moral concern}$$

This analytical framework is not only the basis for a descriptive analysis of moral philosophies, but it is also the basis for a quality assessment of moral philosophies. These two issues are, of course, intimately connected.

In philosophy, not everything goes. Moral philosophies can be flawed in several respects, but the most important aspects are consistency and validity of arguments. Arguments are “a sequence of statements such that some of them (the *premises*) purport to give reason to accept another of them, the *conclusion*” (Audi, 1999, p. 43). Since all moral philosophies are built on the logical extensions of premises to conclusions, the quality of their conclusions can be assessed by looking at the flaws in the premises or in the logic.

Consistency comes first. Consistent (in Aristotelian logic) means “simultaneously true under some interpretation” (Audi, 1999, p. 177), from which it follows that *inconsistencies* indicate flaws. *Inconsistencies* indicate contradictions, and contradictory statements cannot all be true⁵. In any number of contradictory arguments, some portion of them will be true and another portion will be false. Inconsistent arguments are thus flawed, which translates to their conclusions. While flawed arguments may still draw valid conclusions, the validity of the conclusion drawn is not justified by the arguments. The consistency of arguments is therefore of primary concern to their quality.

This also applies to ethical theories and scopes of moral concern. Ethical theories and scopes of moral concern are *internally* consistent, but are not externally so. In many cases, different ethical theories come to different judgments regarding right and wrong behaviour. Likewise, one scope of moral concern will lead to different moral judgments than another. It is therefore not possible to combine

⁴ It is useful and relevant to state, in advance, that I am personally convinced by Wittgensteinian notions of language (Philosophy Index, n.d.). Wittgenstein argued that some words (such as “game”) do not have an essence, i.e., a list of necessary and/or sufficient criteria with which to categorise an object or entity into that word. There is no list of characteristics that all members of the word “game” share, for instance. Instead, he argues, many definitions are based on “family resemblances”: any two members of the word “game” (e.g. chess and (playing) catch) share some characteristics and do not share others. Still, there is no list of characteristics that all members share, just as members of a family. While it is quite easy to imagine scopes of moral concern and fallacies to have an essentialist definition (as demonstrated below), the family resemblance theory may apply to some ethical theories. It should be noted that this makes some attempts to arriving at essentialist definitions of some ethical theories (as found below) conditionally valuable.

⁵ Note that I accept Aristotelian logic and (therefore) reject trivialism in argumentation, the theory that all statements – including contradictions – are true, which makes my premises unacceptable to non-Aristotelian, trivialist scholars.

theories or scopes as one pleases: in order to reach consistent value judgments, one has to pick one theory and one scope.

A following concern is validity, which is basically correctness itself. In philosophy, it means: “logically correct in a certain respect” (Audi, 1999, p. 948). This definition mentions *logic*, a term that is associated with the study of the quality of reasoning and argumentation. For the current purposes, the most convenient option is to treat the logical correctness of argumentations as absolute: something is either logically correct or incorrect, which is more suitable for analysis than more gradual perspectives on logical correctness. The basic premise is that when conclusions that are drawn do not follow from the arguments provided, the argumentation is invalid or fallacious⁶. This can have several causes, explored further below. Validity is (in this instance) of secondary concern to the quality of arguments.

So in this way, consistency and validity are closely connected to a descriptive analysis of ethical theories, scopes of moral concern and argumentations.

2.1 Ethical theories

The first element of the analytical framework are the ethical theories. These are theories that define a basis on which to make decisions of right and wrong. Ethical theories consist of a theory of the good and a theory of the right (Goodin, 1991; Pettit, 1991). The theory of the good defines what is valuable; the theory of the right defines what one “should do by way of responding to valuable properties” (Pettit, 1991, p. 230). In other words: what is good and what to do about it.

Ethical theories are sometimes called moral theories: the words ethics and morality are often used interchangeably. There does not seem to be much consensus about what the terms individually mean either⁷. In order to avoid confusion, I will employ the usage most encountered in the literature: theories about right and wrong are usually described as “*ethical theories*,” and perspectives on who are included in those theories are usually described as “*scopes of moral concern*” (although Singer describes them as “*moral circles*” (2011)). I will use this terminology consistently, except in quotes, which I will not adapt to fit in.

Ethics is generally subdivided into three categories, in decreasing order of abstraction: meta-ethics, normative ethics and applied ethics. This chapter is *not* about meta-ethics, which poses questions about ethics itself (such as whether ethics is autonomous (originating from the self) or heteronomous (originating from elsewhere, such as from God)); neither is it about applied or practical ethics, which applies normative ethical theories to real-world cases and subjects. It is about the intermediate category, normative ethics, which aims to prescribe what is right and what is wrong.

In this chapter I will first make a selection of theories and then describe the selected theories briefly, to give an overview of their most important features. The point of normative ethics is determining which actions are good and which are bad, so the major focus is on how these theories determine this. This most crucial and distinguishing element of each theory will be highlighted below its description. Additionally, a (usually crude) example of the theory as it could be found in the EGE’s Opinions will be

⁶ Invalidity of arguments can also be caused by other causes, explored further below.

⁷ The prestigious Oxford Advanced Learner’s Dictionary defines ethics as “[1] moral principles that control or influence a person’s behaviour ..., [2] a system of moral principles or rules of behaviour ..., [3] the branch of philosophy that deals with moral principles” (Hornby, 2005, p. 520) and morality as “[1] principles concerning right and wrong or good and bad behaviour ..., [2] the degree to which [something] is right or wrong, good or bad, etc. according to moral principles ..., [3] a system of moral principles followed by a particular group of people” and continues, significantly, “[SYN] ETHICS” (Hornby, 2005, p. 992). Despite the (alleged) synonymity, the definitions do seem to validate the choice for using “ethical theories” instead of “moral theories” and for using “scope of moral concern” instead of “scope of ethical concern”.

given, to further elucidate how the analytical framework will be applied to the EGE's documents. (Of course, this will be even further explained in the Methodology-chapter.)

2.1.1 Selection

There are many normative ethical theories and there is no consensus on which approaches are the most important. I looked at ethics handbooks, (internet) encyclopaedias of philosophy and websites that aim to give an overview of ethics. The goal is to create an overview of ethical theories that are totally distinct from each other, i.e., lacking any and all overlap. Various pre-selections of ethical theories are available. In order to assess the quality of the various selections I found, I considered, in order of diminishing importance, first the quality of the arguments given for the selection, whether the selection could also be found elsewhere and whether the source was peer-reviewed.

The simplest result is the straightforward “consequentialism – deontology – virtue ethics” trichotomy that can be found everywhere, and in several places only these three theories were mentioned (e.g. Brown, 2001; Fieser, 2015). While certainly attractive because of its simplicity, this division is likely to miss certain less popular approaches that are nevertheless fundamentally different from the three mentioned. Most categorisations do generally feature these three approaches, but expand on them with others.

The online “Ethics for Dummies Cheat Sheet” (Panza & Potthast, 2015) includes the three theories just mentioned and, additionally, contract theory and care ethics. It would not be a source to be taken so seriously, except for the fact that it offers an attractive explanation for this choice in focusing on each theory's uniqueness by highlighting their unique focuses (an explanation most sources that rely on the stature of their authors and/or publication locations fail to provide). Virtue ethics, in this light, focuses on the virtues (and vices) in someone's character; consequentialism focuses on happiness and suffering caused by someone's actions; deontology focuses on the motivation by universal principles; contract theory focuses on the compliance of actions with agreements between people; and care ethics focuses on whether actions build or inhibit interpersonal relationships. This focus on the unique perspective of each ethical theory which translates into incommensurable differences between them yields a clear list.

Other online sources (Hinman, 2002; Van den Berg, 2014) add even more theories to the mix. Some mention subcategories (or ‘branches’) of theories just mentioned, such as Kantianism (which is a branch of deontology) or utilitarianism (which is a branch of consequentialism). As the focus here is on the big picture, it seems wise to use the higher-level categories and only distinguish between theories that are incommensurably different. That would have the practical result of excluding a focus on the undoubtedly complex variations on ethical theories that have been developed in the 3000 years of philosophy we have behind us, radically simplifying the resulting overview.

Handbooks on the subject (Copp, 2006; LaFollette & Persson, 2013; Singer, 1991) are, as mentioned, a less reliable source of information: their chapters do not aim to give an overview of normative ethical theories, but (often explicitly) aim to give a small picture: one small branch of an ethical theory, explained in sufficient detail to fill a book chapter with. Still, these sources *may* contain unique perspectives and so these were also taken into consideration.

While some more ethical theories are discussed in the handbooks I consulted, the only other *recurring* theme is rights theory, to which a chapter was devoted in all three books (Almond, 1991; Steiner, 2006; Sumner, 2013). Singer (1991) notes that – in his book – this is not an uncontested entry: some argue that rights have the potential to be a basis for ethics, while others “regard them as derivative from a

more fundamental moral principle or principles” (p. xiii). Still, because so much of ethics is about rights (theory), it ought to be included simply for winning the popularity contest.

The final selection of ethical theories, then, is consequentialism, deontology, virtue ethics, contract theory, care ethics and rights theory. The first three owe their presence to being mentioned everywhere and to the arguments for their inclusion. Contract theory and care ethics owe their presence to being mentioned in most sources and also to the arguments for their inclusion. Rights theory owes its presence to being mentioned in all handbooks and internet encyclopaedias. Other ethical theories were either mentioned too scarcely or there were good arguments against including them, such as that they were really a subclass of another theory (e.g. utilitarianism).

2.1.2 Consequentialism

Consequentialism is the first of the theories I will discuss. It holds that an action is good if it produces good consequences. This is the “theory of the right” part of consequentialism: which actions should one take with regard to the good (Pettit, 1991). Definitions of what is good may differ and are relegated to a different realm of discussion: the “theory of value” or “theory of the good” (Pettit, 1991, p. 230). Some will argue for the hedonistic interpretation that it is about increasing overall happiness and relieving overall suffering (utilitarianism) (Singer, 2009; Brink, 2006), others will argue it is about increasing overall freedom (Liberalism), even others will claim it is about the fulfilment of desires, whatever they may be (Hooker, 2013; Brink, 2006), or the focus may be on something else entirely (Haines, 2015). Some theories do not even discuss this element (Pettit, 1991). The defining element of consequentialist theory is its theory of the right: that the consequences of actions are all that matters and that good actions are those that foster the best consequences.

In determining whether an action is good or bad, consequentialists may focus on the act itself or on the rules that govern the act. The first is called act-consequentialism or direct consequentialism (or act-utilitarianism etc.) and the second is called rule-consequentialism or indirect consequentialism (Brink, 2006). In the first case, actions are good if alternative actions do not produce better consequences; in the second case, rules that generally produce the best consequences are created and actions are good if they comply with these rules (Hooker, 2013). In both cases, the focus is still on the consequences of the actions when determining whether they are good or not.

Within consequentialist thinking, there is also a debate between maximisers and satisficers. The former define good actions as those that produce the best consequences among the alternative options; the latter are more lenient and define good actions as those that pass a certain threshold of goodness, for instance, by producing more happiness than suffering overall (Brink, 2006). So then, there are different varieties of consequentialism (see Figure 1).

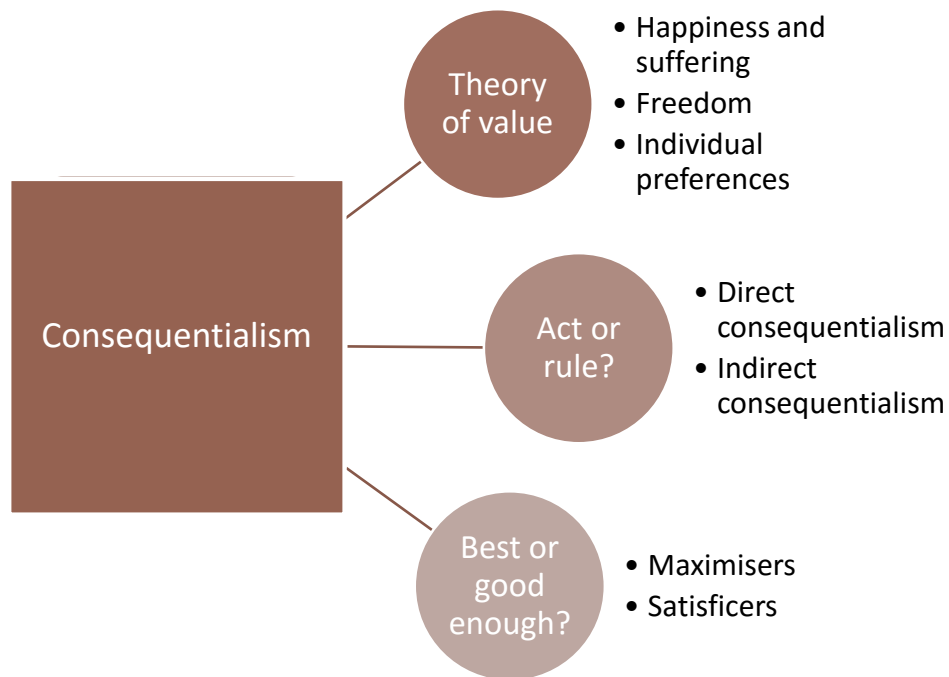


Figure 1 - Varieties of consequentialism

Consequentialism	An action is good if its consequences are good.
Example:	Premise 1: Decreasing overall welfare is wrong. Premise 2: Animal testing, on balance, causes more harm for animals than benefits for humans and therefore decreases overall welfare. Conclusion: Animal testing is wrong.

2.1.3 Deontology

Quite some names are used to denote this field of ethics: duty theory, deontology (δέον (*deon*) is Greek for duty) and sometimes nonconsequentialism, which seems to be the least thoughtful of all definitions, since there are also other nonconsequentialist theories. This theory holds that persons have a number of fixed obligations (duties) (Fieser, 2015). Good actions are those that fulfil these duties. This also explains the name nonconsequentialism: according to this theory, the rightness or wrongness of actions is not determined by their consequences (Kamm, 2013; Davis, 1991; McNaughton & Rawling, 2006). Basically, some actions are simply right or wrong, period.

Deontological thought is inspired by Kant and his “categorical imperative.” Among other things, Kant stated that rational beings are “ends in themselves” and should *never* (categorical) be treated as means. Here lies a crucial difference with consequentialism, which would condone the use of rational beings as a means toward the greater good (Kamm, 2013). Kant’s distinction between perfect and imperfect duties has also strongly influenced deontology. Imperfect duties are not categorically obligatory, where perfect duties are (Kamm, 2013).

Another inspiration for deontological thought comes from Sir William David Ross and the numerous *prima facie* duties he envisioned (Kamm, 2013). *Prima facie* duties are obligations that a right action can be based on and for any one action, there are many *prima facie* duties that we should take into

account. So for any one action in some context there are likely to be some factors that count in its favour (duties fulfilled) and others that count against it (duties unfulfilled) (Dancy, 1991). W.D. Ross saw no set of rules to govern their priorities, so whether the action is – on balance – good (not just a prima facie duty, but a duty *proper*) or bad is a matter of personal judgement (Dancy, 1991).

What we end up with is a theory with three main elements. Firstly, there are constraints to our behaviour: “we must not harm people in various ways ... even in pursuit of good ends” (McNaughton & Rawling, 2006, p. 425). Secondly, some duties follow out of our commitments to others (like promises). These duties must be acted upon, even if that harms the overall good. Thirdly, there is a “good enough.” We do not have to aim for the best behaviour endlessly, giving all our money to the poor. While laudable, these actions are not required; they are supererogatory.

Multiple authors note that deontology is *favouritist* or *agent-relative* (McNaughton & Rawling, 2006; Davis, 1991): one’s reason to care for him- or herself is greater than one’s reason to care for others; one’s reason to care for his or her family is greater than one’s reason to care for others’ families. This can be contrasted to the consequentialist *agent-neutral* position of equal consideration of interests.

Deontology	An action is good if it fulfils a duty.
Example:	Premise 1: It is wrong to steal (it is a duty not to steal). Premise 2: Levying taxes is stealing. Conclusion: Levying taxes is wrong.

2.1.4 Virtue ethics

Virtue ethics, in a sense, rebels against the (allegedly) more narrowly focused perspectives of consequentialism and deontology. Instead of asking which actions are right, virtue ethics shifts the focus to entire lives: what is the right way to live (Athanasoulis, 2015), which are admirable types of character (Pence, 1991)? When it comes to individual actions, in contrast to consequentialism and deontology, virtue ethics refers not to consequences or general principles (Slote, 2013), but refers to these lives: “Act as a virtuous person would act in your situation” (Athanasoulis, 2015)⁸.

A core concept in the theory is *virtue*. “A virtue is a state or disposition of a person ... commit[ted] to some ethical value, such as justice, or benevolence” (Annas, 2006, pp. 516-519). It is, however, not habitual or reflexive; the key of virtue in virtue ethics is that it is based on practical reasoning, the reasoning everyone (supposedly) does when considering what actions to take (Annas, 2006). The result is rightful behaviour that is based on the right reasons.

As with any ethical theory, many variations on the core theory exist, contested along divisions within the virtue-ethical field. Eudaimonism (εὐδαιμονία (*eudaimonia*) is Greek for happiness or flourishing), for instance, is a contested concept. It is “the doctrine that some character trait counts validly as a virtue only if someone possessing the trait gains some sort of personal advantage by doing so” (Slote, 2013, p. 396). While this self-centeredness could be found among all classical virtue ethicists,

⁸ Although some virtue ethicists seem to question whether the theory should offer any practical guidance at all (Slote, 2013).

nowadays self-sacrifice, (presumably) under Christian influences, has gained stronger footing among them (Slote, 2013).

Another conflict within virtue ethics is that between theory and anti-theory. Anti-theorists argue that some virtue ethicists (and, of course, ethicists from other theories) fail to incorporate the many flexibilities, exceptions, and complexities of ethical life (Slote, 2013; Athanassoulis, 2015). They do not believe that inflexible principles can be applied universally to solve whatever ethical dilemmas we may come across (Athanassoulis, 2015). The opposing individuals feel that in order to prove that virtue ethics is the best of the bunch, it needs to be (potentially among other things) superior theoretically (Slote, 2013). Clearly then, the emphasis on theory on the one hand and flexibilities and practical application on the other is not equal among all virtue ethicists.

Virtue ethics	An action is good if it is virtuous.
Example:	Premise 1: Aspiring to be a brave person is good. Premise 2: Being a member of the European Group on Ethics is an act of bravery. Conclusion: Being a member of the European Group on Ethics is right behaviour.

2.1.5 Contract theory

Contractarianism, or (social) contract theory, espouses the view that “persons’ moral and/or political obligations are dependent upon a contract or agreement among them to form the society in which they live” (Friend, 2015). As this definition suggests, contractarianism is a political philosophy as well as an ethical theory (Cudd, 2012). Obviously, it is the ethical theory I am concerned with here, which more specifically means the idea that “moral norms derive their normative force from the idea of contract or mutual agreement” (Cudd, 2012).

Any contractarian theory has two fundamental elements: a starting point or initial position before the contract and some description of the parties to the contract (Cudd, 2012). The first element, the starting point, represents a “no agreement position” to which parties return when agreement is not reached; a lamentable fate, since the initial position is always such that the contract bears the “potential for gains” (Cudd, 2012), that is, varying from hypothetically bad to hypothetically worse. The contractors – the second element – seem to have strolled straight out of rational choice theory: they are mostly concerned about themselves and have the capacity of rationality (Cudd, 2012).

As is tradition in ethics, divergences abound. Some even go so far as to say that there is basically no social contract tradition (Kymlicka, 1991)! Two major currents are Kantian and Hobbesian contractarianism, which both have a different conception of the basis of humans’ equality (Kymlicka, 1991; Sayre-McCord, 2013). Both are too complex to cover here.

Contract theory	An action is good if it accords with an agreement.
Example:	Premise 1: I lent a book from Dennis and agreed to return it to him. Premise 2: Throwing that book in a ditch does not accord with my agreement with Dennis. Conclusion: Throwing that book in a ditch is wrong.

2.1.6 Care ethics

Care ethics, alternatively described as “the ethics of care”, “the ethic of love” and “relational ethics” (Held, 2006, p. 537), was brought to life under feminist conceptions of interdependence and knowledge: persons are not believed to reach the highest levels of development through independence, but through interdependence; knowledge, concurrently, is not believed to be most true when it is universal and abstract, but when it is particular and concrete (Tong & Williams, 2009). Particularly and concretely related to “women’s practices of nurturing and especially of mothering” (Jaggar, 2013), more specifically. Among the offspring of this new, feminist conception of philosophy is care ethics, which suggests “that there is moral significance in the fundamental elements of relationships and dependencies in human life” (Sander-Staudt, 2015). In the theory, the (allegedly) masculine values of “justice, rights and rules” are replaced by the (allegedly) feminine values of “care, relationships and responsibilities” (Tong & Williams, 2009).

This causes care ethics to take a different approach to right behaviour than other theories, neatly summarised by Jaggar (2013). Care ethics “construe[s] moral dilemmas as conflicts of responsibilities rather than rights, ... seek[s] to resolve those dilemmas in ways that will repair and strengthen relationships, ... practice[s] positive caretaking rather than respectful non-intervention, and ... prioritize[s] the personal values of care, trust, attentiveness, and love for particular others above impersonal principles of equality, respect, rights, and justice” (Jaggar, 2013, p. 445).

Care ethics is on some occasions classified under virtue ethics, with care being just another or even the primary virtue (Held, 2006). While care ethics and virtue ethics certainly have some elements in common, such as the lack of general universal principles and care ethics’ consideration of an ethical dilemma’s context (Jaggar, 2013, p. 445), there are also fundamental differences, such as care ethics’ focus on relations instead of individuals’ characters (Held, 2006). These fundamental differences could indeed be defensibly said to set care ethics squarely apart from virtue ethics.

Care ethics	An action is good if it furthers a relationship.
Example:	Premise 1: It is a parent’s responsibility to care for his or her children. Premise 2: Doing drugs inhibits parents from caring for their children. Conclusion: It is wrong for parents to do drugs.

2.1.7 Rights theory

In trying to define the concept of rights, scholars quickly realised that it is used to mean many different things. The most prominent exposition of its many meanings is that of Wesley N. Hohfeld (Almond, 1991; Steiner, 2006), who distinguished no less than four different definitions of the term: (1) *claims*, e.g. “a right to have a loan repaid”; (2) *powers*, e.g. “a right to distribute property”; (3) *liberties* or *privileges*, i.e. “not [being] posed a burdensome requirement”; and finally (4) *immunities*, i.e. “protect[ion] from the actions of another” (Almond, 1991).

Rights are not a necessary part of any of the theories I reviewed above, and indeed, while rights can be approached not only legally but also ethically (Almond, 1991), “theories of *moral* rights are inherently theories about what the ... legal [rights] *should* be” (Steiner, 2006, italics original). So really, ethical rights are not as independent of their legal application as an ethical theory usually (and perhaps preferably) is: they prescribe its ideal form (Steiner, 2006).

Despite their sometimes problematic application, rights are an important part of our “ordinary moral thinking” and theories are therefore in some ways expected to take some account of them (Sumner, 2013). In this manner, theories are in need of rights, but perhaps the more important issue is that (ethical) rights are in need of theory (Sumner, 2013). This is the basis of their controversy: while everybody is expected to respect rights, their theoretical foundations are flimsy at best.

Rights theory	An action is good if it does not violate anyone’s rights.
Example:	Premise 1: Everyone has the right to food and water. Premise 2: Torture leads to a lack of food and water. ⁹ Conclusion: Torture is wrong.

2.1.8 Overview

Analysing the EGE Opinions for which ethical theory they adhere to has become a lot more straightforward: I simply look at the focus of the prescriptive phrases, since that is uniquely different for each ethical theory. To recap, the focuses to look for are summarised below (Table 1).

⁹ Note, again, that this is simply an example.

Table 1 - Focuses of each ethical theory

	An action is good if ...
Consequentialism ... in terms of	... its consequences are good. <ul style="list-style-type: none"> ➤ Utility, ➤ Liberty, or ➤ Preferences.
Deontology	... it fulfils a duty .
Virtue ethics	... it is virtuous .
Contract theory	... it accords with an agreement .
Care ethics	... it furthers a relationship .
Rights theory	... it does not violate anyone's rights .

While the overview provided above certainly lists the most common ethical theories, it does not list all of them, and so there is a small chance that I come across other ethical theories when analysing the EGE's Opinions. The list must therefore be open to post-hoc additions.

2.2 Scope of moral concern

The second part of my analytical framework is the scope of moral concern. The scope of moral concern is a field of view that encompasses those entities that have moral relevance in one's ethical theory (see above). If, for instance, one's scope of moral concern includes women, then women will be taken into consideration when determining whether one's actions are right or wrong.

While I could now satisfy the reader with dryly providing the different scopes of moral concern without any further ado, in my opinion this chapter is far more interesting when it also provides a context for these different scopes. Therefore, in terms of structure of this chapter, I will first explain the emergence of the divergences in scopes of moral concern, mainly on the basis of Peter Singer's significant "The Expanding Circle: Ethics, Evolution, and Moral Progress" (2011), and then I will propose to use the classification of scopes of moral concern suggested in Floris van den Bergs "Philosophy for a Better World" (2013).

Singer uses an "evolution first, reason later"-approach to explaining "the expanding circle." Evolution, Singer argues, plays a role in explaining altruism – the affective origin of ethics – that diminishes with the genetic difference between individuals.

In general, Singer argues, altruistic behaviour is an unwise course of action. Altruistic behaviour, helping others, costs an individual time, energy and resources, that could have been spent, but are not, in furthering one's own survival and reproduction. If one assumes that the degree of altruistic behaviour is genetically determined, it will diminish with each generation, since altruistic individuals will be less successful in passing on their (altruistic) genes than their more egotistical conspecifics.

The only way, then, Singer continues, in which altruism can be genetically sustainable and will last through the generations is when altruistic individuals promote the passing on of their own genes. This they can do by promoting the survival and reproduction of their relatives, who share their genes. From

an evolutionary point of view, it follows that individuals of social species will be inclined to show quite a lot of altruistic behaviour towards their siblings (who, on average, share 50% of their genes), somewhat less altruistic behaviour towards their cousins (who, on average, share 25% of their genes), and show correspondingly diminishing levels of altruistic behaviour towards those they are more remotely related to.

While this is the most obvious way in which altruistic behaviour will be genetically sustainable, there are other ways in which altruistic behaviour promotes the passing on of one's own genes. One of these is "reciprocal altruism" (Singer, 2011, p. 16), that is, when instances of altruistic behaviour are rewarded with reciprocal instances of altruistic behaviour, raising the odds of survival and reproduction for both parties concerned. Another is "group altruism" (Singer, 2011, p. 18), that is, when social groups of more altruistic individuals are more successful at surviving and reproducing than groups of less altruistic individuals due to the presence of mutually advantageous behaviours, eventually leading the species as a whole to become more altruistic.

Singer goes on to argue that while these processes can explain some of the altruism found in the human species, they cannot explain all of it. An example is blood donation. Neither the donor nor the recipient will ever be in contact, and donating does not raise one's chances of receiving blood when in need (so no reciprocity), so how could blood donation, a behaviour that only diminishes one's chances of passing on one's genes, survive over the generations?

Here, Singer argues, reason comes in, and with it ethics, filling in the crevices left open by genetics. Reason, in itself, carries an enormous evolutionary advantage. Those individuals equipped with it will have vastly improved chances of survival and reproduction than those without it, which, under the assumption that the capacity for reason is at least partially genetically determined, leads the capacity to reason, once established, to develop further with the generations.

Reason, Singer argues, has the remarkable quality of leading individuals to (mental) places they were not planning on visiting. Ethics is based on an affective foundation, the genetically determined inclination towards altruistic behaviour, and on that foundation stands ethics itself: a ladder, the top of which cannot be seen standing on the foundation, but which is reached through logical steps, made possible by our (equally genetically advantageous) capacity for reason (and, with it, communication). Over time, slowly, early humans must have arrived at a system of ethics not merely based on behavioural inclinations, but based on reason as well.

A system of ethics leads to the responsibility for reasonable behaviour. In order for actions to be acceptable for all members of a group, the "principle of disinterestedness" established itself (Singer, 2011, p. 93), which meant that actions could no longer be justified with a simple reference to self-interest ("I can take food from you because that is good for me, you cannot take food from me because that is bad for me"), but had to be based on impartial principles, acceptable to all members. Singer argues that the earliest application of reasoned ethics was through "customs" (Singer, 2011, p. 94), universal codes of conduct applicable to all group members.

Customs were bound to be superseded by more reasoned argument when societies met and were confronted with other customs, raising the question which was best; a question to which universal answers can only be provided through reasoned argument. Socrates, Singer argues, is the prime example of this practice, going around town confronting random strangers with the flaws of the Athenian customs by asking apparently uncomfortable questions (a practice that did not meet with much appreciation from those abiding by these aforementioned customs, since he was put to death for this inquisitive attitude).

Once reasoned argument starts, however, we are on the ladder and we do not know where it will take us. Just as reason tolerates no bounds and will go where it pleases, so does the reasoned consideration of interests (eventually, at least). As interactions between groups became more frequent, from the principle of disinterestedness within groups was derived the principle of impartiality: all (interests) must be considered equally. However, considering, as an example, that the abolition of slavery is historically only a recent event, the roots of this development have not settled everywhere in the most stable of manners, and certain entities are generally still out of bounds except for the most progressive of ethical thinkers.

This, then, is the current situation: opinions on those who should be considered disinterestedly and impartially – the scope of moral concern – vary between societies and individuals. For some, the instinctual inclination to consider only themselves and their kin remains strongest, rationalised in an ethical theory; some others shun no extension of their moral concern and include basically anything. The range of variety is therefore vast: from thinkers that include only themselves (egoists) to thinkers that include whole ecosystems (ecocentrists) to the whole planet (Gaia theorists).

Floris van den Berg (2013, pp. 68-69) gives an overview of the range of possibilities, which I will adopt for my research (see Figure 2). The figure shows the variation in order: the largest scope is at the top and the smallest is at the bottom. Importantly, this should not be interpreted as my personal judgment: I consider neither the most inclusive nor the least inclusive scope of moral concern to be superior. The entries are simply ordered by the amount of entities they encompass. To reduce eyesore and facilitate comprehension, all entries are categorised into three categories. I will discuss the list of possibilities with reference to examples for each of them in the following paragraphs.

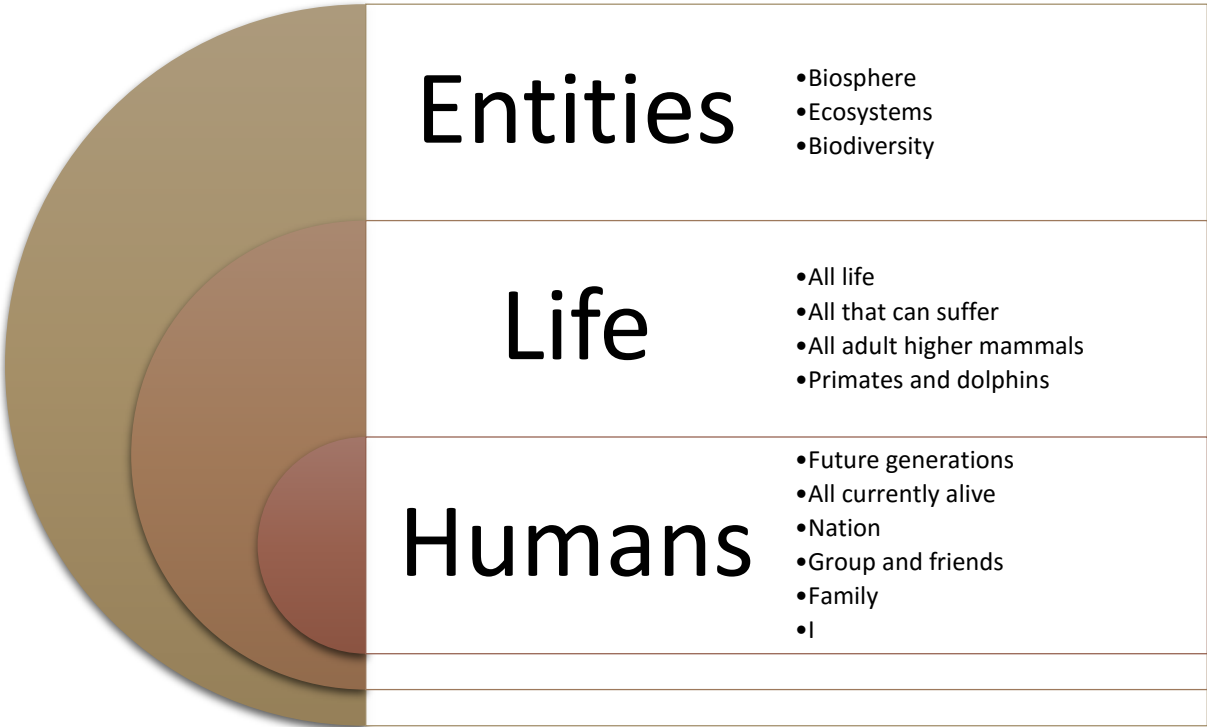


Figure 2 - Scopes of moral concern (adapted from Van den Berg, 2013, pp. 68-69)

The first category of perspectives consists of those that only include *homo sapiens*. The perspective that includes the least objects of moral concern is ethical egoism (bottom of the figure), a controversial theory that “claims that it is necessary and sufficient for an action to be morally right that it maximize

one's self-interest" (Shaver, 2014). Following Singer (2011), few people would follow this perspective; most would be likely to also include their relatives and groups they are a member of, such as a tribe or church. If we consider government policy, the nation state is the scope of moral concern: those within it are treated very differently from those outside of it. Still more inclusive is cosmopolitanism, which sees all people on Earth as one community with a shared morality (Kleingeld, 2013). (Some) theories of intergenerational justice take it one step further and claim that future humans deserve equal consideration of interests.

The second category that could be distinguished is perspectives that include not only humans, but also other life-forms. The most conservative approach is that which only includes a selection of mammals, such as primates and dolphins (although other selections are conceivable). More forward approaches, such as that of animal rights philosopher Tom Regan (Van den Berg, 2013, p. 70), include all adult higher mammals. If the criterion for entry is the capacity for suffering, the approach can be called "pathocentric" (πάθος (*pathos*) is Greek for suffering), such as Peter Singers sentientistic utilitarianism. The last entry in this category are biocentric perspectives, that include not only animals with a capacity for suffering, but all life (Curry, 2011, p. 57).

The third category consists of perspectives that include not only all life, but also some things, entities or even concepts (that are – obviously – not alive). Some perspectives accord moral significance to species themselves and find their extinction morally problematic. Even more inclusive perspectives include ecosystems in their spheres of moral concern, including their non-living elements (such as earth, fire, water and air) (Curry, 2011, p. 57). The most inclusive perspectives, such as Gaia theory, encompass "system Earth", viewing the planet as an organism that should be included within our sphere of moral concern (Curry, 2011, pp. 98-100).

2.3 Quality of argumentation

This third part of the analytical framework is quite different from the previous two. While the first two parts aim to give a descriptive overview of the EGE's ethical theory and its moral scope, the third part is more judgmental, assessing the quality of the arguments used in the EGE's Opinions. Since only bad argumentation is relevant, because logical argumentation based on sound premises is the norm and is therefore not problematic, the focus will be on fallacies within the arguments given.

Fallacies are flaws in arguments. As I stated earlier in this chapter, arguments consist of premises and conclusions. One can distinguish between formal fallacies and informal fallacies. Formal fallacies are present when the premises provided do not logically lead to the conclusion provided. The Cambridge Dictionary of Philosophy describes it as "an invalid inference pattern that is described in terms of a formal logic" (Audi, 1999, p. 316). Such flawed deductions are also called *non sequiturs*.

Informal fallacies are those fallacies not due to flawed logic, but due other flaws, such as incorrect premises. The Cambridge Dictionary of Philosophy describes it as "an error of reasoning or tactic of argument that can be used to persuade someone with whom you are reasoning that your argument is correct when really it is not" (Audi, 1999, p. 431).

A vast array of different potential formal and informal fallacies are documented. Even a brief stroll through Google yields, among others, the "Fallacies" page of the Internet Encyclopedia of Philosophy, which lists 209 entries (Dowden, 2015), and many non-scientific (not peer-reviewed) pages as well, such as www.logicallyfallacious.com, which lists more than 300 different entries. This makes it obvious that providing an overview of the fallacies that may potentially be present in the EGE's Opinions is not feasible given the time available and, more importantly, does not really add anything to what is already available.

3 Methodology

The methodology I mostly use is qualitative text analysis. This is a form of unobtrusive research, that does not influence the studied subject, that makes use of “recorded human communications” (Babbie, 2010, p. 333). Unlike other methodologies that can influence the answers they yield simply by being performed (experiments most prominently, but also surveys, interviews, etc.), unobtrusive qualitative text analysis does not change the reality it wishes to assess and therefore has, in that specific respect, a high validity.

Qualitative text analysis is sometimes called content analysis and, when the content studied concerns discourses, discourse analysis. The most important stages in this process are source selection, fragment selection and coding, which will be discussed further below.

This methodology was supplemented with interviews, which cover a different basis: they allow for in-depth answers. They will be discussed at the end of this chapter.

3.1 Source selection

For the first part of the research, source selection was straightforward. The EGE regularly issues Opinions that state its ethical views, so studying them is the obvious route to analysing the EGE. Fortunately, its Opinions are not so numerous (only 28 of them have been published so far) that selection would have been necessary, which would have caused a number of reliability concerns. Instead, I analyse all of them. (This also means that my goal of breadth is optimally fulfilled.)

The second step of the research, which involves looking at the influence of the EGE’s Opinions, looks at legislative proposals, issued by the European Commission, that explicitly use EGE Opinions as a source. The motivation to choose for Commission *proposals* is clear enough. A reliable method of establishing causal relationships between EGE publications and legislation is lacking, so somehow we must infer to the best explanation available (abduction). Commission proposals are the first step in the normal legislative procedure of the EU. Since the route from Opinion publication to proposal publication is therefore probably the most direct route of EGE influence (it certainly is the shortest route), it is the Commission proposals that are the obvious target source.

There may well be legislative proposals that implicitly use EGE Opinions as a source, that is, without mentioning they do, but those are of not much use to this research project. Somehow we must isolate the proposals that have *certainly* used EGE Opinions as a source. The most transparent way of going about this is looking at what the proposals themselves state. What the target proposals will normally include are sentences like “Provision should be made for consultation of the European Group on Ethics in Science and New Technologies...” (European Commission, 2001) or, more strongly, “The opinions of ... the European Group on Ethics in Science and New Technologies have been taken into account...” (European Commission, 2002), or even “This proposal for a Directive reflects the recommendations put forth by the EGE” (European Commission, 2002). In any case, they mention the European Group on Ethics explicitly. These documents can therefore be easily found in the databases of the European Union. Note that this selection excludes amended proposals, since those are versions of the initial proposals that have been influenced by other EU organs.

3.2 Fragment selection

With the sources being identified, the next step is to find the relevant fragments of text within the sources. Some methods let themselves be guided by textual elements, such as paragraphs or sentences, that are then each placed into categories (“coded”, see below) (Babbie, 2010). This would not have been an appropriate method for studying Opinions or proposals, for one because the majority of their content is irrelevant (factual or historical instead of ethical, for example) and would therefore

have to be coded into some bloated residual category. Another, even stronger reason is that most ethical views in the EGE are not stated explicitly in similar textual elements each time, but are generally buried (stated *implicitly*) in fragments of a few words, sentences or even paragraphs. Coding by sentence would therefore have missed the meanings of the paragraphs and vice versa.

So instead of the texts' layout, I let the texts' subject guide the coding. The selected fragments could be of any length or form, but they had to make clear what ethical theory or which scope of moral concern is subscribed to. Fragments that contained more than one ethical theory or scope of moral concern were coded multiple times. This same process was used for the quality of argumentation.

"Making clear what theory is subscribed to" is a result that can be achieved in different ways. The primary requirement is that the fragment is meant to show *the EGE's* views, and not the views of someone else or some other organisation. Furthermore, it must demonstrate an affiliation with one of the ethical theories/scopes of moral concern/argumentative fallacies, either explicitly ("we subscribe to rights theory") or implicitly ("European civilians have rights"). The length of the quoted fragment then depends on the extensiveness with which this affiliation is discussed.

3.3 Coding

If the fragment discusses an ethical theory, scope of moral concern or if an argumentation contains a logical error (a fallacy), it was added to an excel-file. They were coded into the categories shown below (Table 2). These are the categories that were identified in the analytical framework.

One major guidance for categorising the fragments were the descriptions in the analytical framework. Since the categories are designed to display no overlap, in most cases the ethical theory or scope of moral concern will become abundantly clear from the fragment of text without the need for more explicit criteria. However, some form of guidance may prevent confusion. In these muddy cases, more explicit "key-words" are another guidance: in some specific cases, some words or phrases are associated with specific ethical theories or scopes of moral concern. These key-words are also listed in Table 2.

Table 2 - Coding categories

	Categories	Moral judgment is based on...	Key-words	
Ethical theories	Consequentialism: freedom	Consequences: freedom	“contribute to”, “minimise”, “maximise”	“freedom”, “liberty”, “choice”
	Consequentialism: preferences	Consequences: preferences		“interests”
	Consequentialism: utility	Consequences: utility		“welfare”, “well-being”
	Deontology	Duty (universal rules)		
	Virtue ethics	Virtue, character	“person”, “character”	
	Contract theory	Agreements		
	Care ethics	Relationships		
	Rights theory	Rights	“protect”, “safeguard”	
Scopes of moral concern	Biosphere		“nature”, “the environment”	
	Ecosystems			
	Biodiversity		“species”, “extinction”	
	All life			
	All that can suffer			
	All adult higher mammals			
	Primates and dolphins			
	Future generations			
	All currently alive			
	Nation		“citizens”, “Europeans”	
	Group and friends			
	Family			
I				

I did not create a list of categories for the (potentially) fallacious argumentations, for several reasons. For one, these lists are already abundantly available, so my efforts would not contribute to anything. A second reason is that it would be unfeasible: hundreds of kinds of different fallacies may occur and creating categories with descriptions and examples for each and every one of them would take far too long. The approach is therefore one of critical reading, after which each fallacious line of reasoning is recorded in excel. By “line of reasoning” I mean any length of text which contains one argument – its premises and conclusion(s). If an argument is found to be fallacious, the fallacy present is specified in a separate note.

3.4 Interviews

This last part of the research is meant to offer another perspective on the findings from the text analysis and give EGE initiates the chance to give their own perspective and their chance at a potential rebuttal of (some of) the conclusions. Some of the findings may be entirely contrary to the experience of the EGE’s members. If that is the case, that is relevant to the validity of the findings and the EGE’s

members must therefore, at the very least, be given the opportunity to express this disagreement. One could put this as *audi alteram partem*, “listen to the other side”.

Interviews and a survey were the available methodologies, with interviews being preferred. Like all methodologies, interviews have a number of advantages and disadvantages (Babbie, 2010). The first advantage is that they can go into more depth than a survey questionnaire. This was really the key consideration, since the whole point of this part of the methodology is to go into more depth. Secondly, in cases of unsatisfying answers, they allow for follow-up questions to be asked (adding even further depth). Thirdly, response rates for interviews are higher overall. It is easier to turn down an e-mail than a person standing (figuratively) on your doorstep.

Of course, interviews also have a number of disadvantages. Firstly, they are far more time-consuming than a survey. For one, interviews need to be transcribed, whereas surveys already present data in text format. Additionally, interviews need to be nudged into each party’s schedules, whereas surveys can be answered at any time. Secondly, surveys allow for more careful consideration of responses and, in the case of open questions, wording than interviews, because there is no time-pressure to answering questionnaires. Thirdly, the personality and appearance of the interviewer will influence the answers; a problem surveys avoid. Fourthly, interviews that are not completely structured (i.e., almost all interviews) have differently worded (follow-up) questions for each respondent, introducing another potential influence on their answers. These disadvantages did not manage to weigh up against the argument of depth, however.

The next element of the methodology is which questions to ask. Possibilities are endless. One important option is to pose either questions or posit statements (Babbie, 2010). While the purpose of questions is obvious, statements can also be profitably used to inquire into agreement or disagreement with attitudes or perspectives. The use of both options gives the most breadth. Another important option is the distinction between open-ended and closed-ended questions (Babbie, 2010). Closed-ended questions are suited when there are many respondents and there is a great need for uniformity of answers, while open-ended questions allow the respondents to go into more depth (and are, for that reason, more affiliated with interviews). It is clear that this particular methodology, with few respondents and a desire for in-depth answers, favours the use of open-ended questions (or statements).

As stated, the interviews are meant to give the EGE’s members the opportunity to give their perspective on the findings. They are therefore also the intended respondents. All 15 current members of the EGE were invited to be interviewed.

The questions will delve into all elements of the research: ethical theories, scopes of moral concern and quality of argumentation of both the Opinions and the proposals. The most controversial or surprising results will receive the most attention, since those are the most prone to criticism. Asking straightforward questions would be ineffectual, since the other parts of the research effort can answer those, so the interviews will entirely consist of sensitive questions. The controversial results will become clear when all results are in¹⁰. A question or statement is formulated for each controversial result¹¹.

¹⁰ An overview can be found at the beginning of the results section that deals with the interviews.

¹¹ The questions relating to each of the controversial results can be found in the Annex.

4 Results

This section will discuss the results of the qualitative text analysis of the Opinions and of the legislative proposals. While the methodology was mostly qualitative, the results will mostly be discussed as if they were quantitative: how often was one theory used versus another, etc. This will give an indication of the consistency in the theories and scopes of moral concern (which, as I explained at the beginning of the analytical framework, is a measure of quality).

4.1 The Opinions

Starting with a short introduction into the Opinions themselves may be useful. The full name of the EGE is the European Group on Ethics in Science and New Technologies and the topics of its Opinions reflect this focus (see Table 3). The major topics are biotechnology in medicine and agriculture. Often, Opinions deal with human concerns exclusively, but in some other cases human-animal or human-nature-relationships are explored, allowing (more) insight into the EGE's scopes of moral concern.

Table 3 - Topics of the Opinions

Mandate	Nº	Date	Topic	Requested or own initiative?
4	28	20/05/2014	Ethics of Security and Surveillance Technologies	Request
4	27	16/01/2013	An ethical framework for assessing research, production and use of energy	Request
4	26	22/02/2012	Ethics of information and communication technologies	Request
3	25	17/11/2009	Ethics of synthetic biology	Request
3	24	17/12/2008	Ethics of modern developments in agricultural technologies	Request
3	23	16/01/2008	Ethical aspects of animal cloning for food supply	Request
3	22	13/07/2007	The ethics review of hESC FP7 research projects	Request
3	21	17/01/2007	Ethical aspects of nanomedicine	Request
2	20	16/03/2005	Ethical aspects of ICT Implants in the Human Body	Initiative
2	19	16/03/2004	Ethical aspects of umbilical cord blood banking	Request
2	18	28/07/2003	Ethical aspects of genetic testing in the workplace	Initiative
2	17	04/02/2003	Ethical aspects of clinical research in developing countries	Request
2	16	07/05/2002	Ethical aspects of patenting inventions involving human stem cells	Request
1	15	14/11/2000	Ethical aspects of human stem cell research and use	Initiative
1	14	14/11/1999	Ethical aspects arising from doping in sport	Request
1	13	30/07/1999	Ethical issues of healthcare in the information society	Initiative
1	12	23/11/1998	Ethical aspects of research involving the use of human embryo in the context of the 5th framework programme	Request
1	11	21/07/1998	Ethical aspects of human tissue banking	Initiative

0 ¹²	10	11/12/1997	Ethical aspects of the 5th Research Framework Programme	Request
0	9	28/05/1997	Ethical aspects of cloning techniques	Request
0	8	25/09/1996	Ethical aspects of patenting inventions involving elements of human origin	Request
0	7	21/05/1996	Ethical aspects of genetic modification of animals	Request
0	6	20/02/1996	Ethical aspects of prenatal diagnosis	Initiative
0	5	05/05/1995	Ethical aspects of the labelling of the food derived from modern biotechnology	Request
0	4	13/12/1994	The ethical implications of gene therapy	Request
0	3	30/09/1993	Opinion on ethical questions arising from the Commission proposal for a Council directive for legal protection of biotechnological inventions	Initiative
0	2	12/03/1993	Products derived from human blood or human plasma	Initiative
0	1	12/03/1993	The ethical implications of the use of performance-enhancers in agriculture and fisheries	Request

4.1.1 Ethical theories

Identifying the EGE's use of ethical theories is part of the "consistency" quality requirement. The most surprising result is that the EGE itself explicitly strives for inconsistency: ethical pluralism is mentioned as an ideal in several Opinions¹³, with telling quotes such as:

"Pluralism may be seen as a characteristic of the European Union, mirroring the richness of its tradition and asking for mutual respect and tolerance." (Opinion 12, p. 8)

"It is not only legally difficult to seek harmonisation of national laws at Community level, but because of lack of consensus, it would be inappropriate to impose one exclusive moral code." (Opinion 12, p. 10)

The EGE, in these quotes, but also in other fragments, explicitly takes a political approach to ethics, instead of a philosophical one: for the EGE, it is not the best arguments that determine which moral philosophy (ethical theory and scope of moral concern) to use, but political correctness. The EGE wants to cover all its bases (or Member States) and their ethical traditions and end up with a varied spectrum of ethical theories (moral pluralism) to base its Opinions on.

Moral pluralism and its opposite, moral monism, are two fundamental bases of one's moral thinking. Moral monism requires a choice for one ethical theory on the basis of which all moral decisions are then made (Mansfield Ethics, n.d.). Moral pluralism, the position to which the EGE is explicitly devoted, requires no such choice and deems it acceptable to use different ethical theories for different moral dilemmas (Mansfield Ethics, n.d.). Even though moral pluralism may suit the EGE's image of an inclusive European organisation, in using different theories the EGE could be accused of cherry-picking: applying whatever ethical theory reaches the prescription the EGE planned on reaching anyway.

¹² Mandate 0 is the GAEIB-period.

¹³ 10, 12, 14, 15, 16, 17, 21, 22, 23

Naturally, this comes at the cost of inconsistency. Different ethical theories do not reach the same prescriptions in different ways: they reach different, often inconsistent, prescriptions in different ways. Even though this analysis does not delve deeper into the content of the EGE's prescriptions (because it is aimed at a broad, rather than a deep analysis), the use of several different ethical theories must, *ipso facto*, yield mutually inconsistent and contradictory¹⁴ results. This is problematic for anyone who is planning on actually doing something with the organisation's advices.

It is also problematic for the organisation's philosophical credibility. Consistency has been called the "hallmark of ethics" (Velasquez, Andre, Shanks, & Meyer, n.d.). "Ethics is supposed to provide us with a guide for moral living, and to do so it must be rational, and to be rational it must be free of contradictions" (Velasquez, Andre, Shanks, & Meyer, n.d.). Some even claim consistency to be the whole of ethics and equal ethical behaviour to behaviour abiding by consistent principles. The venerability of consistency also becomes clear from its position as the basis of the Golden Rule – a rule that can be encountered in virtually any ethic: "Do unto others as you would have them do unto you." Given the importance of consistency in actual ethics, the presence of pluralism and with it, the introduction of contradictions and inconsistency in the Opinions of the European Group on that same subject becomes disputable.

The results show a division of Opinions in three groups. The "early Opinions" (1 through 9) do not explicitly mention the word pluralism, even though they nevertheless make use of a plurality of ethical theories. Note that Opinions 1 through 10 were written by the Group of Advisers on the Ethical Implications of Biotechnology (GAEIB), the EGE's predecessor, and that the EGE wrote Opinion 11 and onward. This may be seen as a sign that pluralism became a more important focus for the EGE than it was for the GAEIB, at least in its explicit image.

The results of this group are shown below (Figure 3). Note that this graph's main purpose is serving as a shorthand: the qualitative text analysis did yield quantitative data (on the number of occurrences of references to ethical theories), but it did not *only* yield quantitative data.

When it comes to Opinions 1 through 9, the main ethical theory is consequentialism, with the theory of the good being utilitarian: the EGE is concerned with the maximisation of utility. Later in this subseries, deontology (with a focus on duties) and rights theory (with a focus on rights) start to take over. Opinion 7 seems to be the most pluralistic, as it contains several references to all three ethical theories. Still, there is no *true* pluralism (a recurring result): not every ethical theory is used and those used are not used equally.

¹⁴ These are really synonyms, since consistency means the absence of contradictions.

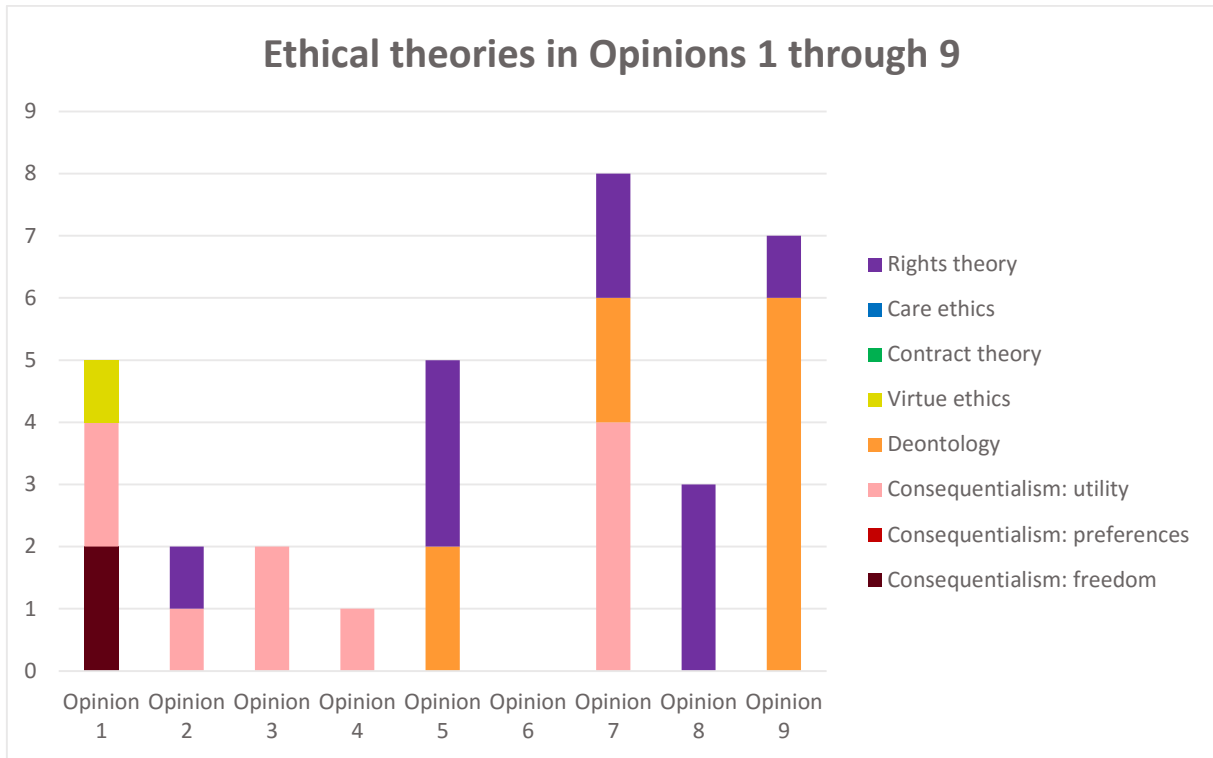


Figure 3 - Ethical theories in Opinions 1 through 9. These are the Opinions that do not mention pluralism explicitly yet.

The middle Opinions (10 through 23, see Figure 4) fall within the range of Opinions that explicitly mention the word pluralism. In terms of ethical theories, the trend of increasing importance of deontology and rights theory continues, as rights theory is dominant and deontology is the second most prominent. Consequentialism (freedom and utility) is sometimes used and the other theories are barely, if at all, mentioned. This points again to a lack of *true* pluralism, despite the EGE’s now explicit commitment to this concept.

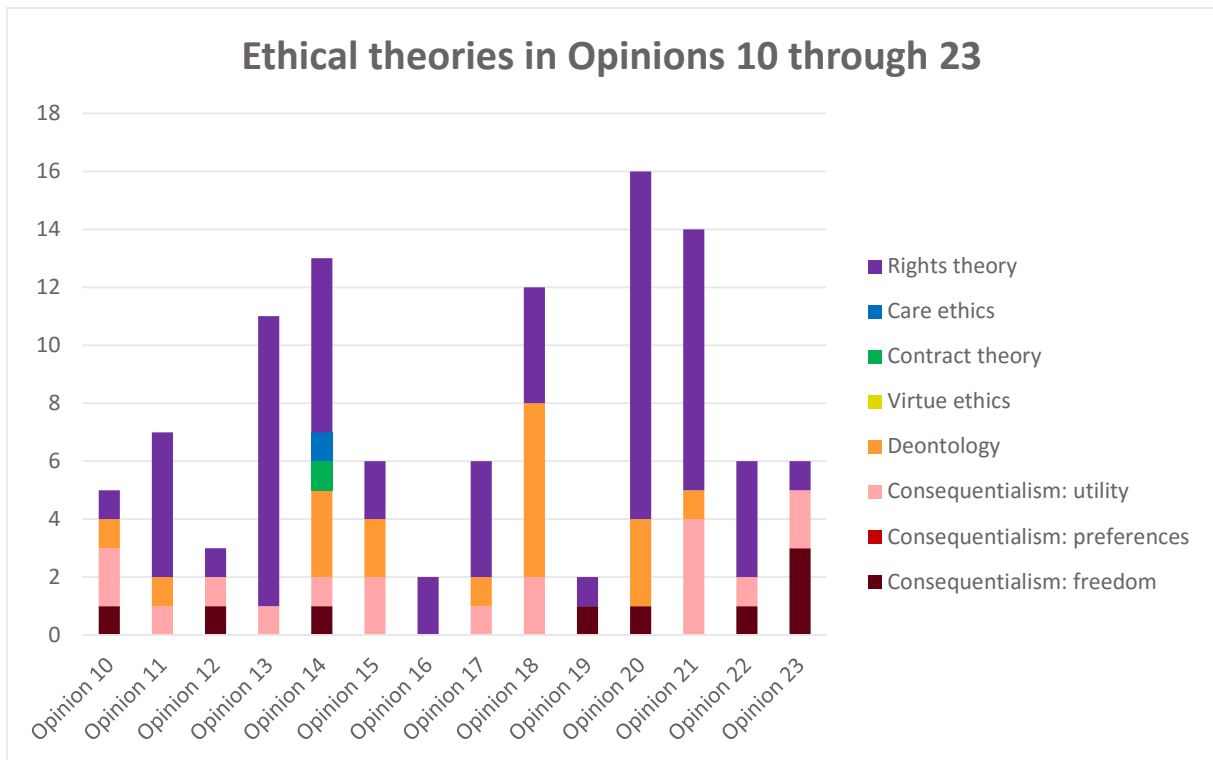


Figure 4 - Ethical theories in Opinions 10 through 23. These Opinions fall within the range of Opinions (10-23) that explicitly discuss pluralism. They do not all discuss it, though.

The later Opinions (24 through 28, see Figure 5) are characterised by the fact that they no longer explicitly mention pluralism. And this shows: even more than previously, the later Opinions are characterised by a focus on rights theory¹⁵. Tellingly, rights theory is mentioned 31 times in Opinion 26 and 29 times in Opinion 28. Other ethical theories have become a side note to a rights-based story.

¹⁵ When reading through the Opinions this is even more prominent than the figure suggests.

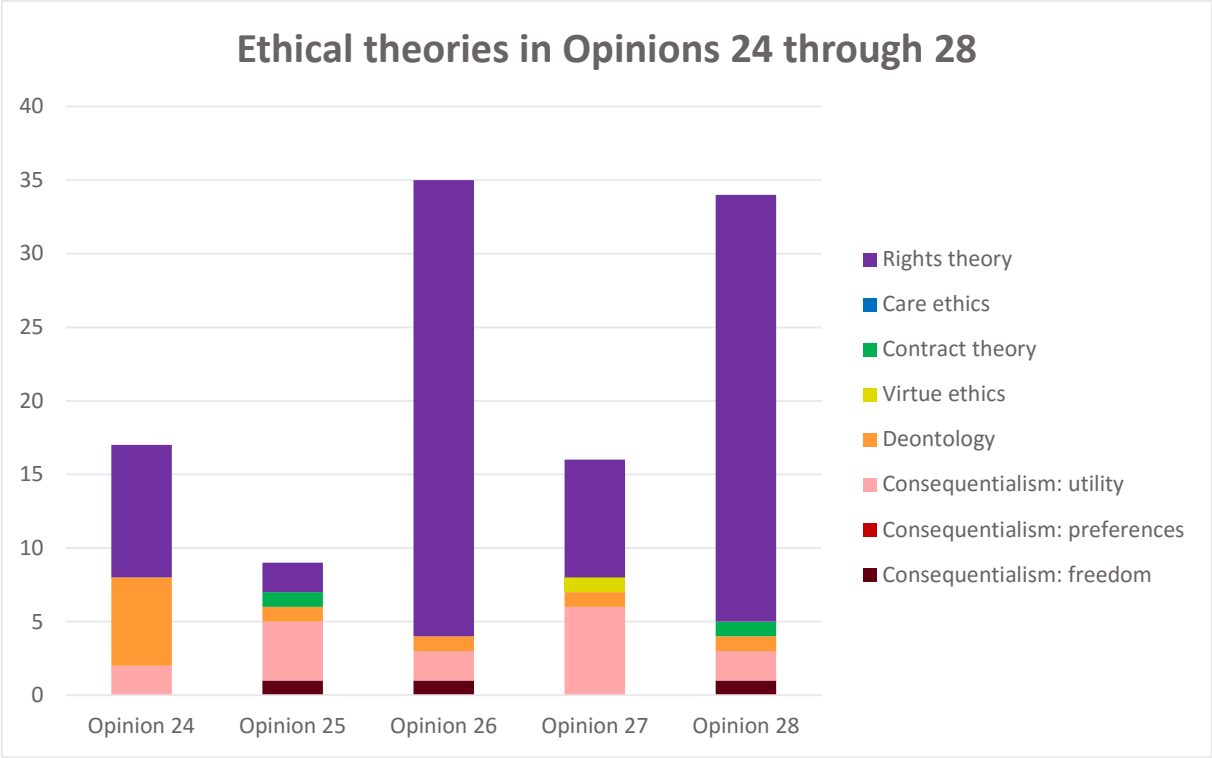


Figure 5 - Ethical theories in Opinions 24 through 28. These Opinions no longer explicitly mention pluralism.

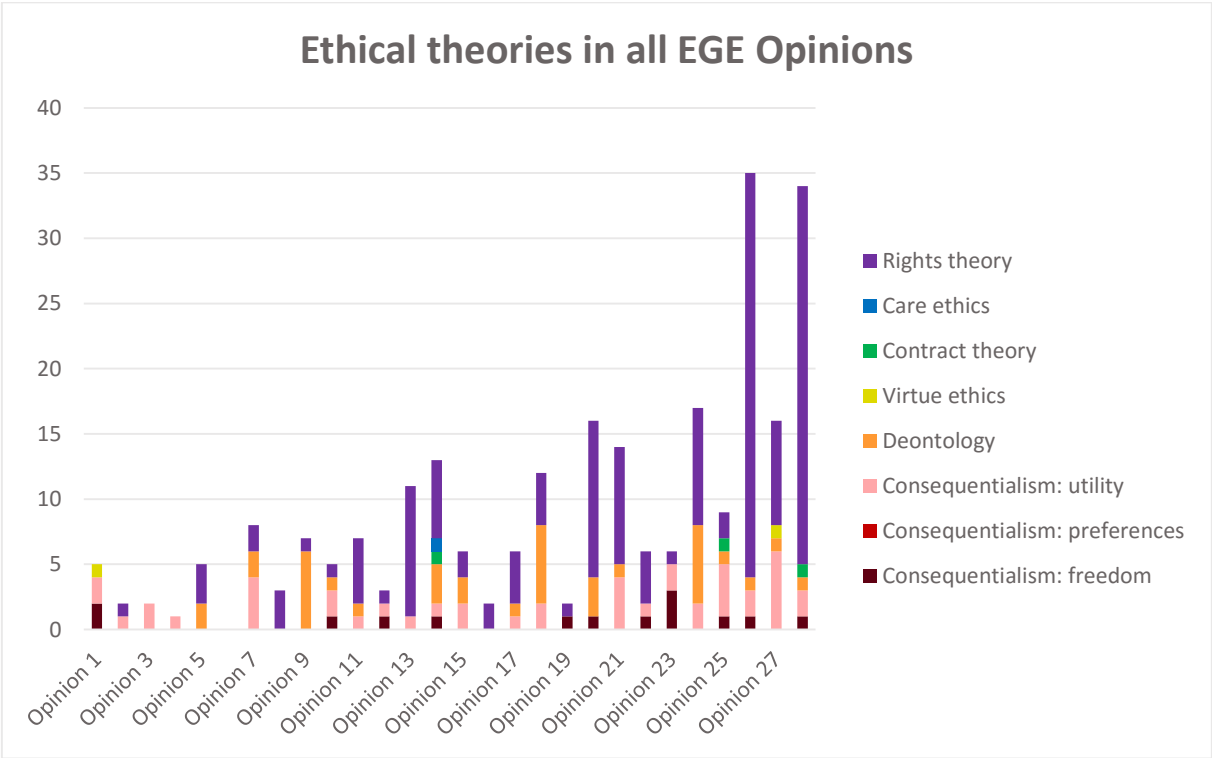


Figure 6 - Ethical theories in all EGE Opinions

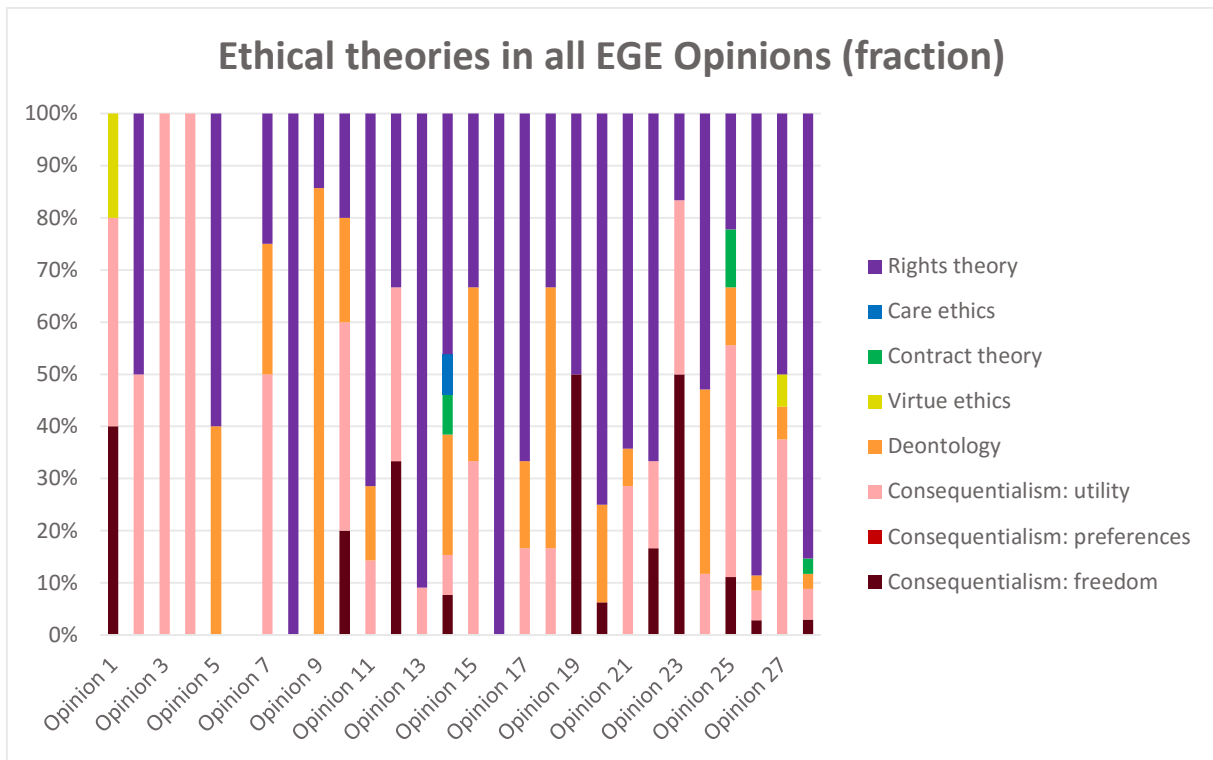


Figure 7 - Ethical theories in all EGE Opinions (fraction)

Figure 6 and Figure 7 show all data combined. They not only demonstrate the increasing dominance of rights theory, but also show the proliferation of page numbers. Where early Opinions often had no more than single digit page counts, recent Opinions often surpassed the 100 page mark (at the same time, font size has decreased, multiplying the effect). Successive Opinions have become lengthier and lengthier, adding to the total number of ethical theory mentions.

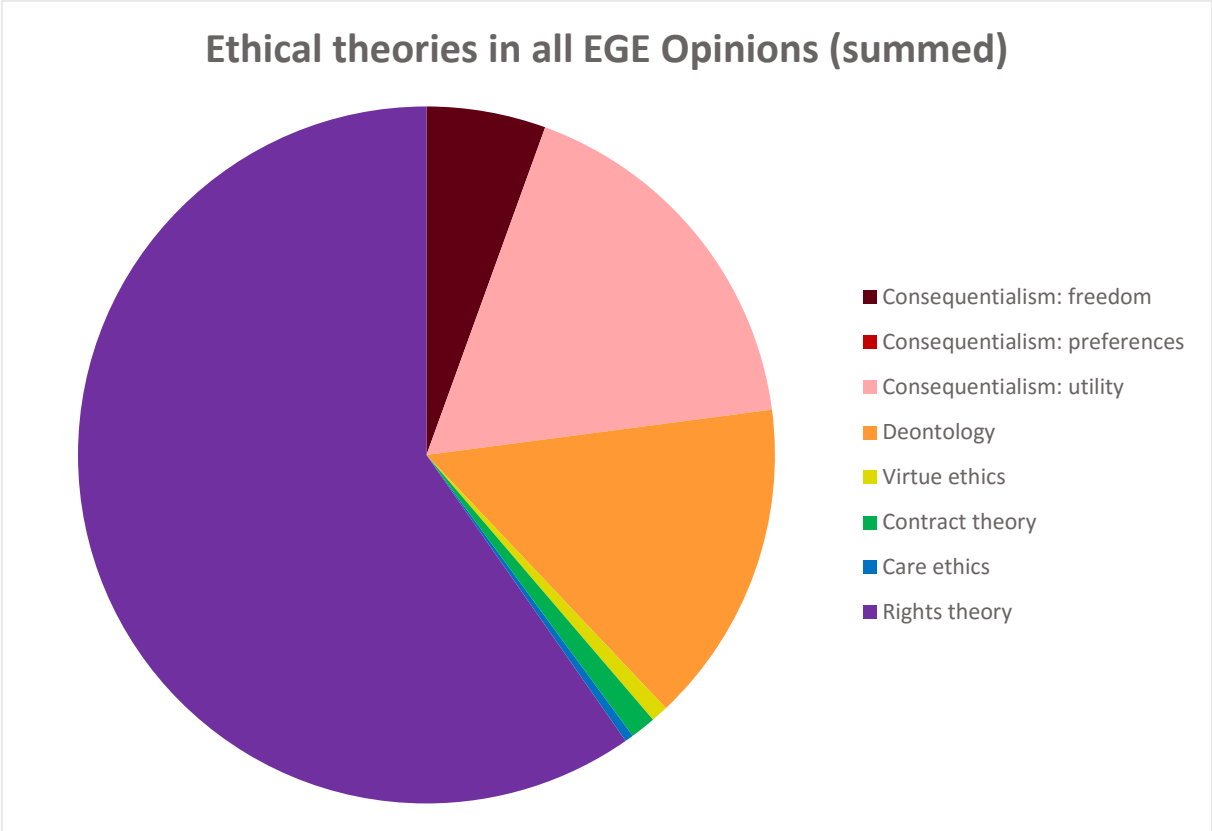


Figure 8 - Ethical theories in all EGE Opinions - summed

Looking at the results from a higher perspective, the EGE achieves neither pluralism nor consistency. Even though the EGE has repeatedly expressed its appreciation of different ethical views, this appreciation is not really reflected in its Opinions. If one looks at the ethical theories that can be found in all EGE Opinions (see Figure 8), the EGE’s strong preference for rights theory becomes clear. It is used in well over the majority of all ethical considerations of the EGE. Consequentialism takes second place, with the theory of the good being mostly utilitarian and sometimes freedom-based. Deontology comes next and, on the whole, constitutes the last ethical theory the EGE uses on a regular basis. Even though virtue ethics, contract theory and care ethics make some appearances, these are really the outliers and are never systematically used. *True* pluralism is therefore not achieved.

4.1.2 Scopes of moral concern

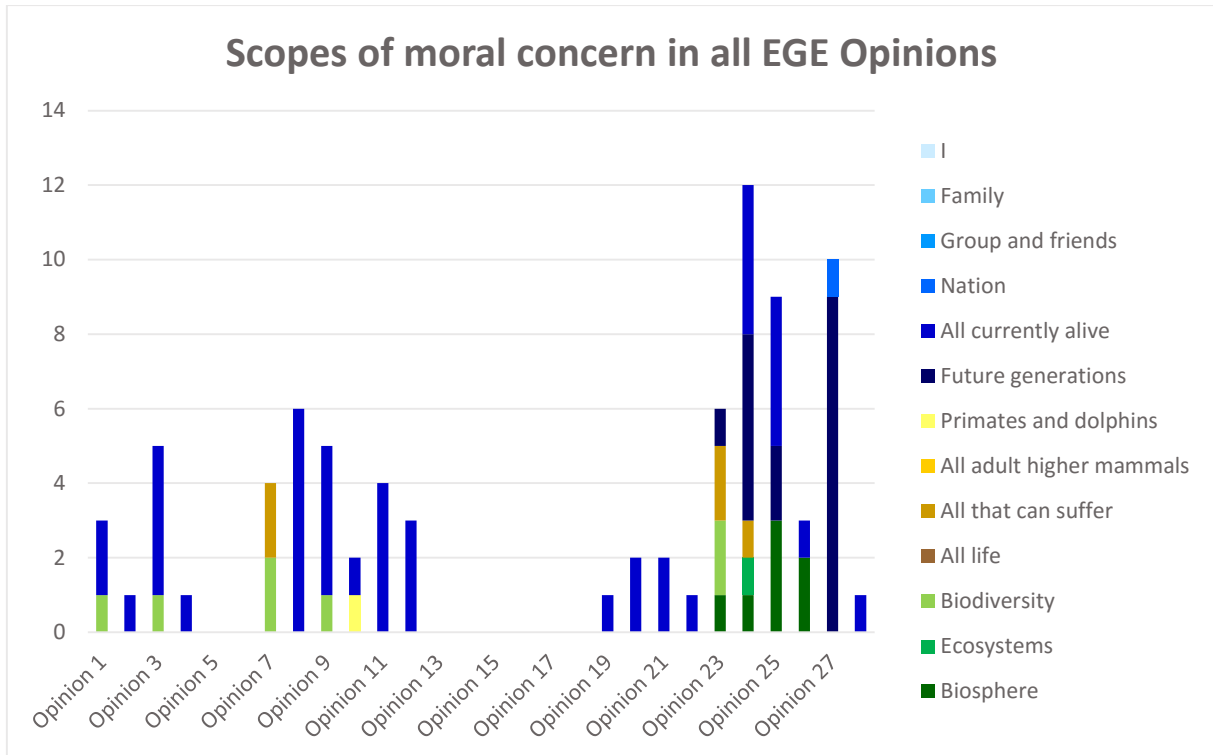


Figure 9 - Scopes of moral concern in all EGE Opinions. Humans are shown in blue, non-human life is shown in yellow/brown, and nature is shown in green. Opinions 5, 6, and 13 through 18 deal with human concerns exclusively.

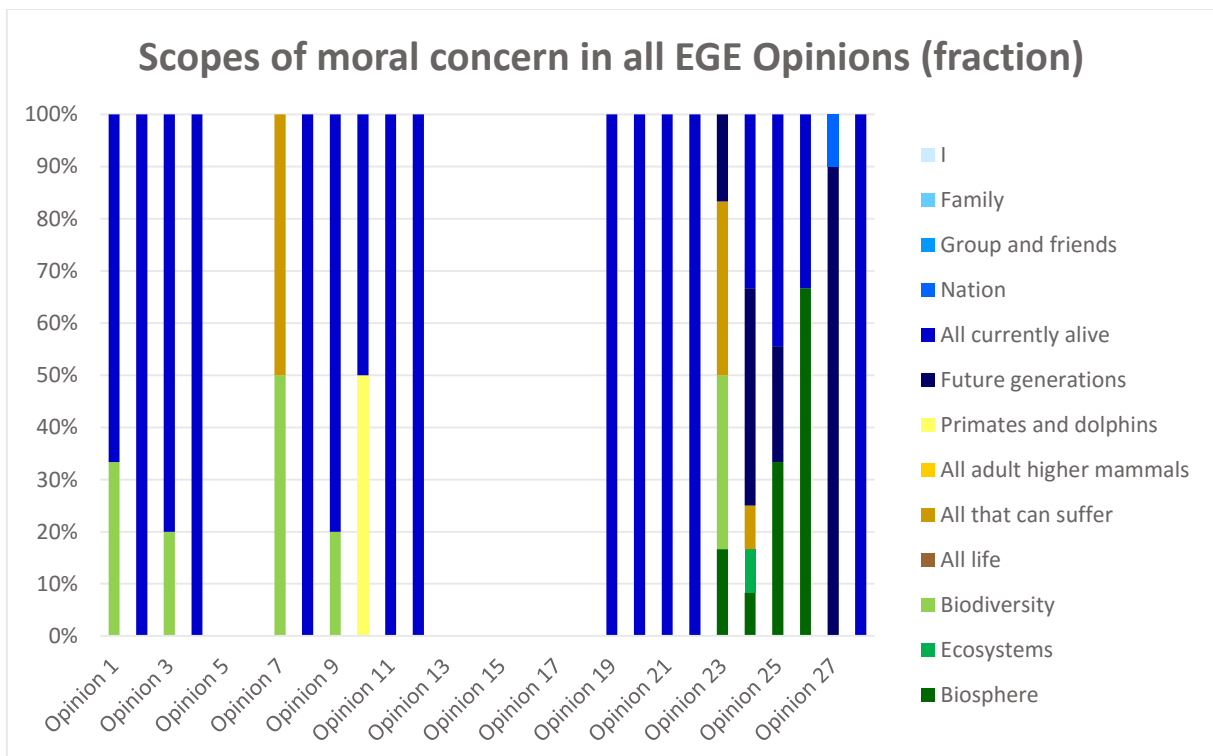


Figure 10 - Scopes of moral concern in all EGE Opinions (fraction). Opinions 5, 6, and 13 through 18 deal with human concerns exclusively.

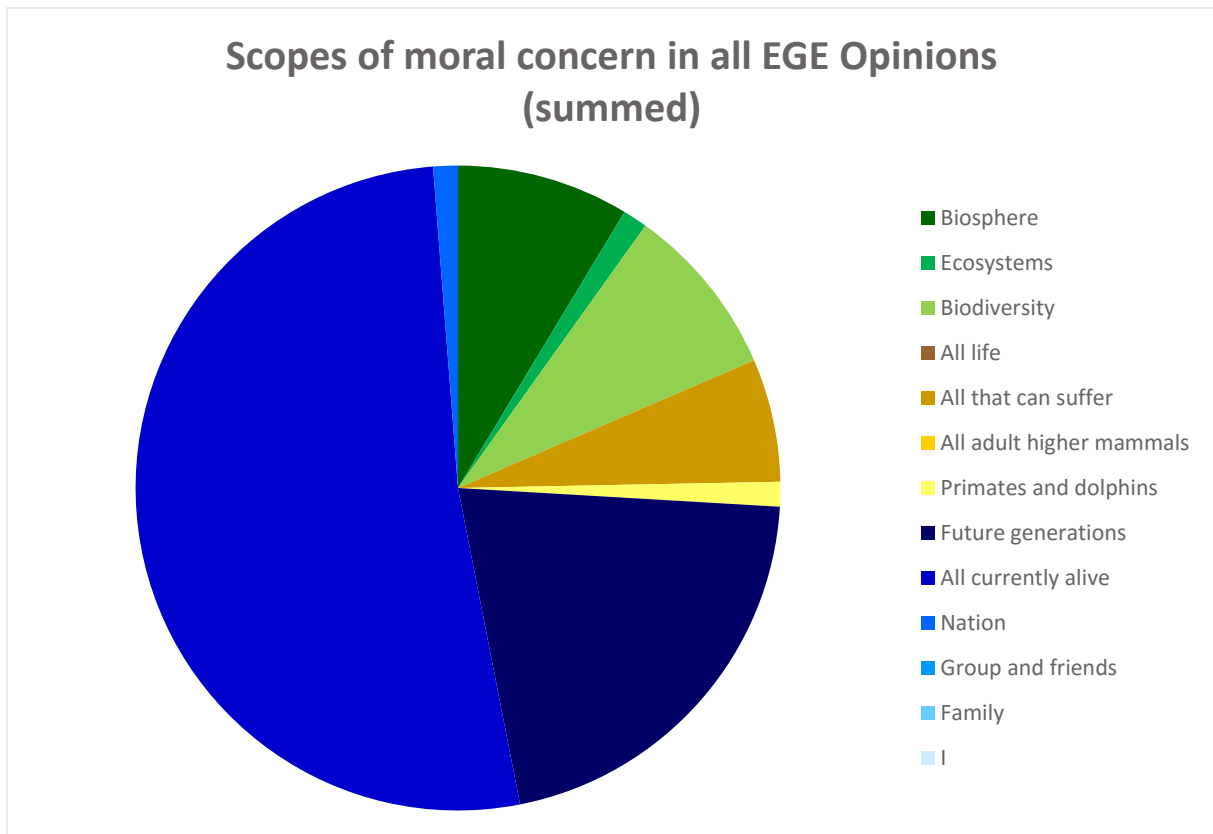


Figure 11 - Scopes of moral concern in all EGE Opinions (summed)

Figure 9 and Figure 10 show the scopes of moral concern in all EGE Opinions per Opinion, Figure 11 shows them all in one¹⁶. Several things are noteworthy. First, some Opinions lack data because of the reason explained above. Second, the increasing length of Opinions, already observed in the previous “ethical theories” section, correlates with its increasing number of references to scopes of moral concern. Third, the EGE is mostly concerned with humans, as most of the graph is blue. The relief

¹⁶ An unexpected inconvenience was that some Opinions did not discuss their scope of moral concern explicitly and did not show it in another more implicit manner either. These were mostly the Opinions that cover only human concerns (e.g. Opinion 6 on the “Ethical aspects of prenatal diagnosis” or Opinion 14 on the “Ethical aspects arising from doping in sport”). Another surprise was that some fragments exclude some entities from the EGE’s scope of moral concern, rather than *include* them. These fragments then show what scope of moral concern the EGE has not, rather than which one(s) it does have. In the analyses and graphs, these fragments were simply excluded, because there is no clear way to deal with them. Examples of such fragments are:

“With regard to research on plants or micro-organisms, the ethical principles to be observed concern respect for proportionality between the expected benefits and the risks vis-à-vis human health and the environment, and vigilance with regard to biodiversity” (Opinion 10, p. 6). This fragment explicitly proposes a different ethical standard for biodiversity than for human health and the environment, in a manner that shoves biodiversity out of its scope of moral concern.

“Although the Group is aware of the importance of respecting animal welfare, it is concerned that respect for human dignity may not be maintained when hESCs [human embryonic stem cells] are used in toxicity testing of industrial or other commercially produced chemicals not related to drugs, such as cosmetics, or for replacement of animal testing” (Opinion 22, p. 41). This fragment explicitly moves animals out of its scope of moral concern.

becomes even starker if one considers that Opinions 5, 6 and 13 through 18 deal with human concerns exclusively.

Fourth, future generations only started morally concerning the EGE at Opinion 23 and have since grown in importance, climaxing in Opinion 27. They seem to be particularly prominent in Opinion 24 and 27. The topics of these Opinions do not really explain this: Opinion 24 is about “Ethics of modern developments in agricultural technologies” and Opinion 27 is about “An ethical framework for assessing research, production and use of energy”.

Fifth, in general, *all* humans fall within the EGE’s scope of moral concern, not just those who happen to live in Europe. Sixth, insentient nature is more important to the EGE than sentient animals, as evidenced by the green areas outscaling the yellow ones.

On the whole, the results show that the EGE displays moral concern for (currently alive, unborn and even deceased) humans, for future generations of humans and for nature, but rarely for other individual sentient beings (animals). Sentience is therefore clearly not a criterion the EGE uses to establish its scope of moral concern, since some insentient entities are within it (foetuses, deceased humans, species and nature) and some sentient entities are generally not within it (non-human animals). Additionally, some insentient entities (human embryonic stem cells) take precedence over some sentient entities (animals; see Opinion 22). A criterion that does seem to be crucial for the EGE is membership of the human species, as the above examples and graphs go a long way to show. The EGE can thus clearly be accused of “speciesism”, a term Richard Ryder coined for those who hold the conviction that species is relevant to moral concern.

In line with the above, the concepts of “human dignity” and human rights are used often to explain and justify the EGE’s moral position, and are often, or even mostly used in relation to each other. Human dignity is rarely defined - in most cases, only its context is described:

“Human dignity is inviolable. It must be respected and protected” (Opinion 26, p. 61).

“The dignity of the human person is not only a fundamental right in itself but constitutes the real basis of fundamental rights” (Opinion 26, p. 61).

4.1.3 Quality of argumentation

The big surprise in terms of quality of argumentation was that argumentation is mostly lacking. Where arguments are used, they are mostly in the form of “law is morality”: it is lawful, therefore it is good. Vast (pro)portions of the Opinions generally consist of descriptions of the legal status of the topic at hand. Even in the purported ethical sections laws and treaties (most often declarations of rights) are often referred to as handbooks to the good. The EGE equates their prescriptions to what is right and considers a reference to their contents a sufficient moral argumentation. Charters of Rights seem to be the most popular compendia:

“All areas of science and new technology developed within the European Union must be consistent with the ethical principles stated in the European Charter of Fundamental Rights” (Opinion 21, p. 38).

“The European Charter of Fundamental Rights shows that, while Europe is multicultural, a set of shared values exists in the EU. Ethical goals for responsible action in agriculture (food security and sustainability) can be extrapolated from the Charter” (Opinion 24, p. 50).

“In order to provide an analysis of the ethical concerns, the EGE has drawn on the ethical framework of the European Union, as stated in the Lisbon Treaty and the European Charter of Fundamental Rights” (Opinion 26, p. 39).

This is generally not an accepted argumentation¹⁷. Even though ethical theories have different opinions about the nature of ethics itself, they all agree that it is distinct and independent from law: law can be right and wrong, and the good can be lawful and unlawful. To give a compelling example: most people would agree that slavery did not suddenly become immoral when it became unlawful. Where law and morality do concur, a reference to legislative text is never a sufficient argumentation for a moral claim. It follows, then, that using laws and treaties, political documents, as a footing for ethical claims is fallacious. Not only is it a form of circular reasoning (since the Opinions are meant to inform legislators, who then go on to write the laws the EGE bases its Opinions on), it also fundamentally confuses ethics with law.

One of the more extreme examples, displaying not only the glorification of legislation as a moral guideline, but also the lack of any further argumentation, is the following:

“In the Amsterdam Treaty animals are recognised as 'sentient' beings and, therefore, while meat production is important in the human diet, and the slaughter of animals a necessity, it should always be clear that the way in which we treat animals should be in accordance with the existing animal welfare and health standards required by EU legislation (see 3.1.2 of this Opinion)” (Opinion 23, p. 46).

Not only does this fragment state that animals’ status as “sentient beings” is dependent on a political decision (the Amsterdam Treaty), it also states that the consequences of this status are dependent on another political decision (EU animal welfare legislation), in a way that suggests that the EGE thinks these political decisions are sufficient argumentation for its moral conclusion. In passing, it proclaims that “meat production is important in the human diet, and the slaughter of animals a necessity” without any further argumentation or references¹⁸.

4.2 Commission proposals

This section will look at the Commission proposals that explicitly mention the EGE (or its predecessor, the GAEIB). The potential population is enormous, of course. Since the EGE’s first publication of Opinion № 1 in March 12, 1993, the Commission has produced more than 5000 proposals for a regulation, roughly 1400 of which containing references to science and/or technology, and has produced almost 2000 proposals for a Directive, more than 800 of which containing references to science and/or technology¹⁹. Only a very small proportion of these explicitly mention the EGE: only ten. An overview of these ten proposals can be found in Table 4.

¹⁷ This is the so-called “appeal to law”-fallacy, which can be argued to be a combination of the fallacies “appeal to tradition” (an argument which states that because something has been done for a long time, it is good) and “argument from authority” (an argument which states that because an authority figure asserts something, it is good).

¹⁸ A couple of other logical fallacies were found in the texts (most of them “appeal to the masses”-fallacies), but these were so few and far between, due to the lack of argumentation in general, that they are not noteworthy, especially when compared to the fallacies already mentioned, which recurred often.

¹⁹ Exactly 5 189 proposals for a regulation and 1 983 proposals for a directive. References to science and/or technology are the words “science” or “scient*” (scientific, unscientific, etc.) or “technology” or “techno*” (technological, etc.). 1 419 proposals for a regulation and 831 proposals for a directive containing these references were found.

Table 4 - Overview of Commission Proposals that mention the EGE. Author is "European Commission" in each case. See the bibliography for URL's.

Reference	Code	Proposal for a...	Title
(1996)²⁰	COM/95/0661	Directive	Proposal for a EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE on the legal protection of biotechnological inventions
(1998)	COM/98/0085	Directive	Proposal for a European Parliament and Council Directive amending Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms
(2001)	COM/2001/0425	Regulation	Proposal for a Regulation of the European Parliament and of the Council on genetically modified food and feed
(2002)	COM/2002/0319	Directive	Proposal for a Directive of the European Parliament and of the Council on setting standards of quality and safety for the donation, procurement, testing, processing, storage, and distribution of human tissues and cells
(2005)	COM/2005/0567	Regulation	Proposal for a Regulation of the European Parliament and of the Council on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No 726/2004
(2007)	COM/2007/0872	Regulation	Proposal for a Regulation of the European Parliament and of the Council on novel foods and amending Regulation (EC) No XXX/XXXX [sic]
(2011a)	COM/2011/0809	Regulation	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing Horizon 2020 – The Framework Programme for Research and Innovation (2014-2020)
(2011b)	COM/2011/0812	Regulation	Proposal for a COUNCIL REGULATION on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 – The Framework Programme for Research and Innovation
(2013a)	COM/2013/0892	Directive	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the cloning of animals of the bovine, porcine, ovine, caprine and equine species kept and reproduced for farming purposes
(2013b)	COM/2013/0893	Directive	Proposal for a COUNCIL DIRECTIVE on the placing on the market of food from animal clones

Using the same methodology as in the previous section, the ethical theories and scopes of moral concern that are present in these proposals will be uncovered.

²⁰ In this instance, the publication date (1996) deviates from the code (1995), for unknown reasons.

4.2.1 Ethical theories

The counts of the ethical theories that were present in the proposals can be found in Figure 12, Figure 13, and Figure 14.

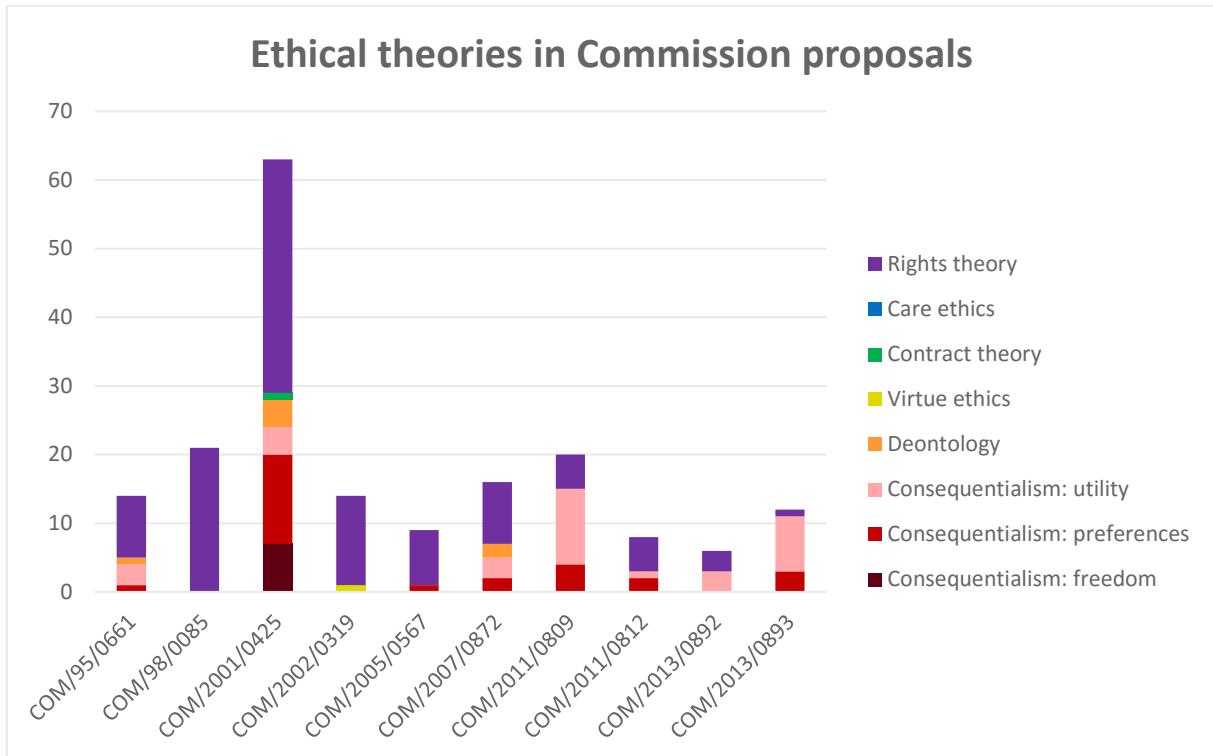


Figure 12 - Ethical theories in Commission proposals

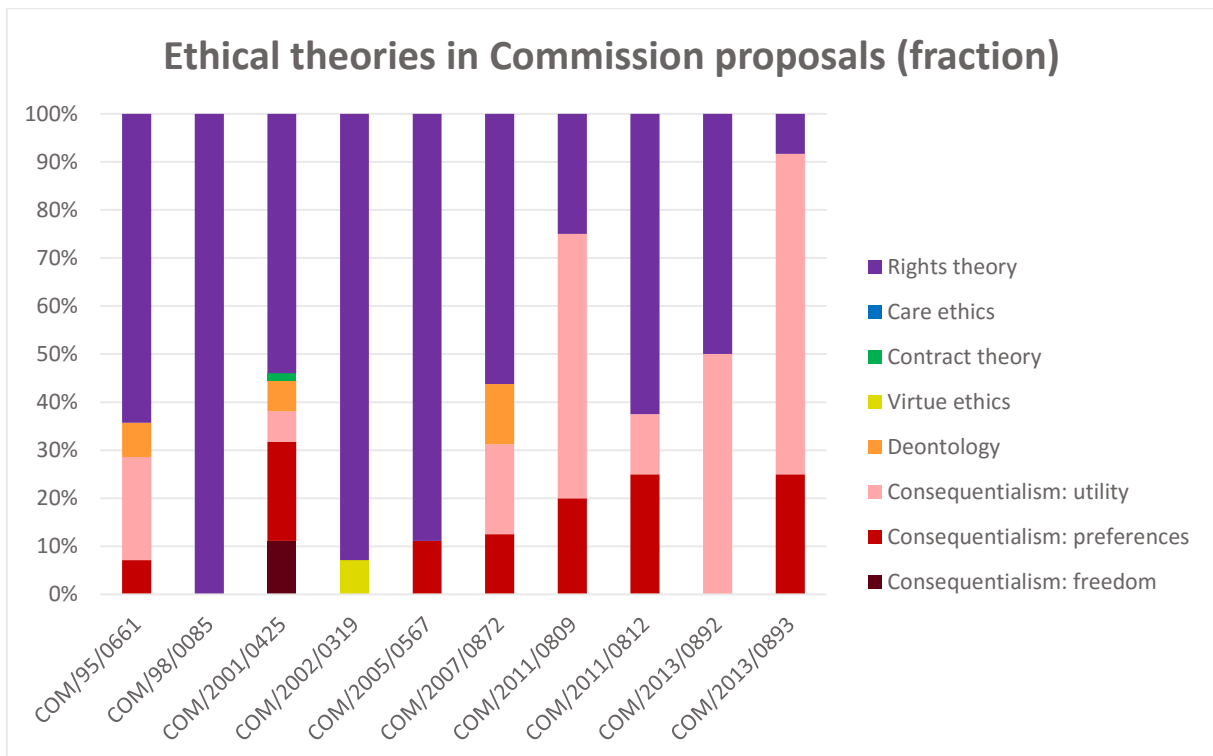


Figure 13 - Ethical theories in Commission proposals (fraction)

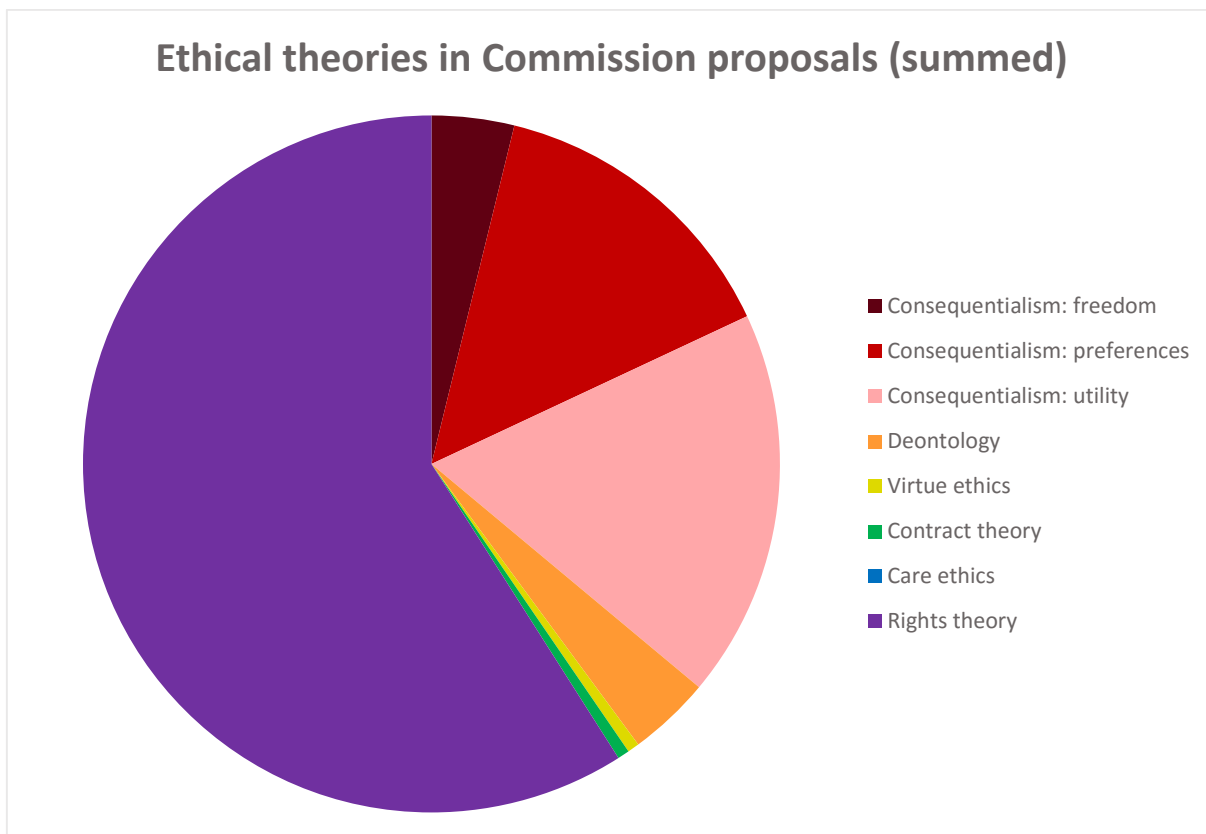


Figure 14 - Ethical theories in Commission proposals (summed)

Several observations are noteworthy. Firstly, like in the Opinions, rights theory is dominant overall, inspiring more than half of all ethical judgments. Secondly, preference-consequentialism (which is about interests), is quite prominent, unlike in the Opinions, where it was virtually absent. This causes (thirdly) consequentialism overall to also be more prevalent than in the Opinions. Fourthly, other ethical theories are essentially absent from the proposals. On the whole, then, one could say that the proposals are not monist or pluralist, but dualist: combining rights theory and consequentialist thinking, but using not much else.

One could also look at the development of the use of ethical theories over time. What is striking is that rights theory seems to become less prominent in the proposals in recent years, unlike in the Opinions, where it has become increasingly dominant. This seems to suggest that the influence of the Opinions on the Commission's ethical thinking, at least in terms of use of ethical theory, is not really present.

Another noteworthy result is not captured in numerical representations of ethical theories such as the above. This is the continual reference to "fundamental ethical principles" that is found in many documents. The Commission clearly believes they are to be respected in many contexts. "Research and innovation activities supported by the Euratom Programme", for example, "should respect fundamental ethical principles" (European Commission, 2011b). "Research and innovation activities supported by Horizon 2020", moreover, "should respect fundamental ethical principles" (European Commission, 2011a). The list goes on and on.

At first glance, one would immediately herd all these phrases into the deontology category. After all, they assume the existence of universal rules or principles to which all must abide. But I did not do that, for it is not so clear that this deontological interpretation really covers the ethical principles that are meant by the Commission. The Commission does not specify which fundamental ethical principles they

mean and does not use deontological reasoning generously in other contexts at all. Therefore I chose to do nothing with them.

4.2.2 Scopes of moral concern

The counts of the scopes of moral concern that were present in the Commission proposals can be found in Figure 15, Figure 16 and Figure 17.

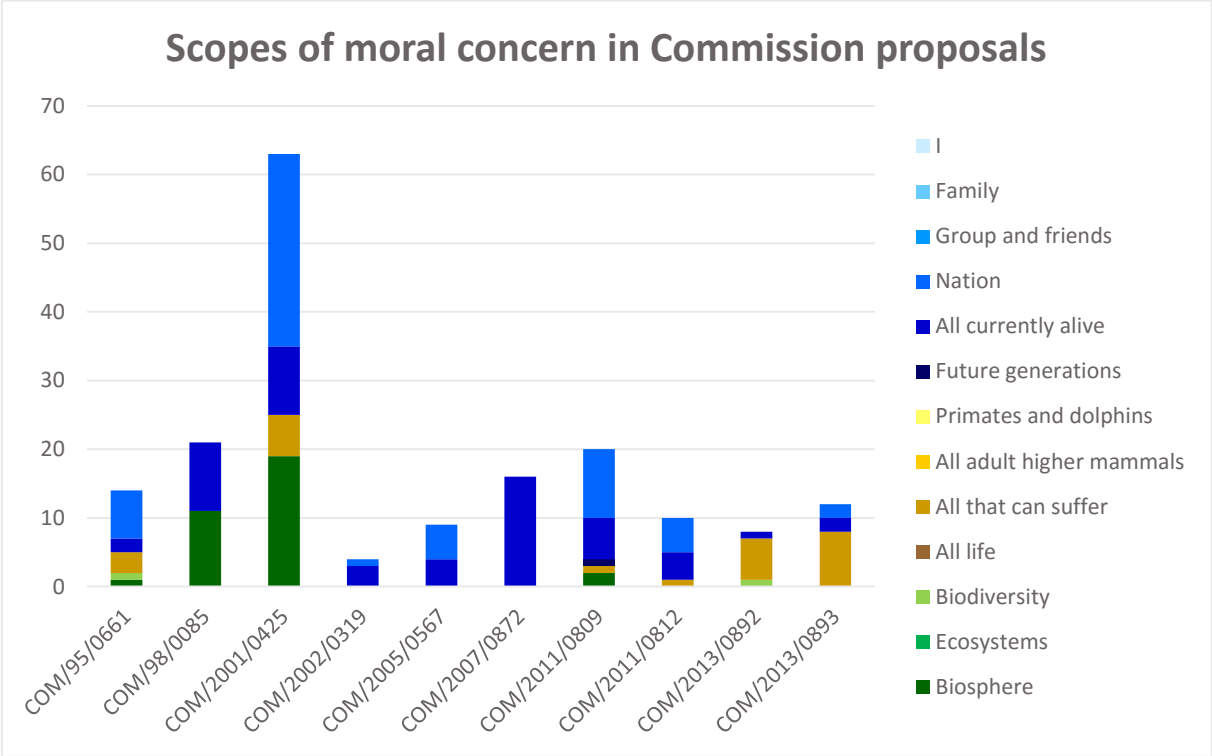


Figure 15 - Scopes of moral concern in Commission proposals

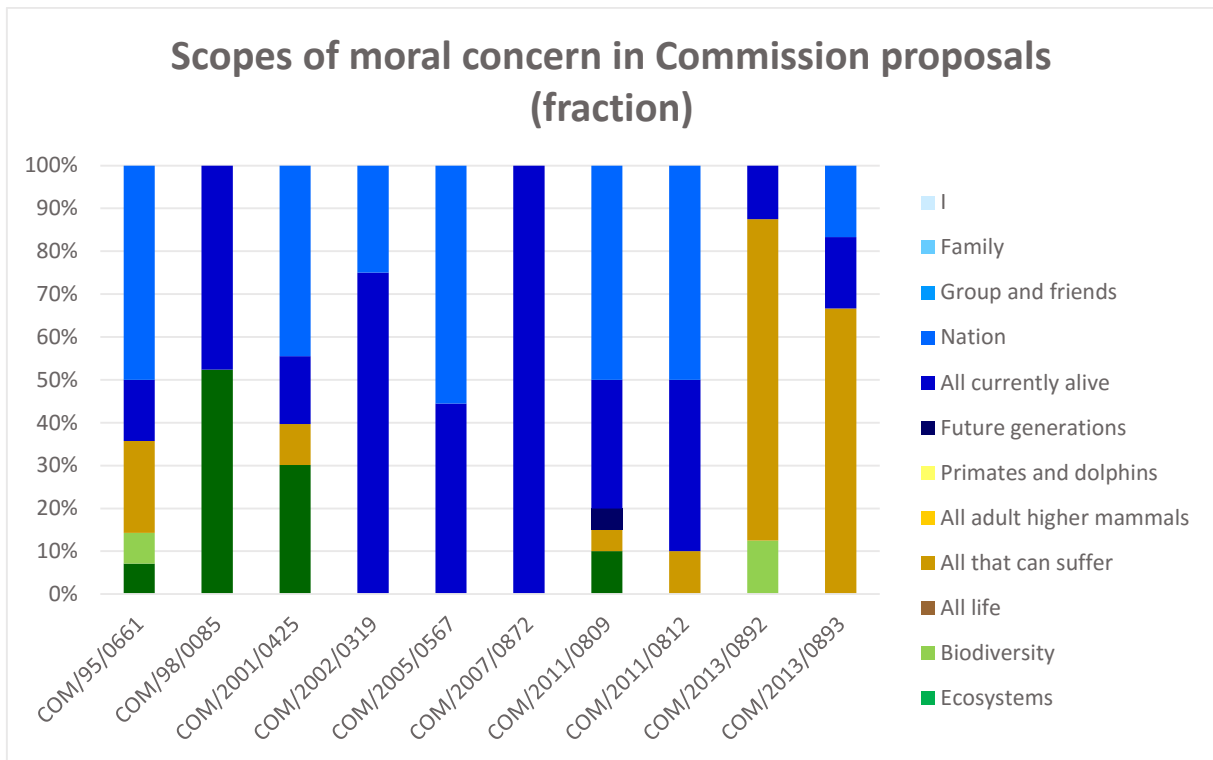


Figure 16 - Scopes of moral concern in Commission proposals (fraction)

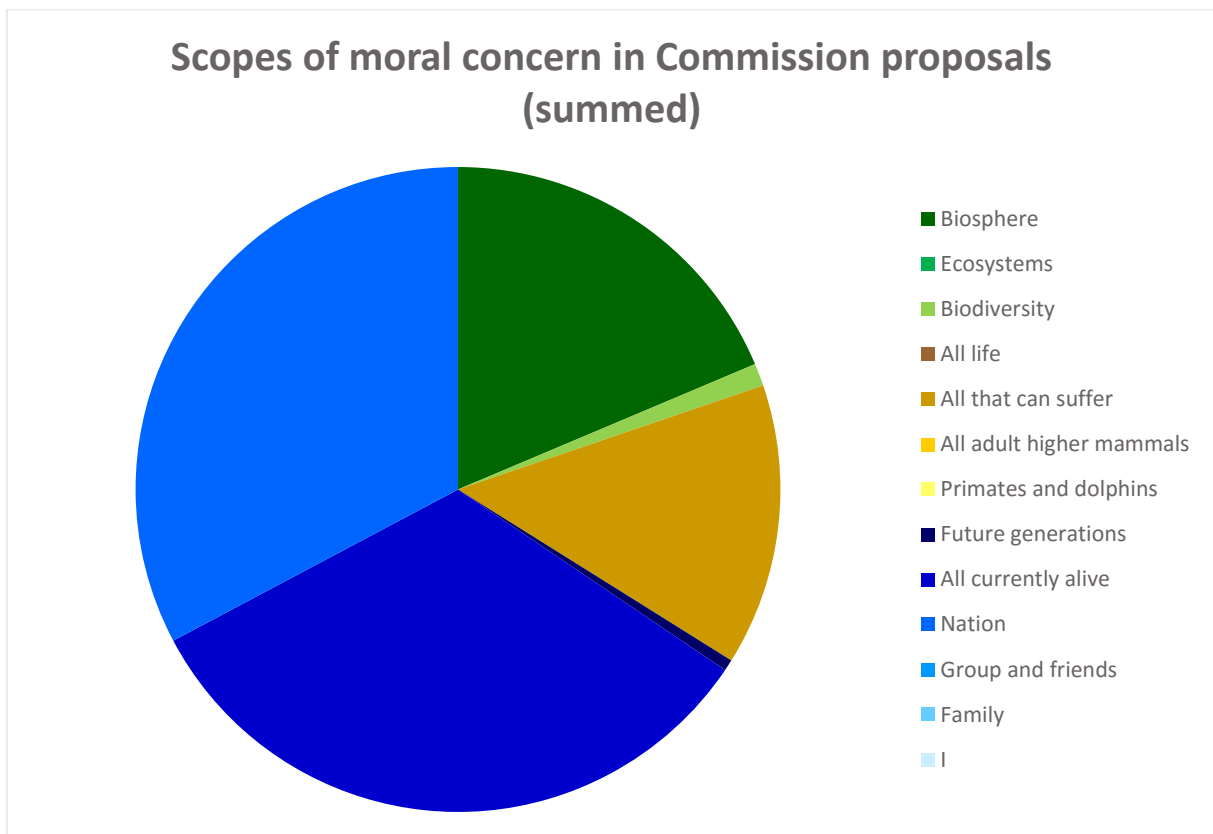


Figure 17 - Scopes of moral concern in Commission proposals (summed)

Overall, the results are very similar to the ones of the Opinions. The major focus is on humans, with the environment receiving secondary concern and animals receiving tertiary concern. A remarkable difference is how much more nationalist the proposals are. Whereas the Opinions generally did not

show preferential moral concern of European citizens over non-citizens, the Commission proposals clearly do in many cases ($n_{\text{all currently alive}} = n_{\text{nation}} = 58$). To illustrate, the Commission regularly speaks of “Union added value”, “European added value” and “Community added value” (2011a; 2011b). Furthermore, the Commission strongly encourages European competitiveness and uses “Union added value” as a criterion for its proposed measures (2011a). These are all signs of a scope of moral concern that does not extend past EU citizens. It does not extend into the future either, as future generations receive very little consideration, being mentioned only once (European Commission, 2011a). The Commission, at least in these ten proposals, therefore has a mostly anthropocentric (covering humans only), presentist (covering presently alive beings only) and nationalist (covering EU citizens only) scope of moral concern.

There were again some results that are not captured in the figures. One surprising result was that the Commission does not seem to understand the implications of the recognition that animals are sentient. To be sure, the Commission *does* recognise that animals are sentient, as evidenced by the phrase “the Union and the Member States pay full regard to the welfare requirements of animals since they are sentient beings” appearing verbatim in two proposals (2013a; 2013b).

The conclusion that we should therefore “pay full regard to [their] welfare requirements” does not follow, however. That conclusion is, of course, a consequentialist argument, appealing to equal consideration. Its reference to welfare makes it a utilitarian argument, since it focuses on pain and pleasure. Utilitarianism is, as I have shown, an ethical theory. A conclusion about an ethical theory can never follow from an argument relating to a scope of moral concern, however. And the recognition that animals are sentient is relevant to our scope of moral concern – provided we are sentientists – not to our ethical theory. This is therefore a faulty reasoning, which proceeds to lead the Commission to not consider sentient animals equally, but to herd them into a category of beings whose “welfare requirements” should be met – a much weaker conclusion than the one that would follow from equal consideration.

Relatedly, human dignity, a concept enthusiastically adopted by the EGE, is a concept also used by the Commission. In the 2002 proposal, the Commission used phrases such as “the integrity of the human body”, “This Directive protects their dignity...” and “The dignity of the deceased donor has to be respected” (European Commission, 2002). The 2005 proposal mentions the “Convention for the protection of human rights and dignity of the human being” twice (European Commission, 2005). What this dignity is precisely and why it is apparently unique to humans remains a mystery.

Combined, the Commission’s respect for human beings and its rejection of equal consideration of sentient animals lead the Commission to adopt a moral philosophy which accords rights to humans and “welfare concern” (utilitarianism), if that, to animals. A large number of quotes espouse this view. An equally large number of quotes, however, mention both human and animal interests (health). Apparently, the Commission sometimes considers animals and sometimes does not. A few illustrations follow below.

As one example, the 1998 proposal contains almost a dozen quotes that express concern for “human health and the environment” (European Commission, 1998). The 2001 proposal is split, containing both quotes that exclude animals (e.g., “present a risk for human health or the environment”) and quotes that include animals (e.g., “a risk for human health, animal health or the environment”) (European Commission, 2001). Perhaps these are token concerns, though, even when animals *are* included; for on other occasions the Commission seems to suggest that its concern for animal welfare is actually due to their concern for consumers’ interests. This is supported by quotes such as “Less restrictive measures, such as food labelling, would not entirely address citizens’ concerns since the marketing of

food produced with a technique that implies animal suffering would still be allowed” and “This Directive addresses animal welfare concerns of consumers...” (European Commission, 2013b).

In any case, the Commission’s scope of moral concern shows areas of overlap with the EGE and areas of divergence. The overlap includes: the preferential treatment of humans, followed by the environment, followed by animals; and the use of the concept of human dignity. The divergence includes the Commission’s nationalism and the Commission’s presentism. There is not enough to give definitive answers about the EGE’s influence from this moral perspective either.

4.2.3 Quality of argumentation

The major concern in terms of quality of argumentation is the references to legal documents that the Opinions contained so amply. For the Commission, however, restrictions are quite different. References to law and majority morality are clearly not problematic in the case of the Commission, which is supposed to be part of a lawful, democratic organisation that does not necessarily make moral judgments itself. The Commission gets it right in this regard, though, and does seem to differentiate between the two.

The following quote supports this: “All the research and innovation activities carried out under Horizon 2020 shall comply with ethical principles and relevant national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols” (European Commission, 2011a). This exact quote, except for the replacement of “Horizon 2020” by “the Euratom Programme”, can be found in the other 2011 proposal (European Commission, 2011b). These quotes clearly show that the Commission does not think law and morality to be one and the same, since they are mentioned separately, with “and” in between. This is a clear difference with the EGE’s Opinions, supporting the conclusion that the EGE does not influence the Commission in this regard.

4.3 Interviews

Table 5 lists the preliminary conclusions identified in the results section and their related questions in the interviews (see the Annex for the interview questions). Only results that were not purely factual were included. Three EGE members were willing and able to participate in interviews, including the current president²¹. I was told others may have been concerned about being asked about their personal moral philosophies, or were on holiday, or were unavailable for other reasons.

Table 5 - Controversial preliminary conclusions

Topic	Result	Question
Ethical theories	Most Opinions are pluralistic: they use different ethical theories.	1
	Some Opinions have a strong focus on rights theory.	2
Scopes of moral concern	“Human dignity” is often used as an argument for the preferential treatment of humans.	3
	Opinion 23 and further suddenly show moral concern for future generations.	4
Quality of argumentation	The EGE bases most of its moral conclusions on legal/political documents, ...	5
	... therefore it is not really a European Group on <i>Ethics</i> .	6
Influence on Commission	Some similarities between the Opinions and Commission proposals were found, but none definitively indicate any influence.	7

²¹ Emer. Prof. Julian Kinderlerer (President), professor of intellectual property law; Prof. Dr. Inez de Beaufort, professor of medical ethics; and Prof. Pere Puigdomènech, professor of plant genomics.

I chose not to discuss the results of the interviews by question, but by topic. During the interviews it became clear that what had seemed unrelated results of the text analysis were actually due to the same causes, which were often mentioned by all interviewees. The following text aims to represent and summarize the EGE's point of view as best as possible, based on the three interviews²². To accentuate that the text below represents the EGE's collective point of view, it is italicised.

4.3.1 Representation

The EGE's composition should mirror the diversity of demographics (male/female, East/West, religious/secular, etc.) and (corresponding) moral philosophies in the EU²³. In broad strokes, the North-West of Europe is more liberal and the South-East of Europe is more Catholic. But the EU's moral landscape is a far more shattered mosaic than even that, containing various demographics with often contradictory moral philosophies.

Fulfilling the task of representing all of these in the EGE is the plight of the president of the European Commission, who appoints the members of the EGE. The current members have been appointed by José Manuel Barroso, who recognised that Catholicism is the main force in the European Union and appointed the EGE's members so that they would reflect that²⁴. This explains the predominance of theologians in the current composition.

A representation of these many different moral philosophies will necessarily lead to pluralism. Pluralism is considered to be a necessary objective. Using one moral philosophy is considered biased. Using a plurality of moral philosophies has the additional benefit of appealing to many different demographics, which will benefit the subsequent implementation of the Opinion.

4.3.2 Composition

Ethical theories and scopes of moral concern used depend on the EGE's composition. The EGE is composed of people, not theories. EGE members have a five year mandate (which is renewable). Roughly half of the members disappear after those five years and are replaced by new members. The EGE members are not neutral: the moral philosophies of the individuals will vary. Each composition will have a different preference in terms of ethical theory and scope of moral concern, which will be reflected in the Opinions²⁵. This explains the clusters of Opinions that use ethical theories similarly: they were written by the same EGE members.

The composition will also represent different academic demographics: philosophers (ethicists/theologians), lawyers and scientists. For each of these groups, the approach to ethical theories/scopes of moral concern and pluralism will be different. While the philosophers might care

²² By formulating the EGE's collective opinion in my own words, I avoid the use of quotations, which may be wise when dealing with such politically sensitive issues.

²³ It seems to be an intersubjective observation that there is currently not enough diversity in the EGE: there are currently no Muslim members and no persons of colour. This is thought a shame.

²⁴ One important side note is that once appointed, the members do not represent anybody. Once a member, individuals voice their personal position and not that of an outside supporting faction. Catholic members are therefore still considered to be independent.

²⁵ The production process of an Opinion is (currently) as follows: on each issue, the president appoints one philosopher, one lawyer and one scientist as rapporteur (ideally). These individuals will produce a first draft, covering their respective expertise: the scientist will cover the scientific background, the lawyer the legal background, and the philosopher the ethical background. These individual perspectives will then be discussed by all members. The latter section, on the ethics, is likely to spark the most controversy among the members. The discussion is meant to end in consensus (which is indeed often achieved).

about consistency in the use of ethical theories/scopes of moral concern and have in fact called for a more explicit treatment of the EGE's moral philosophy, the lawyers will care most about which ethical theory/scope of moral concern can be most profitably used to argue their case. This may vary between issues, introducing pluralism and inconsistency in ethical theories/scopes of moral concern. This selection of ethical theories based on issue may explain why future generations have become more prominent in recent Opinions, since the recent Opinions focus more on all science and technology-related issues, whereas the earlier Opinions focused more on bioscience and –technology, which are less prone to concerns about future generations. Similarly, the scientists are pragmatists, using ethical theories/scopes of moral concern instrumentally to solve problems, introducing the same pluralism and inconsistency. The individuals who care about consistency are therefore always the minority.

All in all, there is no ethical coherence between the Opinions because there is no compositional coherence between the Opinions. Many philosophers would have problems with such leniency. The membership also explains some of the other results that varied over time: the sudden use of rights theory in the latest Opinions, the sudden appearance of moral concern for future generations in Opinion 23 and the increasing length of the Opinions over time.

4.3.3 Charters of human rights and human dignity

The opinions of the EGE's current members differ in many respects, then, but there is a pragmatic consensus that Charters of Rights (in the Lisbon Treaty in particular) are to be the moral/legal framework for the EGE's Opinions²⁶. This is the "moral baseline" that all (current) members and, significantly, EU member states agree on, even if their philosophical foundations may be shaky. The lawyers would argue that the EGE needs to stay inside the EU's legal framework in order to provide relevant recommendations. This explains why so many of the Opinions' moral conclusions are based on legal arguments. The EGE does not look at practical issues from a moral point of view (which would be applied ethics), but looks at moral issues from a pragmatic and legalistic point of view. This has the additional benefit of appealing to the EU's legislators. Advice which strayed beyond the EU's existing legal framework would have a very hard time being taken seriously into consideration.

4.3.4 Ethics

In general, the Commission avoids asking the group for Opinions on very contentious subjects. One example is mentioned of the EGE being requested to form an Opinion on what the rules surrounding stem cells should be, given the pre-existing political consensus around the issue. This obviously prevents a meaningful discussion about the ethics of stem cell research.

Still, the EGE members hold the position that the European Group on Ethics is truly a European Group on Ethics. The major consideration in this judgment is that it would be nearly impossible to have a group of 15 people of diverse backgrounds agree on philosophical argumentations. One or two individuals may be able to work out their differences, but not 15. If 15 have to do that job, they would have to be like-minded from the start, which would obviously compromise the representative qualities of the group massively. Given these limitations, the EGE members feel that the EGE does its best to live up to the standards of ethics, but recognises that they can never all be met.

4.3.5 Influence on European Commission

The EGE increasingly feels that their (intended) audience is the world, not just the European Commission. This is also related to their wider scope of moral concern. When it comes to the more direct and more narrow concern of the Commission, though, the members of the EGE themselves are

²⁶ Note that these Charters also provide for the lack of coherence in European culture and pluralism themselves.

often in the dark as to what exactly happens with their recommendations. Copies of them get handed over to the responsible Commissioner and to the president of the Commission.

Obviously, the Commission does not implement all of the EGE's recommendations without further ado. That would, in fact, be considered to be undesirable even by the EGE's members themselves, as it would be undemocratic. Ideally, the Opinions would be used to inspire the democratic debate about an issue. Arguments may be adopted by those defending any position in a debate, improving the quality of the debate, and may (thereby) help others to take one or another side.

The general idea is that particularly the recent Opinions have been taken into account quite strongly. Several examples of Directorates-General (European ministries, as it were) seriously considering and adopting the recommendations within Opinions have been mentioned. Another example of an instance where a Directorate-General has explicitly requested to commentary of an EGE member has been mentioned²⁷. Still, how exactly this influences or alters the Commission's policy intentions remains unclear.

It is thought that the Opinions are used in two ways: instrumentally, by politicians who wish to strengthen their pre-existing position by pointing out that the EGE is of the same opinion; and inspirationally, as resources for individuals who have not yet made up their mind about which side of a debate to be on. The instrumental use of Opinions is likely to be unavoidable and a necessary cost for the otherwise positive contribution to the debate.

²⁷ Examples of other organisations also taking the EGE's Opinions seriously have also been mentioned, including the Comité Européen de Normalisation (CEN, European Committee for Standardization).

5 Conclusion

The research questions were as follows:

What is the influence of the moral philosophy of the European Group on Ethics in Science and New Technologies (EGE) on EU policy?

- *What is the moral philosophy of the EGE?*
 - a. *Which ethical theories does the EGE use?*
 - b. *Which scopes of moral concern does the EGE use?*
 - c. *Which philosophical arguments does the EGE use?*
- *Is the EGE's moral philosophy reflected in EU policy?*
 - a. *Which ethical theories are found in EU policy?*
 - b. *Which scopes of moral concern are found in EU policy?*
 - c. *Which philosophical arguments are found in EU policy?*

The qualitative text analysis and interviews have clearly revealed the EGE's moral philosophy. Its ethical theory is pluralistic, with (lately) a focus on rights theory. Its scope of moral concern is anthropocentric, with a focus on human dignity. Recently, future generations have come into moral concern. The arguments the EGE uses to support these positions are mostly legal, referring mostly to charters of human rights.

From a philosophical perspective, this is a questionable moral philosophy indeed. The use of multiple ethical theories will, it can be argued, lead to inconsistencies as some will come to other moral judgments than others. The recent focus on rights theory is philosophically problematic as well, as rights theory, as I have demonstrated, are rights in need of theory. A scope of moral concern that includes only humans is speciesistic, which is a moral position that is challenged by a great deal of strong counterarguments. The concept of human dignity is too vague to be accepted by most philosophers. Legal arguments are not moral arguments, as law does not equal morality and a reference to law is therefore never a sufficient argumentation for a moral conclusion. Striving to represent and/or appeal to various moral traditions in the EU has no sound philosophical basis and can be classified under the "appeal to tradition"-fallacy. It has become clear that even within the EGE some internal criticism has resulted from these objections.

From the EGE's own legalistic (focusing on law) and pragmatic (focusing on problem-solving) perspective, however, this is the best moral philosophy imaginable. Pluralism is an inclusive ethical strategy, which appeals to as many EU citizens as possible. Rights theory has similar credentials and is also enshrined in EU law. EU citizens are 100 % human, so an anthropocentric scope of moral concern is certainly going to get the most support. Human dignity is the legal development of anthropocentrism. The use of legal arguments obviously fits comfortably into this moral philosophy.

How this all affects EU policy remains inconclusive. Some findings regarding the Commission's moral philosophy do give hints as to the degree of influence. The Commission's ethical theory is focused on rights theory, just as is the EGE's, but its development over time is not in line with that of the EGE. Preference-consequentialism (which is about interests) plays a larger role for the Commission than for the EGE. As far as the Commission's scope of moral concern is concerned, it is as anthropocentric as the EGE's. There is an important difference, however, in that the Commission is far more nationalistic than the EGE. When arguments are concerned, there is no obvious link between the EGE and the Commission either: the Commission is free to be as legalistic and pragmatic as it likes, for that is its job as the EU's executive branch, and will therefore never suffer from accusations of legalism and pragmatism. It is not clear whether the similarities between the EGE and the Commission that were

found were due to an influence of the EGE on the Commission, and if they were, how the differences might be explained.

6 Discussion

This chapter will place the results and conclusions in two broader perspectives: science and society.

6.1 Scientific relevance

The scientific relevance of this research is or can be related to the theory, to the methodology or to the results and conclusions.

6.1.1 Theory

The analytical framework, that combines ethical theory and scope of moral concern to empirically assess an organisation's moral philosophy, has never been applied before. Its application in this research project has been successful, though, and it is certainly interesting to see its potential as a future model for moral philosophies. While this framework has demonstrated its many qualities, it does have its drawbacks, which need to be addressed in future applications.

The ethical theories had no category that includes "fairness" or "justice", while those are concepts that are often used in everyday moral discussions. This was an inconvenience, as this meant that a number of phrases could not be assigned into a category, while they clearly *did* aim to put forward a moral judgment.

The way scopes of moral concern were operationalised meant that they did not lend themselves to the coding of a potential exclusion of categories of scope of moral concern. On some occasions, phrases clearly indicated preferential treatment for one category over another or plain exclusion of one category, which then could not be coded. Additionally, some ambiguity arose over the categories of Nation and All currently alive, as the distinction between those is most often not explicitly made. Another clear oversight is the lack of a race and sex category. Even though racism and sexism were not at issue in the Opinions nor in the proposals, they are well-known potential deficiencies of individuals' scope of moral concern and should therefore be included in the analytical framework when it is applied for other purposes or in other contexts.

Quality of argumentation turned out to require such fastidiousness as to be almost unworkable for broad applications such as this study. While I was fortunate that the Opinions and proposals turned out not to contain much in the way of argumentation, if they had, the time available to do justice to this category would not nearly be sufficient. This category of moral inquiry is really more suited to deeper-delving investigations with smaller sample sizes.

6.1.2 Methodology

The methodology of comparing the moral philosophies of the EGE and the European Commission has shown to be suitable to broad empirical analyses of moral philosophies. It does not, however, yield many satisfying answers for those interested in a deeper understanding of the processes of EGE influence. It can only reveal correlations (or similarities), not causations, so the question of if and how the EGE influences the Commission and EU legislation writ large mostly remains. It could also not reveal more subtle influences of the EGE, such as providing arguments to be used in debates, which some members consider to be its primary goal. Other methodologies must be employed to reveal those relationships (case studies), which are themselves not suitable for broad analyses with large sample sizes. That kind of analysis is more suitable to individual Opinions. Those kinds of methodologies can also take into account an entire legislative process, instead of only the advice and the subsequent proposal.

This thesis addressed a knowledge gap in breadth, not depth, so in this case the choice for a broader but less accurate methodology was defensible. For other cases, however, this trade-off must be kept sharply in mind when considering to use this same methodology.

6.1.3 Results

The strongest result this research effort has yielded is certainly the broad overview of the moral philosophies in the EGE's Opinions and its development over time. This broad and systematic review was sorely lacking in the literature and that is a gap that can now be said to be filled. This overview of the EGE's moral philosophies over time can now be used as a context or a framework in which to view past and future analyses of individual Opinions, which can now state, for example, that they are about an Opinion that falls within the "rights theory"-era of the EGE, or before the "future generations"-era, etc. This information provides for a higher perspective from which to view the EGE's Opinions.

Other results have fewer potential for future use, however. The analysis of the meagre number of ten Commission proposals that explicitly refer to the EGE had value in the context of this particular research effort, but is likely to be too specific to be useful in other research efforts. The results on the influence of the EGE on the Commission are inconclusive and beg for future case studies with conclusive results (although some of these have already been performed on past Opinions).

6.2 Societal relevance

In terms of societal relevance, this thesis definitely raises some questions that deserve further consideration by the EGE itself. While the EGE's members themselves insist that the EGE implements applied ethics – the application of ethical review to practical issues – the EGE can be argued to sometimes do the opposite – applying practical review to ethical issues. Perhaps its pragmatism and legalism have gone too far and perhaps it focuses too much on diversity and representation, losing track of philosophical quality. Perhaps it is a *titular* European Group on Ethics – i.e., in name only – and it only really provides a legal and pragmatic review of the issues it is concerned with, not a truly *ethical* review.

There is a trade-off between legalism and pragmatism on the one hand, and philosophical validity on the other. The current EGE leans strongly toward the legalistic, pragmatic side of this trade-off. This comes at the cost of its philosophical credibility. This is a finding of this thesis the EGE could reflect upon further.

These considerations can also be related to the democratic deficit of the EU. As it is, the EGE clearly aims to minimise its own contribution to that deficit as much as possible. It wants its composition to be representative of the diversity of Europe, which is, in itself, a laudable democratic goal. If that is indeed its aim (which depends on the reflection on the issue identified above), then perhaps the procedure of appointment by the President of the European Commission, one individual, deserves some further consideration. This may not be the optimal strategy when aiming to achieve representativeness.

The societal relevance of this thesis ventures beyond the gates of Brussels as well. Other (national) ethical review boards may also focus strongly on legalism and pragmatism, compromising their philosophical validity. This would be the appropriate focus of further research (or internal reflection, if they were to read this thesis themselves).

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8 Annex: interview questions

Dear [interviewee]²⁸,

I have done a qualitative text analysis of all the EGE's and GAEIB's Opinions, focusing on their ethical theories, scopes of moral concern and quality of argumentation and found some surprising results. I would like to give all current EGE members the opportunity to provide their own perspective. As a member, you may have (had) a different experience than is shown in the Opinions themselves and may offer a refreshing complementary insight into the inner workings and philosophical considerations of the EGE and its influence on the European Commission.

For each section, I will first briefly describe the results and then request your commentary. Some questions have multiple elements, each with their own added value. If you want to add any other form of commentary to my results, feel free to do so! I am very interested in your perspective.

8.1 Ethical theories

One of my concerns was the ethical theories (theories that make and substantiate claims about right and wrong behaviour – the most prominent of which are consequentialism, deontology and virtue ethics) that were used by the EGE and if these were used consistently, i.e. if one theory was consistently used or if multiple theories were used. Analysing the Opinions sentence by sentence revealed the latter to be the case: the EGE uses many different ethical theories. Part of the explanation for this variation was given in some Opinions (10, 12, 14, 15, 16, 17, 21, 22, 23), which explicitly mention the strive for *pluralism*: the use of multiple ethical perspectives to cover the ethical traditions of all member states.

8.1.1 Question 1: ethical theories and pluralism

Most Opinions in the range between 10 through 23 explicitly mention the strive for pluralism in the use of their ethical theories. Still, they are not *truly* pluralistic, since they still use some ethical theories (rights theory and deontology) way more often than other ethical theories (e.g. consequentialism, virtue ethics). Some ethical theories are not used at all (e.g. care ethics).

- Why are some ethical theories used more often than others?
- What is your view on the use of more than one ethical theory – pluralism?

Ethical theories do not reach the same conclusion in different ways; they reach different, inconsistent conclusions in different ways. What one theory deems right, another deems wrong, and vice versa. One could therefore say that a pluralistic use of ethical theories, like that of the EGE, leads to contradictory moral judgments.

- Do you see advantages and disadvantages in a pluralistic use of ethical theories?
- Do you consider inconsistency to be problematic?

²⁸ The questions listed here represent an ideal list of questions to be asked. Time restraints sometimes necessitates a selection to be made. Since the interviews were semi-structured, each question could be followed by follow-up questions that aim at a deeper clarification. These follow-up questions are not included in this overview.

8.1.2 Question 2: rights theory

Opinions 24 through the most recent, 28, no longer explicitly mention pluralism as an ideal for the Opinions themselves. The results show that, correspondingly, they are indeed less pluralistic than the previous Opinions: instead, Opinions 24-28 seem to have a strong focus on rights theory. The texts themselves do not explicitly reveal the cause for this more prominent place for rights theory.

- How can this more prominent position for rights theory in the most recent Opinions be explained?
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8.2 Scopes of moral concern

The second issue I tackled was the scopes of moral concern the EGE has. The scope of moral concern describes a circle (as it were) that encloses all beings and entities that are taken into account in one's moral considerations. For instance, a person whose scope of moral concern includes all sentient beings, including animals, and therefore takes their interests into account in his/her moral considerations will have a very different perspective on eating meat than a person whose scope of moral concern includes only humans, and who therefore does not take animals' interests into account in his/her moral considerations. Scopes of moral concern can be narrow, including only oneself and one's family, for instance, or broad, including even nonsentient life, like plants, or entities, like species or nature. I wanted to know which lifeforms and entities were included in the EGE's scope of moral concern.

8.2.1 Question 3 – human dignity

The EGE values the concept of “human dignity” and uses it often to justify its preferential treatment of humans, but rarely defines it.

- Why is “human dignity” used so often and what does it mean?
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8.2.2 Question 4 – future generations

Future generations are a contentious category of beings who may or may not deserve moral concern. Remarkably, future generations only started morally concerning the EGE at Opinion 23 and have since grown in importance, climaxing in Opinion 27. They seem to be particularly prominent in Opinion 24 and 27. The topics of these Opinions do not really explain this: Opinion 24 is about “Ethics of modern developments in agricultural technologies” and Opinion 27 is about “An ethical framework for assessing research, production and use of energy”.

- How can this sudden concern for future generations, from Opinion 23 onwards, be explained?
-

8.3 Quality of argumentation

The third focus of my research was on the arguments the EGE uses to support its moral claims and their quality, which means their logical structure and lack of fallacies. The surprising result was that the arguments that were used were mostly legal, not moral. According to the Opinions, rights, for instance, are based on their enshrinement in legal and political documents and not on an ethical theory.

8.3.1 Question 5 – legal and majoritarian

Even though ethical theories have different opinions about the nature of ethics itself, they agree that it is distinct and independent from law: law can be right and wrong, and the good can be lawful and unlawful. Where law and morality do concur, a reference to legislative text is not considered a sufficient argumentation for a moral claim. This argument concludes that using laws and treaties, political documents, as the only footing for ethical judgments is (philosophically) fallacious. In its latest Opinions, the EGE does base many of its ethical judgments on political/legal documents.

- What is your view on the EGE basing some of its moral judgments on political and legal documents?

A related question can be posed when it comes to moral judgments held by a majority or a plurality of European citizens (which will, through democratic means, often coincide with the law). In some cases, the EGE takes these into account. In philosophy, this is an informal argumentative fallacy called an “appeal to the masses”.

- What is your view on the EGE basing some of its moral conclusions on majority opinions?
- With respect to both law and majority morality, is philosophical legitimacy of concern to you?

8.3.2 Question 6 – European Group on *Ethics*?

Presumably, the EGE is supposed to have added value. To the already existing line-up of legal and political visions, it is supposed to add a *moral* vision and to be the moral compass of the European Commission. It is named, after all, the European Group on *Ethics*. In order to provide this independent moral review, logically, its conclusions must be independent from the already existing legal and political conclusions made in the EU. However, as I have shown, the most recent Opinions have based their moral judgments on political and legal documents (Charters of Rights etc.).

- Is the EGE truly a European Group on *Ethics*? Does it provide a moral review of the issues it faces that is independent of legal and political decisions and majority opinions?

8.4 Influence on European Commission

Next, I looked at the influence the EGE’s Opinions have had on proposals for Directives and Regulations by the European Commission. I can only draw conclusions about correlations, not about causations. I was hoping you could inform me about the latter.

8.4.1 Question 7 – influence

Commission Proposals refer more or less strongly to the EGE’s Opinions. Among other formulations, I have come across:

- “Provision should be made for consultation of the European Group on Ethics in Science and New Technologies...” (2001)
- “The opinions of ... the European Group on Ethics in Science and New Technologies have been taken into account...” (2002)
- “This proposal for a Directive reflects the recommendations put forth by the EGE” (2002)

Knowledge about how this influence comes about is absent, of course. The EGE's Opinions enter a black box (the Commission) and some time later a Commission proposal emerges from the other end. My results show that there are some similarities and some differences between the Opinions and the Commission's resultant proposals.

- In general, how would you describe the influence of the EGE's publications on the Commission and its own publications?
- How are the EGE's Opinions used? Are they used to base political positions on or are they used as arguments to support pre-existing political positions?

This is the end of the interview. If you have anything else to add, please let me know.