Case Studies in Business Ethics

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Preface

Not long ago the term "business ethics" was reserved for simple cases of fraud or honor. Customers complained about business ethics when they were victimized by bait and switch advertising, and corporate presidents boasted of business ethics in Christmas speeches and annual reports. But more recently the term has acquired greater complexity and sophistication. It has come to refer not only to matters of fraud and public relations, but to a growing field of study that encompasses standards of professionalism, corporate decision-making structures, and the interface between ethical theory and economic practice. Even as more and more business schools are introducing courses in business ethics, scholars in the humanities and social sciences are expanding the boundaries of research into the field.

In its evolution toward greater sophistication, business ethics has shed its "anti-business" reputation. Repeatedly pointing a finger of blame at the latest corporate watergate—at the latest Firestone 500 or Three Mile Island—has come to be recognized as having limited pedagogical value. Such knee-jerk indignation promotes ethical simple-mindedness and avoids many of the deeper problems that vex even the most conscientious of managers.

In the face of this rising tide of academic interest in business ethics, it was inevitable that teachers and scholars would seek out better and more challenging case studies. *Case Studies in Business Ethics* is an attempt to collect into a single package some of the better case studies available in order to fill that need. It contains cases that deal not only with ethical failures, but with ethical successes, and each case attempts to confront the reader with the same complex value trade-offs that characterize real-life business decision making. Its cases are also designed to complement the new, more philosophically oriented approach taken in contemporary business ethics courses. Most instructors will want to use the book in conjunction with other materials dealing with specific topics in ethics, business, and eco-

nomics. For those who wish to learn more about teaching with the aid of cases, I have provided an introductory essay which explains the case method and shows its special application to ethics. Each case study is followed by a set of discussion questions highlighting issues in the case. A set of questions marked by an asterisk indicates that I, and not the original author, formulated the questions.

It would be hard to thank sufficiently those who have helped design, prepare, and critique the book. These include A. R. Gini, Jeanne Huchthausen, Ray O'Connell, Manuel Velasquez, and Pat Werhane. My research assistant, Marcia Lehe, provided valuable editorial assistance, and the production editor, Pattie Amoroso, saved me from numerous embarrassments while herself doing a thoroughly professional job.

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Contents

The Case Method

Professor Gragg of the Harvard Business School, himself a master of the case method, once said the belief that knowledge can simply be "told" and passed on is "the great delusion of the ages."[1] Gragg's remark concurs with the view of Socrates, the Greek philosopher, whose well-known style of teaching was never a one-way street, with the instructor talking and the student listening, but rather a two-way exchange in which the student actively participated by questioning, searching, and answering. Thus the fundamental basis of the case method, the belief that knowledge cannot simply be "told," is in step with an age-old norm of good teaching. And it is a norm that for centuries has been recognized as valid by philosophers. One should not be surprised, then, to learn that the case method is gaining wide acceptance even outside schools of business. Philosophers, theologians, and social scientists are utilizing it to confront issues of public policy, distributive justice, and ethics.

The purpose of this essay is to describe the case method, its strategies and aims, and to apply it to the teaching of ethics.

THE CASE METHOD: A DIFFERENT STYLE OF LEARNING

"You can lead a person to the university," someone once quipped, "but you can't make him think." What too often passes for learning is the repetition of facts by students during standardized exams. The case method, however, does not allow a student the luxury of memorizing a body of accepted wisdom. Rather, it forces the student to confront a set of facts that demands analysis; and these facts, the student soon discovers, are not understood by the application of memorized truths.

Thus, a philosophy of education undergirds the case method, namely,

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that people must be taught to think well in the presence of new situations and to arrive at reasoned courses of action. In this way the method emphasizes *judgment* as much as *understanding*. Moreover, it attempts to develop skills of judgment that can be applied to situations in the real world. Although it varies from practitioner to practitioner, the case method may be defined as a method of instruction that confronts students with descriptions of realistic human events, and then requires the students to analyze, evaluate, and make recommendations about those events.

What is known today as the case method began at Harvard University in 1908 with the opening of the new business school. The business school's first catalog stated that the "problem method" would be utilized "as far as practicable." After years of struggle and experimentation, the case method reached maturity at Harvard during the years from 1919 to 1942 under the encouragement of the Dean of the Business School, Wallace Donham. It was during these years that the method became the trademark of the Harvard Business School, a position it retains to this day.

THE ROLE OF THE INSTRUCTOR

Just as there is no such thing as a "typical" case, there is no such thing as a "typical" case-method teaching style. Each instructor develops his or her own questions, responses, and style. Certain pedagogical virtues, however, are obvious, such as approachability, enthusiasm, and articulateness.[2]

The responsibilities of the instructor using a case-method approach have been summed up as follows:

1. Assign cases for discussion
2. Act as a responsible member of the group delegated to provoke argumentative thinking
3. Guide discussions through remarks and questions toward points of major importance
4. Take a final position on the viewpoints at the end of the discussion, *if* the instructor chooses[3]

Sometimes an instructor has a remarkable teaching experience in which it is necessary only to ask an opening question—"Mr. Y, would you begin our discussion?"—and the class is off and running. More frequently, the instructor must help the discussion through contributions of his or her own. To accomplish this, the instructor may

1. Ask further questions
2. Restate and reconstruct what has been said
3. Voice his or her own opinions and draw upon his or her knowledge of fact[4]

To open a discussion, an instructor may ask such questions as

Do you see a problem in this case? If so, what is it?
Would someone volunteer to give us a brief sketch of the facts in the case?
(Or simply) What's happening in this case?

Once the discussion is underway, the instructor may invite a student to play the part of one of the managers who has a central role in the case. Thus, the instructor might ask, "What would you do if you were Mr. Jones?" Indeed, unless an instructor pushes a student to speak in terms of decisions, the advantage of the case method may be undercut as the discussion regresses into a fragmented series of general observations.

Discussion leaders frequently summarize or attempt to interpret a student's remark. Doing so has a double advantage: It helps to confirm what the student actually meant, and it helps to insure that other students interpreted the remark correctly. In a surprisingly large number of cases, the student will want to qualify a remark once it has been interpreted by the instructor. This has the welcome consequence of encouraging the student to reflect upon both the nature of the view being expressed and the reasons for it.

Professor Andrews has summarized the role of the instructor as follows:

> The instructor provides the impromptu services which any group discussion requires. He keeps the proceedings orderly. He should be able to ask questions which . . . advance . . . group thinking and at the same time reveal the relevance of talk that has gone before. . . . He needs the sense of timing which tells him that a discussion is not moving fast enough to make good use of available time or is racing away from the comprehension of half the class. . . . He exercises control over an essentially "undirected" activity, but at the same time he keeps out of the way. . . . Since unpredictable developments always distinguish real learning, he examines his class rather than his subject. His workshop is not the study but the clasroom. . . . He must himself be a student.[5]

An instructor may block a direct question from a student. When a student asks a specific question about the material, the instructor may decide that to answer the question would stifle the thinking of other students. Hence the instructor may reply by saying "Well, what does the class think?" or "My opinion is X, but is that really the right opinion?" Here the attempt is to turn the question into a catalyst rather than a retardant of the ongoing discussion.

The following are sample questions asked by case-method instructors:

Where does this idea lead?
You said X. May I add Y?
Do others disagree?

Do you mean X?
Do you have more to say about Y?
Do you think that is true in all cases?
How does that apply to the situation in the case?
Is your point related to Ms. Y's?
What does that have to do with the bigger question?[6]

An instructor can do more than ask questions. He or she can identify unstated assumptions that one of the participants is making and hold them up to the class for inspection. Or if a discussion is really dragging, the instructor may frankly ask the class what's wrong and attempt to generate discussion about the *process* of the discussion itself. (Sometimes this will have surprising results.) Blackboards can be used to list options, relevant facts, pros and cons, and assumptions.

When a discussion is well under way, it is not unusual for an instructor to retire to an inconspicuous place and simply observe.

THE ROLE OF THE STUDENT

In the case method, the active cooperation of the student is essential. Previous schooling habituates a student to the role of receiver. In the case method, this previous schooling must be undone; the student must learn the habit of being active, of being a force in the teaching process. Hence the student must master a number of skills. First he or she must learn to synthesize material on his or her own. Although infrequently an instructor's summary of the main lines of the preceding discussion will help the student to integrate important aspects of the discussion, ordinarily the act of synthesis must be undertaken by the student. Equally important, the student must learn to separate irrelevant from relevant information. (Cases are frequently constructed intentionally to contain both kinds.) Finally, the student must invest sufficient time in preparing a case to make the discussion productive. With other methods, a failure to prepare is problematic; with the case method, it is disastrous.

Sometimes students benefit from discussing a case in a small, preclass group. In such a group they often discover crucial items around which ordinary group discussions will turn; moreover they gain experience in the presentation of ideas.

Discouragement is routine when students begin the case method. They jump to the conclusion that they are making no progress because they are accustomed to defining "progress" differently. After discussing the first case or two, they recognize that not all issues have been resolved, and may be left with a sense of incompleteness, like hearing a piece of music with no resolving chord. Gradually, however, they will experience a growing con-

fidence in their ability to analyze complex case materials and, in turn, a growing conviction of the value of the case method. At this stage it is not uncommon for the original skepticism to turn to an uncritical endorsement of the method.

THE CASE METHOD APPLIED TO ETHICS

Any given method is related to the function and object of the method's activity. Thus, we should begin by noting—as Aristotle and others have before us—that the end or aim of ethical enquiry is different from that of empirical enquiry. Whereas the goal of empirical enquiry is factual or empirical knowledge, the goal of ethical enquiry is ethical insight. By "ethical insight" I mean insight about good and bad, right and wrong, and permissible and impermissible behavior. We want to be able to distinguish false or irrational convictions, e.g., that of first century Romans that when a slave owner was killed by one of his slaves, *all* of his slaves should be executed, from correct ones, e.g., the more modern conviction that this Roman custom was unfair. Although ethics intersects frequently with matters of taste, and hence involves a certain amount of relativity, the very possibility of ethical insight recognizes a difference in the truth status of the belief that torturing children for sport is permissible, and the belief that it is not.

Ethical and empirical knowledge must be distinguished because although they both may be kinds of knowledge, they not only have different subjects but different epistemological foundations. The belief that salt is soluble in water is a piece of empirical knowledge because it is known through experience. It depicts a "fact," and if one were to doubt it, the proper response would be to take a pinch of salt and throw it in water. But the belief that patricide is wrong is an *ethical* belief, not an empirical one, and doubters may well not be persuaded by undertaking the "experiment" of killing their fathers. Indeed, it is difficult to see just what killing one's father could possibly "prove" about the rightness or wrongness of patricide.

The reasoning necessary to make sense of ethical issues has a different logic from that of empirical reasoning. Consider the traditional distinction offered by philosophers such as Aristotle and Aquinas between practical and theoretical reasoning. The end of theoretical reasoning is a general concept, while that of practical reasoning is an action. Thus, using theoretical reasoning I might conclude from the fact that all ravens I have seen are black to the general proposition that all ravens are black. Or I might reason from the premises that all healthy corporations have a strong corporate culture, and that the X,Y,Z Corporation is a healthy corporation, to the deductive conclusion that the X,Y,Z Corporation has a strong corporate culture. Both would be pieces of theoretical reasoning.

However, in practical reasoning the tables are turned. I reason from

the acknowledgment of a general value or desire to a practical action, and do so typically through a process of means-ends reasoning. Thus, given that I hold the value of "honoring valid contracts," and that I believe that giving you a check in the amount of $10,000 is a means of "honoring a valid contract," my reasoning may lead me to write you a check in the amount of $10,000.

Notice that I have employed means-ends reasoning, that is, I reason that writing the check is a *means* of honoring the contract, but that my process of reasoning is not deductive in nature. The necessary conclusion that is characteristic of deductive reasoning is absent in practical reasoning. For although writing a check for $10,000 is one means of achieving my value, it may not be the only means. I might similarly honor the contract by giving you $10,000 in cash, or by arranging to release you from a prior debt. So whereas the conclusion that "X,Y,Z Corporation has a strong corporate culture" is necessarily true if the premises, "All healthy corporations have a strong corporate culture" and "X,Y,Z Corporation is a healthy corporation" are true, it does not follow necessarily that *if* I hold the value of honoring valid contracts and *if* I believe that writing you a check is a means of honoring a valid contract, I *will* write you a check. It does not even necessarily follow that I *should* write you a check.

Practical reasoning occurs in a variety of contexts, not only those dealing with ethics. It occurs whenever one employs means-ends reasoning as a guide for action. Yet ethical reasoning, in contrast to nonethical reasoning, has another identifying feature: it necessarily involves evaluation of ends and principles as well as means. If I assume that I want to sell a given piece of property and reason about the best means of selling it, I am using a practical, though not necessarily ethical, mode of reasoning. Ethical reasoning also requires that I deliberate about the act of selling itself, and that I evaluate whether the end of selling the piece of property is morally justified. This feature adds to the complexity of business decisions enormously. For insofar as we can assume that the end or guiding principle of a corporation is the maximization of profit, our reasoning about corporate behavior is simplified. Moral analysis, however, requires that at least from time to time the corporate goal of profit maximization itself come under scrutiny.

Let us now apply our conclusions about ethical reasoning to the matter of teaching business ethics through cases.

The first thing to notice is that adapting the case method to ethics is relatively easy since this method emphasizes practical reasoning, which is a crucial component of ethical reasoning. Cases traditionally have been used to hone a student's judgment in concrete business situations. They emphasize means-ends reasoning, and can be used to do the same when the ends are not only market share and profits, but fairness and corporate integrity. A major pedagogical difference between traditional business subjects and

that of ethics, however, stems from ethics' concern with ends and principles. Because ethics requires investigation of values to be achieved as well as the means used to achieve them, cases must be adapted to evaluate broader issues. As we shall see, this implies a difference in the structure of cases and the style of pedagogy.

To begin with, teaching ethics requires a different selection of cases. Cases must be structured to raise issues about ends and principles, and this implies a backing away from the traditional insistence, associated with the Harvard case method, that every case must pose a decision-making problem confronted by an individual manager. A case dealing with the F.D.A.'s decision to ban the manufacture of Laetrile may not yield to the traditional format of "What should manager A do now?" Yet it may be a good case nonetheless if it confronts students with some of the difficult trade-offs between the liberties of individual actors in a market, and the (supposed) well-being of consumers.

Nor is the enormous detail championed by some case-method practitioners always necessary. Whereas practical reasoning always occurs in the context of a maze of facts, reasoning about ends sometimes thrives in rarefied atmospheres. Consider, for example, the following "case," which is only two sentences long:

> Two equally qualified candidates, one of whom is a black female and the other a white male, have applied for a job. Should the prospective employer hire the black female?

Admirably brief, these two sentences could serve as the focus of a highly profitable, hour-long discussion.

Cases alone are not sufficient when teaching business ethics, and should be augmented by theoretical material. The examination of ends and principles is enhanced by reference to the inquiries of others. Whereas it may be possible to gain a reasonable sense of good marketing practice merely through an analysis of cases (although I have my doubts even here), it is nearly impossible to do so in the case of ethics. Again, unlike empirical disciplines, basic ethical knowledge owes little to experience *per se*. Like mathematics, ethics requires sustained reflection on specific concepts. Thus, just as teaching mathematics would be impossible through an approach involving nothing but cases, so too would ethics. One benefits greatly by examining the theoretical investigations of specialists in the field of ethics, and it follows that any casebook should be supplemented by theoretical materials.

Even as the structure of cases must be adapted to the teaching of ethics, so too must the instructor's teaching style. The "neutrality" of the instructor is a well-respected fixture of the case method in its ordinary set-

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