



Public Sector Ethics

Theories and Practical Application



Some Notes

- Ethics can be difficult to discuss and can cause disagreements
- The instructor is not advocating what is right or wrong or taking any stance on examples given
- Please respect each other, even if you disagree
- Some of the concepts and theories may be a bit hard to grasp – that's okay!





Theories

The Philosophy of Ethics and Morals



What Is Ethics?

- A branch of moral philosophy that involves systematizing, defending and recommending concepts of right and wrong behavior
- A set of values
- How we ought to live and what our guiding ideals should be



An Ethical Conundrum....

- Hard to get right, but quick to “know” when there is a problem
- Tradition is not always ethical – “we’ve always done it this way”
 - When you start with false assumptions, entire chain of reasoning becomes suspect
- Societies look for universal standards to follow – but is this possible?



An Ethical Conundrum....cont.

- Competing interests and messaging
 - Self-help industry
 - Religion
 - Political pundits
 - Media
 - Peers, colleagues and/or superiors
 - Family and friends



4 Areas of Ethics Study

- Value Theory
- Normative ethics
- Metaethics
- Applied ethics



Value Theory

- What is valuable in its own right
- Explains the nature of well-being
 - Is happiness the be-all and end-all of a good life?
 - Is getting what we want – whatever we want no matter the means – the key to the “good life”?



Normative Ethics

- Arrive at standards that regulate right and wrong conduct
 - Duties and behaviors to be followed (rules and mores)
 - The consequence of one's actions and behaviors on others
- The role of virtue, justice and self-interest
 - Are we ever allowed to break the rules?



Metaethics

- Where our ethical principles come from and what they mean
 - Universal truths
 - Role of authority
 - Reason behind making judgments



Metaethics, cont.

- What are these principles based upon?
 - Personal approval
 - Social customs
 - Laws
 - God or another higher power's commands



Metaethics, cont.

- Russ Shafer-Landau, in *The Fundamentals of Applied Ethics* addresses doubts about ethics and morality
 - Individuals and societies disagree about right and wrong – no objective truth
 - Universal moral standards if God exists – if God doesn't exist no standards



Metaethics, cont.

- Science tells truth (facts) but not right and wrong so there is no right or wrong
- If there is a universal ethic, some could impose their views on others as the ethic. It's not okay to impose so no universal ethic
- If there are objective moral rules, it is wrong to break them. Because every rule has exceptions, no moral rule is absolute. Moral rules are arbitrary and “made up”



Applied Ethics

- Involves examining specific controversial issues
 - Capital punishment
 - Global warming and environmental concerns
 - Race and Civil Rights
 - Marriage equality
 - Abortion



Morals

- UT-Austin explains morals as:
 - The prevailing standards of behavior that enable people to live cooperatively in groups
 - Morality often requires that people sacrifice their own short-term interests for the benefit of society
 - Morality is not fixed
 - Often grounded in religion/faith



Moral Theory and Four Principles

- Shafer-Landreau states moral justification by means of Four Principles (p.17):
 - Don't impose necessary harm
 - Be nice to others
 - Act justly
 - Tell the truth
- Problem is individual agency – why be moral if it doesn't benefit me?



A Kantian Perspective

- Immanuel Kant (1724-1804) and Rationality
 - If a person is rational, they act morally – If a person acts immorally, then they are irrational
- Rationality requires consistency
 - Having integrity means one is living in harmony with principles (or rules)
 - What if the principles are bad/wrong?



Social Contract Theory (Contractarianism)

- Everyone will curb their own self-interest and cooperate with one another
 - Is dependent on that cooperation, hence the “contract”
- Thomas Hobbes (1588-1679) was the founder of modern contractarianism
 - How will people act when there is no government, no central authority, no group to enforce its will? (state of nature)



Escape from the State of Nature

- Requires two steps (terms of the social contract):
 - Beneficial rules that require cooperation and punishment
 - An established “enforcer” to ensure cooperation (the rules are followed) and administer the punishment (punitive)



The Steps of Contractarianism

- Morality is essentially a social phenomenon
- Moral rules govern the social cooperation (everyone on equal footing and benefit for all)
- Has a method (procedure) that justifies moral rules



The Steps of Contractarianism, cont.

- Explains the objectivity of morality
 - Not opinion
 - Not from “God”
 - Agreed upon by rational people who set terms for cooperation



The Steps of Contractarianism, cont.

- Explains why sometimes acceptable to break moral rules deemed irrational or unequal
- Justifies basic moral duty to obey the law (peace and order)
- Justifies legal punishment (works when there is fairness)



The Steps of Contractarianism, cont.

- Justifies a state's role in criminal law (vs civil between people)
- Allows for civil disobedience
 - Law into own hands as last resort
 - Acts are in the open
 - Non-violent
 - Motivated by justice



Theories vs Reality

- In a perfect world, virtue would always be rewarded and vice would never flourish (p. 107)
- In a perfect world, everyone would be truly equal with equity and fairness the standard
 - In an imperfect world where immorality seems to be rewarded and inequality the norm, what should society do?





Practical Application

Ethics and the Public Sector



Why Do People Act Unethically?

- It is psychologically unsafe to say something
- There is excessive pressure to reach unrealistic performance targets
- Conflicting goals provoke a sense of unfairness
- A positive example isn't being set



Why Do People Act Unethically, cont.

- Personal wants and needs supersede the collective
- Dealing with facts and values – “what is” weighs against “what ought to be”
- Guilt and fear are driving factors but if a person(s) lack either (or both!), then there is no reason to be ethical



Unsettling Statistics

- In 2016 the National Business Ethics Survey reported **41%** of employees had seen unethical conduct in the last 12 months
- 10% of US employees felt pressure to act unethically
 - Wells Fargo – 5300+ employees opened fraudulent accounts (“gaming”, “pinning”) and bank paid close to \$4 billion in fines (so far)

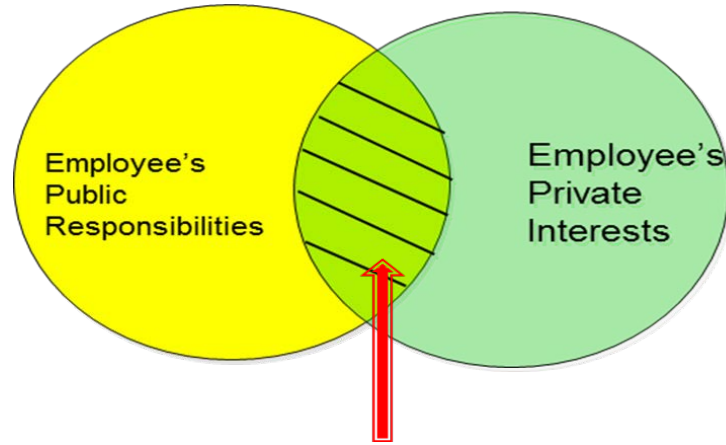


Unsettling Statistics, cont.

- In the most recent survey (2021), 79% of US employees reported retaliation
- 29%* felt they were pressured to act unethically
 - 2x as many US employees reported pressure in 2020 vs 2017
- Ethical misbehavior ranged from favoritism to outright fraud



Conflicts of Interest



- The collision of ethics and personal morals
 - What a person deems acceptable behavior versus society's standards and/or codes

Graphic from David Giannotti and the State Ethics Commission



Donald Cressey's Theory of Employee Fraud

- If three factors are met, any ordinary, trusted person can bring themselves to commit fraud
 - Pressure
 - Opportunity
 - Rationalization
- Any ordinary, trusted person can act unethically



The Fraud Triangle



Rationalization

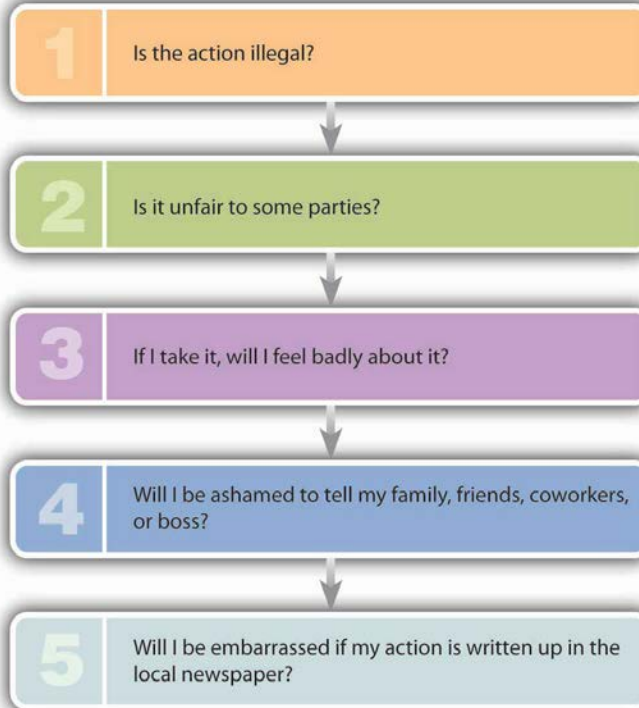
- “The action of attempting to explain or justify behavior or an attitude with logical reasons, even if these are not appropriate.”*
 - “No one will notice”
 - “It wasn’t that much”
 - “I deserve it”
 - “It’s a perk of the position”
 - “Everyone else does it”
- Opportunity + Rationalization = Ethical (Legal) Trouble

* Webster’s Dictionary



Ethical Decision Making – “Right vs Wrong”

Ask yourself:



Ethics vs. Fraud

- Allow someone to use your computer when not authorized to do so
- Sign a person's name to a document
- Let someone borrow your office key
- Give a vendor inside information on a major project
- Colleague gives you an update on the job you have applied for
- Let a friend know they are on an upcoming furlough list you saw
- Accept a financial gift from a project manager
- Help your brother-in-law get a job in the department you oversee
- Take and use office supplies at home





Case Studies



A MA Public Employee Shall Not Knowingly:

- Act in a manner such that a reasonable person would conclude that they might act with bias
 - One-step written disclosure to dispel the appearance of conflict
- Use official position to secure unwarranted privileges for them or others



A MA Public Employee Shall Not Knowingly, cont.

- Use public resources for private or personal use or political activity
- Disclose confidential information



Cost of Violations

- Penalties for conflict-of-interest law violations
 - The Ethics Commission can impose civil penalties
 - Significant violation of any section of the law – up to \$10,000
 - Bribery section – up to \$25,000
 - Companies can be held liable for the actions of employees
 - Criminal penalties can apply



Cost of Violations

- The Attorney General and the Office of the Inspector General can conduct investigations into fraud, waste and abuse
 - AGO can result in criminal prosecution
 - OIG can result in financial restitution to the Commonwealth and affected jurisdictions



Why Is Ethics “Hard”?

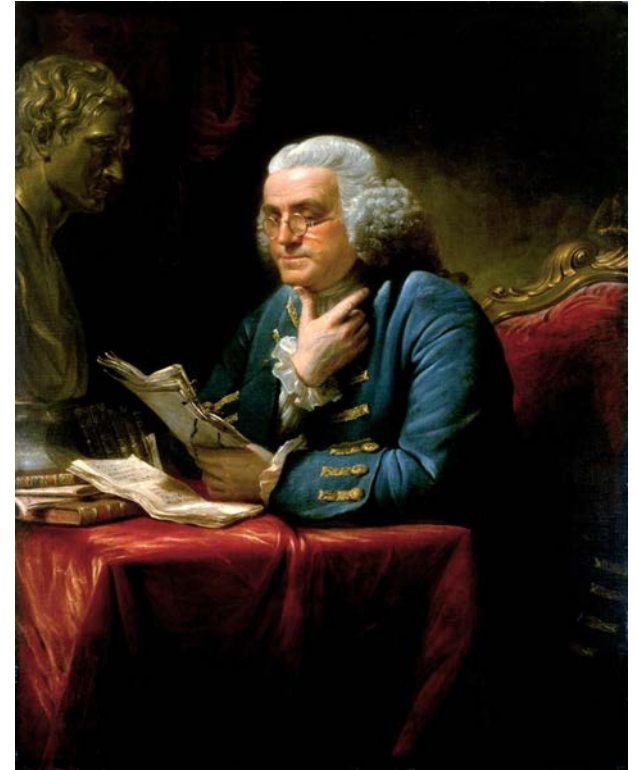
- Organizations are made up of individuals with competing personal views/interests vs organization’s interest
- People like to think and act in black and white but often, life and work is full of gray
- The little things can lead to bigger things
- Humans are imperfect



Founding Father Witticism

“There is no kind of dishonesty into which otherwise good people more easily and frequently fall than that of defrauding the government.”

~ Ben Franklin



References

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Questions

