

LEARNING FROM THE RADICAL BEHAVIORAL CHALLENGE

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AN INVITED RESPONSE TO Aaron Ancell (2022), “Bias, Safeguards, and the Limits of Individuals,” *Bus Ethics J Rev* 10(5): 27–32,
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ABSTRACT

I (mostly) accept Ancell’s argument that my proposal for dealing with the radical behavioral challenge entails what he calls ‘the excessive recusal problem’. I argue that this is no reason to reject my proposal, but rather an opportunity for further reflection on what behavioral and normative ethicists can learn from each other. I make some suggestions for future lines of inquiry for both fields.

AARON ANCELL PROVIDES a well-argued critique of my *Journal of Business Ethics* paper (von Kriegstein 2022) regarding the challenge that behavioral ethics appears to pose to normative business ethics. Despite largely agreeing with Ancell’s arguments, I think the framework I provided remains fruitful. Ancell’s challenge is a welcome opportunity to clarify some implications of my approach. I begin by briefly recounting the dialectic in this debate.

Kim et al. (2015) responded to the *Radical Behavioral Challenge* (RBC). This is the idea that, because common cognitive biases make it impossible for regular adults to follow many prescriptions of normative business ethics, these prescriptions violate the principle that ‘ought implies can’ and are thus invalid. In response, Kim et al. suggested that ‘can’ in ‘ought implies can’ refers to the abilities of an idealized rational agent, rather than to those of ethically bounded

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beings such as ourselves. My main dissatisfaction with that proposal is that it appears to simply deny that the findings of behavioral ethics could have any normative significance at all. As long as an idealized agent can follow an ethical rule, this rule can be binding for us. And, thus, finding that we are actually incapable of following the rule doesn't matter.

Thus, we seem to be caught between the Scylla of RBC according to which practitioners may safely ignore much of normative business ethics and the Charybdis of Kim et al.'s proposal according to which normative ethicists may safely ignore behavioral ethics.

My suggestion was to accept the version of 'ought implies can' that gives rise to RBC, and to respond to RBC by exploring creative ways in which bounded agents can fulfill our obligations after all. To start with, I pointed out that the dictates of normative business ethics are wide-scope, meaning they can be fulfilled by recusing oneself from situations in which biases would otherwise cause one to act unethically. Furthermore, I argued that it is often possible to erect institutional safeguards that alter the environment such that the likelihood that we will violate our obligations due to our bounded ethicality is reduced.

The Excessive Recusal Problem

Ancell's *Excessive Recusal Problem* is that, according to my suggested framework, many people's only ethical choice is to recuse themselves from their duties (i.e., to terminate their careers). Ancell reaches this conclusion by arguing that the two alternatives to recusal that I suggested are going to be rarely, if ever, available. Let me illustrate in terms of Ancell's main example. According to normative business ethics audits should be done objectively. Behavioral ethics tells us that most of us are incapable of doing so and will produce biased audits despite our best intentions. According to my proposal, an accountant becoming aware of this issue and worried about ethically compromising themselves should ascertain whether they are (a) among the rare people able to produce objective audits, or (b) able to erect appropriate safeguards that would allow them to do so. If (a), they can go about their business as before; if (b) they should erect the needed safeguards; if neither (a) nor (b) they should quit. Ancell responds that (a) can be ruled out in principle since nobody is ever

justified in thinking that they are in that position, because it is well established that we are very bad at recognizing biases in ourselves (Ancell 2022: 30). Ancell concedes that it is often possible to erect institutional safeguards that insulate our decision-making from our biases, but points out that the needed reforms in the accounting profession are unlikely to occur anytime soon—regardless of how committedly individual accountants might advocate for them (Ancell 2022: 31). Thus, as it stands, my view implies that the only way “contemporary auditors working for major American audit firms [can avoid ethically compromising themselves is] to quit their jobs.” (Ancell 2022: 32).²

A (Too) Quick Defense

I largely agree with Ancell’s diagnosis that my view implies the excessive recusal problem for the contemporary accounting profession in the US (and for some other contexts as well). Nevertheless, I stand by my suggested framework. A first defense of it could be mounted along the following lines.

My view deflects RBC such that the implication of bounded ethicality is no longer that normative business ethics violates ‘ought implies can’, but merely that normative business ethics requires lots of people to abandon their careers. While perhaps a surprising implication, this is no reason to think normative business ethics is mistaken. After all, it is entirely possible that a society (even one that is tolerably just overall) relies on institutions participation in which is ethically compromising. Such a situation is an indictment of said institutions not a reason to reject the ethical rules they violate. Of course, if an ethical rule were to completely prohibit a kind of activity without which a society could not flourish, we would have reason to question the rule. But this is not the situation RBC leaves us in. As Ancell points out, accounting could be restructured to drastically mitigate RBC in that context (Ancell 2022: 31).

Where to Next?

I think that the argument just sketched is sound. However, it represents a purely defensive response to Ancell’s challenge that I find

² This is a problem for Kim et al.’s suggested solution to RBC just as much as for my own.

unsatisfactory. In the following sections I will outline some implications of the debate, as it stands so far, for both behavioral and normative business ethics as well as for practitioners.

Behavioral Ethics and Self-Knowledge

My only real quibble with Ancell's argument is that he is too quick in dismissing the idea that people might know that they are able to perform unbiased audits. While I agree that "we cannot reliably discern when we are biased through any amount of introspection" (Ancell 2022: 30), introspection is not the only way of gaining self-knowledge. In my paper, for example, I suggested that people involved in hiring decisions should take an implicit associations test. This was not a great example in the context, since it is by now widely acknowledged that IATs are not a reliable diagnostic tool and, thus, not a straightforward method of gaining self-knowledge (whatever their other virtues may be).³

Without re-litigating the debates about IATs, we can say, more generally, that RBC and the excessive recusal problem show a need for methods of gaining individualized self-knowledge regarding biases and blind spots. Developing (more and better) such methods is an immensely useful contribution behavioral ethics could make. Of course, it might turn out that few if any such methods are to be had. Or that such methods are self-defeating in that telling a person that they are currently unbiased makes them more susceptible to bias in the future. Those outcomes would vindicate Ancell's contention that no individual is ever justified in thinking that they are not susceptible to bias. Showing that this is so would be a valuable contribution also.

Normative Business Ethics and Contrary-to-Duty Obligations

A surprisingly under-explored area of normative business ethics concerns contrary-to-duty obligations, i.e., conditional obligations where the condition is a violation of another obligation. Supposing, for now, that RBC can only be answered at the cost of the excessive recusal problem, normative business ethics should have more to say about the

³ My paper included a caveat noting that many findings of behavioral ethics are disputed. This was an understatement at the time and even more so now as some of the best-known results have been called into question as part of the replicability crisis engulfing social psychology (Schimmack 2020).

obligations of ethically bounded agents that are occupying positions they cannot ethically fulfill.

Inspiration may be drawn from work on non-ideal theory by political philosophers. More specifically, there is work in business ethics discussing what to do when one's competitors are violating ethical rules. Heath, for example, considers industries in which unethical practices are so widespread that abstaining from them would place individual firms at a fatal competitive disadvantage. He argues that this can constitute an excuse for employing such practices. He further argues, however, that such an excuse is available only to firms who "manifest positive support for regulatory initiatives aimed at [ending said practices]" (Heath 2018; cf. Baumol 1975). One could easily imagine a similar response to the excessive recusal problem.

Normative Business Ethics and Adjusting for Bounded Ethicality

Not all business ethics scholars agree, but it is plausible to think that the ethical obligations of everyday life are altered, and sometimes weakened, when conducting business in a market economy that has a partially competitive character. Much has been written over the question how exactly competitive contexts alter ethical rules with one prominent idea being that the role of ethics within institutionalized competitions is to ensure that competitors act in ways that do not undermine the purpose of the competition (e.g., Applbaum 2000; Heath 2014).

Perhaps normative business ethics should approach the problem of bounded ethicality similarly. After all, the objectivity of an audit doesn't seem to be an intrinsic good, but rather instrumentally desirable for reaching the policy goals of audits such as market stability, detection of fraud, etc. If these goals can be reached despite systematic bias in auditing, we might have to rethink the premise that objectivity in auditing is ethically required. Normative business ethicists could explore that option and strive to delineate ethically acceptable forms of biased audits rather than insisting on unbiased ones.

Practitioners and Institutional Change

One complaint I registered about Kim et al.'s response to RBC was that, while it allows us to condemn business practitioners' conduct, it

doesn't tell them how to do better. In a roundabout way, Ancell poses the same challenge to me: what the excessive recusal problem seems to show is that I am telling people to *not be* practitioners, which is not helpful advice as to what to *do as* practitioners.

In response I note, first, that the excessive recusal problem arises only where individual agents cannot bring about institutional change. This is often the case, but not always. Some of the suggestions I referenced in the final section of my *Journal of Business Ethics* paper, can be implemented by suitably placed individuals (without needing to worry, say, about passing US federal legislation). Second, in line with the comments two sections above, I would suggest that where individual agents lack the means to bring about institutional change, they should at least actively advocate for such changes.

Conclusion

I take Ancell's point but don't think that it undermines my solution to RBC. Pointing out that obligations in business are almost always wide-scope was mostly a device I used to illustrate the broader point that opportunities for avoiding unethical behavior can open up once we look at decision points in a larger context. I think that this insight points towards fruitful ways in which both normative and behavioral ethics can learn from their awkward encounter that is RBC.

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