

## Rotten Apples or a Rotting Barrel

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Crises of corporate and professional responsibility have been endemic to American society, at least since the last quarter of the nineteenth century. With each chapter of professional misconduct -- from the robber barons and the Teapot Dome scandals, from the progressive era through the Watergate, Iran Contra, and financial mismanagements of the last quarter of the twentieth century -- the response has been the same: calls for education in ethical citizenship, and specifically training in ethics as part of professional education. The cycle has been so often repeated that one can be surprised only by the paucity of models for providing that education.

The standard model, offered in law and medical schools with minor variations elsewhere, teaches ethics as problems in individual decision-making. Training focuses on rules of professional conduct, and may be supplemented by pleas for social responsibility. It has not proved to be a successful regimen, if the repeated cycles of corporate and professional misconduct are any gauge.

Unfortunately, the diagnosis and cure share a basic misconception: that professional and corporate misconduct are problems caused by some few weak, uninformed, or misguided individuals making poor choices.

It has been more than 60 years since Edwin Sutherland published his now canonical work on white-collar crime in which he observed that American corporations constituted the most numerous categories of criminal recidivists. This counter-intuitive observation flowed from Sutherland's earlier work outlining a theory of criminal behavior as normal behavior in situations publicly defined as undesirable, illegal, or unethical. Sutherland described criminal behavior as normal learned behavior in situations and interactions where there is an excess of circulating definitions favorable to violation of norms or law over definitions unfavorable to the violation of law. He called this the principle of differential association.

Although Sutherland's work focused on criminal behavior, the insights merit our attention when considering ethical and unethical behavior. The principal lesson Sutherland offers is that all behavior, deviant as well as normative, is learned in interaction with others, most often within intimate personal groups. That learning includes the motivations, drives and rationalizations for the action as well as the techniques of committing the act or crime, which can be complex, especially in white collar crime, financial or scientific fraud. Note that we use the word fraud with regard to financial and scientific norm violation rather than crime, which we attach to other forms of norm violation. Those differences in naming as well as punishment, Sutherland and most other sociologists argue, are a consequence of the differential power of the various populations who commit the different kinds of crime.

Although our topic is ethics, and ethics education, I think we can take away several vital insights from Sutherland's work. First, there is attention to the *content* of what is learned, which includes both motives and techniques. Second, there is the *process* of learning. Although Sutherland, following George Herbert Mead focused, on interpersonal and symbolic interaction, I might put as much emphasis in 21<sup>st</sup> century learning on mediated communication as on intimate personal transactions. Third, and most important from my perspective is that Sutherland's work emphasized the importance of *context and social organization* rather than exclusive focus on individual choice making activity. In other words, while we might want to acknowledge human agency and decision-making at the heart of ethical action, we blind ourselves to the structure of those choices – incentives and content – if we focus too closely on the individual and ignore the larger culturally structured opportunities and motives that channel that choice-making activity we call ethics.

Perhaps the simplest way to think about this is to consider the conventional, American narrative of ethical lapses. For example, the stories of Enron, drug trials for Actonel, or the Schon affair at Bell Labs, are usually narrated as the story of a few rotten apples giving the barrel a bad name. In other words, we need not worry about increasing evidence of financial misconduct, student cheating, or scientific fraud because the grand narrative of well-functioning institutions (the market, peer review, meritocratic higher education) remains in place.

Each of the cases of misconduct is reported, and interpreted, as an anecdote. As individual stories, anecdotes claim particularity, not typicality, and as such anecdotes obscure the links connecting one case to another (Bandes 1999). The social organization that arranges the individual cases into a structure of action we might call market or professional failure is suppressed thus overwhelmed, by the exclusive focus on individual motive, action, and fault.

Rather than thinking about ethics as a series of anecdotal instances of problematic choice-making, we might think about ethics as participation in a moral culture, and then ask how that culture supports or challenges ethical behavior. Or, in Sutherlands' terms, how that culture is learned, and what are its lessons or messages. Although studying culture is the adopted subject of many disciplines, sociology specifically attempts to trace the links between the particular and the general to identify the mechanisms for aggregating individual actions or person into collectivities, collective action and culture.

From this perspective, we might think of the task of ethics education as socio-cultural analysis. That is, ethics education needs to identify the overarching logic of a situation and then analyze what happens there, in that situation. In some of my work, we refer to these kinds of accounts, which I am suggesting ought to be the subject of ethics education, as subversive stories, narratives that reveal how social structures link general and the particular, again how the overarching logic of the situation frames and instigates what happens there.

Thus, to return to the conventional narrative of ethical lapses or criminal behavior, we could imagine moving from a narrative of a few bad apples, to one about many bad apples, or one about all bad apples. But, as long as we are describing the apples we have preserved a system, a set of practices, ideals, and constraints that support misconduct. We have helped to tell what we have elsewhere called a hegemonic tale, a story that effaces the social organization of action, and power (Ewick and Silbey 1995). Importantly, we have not explained how the

organization of apples in the barrel is part of the way one bad apple infects the other apples: what is the mechanism of infection and spread. That is the missing structural element that conventional accounts of ethics as bad apples usually miss, and an alternative approach to ethics and responsibility might offer.

A caveat lest I be misunderstood. There are of course, transcendent forms of misconduct that are not specifically generated – in content nor motive – by situational or historical factors. We can certainly provide abundant examples of corrupt politicians, thieves, murderers, and assorted others from Ancient Rome to the present. We can also identify common examples of scientific fraud and professional misconduct in ancient, medieval, and modern societies. But, we are unlikely to identify anything comparable to the mechanisms and networks of scientific fraud and financial misconduct that exist in our contemporary societies because those are creations of the particular organization of the economy and politics, of the incentive and surveillance systems as well as the popular culture of our moment in history.

Without tightly weaving all the threads in this argument, I would like to suggest three aspects of American culture and social structure from which unethical action becomes normally learned behavior.

(1) *Methodological, political and economic individualism* offer no criteria for ethical action. The rabid individualism that underwrites American culture provides a firm foundation for legitimating extraordinary selfishness, and the pursuit of self-interested gain, limited only by constraints that cannot be avoided. In liberal political and economic theory, the ideas, attitudes, actions and desires of individuals, when taken together, determine the form and texture of social life. Accordingly, "political society is ... an association of self determining individuals who concert their will and collect their power in the state for mutually self-interested ends," (Wolff, 1965, 5) and the market, specifically, provides the most efficient mechanism for managing the struggles among competing interests and desires. Although human consciousness consists of both reason and desires, desire is "the moving, active, or primary part of the self... What distinguishes men from one another is not that they understand the world differently, but that they desire different things even when they share the same understanding"(Unger 1975, 39). Thus, liberal political and economic theories offer primarily procedural recipes for ethical action and minimal, if any, guidance for substantive decision-making. Max Weber famously described the distinction between substantive and procedural rationality, noting that moral ends were often at odds with formally rational procedures. However, the preference for the formally rational wing of this opposition is embedded and valorized in much American popular discourse and scholarship in what is invoked as the model of the rational actor.

(2) *Pluralism and moral heterogeneity* obscure interdependence as grounds of ethical action. Historically, religious and community solidarity limited self-interested action. Indeed, in the *Theory of the Moral Sentiments*, published prior to the *Wealth of Nations*, Adam Smith suggested that the desire for the good opinion of one's neighbors necessarily and legitimately limits the destructive pursuit of self-interest. As social groups increase in heterogeneity, however, moral consensus declines and solidarity becomes a product of functional interdependence rather than demographic, occupational, and moral homogeneity. Thus, laws and moral rules become less a tool for securing outward conformity, as they had been for instance in Puritan New England, and more a matter of ensuring fidelity to differentiated role performances, that is regulated by occupational demands. With limited support for substantive norms, increased heterogeneity,

alongside the celebration of individual agency as the highest moral and political value, it is very difficult to recognize interdependence as an alternative ground of ethical action.

Durkheim famously observed that in societies with a complex division of labor administrative, commercial and procedural law would predominate, serving to reconstitute ruptured interdependencies and helping to sustain the organic solidarity characteristic of industrialized societies. Nowhere did he suggest, however, that relational interdependence or the compensatory and reparative functions of law would be intended by or manifest to broad segments of the society's actors. Indeed, he was adamantly opposed to the notion that the basic mechanisms of social solidarity and coordination would be components of popular consciousness. Although Durkheim remained committed to the notion of social life as a "system of representations and mental states," his analyses depended on a sharp distinction between the mental life of the individual and collective representations "subject to their own laws which individual psychology could not foresee" (1982, 253). He insisted that "not a single word of mine must be understood" to suggest "that social facts can be understood immediately by states of individual consciousness" (1982, 253).

For Durkheim, the essentially meaningful character of social interaction is systematically obscured, uncovered only through meticulous causal analysis of social facts, that is, through sociology and what fifty years later C. Wright Mills (1959) would call 'the sociological imagination'. According to Mills (1959, 5), "the sociological imagination enables its possessor to understand the larger historical scene in terms of its meaning for the inner life and the external career of a variety of individuals. It enables him [sic] to take into account how individuals, in the welter of their daily experience, often become falsely conscious of their social positions." Because social actors normally focus closely, Mills, following Durkheim, suggested that individuals attend to their explicit troubles, indifferent to the invisible threads that connect their individual biography to historical trajectories. Thus, although both Durkheim and Mills insisted on the necessity of mapping the relational interdependence that constituted the social whole, neither expected this perspective, and thus this capacity, to persist widely beyond the bounds of professional sociology. Thus, contemporary American society offers limited cultural resources for limiting the pursuit of self-interest.

(3) *Link between cause and effect is lost* in popular culture, and institutionalized in contemporary curricula. The link between action and consequence is elided as a cumulative consequence of methodological individualism and social pluralism. Because there is no visible community of shared norms, we have lost the means to negatively sanction unethical or bad behavior. In traditional societies, where geographic or status mobility was minimal, reputation was everything and exclusion or ostracism denied status and membership, serving as a common form of social control and punishment. As status and geographic mobility became more common, degradation and punishment was achieved by confinement in a space designated outside of normal society – the prison, with concomitant loss of status and privileges of membership (e.g. voting). Today celebrity – being known – has become the central criteria of membership and achievement in a fluid pluralistic society. As a consequence, there are few reputational effects (consequences) for what might be considered and identified as bad behavior. For example, convicted criminals easily become celebrated and respected figures, able to re-enter conventional society without loss of status, e.g. Michael Milken. Or consider how the organization of financial markets encourages unethical behavior. Because financialization separates capital accumulation from trade and commodity production,

corporate success is measured in terms of stock prices rather through quality of product and profit. The incentives for good work, good products, becomes elusive and hard to internalize if wealth can be maximized without attending to the consequences in terms of substantive goods and services.

Moreover, in each of the central exchange arenas - media, markets, and web - the units of communication and exchange are discrete, disjointed and apparently unconnected so that, as Marshall McLuhan wrote so many decades ago, the medium is the message. The public is offered bits and pieces of information, stories of unexpected wealth and fame, with minimal, if any, depiction of the backstage preparation and production of these supposedly personal achievements, with no account of the organizational and institutional infrastructure that produces and channels the fame and fortune. The interdependencies become invisible and thus the basis for normative behavior elusive.

Although professional scientists and engineers are specifically educated in the constitution and cause-effect relations of physical matter, their education rarely includes similar analyses of social relations, no less the organization of professional work. Rather, the accounts of invention and discovery disseminated in most science classes, and some engineering classes, are most often of great men [sic], working long, hard hours, to part the curtains of ignorance to reveal another law of Mother Nature. Engineering classes pay more attention to organizations, teams, and collaborative work because, after all, most engineering work is done in teams within industrial organizations. Nonetheless, they lack models with which to analyze and interpret the processes and consequences of teamwork.

Because the standard science and engineering curricula lack a solid grounding in organizational and institutional analysis, they reproduce the methodological individualism characteristic of American culture, media, and politics generally. Rather than provide students with the tools for critical inquiry, the curriculum, inadvertently perhaps, becomes a vehicle reinforcing popular ideologies. History, arts, corporate behavior, public affairs are understood as merely a series of individual actions, the product of human decision, utility, invention, malfeasance, avarice, or creativity. The culture writ large is understood, implicitly if at all, as an aggregation of individual actions, as I said at the outset. The mechanisms and processes of aggregation that provide intervening conditions that influence, channel, and organize human action are the subject of only a few elective, easily overlooked courses. It is common for a science or engineering student to complete a degree without any notice, no less concerted attention, to the processes and structures organizing human action.

To the degree that this neglect of institutional analyses is a result of the way degree requirements are specified, as well as the way course offerings are organized, named, and announced, we fail to provide students who will soon be professionals with the tools necessary to recognize the social structures through which individual action is channeled, skills they need to make their way in the world. Should students leave college and professional training believing that their individual will and personal resources are the major opportunities and constraints determining success and failure, they will find themselves frustrated when they butt up against those invisible, yet very powerful social structures. Here is one crevice in which unethical behavior germinates. Should they, however, have an understanding of the constraints and resources of organizational structures and institutionalized cultures as well as individual attributes, they will be more effective, perhaps more ethical, social actors.

*Conclusion.* Thus, in contrast to the traditional conception, I suggest that professional and corporate misconduct derives, at least in part, from features of the organizations and social settings in which they take place. Those situations and settings provide both the opportunities and incentives for misconduct. The barrels have particular shapes and not all barrels produce the same kind or amount of rot - to keep the metaphor going too long perhaps.

A much more successful, empirically derived approach to teaching ethics and corporate, social and professional responsibility would derive from analyses of those settings, the opportunities, incentives, and constraints they provide for norm conforming or violating behavior. In short, there is a “supply and demand” side of norm violation. These are identifiable through organizational and institutional analyses, which have demonstrated, if nothing else, that the styles of misconduct vary by social fields (occupations, communities, class, age, historical moment). Thus, one cannot provide a one-size fits all ethical program and hope to address the inescapable local variation that masks ethical misconduct as normal practice and generates the repeated outbursts of scandal and calls for public remedy.

In sum, most programs in professional ethics and responsibility derive from a simple paradigm that locates the source and the solution within the individual. While individuals are the immediate actors, making wise or poor decisions, they do so within highly structured, constraining and sometimes enabling environments. Innovative programs in organizational and professional ethics might begin from the collective, organizational conditions that generate and/or suppress normative misconduct.