

Research in Applied Ethics: Problems and Perspectives

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Abstract The last few decades have seen a dramatic increase in concern with matters of ethics in all areas of public life. This ‘applied turn’ in ethics raises important issues not only of focus, but also of methodology. Sometimes a moral end or moral feature is designed into an institution or technology; sometimes a morally desirable outcome is the fortuitous, but unintended, consequence of an institutional arrangement or technological invention. If designing-in ethics is the new methodological orientation for applied ethics, globalisation is providing many of the practical ethical problems upon which to deploy this methodology.

Keywords Designing-in ethics · Collective responsibility · Institutional ethics · Ethics and technology · Globalisation · Duty to aid · Financial service providers

The last two decades of the 20th Century and the first few years of the 21st Century have seen a dramatic increase in concern with matters of ethics in all areas of public life in Australia and overseas. The collapse of Enron, and the giant accounting firm, Arthur Anderson, human rights abuses in Rwanda, Bosnia and East Timor, and 9/11 and the war in Iraq spring to mind, as do the international drug trade and people smuggling. And recent developments in science and technology have spawned a host of ethical problems. Consider the ethical issues concerning privacy arising from the capacity of the new communication and information technologies to enable data base integration, data mining, profiling and the like.

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Now consider recent developments in nanotechnology, the engineering of molecular machines built atom-by-atom. Nanotechnology is in its infancy, but it promises to deliver artificial muscles, photosynthetic paints and tiny robots that clean your arteries. It is extremely difficult to predict the development of nanotechnology in its scientific and technological aspects, let alone predict the ethical issues that it will give rise to. However, just as it is a reasonable bet that nanotechnology will enable the prevention and cure of some life threatening diseases and a cleaner environment, it is also likely that it will raise privacy concerns (smaller computers with greater memories and highly sensitive sensors) and social justice problems (who has access, who does not). Recently, in the context of the convergence of nanotechnology and biotechnology, a range of ethical issues concerning human enhancement and human identity itself have arisen. It is one thing to provide the deaf with hearing or enable the lame to walk, but quite another to enhance the physical, and possibly mental, powers of humans well above what has been regarded as a normal endowment.

It is important to distinguish between ethical issues and religious ones. While the two kinds of issues have historically been connected, they are not to be identified with one another, and in any case in the contemporary situation we cannot rely on religion to resolve our ethical problems. That said, the rise of religious fundamentalism and, in the case of muslim fundamentalism, its relationship with terrorism and the theocratic state remind us of the ongoing close relationship between religion and ethics and, for that matter, between ethics, religion and politics. It is by no means clear that all, or even most, important practical ethical problems can be resolved independently of a consideration of their religious and/or political dimensions. The religious and political dimension of contemporary ethical problems ought to remind us of the importance of the non-philosophical dimension of ethical problems, and the consequent necessity to interact with academics from other disciplines, such as religious studies, law and political science.

As for the ethical issues arising from developments in science and technology, these cannot even begin to be addressed absent an understanding of the relevant scientific facts. Hence the necessity for ethicists working in these areas to interact with scientists.

A final point is that many contemporary ethical problems raise profound questions about core human values, such as life, autonomy, identity and justice; values that have been the subject of sustained human thought in many civilisations for centuries. Accordingly, and perhaps somewhat paradoxically, the resolution of the new ethical problems of the 21st century will require an ability to draw on the wisdom of the past for enrichment, including the past thought of cultures other than one's own.

Designing-in Ethics

Design products, both institutional and technological, are all around us. They include high-way systems, rail transportation systems, cars, tax systems, laws and regulatory frameworks, schools, universities, hospitals, corporations, business processes, clinical protocols, computer programs, household appliances, streets and squares, public buildings and houses. More and more people live in these extensively

designed and engineered environments. Design is a ubiquitous feature of our contemporary world.

These institutional and technological contrivances empower us in a myriad of ways. They bring buyers and sellers together (markets), they educate us (schools), they provide us with transport (motorcars), and allow us to communicate over long distances instantaneously (mobile phones).

However, these very same humanly designed institutions and technologies also constrain our freedom to act. Motorways enable us to travel speedily by car from A to B; but motorways also require us to drive on one side of the road and along a predetermined pathway between A and B. The institution of the police enables us to conduct our daily business safely and without unwarranted interference; but equally the police constrain our activities in the public domain to do as we see fit.

So design products are ubiquitous, indeed in part constitutive of our human environments; and they empower us and constrain us (Verbeek 2005). As such, design products have an important ethico-normative dimension (Hardin 1995). Hospitals and pacemakers enable us to save and prolong life. On the other hand, military organizations and weapons of mass destruction allow us to destroy lives. Indeed, quite frequently institutions and technologies have dual uses, ethically speaking: they can be used for good, but they can also be used for evil. Consider techniques for genetic engineering or the modern corporation.

Sometimes a moral end or moral feature is *designed into* an institution or technology; sometimes a morally desirable outcome is the fortuitous, but unintended, consequence of an institutional arrangement or technological invention. A paradigm case of a morally objectionable end being *designed into an artefact* were Robert Moses' low hanging overpasses in New York, which were intended to prevent the buses from the poor black neighbourhoods being routed to the beaches near New York—a favourite destination of white middle class families (Winner 1980). This notion of *designing in ethics* is complex and elusive. In what sense, for example, are the ethical ends or moral aspects of hospitals or pacemakers a constitutive feature of these entities? And in what sense is there a designer? Institutions, for example, are typically the result of the actions of multiple agents interacting over generations (Miller 2003). A further issue pertains to the conceptual, practical and moral limits on design. Here it is especially important to note the moral limits on notions of designing or redesigning human beings per se. Some recent discussions on human enhancement, for example, offer a brave new world of future 'super-humans' with greatly enhanced sensory apparatus and possessed of prodigious memories and calculative capacities (Agar 2004). The underlying conception of a human being informing some of the more glib pronouncements made in this connection is that of a computerised robot—a conception that is, to say the least, contestable (Sandel 2007).

At any rate, one set of concerns is with these and other theoretical issues. A second set of concerns pertains to various instances of *designing ethics* into institutions and technology or, more accurately, into "socio-technical systems". A socio-technical system is an integrated whole of institutional actors/procedures and technological artefacts/processes.

Hitherto, the study of ethics has tended to focus on the analysis of pre-existing concepts, and the adjudication between predetermined options—such adjudication

often being understood in terms of a process of weighing up the moral considerations inherent in these given options. Thus one might attempt to weigh up and then strike a balance between the rights of suspected terrorists and the right to personal security of citizens by, say, increasing the period of detention for suspected terrorists. On the other hand, *contra* Mirko Bagaric and Julie Clarke (Bagaric and Clarke 2007), torturing suspected terrorists would not constitute striking a moral balance between the moral rights of these groups; rather it would simply be violating the rights of suspects (Miller 2008: Chapt. 6).

Notwithstanding the applicability of this general approach in a variety of situations, I want to point to a somewhat different approach to the study of contemporary ethical issues—an approach which I will refer to as “designing in ethics” (Van den Hoven 1997). This latter approach, emphasises the need to create or expose additional options and, thereby, reconfigure or re-design the option set.

As van den Hoven points out, this design turn in applied ethics is the third and the most recent phase in the development of contemporary ethics. After an almost exclusive focus on meta-ethics in the beginning of the 20th century, there was an applied turn in the latter decades of the 20th century. However, this applied turn largely—I don’t say wholly—consisted in the application of existing theory to practical problems, and involved primarily the static process of adjudication between pre-existing options.

By contrast, I am insisting on the need to identify and articulate a rather different category of questions in applied ethics. It is not simply a matter of this familiar type of question: ‘given this situation and given the fact that there are two options A and B open to the individual chooser (e.g. chooser in a prisoner’s dilemma scenario, chooser in a Judith Jarvis Thomson trolley scenario) what should she do?’ For we also need to focus on the following type of question: ‘How can we redesign the option set such that there is another option C—an option that is additional to the currently existing options A and B?’ Crucially, option C meets all our ethical requirements and does not force us to choose between them.

Consider a situation in which a large number of moral agents each perform an action of a given type, e.g. each dumps their waste into a nearby river that provides fresh water for drinking, washing and so on. Each action considered on its own does no harm, however cumulatively the actions cause great harm—specifically, the river is seriously polluted. On a static conception of the matter it is not obvious whether, and on what basis, to ascribe moral responsibility and to punish. On the one hand, given the relatively benign intention and tiny causal contribution of each agent, it is not obvious that anyone is morally responsible; so presumably no-one ought to be held liable and punished. On the other hand, there is the fact of great harm having been caused by these agents, indeed foreseeably caused.

However, there is a third option, C, that could be designed and implemented—indeed, has been designed and implemented. This third option consists in ascribing, i.e. creating, an institutional responsibility on the part of each agent not to pollute, and doing so by means of an enforceable regulation or law to that effect. This is an institutional responsibility that is designed to serve an important moral purpose; moreover, it is an institutional duty that is now also a moral duty. Thus, a citizen or other institutional role occupant who fails in his or her institutional duty by making what is only a tiny causal contribution to some morally untoward outcome,

nevertheless, might be held *fully institutionally* responsible for the outcome and, as a result, *fully morally* responsible for the outcome; or at least he might only enjoy a minor diminution in moral responsibility, and certainly not a moral diminution commensurate with his very minor share of (so to speak) natural responsibility for the outcome.

Gradually applied moral philosophers working on real life problems are coming to realize the possibility and importance of designing-in ethics to institutional arrangements, such as economic incentive structures (Elster 1993; Pogge 2002) and legal frameworks, and to technical and engineering artefacts and infrastructures, such as surveillance systems and computer programs (Lessig 1999). Here the key point is that moral philosophers need to be part of the process of designing institutional arrangements and new technologies; ethics needs to be designed into socio-technical systems.

Globalisation, Institutions and Collective Responsibility

If designing-in ethics is the new methodological orientation for applied ethics, globalisation is providing many of the practical ethical problems upon which to deploy this methodology.

On the one hand, global communication, international financial transactions, and transnational movement of people, gives rise to new ethical problems, or new versions of old problems. Consider the emergence of new international crime syndicates and associated corruption. On the other hand, the solutions to these problems requires transnational and transcultural cooperation. Now more than ever there is a need to shoulder *collective* moral responsibility for ethical problems (Scheffler 1995; Miller 2006). Corruption, genocide, environmental degradation, pandemics and so on, require collective action on the part of governments and other organisations. The global nature of the problems, and of their solutions, means that ethics, including issues of social justice, can no longer be seen as relativised to the individual nation state (Pogge 2002). What is happening to people in other parts of the world can no longer be seen to be their business, but not ours. Self-evidently, ethics now has an important international focus.

That said, there will obviously always be local and individual ethical problems, and most individuals, organisations and groups can, most of the time, solve their own ethical problems. Professional practitioners, such as doctors, police officers and social workers solve their ethical problems on a daily basis. And so do parents, lovers and friends. If this were not so, then civilised life would scarcely be possible. However, it remains true that many issues in public ethics now have a national and international character; they are not simply local concerns. Moreover, they often have a complexity that requires sustained intellectual attention and expert input, if they are to be adequately understood and satisfactorily resolved.

As noted above, globalisation has brought into sharp focus the importance of collective action, and the consequent centrality of the ethical concept of collective responsibility. Let us consider in the context the problem of global poverty.

According to Peter Singer (relying on the World Bank figures) there are approximately a billion people in the world living in absolute poverty, and the affluent persons in the world each has an individual moral obligation to assist

(Singer 2007). Moreover, Singer claims it is a very strong individual moral obligation; it has the same strength as the moral obligation that I have to save a drowning child in a pond adjacent to me, if I can. Further, says Singer, it is a very demanding individual obligation in that my obligation is to give and keep giving to the threshold point at which either the great harm to others has been averted or the cost to me of giving is no longer comparatively insignificant. So even if I have given away most of my income to (say) Oxfam, I still have a moral obligation to continue giving, if my (by now) very modest income is, nevertheless, significantly above what is required to meet my basic needs; for, comparatively speaking, the cost to me of giving an additional amount of my very modest income is insignificant compared to the harm thereby averted, e.g. saving one more starving child's life.

I do not dispute the existence of a moral obligation on the part of the affluent to assist those living in absolute poverty; indeed, I believe that there is such an obligation. However, I do dispute the nature of the obligation as expressed in the analogy with saving the drowning child (Singer 1972, 2007) and (relatedly) Singer's view of its demandingness. In my view the obligation in question is not an individual obligation per se and, therefore, the set of such obligations is not simply an aggregate of individual obligations. Moreover, the obligation on the part of a single affluent person to assist those living in absolute poverty is less demanding than the obligation of the passer-by to save the drowning child (Cullity 2004).

What is the analogy between giving to the needy and saving the drowning child supposed to be? In the case of the drowning child, I have a one-off, individual moral obligation to save the child. This is because my action is a necessary and a sufficient condition for the child's life to be saved; my single action, and my single action alone, will save the child. Do I have the same moral obligation to give (say) \$20 to Oxfam today as I have to save the drowning child?

Surely, this cannot be correct, since if I make a one-off payment to Oxfam I do not know that it will save any additional person; a large organization such as Oxfam with a budget in the hundreds of millions does not adjust its budgets and delivery schedules to the needy on the basis of \$20 increments. Moreover, even if my \$20 were to be earmarked for an additional child with (say) malnutrition (this is my arrangement with Oxfam), it will not necessarily save the child's life in the manner that I save the life of the drowning child. Children in absolute poverty typically face a range of ongoing threats to their life, and my \$20 might only slightly prolong the child's life; the immediate threat from malnutrition is averted today only to have some disease, e.g. malaria, kill the child tomorrow. The implicit background assumption in the case of the drowning child is that the child when saved from drowning will return to a very different default state from the one facing the child in absolute poverty; specifically, the child saved from drowning will return to a situation in which she has adequate food and shelter, clean water, health care, and so on.

Finally, even if the \$20 were to be earmarked for a particular child, and even if that child's life were to be saved for the long term because short-term malnutrition was the only threat to her life (perhaps malnutrition was the consequence of a one-off, disastrous crop failure), it was not *I* that saved her life; rather I provided the money that enabled someone else to save her, e.g. the aid worker who fed the child over the requisite time period or the health worker who administered the vaccine or whatever. So it was the aid worker who saved the child, albeit my \$20 paid for the

food; so I am much more like the donor who paid for the life jacket that is thrown to the drowning child, rather than I am like the passer-by who actually saves the drowning child.

So unlike in the drowning child case my action of giving \$20 to Oxfam is not sufficient to save anyone's life (not for a short time, and certainly not for a long time); the actions of many other people are required, and required over a long period of time. But (again, unlike the drowning child case) nor is my one-off action necessary, since it is almost certainly the case that the same number of lives will be saved (for a long period of time) whether or not I give my \$20. Indeed, it is far from probable that I will save even one life for a short period of time; certainly in most cases I do not *know* that my giving \$20 today is a necessary condition for someone's life being saved (for either a short time or for a long time).

I conclude that the proposed analogy between saving the needy and saving the drowning child is defective in two fundamental respects. Firstly, unlike saving the drowning child—which requires an individual person to perform an individual action in accordance with his or her *individual* moral obligation—saving the billion in absolute poverty is to be understood as a situation calling for collective, interdependent, action in accordance with their *collective* moral responsibility to do so. Hence the importance of collective moral responsibility in relation to global problems. Please note that in invoking collective moral responsibility I am not eschewing individual moral responsibility. As I have argued in detail elsewhere (Miller 2006), collective moral responsibility is to be understood as *joint* individual moral responsibility, i.e. a moral responsibility each of us has, but one jointly possessed. Moreover, joint obligations are conceptually different from aggregates of individual obligations.

Second, again unlike the saving the drowning child scenario, saving the billion in absolute poverty is a long term project requiring a series of actions performed over a period of years on the part of each (or at least many) of the participating persons; it is not a matter of a one-off action, even a one-off collective action. In short, there is a collective moral responsibility to save the billion in absolute poverty by means of long term, collective action, specifically, *institutional* action. Hence the importance of focusing on institutions, as opposed to individuals (Pogge 2002; Miller 2001: Chapt. 6). The fundamental need is to establish and/or redesign relevant contemporary institutions in order to discharge our collective moral responsibility to the billion living in absolute poverty.

Collective moral responsible involves (Miller 2006): (1) a collective end to which the actions of the participating agents is directed, e.g. eliminating the absolute poverty of a billion people; (2) a *jointly held* (individual) moral responsibility on the part of each agent to do their part to realizing the collective end.

Unlike a (non-joint) individual obligation, a jointly held obligation is an obligation that an individual has if and only if other individuals also have it. Moreover, (again, unlike (non-joint) individual obligations) it is an obligation that cannot be discharged by one individual acting alone. So even if a single person were to contribute sufficient funds or work-time to ensure that one or more children in absolute poverty were saved (for a long time)—as many aid workers in fact do—that would not of itself realize the collective end. Indeed, even to achieve that saving of lives requires the participation of a large number of other people.

Note also that what any given individual's part is depends on the overall collective action strategy—indeed, a strategy of institutional design and implementation—and also on what others are actually doing or are likely to do. (This is consistent with an individual being obliged to do more than their *fair* share to realize the end; the duty to aid is ultimately based on the *human rights* of the poor and, *contra* Cullity (2004) and others, not on a principle of fairness).

Let us now turn to the question of the strength of my moral obligation to (say) pay \$20 to Oxfam today. I suggest it is a very weak moral obligation, unlike my obligation in the drowning child scenario. On my collective action conception of the needs of the billion in absolute poverty, while the individual moral responsibility (jointly held with the others) is a strong moral obligation, it is an obligation to contribute over a long period of time. Accordingly, any individual's obligation to make a one-off contribution of \$20 today might be very weak indeed; for it is what they contribute over the longer term to realizing the collective end to eliminate the absolute poverty of the billion that counts, unlike in the drowning child scenario.

That this obligation to pay \$20 is very weak is evidenced by the absurdity of any policy to enforce this obligation. Whether or not there is, or could reasonably be, legal enforcement of a pre-existing moral obligation is an important criterion of the strength of that moral obligation; hence, there is legal enforcement of the moral obligation not to kill an innocent person and, in some jurisdictions, legal enforcement of the moral obligation to save the life of a drowning person, if one can do so without risk to oneself. However, there could not reasonably be legal enforcement of the (assumed) obligation to make a one-off payment of \$20 to Oxfam today. By contrast, there could be, in fact there already is, legal enforcement of our moral obligations to those in absolute poverty; citizens of wealthy countries are legally required to pay taxes to ensure (among other things) that there are no persons in their societies in absolute poverty. The point here is twofold. First, the obligation to the needy is an obligation each affluent citizen has over the long term and, second, it is enforced, i.e. in effect, there are enforced payments by affluent citizens to their needy fellow citizens. Accordingly, the problem faced by the billion in absolute poverty is an entirely practical one: (putting matters somewhat simplistically) how do we get affluent citizens of one (developed) country to contribute to needy citizens of another (developing) country?

We in the affluent world have a strong and, indeed, in principle enforceable, collective moral responsibility to assist, however, the institutional mechanisms (and associated incentive structures and enforcement mechanisms) have not yet been developed sufficiently to enable us adequately to discharge our collective moral responsibility in this regard. Hence our immediate collective responsibility is to develop such institutional mechanisms in the context of an overall strategy to realize the collective end of eliminating the absolute poverty of the one billion. (This is, of course, consistent with continuing to support aid agencies; indeed, such agencies are presumably a part of any realistic strategy to realize the collective end).

Let me return now to the demandingness of the (jointly held and long term) individual obligation to assist the needy. Singer is an impartialist in relation to moral requirements. In the context of the issue of the obligations of the affluent to the world's poor, impartiality has been frequently discussed in relation to one's obligation to one's family or community, as opposed to one's obligations to

strangers on the other side of the planet. As it happens I do not accept that my obligations to assist strangers on the other side of the planet are as strong, other things being equal, as my obligations in respect of my family, or even my community. However, I do not have the space to press this point here. I do, nevertheless, in passing note that one effect of the rejection of impartialism is to reduce the extent of the demandingness of my obligation to assist the needy outside my family, and outside my community.

I want to pursue the issue of impartialism vis-à-vis my responsibilities to assist *myself*, as opposed to any obligations others might have to assist me. Accordingly, I put forward the following moral principle: I am morally obligated to self-assist in relation to my basic needs for food, water, clothing, shelter and health, and, other things being equal, this obligation is both stronger and prior to any obligation on the part of others to assist me. (Other things might not be equal, e.g. I might be starving myself to death as a form of protest.) Thus if I am in need of food, I must first take steps to provide myself with food before asking for handouts from others. So, in the first instance, the needy of the world morally ought to look to themselves. It is only if they cannot help themselves that they are morally entitled to assistance from others. (I am ignoring here the fact that the poverty of the needy in developing nations is in part caused by, for example, the unfair agricultural trade policies imposed by developed nations (Pogge 2002)).

Accordingly, the principle of impartiality that, morally speaking, I stand to myself exactly as I stand to others is false; for I have moral responsibilities with respect to myself that are prior to the responsibilities that others have to me, e.g. the responsibility to provide for my basic needs.

What are the implications of this partialism with respect to the obligation to self-assist for our moral obligations to the one billion in absolute poverty? At one level, the implications are scant, assuming that they cannot deal with their problem without assistance. So there is a collective moral obligation to assist the one billion to eliminate their absolute poverty. However, there are some implications for the demandingness of our obligation in this regard. First, any giving we do must be in the context of assisting them to assist themselves; their responsibility (individually and collectively) for themselves in this regard is greater than ours. Second, we do not have to accept—indeed, we should reject—Singer’s proposition that each of us has an obligation to keep on giving to the threshold point at which (assuming the harm to others has not been averted) the cost to me of giving is no longer comparatively insignificant. For this proposition rests on the principle of impartiality. If the moral benefit to you of me assisting you morally outweighs the moral cost to me then, given the impartiality principle, I should assist you.

The implication of the rejection of the impartiality principle is that it is now—at least in principle—possible for an affluent person to draw the line in terms of their contribution to the absolute poor. They could do so on the basis of a different principle such as the principle that one ought to assist the needy right up to the point at which there is a significant moral cost to themselves, i.e. a significant moral cost to themselves in absolute terms (albeit not in comparative terms). For example, as Garrett Cullity has suggested (2004), it might be at the expense of spending a reasonable amount of time with one’s friends or family, or it might mean one is not able to develop one’s talents as (say) a philosopher.

Ethical Theory and Public Policy

Because issues in applied ethics, including many public policy issues, have a value dimension as well as a scientific dimension, it has become increasingly clear that professional philosophers have a major role to play in the clarification and resolution of these problems in applied ethics. The value dimension is in need of systematic analysis and illumination by way of the moral theories and perspectives characteristic of the work of moral philosophers. This is not to say that moral philosophers are moral experts who can be left in charge of moral problems. Far from it. Individually and collectively, whether in the private realm or the public arena, we must all take responsibility for the resolution of the moral problems that confront us. However, the point is that in relation to many of the more complex of these problems, moral philosophers have an important and distinctive intellectual contribution to make.

Here it is not simply a matter of philosophical theory being mechanically applied to specific problems; rather there is a complex interplay between theoretical perspectives, on the one hand, and specific ethical intuitions and concrete scientific data, on the other. Whether or not integrated electronic data bases constitute an infringement of the right to privacy, is partly a matter of figuring out what is important about privacy (the ethical theory of privacy) as well as knowing the scientific facts about the particular data bases in question. Further, it may well be a matter of balancing the moral weight to be given to privacy against the benefits delivered by these data bases in the specific contexts in question. On the other hand, it may well call for creative thinking of a kind that would enable us to possess integrated data bases without necessarily infringing the right to privacy. For example, such data bases might be able to be designed in such a way that access was available only to certain persons under highly restricted circumstances, e.g. law enforcement officials possessed of a judicial warrant in the circumstance of a very serious crime. That is, our agreed ethical perspective on this issue could be designed into the technology.

And the philosophical theory itself operates at a number of levels of abstraction. There are high level theoretical claims, such as the principle of maximising the satisfaction of the greatest number or seeking to benefit the least advantaged. But there are also lower level philosophical theories of specific values, e.g. an ethical theory of academic freedom, or of a specific professional role, e.g. the moral purposes and characteristic virtues of an accountant. These lower level normative or value theories operate within specific institutional, occupational and technological settings; they are context dependent. As such they grow out of, and are highly sensitive to, specific situations and problems.

Please note that this need to relativise moral theories, perspectives and principles to institutional and technological context does not imply relativism, i.e. the theory that moral statements are not objectively true. The proposition that killing is wrong stands in need of relativisation. In general, it is morally wrong to kill another human being. However, in some contexts, e.g. in a situation of self-defence, it is morally permissible. However, from the fact that moral principles need to be relativised to context, it does not follow from this that the moral claims implicit in such relativisation are not objectively true.

Much of the philosophical work on ethics undertaken in universities in the English speaking world in the last century was concerned with higher order abstract theory, as opposed to lower order context dependent theory. However, it has become clear that lower order context dependent theory is back on the agenda. One indicator of this is the increasing interest in casuistry, including economic casuistry. Economic casuistry concerns itself with specific, concrete issues such as what counts as a just salary, a just price or a just profit in some actual economic setting. The considerations in play include economic efficiency as well as the benefits to consumers, shareholders and other stakeholders. Recent controversies concerning the price of anti-AIDS medication in African countries, and the salary packages of chief executive officers, highlight the importance of this kind of work.

I would argue that higher order abstract theory in so far as it is purely formal (value formalism) is of little assistance in the solution of practical ethical problems. Consequentialism and formalist deontological theories are species of value formalism. (Consequentialism is, roughly speaking, the theory that one should always act in such a way as to maximise the good consequences of one's action; neo-Kantian formalist deontological accounts are erected on a principle of universalizability, i.e. only perform an action in a situation if you can consistently will everyone to perform the action in that situation).

Here I distinguish between value formalism and substantive ethical theories. Bernard Gert offers a substantive ethical theory in this sense (Gert 2004). According to Gert there are ten moral rules, which fall into two groups. The rules in both groups instruct us not to act in ways which will cause the five basic harms rational persons want to avoid, death, pain, disability, loss of freedom, and loss of pleasure. The first five moral rules are: Do not kill; Do not cause pain; Do not disable; Do not deprive of freedom; Do not deprive of pleasure. These rules prohibit those kinds of actions that *directly* cause these harms. The second five rules are: Do not deceive; Keep your promises; Do not cheat; Obey the law; Do your duty. These rules prohibit those kinds of actions that *indirectly* cause the five basic harms.

Gert claims that the ten moral rules account for all of the kinds of actions that are morally prohibited and required. We are morally required to take (or refrain from taking) an action if and only if it falls under one of the moral rules.

Arguably, Gert's list both omits some basic moral principles, and includes some that ought not to be included. Perhaps the two most obvious omissions from the list are 'Do not steal or damage other people's property' and 'Do not defraud'. Theft and fraud certainly indirectly harm people, notably by depriving them of resources by means to live and by means to exercise their freedom. A third apparent omission is 'Do not defame'. Defamation is undeserved harming of someone's reputation. Certainly, harming someone's reputation indirectly causes harm, e.g. loss of economic opportunities and therefore resources to freely act. Arguably, harming a reputation is not in itself a bad thing, since the person's good reputation might not be deserved. However, undeserved destruction of a reputation appears to be bad in itself. So perhaps harming reputations ought to be regarded as a sixth basic harm alongside do not kill, disable, deprive of freedom or pleasure, and do not cause pain.

I also think that Gert is wrong to include as a basic rule that we should obey the law. In my view there is a moral obligation to obey *specific* laws and *specific* legal systems, but only because those laws/legal systems embody the moral rules and/or

achieve collective goods not otherwise obtainable. On this account legal systems or laws as such do not generate moral obligations, even presumptive moral obligations that can be overridden. So the obligation to obey the law is entirely unlike to obligation to keep one's promises. Other things being equal, making a promise creates a moral obligation. Naturally, some promise—such as a promise to kill innocent people—do not create obligations, and some promises that do create moral obligations can be overridden in certain circumstances. However, other things being equal, the fact that there is an extant legal system prescribing a particular set of acts and omissions does not entail that there is an obligation to obey those laws; rather it all depends on the laws in question. Consider a totalitarian state of the kind described in Orwell's 1984. Surely there is no obligation to obey many of the laws in such a state, such as those forbidding free expression of opinions. I conclude that there is no fundamental moral rule to the effect that one ought to obey the law.

Substantive ethical theories provide an ethical framework that can usefully inform practical ethical decision-making. For this reason it is important to construct an acceptable substantive ethical theory by criticising and refining existing substantive theories, such as Gert's theory. By contrast, value formalist theories are in themselves simply too abstract to provide ethical guidance; at best they rule out certain combinations of action on the grounds of inconsistency (e.g. actions that fail the universalizability test) or unhelpfully state the obvious (e.g. 'Always take into account the consequences of your actions'). Naturally, this inadequacy of formalist theories can be addressed by providing in some other way this missing content, e.g. by drawing up a list of the good consequence to be pursued. However, this manoeuvre simply draws attention to the need for a substantive ethical theory, e.g. a theory that specifies the goods or content-laden principles in question. But the lack of such a substantive ethical theory is precisely what we do not have, and what formalist theory cannot give us. Moreover, once we have the substantive theory, there is hardly any role left for formalist theory in relation to practical ethical decision-making.

On the other hand, such substantive ethical theories of individual human action are not in themselves sufficient. For they need to be supplemented by, among other things, substantive normative theories of specific institutions.

Philosophers, such as John Rawls have developed elaborate normative theories concerning the principles of justice that ought to govern social institutions (Rawls 1999). Yet they have done so in the absence of a developed theory of the nature and point of the very entities (social institutions) to which the principles of justice in question are supposed to apply. Surely the adequacy of one's normative account of the justice or otherwise of any given social institution, or system of social institutions, will depend at least in part on the nature and point of that social institution or system. For example, the principles of justice governing the distribution of benefits and burdens in relation to prisons differ in substance and application from those operative in relation to universities. This is presumably in large part because prisons have as a fundamental purpose to prevent ordinary people being harmed by dangerous persons, whereas universities have as a fundamental purpose to ensure the acquisition and transmission of knowledge.

There is, then, a pressing need to develop normative theories of central social institutions, including government, the university, the business corporations, and so on. It is only in the context of acceptable normative theories of these institutions that

many specific practical ethical questions confronted by institutional actors will be able to be adequately answered. It is rightly claimed that when Republican Presidents of the United States, including the current President George W Bush, pursue a policy of ‘stacking’ the Supreme Court with highly conservative judges they overreach the limits of the *legitimate* authority of their office, *corrupt* institutional processes, and over time do significant institutional *damage*. (Dean 2007). However, this claim crucially depends on a *normative* theory of government, the role of the judiciary and the separation of powers; otherwise the notions of legitimacy, corruption and institutional damage in play here would have little or no import.

Ethics, Market and Integrity Systems

In the context of the current global financial crisis it is appropriate to provide further discussion on the relationship between philosophical ethics and the global market (Miller 2007). Here I will concern myself with the financial services sector, in particular, and introduce the notion of an integrity system. Integrity systems are institutional mechanisms *designed* to promote institutional integrity, i.e. to prevent ethical misconduct and promote ethical behaviour. Integrity systems include, but are not restricted to, enforceable legislation and regulation. Thus, code of ethics and ethics training programs are elements of integrity systems.

The relationship between philosophical ethics and the global financial services sector (and the attendant need for integrity systems) conveniently exemplifies the main themes in this paper on research in applied ethics, including globalisation, collective responsibility, institutional solutions, designed-in ethics, and multi-disciplinary and practitioner-focused research.

As is well-known, the collapse of the US corporation, Enron, had a devastating effect on shareholders and employees (Fusaro and Miller 2002). And in its wake came the revelations of a litany of unethical practices. Moreover, the Enron collapse was only one among a number of recent corporate corruption scandals, including WorldCom and the giant accounting firm Arthur Andersen and, in the Australian context, One.Tel and HIH.

The corporate collapses and corruption scandals of the late 1990s and early 2000s in the US, Australia, Asia and elsewhere appear to be part of a recurring cycle; a cycle that we appear to be revisiting at the time of writing. Recall the corporate scandals of the 1980s in the US and elsewhere. Self-evidently, these corporate collapses were extraordinarily damaging economically, but apparently they might also be ongoing; perhaps the question is not whether there will be a recurrence, but rather when it will take place. If so, then these corporate collapses and corruption scandals might not be aberrations, but rather symptoms of underlying systemic deficiencies in corporate law and regulation, and perhaps of structural deficiencies in the corporate sector itself, notably in the financial services area.

Any given integrity system for an institution must be tailored to the needs of that particular institution. Arguably market actors, including financial service providers, present a number of relatively distinct problems when it comes to devising integrity systems to ensure ethical practice and the pursuit of ethical ends.

Market actors do not have an ethical purpose as their proximate end; rather they have some commercial end, such as profit maximisation. The ultimate end is one provided for by the invisible hand. Market actors pursue (individual and collective) self-interest and—by virtue of the workings of the invisible hand—the material well-being of the society is provided for. In this respect market actors are unlike, say, doctors or hospitals. The latter can reasonably be required to have the promotion of life and health at the forefront of their concerns, i.e. as their proximate as well as ultimate (professional and institutional) ends. Economic self-interest, especially when linked to social status and power, is a powerful driver, and establishing markets in previously non-market economies and deregulating previously heavily regulated market economies, has unleashed a great deal of hitherto dormant human energy. Moreover, the modern corporation as an institution, and the development of global financial markets, has enabled the mobilisation of vast capital sums in the service of this human energy. (They have, of course, in turn relied heavily on scientific and technological developments.) One only has to visit Shanghai today and remember what it was like 20 years ago to appreciate the power of market forces (especially government-assisted market forces).

However, from an ethical point of view, the *institutionally structured* self-interested orientation of market actors—including corporations—may well give rise to an immediate problem. How is this institutionally structured impetus and habit of pursuing economic self-interest to be contained within reasonable limits and channelled in appropriate directions?

An initial important point to be made here is that currently the financial services sector is literally without normative direction; it has no widely accepted institutional purpose. The basic normative question that needs to be asked of a business corporation, or financial market, is the same as for any other social institution, namely: What collective good(s) does it exist to provide? In the case of the financial services sector, in particular, the prior fundamental ethical question as to the ultimate institutional ends of this sector remains unanswered. Yet without an answer to this question, an integrity system for the financial services sector—and a regulatory system insofar as it is concerned with institutional (ethical) integrity, as it surely must be—is quite literally without one of its basic purposes: it does not know what ethical ends it is seeking to embed in its target institution. This is not to say that some theorists and practitioners have not provided the financial services sector with an institutional purpose; on the contrary, *some* have, e.g. to provide capital at a low cost.

It is one of the principal tasks of those who design and oversee the market system, including governments and—under the direction of governments—regulators, to ensure that the ultimate purposes of markets (and, therefore, market actors) are in fact achieved, i.e. to contain and channel the pursuit of economic self-interest. However, here there is the problem of the ambiguous role of national governments and regulators when it comes to global markets, including global financial markets. National governments and their regulators are to some extent partisan, and (understandably) seek to look after the economic interests of their own industries and businesses, including their financial service providers. Moreover, in the absence of a uniform set of global regulations and a single global regulator with real authority, regulators operating at a national level can be played off against one

another by multinational corporations. In the case of the global financial sector, regulation and integrity assurance are ultimately in the hands of national governments. However, national governments—and their regulatory authorities—are not simply umpires, they are also players in the financial—and, more generally, corporate—‘game’. For example, the UK government—and its financial regulator (the Financial Services Authority)—cannot be expected to regulate entirely impartially in the interests of ethical ends and principles, given the substantial interest the UK government has in ensuring that the UK corporate and financial sector retains and increases the benefits accruing to it from global financial markets.

Another set of problems confronting the establishment of an integrity system or systems for some market actors, perhaps especially corporations and financial service providers, pertains to the professions. Lawyers and accountants have important roles to play in the integrity systems of corporations, including financial service providers. For example, auditors conduct audits in order to determine financial propriety and performance, and enable disclosure thereof to regulators and shareholders. However, in many cases auditors and auditing firms appear to have become themselves predominantly market actors, driven principally by the proximate goal of economic self-interest. Arguably, they have (perhaps unconsciously) sought to mask this—and limit their exposure to civil litigation—by taking refuge in compliance with technical procedural requirements, such as the accounting rules, in preference to a moral commitment to substantive ethical principles, such as true and fair record. At any rate, the status of auditors as independent professional adjudicators of, for example, financial health has been significantly compromised. To this extent an important element in the integrity system for corporations has been weakened.

Another set of issues arise from various perverse incentives that can exist in local and global markets, including financial markets. Competition, including competitive markets, can and do provide discipline to market actors. However, this is not necessarily or always the case. Consider the so-called tragedy of the commons in which everyone pursuing their self-interest destroys the environment. No single issue is more important today than global warming in the context not simply of the large scale green house gas emissions from mature economies such as the US, Japan and the EU, but of the explosive economic growth taking place in the developing world and China and India, in particular. Again consider bribery. It might be the case that, for most corporations in some sector, bribing officials is necessary in order to be competitive, given that even a small number of other corporations will engage in this practice. Compliance with a legally enforced ethical principle might be in a market actor’s self-interest, but only if the enforcement mechanisms are such that everyone (or most) complies. Similarly, there might be competitive pressure to invest in unethical corporations, given the highly lucrative returns, and given that one’s competitors are doing so. Again, when liability does not appropriately track ethical responsibility this can lead to perverse incentives. An incentive structure, for example, in which market actors are allowed, indeed encouraged, to take great financial risks with other people’s money in order to achieve enormous financial benefits for themselves (and not simply for the investors and shareholders), yet can do so without commensurate legal and financial liability attaching to themselves in the case of things going wrong, is surely tailor-made for corruption. Accordingly,

there is a need for institutional re-design of a kind that either decreases the potential financial benefits to such market actors, or increases their liability, or introduces some mixture of both.

More generally, the collective responsibilities of industries to realise their institutional purposes, including the collective responsibilities of financial service providers in capital markets, typically consist of highly dispersed individual responsibilities that attach to individual persons within firms, individual firms within the industry, institutions without the industry, and so on and so forth. The collective responsibility, for example, to lower the cost of capital is not one that can be discharged by any one, or even a small group, of market actors within a given capital market. Given the diffuse character of such collective responsibilities—and its attendant incentive structure—many industries, financial service providers included, will not discharge these collective responsibilities and, as a consequence, these industries will not adequately realise their institutional purposes. Hence the need (and resultant responsibility) on the part of governments in particular to intervene to adjust these incentive structures and, if necessary, to design-in appropriate institutions or sub-elements thereof. Perverse incentive structures can be addressed by recourse to interventions that reconfigure the incentive structures. Such interventions can take the form of solving jurisdictional problems in global settings, and increasing enforcement options and/or the intensity of enforcement.

A final cluster of problems derives in part from the foregoing ones, and pertains to education, ethos and ideology. If the prevailing ethos or culture of an organisation, and perhaps even ideology of central elements of a sector, downplays ethical considerations in favour of self-interest, then it should hardly surprise when self-interest overrides compliance with ethical principles, even ones enshrined in the law. This is no doubt especially the case in a context of high temptation and opportunity on the one hand, and low risk of detection and conviction on the other, for example insider trading in some corporate settings. The point here is not that the majority of individuals themselves engage in corrupt or unethical practices, but rather that in certain cultural or ideological contexts they may well refrain from reporting or otherwise preventing a minority from doing so. Many key elements of integrity systems such as ethics codes, codes of practice, education programs, and the like, do not exist, for the most part, directly to prevent or deter the few people who are wrongdoers from doing wrong, but rather to ensure that the many are intolerant of the wrongdoing of the few. In this context it is perhaps worth pointing out that of those fraudsters detected and convicted most are detected and convicted as a consequence of the disclosures of their colleagues. Here, yet again, we come face to face with the concept of collective moral responsibility – in this instance the collective moral responsibility of institutional actors to combat corruption – and the need to design-in ethics at the institutional level.

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