



ethical dilemmas unit 1

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Judging wisely

THERE is something deep, in a sense, metaphysical – and at the same time immediately practical – about the question I want to consider in these pages: what is it to be a wise judge in matters of business ethics?

'Wisdom' is a rather old-fashioned word. Modesty seems to forbid referring to oneself as 'wise', yet the opposite 'unwise' is clearly a term of criticism. What one strives to be is 'not unwise', while recognizing that genuine wisdom is reserved for the few. I think this view is incorrect. We should all desire to be wise. However, if you feel unhappy with the term 'wisdom' then you can rephrase the original question: what is it to *judge well* on matters of business ethics?

What does not seem to me to be a matter of debate is that being a good judge of business ethics is an essential accomplishment of a business person. If ethical questions leave you cold, or if you would like to be ethical but become flustered and reduced to inaction by your first encounter with an ethical dilemma, then you lack something that is required for being *good in business* – no matter how successful you may be in making money for yourself, or your company.

If you disagree with that statement, there is no point in reading any further. You've made a mistake. You shouldn't be here. (Of course, that won't stop such persons listening in at the door: it is the nature of business that all information is regarded as potentially 'of use', for example, as a way of predicting how others will behave.)

On the other hand, if you agree with the statement that being a good judge of business ethics is necessary for being good in business, but fear that it applies to you in a negative sense, then all hope is not lost. The deficiency can be corrected, if you are prepared to work at it. That is what this course is all about.

These pages are also motivated by the feeling – harder to express in a simple slogan – that the finely articulated functionality of the business world must somehow make room for the awareness that we belong to a wider order of things, where our work and our toil have an ethically justified place, in order that we may see ourselves as being engaged in a meaningful activity and not merely as wheels in the vast consumer satisfaction machine.

For it takes only a modest degree of wisdom to recognize the following fact: irrespective of any material or financial rewards that you may gain, if all you can think about is the 'bottom line', then, ultimately, you are just a slave. The consumer is your lord and master.

However, merely recognizing this as a 'truth' or 'wise observation' is not enough. We have to discover – or rediscover – a sense of virtue or nobility in the vocation to enter the business arena, an existential grasp of what it is to *be*, as a person who freely chooses to engage in business activity. Due care for questions of business ethics is a part of this but not the whole. What more there may be, is a question I will be pursuing in the margins, while I grapple with questions of ethical practice and theory. My response to the larger question might be seen as remarks towards a philosophy of business.

Nature of ethics

What is ethics? It has often been observed that when philosophers encounter something they do not understand the first thing they do is try to make a theory about it. The theories can be highly ingenious but they typically take the form of identifying one aspect of the thing in question as the essence or paradigm, then forcing the phenomena that don't quite fit

into the Procrustean bed that they themselves have constructed. This is the main ground of my complaint against moral philosophy.

One of the most important lessons from Ludwig Wittgenstein's later writings is that, far more often than not, the concepts that deeply interest and concern us are impervious to definition, impervious to 'theory', and that what we are really looking for is to find our way about in territory that has become strange and unfamiliar only because we have given in to the urge – albeit an inevitable part of human nature – to philosophize.

If you look at a standard text book on business ethics, what you will learn is that there are different rival 'theories of ethics': consequentialism, deontology, virtue theory. The more adventurous authors might add two or three more to that list. An examination of the problems of business then takes the form, 'What would a consequentialist say?', 'What would a deontologist say?', 'What would a virtue ethicist say?' And so on.

That is not the approach that will be taken here. Evaluating consequences, identifying principles, promoting virtues are all deeply interconnected parts of a whole which cannot be reduced further, or forced into a particular shape depending on one's theoretical predilections.

Thus, a careful examination of the situations in which ethical questions arise, and in particular ethical dilemmas, reveals that recognizing and promoting 'goods' – such as wealth, job satisfaction, the environment – is one ingredient in the decision-making process. Another ingredient is the necessity of principles: identifying the things you stand for, the duties and rights that you will go to great lengths to defend. Ethical virtues also have a vital role to play, but they neither trump, nor are trumped by other considerations.

What, then, is ethics *about*? In the widest sense, ethics makes a *human community* possible. To take an example from Immanuel Kant, if there were no ethical prohibition against lying, then we could not rely on any means of communication, linguistic or otherwise, as a source of information about the world. It would be each person for themselves. (Because of this, the very idea of an 'acceptable lie', in Kant's eyes, involves a kind of self-contradiction.) Ethics describes minimum

standards of behaviour towards others, such as not telling lies, not breaking promises, not stealing. We do the right thing, because it is right and not for some further, non-ethical end.

However, if we look at the phenomena without prior assumptions or theoretical encumbrances, what is apparent is that the ethics of the human world is also the ethics of *altruism*. We care, we are expected to care for the good or well being of others – beyond what we merely owe them or what they have a right to.

Equally apparent is that self-interest has a rightful claim alongside – neither above or below – altruistic concern. The 19th century British moral philosopher Henry Sidgwick, at the end of his book *Methods of Ethics* recognized this fact, as undermining any attempt to develop a coherent moral theory:

I do not mean that if we gave up the hope of attaining a practical solution of this fundamental contradiction, through any legitimately obtained conclusion or postulate as to the moral order of the world, it would become reasonable for us to abandon morality altogether: but it would seem necessary to abandon the idea of rationalising it completely. We should doubtless still, not only from self-interest, but also through sympathy and sentiments protective of social well being, imparted by education and sustained by communication with other men, feel a desire for the general observance of rules conducive to general happiness; and practical reason would still impel us decisively to the performance of duty in the more ordinary cases in which what is recognised as duty is in harmony with self-interest properly understood. But in the rarer cases of a recognised conflict between self-interest and duty, practical reason, being divided against itself, would cease to be a motive on either side; the conflict would have to be decided by the comparative preponderance of one or other of two groups of non-rational impulses.

Henry Sidgwick *Methods of Ethics* Book IV, Ch VI, 5

www.la.utexas.edu/research/poltheory/sidgwick/me/me.b04.c06.s05.html

I am arguing that the only conclusion to draw from the contradiction between altruism and self-interest is that we have to recognize there is such a thing as *ethical judgement*, which takes considerations of altruism and self-interest, together with the minimum required standards of behaviour, and makes a balanced decision: 'all things considered'. The only thing that *commands* in ethics is your judgement of what is – after taking every aspect of the circumstances into consideration – the right thing to do.

The *rational basis* for ethical judgement – that in virtue of which ethical judgement is 'correct' or 'incorrect', 'right' or 'wrong' – is a question for the foundations of ethics. For our purposes, it is enough to say that from the point of view of the *phenomenology* of ethics – or what it is like to come to an ethical decision – our response to an ethical challenge does not appear to be an expression of mere subjective preference. Our judgement represents our appreciation of, is dictated by something *out there* which gives our judgement its sense of urgency and necessity.

The business arena

The activities of business people are responsible, to a large extent, for creating the world that we live in today. There is hardly a corner of human life where business has not made an impact. Yet, as I will argue, business activity also constitutes a world in itself – a world within the human world – which I term, 'the business arena'.

Metaphysics has traditionally been the study of what it is for things to constitute the world, or reality: according to Aristotle, the study of 'being *qua* being'. In order to make a 'world', things have to come together in an order or structure that is in some sense, self-contained and self-explanatory. The principles and rules that apply within a world do not necessarily apply outside it. However, the business arena is more than just a system defined by rules. It is the *Matrix*, the foundation of your reality,

all that you see and feel and know – but only for so long as you choose to play the game.

As a professional metaphysician, I am fascinated by the idea that human beings can belong to more than one world, or move between worlds. Anthropologists who 'go native' in order to study their subjects more closely have an inkling of what I am talking about. We live in the marketplace and also outside it. We can play the various roles assigned to us in the game, or we can stand outside our economic personae and observe ourselves from an ethical point of view. The only difference between us and the anthropologist is that, most of the time, we don't realize that we are doing this.

Geoffrey Klempner 'Ethics and Advertising'

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The 'rules' in question are the rules of ethics. As I have stated, the human world is governed by the ethics of altruism. That does not mean that we are required to be altruistic in everything that we do; rather, the interests of others are a factor to balance against the claims of self-interest. We have a right to take ourselves into account. But we also have a duty to consider the interests of others – for their sake and not for merely self-interested reasons.

In the business arena, the ethics of altruism are, in an important sense, suspended. We are not merely co-operating or living together; we are *competing*. When human beings compete, there will be those who do better and those that do worse. If you win the contract, someone else has to lose. If you gain the job offer, then someone else fails to gain it. That is the magic formula that Adam Smith first enunciated in his *Wealth of Nations*: we all benefit from free competition of players in the business arena, each aiming for his or her own self-interest and the well being of those he or she cares for, while at the same time respecting the rules of property, honesty and fair play.

One way to understand the business arena is by analogy with sport or competitive games:

The boxer in the ring has one objective: to win. Not at any price. If as a result of sloppy refereeing, a fight is not stopped and you are presented with the opportunity to kill your opponent, the responsible fighter does the minimum required to win, not the maximum. Unless you are a merciless sadist, you don't actively seek to inflict permanent brain damage. But suppose that your opponent needs to win much more than you do. Perhaps it's his last fight, or he has a large gambling debt to pay off. It wouldn't be an act of moral compassion. It would be a betrayal of the sport to allow your opponent to beat you. More than that. It would be an out-and-out absurdity.

I have chosen boxing because of the pungency of the metaphor of the boxing ring. It is not an accident that sport takes place in an arena. The architecture of the boxing ring or the sporting arena is not merely utilitarian, but is symbolic of the frame which we choose to place around this area of human endeavour.

Sport would not be sport, were it not for that frame. Sport was an invention, like the wheel. It is possible that there is a planet somewhere whose inhabitants have never competed in athletics, or a game, or a martial art. It seems to me far less likely that in our future interstellar travels we shall ever find a planet where trade or quid pro quo had not been invented. The very first act of deliberate trade created the frame within which business activity takes place.

**Geoffrey Klempner 'The Business Arena'
Philosophy for Business Issue 5
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Yet even though normal ethics is suspended, that doesn't mean that we can take a holiday from thinking about ethical questions. The business

arena is governed by its own ethical rules, which we will be exploring in these pages. Beyond that, every player recognizes that to be a 'business person' is, after all, just a role that we freely take on. To be nothing but a player in the business arena, with no interests or commitments outside that arena, is to be a travesty of a human being.

Decision procedures

Our main concern is with ethical dilemmas, as they arise within the business arena, as well as in the potential conflict between the business arena and society at large. I have no theory or formula to offer for solving the dilemmas that business people face. But I will be saying a lot about what constitutes a good or wise judge of ethical questions, as well as how to think about different kinds of ethical dilemma.

The first thing we need to examine is the very claim that there is 'no theory or formula'. Who is to say? Let's suppose that someone writes a book on business ethics which argues that there is no decision procedure for ethical questions. Then a rival business ethicist writes a book claiming to have found an effective decision procedure which can be reliably applied in every case. – How does the first author know that the second author is wrong?

It is not enough to have a decision procedure: the results which it issues have to be believable. A good case can be made for astrology, as a way of prompting people to make decisions, rather than remain paralyzed by indecision. The problem is that you have to believe the claims of astrology in order to accept that ethical decisions based on astrology are reliable. If you don't then you might as well spin a coin. (Either way, at least you can be sure of being right fifty per cent of the time.)

Consider the case of a marketing team who are trying to determine the optimum price for a particular perfume. If the item is priced too highly, the product will be uncompetitive in the particular sector of the market place that they are aiming for; if too low, then the target consumers will be put off by the fear that the item is too cheap to be of good quality. No amount of market research will guarantee that the decision made is the

correct one, in the face of the fickleness of the market, or fashion, or your ultimate lack of knowledge of what your business competitors are planning. However, actual sales figures provide a kind of acid test. In this way, the marketer's judgement is refined through experience, without ever yielding a mechanical formula that substitutes for judgement.

This observation is consistent with the fact that formulae are often used as rules of thumb for guiding these kinds of decision. The point, however, is that we judge the efficacy of the formula by its practical results, and are not afraid to make a judgement call which contradicts the result obtained from the formula when the circumstances seem to warrant it.

How much harder must it be, if there is no acid test of an ethical decision? You can't judge the correctness of an ethical decision by sales figures, or indeed popularity. If you weren't sure at the time whether or not you had done the right thing, subsequent events can only show that you got your facts wrong. However, what you will learn is what other people think of your decision, people whose judgement you respect.

No-one is an island. We make our ethical evaluations against a background of common knowledge and understanding of what is acceptable or unacceptable behaviour. It is the task of ethics to articulate this rich repository of human knowledge. The result can be informative, and indeed helpful as a guide to action. What a knowledge of the principles of ethics cannot do is substitute for your own good sense and judgement.

The requirement of consistency

The futile search for a formula for deciding ethical questions is one way in which theories of ethics or theories of business ethics come unstuck, as we shall observe when we look in detail at different kinds of ethical dilemma.

However, there is another assumption which seems at first harder to question, the assumption that howsoever we judge, we ought at the very least to be consistent. If you made the judgement ABC in the past, and the

circumstances appear relevantly similar, then you are duty bound to judge ABC again.

Without doubt, thinking about ethical questions is a search for consistency, and much of ethics is concerned with developing an overview which will help us be more consistent in the judgements that we make.

There are two reasons for this. First, to accept that it is all right to make inconsistent judgements seems tantamount to accepting that we are not aiming to make judgements which are correct, or warranted by the circumstances. If I make the judgement ABC and also the judgement BCD, and it is impossible for ABC and BCD to be both correct at the same time, then one of my judgements *must* be wrong.

A no less telling reason is that we rely on each other to act consistently, in order that we may base our decisions and actions on reliable information about what the other person will do. Team effort is wrecked if members of the team cannot be sure that other team members are striving for the same objectives and will not fall out of line for some trivial reason. A well-intentioned but inconsistent leader can promote chaos and disillusionment, subverting any good purposes that he or she might originally have set of to achieve.

Yet there is such a thing as taking consistency too far. Human beings learn by their errors and mistakes. We are permitted to change our minds, when we gain a view of things that we did not have before. Equally, when circumstances arise where two seemingly inconsistent judgements seem forced on us, and we cannot resolve the inconsistency however hard we may try, that is still better than trampling roughshod over principles we deeply believe in just in order to 'remain consistent'.

The Polish philosopher Leszek Kolakowski expresses the same thought, but more poetically:

The race of those who vacillate and are soft, the inconsistent people, precisely those who happily eat steak for dinner but are totally incapable of slaughtering a chicken; those who do not wish to contravene the laws of the land yet do not

denounce others to the secret police; those who go to war but in a hopeless situation surrender as prisoners rather than die in a last-ditch fight; those who prize frankness but cannot bring themselves to tell a famous painter that his work is terrible, nervously uttering words of praise which they do not mean – in short, the race of inconsistent people – continues to be one of the greatest sources of hope that possibly the human species will somehow manage to survive. For this is the race of which part believes in God and the superiority of eternal salvation over temporal well-being, yet does not demand that heretics be converted at the stake; while the other part, not believing in God, espouses revolutionary changes in social conditions yet rejects methods purporting to bring about these changes which openly contradict a certain moral tradition in which these people were raised.

Leszek Kolakowski 'In Praise of Inconsistency'

Toward a Marxist Humanism

New York: Grove Press 1968, p.213

Disinterestedness and detachment

What we have learned so far is that ethics is a practical affair. You can't rely on theories or formulae or even logical consistency. For all that, we strive to make the right judgement, based on rational reflection on the circumstances in which we find ourselves, and do not see this as merely the expression of a subjective preference, or a means to some other non-ethical end.

What lies behind the very idea of ethics is the notion that it is possible to see the world from a point of view which is, to some degree, detached from the one which we ourselves occupy. To take another person into account when you make a decision implies that you put some value on the way they see things, on what is important in their eyes, on what benefits or harms them.

The ultimate expression of this idea is the notion of the *disinterested view*, where the fact that I have a particular interest or desire is merely one datum to be taken into account along with the interests and desires of everyone else whom my decision affects. In its starkest terms, this assumption appears as the idea that in making the utilitarian calculation of 'the greatest happiness for the greatest number', my happiness counts for one, and no more than one – amongst the hundreds, thousands or even millions whose happiness might conceivably be effected by my decision.

When Henry Sidgwick confessed that the project of constructing a rational moral theory ran aground on the question of the claims of self-interest, he recognized that this is not a credible account of ethical decision making. Ethics is for ordinary people. It is plain common sense that we have a right to look after ourselves, and those we care for. The virtuosos of self-sacrifice – the Mother Therasas of this world – have their reasons, which are undoubtedly ethical reasons but they don't have to be our reasons. Sainthood is optional.

Equally optional, I have argued, is the decision to put altruism aside in order to enter the business arena and compete, on the understanding that you can only win if your competitor loses. I do not wish to underestimate the fact that this is a momentous decision to make. Nevertheless, even as we compete we remain part of the human ethical world, sensitive to the effect that our activity has on those on the sidelines. As we shall see, this has important consequences for issues around social responsibility and corporate citizenship.

It is also true – and this is part of the sublimity of ethics – that there is no limit to ethical obligation, once you start looking for it, as the example of Mother Theresa indeed demonstrates. The answer is not a reason for not looking but a plain matter of fact: *we do not look*. This is what the ethics of the human world is like. At that point, the philosopher has nothing more to contribute.