A Role for Casuistry in Business Ethics Education?

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ABSTRACT

This paper examines teaching and pedagogical implications of the recent resurgence in casuistry within business ethics. Casuistry is presented within a much-needed historical context, as a means to approach business ethics education in general, and teaching practices in particular. Casuistry allows the specific facts surrounding an applied ethical dilemma to receive their due attention while still respecting ethical principles. We argue that business students need more robust applied moral reasoning skills and offer casuistry as one paradigm to help achieve this lofty goal.

Keywords: Management Education; Management Courses; Transfer of Learning; Individual Development

With the recent moral lapses in the financial services industry, and resultant global recession, business education in general, and ethics education more specifically, are once again under scrutiny. Familiar arguments over whether ethics can really be taught, and the extent to which what one is taught in a theoretical environment ever get transferred into practice, while tiresome, remain in the forefront of the longstanding debate. It is at precisely such a time that the field of business ethics requires honest self-reflection regarding how to most effectively teach business ethics. Recent articles in the *Journal of Business Ethics* (Griseri 2008; Lurie & Albin 2007) have revived the debate over the usefulness of casuistry in business ethics, and this paper will examine the potential implications of casuistry for business ethics education. We will first argue for the introduction of the casuistry approach into the actual teaching of business ethics, and second, for its use as a framework for thinking about course organization.

Since the casuistry approach suffers from both unfamiliarity and a bad reputation, we begin by explaining what casuistry is and why its low repute is undeserved. Next is the teaching and learning challenge involved in business ethics. As a basis for comparison, the standard philosophical approach to business ethics is examined, giving particular emphasis to its disadvantages in comparison to casuistry. This section is followed by building on these disadvantages to develop a view of what a better approach would entail. After this comes a fuller exploration of casuistry, its nature, potential usefulness to business ethics, and its possible limitations. Noted next are the attractive aspects of casuistry, the possible role of casuistry-trained managers, and the value of casuistry as an integrative framework for teaching.

In the authors’ view, what most limits the successful development and application of business
ethics is the lack of a clear practical and agreed upon discipline or disciplines. The traditional philosophical approach is far from practical and its claim for preeminence over other approaches leaves little or no place for alternative approaches such as casuistry, Confucian ethics, psychology of morality, and pluralism. The consideration of other ethical systems in a business context will allow greater scope for imaginative moral thinking and stimulate their development and application to business ethics.

THE HISTORY OF CASUISTRY

Casuistry was originally developed out of the Natural Law tradition in Catholic Moral Theory. Natural Law had its origins in the work of Aristotle and St. Thomas Aquinas (Velasquez & Brady 1997) and the two have had their variations and developments over the centuries. Only casuistry’s history since the Enlightenment will be dealt with here.

While recent articles have examined the potential usefulness of casuistry (e.g., Lurie & Albin 2007), and the need to be mindful of principles in its application (Griseri 2008), casuistry remains on the fringes of the business ethics education literature. For those who do not know what casuistry is and why it is no longer a part of modern Western intellectual culture, allow us a short diversion. A book, *The Abuse of Casuistry* (Jonsen & Toulmin 1988) provides an exposition of casuistry and its history over the last four centuries including an analysis of its near demise. For many centuries casuistry was the method of choice for resolving questions of Christian conscience. However, it came into disrepute and disuse, for what now seem to be questionable reasons, and it has only recently shown signs of resurgence, particularly in medical ethics, and most recently in business (see Griseri 2008; Strong 1997; Lurie & Albin 2007).

The definition of casuistry is straightforward. It is the practice of resolving issues of conscience based on the analysis and classification of cases and circumstances. It is by focusing on cases to catalogue unique moral situations with familiar paradigms that provides so much potential for casuistry in business ethics education. However, for many scholars and lay people casuistry has a less than savory definition that needs exploration before we can consider its usefulness for today.

Blaise Pascal brought casuistry into disrepute in the mid-seventeenth century. He attacked the Jesuit confessors of Paris for their use of casuistry in circumstances that had lead to inexcusable laxity
in cases of conscience (Pascal 1941). In particular, he accused them of such things as being unduly
tender towards their wealthy or highborn penitents (a simple error of partiality). He also implied, quite
wrongly, that all casuistic reasoning was deceptive or compromising, thus “discrediting not just bad
casuistry but all casuistry” (Jonsen & Toulmin 1988: 15). This bad reputation is still evident in
modern definitions. For example, the Random House Dictionary (1966) defines casuistry as:

1. Application of general ethical principles to particular cases of conscience or conduct; and
2. Disparaging, fallacious or dishonest application of such principles.

The arguments of Jonsen and Toulmin (1988) in defense of casuistry and in refutation of its
disrepute were instrumental to our initial interest in casuistry. These authors claim that, since Pascal’s
attack on casuistry, there has been “an excessive and harmful emphasis on universal rules and
invariant principles in philosophical ethics” (1988: 10). At a practical level, this approach leads to
conflicts between moral principles, which in themselves are simple and well understood, but when
transformed into actions, permit no resolution. What is needed to correct this situation, Jonsen and
Toulmin (1988: 9) argue, is “the exercise of wisdom, discretion, and discernment in enforcing the
rules we already have.” Finally, they recommend casuistry as “a reasonable and effective set of
practical procedures for resolving the moral problems that arise in certain real life situations” (1988:
10).

Calkins (2001) supports the use of casuistry and the business case method in management
education. He discusses how these methods are inductive and proactive focusing on real-life situations
and that their different ways of emphasizing order and problem-resolution would together benefit both
business management and ethics. Casuistry combined with virtue ethics is suggested by Calkins
(2002) as a solution to opposing ethical and ideological worldviews in order to move ahead on issues.
Hardly a critic of casuistry (as suggested by Lurie & Albin 2007), Calkins (2001, 2002) does point out
that resolving dilemmas based on past cases alone may result in moral laxity, but this highlights the
importance of teaching cases in a dynamic fashion that requires reevaluations based on ever changing
contexts.

A casuistic approach based on centuries of practical experience can be both useful and
effective if extended to business ethics education. The fact that these historical roots were in the realm
of counseling Christian consciences implies no constraints on the range of application. In those times it was understood that “Christian ethics should regulate all human activity and offered solutions to myriad problems arising in men’s domestic, professional, political, and financial lives” (Slights 1981: 3). Past uses of casuistry and the challenges of business ethics have enough similarities and few enough differences to permit a fruitful application, but this must in the end be determined through work and results.

THE LEARNING TASK

It is appropriate at this point to give a definition of the situation facing young adults entering the business world. As all professors know, students’ dominant characteristic is variety on almost any relevant dimension of prospects, background, personality, attitudes and experience. They come with different moral views held with different degrees of conviction. They will make different choices about their futures that will stress and reward them to different degrees. But at some point they will be challenged ethically. The world has a way of putting new and difficult choices in our lives and how we respond to them will be important for each of us and for those around us.

It is for these times that a business ethics course should prepare students. In particular, it should prepare business students to address two fundamental questions. First, how do I think about my situation and choices, and second, by what criteria should I judge my conduct? The first question reflects the general approach taken in university education in our culture. Professors do not usually advocate teaching students the correct answers for the questions they define. They rather often claim to teach them how to go about finding solutions for whatever problems arise. That is, students are to be taught about process, such things as what steps to take, what is important to consider, and how to know when the process is not working correctly, including the proper checks and balances to guard against misuse, bias, and other errors.

As an important aside, it is a serious error in the ethical development of managers, to interpret process in a way that limits teaching to a fixed range of problem definitions, analysis techniques, alternatives, and criteria as the one and only ‘correct’ ones. It often results in a cautious clinging to organizational, legal or professional codes associated with a disregard for individuals and harm to
society. This pernicious pattern can only be broken if we turn out graduates who, because they are ethically literate, are prepared to deal with the ambiguity, lack of facts, and conflict of need and interest that so characterize ethical dilemmas and business realities. We will later propose casuistry as a key part of a strategy for teaching business students to be imaginative and flexible in their ethical reasoning.

Similar arguments apply to the second question, regarding criteria. Students should be enabled to develop and select appropriate criteria for resolving ethical dilemmas rather than routinely accepting criteria predigested and selected for them. Criteria should be thought out, sometimes self generated, and perhaps even discovered. Taking responsibility for one’s decisions, including the criteria employed, is essential to ethics. Without that, there can be no ethics. A scrutiny of a standard principled approach to business ethics may answer the two questions we posed, but has other drawbacks that we will attempt should to overcome.

THE STANDARD APPROACH TO BUSINESS ETHICS EDUCATION

We now examine what many students are offered to help them in their situation. That is, what is the existing practice and situation that casuistry may be asked to modify. According to Shaw (1996: 493), the standard approach to business ethics is the one that comes most naturally to philosophers and the one they are most likely to adopt. It is a problem solving approach focused on the moral choices of the individual, but with a difference. The difference lies in the elements of the process. In place of the familiar elements of problem definition, criteria selection, alternative generation, analysis, and choice, we find instead, identification of relevant principles, analysis of the arguments of others who have discussed the issue, clarification and assessment of these principles retaining, refining, or discarding them as necessary. Finally, one shows how the principles one is left with, when applied to the circumstances or problem at hand, justify one course of conduct rather than another. The unfamiliarity of these elements to business thinking is a problem, but one that may be overcome by education. There are many business people who have an understanding of philosophy. However, as a tool for dealing with practical situations this collection of elements has some shortcomings that we will now address.
There are a number of specific criticisms regarding this standard philosophy based approach. First, it puts more emphasis on the analysis of principles and less emphasis on facts and circumstances than we find in business ethics courses taught in business schools by business professors (compare Brooks 1990, to Shaw 1996). To a certain extent this leaves the circumstances of the situation on the back burner to be defined in terms of the intricacies of the principles, rather than as concrete facts to be understood on their own terms.

Second, there is a certain ‘lack of fit’ between the philosophical model and business reality. The resolution of the philosophical process in the justification of a choice comes after steps that seem designed to eliminate all uncertainty, risk, and ambiguity. The resulting choice aspires to be a ‘once and forever’ judgment, not subject to adjustments or last minute changes of circumstance. Griseri (2008) admits that principles alone cannot be relied upon to generate answers to ethical dilemmas, and that cases may play a valuable role in helping generate potential solutions to complex issues. Large organizations and businesses in particular have to operate with very imperfect information and in changing circumstances. Another example of ‘lack of fit’ is timing, especially of actions, which is important not just for success but also for ethical judgments.

Third, lack of any attention to implementation is an even more serious shortcoming. Implementation of an ethical decision may have major ethical dimensions quite independent of the course of action itself. To draw from another field, “justice delayed is justice denied.”

To be fair, it may be that these criticisms are overstated when applied to the classroom situation. Shaw (1996) points out that instructors who adhere to the standard model “do not try to teach students definitive answers to the various business related moral problems they study. [They just want them] to think about moral issues in what philosophers take to be a clearer and more sophisticated way” (1996: 494). This raises a question, perhaps for examination elsewhere, regarding what differences there are between what a philosopher takes as clear and sophisticated and what a business scholar thinks are the appropriate standards and methods. It also overlooks the fact that students are given the message that what is abstract is more important than what is concrete. For now, let us say, while business education and business practice can and do gain from careful thinking in a number of abstract and practical disciplines, business people will not be practicing the abstract
disciplines and it is in the practice of ethics that we and they should be interested and focused. Werthane (1999) argues that ethical decision making in management is often undermined by the poverty of managers’ ability to imagine consequences. One could go even further and argue that greed and the imbedded norm of maximizing shareholder value run so deep in our culture that checks and balances need to become norms in the management decision making literature and training.

A SUGGESTED APPROACH

If we accept the foregoing view of the nature of the problem situation facing the student (and the manager), and the inadequacy of the standard approach for teaching business ethics, then what we need to do is to develop a picture of the individual’s moral situation that allows for a more practical approach. We begin by selecting three ideas, one from Western culture, a second from management, and a third from our experience of business ethics situations.

To select ideas, we first go to the familiar business decision process, but we do not stop there. Instead we go deeper to focus on three major constructs that underlie the decision process. These are, the nature of the human morale agent, the nature of the problem or situation, and the nature of the decision making experience, which might be considered the interaction between the first two.

Looking at the moral agent, it must be recognized that, while social or corporate collectives make important ethical choices, the foundation for these choices rests on the individual. More particularly, it rests on the conscience of the individual. Conscience is defined as one’s discernment of one’s duty (what one ought to do in a given fact situation). The supremacy of conscience is so ingrained in modern Western thinking as to be unquestioned. But it is not entirely unrecognized. Each term in the first few lectures of our classes, when students are asked what are the most fundamental ideas about ethical choice, the informed conscience is always one of the ideas suggested.

As for business situations that pose ethical quandaries, one could offer a number of adjectives to describe them. Those of us trained in business schools probably look at them as problems to be solved. With different training, we might look at them as puzzles (with one and only one best solution usually arrived at by applying a limited and there is an incomplete understanding and one that requires no action on our part to resolve it), or as stimuli requiring a fixed response, or we might even view
them as enigmas (inexplicable, a riddle with a hidden meaning available only to those who have special perceptions). Each of these might lead to interesting and very different actions. We prefer to stick with the approach we know best, the problem solving approach, the one that still works for us, at least most of the time. Thus, each ethical dilemma is seen as having the characteristics of a problem with a definition, alternative solutions, relevant criteria, and some degree of difficulty.

Finally, let us look at the nature of our experience of business situations involving ethical issues. Generally, the circumstances of business situations and our experience of them are extremely varied. They are so varied, that it is unreasonable to rigidly insist that some tool, technique, approach or principle is best, at least in practical matters. This translates into a very simple (and overstated) maxim: no absolutes! The overstatement is of course obvious in that the maxim contradicts itself. To resolve the contradiction you may translate it as no simple absolutes, or no unqualified absolutes, or no unknowable absolutes.

The above three relatively straightforward constructs are hardly an ethical armory. They need at least two more parts to make a sensible approach to ethics. Therefore we add, 1) the use of ethical knowledge from all legitimate sources, and 2) a way of controlling the process to avoid particular dangers or errors due to any limitations inherent in this approach.

Our response to the first item is straightforward. There must be a pluralistic approach to ethics. There are at least two major reasons for this. There are a number of different principles and ethical systems that have survived and shown themselves to be useful over centuries and at least one newer one that shows great promise (psychology of morality). To throw away such a rich resource would be imprudent, unwise, and bad judgment. Further, an ethics that denies, without consideration, the different ethical approaches that have grown out of different cultures, seems dangerous and foolhardy in a world in which we have more and more contact with cultures and beliefs and ethical systems that are quite unlike our own.

As for the control system, we accept specific rules (or maxims) here where we might object to them if they played a more primary role in the process. Rules such as ‘murder is forbidden’ and ‘intentions must not be unethical’ are common to many though not all ethical approaches and will be part of the one developed here. However, since this approach emphasizes the decision process, and
since processes can go awry, specific rules are needed to guide and check the process. Slichts (1981: 19) notes several rules, used to avoid deceiving one’s conscience, which are appropriate here. These rules and others of a similar type, would help hold the ethical decision making process to a high standard of integrity and guard against the bad practices that darkened the reputation of casuistry and lead it to obscurity.

**THE CASUISTRY MODEL**

Clearly, the system outlined bears a strong resemblance to what is called ‘new casuistry.’ The implication of the ‘new’ is that there has been or is more than one casuistry, but the elaboration of this philosophical issue would require more than one paper. Instead we offer some older practices of casuistry paraphrased from Jonsen and Toulmin (1988: 145-6) with some added explanations and examples. These practices are:

1. Under casuistry cases are ordered according to principles, paradigms, and analogies. Principles are formulated inductively as they emerge from cases. For example, the interests of all stakeholders must be considered otherwise implementation becomes a problem;
2. Arguing based on paradigm and analogy from type cases gives a conservative bent, as in legal cases. Rather than make a series of unique decisions, simple comparisons are made to previous situations where the actions taken were accepted as ethical;
3. Maxims, that is, terse sayings embodying a general truth, serve as leverage or authority for arguments. For example, killing should be avoided therefore war is wrong;
4. Precedents become general norms that are used to rationalize rules, a practice that gives heavy weight to tradition;
5. Particular circumstances of the situation play a primary role in guiding selection of appropriate paradigms to apply in seeking similarity, and principles are secondary to these facts;
6. Rules are presumptive rather than fixed and they must be reasonable to all parties involved;
7. Decisions are only probable, not absolute;
8. Cumulative arguments are used to bolster the decision’s persuasiveness, reminding one of rhetoric, another ancient discipline now in resurgence;
9. Initial presumptions have conclusive weight barring exceptional circumstances. This is another conservative practice also followed in the sciences;
10. Resolution of the situation should be equitable and it should consider the interests of all relevant parties;
11. The role of the decision maker is to justify decisions and demonstrate their reasonableness rather than their truth value; and
12. Decision makers have discretion to determine which cases and which features of cases are relevant. Note that this requires both discernment and technical skills.

While the above list is not an instruction manual for practicing casuistry, we hope it tells you enough about the scope and functioning of this approach to help you decide whether you wish to learn more about it.
Limitations of casuistry

Some authors have concerns about recommending that casuistry be formally taught as an approach to the issues of business ethics, but they seem not to be overriding. According to Peter Drucker (1981), casuistry is the direction that business ethics has been taking and it is wrong for us. He gives two major reasons for this. First, casuistry must end up becoming politicized, and second, it inevitably becomes the apologist for the powerful. In response it can be said that the less powerful are not better off for not knowing and understanding what the powerful are doing and how their tools work. Nor is it a compelling argument to say that ethics should not be politicized. This simply distracts us from the reality that ethics is politicized, along with other major aspects of our life and culture.

Whether casuistry is a technically appropriate approach to business ethics is another matter. Among the practices of casuistry cited above (Jonsen & Toulmin 1988: 145-6), only the identification of particular circumstances and the appreciation of probability and risk already exist in a fully developed form in the business context. Elements that should be given a high priority for development might include, the ordering of cases to provide paradigms and analogies, the selection of maxims and initial presumptions, and the cumulative piling up of reasons for decisions. However, casuistry has an important history. It was used for centuries to resolve practical problems of conscience, and it has been used for some seventy years in medical ethics (Jonsen & Toulmin 1988). That experience is a rich resource.

Other more important limitations and dangers inherent in the use of casuistry have been identified in medical and feminist ethics and these may have relevance for business ethics. Wildes (1993) cautions that without a shared set of common moral values and rankings and a moral authority to interpret cases, casuistry will be pluralistic. Pluralism presents its own set of problems, often unavoidable nowadays, and there is no reason why casuistry must solve pluralism’s problems before it is allowed to work on its own set of problems.

Peach (1994) argues that casuistry should be left to function at the level of individual conscience (for which it was developed) and is not appropriate for more public issues (such as abortion in the United States). Similarly, Wildes (1993) contends that a distinction between public and
private moral decision making is appropriate with regard to casuistry, because public decision makers
cannot function effectively at the level of specificity and detail required for intensely personal
decisions. Therefore the high level of discretion in casuistry is inappropriate in public ethical decision
making. In response it can be said that some but not all business ethics dilemmas are in the domain of
public scrutiny. Perhaps more should be. Lurie and Albin (2007: 206) argue “casuistry can and should
be used for broadening our human and moral sensibilities and not just for a quick resolution of moral
difficulties.”

CONCLUSION

This paper is not meant to exhaust the nature of a casuistry approach to practical ethics, but
merely to give some idea of the nature, functioning, and potential of such a system in the context of
teaching business ethics. It has some very attractive attributes. One of these is that it offers the
tentative in place of the certain for a real world of uncertainty and ambiguity. Second, it is an
approach concerned with process, choice, and results. These are foundational to the management
process. Third, it deals with the concrete rather than the abstract. Abstractions are neither part of the
business culture nor should they typically be the most important part of a practical undertaking.
Casuistry holds much promise for application to business ethics in general and to new and difficult
issues as corporations try to regain the trust of global citizens.

The potential benefits of casuistry are not confined to its use as a method for ethical analysis.
An examination of the twelve practices we listed earlier reveals a number of possible links with
material already taught in business ethics courses. We note that inductive principles can be compared
with deductive principles and that maxims will often be the same for casuistry as for other
approaches. Norms and interests of stakeholders play an important role as they do in business ethics
in general. As mentioned, the problem solving approach anchors casuistry in a distinguished business
tradition. With so many elements in common with material already entrenched in business ethics
courses, casuistry can serve an integrative pedagogical function.

We have already implied, but let us emphasize, that we do not advocate teaching casuistry as
the sole approach to business ethics. A course should include a variety of approaches reflecting the
different traditions of ethics and of the business world. A uniform approach to teaching ethics has more drawbacks than benefits.

Educators will be curious about the role of our graduates who would use casuistry as a method for their ethical decision-making. Our view is that tomorrow’s casuist will be more of a ‘decision facilitator’ in collective practical reasoning, rather than a decision maker in the traditional sense. They will be most interested in presenting the morally relevant material in the case, considering the major views and guides, unearthing the maxims, revealing the circumstances, and finally testing for biases. Some of this can be seen in the tools for coping with conflict offered by Fisher, Kopelman, and Schneider (1994); a book that comes from a conflict resolution perspective rather than a casuistry tradition.

Casuistry is a recycled product and has the difficulties of unfamiliarity and customer resistance stemming from its bad reputation. Much work needs to be done. In medical ethics, a structure and method based on casuistry has been developed. While recent debates surrounding the potential usefulness of casuistry in business ethics are promising signs, whether casuistry ever becomes a useful practical foundation for business ethics education remains to be seen.
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