

The Business of Ethics: Reasoning about Right and Wrong

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(1) Ethics: examples and characterisation

(1.1) Two examples

(1.1.1) Suppose a trolley car (tram) drives unstoppably towards a group of five people. These five people are caught on the trolley tracks. They cannot escape. If the trolley hits the five people, all of them will die inevitably. However, *you* have the opportunity to divert the trolley through changing a switch. Unfortunately, on the diverted tracks there is also *one person* caught on the tracks. This person will also die inevitably if hit by the trolley car.

What *should* you do? Should you (a) change the switch? Or should you (b) abstain from doing so? What *reasons* are there for either option [i.e. (a) or (b)]?

(1.1.2) Suppose, again, a trolley car drives unstoppably towards a group of five people. These five people are again caught on the trolley tracks. If the trolley hits the five people, all of them will die inevitably. This time, however, you observe the situation from a bridge under which the trolley will pass through in a few moments. You therefore cannot stop the trolley through manipulating a switch. Yet there is another person on the bridge. You could stop the trolley car by throwing her onto the tracks. This person would, however, die inevitably as a consequence.

What *should* you do? Should you (a) throw the person from the bridge onto the tracks? Or should you (b) abstain from doing so? What *reasons* are there for either option [i.e. (a) or (b)]?

(1.2) A first definition of ethics

(1.1.1) and (1.1.2) allow us to define *ethics* (understood as a philosophical discipline). An first essential aspects of ethics is this: *ethics is normative*. So, ethics is not *purely* descriptive; it is not exclusively about what *is* the case. Instead, ethics is about what *should* or *ought to* be the case -- from an ethical point of view. Also, ethics is not purely *predictive*. Instead, ethics is *prescriptive*. The trolley example shows this. The ethicist does not ask: how *will* you act? She asks instead: how *should* you act?

Second, ethics is about *reasons* and *normative explanations*. Ethics tries to explain systematically why you ought or ought not to do something.

Here are two rough principles that are commonly evoked in an ethical explanations, i.e. from which we can derive (in ideal circumstances) whether you ought to perform a certain act, or whether an act is permissible:

Rough Utilitarianism. For all acts *A*: you ought to *A* if and only if the consequences of *A*ing bring about at least the same *total utility* compared to all available alternative acts to *A*.

Rough Kantianism. For all acts *A*: an act *A* is permissible if and only if its maxim could be thought of as a natural law.

Third, ethics is concerned with a human function or property. More precisely: ethical theories take human functions or properties as their object. Most ethical theories concentrate on intentional *actions*. An intentional action is usually thought to be within the control of a human agent. That explains in part why *intentional acts*, as opposed to an unintentional twitch, can be ethically right or wrong. (Compare, for example, *Rough Utilitarianism* and *Rough Kantianism*.) However, actions are not necessarily the only concern of ethics. Mental attitudes, such as beliefs or intentions, can also be ethically right and wrong. Compare a racist *belief*, or a harmful *intention*.

In sum, the aim of ethics is to develop a theory that tells us what *makes* a particular act (or another function) ethically right or wrong, obligatory or permissible.

(2) Business - a brief definition

'Business' is a broad term. A business (enterprise, or firm) is an organisation. This organisation trades goods and/or services. In a capitalist setting, most businesses are in private ownership. They are managed to generate profits and enhance the wealth of their owners.

Many businesses are *corporations*. A corporation is a legal entity that possesses *legal personhood*. Thus, *corporations* have rights, duties and legal protection, analogous to natural persons. Corporations thus may incur debt, enter contracts, and own property. In essence, legal personhood enables two things: (i) a group of persons can act as a single entity; (ii) a corporation, for example, can be separated for legal purposes from their management and shareholders.

Legal personhood thus gives rise to *limited liability*. In essence, limited liability entails that the owner's of a corporation enjoy only being liable with what they have invested into the company. In particular, their liability does not extend to their private assets. Consequently, though an owner or shareholders has a right to claim (a share of) the profits of a corporation, they are exempt from facing a personal liability for the company's debt. Compare the significance of limited liability for business ethics.

(3) Business Ethics

Corporations are *legal entities*, possessing *legal personhood*. But do they also possess *ethical personhood*? Put roughly, does the *prescriptive ought* of *ethics* apply to entire businesses? In short: do corporations have moral responsibility?

Recall the discussion above. Ethics take human functions or properties as its object. Most ethical theories focus on intentional action. So, when asking whether the prescriptive ought of ethics applies to entire businesses, or whether corporations have moral responsibility, the more precise questions would be: does the prescriptive ought of ethics apply to *acts* of businesses or corporations? Can corporations be held morally responsible for what they do?

Before we answer this, we need to briefly clarify the notion of 'moral responsibility' (cf. Velasquez 1983). 'Responsibility' can, roughly speaking, mean three things: First, if a person is responsible, this may express that he or she is trustworthy or dependable. Responsibility thus refers to a quality of a person. Second, 'responsibility' may denote tasks of the future. It's my responsibility to deliver a series of lectures on business ethics; it's your responsibility to come to the exam if you want credit for this course, *etc.* Third, responsibility can be directed toward the past; for something that already happened. "Peter is responsible for yesterday's highway accident"; "John is responsible for the late arrival of the train"; *etc.*

Past-directed responsibility also splits up in three different meanings. First, it might be purely causal. "The storm was responsible for the electric power cut"; "The heat of the flame was responsible for the melting of the wax": *etc.* Here 'responsibility' denotes a purely causal or counterfactual relationship. Second, past-directed responsibility may refer to 'compensatory liability'. "Parents are liable for the acts of their child". On this sense of liability, a person may be responsible for an act (and its consequences) which he or she did not perform. Third, past-directed responsibility may refer to an act where a person intentionally and knowingly brings about a certain state of affairs. "Putin is responsible for the annexation of the Crimea" may be a good topical example.

It is the third notion of responsibility that denotes *moral responsibility*. One way to approximate 'moral responsibility' is to consider two classical and necessary conditions of criminal responsibility: (i) an *actus reus* ('external element'; 'guilty act') and (ii) *mens rea* ('internal element'; 'guilty mind').

Here are two positions on whether corporations can be morally responsible: On the one hand, some business ethicists (cf. French 1984, 1995) claim that corporations can be *moral agents*; their acts can thus be subject to moral responsibility. This is due to the internal *decision structure* of corporations. The decision structure consists of two main parts: (i) an *organization chart* (defining the decision authority within the corporation) and (ii) *procedural*

rules defining whether an individual decision (by an employee or corporate officer) counts as a *corporate decision* or instead as a *personal decision*. On this picture, corporations are actors *qua* individual or collective acts. Consequently, corporate acts can be the object of ethics; 'ethically right', 'ethically wrong', etc., may thus apply to corporate acts. We may hold corporations morally responsible.

Others disagree. Velasquez (1983) contends that the *decision structure* is simply the result of human action and deliberate design. Thus, the decision structure, procedural rules, and organization chart arise as a consequence of individual and collective act of the agents who act for and with a corporation. These acts are subject to moral norms and evaluation; this does not hold for acts of the corporate entities. If this were the case, this would, Velasquez (1983) claims, entail an implausible result: it would make it possible that corporations can undergo ethical evaluation and be held morally responsible, yet there is no act of a natural person that connects or explains this responsibility.

Velasquez reasoning thus leads to attractive alternative view: it is not the action of the corporation that is subject to ethical evaluation. Instead, moral responsibility and evaluation can only be attributed to the actions of individuals. Business ethics thus concerns those acts that are performed in virtue of acting in their social role as businesspeople (compare Sandbu, *Just Business*, chap. 3). In other words, the object of business ethics are the class of acts performed *qua* businessperson.

(3) Business ethics: what is the point?

Immoral and unethical business practices seem ubiquitous. Faulty pacemakers have been sold to medical teams; sugar water has been sold as pure fruit juice; oil spills are concealed and only cleaned up half-heartedly; rivers are polluted when companies calculate that the expected cost of building a proper canalization exceeded the expected fine; entrepreneurs buy healthy companies just to sell them off in thin slices in order to maximize their revenues.

Suppose we know that these types of business behavior are ethically wrong. What is the point of business ethics then? Or better: what is the point of a *course* in business ethics?

(3.1) *Ethical Knowledge*. The point of business ethics is to increase our knowledge as to when an act in the realm of business is ethically permissible or impermissible. More precisely, for all acts *A*, if *A* is an act *qua* businessperson, then the point of business ethics is to discover if *A* is ethically permissible or impermissible.

Possible criticism: Whether an act *A* of a businessperson is ethically permissible or impermissible is a trivial question. In fact, this question can thus not justify a systematic teaching of business ethics.

Counterexample: Suppose you are a manager of Yahoo! You have just launched the Yahoo! China website. You have done so to maximise the profit of your company. After establishing your business in China, you are approached by the Chinese government. They make you the following deal: if you and Yahoo! would like to maintain your activities in China, you need to pass on personal information of your users to the government. In particular, you need to pass on information of those who take a critical stance towards the Chinese government. Otherwise your business will be closed down. What should you do? Should you continue on the profit-maximizing path, thereby knowingly endangering the freedom of Chinese dissidents using your services? Or should you refuse to accept this deal with the Chinese government and abandon your China activities, thereby causing a severe loss for your company? Whatever the right answer comes down to in this case, it does not seem to be a trivial or immediately obvious.

(3.2) *Change of Behaviour.* Immoral business practices seem ubiquitous – this was noted above. In some cases – compare the examples above – it seems relatively easy to say that a particular piece of behaviour is unethical. So, perhaps the point of business ethics – or better: the point of *teaching* business ethics – is to diminish the occurrence of unethical behaviour. In short, the best justification for business ethics is to improve unethical business behaviour.

Criticism: Does it work? Some philosophers argue that that the teaching of business ethics fails to improve the behaviour of those practicing business. There are three reasons for this: (i) prior to getting in touch with business ethics, people are able to detect which types of business behaviour are permissible or impermissible; (ii) moral behaviour needs to be trained or conditioned; a theoretical course can thus not improve behaviour; (iii) even if we can teach people what is right and wrong, this will not make a difference to their behaviour. People act on desires and preferences. They do not act upon knowledge of what is right and wrong (i.e. *amoralism*)

(4) Amoralism: a threat to business ethics?

Does amoralism threaten the viability of business ethics? To answer this, we need to get a grip on the nature of the amoralist person.

An amoralist is a person who is *not motivated* by moral considerations. That is, the amoralist accepts and recognises that there are moral reasons and that she morally ought to do certain things. So, an amoralist may think that (i) lying is never ethically permissible; (ii) in the example (1.1.2) above, you should (a) throw the person from the bridge onto the tracks; (iii) there is a moral reason to obey the law; (iv) *etc.* However, none of these moral views *motivate* the amoralist to act accordingly. In short, the amoralist is without *moral* motivation.

It is important to note, however, that this does not mean that the amoralist is *never* motivated to not to lie, or to throw the person from the bridge onto the

tracks in (1.1.2), or to obey the law. Quite the contrary, presumably: the amoralist will be motivated to do all these things *if* they are in her personal interest. That is, if doing so will benefit his own good.

This brings us closer to a characterisation of the amoralist. The amoralist does not care about morality for *its own sake*. She cares about being moral only insofar as being moral is *instrumental* to her own interests. She does not perceive other people's needs and interests as giving reasons for acting *per se*. So, if someone suffers or finds herself in distresses, the amoralist does not see this as a reason *per se* to help this person. To arrive at a reason, she first has to calculate if an act would be beneficial for her own interest.

Imagine what such an amoral person would be like. In short, we would need to imagine a person indifferent to the concern of others (for their own sake). As Bernhard Williams suggests, in fact we would need to imagine a *psychopath*; someone who is unable to lead a functioning social life, unequipped with cooperative virtues. Thus, amoralism carries a hefty cost: it implies a psychological disorder.

This analysis of amoralism provides us with an important insight into the nature of morality. Assume you act in accordance with what morality requires of you. Is this enough to be a fully moral person? Not quite. Suppose morality requires you not to lie. Suppose the motivating reason for you not to lie is to avoid social punishment by your peers. In fact, you do not care about the fact that lying is immoral. Then it seems you fail to be a fully moral person. So to be fully moral, one needs to have the right motivation; one needs to act for the 'right reasons'. That is, suppose morality requires you to A. Then you are fully moral only if (i) you A and (ii) you A even if A-ing is not in your interest.

Why is this important in the context of business ethics? It is beyond doubt that companies treat their employees, customers, and suppliers fairly and in consistency with their interests. However, if they only do so because 'fairness' is a profitable asset, then this is not genuine moral behaviour. It is just a way of serving the companies interests. This is why supposedly *The Economist*, for example, approves of practices and measures that run under the heading 'corporate social responsibility' (cf. Sandbu, p. 6) This reasoning is incompatible with genuine morality.

Does amoralism threaten the viability of business ethics? Practically, that does not seem to be the case. Most people – that's the hypothesis – are not psychopaths. They care about morality independently of their narrow interests. 'Even the most ruthless businessman recognises that he has some moral responsibilities – towards his family, his friends, or perhaps his country' (Sandbu, p. 7) and, more importantly, they are motivated by these considerations. But even so, this is consistent with a more restricted version of amoralism, i.e. the position that morality 'stops at the shores of business' (Sandbu, p.7). This position is best described as the 'separation thesis' (cf. Freeman; Sandbu p. 7).

Seperation thesis. The discourse of business and the discourse of ethics can be separated so that sentences like 'x is a business decision' have no moral content, and [sentences like] 'x is a moral decision' have no business content.

Is the separation principle plausible?

References:

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