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Moral complexity in organizations

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Business ethics is applied ethics, says Velasquez (1992, p. 2). The application of ethics to organizational contexts can take two forms, which are both 'practical', but in different ways. The first type of application aims at analysing specific ethical problem types in organizations, in order to provide normative clarification and guidance. Examples of this are advertizing ethics, the ethics of insider trading or the ethics of company restructuring. The knowledge base of this type of application is standard ethical theory, such as justice theory or virtue ethics. Insights from these general theories are applied to specific organizational contexts.

The second type of application of ethics to organizations aims at improving the decision-making processes, the procedures and structures in an organization, so that the operations of the organization are more geared towards ethical principles. The knowledge base in this case is organization theory and management science. Here we come across a whole range of ethics-based organizational instruments and tools, ranging from codes of conduct and ethical audits to all embracing methods, sometimes called 'strategies', for running an organization the ethical way. When we refer to the first type of applied ethics as 'organizational ethics', then the second type is best referred to as 'ethics management'. The basic question of ethics management is simply: "how do you manage ethics in organizations?"

This paper deals with problems of ethics management. The aim of the paper is to bring the discussion on ethics management one or perhaps two steps further, starting from the received and dominant view in ethics management at this moment, that there are basically two approaches to ethics management, namely a rules-based and a values-based approach. I will present a contingency model of ethics management that enlarges this dominant view, by bridging a sort of divide that presently exists between ethics management and stakeholder management. Stakeholder management is generally seen as a tool of corporate social responsibility (CSR), and CSR is often seen as something distinct from ethics management. CSR is supposed to deal more with the external relations of the organization (the impact on stakeholders), whereas ethics management allegedly has more to do with internal relationships (employee conduct). I believe that this is a fruitless distinction, which actually blocks further progress in ethics management. I will show that instruments of ethics management can instead be ordered along a continuum of increased moral complexity. This continuum blurs the existing artificial boundaries between ethics management and CSR. This paper, therefore, can be understood as an attempt to integrate ethics management and CSR, and to contribute to a more unified theory and practice in the field of applied ethics in organizational contexts.

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The standard model of ethics management: rules and values

The standard model of ethics management starts from the distinction between rules and values. This distinction has been introduced by Lynn Sharp Paine, in a seminal Harvard Business Review Article called 'Managing Organisational Integrity' (Sharp Paine 1994). Sharp Paine (1994) herself applies the concepts of 'compliance' and 'integrity', but I find that a bit confusing, because the word 'integrity' already connotates the broader genus of ethical qualities and policies in organizations, and is now being used to name a specific approach to ethics management as well (a values-oriented approach to ethics policies). Opposing 'compliance' and 'integrity' this way can also lead to the false impression that compliance is actually not a genuine strategy of integrity, whereas I believe it surely is.

Roughly, there are at present three generally recognized approaches to ethics management:
- a rules-based approach, aimed at the implementation of specific ethical rules of conduct in the organization;
- a values-based approach, aimed a creating an ethical organization culture;
- a stakeholding approach, aimed at proactively integrating the rights and values of stakeholders into the policies and strategies of the organization.

The three strategies are presented here as 'ideal types', as theoretically discernible approaches to the management of ethics, each having their own very distinct characteristics. Probably no organization has ever adopted one of these strategies in its pure form. In actual practice, companies make all kinds of combinations.

Rules

The goal of a rules-based approach to ethics management is to promote norm-conform action in the organization. These norms can be imposed on the organization externally, as in the case of legal norms, but the norms can also originate from within the organization itself, for example in the form of a voluntary company code of conduct. Norm-conform action is promoted by increasing the control over organizational members. To ensure compliance with the rules, a punishment scheme is required as well.

There are obvious legal reasons for organizations to adopt a policy of legal compliance. The risk of litigation and liability has increased in the past decades, as lawmakers have legislated new civil and criminal offences, stepped up penalties and improved support for law enforcement. One can think of laws against bribery, insider trading, money laundering or the abuse of corporate opportunity by managers. Law is becoming increasingly complex, and it is only prudent to have the basic legal risks put together for employees in the form of a compliance code. In order to prevent legal prosecution, both for the organization and for individual employees, companies have developed ethics programmes to detect and prevent legal violations. Existing systems of internal control can be extended to give 'reasonable assurances' in the field of legal compliance.

Typical elements in a rules-based approach therefore are:
- communication of the standards to which employees must adhere;
- monitoring of employee behaviour;
- procedures to report deviant behaviour;
- disciplinary measures.

In most cases, either the legal department or internal audit is charged with the execution of the compliance programme.

Values

The law is an important ethical bottom line. But there is more to ethics management than legal compliance, for two reasons. Firstly there is a moral reason: the law sets only the lower limits of ethical conduct; it does not inspire to human excellence, to exemplary behaviour, or even to good practice. Secondly, there is an organizational reason: a programme of legal compliance does not address the root causes of misconduct in an organization. These are often organizational in nature. An organization sends many signals to its employees as to which behaviour is favoured by the organization and which is disapproved. These signals stem from both the formal and informal systems in the organization. To create an ethical culture, these systems must be aligned to support ethical behaviour. For example, if the formal ethics code tells people that honesty is highly valued in the organization, and high-level management routinely tells customers the truth about the organization's ability to meet their needs, employees receive a consistent message about the organization's commitment to honesty. The systems are aligned. On the other hand, if the same organization regularly deceives customers in order to land a sale, the organization is out of alignment. Its formal culture says one thing, while its informal culture says the opposite (Treviño and Nelson 1995, p. 197).

An organization that is serious about ethics must proactively develop an ethical culture. This is where organizational values come in. The roots of an organization's ethics are its guiding values, which make up the core of its culture. The values give the organization a framework of reference that gives guidance to the acting of officers, managers and employees. At the same time, the values contribute to the development of the identity of the organization. A values-based approach to ethics management aims at making the key values of the organization pervasive in all aspects of its behaviour, so that the organization sends one consistent ethical message in everything it does, internally and externally. A values-based approach to the management of integrity stresses the own responsibility of employees. The objective of this strategy is to enable and stimulate employees to make autonomous and well considered moral judgements. To this order, the organization formulates core values, which serve as guidelines – and not as rules – for the employees.

Sharp Paine (1994, p. 111) emphasizes that a values-based strategy poses higher demands to an organization than a rules approach. She says that a values approach is:

> "(...) broader, deeper and more demanding than a legal compliance initiative. Broader in that it seeks to enable responsible conduct. Deeper in that it cuts to the ethos and operating systems of the organization and its members, their guiding values and patterns of thought and action. And more demanding in that it requires an active effort to define the responsibilities and aspirations that constitute and organization's ethical compass".

Comparison

Karssing (2001, p. 27-35) points out that a values approach is often more functional than a rules approach, because ethical problem situations in organizations are often too complex to be captured in uniform rules. In particular, he points to the following limitations of organizational rules:

- Rules and prescripts are necessarily of a general nature, which leaves little room for variance and which can lead to rigid policies. There are always more situations than rules.
- The meaning of rules is not always clear, so that it is not always obvious whether a specific situation does fall under a certain rule or not. Remember the famous case of this lady who went out to walk her pet tiger, and came across a shield in front of a park, saying "no dogs allowed".
- In a dynamic world, rules often lag behind social and technological developments, which means that today's actions are guided by yesterday's rules.

Formalising Karssing's comments, we can say that the two approaches are distinguished by a difference in the degree of moral complexity. Moral problems in organizations are sometimes too complex to be handled by rules in a proper way. When the management of ethics calls for more generalized normative frameworks, because of the complexity of the action situation, a values-based strategy is more suited then a rules-based strategy. This implies that rules are not always a second-best solution to integrity management. Where action situations are unequivocal, both in a descriptive and in a prescriptive sense, an approach based on rules can often be functional and sufficient. A values-based strategy can even be disfunctional in such situations, because it lacks the necessary prescriptive precision. It is not enough, for example, to steer the behaviour of investment bankers regarding their private dealings in stocks by the general values of 'respect' and 'integrity'. Greater precision is required here, both in the description of specific situations and in the prescription of specific actions.

Broadening ethics management

Several authors have tried to broaden the conceptualization of ethics management, beyond the binary scheme of rules versus values. At this point in time, the development of theory is still in an exploratory phase, but it is remarkable that many initiatives point to a single direction. Many researchers in this field believe that the theory of ethics management should pay more attention to the relationship between the organization and its external environment, through stakeholder management and stakeholder dialogue.

In their comparative research of approaches to ethics management, Trevino, Weaver, Gibson and Toffler identify an 'external stakeholder' strategy, next to the existing strategies of rules and values. They say that: "(...) many companies hope to maintain or improve their public image and relationships with external stakeholders by adopting an ethics/compliance program. Therefore, we identified an orientation toward satisfying external stakeholders (customers, the community, suppliers) as a third approach (…)" (Treviño et al. 1999, p. 136). Unfortunately, this is all they have to say about the third strategy, and their theoretical account of it is therefore rather thin. The third strategy of Trevino et al. (1999) seems to be noting more than a new goal for the already existing strategies, namely the goal to satisfy stakeholders. A new goal is not the same as a new method, however.

Hummels and Karssing (2000, p. 201) also identify a third approach to ethics management, which they refer to as a 'facilitating' strategy. Here as well, the relationship with external stakeholders is central. "Facilitation is a strategy whereby the management not so much directs, motivates and steers, as well as listens to the stakeholders of the organization (…). The facilitation strategy does not ask 'What are

the rules?', or 'Which actions are in line with our values?', but it asks 'What is mandatory in this particular context?' A facilitation strategy emphasizes the receptiveness to the viewpoints, interests and values of others ('responsiveness'). Central are *dialogue* and *learning* in and by the organization. The facilitation strategy is predominantly a process-oriented strategy. Central is neither how right the rules and regulations are, nor how right the leadership of the organization is; central is the uncertainty about the ethical course of the organization".

A stakeholding strategy bears witness to the fact that organizations do not stand alone in this world; they are surrounded by parties whose interests are at stake in what they do, and who can influence their performance. This simple fact has paramount implications for the ethics of an organization, and the way ethics is organized. Even an organization that is strongly values-driven cannot 'invent' its ethics on its own. How business affects its stakeholders and how it should best consider their rights and interests, is something that an organization cannot decide by itself. The stakeholders have an important say in this. What the business world has learned from incidents like Shell and the Brent Spar, Heineken in Burma and the working conditions at Nike's subcontractors in the Third World, is that even strongly values-driven companies can act in ways that are morally unacceptable to relevant stakeholder groups.

A stakeholding strategy is *responsibility-driven*. 'Responsibility' entails the word 'response'. Openness and preparedness to be held answerable and accountable by stakeholders are the keywords of the stakeholding approach. Trust and credibility in the eyes of the stakeholders are the rewards.

A historical benchmark of stakeholding is the Body Shop's social audit scheme. The Body Shop considers the engagement of stakeholder representatives in dialogue to be one of the most important and sensitive elements in its ethics programme. Stakeholders are consulted with a view to identifying the issues that are critical to the Body Shop's social and environmental performance and assessing the organization's performance against stakeholder-specific needs.

To a certain extent, the integrity strategy already bears witness to stakeholder values. By identifying 'integrity', 'honesty' or 'respect' as basic values, organizations implicitly express a fundamental sense of obligation towards stakeholders. But the question remains unanswered what specific commitments towards stakeholders follow from these values. This the values themselves do no tell. In a dialogue, the organization and its stakeholders together can identify the social role and responsibilities of the organization.

Theoretical integration: increased moral complexity

How do the three approaches of ethics management relate to one another? The foregoing overview of the three types suggests a contingency relationship, which to a certain extent can be seen as an evolutionary relationship. The evolution is driven by increased openness, increased trust and increased communication.

For many managers who are confronted with ethical problems in their organization for the first time, the instauration of a rule seems a probate means to tackle the problem. Managers have three obvious reasons to try to solve an ethical problem with recourse to a rule. Firstly, the rule can be communicated unequivocally, which holds the promise of clear guidance and control. Secondly, a rule can be proclaimed overnight, which holds the promise of speed. Thirdly, the manager who has put a rule in place can show to his superiors that he enacted his responsibility and has done something, with relatively little energy. This holds the promis of results. No wonder

that a rules-based approach is at this time the most popular instrument of ethics management in the United States.

It requires a good deal of organizational learning for a company to step up from rules to values. Lynn Share Paine (1994, p. 112) points out that a successful values strategy requires an active effort to define the values and aspirations that constitute an organization's ethical compass. The guiding values must be clearly communicated. Company leaders must be personally committed, credible and willing to take action on the values they espouse. The espoused values must be integrated into the normal channels of management decision-making. The company's systems and structures must reinforce its values. And all partners in the organization must have the decision-making skills, knowledge and competencies needed to make ethically sound decisions on a day-to-day basis.

The step towards stakeholding involves a second cycle of organization learning. The organization must learn to look at itself through the eyes of its stakeholders. The scope of communication must be extended from the organization to the entire forum of its stakeholders. This involves an act of 'letting go' and surrendering, which runs counter to the prevailing ethos among managers that more control is always better. Stakeholders cannot be controlled. But stakeholder relations can be managed. Through dialogue processes organizations and their stakeholders can build up relationships of mutual trust, based on openness, accountability and interdependence.

A downside of the evolutionary view of the three strategies is that it seems to imply that stakeholding is always 'better' than a values-based strategy, which on its turn is supposed to be better than a rules-based approach. I believe this is a very erroneous way of looking at ethics management. In fact, there is no general preference for any of the three approaches, from a practical perspective. In actual practice, each of the three approaches can be an adequate solution to specific types of ethical problems, depending of situational characteristics. In order to capture these situational characteristics, I propose an integrated model of ethics management that is based on the increased moral complexity of situations that present themselves to organizations as ethical problems. The moral complexity of the situation is reflected in the complexity of the ethics management that tries to answer it.

The moral complexity of the situation involves two dimensions: the action context and the normative context. The *action context* becomes more complex, the more the ethical problem extends over different and more heterogeneous forms of action. The possibilities of shaping an ethics policy based on a closed set of rules are thus reduced. There are always more situations than rules. To answer this increase in action complexity, the instruments of ethics management need to become more generalized and more open. The steering becomes more dynamizing and motivational and less aimed at specific descriptions and precise control. An increase of action complexity calls for a generalization of normative frameworks, that is to say a shift from specific rules to broader values.

The *normative context* becomes more complex when ethics policies have to take different, and more diverging, normative frameworks into account. This way the applicability of a rules-based approach to ethics is reduced as well, and the need for a more generalized approach emerges. An increase of normative complexity is related to the involvement of more, and more heterogeneous, stakeholder groups, who represent diverging and even competing normative frameworks and world views. Hence, the increase of normative complexity is related to the multiculturality or transculturality of the environment in which the organization tries to answer ethical problems. Here, the generalization will be found in particular through legitimizing

procedures that are applicable in a great number of different situations, notably the dialogue with stakeholders and the intercultural dialogue.

When we label the action complexity and normative complexity as 'low' and 'high' respectively (for reasons of theoretical simplicity), we obtain an analytical distinction of four types of ethical problems and four corresponding types of ethics management: a rules-based approach, a values-based approach, a stakeholder-dialogue approach and finally a social-dialogue approach (see Table 1).

Table 1. Ethics management and increased moral complexity

		action complexity	
		low	high
normative complexity	low	rules (1)	values (2)
	high	stakeholder dialogue (3)	social dialogue (4)

(1) Rules

A rules-based approach to ethics management is characterized by a combination of low action complexity and low normative complexity. The ethical problem pertains to a clearly demarcated set of actions, and all parties involved base themselves on the same set of moral criteria to assess the situation. This is the case, for example, when financial-asset managers of a bank have to ask themselves how they should deal with private transactions in stocks. The adequate regulatory answer to these types of problems is a set of rules. The fact that the rules involved can be of quite some technical complexity does not alter the low complexity as it is understood here. The key is that a clear complete description of the moral situation and the normative guidance is possible. Once the rules are understood, they are clear and it is possible to make such rules in principle.

Typical examples of a rules-based approach to ethics management can be found in the Business Conduct Guidelines of IBM (IBM Nederland N.V. 1998). This document entails twenty-three pages of detailed behavioural requirements and prohibitions for IBM personnel on a whole range of topics, such as the regulation on supplying to IBM:

> "Generally, you may not be a supplier to IBM, represent a supplier to IBM, work for a supplier to IBM, or be a member of its board of directors while you are an employee of IBM. In addition, you may not accept money or benefits of any kind for any advice or services you may provide to a supplier in connection with its business with IBM. Also, you may not work on any products or services offered by a supplier to IBM."

This example does not mean to defend that IBM chose the appropriate ethics strategy for guiding their employees in the matter of supplying to their own company. Ethics officers should carefully consider what ethical topics in their organization need regulation in the first place, and they should establish that situations are both descriptively and normatively unequivocal, before installing a rules-based policy. A drawback of IBM's rules approach to the supplying issue could be that employees become trapped in the regulatory format, in a specific situations. The word "generally" suggests, however, that exceptions to the rules may be possible, in some situations.

(2) Values

When the action complexity is high and the normative complexity is low, we are dealing with situations where employees are expected to come up with creative new solutions to new ethical problems, however within a fixed normative framework. The normative framework should be open for transfers to new situations and therefore it should be of a general nature. An open formulation of organizational values can function as guidelines to orientate the acting of employees. The specific implementation and operationalization of the values are left to the own responsibility of organization members. A good example of this type of ethics management is the famous credo of Johnson & Johnson Pharmaceuticals (2004), where we can read:

> "We are responsible to the communities in which we live and work and to the world community as well. We must be good citizens – support good works and charities and bear our fair share of taxes. We must encourage civic improvements and better health and education. We must maintain in good order the property we are privileged to use protecting the environment and natural resources" (Johnson & Johnson 2004).

(3) Stakeholder dialogue

Low action complexity, in combination with high normative complexity, occurs in particular when organizations are faced with strong criticism on a specific 'issue', for example from the side of a non-governmental organization. It is clear to everyone what the issue is about, what the behavioural alternatives are, but there is no consensus about the legitimacy of the alternatives, because the normative frameworks are different. In a dialogue, the organization and its stakeholders can try to understand their normative viewpoints, to change perspectives and perhaps to change their own views. One step further, the organization can even enter the dialogue with stakeholders in the initial phase of policy development. An example of this is the extensive stakeholder-dialogue process organized on behalf on Shell, about the disposal of the Brent Spar. In a series of consultations in 1997 in London, Copenhagen, Rotterdam and Hamburg, Shell discussed alternatives for the controversial deep-sea disposal of the Brent Spar with a broad spectrum of stakeholders. The consultations contributed to the selection of a new disposal option of the Brent Spar, which was to be the integration of sections of its hull into a quay alongside the southwestern Norwegian town of Stavanger.

Stakeholder dialogue is a procedural generalization, to cope with high forms of normative complexity. It is a method which can be applied time and again, to reach legitimate solutions in normative conflicts with stakeholders.

(4) Social dialogue

Social dialogue can give answers to ethical problems where both the action complexity and the normative complexity are high. This involves situations where people have great difficulty to reach agreement, and even understanding, because the definitions of both the objective and the normative world diverge. Such morally ultra-complex problems occur to organizations in particular with regard to problems where there are great ideological (normative) differences in the society, coupled to a high amount of scientific controversy. Examples of this are the debates about nuclear energy, genetic modification or human-rights issues in an intercultural context. The disagreement around these issues leads to a polarization among the stakeholders, which strongly complicates the stakeholder dialogue ("damn if you do, damn if you

don't"). Individual stakeholders cannot provide legitimacy to the organization, because of the socially controversial nature of the problem. Therefore, the discussion has to be brought to the higher level of a societal dialogue. The organization and its stakeholders then become jointly responsible for an adequate handling of the problem.

The problem of moral ultra-complexity poses itself in particular for multinational organizations that operate in different cultures. The social dialogue then becomes an *intercultural dialogue*. Within each separate cultural realm, the moral complexity may be small, but it increases dramatically at the global level, because of the need for the multinational organization to account for its doings before a global forum of stakeholders. Which cultural framework should be taken as the point of reference then? The organization is torn between ethical relativism and universalism (Donaldson 1996).

Conclusion

The contingency view on ethics management outlined here implies that none of the four approaches to ethics management is self-sufficient. They augment and mutually support each other, each contributing to the ethical performance of the organization in a way that the others do not. No larger organization can afford not to have a clear compliance strategy in place, in order to cope with the ever-increasing burden of legal risks. In addition, a growing number of companies see the importance of an ethical corporate culture, as a sustaining foundation of legal compliance and as a source of ethical excellence 'on top of' the law. Collins and Porras have shown that companies that have a strong corporate culture and a strong sense of corporate identity are often the global winners in their industry, in terms of strategic foresight, flexibility and profitability. Clear ethical values are part and parcel of the culture of these winning companies (Collins and Porras 1995). Finally, there are companies that understand that they will prosper most when they are in balance with the world in which they live and operate. Knowing what the firm's social responsibilities are, through a continuous dialogue with stakeholders and in the confrontation between diverging frameworks of meaning, is the best way to ensure the legitimacy and social approbation of the organization.

References

Collins, J.C. and Porras, J.I., 1995. *Built to last: successful habits of visionary companies*. HarperBusiness, Century, London.

Donaldson, T., 1996. Values in tension: ethics away from home. *Harvard Business Review,* 74 (5), 48-62.

Hummels, H. and Karssing, E.D., 2000. Ethiek organiseren. *In:* Jeurissen, R. J. M. ed. *Bedrijfsethiek: een goede zaak*. Van Gorcum, Assen, 196-226.

IBM Nederland N.V., 1998. *Business conduct guidelines*. Available: [http://www-1.ibm.com/partnerworld/pwhome.nsf/weblook/guide_index.html].

Johnson & Johnson, 2004. *Our credo*. Available: [http://www.jnj.com/our_company/our_credo/].

Karssing, E.D. (ed.) 2001. *Morele competentie in organisaties*. Van Gorcum, Assen.

Sharp Paine, L., 1994. Managing for organizational integrity. *Harvard Business Review* (March 1-April), 106-117.

Treviño, L.K. and Nelson, K.A., 1995. *Managing business ethics: straight talk about how to do It right*. Wiley, New York.

Treviño, L.K., Weaver, G.R., Gibson, D.G., et al., 1999. Managing ethics and legal compliance: what works and what hurts. *California Management Review,* 41 (2), 131-151.

Velasquez, M., 1992. *Business ethics: concepts and cases*. 3rd edn. Prentice Hall, Englewood Cliffs.