

Epistemic Rights and the Distribution of Knowledge

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Abstract: The article engages with Lani Watson's book *A Right to Know*. It asks what set of rights can establish a fair distribution of both information and authority in producing knowledge and information. It argues that the answer to this question inevitably depends on a normative understanding of the goods to be distributed.

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Lani Watson's excellent book starts with the baseline intuition that knowledge matters not only in purely epistemic terms, but also morally and politically. Not only people have an interest in controlling what is and what is not to know, but most importantly such control corresponds to power. Competing claims to information and knowledge characterise many aspects of our practical life, but also concern the regulation of a number of activities.

The thickening, on the one hand, of rules for the protection of privacy and personal data and, on the other, of rules on the transparency of institutions are but a few examples of how the control of knowledge, but also the *distribution* of knowledge and access to information are politically salient.

By using the language of rights the book reveals the inextricably political aspect of the epistemic. Watson's analysis is thus a welcome invitation to discuss the meaning of epistemic rights and, as I will argue in this article, to ask what set of rights can establish a fair distribution of both information and authority in producing knowledge and information.

Watson defines epistemic rights as particular moral rights that mandate actions and omission concerning epistemic goods and in doing so protect right holders and their freedom to "seeking, receiving and imparting epistemic goods" (Watson, 2021, p. 75) or – I would add – in their prerogative to conceal information, as in the case of rights protecting privacy or state secret. Watson considers a very broad spectrum of "epistemic goods" including access to information of one's clinical tests (Watson, p. 28), the epistemic good to be believed in the context of testimonial justice (Watson, p. 69), the good of access to education (Watson, p. 81), the good of consent informed about the health status of one's sexual partner (Watson, p. 56). At the same time the denial of some epistemic goods correspond to epistemic harms. But what makes these harms wrongful harms? Watson suggests that it is the violation of a certain "entitlement to moral space" (Lomasky, 1987). Generally, moral rights ensure control of certain

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areas of our life (typically our body, our expression of opinion, our property) that are particularly important to preserve our status as autonomous moral agents (Watson, pp. 10-11). What is the area covered by epistemic rights?

One possible explanation is that there are certain instances in which access to information is demanded as a matter of moral respect. In other words, certain epistemic rights are necessary to maintain our status as autonomous moral agents. Treating others as autonomous means recognising that they are able to act considering the appropriate information to the extent that that information is relevant to practical decisions. These considerations are decisive in evaluating the case of Purdue Pharma and the data on OxiContin, which explains the wrong of fabricated information for manipulative goals (Watson, p. 2). False information on the safety of a drug is an important violation of the right to informed choice. The reason seems to be that the safety of a drug represents the most relevant piece of information when deciding to take it and deception about the risk seems importantly manipulative in a disrespectful way.

In several other cases, however, it is more controversial to establish what sort of information is due to us as autonomous agents and it is clear that right holders do not have a plain “right to know” (Watson, p. 55). Watson’s discussion of disclosure of HIV positive status as a condition for consensual sex seems to be a good example. Consent, to be valid, must be free and informed. What sort of information is one entitled to from one’s potential sexual partner? Sexually transmittable diseases? Marital status? Political ideas? One may think that, counterfactually, someone would have reason to withdraw sexual consent if informed about the health status of the potential sexual partners, but also if informed about other aspects of their life. All sorts of information about one’s potential sexual partner may, as a matter of fact, frustrate an interest in deciding freely with what kind of person one may want to have sexual intercourse. However, we are reluctant to say that informed consent can be valid only if one has full information about one’s potential sexual partner. Rather, the suggestion of the example seems to be that the withholding of information is wrongfully harmful in some cases (for example, when it causes ignorance about the risk of infection) and instead is protected by rights (for example, a right to privacy) in some other cases. When affirming a right to know, then, we presuppose a certain normative idea of the distribution of epistemic goods and how certain goods serve other important interests, such as health, property, political influence. What principles guide that distributive ideal?

In some of the cases explored in the book, a right to know seems to protect autonomous agents from deception and manipulation. However, both the HIV and the Purdue Pharma case suggest that the problem is not confined to deception and manipulation. In both cases it seems that the protection of health is one important interest for any reasonable agent and practical decisions should be based on the base of sound information. So, the right pertains to a kind of information that is presumably decisive in making particular practical decisions. There are certain pieces of information that are salient in order to be in a position to defend some important interests.

This seems a plausible line of defence of an epistemic right to know in the previous examples. However, if having appropriate information explains in particular circumstances the right to know, then epistemic rights must be more closely linked to

doxastic duties than Watson's discussion suggests. Watson acknowledges that there are intersections between epistemic rights and doxastic responsibilities (or the responsibility to form an apt or appropriate belief), but engages only scantily with this relation (Watson, pp. 37-39). On closer inspection, some of the examples Watson uses in the text reveal however that our rights sometimes mandate actions that go beyond simply revealing particular pieces of information and indeed require to take particular steps in order to produce the correct information. The baby's right to access results of her blood test is obviously not linked to her capacity for autonomous decisions about her own health. It seems that the correct belief about the baby's health status, as revealed by the blood test, is what serves the interests of the baby. The persons who have the baby in care have the doxastic responsibility to form an appropriate belief about the health of the baby, which in turn requires receiving the relevant information about blood test results and their meaning. In fact, most appropriately, we would say that the baby has a right to the acts and omissions that result in knowledge of her blood sugar levels.

In addition, it seems that the baby has a right to the delivery of the correct blood test results. So the doctor has the corresponding doxastic duty to perform the blood test following a reliable procedure and transcribing the results correctly. Suppose, for example, that the doctor makes the blood test results available, but they are the result of a guess. I think that most of us would agree that a correct result provided by the doctor by guessing will still be a right violation. Is the right to know the results of a correctly performed blood test different and separated from the right to have the test performed correctly? Definitely, it may be possible to make such a distinction at analytical level. Yet to the question of what actions are mandated by the right of the baby of access to the blood test result require, we would probably answer not only that the physician should show the results, but also that the test should be performed by someone trained and following a particular procedure, that a specialised lab will test the blood, and the results should be transcribed correctly. In other words, the right to know involves some procedural requirement that makes the physician responsible for the test performance so that the parties involved form an appropriate belief on the baby's health conditions.

Consider again the case of Purdue Pharma, in which the evidence about drug safety was fabricated. Suppose instead that the evidence had not been fabricated, but simply there was no (or insufficient) inquiry on the risks of taking OxiContin. Would we say that in that case no violation of epistemic rights would have occurred? We could of course say that there would have been no violation of epistemic rights of the patients, but Purdue Pharma failed in fulfilling its responsibilities. On the one hand, excluding that epistemic rights correlate to some doxastic duties and responsibilities seems to weaken the justificatory force that Watson attributes to epistemic rights in mandating certain kinds of actions (such as applying adequate procedures of inquiry). On the other hand, if we accept that rights mandate certain doxastic practices, we could have a right that people fight self-deception or restrain from propaganda. This does not seem implausible at least in certain situations. For example it seems that we can expect medical doctors to oppose self-deception about the health of their patients. However, making a case for a right against self-deception requires some conceptual refinements that tell us exactly to what pieces of information we have a right.

The idea that epistemic rights are connected to particular doxastic duties can also explain why Watson thinks that violations of epistemic rights sometimes take the form of abuse of epistemic authority (Watson, p. 79). Some agents are given some epistemic authority (such as medical doctors, but also teachers, scientists, journalist, parents in relevant circumstances), but normally this is not unconstrained authority. There are rules for the exercise of that authority and some of these rules describe doxastic responsibilities. Doctors' beliefs about patients' state of health should be formed by looking at particular kinds of evidence, but also by looking for certain kinds of evidence following certain procedures. Even if the doctors normally have discretion in deciding what sorts of tests to perform, normally they are subject to certain constraints from the national health system and peer review within the profession. This is because doctors – because of their professional role – are entrusted a certain epistemic authority. Procedural checks, requirements of transparency and accountability are a way to control that the exercise of epistemic authority remains within some legitimate limits. Violations of those limits upset the distribution of epistemic authority.

What about the violation of epistemic rights deriving from denied epistemic authority, discussed by Watson (pp. 68-69) in the context of epistemic injustice? Here, as in the previous case of abuse of epistemic authority, the main issue seems to pertain to the distribution of epistemic authority. Studies in epistemic injustice often point to the unwarranted denial of epistemic authority to certain groups, in particular members of racialized minorities, for example in testimonial injustice, when indigenous peoples are not given credibility because of marginalization and biased epistemic norms. Here, similar roles (the role of a testimony) are attributing different epistemic authority according to their belonging to certain groups: some groups are historically and structurally excluded from epistemic authority, whilst some other groups have it for granted. To say that someone has the right to be heard is to point to a normative idea about the distribution of epistemic authority that is denied in practice, often without principled justification.

The language of epistemic rights, then, is useful to point out that there are certain distributions of epistemic authority and epistemic goods that need to be defended and mandate particular actions in order to be defended. What fair distributions are inevitably requires some substantive notion of distributional justice. There are some epistemic goods such as education, intellectual development, perhaps even information, for which relatively egalitarian distributions seem to be preferable. In other cases, it seems appropriate, for example, to confer greater authority to people occupying certain professional roles, or allow them access to information that is precluded to other people. Whatever the appropriate way to distribute these good is, Watson has shown that we need epistemic rights in order to command actions and omissions that ensure those distributions.

References

- Lomasky, L. (1987), *Persons, Rights, and the Moral Community*, Oxford: Oxford U.P.
Watson, L. (2021), *The Right to Know. Epistemic Rights and Why We Need Them*, London: Routledge.