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Impossible and Inevitable:

Reconstructing the Critical Discourse of Business Ethics

Kim Meijer

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Reconstructing the Critique of Business Ethics

Kim Meijer

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PREFACE

This PhD represents the end of a long road to academia. From 2003 onward, I stacked degrees and switched from Hospitality Management to philosophy. This switch may appear strange at first, but it makes perfect sense to me. For as long as I can remember, I have been intrigued by how humans relate to each other, and where better to observe these human relations than in the hospitality industry? However, I did not just want to observe human relations; I wanted to understand why we are hospitable to each other in the first place. Therefore, I decided to dedicate my bachelor's thesis to this question about hospitality. At that time, my higher education institute started a research group on ethics and hospitality. I was given the opportunity to work on my bachelor's thesis as part of this group, and it was during this period that things really started clicking in my mind. I thought I was intrigued by hospitality, but it had been ethics all along.

It was clear that my educational road did not end when I obtained my bachelor's degree; it had only just started. I pursued a master's degree in applied ethics at Utrecht University. Switching from hospitality management to a philosophical master's was far from easy. I had to change the way I study, read, and think. My interest in business ethics increased during this time. I did an internship at the Business Ethics and Integrity Management Institute at Nyenrode Business University and dedicated my thesis to a business ethics issue. My supervisors at Nyenrode gave me the chance to become a corporate ethics trainer. I seized this opportunity and have been providing training ever since. As a trainer, I have witnessed how various business practitioners (e.g., bankers, fiscal advisors) struggle with ethics. They require a method to deal with ethical dilemmas, but often, this method does nothing to remedy their struggle. I wanted to understand what was going on here. What aspect of ethics cannot be captured in a method or remedied by applying it? These questions lingered and later became part of the reason I embarked on this PhD project.

My plans for undertaking a PhD took a definitive shape at Saxion University of Applied Sciences. When I finished my master's, I began working as a junior researcher for the research group on ethics at Saxion's Hospitality Business School. Here, I realized had not yet finished studying ethics. I taught courses on business ethics and provided corporate ethics training, but I kept thinking about the above questions. What aspects of ethics are *not* discussed in these courses and training? Ruud Welten, the chair of the research group at that time, encouraged me to pursue these questions by doing a PhD, and he offered to supervise the project with Wim Dubbink. I applied for a bursary at the Dutch Research Council (NWO), which I obtained in 2016.

It is now 2023. I have been working on this study for six and a half years. Two maternity leave periods and one period of teaching business ethics at Tilburg University should be deducted from this number. Thus, it is more accurate to say I have spent a little over five years on my PhD. Throughout this time, I have been encouraged and supported by my supervisors, Wim and Ruud. Thank you both for the pivotal role you played in making this PhD possible, for giving me space to do a PhD and have a family, and for taking time to discuss my research (tirelessly) amid many other tasks and functions. Thank you also for the opportunity to improve my teaching skills as a

business ethics lecturer at Tilburg University. I should also like to thank my colleagues in the Department of Philosophy who supported me whenever needed and who always received me hospitably. I also want to thank my other colleagues in academia who I met during conferences and meetings and who provided valuable feedback on many chapters in this study. Thank you also to those bioethicists who provided useful insights and literature suggestions for Chapter 3.

I am grateful to my colleagues at Saxion for making this PhD possible and for offering all the motivation I could hope for. I begin by thanking Mirjam Koster, who enabled me to apply for an NWO bursary in the first place. I should also like to extend my gratitude to Harold Neijenhuis, my team manager. I experienced many ups and downs during this PhD, and Harold gave me the time and space I needed to keep going on. I also want to thank all my hotel management colleagues; I missed you during my time as a PhD researcher – which I often spent in full seclusion – and am looking forward to 'rejoining' the team. The walks and talks I had, for instance, with Shira, Bastienne, and Ruth, meant a great deal to me these past years.

To my trainer colleagues at Nyenrode – Sacha, Edgar, and Ronald – thank you for the opportunity to step back from my books and into the concrete application of business ethics from time to time. You offered me a perspective on what it is like to 'apply ethics' in all types of businesses. Thank you for training me to be an ethics trainer and for the opportunity to engage with various groups of business practitioners, which is always challenging but something I am passionate about.

I began this project with the firm conviction that a PhD must never come at the cost of my private life. My stubbornness has mostly paid off. If not for the time spent with my friends, the task of finishing this PhD would have been much more difficult. There were many periods when I struggled with this research. Thank you to my dear friends – Geerke, Kiki, Esseline, Britt, and Esther – for helping me get through these times, for listening to me, for laughing with me, for babysitting, and for keeping me on the right track.

I also want to thank my family. When I obtained this PhD bursary, my father congratulated me and said, "*Noblesse oblige*." This remark has stayed with me ever since. I was fortunate enough to obtain a bursary and needed to take responsibility to complete my PhD. I also recall many talks with my mother, who kept reassuring me I would finish my research. Thank you to both my parents for their words, for being there for me, and for keeping faith while I stacked degrees and pushed forward. Thank you also to my sisters, Nanneke and Maartje, for supporting me. Thank you too to Frank, my brother, for reminding me to look in the mirror from time to time. You are my one true example of what courage and perseverance mean. I am also grateful to my in-laws; you supported me throughout and babysat countless times so I could work on my PhD.

It is perhaps needless to say that my life has completely changed over the past six years. I am lucky enough to have two beautiful daughters: Stella (6) and Alba (4). I sometimes joke this PhD project is older than Stella. I dedicate this PhD to my daughters. You might not realize it at this stage, but you taught me what really matters in life

(namely, the two of you) and I am ever grateful for this lesson. Finally, I want to thank Melvin, who is my husband and best friend. What you mean to me – and have meant to me throughout this PhD project – cannot be said and would entail a betrayal if it were said, but I will nonetheless try to say something about it. Thank you for bearing with me, for remaining calm, for reminding me why I started this project in the first place, and for believing in me when I did not.

INTRODUCTION

1. The paradox of business ethics

Business ethics is haunted by a curious paradox. It emerged on the academic scene in the 1970s and rapidly established itself as a separate field of study. Modern business ethics encompasses an academic discipline and management practice that together produce a specific discourse with accompanying theories and programs. The field is – or may seem – very successful in terms of utilization. Ethics programs are incorporated into many businesses. Most universities and business schools offer business ethics courses and have created positions for scholars in the field. Various journals, conferences, and societies led to a "surge of scholarship on business ethics issues."[1] Nevertheless, business ethics has a troubled history; few other fields have met similarly fierce and fundamental external and internal criticism. Business ethics has been criticized as "narrow"[2] and "restricted."[3] It has been accused of being "narcissistic"[4] and "oxymoronic."[5] The legitimacy of the subject's existence is questioned regularly.[6] Furthermore, its proliferation has not been able to avoid business scandals. Enron, Volkswagen, and other businesses hit by scandal all had an ethics program in place. Paradoxically, then, business ethics is alleged to have lost touch with ethics in applying it to the business context.[7]

Why has business ethics attracted such criticism? Has something gone amiss with business ethics in particular, or have other fields of applied ethics faced similar criticisms? These questions guide the analysis of this study. My aim is to understand and assess the various academic arguments criticizing business ethics. This criticism is expressed too often and too fiercely to be ignored, culminating in what I call the 'critical discourse of business ethics.' This discourse involves the critical academic literature directed at business ethics, articulated by scholars from outside and within the field. A central premise of this study is that we can develop a better understanding of the 'phenomenon' of business ethics through a systematic analysis of the critical discourse that surrounds it. By this phenomenon, I mean the field's attempt to apply ethics to the business context. As demonstrated in Chapter 2, the majority of the arguments raised in the critical discourse concern this attempt. By reconstructing these arguments and

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1 Patricia H. Werhane, R. Edward Freeman, and Sergiy Dmytriyev, *Cambridge Handbook of Research Approaches to Business Ethics and Corporate Responsibility* (New York: Cambridge University Press, 2017), 1. https://doi.org/10.1017/9781316584385.

2 Johan Verstraeten, *Business Ethics: Broadening the Perspectives* (Leuven: Peeters, 2000).

3 Campbell Jones, Martin Parker, and René ten Bos, *For Business Ethics* (London: Routledge, 2005), 4, https://doi.org/10.4324/9780203458457.

4 John Roberts, "Corporate Governance and the Ethics of Narcissus," *Business Ethics Quarterly* 11, no. 1 (2001): 109, https://doi.org/10.2307/3857872.

5 Ronald Duska, "Business Ethics: Oxymoron or Good Business?," *Business Ethics Quarterly* 10, no. 1 (2000), https://doi.org/10.2307/3857699.

6 Henk van Luijk, "Business Ethics: Cases, Codes and Institutions," ed. Wim Dubbink, Luc van Liedekerke, and Henk van Luijk, *European Business Ethics Cases in Context: The Morality of Corporate Decision Making* (Dordrecht: Springer Netherlands, 2011), https://doi.org/10.1007/978-90-481-9334-9_1. 4.

7 Roberts, "Ethics of Narcissus," 109.

assessing them philosophically in terms of accuracy and validity, relevant insights can be gained regarding problems that may – or may not – be specific to business ethics.

‘Business ethics’ can mean many things. Therefore, it is necessary to clarify the understanding that many critics accord to this field.[8] For them, business ethics refers to an academic discipline in which scholarly debate about business ethics issues occurs, for example, in universities, business schools, journals, books, conferences, and societies. However, business ethics also refers to a management practice in which businesses engage with the “ethical aspects of the practices of business,”[9] and in which ethicists are consulted or hired by businesses to develop business ethics applications, such as ethics codes, ethics audits, and training schemes. Business ethics is, thus, broadly understood as a field comprising an academic discipline *and* a management practice. Chapter 1 further engages with these distinct but interrelated ‘parts’ of business ethics.

Different approaches to business ethics have been developed over the years (i.e., how business ethics is practiced and studied). These approaches are rooted in specific economic, cultural, and religious histories (e.g., African, Asian, or European approaches to business ethics).[10] Despite this variety, it is argued that American or ‘US business ethics’ has come to dominate the field.[11] American business ethics can be characterized by its “individualistic, legalistic, and universalistic” approach to ethics.[12] This approach is firmly grounded in the idea that “individuals are the primary locus of both (moral) responsibility and the principal motor behind processes of societal change.”[13] American business ethics has been the main target for scholars in the critical discourse. The scope of this study, therefore, is restricted to US business ethics and the critical discourse that surrounds it. From now on, when I speak of business ethics, I refer to US business ethics.

2. Looking at business ethics through the lens of its critics

My interest in the critical discourse of business ethics was sparked by personal experiences as a corporate ethics trainer. In this capacity, I noticed that certain instruments and programs of business ethics (e.g., ethics codes and step-by-step plans for discussing ethical dilemmas) were out of touch with the ethical experience of participants. These instruments and programs scored well regarding applicability

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8 See: Jones, Parker, and ten Bos, *For Business Ethics*, 149; And see: Mollie Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business* (Cambridge: Cambridge University Press, 2008), https://doi.org/10.1017/CBO9780511488641.

9 Jones, Parker, and ten Bos, *For Business Ethics*, 149.

10 Andrew Crane et al., *Business Ethics: Managing Corporate Citizenship and Sustainability in the Age of Globalization*, Fifth edition ed. (Oxford: Oxford University Press, 2019), 22–25.

11 Laura J. Spence, “Is Europe distinctive from America? An overview of business ethics in Europe,” ed. Heidi von Weltzien Høivik, *Moral Leadership in Action: Building and Sustaining Moral Competence in European Organizations* (Cheltenham: E. Elgar, 2002), https://doi.org/10.4337/9781843767503.

12 David Vogel, “The Globalization of Business Ethics: Why America Remains Distinctive,” *California Management Review* 35, no. 1 (1992): 30, https://doi.org/10.2307/41166711.

13 Luc van Liedekerke and Wim Dubbink, “Twenty Years of European Business Ethics: Past Developments and Future Concerns,” *Journal of Business Ethics* 82, no. 2 (2008): 274, https://doi.org/10.1007/s10551-008-9886-x.

and usefulness, but participants often voiced the concern that this method of applying business ethics was not about 'ethics' anymore. Their concerns echoed a paradox hinted at by many critics, namely that business ethics has lost touch with ethics. I started conducting research on this issue and found the business ethics literature to be largely silent. Puzzled by this silence, I turned to the critical discourse in which the issue is discussed at length.[14] This finding suggests that a systematic analysis of this discourse may help to articulate certain crucial issues that business ethics, as certain critics claim, has left in the "shadows."[15] Therefore, in this study, I depart from the idea that we should look at business ethics through the lens of its critics. However, this point does not mean the present study is conducted by a critic of business ethics who seeks to offer a critique or reformulation of business ethics; the critical discourse of business ethics is approached as the 'research object.'

The critical discourse on business ethics is well established. Recent decades have witnessed an "outpouring" of scholarly publications criticizing business ethics.[16] To reconstruct the arguments raised in this discourse, I examine academic textbooks, book chapters, and journal articles criticizing business ethics. My aim is to provide a broad descriptive overview of the critical discourse surrounding this field. The examination includes critiques directed at the academic discipline and at the management practice of business ethics and covers publications by scholars in alternative academic disciplines (e.g., organization and management studies, sociology, legal studies) and by scholars who self-identify as business ethicists. The critical discourse is, thus, reconstructed by way of a literature review.[17]

Based on this reconstruction, a categorization of the central problems of business ethics is presented. This categorization reveals that most of these problems revolve around an alleged misunderstanding of ethics. This approach also draws attention to how certain critics frame these problems as specific to business ethics. In other words, these critics make it seem as if these problems are somehow caused by business ethicists and therefore manifested only in their field. The question, however, is whether this view of business ethics is accurate. To address this question, a hermeneutic analysis is used to rethink the central problems of business ethics and how these problems are framed by some of its critics. It is possible these critics are right to frame the problems of business ethics in this way, and something really has gone amiss with business ethics. Another possibility is that the problems of business ethics are manifested similarly in other fields of applied ethics. If this is the case, then it would be right to argue that

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14 See, for example: Michael Schwartz, "Why Ethical Codes Constitute an Unconscionable Regression," *Journal of Business Ethics* 23, no. 2 (2000), https://doi.org/10.1023/A:1006151806232; René ten Bos, "Essai: Business Ethics and Bauman Ethics," *Organization Studies* 18, no. 6 (1997), https://doi.org/10.1177/01708406970180.

15 Jones, Parker, and ten Bos, *For Business Ethics*, 5.

16 Carl Rhodes and Alison Pullen, "Critical Business Ethics: From Corporate Self-interest to the Glorification of the Sovereign Pater," *International Journal of Management Reviews* 20, no. 2 (2018): 483–84, https://doi.org/10.1111/ijmr.12142.

17 This part of the research method is largely similar to the method used by Rhodes and Pullen, see: "Critical Business Ethics," 484–86.

these problems manifest in business ethics, but it is largely inaccurate to frame them as specific to this field. However, there is one more possibility that is also examined in this study, which is that the critics' analysis of the problems with business ethics is flawed in some respects, and that something else is happening in the field. These critics could be mistakenly depicting business ethics. If so, it might be necessary to draw business ethics out of its mistaken depiction.

The critical discourse of business ethics is analyzed with the above possibilities in mind. Two methods are used for this analysis. I explore whether the central problems of business ethics are manifested in another established field of applied ethics. I selected the field of bioethics for this purpose. If it can be demonstrated that the central problems of business ethics are similarly related to another field of applied ethics, this would imply we should alter our understanding of these problems as specific to business ethics. I then search for articulations of similar problems in philosophical debates on ethics. In this part of the examination, the focus is on two fundamental problems with business ethics around which most criticisms of business ethics revolve. Some critics have argued these two problems have profound implications for this field because they render a normative, action-guiding approach to business ethics 'impossible.'[18]

If these problems have such profound implications for business ethics, they should be examined in detail. Both problems are, therefore, investigated through a close reading of twentieth-century philosophical views of ethics, namely those espoused by Emmanuel Levinas and Simone de Beauvoir. I demonstrate that drawing from these 'continental thinkers' is particularly relevant for the present study. Both philosophers offer precise and original articulations – not just of the above problems and their implications for business ethics – but also of the meaning of ethics itself. By examining their philosophical views, insights are gained regarding (1) the framing of the problems of business ethics by its critics, (2) the origin and implication of these problems, and (3) the paradoxical idea that business ethics has lost touch with ethics. In this respect, the present study constitutes a philosophical work.

Before proceeding to the analysis, I want to draw attention to a specific development in business ethics that some commentators have interpreted as highly troubling. Philosophers were the first to develop the field of business ethics, but research has found they are gradually being "crowded out."[19] In contemporary approaches to business, philosophers appear to be "left standing at the sideline."[20] If there is a problem with the understanding of ethics in business ethics, as suggested by some critics, then the current 'crowding out of philosophers' may be troubling indeed. These critics appear to be hinting at something that philosophy should get a hold of. If ethics is lost in business ethics, then a great deal is at stake in examining this paradox. Philosophy can provide us with ways to understand and articulate what it is about ethics that is

18 See, for example: Jones, Parker, and ten Bos, *For Business Ethics*.

19 Peter Seele, "What Makes a Business Ethicist? A Reflection on the Transition from Applied Philosophy to Critical Thinking," *Journal of Business Ethics* 150, no. 3 (2018): 653, https://doi.org/10.1007/s10551-016-3177-8.

20 Van Liedekerke and Dubbink, "Twenty Years " 275.

supposedly lost in business ethics, according to its critics. An additional task taken up in this study is, therefore, to reflect on the role of philosophers within business ethics, particularly given the problems manifested in this field.

3. The way forward

Chapter 1 contains a brief description of the emergence of business ethics and highlights its development as a field of applied ethics. This chapter represents a first investigation into the question of why business ethics has been rendered vulnerable to criticism. Chapter 2 reconstructs the critical discourse of business ethics. Five 'central problems' of business ethics are derived from this reconstruction. I ask whether these problems are accurately framed by critics and hypothesize that some of the central problems of business ethics are problems of ethics in general. To examine this hypothesis, Chapter 3 involves a comparative analysis between the academic critiques of business ethics and bioethics. This analysis is guided by the question of whether similar problems manifest themselves in these two fields and, if so, what such a finding would imply for business ethics.

In Chapters 4 and 5, I focus on two problems around which most of the criticisms of business ethics revolve. I articulate these problems and examine whether they are considered in philosophical debates on ethics. The philosophy of Emmanuel Levinas – as developed in *Otherwise than Being or Beyond Essence* – is used to articulate the first problem in Chapter 4.[21] I then turn to the philosophy of Simone de Beauvoir – as developed in *The Ethics of Ambiguity* – to articulate the second problem in Chapter 5.[22] Both philosophical views are used to reflect on the hypothesis developed in this study. I conclude the study by reflecting on the question of what we can learn about business ethics by examining the critical discourse that surrounds it. This conclusion is supplemented with an epilogue, in which I ask how businesses and business ethicists can best approach these fundamental problems and the role that philosophers might play regarding these approaches.

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21 Emmanuel Levinas, *Otherwise than Being or Beyond Essence*, trans. Alphonso Lingis (Pittsburgh, Pennsylvania: Duquesne University Press, 1974).

22 Simone de Beauvoir, *The Ethics of Ambiguity*, trans. Bernard Frechtman (New York: Open Road Integrated Media, 2015).

CHAPTER 1

THE EMERGENCE OF BUSINESS ETHICS

1. Introduction

A book on the history of business ethics states that "business ethics was not born under a lucky star."[1] The field struggled to achieve legitimacy when first developed in the 1970s. The early business ethicists had to counter many criticisms, the most tenacious of which was the notion that their field was premised on an 'oxymoron.'[2] Almost 55 years later, this struggle is far from over. Business ethics is still surrounded by controversy and criticism. There is, thus, something unnerving about this field, something that makes it vulnerable to criticism. In this chapter, the emergence of business ethics is briefly recounted as a first attempt to develop an understanding of its vulnerability. My aim is not to provide a full account of the emergence of business ethics; such an account deserves its own dissertation. The aim is rather to draw attention to specific choices and circumstances that led to the development of business ethics as a 'practical way of doing ethics' that aimed to appeal strongly to the business world. I show that the development of this approach to business ethics had a curious effect. It contributed to the success of the field but also to it becoming a target of attack for critics.

2. Business ethics as an academic discipline

Although no "distinctive field" of business ethics existed prior to the 1960s, scholars have argued there were certain activities that can be characterized as "*ethics in business*."[3] These activities were mostly theological and religious, examples of which include Catholic texts that conveyed concerns about ethical issues in business (e.g., workers' rights to decent living wages) and "preaching from the pulpits" about lying and stealing in business contexts.[4] It was in the 1960s that the academic discipline of business ethics began to emerge. This emergence has been linked to the civil rights movements of the 1960s and 1970s.[5] The social criticism targeting political leaders and authorities also hit the business world. Businesses became public targets because of their self-interested pursuit of profit, which came at the expense of people and the environment. Partly because of this surge in criticism, businesses began to implement programs on social responsibility issues. Many business schools also responded to these circumstances by developing social responsibility courses. These courses were initially taught by management professors and mostly focused on legal and empirical issues. These courses did not yet involve reflection on ethical issues in business, because, in those years, this type of reflection was primarily by theologians and religious thinkers.

1 Van Luijk, "Business Ethics," 5.

2 The term oxymoron refers to a contradiction in terms. Andrew C. Wicks, "The Business Ethics Movement Where are We Headed and What Can We Learn From Our Colleagues in Bioethics?," *Business Ethics Quarterly* 5, no. 3 (1995), https://doi.org/10.2307/3857401.

3 Richard T. De George, "The Status of Business Ethics: Past and Future," *Journal of Business Ethics* 6, no. 3 (1987): 202, https://doi.org/10.1007/BF00382865. Italics in original.

4 De George, "The Status of Business Ethics: Past and Future," 202.

5 Van Luijk, "Business Ethics," 4.

This situation changed when philosophers began to pay attention to the emerging academic discipline. By merging previous work in management education on social responsibility with work in religion and theology on ethical issues in business, these philosophers were the first to develop the academic field of business ethics.[6]

In its early years, business ethics could be characterized by its "critical tone" and its adamant "rejection" of certain business practices.[7] But this 'armchair strategy' of critiquing business had limited effects on the advancement of moral business. Philosophers who joined the field began to think it more productive to open a dialogue with the business community: "advancement was better served by understanding than by shouting."[8] The critical tone toward business was taken down a notch. What was needed instead was a business ethics "closer to the firm and closer to the businessperson."[9] These philosophers, therefore, began to develop a 'practical' approach to ethics; that is, an approach that aimed to appeal strongly to the business community and that is utilizable within businesses. This tactic resulted in an action-oriented and case-based approach that dealt mostly with micro-level questions of how employees should act in a given situation. A limited selection of deontological, utilitarian, and virtue ethics theories was used to create a basic scheme for moral judgment-making. And the macro-level context – which is business under the capitalist system – was mostly taken as a given.

In addition to attempting to open dialogues with the business community, the early business ethicists also tried to engage in dialogues with business students. Both attempts succeeded. The practical approach to ethics was celebrated by business practitioners in dire need of guidance in judging particular cases. And it also resonated well with business students because it brought them closer to the real-world concerns of business. This approach was similarly embraced by philosophers who had been caught up in abstract theoretical reflections for too long, and for whom the possibility to apply ethics to the concrete context of business came as a much-needed change.[10] An increasing number of philosophers switched from academia to business, in which they began to work as corporate consultants or ethics officers. The early development of the field reveals that, from the start, business ethics was developed as something that would be heard and, thus, useful, both in business and classroom settings.

The practical approach to business ethics rapidly gained ground in universities and business schools. Consequently, the field started to attract attention from other academic disciplines. Many scholars, for instance, those in social sciences, began to adopt the issues raised in business ethics. This development profoundly impacted the field. Today, most publications in business ethics are authored by scholars in social sciences or a background in accounting, finance, or psychology. The upside to this

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6 De George, "The Status of Business Ethics: Past and Future," 202.

7 Van Luijk, "Business Ethics," 4.

8 Van Luijk, "Business Ethics," 6.

9 Van Liedekerke and Dubbink, "Twenty Years " 274.

10 Van Luijk, "Business Ethics," 3.

takeover of business ethics is that it "raised its public as well as scientific status."[11] However, on the downside, the number of philosophical approaches to business ethics has significantly reduced.[12] The philosophers who started the field appear to have left the scene, with their field gradually taken over by scholars in alternative disciplines.[13]

The marginal number of philosophical contributions to the field has another 'downside.' The scholars who took over the field were accustomed to using empirical, mostly quantitative methods and techniques to research business ethics issues. The focus of these scholars, it is argued, lies on "observing ethical issues directly and [attempting] to measure or count things numerically."[14] These scholars appear to be more concerned with providing empirical explanations for ethical issues in business (e.g., psychological motivators for unethical behavior) than with developing critiques of business – which was part and parcel of earlier approaches to business ethics. Thus, a possible downside to this development is that business ethics may have become less critical of business.

The practical approach to business ethics is generated by several factors. Among these factors are attempts to open dialogues with businesses and business students, as well as the gradual takeover by other academic disciplines. But this approach was also generated by events. The scandals that hit the business world over the decades are examples of events that significantly shaped business ethics. Recurring business scandals (e.g., at WorldCom, Enron, or Shell) provoked a crisis of confidence. Business ethics was viewed by many as an element of the solution to this crisis. The field is, therefore, said to be "born in scandal" and to have grown with each "succeeding wave" of scandal.[15]

These recurring scandals created a window of opportunity for ethicists who wanted to be of real assistance to the business world. Various legislative measures were instated in reaction to the scandals, including the 1987 US Federal Sentencing Guidelines, the 2002 US Sarbanes-Oxley Act, and the 2010 UK Bribery Act. These measures led to a surge in business ethics publications, many of which focused on how businesses could abide by the new legislation.[16] There is an argument that relatively few business ethicists critically questioned whether ethics could adequately be captured within and stimulated

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11 Van Liedekerke and Dubbink, "Twenty Years " 275.

12 Peter Seele, "Business Ethics without Philosophers? Evidence for and Implications of the Shift From Applied Philosophers to Business Scholars on the Editorial Boards of Business Ethics Journals," *Metaphilosophy* 47, no. 1 (2016), https://doi.org/10.1111/meta.12170.

13 Van Liedekerke and Dubbink, "Twenty Years " 275.

14 Emma Bell, Nik Winchester, and Edward Wray-Bliss, "Enchantment in Business Ethics Research," *Journal of Business Ethics* 174, no. 2 (2021): 251, https://doi.org/10.1007/s10551-020-04592-4.

15 R. Edward Freeman, "Foreword," ed. Mollie Painter-Morland and René ten Bos, *Business Ethics and Continental Philosophy* (Cambridge: Cambridge University Press, 2011), https://doi.org/10.1017/CBO9780511488641. Xiii.

16 See, for example: Daniel E. Palmer and Abe Zakhem, "Bridging the Gap between Theory and Practice: Using the 1991 Federal Sentencing Guidelines as a Paradigm for Ethics Training," *Journal of Business Ethics* 29, no. 1-2 (2001), https://doi.org/10.1023/A:1006471731947.

by these legal measures.[17] This less-than-critical attitude can be related to the inclination of many business ethicists to 'work with' the business world, rather than 'against it.'

Although the early establishment of business ethics is often described as successful, commentators have noted the following:

> From the very start, business ethics portrayed itself as a special branch of ethics, all with the best of intentions, but without much other expertise beyond general ethical tradecraft. Then it somewhat overenthusiastically joined the fast action in the market, where it imperceptibly adopted the language of change management. Now it must shed . . . its naiveté.[18]

The development of a practical approach to business ethics is deemed naïve in this quote. In part, this view is because this specific approach has come with unintended consequences. One such consequence is that the use of ethical theory in dominant approaches to business ethics is mostly limited to deontology, utilitarianism, and virtue ethics. Given the dominance of these theories, it is argued that alternative ethical theories – and their significance for business ethics – have largely been excluded from the field.[19] This limitation led to another unintended consequence; it rendered the field vulnerable to critiques by scholars who take issue with the "foreclosure" of alternative ethical theories in business ethics.[20] Perhaps, then, it was somewhat naïve of early business ethicists to assume they could 'join the fast action of the market' while avoiding these and other consequences.

3. Business ethics as a management practice

The rise of the academic discipline of business ethics has kept pace with the development of management practice. Through a productive interchange, the academic discipline of business ethics informed and stimulated the development of the management practice of business ethics and vice versa. Consequently, we now have a "multi-million-dollar" business ethics industry involving ethics consultants and firms that offer ethics education and training, ethics codes, risk-analysis management, and social auditing.[21] The 'products and services' of this industry are used in various types of businesses, ranging from larger corporations to small and medium-sized firms, to public organizations and to non-profit organizations. It has become commonplace for business ethicists to be hired or consulted by businesses.

But it is not difficult to see why this new way of 'making money by doing ethics' rendered the field vulnerable to criticism. Scholars have argued, for example, that

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17 Campbell Jones, "As if Business Ethics were Possible, `within Such Limits'," *Organization* 10, no. 2 (2003), https://doi.org/10.1177/1350508403010002003.

18 Van Luijk, "Business Ethics," 9.

19 Jones, Parker, and ten Bos, *For Business Ethics*, 3.

20 Jones, Parker, and ten Bos, *For Business Ethics*, 3.

21 Crane et al., *Business Ethics*, 182.

this method of engaging with the business world comes at the risk of "selling out."[22] This position means that too much engagement with – or immersion in – the business context might lead an ethicist to accept certain business practices as 'normal.' This attitude can be motivated either by the desire to maintain one's position in the firm or by the desire to secure future consultation opportunities.

In addition to a job-related impetus to adopt a less-than-critical attitude toward business, there is also a distinct legal and financial impetus for doing so. The instatement of certain legal measures enabled governments to prosecute businesses and impose hefty fines for various offenses (e.g., fraud and corruption). For businesses based in the US, implementing an ethics program is not optional; it is a formal requirement. Businesses that fall under the US Federal Sentencing Guidelines are required to implement ethics programs.[23] In reaction to these developments, those in the management practice of business ethics began to develop ethics programs (e.g., ethics codes and ethics trainings) to help businesses comply with the new legislation. A study has indicated that most businesses implement ethics programs, because this leads to a significant reduction in sentencing when charged with legal misconduct.[24] Corporate fines can be reduced by over 95% if a business can prove to have an ethics program in place.[25] For many businesses, the primary motivation to implement ethics programs is that it helps to reduce or avoid sentencing. Rather than questioning this dubious motive, many business ethicists seized the opportunity to help businesses comply with the new legislation.

In reaction to the recurring business scandals and the new legislation, certain business ethicists also started to promote ethics codes and ethics trainings as the key "saleable goods" of business ethics.[26] These saleable goods were designed based on the criteria that they should be easy to implement and manage within the business context. Because of this commodification, business ethics became something that was 'close' to the firm. The efforts to promote the saleable goods of business ethics paid off, especially in the case of ethics codes that "sprouted like mushrooms to join a plethora of professional codes, industry codes and civil service codes."[27] Offering ethics training programs as a saleable good also worked out, as businesses started to invest "substantial sums" to include ethics training as a standard and even mandatory training for their employees.[28]

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22 Wicks, "The Business Ethics Movement," 613.

23 See: Charles R. Breyer, Patricia K. Cushwa, and Jonathan J. Wroblewski, Unites States Sentencing Commission, Guidelines Manual, §3E1.1 (Nov. 2021), (2021).

24 Dove Izraeli and Mark S. Schwartz, "What Can We Learn from the U.S. Federal Sentencing Guidelines for Organizational Ethics?," *Journal of Business Ethics* 17, no. 9-10 (1998): 1046–47, https://doi.org/10.1023/A:1006067215606.

25 Izraeli and Schwartz, "What Can We Learn from the U.S. Federal Sentencing Guidelines for Organizational Ethics?," 1046–47.

26 Van Luijk, "Business Ethics," 6.

27 Van Luijk, "Business Ethics," 6.

28 Linda Klebe Treviño and Gary R. Weaver, *Managing Ethics in Business Organizations: Social Scientific Perspectives* (Stanford: Stanford University Press, 2003), 339.

The so-called 'business case of business ethics' was also used to increase the field's appeal to those in the business community. By taking it a step further than simply promoting its saleable goods, business ethicists began to 'sell' business ethics based on the notion that "being morally good is materially good for business."[29] It was suggested that businesses that engage in ethics and corporate social responsibility (CSR) are financially rewarded by the market, as this ensures a competitive advantage and leads to "win-win relationships" with stakeholders.[30] Business ethics was, therefore, promoted as something to improve the corporate image and its financial bottom-line results. Using a commercial slogan such as 'ethics pays' in a strategy to promote business ethics resonated well with the strategic mindset of many business practitioners, for whom the idea of implementing business ethics was made more attractive because of its supposed positive side-effects.[31]

4. Looking backward and forward

In this chapter, the emergence of business ethics was briefly recounted. Business ethics was mainly developed as a practical approach to ethics that aimed to appeal strongly to the business world. However, certain 'naïve' choices (e.g., the limited use of ethical theory) and circumstances (e.g., the takeover by alternative academic disciplines, recurring business scandals) appear to have rendered the field vulnerable to criticism. This vulnerability has not gone unnoticed by scholars, who have subjected business ethics to criticisms as fierce as they are systematic. The next chapter, which reconstructs the critical discourse of business ethics, reveals we have only begun to scratch the surface here. Business ethics' attempt to develop a practical ethics to appeal strongly to businesses may have rendered the field vulnerable to criticism, but its fundamental problems run much deeper.

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29 Alex C. Michalos, "The Business Case for Asserting the Business Case for Business Ethics," *Journal of Business Ethics* 114, no. 4 (2013): 599, https://doi.org/10.1007/s10551-013-1706-2.

30 Archie B. Carroll and Kareem M. Shabana, "The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice," *International Journal of Management Reviews* 12, no. 1 (2010): 101, https://doi.org/10.1111/j.1468-2370.2009.00275.x.

31 Lynn Sharp Paine, "Does Ethics Pay?," *Business Ethics Quarterly* 10, no. 1 (2000), https://doi.org/10.2307/3857716.

CHAPTER 2

RECONSTRUCTING THE CRITICAL DISCOURSE OF BUSINESS ETHICS

1. Introduction

Most business ethicists will agree their field exists to advance moral business. However, none of the field's critics appear to agree this is the case. These critics have argued the field is "compromised to its core" and resists "the very thing it advances."[1] Business ethics, to them, is all smoke and mirrors. Partly for this reason, the field has come under criticism from scholars who see no future for business ethics. Although this criticism is often brushed aside by those in the field, it raises the question of what it is about business ethics that has caught the attention of so many critics? The arguments raised in the 'critical discourse of business ethics' have not been addressed systematically. While there are literature reviews concerning specific problems with business ethics,[2] a broad overview of the variety of criticisms of this field is yet to be constructed. Consequently, the above question is largely unaddressed. This chapter develops an understanding of the critical discourse of business ethics by reconstructing the academic criticisms directed at the field.

Although business ethics was warmly welcomed in the 1970s by certain business practitioners and philosophers, the field was *not* welcomed by many others within business and academia.[3] Paradoxically, business ethics appears to be applauded as much as it is criticized. Many business practitioners were unconvinced that 'ivory-towered' academics knew the first thing about business practice; they lacked the much-needed 'view from the trenches.' Business ethics was also categorically rejected by certain philosophers who believed philosophy should focus on fundamental questions and avoid concrete and daily practices. What made matters even worse is that business under the capitalist system was viewed by many philosophers as essentially malicious. Therefore, all efforts to connect ethics with business were viewed as questionable attempts to legitimize capitalist business – with the ethicists involved in these efforts being viewed as profit's servants.[4]

2. Five central problems with business ethics

The criticisms of business ethics have culminated into an extensive "collection of work"[5] that covers a diverse range of issues and targets both the academic discipline (i.e., the academic business ethics literature) and the management practice (i.e., the concrete application of ethics in the business context). Since the criticism of business ethics varies greatly, I have categorized it below. This categorization includes what I understand to be

1 Jones, Parker, and ten Bos, *For Business Ethics*, 2.

2 Rhodes and Pullen, "Critical Business Ethics."

3 Van Luijk, "Business Ethics," 4.

4 Van Luijk, "Business Ethics," 4.

5 Edward Wray-Bliss, "Ethics: Critique, Ambivalence and Infinite Responsibilities (Unmet)," ed. Mats Alvesson et al., *The Oxford Handbook of Critical Management Studies* (Oxford University Press, 2009), https://doi.org/10.1093/oxfordhb/9780199595686.013.0013. 270.

five of the central problems of business ethics according to its critics. These problems are referred to as (1) the 'philosophical' problem, (2) the 'application' problem, (3) the 'oxymoron' problem, (4) the 'sincerity' problem, and (5) the 'hubris' problem.[6]

2.1 The philosophical problem

Critics have argued that one of the main problems with business ethics is that it has become devoid of philosophy.[7] This 'philosophical problem' revolves around the notion that the philosophy used in business ethics is extremely limited and, thus, stripped of its complexity. This problem has been related to the notion that business ethics has allegedly excluded most of continental twentieth-century philosophy.[8] The problem is also related to the idea that business ethics' theories are grounded in a specific selection of philosophical ideas simplified to develop an ethics easily applied to business. It is argued that the "danger with such simplifications is that the content of ethical theories gets distorted," and that these theories are wrongfully depicted as if they were "free from tension and difficulty."[9] Business ethics, according to a number of its critics, distorts the possibility of a proper understanding of philosophy and ethics. This issue has elicited scathing criticisms directed both at business ethics and business ethicists. Consider, for instance, the criticism that "most of what we read under the name business ethics is either sentimental common sense, or a set of excuses for being unpleasant."[10] And note how business ethicists are charged with having

> . . . wilfully misinterpreted and misrepresented even this limited selection of philosophy in ways that have shorn of its radical, uneasy and uncontainable qualities: thereby rendering it agreeable for CEO's, suitable for hierarchical codification and centralized discipline, and mainstream enough for publishing in the wider management academy.[11]

This quote argues that business ethics has *willfully* misinterpreted and misrepresented philosophy, suggesting it is not by chance or mistake that philosophy is treated thus in business ethics, but that this treatment has been deliberate. Business ethics is, thus, at fault for willfully distorting the possibility of a proper understanding of philosophy.

But what does it mean to argue that philosophy is willfully 'misinterpreted' and 'misrepresented' in business ethics? Certain critics take issue with the field's depiction of ethics as objective knowledge that business practitioners can simply take cognizance

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6 The term 'hubris' refers to exaggerated pride and self-confidence. In Greek tragedy, the term refers to a hazardous character flaw (e.g., when a mortal human being assumes the status of a god) that could provoke punishment by the gods.

7 Jones, Parker, and ten Bos, *For Business Ethics*, 4.

8 Jones, Parker, and ten Bos, *For Business Ethics*, 3.

9 Minka Woermann, *On the (Im)Possibility of Business Ethics: Critical Complexity, Deconstruction, and Implications for Understanding the Ethics of Business* (Dordrecht: Springer Netherlands, 2013), 46. https://doi.org/10.1007/978-94-007-5131-6.

10 Jones, Parker, and ten Bos, *For Business Ethics*, 1.

11 Wray-Bliss, "Ethics: Critique, Ambivalence and Infinite Responsibilities (Unmet)," 271.

of and subsequently act upon.[12] Business ethics is here criticized for presupposing that objective ethical knowledge exists, and for pretending this knowledge can easily be translated into the types of rules, procedures, and policies that most business practitioners are familiar with. It is further argued these rules, procedures, and policies help to reduce "the undecidability that often [characterizes] moral decision making, and are, therefore, easy to apply."[13] Partly for this reason, most ethics programs used in businesses are based on 'principle or rule-based approaches to ethics.' These approaches are based on the idea there are objective and, thus, universally valid principles or rules that, if followed, will lead to correct ethical behavior. These approaches are said to "represent attempts to codify ethical [behavior]."[14] The problem with such approaches, for many critics, is that they reduce ethics to straightforward knowledge about what to do and what not to do. Although this view may appeal to most business practitioners, there are critics who argue that such ethical knowledge cannot exist.

2.2 The application problem

A related problem that critics have raised is referred to as the 'application problem.' Although various business ethics applications exist (e.g., stakeholder management), I focus on one example of an application that represents a concrete attempt to 'codify ethical behavior,' namely ethics codes.[15] Codes are among the most widespread approaches to applying ethics in the business context.[16] Ethics codes may be popular, but they have also prompted serious criticism. The effectiveness of ethics codes is regularly questioned. Empirical studies have, for instance, demonstrated that there is "no definitive evidence" that ethics codes have a "significant effect" on the ethical behavior of business practitioners.[17] Critics have also questioned the intent of ethics codes, arguing they are highly restrictive measures for normative control that fixate only on "what one should not do, and how to control this."[18] In this view, ethics codes have more to do with compliance – that is, they are part of ethics programs that aim to "prevent, detect, and punish legal violations" – than with ethics.[19] Codes function to

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12 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 4.

13 Minka Woermann, A Complex Ethics: Critical Complexity, Deconstruction, and Implications for Business Ethics, 2010, PhD diss., University of Stellenbosch, 2010, 44, https://scholar.sun.ac.za/handle/10019.1/5293.

14 Woermann, A Complex Ethics: 44.

15 I am here referring exclusively to corporate codes of ethics. Other types of codes, such as professional codes or industry codes, are left out of the discussion. For a definition and demarcation of corporate ethics codes, see: Maira Babri, Bruce Davidson, and Sven Helin, "An Updated Inquiry into the Study of Corporate Codes of Ethics: 2005–2016," *Journal of Business Ethics* 168, no. 1 (2019): 71–72, https://doi.org/10.1007/s10551-019-04192-x.

16 Crane et al., *Business Ethics*, 185.

17 Mollie Painter-Morland, "Questioning Corporate Codes of Ethics," *Business Ethics: A European Review* 19, no. 3 (2010), https://doi.org/10.1111/j.1467-8608.2010.01591.x.

18 Bjørn Kjonstad and Hugh Willmott, "Business Ethics: Restrictive or Empowering?," *Journal of Business Ethics* 14, no. 6 (1995): 445–47, https://doi.org/10.1007/BF00872086.

19 Lynn Sharp Paine, "Managing for Organizational Integrity," *Harvard Business Review* 72, no. 2 (1994): 106, https://hbr.org/1994/03/managing-for-organizational-integrity.

control rather than to advance the morality of business practitioners. In other words, ethics codes are the inverse of ethics.

This criticism of ethics codes also applies to the presuppositions behind these codes. Some critics have objected to the notion that ethics codes make it seem as though

> The ethical distinction between wrong and right can be codified and then applied in order to ascertain whether certain actions or [behaviors] are deemed ethical or unethical. There is a rule, and things [either] fall within or outwith the rule.[20]

Hence, one problem with ethics codes is related to the presupposition that ethics can be reduced to a set of normative rules ordered in a fixed priority that can be applied to all situations and that will automatically lead to the 'right' moral judgment. But many critics have argued that ethics is not a matter of simply applying normative rules to particular situations. They have pointed out that ethics applies in situations fraught with ambiguity (e.g., in situations that do not correspond to any of the rules stated in the ethics code, and when decisions must be made without having recourse to a code).[21] According to these critics, business ethics has been too intent on reducing this ambiguity, which they deem essential to ethics.

Another problem raised regarding ethics codes is that they tend to exclude the complexity of individual viewpoints and situations that exist within the business context. Most ethics codes are built around universal ethical rules and principles that function to direct the actions of employees in specific situations. But what is an employee to do when what is stated in the ethics code contradicts her individual viewpoint? Or when following the ethics code leads to significant moral harm to others? According to a number of critics, business ethics has largely failed to address these questions. Therefore, the concern is raised that "the particular is effaced" by the application of universal rules and principles.[22] Ethics codes are, thus, rejected by these critics because they cannot accommodate human particularity or the diversity of situations in which moral judgments are formed. For example, most ethics codes have a rule that employees should always be honest. But critics note that such a rule cannot possibly apply to all situations. In certain situations, employees will have to decide that being dishonest is morally preferable to being honest. A code does nothing to help employees in situations such as these, and it is alleged that business ethics has failed to consider this.

Another point critics have made is that ethics codes do not stimulate but hinder the moral competence of business practitioners. In this respect, some have even said that, "the existence of the code alienates the employee from his or her own innate morality."[23] When faced with a moral problem, it is argued that most employees will

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20 S. R. Clegg, M. Kornberger, and C. Rhodes, "Business Ethics as Practice," *British Journal of Management* 18, no. 2 (2007): 109, https://doi.org/10.1111/j.1467-8551.2006.00493.x.

21 Clegg, Kornberger, and Rhodes, "Business Ethics as Practice," 109.

22 Painter-Morland, "Questioning Corporate Codes of Ethics," 269.

23 Schwartz, "Why Ethical Codes Constitute an Unconscionable Regression," 177.

simply follow the ethics code rather than formulate a moral standpoint by themselves. In so doing, they take no responsibility for forming a moral judgment. There are critics who have argued this tendency to follow only the ethics code "may undermine rather [than] further [the] ethical responsiveness" of employees.[24] Therefore, ethics codes are viewed as largely ineffectual, needlessly controlling, and, ultimately, counterproductive instruments. In its attempt to 'apply' ethics to the business context – in this case with an ethics code – business ethics has encountered the curious paradox of having lost touch with ethics.

2.3 The oxymoron problem

A third problem commonly associated with business ethics is based on the idea that businesses are unethical and, therefore, the very concept of business ethics is a contradiction in terms, or an 'oxymoron.' Businesses are said to be driven by a self-interested pursuit of profit, and for many critics, this inevitably contradicts an ethics that seeks to impose limits on this pursuit. The oxymoron problem is aptly summarized in the statement that business "pushes one way, ethics the other."[25] The oxymoron criticism has been ever present in the business ethics discourse: "Who among us hasn't winced at the sound of these words, smugly delivered at cocktail parties and curriculum reviews by 'outsiders' who think they are being original?" asks one business ethicist.[26] Given that the oxymoron criticism of business ethics is voiced so frequently, it is referred to as a dominant paradigm in thinking about business ethics.[27]

The oxymoron problem is described in quite a few ways. To support the argument that business ethics is a contradiction in terms, scholars have referred to an infamous article on 'business bluffing,' in which it is argued business is "not subject to the same moral standards as the rest of society."[28] The article suggests "deception and lying are perfectly permissible" in business – part of the game even – but this does not apply to the rest of society.[29] In another infamous article often used to support the idea that business ethics is oxymoronic, it is argued "there is *one and only one* social responsibility of business . . . to use resources designed to increase its profits."[30] Scholars have noted that if the only responsibility of business is to increase profits, then it can rightfully be

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24 Painter-Morland, "Questioning Corporate Codes of Ethics," 265.

25 Ronald F. Duska, *Contemporary Reflections on Business Ethics* (Dordrecht: Springer, 2007), 52, https://doi.org/10.1007/978-1-4020-4984-2.

26 Laura L. Nash, "Intensive Care for Everyone's Least Favorite Oxymoron: Narrative in Business Ethics," *Business Ethics Quarterly* 10, no. 1 (2000): 277, https://doi.org/10.2307/3857713.

27 Miguel Alzola, "The Reconciliation Project: Separation and Integration in Business Ethics Research," *Journal of Business Ethics* 99, no. 1 (2011), https://doi.org/10.1007/s10551-011-0746-8.

28 Albert Z. Carr, "Is Business Bluffing Ethical?," *Harvard Business Review* 46, no. 1 (1968), https://hbr.org/1968/01/is-business-bluffing-ethical.

29 Crane et al., *Business Ethics*, 4.

30 Milton Friedman, "The Social Responsibility of Business is to Increase its Profits," *New York Times Magazine* (September 13, 1970): 17, https://www.nytimes.com/1970/09/13/archives/a-friedman-doctrine-the-social-responsibility-of-business-is-to.html.

said “there is no such thing as business ethics.”[31] It should be noted, however, that this second article is often misrepresented. The argument the article develops (i.e., that the only responsibility of business is to increase its profits) is often “dragged out of the context in which it is written,”[32] and is therefore not properly conveyed.[33] What is commonly omitted by scholars is that this article concludes with the statement that a business should increase its profits “so long as it stays within the rules of the game” – and this includes ethical rules.[34] Still, this article is used by many critics to dismiss all talk and writing about business ethics out of hand.

In addition to the supposed contradiction between business and ethics, it is argued there is also a contradiction between the members of these two communities. Ethicists and business practitioners are said to speak incommensurable ‘languages.’ In this view, the language of the contemplative, questioning ethicist clashes with that of the hard-pressed manager who “needs to get something done by Friday afternoon.”[35] Ethicists and business practitioners are, thus, viewed as ‘alienated’ from each other. In part, this view is because many ethicists regard business goals as “dubious,” whereas business practitioners view the “pronouncements” of ethicists as “self-righteous or utopian.”[36] Ethicists and business practitioners, therefore, have an uneasy relationship, one that is allegedly much more uneasy than the relationship between ethicists and biomedical or legal practitioners.[37] Ethicists tend to reject the moral legitimacy of business but are willing to accept the moral legitimacy of the biomedical and legal professions. Both contradictions (i.e., between business and ethics, and between business ethicists and business practitioners) have impeded business ethics. The oxymoron problem has also impeded the perceived legitimacy of the field. And the uneasy relationship between business ethicists and business practitioners has impeded the field’s potential to advance moral business.

The oxymoron problem and its impeding effect on the perceived legitimacy of business ethics can be further illustrated by referring to a personal experience that occurred during the application process for a PhD scholarship for this study. To obtain a scholarship, it was mandatory to defend the project proposal before a panel of scholars from various academic backgrounds. According to my recollection of events, the first question put to me by the panel was “Why do a PhD in business ethics when there can be no such thing as business ethics? After all, work ethics do not mix with personal

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31 Duska, *Contemporary Reflections on Business Ethics*, 53.

32 Jones, Parker, and ten Bos, *For Business Ethics*, 97.

33 Matthias P. Hühn, “Business ethics: Between Friedman and Freeman? A response to A Puzzle about Business Ethics,” *Business Ethics, the Environment & Responsibility* 32, no. 2 (2023), https://doi.org/10.1111/beer.12523.

34 Friedman, “The Social Responsibility of Business is to Increase its Profits,” 17.

35 Martin Parker, *Ethics & Organizations* (London: SAGE Publications Ltd, 1998), 283–84, https://doi.org/10.4135/9781446280171.

36 Tom Sorell, “Beyond the Fringe? The Strange State of Business Ethics,” ed. Martin Parker, *Ethics & Organizations* (London: SAGE Publications Ltd, 1998), https://doi.org/10.4135/9781446280171. 26.

37 Andrew Stark, “What’s the Matter with Business Ethics?,” *Harvard Business Review* 71, no. 3 (May–June 1993), https://hbr.org/1993/05/whats-the-matter-with-business-ethics.

ethics!" While this may be a singular experience, it supports the notion that there is a belief that business ethics is premised on an oxymoron and that the perceived legitimacy of the field can be impeded by such beliefs.

2.4 The sincerity problem

Business ethics is also charged with having a 'sincerity problem.' Various critics have argued that business ethics is 'insincere' because it has not delivered on its promise to advance moral business. Instead, business ethics mostly functions to maintain 'business as usual' and the unbridled pursuit of profit that comes with it. Business ethics, it is stated, "can be viewed as a mask of the brutalism it denies."[38] The field is accused of having done nothing to question capitalism and of functioning as a mere "lubricant for business."[39] Therefore, business ethics is deemed an essentially "toothless" field.[40] The "basic assumptions about the normal practices of business" are allegedly not adequately questioned in business ethics, and the field has neglected to treat business scandals as symptomatic of "broader problems in contemporary business practice."[41] By accepting and maintaining the status quo of business, it is argued that business ethics only helps to "perpetuate wrongdoings in business."[42] This situation has led to the biting criticism that business ethics is "at best window dressing and at worst a calculated lie."[43] Business ethics is, thus, denounced by critics because it allegedly functions as an *apologia* for capitalist business.

An apt summary of the sincerity problem with business ethics is provided in the statement that the field is

> . . . complicit in deception, serving to contain and deflect criticism from the institutions of capitalism, enabling business to bluff ethical, to present a caring front while carrying on exploitative and unethical practices as usual behind its back.[44]

Scholars in critical management studies (CMS) are at the forefront of this particular criticism of business ethics. These scholars mostly operate from within a critical theory paradigm and are, therefore, highly critical of "capitalist society and the ideologies that support it."[45] This is one explanation for the persistent way CMS scholars denounce business ethics.

The sincerity problem has been related to business ethics itself, but there is also an "outpouring" of literature in which the sincerity problem is related specifically to what

38 Roberts, "Ethics of Narcissus," 122.
39 Jones, Parker, and ten Bos, *For Business Ethics*, 134.
40 Wray-Bliss, "Ethics: Critique, Ambivalence and Infinite Responsibilities (Unmet)," 270.
41 Jones, Parker, and ten Bos, *For Business Ethics*, 7.
42 Jones, Parker, and ten Bos, *For Business Ethics*, 7.
43 Jones, Parker, and ten Bos, *For Business Ethics*, 1.
44 Wray-Bliss, "Ethics: Critique, Ambivalence and Infinite Responsibilities (Unmet)," 270.
45 Wray-Bliss, "Ethics: Critique, Ambivalence and Infinite Responsibilities (Unmet)," 270.

businesses "do in the name of ethics."[46] Most businesses have an ethics program, but according to some critics, these programs are only put in place if they can meet any of the following conditions: (1) the ethics program has a positive bottom-line effect (i.e., it pays), (2) the ethics program functions to feign ethical self-regulation and, in so doing, wards off external regulation, or (3) the ethics program functions to boost the corporate image. Hence, businesses are criticized for implementing ethics programs for "self-interested"[47] or even "narcissistic" reasons.[48] Businesses have, in other words, implemented an "ethics of narcissus" deeply rooted in the desire "to be *seen* to be ethical."[49] It is argued that most businesses require image-boosting because of the widespread "narrative of ethical decline" that has haunted business for a long time.[50] According to this narrative, it is believed that

> . . . people don't trust businesses anymore, that negative images of corporations are common in the media, that hyper-competition is making employees and organizations perform whatever the cost, that globalization is causing competing belief systems to collide, or that the environment can no longer sustain unbridled capitalism.[51]

This narrative of ethical decline in business is referred to more crudely as "the 'business sucks' story."[52] Many critics have argued that business ethics is being used by those in business or, worse, that it is *letting itself* be used by those in the business community, as a mere intervention to improve this image. The sincerity problem revolves around the idea that although business ethics should advance moral business, it merely functions to maintain, defend, and thus to advance capitalist business.[53] Therefore, it is argued the field has failed to deliver on its promise to advance moral business.

2.5 The hubris problem

Critics have also challenged the hubris problem (i.e., exaggerated pride and self-confidence), which, for them, marks much of the business ethics discourse. To illustrate this hubris, certain critics have highlighted three types of claims typically made by

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46 Rhodes and Pullen, "Critical Business Ethics," 483.

47 John Kaler, "Reasons to Be Ethical: Self-Interest and Ethical Business," *Journal of Business Ethics* 27, no. 1-2 (2000), https://doi.org/10.1023/A:1006450018660.

48 Roberts, "Ethics of Narcissus," 109.

49 Roberts, "Ethics of Narcissus," 111. Italics in original.

50 Martin Parker, "Business, Ethics and Business Ethics: Critical Theory and Negative Dialectics," *Studying Management Critically* (London: SAGE Publications Ltd, 2003), https://doi.org/10.4135/9781446220030. 176.

51 Parker, "Business, Ethics and Business Ethics," 175.

52 R. Edward Freeman, "The "Business Sucks" Story," *Humanistic Management Journal* 3, no. 1 (2018): 9, https://doi.org/10.1007/s41463-018-0037-y.

53 David Bevan, "Continental Philosophy: A Grounded Theory Approach and the Emergence of Convenient and Inconvenient Ethics," ed. Mollie Painter-Morland and Patricia Werhane, *Cutting-edge issues in Business Ethics: Continental Challenges to Tradition and Practice* (Dordrecht: Springer Netherlands, 2008), http://doi.org/10.1007/978-1-4020-8401-0. 135.

business ethicists to legitimize their field.[54] The first claim is there is a crisis in business that can be resolved only by business ethics. Businesses are, thus, told by business ethicists that they need business ethics. A primary example of such a hubristic claim, according to critics, is in the introduction of a business ethics textbook in which the author states the following:

> I have to show that businesspeople . . . have something to learn that they do not know already and that they need to know.[55]

This quote appears to suggest that business practitioners need to be educated about ethics, and that business ethicists are best suited to provide this education. Critics, however, have highlighted that this claim “is rather like being told that we ‘need’ estate agents, or pet psychologists, or more TV channels.”[56] The need for business ethics, according to critics, is a fabricated need.

The second hubristic claim that business ethicists make is that they are uniquely skilled in aligning ethics with business because they have special access to ethical theory and because they know how to depict these theories as practically relevant for the business practice. To demonstrate their special knowledge of ethical theories, most business ethicists resort to name-dropping (e.g., by mentioning Aristotle and Kant) and to using unnecessarily complex terms (e.g., ‘utilitarianism’ and ‘deontology’) to construct what critics describe as a “grand language [that] can be sufficiently obscure to impress and [that] allows the business ethicists to sound fairly clever.”[57] To convince readers of the practical relevance of business ethics, many business ethicists texts “stress the experience of their authors in business or consulting on ethics,” claiming to offer a method of ethics well aligned with the prevailing mindset of the business world.[58]

The third hubristic claim made by business ethicists is that their field functions to advance moral business. However, some critics have stated that business ethicists usually tread carefully regarding this claim. Rather than promising a radical change to business as usual, they convey the idea that business ethics can lead to moderate improvement that will not be “too upsetting or distressing” to management.[59] Critics have argued that the idea of a radical change might alarm or even frighten those in the business community. Therefore, when asked, many business ethicists recommend one-off ethics training sessions for employees rather than imposing a long-term reform of business. Regarding this claim, the following criticism has been made:

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54 Jones, Parker, and ten Bos, *For Business Ethics*, 17–18.
55 Jennifer Jackson, *An Introduction to Business Ethics* (Oxford: Blackwell, 1996), 1.
56 Jones, Parker, and ten Bos, *For Business Ethics*, 17–18.
57 Jones, Parker, and ten Bos, *For Business Ethics*, 18.
58 Jones, Parker, and ten Bos, *For Business Ethics*, 18.
59 Jones, Parker, and ten Bos, *For Business Ethics*, 19.

> The emphasis is on working with and within contemporary business organizations in order that their worst excesses may be tempered . . . Such modesty is very good to hear in the often hysterically breathless arena of management in general; but if so little is expected, then perhaps little is likely to be achieved.[60]

The quote claims that, despite its alleged hubris, business ethics lacks the grit to generate radical change in business. Many critics agree with this view and have argued that those in the management practice of business ethics "often do little to change the perception among ordinary employees that ethics is simply the latest in a succession of temporary management obsessions."[61] Therefore, critics have concluded that business ethics has made only a limited contribution to the advancement of moral business.[62]

3. 'Supportive ethics' vs. 'Critical ethics'

Having provided a descriptive reconstruction of the critical discourse of business ethics, we now have a preliminary understanding of the problems that critics relate to the field. In this section, an alternative interpretive method is employed to examine what I understand to be the underlying issues with the understanding of ethics in business ethics. These issues – which are touched upon by most critics – revolve around the idea that business ethics is marred by a grave misunderstanding of the meaning and purpose of ethics. To illustrate this supposed misunderstanding, I introduce two conflicting concepts of ethics derived from the critical discourse of business ethics. One concept is used to denote the allegedly 'misunderstood' ethics of business ethics, and the second is used to denote the 'proper' understanding of ethics. These concepts have been used by several critics, but I illustrate them here by drawing extensively on the 2005 book *For Business Ethics* by Campbell Jones, Martin Parker, and René ten Bos, who offer a precise account of both concepts and explain the following:

> Business ethics is often caught between two conceptions of what it is for. On the one hand, it can be a reassuring and satisfying set of ideas that reminds us how to do the right thing. On the other hand, it can be something that threatens us by exposing us to difference, and that challenges us to think and act differently. More often than not, business ethics has taken the first path, and in this respect is a source of solutions rather than problems.[63]

This quote suggests a particular concept of ethics holds sway in business ethics. I interpret this concept as a 'supportive ethics' that, above all, seeks to uphold business as usual. This is an ethics that is both practical (e.g., easily applicable, and therefore useful

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60 Jones, Parker, and ten Bos, *For Business Ethics*, 19.

61 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 7.

62 Woermann, A Complex Ethics: 14.

63 Jones, Parker, and ten Bos, *For Business Ethics*, 7.

in the business context) and supportive of capitalist business (e.g., an approach that does not criticize capitalist business but focuses on resolving micro-level ethical problems). The main purpose of this concept, as stated in the above quote, is to 'reassure' and 'satisfy' business. Therefore, a supportive ethics seeks to work with the business world rather than against it. However, many critics have argued that the 'proper' meaning and purpose of ethics are wholly different. Although our understanding of this conflicting concept of ethics is currently limited, it can be expected that it is radically opposed to the supportive ethics related to business ethics. This conflicting concept is, therefore, referred to as 'critical ethics' and does not seek to support but rather, as some critics have claimed, 'challenges' or even 'threatens' business as usual.

4. Supportive ethics

What is the matter with the supportive method of ethics in business ethics? Critics have argued that, for one, the "task of business ethics is not merely to confirm reality but to challenge the things that we take for granted right now."[64] The ethics of business ethics has only functioned to support 'the reality' of conducting business under the capitalist system. Some critics have considered this approach to be the "poverty" of business ethics.[65] This view is confirmed in the following statement:

> . . . business ethics has always been intent on improving the *status quo,* but was . . . much less inclined to questioning the *status quo.* This made it impossible to question commercial motivations such as yielding more profits, limiting liability, or building reputational value from a normative perspective. The central question seems to have been how ethics could make business more profitable. The result is that it forecloses critical discussions of the idea of 'profit' and what it might mean for our society.[66]

An ethics that confirms rather than challenges the status quo of business is an ethics that seeks to support business practice. But in seeking to support business, business ethics has allegedly lost touch with the proper meaning and function of ethics. Critics have raised several arguments to demonstrate that business ethics has forsaken its 'duty' to criticize business as usual. Most of these arguments pertain to the normative theoretical basis of business ethics and how this has been used by business ethicists.

Many critics have argued that business ethics is largely confined to one particular tradition in moral philosophy, and that it is overly fixated on a 'trifecta' of ethical theories. Business ethics theory is mostly grounded in the Anglo-American philosophical tradition. Therefore, business ethics allegedly fails to "draw on the full wealth that the

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64 Jones, Parker, and ten Bos, *For Business Ethics*, 139.

65 Jones, Parker, and ten Bos, *For Business Ethics*, 138.

66 Mollie Painter-Morland and René ten Bos, *Business Ethics and Continental Philosophy* (Cambridge: Cambridge University Press, 2011), 7–8, https://doi.org/10.1017/CBO9780511488641. Italics in original.

history of Western thought has to offer in deliberating ethical issues in business and society."[67] Instead, business ethicists are accused of treating

> [a] select group of central figures in . . . philosophy, for example, Aristotle, Locke, Smith, Kant, Bentham, and/or Mill, sometimes Rawls or Nozick, as the foundational texts out of which ethical thinking in commerce is developed and critiqued.[68]

It is alleged there are dubious reasons behind this selection. One critic has argued that business ethics draws specifically from this part of the Anglo-American tradition because it is rooted in a framework (i.e., of "positive egoism or individualism") that resembles the framework supporting "mainstream management and managerialism."[69] According to this critic, the resemblance of these frameworks is not accidental; this resemblance functions to ensure compatibility with the business world. Therefore, it is stated that business ethics theory is mostly based on a "partial reading of some claimed authority" like "an element of ethical egoism based in Adam Smith," or "an element of duty based in Kant," or on "an element of utilitarian ethics based in Bentham and Mill which seeks an optimum solution for the greatest number of people."[70] This critic further notes that these elements are selected only because they are easily converted to practical approaches to ethics that make sense in the business world.

But it is not just the partial reading of Anglo-American philosophy that is denounced by critics. The elements taken from Anglo-American philosophy are said to be willfully misinterpreted and misrepresented in much of business ethics to develop an ethics that supports business as usual. "Careful reading does not occur – it is an encumbrance in the path of the profit," writes one critic.[71] The misinterpretation and misrepresentation of Anglo-American philosophy allegedly functions to develop what has been called a "convenient" business ethics.[72] Convenient business ethics should not impose too many limitations on conducting business in a capitalist market. It should support business as usual. Critics have viewed this effort to develop a convenient approach to business ethics as the primary reason for the field's exclusion of continental philosophy.[73] Among these critics are those who have argued that continental thinking is mostly shunned in business ethics because it "doesn't work. It is not performative. It does not [convert] easily into action."[74] In other words, continental thinking would resist an easy conversion

67 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 2.
68 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 2.
69 Bevan, "Continental Philosophy," 133.
70 Bevan, "Continental Philosophy," 135.
71 Bevan, "Continental Philosophy," 134.
72 Bevan, "Continental Philosophy," 143.
73 For an argument along these lines, see: Mollie Painter-Morland and Patricia Hogue Werhane, *Cutting-edge Issues in Business Ethics: Continental Challenges to Tradition and Practice* (New York: Springer, 2008), https://doi.org/10.1007/978-1-4020-8401-0.
74 Bevan, "Continental Philosophy," 147.

into ethical rules, regulations, or codes that are recognizable and, thus, suitable for the business context.

How are we to understand the idea that business ethics willfully misinterprets and misrepresents ethics? For many critics, the answer to this question lies in the selection and the way of using normative ethical theories in business ethics. The normative ethical theories dominant both in the academic discipline and in the management practice of business ethics are utilitarianism, deontology, and virtue ethics.[75] But several critics have argued these theories are wrongfully appropriated in much of business ethics. For example, utilitarian approaches to business ethics are criticized for reducing the wealth of utilitarian ethical theories to business instruments that allow "practitioners to justify rationally some of the harmful consequences of their actions by simply out-balancing it with other perceived benefits."[76] More often than not, the bottom-line perspective of business is justified as an element that "competes with, and often outweighs" other benefits.[77] On the whole, critics have argued that business ethics ignores three central issues with utilitarianism: (1) its dismissal of the singular subject (e.g., are pains and pleasures equal in all perspectives?); (2) its quantification problems (e.g., can pains and pleasures be quantified?); and (3) its potentially unfair distribution of utility (e.g., are all stakeholder interests considered?).[78]

Critics have also dedicated much effort to describing the supposed problems with deontological or 'Kantian' approaches to business ethics. Here too, the gist of their criticisms is that these approaches were developed with an eye toward supporting business as usual. Particularly biting criticisms are directed at Norman Bowie, who is a leading scholar in Kantian business ethics. There are critics who hold Bowie "responsible for a set of serious misunderstandings" of Kantian philosophy:

> . . . the sort of Kant that pops up in Bowie's text may not be the sort of Kant that would pop up in the minds of those who have cast more than a superficial glance at the writings of this severe philosopher.[79]

What are the problems with Bowie's interpretation of Kant? One problem is related to Bowie's attempt to align ethics with business: "Bowie's account of Kant's philosophy highlights certain aspects while downplaying or simply ignoring others."[80] To accomplish this alignment, Bowie hides that the Kantian categorical imperative condemns certain business practices (e.g., redundancies and business bluffing). Bowie deliberately "hides these problems and emphasises that at least *some* business practices are in alignment

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75 Woermann, A Complex Ethics.

76 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 53–55.

77 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 53–55.

78 Crane et al., *Business Ethics*, 99–100.

79 Jones, Parker, and ten Bos, *For Business Ethics*, 42.

80 Jones, Parker, and ten Bos, *For Business Ethics*, 43.

with this categorical imperative."[81] Bowie's suggestion that Kant considered that doing good is about checking whether one's actions correspond to universal principles is also mistaken, according to these critics. For Kant, to be "good is not a condition, or a rule, but an endless struggle."[82] Hence, these critics object to how Kant is made "far more palatable and less challenging than he is if we read him carefully."[83] Kant is, thus, misread and misrepresented as a philosopher who offers a rational ethics, whereas he actually attempts to convey what critics describe as an image of "a struggling heart."[84]

Similar criticisms are directed at virtue ethical approaches to business ethics; again, these are denounced for being developed to support business as usual. The power of virtue ethics, according to some critics, is that it "attempts to understand what counts as good in different places and at different times."[85] But they highlight that this point is mostly ignored by business ethicists, such as Robert Solomon, whose "sort of virtue ethics ends up being a [sermonizing] about goodness in business that fails to take the context of business seriously."[86] Solomon's application of virtue ethics to business practice is depicted as naïve and optimistic. Critics have argued that Solomon views "business [organizations] as real communities, as potentially warm places inhabited by fully human beings" with common goals.[87] They further state that Solomon is "carried away by musings about emphatic and nurturing communities in which people excel."[88] For them, this view of businesses as communities amounts to wishful thinking.

One problem related to Solomon's view concerns the "typically Aristotelian virtues" he deems crucial for the business community.[89] Critics have claimed Solomon only selects those virtues relevant for business (e.g., "toughness" and "loyalty"), and that he has purposely defined these virtues in a "straightforward" way (e.g., by defining toughness as "being a take-charge type of person").[90] The critics note that this change in tone is intriguing. According to them, Solomon transforms certain Aristotelian virtues to assure their relevance for business. They also reject Solomon's argument that ethical virtues are universally held in business communities and can "lead to some form of action."[91] Critics have argued that Aristotle's philosophy is largely misinterpreted in this regard, partly because the idea of a universally held virtue is incredibly difficult to attain. They further state that human relations in Aristotle's *polis* – and those in the current business community – are marked with "conflict, ambiguity and insecurity"

81 Jones, Parker, and ten Bos, *For Business Ethics*, 47. Italics in original.
82 Jones, Parker, and ten Bos, *For Business Ethics*, 55.
83 Jones, Parker, and ten Bos, *For Business Ethics*, 55.
84 Jones, Parker, and ten Bos, *For Business Ethics*, 48, 50.
85 Jones, Parker, and ten Bos, *For Business Ethics*, 67.
86 Jones, Parker, and ten Bos, *For Business Ethics*, 58.
87 Jones, Parker, and ten Bos, *For Business Ethics*, 58.
88 Jones, Parker, and ten Bos, *For Business Ethics*, 60.
89 Jones, Parker, and ten Bos, *For Business Ethics*, 59.
90 Jones, Parker, and ten Bos, *For Business Ethics*, 59.
91 Jones, Parker, and ten Bos, *For Business Ethics*, 60.

regarding ethical virtues and other questions of ethics.[92] These inconveniences cannot be resolved by the "warm feelings" and shared virtues that Solomon wishes to accord to the business community.[93]

The criticism that business ethics willfully misinterprets and misrepresents philosophy is, thus, largely based on the notion that business ethicists tend to 'cherry-pick' from a limited selection of philosophical texts to use only those elements easily translated into the type of business ethics theories (e.g., 'Kantian business ethics') and practical applications (e.g., ethics codes) accepted as useful in the business world. The main problem with this cherry-picking, for most critics, is that business ethics thereby reduces or ignores the ambiguity, the struggle, and the doubts that many philosophers – such as Kant and Aristotle – related to the possibility of a practical approach to ethics. Business ethics is, therefore, alleged to have taken from philosophy only that which is useful and glossed over all that may hinder the development of a practical approach to ethics. Partly for this reason, several critics have argued that business ethics has lost touch with the proper meaning and purpose of ethics.

5. Critical ethics

Many critics have noted that crucial aspects of ethics are 'swept under the rug' in business ethics. Instead of being supportive, critics argue that business ethics should do the opposite and take a critical stance toward business as usual. But how are we to understand this critical concept of ethics? And what would business ethics be like if it were based on this concept? I address these questions by reconstructing the 'proper' meaning and purpose of ethics as described by specific critics. I focus on two arguments used by critics to describe this critical concept of ethics. The first argument suggests normative approaches to business ethics are based on an inadequate representation of the views on the fundamentals of ethics from which they are derived. It is argued that ethics is 'lost' and must be retrieved for critical or 'radicalized' business ethics. The second argument centers on the idea that the normative theoretical basis of business ethics cannot accommodate complex features, such as the particularity of business practitioners and the concrete business context. The theoretical basis of business ethics must, therefore, be reformulated, so these complex features are included once more.

Both arguments can be traced to the works of several critics.[94] To provide a more specific illustration, I examine two critiques of business ethics in which these arguments are articulated. The critique by Jones et al. is used once more to reconstruct the first

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92 Jones, Parker, and ten Bos, *For Business Ethics*, 63.

93 Jones, Parker, and ten Bos, *For Business Ethics*, 63.

94 For articulations of the first type of argument, see: Bevan, "Continental Philosophy."; Verstraeten, *Broadening the Perspectives*; And for articulations of the second type of argument, see: Woermann, *On the (Im)Possibility of Business Ethics*; Clegg, Kornberger, and Rhodes, "Business Ethics as Practice."

argument.[95] And the 2008 book *Business Ethics as Practice* by Mollie Painter is used to reconstruct the second argument.[96] The reconstruction of each argument is followed by a reflection on the insights gained for business ethics and on the peculiar way both critiques are framed.

5.1 Retrieving the meaning of ethics for a radicalized business ethics

Most critics develop their idea of the proper meaning and purpose of ethics by negating the ethics of business ethics. Jones et al. applied a similar method in their book-length critique of business ethics. The book employs a systematic critique of what the authors see as the "current restricted form" of business ethics, against which they claim a radicalized business ethics should function as a "disturbing dissatisfaction" with the present state of business.[97] Only then can the authors be, as the title of their book suggests, *for* business ethics. Jones et al. propose replacing 'supportive ethics' with 'critical ethics,' in which ethical problems of the market are connected to the capitalist system. Their argument regarding what critical ethics should be like is mostly based on twentieth-century philosophy, with special attention paid to Emmanuel Levinas' idea of ethics.[98]

Jones et al. derive three crucial elements about ethics from Levinas' philosophy: 1. ethics has no essence; 2. it revolves around the relation to others; and 3. it has a distinct critical function. The authors begin by arguing that Levinasian ethics has no essence. To support this argument, they quote an interview in which Levinas states, "'My task does not consist in constructing ethics; I only try to find its meaning.'"[99] Jones et al. note that Levinas touches upon a fundamental aspect of ethics here, which is that the meaning of ethics is not "hiding under a rock waiting to be found."[100] This statement means there is no universal meaning of ethics; its meaning can be understood in various ways. For Jones et al., this point implies there is no universal view of the meaning of ethics that can be used as grounds for a normative, action-guiding approach to ethics. They further argue that Levinas "does not think that the study of ethics will result in a clear and coherent closed system of rules or procedures as to how to behave."[101] With this idea of ethics in mind, Jones et al. stress we must not presume to know the meaning of ethics, which is the case within much of business ethics: "the ethical theories that have dominated business ethics (utilitarianism, deontology and virtue ethics) have tended to simply assume the meaning of ethics."[102] In other words, business ethics has tried to accord a specific meaning to ethics by making it seem as if ethics is all about intentions, consequences, virtues, and duty.

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95 Jones, Parker, and ten Bos, *For Business Ethics*.
96 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*.
97 Jones, Parker, and ten Bos, *For Business Ethics*, 140.
98 Jones, Parker, and ten Bos, *For Business Ethics*, 73.
99 Jones, Parker, and ten Bos, *For Business Ethics*, 9.
100 Jones, Parker, and ten Bos, *For Business Ethics*, 73.
101 Jones, Parker, and ten Bos, *For Business Ethics*, 74.
102 Jones, Parker, and ten Bos, *For Business Ethics*, 73.

Levinasian ethics, in the reading by Jones et al., is not about a closed system of ethical rules and procedures but about an "infinite openness" to the other human being.[103] The authors present this point as a second crucial element in Levinas' philosophy. According to them, Levinas argues that ethics is "all about the relation with the other," and they note this relationship is marked by an openness to the other and by an endless "responsibility for the Other."[104] Although Levinas' notion of ethics, in Jones et al.'s words, "verges on the unrealistic," its power lies in it offering "a way of thinking critically about how and why it is that we experience an openness to the Other so infrequently."[105] Instead of alerting us to this infrequency, business ethics presents a "pale narrow version of ethics, an ethics of codes and rules, an ethics that is useful for our business."[106] The value that Levinas' philosophy holds for a radicalized business ethics, according to Jones et al., is that it redirects the focus on 'rules, procedures and codes' to a focus on the relationship with other human beings.

Jones et al. use Levinas' idea that 'ethics is critique' as a third crucial element for a radicalized business ethics. They argue this idea might help to retrieve the critical function ethics used to have:

> Ethics . . . is also a grand word, and when we hear it we usually hear traces, however subtle, of the idea of a better world or a better life. In this sense it is possible to argue that ethics always has, in the strong sense of the word, a hopeful and critical orientation to the future.[107]

For Jones et al., the problem with business ethics is that "very often this disruptive, critical and hopeful aspect has been lost."[108] They note that, in its quest to support business as usual, the field forgot to "ask painful questions about the taken-for-granted."[109] Their reading of Levinas' idea of ethics as critique is proposed as a way to recover this critical function for a radicalized business ethics.

This critical function of ethics is taken a step further by Jones et al., who argue that, "ethics should actually hurt, because it presents a radical challenge to the ways things are often done in [organizations] and society at large."[110] To that end, Jones et al. opt for something they call "kynical scepticism,"[111] which is a term they borrow from the work of Peter Sloterdijk.[112] Jones et al. explain that kynical scepticism differs from cynical scepticism. The cynic (with a 'c') "knows that business ethics is a sham, that CSR

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103 Jones, Parker, and ten Bos, *For Business Ethics*, 77.
104 Jones, Parker, and ten Bos, *For Business Ethics*, 75, 78.
105 Jones, Parker, and ten Bos, *For Business Ethics*, 77.
106 Jones, Parker, and ten Bos, *For Business Ethics*, 78.
107 Jones, Parker, and ten Bos, *For Business Ethics*, 139.
108 Jones, Parker, and ten Bos, *For Business Ethics*, 139.
109 Jones, Parker, and ten Bos, *For Business Ethics*, 171.
110 Jones, Parker, and ten Bos, *For Business Ethics*, 133.
111 Jones, Parker, and ten Bos, *For Business Ethics*, 133.
112 Peter Sloterdijk, *Critique of cynical reason*, Theory and history of literature, (Minneapolis: University of Minnesota Press, 1987).

is marketing, and that behind such noble talk is massive suffering and environmental degradation."[113] This cynic laughs at the world, shrugs her shoulders, chuckles, and leaves it pretty much as it is. But the laughter of the kynic (with a 'k') is so loud that it makes "the world stammer and stutter."[114] Their point is that people have not laughed at the ethics of business as 'kynically' as they should have. Those who have laughed like kynical sceptics are non-governmental organizations (NGOs), whistle-blowers, filmmakers, and corporate protesters.

Now that the 'proper' meaning and purpose that Jones et al. accord to ethics is somewhat clearer, it is possible to reconstruct their radicalized version of business ethics. Jones et al. argue that business ethics assumed its present form because it attempted to develop a practical way of doing ethics that is easily applied to the business context. However, they stress that when something is "easily applicable, then it is not ethics."[115] In their view, business ethics does not count as ethics at all. Ethics, for Jones et al., should always be "a little bit unrealistic," and they note that, "if people criticise business ethics for being unrealistic, then they have realized something important, which is that the world that we are in, the world that we call 'reality,' can change."[116] According to Jones et al., ethics exists because the world is imperfect, and business ethics is needed because of "the disasters . . . inflicted on the planet and its citizens by market managerialism."[117] Hence, a radicalized business ethics should primarily function as a thorn in the side of capitalist business.

Ethics would, thus, critique how things are at present and, at the same time, be an orientation on how things could be better in the future. Jones et al. argue that ethics should be an orientation toward the 'good' life. It is partly for this reason that they state their view of ethics will

> . . . never live up to reality and this book [their book] has no satisfying conclusions. It will never be put into practice, once and for all. It is more like a disturbing dissatisfaction with the present, and a concern to do something about it.[118]

Because of this view of ethics, Jones et al. do not actually develop a radicalized business ethics. They do not offer an alternative normative, action-guiding approach to business ethics. Instead, they suggest that such a normative approach would be altogether impossible. Throughout their book, they repeatedly argue there is no "clear line" between what is moral and what is immoral, and that there are no universally valid principles, virtues, or notions of utility.[119] Ethics "cannot be reduced to rules."[120] What

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113 Jones, Parker, and ten Bos, *For Business Ethics*, 124.
114 Jones, Parker, and ten Bos, *For Business Ethics*, 125.
115 Jones, Parker, and ten Bos, *For Business Ethics*, 139.
116 Jones, Parker, and ten Bos, *For Business Ethics*, 139.
117 Jones, Parker, and ten Bos, *For Business Ethics*, 140.
118 Jones, Parker, and ten Bos, *For Business Ethics*, 140.
119 Jones, Parker, and ten Bos, *For Business Ethics*, 16.
120 Jones, Parker, and ten Bos, *For Business Ethics*, 140.

can be concluded from these arguments – and what appears to be the philosophical kernel of their critique – is that there can be no such thing as a normative approach to ethics that guides human action in the business context. And if a normative, action-guiding approach to ethics is impossible, then so is business ethics.

5.2 Re-interpreting a radicalized business ethics

The contrast between supportive and critical ethics provides new insights into the underlying issues with business ethics, but it also raises questions. In this section, I attempt to explicate both these insights and questions. I move from a description of the critique by Jones et al. to an initial re-interpretation of it. One insight derived from this critique is that a normative, action-guiding ethics is not just beside the point of ethics; it seems altogether impossible, because ethics cannot be, according to Jones et al., 'reduced' to a normative approach to ethics. Jones et al. point out that none of the dominant normative ethical theories of business ethics are adequate representations of the views of the fundamentals of ethics from which they are derived. In part, their critique hinges on the notion that business ethics 'cherry-picked' ethical theory to develop a practical approach to ethics. Jones et al. allege that business ethics has willfully misinterpreted and misrepresented a selection of ethical theories to develop a normative approach to business ethics.

But if we probe further into how this criticism is articulated, we begin to notice that the underlying problem cuts deeper than this alleged cherry-picking. Philosophers such as Kant and Aristotle were onto something about ethics, Jones et al. argue, but this is completely lost in business ethics.[121] Their critique gives rise to the question of whether we are looking at a problem that goes beyond a misinterpretation and misrepresentation of ethical theory. Is it not possible there is something about ethics that cannot be 'translated' to business ethics? To put the question more precisely: are these critics not alluding to a more fundamental problem with attempts to *directly* translate views on the fundamentals of ethics into normative approaches to ethics?

Perhaps we can begin to re-interpret this problem by distinguishing between two levels of ethical reflection that appear to be implicit in the critique by Jones et al., namely the fundamental and normative levels of ethical reflection. There is the argument that, on the fundamental level, we reflect on the foundations or grounds of ethics and question, for example, the reality of ethics (e.g., is ethics real, or is it an illusion?) or its meaning (e.g., what is the meaning of the idea of ethics?).[122] On the normative level, we reflect on substantive ethical questions related, either directly (e.g., is a specific act right or wrong in a given situation?) or indirectly (e.g., can this principle be universally valid?) to ethical action. Regarding these two levels, it is argued that the reflection on the fundamentals of ethics does not *directly* lead to a normative, action-

121 Jones, Parker, and ten Bos, *For Business Ethics*, 55, 67.

122 Wim Dubbink, "De Grondslagen van de (bedrijfs)ethiek," in *Ethisch Zakendoen*, ed. Willem van der Deijl and Wim Dubbink (Leuven: LannooCampus, 2022), 57.

guiding perspective on ethics.[123] This is because reflections on the fundamental level have no bearing on the finite and empirical reality in which we act. These reflections, for example, tell us that humans are autonomous beings without making clear what this implies in the finite and empirical reality in which humans act. This issue is part of the reason why these reflections do not *directly* lead to ethical prescriptions, such as ethical rules, norms, and principles, or, at least, not without taking intermediary steps (e.g., by developing a separate theory on *how* to translate reflections on the fundamental level to ethical prescriptions).[124] The problem here is that certain views on the fundamentals of ethics cannot be directly translated into a normative approach to ethics without taking intermediary steps.

Turning to Kant's philosophy might help to further illustrate that a direct translation from views on the fundamentals of ethics to normative ethics is problematic. Kant is not the only philosopher to discuss this problem, but his specific way of relating it to the limits of our human understanding can be useful for a preliminary description. According to Kant, we humans can – by using our reason – analyze and determine that the objective core of morality is 'the moral law.' But the moral law that our reason can deduce is a purely formal thing. It merely says, 'be lawful' or 'act lawfully.'[125] As such, this law says nothing about how it should be related to the finite and empirical reality we live in. The moral law does not translate directly into a normative, action-guiding perspective on ethics; it has no direct bearing on ethical action in concrete contexts. Kant speaks of a gap between views on the fundamentals of ethics and the normative level that we humans cannot bridge without taking intermediary steps, such as the development of a separate metaphysics on how to bridge this gap. He argues that we can only try to bridge this gap and must rely not on our reason but on our power of judgment.[126] Thus, the problem articulated by Kant concerns how views on the fundamentals of ethics can be directly translated into a normative ethics that impacts concrete ethical action. From now on, I call this issue the 'translation problem' for short.

With this preliminary description of the translation problem in mind, I want to draw attention to the peculiar way the above critique of business ethics is framed. Jones et al. appear to describe the translation problem as if it is unique to business ethics. They repeatedly criticize business ethics for its inadequate translation of certain views about the fundamentals of ethics into normative approaches to business ethics. This criticism is framed in such a way that the reader is led to believe the translation problem is somehow caused by business ethicists and therefore manifested only in their field. This framing is peculiar because Jones et al. appear to gloss over the notion that a

123 For an argument along similar lines, see: Dubbink, "De Grondslagen van de (bedrijfs)ethiek," 57.

124 Dubbink, "De Grondslagen van de (bedrijfs)ethiek," 57.

125 Immanuel Kant, *Kritiek van de Praktische Rede*, ed. and trans. J. Veenbaas and W. Visser (Amsterdam: Boom, 1788/1913/2006), 72.

126 Immanuel Kant, *Kritik der Urteilskraft*, Kant's Schriften Band 5, (Berlin: W. De Gruyter, 1790/1910).

philosopher like Kant treats the translation problem as a problem of ethics in general;[127] that is, as a problem inherent to ethics in general, not to any field of applied ethics in particular. Kant's articulation of the translation problem already suggests that it is not new to philosophy. What is new, however, is that Jones et al. appear to frame this problem as specific to business ethics.

The question, then, is whether the translation problem is indeed specific to business ethics – as implied by Jones et al. – or whether this is actually a problem of ethics in general. If we consider the above distinction between the fundamental and normative levels of reflection and Kant's treatment of the translation problem as one of ethics in general, then we may need to rethink how these critics frame this problem. If the translation problem is indeed a problem of ethics in general, then it might manifest itself in the normative practice of business ethics, but this does not make it a problem specific to this field. Is it not more likely, then, that this issue is actually a problem of ethics in general that can also be manifested in other fields of applied ethics?

However, in the critique by Jones et al., the distinction between the above levels is largely glossed over. Instead, these levels are intertwined, so that a problem of ethics in general is framed as specific for business ethics. One example of this issue is in their statement that, although "ethics should actually hurt," business ethics does nothing of the sort.[128] This statement can be interpreted on multiple levels of ethical reflection. On a fundamental level, it can mean that ethics 'hurts' because it is a critique of the self, which, to be sure, is the understanding of ethics that Jones et al. derive from Levinas.[129] But Levinas' idea of ethics as critique was developed as a view of ethics that concerns how our subjectivity is called into question by the other human being.[130] In this respect, there is no direct relationship between Levinas' fundamental view of ethics as critique and a normative approach to ethics, such as business ethics. Nevertheless, Jones et al. hold this view against business ethics. They effectively develop a 'political critique' of business ethics because it is allegedly uncritical of capitalist business. Although there may be valid reasons for directing such a political criticism toward business ethics, the way in which Jones et al. connect this criticism to their idea that business ethics fails to live up to the Levinasian idea of ethics is less convincing.

Part of their criticism of the normative approach to business ethics is based on the notion that it does not live up to the demands explicated in certain views of the fundamentals of ethics (e.g., those developed by Levinas, Kant, or Aristotle). But the question is whether this criticism is fair and, more important, whether it leads to a misrepresentation of this problem manifested in business ethics. The field is blamed

127 Jones et al. do not completely ignore this problem, at a certain point in the text they write that they want to "draw attention to the difficulties of applying a body of philosophy to contemporary business." Despite this remark that reads as if it applies to ethics in general, in the rest of the text they appear to frame these difficulties as if they are specific for business ethics. *For Business Ethics*, 43.

128 Jones, Parker, and ten Bos, *For Business Ethics*, 133.

129 Jones, Parker, and ten Bos, *For Business Ethics*, 78.

130 See: Levinas, *Otherwise than Being*.

for attempting to translate certain views of the fundamentals of ethics into normative approaches to business ethics, or, as Kant might put it, for attempting to bridge the gap between the fundamental and normative levels. But Kant's point that an attempt *must* be made to bridge this gap is largely overlooked by these critics. Hence, if the inadequate representation of certain views on the fundamentals of ethics in normative business ethics is due to a willful misinterpretation and misrepresentation of these views, it would be fair to criticize business ethics, but if this inadequacy is due to the translation problem, it is not.

My re-interpretation of the critique by Jones et al. suggests at least two things. First, a better understanding of the underlying issues with the ethics of business ethics requires further examination of the translation problem. It might be possible to further illuminate this problem by considering it apart from the specific context of business ethics; that is, by examining how this problem is understood in philosophy. It could be that the origin and implication of this problem are misrepresented by these critics. Second, the above reflection suggests that, although there may be valid reasons to criticize business ethics, it might not be fair of Jones et al. and other critics to frame a problem of ethics in general as specific to business ethics. At this point in the study, however, these are preliminary suggestions. My hypothesis is that the translation problem manifested in business ethics is a problem of ethics in general. If this is the case, then this problem could just as well be manifested in another field of applied ethics, and business ethics would be blamed largely without fault. This is not to say that the criticism of business ethics by Jones et al. is entirely mistaken, but it suggests that business ethics may not be as misguided as these critics make it out to be.

5.3 A complex business ethics

In her 2008 *Business Ethics as Practice*, Mollie Painter generally agrees with the critique by Jones et al. and builds on their argument that there is no universal view of ethics. She also argues that business ethics has attempted to develop an ethics with universal validity; that is, an ethics based on immutable principles, rules, virtues, and notions of utility.[131] Yet, in doing so, Painter stresses that the field failed to acknowledge the "irreducible singularity of individual experiences and perceptions" that characterizes human relations within the business context.[132] She, therefore, aimed to develop an approach to business ethics that can accommodate the complexity of human relations within the context of business.

Painter's approach to business ethics is mostly grounded in the continental philosophical tradition. She argues that various strands of continental thought can be characterized by their rejection of the idea of objective truths in ethics.[133] From

131 For a similar argument, see: Woermann, *On the (Im)Possibility of Business Ethics*.

132 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 52.

133 Painter presents "poststructuralist thought" as an example of a strand of continental thought that rejects the idea of objective truths in ethics. Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 90–92.

the perspective of certain philosophers in the continental tradition, Painter states there is no "objective, independent vantage point available to an individual subject" but rather a "general acknowledgement and appreciation of the role that people's emotions, bodies, relationships, histories and contexts play in shaping their sense of self and any perceptions and beliefs that they may have."[134] Painter argues that drawing on continental philosophy is beneficial for business ethics because the views proposed in this tradition can accommodate an approach to ethics marked by complex features.[135]

The alternative understanding of ethics that Painter develops for this new approach is called 'business ethics as practice.' She argues that the efforts of business ethics to develop a practical approach to ethics have been counterproductive. In her view, business ethics has become "disassociated" from business practice.[136] This disassociation is partly due to the notion that business ethicists have attempted to objectify ethics (e.g., in ethics codes) to the point it can no longer accommodate the complex reality of the business context. For her, this issue means the normative theoretical basis of business ethics cannot accommodate both the relationships between individuals and groups, both the universal and the particular, and both substance (i.e., the meaning of the good) and procedure. Painter argues these theories tend to, for instance, either universalize, and thereby "[over-generalize]," or individualize "to the point of fragmentation."[137] She, therefore, develops an approach to business ethics that seeks to integrate certain normative elements and the specific context to which they apply.

To develop this approach, Painter provides a new framework for "moral agency and moral epistemology."[138] For this framework, she draws on pragmatism, as it can "accommodate particularity."[139] To reconsider moral agency, she builds on the philosophies of Nietzsche and Heidegger. In her view, these philosophers cast serious doubts on the idea that moral agents can "make sense of things objectively, through an act of rational detachment" from the context in which they are situated.[140] Painter also draws on Merleau-Ponty's philosophy to argue that, "embodied, emotional agents, who carry within themselves the biases of their own particular life-situations, simply don't see the world in a homogeneous way."[141] The idea Painter is developing here specifically relates moral agency to contextual features and to the "role of the body," which plays a crucial part in how people make sense of things.[142]

However, Painter does not develop a normative, action-guiding approach to business ethics, because she believes

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134 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 90–91.
135 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 93.
136 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 2.
137 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 81.
138 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 291.
139 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 88.
140 Jones, Parker, and ten Bos, *For Business Ethics*, 101.
141 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 101–02.
142 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 97.

> . . . a comprehensive *descriptive* or *prescriptive* account of the multiple personal and contextual variables and complex relational dynamics that inform, or *should* inform, individual's perceptions of what is morally appropriate in particular situations is ultimately impossible.[143]

Painter does not seek to replace the, in her words, "rigorously systematic accounts of moral reasoning" in business ethics.[144] This is a crucial point for her as a proponent of continental thought. In this view, replacing one system of ethics with another is unacceptable; it would be impossible.

5.4 Re-interpreting a complex business ethics

Painter's critique provides additional insights into the underlying issues with the understanding of ethics in business ethics. I make a first attempt to draw these issues out by offering a re-interpretation of this critique. Painter's main problem appears to be that business ethics cannot sufficiently accommodate complexity. More precisely, the normative theoretical basis of business ethics does not sufficiently accommodate human subjectivity, emotions, particularity, and the way in which humans are 'embodied.' Instead, Painter argues that business ethics is mostly grounded in an objective, rational, universal, and detached account of ethics. She effectively criticizes business ethics for offering universal ethical rules that cannot possibly be applied to judge particular cases. In reading this critique, however, it appears Painter alludes to a more fundamental problem that is not necessarily specific to business ethics. Is it not the case that this problem that normative ethical theories cannot accommodate complexity is part and parcel of philosophical debates on ethics? Is this not, in other words, a more fundamental problem with moral judgment that philosophers discussed long before business ethics even existed? This issue is, from now on, called the 'moral judgment problem,' and a preliminary description is offered below.

The moral judgment problem can be traced to Aristotle's *Nichomachean Ethics*, in which the complexity of particular cases is viewed as the primary reason for the impossibility of developing a universal system of ethical rules.[145] Painters' critique of the ethics of business ethics resembles Aristotle's articulation of a problem of ethics in general. Both accounts refer to the tension between 'universality' and 'particularity' that render moral judgments problematic. In forming a moral judgment, a universal ethical rule (e.g., that prohibits lying) must somehow be applied to a particular case (i.e., a lie told by a particular person, in a specific situation). One problem with this attempt to form moral judgments is that universal ethical rules can never be applied directly to particular cases (e.g., lying is wrong in certain cases, but there are many exceptional cases in which it might be morally permissible to lie). There thus appears to be a certain

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143 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 92. Italics in original.

144 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 257.

145 Aristotle, *Nicomachean Ethics*, trans. Terence Irwin, Third ed. (Cambridge: Cambridge University Press, 2019), 1104a 1–10.

tension that arises in *each* attempt to apply a universal ethical rule to a particular case, not just in attempts made or suggested by business ethicists.

Nevertheless, Painter frames this moral judgment problem as if it were specific to business ethics. Business ethics, she argues, is at fault for having appropriated ethical theory, so that complex notions of subjectivity, emotions, particularity, and embodiment are blocked out. Although Painter may be right to argue that certain approaches to business ethics have appropriated ethical theory in this way, the way in which she frames this problem as specific to business ethics could nevertheless hinder a proper understanding of the origin and implications of this problem. When this problem is reconsidered separately from the critical discourse of business ethics, for example from the perspective of philosophical debates on ethics, it is treated as a problem of ethics in general. Another example is found in the philosophy of Paul Ricoeur, where we read that we must

> . . . assume the following paradox: on the one hand, one must maintain the universal claim attached to a few values where the universal and historical intersect, and on the other hand, one must submit this claim to discussion, not on a formal level, but on the level of the convictions incorporated in concrete forms of life.[146]

Ricoeur here describes the paradox of putting "universals in context" or of somehow integrating the universal and the particular in the moral judgment process.[147] And so, whereas Painter mostly stresses the particular aspect of the moral judgment – because this is allegedly ignored in business ethics – Ricoeur tells us it is also inevitable to 'universalize' these judgments, such as by appealing to universal ethical rules in forming these judgments.

One more example of a discussion about the moral judgment problem is in Bernard Williams' critique of the generality and impersonality in Utilitarianism and Kantianism.[148] Although Williams treats this problem with generality and impersonality as a problem of ethics in general, Painter appears to frame these problems in the context of a critique of business ethics. Note that Jones et al. adopt a similar method in their critique of business ethics. They similarly frame a possible problem of ethics in general, which I call the translation problem, as specific to business ethics. Therefore, I expand the hypothesis developed in Section 5.2 and examine the possibility that the problems with translation and moral judgment are not specific to business ethics but are instead related to ethics in general.

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146 Paul Ricoeur, *Oneself as Another*, trans. Kathleen Blamey (Chicago: University of Chicago Press, 1992), 289.

147 Ricoeur, *Oneself as Another*, 289.

148 Bernard Williams, *Ethics and the Limits of Philosophy* (Florence: Taylor & Francis Group, 2011).

6. Looking backward and forward

We have seen that business ethics – as a normative, action-guiding approach to ethics – has been deemed impossible by several of its critics. This supposed impossibility of business ethics is related to two fundamental problems, which I call the translation problem and the moral judgment problem. Both problems appear to revolve around certain tensions. The former concerns a tension that arises in attempts to relate certain views on the fundamentals of ethics to normative ethical approaches, whereas the latter is related to a tension that arises in attempts to apply universal ethical rules to particular cases. These tensions are irresolvable, according to certain critics. This issue has led to the critical idea that business ethics are, thus, impossible. The question, however, is whether this impossibility (e.g., the above-mentioned irresolvable tensions) is related to business ethics in particular or to ethics in general. In this chapter, I hypothesized the problems with translation and moral judgment could be problems of ethics in general manifested in business ethics but not specific to this field.

If my hypothesis is accurate, it would be unfair to frame certain problems as specific to business ethics. The field would be blamed for something it is not guilty of. It is possible these problems are not caused by business ethicists but are manifested in their attempts to apply ethics to the business context. But what is even more important is that this method of framing may lead to a misrepresentation of the problems manifested in business ethics, which, in turn, hinders a proper understanding of their origin and implications for this field. Two methods are employed to investigate this hypothesis. First, Chapter 3 examines whether the central problems of business ethics are also manifested in another field of applied ethics. If they are, then we should reconsider (1) the supposed vulnerability of business ethics in relation to other fields of applied ethics, (2) the depiction of certain problems as specific to business ethics, and (3) the possibility that business ethics is haunted by problems of ethics in general. Second, Chapters 4 and 5 investigate whether the problems with translation and moral judgment are discussed in philosophical debates on ethics and how their origin and implications can be understood.

CHAPTER 3

COMPARING TWO CRITICAL DISCOURSES: BUSINESS ETHICS AND BIOETHICS

1. Introduction

Business ethics is only one field among many in applied ethics, but it is singled out by critics who maintain that its problematic status in academia is matched only by its shaky standing in business practice.[1] Business ethics appears to be depicted as the 'black sheep' of applied ethics. The question, however, is whether this depiction is fair, and whether the problems manifested in business ethics are not misrepresented by certain critics. In the previous chapter, I hypothesized that certain problems related to business ethics by these critics may be problems of ethics in general. If this is the case, then these problems should also be manifested in other fields of applied ethics. This possibility is glossed over by many critics, who tend to fixate on business ethics only. In this chapter, I examine the possibility that other fields of ethics are haunted by the same problems as business ethics. For this purpose, a comparative analysis is conducted to examine whether the central problems related to business ethics by its critics are also manifested in another field of applied ethics and, if so, which ones.

The central problems of business ethics are referred to as (1) the philosophical problem, (2) the application problem, (3) the oxymoron problem, (4) the sincerity problem, and (5) the hubris problem. Most of these problems can be related to two underlying problems with the understanding of ethics in business ethics, namely the translation problem (i.e., the tension that arises in attempts to relate views regarding the fundamentals of ethics to normative approaches to ethics) and the moral judgment problem (i.e., the tension that arises in attempts to apply universal ethical rules to particular cases). If it can be demonstrated that these problems are manifested in another field of applied ethics, then it would be inaccurate to depict them as specific to business ethics. These problems could manifest themselves in many, if not all, fields of applied ethics. Although this finding would not make their manifestation in business ethics any less problematic, it would support my idea that the framing of these problems as specific to this field should be reconsidered. Furthermore, it would mean the origin and implications of these problems are not properly understood.

2. Bioethics: legitimation of choice, identifying the field, and stories regarding its origin

The field of 'bioethics' was selected for the comparative analysis. The main reason for selecting bioethics is that this field is claimed to be much more successful than business ethics.[2] As an academic discipline, bioethics is widely "accepted as both relevant and intellectually sound," whereas business ethics is held back by the idea that it is "premised on an oxymoron."[3] Prominent philosophers have been major contributors to the

1 See: Stark, "What's the Matter with Business Ethics?," 38; Daniel Callahan, "Bioethics as a Discipline," *The Hastings Center Studies* 1, no. 1 (1973), https://doi.org/10.2307/3527474.

2 Wicks, "The Business Ethics Movement."

3 Wicks, "The Business Ethics Movement," 604–05.

bioethical discourse (e.g., Phillipa Foot, Hans Jonas, and Peter Singer). Bioethicists have also achieved a "systematic and sustained involvement" in biomedical practice (e.g., in hospitals), in the public sphere (e.g., in the media), and in politics (e.g., in governmental ethics committees), whereas it is arguably "far from evident" that business ethicists have done the same.[4] Therefore, it is relevant to examine whether a 'successful field,' such as bioethics, faces the same criticisms as business ethics.

There are core similarities between the two fields that provide additional reasons for this selection. Bioethics has its place and date of birth in common with business ethics. Both fields were developed in the 1960s and the 1970s and are viewed as 'American products.' Bioethics is a "typically Western phenomenon" that first developed in the US and then exported its "Western values and ethical principles" to other parts of the world.[5] As with the analysis in Chapter 2, which focused on the dominant US approach to business ethics, the present chapter examines the dominant US approach to bioethics. An additional similarity between the two fields is that both were 'born in scandal.' The rise of bioethics was promoted by a series of biomedical scandals (e.g., unethical conduct in medical research trials).[6] Another similarity is the theoretical core of both fields, which is mostly produced by philosophers and theologians. However, the core of the two fields has changed over time. Bioethics witnessed a "marginalization and growing irrelevance" of philosophy and theology.[7] Bioethicists began to focus less on abstract analytical analyses and more on "practical issues" relating to their field.[8] This position continued to change when scholars in alternative disciplines took up bioethical issues. To some extent, then, business ethics and bioethics have a common 'heritage,' meriting further comparison between the two.

2.1 Identifying bioethics

Before proceeding to the comparative analysis, the preliminary matter of how bioethics is defined and what bioethicists do should be addressed first. The bioethical literature reveals that efforts to address this matter are manifold. Several textbooks and multi-volume encyclopedias are dedicated to identifying and demarcating the field.[9] Nevertheless, there is no consensus among members of the field regarding what bioethics is, nor how it emerged, nor what it is that bioethicists do.[10] This situation

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4 Wicks, "The Business Ethics Movement," 604–05.

5 Henk ten Have, *Encyclopedia of Global Bioethics* (Switzerland: Springer International Publishing AG, 2016), 3, https://doi.org/10.1007/978-3-319-05544-2.

6 Albert R. Jonsen, *The Birth of Bioethics* (New York: Oxford University Press, 2003).

7 Henk ten Have, *Bizarre Bioethics: Ghosts, Monsters, and Pilgrims* (Baltimore: Johns Hopkins University Press, 2022), 17. https://muse.jhu.edu/pub/1/monograph/book/100167.

8 Ten Have, *Bizarre Bioethics*, 16.

9 See, for example: Stephen G. Post, *Encyclopedia of Bioethics*, 3rd ed. (New York: Thomson Gale, 2004).

10 Ana S. Iltis and Adrienne Carpenter, "The "s" in Bioethics: Past, Present and Future," ed. H. Tristram Engelhardt, *Bioethics Critically Reconsidered: Having Second Thoughts* (Dordrecht: Springer Netherlands, 2012), https://doi.org/10.1007/978-94-007-2244-6. 144.

demonstrates how much of a "puzzle" the field is.[11] The introduction below should, therefore, be read as a brief – and thus restricted – overview of what constitutes bioethics. The term 'bioethics' is used to refer to the specific discourse on biomedical issues produced by the academic discipline, the public and political sphere, and biomedical practice. The term 'bioethicist' is used to refer to the members of this field.

Bioethics can be identified as the study of ethical problems in "medicine, nursing, public health, the allied health professions and the biomedical sciences."[12] The *Encyclopedia of Bioethics* states that ethical problems related to abortion, euthanasia, the rationing of medical care, 'informed consent,' 'the killing/letting-die distinction,' and more recently the use of 'organoids' (i.e., organ-like tissue structures produced in vitro) are examples of common issues in bioethics.[13] The field did not begin with a "Big Bang" but emerged gradually.[14] The "turning point" for bioethics allegedly came in the early 1970s.[15] The field began to develop more rapidly around this time, culminating in the establishment of several bioethics institutes, among which are the Hastings Center and the Kennedy Institute of Ethics.

2.2 Origin stories of bioethics

The narrative of the history of bioethics is much contested. Consequently, there are "varied accounts" of bioethics' origin story.[16] One story is that bioethics was preceded by a long tradition in 'medical ethics' that some date even to the Hippocratic school of thought.[17] The 'new' bioethics replaced the 'older' medical ethics, which had allegedly become "inadequate for contemporary" biomedicine.[18] The tradition of medical ethics was deemed too narrow. For instance, because it mainly focused on the physician/patient relationship. The tradition was also deemed outmoded because it was based upon "conventional conceptions of the moral obligations of health professionals," such as medical paternalism and professional authority.[19] In a second variation of bioethics' origin story, the field developed as part of the American rights movement in the 1960s. According to some of the early bioethicists, they began their careers as 'social

11 H. Tristram Engelhardt, "A Skeptical Reassessment of Bioethics," ed. H. Tristram Engelhardt, *Bioethics Critically Reconsidered: Having Second Thoughts* (Dordrecht: Springer Netherlands, 2012), https://doi.org/10.1007/978-94-007-2244-6. 1.

12 Arthur L. Caplan, "Done good," *Journal of Medical Ethics* 41, no. 1 (2015): 25, https://doi.org/10.1136/medethics-2014-102290.

13 Post, *Encyclopedia of Bioethics*.

14 Jonsen, *The Birth of Bioethics*, 327–28.

15 Ten Have, *Bizarre Bioethics*, 16.

16 Renée C. Fox and Judith P. Swazey, *Observing Bioethics* (Oxford: Oxford University Press, 2008), 64, https://doi.org/10.1093/acprof:oso/9780195365559.001.0001.

17 Jonsen, *The Birth of Bioethics*.

18 Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 5th ed. (New York, N.Y.: Oxford University Press, 2001), 1.

19 Beauchamp and Childress, *Principles of Biomedical Ethics*, 1.

activists,' demonstrating against medical paternalism and for patient rights (e.g., patient autonomy). These ethicists do not refer to bioethics as a field but as a "movement."[20]

According to a third version of bioethics' origin story, the field had a "technologically driven genesis."[21] Technological advancements, such as the artificial lung, renal dialysis, and in vitro fertilization, created a "demand" for further ethical reflection.[22] 'Should we do all that technology has enabled us to do?' became a pressing ethical question for early bioethicists. This question remains pressing today, for example, in the case of controlled human infection studies (e.g., in relation to the COVID-19 pandemic).[23] In a fourth variation of the story, bioethics was founded by philosophers stuck in metaethical disputes (e.g., between "dogmatists" and "relativists and subjectivists"), who found in the ethics of biomedicine an opportunity to reflect on practical issues.[24] These philosophers thought they could help "those facing actual ethical choices."[25] Some have argued that medicine "saved the life of ethics."[26]

2.3 Approaches to bioethics: theories and methods

Bioethics is an interdisciplinary field: It is argued that "work is contributed by philosophers, scholars in religious studies, lawyers, economists, physicians, sociologists and many others."[27] This variety in disciplines means a broad range of theories and methods are employed for ethical reflection in the field. I focus on some of the dominant theories and methods proposed by bioethicists with a background in moral philosophy. There are philosophers-cum-bioethicists who, like their colleagues in business ethics, use moral theories, such as deontology, virtue ethics, and utilitarianism, to develop normative theoretical approaches to bioethics.[28] However, many other bioethicists tend to avoid the use of so-called 'high moral theory.' These bioethicists prefer "to deal with moral problems without needing a philosophical foundation."[29] Therefore, many approaches to bioethics are based on "mid-level theory" or "anti-theory."[30]

The best-known example of a mid-level theory approach is 'principlism.' Principlism is based on a set of universal principles that can be used to guide human action in

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20 Fox and Swazey, *Observing Bioethics*, 196–97.
21 Fox and Swazey, *Observing Bioethics*, 69.
22 Caplan, "Done good," 26.
23 See, for instance: Seema K. Shah and Annette Rid, "Ethics of controlled human infection studies: Past, present and future," *Bioethics* 34, no. 8 (2020), https://doi.org/10.1111/bioe.12801.
24 Stephen Toulmin, "How Medicine Saved the Life of Ethics," *Perspectives in Biology and Medicine* 25, no. 4 (1982): 736, https://doi.org/10.1353/pbm.1982.0064.
25 Caplan, "Done good," 25.
26 Toulmin, "How Medicine Saved the Life of Ethics," 750.
27 Samuel Gorovitz, "Baiting Bioethics," *Ethics* 96, no. 2 (1986): 356, https://doi.org/10.1086/292753.
28 Jonsen, *The Birth of Bioethics*, 327–28.
29 Marcus Düwell, "One Moral Principle or Many?," ed. Christoph Rehmann-Sutter, Marcus Düwell, and Dietmar Mieth, *Bioethics in Cultural Contexts: Reflections on Methods and Finitude* (Dordrecht: Springer, 2006), https://doi.org/10.1007/1-4020-4241-8. 93.
30 Alberto Garcia and Dominique Monlezun, "Casuistry," *Encyclopedia of Global Bioethics* (Springer International Publishing, 2015), https://doi.org/10.1007/978-3-319-05544-2. 442.

biomedical practice. The 'casuistic approach' by Jonsen and Toulmin[31] has been identified by scholars as an anti-theory approach to bioethics.[32] Casuistry seeks to derive generalizable moral rules and principles (i.e., maxims) from specific cases. It is a case-based approach to bioethics. Partly because of the relative success of these approaches, bioethics has witnessed a "progressive institutionalization" in the academy.[33] A "particularly significant" number of bioethicists is currently involved in teaching and conducting research in medical faculties.[34]

But only half of bioethics occurs in the academy. Bioethics' other half is public discourse, in which academics, healthcare professionals, policymakers, and the public engage in debates on bioethical issues. The term "demi-discipline" was coined to describe the field.[35] Bioethics gained legitimacy "by not following the . . . analytical philosophical tradition into the ivory tower, but, rather, the Socratic tradition of engaging the public in the marketplace."[36] Bioethics, thus, sought and gained legitimacy by entering the public and the political arenas: "Americans can hardly open a newspaper or watch television without encountering a so-called bioethics expert."[37] Bioethicists have helped to "shape the practice" of biomedicine from within healthcare organizations (i.e., in medical centers and hospitals) and by participating in public debates on biomedical issues (e.g., on mandatory vaccination), as well as by participating in regulatory bodies (e.g., in US courts and congress). The public presence of bioethics is widely viewed as one of the main reasons the field evolved so rapidly.[38]

3. A comparative analysis of critiques of business ethics and bioethics: five central problems

I now proceed to the comparative analysis. The method employed for this analysis is a descriptive comparison of the critical academic literature concerning business ethics and bioethics. The arguments raised in the critical discourse of business ethics – specifically those used to describe the central problems of this field – are used as a 'lens' through which to view the arguments raised in the critical discourse of bioethics.

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31 Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: a History of Moral Reasoning* (Berkeley: University of California Press, 1988).

32 Garcia and Monlezun, "Casuistry," 440–51.

33 Renée C. Fox, "More Than Bioethics," *The Hastings Center Report* 26, no. 6 (1996): 5, https://doi.org/10.2307/3528743.

34 Wicks, "The Business Ethics Movement," 604.

35 Jonsen, *The Birth of Bioethics*, 346.

36 Caplan, "Done good," 26.

37 Carl Elliott, "The Soul of a New Machine: Bioethicists in the Bureaucracy," *Cambridge Quarterly of Healthcare Ethics* 14, no. 4 (2005): 379, https://doi.org/10.1017/S0963180105050528.

38 Wicks, "The Business Ethics Movement," 604.

3.1 The philosophical problem

Business ethics is fiercely criticized for its appropriation of philosophy and ethics. The question is whether bioethics faces similar criticism. The philosophical problem concerns the notion that the dominant normative ethical theories in business ethics (i.e., deontology, utilitarianism, and virtue ethics) are willfully misinterpreted and misrepresented. Business ethics allegedly employs a simplified idea of philosophy and a common-sense view of ethics to develop a practical approach to ethics that is easily applied to the business context.[39]

Surprisingly enough, bioethics is similarly criticized for its appropriation of philosophy and ethics. In a categorization of the main criticisms directed at bioethics, the use of philosophy and ethics is ranked as the field's "number one" problem:

> Bioethics is not legitimate work in philosophy . . . bioethics [is a] betrayal of the standards, traditions, and commitment of scholarship in the humanities . . . bioethics is merely common sense or the sort of 'applied humanities' which, however useful it is to the public or practitioners, does not merit respect as scholarship.[40]

The accusation that bioethics only functions to produce 'common sense' is confirmed by another commentator, who notes "that most people regard something as right is often taken as sufficient to show that it is right [in bioethics]."[41] These two quotes illustrate that the legitimacy of the philosophical work in bioethics is questioned by a number of its critics, who take issue with the simplification of philosophy and ethics in this field: "[bioethicists] sometimes reduce the history of philosophy to a few handy tools in the box . . . Philosophy . . . has so much to offer, but [bioethicists] tend to use it in rather narrow, stereotypical and sometimes lazy ways."[42] Similarly, critics have claimed there "is a tendency for the ethics in bioethics to be treated superficially."[43] The appropriation of philosophy and ethics in bioethics is described as 'narrow,' 'superficial,' and 'uncritical,' demonstrating that similar arguments are used to criticize the use of philosophy and ethics in bioethics.

The above criticism is also applied to the use of certain normative ethical theories in bioethics (e.g., the use of Kantian philosophy). Kant is among the most cited philosophers in bioethics.[44] I use an example of a specific application of Kantian philosophy to a biomedical issue and, of course, an example of the criticism of this specific application to illustrate that the same problem is raised in the critical discourse of bioethics.

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39 Jones, Parker, and ten Bos, *For Business Ethics*, 23.

40 Gorovitz, "Baiting Bioethics," 357.

41 Peter Singer, "'Bioethics': The Case of the Fetus," *The New York Review* (August 5 1976): 1, https://www.nybooks.com/articles/1976/08/05/bioethics-the-case-of-the-fetus/.

42 Richard Ashcroft, "Futures for Bioethics?," *Bioethics* 24, no. 5 (2010), https://doi.org/10.1111/j.1467-8519.2010.01821.x.

43 Singer, "'Bioethics'," 1.

44 Angus Dawson, "The Future of Bioethics: Three Dogmas and a Cup of Hemlock," *Bioethics* 24, no. 5 (2010): 221, https://doi.org/10.1111/j.1467-8519.2010.01814.x.

This example is derived from the bioethical debate on the ‘market for human body parts.’ In this debate, Kant is frequently invoked to construct arguments regarding the impermissibility of selling one’s body or body parts. But this invoking has instigated much criticism by commentators:

> Kant was not primarily concerned with giving arguments for the prohibition of such a market . . . these passages should be understood against the background of his moral philosophy.[45]

Bioethicists who selectively cite Kant to construct an impermissibility argument in the debate about a market for human body parts have supposedly failed to acknowledge Kant’s broader concerns. They are said to have glossed over Kant’s ideas concerning the “correct moral relationship” between a rational person and her body, and therefore,

> The more fundamental problem for those who selectively cite these passages from Kant . . . is that they have not understood . . . Kant.[46]

The ‘selective citation’ of Kant in bioethics demonstrates a misinterpretation and misrepresentation of his philosophy. This critical argument on the use of Kant in bioethics seems analogous to the arguments used to criticize the use of Kant in business ethics. Certain critics of bioethics also appear to argue that ‘convenient passages’ in Kant are cherry-picked to construct an impermissibility argument (i.e., an argument that prohibits selling one’s body or body parts). Any inconvenient passages that may impede or warn against constructing such an argument are, for what critics see as “obvious reasons,” omitted.[47]

This type of argument is not only used to criticize the use of Kant in the bioethical debate about the market for human body parts; the selective or superficial use of Kant allegedly demonstrates a general failure in bioethics to adequately interpret and represent his position:

> Indeed, he [Kant] almost certainly would have rejected much of the ethics that bioethics promotes . . . in his name . . . Despite bioethics’ apparent allegiance to Kantian philosophy, and its attendant methodology, it takes a radical’s knife to the heart of Kant’s approach and the body of his conclusions. The structure and content of that wonderful . . . Enlightenment argument were debased through the piecemeal appropriation of his (and other philosopher’s) complex works.[48]

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45 Nicole Gerrand, “The Misuse of Kant in the Debate about a Market for Human Body Parts,” *Journal of Applied Philosophy* 16, no. 1 (1999): 62, https://doi.org/10.1111/1468-5930.00108.

46 Gerrand, “The misuse of Kant “ 60,66.

47 Gerrand, “The misuse of Kant “ 61.

48 Tom Koch, *Thieves of Virtue: When Bioethics Stole Medicine* (Cambridge: MIT Press, 2012), 16-19. https://www.jstor.org/stable/j.ctt5hhhkg.

Hence, Kant himself is said to have disagreed with the fragmented appropriation of his philosophy in bioethics. This alleged misuse of Kant instigated other biting criticisms of bioethicists because they "butcher" and "mangle" certain passages in Kant's philosophy "so that they [lose] their original meaning."[49] This is but one example of the "hostile tone" struck in the critical discourse of bioethics in which, according to one commentator, "words once commonly used on the football field and in locker rooms . . . [have now] become common parlance" in the academic discourse.[50]

But the philosophical problem is not only related to the use of Kant in bioethics. Similar problems are related to using other normative ethical theories in bioethics, such as Mill's utilitarian position. Mill is frequently used in bioethics to construct arguments for patient autonomy, so much so that scholars have asked "whether the last word really was written" on Mill in bioethics.[51] Another critic wrote the following:

> When a justification is provided, it is often poor and derived from second hand sources. For example, by far the most quoted paragraph is one from Mill's *On Liberty*. The devotion to this single paragraph . . . is truly staggering. Never has so much rested on so little . . . The paragraph is plucked from the text, ignoring the fact that the essay as a whole defends *inter alia* various scenarios for interfering with people's liberty . . . Any sensitive reading of Mill's work as a whole cannot support the idea of him being a swivel-eyed [extreme] libertarian.[52]

Here we see that similar arguments are raised regarding the use of Mill in bioethics.[53] Again, it is argued that bioethics 'cherry-picks' passages that are convenient for constructing an argument (e.g., for patient autonomy), whereas inconvenient passages (e.g., those restricting patient autonomy) are omitted. Bioethics is, therefore, similarly charged with developing a supportive ethics. This is an ethics that can easily be applied to biomedical practice and, as outlined in Section 3.4, functions mostly to 'work with' rather than against this practice.

According to a number of critics, bioethics is marked by a "wilful misreading" of philosophy.[54] Bioethicists are allegedly more concerned with developing practical approaches to ethics than with offering adequate representations of the philosophical texts from which these approaches are derived:

> The problem lies not in the writings of . . . philosophers like Immanuel Kant who . . . had no experience or interest in the modern issues that confront us. Nor, in their own day, were they

49 Bradford William Short, "History "lite" in modern American bioethics," *Issues in law & medicine* 19, no. 1 (2003): 71.

50 Ruth Macklin, "The Death of Bioethics (As We Once Knew It)," *Bioethics* 24, no. 5 (2010): 211-12, https://doi.org/10.1111/j.1467-8519.2010.01808.x.

51 Ashcroft, "Futures for Bioethics?," ii.

52 Dawson, "The future of bioethics," 221.

53 For an argument along similar lines, see: Jeremy R. Garrett, "Two Agendas for Bioethics: Critique and Integration," *Bioethics* 29, no. 6 (2015), https://doi.org/10.1111/bioe.12116.

54 Dawson, "The future of bioethics," 221.

> practical ethicists seeking to find a better way to govern and be governed. The problem lies in the vainglorious attempt to apply these philosophers' general ideas of humankind as if they provided a simple map through the mire of social complexity that is the modern condition.[55]

Although Kant did not aspire to develop a practical approach to ethics, in bioethics he is depicted as if he did. Hence, certain critics of bioethics have also highlighted the deliberate misinterpretation and misrepresentation of philosophy motivated by the desire to develop a practical ethics that will be accepted as useful in the biomedical context. It is alleged this approach ultimately results in

> A blinkering rather than a widening of the field of moral inquiry . . . Bioethics is an example of the way in which philosophical theorizing can be stepped down . . . to create a practical guide to issues of treatment or nontreatment affecting persons who are sick. And, as an ethics of medicine based on a philosophical perspective, bioethics is taken very seriously indeed, dictating decisions of patient care or noncare as well as institutional and legislative agendas that advance or retard areas of medical care and treatment.[56]

At least two things can be derived from this quote. First, that philosophy is 'stepped down' or reduced when treated as an instrument or procedure to resolve moral problems. And second, that this treatment of philosophy can have 'dangerous' consequences in the biomedical context. If bioethics misinterprets and misrepresents philosophy and ethics, as suggested by some critics, then how can it be expected to adequately guide decisions that are particular for this context, namely decisions that ultimately concern life and death?[57] The above analysis reveals the philosophical problem is related both to business ethics and bioethics, suggesting this is a shared problem area between the two fields.

3.2 The application problem

Business ethics is also charged with having an application problem. I illustrated this problem by focusing on criticisms regarding the development and use of ethics codes in business ethics. Codes hinder rather than stimulate moral behavior, and they are supposedly grounded in mistaken universal ethical notions of right and wrong. There is a notable difference between the ethics codes of business ethics and bioethics that should be noted at the outset. According to one origin story, bioethics replaced an age-old tradition in medical ethics dating to the Hippocratic school of thought. In this story, the Hippocratic Oath is presented both as the bedrock of modern bioethics and as one of the first ethics codes to have ever existed. The accuracy of this story is sometimes

55 Koch, *Thieves of Virtue*, 14–15.

56 Koch, *Thieves of Virtue*, 4.

57 See, for example: Robert Sharp, "The dangers of euthanasia and dementia: how Kantian thinking might be used to support non-voluntary euthanasia in cases of extreme dementia," *Bioethics* 26, no. 5 (2012), https://doi.org/10.1111/j.1467-8519.2011.01951.x.

disputed, but it is still a fact that the ethics code currently used in US biomedical practice is claimed to be derived partly from the Hippocratic Oath. For example, the American Medical Association states that its *Code of Medical Ethics* is "rooted" in the Hippocratic Oath.[58] Most physicians pledge to a variation of this code upon entering biomedical practice. A crucial difference between the ethics codes of bioethics and business ethics, then, is that the former is rooted in a "pagan Greek religion,"[59] whereas the latter is partly rooted in Anglo-American philosophy.

A consequence of this difference is that the criticisms of these codes also differ in some respects. The Hippocratic code, for instance, is criticized for being grounded in a pagan Greek religion running counter to "the views of virtually all modern health providers and patients."[60] It is also criticized for being drafted mainly by physicians and for reflecting only their interests, rather than the interests of patients and the public. Alternative codes have been developed since the time of Hippocrates. The eighteenth century witnessed a renewed interest in medical ethics codes in the English-speaking world. In this period, physician-cum-philosophers (e.g., John Gregory, Thomas Percival, and Benjamin Rush) began to develop medical codes of ethics not grounded in the 'Hippocratic ethic' but in Scottish Enlightenment ideas (e.g., by David Hume).[61] While these attempts to modernize medical ethics codes were highly influential in the practice of medicine, contemporary bioethicists have criticized them because they were "inadequate for contemporary biomedical ethics."[62] In part, this criticism is due to the remnant of paternalism in these 'older' codes, and to the notion that they cannot account for modern technical advancements in biomedicine.[63]

The supposed defaults of the older medical ethics were presented as the basic claims for the development of the new field of bioethics – and of a new code of medical ethics. Principlism (see Section 2.3) was proposed as *the* modern approach to bioethics. Although different versions of principlism exist, the 'four principles' approach by Beauchamp and Childress dominates the field. This approach is not grounded in one ethical theory but assumes there is a "common morality" that applies to all people and all places, from which four specific principles can be derived.[64] These principles are respect for autonomy, nonmaleficence, beneficence, and justice.[65] There is an argument

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58 See: "Why does the medical profession need a code of ethics?," 2021, accessed 23 November, 2021, https://www.ama-assn.org/delivering-care/ethics/why-does-medical-profession-need-code-ethics.

59 Robert M. Veatch, *Hippocratic, Religious, and Secular Medical Ethics: the Points of Conflict* (Washington: Georgetown University Press, 2012), 12. https://doi.org/10.1007/s11017-011-9203-z.

60 Veatch, *Hippocratic, Religious, and Secular Medical Ethics*, 12.

61 Lisbeth Haakonssen, "Medicine and Morals in the Enlightenment: John Gregory, Thomas Percival and Benjamin Rush," *Bulletin of the History of Medicine* 73, no. 1 (1999), https://doi.org/10.1163/9789401200233.

62 Beauchamp and Childress, *Principles of Biomedical Ethics*, 1.

63 This section on the emergence of medical ethics codes is not exhaustive. It does not, for example, include the development and critique of the 'Nuremberg' code of ethics that has been highly influential in bioethics, especially regarding the medical ethical standards for conducting human research.

64 Tom L. Beauchamp, "A Defense of the Common Morality," *Kennedy Institute of Ethics journal* 13, no. 3 (2003): 259–74, https://doi.org/10.1353/ken.2003.0019.

65 Beauchamp and Childress, *Principles of Biomedical Ethics*.

that these "principles in the form of codes have a valuable role to play in the drive towards ethical professional practice."[66] These 'common' or universal principles can be codified and applied to address and resolve particular bioethical issues.

Below, I compare the criticism of the codification of principlism to that of ethics codes in business ethics. Although there are substantive differences between these two types of codes, both are grounded in similar assumptions about the meaning and purpose of ethics, for which both are heavily criticized. The assumption that ethics can be codified or reduced to a set of normative rules for judging particular cases is problematic for many critics of business ethics. A number of critics of bioethics appear to use analogous arguments, for example, the following:

> Nothing could be easier than having the guiding principles for numerous situations presented in a single document. This means that it is simple to understand and learn. All the answers are worked out in advance, and the decision about which principle to use, and its implication is straightforward. On this view, making a decision about ethical conduct is merely a process of following the correct rule.[67]

Ethics codes, for critics of bioethics, are "not just inadequate, but actually unethical,"[68] because they reduce the responsibility of the individual. Biomedical practitioners are more inclined to simply follow the code than to form a moral judgment regarding it. There are critics who fear these practitioners may have

> . . . become [desensitized] to the morally relevant factors in the particular circumstances . . . because codes . . . stunt the moral development of the individual, suggesting that once the code is known, then ethics comes to an end. This gives a false sense of security.[69]

It appears that critics of bioethics have used similar arguments to denounce ethics codes. They, too, claim that codes are grounded in problematic assumptions about ethics and that codes may have the contradictory effect of hindering rather than stimulating the morality of biomedical practitioners.

Certain critics of bioethics have mentioned another problematic assumption behind ethics codes, namely that they are based on universal ethical rules or principles. This criticism is often directed at principlism, which is grounded in a set of universal principles. The proponents of principlism argue these principles are universal because "most classical ethical theories include these principles in some form, and traditional medical codes presuppose at least some of them."[70] Principlism is based on what its

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66 Angus Dawson, "Professional Codes of Practice and Ethical Conduct," *Journal of Applied Philosophy* 11, no. 2 (1994): 146, https://www.jstor.org/stable/24353976.

67 Dawson, "Professional Codes of Practice and Ethical Conduct," 147.

68 Dawson, "Professional Codes of Practice and Ethical Conduct," 153.

69 Dawson, "Professional Codes of Practice and Ethical Conduct," 153.

70 Beauchamp and Childress, *Principles of Biomedical Ethics*, 12.

proponents call a “common morality” shared by all “serious” persons.[71] This assumption has triggered much criticism. Some critics have claimed this assumption is exemplary for the general understanding of ethics in bioethics:

> The overall skew of [bioethics] is tipped in the direction of an intellectual and moral preference for universalism in the form of transcendent principles that ‘rise above’ the particularities of historical circumstances and tradition, and of social and cultural context and locale.[72]

Principlism – with its universal principles grounded in a common morality – has particularly appealed to bioethicists because:

> Many of them believed that there could be no serious ethics that did not aspire to identify and articulate certain universalistic principles . . . The kind of theory that they sought was a perspective that would enable them to deliberate moral questions, decisions, and actions logically, rationally, and objectively, with rigor, and in a language of moral discourse that would cogently and forcefully express a universal motivating ideal.[73]

Bioethics’ aspiration to develop a universal or common morality is not just problematic; certain of its critics have argued it has altogether failed. Bioethics has failed “to provide what it had promised: canonical moral guidance.”[74] The field’s attempt to offer universal moral guidance failed because it “shipwrecked on intractable moral pluralism.”[75] This failure is related to the notion that bioethicists (and moral philosophers in general) disagree on fundamental ethical issues. Bioethicists often “disagree as to when it is forbidden, obligatory, or merely licit to have sex, reproduce, transfer private property from unconsenting owners, and kill their fellow humans,” meaning it is argued that, “moral pluralism reigns in the face of . . . a common morality and a common bioethics.”[76] According to these critics, there is much more disagreement regarding the idea of ethics than bioethics has admitted.

The ethics codes of bioethics are allegedly based on mistaken assumptions about the meaning of ethics. These assumptions are aptly summarized in the following statement:

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71 Beauchamp and Childress, *Principles of Biomedical Ethics*, 3–12.

72 Fox and Swazey, *Observing Bioethics*, 423.

73 Fox and Swazey, *Observing Bioethics*, 423–24.

74 H. Tristram Engelhardt, “Why Clinical Bioethics So Rarely Gives Morally Normative Guidance,” ed. H. Tristram Engelhardt, *Bioethics Critically Reconsidered: Having Second Thoughts* (Dordrecht: Springer Netherlands, 2012), https://doi.org/10.1007/978-94-007-2244-6_8. 162.

75 Engelhardt, “Why Clinical Bioethics So Rarely Gives Morally Normative Guidance,” 162.

76 Engelhardt, “A Skeptical Reassessment of Bioethics,” 3.

> . . . the individual is the proper measure of all things ethical, that tools for measurement transcend culture, and that there is a single, correct solution for each ethical problem, which is largely independent of person, place or time.[77]

Bioethics is here criticized for largely deeming complex biomedical practice irrelevant. Bioethics, in other words, does not sufficiently accommodate the complexity of the biomedical practice it seeks to serve. We have seen that the exact same criticism is leveled at business ethics. The application problem, at least regarding ethics codes, is thus a shared problem area between business ethics and bioethics.

3.3 The oxymoron problem

The oxymoron problem is regularly related to business ethics. Business ethics is viewed as a contradiction in terms because ethics supposedly conflicts with business. It appears, however, that the oxymoron problem is not related to bioethics in the same way. In this section, I explore possible explanations for this notable difference between the two fields. The few commentators who have compared bioethics with business ethics suggest there is more of a union between biomedicine and ethics. Some of these commentators have highlighted that business ethics is fundamentally problematic, whereas bioethics is not. The persistent problems with business ethics are said to be

> . . . all the more disappointing in contrast to the success that ethicists in . . . medicine . . . have had in providing real and welcome assistance to their practitioners . . . work in business ethics hasn't 'taken' in the world of practice, especially when compared with the work of ethicists in other professions such as . . . medicine.[78]

There is an argument that there is a crucial difference between business ethics and bioethics, which explains why the former is more problematic than the latter. The conception of biomedicine is wholly different from that of business. Biomedicine is viewed as a profession, and its practitioners are perceived as professionals. This perspective is because biomedicine is widely held to be grounded in an

> . . . agreed body of specialized medical . . . knowledge, which has been part of the university curriculum from before the Renaissance. To enter the profession, it is usually necessary but not sufficient to have a university qualification. It is usually also necessary to pass examinations set and marked by current members of the profession. To be a member of the profession is usually to be on a publicly available list of practitioners recognized by the profession from which one can have one's name taken off and so be excluded from the profession.[79]

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77 Charles L. Bosk, "Professional Ethicist Available: Logical, Secular, Friendly," *Daedalus* 128, no. 4 (1999): 62, https://www.jstor.org/stable/20027588.

78 Stark, "What's the Matter with Business Ethics?," 38.

79 Sorell, "Beyond the Fringe?," 20.

The same cannot be said for business, partly due to the variety of business types, ranging from sole proprietorships (e.g., ice-cream vendors) to larger multinational corporations (MNCs). Although business practitioners operating in MNCs usually have business degrees, many of the larger corporations are open to – and sometimes even led by – the "self-taught."[80] Furthermore, in business, there is no similar risk of being excluded from the profession as there is in biomedicine. Going bankrupt or being convicted for fraud does not necessarily imply one is excluded from business for life.

There is another crucial difference highlighted by certain critics. Not only is biomedicine perceived as a profession populated by practitioners who are generally viewed as highly educated professionals, but biomedicine also

> . . . has a clear legacy of moral traditions while business lacks them . . . Specific ethical duties and a clear sense of moral purpose pervade the writings of health care professionals and discussions about these have been an ongoing part of medicine from the time of Hippocrates. In contrast, there is widespread frustration about the performance of business. Many people fail to see any substantive connection between ethics and business, let alone a set of vibrant moral traditions which have helped or could help guide the practice of business over time.[81]

Biomedicine and business are, thus, surrounded by wholly different perceptions – or narratives. The narrative constructed about biomedicine (i.e., a profession with a longstanding moral tradition) has enabled an automatic connection between biomedicine and ethics. This narrative has legitimized the concept of bioethics. In contrast, the narrative about business (i.e., a 'non-profession' lacking moral tradition) has impeded the connection between business and ethics. It has rendered the legitimacy of business ethics problematic.

Critics have stated the connection between business and ethics is also impeded by another distinctive aspect of the narrative about business. Most people think "the basic driving forces of business" are "the creation of profit and adherence to the principles of the free market."[82] Business – that is, in ordinary thought – is driven by money and profit. The effect of this widespread narrative is that the connection between ethics and business is dismissed out of hand. Biomedicine is not haunted by this narrative. Biomedical practice and those within it are usually not suspected of being driven by money and profit, because we, in the words of one commentator, tend to overestimate the "charitable and altruistic nature" of biomedical practitioners.[83] We ignore that many physicians work on a 'fee-for-service' basis, which implies there are many occasions

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80 Sorell, "Beyond the Fringe?," 20.

81 Wicks, "The Business Ethics Movement," 605–06.

82 Wicks, "The Business Ethics Movement," 605–06.

83 Andrew C. Wicks, "Albert Schweitzer or Ivan Boesky? Why We Should Reject the Dichotomy between Medicine and Business," *Journal of Business Ethics* 14, no. 5 (1995): 340–42, https://doi.org/10.1007/BF00872097.

when it is in their self-interest to "overtreat" a patient because of certain financial benefits.[84] And one could also consider

> . . . the relatively high and rising salaries of physicians, the growth of medical specialists, the decline in indigent care [for low-income patients], and the geographic maldistribution of physicians toward wealthier areas as further confirmation that we should be [skeptical] of imagining Albert Schweitzer or Mother Teresa when we call to mind the ordinary physician.[85]

It is suggested here that the high level of ethical esteem for physicians – and for biomedicine in general – should be tempered. Business and biomedicine are both marred by complex moral issues that require ethical reflection. Despite this call to temper our esteem for biomedicine, the oxymoron problem is not related to bioethics as much as it is to business ethics. There is no similarity between the academic criticisms directed at business ethics and those directed at bioethics. The oxymoron problem is, thus, not common to each field.

3.4 The sincerity problem

Despite its promise to advance moral business, it is argued that business ethics has a sincerity problem because it functions as an *apologia* for capitalism. Business ethics does not adequately question capitalist business and has, therefore, failed to deliver on its promise.[86] It would be interesting to examine, despite the field being held in greater deference, whether this sincerity problem is also related to bioethics. The critical literature on bioethics reveals that similar criticisms are directed at this field. Bioethicists are frequently denounced for working with, rather than against, biomedicine and are called "mere apologists for the status quo."[87] This view suggests that, according to certain critics, bioethics also functions to support rather than criticize biomedicine. In explaining why bioethicists have preferred to work with, rather than against, biomedicine, one member of the field claims bioethicists "have been a guest in the house of medicine and, in order to survive in that environment, have had to align themselves with money and power."[88] This supposed alignment in bioethics is manifested in various ways.[89] Bioethicists allegedly tend to focus on ethical issues most likely to generate funding (e.g., ethical issues regarding organ donation generate a "larger payoff" than ethical issues regarding disability).[90] This alignment is also manifested in the inclination of bioethicists to serve the interests of institutions

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84 Wicks, "Albert Schweitzer or Ivan Boesky?," 340–42.

85 Wicks, "Albert Schweitzer or Ivan Boesky?," 340–42.

86 Jones, Parker, and ten Bos, *For Business Ethics*, 2.

87 Koch, *Thieves of Virtue*, 105.

88 Mark Kuczewski, "Disability: An Agenda for Bioethics," *American Journal of Bioethics* 1, no. 3 (2001): 36, https://doi.org/10.1162/152651601750418026.

89 Adam M. Hedgecoe, "It's money that matters: the financial context of ethical decision-making in modern biomedicine," *Sociology of Health & Illness* 28, no. 6 (2006), https://doi.org/10.1111/j.1467-9566.2006.00541.x.

90 Kuczewski, "Disability," 36.

that fund their research projects (e.g., pharmaceutical corporations with a stake in the focus and outcome of their research).[91] Because bioethicists seek an alignment with the 'money and power' of the biomedical practice, it has been argued that they

> . . . will probably produce even fewer critiques of the biomedical enterprise as a whole. They will be more likely to produce arguments about how to make the system better, rather than to challenge the system itself.[92]

Partly for this reason, bioethics is argued to have "lost its critical edge."[93] In turn, this loss affected how bioethicists take position on ethical issues, for instance, regarding medical technological advancements. Although many bioethicists used to be critical of new technological advancements (e.g., by questioning whether we should do all that technology enables us to do), some critics have claimed bioethicists are now "often saying an enthusiastic 'yes'" to these advancements.[94]

Bioethics is also criticized for perpetuating certain unethical biomedical practices and for being complicit in these practices. This criticism is related to the embrace of so-called 'lifeboat ethics' in this field.[95] This approach to ethics is based on the metaphor of a lifeboat, in which there is a scarcity in places. When a ship sinks, not all passengers can fit in the available lifeboats. Decisions must be made about who gets a place in the lifeboat, and who does not. Lifeboat ethics, in other words, refers to the ethical justification of decisions about "who should be helped when not all can be helped."[96] Bioethicists typically use lifeboat ethics to construct arguments for the allocation of scarce medical resources. Lifeboat ethics are inherent to the structure of certain bioethical arguments and were applied in cases concerning the scarcity of kidney dialysis machines in the early 1960s,[97] as well as cases regarding scarce intensive care unit beds during the COVID-19 pandemic in the 2020s.[98]

The criticism directed at the use of lifeboat ethics in bioethics is analogous to how business ethics is criticized for accepting certain unethical business practices. Both fields are charged with accepting practices that should be rejected from an ethical viewpoint. Bioethicists are, for instance, criticized for failing to question why biomedical resource scarcities exist in the first place:

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91 Roger Cooter, "Historical keywords: bioethics," *Lancet* 364, no. 9447 (2004), https://doi.org/10.1016/S0140-6736(04)17381-9.

92 Elliott, "The Soul of a New Machine," 381.

93 Ten Have, *Bizarre Bioethics*, 26.

94 Elliott, "The Soul of a New Machine," 381.

95 Larry R. Churchill, Nancy M. P. King, and Gail E. Henderson, "The Future of Bioethics: It Shouldn't Take a Pandemic," *Hastings Center Report* 50, no. 3 (2020), https://doi.org/10.1002/hast.1133.

96 Churchill, King, and Henderson, "The Future of Bioethics," 54.

97 For a seminal critical article on biomedical scarcity, see: "They Decide Who Lives, Who Dies," LIFE, 1962, accessed 1 December, 2021, http://www.nephjc.com/news/godpanel.

98 See, for instance: Sabine Netters et al., "Pandemic ICU triage challenge and medical ethics," *BMJ Supportive & Palliative Care* 11, no. 2 (2021), https://doi.org/10.1136/bmjspcare-2020-002793.

> From bioethics' inception . . . bioethicists have treated resource scarcities as a natural inevitability rather than the result of prior choices whose results were horrendous and anything but inevitable. This failure of vision has, in a real sense, defined the bioethical role . . . [bioethicists] have a stake in the problem and not in its structural solution.[99]

Bioethics allegedly accepts the scarcity of resources in biomedicine as a 'natural inevitability' rather than critically questioning the biomedical and political system in which medical resources became scarce.[100] Critics have argued that scarcity in biomedicine is unnatural and generated by economic choices made either by those in biomedical institutions (e.g., to reduce medical costs) or by those in political administrations (e.g., to reduce taxes). According to this view, scarcity results from conscious and economically informed choices to reduce costs.[101] Because cost reduction is often in the interest of hospital executives, bioethicists are asked to develop ethical justifications for scarcity, but critics have argued the following:

> One cannot in good faith insist that resulting dilemmas of scarcity are necessary and inevitable. One can only say that they are so in the system of health economics that we have created . . . Ignored in bioethics are myriad ways to structure a U.S. healthcare system to reduce costs and increase efficiency.[102]

This attempt to justify 'unethical practices' in bioethics applies not only to scarcity issues. Bioethicists are frequently asked, for instance, by health maintenance organizations (HMOs; i.e., organizations providing health insurance coverage), to construct ethical arguments on their behalf. Regarding this request, the criticism has been made that "a swelling corps of [HMOs] are cashing in on their [bioethicists'] ethical expertise, marketing their services to managed-care executives eager to dress up cost-cutting decisions in Latinate labels and lofty principles."[103] Furthermore,

> Just as one might go shopping for a lawyer who will be sympathetic to one's case, ethicists have been hired in the support of various political and ideological agendas. They have been hired as well by for-profit corporations, who understand that bioethicists can serve as advocates of a favorable interpretation of how those corporations can operate in the grey zones.[104]

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99 Koch, *Thieves of Virtue*, 104.

100 See, also: Ten Have, *Bizarre Bioethics*, 26.

101 Nancy M. P. King, Gail E. Henderson, and Larry R. Churchill, "Lifeboat Ethics, Social Selves, and Health Justice," *Bioethics Reenvisioned* (University of North Carolina Press, 2022), http://www.jstor.org/stable/10.5149/9781469671604_king.

102 Koch, *Thieves of Virtue*, 107.

103 Ruth Shalit, "When We Were Philosopher Kings: the rise of the medical ethicist," *The New Republic* 216, no. 17 (1997): 25.

104 Engelhardt, "Why Clinical Bioethics So Rarely Gives Morally Normative Guidance," 152–53.

Bioethics is, thus, criticized for working with, or for being co-opted by, the biomedical and political system. Bioethicists are, therefore, viewed as complicit in the problems caused by the (biomedical and political) system.

Bioethics is also charged with having a sincerity problem, which is clearly stated in the following biting criticism:

> . . . bioethics' primary interest was never the ethics of medicine and its practice. Its concern with the patient in his or her need always has been, at very best, secondary . . . bioethics has been first and foremost about allocation in the context of a presumably natural scarcity of resources. It has always taken as given the morality of the lifeboat and the economics of its construction . . . bioethics argued a rationale for noncare and triage in a context of shortages whose causes bioethicists did not pause to explore.[105]

Instead of being concerned with the ethics of biomedicine, it is alleged that bioethicists are primarily concerned with serving alternative interests, either those of the corporations that fund their research projects, those of HMOs, and those of hospital executives, or of the political system. Therefore, other critics have argued that bioethics has failed to keep

> . . . one eye on the decisions in lifeboats and the other eye upstream, on the morality of the politics and economics that created the lifeboats and shaped the lives of their occupants.[106]

Hence, bioethics is also viewed by certain critics as a field that has failed to deliver on its promise to advance the morality of biomedicine. This point indicates that business ethics and bioethics are similarly accused of tacitly accepting the flawed systems in which they operate (i.e., business ethics supposedly takes capitalism for granted and bioethics allegedly takes the economic forces within the biomedical and political system for granted) without properly exposing these flaws and, thus, working with rather than against these systems. We can, therefore, conclude that the sincerity problem is a shared problem of business ethics and bioethics.

3.5 The hubris problem

Another problem articulated by critics is the hubris in much of the business ethics literature. Business ethicists allegedly use three hubristic claims to legitimize their field. First, they claim there is a crisis in business that can only be resolved by business ethicists. Second, they claim business ethicists have special access to a body of ethical theory and special knowledge of how these theories can be translated into practical methods of applying business ethics. And third, business ethicists claim to advance

105 Koch, *Thieves of Virtue*, 251.

106 King, Henderson, and Churchill, "Lifeboat Ethics, Social Selves, and Health Justice," 51–52.

moral business without requiring major changes to business as usual.[107] In this section, I examine whether bioethicists are charged with making similar hubristic claims.

Comparable critical arguments appear to be directed at bioethics. Members of the field are alleged to strike a tone that is described as "presumptuous, moralistic and preachy."[108] Bioethics gained part of its legitimacy by entering into public debate. Bioethicists are frequently called upon by the media to reflect on biomedical cases. These media appearances have instigated fierce criticisms, with some claiming bioethicists "shoot from the hip" because they judge cases without adequate knowledge.[109] For example, bioethicists were asked to reflect on a case in which a family decided to have a second child, so their teenage daughter, who had leukemia, could potentially be saved by a bone marrow transplant from that child. Several bioethicists publicly judged this case by stating this decision was morally "troublesome" or even "outrageous."[110] Critics have objected to the "moral slant" with which these and other uninformed responses are made by bioethicists.[111] Regarding such public moral condemnations, the following is argued:

> . . . bioethics as a "field" has its pundits who can be interviewed for moral, indeed bioethical sound bites. They make assertions such as: "That is morally outrageous!" "I have never heard of someone doing that." "That violates the established consensus." But what is the meaning of such assertions? One might conclude that the outrage expressed and various *obiter dicta* [incidental remarks] advanced by such pundits are really rhetorical ploys designed to bring others into agreement with the pundit's morality *cum* bioethics, his ideology. Bioethics has become influential, but the source of its influence and legitimacy is far from clear.[112]

Bioethicists are, thus, condemned for their hubris in public debate, for passing quick and uninformed judgments on particular cases, and for providing quasi-interesting 'sound bites' for the media.

I now examine whether bioethicists are charged with making similar hubristic claims as business ethicists. The first claim allegedly made by business ethicists is that they alone can resolve business crises.[113] Business ethicists dedicate considerable time and energy to telling businesses they need business ethics, both to combat business crises and to prevent them from happening in the future. Similar criticisms are directed at bioethics. Bioethicists are frequently denounced for making it seem as if biomedical practitioners need bioethics and that they are best suited for the job. What makes these

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107 Jones, Parker, and ten Bos, *For Business Ethics*, 17.

108 Christopher Cowley, "A New Rejection of Moral Expertise," *Medicine, Health Care and Philosophy: A European Journal* 8, no. 3 (2005): 279, https://doi.org/10.1007/s11019-005-1588-x.

109 James Rachels, "When philosophers shoot from the hip," *Journal of Clinical Epidemiology* 45, no. 7 (1992), https://doi.org/10.1016/0895-4356(92)90058-U.

110 Rachels, "When philosophers shoot from the hip," 799.

111 Rachels, "When philosophers shoot from the hip," 799.

112 Engelhardt, "A Skeptical Reassessment of Bioethics," 3. Italics in original.

113 Jones, Parker, and ten Bos, *For Business Ethics*, 17.

claims all the more hubristic, for many critics, is that physicians are told they lack the skills to make medico-ethical decisions:

> [Bioethicists] argue that moral decisions involving patient care are too complex and intricate to be left to doctors, and should instead be managed by a new professional cohort of inhouse moral experts. Armed with techniques to 'prevent ethical problems before they occur.'[114]

Bioethicists have successfully conveyed the claim that biomedicine needs bioethics. Recent decades have witnessed an increasing number of bioethicists either consulted or permanently hired by biomedical facilities (e.g., by hospitals or medical treatment centers):

> There are even media reports of philosophers and theologians prowling the floors of some hospitals armed with an electronic beeper and clad in a white coat, the better to respond efficaciously to moral crises and ethical emergencies.[115]

The integration of bioethicists into biomedical practice has led to critical questions, for instance, regarding the proper role and power of bioethicists or certain conflicts of interests that may arise when bioethicists are less critical because they want to maintain their position,

The criticism concerning hubris in bioethics is also directed at the proponents of principlism, which has allegedly been put forward as follows:

> . . . modern advertiser's dream product that at once announces a commercial need (clean skin) and a product to service that need (Ivory soap). Indeed, [principlism] is sometimes praised in the form of advertising promotions in which both problem ('I experienced it') and solution ('I use it') are simultaneously advanced in a personal testimonial.[116]

The proponents of principlism are, thus, denounced for fabricating a need for principlism and for claiming that principlism is not just an approach to bioethics but *the* approach to bioethics. In this respect, it is argued there is a "hegemonic thrust" to how principlism is presented as *the* approach to bioethics, not just in the US, but also in other parts of the world.[117]

The second hubristic claim made by business ethicists is that they are uniquely skilled at aligning ethics and business because they have special access to ethical theory. Analogous arguments are raised in the critical discourse of bioethics:

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114 Shalit, "Philosopher Kings," 24.

115 Arthur L. Caplan, "Can Applied Ethics be Effective in Health Care and Should It Strive to Be?," *Ethics* 93, no. 2 (1983): 313, https://www.jstor.org/stable/2380422.

116 Koch, *Thieves of Virtue*, 140.

117 Fox and Swazey, *Observing Bioethics*, 30.

> . . . many persons working in [bioethics] believe themselves to be in possession of a body or corpus of knowledge concerning ethical theories which can be brought to bear on moral problems arising in the practice of [biomedicine].[118]

Bioethics' claim to expertise is regularly questioned. Although some of the 'milder' critics do not doubt the expertise of bioethicists, they still question its particular relevance to biomedical practice:

> . . . philosophers and other persons with expertise in ethics believe that there are all sorts of contributions that they can and should make to the operation of medical centers . . . What is less evident . . . is exactly what skills and what expertise those in applied ethics think they possess that would make them effective in any way.[119]

But some of the 'harsher' critics dismiss this particular claim to expertise out of hand:

> More than mere advisers, these fee-for-service philosophers see themselves as experts, capable of passing judgment on what should and should not be done in matters of life and death. They weigh empirical data, parse risk-benefit ratios and wield 'ethics case analysis grids' with algorithmic certainty . . . Doctors . . . increasingly find themselves wandering down Wittgensteinian byways and into Kantian cul-de-sacs [dead ends].[120]

Here we see that critics have taken issue not just with bioethics' claim to ethical expertise but also with its claim to expertise on matters of life and death that are usually left to physicians, patients, and their families. The following is critically noted:

> Ethicists frequently are called upon to advise on contested questions about when life should end, a type of decision they claim to be entitled to make by dint of their superior knowledge and skills. When the views of the ethicists conflict with wishes of patients and their families, the ethicists may naturally be inclined to favor their own judgments: After all, who is the expert here?[121]

A problem with this hubristic claim to additional expertise on biomedical issues is that bioethicists thereby undermine the profession of biomedicine (e.g., the knowledge and capabilities of physicians).[122]

The third claim made by business ethicists is that the theories and practices developed in their field can advance moral business without imposing radical changes to business as usual. As described regarding the sincerity problem (Section 3.4),

118 Caplan, "Can Applied Ethics be Effective," 313.
119 Caplan, "Can Applied Ethics be Effective," 313.
120 Shalit, "Philosopher Kings," 24–25.
121 Shalit, "Philosopher Kings," 24.
122 Engelhardt, "Why Clinical Bioethics So Rarely Gives Morally Normative Guidance."

bioethicists are similarly criticized for merely suggesting improvements to biomedicine rather than challenging it.[123] Arguably, this situation arises because bioethicists do not want to jeopardize their chances of bringing in grants and donations by being too critical or by suggesting radical changes to biomedicine. As a result,

> Bioethics cannot raise issues that go against the interest of the medical profession and the scientific authorities . . . bioethicists are supposed to admire the advances of science and the wonders of medicine without serious critical questioning.[124]

Since all three hubristic claims are directed at bioethics, it can be concluded that the hubris problem is related both to business ethics and bioethics.

4. The impossibility of ethics: the translation problem and the moral judgment problem

I have established that most of the central problems of business ethics are similarly manifested in bioethics. In the previous chapter, these central problems were related to two underlying issues with the understanding of ethics in business ethics, which I called the translation problem and the moral judgment problem. I have not yet clarified how these problems should be understood. The first problem concerns a tension that arises in attempts to relate certain views on the fundamentals of ethics to normative approaches to ethics, whereas the second concerns a tension that arises in attempts to apply universal ethical rules to particular cases. Because these tensions are irresolvable, business ethics has been deemed impossible by several of its critics.[125]

But are these problems not similarly related to bioethics? We have seen that the normative ethical theories of bioethics are also criticized for being inadequate 'translations' of certain views on the fundamentals of ethics (e.g., as espoused by Kant and Mill). Several critics have noted an incongruence between these views and the normative theories of bioethics. For example, Kant and Mill described their views on the fundamentals of ethics, but the gist of these views is allegedly lost in bioethical theories.[126] Critics have also argued that bioethical theories are largely based on "ethically inadequate conceptions," for instance, of Kant's view of autonomy.[127] It is further argued that bioethics commonly ignores that there is no clear "method for moving from a general theory to the practical implications of the theory."[128] What is

123 Elliott, "The Soul of a New Machine," 379.

124 Ten Have, *Bizarre Bioethics*, 27.

125 Jones, Parker, and ten Bos, *For Business Ethics*; Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*.

126 Dawson, "The future of bioethics," 221.

127 Onora O'Neill, *Autonomy and Trust in Bioethics* (Cambridge: Cambridge University Press, 2002), 74, https://doi.org/10.1017/CBO9780511606250.

128 Tom L. Beauchamp, "Does Ethical Theory Have a Future in Bioethics?," *Journal of Law, Medicine & Ethics* 32, no. 2 (2004): 209, https://doi.org/10.1111/j.1748-720X.2004.tb00467.x.

supposedly ignored here is that, before a certain view on the fundamentals of ethics can have consequences regarding action, a translation must be made, for example, because the empirical context needs to be considered. Thus, it appears a similar problem with translation is ascribed to bioethics.

We have also seen that the moral judgment problem is addressed in the critical literature on bioethics. A considerable part of this literature is dedicated to discussions about the tension that arises in attempts to apply universal ethical rules to particular cases in the biomedical context.[129] Bioethics is allegedly inattentive to "the actual experience of practitioners and patients," to "the context in which physicians, nurses, patients, and others experience their moral lives," and therefore, it has "lost the significance of moral experience."[130] Bioethicists are repeatedly criticized for retreating "from the messiness of medical situations."[131] These ethicists offer universal rules and principles and fail to provide the "right tools" for moral judgment-making.[132] There appears to be a distorted balance between universality and particularity in bioethics, which has presented the field with a "central dilemma" regarding the following:

> An overriding effort to devise universal principles neglects the complexity of individual moral lives and social circumstances, while an indiscriminate immersion in their particularity allows no room for ethical distinctions and prudential judgments.[133]

This quote aptly summarizes the tension we must address in our attempts to form moral judgments. It also demonstrates one of the crucial problems with bioethics as a field of applied ethics: moving too far in the direction of universality means the field loses touch with the bioethical practice, whereas moving too far in the direction of particularity can cause the field to lose touch with a universal account of ethics. This predicament suggests the moral judgment problem is similarly related to bioethics.

5. Looking backward and forward

The comparative analysis revealed that business ethics is mistakenly depicted as the 'black sheep' in an otherwise successful family of fields of applied ethics. Business ethics and bioethics are both viewed as problematic. The two fields have regularly had their legitimacy questioned. Most of the central problems of business ethics are manifested in bioethics. The oxymoron problem appears to be the only exception. This problem may

129 See, for example: Ten Have, *Bizarre Bioethics*, 23–24; Beauchamp, "Does Ethical Theory Have a Future in Bioethics?," 215; This criticism is often articulated by scholars with a background in the social sciences. See: Fox and Swazey, *Observing Bioethics*, 43; Bosk, "Professional Ethicist Available: Logical, Secular, Friendly," 55.

130 Ten Have, *Bizarre Bioethics*, 23–24.

131 Beauchamp, "Does Ethical Theory Have a Future in Bioethics?," 215.

132 Adam M. Hedgecoe, "Critical Bioethics: Beyond the Social Science Critique of Applied Ethics," *Bioethics* 18, no. 2 (2004): 130, https://doi.org/10.1111/j.1467-8519.2004.00385.x.

133 Daniel Callahan, "The Social Sciences and the Task of Bioethics," *Daedalus* 128, no. 4 (1999): 290, https://www.jstor.org/stable/20027596.

indeed be specific to business ethics. In this respect, the oxymoron problem appears to represent a notable difference between business ethics and bioethics. To explain this difference, I examined the distinct narratives about biomedicine and business. The narrative about biomedicine conveys an image of a *bona fide* profession in which biomedical practitioners are esteemed professionals. Biomedicine is also viewed as a practice with longstanding moral traditions. This narrative has become ingrained in ordinary thought, which, in turn, has enabled the connection between biomedicine and ethics.

The narrative about business is wholly different; it is tarred by the brush of unbridled capitalism. Following this negative narrative, business is not a profession, and those within it are not professionals. Business is also thought to lack moral traditions. This negative narrative has rendered the connection between ethics and business problematic. Although objections can be raised regarding the narratives surrounding biomedicine and business (e.g., that capitalist business models are not unfamiliar to biomedicine, and that business activities can be evaluated using other criteria than profit-making),[134] the dominant view of business remains based on this negative narrative. Therefore, the oxymoron problem continues to reverberate in the business ethics discourse.

But I do not intend to further examine this negative narrative about business and its consequences for the perceived legitimacy of business ethics. This issue may be a crucial problem that can partly explain why business ethics is vulnerable to criticism, but it is also a problem that has already been examined and debunked.[135] From this point on, I focus on two fundamental problems manifested in business ethics and bioethics, namely the problems with translation and moral judgment. Because these problems are manifested in both fields, I develop an alternative interpretation of what is happening here; that is, alternative from the view presented to us by certain critics of business ethics. This approach means the problems with business ethics are addressed anew. Rather than being specific to business ethics, it is more likely that we encounter problems of ethics in general. These problems are not specific to one field but manifest in each attempt to apply ethics and, consequently, in all fields of applied ethics.

The comparative analysis already provided some support for my hypothesis that business ethics is partly haunted by problems of ethics in general. In the next two chapters, this hypothesis is examined further. I investigate whether the problems with translation and moral judgment are taken up in philosophy and discussed independently from the business ethics context. Some critics have suggested that both problems have profound implications for business ethics, because they render a normative approach to business ethics impossible. To investigate this supposed 'impossibility of business ethics,' I also develop an understanding of the origin and implications of these problems

134 See, for example: Wicks, "The Business Ethics Movement."

135 See: Duska, *Contemporary Reflections on Business Ethics*; and Nash, "Intensive Care for Everyone's Least Favorite Oxymoron: Narrative in Business Ethics."

for this field. In Chapter 4, the philosophy of Emmanuel Levinas is examined to illustrate the translation problem. Then, in Chapter 5, the philosophy of Simone de Beauvoir is explored to articulate the moral judgment problem. In the philosophical works of Levinas and Beauvoir, specific ideas of ethics are developed that enable an alternative articulation of the problems with business ethics.

We turn to philosophy next, or, in other words, to philosophical descriptions of the problems with translation and moral judgment. But there is a possibility these philosophical descriptions are too abstract and, thus, do not speak to an audience of business ethics practitioners. Since it is my intention in this study to speak to an audience that includes both academics and practitioners, two "exemplary situations" are provided at the outset of each chapter.[136] An exemplary situation can be understood as a concrete experience in a specific situation (i.e., an exemplar) that functions to convey the meaning of an abstract philosophical problem. Both exemplars are drawn from personal experiences and are situated within and outside of the business ethics context.

136 For an elaboration of the notion of an 'exemplary situation,' see Lolle W. Nauta, "Historical Roots of the Concept of Autonomy in Western Philosophy," *Praxis International* 4 (1984): 365.

CHAPTER 4

BUSINESS ETHICS AND THE TRANSLATION PROBLEM

I can only describe my feeling by the metaphor, that, if a man could write a book on ethics which really was a book on ethics, this book would, with an explosion, destroy all other books in the world.

Wittgenstein, Lecture on ethics.[1]

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1 Ludwig Wittgenstein, *Lecture on ethics* (Chichester, West Sussex, UK: John Wiley & Sons, 1889–1951), 46.

The charitable donation exemplar

In March 2022, while watching the evening news, I saw a report about the war in Ukraine. A maternity and children's hospital in Mariupol had just been hit by the Russian army. The news anchor cautioned the viewers that they were about to show several shocking images of the damage caused and of the many victims. The images were horrible. They confronted me with the stark contrast between my own situation and that of the people in Ukraine. I remember being called upon. I wanted to do something. When the news report ended, it was followed by a charity appeal for Ukraine's war relief efforts. Without hesitation, I picked up my phone and donated €100.

After having donated the money, however, I felt no better. I started to feel uneasy instead. What was I experiencing here? In trying to answer this question, I got caught up in a strange reflection process. I tried to get a grip on this experience of unease while fighting it at the same time. I began by asking myself whether I had really donated money to help the people in Ukraine. Or had I donated money just to settle my own unease? Who was I trying to help here? Was I helping others, or was I helping myself? Upon further reflection, the act of donating money appeared even more problematic. I had been confronted with such severe suffering – I had seen an image of a mother holding her dead child close – and all I could do in response was pick up my phone and wire money. Thus viewed, the act of donating money appeared futile to me. And the more I thought about it, the more I began to reject it. Donating money no longer seemed like the right thing to do.

Yet at the same time, I thought to myself: "What else could I have done? Should I have done nothing instead? Would that have been any better?" When considered from this 'rational' point of view, it should not matter what my reasons for donating are. What matters above all is that I donated money, or so I told myself. I may have donated money partly to help myself, but even so, for the people in Ukraine, this would still be better than not donating at all. And in response to my concern that my donation seemed futile, I told myself that my individual donation was a small part of a much larger scheme for war relief. My donation appeared less futile when I viewed it this way. And so, the act of donating money might have been the right thing to do.

I nevertheless remained in doubt about whether it was right to donate money. I then asked myself, "Am I now trying to rationalize my way out of this situation?" I started to wonder whether I was not simply using these rationalizations to soothe my unease. But it was not just the act of donating money that I was doubting here; I also started to doubt myself. Who is this person, I thought, who tries to help others simply by donating money, who might be doing this only to help herself, and who tells herself that this is ok by conjuring up a few rationalizations? Is this me? And if it is, then who am I? Am I this person who buys off her guilt, so to speak, in between a news report and a second cup of coffee? These doubts put me right back to square one. I found myself grappling again with the questions I had started with. What am I experiencing here? Where did this unease come from?

This strange reflection process was without a rational end; it was stopped only by time or by the need to do other things. I could not get a grip on this experience in what appeared to be an impossible situation. I was called upon, and donating money seemed like the right thing to do. But afterward, it felt like I had somehow failed to do what was right. As if I had failed, in other words, to adequately respond to this call. This led me to not only question the rightness of my own actions but also to question myself. I thought I had a solid idea of 'who I am' and 'how to do the right thing,' but these ideas now appeared to collapse. Since I could not come up with satisfactory answers to any of the questions I had asked myself, the unease remained.

1. The translation problem

How are we to understand the experience illustrated in the charitable donation exemplar? I address this question here, not to clarify the exemplar itself but to reflect on what it can tell us about ethics. Something odd appears to be happening in the exemplar. Upon reflection, the concrete act of helping others by donating money fell short of the experience of being called upon. In other words, a *new* moral experience seized me while I attempted to resolve the ethical experience of being called upon to donate money. This new experience appeared to be evoked by an implicit or unconscious awareness of a certain tension between my concrete act and the ethical experience of being called upon. The new experience was a sense of *failure* and *falling short* as a moral person. The new experience was as *real* as it was *odd* and *logical* at the same time. It was morally logical because it was quite silly of me to think that morality would let me off the hook simply by donating, which did not in any way end the problem. However much I felt the loss of the money, my donation appeared meaningless in relation to the problem. It was odd at the same time, as it would seem rather unreasonable of morality to ask more of me. Hence, when I reflected upon it, the new experience was bewildering and difficult to make sense of. On the one hand, it seemed to suggest I had failed, but on the other hand, it also seemed it was impossible to adequately respond to it (as all my possible actions would be meaningless when compared to the problem). Still, I think this complex experience is not unique. I started this chapter with the exemplar because I think it is part and parcel of the experience of ethics: both the idea of being called upon and the odd experience of somehow failing to convey something that many people experience in their day-to-day lives.

As I see it, this complex series of experiences also fuels the critical discourse of business ethics. We can relate this experience to the conviction of certain critics of business ethics that a tension builds up in all attempts to relate views on the fundamentals of ethics to normative approaches to business ethics, despite the latter being derived from them. Critics have repeatedly denounced this field for either not noticing this tension or for having created it. According to these critics, there is something problematic about this translation, and business ethicists fail to notice it,

so they 'lose' this problem – and therefore this odd experience they think is crucial for the experience of ethics.[2] We follow these critics of business ethics in their view that the experience I depicted in the exemplar must be related to the problematic transition from the fundamentals of ethics to normative ethics.

A first attempt to describe the problem (and make sense of the complex experience) was provided in Chapter 2, and I have used the metaphor of 'translation' to describe the difficulty with attempts to relate reflections on the fundamental level of ethical analysis to reflections on the normative level of ethical analysis. Yet, our understanding of the problem remains limited. We do know, however, that there are critics who have framed the translation problem as specific to business ethics. But since Chapter 3 revealed this problem is also related to bioethics, this method of framing appears to be flawed. My exemplar confirms this suggestion. These findings are sufficient reason to work from the hypothesis that the translation problem is indeed a problem of ethics in general. In this chapter, I support this hypothesis further. I explore whether a similar problem with translation is addressed in philosophical debates, develop a better understanding of this problem by drawing on the philosophy of Emmanuel Levinas, and, finally, reflect on its implications for business ethics.

1.1 Philosophy and the translation problem

What the translation problem appears to entail is that, in moving from the fundamentals of ethics (in which its ground and meaning are reflected on) to the normative level (at which action-guiding principles are determined, and cases are reflected on), one needs to make a jump. There is a moment of discontinuity here. Normative principles cannot be *directly* derived from the fundamentals of ethics. From the normative perspective, this situation is odd, as it would appear natural that normative views can and even should be *directly* deduced from conclusions and insights reached at the fundamental level. After all, it seems that only if normative principles can be directly deduced they can be firmly grounded. If we need to make a jump of some sort, a gap seems to appear that is difficult to make sense of.

Nevertheless, I work from the idea that such a gap exists: there is a translation problem. If this problem exists, it must be a problem of ethics in general that has bothered philosophers in the tradition. This is indeed the case. An example can be traced in the work of certain scholars who critique Kant's 'ridiculous view' on the prohibition of lying by pointing at the translation problem.[3] According to these scholars, Kant directly deduced the normative principle that one should *never* lie from his ideas on the *fundamentals* of morality. That is exactly what went wrong and why Kant ultimately ends up with the false *normative* view that one should literally *never* lie – not even to the murderer at the door. And so, these scholars might say that the

2 See, for example: Jones, Parker, and ten Bos, *For Business Ethics*.

3 See, for example: Benjamin Constant, "Über politischen Reaction," in *Kant und das Recht der Lüge*, ed. Georg Geismann and Hariolf Oberer (Würzberg: Köningshausen & Neumann, 1797/1986).

complex experience I had should be interpreted as follows. At the fundamental level, ethics is not action-guiding in a direct way we can make sense of at the normative level. Yet, the conclusions and insights arrived at on this level already influence us, ethically speaking. They are somehow felt; that is, it already arouses our ethical consciousness. Hence, when we reflect on ethics, we need to distinguish between the fundamental and normative levels. We must ensure that, at a normative level, we only use 'input' that makes sense normatively speaking. We should not let ourselves be led by things that only make sense at a fundamental level. If we do, our normative ethics will suffer greatly. Kant's view on lying is a case in point, at least according to these scholars.

Despite these critical views, Kant himself was highly aware of the translation problem in ethics. Kant argues that when we speak of and reflect on the fundamentals of ethics, we must reduce the human being to (nothing but) a rational creature. After all, the main question regarding the fundamentals of morality is whether *reason as such* can determine willing.[4] 'Reason as such' is a purely formal faculty (or power), and so, reflecting on the fundamentals of morality, Kant excludes all empirical knowledge and everything specific to human beings. When grounding morality Kant assumes to be convincing to *all* possible rational creatures. This class potentially also includes God as a rational being and the angels as rational creatures. Kant thinks he can not only ground morality for all rational creatures (even if all rational species understand it differently), but also claims that his fundamental reflections make it possible for him to formulate a law that holds for all rational creatures – even if all rational species understand it differently. This statement is the famous "moral law" that human beings understand as an imperative telling them they must always check whether the principle (maxim) upon which they wish to act can be made into a moral law.[5] Here, it is crucial to see what Kant says next. He argues the moral law that can be derived from reason is a *purely formal law*. Therefore, this law can have no bearing on empirical reality. Kant argues the following:

> . . . it seems paradoxical to want to find in the world of sense a case which, while to this extent it always falls only under the law of nature, nonetheless permits the application of a law of freedom to it, and to which the suprasensible idea of the morally good to be exhibited in that world *in concreto* can be applied.[6]

Thus, Kant faces a translation problem in moving from the fundamental level of morality to the empirical level. Because normative ethics concerns ethical guidelines in the empirical world, this translation problem is also a problem from the fundamental level of morality to the normative level. For our purposes, we do not have to figure out how

4 Kant, *Kritiek van de Praktische Rede*, 39.

5 Kant, *Kritiek van de Praktische Rede*, 72.

6 Immanuel Kant, *Critique of Practical Reason*, trans. W.S. Pluhar (Indianapolis: Hackett, 1788/1913/2002), 90; The Dutch translation uses the word "absurd" instead of paradoxical, see: Kant, *Kritiek van de Praktische Rede*, 113. My translation.

Kant solves his translation problem or whether this solution makes sense; nevertheless, it is important to note that Kant was aware of a translation problem.

This brief examination reveals there may indeed be a profound problem with ethics that, at least in the work of Kant, is treated as a problem of ethics in general. From this philosopher, we gather that human beings encounter problems when they have to derive normative implications from insights or conclusions reached at the fundamental level of reflection. There is a hiccup there, an obstacle, a paradox, or something incomprehensible. We may indeed be saying too much when we speak of 'the' translation problem, given that various fundamental accounts may lead to various accounts of the translation problem. But what I hope to have demonstrated here is that it makes sense to speak of (several manifestations of) the translation problem, and that it also makes sense to work from the idea that this is a problem of ethics in general.

In this chapter, I attempt to gain a more profound understanding of what I call 'the' translation problem. As the specific form of translation problem may vary with the account of the fundamentals of ethics, it is important to choose wisely when selecting the philosopher I use to develop a more profound understanding. I selected Emmanuel Levinas for this purpose. One reason for this choice is that, for Levinas, the translation problem is a profound problem. As I show, he did not even bother to develop a normative account of morality – partly because of the translation problem. Levinas further argues that, in our everyday lives, we feel or experience things that belong to the fundamental level. This point should help to clarify how things that belong to the fundamental level and things that belong to the normative level interfere in our everyday experiences of being human. Furthermore, for Levinas, the translation problem is linked to how we can philosophize at the fundamental level. He argues that human beings encounter the limits of what they can think, say, and understand in their reflections on the fundamentals of ethics. In philosophy, ethics becomes, to some extent, incomprehensible and, thus, impossible to articulate. For all these reasons, Levinas' philosophy appears particularly useful for obtaining an understanding of the translation problem – as a problem of ethics in general and not just as a problem of business ethics. We now turn to his work.

2. Levinas' idea of ethics

Ethics, as Levinas understands it, is largely absent from the philosophical discourse.[7] Put simply, discourses on ethics are not about ethics. Within these discourses, ethics is mostly discussed in terms of "reason" and "argument" (e.g., arguments on good action).[8] I have noticed something similar during ethics training, which may serve as an example here, namely that discussions about ethics often consist of an exchange

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7 That is, ethics is absent from what Levinas calls "Western philosophy." *Otherwise than Being*, 140.

8 Simon Critchley, "Introduction," ed. Robert Bernasconi and Simon Critchley, *The Cambridge Companion to Levinas* (Cambridge: Cambridge University Press, 2002), https://doi.org/https://doi.org/10.1017/CCOL0521662060. 22.

of arguments to support certain actions. But for Levinas, ethics is not about reason or argumentation; it is about the "primordial ethical experience" that he seeks to describe in his work.[9] But this experience cannot be fully comprehended in terms of knowledge, captured in words, or stated in the language of philosophy. There is, thus, a tension between this ethical experience and its description in philosophical language. In Levinas' later work, the impossibility of resolving this tension is called "traumatic."[10] This notion of trauma might help us to articulate the translation problem; therefore, I examine it in more detail.

2.1 Ethics and trauma

In a quote filled with seemingly "strange" and "hyperbolical terms,"[11] Levinas conveys his view of the meaning of ethics in writing:

> Vulnerability, exposure to outrage, to wounding, passivity more passive than all patience, passivity of the accusative form, trauma of accusation suffered by a hostage to the point of persecution, implicating the identity of the hostage who substitutes himself for the others: all this is the self, a defecting or defeat of the ego's identity. And this, pushed to the limit, is sensibility, sensibility as the subjectivity of the subject. It is a substitution for another, one in the place of another, expiation.[12]

Here, we have the idea that ethics is a trauma inflicted on the self – or on me. But why would ethics be a traumatic experience? And can this notion of a 'traumatic ethics' provide an alternative understanding of the problem with translation? We can address these questions by unpacking the meaning that Levinas accords to the notions of ethics and trauma. Ethics, for him, is the event of the relation with the other human being (*autrui*). To be more precise, ethics is the event of encountering what Levinas famously calls 'the face' of the other (*le visage d'autrui*). The face of the other *is* an appeal. It appeals to me, and in so doing, it places an ethical demand on me. This ethical demand affects me; that is, it touches and disturbs me. It is, in that sense, traumatic.

When Levinas uses the term 'trauma,' he has its original Greek meaning in mind, which is "wound."[13] The encounter with the face of the other thus affects me up to the point of wounding me (i.e., the 'self'). But what is wounded here? Levinas answers this question in terms of the "defecting or defeat" of the "ego's identity," as he puts it in the above quote.[14] What is wounded, in other words, is the supposed knowledge I thought I had of myself. My self-understanding is called into question by the face of the

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9 Simon Critchley, *The Ethics of Deconstruction: Derrida and Levinas* (Oxford: Blackwell, 1992), 3.

10 Levinas, *Otherwise than Being*, 127.

11 Simon Critchley, *Infinitely Demanding: Ethics of Commitment, Politics of Resistance* (London: Verso, 2007), 60.

12 Levinas, *Otherwise than Being*, 15.

13 Ruud Welten, "In the beginning was violence: Emmanuel Levinas on religion and violence," *Continental Philosophy Review* 53, no. 3 (2020): 356, https://doi.org/10.1007/s11007-020-09491-z.

14 Levinas, *Otherwise than Being*, 15.

other. And this calling into question is pushed to the limit by Levinas, who writes that the face "gnaws away at the closed and firm core of [the I], opening it, fissioning it."[15] I am, thus, not only called into question by the other, but I am exposed to this other. It is argued – in an equally hyperbolic manner – that this Levinasian notion of trauma

> . . . tears into my subjectivity like an explosion, like a bomb that detonates without warning, like a bullet that hits me in the dark, fired from an unseen gun and by an unknown assailant.[16]

To be sure, the 'I' or the subject traumatized here is the "modern self-understanding of the Western subject" as Levinas understands it.[17] This is a subject that tries to relate to everything in the world (e.g., to itself and to others) via knowledge and understanding. What is traumatized or wounded is the 'Western subject.'

But the face of the other traumatizes not only the knowledge I thought I had of myself; it also traumatizes the knowledge I thought I had of how to do the 'right' thing. In this sense, the face of the other "does not offer me anything, it takes something away."[18] This is one of the ways in which the face is said to disrupt traditional moral thinking.[19] It disrupts, or indeed traumatizes, the solid position of the Western subject who, for instance, through the faculty of reason, tries to obtain knowledge of what it ought to do and how to do just that. In reading Levinas, all this supposed knowledge is taken from us. What we are confronted with, instead, is that this way of relating to ourselves or to others via knowledge has nothing to do with ethics as he understands it. This might be what is so disruptive about Levinas' thinking. If ethics is not, to put it simply, a matter of knowing oneself and of knowing what to do, then what is it?

Ethics, for Levinas, begins with the other human being, which is why he uses the term 'passivity' in the quote I began this section with. Ethics is something that is passively undergone by a human being rather than something actively initiated by that human being (e.g., ethics does not begin with me or my reflections on the question of how I should act). Ethics begins with the appeal of the face of the other, which is traumatic to the human being. Ethics would, thus, involve what Levinas describes as the

> . . . risky uncovering of oneself . . . the breaking up of inwardness and the abandon of all shelter, exposure to traumas, vulnerability.[20]

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15 Levinas, *Otherwise than Being*, 125.

16 Simon Critchley, "The original traumatism: Levinas and psychoanalysis," ed. Richard Kearney and Mark Dooley, *Questioning Ethics: Contemporary Debates in Continental Philosophy* (London: Routledge, 1998), https://doi.org/10.4324/9780203450833. 236.

17 One of the notions of the 'Western subject' that Levinas targets here is Descartes' cogito ergo sum (I think therefore I am). See: Welten, "In the beginning was violence," 357–59.

18 Welten, "In the beginning was violence," 357.

19 Critchley, *The Ethics of Deconstruction*, 4.

20 Levinas, *Otherwise than Being*, 48.

Here, we see that ethics is not about 'knowledge' (i.e., about oneself or about knowing how to do what is 'right'). Rather, ethics is about how the human being is exposed to and, thus, rendered vulnerable by the face of another human being that breaks through all this supposed knowledge. Ethics renders me vulnerable. This means that I – or my subjectivity – can be touched, disturbed, and even wounded by others. Levinas opposes the knowing Western subject to the ethical subject that (as elaborated on below) does not constitute itself but is constituted through the encounter with the face of the other. The ethical experience, as Levinas understands it, cannot be accessed through knowledge.

2.2 Ethics and infinite responsibility

We have seen that, for Levinas, the face of the other traumatizes my alleged subjectivity. Yet, there is also another way the face affects me. Levinas writes that the "ego stripped by the trauma of persecution . . . is reduced to the 'here I am'."[21] My subjectivity is not just wounded (the 'ego stripped') but also brought down to the 'here I am.' But what does this mean? Levinas uses many biblical phrases in his work. And so, when he writes about the 'here I am' (*me voici*), what he has in mind is the answer of the prophet to the appeal of God.[22] This means that the wound in my subjectivity is filled, so to speak, with a being there for the other, or with making myself available for the other by responding to her appeal and, thus, with a responsibility – or a literal response-ability – for the other.

In responding to the appeal of the face of the other, I become a subject in the Levinasian sense of the term. The subject, he writes, is "not an ego, but me."[23] The subject does not constitute itself – as in the Cartesian 'I think, therefore I am' – but it is constituted by responding to the appeal of the other. The subject, in other words, "arises in the response to the other's call."[24] To be appealed to by the other and to respond to this appeal is to be "awakened" as a subject, as Levinas calls it.[25] It is what makes us human. Hence, it is not a matter of *taking* responsibility for the other but of *being* responsible for the other. If responsibility were something freely taken by the subject, then would this not presuppose there already being a subject who can then choose to take responsibility for the other? Responsibility, Levinas insists, chooses "me first before I can be in a position to choose, that is, welcome its choice."[26] I am, thus, always already responsible for the other. And this responsibility cannot be evaded.

Levinas stretches this notion of responsibility to the greatest possible extent. In doing so, he places an unbearable burden on the subject, partly because my responsibility for the other cannot be shared with others. The subject, he writes, is "elected from the

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21 Levinas, *Otherwise than Being*, 146.

22 Critchley, "Introduction," 22.

23 Levinas, *Otherwise than Being*, 142.

24 Critchley, "Introduction," 22.

25 Levinas, *Otherwise than Being*, 146.

26 Levinas, *Otherwise than Being*, 122.

outside, assigned as irreplaceable."[27] The other appeals to me, and only I can respond. Levinas draws inspiration from Dostoevsky's *The Brothers Karamazov* to develop this notion of responsibility.[28] He often quotes the part in which the protagonist states, "Each of us is guilty before everyone for everyone, and I more than the others."[29] One aspect that Levinas draws from this statement is the understanding of responsibility as 'guilt.' In the novel's original text, Dostoevsky uses the Russian term *vinovatyi,* which translates both into 'guilt' and 'responsibility.'[30] This is exactly how Levinas, whose native language is Russian, understands the responsibility for the other. To be responsible is to be guilty for the other. Against the traditional notion of guilt, Levinas argues this is a guilt without fault, as if the subject were "accused with what it never did."[31] To be guilty for the other is to bear the burden of her subjectivity, of her freedom, and even of her "mortality."[32] This guilt cannot be redeemed. I cannot get out of it, so to speak. The subject is, thus, 'infinitely guilty' for the other.

But it is the last part of the quote in Dostoevsky's novel, namely the part that reads "I more than others," which conveys the crucial aspects of this Levinasian notion of responsibility and unicity. This part conveys the aspects of non-reciprocity and asymmetry. I am responsible for the other, but this does not mean I can place the same demand on her. The responsibility for the other is, therefore, nonreciprocal, and the relation to her is asymmetrical. If responsibility were reciprocal, then it would be reduced to some type of 'economical exchange' in which I agree to be responsible for the other on the condition that she does the same for me.[33] But I have no right to set such conditions. The structure of the subject, which is the structure of the "one-for-the-other," is irreversible.[34]

We can now begin to see why the responsibility for the other is unbearable for the subject. It is in the responsibility for the other that, in Levinas' words, "the adjectives undeclinable, unconditional, absolute take on meaning."[35] The responsibility for the other cannot be evaded or shared with others, nor can the same be excepted from this other. This responsibility comes from the other; that is, it is determined by this other and not by the subject. Levinas argues it is "impossible to fix limits or measure the extreme urgency of this responsibility. Upon reflection it is something completely astonishing."[36] The responsibility for the other is, thus, conceived of as an 'infinite

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27 Levinas, *Otherwise than Being*, 106.

28 Fjodor Dostojevski, *De broers Karamazov*, trans. Arthur Langeveld (Amsterdam: Uitgeverij Van Oorschot, 2014).

29 See, for instance: Levinas, *Otherwise than Being*, 146.

30 Alain Toumayan, ""I More than the Others": Dostoevsky and Levinas," *Yale French Studies*, no. 104 (2004): 56, https://doi.org/10.2307/3182504.

31 Emmanuel Levinas, *Collected philosophical papers*, trans. Alphonso Lingis (Dordrecht: Martinus Nijhoff Publishers, 1987), 123.

32 Levinas, *Otherwise than Being*, 91.

33 Welten, "In the beginning was violence," 362.

34 Levinas, *Otherwise than Being*, 45.

35 Levinas, *Otherwise than Being*, 124.

36 Levinas, *Collected philosophical papers*, 166–67.

responsibility.' This means it is impossible to fulfill my responsibility for the other. "The debt [of my responsibility for the other] increases in the measures that it is paid," Levinas states.[37] The subject is confronted with an ethical demand it cannot meet. And this is traumatic. In this sense, the ethical demand of responsibility is an unbearable and traumatic demand.

But is this notion of ethics, which is the encounter with the face of the other that traumatizes my subjectivity (i.e., that disturbs my knowledge of myself and of what to do), and that places an unbearable ethical demand of infinite responsibility on me, still an ethics in the sense often accorded to this term? Is this a fundamental theory of ethics? Can it be translated to a normative and action-guiding approach to ethics? It appears that Levinas accords a wholly different meaning to the term 'ethics,' which, as he describes it, is something "preceding every free consent, every pact, every contract."[38] That is to say, he is working on a "pre-theoretical" level.[39] Ethics, as the event of the relation to the other, would thus be prior to all normative approaches to ethics. For Levinas, ethics

> . . . has to be based on some form of *basic existential commitment* or demand that goes beyond the theoretical strictures of any account of justice or any socially instituted ethical code . . . an ethical theory that does not give expression to this basic demand will simply spin in a void and, moreover, have no compelling way of explaining the source of one's motivation to act on the basis of that theory.[40]

Levinas accords a different meaning to the term 'ethics,' partly because he thinks that the other has become lost in approaches to ethics proposed in what he calls "Western philosophy."[41] This point is why the meaning of ethics must be radically revisited. The other – how she affects me, renders me vulnerable, and appeals to my responsibility – should be the source of the motivation for all ethics. Ethics, for Levinas, is not an answer to the question of 'what I ought to do' but an answer to the fundamental question of what it means to be human. And to be human, for him, is to respond to the call of the other. Our humanity, therefore, lies in our ability to be responsible for the other. Levinas seeks to describe this "force" behind all ethics. His idea of ethics is, therefore, said to convey a "normativity without norms."[42] It does not give us norms to guide our

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37 Levinas, *Otherwise than Being*, 12.

38 Levinas, *Otherwise than Being*, 88.

39 Most ethical theories depart from the idea of a solid subject who must act. But for Levinas, it is the appeal of the other that comes first, and the subject arises in response to this appeal. This is why his idea of ethics has been situated at the "pre-theoretical" level. See, for example: Michael L. Morgan, *Discovering Levinas* (Cambridge: Cambridge University Press, 2007), https://doi.org/10.1017/CBO9780511805240.

40 Critchley, "Introduction," 22. Italics added.

41 Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh, Pennsylvania: Duquesne University Press, 1969), 45.

42 Diane Perpich, *The Ethics of Emmanuel Levinas* (Stanford: Stanford University Press, 2008), 124–25, https://doi.org/10.1515/9780804779784.

actions; it rather gives us an account of why and how it is that we “come to be bound to respond” to the appeal of the other.[43]

2.3 Ethics and language

Is it the Levinasian ethical experience that, according to certain critics of business ethics, resists *translation* to a normative and action-guiding approach to ethics? Is the trauma of ethics, which is my vulnerability to and responsibility for the other, irreducible to such an approach? Is this what critics think is lost in business ethics? Levinas’ reflections on ethics and language might help with these questions. In his later work, Levinas develops a way of explaining how his idea of ethics can be translated into ‘philosophical language.’ This translation is inevitable, he argues, but it is also problematic.[44] This problem revolves around the translation of the “saying” (*le dire*) into the “said” (*le dit*).[45] We have seen that ethics, for Levinas, concerns the appeal of the face of the other. He argues that, from the first, the face speaks to me. My ‘original relation’ to the other is, thus, mediated through speech rather than through knowledge. The face speaks to me, renders me vulnerable, and I respond by saying ‘here I am.’ This speech is described by Levinas as ‘the saying’. He writes that the

> . . . saying uncovers the one that speaks, not as an object disclosed by theory, but in the sense that one discloses oneself by neglecting one’s defenses, leaving a shelter, exposing oneself to outrage, to insults, to wounding.[46]

Hence, the saying is my traumatic exposure to the other whose appeal I cannot evade. It is my saying ‘here I am’ to the other. This saying is “pre-original.”[47] It is the event of “human speaking” that precedes language already spoken.[48] Levinas refers to the latter type of language as the ‘said.’ Language *qua* ‘said’ is the language of objectification, of representation, and, thus, of knowledge.[49] This is a language that consists of statements or propositions about the world, about ourselves, and about others. It is the language that fills philosophical books on ethics, for example.

But a problem arises with this distinction between ‘the saying’ and ‘the said.’ How can the ethical saying, or my exposure to the face of the other and my responsibility for this other, be expressed in the philosophical language of the said without losing the ethical in the saying? This is a question of how his idea of ethics can be said in the language of philosophy. Reflecting on this problem, Levinas often alludes to the French expression ‘to translate is to betray’ (*traduire, c’est trahir*).[50] However, the translation

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43 Perpich, *The Ethics of Emmanuel Levinas*, 126.
44 Levinas, *Otherwise than Being*, 5–7.
45 Levinas, *Otherwise than Being*, 6.
46 Levinas, *Otherwise than Being*, 49.
47 Levinas, *Otherwise than Being*, 5.
48 Critchley, *The Ethics of Deconstruction*, 7.
49 Levinas, *Otherwise than Being*, 48.
50 Levinas, *Otherwise than Being*, 6n, 187n.

of the saying to the said is inevitable for Levinas, even when this comes at the price of a 'betrayal.' This is inevitable because it is what makes "justice" possible in society.[51] And justice, for Levinas, is

> . . . necessary, that is, comparison, coexistence, contemporaneousness, assembling, order, thematization, the visibility of faces . . . the intelligibility of a system.[52]

'Justice' is the term Levinas uses when he moves from the ethical relation between me and the other to the ethical relation between me and a multitude of 'others' in society (*le tiers*). And for justice to be possible, it is inevitable that, in his words, the "saying is fixed in a said, is written, becomes a book, law and science."[53] His idea must be written down, so that it can make a difference in society.

Despite this inevitability, the translation of the saying into the said remains highly problematic. The saying is my traumatic exposure to the face of the other that is an appeal to my responsibility. But this face is invisible, its appeal inaudible (e.g., it is not like words coming from the mouth of the face), and its demand for responsibility infinite. The appeal of the face of the other, it is argued, can "only be understood as a trace."[54] A trace is somewhat like a footprint left in the snow. It is an impression or a mark of absence. Therefore, to translate his idea of ethics in the language of the said, Levinas must betray the face by making it visible. The face, he writes, must "become visible in the concern for justice."[55] Levinas must also betray the appeal to my infinite responsibility for the other by thematizing it; that is, by capturing it in a finite concept. This point is, thus, a problem of representing what cannot be represented.

Hence, to translate the saying into the said is to betray the ethical of the saying. And we have seen that, for Levinas, this is an inevitable betrayal. But he offers a way to deal with this problem that lies in the effort to 'reduce' the betrayal of the saying. This reduction is the "very task" of the philosopher.[56] The challenge posed to philosophy here is that of reducing the betrayal by a constant movement between the saying and the said. In this movement, the said is continually 'interrupted' and criticized. It is a movement going from "said to unsaid."[57] Hence, although it is inevitable that the ethical saying is translated into the language of the said and therefore betrayed, the philosopher is tasked with making every effort to reduce this betrayal by a constant questioning of this said, with the saying as a reference point. The point of this effort is to retain a 'trace' of the ethical saying within the said.[58]

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51 Levinas, *Otherwise than Being*, 46.
52 Levinas, *Otherwise than Being*, 157.
53 Levinas, *Otherwise than Being*, 159.
54 Welten, "In the beginning was violence," 361.
55 Levinas, *Otherwise than Being*, 158.
56 Levinas, *Otherwise than Being*, 7.
57 Levinas, *Otherwise than Being*, 181.
58 Critchley, *The Ethics of Deconstruction*, 232.

2.4 Reconsidering the translation problem

This distinction between the saying and the said provides us with a more specific way to articulate the translation problem alluded to by critics of business ethics. Levinas points to a certain tension between the saying and the said or between his idea of a traumatic ethics and its description in philosophical language. Critics may be referring to this tension when they argue that something about ethics is lost in business ethics. It is possible these critics have noticed a tension between what we might call a fundamental experience of ethics, which Levinas understands as traumatic, and its description in a normative approach to ethics, such as business ethics. This fundamental experience of ethics might be what has been lost in discourses on business ethics. In other words, it could be the ethical of the saying that resists translation into a normative approach to business ethics.

The problem these critics are seeking to address could be that most of business ethics has not properly acknowledged the tension between the saying and the said.[59] Therefore, the field has yet to acknowledge that a direct translation from the saying (i.e., the fundamental experience of ethics) to the said (i.e., a normative approach to ethics) is problematic, because this translation always entails a betrayal of the saying. When I argue that a direct translation is problematic, I mean it is problematic to *directly* derive specific norms, rules, or principles from a view on the fundamentals of ethics. This is problematic because a view on the fundamentals of ethics says nothing about the types of norms, rules, or principles that may be derived from it. Levinas, for example, argues that a theory of justice can be derived from his ethics "without telling us in any detail what this theory might be."[60] Intermediary steps must be taken to translate his fundamental view of ethics into a normative ethics. And we have seen that each attempt at a direct translation inevitably leads to a betrayal. This issue might have been overlooked by business ethicists who have sought to directly translate certain views on the fundamentals of ethics (e.g., Kantian views) into normative approaches to business ethics. And instead of engaging in what Levinas calls the 'reduction' of this betrayal, perhaps these business ethicists have simply tried to fix the saying in the said without paying heed to the tension between the two. That is to say, these business ethicists have not properly acknowledged the problem that something about ethics is always betrayed in the translation of the saying to the said, and they have not tried to reduce this betrayal.

But does Levinas not also stress the point that this translation is inevitable, even at the price of betrayal? This consideration casts new light on the problem of business ethics and, too, on how this problem is framed by certain critics. Business ethics, at least in its academic descriptions in papers, chapters, or textbooks, can be understood

59 It should be noted here that some business ethicists have acknowledged and articulated this tension. See: Painter-Morland, "Questioning Corporate Codes of Ethics." And see: David Bevan and Hervé Corvellec, "The impossibility of corporate ethics: for a Levinasian approach to managerial ethics," *Business Ethics: A European Review* 16, no. 3 (2007), https://doi.org/10.1111/j.1467-8608.2007.00493.x.

60 Critchley, "Introduction," 27.

as an attempt to translate an ethical experience or view in the language of the said. Ethics codes are examples of attempts to translate an ethical experience or view into a normative, action-guiding statement. Attempts at such a translation are inevitable for the advancement of moral business. Such a translation would make a normative approach to business ethics possible. If business ethics is indeed stated in the language of the said, this must have come at the price of betrayal, implying that something about the fundamental ethical experience is lost in the translation to business ethics – and that this loss is unavoidable. With Levinas, we face the curious paradox that this translation is both impossible and inevitable at the same time.

Hence, although critics may raise a valid point in arguing that business ethicists have neither properly acknowledged nor adequately dealt with the tension between the saying and the said, it is unfair of them to suggest that business ethicists created this tension. When reading Levinas, it appears this type of tension is inherent to each effort to translate the saying into the said. This tension is, in other words, inherent to all efforts to translate a view on the fundamentals of ethics into a normative approach to ethics. In this regard, Levinas draws our attention to a problem of ethics in general that can be manifested in all normative approaches to ethics, and therefore also in business ethics. Business ethicists may be at fault for inadequately acknowledging and dealing with this tension, but they are not at fault for creating it.

3. Looking backward and forward

It appears the criticism of business ethics, at least regarding the translation problem, should be nuanced. What should be nuanced is the implicit claim in many critiques that this problem is specific to business ethics. This chapter demonstrated that this problem is addressed in the works of philosophers like Kant and Levinas, in which it is treated as a problem of ethics in general. Therefore, this issue can manifest itself in all normative approaches to ethics and, thus, in all fields of applied ethics. Hence, although this is a serious problem that should be acknowledged in business ethics, we can now say it is *not* specific to this field.

There is another aspect that needs nuancing, namely the critical notion that this problem – or this tension – would render a normative approach to business ethics impossible. Based on my reading of Kant and Levinas, this aspect does not appear to be the case. These philosophers argue, in their respective ways, that this issue imposes serious problems on normative approaches to ethics, but they do not conclude it renders a normative approach to ethics impossible. Normative approaches to ethics are possible, albeit flawed, because of the inevitable betrayal described in this chapter. And so, we are called upon by these philosophers to think of a normative approach to ethics with this problem in mind. In Levinas' work, this position is even described as

the "very task" of philosophy.[61] And the philosophers' task is to articulate this tension inherent to ethics in general.

The tension between views on the fundamentals of ethics and normative approaches to ethics is, thus, not specific to business ethics and does not necessarily render a normative approach to business ethics impossible. This point, however, changes nothing about the notion that this problem still has profound implications for business ethics. This problem should be acknowledged and addressed by business ethicists. Consequently, we need to reflect on how the fundamental experience of ethics, which Levinas understands as traumatic, can be assigned a place in normative approaches to business ethics.

Before proceeding with this reflection, I set out to examine a second fundamental problem manifested in business ethics, which I have so far referred to as the moral judgment problem. It was hypothesized in Chapter 2 that this issue might be another problem of ethics in general that is not specific to business ethics but instead manifests in this field. What we know so far about the moral judgment problem is that it revolves around a certain tension that arises in attempts to apply universal ethical rules to particular cases.

61 Levinas, *Otherwise than Being*, 7.

CHAPTER 5

BUSINESS ETHICS AND THE MORAL JUDGMENT PROBLEM

The ethics codes exemplar

Ethics codes are widely used in the business context. But in my experience as a corporate ethics trainer, I often witnessed participants struggling with the ethics code. The general purpose of ethics training sessions is to apply a 'step-by-step-plan' for discussing concrete ethical dilemmas. In the third step, it must be determined whether the ethics code can guide the participants when judging a particular dilemma. At first glance, this step appears to be the least laborious. Participants are simply asked to apply the code to a concrete dilemma. But this step is highly problematic. The participants experience problems both with the ethics code itself and with its application. Since such ethics training is confidential, the problems with ethics codes are recounted abstractly and based on my recollection of events.

When asked about their general opinion of ethics codes, participants often reply they are both necessary and important. Ethics codes are necessary tools for guiding the moral behavior of business practitioners who must collaborate with colleagues, clients, and other stakeholders. The participants admit they often find it difficult to decide on the right course of action by themselves, particularly in 'classic' dilemma situations, in which a choice must be made between multiple courses of action. When faced with such a dilemma, many struggle to structure their thoughts and opinions. This is why they prefer to have an ethics code at their disposal. According to participants, codes can provide practical guidelines for situations in which the right thing to do is far from obvious.

At the same time, however, participants experience some unease with ethics codes. They interpret this unease as being grounded in several problems. One problem is related to the supposed 'paternalism' in codes. Some participants find it problematic that codes are formulated by those in higher management levels and subsequently passed down to lower levels. Others object to the idea that a deviation from the code can lead to disciplinary measures. There are also participants who have difficulties with codes because they hinder their individual capacity to judge a particular dilemma.

Another problem mentioned by participants appears more difficult to grasp. The third step (i.e., applying the ethics code) seems straightforward enough, yet they still struggle to apply the rules of the code to a particular dilemma. Participants note a certain dissimilarity between the rules and dilemmas. The rules of the code are universal and detached, whereas dilemmas are particular and situational. Participants can recount several cases in which there were valid reasons to deviate from the code, such as when abiding by the code has harmful consequences for stakeholders, or when a certain rule in the code should hold universally (e.g., rules about truth telling and trustworthiness) but does not apply to the case at hand. There appears to be some misfit in these circumstances. Two different elements – namely universal rules and particular dilemmas – must somehow be connected to each other.

Ethics codes can, thus, create certain problems in the moral judgment process. Some participants have even noted it is impossible to judge particular dilemmas based

on an ethics code. They claim the dissimilarity between codes and particular dilemmas cannot be resolved. Despite these problems, participants do not think the third step should be skipped altogether. Ethics codes remain inevitable for guiding moral behavior in business practice. We need to have recourse to some form of code to guide our decisions and our dealings with others, or so the participants maintain.

1. The moral judgment problem

The exemplar demonstrates several problems with ethical codes, but it appears one specific problem is beyond the grasp of the participants. This problem concerns a certain tension between the universal rules of ethics codes and the particular dilemmas to which they should be applied. We have seen that a similar tension is described in the critical discourse of business ethics. Critics have argued that business ethics was developed as a practical approach to ethics that is easily applicable to the business context. To develop such an approach, the normative theoretical basis of business ethics was grounded in a 'universal ethics.' This is an ethics of universal rules and principles that applies to all business practitioners and to all situations. But this theoretical basis is heavily criticized because it cannot accommodate 'complexity.'[1] It cannot, in other words, accommodate the particularity of the business practitioner and the contextual features of the business practice. Business ethics is, therefore, urged to "open a window for ethics" to let this complexity back in.[2]

Many critics have framed this problem as specific to business ethics. Some have even claimed the issue renders a normative, action-guiding approach to business ethics impossible.[3] In contrast to this view, I hypothesized these critics may be alluding to a problem of ethics in general, namely to what I call the moral judgment problem. This hypothesis was examined in Chapter 3, in which I demonstrated that business ethics is not the only field called upon to 'open a window for complexity'; bioethics has faced similar criticisms. But so far, we have only offered a preliminary description of this problem, which is somehow related to the tension that arises in attempts to apply universal ethical rules to particular cases. But what this tension is and why there is such a tension remains unclear. In this chapter, I develop a better understanding of specific variations of the moral judgment problem to further support my hypothesis. I explore whether this problem is addressed in philosophical debates on ethics, examine its origin by drawing on the philosophy of Simone de Beauvoir, and, finally, reflect on its implications for business ethics.

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1 Painter-Morland, *Business Ethics as Practice: Ethics as the Everyday Business of Business*, 4–5.

2 Woermann, *On the (Im)Possibility of Business Ethics*, 4–5; Martin Parker, "Against Ethics," ed. Martin Parker, *Ethics & Organizations* (London: Sage, 1998), https://doi.org/10.4135/9781446280171. 289.

3 Jones, Parker, and ten Bos, *For Business Ethics*; Jones, "As if Business Ethics were Possible, `within Such Limits'."

1.1 Philosophy and the moral judgment problem

The moral judgment problem has been part of the philosophical debate since at least Aristotle.[4] In the *Nichomachean Ethics*, we read:

> But let us take it as agreed in advance that every account of the actions we should do has to be stated in outline, not exactly. As we also said at the beginning, the type of accounts we demand should accord with the subject matter; and questions about actions and expediency, like questions about health, have no fixed answers. While this is the character of our general account, the account of particular cases is still more inexact. For these fall under no craft or profession; the agents themselves must consider in each case what the opportune action is, as doctors and navigators do. The account we offer, then, in our present inquiry is of this inexact sort; still, we must try to offer help.[5]

It should be taken as given that no ethical theory can provide a fixed procedure to form a particular moral judgment (i.e., a moral judgment on a particular case). It is impossible to develop a set of universal rules that can be applied directly to judge particular cases, because moral judgments largely depend on the circumstances surrounding the case. Since these circumstances vary from one case to another, the agent must judge each particular case anew, which is exactly what moral judgment is about. Aristotle alerts us to a certain tension between the 'inexact' statements of ethical theory and their application to particular cases. In alluding to this 'inexactness of ethics,' he notes the following:

> Our discussion will be adequate if we make things [clear] enough to accord with the subject matter [ethics]; for we should not seek the same degree of exactness in all sorts of arguments alike, any more than in the products of different crafts . . . The educated person seeks exactness in a given area to the extent that the nature of the subject allows; for apparently it is just as mistaken to demand demonstrations from a rhetorician as to accept merely persuasive arguments from a mathematician.[6]

Discussions on ethics (e.g., discussions on the ethical experience and the related idea of virtuous activity) and the precision that we aspire to in these discussions must be in accordance with the subject matter. In discussions in which ethics is the subject matter, we should not aspire to the same precision one might expect from a mathematician. It would be a mistake to think that "the same degree of precision could be obtained in

4 Albert R. Jonsen, "Of Balloons and Bicycles; or, The Relationship between Ethical Theory and Practical Judgment," *The Hastings Center Report* 21, no. 5 (1991): 14, https://doi.org/10.2307/3562885.

5 Aristotle, *Nicomachean Ethics*, 1104a–b.

6 Aristotle, *Nicomachean Ethics*, 1094 b 13-25.

ethical knowledge as in scientific knowledge."[7] The best we can hope for is a general outline – or a "sketch," as Aristotle puts it – of the ethical experience and the virtuous activity related to it.[8] There is, thus, something about ethics that resists precision or exactness.

According to Aristotle, this inexactness applies not only to ethical theory. He demonstrates this point by drawing an analogy between ethics and medicine. Pursuing this analogy may help to illuminate his view on the moral judgment problem. Although physicians have access to "generalized scientific knowledge" of diseases and treatments, this knowledge is insufficient for deciding the correct treatment for a specific disease as manifested in a particular patient.[9] In addition to appealing to medical knowledge, a physician should also employ the ability of perception. A physician should perceive all the particularities of the case (e.g., the particularity of the patient, the specificity and the course of a disease, and other relevant details) when deciding appropriate treatment. Similarly, Aristotle argues that an agent who tries to form a moral judgment should employ the ability of perception (*aisthesis*),[10] which is the ability to consider all the facts, ideas, and arguments about a particular case, seen "as a whole."[11]

The moral judgment problem is, thus, addressed already in the work of Aristotle, and it continued to be debated by modern philosophers. Bernard Williams is among the philosophers who participated in this debate, and he has a distinct way of framing this problem. Part of his work is dedicated to a critique of the impersonality and the universality he finds characteristic of certain moral theories (e.g., Utilitarianism and Kantianism).[12] Williams characterizes the moral viewpoint espoused in these theories by its "indifference to any particular relations to particular persons" and its "abstraction from particular circumstances."[13] But our "ethical life" is too complex to be accommodated in any systematic moral theory.[14] Therefore, Williams writes the following:

> There cannot be any very interesting, tidy or self-contained theory of what morality is, nor, despite the vigorous activities of some present practitioners, can there be an ethical theory, in the sense of a philosophical structure which, together with some degree of empirical fact, will yield a decision procedure for moral reasoning.[15]

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7 Rachana Kamtekar, "Ancient virtue ethics: An overview with an emphasis on practical wisdom," ed. Daniel C. Russell, *The Cambridge Companion to Virtue Ethics* (Cambridge: Cambridge University Press, 2013), https://doi.org/10.1017/CCO9780511734786. 34; See, also: Terence Irwin, "Ethics as an inexact science: Aristotle's ambitions for moral theory," in *Moral particularism*, ed. Brad Hooker and Margaret Olivia Little (Oxford: Oxford University Press, 2000).

8 Aristotle, *Nicomachean Ethics*, 1098 a 20-25.

9 Jonsen and Toulmin, *The Abuse of Casuistry*, 37–38.

10 Aristotle, *Nicomachean Ethics*, 1110a–20-25.

11 Jonsen, "Of Balloons and Bicycles," 15.

12 Williams, *Ethics and the Limits of Philosophy*.

13 Bernard Williams, *Moral Luck: Philosophical Papers 1973–1980* (Cambridge: Cambridge University Press, 1981), 2.

14 Williams, *Ethics and the Limits of Philosophy*, 193.

15 Williams, *Moral Luck*, ix-x.

Williams is here articulating a point already addressed by Aristotle. But there is also another element in the criticism by Williams that merits our attention. Does his criticism not echo part of that of business ethics? Or, more precisely, is the normative basis of business ethics not similarly accused of ignoring the particularity of business practitioners and the contextual features of business practice? In addition to this similarity, we can also point to the contrast between these two criticisms. Williams depicts the moral judgment problem as something that applies to ethics in general (i.e., to what he calls 'moral theory'). But certain critics have related this problem to the normative basis of business ethics. In so doing, these critics frame the moral judgment problem as specific to this field. This contrast is notable. If Williams is correct, then this problem can manifest itself in each attempt to apply a moral theory to a particular case. This point suggests we may need to reconsider the depiction of this problem by critics of business ethics.

Our brief examination reveals the moral judgment problem is taken up in the philosophical debate and discussed independently from the business ethics context. Aristotle indicates a certain tension between the universal (or inexact) statements in ethical theories and particular cases. And Williams rejects moral theories for failing to accommodate the complexity of our 'ethical lives.' Commentators on Aristotle's work have suggested the moral judgment problem revolves around the "relationship between ethical theory and practical judgment."[16] But is that all there is to it? Can this problem be understood only in terms of a certain tension between 'theory and practice,' or might there be another way to understand it?

2. An alternative understanding of the moral judgment problem

Throughout the twentieth century, alternative positions were developed by philosophers who go beyond the relation between ethical theory and particular judgment. Existentialists, such as Simone de Beauvoir, have relocated this problem to the level of human existence. They traced the origin of this problem to what it means to exist as a human being. Hence, this problem runs much deeper for a philosopher such as Beauvoir, who also writes of an irresolvable tension, but for her this is inherent to our human condition. This tension is described using the notion of "ambiguity."[17] Beauvoir is not the only existentialist philosopher to reflect on the ambiguity of our human condition,[18] but what makes her work relevant for the present examination is *how* she approaches it. Beauvoir extensively analyzes the ambiguity of our human condition and its profound implications for ethics. Since her philosophy enables an alternative

16 Jonsen, "Of Balloons and Bicycles," 14.

17 De Beauvoir, *The Ethics*, 8.

18 Reflections on our fundamental ambiguity can be traced in the respective works of Kierkegaard and Sartre. De Beauvoir, *The Ethics*, 8.

articulation of the origin of the moral judgment problem – that is, as situated on the existential level – it is examined and reconstructed below.

2.1 Beauvoir's notion of ambiguity

In an early (1947) essay called *The Ethics of Ambiguity*, Beauvoir builds on the existentialist idea that human beings are "ambiguous" and discusses its implications for ethics.[19] The English title of this essay can give the wrong impression to the reader. Beauvoir's project was not to develop a normative, action-guiding approach to ethics. Her argument is rather that we should assume (i.e., acknowledge) our fundamental ambiguity. The French title of the essay, *Pour une morale de l'ambiguïté*, which directly translates into 'for a morality of ambiguity,' provides greater clarity regarding Beauvoir's project. She argues *for* a morality of ambiguity. And the morality of ambiguity is that it should be assumed rather than denied. To assume ambiguity, for Beauvoir, is to recognize the profound problems it poses for ethics. One such problem, which is central to the present examination, is that ambiguity renders each moral judgment problematic. But what does Beauvoir mean by the concept of ambiguity? And why would the acknowledgment of ambiguity create problems for ethics?

Addressing these questions requires an examination of the existentialist idea that man (i.e., humankind or *l'homme*) is fundamentally ambiguous.[20] Our ambiguity begins in the reflection on our human existence. Human beings try to think of themselves as unified beings – or as a whole. They want to be, in Beauvoir's words, an "exact co-incidence" with themselves.[21] The tragedy, however, is that this process of self-unification is doomed to fail. Human beings cannot coincide with themselves.[22] For example, a human being can try to think of himself as a mind only, but it will then occur to him he is also a mind inhabiting a body. Thus, he experiences himself both as body and mind. Therefore, the attempt to think of himself as a unified being fails. What remains is that he can only think of himself as fundamentally ambiguous – or split.

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19 De Beauvoir, *The Ethics*, 6–7.

20 The pronouns 'man,' 'he,' and 'him' are used in this chapter to refer to humankind in general and to the human being in particular. This system is in accordance with the pronouns Beauvoir uses in *The Ethics*. This system is certainly no "feminist lapse." Beauvoir wrote *The Ethics* in an abstract and 'neutral' manner and chose masculine pronouns to refer to humankind and to the particular human being. In so doing, she draws attention to the common use of – and preference for – masculine terms as supposedly 'neutral' terms to refer to all human beings. It is also argued that Beauvoir uses masculine pronouns to highlight the "respective subjective positions of men and women in patriarchal society." According to her view of this society, men are positioned as subjects, whereas women are not. Therefore, only men can be positioned as ambiguous subjects. Thus viewed, the consistent use of masculine terms in *The Ethics* is not a "feminist lapse" but a feminist statement. See: Debra B. Bergoffen, "Simone de Beauvoir and Jean-Paul Sartre: Woman, Man, and the Desire to be God," *Constellations* 9, no. 3 (2002): 412, https://doi.org/10.1111/1467-8675.00290.

21 De Beauvoir, *The Ethics*, 9–13.

22 Gail Weiss, "Freedom, Oppression and the Possibilities of Ethics for Simone de Beauvoir " *Simone de Beauvoir Studies* 18 (2001): 9, http://www.jstor.org/stable/45170698.

Beauvoir calls this failure the “lack of being” (*manque d’être*).[23] Here, she is building on an existentialist idea – and making use of a specific existentialist vocabulary – that is described in Sartre’s *Being and Nothingness*.[24] The lack of being is at the core of Beauvoir’s concept of ambiguity, so I examine it closely, which requires a brief digression into existentialist philosophy. With Sartre, Beauvoir fundamentally defines man as a lack of being. To understand what this means, we need to consider the existentialist distinction between two categories of being, namely the ‘being-in-itself’ (‘*en-soi*’) and the ‘being-for-itself’ (‘*pour-soi*’). The human being is a ‘being-for-itself,’ whereas a thing, such as a stone, is a ‘being-in-itself.’ The being of a human being is not the same as the being of the stone. There is, thus, a difference in their respective ontological positions.[25] A stone is a thing that is not conscious of itself. It does not relate to itself, nor to the world around it. It just lies there, with no possibility of being aware of itself. The stone is nothing but ‘essence,’ as Sartre puts it. He refers to this form of being as a ‘being-in-itself.’ In contrast, the human being exists only as a consciousness. And consciousness is intentional. This means that it is always conscious *of* something else (e.g., of an intended object such as a table or a human face).[26] Because consciousness is always “conscious *of* something, it cannot already be something.”[27] Consciousness, in other words, is nothing more than a relation to the world. It has no content of its own. Sartre further argues that consciousness is nothing but negation. There is only a consciousness *of* the stone because I am not the stone *of* which I am conscious.[28] In this respect, every act of consciousness begins as a lack of being.[29] Sartre refers to this consciousness that lacks being (or content) as the ‘being-for-itself.’ It is here that one aspect of our ambiguity plays out. I can reflect on ‘myself’ and ask: who am I? But in trying to answer this question, I am already taking an external point of view to reflect on my being. And this, for Sartre, is all I can do. I thus remain at a distance. In this sense, I will never coincide with myself – and *be* like the stone – but will always remain ambiguous.

Although Sartre understands the lack of being as “definitive,” Beauvoir emphasizes it is “also ambiguous.”[30] The lack of being may be definitive, meaning the human being may, in other words, be ‘nothing.’ But Beauvoir notes this also means we are free to give meaning to our existence. And freedom is an ethical aspect of our human existence. The stone is already a stone. It makes no sense for it to try to be more like a stone. The human being, in contrast, is a lack of being. He exists only as a consciousness engaged

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23 De Beauvoir, *The Ethics*, 10.

24 Jean Paul Sartre, *Being and Nothingness: a Phenomenological Essay on Ontology*, trans. Hazel E. Barnes (New York: Washington Square Press, 1992).

25 Ruud Welten, *Sartre*, Elementaire Deeltjes, (Amsterdam: Athenaeum-Polak & Van Gennep, 2020).

26 Sartre builds on Husserl’s interpretation of the intentionality thesis here.

27 Ruud Welten, *Wie is er bang voor Simone de Beauvoir? Over feminisme, existentialisme, God, liefde en seks* (Amsterdam: Boom, 2020), 52. My translation.

28 This is a “dialectical interpretation” of the intentionality thesis. Welten, *Sartre*, 30.

29 Edward Fullbrook and Kate Fullbrook, *Simone de Beauvoir: a Critical Introduction* (Cambridge: Polity Press, 2008), 102.

30 De Beauvoir, *The Ethics*, 10.

in a process of assigning meaning to himself and to the world.[31] He is nothing yet and must make something of himself. He does not come into the world as a businessperson but finds himself in a situation of business – that appears to be his own situation – and in which he must tend toward being a businessperson. And he can fail or succeed at this endeavor. Our freedom thus implies a certain behavior or ethical action. Beauvoir writes that it "is up to man to make it important to be a man, and he alone can feel his success or failure."[32] In this view, human existence is primarily a 'meaning- or sensemaking' activity in a world in which nothing is defined in advance.

2.2 The experience of ambiguity

Beauvoir describes several 'experiences of ambiguity' in *The Ethics*. These are descriptions of how human beings concretely live ambiguity. One such experience is that of being 'subject' and 'object' at once. Beauvoir explains that each human being is a "unique" and significant individual for himself; each has "the incomparable taste in his mouth of his own life."[33] To be a subject is to be an individual consciousness, which is nothing but a consciousness *of* something else or a relation to the world.[34] But there is something remarkable about the experience of the subject. The experience of being a subject causes the human being to also experience his being as an object, in relation to himself, to others, and to the world.

The human being experiences himself as an object, for instance, when he sees himself (e.g., in the mirror), when he is observed by another consciousness, or when he considers his presence in the world. When he sees himself, he looks at himself as though he were looking at an object. And when observed by others, he experiences himself as an 'object' (i.e., as a body or 'thing') in their eyes. As a presence in the world, Beauvoir writes, man feels "himself more insignificant than an insect within the immense collectivity whose limits are one with the earth's."[35] The human being, put simply, experiences his insignificance as an individual in a world inhabited by about 7.9 billion others. He is neither a subject nor an object. He is, instead, ambiguous, both a subject for himself and an object for himself, and for others. Beauvoir proceeds to argue the following:

> This privilege, which he alone possesses, of being a sovereign and unique subject amidst a universe of objects, is what he shares with all his fellow-men. In turn an object for others, he is nothing more than an individual in the collectivity on which he depends.[36]

31 Fullbrook and Fullbrook, *Simone de Beauvoir*.
32 De Beauvoir, *The Ethics*, 15.
33 De Beauvoir, *The Ethics*, 6–7.
34 Fullbrook and Fullbrook, *Simone de Beauvoir*, 56–57.
35 De Beauvoir, *The Ethics*, 6–8.
36 De Beauvoir, *The Ethics*, 6.

Human beings thus experience themselves both as individuals and as part of a larger collective of people. And this experience generates something that Beauvoir describes as a "constant tension."[37] Ambiguity is this constant, irresolvable tension of existing simultaneously as separate from others and as bound to others. It is to be both independent and dependent, both significant and insignificant.[38] And for Beauvoir, this experience of ambiguity is inescapable: "we do not succeed in fleeing it," so we must, therefore, try to assume it.[39]

2.3 Denying ambiguity: particularity and situation

But instead of assuming our ambiguity and its implications, Beauvoir argues that philosophical thought has done nothing but deny it.[40] In 'universalist' philosophical positions, ambiguity is treated either as a problem that must be resolved (e.g., by reducing "mind to matter" or by reabsorbing "matter into mind") or as something that does not exist at all.[41] And the ethical doctrines developed in accordance with these positions have all pursued the same goal, namely that of resolving ambiguity:

> At the present time there still exist many [ethical] doctrines which choose to leave in the shadow certain troubling aspects of a too complex situation. But their attempt to lie to us is in vain. Cowardice doesn't pay. Those reasonable metaphysics, those consoling ethics with which they would like to entice us only accentuate the disorder from which we suffer.[42]

Universalist positions are here accused of approaching ambiguity through denial. Beauvoir argues these positions are based on a lie. They are based on the misguided notion that we can conceive of an "impersonal universal man who is the source of all values."[43] Yet one implication of assuming our ambiguity is that universal man "exists nowhere."[44] If we acknowledge both our individual and our collective stances, then it follows that it is not the universal man who is the source of all values but, in Beauvoir's words,

> . . . the plurality of concrete *particular* men projecting themselves toward their ends on the basis of *situations* whose particularity is as radical and irreducible as subjectivity itself.[45]

37 De Beauvoir, *The Ethics*, 26.
38 Kristen Oganowski, Centralizing Ambiguity: Simone de Beauvoir and a Twenty-First Century Ethics, 2013, PhD diss., Syracuse University, 95, https://surface.syr.edu/etd/28.
39 De Beauvoir, *The Ethics*, 8.
40 De Beauvoir, *The Ethics*, 6–7.
41 De Beauvoir, *The Ethics*, 6.
42 De Beauvoir, *The Ethics*, 7.
43 De Beauvoir, *The Ethics*, 17.
44 De Beauvoir, *The Ethics*, 121.
45 De Beauvoir, *The Ethics*, 17. Italics added.

In this quote, Beauvoir uses the notions of 'particularity' and 'situatedness' to illuminate the complexity of our individual stance and, more important, to support her idea that a universal ethics is impossible.

In addition to being part of a collective, we should consider the particularity of each human being. This means each person should be viewed as a concrete and singular individual who is free and must give meaning to his existence by himself. If we acknowledge our human particularity, then it follows for Beauvoir that "the real interest of each one [person]" cannot be "mingled with the general interest."[46] The personal values of a particular human being cannot simply be subsumed under values that are collectively held. The cause of man (i.e., humankind) is not necessarily the cause of each man. And so, one implication of acknowledging our particularity is that we "can never speak for" the other person.[47]

We must also consider the complex way human beings are situated. Human beings find themselves in concrete situations that are, in Beauvoir's words, "as radical and as irreducible as subjectivity itself."[48] Put simply, human beings are unique individuals, and so are the situations in which they act. And my situation is mine alone. It cannot be captured in a scientific model or in a universal theory of ethics. These models and theories can never do justice to my situation, to my life, in this very moment I am living right now.[49] According to Beauvoir, I must think of myself as 'free in situation.' This means I must assume the freedom to change my situation; I am free to decide how to act in a situation that is mine alone. And I am fully responsible for my actions.

If we acknowledge our human particularity and situatedness, then it follows for Beauvoir that a universal ethics is rendered impossible. There can be no universal ethical rules that apply to all human beings and situations. Those who choose to believe in the existence of universal ethical rules deceive themselves. They choose to, in Beauvoir's words, "take refuge in ready-made values" and "take shelter" behind them.[50] They deceive themselves into thinking it is not up to them to define their own values. Freedom is, thus, the idea around which everything revolves for Beauvoir. Because the human being is free, he cannot believe in the existence of objective (i.e., based on scientific facts) and universal (i.e., applicable to all men and all situations) ethical rules.

What is so "consoling" about universal approaches to ethics is that they make it seem as if there is objective knowledge of ethics and that the point of ethics is simply to act on this knowledge.[51] We are, thus, lured into believing that universal solutions to ethical problems exist. But these solutions do not exist, and it is precisely in the absence of such solutions that our ambiguity manifests itself. Universal ethics have

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46 De Beauvoir, *The Ethics*, 121.

47 Karen Vintges, "Simone de Beauvoir: a feminist thinker for the twenty-first century," ed. Margaret A. Simons, *The Philosophy of Simone de Beauvoir: Critical Essays* (Bloomington: Indiana University Press, 2006), https://muse.jhu.edu/book/9046 220.

48 De Beauvoir, *The Ethics*, 17.

49 Welten, *Wie is er bang voor Simone de Beauvoir?*, 44–45.

50 De Beauvoir, *The Ethics*, 47.

51 De Beauvoir, *The Ethics*, 6.

not succeeded in covering up our ambiguity, Beauvoir notes; they have only functioned to "accentuate" it.[52] What is accentuated is there are no universal grounds for ethical action. We cannot justify our actions by appealing to God, nor by appealing to reason. This point, for Beauvoir, is the "truth" we should endeavor to look "in the face."[53]

Beauvoir emphasizes the complexity of our individual stance (i.e., our particularity and situatedness). And yet, she also stresses that we must constantly navigate between our individual and collective stances. This means both 'sides' of ambiguity should be acknowledged, implying we must also acknowledge the irresolvable tension that accompanies it, as Beauvoir explains:

> It is true that each is bound to all; but that is precisely the ambiguity of his condition: in his surpassing toward others, each one exists absolutely as for himself; each is interested in the liberation of all, but as a separate existence engaged in his own projects.[54]

Here, we see the difficultly posed by acknowledging our ambiguity. To acknowledge both 'sides' of our ambiguity is to exist in this permanent tension between our individual and collective stances. It is to be caught up in a constant negotiation between two conflicting sides of our existence[55] and, thus, to take the responsibility to define one's own values as a *separate* individual who is nevertheless *bound* to others.

2.4 The impossibility and inevitability of ethics

Beauvoir's analysis leads her to conclude that ethics "resides in the painfulness of an indefinite questioning."[56] We must not waste time on formulating definitive answers to abstract questions of how one must act, nor of which actions are right and which are wrong. If we assume our ambiguity, then it would be "naïve" to think that such abstract questions can be answered.[57] Ethics, Beauvoir writes, "does not furnish recipes," all we can do is "propose methods."[58] And the principal method she proposes is that of assuming our ambiguity, or our freedom. Ethics, thus, revolves around the recognition of ambiguity. And we have seen that, with this recognition, a universal ethics is rendered impossible. But Beauvoir maintains that is also inevitable that we try to think of an ethics. Our human existence is ambiguous, which implies "its meaning is never fixed, that it must constantly be won."[59] Each human being is responsible for giving meaning to his own existence. The impossibility of a universal ethics does not relieve us of the responsibility to justify our actions. A similar argument can be traced in a famous footnote by Sartre:

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52 De Beauvoir, *The Ethics*, 6.
53 De Beauvoir, *The Ethics*, 8.
54 De Beauvoir, *The Ethics*, 121.
55 Oganowski, Centralizing Ambiguity: Simone de Beauvoir and a Twenty-First Century Ethics: 3.
56 De Beauvoir, *The Ethics*, 144.
57 De Beauvoir, *The Ethics*, 144.
58 De Beauvoir, *The Ethics*, 144–45.
59 De Beauvoir, *The Ethics*, 139.

> The ethical 'problem' arises from the fact that Ethics is *for us* inevitable and at the same time impossible. Action must give itself ethical norms in this climate of nontranscendable impossibility.[60]

Ethics is inevitable because we act, and ethical action requires values and norms. But ethics is, at the same time, impossible because these values and norms have no universal grounds and cannot be directly applied to particular cases. Hence, for Sartre too, neither God nor the Enlightenment notion of reason can be viewed as the "source and ultimate justification" of ethical values and norms.[61] Much like Beauvoir, Sartre thinks this does not imply we should give up attempts to justify our actions. For both thinkers, the ultimate 'source and justification' of ethics lies with the human being. It is up to him to choose to act freely and, in so doing, he constitutes not only his own values, but he also gives meaning to himself.[62]

2.5 Reconsidering the moral judgment problem

Beauvoir's concept of ambiguity enables an alternative and more fundamental articulation of the moral judgment problem. She describes an irresolvable tension, or ambiguity, between our individual and collective stances. This ambiguity may be at the heart of the moral judgment problem. Beauvoir writes that, "each exists as absolutely for himself," and, at the same time, "each is bound to all."[63] This ambiguous stance – of being individual and collective at once – is reflected in the moral judgment process. We must somehow form a moral judgment as a human being who 'exists for himself' and, at the same time, as a human being who is 'bound to all.' We have no choice but to perpetually negotiate between these two stances. And because we must affirm both our individual and collective stances – or somehow connect these (often) conflicting stances to each other – each moral judgment is rendered problematic.

Beauvoir's work also allows us to reconsider how the moral judgment problem is framed by some critics. She rejects universalist positions for abstracting from the complexity of our human existence. Beauvoir argues that our individuality is downplayed, and that primacy is accorded to our collective stance. As a result, we are offered universal or "consoling" approaches to ethics.[64] What is consoled here is the troublesome aspect of our ambiguity. We have seen that business ethics is similarly criticized. The field allegedly ignores the tension between our individual and collective stances. There are critics who have argued that business ethics was developed as a

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60 Jean-Paul Sartre, *Saint Genet: Actor and martyr*, trans. Bernard Frechtman (New York: George Braziller, 1963), 186n. Italics in original.

61 Patrick Engel, "Negativistic Ethics in Sartre," *Sartre Studies International* 19, no. 1 (2013): 23, https://doi.org/10.3167/ssi.2013.190102.

62 Engel, "Negativistic Ethics in Sartre," 21.

63 De Beauvoir, *The Ethics*, 121.

64 De Beauvoir, *The Ethics*, 6.

universal ethics that focuses only on this collective aspect. Hence, to put it in Beauvoir's terms, business ethics is criticized for ignoring one 'side' of our ambiguity, namely our individual stance. Business ethics does not properly account for human particularity and situatedness within the business context. It has largely ignored this problematic aspect of ethics and offers a "reassuring and satisfying" ethics in its stead.[65] Thus, Beauvoir and certain critics of business ethics appear to allude to the same problem.

But there is a crucial difference between these two criticisms. This difference applies to how the moral judgment problem is framed. Beauvoir frames this problem as something that originates in the ambiguity of our human condition (i.e., that we are individual and collective at once). For her, this is a problem of ethics in general that is obscured or even resolved in universalist ethics. Beauvoir, thus, frames the problem of moral judgment in a broad sense. Unlike Beauvoir, certain critics have framed this problem in the narrow context of a criticism of business ethics, suggesting the moral judgment problem is specific to this field. In reading Beauvoir, however, it appears that this way of framing the problem is largely inaccurate. The moral judgment problem is not specific to business ethics. It is not somehow created by business ethicists and, therefore, manifested only in their field. Instead, it is a problem of ethics in general that originates in the ambiguity of our human condition – according to Beauvoir.

These critics may have mistakenly framed the moral judgment problem as specific to business ethics, but they may nevertheless be right to argue that this problem is not always properly acknowledged or addressed in this field. For instance, approaches to business ethics grounded in a universal ethics (i.e., an ethics of universal ethical rules that apply to all business practitioners and to all business situations) fail to account for the individual stance of business practitioners. What is overlooked in these approaches is that each attempt to form a moral judgment is always marred by ambiguity. And if certain business ethicists have been particularly slow in acknowledging this, then these critics are right to point this out.

3. Looking backward and forward

The examination in this chapter further supports my hypothesis that the moral judgment problem – or, at least, the variation of this problem as articulated by Beauvoir – is related to ethics in general. The critique in which this problem is framed as specific to business ethics should, therefore, be reconsidered. The problem with moral judgment is at least as old as the writings of Aristotle. From reading Aristotle, it appears he does not articulate this problem in the context of a critique of moral theory – as is the case in the work of Williams. Instead, Aristotle articulates this problem to draw attention to something that he views as inherent to ethics. Forming a particular moral judgment is, in other words, inherently problematic. There is no way around this problem. It is, therefore, unsurprising that this problem is also manifested in business ethics.

65 See, for example: Jones, Parker, and ten Bos, *For Business Ethics*, 7.

Beauvoir presents a clear argument on the ambiguity of the human condition and its implications for ethics. The "concrete consequence" of assuming ambiguity is to acknowledge the problematic nature of moral judgment-making and to embrace our freedom.[66] Unlike Aristotle and Williams, Beauvoir traces the origin of the moral judgment problem to the existential level. Our human existence *is* ambiguous, and this ambiguity should be reflected in our ethics and, consequently, in each attempt to form a moral judgment. While this problem is clearly stated by Beauvoir, she does not explicate how we might approach it in the concrete context in which we already act. She does not, in other words, offer an account relevant for applied ethicists. Beauvoir acknowledges this point. In looking back on *The Ethics*, she writes that although her central argument on ambiguity remains "valid," she neglected to offer concrete ways of approaching it in a "social context."[67] In this respect, Beauvoir's work can be read as somewhat unsatisfactory.

And yet, it would be equally unsatisfactory if Beauvoir did offer an approach to this problem. It is her task – that is, as a philosopher – to clearly articulate this problem and steer clear of any type of solution. Proceeding to the next chapters, namely the conclusion and epilogue, we could run into a similar double bind. So far, my analysis has enabled an alternative interpretation of the criticisms of business ethics and of the problems framed as specific to this field. This analysis has focused on two problems of ethics in general that have profound implications for this field. Since this study constitutes a philosophical work, the task of articulating the problems with business ethics would thereby be completed. We now have a better understanding of why this field is vulnerable to criticism, and we have seen that this vulnerability is not specific only to business ethics.

But to leave it at that would also be unsatisfactory. Two questions still remain unaddressed. One question pertains to the implications of this study for the field of business ethics. Or, stated differently, what can we learn about business ethics by looking at it through the lens of its critics? The second question concerns how business ethics can proceed, considering the irresolvable problems manifested in this field. In other words, can we reflect on ways to approach the problems with translation and moral judgment while avoiding the pitfall of heading for solutions? I answer the first question as a way of concluding and then proceed to the second question in the epilogue.

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66 De Beauvoir, *The Ethics*, 153–54.

67 This is why Beauvoir's later publications, such as *The Second Sex* and her literary- and autobiographical works, are all situated in a social context. Simone De Beauvoir, *Force of circumstance*, trans. Richard Howard (Harmondsworth: Penguin, 1968), 67.

CONCLUSION

1. Reconstructing the criticism of business ethics

Business ethics has been surrounded by controversy and criticism from the outset. In this study, I analyzed the academic criticisms of the field and argued that something is awry with *some* of them. My analysis suggests that two crucial elements for understanding the problems with business ethics are omitted by its critics. The first element is the possibility that the central problems of business ethics are also manifested in other fields of applied ethics. Although most critics gloss over this possibility, I demonstrated that bioethics largely faces the same criticisms as business ethics. Business ethics may be more vulnerable to criticism than bioethics because it is often perceived as an oxymoron. But other than that, both fields are viewed as problematic. This finding helped to debunk the critical notion that business ethics is the 'black sheep' of applied ethics. A second element omitted by critics is that most business ethics problems are related to ethics in general. There are critics who frame these problems as specific to business ethics, while failing to mention these are longstanding problems in philosophy.

Presumably, these two elements are omitted by these critics because doing so strengthens their point that something is wrong with business ethics in particular. Their point would be weakened if these critics were to concede that bioethics is as problematic as business ethics. It would be weaker still if they conceded that most business ethics problems are related to ethics in general, and that ethics is all about these problems. Omitting these two elements has allowed these critics to depict business ethics as an exceptionally problematic field. Yet, in so doing, they have presented a skewed view of business ethics. I have sought to rectify this skewed view by revealing there is nothing exceptional about business ethics, or at least not in terms of the problems that manifest in this field. Ethics is inherently problematic, as is business ethics, and this is exactly how it is supposed to be.

My analysis focused on two of the main criticisms of business ethics, which revolve around problems with translation and moral judgment. The former problem concerns the tension that arises in attempts to relate certain views on the fundamentals of ethics to normative approaches to ethics, whereas the latter problem involves the tension that arises in attempts to apply universal ethical rules to particular cases. Critics have framed these problems as specific to business ethics – as if both problems were created by business ethicists and, therefore, unique to this field. But we have seen this method of framing is largely mistaken; these problems do not originate in business ethics. Their origin can be traced to specific human experiences, which I described using Levinas' notion of trauma (regarding the translation problem) and Beauvoir's notion of ambiguity (regarding the moral judgment problem). This origin suggests that, if we want to understand the problems that manifest in business ethics, it is necessary to look beyond this field. We then found, in line with my hypothesis, that most business ethics problems are related to ethics in general, and that the field is, therefore, blamed *largely* without fault.

Although the problems with translation and moral judgment are not specific to business ethics, they still manifest in this field. And if these problems are not generally recognized or properly approached in business ethics, then these critics are right to point this out. In other words, there are valid reasons for criticizing approaches to business ethics that attempt to obscure or resolve these problems. But I argued that attempts to obscure or resolve these problems cannot succeed, because the problems with translation and moral judgment revolve around tensions that should be understood as inherent to ethics. And what is inherent in ethics cannot be obscured or resolved, neither with philosophy nor with the theories and applications of business ethics.

The philosophical works of Levinas and Beauvoir helped to articulate the above tensions in specific ways. Levinas describes the tension between the ethical "saying" and the "said."[1] The ethical experience is betrayed each time it is put into words – or translated – which is traumatic. Beauvoir describes the constant tension between our individual and collective stances.[2] Moral judgments must be formed in light of this ambiguity. Business ethics is a form of applied ethics, implying these tensions will arise in this field. Business ethicists must somehow translate certain views on the fundamentals of ethics into normative business ethics and develop approaches to moral judgment-making. Because there are approaches to business ethics that try to obscure or resolve these problems, the field has become a target for critics.

Business ethics is not just targeted by critics but effectively deemed impossible by them. I have argued, however, that this view of business ethics should be reconsidered. Trying to overcome the above-mentioned tensions is missing the point of ethics, and this should be recognized by business ethicists. Still, to state that irresolvable tensions are manifested in business ethics is not to show that business ethics itself is impossible. On the contrary, it is to show it is inevitable to reflect on the conditions for a business ethics in light of these tensions. It indicates the necessity of keeping working toward an approach to business ethics, because these tensions manifest in this field. At the same time, however, it should be acknowledged this work is never quite finished; there will always be a degree of betrayal involved. We can, for example, attempt to translate a certain view on the fundamentals of ethics to normative business ethics. But since there can never be a *direct* translation, we are bound to be dissatisfied with this translation and must, therefore, begin anew. Perhaps, then, we should think of business ethics as something that is both impossible and inevitable. The field faces the impossibility of resolving these tensions and, at the same time, the inevitability of reflecting on ways to approach these tensions. This situation leaves the possibility of business ethics open.

1 Levinas, *Otherwise than Being*.

2 De Beauvoir, *The Ethics*.

2. Business ethics as an 'applied ethics'

With this view of business ethics in mind, we can now revisit the curious paradox with which this study began. Business ethics has allegedly lost touch with ethics in applying it to the business context. This paradox is articulated by critics and hinted at by participants in ethics training. My analysis provides further insights regarding this paradox. Business ethics seeks to advance the morality of business. This field must, therefore, develop a normative ethics applicable to the business context, which means business ethics should develop an approach to ethics that appeals to business practitioners, and that is utilizable within businesses. This approach is met with suspicion, for if "it is easily applicable, then it is not ethics."[3] Given that attempts to apply ethics can have the effect of destroying the tensions inherent to ethics, this is a valid statement. But such a statement does not consider the predicament of business ethics (or the predicament of all fields of applied ethics). If ethics is *not* applicable, then it is not likely to be used within businesses and will not have the desired effect of advancing business morality. As acknowledged already by the early business ethicists, there should be a way ethics can be applied to business.

But the challenge is not to lose touch with ethics in applying it to the business context (e.g., by obscuring or trying to resolve the trauma and ambiguity of ethics). Therefore, we must be critical of how ethics is presently applied to business. In other words, we must question the meaning often accorded to 'applied ethics.' What should be clear from the analysis is that critics have played an important role in raising this question. Applications to business ethics that employ ethical theory to develop solutions for moral problems should be met with suspicion. If business ethics is a "source of solutions rather than problems,"[4] then it will surely lose touch with the understanding of ethics elaborated in this study. What is missing from business ethics applications that fixate on '*solutions* rather than problems' is ethics itself. That is to say, the experience of being at a loss, which is exactly the experience with which ethics begins. If not for this experience, why bother with ethics? If it were perfectly clear how to do the right thing from the start, then what would be the use of further ethical reflection?

This point might be what participants in ethics training hint at when they say business ethics applications, such as ethics codes, are no longer about ethics. These applications are practically very useful, and they can even make it seem as if 'being ethical is easy'; it is simply a matter of following the ethics code. However, there is a distinction between codified rules and ethics itself that is often blurred within business ethics, making it seem as if ethics – which begins with the experience of being at a loss (e.g., of not knowing the right thing to do) – can also be codified, which is impossible. It can, thus, reasonably be asked, as so many critics have done, whether applications such as ethics codes pay sufficient heed to this experience.

3 Jones, Parker, and ten Bos, *For Business Ethics*, 139.
4 Jones, Parker, and ten Bos, *For Business Ethics*, 7.

And so, when I argue there should be an extent to which ethics can be applied to business, I am alluding to an 'applied ethics' distinct from most business ethics applications and from the expectations that businesses usually place on these applications (e.g., to resolve moral problems). This is an applied ethics that functions as a source of *problems* rather than solutions – it problematizes. It does not avoid the accusation that it does not offer solutions but is, instead, proud of that 'criticism.' This applied ethics primarily functions to sensitize business practitioners to ethical problems and the difficulties involved in navigating these problems. Far from making it seem as if 'being ethical is easy,' this is an applied ethics that shows that being ethical is inherently problematical. A business ethicist who succeeds in applying ethics in this manner – and who does not succumb to the expectations that many businesses place on applied ethics – can consider her job well done.

This distinct understanding of applied ethics enables me to cast new light on the possibility of applying ethics to business without thereby losing the ethical. Based on my findings (in Chapters 4 and 5), it appears that an application of business ethics that does not lose touch with ethics is one that helps business practitioners to recognize certain problems or tensions *as* inherent to ethics. This application helps them to recognize experiences of unease, of not knowing what to do, of doubting ourselves, and of being responsible without choice as ethical experiences. This is what it means to become sensitized to ethical problems. Perhaps, then, all that business ethicists can do to 'apply ethics' is to work toward ways for business practitioners to recognize, articulate, and engage with these tensions, which would already be quite an accomplishment.

3. Further implications and future research

What else can this study offer regarding business ethics? In addition to a systematic analysis of its main criticisms, this research also provides a perspective on the relevance of philosophy for academic business ethics. We have seen that, slowly but surely, philosophers are being crowded out of business ethics. But philosophy still has a role to play in this field. It is through philosophy that we can develop an understanding of the possible meaning of ethics, and it is on this basis that we can understand what is really happening with business ethics. Philosophy enables us to articulate what is perhaps one of the biggest problems of applied ethics, namely the paradox of losing touch with ethics in attempting to apply it to a concrete context. Instead of crowding philosophers out of business ethics, active attempts should be made to bring them back into the field (the epilogue further engages with this subject).

This study also offers a perspective on which type of philosophy is relevant for future scholarship in business ethics. Although some publications draw on the works

of Levinas and Beauvoir,[5] they nevertheless remain 'underutilized thinkers' in business ethics. This situation is unfortunate, as their philosophical views and vocabularies have proven relevant to this field. Bringing these two thinkers into business ethics will surely not make discussions about ethics any easier; it is more likely to complicate these discussions. However, if business ethics really is to assume form as a 'source of problems rather than solutions,' then it would do well to welcome philosophers such as Levinas and Beauvoir more often, because they offer a more fundamental understanding of ethics that fulfills a current need – or gap – within business ethics.

There are also elements relevant to business ethics but beyond the scope of this study. We have seen that most business ethics problems are also related to bioethics. The latter field is similarly attacked for not conceding the problems with translation and moral judgment. Since these are problems of ethics in general, it is possible they are also manifested in other fields of applied ethics (e.g., in legal ethics or the ethics of technology). But such a conclusion cannot be drawn from this study. It would, therefore, be relevant to conduct additional comparative analyses between the critical discourse of business ethics and the critical discourse of other fields of applied ethics. This approach can further support the central hypothesis of this study, which is that these problems are likely to haunt all fields of applied ethics.

Reconstructing the criticism of business ethics has proven relevant, not only for understanding *why* this field is vulnerable to criticism. By viewing business ethics through the lens of its critics and reinterpreting their criticisms using the philosophical works of Levinas and Beauvoir, we also come to see *what* is at stake for fields of applied ethics, such as business ethics. And what is at stake for this field is ethics itself. The onus is on business ethics not to lose touch with ethics but to retain it; that is, to approach the tensions manifested in this field without destroying them.

5 For an example of the use of Levinas' philosophy in academic business ethics, see: Bevan and Corvellec, "The impossibility of corporate ethics: for a Levinasian approach to managerial ethics."; For an example of the use of Beauvoir's philosophy in academic business ethics, see: Helet Botha and R. Edward Freeman, "Existentialist Perspectives on the Problem and Prevention of Moral Disengagement," *Journal of Business Ethics* (2022), https://doi.org/10.1007/s10551-022-05130-0.

EPILOGUE:

KIM’S BETRAYAL

1. Impossible and inevitable

Is it not too easy to confront a practical field with irresolvable problems and leave it at that? In other words, where does this study leave those businesses and business ethicists that must find a way to approach the problems with translation and moral judgment? These are warranted questions. I have so far argued that the impossibility of resolving these problems is paired with the inevitability of reflecting on ways to approach them. Or, in short, ethics is impossible and inevitable at once. This inevitability can be cast aside by philosophers who keep a distance from the business context, who stick to the impossibility of ethics, and who take more interest in a detailed articulation of these problems than in possible ways to approach them. Keeping a distance from the business context has its advantages. One advantage is these problems will not, as Levinas might put it, be 'betrayed' by the movement from impossibility to inevitability. I understand this to be a movement from the articulation of irresolvable problems and their profound ethical implications to reflecting on how they are best approached in the concrete business context. With each attempt to reflect on a concrete approach to these problems, there is a risk of undoing their meanings and profound ethical implications, which would surely amount to a betrayal.

Moving from the impossibility to the inevitability of ethics may amount to a betrayal, but Levinas also reminds us this is a *necessary* betrayal.[1] Put simply, his idea of ethics must somehow be translated – fixed in philosophical language, be written down, become a book – for it to make a difference in society. A similar yet distinct point is raised by Beauvoir, who argues that ethics is impossible and inevitable at once, and that we must navigate both 'sides.'[2] She deems the moral judgment problem irresolvable but notes it is still inevitable we form these judgments. Though neither Levinas nor Beauvoir makes this move to the inevitability of ethics,[3] I endeavor to do so here – even when this comes at the price of a betrayal. I would not be much of a philosopher if I cast aside the impossibility of resolving the problems with translation and moral judgment after having articulated this very impossibility in previous chapters. That would be disappointing. However, I would not be much of an ethics trainer if I were to present my participants with irresolvable problems and offer no perspective whatsoever on how to approach them. That might be even more disappointing. Therefore, I proceed by taking the impossibility of resolving these problems into account as much as possible while also reflecting on the inevitability of approaching them. A betrayal is surely related to my proceeding in this way, yet I view this as a necessary betrayal for a study that is as much about business ethics as it is *for* this field.

But this endeavor comes with difficulties. I have argued that we must rethink the idea of ethics using Levinas and Beauvoir and employ their ideas to articulate the

1 Levinas, *Otherwise than Being*, 46.

2 De Beauvoir, *The Ethics*, 144–45.

3 To be sure: Beauvoir does not make this move in The Ethics of Ambiguity, but she does in her later work. See: Simone De Beauvoir, *The Second Sex*, trans. H.M. Parshley (Harmondsworth: Penguin, 1972).

problems manifested in business ethics. There are profound ethical consequences to including these thinkers in the discussion on business ethics, but it would be absurd to directly derive a normative approach to business ethics from their philosophical works. We cannot use their ideas about ethics (i.e., about trauma and ambiguity) to develop approaches fit for application to the business context without taking intermediary steps that would be problematic from the perspective of both philosophers. This approach would surely betray the impossibility of ethics, but I am taking the route of the inevitability of ethics here, and so I must find a way to do justice to both sides.

It should be clear, then, that I do not offer a 'Levinasian approach to trauma' or a 'Beauvoirian approach to ambiguity.' If I did, I would ignore the very tensions they highlight. Instead, I offer some thoughts on better or worse ways to approach the problems with translation and moral judgment – given the impossibility of resolving them – and do so in a manner relevant to business practice. To this end, a selection of prominent business ethics applications is discussed. These applications were selected because they represent concrete examples of how we can lose sight of ethics when applying it to the business context. In this epilogue, I remain inspired by Levinas and Beauvoir while going beyond their philosophies.

When searching for a way to navigate the impossibility and inevitability of ethics, it can be useful to draw *methodological inspiration* from Aristotle's work. Aristotle is among the many philosophers who use a 'workaround' or indirect approach that proves capable of taking as much as possible into consideration regarding the impossibility and inevitability of ethics. He applies this workaround to the moral judgment problem. After having established the impossibility of developing universal rules to resolve particular cases, Aristotle addresses the question of how we can approach this problem and, in so doing, makes it clear that we must do so indirectly.

Aristotle's indirect approach effectively involves reflecting on the *conditions* under which agents can judge particular cases. The moral judgment problem cannot be resolved, but the agent can nevertheless develop certain virtues that enable proper judgment. According to Aristotle, a virtuous agent is better at judging particular cases than an agent lacking in virtue. Developing virtues (e.g., the ability to perceive a case in all its particularity) is one condition for proper moral judgment-making. Thus, Aristotle maintains the impossibility of resolving the moral judgment problem *and* the inevitability of reflecting on ways to approach it. He does not develop a direct approach to the moral judgment problem (e.g., by devising a step-by-step plan) but instead develops an indirect approach by focusing on the virtues of the agent who must form these judgments.

I adopt a workaround similar to Aristotle's, implying that I approach the problems with moral judgment and translation indirectly. Instead of developing a normative approach to these problems, I set out to reflect on the concrete organizational conditions under which businesses can relate to them. These conditions are sketched in outline only. Applying these conditions to business practice will, therefore, require additional research and work. Or, as Aristotle puts it himself:

> We must draw the outline first, and fill it in later. If the sketch is good, it would seem to be anyone's task to advance and articulate it, and in such cases time . . . is a good partner in discovery. That is also how the [sciences] have improved; for it is everyone's task to supply what is lacking.[4]

What I seek to offer is a sketch of the conditions for approaching the problems with translation and moral judgment – or a sketch of the inevitability of ethics. If the 'sketch is good,' then it is up to businesses and business ethicists to put it into practice.

2. Approaching the translation problem

How can businesses approach the translation problem? It could prove relevant to depart from the paradox that something about ethics is lost in attempts to apply it to the business context. Business ethics applications are mostly developed to get a grip on or, indeed, to 'manage' ethics. But very often, the obverse effect of losing touch with ethics is accomplished. What can be lost in these applications is the *ethical experience* of being at a loss. This experience makes us question ourselves and our supposed knowledge of ethical action (e.g., the experience described in the charitable donations exemplar in this dissertation). If there is one thing about ethics that should be salvaged – both in businesses and in business ethics – then it is this experience. What is at stake for business ethics is ethics itself or those traumatic experiences with which ethics ultimately begins. The question, then, is whether businesses are adequately sensitized to this paradox of applied ethics and, by extension, whether we can articulate better or worse ways to approach it.

2.1 Stakeholder management

I begin to reflect on the above questions by turning to a popular business ethics application: stakeholder management. Most larger businesses have a strategy in place for managing stakeholder relations.[5] These strategies can be used to select important stakeholders and determine responsibilities for them.[6] The advent of the stakeholder approach has been highly influential in expanding the responsibilities of businesses from shareholders to stakeholders. And yet, despite this influence, stakeholder approaches are met with "frequent and persistent" criticisms.[7] A common criticism is that stakeholder management can easily be misused to limit possible stakeholders only

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4 Aristotle, *Nicomachean Ethics*, 1098a 20–25.

5 Crane et al., *Business Ethics*, 199–203.

6 Ronald K. Mitchell, Bradley R. Agle, and Donna J. Wood, "Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts," *The Academy of Management Review* 22, no. 4 (1997), https://doi.org/10.2307/259247.

7 These criticisms pertain both to stakeholder theory and to the approaches to stakeholder management derived from these theories. Robert Phillips, R. Edward Freeman, and Andrew C. Wicks, "What Stakeholder Theory Is Not," *Business Ethics Quarterly* 13, no. 4 (2003): 480, https://doi.org/10.5840/beq200313434.

to those deemed important by the business itself. Stakeholders who have a morally legitimate claim on a business but who are of less importance to that business (e.g., because they have no "foreseeable effect" on its continuation) can thereby be placed outside the scope of the strategy, with their legitimate claims neglected altogether.[8] Strategies to manage stakeholder relations can, thus, be misused to manage and control stakeholders.[9]

The analysis of the translation problem enabled me to extend and deepen the above criticism of stakeholder management. As I see it, an underlying reason to manage and control stakeholders is that businesses want to *avoid* discomforting ethical experiences. By determining in advance who are (and who are not) counted as important stakeholders and by determining what responsibilities a business has (and has not) for them, the chances of not knowing which stakeholder to respond to or how to respond to this stakeholder in the right way are reduced. What is managed and controlled here is not the stakeholder per se but the discomforting ethical experience of being at a loss – or ethics itself. It is, thus, ethics that businesses try to get a grip on via stakeholder management. Yet we have seen that such attempts come at a cost. If the implicit purpose behind stakeholder management is to reduce discomforting ethical experiences, then we are looking at one way to lose touch with ethics in applying it to the business context.

My addendum on the above criticism of stakeholder management can be pushed further. It may be that stakeholder management is not developed to avoid discomforting ethical experiences, but it can nevertheless be used as such. Businesses and employees might even have a shared interest in using stakeholder management this way. That is, both parties could be involved in a 'conspiracy'[10] to keep discomforting ethical experiences at bay. Businesses implement strategies to manage stakeholder relations. These strategies often explicate how employees should respond to stakeholders. In other words, they explicate how to 'do the right thing' regarding stakeholders. Businesses have an interest in ensuring employees follow the strategy, as it is a way to avoid experiences of not knowing; that is, to avoid the experience of facing unexpected stakeholders (e.g., journalists, labor unions, or NGOs) and of having no recourse to a predetermined strategy on how to respond.

Employees also have a clear interest in following this strategy. There are employees who do not want to bear the heavy burden of responsibility for stakeholders. They do not want to be held accountable for the effects of certain business activities (e.g., for the negative effects that building a tourism resort has on the direct environment). These employees prefer to limit their responsibility, be complacent, and simply follow the strategy. The conspiracy I suspect here can, thus, be summarized as follows:

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8 Bert van de Ven, "Human rights as a normative basis for stakeholder legitimacy," *Corporate Governance* 5, no. 2 (2005): 53, https://doi.org/10.1108/14720700510562659.

9 For an argument along these lines, see: Jones, Parker, and ten Bos, *For Business Ethics*, 123.

10 I am not alluding to any 'conspiracy theory' here but to an act in which businesses and employees conspire together, in this case to avoid discomforting ethical experiences.

businesses have an interest in ensuring that employees comply with the strategy, whereas employees have an interest in complying with the strategy. And the interests of both parties can be articulated as a way to manage and control stakeholder relations, so that discomforting ethical experiences of not knowing how to respond to these stakeholders are altogether avoided.

What, then, would be a better way to manage relations with stakeholders? From my perspective, this attempt would at least require drawing businesses and employees out of the above-mentioned conspiracy. We can frame this aspect as one possible condition that can be set by a business. Setting this condition requires businesses to recognize that discomforting ethical experiences are inherent to managing relations with stakeholders, and, thus, that attempts to manage these relations require *struggle*.[11] Businesses would do well to welcome these experiences and this struggle, for it is only when a business faces unexpected stakeholders or unexpected stakeholder demands that it is stimulated to think about the right way of responding to them. And businesses must accept that the right response to a stakeholder is not set in stone (i.e., as in a fixed strategy for managing stakeholders that need only be followed) but something that requires constant questioning. Rather than resting in the certainty of having a strategy about how to respond to stakeholders, a business should keep asking whether its predetermined response to stakeholders really is right. Adopting such a critically reflexive attitude toward stakeholder management can be viewed as an additional condition.

There might be a task for business ethicists here, namely that of sensitizing employees to how stakeholder strategies can be misused. It is one thing to follow a strategy for managing stakeholder relations based on the will to do right by stakeholders, but it is quite another to hide behind this strategy to avoid discomforting ethical experiences, or worse, to simply follow the strategy without adopting a critically reflexive attitude toward it without, for example, questioning whether the list of important stakeholders really is complete or too long, whether the predetermined responsibilities toward these stakeholders are right, or whether the business is not simply using the strategy to manage and control its stakeholders. Hence, employees should not follow the stakeholder strategy unquestioningly but maintain a critically reflexive attitude toward it.

How can employees develop and maintain such an attitude? I might attempt to answer this question, for instance, by listing a few important skills that correspond to the critically reflective attitude I am suggesting here (e.g., listening to stakeholders) or by developing a method for a better way to manage relations with stakeholders. However, if I attempted these things, I would be moving away from the indirect approach I am trying to provide and toward the direct approach I am seeking to avoid.

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11 For an account of the struggle with stakeholders, see: Muel Kaptein, "The Battle for Business Ethics: A Struggle Theory," *Journal of Business Ethics* 144, no. 2 (2017): 345, https://doi.org/10.1007/s10551-015-2780-4.

2.2 Roles

The question of how businesses can approach the translation problem can also be addressed by examining the roles businesses assign to employees and how employees relate to their assigned roles. Considering roles is relevant, as I will show that, here too, there is a risk of losing touch with ethics. In the business context, roles are often clearly defined, and by fulfilling them, employees help to realize certain business goals.[12] These roles typically involve standard job descriptions, a set of responsibilities and related duties within a business, and a specific authority level. It cannot be denied that roles should be defined within businesses, for instance, as the basis for job descriptions, employment contracts, or performance assessments. It is, thus, inevitable that roles are part of the traditional business structure.

This inevitability notwithstanding, many scholars have been critical of how businesses encourage employees to relate to their roles.[13] Issue is taken with businesses that encourage employees to leave their personal values at the "office door" to fully assume their "business role."[14] This criticism can be supplemented with the perspective I have developed. There are reasons to criticize businesses for encouraging employees in this way, but there are also reasons to be critical of employees who themselves choose to abandon their personal values to fully assume their role. One reason is that this approach enables employees to use their role to avoid discomforting ethical experiences. Employees can, in other words, use their role as a shield against these experiences. Roles allow them to say, 'this is not part of my task description, and therefore not my responsibility.' These roles enable employees to renounce responsibility for what occurs within a business and for what occurs because of certain business activities.[15] Everything that exceeds (i.e., goes beyond) a specific role description can be dismissed by the employee as being beyond her responsibility.

This tendency to hide behind a role is illustrated by an example drawn from my experiences as an ethics trainer. The purpose of such training is to apply a step-by-step plan to discuss ethical dilemmas. In one step of the plan, participants think of pro- and counterarguments to judge a particular dilemma. They often come up with arguments related to their role. For example, participants will say it is beyond their role (i.e., authority level) to come to a final judgment regarding a dilemma, renouncing their responsibility and passing it on to a senior-level colleague. Participants will also say they, as entry-level employees, must obey their manager, even when this contradicts their personal idea of how to deal with a certain dilemma. This example indicates that

12 Jos Kole, "En wat denk jij ervan, als professional?," in *Ethisch Zakendoen*, ed. Willem van der Deijl and Wim Dubbink (Leuven: LannooCampus, 2022).

13 See: Jones, Parker, and ten Bos, *For Business Ethics*, 94; And see: Rita Mota and Alan D. Morrison, "Moral Disjunction and Role Coadunation in Business and the Professions," *Business Ethics Quarterly* (2023), https://doi.org/10.1017/beq.2022.32, Advance publication.

14 Robert C. Solomon, "Corporate Roles, Personal Virtues: An Aristotelean Approach to Business Ethics," *Business Ethics Quarterly* 2, no. 3 (1992): 328, https://doi.org/10.2307/3857536.

15 A similar argument is raised – though in relation to bureaucracy – by Jones et al., see: *For Business Ethics*, 82.

employees can and do hide behind their roles to avoid experiences of not knowing what to do or of being responsible despite their roles.

When adhered to strictly, roles can have the effect of shielding employees against ethical experiences. We might be looking at yet another 'conspiracy' between businesses and employees here. Businesses have an interest in stimulating strict role adherence as a means to ensure that employees do not exceed their roles and 'do what they are supposed to do.' This approach is a method to safeguard employees – and by extension, the business itself – against discomforting ethical experiences. The interest of the employee is similar; strict adherence to a role allows the employee to renounce moral responsibility. It allows her to avoid situations in which she is held responsible for what occurs within a business and for what occurs because of certain business activities. This situation is surely an undesirable (or worse) way to approach roles, as it is effectively another way to lose touch with ethics.

It may be possible to break this conspiracy between businesses and employees and work toward a better approach to roles. The employee who hides behind her role ignores the ambiguity at play here, which is the constant tension between 'being a moral person' on the one hand and 'having a role' on the other. Although many definitions of what it means to be a moral person exist, I employ the version that a moral person understands herself as free and responsible. The employee is a moral person with individual views (e.g., about what responsibility should mean), but she also has a role (e.g., with fixed responsibilities). Instead of ignoring this ambiguity, the employee should try to recognize and maintain it; otherwise, the employee who, on a personal note, thinks her responsibilities ought to exceed those related to her role can choose to hide behind that role and be excused from her responsibilities. Recognizing ambiguity means integrating it into how the employee approaches her role. Maintaining ambiguity means her personal and role-related stances are both affirmed. The employee who strictly adheres to her role ignores that she is also a moral person, and she thereby lets herself off the 'ethical hook.' But the employee who acts only in accordance with her personal stance ignores that she is also employed by a business, for which she has a role to fulfill.

Businesses would do well to adopt the above perspective on roles and encourage employees to do the same, for instance, by integrating this perspective on roles into existent job descriptions. Most job descriptions involve a section that lists the responsibilities of employees. The responsibility to adhere to a role is usually placed at the top of the list. And it is here that an important – though strange and paradoxical – addition can be made. The employee is also a moral person with the responsibility to exceed her role when she deems this necessary. As I see it, this latter responsibility should be added to the list. This means that the employee is stimulated to adhere to her role and to exceed it at the same time. I am, thus, suggesting a *paradoxical*[16] job

16 The term 'paradoxical' used to describe this specific job description might also be replaced by the term 'ambiguous.'

description here, in which an integral part of fulfilling one's role is to go beyond this very role.[17] This is not to say that employees should not be stimulated to adhere to their roles; rather, their responsibility always exceeds strict role adherence. Employees should adhere to their roles – that is, take their roles seriously – but they should also exceed their roles if this is necessary, despite the possible consequences of doing so. Developing a paradoxical job description can be viewed as a possible condition that can be set by a business.

However, it is ultimately up to the employee to act in accordance with this paradoxical job description. More precisely, it is the responsibility of the employee to decide which situations call for strict role adherence and which situations call on her to exceed her role. Research on 'professional ethics' reveals that businesses can stimulate employees to assume their responsibility by viewing them as *professionals*.[18] But what exactly makes one a professional, and why would viewing employees as professionals stimulate them to take responsibility for their roles? Professionals can be defined as members of specific professions (e.g., medicine or accounting) who are grounded in an "extensive specialist knowledge and skill base."[19] To enter a profession, it is often required to engage in a long period of training and to obtain formal qualifications.[20] To remain in a profession, it is usually necessary to obtain so-called 'continuing education credits.'[21] Most professions are regulated by independent professional associations dedicated to each profession's normative goals and standards (e.g., to its values and to what it wants to achieve in a community or society).[22] Professional associations usually have self-enforced professional ethics codes and maintain disciplinary systems for its members.[23] The members of these associations typically view themselves as members of a "community of practitioners in which they receive recognition from their peers for good work, which reinforces their professional identity."[24] Peer recognition is here understood as a source of motivation for professionals; the possibility to gain or lose recognition from peers motivates them to act according to the goals and standards set by their profession.

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17 Philosophers such as Ricoeur elaborate on the paradoxical way in which human beings must learn to navigate between multiple (often) conflicting stances. Paul Ricoeur, *Hermeneutics: Writings and Lectures*, vol. 3 (Cambridge: Polity Press, 2016).

18 Thomas Donaldson, "Are Business Managers "Professionals"?," *Business Ethics Quarterly* 10, no. 1 (2000), https://doi.org/10.2307/3857697; Heidi von Weltzien Hoivik, "Professional Ethics - a Managerial Opportunity in Emerging Organizations," *Journal of Business Ethics* 39, no. 1-2 (2002), https://doi.org/10.1023/A:1016363429915; Seumas Miller, "The Professions," ed. Seumas Miller, *The Moral Foundations of Social Institutions: A Philosophical Study* (Cambridge: Cambridge University Press, 2009), https://doi.org/10.1017/CBO9780511818622.007; Lisa Herzog, "Professional Ethics in Banking and the Logic of "Integrated Situations": Aligning Responsibilities, Recognition, and Incentives," *Journal of Business Ethics* 156, no. 2 (2019), https://doi.org/10.1007/s10551-017-3562-y.

19 Christopher J. Cowton, "Accounting and the ethics challenge: Re-membering the professional body," *Accounting and Business Research* 39, no. 3 (2009): 178, https://doi.org/10.1080/00014788.2009.9663359.

20 Cowton, "Accounting and the ethics challenge," 178.

21 Herzog, "Professional Ethics in Banking," 537.

22 Donaldson, "Are Business Managers "Professionals"?," 84.

23 Cowton, "Accounting and the ethics challenge," 178.

24 Herzog, "Professional Ethics in Banking," 533.

But a further characteristic is particularly relevant to my argument regarding viewing employees as professionals. It is argued that the "true professional" is never hired simply to fulfil an assigned role but should always have "control" over *how* she fulfills it.[25] The professional should have such control – or such autonomy – because she is trained and qualified, supported by a professional association, and motivated by peer recognition. Professionals see themselves both as members of a profession and as members of a business, and they are expected to fulfill their roles with this "dual loyalty" in mind.[26] This dual loyalty can be related to the paradoxical job description I suggested above. Certain situations require the professional to be loyal to the business that employs her, and thus to strictly adhere to her role. But other situations require the professional to be loyal to her profession, and thus to exceed her role (e.g., because the normative standards of her profession demand it). If a business views its employees as professionals – that is, as trained and qualified members of professions who are recognized by their peers – and gives them more control over how they fulfill their roles, this could enable them to take responsibility for their roles.

There has been much debate about whether business counts as a profession and about whether the above definitions of professionals and professions can simply be transposed to the business context.[27] However, there appears to be a consensus regarding the benefits of *viewing or understanding* employees as professionals and of ultimately enabling them to develop as professionals.[28] Employees who are viewed as professionals are more likely to take responsibility for their assigned roles.[29] Professionals are usually not expected to strictly adhere to their roles; instead, they are expected to take the responsibility upon themselves to decide whether strict role adherence is required in each situation. They exercise their professional autonomy. Put simply, they are expected to assume the responsibility to think and to decide *as professionals* (e.g., 'what is my professional responsibility in this situation?') rather than to blindly follow their job descriptions.[30]

Perhaps it would be beneficial for businesses to expect employees to take responsibility for their roles as professionals in the paradoxical way I suggested above. The professional accepts it is her responsibility to approach her assigned role paradoxically. She knows that it is ultimately up to her to decide when she should act in accordance with this role and when she should exceed it. Note also that the professional who is responsible for her role always already maintains a critical distance from this role (e.g., as a member of a profession). She neither allows herself to fully assume her

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25 Weltzien Hoivik, "Professional Ethics," 7.

26 Weltzien Hoivik, "Professional Ethics," 7.

27 However, in response to this debate Donaldson argues that "from the vantage point of the 'knowledge and skill set' definition, business clearly has its professionals." See: "Are Business Managers "Professionals"?," 85.

28 Herzog, "Professional Ethics in Banking," 531.

29 Donaldson, "Are Business Managers "Professionals"?."; Weltzien Hoivik, "Professional Ethics."; Miller, "The Professions."; Herzog, "Professional Ethics in Banking."

30 See, for example: Mathieu Weggeman, *Leidinggeven aan professionals? Niet doen!: over kenniswerkers, vakmanschap en innovatie* (Schiedam: Scriptum, 2007).

role nor to hide behind it. Instead, the professional constantly questions whether she is fulfilling her role appropriately. Viewing employees as professionals means making them responsible for their own roles, which is an additional condition that can be set by a business.

The paradoxical approach suggested here will presumably take courage on the part of the employee. It takes courage *not* to pass the responsibility to judge a dilemma on to a senior-level colleague or to speak to a manager to say that a dilemma should be judged differently. It also takes courage *not* to hide behind one's role and to assume responsibility for what exceeds one's role. It takes courage, in other words, *not* to let oneself off the ethical hook. Businesses would do well to recognize this point, to build the courage of employees, and to lower the risks involved in this courageous behavior. This argument on building courage is not new to business ethics. Many scholars have stressed the importance of developing virtues in employees, with courage being noted as among the most important virtues for "ethical [behavior]" in the business context.[31] It has been argued that developing courage gives employees the "strength" to do "what is right or necessary" despite external pressures, such as the pressure to conform to their role.[32]

Perhaps building courage is part of what it takes for employees to approach their role paradoxically. In other words, building courage might give them the strength to decide when it is 'right or necessary' to adhere to or to exceed their assigned role. Building courage can, therefore, be understood as another condition that can be set by businesses, and I think business ethicists can play a role here, for instance, by examining what it takes for employees to be less inclined to hide behind their role (e.g., by revisiting existent hierarchical structures) and more inclined to be responsible for their role as professionals (e.g., by revisiting existent job descriptions) or by offering education and training about courage in business settings.[33]

3. Approaching the moral judgment problem

We have seen there is only one proper response to our ambiguity, namely, to acknowledge and integrate it into how moral judgments are formed.[34] But what such a response to ambiguity would entail in the business context is an open question. To put the question more precisely: how can moral judgments be properly formed within businesses in light of ambiguity? Business ethicists commonly answer this question

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31 Leslie E. Sekerka, Richard P. Bagozzi, and Richard Charnigo, "Facing Ethical Challenges in the Workplace: Conceptualizing and Measuring Professional Moral Courage," *Journal of Business Ethics* 89, no. 4 (2009): 565–66, https://doi.org/10.1007/s10551-008-0017-5.

32 Sekerka, Bagozzi, and Charnigo, "Facing Ethical Challenges in the Workplace," 566–70.

33 Sekerka, Bagozzi, and Charnigo, "Facing Ethical Challenges in the Workplace," 576.

34 De Beauvoir, *The Ethics*, 8; Oganowski, Centralizing Ambiguity: Simone de Beauvoir and a Twenty-First Century Ethics: 95.

by pointing at ethics codes and ethics training.[35] These ethicists appear to suggest the moral judgment problem is best approached via these business ethics applications. But is it? Surely there are better and worse ways to approach the moral judgment problem by using codes and trainings. A worse way would be to ignore ambiguity, whereas a better way would be to recognize ambiguity and its profound implications for moral judgment-making. I again address the above questions by reflecting on both ways to approach the moral judgment problem and by connecting concrete organizational conditions to these reflections.

3.1 Ethics codes

Ethics codes[36] are often promoted as the leading business ethics application for moral judgment-making. There are valid reasons for this promotion. Codes can have an important regulatory function in the moral judgment process, for example, by spelling out the "*minimum* expectations" placed on a business and its employees.[37] It is, therefore, inevitable that businesses have a code in place, and that employees are directed to it to judge particular cases. But there are scholars who take the argument further than this. It does not suffice for a business to promote the ethics code, they point out, nor does it suffice to direct employees to the code for moral judgment-making.[38] Instead, they state a business should expect employees to always comply with the code.[39] The ethics code is there to be followed. Why have a code when employees can simply choose to deviate from it? This way of thinking about ethics codes is often based on the idea that the rules stated in these codes apply in all cases, without exception. And so, when forming moral judgments, employees are basically expected to do what the code tells them to do. In certain professions, such as chartered accountancy, a breach of the code can even lead to legal sanctions.[40] This is called a 'compliance-based approach.'[41]

Nevertheless, many other scholars have rejected the compliance approach and stress that businesses "have no business prescribing morality to their employees" and should instead enable employees to choose "to do what they believe is the right thing

35 Sean Valentine and Gary Fleischman, "Ethics Training and Businesspersons' Perceptions of Organizational Ethics," *Journal of Business Ethics* 52, no. 4 (2004): 381–82, https://doi.org/10.1007/s10551-004-5591-6.

36 When I speak of ethics codes, I am referring to 'corporate ethics codes' that apply to specific businesses (e.g., a code that applies to a specific bank) and not to broader codes that apply to branches or industries (e.g., a non-binding code that applies to all businesses in the tourism industry).

37 Crane et al., *Business Ethics*, 199. Italics in original.

38 See: Robert Roberts, "The Rise of Compliance-Based Ethics Management Implications for Organizational Ethics," *Public Integrity* 11, no. 3 (2009), https://doi.org/10.2753/PIN1099-9922110305.

39 This way of thinking is discussed – though not supported – by Lynn Sharp Paine. See: "Managing for Organizational Integrity," 106.

40 See: "Verordening gedrags- en beroepsregels accountants," NBA, 2023, accessed 03-05-2023, 2023, https://www.nba.nl/tools/hra-2023/?folder=235976.

41 Paine, "Managing for Organizational Integrity," 106; James Weber and David M. Wasieleski, "Corporate Ethics and Compliance Programs: A Report, Analysis and Critique," *Journal of Business Ethics* 112, no. 4 (2013), https://doi.org/10.1007/s10551-012-1561-6.

to do."[42] Those who engage in this way of thinking about codes support what can be referred to as an 'autonomy-based approach.' This approach encourages employees to employ their "moral autonomy" for moral judgment-making – or their freedom and ability to decide for themselves – and sometimes even actively discourages the use of ethics code for this purpose.[43]

If one insight follows from my analysis of Beauvoir's work, it is that we need to move away from both ways of thinking about ethics codes. Proponents of compliance-based and autonomy-based approaches both think about the use of ethics codes in extremes. Moral judgments are either formed through strict code compliance or based on what the employee 'believes is right.' But in so doing, both approaches make the mistake that Beauvoir describes in her work: both ignore the ambiguous stance of the employee. Proponents of a compliance-based approach ignore the individual stance of employees, whereas proponents of an autonomy-based approach ignore their collective stance. And by ignoring this ambiguity, proponents of both approaches dodge the moral judgment problem. The employee is viewed as either part of a collective or an individual, and she is thought to form moral judgments accordingly and largely without problems (i.e., either by complying with the code or by doing what she believes is right, respectively). But Beauvoir tells us this ambiguity should be assumed rather than ignored, implying we should assume the individual *and* collective stances of the employee, as well as the implications this holds for moral judgment-making. What I search for, then, is a different approach to the moral judgment problem, one that does not undo but rather departs from this ambiguity.

With this ambiguity in mind, we encounter the first predicament with the use of ethics codes for moral judgment-making. My analysis found that a code can only cover general cases,[44] meaning it can say nothing about particular cases. And so, the employee must first determine whether the code applies directly to the case at hand or whether this is an exceptional case, which means the code does not apply directly to it. In this part of the moral judgment process, the employee notices that all particular cases must be judged "without rules."[45] In other words, the application of the code to a particular case is not given in the code itself. The code does not provide separate 'application rules' that tell the employee *how* to apply the code to a particular case. Therefore, each case requires the employee to ask anew: 'is this particular situation covered by the code?' However, a case covered by the code is still difficult to judge, as

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42 Schwartz, "Why Ethical Codes Constitute an Unconscionable Regression," 182; See, also: Jennifer Adelstein and Stewart Clegg, "Code of Ethics: A Stratified Vehicle for Compliance," *Journal of Business Ethics* 138, no. 1 (2016), https://doi.org/10.1007/s10551-015-2581-9.

43 Schwartz, "Why Ethical Codes Constitute an Unconscionable Regression," 177–78.

44 Albert Jonsen notes that a case "of unprovoked killing of one person by another" counts as a general, or in his words, "paradigm case" about killing to which the rule "thou shalt not kill" applies directly. See: "Casuistry as methodology in clinical ethics," *Theoretical Medicine* 12, no. 4 (1991): 301–03, https://doi.org/10.1007/BF00489890.

45 Frans van Peperstraten, *Oordelen zonder regels: Kant over schoonheid, kunst en natuur* (Amsterdam: Boom, 2020), 26–29. My translation.

codes cannot be applied blindly.[46] Thus, it remains the responsibility of the individual employee to apply the code to this case. But judging a particular case not covered by the code is more difficult still, as the code offers no guidance on how to judge it, which implies that arriving at a final judgment requires even more work from the employee. A first condition that can be set for a better approach to the moral judgment problem is, thus, that businesses should recognize this predicament that manifests early on in the moral judgment process.

Because it should first be determined whether the code applies to the case at hand, the employee must judge each case by appealing to the code *and* to her individual perception of the case. And it is here that the ambiguity of moral judgment-making comes into play, which presents a further predicament. The employee should judge each case by affirming both her collective and individual stances. She should try to affirm her collective stance (i.e., her stance as a member of the business collective), which means her judgment of a particular case is formed with respect to the ethics code. However, the employee should also try to affirm her individual stance (i.e., her stance as a particular and situated human being) and judge the case based on her unique perception of it. My analysis revealed it is ultimately up to the employee to judge a particular case – her judgment is hers alone – which is why she must not let her individual stance be subsumed by her collective stance. Thus, moral judgment-making requires the employee to *navigate* between these often-conflicting stances. Recognizing this ambiguity and the problem it poses for moral judgment-making is an additional condition that can be set by a business.

But another predicament arises here. On the one hand, businesses should have a code in place, and employees should be stimulated to judge particular cases by appealing to this code. Chaos would presumably arise if employees were not stimulated to appeal to the code. Moral judgment-making would then be turned into something arbitrary – that is, into something based entirely on the opinions and whims of individual employees. On the other hand, businesses should also accept that employees should judge particular cases 'without application rules' and, too, that they will encounter many cases in which they must decide it is necessary to deviate from the code despite pending consequences.

This predicament, that it is sometimes necessary to deviate from the code, does not mean that the code can simply be cast aside by employees. Suppose a banker is judging whether she should withhold information about an investment opportunity from a client. She then turns to the code, which states that all clients should be fully informed about investment opportunities. But in this particular case, she knows that if this information is shared with her client, it could have negative consequences. She is dealing with someone notorious for taking unwarranted financial risks, especially regarding his investments. Therefore, she could judge it right not to comply with the code in this particular case – and thus to deviate from it. And she could explain the

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46 Woermann, A Complex Ethics: 181.

rightness of her judgment by pointing to the negative financial consequences for her client. It is this part of the moral judgment process, namely the part in which the banker must decide whether the code applies to the case at hand, that is 'without rules.' This is also the part when it must sometimes be decided to deviate from the code, which is a decision based on the employee's unique perception of the case at hand. Recognizing that certain cases require deviations from the code can be viewed as a further condition for a better approach to the moral judgment problem.

I have so far argued that businesses would do well to recognize that particular cases should be judged without application rules, that employees should navigate their often-conflicting ambiguous stances, and that they must sometimes decide to deviate from the code. The question is, how can businesses approach these predicaments? It could be relevant for businesses to adopt what is known as the 'comply-or-explain principle.' This principle is currently part of the Dutch Corporate Governance Code, which is a code involving principles that promote good governance in listed businesses.[47] The 'comply-or-explain' principle allows for deviations from the code under the strict condition that this deviation is explained.[48] The principle accords a certain degree of freedom regarding how listed businesses use the code but still expects these businesses to provide *proper* explanations for each deviation.

The comply-or-explain principle was developed – and is mostly used – to guide how listed businesses are directed and controlled, but it could also prove useful in the moral judgment process (e.g., for micro-level decisions). This principle might provide us with what we are searching for, namely, a way to form moral judgments while affirming the individual and collective stances of employees. Because the employee is part of the business collective, she should form judgments by *complying* with the ethics code. But she is also a particularly situated human being, and so she should also judge the case based on her unique perception of it and, if a certain case demands it, *explain* why she deems a deviation necessary. The comply-or-explain principle might help employees navigate their ambiguous stances or, stated differently, to navigate the constant tension in which moral judgments must be formed. Two further conditions that can be set by businesses are, therefore, to adopt the comply-or-explain principle and to stimulate employees to use it during the moral judgment process.

But I now have a further problem to solve, which is that the comply-or-explain principle can easily be misused by employees to simply deviate from the code without a proper explanation. Research has found that explanations provided by businesses that use the Dutch Corporate Governance Code are often "poor" (e.g., the explanations are based on irrelevant or even false arguments).[49] Employees could do the same when they

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47 Ronald Jeurissen and Edgar Karssing, "Wat is een goede uitleg? Reflecties op het 'pas toe of leg uit' principe," in *Jaarboek Corporate Governance 2011-2012*, ed. M. Lückerath-Rovers, B. Bier, M. Kaptein, en L. Paape (Deventer: Kluwer, 2011), 167–68.

48 Jeurissen and Karssing argue that explanations concerning code deviations should be 'proper,' for which they list a number of conditions. See: "Wat is een goede uitleg?," 167–68.

49 Jeurissen and Karssing, "Wat is een goede uitleg?," 184.

explain their decision to deviate from the code in a particular case. Instead of using a proper ethical argument to explain their reasons, they could resort to poor explanations, such as excuses (e.g., 'everybody else does it') and other questionable arguments (e.g., 'I had no choice but to obey my manager').

I reflect on a possible way to solve this problem, revisiting my earlier argument that employees should be viewed as professionals. I have argued that employees are responsible for adhering to their roles *and* exceeding these roles if necessary. Similarly, employees are responsible for complying with the code, deviating from it when a particular case demands it, and properly explaining why this is needed. Thus, it appears that roles and ethics codes should both be approached paradoxically; they should be adhered to and exceeded at the same time. Here too, it could be useful to view employees as professionals who are responsible for forming proper moral judgments based on proper explanations. The professional does not hide behind the code in forming judgment ('I simply followed the code'), nor does she form a judgment solely based on her individual opinions or whims ('I simply followed my gut feeling'), nor does she deviate from the code based on poor explanations (e.g., 'I was only doing my job'). Instead, a professional assumes the responsibility of judging a particular case *as a professional*. This means employees are held responsible for judging particular cases from the vantage point of a knowledgeable and skilled member of a profession who is aware of its normative goals and standards (e.g., the professional ethics code) and who is recognized by her peers for proper judgment. A professional who explains that it is necessary to deviate from the ethics code in a particular case because her profession demands it – and who specifies why her profession demands a deviation in this case – cannot be said to provide a poor explanation. Expecting employees to include their professional vantage point in the moral judgment process could lead to proper ethical explanations for deviations from the code; therefore, this can be viewed as an added condition.

At present, however, it cannot be said that all types of businesses fall under distinct professions supported by professional associations. But how things presently are in business (e.g., the relative absence of professions or professional associations in the business context) does not necessarily reflect how things *should* be in business. My analysis suggests that viewing employees as professionals can provide a way to maintain the ambiguity of moral judgment-making, but perhaps it does not suffice to view employees as professionals. Employees should ideally have a profession and a professional association to fall back on. And so, it might also be necessary to further the current processes of professionalization in businesses,[50] for instance, by stimulating the development of professional associations that set normative standards and goals

50 For a discussion of processes of professionalization, see: Luc Bres et al., "Rethinking professionalization: A generative dialogue on CSR practitioners," *Journal of Professions and Organization* 6, no. 2 (2019), https://doi.org/10.1093/jpo/joz009; Tommy Borglund et al., "The Professional Logic of Sustainability Managers: Finding Underlying Dynamics," *Journal of Business Ethics* 182, no. 1 (2023), https://doi.org/10.1007/s10551-021-05000-1.

that can serve as an "anchor" for individual members.[51] Furthering processes of professionalization in businesses may be viewed as an added – albeit more structural – condition that can be set by businesses.

I want to proceed to another predicament regarding the use of ethics codes that should not be left unmentioned because it may hinder the possibility of proper moral judgment-making: there are no fixed procedures to ensure our final moral judgments will be right.[52] In the absence of fixed procedures, it can be relevant for a business to focus on the *position* of employees and the extent to which this position enables proper judgment-making. It can prove useful to raise questions about the extent to which employees are in a 'free' position to form moral judgments. We might ask whether an employee who is expected to follow the code unquestioningly – and who is sometimes even legally required to do so – is rightly positioned to form moral judgments as a professional.

Though Beauvoir is not the only philosopher to press this argument, she makes a strong argument that the subject is "free" to form moral judgments.[53] This position does not mean the subject is free to do what she pleases; she is, rather, free regarding the ethical rules that apply to a particular context. In other words, she is not determined by these rules but relates to them. She is, thus, free to, for example, object to the rules and explain why it is necessary to overrule them in a particular situation. Though Beauvoir describes this notion of freedom in a different context than that of business, it would appear that it also applies to employees. If a business expects an employee to follow the code unquestioningly, then it does not recognize the freedom of her position. It does not recognize the employee is free to voice concerns about the code and disregard it, or to follow it, or even to quit her job because of what is stated in the code.[54] These judgments are all made with respect to the code. A business should, therefore, acknowledge the freedom (or 'sovereignty') of employees to form moral judgments. The burden of responsibility for moral judgment-making should, thus, be placed on the employee. This is what it means to treat the employee as a professional; she should be treated as free and responsible to comply with the code or to properly explain why deviations are needed in particular cases.

But a business may want to go further than this. From the perspective developed in this study, it follows that there are employees who would rather not assume their freedom. Instead of freely engaging in the moral judgment process, such employees prefer to follow the code. They, in other words, prefer to hide behind it. These employees 'conspire' with attempts to make them follow the code unquestioningly. This

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51 For a similar argument about the professionalization of business by developing professional associations, see: Herzog, "Professional Ethics in Banking," 537–38.

52 De Beauvoir, *The Ethics*, 145.

53 De Beauvoir, *The Ethics*, 43. A similar argument on moral freedom is found in the philosophical works of other existentialist thinkers, such as Sartre.

54 These responses can also be articulated with Hirschmann's response strategies of 'exit, voice and loyalty.' See: Albert O. Hirschman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge: Harvard University Press, 1970).

tendency to follow the code can be related to the idea that our freedom is daunting. It is daunting because our 'moral identity' is constituted by our actions.[55] Put simply, we define ourselves morally through our judgments and actions – we choose ourselves. Many employees, therefore, attempt to flee from their freedom and responsibility to form proper judgments, for example, by pretending their judgments do not reflect their moral identity or their moral identity is not at stake when they judge a particular case. Beauvoir views this tendency to flee our freedom as a sign of "bad faith" (*mauvaise foi*).[56] She describes this as a temptation that many people succumb to. In addition to acknowledging this freedom, then, a business should 'push' employees toward it. This point means a business should expect employees to employ their freedom to judge particular cases and to assume full responsibility for these judgments, which represent two further conditions that can be set for a better approach to the moral judgment problem.

It can be expected, however, that this freedom will create friction during the moral judgment process. Friction may arise because the outcome of a particular judgment is always unforeseen, since it cannot be known in advance whether a judgment will be right or wrong. A business can set conditions for proper judgment, recognize the freedom of its employees, and 'push' them toward it; however, the outcome of a particular judgment cannot be foreseen. Doubt is, thus, inherent to the moral judgment process. And even if a judgment turns out to be right or wrong in hindsight, then it is right or wrong only in one particular case and under certain circumstances. This is why moral judgment is said to be "*presumptive* and *revisable*" in light of further experiences.[57] Therefore, businesses should exercise caution in treating particular judgments as final. This means a judgment in a particular case should not be treated as *the* right judgment that can straightforwardly be applied to comparable cases – or even turned into an irreversible policy. An additional condition that can be set is, thus, that each particular case requires fresh judgment.

But this way of acknowledging the freedom of employees and of pushing them toward it may create more than friction; it might also pave the way for dissenters, for employees who raise concerns about the code, who choose to deviate from the code, and who openly go against management. This position leads to the question of what businesses should do about dissenters. Scholars have answered this question by pointing to the "power of dissent."[58] They have argued that most dissenters are loyal and productive employees who seek to improve the business via constructive criticism. These dissenters should, therefore, be taken seriously, with their input welcomed. It is further argued that silencing dissenters can cause more dissent within the business

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55 De Beauvoir, *The Ethics*, 15.

56 De Beauvoir, *The Ethics*, 145.

57 Jonsen and Toulmin, *The Abuse of Casuistry*, 44. Italics in original.

58 Nasrin Shahinpoor and Bernard F. Matt, "The Power of One: Dissent and Organizational Life," *Journal of Business Ethics* 74, no. 1 (2007): 44, https://doi.org/10.1007/s10551-006-9218-y.

and more loyal employees to quit their job.[59] The power of dissent is, thus, that it can ultimately improve the business itself. Perhaps businesses should welcome and even organize some dissent regarding the use of the ethics code for moral judgment-making, which can be viewed as an added condition. This type of organized dissent might lead to an improved ethics code and, in turn, to better moral judgment-making.

Businesses that acknowledge the freedom of their employees can also encounter another predicament. If the comply-or-explain principle is adopted, and employees are stimulated to employ their freedom to use this principle for moral judgment-making, this could lead to diverging judgments regarding cases that appear similar to those in the outside world (e.g., clients or journalists). Consider again my earlier example about a banker's decision to withhold information about an investment opportunity from her client. Suppose this banker decides to share this same information with another client, one known to make sound financial investments. This action will surely come as a surprise to the client who was not informed and who might then publicly complain that his banker – and by extension, the bank itself – fails to take its own ethics code seriously.

Stimulating employees to assume their freedom may come with this and other serious predicaments that should be considered. Businesses should be prepared to explain to the outside world that diverging judgments can be made regarding similar cases. What should be legitimized here is that certain cases require strict code compliance, whereas others require deviations based on proper explanations. Businesses can find one possible legitimization in the notion that they treat their employees as professionals who are perfectly able to judge particular cases while using the comply-or-explain principle.

The conditions that can be set by businesses are to recognize the above predicaments, frictions, possibility of dissent, and diverging judgments, and to integrate these elements into how they approach the moral judgment problem. Setting these conditions requires businesses to provide sufficient 'space,' to use a metaphorical term. Employees need space to freely engage in the moral judgment process while using the comply-or-explain principle. Space is also needed for doubt and for revising past judgments. What is needed, in other words, is sufficient space for employees to use their freedom to judge particular cases as professionals. A business that provides this space should reconsider – possibly even change – how it is structured. Treating employees as professionals may require a business to revisit its current hierarchical structure, for example. This point is particularly relevant for businesses with strict hierarchies. These hierarchies are often based on a rigid chain of command, with little or no discretionary space for proper moral judgment-making, especially for entry-level (e.g., a banking trainee) and mid-level employees (e.g., an account manager). Creating space can be viewed as a more structural, albeit necessary, condition.

Space can be created by a business, but it is ultimately up to the individual employee to take it and to assume the freedom to judge particular cases. As I see it, business

59 Shahinpoor and Matt, "The Power of One," 45.

ethicists can be of service here, for example, by sensitizing employees to their freedom. More precisely, ethicists can sensitize employees to the notion that freedom is not something to be taken but something that is already there. The employee *is* free, and this freedom *is* daunting. And while employees might be tempted to flee from their freedom – which is a sign of bad faith – this does nothing to change that they are still free and responsible for proper moral judgment. Here, we find yet another reason building courage in employees can prove useful. It takes courage for employees to assume their freedom rather than succumb to the temptation to flee it. In other words, it takes courage not to follow the ethics code unquestioningly. This type of behavior has nothing to do with the understanding of ethics developed in this study. Instead, employees should be encouraged to judge particular cases without application rules, affirming their ambiguity, and to take full responsibility for judging these cases as professionals.

3.2 Ethics training

There is substantial business ethics literature on the benefits of ethics training for moral judgment-making.[60] Although there is a variety of ethics training programs, they typically involve education about why judging particular cases is problematic and how these judgments are best formed (e.g., through case analysis and argumentation).[61] Offering ethics training can be a highly effective way to sensitize employees to the ambiguities of moral judgment-making.[62] And yet, studies have indicated that businesses that offer training do not always succeed in making such programs effective at enabling proper judgment as they could be.[63] Critics consider it a "common myth" for businesses to assume that proper judgment only requires ethics training.[64] They note that the effectivity of such training should be supported by other organizational features, such as an "ethical culture" or a context in which employees are stimulated to voice ethical concerns, and clear ethical "leadership," in which business leaders display commitment to ethics,[65] for instance, by demonstrating ethical behavior themselves and by expecting the same behavior from their employees.[66]

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60 For an overview, see: Valentine and Fleischman, "Ethics Training," 382.

61 Henk van Luijk and Wim Dubbink, "Moral Competence," ed. Wim Dubbink, Luc van Liedekerke, and Henk van Luijk, *European Business Ethics Cases in Context: the Morality of Corporate Decision Making* (Dordrecht: Springer, 2011), https://doi.org/10.1007/978-90-481-9334-9_1. 13; Ineke Bolt, Marcel Verweij, and J. J. M. van Delden, *Ethiek in Praktijk* (Assen: Van Gorcum, 2003).

62 Van Luijk and Dubbink, "Moral Competence."; John Thomas Delaney and Donna Sockell, "Do company ethics training programs make a difference? An empirical analysis," *Journal of Business Ethics* 11, no. 9 (1992), https://doi.org/10.1007/BF01686353.

63 Valentine and Fleischman, "Ethics Training."; Danielle E. Warren, Joseph P. Gaspar, and William S. Laufer, "Is Formal Ethics Training Merely Cosmetic? A Study of Ethics Training and Ethical Organizational Culture," *Business Ethics Quarterly* 24, no. 1 (2014), https://doi.org/10.5840/beq2014233.

64 Linda Klebe Treviño and Michael E. Brown, "Managing to be ethical: Debunking five business ethics myths," *Academy of Management Executive* 18, no. 2 (2004), https://doi.org/10.5465/ame.2004.13837400.

65 Valentine and Fleischman, "Ethics Training," 382; see, also: Treviño and Brown, "Managing to be ethical."

66 Treviño and Brown, "Managing to be ethical," 77.

These criticisms may be valid, but I think there are unmentioned predicaments that may further reduce the effectiveness of ethics training. One predicament is the limited frequency with which such training is commonly offered to employees. In most businesses that offer training, a short ethics training session (usually lasting two to three hours) is provided either once a year, or only for newcomers, or only for members of certain departments. However, if a business acknowledges the ambiguities of moral judgment-making and how much time it takes for employees to properly form these judgments, then it will realize that training on this subject requires more time than one short session per year. Businesses would, therefore, do well to increase the frequency with which training is offered to employees. This point can be viewed as a first condition for a better approach to the moral judgment problem via ethics training.

This point leads to another predicament that may further reduce the effectiveness of ethics training. Ethics training is a 'dry run' or practice exercise in forming judgments on fictional cases or on concrete cases that employees have encountered in the past. Although employees need sufficient time for 'dry runs' during training sessions, they require additional time to discuss and judge the particular cases they face daily. In other words, employees also need time to put what they have learned about moral judgment-making into practice, especially because a dry run – that is, judging a fictional or past case in a training session – is wholly different from judging a concrete case in business practice. The first type of judgment is formed in hindsight, with knowledge about the outcome of a judgment and more distance from the case itself (especially when judging a fictional case). In contrast, the second type of judgment must be formed without prior knowledge of the possible outcome and with greater commitment to the case itself, as it is up to the employee to judge this case and to act upon this judgment.[67]

This point suggests it is insufficient for a business to allocate time to moral judgment-making *only* during ethics training. In addition to frequently offering ethics training, businesses would do well to make discussing and judging particular cases an integral part of how employees do their job. This aspect implies businesses should allocate sufficient time to moral judgment-making during regular working hours. Businesses can, for example, allocate time during monthly staff meetings or establish monthly case-discussion sessions, so employees can discuss concrete cases with colleagues. These businesses might draw inspiration from how time is allocated to moral judgment-making in biomedical practice. In hospitals, it is often standard practice for biomedical practitioners to engage in moral deliberation sessions.[68] These sessions are viewed as a "regular and structural part of the professional training" of biomedical practitioners and revolve around concrete moral problems (e.g., dilemmas) that are discussed, analyzed, and decided upon by participants.[69] This point suggests moral judgment-making is a standard item on the agenda of many biomedical practitioners. Businesses

67 For an argument along similar lines, see Van Luijk and Dubbink, "Moral Competence," 13–14.

68 See: Bert Molewijk et al., "Teaching ethics in the clinic. The theory and practice of moral case deliberation," *Journal of Medical Ethics* 34, no. 2 (2008), https://doi.org/10.1136/jme.2006.018580.

69 Molewijk et al., "Teaching ethics in the clinic," 120.

might aspire to the same position. Putting moral judgment-making high on the agenda of the employee can be viewed as an additional condition for approaching the moral judgment problem.

However, businesses that increase the frequency of ethics training and allocate time to moral judgment-making during regular working hours are not there yet. These businesses should also consider an additional predicament with ethics training pertaining to the *content* of such training. A business can use ethics training to sensitize employees to the moral judgment problem, but it can just as easily misuse ethics training to neutralize this problem, for instance, by highlighting practical ways to resolve this problem while downplaying the reasons why moral judgment-making is so problematic in the first place. This predicament can arise in training sessions that spend too little time elucidating the moral judgment problem and too much time on possible resolutions to this problem.

What is often highlighted in these training sessions is that the moral judgment problem can be treated like any other business-related problem. It is not there to be reflected upon, at least not for too long; it is there to be resolved. The resolution mostly comes in the form of a fixed method that only needs to be applied to arrive at a proper judgment. Yet, this study has demonstrated there are no fixed methods for judging particular cases, and that arriving at a final judgment always involves a struggle for the employee. What is downplayed in such training is our ambiguity, its profound implications for each attempt to form a moral judgment, and how our moral identities are defined by our judgments. Although focusing on solutions for the moral judgment problem fits nicely with the problem-solving mindset that pervades much of the business world, this would surely be a worse way to approach it.

Suppose a training session succeeds in highlighting ambiguity and its implications for moral judgment-making, although this will be relevant to most employees – possibly even sensitize them to this problem – another predicament may arise. This predicament relates to how employees might react to the ethics training. Upon completion of the training, employees can conclude that each attempt to form a moral judgment is bound to fail: 'If it is impossible to affirm both our individual and collective stances, then why bother forming these judgments?' These employees will seize the training on ambiguity as an opportunity to hide behind it; that is, to flee their freedom and responsibility to form a judgment on a particular case, and to do so properly despite their ambiguity. Trainers should not be too "gentle" with these employees,[70] as working for a business always means accepting a degree of freedom and responsibility, which includes the responsibility to form proper judgments as a professional.

This point will presumably sound like a hollow argument that merely states that more time and different training are primary conditions for proper moral judgment-making. It is also noteworthy that this point may even sound like an ethics trainer

70 Norman E. Bowie, *Business Ethics in the 21st Century* (Dordrecht Springer, 2013), 213, https://doi.org/10.1007/978-94-007-6223-7.

arguing for more ethics training – like a merchant promoting her own products. Is it not unsatisfactory to first articulate something that is as profound as the moral judgment problem and then suggest this problem is best approached through more time and different training? To state this is all it takes would be to *betray* the meaning and implication of the moral judgment problem, which is why I will not leave it at that. As I see it, allocating more time to ethics training and to moral judgment during regular working hours demands that a business radically change its structure. Hence, to my earlier argument that businesses should change their structures regarding hierarchies, I now add that businesses should also change their structures regarding time allocation.

What does it mean to radically restructure businesses regarding time allocation? One way to address this question is to reflect on the difference between "taut" and "slack" businesses and on how this difference may affect the possibility of proper judgment.[71] Most businesses are structured according to the traditional model of the "taut [tight] economy."[72] In a taut economy, "everyone is constantly made to perform at the top of [her] form."[73] All resources are used up here – including human resources. Regarding time allocation, this implies employees are made to spend 40 hours per week on tasks that take them 40 (or more) hours to complete. This situation may not initially appear strange, but the implication is that employees have no time to do more than their basic tasks. There is no time for anything that goes beyond their task allocation. It is argued that taut businesses are "barely getting by, so that a single false step will be its undoing."[74] No time is allocated to correct mistakes or to deal with emergencies or other unforeseen situations, which leaves these businesses incredibly vulnerable. Presumably, taut businesses do not allocate time to moral judgment-making – which might well be viewed as part of an emergency situation – as this is usually not part of an employee's basic task allocation.

The traditional model of the taut economy can be contrasted with the "slack economy."[75] This latter economy is marked by unused resources. Time is one example of a resource partly left unused in this economy. In businesses modeled on the slack economy – let us call these slack businesses – human resources are not used up.[76] Employees with a 40-hour workweek will, for example, require *no* more than 32 hours to complete their basic tasks. This means there is some slack left in their time allocation. And there is no need to 'take up the slack' – or to correct task allocations so that

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71 Here, I employ two particular notions that are discussed in the work of Albert Hirschmann. See: *Exit, Voice and Loyalty*, 9–14.

72 Hirschman, *Exit, Voice and Loyalty*, 9.

73 Hirschman, *Exit, Voice and Loyalty*, 9.

74 Hirschman, *Exit, Voice and Loyalty*, 9.

75 Hirschman, *Exit, Voice and Loyalty*, 10.

76 See: Tom Vanacker, Ine Paeleman, and Veroniek Collewaert, "The Relationship between Slack Resources and the Performance of Entrepreneurial Firms: The Role of Venture Capital and Angel Investors," *Journal of Management Studies* 50, no. 6 (2013), https://doi.org/10.1111/joms.12026; Vivien Lefebvre, "Human resources slack and profitability: SMEs, large firms, and the role of business group affiliation," *Eurasian Business Review* (2023), https://doi.org/10.1007/s40821-023-00240-9.

employees with a 40-hour workweek are made to spend 40 hours completing basic tasks. Slack is not like a mistake to be corrected; it rather "acts like a reserve that can be called upon."[77] Perhaps it is in this notion of slack that businesses can find a reserve of time that employees can call on when faced with a case that requires moral judgment. This situation might be one way to radically change the structure of businesses regarding time allocation.

Now the argument is starting to sound utopian. Businesses are unlikely to embrace this suggestion to introduce slack into their standard task allocation. It is, for instance, generally held that an employee's task allocation should match her contract hours. Even so, there is something profoundly dissatisfying about the possibility that, in most businesses, there is not enough time for anything beyond the basic tasks of an employee, let alone time for proper moral judgment-making. This notion of the slack business may sound utopian at first, but it provides us with a view of traditional 'taut' business structures and how they might be a hindrance to the moral judgment process. When pushed to the limit, taut structures could hinder all talk of ethics within businesses, for there is simply no time for anything but the basic task allocation of the employee. Allowing more slack provides us with a better way to approach the moral judgment problem. Perhaps moral businesses are 'slack businesses' that leave some time unallocated. Doing so might help to put the statements that many businesses make in their ethics codes (e.g., 'we care about ethics,' 'we engage in careful decision-making') into practice. Proper moral judgment takes time, and maybe, in slack businesses, the time necessary for such judgment is available. This point can be viewed as an additional and more radical condition that can be set by businesses.

4. Conclusion: a plea for the philosophers' return to business ethics

As a way of concluding, I want to revisit a development in business ethics mentioned at the beginning of this study – namely that philosophers are crowded out of this field.[78] This is a development whereby the philosophers who started business ethics, and those who joined the field later, have gradually been replaced by scholars with alternative academic backgrounds (e.g., management and social scientists). There are scholars who applaud this development,[79] but I consider this to be a potential threat to the field, and I argue here why philosophers should return. In this epilogue, I reflected on possible approaches – or workarounds – to the problems with translation and moral judgment, focusing on stakeholder management, roles, ethics codes, and ethics training. Various conditions were sketched to this end (e.g., treating employees as professionals, using the comply-or-explain principle, introducing slack), but I have yet to stress what

77 Hirschman, *Exit, Voice and Loyalty*, 14.

78 Seele, "Business Ethics without Philosophers?."

79 See, for example: Seele, "What Makes a Business Ethicist?," 653.

is perhaps the most important condition of all, which is to give philosophers a more prominent role – both in businesses and business ethics.

One reason philosophers should have a role in business and business ethics is because they are particularly skilled at "stick[ing] a spanner in the works," as some critics like to put it.[80] By 'sticking a spanner into the works,' I mean the task of critically questioning traditional business structures (e.g., pertaining to hierarchies, roles, and time allocation) and the above-mentioned business ethics applications. As I see it, philosophers are not just skilled at this task; they are trained exactly to this end. They are trained to problematize. Admittedly, not all philosophers are fit for this task. Particularly unfit are those philosophers rightly targeted by critics for trying to obscure or even to resolve the problems with translation and moral judgment in their approach to business ethics.

The bioethics literature contains a seminal article – that is, according to a number of critics – that takes issue with certain philosophers in the field. The article is called "Professional Ethicist Available: Logical, Secular, Friendly."[81] This title is based on an actual job advertisement posted by a philosopher looking for a job in biomedicine. The article criticizes certain philosophers in bioethics for arguing they should be hired not just because they are 'friendly' (e.g., accommodating to the biomedical practice) and secular (i.e., not specifically religious), but mostly because they are *logical*, which can be taken to mean they are skilled at providing a logical and "correct solution for each ethical problem."[82] We have seen that business ethicists are similarly criticized. They are accused of mainly functioning as ethical problem resolvers. So, what would be a proper job advertisement title be for the type of philosopher I am describing here? Based on my argument, such a title would probably read, 'Professional ethicist available: problematizing, well read in philosophy, thorn in the side of business.' Although it is questionable whether such a job advertisement would receive any responses, this is exactly the type of philosopher needed in business ethics. Ethical problems need to be articulated by someone well read in philosophy who is not afraid to act as a thorn in the side of businesses and business ethics.

A concrete example of what can be done by philosophers who fit the description in this job advertisement is to question existing ethics training programs. Such a philosopher could begin by questioning the frequency with which ethics training is offered, how the training is set up (i.e., is the moral judgment problem highlighted or downplayed?), whether sufficient time is allocated to moral judgment during regular working hours, or by examining whether the content of the training provides employees with an easy excuse to hide behind their ambiguity. This philosopher might also promote the comply-or-explain principle, and perhaps even discuss the value of allowing for more slack in current business structures. This involvement by philosophers could stimulate

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80 Jones, Parker, and ten Bos, *For Business Ethics*, 134.

81 Bosk, "Professional Ethicist Available: Logical, Secular, Friendly," 62.

82 Bosk, "Professional Ethicist Available: Logical, Secular, Friendly," 62.

businesses to work toward a better way to train employees regarding the ambiguities of moral judgment-making.

Yet there is a more pressing reason for involving philosophers in ethics training. From the perspective developed in this study, it follows that moral judgments are highly complex. And most employees are not sufficiently trained to deal with complexity of this kind, namely the ethical kind. Scholars have reported that, first, employees struggle to recognize ethical issues: "Rarely do decisions come with waving red flags that say, 'Hey I'm an ethical issue. Think of me in moral terms!"[83] Employees need help to recognize ethical issues, as this initiates the moral judgment process. Second, employees also benefit from education and guidance on *how* to properly form moral judgments. They should learn, in other words, to judge particular cases 'without application rules,' to use the 'comply-or-explain' principle, and to affirm their ambiguous stance when doing so. Although I have argued it is ultimately up to the employees to judge these cases – as this is their professional responsibility – philosophers can help to articulate the problematic nature of the moral judgment process. Philosophers' task is to problematize moral judgment-making, not to develop any solution for it.

In addition to articulating problems with moral judgment-making, employees could also benefit from a more general introduction to the meaning of ethics provided by these philosophers.[84] To provide one final example from my experience as an ethics trainer, I often notice many misunderstandings and myths about what ethics can mean (e.g., 'ethics is all about right and wrong,' 'ethics is relative, and so everybody has their own opinion')[85] and the usefulness of ethics in the business context (e.g., 'ethics helps me to resolve ethical problems,' 'ethics and business do not mix'). Philosophers can play a crucial role in debunking these misunderstandings and myths. More important, however, they can articulate the problematic nature of ethics and make it intelligible why ethics is – and should be – a nuisance to the everyday business of businesspeople. Ethics would then be turned into a source of problems rather than solutions; it would then be applied properly.

83 Treviño and Brown, "Managing to be ethical," 70.

84 For a similar argument, see Bowie, *Business Ethics in the 21st Century*, 212.

85 For a reflection on this 'relativistic' take on ethics, see Dubbink, "De Grondslagen van de (bedrijfs)ethiek," 73–77.

SUMMARY

Recent decades have witnessed the successful establishment of business ethics. Today, business ethics courses are offered in most universities and business schools, and pretty much all larger businesses have an ethics program in place. Nevertheless, business ethics has a troubled history. The field has been criticized as shallow, simple, and, worst of all, hypocritical. Business ethics should promote moral business, but many of its critics have argued it has merely functioned to support capitalist business. Moreover, the proliferation of business ethics has not been able to prevent business scandals. Enron, Volkswagen, and other businesses hit by scandals all had ethics programs in place. Thus, a curious paradox appears to surround business ethics: the field is alleged to have lost touch with ethics in applying it to the business context. Why, then, is business ethics met with such criticism? Is there something amiss with business ethics in particular, or do other fields of applied ethics face the same criticism?

This study set out to address these questions by developing an understanding of business ethics through a systematic analysis of its academic criticisms. Chapter 1 commenced with a reflection on the development of business ethics as a practical approach to ethics that aims to appeal strongly to the business community. This development contributed to the successful rise of business ethics, but I argued it also made the field vulnerable to criticism. I then reconstructed the academic criticisms of business ethics in Chapter 2. Five central problems were derived from this reconstruction: the 'philosophical problem,' the 'application problem,' the 'oxymoron problem,' the 'sincerity problem,' and the 'hubris problem.' There are critics who have framed these problems as specific to business ethics, but I hypothesized they are problems of ethics in general. A problem of ethics in general can be manifested in each attempt to apply ethics and, consequently, in all fields of applied ethics. If my hypothesis is supported, then something has gone awry with certain criticisms of business ethics. Problems of ethics in general would then be mistakenly framed as specific to business ethics, hindering a proper understanding of their origin and implications for this field.

Two methods were employed to investigate this hypothesis. Chapter 3 involved the first method, which was a comparative analysis between the critical discourse of business ethics and the critical discourse of bioethics. My analysis revealed that most business ethics problems are similarly manifested in bioethics. This finding suggests it is mistaken to depict these problems as specific to business ethics, and that we should develop a better understanding of their origin and implications. In Chapters 4 and 5, I employed the second method, which was a hermeneutic analysis, to examine whether the central problems of business ethics are taken up in philosophical debates on ethics and discussed independently from this field. The focus of these two chapters was on the main criticisms of business ethics, which revolve around what I call the translation problem and the moral judgment problem. The former concerns the tension that arises in attempts to relate certain views on the fundamentals of ethics (e.g., Kantian views) to normative approaches to business ethics (e.g., Kantian business ethics), whereas the latter concerns the tension that arises in attempts to apply universal ethical rules

to particular cases. Because these two problems are irresolvable, business ethics is effectively deemed impossible by some of its critics.

In Chapter 4, the translation problem was examined by drawing on the notion of trauma developed in the work of Emmanuel Levinas. Using Levinas' philosophy, I argued that each attempt to translate the fundamental ethical experience entails an inevitable *betrayal* of this experience, which he denotes as 'traumatic.' I claimed that although something about this ethical experience is lost in each translation, an attempt must nevertheless be made to translate this experience into philosophical language for it to make a difference in society. In drawing on Levinas's notion of trauma, I showed that the translation problem is not specific to business ethics – as suggested by certain critics – but is related to ethics in general. And so, business ethics may be at fault for inadequately acknowledging or dealing with this problem, but this field is not at fault for creating it.

Simone de Beauvoir's notion of ambiguity was used to articulate the moral judgment problem in Chapter 5. Beauvoir traces the origin of this problem to the existential level. She argues that human beings are fundamentally ambiguous (or split) and experience themselves as individuals and as part of a collective at the same time. I showed that, in forming a moral judgment on a particular case, both our individual and collective stances must be affirmed. The constant tension – or indeed, the ambiguity – between these two stances renders each attempt at forming a moral judgment problematic. With Beauvoir's philosophy, I showed that the moral judgment problem is related to ethics in general. Critics are, therefore, largely mistaken in framing this problem as specific to business ethics.

The central hypothesis of this study is supported by my findings in Chapters 4 and 5. The problems with translation and moral judgment appear to be related to ethics in general. Therefore, in the conclusion, I argued something has indeed gone awry in the criticisms of business ethics; certain problems of ethics in general are framed by certain critics as specific to this field. In so doing, they have presented a skewed view of business ethics – and more important, of the problems that manifest in this field – which I attempted to rectify in this study. I further argued that my findings call for a reconsideration of the supposed 'impossibility of business ethics.' The tensions related to the problems with translation and moral judgment may be impossible to resolve – and business ethics should consider this – but this does not imply that business ethics itself is impossible. On the contrary, I argued that reflecting on an approach to business ethics is inevitable because these tensions are manifested in this field. Therefore, I suggested we think of business ethics as something that is both impossible and inevitable.

Although certain critics have largely been mistaken to frame certain problems as specific to business ethics, I concede they are right to argue that something is at stake in this field. If business ethics does not acknowledge the irresolvable tensions I described in terms of trauma and ambiguity, then it may lose touch with the understanding of ethics developed in this study. Therefore, the conclusion was supplemented with an

epilogue, in which I reflected on the question of how businesses and business ethicists might approach the problems with translation and moral judgment while maintaining the tensions inherent to these problems. I answered this question by developing an ‘indirect approach’ to these problems; that is, by sketching some conditions that can be set by businesses and business ethicists to approach the problems with translation and moral judgment.

Reflecting on the translation problem, I departed from the idea that something about ethics can be lost in attempts to apply it to the business context. Stakeholder management and business roles are two prominent ways to lose ethics in the business context. I argued that stakeholder management and business roles can both be misused to avoid discomforting ethical experiences (i.e., of not knowing what to do, of being responsible despite one’s role), and I noted that businesses and employees may even be involved in a ‘conspiracy’ to keep these experiences at bay. This argument was connected to a reflection on several conditions for a better approach to stakeholder management and business roles (e.g., treating employees as professionals, adopting a ‘paradoxical approach’ to roles).

I then turned to the moral judgment problem and considered the idea that business ethicists often promote ethics codes and ethics training as the best ways to approach this problem. I questioned this promotion by highlighting several predicaments regarding the use of ethics codes and ethics training. I argued that both business ethics applications have their merits but can easily be misused by businesses and employees to obscure or even resolve the ambiguity inherent to moral judgment-making. This argument was followed by a reflection on some conditions that can be set by businesses and business ethicists to approach these predicaments (e.g., acknowledging that particular cases should be judged without ‘application rules,’ allowing for more ‘slack’ in time-allocation structures).

The conditions sketched in the epilogue represent a way forward for business ethics in light of the fundamental problems that manifest in this field. The epilogue also involved a brief reflection on the possible role of philosophers in contemporary approaches to business ethics. By setting these conditions and inviting philosophers back into the field, businesses and business ethicists can begin to develop approaches to the problems with translation and moral judgment without destroying the tensions inherent to these problems and, thus, without losing touch with ethics. This issue, I conclude, remains a central challenge for business ethics in particular and for applied ethics in general.

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Employment history:

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Ethics trainer **09/2012 – Current**

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Education:

PhD: *Philosophy, Business ethics* **09/2016 – Current**
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- Inge, H., Meijer, K., & van Koesveld, S. (2016). 'Global citizenship, tourism and consumerism: A narrative enquiry into the global consumer-citizen spectrum in students' study tour experiences. *Hospitality and Society*, *6*(2), 131-151.

Presentations (peer-reviewed national and international conferences):

- *The impossibility and inevitability of business ethics*, OZSW annual conference, Tilburg, March 2023.
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- *The absence of hospitality in managerial business ethics*. ISBEE conference, Shanghai, July 2016.
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Teaching qualifications:

Teaching qualification BDB and BKE, Saxion Academy, Saxion University of Applied Sciences, 2015.

Awards:

Emerging Scholar Award, Society of Business Ethics annual conference, Chicago, August 2018.

Funding:

- Recipient of NWO PhD bursary, 2016.
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Service:

- Co-organizer Education and Research Day on Hospitality for Dutch Hotel Schools, April 2017.
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Boardmember, Netwerk Bedrijfsethiek Nederland, 2013-2017.

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