ethical dilemmas unit 2

Making the case for ethics

WE are now going to look at how ethical dilemmas arise. As I have already indicated, it goes without saying that in addressing the question of ethical decision making in business one has to assume a prior interest in ethics: either an interest in behaving ethically, or at the bare minimum, an interest in knowing how an ethical person *would* behave.

There is no disputing that a case needs to be made for ethics, but not here. Such an inquiry belongs to the *foundations* of ethics, and would address the question whether ethical beliefs have an objective basis, either in Platonic 'Forms' or a Kantian 'Categorical Imperative', or alternatively a subjective but nonetheless reliable basis in human emotions and attitudes as David Hume believed. It would also look at the various 'meta-ethical' theories which attempt to explain what a person is doing in making a moral judgement, the kind of linguistic act that is performed; for example, whether we are asserting a statement with a truth value as appears if we take moral statements at face value, or issuing a command as the philosopher R.M. Hare argues in his book *The Language of Morals*.

It might be thought that another kind of justification of ethics in business is possible, which bypasses the question of foundations altogether and limits itself to the *prudential* reasons for being ethical. Much causal discussion of business ethics falls into this area. As Kant observed, if you are a shop keeper, it is prudent to always give the correct change to your customers if you want them to come back to your shop. Failing to not give incorrect change can hardly be described as 'ethical', because ethics never came into the decision in the first place. However, if we take the very same shop keeper and put him or

her in a position where they have a great deal to gain by acting unethically, with no risk of being found out, then the appeal to narrow self-interest fails.

Plato and Aristotle both believed that prudence in the widest sense can be appealed to in order to persuade an individual to choose the ethical life. In the *Republic*, Plato describes the myth of Gyges, a magical ring which renders the bearer invisible. Why be ethical, if you can do whatever you like with impunity? (The same question is posed by the 2000 movie, 'Hollow Man'.) Plato's answer, through the mouthpiece of Socrates, is that the unethical person has a 'disordered soul': no-one who fully understands what it means to have a soul that is disordered would wish such a state of affairs. I am not going to try to defend Plato here. If one looks at the business scandals that have motivated an increased awareness of the question of ethics in business, it is very hard to see that Plato's argument would have acted as a deterrent to executives and board members who believed that they were above ethics and above the law.

The arguments that follow are therefore addressed to business people who would like to be ethical – who have the required good will or correct attitudes – but are not sure what this requires in a particular case, especially in hard cases. It is easy to pass judgement on the decisions of others, until you find yourself in the same or a similar predicament. Good will is not enough, if you lack the wisdom to see and understand what is to be done.

Difficult decisions

A difficult ethical decision is not necessarily the same as a decision that is difficult to make. You may be faced with a situation where it is very clear what would be the right or wrong thing to do. Say, you are a CEO in the process of finalising a business partnership which is vital for the survival of your company, and then you are appalled to discover at the last minute that your prospective partner is involved in systematic bribery of tax officials in one of the main countries where you are hoping to expand the market for your product.

So long as nobody knows that you know – you overheard a conversation in a lift, or accidentally saw an email intended for someone else – you have the option of turning a blind eye. If and when the corrupt practices are brought to light, you can claim that the wool was pulled over your eyes. By that time, your balance sheet will be looking more healthy and you can afford to break with your partner and let them face the music alone. There is no doubt that such a course of action is unethical. But in a real life situation, the alternative option might be a very difficult decision to take, especially if there is a real danger that without this partnership your company will go out of business.

In unit 1, we saw that self-interest is a valid consideration. A company is not required to sacrifice its interests and those of its shareholders for the greater good. However, the case we are now describing goes well beyond legitimate self-interest. The problem, bluntly, is one of weakness of will. You know what you should do, but are reluctant to bite the bullet. Companies as well as individuals can suffer weakness of will. This is one of the main indicators of bad leadership or of a bad corporate culture. When a number of individuals are involved in making a decision, it is easier to let yourself off the hook if you know that others are prepared to do the same. The only reason why in real life this doesn't lead to wholesale corruption is that it only takes one dissenting individual to blow the whistle. Conspiracy is generally a harder act to pull off than an individual misdeed.

There is no philosophical solution to weakness of will, because you already know what you should do. You don't need a business ethicist to tell you that this particular action would be unethical. However, there is a practical remedy. As Aristotle observed, those who practice ethical decision making at every opportunity are more likely to resist the temptation to backslide and allow unethical considerations to sway the argument.

A genuinely difficult ethical decision, on the other hand, is one where with the best will in the world you do not know what you should do. The problem here is not with the will but with ethical knowledge. The wise decision maker has the ethical knowledge that the unwise or inexperienced decision maker lacks.

Lack of ability in ethical decision making can be remedied by appropriate training. As we shall now see, however, competence in making ethical

decisions is still not enough. Sometimes we face ethical decisions which are difficult, not because of something *we* lack – the required knowledge or expertise – but rather because the nature of the situation which we are dealing with is such that no amount of expertise would be sufficient to determine the one and only 'correct' answer. This is the characteristic feature of a true ethical dilemma.

Ethical dilemmas

Moral philosophers love an ethical dilemma. Dilemmas show something deep about ethics. They make us question our moral beliefs and theories, search for an understanding of what is going on below the surface. Above all, ethical dilemmas provide an opportunity for philosophers to test their theories against real-life hard cases.

What is a dilemma? It is not clear at first sight that the term 'ethical dilemma' picks out a class of situations which all share the same common characteristics. So far we have offered a negative criterion: a moral dilemma is different from a merely difficult decision. In a dilemma, the difficulty arises from the very nature of the *situation* with which we are faced rather than our mere lack of wisdom or ethical knowledge.

It is true that, in ordinary speech, we are inclined to use the term 'dilemma' for any decision where we are uncertain which of two alternatives we should choose; in other words, as synonymous for a 'difficult decision'. However, as we have seen, what is problematic to one person may be much clearer to another person who has stronger moral perceptions or insight. If someone insists on calling every difficult decision a 'dilemma', then they still need a word for the variety of 'dilemma' that does not refer to something merely subjective in the mind of the agent, but rather denotes an objectively existing situation in the world.

This raises a deeper issue about subjective versus objective which I will return to later. For now, let's just look and see if we can describe in broad outline the characteristics that give an ethical decision the aspect of a dilemma.

Consulting etymology, the term 'dilemma' comes from the Greek: 'di' for two and 'lemma' for proof. A dilemma is two proofs, or reasoned arguments, which entail logically inconsistent courses of action. In the ideal example of a dilemma, there is an irresistable case for doing A, and also an irresistable case for doing B. But it is logically impossible to do both A and B. It follows that either one case can after all be resisted, or both can. To assert that both cases are (truly) irresistable would imply the existence of a irresistable case – combining the cases for A and for B – for seeking to do what is logically impossible: an absurdity.

It is fair to say that the majority of cases of moral reasoning are not like this. Often, when we when we face a tough decision, we weigh the relative strength of the cases for A and B. The case for A would be deemed sufficient for action, were it not for the fact that there is also a case for B, and vice versa. Provided that one case is stronger than the other, however, there is no real dilemma. We may regret that circumstances were such that we could not avoid having to choose, but all we were looking for were sufficient reasons for action and we have found them. It only remains to do what is necessary: to act.

This glib summary hides the fact that decisions like this can cause deep anxiety and anguish; for example, a manager facing the decision of which of two loyal employees to make redundant. In truth, there may be very little to choose between the two individuals. Either employee will be devastated by the decision. However, a decision must be made, so the only remaining question is how do decide as fairly as possible, without secrecy or subterfuge so that the grounds of the decision are clearly understood by all parties concerned.

If a dilemma is not just a difficult or painful decision, are there any genuine dilemmas? I believe that there are. What all ethical dilemmas have in common is that, to a greater or lesser extent, the relative strength of the two cases *cannot be meaningfully compared*. There is no common standard, no common coin for evaluating the strength of the case for A against the strength of the case for B. Whereas the 'ideal' dilemma – according to our original definition –

pits two irresistable arguments against one another, in real-life cases of ethical dilemma the two arguments simply do not connect. There is no rational procedure for comparing them.

Let us see how this comes about. I will look at three imaginary, but hopefully realistic cases. The issues raised will be discussed in more detail in later units.

Three moral dilemmas

Case 1

A freak accident occurs at a chemical factory with a previously exemplary safety record, and a man dies. An investigation into the causes of the accident recommends measures to prevent similar accidents happening in the future. However these changes would be prohibitively expensive to implement. The CEO faces the choice of closing down the plant with the loss of hundreds of jobs, or allowing the plant to continue with changes in procedure which reduce the risk but do not eliminate it entirely.

Case 2

An investigative reporter gets whiff of a story about corruption in a blue chip corporation concerning a board member who accepted a free holiday from a company negotiating a multi-million pound land deal. The Chairman has already spoken to the board member concerned, who immediately offered his resignation. Luckily, the deal has not been finalised and no harm has been done. On the telephone the reporter asks the Chairman if there is any truth in the rumour. An admission will send share prices tumbling. The chairman can admit the truth, or give an innocuous explanation designed to throw the reporter off the scent – a 'white lie'.

Case 3

A human resources manager at a laboratory equipment manufacturer is faced with a difficult decision regarding one of the more senior members of the workforce. Only two years away from retirement, the man works with great care and dedication but his work rate has declined to the point where other workers are beginning to complain. Loyalty to the company dictates that the manager makes the best decision in the company's interests, and let the man go. An alternative, more humane course of action would be to move him to a section where his lack of productivity will be less likely to be noticed.

Case 1 is an example of incommensurable outcomes. We are asked to determine the value of eliminating a small but significant risk of injury or death versus the value of continuing to provide employment. A dogmatic response would be to say that no value, however great, can be put on a man's life. However, if that principle were to be put literally into practice, daily life would grind to a halt. Even if only one person a year died in a car accident, all private transport would be banned. So, while we pay lip service to the belief that a human life is beyond measure, in practice decisions are made which are inconsistent with that belief.

Case 2 is an example of a clash between principles and consequences. As a matter of moral principle, it is always wrong to tell a lie. However, in real life there comes a point where the price of telling the truth is one that we are not prepared to pay. The classic example is the one of the axe-carrying murderer who asks, 'Which way did he go?' Any response other than the literal truth is a lie. Kant, in an essay entitled 'On a Supposed Right to Tell Lies from Benevolent Motives' (*Kant's Critique of Practical Reason and Other Works on the Theory of Ethics* (1785) http://oll.libertyfund.org), argued for the dogmatic view that even in this extreme case, one's moral duty is to tell the truth, irrespective of the consequences. However, few would embrace that extreme conclusion.

Case 3 is an example of a dilemma that arises as a result of a conflict of roles. A manager, just as much as a doctor or judge or teacher or member of the police force accepts certain duties and obligations as definitive of one's role. No-one is forced to be any of these things. We freely take up our vocation and identify ourselves with what we do. But a human being is more than just a role. The manager is also a responsible citizen, a loyal spouse and caring parent, a decent human being. These roles carry particular obligations that have the potential to clash. The dogmatic response, 'Loyalty to one's company overrides all other obligations in all circumstances,' is simply unacceptable.

In each of these examples, you can ratchet up either branch of the dilemma as you wish. That is why the fine details have been left deliberately vague. If you increase either side sufficiently, it becomes clear what action one should take. But in the middle there is a large penumbra where there are no clear rules or decision procedures. For each person facing such a decision, there is a unique cut-off point but no-one can say in advance exactly where this is. We have to make a choice, and so we act. We can offer reasons for our decision, but in the face of the impossibility of making a meaningful comparison between the alternatives any decision is ultimately made 'without reason'.

In this respect, the moral philosopher or business ethicist is in the same boat as everyone else. The only difference is that when other people give up, the ethicist doggedly continues deliberating. To the extent to which an ethical dilemma arises because of confused thinking or insufficient knowledge, the skills of logic and analysis can render some dilemmas soluble, or at least easier to grapple with. But in the end, even the ethicist has to make a judgement call. When reasons give out, you just have to make your best assessment of conflicting considerations. This is not irrational, but rather a consequence of the very nature of rationality. As Kant observed, wisdom and skill in judgement can never be reduced to a book of rules. You still need to use judgement in applying the rules.

Subjective and objective

I said earlier that we were going to discuss a deeper issue about subjectivity and objectivity. To say that a decision is made 'without reason', or that for

each person there is a 'different cut-off point' implies that the ground of that particular decision, made at exactly that point in those circumstances is, in a sense, subjective. If there were an objective ground, then decisions would be correct or incorrect, right or wrong in relation to that objective ground. Discarding the dogmatic response – which achieves objectivity at the price of being simply unbelievable – the existence of an objective ground implies that only one point on that scale is the right point. You either hit that tiny target when you make your decision, or much more likely miss. A 'good' decision is one that does not miss the target by too much. This is the best that mere human beings can hope for.

Moral philosophers impressed by the thought that if ethical decisions are not merely subjective then there must exist an objective answer in every case – whether a human being can ever know that answer or not – have put forward various theories in order to explain how such a target for moral judgement might be defined. Utilitarianism, or the theory that the objectively right action is the one that leads to the 'greatest happiness for the greatest number', posits a sum that no human being can ever calculate exactly but which nevertheless constitutes the ultimate standard for all our moral judgements.

An alternative, more subtle response suggested by recent work in the logic of vagueness, would claim that the 'penumbra' that I have talked about is typical of vague judgements, which infect every aspect of human knowledge. According to the Oxford philosopher Timothy Williamson, the only way to save our classic notions of truth and falsity is to accept that vagueness is merely a 'form of ignorance' ('Vagueness and ignorance', *Aristotelian Society Supplement 66* (1992). Reprinted in R. Keefe and P. Smith, eds, *Vagueness: A Reader* MIT Press 1997). It follows from Williamson's view that there is a correct answer to each ethical dilemma, for each precise way of filling out the details, just as there is a right answer to the question whether a certain minimum number of grains of sand arranged in a particular way is sufficient to make a heap, even though we can never know what that answer is.

I find these claims simply fantastical. Why is it so terrible to believe that there are ethical questions to which there is no ultimately correct answer? Of course, we should never assume that there is no right answer just because we

haven't yet *found* the answer. But it is a plain *non sequitur* to argue that because such an assumption should always be challenged in a particular case, it follows that we must believe that there exists a state of affairs in reality that constitutes *the* unique answer.

Consider other cases where we strive to improve on something we have done or decided. For example, consider a poet writing a poem, crossing out lines, substituting words, changing the words back again until the poet feels that the result cannot be improved upon. Or consider a car designer working on the plans for a new people carrier, moving the wheels an inch forward, then back, then forward again. There is no 'perfect' poem or people carrier 'out there' in reality. You stop because you can't think of a way to improve on what you've done.

We don't say that a poem is a great poem, or that a car is a great car because it corresponds closely to the 'perfect poem' or 'perfect car'. That would be nonsensical. Then why insist that a well judged response to an ethical dilemma is one that corresponds closely to the ideal or perfect response?

For all practical purposes, the idea of an ultimate answer to every ethical dilemma has no real *use* in our decision making. The myth of an ultimate answer helps to keep us honest when we face real-life decisions, but a myth it remains. It is one thing to say that we should speak and act *as if* there were a real answer to every ethical question 'out there', but quite another to make that a matter of literal belief.

The wise decision maker

I would suggest that there is an alternative way, after all, to accept that a person's response to an ethical dilemma is 'subjective', in the sense of being uniquely theirs, without giving up the idea that our responses to ethical dilemmas *can* be praiseworthy, or alternatively deserving of criticism.

Whether you choose between the two alternative courses of action A and B soberly and seriously, or carelessly and capriciously, the result is the same:

you either do A, or you do B. The quality of your decision is not a matter of which decision you made but rather *how* you made it, and what you are prepared to do as a consequence of your decision.

The capacity to *see* and appreciate a dilemma is indeed the mark of a wise decision maker. Someone with less knowledge and understanding would not be gripped in the same way. Paradoxically, the better we are at making ethical decisions, the *more* difficult, or indeed impossible some decisions may seem, because it takes knowledge to appreciate the quality of the dilemma. Pain is the price we pay for being sensitive to ethical problems and challenges that other persons are not sensitive to.

If there does exist an objective foundation for ethics, as Kant and Plato believed, it still does not follow that such a foundation consists in a precise criterion of ethical evaluation, which only God or angels can apply. Whatever the object of ethical knowledge may be, it surely must be something that makes a practical difference. A criterion that only God or angels can apply makes no practical difference, and therefore might as well not exist.

My view, which I have argued for elsewhere (*Naive Metaphysics: a theory of subjective and objective worlds* Avebury 1994, Kindle 2016, Ch 13), is that the foundation for ethics arises from consideration of what it is to be a human subject in relation to other subjects. On pain of solipsism – or the belief that other persons are merely characters in my private dream – we must accept the validity of ethical claims. Ethics is something real, as real as the physical world around us. That is what gives ethical dilemmas their depth; and their tragedy.