



## ethical dilemmas unit 4

© Geoffrey Klempler 2008

### *The problem of 'dirty hands'*

LAST time, we saw that one of the ways in which things can *go wrong* when we make an ethical decision or face an ethical dilemma is the phenomenon of 'weakness of will', where you know – or seem to know – what is the right thing to be done but lack the will, or resolve, or courage to carry the decision through.

Whether this phenomenon is something which affects the *will* as such, or whether it should be better described as a lack of moral *vision* is, as we saw, a matter of debate. What is not in question is that, on at least some occasions, the ability to deal with an ethical dilemma requires more than being able to use your power of reason to reach what you believe to be the correct decision. For it is still possible that you will stumble at the last hurdle and fail to carry out the action that you intended.

However, that is only half of the picture. The business world provides probably the best – or worst, depending on one's point of view – examples of how the right action fails to be done because one is forced to compromise with persons who are less concerned, or not concerned at all, about doing the ethically right thing. Ideally, we would like to be able to avoid association with those who do not uphold our high standards. In the real world, that option is just not open to us. We then have no choice but to put our ethical principles on hold and consider what action would lead to the best overall *consequences*. If you can't persuade others to follow your good example, then at least you can live to fight another day.

The problem is not confined to the business world. Jean-Paul Sartre, in his 1948 play *Les Mains Sales* ('Dirty Hands') tells the story of an idealistic political activist who reluctantly agrees to carry out an assassination of an individual whose innocently intended actions threaten to bring ruin to the cause. The play raises the question how far one is prepared to go in doing actions which one knows to be wrong in themselves, because you are doing it for the sake of the greater good. Under what circumstances, if any, does the end justify the means? This problem faces any person who is determined to do the right thing, but finds that they have to do something which would normally be considered unethical in order to accomplish an ethical goal.

Without doubt, these situations can and do arise. Sometimes, we are forced to compromise our ethical beliefs, or at least put our serious reservations on hold, on pain of permitting a greater evil. Knowing what ideally would be the right thing to do is no help when we are faced with a real life situation where it seems impossible to 'do the right thing'.

The bottom line is that as a business person you are responsible for choosing who you are prepared to deal with, but sometimes there simply is no choice. Do you take your business elsewhere? At what cost? How high a price are you prepared to pay – and make others pay – for upholding your ethical beliefs?

### *The bribe*

One of my students related to me the following story:

**Some time ago in Moscow I supervised the delivery of some cargo transported by lorry all across Europe. The charge arrived in the backyard of some ministerial building. It was to be unloaded by a crew of eight people and a supervisor. The crew did not move at all after the lorry had come to rest. The supervisor came up to me and said: 'The men cannot work. They need some provisions.' And he handed me a small list with items covering boxes of different cigarette brands and diverse alcoholic beverages. I was supposed to give him**

**money so that he could send to a store to acquire these goods. Which I did, since otherwise I probably would have lost a day's work. After this the men were able to operate. Was I involved in a corrupt scheme, or was I just adhering to local customs?**

With the advent of the global marketplace, it has become apparent that in different parts of the world there are widely differing views on what counts as 'a bribe'. In the 60's, where I lived in London, it was customary for the refuse collectors to go round every house at Christmas time for their 'Christmas box'. This was a sum of money, usually not less than £5. You could always say 'no'. But you knew, for certain, what the result would be: during the following year, your refuse bins would be ignored, or knocked over and their contents spilled across the road. Everybody paid. Today, the practice no longer exists. It has been stamped out. Local authorities enforce strict rules against soliciting bribes or 'tips'.

To achieve this result requires concerted action. It requires householders and shop keepers to complain, and risk retaliation. It requires local authorities who are prepared to face the threat of strike action in order to push through tougher rules. Yet today, there is still wide agreement that in many other circumstances tipping is perfectly acceptable: you tip your hairdresser, or the taxi driver, or a restaurant waiter. There is a line, although not a very sharp line, between tipping considered as an acceptable 'local custom' and bribery.

The real problem, however, is not where exactly to draw the line but what to do faced with an official, or a gang of workers, who demand a bribe. Maybe it is the local custom. But that doesn't make it right. There is a degree of slack which we can allow between different views about acceptable conduct. One should always be cautious in enforcing one's views on others. But the need for tolerance is not an excuse for wholesale ethical relativism.

On the face of it, the person who supervised the Moscow delivery had two stark choices: give the bribe, or refuse to give the bribe. In logic, this is known as the Law of Excluded Middle: either P, or not-P, there is no third possibility.

Although these may be logically the only *alternatives*, that doesn't mean that we only have two available *courses of action*. Each alternative subdivides into different possible actions: for example, you can give the bribe, but you still have the choice whether or not to blow the whistle later and help put an end to this corrupt practice. You can refuse to give the bribe, but you still have the choice of telephoning the intended recipient explaining why you are unable to deliver the goods and offering to make alternative arrangements.

There are two points which this example highlights. The first is a point of ethical principle: self-interest counts for something and not nothing. You are not expected to make unlimited sacrifices to your ethical ideals. It is not wrong to pay the bribe, if the price of refusal is too high – if you have, literally or figuratively, a gun pointed at your head or at the heads of your employees. The second, countervailing point belongs to practical ethics: the stark and simple choices that we face are, in real life, rarely so black-and-white as they first appear.

#### *The firing squad*

Here is an example from Bernard Williams' essay, 'A Critique of Utilitarianism':

**Jim finds himself in the central square of a small South American town. Tied up against the wall are a row of twenty Indians, most terrified, a few defiant, in front of them several armed men in uniform. A heavy man in a sweat-stained khaki shirt turns out to be the captain in charge and, after a good deal of questioning of Jim which establishes that he got there by accident while on a botanical expedition, explains that the Indians are a random group of the inhabitants who, after recent acts of protest against the government, are just about to be killed to remind other possible protestors of the advantages of not protesting. However, since Jim is an honoured visitor from another land, the captain is happy to offer him a guest's privilege of killing on of the Indians**

**himself. If Jim accepts, then as a special mark of the occasion, the other Indians will be let off.**

**Bernard Williams 'A Critique of Utilitarianism'**

**Smart, J.J.C. and Williams, B. *Utilitarianism For and Against*  
Cambridge University Press 1973. p.98**

Williams, while recognizing that Jim's refusal to take the offered pistol would be a 'kind of self-indulgent squeamishness', argues that what this example does *not* show is that our feelings of loathing or horror at what we are required to do are merely inconvenient obstacles in the way of choosing the action with the best consequences. There are all sorts of reasons why one would *not* wish to be the kind of person who could coldly calculate that one death was better than twenty and take the offered pistol without any further thought.

This illustrates a further aspect of the predicament that we have been considering. The choices that you make are not the only thing that is ethically relevant; it matters how you *feel* about those choices. Your feelings might not, on this particular occasion, cut any ice. But we are not just looking at a particular occasion. We are sketching a picture of the kind of person, or business person, one would ideally like to be, the kind of person who *could* be relied on to act from principle and with integrity, even though there will always be painful occasions when the real world forces you to compromise.

Williams' essay is intended as an attack on utilitarianism – the view that the right action is the one which leads to the 'greatest happiness for the greatest number' – as an ethical *theory*. In unit 1, we saw that the question whether we can, or would want to have an all-encompassing philosophical view on the nature of ethics, whether it be utilitarianism, or a deontological theory, or virtue theory, is itself questionable: 'Evaluating consequences, identifying principles, promoting virtues are all deeply interconnected parts of a whole which cannot be reduced further.' Each of these is important, but it is *not* the whole.

Utilitarians scoff at the question, 'Does the end justify the means?' pointing out that if we are evaluating 'the end' then we have to include

*everything*, including whatever means we use to get there. In effect, the utilitarian, in calculating the 'best' outcome – the greatest happiness, or the maximization of desire-satisfaction or whatever your favourite flavour – is simply performing a cost-benefit analysis. When put in those terms, it is difficult to see how a cost-benefit analysis can *ever* be the wrong thing to do.

The point highlighted by Williams' example is that one does not want to be the kind of person who, faced with any important decision, would always without fail resort to a cost-benefit analysis. Sometimes, you have to ignore the cost. That is the point of having principles. For the man or woman of principle, there are certain things that one *will not do*, period.

#### *The paradox of principle*

We have reached an interesting point in the discussion. I have just made a statement which, on the face of it, contradicts a statement I made earlier. First, I said that sometimes one has to compromise on one's principles. Then I said that having principles means that 'there are certain things that one will not do, period.'

This is not, in fact, a contradiction although it seems to be. If formal logic says that the two statements are contradictory, then so much the worse for formal logic. As we shall see later, when we look at the case of lying, the concept of principle involves a *dialectic*, in the Socratic sense of a process of assertion and response, or claim and counter-claim, which never reaches a final conclusion, but rather points to an idea which cannot be literally expressed.

It is true, and false to say that principles *can* be compromised, and it is also false, and true to say that principles *cannot* be compromised. There is no neat solution to this paradox. For it is not as if we are dealing here, e.g., with a case of simple equivocation – as if one could escape the paradox by just defining two kinds of 'principle', the compromisable kind and the uncompromisable kind.

You might indeed think that the only *real* principles are the uncompromisable kind. Compromisable principles aren't principles at all. However, you would be wrong. Whatever you say, and however carefully you formulate your principle, there are possible circumstances which would force you to go against it.

Suppose that as a matter of principle I will *never* share a public platform with a member of the X Party. Every opportunity which is given to members of the X Party to participate in public debate is exploited ruthlessly to give spurious legitimacy to their cause. While I along with many others are convinced that if the X Party ever came to power, public debate would be suppressed and defenders of democracy persecuted. That is a strong argument in support of my principle, but it would not necessarily be convincing in every case. For example, I am invited to participate in a TV debate, and am informed that if I decline, my place will be taken by a particular individual who has little experience of the devious ways of the X Party and far less skill in responding to their fallacious arguments.

Principles are always formulated in *general* terms; while every situation in which one might apply a principle is *particular*. It is impossible, logically, to formulate a principle which only applies to one case. However many details you add to your description of the principle, there will still arise the possibility of two situations, at different places or times, which both satisfy that description. In the first situation, the correct action is to conform to the principle, while in the second the correct action is to go against it.

This raises anew the question, what is the value of a principle? why do we bother to have principles? why do we associate principles with integrity? what is at stake, when you consider the possibility that you may have to compromise a principle?

### *Principles, rights and integrity*

Principles have a similar logic to that of rights. Both principles and rights are *trumping considerations*. Just as in a game of cards, where a trump card of low value can beat a non-trump card of high value, so an argument

which appeals to a principle or a right beats an argument which appeals to consequences we like or dislike for any other reasons, however much we like or dislike them.

If, as a matter of principle, your company does not do business with companies which exploit third-world labour, then even when presented with powerful market incentives, you will not go back on that principle. If you recognize that male, as well as female workers have a right to 'maternity' leave, then you will go to very great inconvenience, if necessary, to accommodate such requests.

However, there is also a striking disanalogy. The rules of card games are designed to give a determinate answer in every case where a legitimate question might be raised. At any given stage in the game of bridge, for example only one of the four suits – spades, clubs, diamonds or hearts – can be trumps. In real life, by contrast, we find that we are sometimes faced with conflicting principles or conflicting rights. We then have no choice but to exercise our judgement and make the best compromise that we can in the circumstances.

Why bother, then, to recognize rights or principles? The rights that one recognizes, the principles that one stands by, are definitive of the kind of person one takes oneself to be. They are a statement or expression of our ethical and political beliefs and ideals, recognition of what binds us together with other persons in our community and distinguishes us from persons, or communities, who do not recognize the principles that we recognize. Hence, they are definitive of our personal integrity.

That is also why the principles that we hold dear are bound up with emotion, as well as reason. As the philosopher Aristotle observed, the capacity to express anger when anger is required is part of what it takes to be a person of ethical virtue. Ethics is not just a matter of knowing the right thing to do but *feeling* it, because as a result of one's moral upbringing it has become part of one nature.

Companies, like individuals, can have integrity or lack integrity. There are various expressions that one would use to recognize this. For example, one talks of a 'healthy corporate culture', as opposed to an unhealthy

corporate culture – or a lack of corporate culture in cases where the culture is so diffuse or amorphous that one doesn't know what the company stands for. Companies, like people, can be happy or unhappy.

A complicating factor in the case of companies is that standing for something or having a *mission* is now recognized as having value in the marketplace. A mission statement is often the first thing you see when you visit a company web site. It is easy to view this cynically as a public relations exercise. However, the point is that we would not be interested in knowing whether a company had a sense of mission or not, or in the quality of its corporate culture, if it were not for the fact that these are factors which have acquired a value in the eyes of many which is *independent* of economic considerations. 'Superior' business people – to use the term of art coined by Tom Veblen – prefer whenever possible to deal with other superior business people.

### *Principled leadership*

At the 1980 Conservative Party Conference in Brighton, British Prime Minister Margaret Thatcher coined one of her most famous sound bites, which has to many been seen as definitive of her leadership. Replying to widespread media speculation of an about turn in the government's anti-inflation policies, Thatcher declared defiantly:

**To those waiting with bated breath for that favourite media catchphrase, the U-turn, I have only one thing to say: You turn if you want to. The lady's not for turning!**

To those on the left, this was just further evidence of Thatcher's mulish stubbornness, her determination to go down with the sinking ship. Yet, arguably, the stark evidence of the government's determination to stick to its anti-inflation line no matter what, was one of the main factors in making that policy effective.

As we remarked in unit 1, to be consistent, and be seen to be consistent, is one of the main considerations on good leadership. An essential part of what is involved in having principles is that others know what our

principles are, and can count on us to behave in accordance with those principles.

However, when seen from the point of view of game theory, acting rationally and consistently, acting on principle, is a double-edged weapon. The problem is that not only ones friends, but also ones enemies can predict one's response in a given situation, and use this to manipulate us to their advantage.

At the height of the Vietnam war, President Nixon notoriously formulated the 'Madman Theory', as an attempt to gain the upper hand in the fight against Communism. White House Chief of Staff and Watergate conspirator H.R. Haldeman reports in his book *The Ends of Power* that Nixon once confided to him:

**I call it the Madman Theory, Bob. I want the North Vietnamese to believe I've reached the point where I might do anything to stop the war. We'll just slip the word to them that, 'for God's sake, you know Nixon is obsessed about Communism. We can't restrain him when he's angry – and he has his hand on the nuclear button' – and Ho Chi Minh himself will be in Paris in two days begging for peace.**

**H.R. Haldeman *The Ends of Power* Times Books 1978**

With the wisdom of hindsight, we can see that this was the desperate strategy of a desperate man. To make the Madman strategy work, you have to behave in a way which is consistently – mad. Otherwise, your opponent will simply call your bluff. There is no meaningful way forward from that point. There are no limits to how mad you can become, once you have left the safe haven of rationality behind.

However much one recoils from this memory of one of the most sordid eras in American foreign policy, it does illustrate the point that there are perceived dangers in being overly consistent, when dealing with an unscrupulous opponent who is prepared to go to any lengths to use our principles against us. A classic scenario is the terrorist kidnap. Those who uphold the principle of the sanctity of life are always vulnerable to the threat of hostage killing. In vain, governments promulgate the principle

of 'no bargain with terrorists' knowing full well that in a case like this the two principles come into direct and tragic conflict.

### *Strategy and tactics*

Let's say that you have decided along with a group of other business people to form an organization dedicated to combating bribery and corruption in the business world. You have designed a web site, and started a free email newsletter which interested visitors can sign up to. You are in contact with members of the governments in different countries who have pledged support. You have ample funding from donations from both companies and individuals.

In the first of a number of planned initiatives, the organization has instituted a well publicized award scheme for individuals who have distinguished themselves by their resourcefulness and bravery in the fight against corruption. There is also a fund to provide living support and pay for legal expenses for individuals who have lost their livelihoods as a result of their refusal to take bribes or be involved in bribery.

All this good will must achieve a positive result, or so one would like to think. Certainly, the very fact that you have succeeded in getting like-minded people to act together is a positive achievement. This is the essence of politics, to bring about results through the concerted, organized action of individuals who share a common purpose.

Now let us consider a businessman running a small independent company in the UK. The company manufactures spares for tractors and agricultural equipment, which they export around the world. Recently, the financial viability of the company has been put increasingly in doubt, as the result of fierce undercutting competition from the Far East, as well as pressure from the large manufacturers who want to keep the lucrative spares business for themselves. If the spares company has one more bad year, it will have to be wound up.

Just when things are looking particularly bleak, a large order comes in from an African country which they have traded with before. From

painful experience, the managing director is all-too aware of the fact that one needs to offer 'kickbacks' to get anything done. At every stage of the process of shipping, customs, delivery, money is handed over. The corruption is endemic. It is everywhere, no-one is immune.

Suppose that the managing director contacts the anti-bribery web site asking for advice. What advice would you offer?

It is a trick question. There is no sensible advice one can give. Whether the business man takes the order, or doesn't take the order, he will regret it. If he takes the order he will be sucked into a cesspool of corruption. If he doesn't take the order, his company will be on the road to bankruptcy.

One moral that we might draw from this story is that you can't win every battle. A global strategy for dealing with bribery and corruption is feasible. There are many similar worthy goals being pursued actively at the present time. Individuals will offer help where they can. When they cannot, it is not a defeat for the overall strategy.

However, we have already seen that there is also room for tactics. Individuals can make a difference, because even when there are only two *alternatives*, there are still many possible *courses of action*. For example, the unhappy businessman's story would make great publicity for the anti-corruption web site. With some inspired PR, it might even get into the national press. In the age of global communication, the worst defeat can be turned into victory with the addition of the factor of public opinion, and its capacity to galvanize a cause.