Good citation practice versus plagiarism –
common ground and open questions
An unforgettable event...

16 February 2011
Dealing with the consequences

1. What is plagiarism?
2. Why is it wrong and what are its causes?
3. What are its consequences?
4. How can it be detected and prevented?
What is plagiarism?

- *Martial* (40-104 A.D.): those who steal other people’s verses are as bad as those who steal other people’s slaves ("plagiarii")
- Passing off someone else’s work as one’s own = misappropriation of someone else’s work, combined with the misrepresentation of one’s own authorship
- But no legal definition!
1. Plagiarism defined

Plagiarism

- Law
- Good academic practice
1. Plagiarism defined

Plagiarism = just one of several forms of academic misconduct

- Passing of someone else’s text / ideas as your own
- Appearing as a co-author although you are not entitled to
- Manipulating experiments / faking results
- Misappropriating ideas in your role as a referee
- Destruction / insufficient storage of experimental data
- Sabotaging other scientists’ work
1. Plagiarism defined

Plagiarism = a concept with a clear core and furry edges

- “copy & paste” of text
- Adoption of text in rephrased form
- Misappropriation of ideas
- Sloppy referencing
- Selective citation for bad reasons
- Selective citation for good reasons
What is plagiarism?

- No legal definition
- Misappropriation of someone else’s work, combined with the misrepresentation of one’s own authorship
- Clear core meaning, but furry edges
- Depends on ...
  - citation practices in respective academic discipline
  - type of work: in-depth study or overview
- How about self-plagiarism?
1. Plagiarism defined

Who is the author? (1)

- Disputes over authorship are “frequent, harsh and ugly” (Robert K. Merton)
- Different perspectives:
  - good practice and university statutes: any person who contributes relevant scientific content
  - © law: any person who writes or composes the text
- Art. 6 (2) BayHSchG (Bavarian Act on Universities)
  - When publishing research results, persons who have made an own academic or a significant other contribution are to be named as co-authors; wherever possible their contribution is to be identified
- Differences between academic disciplines, esp. as regards the ranking
Who is the author? (2)

- You are a (co-)author if you ...
  - formulate the hypothesis
  - design the experimental setup
  - interpret experimental results
  - structure the presentation of arguments ("textual web")
  - write the article

- You are not a (co-)author just because you ...
  - head the department
  - supervise the thesis
  - have applied for the grant
  - have taught relevant methods
  - contribute materials (e.g. tissue samples)
  - do technical laboratory work
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Why is plagiarism wrong?

- “Thou shalt not lie.”
- correct attribution = central condition of academic discourse
- merit for achievements, responsibility for mistakes
- equality of opportunities

→ There is much more to rules of correct citation than the trivial formality (*Alexander Dobrindt*: “nur ein paar Gänsefüßchen”) of setting the right quotation marks
2. Ethical and sociological background

Kids, create something new!

On the shoulders of giants

The modern dilemma: Imitate and don’t imitate!
2. Ethical and sociological background

Causes

- tension between need to be original and need to satisfy peers
- lacking knowledge about standards
- “publish or perish”
- delegation of work to assistants (who wish to deliver but who don’t have the knowledge)
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2. Consequences

The law

- Private law: © and contract law
- Criminal law: fraud, false oath, © infringement
- Administrative law: award of academic titles, disciplinary measures
Copyright law is less significant than one thinks.

- Copyright protects the expression, not the idea
  - Example: BGH GRUR 1981, 352 – Staatsexamensarbeit
- Copyright is a property right
  - protecting (only) the author’s interests
  - enforceable only by the author
  - who may not be interested in suing
- Copyright is a private right
  - enforced almost entirely by private actions for injunctions and damages
  - criminal sanctions practically insignificant
- But contract law may be helpful
2. Consequences

Plagiarism is not a (legal) crime in most cases.

- Nulla poena sine lege!
- No liability for negligent behaviour unless explicitly provided.
- Fraud requires economic damage and equivalence between intention and damage
- Copyright infringement is not always a crime, and it is generally only enforceable by the victim
- False oath
- Issue: a novel crime of “academic fraud”? 
The most effective legal sanctions are provided by university laws and statutes.

- Examination statutes and procedures in case of cheating
- Administrative law rules on revocation of administrative acts
- Disciplinary measures
- Should there be a limitation period?
- But there are deficiencies:
  - Unclear mix of acts, by-laws and self-regulation
  - Ill-defined procedures
2. Consequences

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Extra-legal sanctions

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How to detect plagiarism?

• This problem is underestimated by the general public → no “patent recipe”!
• Software: results disappointing
• Googling may help where many sources are freely available online
• The merits and dangers of “crowd prosecution”
• “Cave lectorem!” (Sloterdijk)
Prevention

- Refine rules on good citation practice
- Teach critical approach to (internet) sources to pupils at schools and to first year students at universities
- Provide graduate schools – but still allow for independent doctoral studies
- Dishonour plagiarists
- Read, read read – and give supervisors the leisure to read
Conclusion

[Image of a couple dressed in formal attire]

[Image of a mosaic illustration]
Thank you for your attention!