



Teaching Ethics by the Case Method

Much has been written about the use of cases in teaching public management, including advice to faculty on how to prepare for class sessions. This note is designed to supplement available materials by focusing specifically on the teaching of ethics.

What is an ethics case?

In general, a case describes a situation in which a decision must be made by a public official or manager. The narrative offers a detailed account of the circumstances generating the need for decision, as well as considerations that could figure in reasoning one's way to a resolution. The most effective cases, pedagogically, involve a serious conflict. As Dorothy Robyn has written, the essence of good case discussion is controversy. It engages students and forces them to think through the factors relevant to resolution of a problem in the face of critical scrutiny by classmates with different views.

In ethics cases, an ethical question lies at the center of the controversy. (Value questions are present in every case, of course, but they are not always the elements generating conflict.) Although the distinction is not perfectly neat, two types of ethical conflict in public management cases can be identified: (1) conflicts between internal and external standards, and (2) conflicts wholly internal to a role.

In the first category, ethical duties tied to a manager's position may clash with duties derived from an external source which also has authority. For example, the external standard could be an established precept of common morality, such as the prohibition against lying, generally

This note was written by Kenneth I. Winston, professor of Philosophy at Wheaton College, and visiting professor in ethics at the Kennedy School of Government, for the Case Program at the John F. Kennedy School of Government, Harvard University. (1095)

Copyright © 1995 by the President and Fellows of Harvard College. To order copies or request permission to reproduce materials, call 617-495-9523, fax 617-495-8878, email cp_sales@harvard.edu, or write the Case Program Sales Office, John F. Kennedy School of Government, 79 John F. Kennedy Street, Cambridge, Mass. 02138. No part of this publication may be reproduced, revised, translated, stored in a retrieval system, used in a spreadsheet, or transmitted in any form or by any means—electronic, mechanical, photocopying, recording, or otherwise—without the written permission of the Case Program Sales Office at the John F. Kennedy School of Government

regarded as binding on everyone regardless of role. An illustrative case might involve, say, a public manager trying to decide whether to lie to the press in a situation where national security is threatened, or in order to save a new policy initiative from premature exposure to media scrutiny. Conflicts of this sort raise the question whether public managers are entitled to the benefits of a “special ethic” exempting them from the moral constraints that apply to ordinary citizens.

Or, the external standard could be the manager’s morally—or religiously-informed conscience. Thus, a case might tell the story of an administrator struggling with the obligation to implement a duly-enacted law fairly and impartially, when the law permits conduct that the administrator abhors as a matter of sincere conviction. Such a case focuses on a clash between personal beliefs and public duties. On the one side, failure to adhere to a conscientious conviction poses a serious challenge to the administrator’s moral integrity; on the other side, the administrator’s belief—no matter how sincere—may have no moral standing with the legislators who enacted the law, or for that matter with other decision makers within the same agency.

In the second category are ethical conflicts internal to the manager’s role. These cases take many forms, but the most common have to do with conflicts between commitment to a decision procedure and efforts to achieve specific outcomes (roughly, the problem of means and ends). Perhaps most interesting, within this category, are cases in which the controversy is generated, at least in part, by structural features of the institution in which the manager’s role is embedded. The conflict may turn then on alternative definitions (or models) of the role itself and will engage students in questions of institutional design.

For example, managers often take the view that the ethical problems they face are limited in scope. The idea is that each manager is only one official among others in a complex arrangement of powers and responsibilities; each is assigned more or less well-defined—and therefore limited—tasks distinct from those of managers in other, complementary offices. This dispersion of responsibilities, the argument goes, entails a division of ethical responsibility. Rather than asking, “What should be done, after all ethically relevant factors are considered?,” the more characteristic question is, “What should I do within the compass of what I am authorized to do? Which part of this situation falls within my area of responsibility, and which factors must I bar from consideration because they are the concern of another official or another agency?” In this way, the division of ethical labor permits managers to exclude certain matters from their deliberation, establishing what we may call an exclusionary model of ethical responsibility.

Perhaps this division of ethical labor has some justification—that’s a question deserving extended discussion. Even so, the gap between what authority allows and what morality requires may leave managers feeling tainted by acquiescence in a narrow construction of their ethical duty. For this reason, among others, it is important to consider alternatives to the exclusionary model, to explore the appropriateness and viability of an inclusionary model of role responsibilities, in which ethical considerations are not so circumscribed.

The choice between exclusionary and inclusionary models is not peculiar to public management; it arises in every profession. Consider the case of a doctor hired by an insurance company to examine claimants injured in automobile accidents. Following an exclusionary model, the doctor may believe that she has no ethical duty to inform an examinee of her discovery of a life-threatening medical condition that went undetected by the person's own physician, because she thereby lowers costs for the insurance company that employs her. Her view is that the claimant's physician has the duty to make the discovery and provide the information, not her. But, if the doctor follows an inclusionary model, she could believe that informing the examinee is consistent with her duty to the insurance company when properly construed: namely, to ensure only that the company isn't held liable for injuries not caused by the accident. Then she can act decently toward the claimant (by providing the information) and fulfill her role responsibilities at the same time.

Similar examples drawn from public management may never be quite so straightforward in demonstrating the relevance of alternative models, but the doctor's story serves as a guide in imagining cases. In terms of pedagogy, the point is that the construction of role responsibilities is a component of institutional design. Just as one design may inhibit, so an alternative design may encourage, moral choices. Good ethics cases facilitate the discussion of such alternatives.

Why use the case method?

In adopting the perspective of a manager attempting to make a decision, students are forced to reflect as much on the environment of decision making as on the logic of argument. It trains them in perception as well as analysis. The resources available for resolving a conflict, or the obstacles that may prevent it, need attention. A manager asks: Whom should I consult? Whom can I persuade? On what grounds? But also: How should I proceed when time is limited, information incomplete, and outcomes uncertain? Which of these contextual factors will make an optimal choice less likely? Are they intractable? Why? To teach practical ethics is to focus as much on the latter set of questions as on the former.

Moreover, only the detail of a real case situates ethical conflict in such a way as to encourage the exercise of moral imagination in the search for innovative solutions. Without knowledge of the constraints and opportunities present in the environment, reasoning is either sterile (having no real application) or artificial (producing solutions all too easily). In many instances, the initial effort will be to figure out what the problem is; ambiguities in the narrative, reflecting obscurities in the circumstances described, may hide what is actually at stake. Even then, the proper goal of a manager might be not to devise an answer to an identified problem but to chart a course of further deliberation: seeking more information, identifying the grievances of other parties, eliciting support for the manager's concerns, and so on. (The most important lesson of a case could lie in what the manager should have done differently to defuse the problem before it got

to its current stage.) In general, it is important to discourage the idea that there is a determinate decision procedure in ethics, but also important to realize that one can be methodical in handling a conflict.

Even though a case begins with controversy, a class might well progress to an unexpected consensus, perhaps by reframing issues, challenging assumptions, and engaging in collective self-education. Good ethics cases facilitate this process by lending themselves to the simulation of problematic situations through role-playing, thereby highlighting the collaborative nature of managerial decision making. Even when a lone official has to assume ultimate responsibility for an outcome, decisions by public managers are not made in isolation. The importance of focusing on the quality of deliberation in ethics cases is that it makes evident the limited capacities of individuals; people do not have privileged access to moral truths. A particular manager may have an opinion—a perfectly understandable and well thought out opinion—about what morality requires or what course of action will serve the public good. But it's only one opinion among others, and it could be flawed, even idiosyncratic. In-class simulation makes evident how deliberation with others provides checks on—and thereby assists—one's perceptions and one's reasoning.

Because of the possibility of consensus, it is unwise to assume that there's never a right answer in an ethics case. Even when a class session ends in disagreement, the conversation that spills into the hallways and lunchrooms may take unanticipated twists and move toward resolution. In fact, there's a pedagogical benefit to having at least a few cases scattered through a semester's syllabus which do have right answers, in the sense that after animated exchanges of view and extended argumentation (within the compass of a class period) students realize that convergence on a single view is the only option that makes sense. In this way, they have occasions to re-affirm settled moral points and appreciate that not everything is up for grabs.

Another advantage of adopting the perspective of a manager is that one can better learn the pitfalls of decision making when stakes are high and pressures are continuous. Observing a situation from the inside, with its mix of commitments and constraints, opportunities and dangers, helps one appreciate the forces that produce insincere reasoning, false assurances, hypocritical posturing. There's nothing quite like the case that illuminates for students the large repertoire of excuses—"no harm will be done," "everyone else is acting badly," "besides, advocates aren't required to tell the whole truth"—used by public officials to warrant ethically questionable acts. In this way, students are sensitized to—and, one hopes, armed against—the possibility of their own corruption.

Reasoning in an ethics case

In managing an interactive, student-centered conversation about a controversial ethical matter, there are two dangers teachers should attempt to avoid: overestimating the amount of disagreement, and underestimating the amount of disagreement. Which danger is the greater will depend on the case. One task of moral reflection is to understand the reasons for disagreement, when it occurs, and to survey the possibilities of agreement. This includes examining the forms of argument used in practical disputes, such as appeal to authority (including the law), appeal to intuition or “gut feeling,” appeal to conventional or traditional belief, appeal to apt analogies, and so on.

All of these forms of argument have a legitimate place in practical ethics, which is why case discussion does not lend itself easily to the application of general moral theories – what we might call the top-down method of reasoning.

The top-down method employs a theory—that is, a structure of abstract normative propositions—to justify specific rules, policies, or acts. The method is deductive, and the paradigm of such reasoning is mathematics. At the top of the theory is an overarching goal (say, to maximize utility), or a set of fundamental rights (life, liberty, and property), or transcendent duties (to do justice and walk humbly with thy god). Other goals, rights, and duties are subordinate and derivative.

In contrast, the bottom-up method is inductive. It begins with ongoing practices and judgments in particular cases – and moves beyond them only to the degree needed for resolution of the problem posed for discussion, or to connect one case with a set of related cases. The idea is to uncover and to refine, and only sometimes to systematize, the moral perceptions, sentiments, or conventions that are salient in managerial situations. Many of these serve as “provisional fixed points,” to borrow a term from John Rawls, and are employed in the formulation of middle-level principles. (The vocabulary of fairness, decency, and integrity will be especially prominent.) If we go no farther than middle-level principles, it will be because the point in case discussion, after all, is to teach judgment not doctrine, sound practical reasoning not system. In the bottom-up method, ideas are in the service of problem-solving.

If abstract principles are not the ultimate standards for evaluating specific decisions, they still may be useful as guidelines or rules of thumb, providing summaries of judgments made in particular cases in the past. If they have withstood critical reflection over time, they may even embody a certain collective social wisdom about practical affairs. But since they mirror only what has been seen before, they don’t necessarily prepare us for novel, unanticipated happenings, of the sort that the world tends constantly to throw at us. However nuanced their formulation may be, articulated standards rest on tacit assumptions and implicit expectations which often become evident only when some kind of aberration occurs, such as Caligula appointing his horse to a

consulship. (Did Roman lawmakers need to have that exception in mind when they established the office?) In the usual case, the standards will be imprecise and fallible, and hence are not to be relied on anyway without testing them against one's own good sense—or the good sense, as Aristotle recommends, of the wise and virtuous person.

If the judgments of a virtuous person were easily formulable as rules, ethical reasoning would consist in the cognitive exercise of getting the formulations correct and applying them to cases. But if they are not easily formulable, ethical conduct requires a preliminary educational process consisting of close observation of others, such as the case method provides. Teaching ethics should perhaps be modelled on teaching someone how to play a musical instrument, where the student is initiated into a particular way of feeling and responding, mastering the local techniques, and eventually being able to improvise within settled practices when appropriate. In such learning, the considered judgments of experienced persons carry more weight than theoretical arguments.

Of course, the obstacles to reliable generalization—the mutability of the world and the indeterminacy of language—do not entirely negate the value of efforts to reach the common ground of universal principle. So the task in ethics may be to proceed dialectically, to attempt to balance the general and the particular, to test each against the other, aiming at an equilibrium between unshakable convictions in particular cases and the demands of reason. In this way, moral reflection retains a critical edge without becoming detached from the practices in which it is employed. But it's worth emphasizing that the theoretical enterprise of systematizing one's judgments can take on a life of its own and divert attention from the ethical problem at hand. Any comprehensive, integrated, overarching scheme may represent no more than the temporary victory of the intellect over good sense, which always shows itself concretely, in particular cases.

Ethical knowledge and the role of the teacher

In his *Discourse on Method*, the French philosopher René Descartes meditates on the difference between works produced by several persons and those produced by a single hand. He thinks the latter are more likely than the former to be well constructed. For example, ancient towns which have developed only gradually and apparently haphazardly into great cities are ordinarily, he says, very badly arranged. With their crooked streets and odd assortment of houses, "one would rather suppose that chance and not the decisions of rational men had so arranged them." Such places stand in marked contrast to "the symmetrical metropolitan districts which a city planner has laid out on an open plain according to his own designs." (Keep in mind that Descartes was referring to Old World examples; he knew nothing of Boston and Washington, D.C.)

Descartes' aim in developing this image of two contrasting cities is to draw an analogy to two kinds of knowledge. The first has grown up little by little through the accumulation of the

opinions of many different persons; the second consists in “the simple and natural reasonings” of a single person of ability, who rejects completely all received opinions and accepts only what is seen to fit into a rational scheme. The point of the analogy of course is to suggest that the reasonings of the single person of ability will be nearer to the truth.

This image has been extremely attractive to philosophers ever since Descartes set it down. And there may well be some areas of inquiry where it has application. But Descartes himself recognized that it does not apply to the moral life, which closely resembles the haphazardly evolving city. It is a life of many accumulated opinions, reflecting the practice of many generations. Its pathways lead in unexpected directions and often expose unanticipated connections. From the perspective of a single individual, part of the difficulty in attempting reconstruction (whether of a city or of the moral life) is the magnitude of the task: “large edifices are too difficult to set up again once they have been thrown down, too difficult even to preserve once they have been shaken, and their fall is necessarily catastrophic.” And existing structures may embody a collective wisdom not always easily discerned. “It is certain that many institutions have defects,” Descartes says, even if custom has inured us to them. But custom has perhaps “found ways to avoid or correct more defects than prudence could have done.” One thinks of the way urban renewal projects, in too many instances, ended up destroying vibrant, multi-ethnic communities, such as Boston’s West End, only to be replaced by sterile enclaves for the well-to-do.

If the Cartesian image of the moral life is correct, it has implications for the role of the instructor in teaching practical ethics. It means, most importantly, that the moral life is a shared life; that student and teacher are in it together, exploring the place they have both resided all their lives. The teacher, perhaps, is more familiar with its general features, but not necessarily its details. So it would be a mistake for the teacher to take on the role of tourguide for visiting strangers. The enterprise is rather joint exploration of territory that is familiar to all parties, even if to varying degrees.

A tourguide gives lectures and answers questions. In an ethics case discussion, there will sometimes be information to impart through lecture—but not often. In general, it is not the teacher’s function to be an oracle of some moral truth, let alone to elaborate general theories. In fact, depending on the issue, the teacher may not be in as good a position as some students to offer ethical instruction. Of course, if the teacher were a representative human being whose moral sense, when analyzed, revealed the principles of sound ethical reasoning, the teacher would merit a privileged place in the classroom. But we know that individuals have a reliable moral sensibility only if they have been well brought up and thoroughly immersed in the practices in which ethical judgment is exercised—and, on any given question in public management, that is as likely to be true of one or more of the students as of the instructor.

In case discussion, therefore, the role of the teacher is not that of expert or source of knowledge; it is that of facilitator and intellectual foil, assisting students in their collaborative

deliberations and attempting to nurture in them the ability to handle ethical conflict effectively on their own, when the instructor is not around to monitor the conversation. The principal technique for accomplishing this aim is the reverse of the tourguide's: It is to ask questions. They must of course be the right questions, questions that introduce students to a certain path of inquiry, that keep the exploration moving in a productive direction, that press students to investigate areas not yet probed sufficiently, and so on. All with the outcome, one hopes, of mutual understanding, that is, understanding their shared ethical life together.

* * *

References

Many Kennedy School faculty and staff members have written about the case method of teaching. The Case Program has usefully gathered together several of these pieces in "Five Notes on the Case Method," which includes Dorothy Robyn's "What Makes A Good Case?" Other items have appeared in professional publications, such as John Boehrer's "On Teaching A Case," *International Studies Notes* 19:2 (Spring 1994).

The acknowledged master of case teaching is C. Roland Christensen, whose *Teaching and the Case Method* was first published by the Harvard Business School in 1981 (with an Instructor's Guide and extensive bibliography). The third edition of this book appeared in 1994, with Louis Barnes listed as first author. Christensen, et al., also edited *Education for Judgment: The Artistry of Discussion Leadership* (HBS, 1991).

The KSG Case Program Catalog now contains a separate index for ethics cases, but some cases listed in other categories are also useful. Among published casebooks, the best collection is *Ethics and Politics: Cases and Comments* by Amy Gutmann and Dennis Thompson (Nelson-Hall, 2nd ed., 1990).

The doctor's story is taken from *Spaulding v. Zimmerman*, a 1956 case in which the Supreme Court of Minnesota held that a lawyer working for an insurance company did not violate any ethical duty in failing to tell a claimant about the discovery by the company's doctor of a life-threatening condition not detected by the claimant's own physician. Both the case and the idea of a division of ethical labor are discussed by David Luban in *Lawyers and Justice: An Ethical Study* (Princeton Univ. Press, 1988).

What I have called the bottom-up method of reasoning is defended in general terms by Annette Baier in "Theory and Reflective Practices," *Postures of the Mind: Essays on Mind and Morals* (Univ. of Minnesota Press, 1985); and by Martha Nussbaum in several places, including *The Fragility of Goodness: Luck and Ethics in Greek Tragedy* (Cambridge Univ. Press, 1986).

The quotations by Descartes are taken from the Library of Liberal Arts edition of *Discourse on the Method of Rightly Conducting the Reason and Seeking Truth in the Sciences*, Part Two.