

Case Studies in Applied Ethics Courses: Some Caveats

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In a variety of the academic disciplines, applied ethics has rapidly become a growing industry. The list of developing courses includes business ethics, medical ethics, journalistic ethics, engineering ethics, military ethics, and legal ethics. Because of the pressing need for teaching future professionals about the crucial moral dimension of their chosen crafts, a variety of pedagogies has also arisen. Among those is the use of relevant case studies that highlight the types of moral decisions that professionals are likely to encounter. Professors should be aware of the fundamental limitations to the use of case studies for teaching applied ethics. This brief paper addresses a few of these limitations.

INTRODUCTION

In the academic discipline of philosophy, at least in the United States, applied ethics is a growth industry. Philosophy departments wanting to expand the reach of their student base and hence the size of their staffs and budgets have seized on opportunities to teach courses on such topics as medical ethics, journalistic ethics, engineering ethics, military ethics, and legal ethics. While some philosophers think these courses and their professors do not qualify as genuine philosophy and genuine philosophers respectively, the trend remains toward an increase of numbers and influence of these courses in the practical academic disciplines. There is a pressing need for more of these courses in universities nationwide. Departments capitalizing on this trend have found fruitful soil for gaining funding for additional tenure track positions and for teaching future professionals about the crucial moral dimension of their chosen crafts.

An important pedagogical technique for stimulating dialog about moral decisions in courses related to particular professions is the use of relevant case studies that highlight the types of moral decisions that these future professionals are likely to encounter. The widespread use of case studies in these burgeoning applied ethics courses raises two important issues. The first issue concerns debate about what

the appropriate normative grounding for case discussions should be. For example, in medical ethics Gert has criticized Beauchamp and Childress as superficially providing a list of ethical principles for medical practitioners to simply choose from as the particular case or their own normative preferences warrant. Thus, a doctor facing a difficult moral decision may choose from a list of principles that include rights, consequences, virtues, and duties to support their decision. These debates are important and should continue. The second issue and the one we wish to focus on briefly are practical caveats about the use of case studies per se in the classroom. There are fundamental limitations to the use of case studies for teaching applied ethics that we think professors should be cognizant of when they use this fruitful pedagogical technique. In the rest of this short paper we will detail a few of these limitations.ⁱ

CASE ANALYSIS CAVEATS

When analyzing a case, it is apparent that no case description is ever complete when it comes to gathering facts. Consider legal depositions for a moment. Depositions are formal legal fact gathering processes. Even in relatively simple legal cases, these depositions can run into the thousands of pages. In more complex legal cases like the Enron scandal, these depositions can fill a large trailer. Each account omits some facts and includes others. It is important when analyzing a case to suspend quick moral judgment and to assume that many and perhaps crucial details are probably missing from the description provided.ⁱⁱ

In the classroom, most case descriptions are necessarily short, considering the range of topics a professor needs to cover over a semester and the need for brevity in isolating those crucial moral issues that provide the most fruitful classroom discussion. Nevertheless, it is important that professors, and ultimately their students, understand the complexity of moral decision-making in concrete cases and realize that many morally relevant facts are probably missing. A professor's awareness of the dearth of morally relevant facts from a case description enables him or her to teach future professionals to dig for important, yet hidden morally relevant facts that may influence what moral decisions ought to be made. An important question that students should learn to ask is, "Is there additional information about this fact of this case that would change the moral decision I would make in this case?" It is obvious to us that written cases often lack the sort of rich factual detail that characterizes most true-to-life professional moral quandaries, if for no other reason than some information is personal or private.

It is also important to realize that, while having a reasonably thorough account of the morally relevant facts is important for rendering a competent moral decision or

judgment, as morally relevant facts multiply moral decisions often become more difficult.ⁱⁱⁱ For example, knowing one additional fact, namely, that a patient is a Jehovah's Witness, can greatly complicate decision-making on treatment options for physicians in what would otherwise be a routine treatment protocol involving transfusions of blood products. So, while professionals certainly want as many morally relevant facts as possible, the addition of morally relevant facts may have the paradoxical result of complicating the moral decision process while providing needed information to make a more informed and justifiable moral decision or judgment. This paradoxical result, however, provides professors of applied ethics using case studies to teach an important lesson about moral decision-making for professionals. If, as is often the case in professional contexts, time and knowledge of facts are limited, then professionals must learn to live with moral ambiguity in making difficult moral choices in complex cases. This moral ambiguity provides conscientious professors with a potent opportunity to mentor students on the need for moral courage and moral leadership in what will at times be a very tough moral decision making environment.

Next, even if it is possible to glean a reasonably thorough description of a case in the classroom environment, professors and their students should be aware of the likelihood that the actors within the case under consideration (particularly actors who are morally responsible for moral decisions or judgments) were not privy to all of these important morally relevant facts when *they* acted. The consistent pressure of epistemic limitations for moral actors within a case is not hard to understand. During the plague years in medieval Europe some physicians wore masks because they mistakenly thought that the lethal contagions were airborne. To criticize medieval physicians for wearing masks in light of contemporary knowledge about how fleas on certain black rats transmitted the plague to humans would demonstrate a lack of appreciation for the epistemic limitations on medieval physicians at that time. Professionals today no doubt have analogously similar epistemic limitations. For example, a physician may prescribe an otherwise effective medicine to a patient that the physician could not reasonably have known would cause a dangerous allergic reaction in that patient. For this reason professors of applied ethics should eschew the temptation to think that normative theories can provide anything like a God's-eye-view in professional contexts, likewise eschewing the temptation to make definitive moral judgments about moral problems in complex professional contexts.

Bernard Gert, an important moral philosopher at Dartmouth who has written extensively on applied ethics and who also served as the principal investigator and researcher for the National Institutes of Health on "Ethical Issues Arising From The Human Genome Project" states,

However, the infallibility of people is often assumed by philosophers when they present moral problems for discussion. They present an action, usually a violation of a moral rule, together with all of its consequences as if everyone involved knew all of the consequences of that action. This is one reason why they often arrive at such counterintuitive results.^{iv}

Case descriptions are also limited in that they often do not adequately communicate important facts about situations *as they were experienced*, but are difficult to adequately capture in words, such as the stress level, time limits, epistemic limits, and institutional pressures on the actors charged with moral decision-making. These factors may excuse actors from moral blame for the harms they intentionally or inadvertently cause. For example, imagine that in a current Iraqi conflict two vehicles are approaching an allied checkpoint at high speed. The armed guards at the checkpoint frantically motion the vehicles to stop. When the vehicles refuse to stop, the guards open fire on the vehicles, killing one and injuring the others in both vehicles. Unbeknownst to the guards, a family is trying to escape from Baathist loyalists in the latter vehicle who have been ruthlessly intimidating local citizens through torture and mutilation. When the vehicles finally stop in response to the guards' gunfire, the Baathist loyalists in the rear vehicle who are still alive get out of their vehicle and proceed to shoot the family members who are still alive and trying to escape. The checkpoint guards then shoot the Baathist loyalists. In this situation all the parties were clearly acting under extreme duress; the guards have epistemic limitations as to the intentions of the passengers in the vehicles. Suppose that this case is complicated by the morally relevant fact that car bombers have recently engaged in suicide attacks at allied checkpoints. In this environment the guards at the checkpoint could reasonably expect that both vehicles intend them lethal harm. These checkpoint troops had no way of knowing that they would be injuring, perhaps killing several innocent moral agents who were trying to escape what would likely have been execution, torture or mutilation. They reasonably assumed that the persons in both vehicles had violent intentions. Given the duress, epistemic limitations, and time constraint on the guards' decision, most conscientious moral agents would lament, but nevertheless accept the actions of the guards in this and situations that share very similar morally relevant facts. The consequences of not using lethal force are potentially grave and the guards' inferences about the likely intentions of the passengers in the vehicles are reasonable. Though the guards' actions had tragic consequences, their actions were perhaps justifiable, certainly excusable under the circumstances.

In these sorts of professional contexts, moral agents must make hard moral decisions in spite of epistemic limitations and other stressors, and their decisions can have

unintended, but sometimes excusable consequences. A professor's effective use of case studies in applied ethics courses should acknowledge these limitations, make students aware of the likelihood of these situations, and mentor students on the need for determination in making decisions when necessary even in the face of limited facts, high stress, limited time, and other contextual and institutional pressures. Failure to address these issues with future professionals in applied ethics courses does these students a disservice and sets up false expectations about what moral decision-making in professional contexts is really like.

Another limitation of case descriptions is the fact that they often overtly or implicitly emphasize the importance of some morally relevant facts over others. It is important for professors and their students to understand that each case is merely one possible description of a situation. An environmentalist working for Greenpeace and a corporate representative both giving accounts of a case of alleged corporate pollution are likely to describe the case very differently. The environmentalist may emphasize the effects of the pollution on a certain wildlife species while the corporate representative may emphasize the corporation's good faith compliance with all existing laws.^v The cases that take many of these factors into account are naturally much longer descriptions, but they are also more factually correct.

Another limitation of cases is that, even if different readers do agree on the morally relevant facts of a particular case, readers may interpret these morally relevant facts differently. The environmentalist and the corporate representative may agree on the amount of a certain pollutant being discharged into a local stream but disagree on whether they think the amounts are excessive or not. Different parties may also disagree on the long-term consequences of the pollution, such as the effect of the contaminants on ground water or the ability of the natural environment to neutralize the contaminants.

Acknowledging the variety of possible accounts of the same case suggests that case analysts should have an attitude of humility in making moral decisions based on only one or two accounts of a particular case. According to Baum, moral judgment should be conditional. "Analyses...should be carried out in the conditional sense that *if* events in fact did occur exactly as described [in the case description], then the right ethical decisions were or were not made."^{vi} In cases where professionals have yet to make a decision, the humble attitude would be that, given the facts that we know about this case, the right course of action, or the morally permissible alternatives for action seem to be X, or X or Y, etc.... It is always prudent, time permitting, to consider what facts are missing from a case description that might have an impact on the moral decision.

Another limitation of cases is that moral responsibility rarely belongs with only one party, but rather is usually diffused in many individuals and groups with shared or competing interests. Thus one goal of analyzing complex cases should not necessarily be to find one person to blame, but to properly distribute moral responsibility properly to involved parties. A corporation that pollutes a stream may be morally responsible for polluting, but that responsibility is probably diffused among different employees in that corporation. In a case of corporate pollution, the government may share responsibility if it has written an ambiguous antipollution law that a corporation interprets for its own interest.

Explaining the limitations of case descriptions has the positive effect of guarding moral agents, including professionals, against forming expectations that are too high concerning what case analysis can accomplish without undermining the benefits of case analysis entirely. Making difficult moral decisions in complex cases is a fact of much professional life. While understanding morally relevant facts of particular cases is crucial to moral decisions in those cases, understanding the facts about the limitations of case analysis in general is just as crucial to forming realistic expectations about what case analysis can accomplish and forming realistic expectations for professionals about what the moral dimension of their professional activities will be like

ⁱ Robert Baum has an excellent discussion of the limits of ethical case analysis in the introduction of his *Ethical Problems in Engineering*, 2nd Edition, Vol. 2, Edited by Robert J. Baum, Troy, New York: The Center for the Study of the Human Dimensions of Science and Technology, Rensselaer Polytechnic Institute, 1980, p 1-5.

ⁱⁱ There is nothing necessarily wrong with acknowledging that case accounts are incomplete. Most professionals have to make moral decisions in the face of incomplete or rapidly changing data on a regular basis. This fact is just one of the burdens of being a professional with decision making responsibility, though it does not eliminate the need to gather as many relevant facts as possible given the circumstance before making a moral decision.

ⁱⁱⁱ A separate but interesting issue is whether a complete description of a case is even possible. Case descriptions may only be relatively complete, i.e., more complete than some accounts, less complete than others. Baum states that "...real-life situations are inevitably much richer and infinitely more complex than any written account can convey."

^{iv} Bernard Gert, *Morality: Its Nature and Justification*. New York: Oxford University Press, 1998, p 35.

^v An example emphasizing certain morally relevant facts over others is found in the current debate over limited punitive damages in medical liability lawsuits. Physicians advocate the harm to patients and physicians resulting from prohibitively high increases in medical liability insurance

caused by unlimited punitive damages in medical lawsuits. The trial lawyers association emphasizes the right of patients harmed by medical incompetence to substantial compensation for irreparable harms caused by medical incompetence and the deterrent force of continuing this practice.

^{vi} Robert J. Baum, editor, *Ethical Problems in Engineering*, 2nd edition, Vol. 2, Troy, New York: Center for the Study of the Human Dimensions of Science and Technology, 1980, p 1.