

# Moral Dilemmas in Business Ethics: From Decision Procedures to Edifying Perspectives

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**ABSTRACT.** There have been many attempts during the history of applied ethics that have tried to develop a theory of moral reasoning. The goal of this paper is to explicate one aspect of the debate between various attempts of offering a specific method for resolving moral dilemmas. We contrast two kinds of deliberative methods: deliberative methods whose goal is *decision-making* and deliberative methods that are aimed at gaining *edifying perspectives*. The decision-making methods assessed include the traditional moral theories like utilitarianism and Kantianism, as well as second order principles, such as principlism and specified principlism. In light of this assessment, we suggest taking a closer look at two perceptive models, casuistry and particularism. These models are used for dealing with moral dilemmas that provide for edifying perspectives rather than decision-making. These perceptive models, though less scientific and not as good at prescribing an action, are more human in the sense that they enrich our moral sensibilities and enhance our understanding of the meaning of the situation.

**KEY WORDS:** casuistry, decision theory, humanism, moral deliberation, particularism

## Introduction

Managers make many decisions and form many practical judgments on a daily basis. Some of these decisions have significant moral ramifications and are imbued with ethical content. Assessing the ethical meaning or the moral ramifications of a particular decision is generally not a particularly difficult task; we usually think that we know the difference between right and wrong. At times, however, managers may face morally confusing situations, in which it is not clear what should be done. Some of the cases of losing one's moral compass, i.e., one's moral certitude, are what we call 'moral or ethical dilemmas'. A moral dilemma is a situation in which people judge that morally they ought to do one thing (A) and morally ought to do another thing (B), and sometime a third (C), or even a fourth thing (D) as well, however they cannot perform all of these mutually exclusive options together. This is an empirical impossibility; they have to choose among the various possibilities. Related to this are situations in which managers face competing values, even though these might not be straightforward moral values, where the situation is not a question of right versus wrong, but wrong versus wrong (Raz, 1986).

Consider, for example, a manager in a situation where the goal of protecting an organizational secret, such as the fact that the organization is planning to layoff certain employees, conflicts with the goal of helping an employee, who is coincidentally a close friend, make reasonable financial plans in the face of the upcoming layoffs she's not aware of.

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In the literature on moral dilemmas, it is common to draw distinctions among various types of moral dilemmas. Only one of these distinctions will be mentioned here. It is possible to distinguish between two different kinds of moral certitude: certitude as to the bottom line conclusion on what should be done and certitude as to the conflict of values that is the source of the dilemma. The moral dilemmas with which this paper is concerned are of the first kind; where one generally understands the values or the principles involved, but does not know how to resolve the empirical conflict between them (Foot, 2002, pp. 38ff).

In epistemological terms, a moral or ethical dilemma is a situation in which the person does not *know* how to act because of conflicting beliefs about what is axiologically required. One of the important achievements of contemporary work in applied ethics has been to show that compelling arguments can be given for incompatible positions on a variety of topics: whistle-blowing, preferential treatment, abortion, euthanasia, censorship, and others. What this means is that, whereas modern ethical theory, under the dominance of Kant and Mill had somewhat positivistic aspirations, contemporary work in applied ethics has, in a sense, taken a Kuhnian turn claiming not only that there are incompatible positions on a variety of topics, but also that these are actually incommensurable points of view. This very point was stressed by philosophers working both in the communitarian tradition, such as MacIntyre (1984, 1988), Nussbaum (1986), and even by Foucault (1988) as well as philosophers working in the non-communitarian tradition, such as Raz (1986, p. 357) and Williams (1966). Thus, when faced with such moral dilemmas, how should managers deliberate about what they ought to do? How should one go about formulating a practical moral judgment?

Dealing with any moral dilemma requires a great deal of factual knowledge, which is not directly connected with any ethical expertise (Wallace, 1996, pp. 9–40). In fact, in order to even identify an ethical problem in business ethics as such, actual business knowledge is needed. At times, what might appear *prima facie* as an ethical dilemma disappears when the issue is analyzed more deeply from a business perspective and possible business solutions are explored. For example, in terms of human resource management, a manager might *prima facie* think

there is a dilemma between family friendly employment policies and productivity, whereas deeper analysis might reveal that there is not a real conflict.

Though the question regarding ‘how should one go about formulating a practical moral judgment when faced with a moral dilemma?’ is a general question, we focus this question specifically on practical moral judgments in business and particularly on the moral deliberation of managers and businesspeople. In answering this question, the paper draws on insightful work done in recent years within the field of bioethics. This body of work can be divided into two broad categories: On the one hand, there are several deliberative models that aim to provide a decision procedure. These are assessed in Part 1 of the article. On the other hand, there are deliberative models that aim to provide an edifying perspective, i.e., perceptive models, rather than a decision procedure. These are described and discussed in Part 2 of the article. Looking first at the various decision procedures that are discussed in the literature, we argue that there is something flawed in principle about such decision procedures. There are several types of theories that fall under this category, including *traditional ethical theories*, various *semi-scientific flowcharts* as well as more specific models that appeal to various second-order principles, such as, *principlism*, *specificationism*, and *specified principlism*. As an alternative to these decision procedures, we then turn in Part 2 to two powerful *perceptive models*, which rather than offer a decision procedure for helping get over the moral dilemma by means of moral deliberation, they offer approaches for gaining what we call ‘edifying perspectives’ on the dilemma. The purpose of moral deliberation according to these models is not to suggest a decision, but rather to gain insight into what is at stake, so that eventually a reflective and wise manager can form a sounder and wiser decision. We assess more in detail the viability of the two leading perceptive models: *particularism* and *casuistry*, and argue that both furnish an approach to moral reflection that provides for a more human and edifying perspectives on the dilemma. Finally, Part 3 of the article argues that casuistry is better suited for deliberations about moral dilemmas in business than particularism. It is better not because it provides a decision procedure, because it does not. It is better because when faced with a moral

dilemma it is important for managers to reflect on what is morally at stake, to understand the specifics of the situation and what it actually means for the organization and its various stakeholders.

### **Part 1: moral deliberation as a decision procedure**

Various attempts have been made in philosophy to offer some kind of overarching principle as a decision procedure for both engaging in and resolving moral deliberation. Some of these attempts appeal to traditional moral theories (for e.g., Kant and Mill), others devise elaborate flowcharts to guide managers through the decision process (Cavangah et al., 1995; Geva, 2000; Steenberg, 2000, pp. 110–123; Trevino and Nelson, 1990), and others, particularly in bioethics, appeal to various second-order principles (Beauchamp's and Childress, 1994; Gert et al., 2000). These approaches are all, essentially, various decision procedures for moral deliberation. The common denominators for these various decision procedures are two central assumptions. On the one hand, the assumption that, even though there are many different kinds of values, they are commensurable in the sense that a grand-principle can somehow be applied to all the different cases. On the other hand, they assume that a solution, once reached, can be universalized. The point of these various decision procedures is to offer a method that, if properly used, would guide the perplexed manager in making the right decision. They share a common feature in that by applying them to a given situation, what was initially perceived as a moral dilemma is supposed to cease being problematic as such, because the right answer is reached. To substantiate this claim we want to quickly review some of the ways in which this has been done in the past.

#### *Classical moral theories*

Students in introductory courses in applied ethics often comment, "What good is a moral theory if it does not tell me what to do?" And indeed, at times, traditional moral theories, such as utilitarianism and Kantianism, are taken to be theories that offer a decision procedure through which we can

overcome moral dilemmas. This response is, however, a misunderstanding of the purpose of traditional moral theories and the intellectual contexts in which they come to the world. Using traditional moral theories as decision procedures is a misuse of these theories.

There are several reasons why traditional moral and ethical theories are of little use in providing practical guidance in resolving moral and ethical dilemmas. First, it is important to remember that the point of traditional ethical theories was not to provide guidance in resolving decision scenarios, but rather to revalidate our moral convictions on a non-religious basis. A moral theory can be used to look back at what happened in a specific situation (backward looking perspective) and explain what exactly was or was not moral in that case. However, giving guidance as to future actions is a different kind of task. It is a prescriptive task of deciding what to do; it is a task that often emerges from a former deliberation on this particular moral problem. Deciding what to do in a complex dilemma, in which values conflict and different shades of gray blur one's vision, is a different task from looking back and providing justification. Perhaps a couple of analogies can help to clarify some of the confusion over this issue. To claim that a moral theory tells us what to do in practical situations, i.e., that it has prescriptive power to resolve moral problems, is analogous to claiming that Newtonian physics tells us how to resolve problems of locomotion, for example – say by inventing cars. While Newtonian physics might possibly explain problems of locomotion, it is not a theory that can be used to invent means, i.e., forward looking means, for resolving problems of locomotion. Newtonian physics was probably the core to the discoveries that led to locomotion; the engineering solutions that emerged from Newtonian physics are neither logical necessities nor causal necessities from this body of knowledge. Similarly, by way of analogy, theories of the sociology of science can explain why certain changes in scientific theories occurred at a given time, but they cannot predict the next move in the game of constructing scientific theories. The point here should not be exaggerated; we are not arguing that moral theories have the same function as scientific theories. The argument above is intended solely against the claim that classical moral theories

give guidance that, i.e., they are prescriptive. They have other virtues, such as explanatory power, justification, or articulation and backward looking perspectives.

A second reason why the classical moral theories of Kant and Mill, possibly including Aristotle as well, are ill suited as tools for ethical decision-making has to do with the fact that they are overly optimistic as to the capacity of their views to resolve dilemmas without undesirable residue. In a sense they are not really troubled by moral dilemmas because they seem to presume that any dilemma will eventually be resolved by their specific overriding theoretical principle. According to Aristotle (1980, VI, p. 13), the doctrine of the unity of the virtues precludes moral conflict. Kant (1971, p. 23) declares unequivocally “a conflict of duties and obligations is inconceivable.” And Mill (1962, p. 277) resolves apparent dilemmas regarding justice by invoking the principle of utility.

A third reason why overarching principles are of little practical use has to do with the logical structure of moral arguments. The logical structure of moral arguments includes both moral principles as well as factual and interpretive claims about the world. However, as Jonsen argued (1991, p. 2) moral theories “escape from the crowded details of human business” whereas practical judgment is beset by circumstance and particulars. For example, consider the following situation: James was a retail buyer for a large sporting goods chain. He was told that it is important that he not compromise his position and should not accept any gifts, except as “modest tokens of appreciation.” On his business trip to Europe, to examine and buy new equipment, he met Barbara. Barbara is a salesperson for a local ski equipment manufacture. After a full day of meetings, she offered to take James to dinner, so that they could further discuss some emerging innovations in ski equipment that were going to affect the upcoming season. James agreed because, not only would he gain an edge by learning the market, but he also thought that it was a good social opportunity. As the dinner conversation proceeded, they also found out how much they both loved alpine skiing. The following day, remembering how well the dinner meeting went, Barbara invited James and his assistant to join her as spectators in a downhill skiing match and possibly see how the new equipment is put into use. Coincidentally, she just happened to have two extra tickets.

This situation can be logically constructed in the following manner:

1. Bribery is wrong.
2. Trying to encourage him to buy her company’s equipment, Barbara has invited James to dinner as well as to a downhill ski match.
3. *Accepting tickets for a ski match is bribery.*
4. Barbara is trying to bribe James, which is wrong.

From statements 1–3, the conclusion is drawn in statement 4. Statement 2 is a factual claim, which is not problematic. Statement 1 is a basic moral principle, which can most likely be explained and justified using one of the classical moral theories. The crux of this particular moral argument depends, however, on statement 3, which is an interpretive statement. In order to know that “*accepting tickets for a ski match is bribery*” one has to make sense, i.e., interpret the concrete context of the relations between the two. Classical moral theories cannot help in assessing statement 3, because they are insensitive to the particular circumstance of human judgment; whether one attempt’s to maximize pleasure or whether one adopts the categorical imperative, the problem of what these principles entail with respect to the tickets James is offered here and now by Barbara, for this particular ski match, remains unresolved because of its generality. The deduction from the general ethical statement “bribery is wrong” to the practical ethical judgment “Barbara is trying to bribe James which is wrong” is not a valid deduction. The basic claim here is that certain practical decisions require practical interpretive skills and not just abstract normative theories.

#### *Flowcharts*

Realizing that ethical theories, in and of themselves, cannot provide a decision procedure for resolving moral dilemmas, some thinkers try to devise scientific orientated models and various flowcharts, which combine different theories to provide a decision procedure (Cavangah et al., 1995; Geva, 2000; Steenberg, 2000, pp. 110–123; Trevino and Nelson, 1990). Geva, for instance, introduces a kind of scientific model created for the purpose of guiding

business managers in making their own ethical decisions. It takes the shape of a two-tier flowchart. In the initial step Geva proposes to bring into consideration three well-known ethical principals: Utilitarianism, the Kantian ‘categorical imperative,’ and one of the many concepts of justice, such as the Rawlsian one. According to Geva’s model, these principles are the first criteria engaged for resolving the normative judgment. She feels the need to appeal to all three principles because of the presumption that we lack an agreed upon moral theory. Hence, she uses three principles. The first tier in her model deals with ethical problems in deontological terms. Then, if the dilemma is not resolved by agreed judgment of all three principles, Geva suggests adopting another approach and moving toward a virtue-based ethical vocabulary in order to end the process.

Not surprisingly, this model takes shape within a scientific atmosphere, which approaches ethical reasoning as if it was a scientific problem and concludes with the need for more communitarian, Greek-like ethics. Geva basically proposes that virtue-based ethics be readopted. This is evident from the sequence of phases, as they are shown in her flowchart model and from the redundancy of her first phase. Others, such as Robert Solomon, also believe that virtue ethics is relevant for business ethics.<sup>1</sup> The problem here is that although virtue ethics can function fairly well in small communities as was the case in the Greek polis, it poses problems for cultural creatures that live today in vast and alienated communities. The Greek Polis, at least with respect to its citizens, was an organic community; today many people live and work in large-scale organizations, such as multi-million dollar international corporations, in which ways of right behavior are presented to employees through the process of exercising précised and specific duties. It is misleading to think that someone can run such companies on virtues and communal understanding of the good as was relevant in the culturally unified Greek polis. A good car sale person often possesses other personal qualities than a good banker does. Apart from the basic virtues that every businessperson must posses, such as wisdom, patience, persistence, courtesy and others, each businessperson has to pursue different professional goals. These different goals leave little room for a unified notion of good.

This is also partially attributable to the fact that every member of the community plays multiple roles. A person may be a mother, a sister, an employee, an executive in high-tech company, a civilian, a child to elderly parents, a Jew, and a basketball player, all at the same time. The range of virtues is far too wide and diverse for each of us to implement in our multi-membership social communities. Furthermore, some of these virtues are juxtaposed in contradiction to each other. Civilian virtues are not always the same as the virtues of a businessman. In multinational corporations the problem of expressing the same virtues is, indeed, grave.

Implementing this type of flowchart demonstrates the risk of mixing together two types of moral traditions. This mixture allows Geva to recommend this course of deliberation, while neglecting an interesting flaw about it. The first of these traditions is a Greek-like style of existence and while the second is a scientific mindset. The ancient Greek ethical discourse and culture were focused on human character and on its purpose and prospects, rather than on mere scientific causality that masters contemporary attitudes toward humans. The Greek teleological approach invites one to understand other human beings by means of their hopes, fears, wishes and desires, i.e., by focusing on the notion of emergence and evolving toward something. Modern attitudes suggest otherwise, it is better to understand other people in terms of their inner psychological mechanisms, which govern their whole behavior. These two perspectives do not seem to converge, in fact as they appear in flowcharts they seem to be welded to each other in an artificial manner.

#### *Principlism, specification, and specified principlism*

One of the important lessons of bioethics is its emphasis on looking for a useful method for making moral choices and ethical decisions, rather than on seeking the true and right answer to moral dilemmas in medicine. The focus here is on usefulness (Jonsen, 2000, p. 348) or, as expressed by Ilitis,

“Bioethics, for them, is about resolving cases [...] The goal and role of bioethics, for them, is practical decision-making and so part of the test for a good bioethical method is its usefulness” (2000, p. 273).

This citation should be understood similarly to our previous point regarding the distinction between the role of justification and the role of prescription, i.e., ethical prescriptions are not the same as ethical justifications.

One of the first contemporary attempts to ground medical decision-making in something other than a moral theory was Beauchamp's and Childress's (1994, and also in Gert et al., 2000) *principlism*, which appeals to the principles of autonomy, beneficence, non-maleficence and justice as a useful analytic framework for resolving dilemmas. The idea behind *principlism* is that despite disagreements, we can appeal to these middle level principles, which function at the level of common morality, to resolve moral dilemmas.<sup>2</sup> The point is that instead of grappling at the level of grand-principles, let us build upon mid-level principles on which everyone can agree. The mid-level principles, which are justified by the more general theories, are used as an intermediate tool for deriving associated notions through which judgments about particular actions or cases are inferred. Hence, principlism is supposed to be a method of moral deliberation by which one can defuse a moral dilemma. When facing a moral dilemma, i.e., acknowledging mutually exclusive moral duties in a particular situation, one can refer to one of the four mid-level moral principles of principlism in order to overcome the perplexity caused by the dilemma. In its original formulation, *principlism* talked about finding a balance between the four central mid-level principles. *Specified principlism* (or *specification*, as it is often called) developed as an attempt to respond to some of the difficulties with *principlism* and offer a method that would be more useful for making decisions and choices than appealing to the level of grand-principles. More specifically, it sought to respond to problems relating to conflicts of principles and the application of principles. It has recently been argued that these principles, and particularly their associated notions, such as informed consent, privacy, confidentiality, voluntariness, and self-mastery, can also be useful in the sphere of business ethics (Fisher, 2001, p. 18).

We raise these highly celebrated bioethical case resolution methods because they clearly and powerfully exemplify the goal of this kind of moral deliberation. The goal is very practical and concrete decision-making. A theory's usefulness is identified

with its power as a decision-making mechanism. Rather than challenge the power of these decision-making mechanisms, it is important to challenge the presuppositions of these theories. It is worth asking whether these mid-level principles will actually avoid the reappearance of moral conflict; the unsupported presupposition is that by appealing to mid-level principles one can resolve dilemmas that grand theories fail to diffuse. In a sense, *principlism* and its variants build upon values on which everyone can agree, but what guarantee do these mid-level principles provide that the same moral conflicts will not reemerge. As suggested by DeGrazia (1992) and Richardson (1990, 2000) appealing to any second-order principle might just take us to square one, as we may find ourselves in need of having to decide exactly how to employ these principles to concrete situations – it is presumptuous to assume that the same moral conflict will not reemerge.

## Part 2: models for gaining an edifying perspective

There is a significant difference between models of moral deliberation whose purpose is reaching a decision and models of moral deliberation whose purpose is insight, enrichment, and, edification. In what follows we assess more in detail the viability of the two leading perceptive models: *particularism* and *casuistry*, and argue that both furnish an approach to moral reflection that provides for a more human and edifying perspectives on the dilemma. *Particularism* and *casuistry* are two forms of moral reasoning, which although are anti-theoretical, they nevertheless still affirm a certain form of moral reasoning, which provides insight and edification rather than a decision procedure. By providing “insight and edification” these theories propose a significant addition to the familiar discussion regarding the process of moral decision-making. Insight and edification allow for a more substantive account of the complexity of moral situation, in order to enrich our moral deliberation and achieve a higher degree of moral sensibility.

These two edifying models (or theories), *casuistry* and *particularism*, should not be lumped together with classical moral intuitionism, whose prime historical example is Hume, on the one hand, and early 20th century intuitionists like Moore, Prichard, Ross

on the other hand. Hume explicitly denies there is any reasoning as to ethical conclusions; according to Hume it is all a matter of sentiments. In this respect intuitionism goes non-cognitive and undermines most forms of moral knowledge.

Moreover, the distinction between *particularism* and *casuistry* is not a dichotomy; it is a matter of degree and there is a close family resemblance between these two theories. Hence, the fact that in what follows we associate a theorist with one of these positions and not the other does not entail that other aspects of the same theorist's thinking cannot be associated with the alternative position as well. Both theories, *particularism* and *casuistry*, maintain that moral situations are unique, and both emphasize the perceptive aspect of moral deliberation rather than the intellectual application of norms or rules in order to reach a decision. The significant difference, however, between these positions has to do with the fact that casuistry focuses on types of cases, striving to catalog unique situations within familiar paradigms. In contrast, particularism looks at each situation as a unique case.

#### *Ethical particularism*

Practical deliberation, in Aristotelian terms, is neither a form of *techne* (technical knowledge) nor an *episteme* (theoretical knowledge). The deliberative models discussed thus far take moral deliberation to be a form of *techne*.<sup>3</sup> Following Aristotle, and in contrast with the models discussed so far, particularism claims that moral deliberation should be considered as a form of practical wisdom (Nussbaum, 1986, p. 290). One contemporary philosopher, who pays attention to the enormous intricacy of human moral life, is McDowell, who argues for the intrinsic relation between moral sensitivity and moral knowledge:

“The deliverances of reliable sensitivity are cases of knowledge; and there are idioms according to which the sensitivity itself can appropriately be described as knowledge: a kind person knows what it is like to be confronted with a requirement of kindness. The sensitivity is, we might say, a sort of perceptual capacity” (1979, p. 332).

McDowell, like Aristotle, finds an important usage for the famous and old distinction between two

forms of knowledge: ‘knowing that something is so and so’ and ‘knowing how’:

“It is not wrong to think of the virtuous person's judgment about what to do, or his actions, as explicable by interaction between knowledge of how to live and particular knowledge about the situation at hand” (Ibid., p. 344).

By this use of practical knowledge, McDowell aims to exclude, or at least to minimize, the role of theory in moral judgments. He holds that being involved in moral judgment means knowing how to respond rightly to a moral demand, which was set forth by a situation that had been grasped in a certain way by an individual.

McDowell acknowledges and ascertains the importance of training people to respond in a certain range of ways to moral demands that are embedded in everyday human fabric, rather than that of theorizing it. He gives ample room to the notion that moral behavior, like any other normative behavior, is shaped by training, by customs, norms and tradition. Moral behavior is not shaped by learning how to employ generalizations in specific situations. This line of thought sheds light on the importance of our emotional capacities and upon our sensibilities, practical sensibilities, regarding human needs and moral demands rather than on our cognitive powers. For example, a person who's beast-like in their behavior and lacks tact cannot be taught social etiquette by means of mere theoretical instruction.

Dancy (2004) provides one of the clearest contemporary expositions and defenses of Particularism. He argues that the traditional link between morality and principles, or between being moral and having principles, is little more than a mistake. The possibility of moral thought and judgment does not in any way depend on an adequate supply of principles. Dancy grounds this claim on a form of reasonholism, holding that what is a reason in one case need not be any reason in another, and maintaining that moral reasons are no different in this respect from other reasons. What is being revealed here is that moral judgments are somewhat more multifaceted than mere implementations of generalizations upon new cases in a mechanical fashion. People must correctly know and understand the kind of moral case that confronts them and people must be

sensitive to the moral significance of these circumstances for their course of action.

Similarly, Nussbaum argues that ethical values, which are constitutive of the good life, are “plural and incommensurable and perception of particular cases takes precedence, in ethical judgment, over general rules” (Nussbaum, 1986, p. 294). Following Aristotle, Nussbaum’s central claim includes two basic arguments regarding both the non-commensurability as well as the non-universalizability of value judgments. First, she argues that since values are not commensurable on a single quantitative scale, a scale such as pleasure, success, goodwill, etc., then the idea of developing some kind of over arching moral principle or theory for resolving the many different kinds of moral dilemmas is implausible. Next she argues that in the daily business of deliberation, each new situation can strike us as, in certain respects, unlike any other. From the point of view of first-person moral deliberation, “we are at the mercy of each new event, and each presents itself to us as a mystery” (ibid., p. 298). Consequently, “rules and universal principles are (merely) guidelines or rules of thumb: summaries of particular decisions” (ibid., p. 299) and not authoritative rules against which the correctness of particular decisions can be assessed.

One variant of the argument against the universalizability of moral judgments, which is relevant for understanding *particularism*, has been skillfully articulated by Winch (1972). Winch distinguishes between two very different kinds of moral situations. On the basis of this distinction, he argues that a certain class of *first-person moral judgments* deserves a special position as not subject to the universalizability principle. As a moral spectator, when one thinks about the decisions of others, one often asks “what would I think it right to do in such a situation,” (Winch, 1972, p. 154) and in this respect one universalizes the decision. In contrast, however, Winch argues that:

“it may well happen that when I am confronted with an actual situation demanding a delicate moral decision from me, I find that things strike me rather differently from the way they struck me when I was thinking only as a spectator.” (ibid., p. 153)

Possibly the best way to demonstrate this and give substance to Winch’s and Nussbaum’s position is by

means of an example. As a pacifist (at least certain kinds of pacifists) one might claim that personally I am not capable of bearing arms, though I understand the idea that moral order requires a police force. In other words, the question: “should one support the police?” is answered affirmatively as a universalizable moral judgment and negatively when particularized to the first person point of view by the pacifist. Similarly, a person thinks in the abstract that a rule forbidding the trade in human body organs is a good rule; but when it comes to an actual situation, such as their daughter needs an immediate kidney transplant, they find that the situation strikes them quite differently and they start searching for a kidney on the black market.

McDowell and Nussbaum, as well as other philosophers who engage in this line of reasoning (Dancy 2000; Hooker and Little, 2000; Wiggins, 1998), are trying to draw our attention to what they believe is a crucial and fundamental feature of our moral realm. They are showing the ways in which our moral attitudes are immersed in our particular everyday lives. By stressing the importance of precedence and immediate response to the moral calling upon one’s actions, McDowell is paving the way for a shift in our deontological moral vocabulary. Terms like ‘objective moral knowledge’, ‘deductive paradigm’, ‘mechanical application of rules’ and the like are being put aside in favor of new–old ones such as ‘moral sensitivities’ and ‘virtue’. For him the term ‘moral reasoning’ is almost an obscenity, because it colors the moral judgment as being too rational and cognitive and, as such, it depicts our moral commitments and sensitivities as mere rationalistic convictions.

#### *Some problems with McDowell’s particularism*

Although McDowell and Nussbaum tend to lean heavily on notions like ‘virtue’ and ‘moral sensitivity,’ they do not neglect the problem of moral knowledge. They appeal to the Aristotelian model of practical wisdom and the Wittgensteinian model of non-inferential understanding as an alternative to the theoretical model for moral reasoning.<sup>4</sup> Knowing how to respond correctly to a human being in need, like helping the proverbial old lady cross the street, and knowing how to build a bridge are not the same.



Knowing how to build bridges requires a substantial body of knowledge of the fields of engineering and physics, some of which is based on complex theories and principles of calculating the strength of various materials. Knowing how to respond to human beings in need is an outcome of educating and training a person to react in certain ways to situations; it has to do with sharpening one's moral sensibilities. What particularists accomplish by introducing this type of knowledge, as a form of moral knowledge, is that they avoid the mistake made by some scholars when they reduce moral deliberation and moral reasoning to notions of calculating one's way in a moral labyrinth.

Although these insights help to correct a major defect in our thinking about moral behavior and reasoning, they are open to a serious criticism which had already been developed and discussed by Kuczewski (1997) and later by Kaebnick (2000). They pose a crucial question for the particularist view: what about situations in which one simply has no idea what is the right thing to do? For example, consider the case of a manager of a hardware retail store one of whose regular and old customers is also a good friend. This customer–friend has been given ample credit, due to their special relationship, and has been asked to provide only a personal kind of financial assurance. This special relationship between the manager and the customer–friend developed years ago when the manager, who was then a young salesperson, was falsely accused of mishandling some accounts. The friend intervened and used her personal relationship with the young manager's supervisor to settle the issue. If it were not for the manager's friend's help, his reputation would have been totally ruined. The manager feels that he is indebted to this friend. Now, a couple of years later, a serious economical crisis happens and as a result the hardware business becomes financially riskier and the customer–friend also has difficulties in making all her payments. Noticing all this, the CEO asks his store manager to call upon his old friend and limit her credit. What should the hardware store manager do in this situation? The dilemma can be phrased as whether he should obey his CEO and claim the money back or should he refrain from doing it assuming his friend's business stability is not grave and she can be trusted as a customer. The manager has two sets of conflicting intuitions at work in such

a situation: as a manager and as a friend. As a manager, obedience to one's CEO and avoiding unnecessary risks are important values. As a friend, support and trust are important values. The particularist suggests that we resolve such moral dilemmas by appealing to our moral sensitivities. But how exactly do we balance and combine two sets of conflicting moral sensitivities; values belonging to different spheres of life? Being presented in this manner, it suggests that it is quite difficult for us to establish what, from the perspective of the manager, is the right thing to do.

The problem is that particularism is of no real help in these cases. In such cases of conflicting moral duties, most of us will feel like newcomers to an unknown country. New situations are so morally complex precisely because nothing in our lives thus far has prepared us for them. We were not trained to respond to such situations, so we do not possess a clear and distinct moral knowledge about them (Raz, 1986, pp. 357–366). The same can be argued about moral dilemmas, where one feels one has too many conflicting duties to carry out in a single and concrete situation. This wealth of moral obligations produces a great deal of moral ambiguity for an individual who experiences them. Lack of moral knowledge due to lack of training is inherent in these type of situations. So how, then, can one possibly know what the right thing to do is? The answer, we think, leads to taking casuistry more seriously.

#### *What is casuistry?*

Casuistry is another approach to practical moral reasoning (Brody, 1988; Jonsen and Toulmin, 1988; Strong, 1997). Though it originates in the 16th and 17th centuries, it is much older. Casuistry is a form of reflective judgment on which rabbinical discussions of Jewish law are based.<sup>5</sup> Kaebnick summarizes casuistry's main idea:

“The guiding idea in casuistry is the notion that one reaches a judgment in a new case by considering how it is analogous to ‘paradigmatic’-cases about which there is a considered consensus concerning the right judgment. In deliberating about a new case, then, the task is to see which paradigm is most relevant” (2000, p. 308).

In other words, casuistry is a method of practical reasoning in ethics. It should not be regarded as a kind of a universal moral theory, such as utilitarianism or Kantianism, although it may apply utilitarian or Kantian moral intuitions to concrete situations for the purpose of revealing what ought to be done in a particular case. Casuistry is an approach toward ethical vagueness, which is meant to overcome vagueness by means of analogies and paradigms (Jonsen and Toulmin, 1988). Employing casuistry requires the comparison of unsettled moral cases to other settled cases, which thus serve as good examples or analogies for clarifying the unsettled case. Casuistry uses morally paradigmatic cases as analogies in order to shed light on ethical dilemmas. In this manner the particular circumstances in the ethical dilemmas are assessed by analogy to clearer cases. Problematic cases are cases that deviate from the basic paradigmatic case by either being marginally related, ambiguous, or involving unique or exceptional circumstances. Moral principles are, thus, just modest generalizations from previous paradigms, which are later used as maxims that require readjustment to accommodate the new situation.

In the past (as well as in the present) casuistry has often been harshly attacked. Pascal is famous for his caricature of casuistry (Jonsen, 1988, p. 238). Recently, Calkins (2001, 2002) also argued that casuistry can be misleading, suffer from moral laxity, and be ideologically distorted; he demonstrates this by tracing the dispute over genetically modified food to its ideological bases; the argument is based on an interpretation of an example. Calkins and other critics of casuistry raise important points regarding the misuse of Casuistry. We do not wish to grapple with them; instead we wish to stress the strengths and usefulness of this approach.

Casuistry is a deliberative approach that focuses on bringing to the forefront different paradigms that are viewed as analogies through which to deliberate about a moral dilemma at hand. Putting examples to practice and drawing analogies so as to use these examples as paradigms for moral judgment is what is referred to as casuistry. Thus, casuistry is the process by which one can deliberate over moral decisions without needing to employ explicit moral principals and theories. It is a process that enables us to concentrate on the most practical aspects of moral

disagreements. We must admit that most of our moral and ethical disagreements are not about right and wrong in abstract, but about what exactly to do in a given situation, given our different understanding of what the situation is actually all about.

Say that one does not know if, for example, it is right to dig through a business competitor's garbage and analyze its content in order to learn about the competitor's strategy. How can casuistry help in deliberation in order to take a moral path here? Well, one way of exercising it is to look in the past for a similar case and use it as an example. By throwing stuff out into the garbage we express a rather clear attitude toward it: we do not want the stuff we throw out. Thus, the very thing we are getting rid of in this case is a thing which puts a burden on us or which we find to be useless. So by using this example one can establish that digging through a business competitor's garbage is not morally wrong as this garbage is not in any person's possession – it is stuff which has been thrown out, and the use of an artifact that belongs to no one is permitted. Some others may say that while this conclusion is morally justified, it is wrong to take advantage of a business competitor in this manner. If the competitor had known about the intentions of the business rival, certainly the garbage would have been processed in another way to prevent it from being put to use against oneself. Another possible paradigm might be the invasion of privacy that results from analyzing a competitor's garbage. Coming to a concrete decision here may take more than just fleshing out as many paradigms as possible. Surely, coming to a concrete conclusion, requires a very persuasive example, an example that lies at the heart of the consensus. Nevertheless, when we consider borderline cases the paradigm might not be as clear-cut because paradigms compete.

In the process of ethical deliberation, as carried out by casuistry, it is extremely important to be aware that our decision or moral judgment is sometimes not the only moral decision that can be taken. Concrete decisions depended upon the contextual backdrop. Imagine a situation in which a civil engineering company wants to receive a contract to build a large bridge in a third world country. It is common-knowledge that a bid that is not accompanied by a large donation to a private organization managed by the commerce secretary's son will not

even be considered. This is probably because the commerce secretary's son is on the committee which will decide who gets the contract. Assuming that you want the contract, should you contribute to the commerce secretary's son's organization? Is this a form of bribery?

Concrete decisions depend upon contextual background: If the son uses this money to combat poverty and help orphans, like a poverty tax, then it is a different situation from a situation in which he uses this money to satisfy his own vain pleasures. If everyone knows of this donation and it is equally expected of everyone, it is a different situation from situations in which it is given under the table non-transparently. In this manner, through the details, the moral significance of the situation is manifest. Putting casuistry into practice means that we have to deal very carefully with setting the exact context.

### **Part 3: casuistry as the best edifying perceptive for business ethics**

It is worth looking at particularism and casuistry together in order to judge which of them is better suited for business management. Both theories maintain that moral situations are unique, and both emphasize the perceptive aspect of moral deliberation rather than the intellectual application of norms or rules. As expressed by Wiggins,

“few moral situations come already inscribed with the names of all the concerns they touch or impinge upon [and] ... the relevant features may not all jump to the eye” (1988, p. 231).

Hence, the point is not to resolve ethical dilemmas but rather to come to see what are the relevant (‘possibly salient’ in Nussbaum’s words (1986)) features of the situation. Related to this, both particularism and casuistry share the view that eventually trying to decide ‘what to do’ has to do with responding to a particular context. In this respect particularism and casuistry presume that moral knowledge is essentially particular, in the sense that resolutions of moral problems must always be rooted in a concrete understanding of specific cases and circumstances (Jonsen and Toulmin, 1988, p. 330).

Nevertheless, methodologically, an important difference exists between the two theories, and it is

this very difference, which leads us to argue that casuistry is superior for the manager dealing with moral dilemmas in the business sphere. To put it in a nutshell, casuistry offers two advantages. First, in the face of a problematic situation, particularism comes down to one simple methodological suggestion: act with sensitivity that takes into account the particular features of the situation without getting into any comparisons and generalizations. Particularism requires a person with practical wisdom and certain character traits. Such people are, according to particularism, capable of identifying the unique features of the situation by virtue of their moral sensibilities and hence they know what the situation requires. In contrast, casuistry suggests an approach of analogical thinking by which one tries to gain a better understanding of the particular situation by working back and forth with previous paradigms. This process is extremely important to one who fails to notice the right thing to do in a concrete situation.

The second advantage of casuistry, particularly in business ethics, relates to how it focuses on particular cases as belonging to certain basic paradigms. It is important here to draw a distinction between how casuistry grasps the notion of a unique context and how particularism grasps this notion. Casuistry focuses on types of cases, striving to catalog unique situations within familiar paradigms. In contrast, particularism looks at each situation as a unique case. More specifically, when applied to managerial decisions concerning human resource management, for example, casuistry should be understood as arguing that the manager must be sensitive to the unique ethical context of *the employees* and what it means, in this context, to be an employee. In contrast, particularism should be understood as advocating sensitivity to the unique moral context of *each particular employee*. As human beings, not within one’s capacity as a manager, it makes perfect sense to look at each individual as a unique and special person, as advocated by particularism. Within various organizations there are certain people that this is their job: for example, the school counselor in the setting of a school should be sensitive to the problems of each individual student. However, the manager, like the school principle, is supposed to see the organization in broader terms. The manager in the context of business dilemmas is supposed to be sensitive to people as belonging to certain categories, such as ‘the

workers,' 'the community,' or 'the board of directors,' rather than being sensitive to each particular and unique individual as required by particularism.

Broadly speaking, casuistry's most fundamental advantage over particularism lies in the simple fact that using casuistry in cases such as those mentioned in the previous section can be pragmatically useful. If a person does not have enough knowledge or sensitivity about what should be done in a concrete situation, particularism would be of no use. In situations like these, it would be of greater help for moral agents if they could use some other source of moral insight. Any moral agent who feels paralyzed in the face of a new and unfamiliar moral case can use previous moral cases that seem similar to the present one by way of analogy. Familiar cases are what casuists call 'paradigmatic' cases. Someone who lost moral certitude can put paradigmatic cases to work again, by comparing the two cases and drawing moral conclusions from the paradigmatic one to the new and unknown one. Using a casuistic approach for handling new cases exemplifies its advantage over particularism.

To conclude, casuistry may have originated from efforts to resolve moral dilemmas. But while casuistry can be seen, by some scholars, as a mere tool for settling unknown moral cases posed by new human situations and opportunities, we strongly recommend extending beyond this view. Casuistry is a pragmatic means, not a theoretical one, for gaining a richer and more relevant understanding of new and evolving situations. This means that casuistry can and should be engaged for the purpose of broadening our human and moral sensibilities and not just for a quick resolution of moral difficulties. It is a means for amplifying our capacity for noticing ethical nuances rather than a tool for getting directly to the point. Casuistry is flexible enough to be applied in changing environments as institutions change. Casuistry is both a non-theoretical approach and yet because it appeals to paradigmatic cases it maintains a certain degree of a personal detachment. It is in both these features that its advantage lies. The less theory it has, the more flexible and pliable it gets. The less personally biased it is, the more objective it is. It is a humane, but not too personally involved method for deliberating about moral problems that is well suited for the ethical roles that business managers should play.

## Notes

<sup>1</sup> Solomon (1993) argues that virtue ethics is a plausible option in business ethics. Getting into this specific argument will take us beyond the scope of this paper.

<sup>2</sup> Beauchamp's and Childress' four principles were justified in the 1979 edition (1st edition) because, supposedly, they formed the core of an 'overlapping consensus' of utilitarianism and deontological ethical theories. Later, in the (4th edition) they seem to argue that there is a 'common morality theory' by which the four principles are justified.

<sup>3</sup> Although Aristotle ultimately makes ethical judgment a matter of perception of the particular case (cf. Nic. Eth. VI), on the other hand, he also believes that there is a range of objectively valid 'for the most part' principles that the good ethical reasoner brings to bear on the particular case that confronts him or her. Hence, Aristotle's view can also be reconstructed as much closer to the 'casuistry;' casuistry has roots in classical Thomism, which has roots in Aristotle.

<sup>4</sup> Wittgenstein, even though he did not speak about the matter in any formal way, believed that reasoning (at least in philosophy) has to do with putting one case beside another and comparing. In this respect he might be considered a casuist. The person who did develop this idea into a formal account of reasoning is Wittgenstein's friend and colleague Wisdom (1991) in his *Proof and Explanation*, and for an application to ethical reasoning specifically, Shiner (1988), 'Ethical Justification and Case-By-Case Reasoning', in D. Odegard (ed.), *Ethics and Justification*.

<sup>5</sup> More about this issue can be found in Mishna (Jewish Talmud) Safra A. 3; where the terms of 'inference from analogy' (Heikesh-in Hebrew) and 'implication through linguistic identity' (*Gzeira Shava*-in Hebrew) are elucidated in detail.

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