**Strengthening Ethical Practices**

Abstract

*The claim is made in the book, Applied Ethics, published under the auspices of the Australian Association for Professional and Applied Ethics (AAPAE), that it can strengthen ethical behaviour. That claim, embodied in the subtitle, is based on more than a half dozen practices set out in the book. In total, they are drawn from an examination of ethical practices across fourteen different disciplines. The purpose of this paper is to outline and support that claim, drawing primarily on chapters of the book, but also drawing on a small amount of additional information. The research on the ethical issues in each of these disciplines, and the writing of the chapters, were undertaken by members and associates of AAPAE. The fourteen disciplines were Marketing, Business, Accounting, Pharmacy, Nursing, Medicine, Veterinary & Animal Ethics, Engineering, Information and Communications Technology (ICT), Journalism, Policing, Politics, the Law and the Sciences. The findings have significance for the teaching of ethics by moral philosophers, for not all ethics classes follow the practices suggested by these findings. A few of the practices are even rejected by some moral philosophers. That the practices will improve ethical behaviour is the principal position taken by this paper.*

The claim that the practices will strengthen ethical behaviour will likely be disputed in at least two ways: (i) The practices are unlikely to be sufficiently effective to improve ethical behaviour, or (ii) They are not issues for moral philosophy. The purpose of this paper therefore, is to set out the practices so that readers can assess their validity and the claims made for them. From there the reader can decide whether the practices should be taught in applied ethics classes – whether in philosophy departments or other departments at a university or college, and put into practice in the workforce. This paper covers nine practices, seven of which are fully documented in the AAPAE book. The additional two were originally presented as support to one or more of the mainline chapters, but which have been documented independently in this paper.

The practices are:

1. Speaking out against wrong doing (whistleblowing).
2. Implementing codes of ethics that are effective.
3. Mechanisms to strengthen ethical practices across the private sector.
4. Integrity and anti-corruption agency effectiveness in government.
5. Ensuring that we recognise and act on ethical concerns (a supporting contention).
6. Employing empirical findings (supporting contention).
7. Deciding what is right and what is wrong in specific disciplines.
8. Acknowledging and incorporating ethical leadership.
9. Teaching a capability to implement these findings.

The following paragraphs explore each of these claims. Most are set in an organisational environment. As will be evident, however, several of the practices concern individual unethical conduct. All issues raise questions of ethical behaviour and moral philosophy, although some also discuss issues of administrative or legal enforcement. The final section examines the relevance of the issues for applied ethicists or moral philosophers who are teaching or advising on ethics, and who wish to strengthen the impact of their work.

1. **Speaking out against wrong doing (whistleblowing)**

It is only common sense that people inside or in close contact with an organisation will be the first to identify wrongdoing. Several major research studies, world-wide, have confirmed that blowing the whistle on illegal or unethical action is the most effective way to stop it. (Brown, 2008, Durant, A, 2004, KPMG, 2006, 2008, 2010; PricewaterhouseCoopers. 2009 ; Dyck, Morse and Zingales, 2007; The Certified Fraud Examiners Association (CFEA) of the US, Report to the Nation, 2004 through 2012 , Transparency International, 2009). The CFEA 2012 Report shows 43% of initial detections came from internal sources, versus about 14 % each from the two next, Management Review and Internal Audit . The documentation of this research is extensive, and convincing.

But to speak out is a dangerous practice (Alford 2001). Whistleblowers are crucified. As a result, legislation that encourages and protects them has now been introduced in most developed countries. Stock exchange listing guidelines have also been expanded to specify whistleblowing requirements. Even national standards now encourage it. These practices, and the multiplicity of problems that arise as a result of the increased emphasis on whistleblowing, are topics demanding continual research on the part of those who wish to strengthen ethical practices. These paragraphs are advocating that teaching what we know so far is a necessary component of any ethics course, along with the concomitant obligation on any tertiary teacher to ensure that their teaching is continually strengthened by his/her research.

The legislation and associated administrative practices with protecting whistleblowers have not always worked effectively. Politicians, frequently on the receiving end of whistleblower revelations, have not always provided full support. The ultimate reluctance is evidenced by the country in which this paper was written. Australia is the only major first world country to have no whistleblower protection legislation at the national level. The current Prime Minister promised to introduce legislation by June 2011. She did not, has re-promised since, but again ignored that commitment. Activism, therefore, in its many forms, is also a requirement on those who wish to strengthen ethical behaviour.

1. **Adopting codes of ethics that are effective**

Many of us have signed a code of ethics without reading it, convinced that (i) we are ethical anyway and (ii) we know that it only exhorts us to be honest and to deal fairly with work associates and clients. And if we do read it, the code seems more like a public relations document generated by senior management to give the impression that the organisation is honest. Research in recent years, however, has determined that codes aimed at countering the actual ethical issues faced by staff, identified and resolved by those who confront these issues, are more likely to be effective (Smythe, 2012). This section endorses the development and use of that type of code.

An example of an exhortatory code might be the code of ethics of the Institute of Engineers Australia. The Code, and its Guidelines, are extremely subjective, and a long way from the ethical concerns identified by engineering managers. The Code has four overarching ‘values and principles’: ‘Demonstrate integrity, Practise competently, Exercise leadership, and Promote sustainability.’ Further levels of subdivision are ‘Be discerning and do what you think is right’ or ‘act appropriately… in a professional manner’. These guidelines are not too far different to what most parents attempt to instil into their children. Why a professional society should publish such ‘motherhood’ guidelines is far from obvious.

As one third year engineering student put it in a recent assignment: …’the clauses themselves are unnecessarily vague, and promote few moral guidelines that most professional engineers, along with the rest of society, do not intuitively know any way.’

The codes chapter in the AAPAE book sets out five guidelines for an effective code:

1. That staff identify the actual ethical issues that they have to face.
2. They determine ways to resolve the issues, draw up a code that responds to these issues, and seek the active support of management in implementing that code.
3. Included in the code is an internal whistleblowing system, which has the possibility to report outside the organisation, independent of management.
4. Sanctions to be established for breaching the code.
5. Sufficient staff to be provided to manage the ethics function and the code.

The empirical evidence behind these findings is almost as convincing as the support for a whistleblowing system. The primary contributor to this research background is work undertaken at Schiphol Airport (Kaptein, M. & Wempe, J. 1998). Further studies by Kaptein, sometimes with another author, give deeper insights into methods of making codes effective (2008, 2011).

1. **Strengthening ethical practices in business**

A multitude of these policies and practices have developed in recent years. Possible generated by the scandals of the previous decade – Enron, WorldCom, etc.; or the recent Global Financial Crisis, there is little doubt that the private sector is attempting to introduce practices designed to improve ethical behaviour. These practices include:

* **Emphasising Corporate Social Responsibilities (CSR).** Michael Porter, perhaps the foremost academic in building business strategies notes the link between corporate strategy and corporate social responsibility “CSR has emerged as an inescapable priority for business leaders in every country” he tells us [(Porter](http://hbr.org/search/Michael+E.+Porter), M. and  [Kramer](http://hbr.org/search/Mark+R.+Kramer) M. R., 2001).
* **Promoting a role in ethical behaviour for professional societies.** These institutionsare developing and codifying ethical practices for the disciplines that they cover. The majority of professional codes are merely exhortations to be good, with little attempt to tackle the ethical issues that the profession faces. As such, most are ineffective. A few tackle the actual ethical issues facing that discipline, and even provide support for members of the association who want to blow the whistle on wrongdoing. But such professional organisations are rare.
* **Trade Practices and anti-trust.** Moves to reach agreements with members of cartels to provide evidence for the prosecution, in return for easier treatment have become near universal in recent years.
* **Legislation regulating business dealings** Typical are the Sarbanes Oxley and the Dodd Frank Acts in the US, the strengthened Corporations Act in Australia and the Bribery Act in the UK. Some of this legislation is aimed at combatting one of the ethical blinkers noted by Bazerman and Tenbrunsel – a widespread inability to acknowledge or even recognise an unethical act when ignorance of any wrongdoing is to our advantage (2010).
* **Securities exchanges principles** Again there has been increased emphasis on ethical behaviour exercised through the stock exchanges, evidenced in a number of developments - stock exchange listing requirements emphasising ethical corporate governance, the growth in ethical investments and the development of codes of ethics for exchange staff are the most prominent.

Once again, these pages advocate that students undertaking ethics courses, or people in the workforce, need to be exposed to, and aware of these developments.

1. **Ensuring honesty in government**

Another growth field, described by some as “exponential”, is anti-corruption agencies, or as they are termed in Australia, Integrity Agencies. All are aimed at strengthening behaviour in the public sector, and at times, the legislatures. They range from Crime Commissions to Ombudsman Offices. The latter have expanded from their traditional function as an agency that attempts to resolve complaints about public administrators, to agencies responsible for public sector ethics. Some Ombudsman Offices manage whistleblower issues. Integrity and anti-corruption agencies work towards strengthening ethical practices in a variety of ways - by education, providing ethics consulting services, advice and training, by accepting complaints on misbehaviour, by encouraging and protecting whistleblowers.

They cover illegal as well as unethical activity. The list of wrongs that one anti- corruption agency prohibits, for instance, are actions that “could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions”. Other prohibited actions involve a breach of public trust, or the misuse of information or material. These actions are not necessarily illegal.

1. **Ensuring that we recognise an ethical concern**

I turn now to the Challenger disaster, the Ford Pinto case, and similar issues. They introduce an issue that was originally considered as only one component in the question of distinguishing right from wrong. The issue however, is significant enough to be developed as its own separate concern. Stephen Cohen, in the AAPAE book, uses the term “moral Illiteracy” to describe these concerns. Max Bazerman and Ann Tenbrunsel use the term Blind Spots. These latter authors are professors of business ethics whose research tells us we do not often recognise that the decision we should make has ethical implications (2011).

In the examples of the Challenger disaster and the Ford Pinto case, Bazerman and Tenbrunsel assert that the decision makers in these cases did not recognise the ethical overtones of the choices that they made. They were making technical decisions. Another example is Enron and Arthur Andersen, Enron’s auditors. The authors note that Enron was Andersen’s second largest client - where the consulting fees were greater than auditing fees. Senior staff at Andersen were unwilling to challenge Enron’s accounts. Or perhaps did not even closely examine the financial data of such a valued client.

There are several reasons why we do not recognise an ethical problem, and on why we do not act - a willingness to conform to accepted thinking (group think); our tendency to reduce internal dissonance by not rejecting a suspected unethical act, and our tendency to think short term and the immediate outcome, rather than for the long term. Bazerman and Tenbrunsel term their analyses “behavioural ethics”, claiming that it has grown “exponentially” in recent years. Dorothy Rowe, a psychologist, asserts in her *Why We Lie*, that we lie to ourselves, without, in many cases, recognising that we are doing so.

If we do recognise an act as unethical, we sort our way through the maze of competing ethical theories to reach a decision. But even then, we do not necessarily implement it. The authors give a number of solutions for avoiding the problem of failure in either recognition or in taking action. They target action at the individual, organisational or societal level on a systematic basis. Many developments outlined in this paper, in fact, help ensure that an ethical issue is recognised, and the ethical option is adopted. The approaches in this paper will also help ensure that if we do not recognise an ethical issue, others will, and take action.

1. **Adoption of empirical findings**

This is the second of the concerns that did not initially warrant a full chapter. The use of empirical findings, and the process of thinking critically, however, do deserve a more complete examination. The learning processes in philosophy are based on argument, not empiricism. John Lachs decries this approach. I quote from *Philosophy Now,* in an article that questionswhether philosophy can still produce public intellectuals: (September/October, 2009).

*“young philosophers (in the US) are taught that argument is king …that knowledge of facts is superfluous”*

Another example is Louis Pojman and Vaughn Lewis, in the seventh edition of a widely-used text, *Philosophy. The Quest for Truth*:

“*The major task (of philosophy) is to analyse and construct arguments “, and again*

*“The hallmark of philosophy is centered in the argument”*

Pojman had made the statement in the 6th edition of his book: ‘I have striven to present opposing views on virtually every topic.’ It is a strange statement to make in a book questing for truth, for it is indeed rare that truth has two sides.

Argument will be taught as the critical analytical tool in an undergraduate philosophy degree. If you have an ethics class in your children’s school, they will be taught to argue – not to investigate, to gather facts and to analyse.

Argument is an adequate, even enjoyable process when we are simply speculating. It is totally inadequate for critical analytical thinking and decision taking. The inadequacy of argument as an analytical tool is seen in the ill-founded criticisms of anti-corruption and integrity agencies as instruments for bringing about greater ethical behaviour in the public sector. Some moral philosophers decry these developments. Jeff Malpas, for instance, at a recent AAPAE conference, argued that the language of ethics,

*“seems increasingly to have been appropriated by bureaucratised systems of political and managerial control based around notions of risk management, audit, accountability and assurance* “. He complained that it presages “*the demise in ethics.”* (Malpas, 2010),

His contention pits argument against the tools of empirical research – surveys, fact finding, and evaluation methodology.

This issue impacts on the findings outlined in this paper. In determining what is the best direction to adopt on a contentious issue, philosophers are taught that argument is an equal, even superior method over observation and analysis. An example can be taken from an early presentation of some of the findings in this paper – in this case , that whistleblowing was effective – the arguments of two (senior ) professors in that philosophy common room listed all the problems ( and there are many) associated with blowing the whistle on wrongdoing. Whistleblowing was therefore, they concluded, ineffective. This is despite the extensive empirical research showing that blowing the whistle on wrongdoing is effective.

An even more telling example of the negative power of argument is seen in some of the ‘sects and schools’ that divide moral theorists, noted by JS Mill (below,1863, p.1 ) .The Beauchamp and Childress formulae, for instance (2001), a combination of Kant and Mill, although developed for biomedical ethics, provide an extremely wide ranging set of ethical guidelines. They are taught in the health sciences disciplines throughout much of the world. But they are disputed.

Bernard Gert’s formulation of a common morality (2004) has been treated in an even more cavalier fashion. It is perhaps an even more encompassing theory. But at a relatively recent symposium, it is attacked by every philosopher who had a say on Gert’s prescriptions. (AJPAE, 2005) The essence of their attack was a counter-argument, not an attempt to find a universal formulation.

1. **Deciding right from wrong,**

Making ethical decisions in complex situations have plagued moral philosophers for two millennia. A multitude of ethical theories have been developed in this period, many of them giving unclear, even conflicting answers to a moral question. The current state of affairs is best reflected in a statement by Richard Joyce, a Professor of Philosophy writing in a philosophy magazine (2011):

*The theories are plentiful, the convolutions byzantine, the in-fighting bitter, the spilt ink copious, and the progress astoundingly unimpressive”*

Perhaps as strong an opinion is given by Greg Pence (1993), writing in a Peter Singer edited book. He describes the conflict between Kantianism and Utilitarianism as internecine warfare (before going on to describe his own theory – virtue ethics - as the answer).

Even John Stuart Mill has weighed in this discussion. In the opening paragraph of his *Utilitarianism* he notes that little progress has been made on the controversy respecting the criterion of right and wrong:

*From the dawn of philosophy, the question… concerning the foundation of morality… has occupied the most gifted intellects, and divided them into …sects and schools, carrying on a vigorous warfare against one another*.

The AAPAE publication has moved the discussion along a little. This claim is based partially on the two chapters on moral theory, Stephen Cohen in *The World of Moral Reasoning* and Hugh Breakey in his *Moral Pluralist Theories,* and partially on the nature of ethical decision- making exhibited by the fourteen disciplines. Cohen’s contribution is the approach to moral reasoning that he sets out. He uses the concept of a Reflective Equilibrium, a term he acknowledges as borrowed from John Rawls, to describe a stage where you are reasonably sure that you have reached the morally optimum answer.

Breakey documents the various theorists that have combined the philosophical theories over the years in an attempt to come up with one overarching method of resolving an issue. The one that appeals strongly is Bernard Gert’s listing of ten harms (2004), also a combination of Kant and Mill, but as noted, this set of theories has been strongly disputed.

Perhaps the deepest insights of the book, however, come from the fourteen disciplines and the setting out of their ethical issues. For it becomes clear as the disciplines are examined, that no one ethical theory, or even the core ethical theories, has been drawn on by all disciplines. It is doubtful even whether the major ethical theories can identify and respond to all ethical concerns raised in the discipline chapters. Those ethical issues in the disciplines appear to be derived primarily from within the disciplines themselves - from examinations into ethical concerns within each discipline, and the viewpoints and discussions that have emerged.

A few examples will suffice to document these differences, many of which exhibited controversy over whether a particular practice was considered ethical or otherwise. Engineering, for instance, has experienced differences of opinion over reverse auctions (a successive bidding down in price), pharmacy disagrees with medicine over patient autonomy (the pharmacy chapter asserting that the pharmacist has the relevant expertise – it would be wrong to allow a patient to self-dose); business ethicists question the practice of front end loading (allotting overheads to those items in a contract which are early in the payment scheme); accounting raises the issue that insuring auditors against malfeasance will prevent repeats of the Andersen debacle. There were many others. Each raised the concern that knowledge of the technicalities of the profession and a detailed examination of the issue would be necessary before any conclusion could be reached on the ethicality of a proposed action. Knowledge of the ethical theories by themselves would be insufficient for reaching a decision.

It would appear that more effort is required on identifying effective approaches to resolving ethical dilemmas within disciplines where the decision also requires technical knowledge. The examples also raise the question of the demands that they have on teachers and consultants in ethics who have no professional expertise except moral philosophy and ethical theory, and wish to wish to provide a more universal coverage in their courses or training. This issue is discussed in the final section

1. **The importance of ethical leadership**

Another position that the AAPAE book supports is the need for ethical leadership in an organisation or group. The chapter outlining this position draws on a large range of support on the need for ethical leadership. It may be possible, and it is indeed likely that ethical practices can be imposed from outside the organisation. But the effectiveness of those practices will be considerably enhanced if they are supported by people at the executive levels of the organisation. The codes of ethics chapter, for instance, notes the need for those who lead an organisation or group to endorse the development of code of ethical practices.

Nevertheless, the conclusion that an organised body also draws its ethical strengths from other ethical practices and philosophies becomes apparent in a number of the chapters. The research that informs us that we prefer to work within an ethical environment is documented in the teaching ethics chapter. Such a preference may be derived from our belief that we are treated more fairly in an ethical environment. Also documented in that chapter is the extensive research that tells us that the human race is intrinsically cooperative, and perhaps even altruistic. These findings lead to the conclusion that in the long run, the employees of an organisation may be able to define the level of ethical behaviour within their organisation.

1. **The value of teaching the capability to implement these findings**

The authors of the chapter on teaching and training in ethics do not believe that people can be taught to be ethical - but they argue that “we can provide those who wish to work within an ethical environment with the knowledge and capabilities to bring about that environment” The authors, Peter Bowden and Vanya Smythe, build this statement on the research, noted above, that has found (i) the human race has evolved with at least cooperative instincts, and possibly ethical instincts; and (ii) that people desire to work in an ethical environment. These factors would enhance the willingness of individuals to work towards an ethical organisation.

They would do this by enhancing the capability of the graduating student or the employee, to know when the organisation was acting wrongly, and providing them with the confidence and the knowledge to do something about it. The teaching of applied ethics to philosophy students illustrates the need for such a capability. The authors reference Baggini and Fosl’s *The Ethics Toolkit* (2007), which despite its title, it is not a toolkit. It covers very little in the field of applied ethics as set out by AAPAE. The extent to which an individual lecturer covers concerns such as whistleblowing, codes, integrity institutions, etc., is a matter for him/her to decide. At the moment, lecturers need to develop independently their own philosophical toolkit, which will necessarily extend beyond the standard textbooks. Concomitant with these decisions is the extent that lecturers in moral philosophy wish to delve into ethical issues in the professions. Such delving is possible, for which there are many examples. Two moral philosophers, Stephen Cohen and Damian Grace, have written treatises on business ethics (2005) and accounting ethics (2007). Miller et al. have written on corruption (2004). Other philosophers have examined police ethics & bioethics. Each has reached deeply into the discipline. The issue at hand however, is how do we develop, or can we develop, an all- embracing ethical theory without a book that separately examines a wide range of ethical issues across several disciplines.

1. **Are these practices moral philosophy? And are they effective?**

I will conclude on these questions. It was stated at the beginning of this paper that it will be claimed that these above issues are not concerns of moral philosophy. To answer this concern, we have to ask what is moral philosophy, and why have we spent over two thousand years discussing it. I can only respond by saying that it must be to bring about a more ethical society. It cannot be to discuss ethical theories and issues ad infinitum. If moral philosophy is not to search for ways to build a more ethical society, why then do we spend any time on it??

And to build these approaches for developing a more ethical society, we need to explore what is happening across a wide section of human occupations and activities.

Thomas Aquinas refers to Aristotle as “The Philosopher”, as though there were no other. Aristotle is an outstanding philosopher, perhaps the greatest, but he could also be described as a political scientist, a veterinarian, an astronomer, a physicist – although not in the modern sense - and an ethicist. His observations and learning encompassed many disciplines. The claim today is that moral philosophy leads to action. An example from *The Ethics Toolkit* is that the book is intended “to provide readers with a deeper …sense of how different ideas … may be enlisted so that people may not only think *but act* with regard to moral matters.” (The emphasis is mine). There are many similar claims.

They are wrong. Baggini and Fosl discuss none of the issues raised in this paper. A search of the international journals on applied philosophy will reveal similar findings – codes of ethics, whistleblowing, integrity institutions, etc, are not considered moral philosophy.

The second part to the question – are the practices effective? - is answered in the chapters themselves. The research that supports each position is documented. The reader can make his or her own judgement. The practices are included in the AAPAE book because they are believed to be effective. Some are proven. Others wait for further evaluation and assessment.

In summary, two points need to be made. Making an assessment of many of the practices will at times take the reader a long way from moral philosophy. It will take him or her into questions of program design and evaluation – ex-ante and ex-post; issues of data gathering, statistical analysis, and correlations. For as we continue to make interventions that improve the human condition, to bring about a world that is more just, we continually need to assess those interventions. That assessment takes skills across a range of disciplines, widening considerably the knowledge and abilities required of a moral philosopher who is working, teaching and researching in applied ethics.

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