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Two Ethical Principles

Abstract: *This chapter presents two ethical principles that are helpful in analyses of morally challenging situations at work. The principle of equality states that equal cases should be treated equally, and that a difference in treatment requires that we can identify a morally relevant difference. The principle is related to the Golden Rule, and to the consistency formulation of Kant's categorical imperative. The principle of publicity states that the decision-maker should be willing to defend his or her decision face-to-face with relevant individuals and groups of people. In an organizational setting, this can include internal and external stakeholders like one's colleagues, leaders, customers, and suppliers. This principle is related to the universality formulation of Kant's categorical imperative, in that it invites a consideration of whether other rational agents would endorse the decision or judgement. From the outset, the two principles are neutral with regard to the tension between utilitarianism and duty ethics. Both traditions can acknowledge that different treatment requires the identification of a morally relevant difference, but will disagree about what constitutes such a difference. They can also acknowledge the transparency requirement inherent in the principle of publicity, but again part company when it comes to the applications of the principle.*

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Clare is a professor at a business school. She recently bid farewell to a very talented MBA-student that she has supervised to an A degree. On the final day of term before Christmas, the student turned up at her office with a flat package wrapped in gift paper. He wanted to thank her for the excellent work she had done in supporting and supervising him during his studies. He was now heading back to his home country in the Middle East. From the size and shape of the package, Clare assumed that it contained chocolate, and had no hesitation in accepting it. Two weeks later, she has friends over for a Christmas party, and wants to share the chocolate with them. She unwraps the package and finds that what is beneath the gift paper is an iPad. What she had assumed to be a cheap and innocent chocolate gift was instead an expensive electronic device. She is devastated. What should she do now? Can she keep the iPad?

Clare's initial moral intuition is that the answer is no. She needs to locate the student and return the iPad. This gift is too valuable to hold onto. Then she slows down and starts to engage in ethical analysis. She can consult utilitarianism and duty ethics, but their doctrines seem designed for grander situations, where more is at stake. To maximize utility with or without treating others as mere means is not the core issue in the situation Clare faces. What she needs is a set of simpler ethical principles. One place to start is with the formal principle of equality, an inheritance from Aristotle:

> Equal cases should be treated equally. A difference in treatment requires that there is a morally relevant difference between the two cases.

When the student turned up at Clare's office, she did not hesitate to accept the gift he handed her, since she assumed it was chocolate. Now the situation is different, but how might it be different in a morally relevant sense? The striking difference between a box of chocolate and an iPad is in the monetary value. Clare assumes that the former costs about 30 Euro, and the latter about 500 Euro. Had she known at the time that the package contained an iPad, she would have turned it down, since she considers the value to be too high in relation to the work she has done for the student. A box of chocolate can be seen as a simple and symbolic gesture of gratitude, and Clare struggles to see the iPad in that light, due to the high price. Cost, then, appears to be a morally relevant feature, but is the difference between the assumed and the real price great enough to warrant either a process to locate the student and return the iPad, or to find another way to dispose of it?

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Clare faces a situation where she would be grateful for a concise demarcation between a gift and a bribe. Many transactions in organizational life occur in the grey zone between the white and innocent practice of exchanging gifts, and the grim blackness of pure bribery. Equipped with the principle of equality we can enter this grey zone with the intention of deciding where to draw the line between acceptable and unacceptable transactions. Five aspects seem particularly relevant:

A. Intention: What does the giver want to achieve?
B. Roles: What are the particular roles and positions of the giver and receiver?
C. Timing: When does the transaction take place? Before or after a decision?
D. Value: What is the value of the object changing hands?
E. Culture: Is it customary in this culture to offer gifts of this kind?

Clare can apply this list to her own situation, to clear her own mind for a decision on the matter:

A. Bribes are normally offered in order to gain an improper advantage. Clare is convinced that the student's intention was to show gratitude, and not to affect future decisions on her part. It is unlikely that she will ever see or hear from him again.
B. Clare has been a supervisor to the student, and so has been in a higher ranking position than the giver. She has had power to affect the outcome of the grading, but that period ended when the student got the A grade, before she received the package.
C. Bribery occurs before a decision takes place, not after, unless the participants have agreed beforehand that a transaction will happen after the desired and agreed upon decision has been made. This does not hold in Clare's case, since the package came as a genuine surprise, on the right side of the timeline. She would not have accepted it if the student had offered it to her before the grading, even if she had thought that it only contained chocolate.
D. The value of an iPad is high, and a decision-maker would normally have to reject it, since one could reasonably think that the reception of such an object would have the power to affect a decision, on a conscious or subconscious level. The receiver will normally feel that he or she owes the giver a considerable favour. An iPad creates indebtedness, but Clare can argue that she will probably never be in a position to repay the debt, and so should be free to accept it.

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E. The student comes from an area of the world where generous and valuable tokens of gratitude are accepted and expected. Turning them down can be interpreted as rude and impolite. On the other hand, such generous gifts are not part of the academic culture where Clare works, and it is not obvious which cultural norms should have the upper hand in the situation.

In sum, the analysis generated by the use of the principle of equality appears to support the conclusion that Clare can keep the iPad and consider it a pure and genuine gift rather than a calculated bribe. There may still be other arguments in favour of returning or giving up the iPad, but so far the reflections based on equality considerations give Clare moral reasons to hold on to it.

Another analytic test that flows from the principle of equality is one where the decision-maker can consider whether he or she would accept that his or her conduct became the norm for how to deal with situations of the same kind. Equal cases should be treated equally. If Clare thinks it is morally acceptable for her to keep the iPad, then presumably she must also believe that it morally acceptable for anybody else to do the same, under the same kind of circumstances. The fact that it is Clare and not Clarissa that faces this situation is normally not a relevant difference.

The principle of equality is similar to the Golden Rule, or the principle that one should treat others the way one would want them to treat oneself. An early version is attributed to the Greek philosopher Thales: "Avoid doing what you would blame others for doing." The Golden Rule appears in many religions, philosophies, and cultures. It accentuates the idea that whether it is you or somebody else facing a particular decision situation, is from the outset morally irrelevant. It therefore follows that you should behave towards others in ways that you would want and accept that others to behave towards you.

Immanuel Kant's consistency formulation of the Categorical Imperative appears similar to the Golden Rule, and is often interpreted as a version of it:

> Act only according to that maxim by which you can at the same time will that it should become a universal law. (Kant, 1998/1785, p. 422)

Kant thought that the Golden Rule lacked the universal and formal dimensions he sought to articulate in the Categorical Imperative. The Golden Rule is more of a hypothetical imperative, on his view. It encourages thinking of the kind that if you want people to be helpful

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towards yourself, then you should be helpful towards them. Presumably, if helpfulness is not something you particularly treasure in others, you have no moral obligation to be helpful towards others. Kant meant the categorical imperative to be stricter than a hypothetical one in that it is universally binding for all rational beings, and not contingent upon individual or cultural differences. It seems that he considered the Categorical Imperative to be an improvement on the Golden Rule in the sense that it avoided subjectivity and added universality as a requirement of moral considerations.

The principle of equality puts demands on the justification of choices. It requires that a decision-maker can back up a difference in treatment of two cases with an identification of a morally relevant difference between them, but does not single out one particular moral outlook or ethical foundation to be uniquely right. It does not favour duty ethics over utilitarianism, or vice versa, but remains neutral regarding the tension between them. As we saw in the discussion of the trolley problem, duty ethics considers the fact that a person is used as mere means to indicate that it is a morally unacceptable option, even though this option maximizes utility. Utilitarianism, on the other hand, considers consequences as the only morally relevant features of the situation, and thus comes to different conclusions about what to do. Both traditions acknowledge the principle of equality, but part company on the issue of what constitutes a morally relevant difference.

Looking back on previous examples from this book through the lens of the principle of equality, we can see how the justifications can take the form of finding reasons to make exceptions in the application of ordinary moral norms. In the blackmail case, Anne can claim that she does not give in to blackmail or other kinds of pressure that can occur in a corrupt economy, but that she makes an exception in this case, due to the colossal economic stakes that are involved. In the reference case, Ben can argue that he normally is truthful towards others, but that he is making an exception in this case, since he needs to restore harmony in his unit, and can do so effectively by hiding truths about the employee's quarrelsome behaviour. In the second trolley case, a person can argue that he or she would normally not kill an innocent person, but that the current situation warrants an exception, since it is thereby possible to save five lives. Whether we accept these appeals to morally relevant differences depends on how well they fit with our moral convictions and beliefs.

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Turning back to Clare and her decision regarding the iPad, she also has access to a second ethical principle, one we can call the principle of publicity. Formulated to fit an organization setting, we can express it as follows:

> You should be willing to defend your decision publicly, and be open about it to relevant people, that is to your leaders, colleagues, customers, suppliers, other business relations, and other relevant stakeholders.

At the core of this principle is an appeal to transparency. Decisions should withstand the light of day. By sharing the decision and talking openly and publicly about it, the decision-maker is seeking some sort of endorsement from his or her peers, and from rational stakeholders. In Clare's case, the relevant people would primarily be her academic colleagues and students. The responses from the latter group is particularly interesting. How would they respond to the information that professor Clare received and accepted an iPad from a student she supervised to an A? Accountants are a profession drilled in the use of a distinction that is relevant here. They learn to consider both how things are "in reality" and "in appearance". A client may actually have been in good faith when underreporting about an incident, but it might appear to the authorities that he has intentionally misled them. Both what we take to be the truth and how it may appear to others is relevant. In line with this way of thinking, Clare can be totally convinced that there is no link whatsoever between the good grade and the iPad, and can also have no doubts that the student's intention was to show gratitude. Nevertheless, she also should consider how other people are likely to view the situation. If students start to connect the iPad and the A, it can create doubts about her integrity as a supervisor.

The principle of publicity addresses whether a decision will stand up to public scrutiny. The principle is a part of many versions in ethical guidelines in the professions, and in organizations' codes of conduct. It is sometimes called the *New York Times* test: Never do anything you would not want to see reported on the front page of the *New York Times*, or whichever newspaper you consider important. One American lawyer I have worked with calls it "the smell test": Does this particular action smell all right, or is there an unpleasant odour to it? I have heard an accountant refer to it as "the Aunt test". His rule of thumb is to ask himself whether his aunt, a person he perceives to have formidable integrity and wisdom, would have found his choice morally acceptable. One

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of my colleagues operates with a "blush test" and considers whether the course of action he is contemplating would make him blush if it became common knowledge.

One objection to the principle of publicity is that in business and elsewhere in society decision-makers may face situations where all the alternatives open to them have negative consequences. Real moral dilemmas have no painless solutions, and some people will have legitimate reasons to complain, no matter what the decision has been. Hooker (2010) gives the example of a CEO of a large corporation who decides that the most responsible option in the tough economic situation is to lay off several thousand employees. The individual consequences are severe, and the CEO would not like to see the stories enfold on the front pages of newspapers and websites. Nevertheless, what he did might be the most morally sound option available to him under the circumstances.

This objection is primarily relevant in relation to a version of the principle of publicity interpreted as a newspaper or media test. It may be painful for the CEO to experience detailed media exposure of the personal sufferings of the people he has laid off. That in itself is not enough to say that his conduct demonstrates a failure to act in accordance with the principle of publicity. It is likely that relevant stakeholders will understand his predicament and acknowledge the fact that no painless and harmonious options were acceptable to him.

A second objection to the principle of publicity is that it conflicts with the idea of having company secrets, in the form of strategies and plans the competitors should not know about. This objection stems from a misunderstanding of the principle. It is not a plea for you to spread your company secrets with the wind. It allows you to keep sensitive business information to yourself, but challenges you to consider how your decisions would look to the public eye. X out the names of the companies and persons involved, and contemplate what kind of response you would get from people close to you if you chose this or that option in a dilemma.

The principle of publicity invites reflection on the extent to which other rational agents would endorse our judgements and decisions. As such, it resembles the *universality formulation* of Kant's categorical imperative:

> Act as though the maxim of your action were by your will to become a universal law of nature. (Kant, 1998, p. 422)

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We can interpret this formulation to address the issue of transparency, and the extent to which your decision stands up to public scrutiny from other rational agents.

To sum up the practical contributions from normative ethics, utilitarianism offers one ethical principle, claiming that the decision-maker should strive to maximize utility for all concerned, and thus promote the common good. Duty ethics claims that there are limitations to what we should do in the name of promoting the common good, since we have a moral responsibility to respect other people and their human dignity. This ethical outlook comes to expression in the consistency, humanity, and universality formulations of Kant's Categorical Imperative. On a formal level, a utilitarian can actually accept the consistency and universality formulation, and say that he or she is consistently committed to the idea that one should maximize utility, even in a situation where that person would have to be sacrificed for the common good. The humanity formulation, however, is unacceptable to the utilitarian, and marks the point where the two ethical traditions are in fundamental disagreement.

The two ethical principles presented in this chapter offer a way to structure practical moral reasoning that oversteps the conflict between utilitarianism and duty ethics. We can apply the principles of equality and publicity to concrete cases without evoking the traditional tensions in ethical theory. That makes it possible to engage in ethical analysis of moral dilemmas without prior commitment to either of the two ethical theories.

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