Business Ethics

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Outline

- Why ethics?
- Generalization principle
- Utilitarian principle
- Intellectual property
- YouTube
- Other issues
  - Please be ready to raise some issues.
Ethical theory

Why we need it
Why ethics?

- The purpose of ethics is **not** to convince us to be ethical.
  - Ethics tells us what **is** ethical.
  - The rest is up to us.
Why ethics?

- Ethics does not judge whether we are good or bad people.
  - Ethics judges actions, not people.
  - It gives us advice on how to live together.
Why ethics?

- Ethics builds **rational consensus** on how we are to live together.
  - We have to **agree** on what we should do.
    - This is the job of ethics.
  - Then we have to do it.
    - This is our job.
Ethical principles

- We must have principles for resolving issues in a rational way.
  - Otherwise we talk all day and get nowhere.
  - Two basic principles have developed over time:
    - Generalization principle
    - Utilitarian principle
Generalization principle
Generalization principle

- Associated with Immanuel Kant
  - But the ideas have developed over centuries.
  - ...and have moved beyond Kant’s thought.
Generalization principle

- Basic premise: We always act for a reason.
  - Every action has a rationale.
Generalization principle

- Basic premise: We always act for a reason.
  - Every action has a rationale.

- So if the reason justifies the action for me...
  - It justifies the action for anyone to whom the reason applies.
  - Otherwise, it’s not a reason,
Example - Theft

- Suppose I steal a watch from a shop.
- I have 2 reasons:
  - I want a new watch.
  - I won’t get caught.
  - Security at the shop is relaxed.
Example - Theft

- So I am making a decision for everyone:
  - All who want a watch and think they won’t get caught should steal one.
Example - Theft

- So I am making a decision for everyone:
  - All who want a watch and think they won’t get caught should steal one.
- But if all do this, they will get caught.
  - The shop will install security.
  - My reasons will no longer apply.
Example - Theft

- I am not saying that all these people actually **will** steal watches.
  - Only that if they did, my reasons would no longer apply.
Example - Theft

- My reasons are **inconsistent** with the assumption that people will act on them.
- I am caught in a contradiction.
  - My reasons imply that these people **should** steal.
  - These same reasons presuppose that they will **not** steal.
Generalization principle

- The principle is:
  - The reasons for an action should be consistent with the assumption that everyone with the same reasons acts the same way.
What is wrong with cheating on an exam?

My reasons:
- I will get a better grade.
- Which means I will get a better job.
Example - Cheating

- Nearly all students have these reasons.
- If they all cheat…
  - Everyone will have a top grade.
  - Good grades won’t get me a better job.
Free rider principle

- **Free rider principle** is a special case.
  - Unethical to ride the bus without paying.
  - The cheater is a free rider on a system supported by the honesty of others.
Laura’s job

- While interviewing for jobs, university student Laura learns about an attractive opening at Facebook.
  - The job is perfect for her.
  - The company loves her.
Laura’s job

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  - Shortly after her interview, there is a global credit freeze.
While interviewing for jobs, university student Laura learns about an attractive opening.

- The job is perfect for her.
- The company loves her.
- Shortly after her interview, there is a global credit freeze.
- There is no job offer.
Laura’s job

- Meanwhile Laura receives other, less attractive openings.
  - Her classmates are bragging about their jobs.
  - Her parents are asking questions.
Laura’s job

- Meanwhile Laura receives other, less attractive openings.
  - Her classmates are bragging about their jobs.
  - Her parents are asking questions.
  - She finally accepts a job she likes less.
Laura’s job

- Several weeks later, Facebook resumes hiring and offers her a job.
  - How should she respond?
  - Should she break her contract?
Laura’s job

Laura’s reason for breaking the contract is to get a better contract.

- If everyone broke job contracts to get a better one, contracts would be pointless.
- She wouldn’t be able to get the contract she wants.
- Her reason for breaking the contract would no longer apply.
Laura’s job

- Laura’s reason for breaking the contract is to get a **better contract**.
  - If everyone broke job contracts to get a better one, contracts would be pointless.
  - She wouldn’t be able to get the contract she wants.
  - Her reason for breaking the contract would no longer apply.
  - **Violates generalization principle.**
Laura’s job

- A possible escape?
  - The employment contract contains an escape clause.
  - Or the contract doesn’t actually promise employment, only a salary if employed.
Laura’s job

- There is more involved than a legal contract.
  - Laura’s purpose is to participate in a job market.
Laura’s job

- There is more involved than a legal contract.
  - Laura’s purpose is to participate in a job market.

- A market won’t work if we never know when a job is offered or accepted.
  - Like an auction that never ends.
Fiduciary duty

- Fiduciary duty is based on a promise to stockholders (owners).
  - I am an **agent** for the owners.
  - I act on their behalf.
  - I promise to make their investment **profitable** in exchange for my salary.
Fiduciary duty

- Breaking a promise violates the generalization principle.
  - If everyone broke promises whenever it is convenient, there would be no promises to break.
Fiduciary duty

- But some people say that the **only** duty of business people is to **maximize profit** for the owners.
Fiduciary duty

- The prior question is:
  - Would my action be ethical for the owners?
  - If not, the owners can’t ethically ask me to do it for them.
Moral agency

- Why must actions have reasons?
  - Utilitarian, Kantian
- To distinguish action from mere behavior.
  - An insect’s behavior is explained only by chemistry and so is not free action.
  - Humans are moral agents when their behavior can also be explained as based on reasons.
Moral agency

- Fundamental obligation: respect agency
  - My reasons for action presuppose agency, no matter what they are.
  - This rules out murder, coercion, slavery, etc.
  - Except for purpose of preserving the agency of others.
Moral agency

- Can a robot have rights and duties?
Can a robot have rights and duties?

Yes, if we explain its actions as based on reasons (as well as an algorithm).
Utilitarian principle
Utilitarian principle

- Associated with Jeremy Bentham.
  - He thought actions should maximize “utility,” which he defined as pleasure and absence of pain.
  - He applied this to the criminal justice system.
Utility

- Action is a means to an end.
  - You want to achieve some goal.
  - Maybe your ultimate goal is happiness.
  - Whatever it is, let’s call it utility.
Utility

- Action is a means to an end.
  - You want to achieve some goal.
  - Maybe your ultimate goal is happiness.
  - Whatever it is, let’s call it **utility**.

- Then you should try to create as much utility as you can.
  - The “greatest good for the greatest number.”
Utilitarian principle

- An act is ethical only if it there is no clear reason to believe that another act...
  - ...creates more total net utility.
  - ...and satisfies the generalization principle.
  - Counts everyone’s utility.
The underlying argument

- Why is it wrong to cause people (unnecessary) pain?
Why is it wrong to cause people (unnecessary) pain?

Perhaps because I think pain is inherently bad.

I should minimize the pain I cause.

It is the same with positive utility.
A company’s contribution

- A company should create positive utility for people in general.
- Not just profit for the owners.
A company’s contribution

- How to do this?
  - By making a level of profit that is generalizable.
A company’s contribution

- How to do this?
  - By making a level of profit that is generalizable.
  - And by responsibly creating valuable goods and services.
  - This is what business does best.
Choice of career

- One of our most important decisions.
  - First point: Ethics doesn’t make all of our choices.
  - It only provides the basic rules for how we live together.
  - So ethics alone can’t make a career choice.
Choice of career

Must I choose the career that makes the greatest positive impact?
- ...due to the utilitarian principle.
- Must I be a heart surgeon?
Choice of career

- Not generalizable.
  - If the reason for becoming a surgeon is simply to maximize utility.
  - If generalized, it would no longer maximize utility.
  - Everyone would be a heart surgeon.
Choice of career

- Not generalizable.
  - If the reason for becoming a surgeon is simply to maximize utility.
  - If generalized, it would no longer maximize utility.
  - Everyone would be a heart surgeon.
  - Reasons must be more specific.
Choice of career

- What kind of choice is ethical?
  - I should choose a career that I can reasonably believe maximizes overall utility, given who I am…
  - …given my interests, abilities, and dreams.
Intellectual property

Legal aspects
Intellectual property law

- A complicated topic.
  - Differs in every country.
  - International law governed by many multilateral and bilateral agreements.
The primary international treaty is the TRIPS agreement.

- Added to GATT (General Agreement on Tariffs and Trade) at the Uruguay Round of trade negotiations in 1994.
- Amended at 2001 WTO Ministerial Conference in Doha.
Intellectual property law

- Types of intellectual property:
  - Copyright.
  - Patent.
  - Trade secret.
Copyright

- A **copyright** limits the number of copies others can make of a document or work of art without permission.
Copyright

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- **Ideas** cannot be copyrighted.
  - Only a particular expression of ideas.
  - Such as a literary work or musical composition.
Can one copyright software?

Generally, yes.

- The TRIPS agreement explicitly says yes.
- But one cannot copyright the underlying idea or algorithm.
Patent

- Designed to encourage disclosure of ideas in exchange for limited period of exclusive use.
- Can patent:
  - A new method, device, or material.
Patent

- Cannot patent:
  - A pure idea, such as a theorem.
  - Anything that occurs in nature.
  - A “way of doing business,” even if automated by computer.
  - “Look and feel,” e.g. spreadsheet.
Can software or an algorithm be patented?

- Controversial, varies by country.
- TRIPS agreement is vague.
Patent

- A patent is registered in the name of the inventor.
- The owner may be someone else, or a company.
  - An employer normally owns any idea conceived by someone working for hire.
Who works “for hire”? 

- Normally, full-time employees work for hire and do not retain IP rights.
- Normally, consultants do not work for hire, depending on contract.
Trade secret

- A trade secret is a secret formula or device that provides a commercial advantage.
  - It can be bought, sold and licensed.
- It remains intellectual property forever, or until the secret gets out.
  - For example, the formula for Coca-Cola.
Trade secret

- The law does not prohibit use of a trade secret.
  - It only prohibits others from stealing a trade secret.

- It is normally legal for another company to conceive the idea independently and use it.
  - Reverse engineering is not theft (the idea was not really secret).
Intellectual property

Ethical aspects
Property

- Violating property rights is inconsistent with generalization principle.
  - The thief takes someone’s property because he wants it to be his property.
  - But if no one respects property rights, there will be no property at all – not even for the thief.
But does the concept of intellectual property make sense?

Is there an ethical basis for it?
The concept of **intellectual property** is relatively recent.

- Can leave the impression that IP is **like other property**.
The concept of intellectual property is relatively recent.

- Can leave the impression that IP is like other property.
- But one can use IP without denying others the use of it.
- So it is unclear that IP rights are “natural” property rights analogous to the right to own a car or land.
Lockean defense of property

- There is no property in a state of nature.
- But when humans improve or transform natural resources, they can take possession of the fruits of their labor.
  - Natural ownership of one’s body extends to creations of one’s body.
  - One can sell possessions once acquired.
  - So one can acquire property without creating it.
Lockean defense of IP?

- But this is an argument for the right to **take possession** of something.
  - As opposed to leaving it available for common use.
  - But one cannot take possession if IP in this sense.
  - Lockean argument doesn’t seem relevant to IP.
Agency defense of property

- One can act only if one has to freedom to choose one’s actions.
  - This presupposes some degree of control over one’s immediate surroundings.
  - To deny this kind of freedom is to deny agency and therefore immoral.
Agency defense of property

- One mechanism for ensuring control is the right to exclusive or at least uninterrupted use of artifacts one needs to carry out one’s purposes.
  - So a right to a reasonable amount of property can be grounded in the right to agency.
Agency defense for IP?

- But one doesn’t need exclusive use of IP, since others can use it simultaneously.
  - One can have full access to IP no matter how many other people use it.
  - So agency argument does not apply to IP.
None of the previous says that there is no right to IP.

- Only that there is no natural right.
Utilitarian defense for IP

- None of the previous says that there is no right to IP.
  - Only that there is no natural right.
- There may be a utilitarian obligation to respect IP rights.
  - This is a weaker right, as reflected in the law.
    - Limit on how long one can own IP.
    - Fewer limits on who can use it (trade secrets).
Utilitarian defense for IP

Utilitarian argument for IP

- IP rights provide incentive to develop new ideas.
  - This increases overall utility.
- Patent law allows free discussion and exchange of ideas, despite IP rights.
  - Original intent of patent law.
  - Also increases utility.
    - But trade secrets, nondisclosure agreements restrict discussion.
Utilitarian defense for IP

- So IP rights are not rights to exclusive use of IP, but rights to make a profit from it.

- Unlike natural human rights, all IP rights must be justified in terms of consequences to society.
  - There can be no “balancing” of IP and human rights.
Some have criticized TRIPS agreement for trying to balance human and IP rights rather than giving human rights priority.

- Particularly when companies patent life-saving or indigenous drugs and charge high prices.
A state (e.g. India) may issue a **compulsory license** to a pharmaceutical patent.

- Companies lose patent rights.
- ...but receive royalties set by the state.
- Original TRIPS agreement limited grounds for compulsory licenses to national emergencies.
Back to TRIPS agreement

- Doha amendments give countries the right to determine the grounds on which they grant compulsory licenses.
  - GATT signatories have taken little action to implement Doha reforms.
Conclusion

- Intellectual property is ethically different than other kinds of property.
  - IP rights must be justified on utilitarian grounds.
  - They can never override other property rights or natural human rights.
Future of IP

- We are seeing a trend away from universal property rights.
  - Illegality of prostitution.
  - Abolition of chattel slavery.
  - Removal of medical care from marketplace in some countries.
Future of IP

- We are seeing a trend away from universal property rights.
  - Illegality of prostitution.
  - Abolition of chattel slavery.
  - Removal of medical care from marketplace in some countries.
  - Strengthening of IP rights goes against this trend.
YouTube

What should be posted?
On 26 September, Fabio Coelho was arrested in Sao Paulo.
- He is Director General of Google Brasil
- Google owns YouTube.
- The charge: Refusal to obey a court order to take down a video critical of a political candidate.
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YouTube

- Coelho was released the same day.
  - After agreeing to take down the video.
Google’s position:

- “We are not responsible for material posted to our site.”
- This is clearly false.
- Google chooses to post uploaded material.
  - Unlike Wikipedia.
- It is the right choice?
YouTube

- Two issues that must be distinguished:
  - Should the government regulate what appears on YouTube?
  - Should YouTube regulate what appears on YouTube?

- Let’s look at the second issue.
  - Some people here may later work for Google.
On 1 July 2012, the film *Innocence of Muslims* was uploaded on YouTube.

- Filmmaker is Nakoula Basseley Nakoula, a Coptic Christian from Egypt now living in the U.S.

- The film is very offensive to Muslims due to its negative portrayal of the Prophet Muhammad.
In recent days, there have been protests against the film at U.S. embassies worldwide.

19 deaths so far in Pakistan alone.

U.S. ambassador to Libya murdered.
U.S. president Barack Obama asked Google to consider taking down the film. But this is not required by U.S. law. Google refused.
Google’s position:

- We will keep the film online unless forced to remove it by the local situation or laws.
  - Voluntarily removed it in Egypt, Libya, and Jordan.
  - Forced by law to remove it Indonesia, Saudi Arabia, Malaysia, India, and Singapore.
  - Afghanistan, Bangladesh, Sudan, and Pakistan shut down YouTube when it refused to remove the film.
  - Turkey, Russia and Brazil have initiated proceedings to have the film removed.
Google’s position:
- In general, Google has an absolutist view.
- Complete freedom of expression is best.
Utilitarian principle

- Posting the film creates much negative utility, very little positive.
  - Deaths, injuries, political instability.
  - Violates utilitarian principle.
Utilitarian principle

- Objection: People shouldn’t get so upset.
  - Maybe, but this is a different issue.
  - The deaths and injuries nonetheless result from posting the video.
Objection: The **protestors** are killing people, not Google.

True, but the utilitarian principle counts **all** consequences of an action, including those that depend on the choices of other people.
Utilitarian principle

- Suppose a company has a choice of marketing two products:
  - A miracle cure for cancer that will relieve death and suffering for millions.
  - A new shampoo.
  - They are equally profitable.
Utilitarian principle

- The utilitarian principle considers the positive impact of the cancer drug.
  - Even though its effect depends on the free choices of patients and doctors.
  - The company should market the drug.
Generalization principle

- We must check whether removing the film would violate the generalization principle.
  - If so, the utilitarian principle says Google can keep it online,
- The **reasons** for removing the film:
  - The controversial material in the film causes deaths and injuries.
  - The film has little or no positive effect.
Generalization principle

One might argue:

- If all information outlets removed controversial material, we would not be able to expose government activities.
- Governments would become more despotic and cause more deaths and injuries than a few protests.
- So removing the film violates the generalization test.
Generalization principle

- But this omits one of the reasons.
  - Suppose all information outlets removed controversial material that causes death and injury and has no positive effect.
  - …such as exposing government activities.
  - Would this defeat the purpose of reducing death and injury?
Other issues?
Internet privacy

- Is it ethical for a company (e.g. Facebook) to share information about you with other companies?
  - The company discloses this practice in fine print.
  - Most users are not aware of it.
Internet privacy

- Is it ethical for a company to track your browsing habits with cookies?
  - And share the information with other companies?
  - Most users are not aware of it.