

Ethical and Moral Issues

Ethical concerns are sprinkled throughout this book; indeed, they are hard to avoid in bargaining and negotiating. Was Steve right when he implied that \$300,000 was unacceptable for Elmtree House, when he knew that \$220,000 was the value he would be willing to settle for? Are negotiators acting appropriately when they exaggerate what they are giving up on one issue in order to squeeze out a quid pro quo compromise on another issue? Is it improper for a negotiator to imply by his actions that he desperately needs something for his side, when he knows full well that he will give that up at a later stage for something else?

A subject once said to me: "In several of the role-playing exercises I was in a quandary. I didn't know what was ethically right. I was somewhat concerned about others—but how do I know where to draw the line? I didn't want to be callous, but neither did I want to be a starry-eyed, impractical idealist. How should I think about these ethically laden choices?"

Most of the subjects in our experiments had had some education in normative ethics. They had at least read excerpts from the writings of Plato, Aristotle, Augustine, Aquinas, Hume, Kant, Bentham, Mill, and others concerning normative principles of right and wrong. But knowing the distinctions between teleological (result-oriented) and deontological (duty-oriented) frameworks or between monistic and pluralistic frameworks of normative ethics may not help a subject to decide as the City representative negotiating with AMPO whether, in the case of Daniels, to lie or to be quietly misleading or to be open and honest. Normative ethical frameworks are not designed to yield definitive decision procedures, and we should not expect answers from these philosophical teachings and reflections. Indeed, some of these frameworks imply conflicting ad-

vice in negotiation contexts. People throughout the ages have worried about these moral issues; they have warred against one another and tried to exterminate one another in defense of their own moral precepts. "My way is better than your way, so take *that*"—"that" being a blow of a fist, a club, a spear, a gun, germ-laden gas, a missile, an atomic bomb, a doomsday weapon. Despite the fact that libraries are filled with books that discuss these important moral and ethical concerns, I still would like to offer some observations on how to think about ethically laden choices.

Disputants often fare poorly when they each act greedily and deceptively. In those cases it's easy to coach *all* participants: they can all jointly gain if they would be less greedy and more open and honest with one another. It's far more difficult to know how to coach one side. Would you advise Steve to tell Wilson that he would settle for \$220,000 but would very much like to get \$350,000?

Most negotiations are not strictly competitive: there are possibilities for joint gains. For purely selfish reasons, you as a disputant may help yourself by helping your adversaries. This is fine. But even here there is always a tension. As all parties seek joint gains, you still have a preference to favor your side. You not only would like to enlarge the pie, but you want your just share, and what you think is a "just share" may not agree with your adversaries' assessments. How far is it "right" or "appropriate" to push in favoring your own side when it may be to the disadvantage of others?

It's often said that dishonesty in the short run is a poor policy because a tarnished reputation hurts in the long run. The moral question is: Should you be open and honest in the short run because it is right to act that way, even though it might hurt you in the long run?

The hundreds of responses I have obtained to a questionnaire¹ on ethical values are instructive. The distributions of the responses from students of business administration, government, and law are reasonable. But the students do not overwhelmingly say, "That sort of behavior may be borderline in my opinion for others, but is unac-

1. "Devon Industries, Inc. (B)," a case study written by Gerald Allan under the supervision of John Hammond. The case describes hypothetical behavior in the construction industry, some of which is borderline or morally reprehensible. The students are asked to rate anonymously on a five-point scale whether specific behaviors are: definitely ethical, ethical so long as everyone else does it, not a matter of ethics, unethical but acceptable, definitely unethical. They are also asked: If *you* were in such a position, what do you think you would do?

ceptable to me." Most say, "If I were in that situation, I also probably would act in that borderline way"; and a few say, "I think that that behavior is unethical, but I probably would do the same." That's disturbing to me.

One student defended herself—even though the questionnaires were anonymous—by stating that most business people in their ordinary activities are not subjected to those moral dilemmas. And although she reluctantly admitted that she would act in an unethical manner if she were unlucky enough to be in the position of the contractor who is being unmercifully squeezed, she would try her utmost not to get into such situations.

Let's abstract and simplify by looking at a simple laboratory exercise concerning an ethical choice.

A SOCIAL DILEMMA GAME

Imagine that *you* have to choose whether to act nobly or selfishly. If you act nobly you will be helping others at your own expense; if you act selfishly you will be helping yourself at others' expense. Similarly, those others have similar choices. In order to highlight the tension between helping yourself and helping others, let's specify that if all participants act nobly, all do well and the society flourishes; but regardless of how others act, you can always do better for yourself, as measured in tangible rewards (say, profits), if you act selfishly—but at the expense of others. Leaving morality aside for the moment, the best tangible reward accrues to you in this asocial game if you act selfishly and all others act nobly. But if all behave that way, all suffer greatly.

To be more concrete, suppose that you are one player in a group of 101, so that there are 100 "others." You have two choices: act nobly or act selfishly. Your payoff depends on your choice and on the proportion of the "others" who choose to act nobly (see Figure 48). If, for example, .7 of the others act nobly, your payoff is \$40 when you act nobly and \$140 when you act selfishly. Notice that regardless of what the others do, if you were to switch from noble to selfish behavior, you would receive \$100 more; but because of your switch, each of the others would be penalized by \$2.00 and the total penalty to others would be \$200—more than what you personally gain. The harm you cause to others, however, is shared: you impose

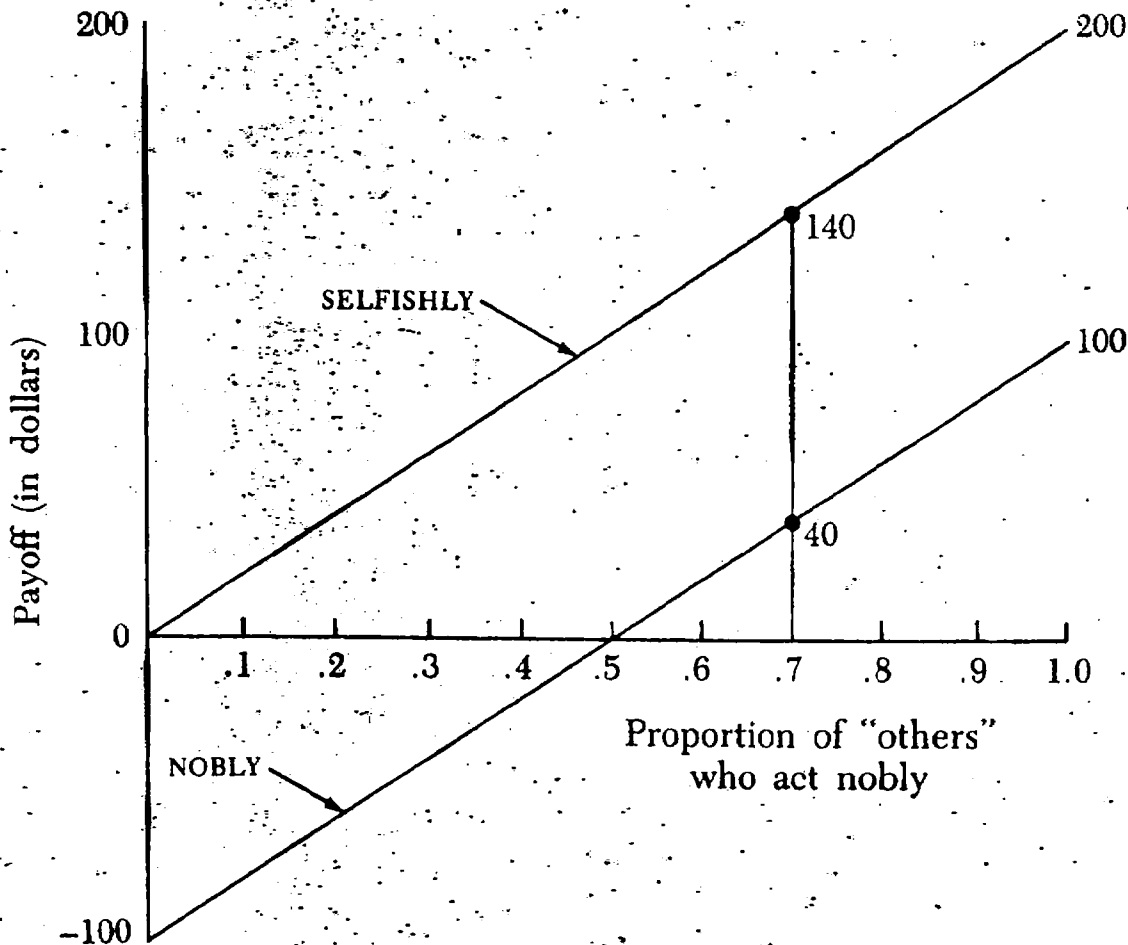


Figure 48. Payoffs for the social dilemma game. (If, for example, .7 of the "others" act nobly, your payoff is \$40 when you choose nobly and \$140 when you choose selfishly.)

If the others can see that you are acting selfishly, then acting unselfishly may be your prudent action from a cold, calculating, long-term-benefit point of view. Your good reputation may be a proxy for future tangible rewards. But what if the others (because of the rules of the game) cannot see how you, in particular, behave? Suppose that all anyone learns is how many of the others chose the selfish option.²

I learned about this game from Thomas Schelling, who dubbed it the "N-Person Prisoner's Dilemma Game," a direct generalization of that famous two-person game. In the literature, these games are called "social dilemmas" or "social traps," and are sometimes discussed under the heading of "the problem of the commons" or "the free-rider problem." Whenever anyone uses "the commons," there is a little less for everyone else. The "commons" could be a town

2. In the laboratory version of the game I use less connotative terminology: "act cooperatively" instead of "act nobly" and "act noncooperatively" instead of "act

green, common grazing land, a common river, the ocean, or the atmosphere. Overpopulating our common planet is a prime manifestation of this problem. Whenever we enjoy a public benefit without paying our due share we are a "free rider." One variation of the free-rider problem is the noble-volunteer problem: Will a hero please step forward—and risk his or her life for the good of the many?

Subjects were asked to play this social dilemma game not for monetary payoffs, but *as if* there would be monetary payoffs. There might, therefore, be some distortion in the results—probably not much, but in any case the experimental results are not comforting. Roughly 85 percent of the subjects acted noncooperatively—acted to protect their own interests. Most subjects believed that only a small minority of the others would choose the cooperative (noble) act, and they saw no reason why they should be penalized; so they chose not to act cooperatively. They felt that it was not *their behavior* that was wrong, but the *situation* they were participating in. Unfortunately, many real-world games have these characteristics. A few subjects acted cooperatively because they were simply confused; but others—the really noble ones—knew exactly what was going on and chose to sacrifice their own tangible rewards for the good of the others, even though the others did not know who was acting for their benefit. If the rules of the game were changed to make "goodness" more visible, then more subjects would opt for the noble action—some, perhaps, for long-range selfish reasons. This suggests a positive action program: we should try to identify asocial games (social dilemmas) and modify the rules, if possible (which is easier said than done).

Now let's suppose that you are in a position to influence the 100 others to act nobly by publicly appealing to their consciences. Do you need to influence all to follow your lead? No—you will get a higher monetary return for yourself by converting 50 selfish souls to the noble cause than by joining the ranks of the selfish. But balancing tangible and intangible rewards, you might still prefer to act nobly if you could get, say, 40 conversions; with fewer conversions you might be sacrificing too much. Suppose that you are wildly successful: 75 others join your coalition. Say that 17 of these would have acted nobly anyway; 3 are despicable poseurs who join the nobles but who will defect secretly; and 55 have actually been

swayed by your moral pleadings. Now you not only have benefited financially, but you feel morally righteous as well. Unfortunately, your actions have also made it more profitable for the remaining 25 who have not joined your coalition. Each conversion adds \$2.00 to the payoff of each of the others, including the selfish holdouts—they've been helped by your successful proselytizing. This may really bother some of the converted ones; it's unfair, they may argue, that the selfish, undeserving ones should profit from the noble actions of the majority. (A real-world analogue is the case where most of the nations of the world might agree not to catch blue whales, and because of this pact it becomes easier for one noncooperating whaling country to find its prey.) Some of your converts may be so bothered to see that the undeserving are doing better than themselves, that they may decide to defect. They may argue that the coalition is not working, when in absolute terms it may be working for them; but it may not be working in comparative terms. It rankles them that they are helping someone who is taking advantage of their noble behavior. So a few defect, and as a result the coalition can easily come apart.

A DIALOGUE

Once again, a troubled negotiator poses the basic question: "How should I think about ethically laden choices?"

"First of all," I say, "I think it's right that you *should* think about them. Ethical reflections should be a continuing imperative."³

"Fine—but how?"

"About 2,500 years ago, Tzu Kung allegedly asked Confucius whether the True Way could be epitomized in one word. Confucius replied: '*Reciprocity*: do not to others what you do not want them to do unto you.' During the reign of Herod the Great in Palestine, Rabbi Hillel repeatedly echoed this injunction, and decades later Jesus preached this as the Golden Rule."

"That still doesn't tell me whether Steve did wrong when he intimated that he would not settle for \$250,000. As a City player against

3. A paraphrase from "Basic Frameworks for Normative Ethics," a case study prepared by Kenneth E. Goodpaster, p. 1. See the bibliography, under the heading "Case Studies."

AMPO, would I do wrong if I acted as if I wanted Commissioner Daniels when I secretly desired to get rid of him?"

"Well, here's a way of thinking that probably doesn't go back to Confucius: before you act, think of facing yourself in the mirror tomorrow.⁴ Is this the person you would like to see? Would you feel comfortable discussing your actions with your spouse? Your children? Your friends? Let's refer to this cluster of concerns as *self-respect*."

"I'm still confused," the negotiator persists. "You're telling me to think about the Golden Rule and to think about my self-respect. You're not telling me to always obey the Golden Rule or to always honor my self-respect. How does that help Steve in his negotiations for Elmtree House?"

"I'm trying to be helpful, but it's not easy to be dogmatic about these issues," I say hesitatingly. "Unfortunately, for me, there is no overarching atomistic, moral premise from which everything else flows. Unlike Kant, I recognize no categorical imperative that I think is universally applicable. I can always think of counterexamples, such as the fact that I would lie or steal or kill to save my country or to save multitudes of innocent people. The best I can do is draw upon various schools of philosophical thought and enunciate principles that are important to reflect upon when I am at a morally intricate decision node."

"But once you have several principles of moral behavior, they may conflict in a given situation. Should you lie, or break a promise? Aren't you troubled by that?"

"Certainly I am. But before we talk about coping with inconsistencies, let's formulate a few more principles that may be relevant in bargaining and negotiating."

Another negotiator asks: "Don't you think there is enough guilt in our society? Are you telling us to be ashamed to look at ourselves in the mirror if we don't live by the Golden Rule? It seems to me that the very art of negotiation involves some amount of deception and some skillful exercise of power. Should I be ashamed of the fact that in one negotiation exercise I purposely linked two issues so that I could use the threat power of one issue to get what I wanted on the other? That's done all the time. If I'm not for myself, who will be?"

4. See Drucker (1981).

"If something is done all the time, that doesn't make it right. Certainly I would agree with you that in judging the morality of one's proposed actions, one should reflect on the norms of society. But society would change for the better if each of us tried to nudge it in more righteous ways. It's a matter of degree. Before taking an action you might ask yourself: What kind of society would we be living in if everyone acted the way I'm about to act? Or: If I remove myself from involvement in the situation and if I imagine that someone else is occupying my role, how would I as a disinterested party advise that other person to behave, taking into consideration what's right for that person, what's right for other protagonists in the negotiation, and what's right for society? There's an implicit contractual understanding in our social obligations."

The negotiator is not satisfied. "But these rights—to myself, to others, and to society—might, and usually do, conflict. That's the problem. If I'm an interested party, and if I can help myself at the expense of someone else, how should I weigh my interests against my perception of the interests of others? This is what I find hard to answer."

"You're not the only one. I, too, find the line hard to draw. But we're talking about ways to think about the problem. You might imagine yourself and the other negotiators in an original position where you as yet do not know the roles each of you will assume. In this *ex ante* position, what would be a reasonable contract for behavior to guide the mutual actions of all? How would you agree ahead of time that in the position you now find yourself, someone—not necessarily yourself—should act? This is something you might think about."

"Thinking is easy. Acting is hard. If I did this, and tempered my actions accordingly, I would be at a competitive disadvantage if my altruistic behavior were not reciprocated. Behave unto others as you don't expect them to behave unto you. Is that it?"

"No, that's not it! I'm trying to tell you to be conscious of and to reflect about conflicting rights—to be more conscious of others and of long-run societal interests."

Another negotiator joins the discussion. "That last piece of advice cuts two ways," she says. "An employer might want to fire a worker who is incompetent but who desperately needs the money. The employer might also empathize with the worker and decide that the bit of extra profit he could gain by the dismissal is not worth

the harm that would be done to this loyal but not-too-bright worker. However, if the employer thinks of the big picture, thinks of the long-run interests of society, then perhaps he should fire the man. As a whole, society may be better off if employers were tough-minded about efficiency. If employers fire incompetents, they make places available for competent people, and with increased efficiency more jobs may be created. That's part of the free-enterprise ethic."

"I grant you the point that we sometimes have to take actions that have short-run liabilities for long-run gains—actions that appear to be hard-hearted. I agree that in thinking about society as a whole, one should think about secondary, tertiary, and long-range effects as well as immediate effects. But I would violently argue against a philosophy saying that since I can't predict what's going to happen in the long run, I might as well look after myself right now. Well-meaning people can have different assessments of long-run effects for some cases, but there are lots of other cases where the answers will be perfectly transparent. For instance, society and the free-enterprise system would be better off if people didn't tamper with the odometers of used cars before selling them, if advertisers didn't falsify information about the safety of products, if realtors informed prospective home buyers that a particular furnace or a particular roof was in poor repair."

"Wait a minute on that last one," interjects one of my interrogators. "Selling and buying is a little like the legal system. Lawyers are advocates: they select the material they choose to disclose to favor their side. It's up to the other party to protect itself. Am I, as the seller of an automobile, supposed to tell the buyer that my car is not as good as another on qualities P, Q, and R? I would rather be quiet about P, Q, and R and tell him my car is much better than the other car on qualities S, T, U, V, and W. And I might be stretching the point on qualities V and W. This is part of the bargaining game."

"I'm not sure I agree. We'd be better off if we were a lot more honest with each other in bargaining and negotiating. A lot of adversarial bickering should be replaced by collegial, joint-problem-solving interchanges. Remember those nineteen points of the Rule of Reason used in the National Coal Policy Project."

"That's fine for the National Coal Policy Project, but I'm a small

businessman in the construction industry; and if I were to behave with my customers on a complete-disclosure basis, I'd be out of business in a flash. I don't lie in the factual assertions I make; but certainly I should be allowed, like everyone else, to choose material selectively to favor my side."

"I'll grant you the point that a competitive imperative may force you toward a norm of behavior that is a fact of life in marketing and advertising. But there are degrees. As a business leader, you should set higher ethical standards for yourself than you perceive are commonplace around you: exemplary behavior on your part can influence the behavior of others. You should strive by your own behavior to improve the standards of morality in business. Just as in the social dilemma game, it's not necessary for you to influence all the others to act cooperatively before it's worth your while to shift from noncooperative to cooperative behavior. And remember, there's a dynamic at play here: if you act in society's interest, others might not only follow suit but they in turn will influence others. People help create the society they live in. If they want to live in a more cooperative society, they can do so, though possibly at some cost to themselves. Most people, I believe, are willing to sacrifice a little for a more ethical world, but only so much. Many processes in our society do not exploit this limited altruism. We should seek ways to change the world, or small parts of it, to take advantage of people's willingness to sacrifice a little bit of their own comfort for the general good."

"You're saying that aspiring leaders should shun behavior that they would not respect in others—that they should be exemplars. But if someone followed that gospel, he or she probably would not become a leader. Do you know a political leader who can truthfully expose his full record? Compromises have to be made. Would you blame someone who acted improperly on a minor issue so that he could be in a position to stand up for his principles on really major issues? Are you saying that virtuous ends can't ever justify means that fail a morality test?"

"I'm not an absolutist. In special circumstances I might condone actions that, in general, I do not deem ethically appropriate; but a lot of harm comes from an overly cavalier attitude about 'ends justifying means.' I believe that many people who intuitively do this type of benefit-cost analysis do it poorly: they do not adequately

consider the effects of linkages and precedents. If an immoral action (means) is adopted for glorious ends, it makes it easier for others to adopt similar actions for not-so-glorious ends. We're on a slippery slope, and it's hard to know where to draw the line."

"Exactly," says yet another negotiator. "I don't at all like your utilitarian-tradeoffs philosophy. There are certain actions that are just plain wrong in an absolute sense, and no analysis of consequences can justify them. Unless certain basic principles are inviolate, people can justify or rationalize any foul deeds."

"You're taking the strong deontologist position—that there are absolute rights or wrongs regardless of the consequences. Those who are religious believe that these are God-given. But, as I said before, I don't know of any overarching deontological principle from which all other moral principles derive. At least, I don't know of any single principle that could operationally guide my behavior, even though most of the several deontological principles that are offered seem appropriate heuristic guides for my behavior. But I must admit that I think they're appropriate because of my utilitarian calculations. If one adopts, as I do, a broad-gauged, rules-oriented, utilitarian framework, with a little deontological and contractarian reasoning thrown in, then this viewpoint, while flexible, is not operational: it does not specify appropriate actions. One needs heuristic guidelines or auxiliary principles for ethical behavior; one cannot always go back to basic principles. So as I see it, whether one adopts a deontologist or a teleologist (result-oriented) position or a mixture of the two, one must be guided by a workable, operational set of ethical principles. And one should then realize that these principles may occasionally conflict with one another. But these principles are guidelines not to be broken lightly! As Thomas Schelling so aptly put it: 'Compromising a principle sounds wrong; but compromising between principles sounds right.' And compromising, after all, is what negotiation is all about."

Another negotiator obviously thinks that we have reached the point of diminishing returns: "This conversation has meandered over a wide terrain in normative ethics. Can you summarize any insights you have from an analyst's perspective?"

"Well, as an analyst I believe that most utilitarian calculations in situational ethics are too narrowly conceived. In a loose sense, all of us are engaged in a grandiose, many-person, social dilemma game

where each of us has to decide how much we should act to benefit others. The vast majority of us would like to participate in a more cooperative society, and all of us may have to make some sacrifice in the short run for that long-run goal. We have to calculate, at least informally, the dynamic linkages between our actions now and the later actions of others. If we are more ethical, it makes it easier for others to be more ethical. And, as was the case in the multiperson social dilemma game, we should not become excessively distraught if there are a few cynical souls who will tangibly profit by our combined beneficent acts.

"If you act to help others and hurt yourself in the short run, and if your act is visible to others, you may profit from it in the long run because of cyclical reciprocities. In that sense, your noble-appearing action may be in your selfish interest. But we should not demean visible acts of kindness, even though in part they may be self-serving, because your actions may make it easier for others to act similarly, and the dynamics reinforce behavior that is in the common interest. An action that represents a moderate sacrifice in the short run may represent only a very modest sacrifice in the long run, when dynamic linkages are properly calculated. And as I said before, many people are willing to make small (long-run) sacrifices for the good of others, all things considered. The visibility of beneficent acts thus plays a dual role: it reduces the tangible penalties to the actor, and it spurs others to act similarly; these two facets then interact cyclically. Finally, empathizing with others may be reflected in your own utility calculations: a sacrifice in long-range tangible effects to yourself, if it is compensated by ample gains for others, could be tallied as a positive contribution to your cognitive utilitarian calculations." >