Nonconformist takes on business ethics

I.   Basics

Not surprisingly, there has been much mention in the literature on business ethics of morality, ethics, even of values and, increasingly fashionable, virtues. Yet these concepts are rarely, if ever, defined or elucidated. It is as if we were all agreed on what they mean. But we are not. Further below I advocate a radically different approach to the subject which largely dispenses with these concepts. It is an approach which, once spelt out, will likely resemble what you understood intuitively all along.

At a descriptive level, we might understand morality as an informal and ill-defined set of customs and rules, obedience to which is accepted in a given society as the right way to behave. But morality – or mores – may differ considerably from one society to another, with each morality changing over time and, most painfully, from one generation to the next. So there has to be reflection about morality, and this examination is the task of moral philosophy or, as it has been traditionally called, ethics. Recently, the word meta-ethics has come to be used instead in response to the widespread use – abuse – of the word ethics to refer to compliance to a code. A code is generally presented as a lawlike catalog of rules, rather than being understood as a checklist and as a learning guide for those whose moral character is underdeveloped.

Ethics is, therefore, totally different in kind to rulebooks and compliance, whether compliance with the law or with a code. An action may be thoroughly immoral yet completely legal. Conversely, an action may be illegal, and even subject to severe

punishment, yet morally imperative. If this were not the case, we could manage with the words legal and compliant alone, and entirely abolish the words morality and ethics.

These distinctions are very basic, and it pains me that they have to be spelt out for people who count as educated. As to the nature of the complex and dynamic relationship between law and morality, more is said further below.

II.   The vanity of principles

Much effort has gone into inventing and examining principles that would allow a judgement to be made as to the right way to behave in (almost) any given situation. Some say one should look to the consequences, others that one should look at the agent's motivation or the intrinsic nature of the act. Some say one should seek to promote dignity and respect, including respect for the freedom of others to behave badly. Others say that happiness is key, but object when this is reduced to pleasure, or else they devise a hierarchy of pleasures. Some say one should be true to oneself and live authentically, while others that one must live for others. There is a positive golden rule, that goes too far, and a negative golden rule, that does not far enough.

It has been demonstrated time and time again that none of these principles works except, at best, for a narrow band of cases. That is, each principle generates, when applied to a wide spectrum of ethical dilemmas, many results that are controversial at the least and sometimes intuitively wrong for all but the most stubborn of ideologues.

Therefore, a word of caution is in place. Beware of grand words, abstract nouns, and generalizations, and beware even more of people who use these without preparing their ground. Further below, I shall argue that ethics mostly involves making distinctions and paying attention to detail while being on guard against received ideas.

III. Moral motivation

What is crucially left out of account in much of the literature, or else answered inadequately, is the issue of why anyone should be moral, i.e. as opposed to prudently taking the perceptions and reactions of others into account. Leaving aside any religious considerations, there is no compelling answer in terms of logic and reason. In any individual case it will be a matter of old habits persisting. We are indeed creatures of habit. A overly truthful person will find it difficult to lie even when the situation requires them to. Someone of a peaceful disposition will hesitate to use violence even in self-defense. And so on. We do not easily jump over our own shadows, although, note, each of our shadows is different.

This is a result of our socialization. In terms of psychology, it will not be doubted that over the many years of childhood and extending into adolescence we acquire many layers of habits such that, eventually, they are embedded in our subconscious and in our instinctive reactions. Not all of these habits should be classified under morality, only those that affect our interactions with other people. As the word layers implies, some are more basic and deeply rooted that others. Stealing from kith & kin may be taboo whereas fiddling a figure on a form is fair game. A young child may

understand the first transgression, but not the second.

More is said on the subject of moral motivation further below.

IV.   **Values of no consequence**

The word *values* must count as the most useless and misleading concept in this whole sorry story. Quite apart from its misleading use in business to refer to purely monetary value, it seems to refer to a number of mostly unspecified qualities or principles whose relationship with each other is never clarified. Integrity, sustainability, respect, truthfulness would, it seems, count as values, as would some other abstract nouns. All of these are problematic; that is, it is not clear what they really mean or whether what they specify is always desirable — quite apart from the observation that organizations frequently fail to abide by these values however understood. If there were talk of priorities, this at least would make some sense. For instance, "We go for environmental sustainability and be it at the expense of truthfulness or of the well-being of our workforce." Indeed, a major reason for engaging with ethics is to face up to juggling and changing priorities. The earnest word *values* serves solely, it would seem, to produce the appearance of consensus.

V.   **What is the point of the word virtues?**

A slightly better concept is that of the virtues, and some so-called values would indeed seem to be virtues. They have a venerable history, going back to Aristotle and early Christian teaching, through the Middle Ages and up to the present day.

They are best understood as commendable qualities which are

relative. One is courageous or generous by comparison with the average in one's surroundings. It would not make sense to talk of everybody being courageous, although it might be expected that all firemen should be brave, i.e. physically more courageous than the average non-fireman. But it would be conceivable for everyone to possess at least one virtue, i.e. to possess a quality that they excel in. Note that it is doubtful whether it would be possible to possess all the virtues since it is not self-evident that they are all compatible. This said, if such a person should exist, they might be admirable, but they would likely not be someone we could relate to, or love.

For each virtue, there is a matching vice. Someone who is too "courageous" is foolhardy; someone who is too generous a spendthrift. And so on. Hence each virtue must be tempered by prudence. Yet prudence itself counts as a virtue, itself though, arguably, not always desirable; or perhaps it must be seen as the virtue that fine-tunes the others, rather than being a proper virtue in its own right. Hence the virtues are not all of a sameness. Some become manifest only on particular occasions, whereas others involve continuous exercise. One may never be called upon to be brave. But in living well one will always need some self-discipline, i.e. the virtue of temperance.

It has recently become fashionable to talk of virtue ethics, but much less fashionable to explain what this means. Apparently, though, it is desirable for us all to be virtuous. Presumably, this means we should pursue virtues as mindlessly as corporations swear allegiance to values.

Let us instead turn our attention to virtues as they may be relevant to particular lines of work. It may be expected of a fireman, it has been noted, that he should be physically courageous. The same does not apply to a white-collar worker, for example, a finance professional. There is no particular expectation of a fireman that he should be morally courageous (moral courage being a readiness to risk the contempt of others for doing what one believes to be right). It might, however, be expected of the finance professional that she be willing, if the occasion arises, to make herself unpopular by exposing financial misdemeanors.

A journalist might need to be persistent, insensitive and deceptive in order to get at the truth. A businessman might need to play his cards carefully – or play naive – in order to negotiate successfully. Hence respect, openness and honesty, authenticity even, are no virtues here. In order to be generous, mostly you (or your benefactor) must first have saved, or have overcharged. In order to protect your dearest and nearest you may need to be unjust in your dealings with strangers. Sometimes you must be cruel to be kind (tough love).

Hence the "goodness" of the virtues is relative to the role. Virtues are not good in themselves, irrespective of context. Those who are physically "courageous" where there is no call for courage are called foolhardy; those who are morally "courageous" when moral courage is out of place are simply insensitive. Aristotle claimed that the virtues must be exercised in order to be maintained: one becomes courageous by making a habit of performing courageous acts. But we know now that this is not exactly true: eventually, the

bomb disposal hero can take no more.

So no, not only should we not aim to be virtuous all round: we cannot. In a particular line of work, in a specific role, which we will likely find ourselves in because of our disposition, there may be qualities in which we may be expected to excel (i.e. relative to those in very different occupations), and these qualities may be called virtues, the virtues requisite and proper to the task in hand. They may well exclude other virtues. (For example, is it psychologically possible to be a good salesman simultaneously with being, successfully, in charge of the purchasing department?)

A more rewarding focus may be vice. Pursuit of material self-interest is not a vice, but greed is. Famously, the "invisible hand" turns the former to the benefit of all. An error of recent years was to suppose the invisible hand would be strong enough to turn greed to good too. (This was partly the error of scaling up. The fact that a little of something works some of the time does not mean that a lot of it will work better or will work all the time. The dynamics mutate as the proportions shift until there is a step change.)

In the final analysis, though, the generic terms virtue and vice confound more than they clarify. The virtues set out in Antiquity are not the same as those of Christianity, and meanwhile others have been added haphazardly. Those who like to praise virtues and virtuousness do not normally take the trouble to spell out exactly a number of virtues they have in mind; at best, they come up with one or two. If some general term is needed, then let us speak of

character and of strengths and weaknesses of character. This is less pretentious. Mostly, it is enough to speak of specific qualities such as courage or generosity, or of moral courage and generosity of spirit. And so on. They rarely need an umbrella term.

VI. Character and responsibility

Constancy counts as a virtue, though one might be beware of the pursuit of consistency for its own sake. The point about character is that it varies from one person to another, while it is said, broadly, to remain constant (to persist) in a given individual. It is not simply that life would be less colorful without character and characters; it is that character involves possessing certain strengths at the expense of others and, one dare say, indulgences too. More importantly, others need to be able to predict roughly how a person will behave. If Bert started acting like Arthur, or Arthur like Bert, we should be disconcerted and have difficulty relating to either.

The essence of human society is that it is made up of different people interacting with each other in response to their mutually different talents, life stories and stage in life. Not only are diverse skills necessary, but a variety of virtues too. No-one is expected to master every skill or each virtue. That is:

Everyone is responsible for something, but no-one is responsible for everything.

It is here that it becomes possible to provide a motivational rationale for behaving morally that goes beyond the appeal to habit or prudential conformity. Once one has constructed a sense of self, this is tied up with the responsibilities one has assumed. Or else,

one's sense of self expands to encompass parts of one's social setting. Either way, one has identified with the responsibilities adopted, and this would be a reason for following through on them.

There is an informal separation of spheres such that each person may make themselves useful in a different way while not, normally, treading on the patch being attended to by another. This does not mean there cannot be fluidity as circumstances change.

Depending on the nature and extent of the responsibilities one has taken on, one has moreover a right and perhaps a duty to hold others to account. How that right or duty is discharged, with what sensitivity and circumspection, is another matter.

It may also be that there are essential matters that no-one is attending to. For example: When in a country the politics goes to pot, this may not be the responsibility of most people, who are busy caring for home and family, but of those who, though talented and educated, fail to engage because the football is more fun. Bad things happen when good men look away. People will always be found to engage in politics, just not those one would choose to elect if there were a choice about it. Creating such choice – attending to the proper structures – is the task of democratic politics.

A feature of modernity is not only multitudinous division of labor in the economic sphere, but also strict separation of duties in the body politic. The police must not usurp the authority of the courts. A parliament must pass legislation, but does not enforce it, this also being the prerogative of the courts. An executive (a government) must act within the law. And so on.

There is an equivalent separation of duties in the sphere of

business. Within a corporation, it might be argued, every professional must be responsible for something, but no professional for everything. Note that, although the separation of duties may be strict, in times of breakdown (civil disorder, gross malgovernance) it may be right to take on responsibilities outside one's proper sphere (just as one might take in the children of neglectful neighbors, or, in times of war & pestilence, care for their orphans).

This would be a rationale for profit-oriented corporations to assume social tasks that are unrelated to their core business. Such public-spirited intervention would be justified only as long as neither government nor civil society were equipped to perform their proper tasks. However, government may be unable to perform because corporations are avoiding taxes; civil society may be unable to step in because discretionary income is too low, or professionals too busy with corporate work (for example, organizing tax avoidance).

The political duty of the corporation would be to work for the restoration of the institutions and the separations of powers that provide the essential checks & balances for a flourishing society. This would be veritable corporate citizenship.

An inference from this analysis would be that the efforts of the EU and many governments to encourage or, indeed, impose corporate social responsibility involves an abdication of power, a dereliction of duty, a betrayal of democratic principles, and a retreat from the modernist principle of the separation of responsibilities. Whereas, if only in theory, governments are democratically answerable to their electorates, this is no longer the case when corporations assume extraneous tasks. Corporations are

democratically answerable only to their shareholders (and this only in theory; in practice they are autocratic). It might be argued that corporations are subject to the court of public opinion, but it is exceedingly rare that public opinion (in the form of boycotts or exercise of consumer choice) has substantial power, nor can public opinion be relied upon to be properly informed, least of all when public relations firms are paid to meddle.

Responsibilities cannot long be assumed in a vacuum, nor duties upheld without some kind of coercive authority. For most people, neither the force of habit ingrained in early years nor allegiance to principles will be strong enough on their own to withstand the temptation to shirk responsibilities or to interpret their responsibilities in a self-serving manner.

What are needed are structures to reinforce professional responsibilities. To this end we need a conception of what a profession is that extends beyond a sphere of expertise. Traditional professions had an overarching concern that was separate to their conducting a business or performing an individual service, however honorable. For example, the ultimate concern of a medical doctor, as a doctor, is health (and not her patients or the health insurance scheme); the ultimate concerns of a lawyer would be justice and due process (and not merely advocating the case of a client); a teacher will seek to educate, rather than train pupils just to pass exams. A translator or interpreter will enable communication between speakers of different languages (rather than the impression of communication). An architect will, ideally, seek to create a built environment for people to be happy to live and work in, ideally for

generations to come. An accountant will attend to a fair and true view of the commercial affairs of a business. And so on.

Traditional as well as some emergent professions are organized in associations which have a code of conduct and the power to discipline or exclude aberrant members. A key prerogative in the past has been for professions to police themselves.

It is not with codes and compliance, nor with corporate social responsibility, certainly not with values, but here that business ethics can get real.

When things go wrong in business, recourse to the law is largely useless unless the monetary stakes are very high. The weak will not dare go to court because, even if they win their case, they will likely be ostracized. The legal process is lengthy and costly, and its outcome uncertain, not least because, despite or maybe due to their formal qualifications, many judges are myopic, or else the law outdated.

The whole rationale – justification – for business ethics may be summed up, moreover, in the insight that, regularly and extensively, market mechanisms fail. Theoretically they are self-correcting, but the correction takes too long, with meanwhile untold harm being done to employees, suppliers, consumers and others. Management moves on, untarnished.

Bureaucrats and their allies in politics imagine there is a mechanical fix to the mechanisms that fail; a market cure for the market malaise. Only a few more rules and norms and codes and

penalties for non-compliance, — and the malfunctioning will surely cease. They may even call for ethics, but they mean compliance, which is much the opposite. The psychological defect driving their obsession is the belief in control, rather than faith in professionals to monitor each other and apply professional judgement.

VII. **Making management a profession**
Whereas some professions involve (rightly) formal training, induction and qualification by examination, others (rightly) do not. Our free society allows people to become entrepreneurs or go into management without a formal approval process. It is success that counts. However, once such managerial responsibilities have been assumed, it should be requisite that practitioners join – and be admitted into – a professional body. There would be several, even many, such professional bodies for different kinds of managers and also for those working in areas of emergent expertise comparable with traditional professions.

Such bodies would have ethics committees to examine cases not only of isolated instances of professional misconduct but of patterns of misconduct.

Allow just one contemporary example (one could fill a book with the most diverse horror-stories.) A fourteen-year-old foolishly downloads bursts of tune. The mobile phone company invoices a ruinous amount, and refuses to revoke its invoice. The family has neither the financial means, nor the intellectual capability, nor the time & energy (parents ruining their health with work) to pursue the matter through the courts, which would probably prove useless

anyway. The daughter is told that she will have to forgo her Christmas presents.

Someone – or more likely a group of people – in the phone company is responsible for this boost to company revenue; was possibly rewarded for this policy with promotion or a bonus. Likely the action of the company was illegal. But how can it be challenged? And punished so that it hurts not the shareholders, who are innocent, but the perpetrators? And punished severely enough to serve as a warning to others?

In a properly constituted corporation there needs to be an identifiable senior employee (a "professional") who takes responsibility for any given policy and its implementation. Such a person must, it is advocated here, be a member of an appropriate professional body. Such a body would have, on its disciplinary committee, representatives from other professions. This is to counter the tendency of members of a profession to be prejudiced either in favor of or against colleagues. It is in any case a well-established principle of corporate governance that a board include people from a variety of backgrounds in order to avoid group-think.

A record needs to be kept on professionals, who could eventually emerge as a formally distinct social class. Anyone who did not wish to be tracked would be free to work at a more junior level and receive less remuneration.

Any professional can – indeed will – make errors of judgement. Often it will be possible to correct for these, for example, cancel invoices, pay compensation, forgo the promotion or the bonus. However, if the errors of judgement persist, probably

with basic moral tenets being ignored, it must be possible, under due process, for a diverse, well-educated and independent jury to rule that the professional concerned be excluded from practice for however long seems fitting. Due process would include the right of appeal. The appeal process could well constitute a learning experience.

VIII. **Free-riders**

A decisive test for any conception of business ethics is whether it can deal with the free-riders, i.e. the opportunistic characters who make a pretense of playing to the rules but in fact circumvent them for their own advantage.

Many advocates of business ethics would seem to rely on an appeal to the sense of common purpose. Free-riders think that a sense of common purpose is excellent in other people, it is just that they do not see why they should apply it to themselves. And indeed, why should they?

Free-riders are enthusiastic advocates of discourse ethics. This form of debate enables them to spin out any discussion indefinitely. Eventually the adversary will be exhausted. There is indeed no end to how evasive one can be, nor is there any formulation that cannot be misinterpreted.

Free-riders thrive on anonymity and forgetfulness, which are abundant in the world of work. If no-one knows anyone for long, and if no record is kept of individual past behavior, good or bad, why should someone care? All the more so if there are legal restrictions on the reporting of incompetence.

The response advocated here is, as described above, to maintain a watchful eye on all who assume a professional function.

For those observing, this does, it is true, involve, after due consideration of the details of the case, a willingness to pass judgement. While it is true that some people are too ready to pass judgement, others are too hesitant. One purpose of a study of ethics is help in this judgement call.

Judgement indeed is the raw heart of ethics. Not only judgement in the sense of censure or praise, but in the discrimination needed to weigh up the rights & wrongs of a matter. Judgement is also needed in recognizing which way of thinking is appropriate in a given case. In ethics there is no "one size fits all". Indeed, part of ethics involves combatting ideologies (simplistic received ideas) of what morality is; which is what this essay has done.

Ethics might be described as the area where the rules break down: either they are so many that they form, overlapping, a labyrinth, or they are so vague that interpretation is needed ad infinitum. Judgement is then the fine sense of discrimination that can weigh the differences between similar cases while seeing the connection with cases that seem dissimilar. But it will also extend beyond the sometimes myopic (legalistic) focus on isolated cases, and look to the bigger picture, namely to character and context and the ultimate good of a society that enables many kinds of people to live flourishing lives.