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What's So Special About a Special Ethics for Business?

By Earl W. Spurgin

Examination of the rules governing business has been a part of business ethics literature for some time. In that time, examination has been framed by debate over the idea that there is a special ethics for business that is distinct from the moral rules of ordinary life.¹ By constructing a dilemma that is faced by proponents of a special ethics, however, I shall demonstrate that this framing is misguided. Rather than debate the idea of a special ethics, we should examine how the circumstances of business bear on the application of moral rules. Such an examination will allow us to account for the difficulties businesspersons face by revealing that the circumstances of business preclude the application of certain moral rules in particular instances. This result, however, is no different for business than it is for other aspects of life. In any aspect of life, the circumstances persons face preclude the application of certain moral rules in particular instances.

The special ethics discussion generally centers around the traditional game analogy argument.² Proponents of a special ethics argue that business is like a game, and since games are not subject to moral rules, business is not subject to moral rules. Opponents of a special ethics argue that since there are significant differences between business and games, business is subject to moral rules even if games are not. Recent discussion, however, avoids the game analogy debate by centering around a structural argument. Proponents of this argument claim that the structure of business and the various motivations it ingrains in businesspersons necessitate a special ethics.³ Since it does not rely on a game analogy, this argument advances the special ethics discussion by avoiding the common objection to the traditional argument.

Despite this advancement, however, proponents of a special ethics face a dilemma that is neglected in the literature. Proponents must adopt either an *insular* conception of a special ethics or a *derivative* conception. The former is the view that business is an activity that is insulated from moral rules. Business is subject to a set of rules that apply only to it, and this set is not derived from moral rules. The latter is the view that business is a set of circumstances that bear on the application of moral rules. The set of rules that applies to business is derived from moral rules by accounting for the circumstances of business. These circumstances preclude the application of certain moral rules in some instances and require the application of certain moral rules in other instances.

Both conceptions, however, are problematic for proponents of a special ethics. The insular conception, whether supported by the traditional argument or by the structural argument, is subject to an objection, also neglected in the literature, that I shall call the *objection from comparison*. Since the features of business that purportedly necessitate an insular special ethics are found in each aspect of life, proponents adopting this conception must hold the problematic view that each aspect of life is insulated from moral rules. In order to avoid this view, proponents must adopt the derivative conception. This conception, however, is also problematic for proponents. Although it is reasonable to view business as a set of circumstances that bear on the application of moral rules, it is just as reasonable to view other aspects of life in the same fashion. Each aspect of life, then, must be viewed as subject to a set of rules that are derived from moral rules by accounting for how the circumstances of that aspect of life bear on the application of moral rules. The result is that there is nothing *special* about this sense of a special ethics for business since each aspect of life has its own special ethics in this sense. In fact, this sense of a special ethics is simply an application of the principle "ought implies can".

In the remainder of this paper, I shall illustrate that the objection from comparison applies to both the traditional argument and the structural argument if they are used to support an insular conception. Then, I shall demonstrate that the derivative conception of a special ethics is not *special* since it is simply an application of “ought implies can”. Finally, I shall demonstrate that even though it does not provide proponents with all that they desire, there are good reasons for them to adopt the derivative conception, and that, for the same reasons, it should frame examination of the rules governing business.

1. The traditional argument and the objection from comparison

The traditional argument for a special ethics rests on a game analogy. Like games, proponents claim, business has its own set of rules that are distinct from moral rules. Like players in games, businesspersons know and accept the rules, and they seek, within the rules, strategies that will allow them to maximize profits.

Undoubtedly, proponents of the traditional argument are correct that business is like a game in many respects. Businesspersons are participants in various sorts of encounters. They include transactions, bargaining sessions, advertisements, offers, and the like. These encounters are much like moves or plays in games. The participants in the encounters attempt to achieve specific goals just as players do. Often, persons who are not parties to particular business encounters have interests in their outcomes just as is true for moves or plays. Like moves or plays, business encounters are governed by both formal rules set down by governing bodies and informal rules based on general acceptance by the parties. Finally, the participants in business encounters strive for financial success like the players in moves or plays strive for competitive success.⁴

The ways in which business is like a game play a critical role in the traditional argument. Because business is like a game, so it is argued, we should accept the idea that moral rules do not apply to business. Just like games are insulated from moral rules, business is insulated from moral rules. We do not judge the behavior of participants in moves or plays in games by moral rules, so we should not judge the behavior of participants in business encounters by moral rules.⁵

Despite the initially enticing analogy drawn between business and games, the traditional argument fails to support the idea of a special ethics. The common objection to this argument found in the literature is based on differences between business and games. Often, objectors claim that our participation in games is more voluntary than is our participation in business.⁶ Since there are significant differences between business and games, such as the degree of voluntariness of our participation, one can hold the view that business is subject to moral rules even if one maintains that moral rules do not apply to games. Although the common objection represents a problem for the traditional argument, a different objection will be presented in this paper.⁷ This objection, the objection from comparison, poses a significant difficulty for the traditional argument that is not captured by the common objection. And, unlike the common objection, the objection from comparison poses a significant difficulty for the structural argument as well if it is used to support an insular conception.

This objection rests on the fact that every way in which business is like a game applies to each aspect of life.⁸ This places one who wishes to ascribe game status to business in the position of ascribing game status to each aspect of life. In turn, if one wishes to use game status as a justification for ascribing an insular special ethics to business, one must also ascribe an insular special ethics to each aspect of life. But, this is a self-defeating position for proponents of a

special ethics. It forces one to view all aspects of life as insulated from moral rules. If all aspects of life have their own rules that are insulated from moral rules, then the claim that business has an insular special ethics becomes philosophically insignificant. There is no reason to make the special ethics argument about business. Rather, one should make the argument about ethics in general.⁹ Proponents of a special ethics, however, intend to make a philosophically significant claim about business that does not apply to other aspects of life.

Consider the fact that business encounters are like moves or plays in games. The same is true of other aspects of life. A university course, for instance, has encounters. They include exams, lectures, discussions, and the like. The instructor and the students are the participants in these encounters during which they try to achieve specific goals. And, other persons who are not direct participants in these encounters have interests in their outcomes. A university course, however, is not an isolated example. Even friendships have encounters that are like moves or plays in games. We provide and seek counsel, advice, and motivation and we plan and attend activities, all in attempts to achieve specific goals such as promoting satisfaction, happiness, camaraderie, and the like. And, we often have interests in the progress of friendships to which we are not parties. Consider the fact that business encounters are governed by rules. The same is true of other aspects of life. Both university courses and friendships are governed by formal and informal rules. Consider the fact that participants in business encounters strive for financial success. Success is sought in other aspects of life as well. In a university course, the instructor strives for pedagogical success, while the students strive for academic success. Likewise, friends strive for success in terms of developing and maintaining meaningful relationships.

Obviously, only a few aspects of life can be addressed here. The important point, however, is that anything that supports the idea that business is like a game also supports the idea that each aspect of life is like a game. This is not the conclusion that is desired by one who wishes to ascribe a special ethics to business on the grounds of game status.

2. The structural argument and the objection from comparison

In place of a comparison of the features of business to the features of a game, the structural argument is based on the demands on businesspersons that result from the structure of business and the motivations it ingrains in businesspersons.¹⁰ In place of concluding that since moral rules do not apply to games they do not apply to business, the structural argument concludes that the structure of business requires a special ethics.

Since the structural argument does not rely on an analogy to games, it is not subject to the common objection to the traditional argument. If proponents utilize the structural argument to adopt the insular conception, however, this argument, like the traditional argument, is subject to the objection from comparison. To avoid the objection, proponents must adopt the derivative conception. To illustrate this, I will consider some of the features of the structure of business to which proponents appeal, and demonstrate that proponents who use them to argue for the insular conception must accept the same self-defeating view that proponents of the traditional argument must accept.¹¹

First, businesspersons are subject to a different set of values and ideals than are persons in other aspects of life. We value, and promote the ideal of, the hard-driven, competitive businessperson whose primary concern is the firm's profitability. We admire and praise businesspersons as they approach that ideal. We, however, do not value as highly, if at all, when a person is hard-driven and competitive in other aspects of life. For example, in a person's role

as a parent, we do not value a hard-driven, competitive nature. The same is true of much of what we value in businesspersons. This is one of the reasons, proponents argue, that business is subject to a special ethics.

It is undoubtedly true that there is a set of traits we value in business. And, it is undoubtedly true that some of those traits are not valued in other aspects of life.¹² These facts, however, are no more true of business than they are of other aspects of life. A marathon runner's focus on her goal of making the U.S. Olympic Team, and her single-minded training that is necessary to accomplish that goal, are both valued. In fact, there is an ideal of single-minded, focus on competitive goals to which she and other athletes are subject. But, if she took that same focus and single-mindedness into her family life, it would not be valued. Likewise, being carefree and letting events come as they may are traits we value in persons who are on vacations from work or school. But, the same traits taken back to work or school are not valued. The point is that there is not a single set of traits that are valued in all aspects of life other than business, but, rather, the set of valued traits varies according to the aspect of life at issue. The fact that there are valued character traits is not unique to business. The same is true of other aspects of life.

Second, the values and ideals in business have not arisen by chance. We value certain traits in businesspersons because those traits help to support the system in which businesspersons operate. A system of competition requires that, in general, the persons operating within the system compete. Otherwise, the system would fail to provide the economic growth and development it is meant to provide. So, proponents argue, not only are businesspersons subject to a different set of values and ideals, that set is necessary to support the very system of which businesspersons are a part.

Again, however, this is no more true of business than it is of other aspects of life. Consider the trait of bias toward a particular person. This trait is valued highly when displayed by a parent toward her child. If she displayed a similar bias to a student in her role as a professor, however, we would not value it. But, bias in the role of parent is not valued by chance. It is a necessary part of parenting. Without bias, parenting reduces to nothing more than a simple form of caretaking.

Proponents ask us to consider the harm that businesspersons can cause by acting contrary to what the structure of business requires. Competition, market forces, and the values and ideals that support business combine to require certain actions by businesspersons. These actions are necessary in order to keep firms profitable. And, if businesspersons fail to keep firms profitable, significant harm is caused to investors, employees, consumers, and communities. This potential harm, proponents argue, lends support to the idea of a special ethics.

It is undoubtedly true that businesspersons may harm others by failing to do what is required by the structure of business. Since nothing less than the livelihoods of families are often at stake, it is extremely difficult for businesspersons to ignore the demands placed on them by competition and market forces. This claim, however, is also true of other aspects of life. The professor from the previous example can cause significant harm to others by acting contrary to what is required by the structure of the university system. One need only think of the harm the professor can do to the academic careers of good students by making vindictive or careless choices, or by giving higher grades to students who do poor work. Likewise, in her role as a parent, the professor can do significant harm to her child by not displaying the bias that is required by parenting. The point is that in each aspect of life, it is hard to ignore certain demands because of the harm to others that can result from doing so.

Finally, proponents claim that the structure of business precludes businesspersons from making certain choices. As was allowed earlier, it is undoubtedly true that business promotes a set of valued character traits, and one is admired and praised when those traits are successfully portrayed in business. And, those traits may make it quite difficult for one to make certain choices. For example, competitive spirit may make it difficult for one to choose to help a competitor through a difficult time. Although a particular person may willingly come to the aid of those in need in other aspects of life, the same person is precluded from coming to the aid of a business competitor in need because of the competitive nature of business and the competitive traits business has ingrained in the person.

A similar claim, however, applies to other aspects of life. Each aspect of life provides its own hurdles that render certain choices difficult to make.¹³ For instance, a certain competitive spirit is desirable among the members of a student body, and this competitive spirit may make it difficult for students to help other students in need. Despite this difficulty, however, we do not conclude that there is an insular special ethics for students.

Obviously, only a few of the features of the structure of business can be addressed here. The same argument can be made, however, for any feature to which a proponent might appeal. Whatever is true of the structure of business that purportedly necessitates a special ethics is true of other aspects of life as well.¹⁴ Given the fact that what is true of the structure of business is also true of the structures of other aspects of life, proponents who utilize the structural argument are subject to the objection from comparison if they adopt the insular conception. Proponents must hold that each aspect of life is insulated from moral rules. As was argued earlier, however, this view is self-defeating for proponents of a special ethics.

3. The derivative conception and ‘Ought implies can’

If what has been argued so far is correct, proponents of a special ethics must adopt the derivative conception, and view business as a set of circumstances that bear on the application of moral rules.¹⁵ And, adopting this view fails to provide proponents with much of what they desire. Despite this, however, there are good reasons for proponents to find some satisfaction with the derivative conception. In fact, adopting the derivative conception will satisfy many of their worries about the relationship between the demands of the structure of business and the common dictates of morality without appealing to the idea of an insular special ethics.

Consider business and a university course. In each case, certain common dictates of morality are difficult to follow because of the structures of the activities. A businessperson cannot be kind in certain ways to competitors, and a university professor cannot be partial to a particular student with whom the professor has developed a good academic relationship. In many other circumstances, such kindness and partiality are morally required. Each case seems to require an appeal to an insular special ethics in order for us to make sense of it. We can use the principle ‘ought implies can’, however, to make sense of each case without such an appeal.¹⁶

According to the principle, one is not morally required to do what one is not capable of doing. In the classic sense, the principle deals with physical capacities. If one cannot swim, for example, one is not morally required to attempt to save a drowning person if the only way to do so is to swim. Taken in this sense, the principle clearly does not apply to the two cases. After all, the businessperson *could* be kind to competitors even if it means going out of business. And, the professor *could* be partial to the student even if it means losing the professorship.

The principle, however, need not be taken in this classic sense. We can view it as applying not only to physical capacities, but, also, to ingrained, justified motivations.¹⁷ In this sense, the principle tells us that one is not morally required to do what one's ingrained, justified motivations tell one not to do. For example, a parent is not morally required to view the needs of another child as equal to the needs of the parent's own child. The motivation to put the parent's child first is both ingrained and justified. Likewise, the structure of a university course prevents the professor from acting on the partiality described above. Doing so goes against the justified motivation of fairness that is ingrained by the university system. In much the same way, the structure of business prevents one from being kind in certain ways to one's competitors. Doing so goes against the competitive motivations found in businesspersons. Business ingrains these motivations, and they are justified.¹⁸

The point to be drawn here is that a given activity might prevent one from acting in a particular way that, outside the activity, is morally required. This is because morality cannot demand that one act in a way that one is incapable of acting. This does not mean, however, that the activity has an insular special ethics. Rather, it means that the activity is a set of circumstances that preclude the application of certain moral rules in particular instances.

The structures of various activities, however, are subject to critical moral evaluation. Such evaluation may require a change in the structure of a particular activity so that the activity requires or precludes certain behavior. The point is that through such evaluation, the activity is subject to moral rules rather than a set of rules that applies only to it. Moral judgments must take into account circumstances that are unique to various activities, but those circumstances are subject to critical moral evaluation.

Approached in this fashion, there is room to make many of the claims about business and moral rules that proponents of a special ethics wish to make without appealing to an insular special ethics. Often, proponents worry that applying moral rules to business would demand that businesspersons consider certain factors that the structure of business requires them to ignore. For instance, the combination of competition, market forces, and the values and ideals that support business require that businesspersons emphasize the interests of firms to the detriment of other factors that are given weight in other aspects of life. But, proponents worry, applying moral rules to business would result in asking businesspersons to consider factors that the structure of business demands that they ignore.

The approach suggested here, however, does not necessarily have this result. It is quite possible that the examination of how the circumstances of business bear on the application of moral rules will conclude that businesspersons may, or even should, emphasize the interests of firms in the way proponents desire. The conclusion may be that, given the structure of business, businesspersons simply cannot give weight to certain other factors that are given weight in other aspects of life. But, this result would come after evaluating the structure of business in light of moral rules, not after removing business from the scope of moral rules. If the conclusion of this evaluation is that emphasizing the interests of firms over other factors is justified, then businesspersons act ethically by operating with such an emphasis. And, the ethical nature of doing so results from applying moral rules to business.¹⁹

The critical point, however, is that this approach is no different for business than it is for other aspects of life. We must look at the circumstances of various aspects of life in order to determine the proper application of moral rules to them. In a very limited sense, then, each aspect of life, including business, has a special ethics. Each aspect of life is subject to a set of rules that is derived from moral rules by accounting for how the circumstances of that aspect of

life bear on the application of moral rules. That is to say, each aspect of life has a derivative special ethics.

Concluding remarks

If what I have argued is correct, framing examination of the rules governing business with debate over a special ethics is misguided. Rather than debate whether business is subject to a special ethics, we should examine how the circumstances of business bear on the application of moral rules. This is how we proceed in other aspects of life. For example, when we are faced with new circumstances in science due to advancements in technology, we examine how those circumstances bear on the application of moral rules. Often, we conclude that the new circumstances preclude the application of certain moral rules, or bring into play certain moral rules for the first time in science.²⁰ We do not draw these conclusions, however, by discarding moral rules and adopting the idea that science is subject to a special ethics. Rather, we maintain moral rules and alter their application by accounting for the new circumstances we face.²¹ The same approach in business would provide more fruitful results than has the special ethics debate.

The examination of how the circumstances of business bear on the application of moral rules is a challenge that this paper does not even begin to address. It is a challenge that is made most difficult by the fact that there is considerable dispute over the source of moral principles.²² It should be remembered, however, that this challenge is faced by persons in all aspects of life, not just those in business.

Notes

¹ Participation in, or reference to, the debate over a special ethics for business generally, though not always, is a part of a work on some other topic in business ethics. Some of those who have either participated in the debate or otherwise made use of it are Beversluis (1987), Boatright (1992), Brenkert (1995), Carr (1968), Dees and Cramton (1991), Goldman (1980, pp. 1–33 and 230–292), and Hartman (1994).

² For the most noted version of the traditional argument, see Carr (1968).

³ For a good example of the structural argument, see Brenkert (1995). Readers who are familiar with Brenkert's article know that his purposes in constructing the argument are to some degree descriptive rather than normative. Despite this, his argument is useful here for two reasons. First, Brenkert claims that his argument does carry some normative force. He writes:

My argument might be said to be an exercise in what has been called descriptive ethics, rather than normative ethics. However, that would only be partially correct because this special ethics does carry some genuine moral force. It may be not only psychologically but also morally difficult for individuals within corporations to violate this ethic. (Brenkert, 1995, p. 681)

Second, even if Brenkert's argument is better understood as descriptive for the purposes of his article, it still provides a good example of the structural argument of which many may make normative use.

⁴ This is intended to be an account of some of the ways business is like a game, not an exhaustive account.

⁵ The view that moral rules do not apply to games is problematic at best. In fact, the behavior of athletes in games often is subject to moral scrutiny because of the way members of our society view athletes as role models. Since the arguments in this paper stand or fall independent of whether moral rules apply to games, however, this idea will not be developed here.

⁶ For an example of such an objection, see Beversluis (1987, p. 82).

⁷ This is not meant to imply that the common objection and the objection presented in this paper are the only problems with the traditional argument. The purpose here is not to examine all of the problems with the traditional argument, but, rather, to present an objection to the traditional argument that, unlike the common objection, also applies to the structural argument if it is used to support an insular conception of a special ethics.

⁸ This includes both the ways business is like a game that have been presented in this paper and those that have not.

⁹ This is to say that ascribing an insular special ethics to business forces one to adopt an extreme form of ethical relativism. For examinations of the problems of ethical relativism, see Bowie (1996), Brandt (1959, pp. 100–103 and 285–288), Midgley (1981, pp. 69–75), Rachels (1993, pp. 15–29), Taylor (1958), and Williams (1972, pp. 34–39).

¹⁰ Throughout the remainder of this paper, ‘the structure of business’ refers both to the structure of business and to the various motivations it ingrains in businesspersons.

¹¹ For a thorough account of the structure of business for the purposes of constructing the structural argument, see Brenkert (1995, pp. 680–684). Although Brenkert’s account is the source of the features addressed here, this is not meant to suggest that Brenkert adopts the insular conception. Even though he does not distinguish between the two conceptions, it appears that, to the extent that his argument is normative, he supports something like the derivative conception.

¹² Michelman (1983, p. 82) distinguishes *desired moral character* and *desired business character*. This is similar to his distinction.

¹³ Goodpaster (1991, p. 68) makes a similar point in his examination of stakeholder synthesis. He recognizes the ethical challenges businesspersons face when they consider their obligations to stockholders and to stakeholders, but argues that, like all persons who face ethical challenges, they are still subject to moral rules.

¹⁴ This is not meant to imply that all aspects of life have the same motivations, rules, values, relations, and the like. They differ greatly among the various aspects of life. Rather, the claim is that business is not alone in having its own unique structure. Other aspects of life do as well.

¹⁵ Goodpaster (1991, p. 68) adopts a similar view when examining the private character of a corporation. He argues that a corporation must pursue its economic mission within the context of moral obligations.

¹⁶ For examinations of the principle, see Brower (1969), Brown (1950), Kading (1954), Margolis (1967), Paton (1948, pp. 220–221), Stocker (1971), and Tranoy (1972).

¹⁷ Williams (1981, pp. 124–131 and 1985, p. 175) acknowledges the difficulty of determining the meaning of ‘can’ in the principle, and extends the scope of the principle to include more than mere physical capacities.

¹⁸ The claim that the competitive motivations are justified is based on the assumptions that business is justified and that competitive motivations are a necessary part of business. In order to claim that the motivations are unjustified, one would need to demonstrate either that business is unjustified or that competitive motivations are not a necessary feature of business.

¹⁹ This approach also provides a better account, than does an insular special ethics, of why, as was described in an earlier note, the behavior of athletes in games often is subject to moral scrutiny.

²⁰ Recently, for example, advancements in genetics technology has made possible new medical procedures such as genetic screening and cloning. We are just beginning to examine how the new circumstances produced by such technological advancements bear on the application of moral rules.

²¹ This is not meant to imply that the ethical questions that arise in science due to advancements in technology are easily answered. On the contrary, they are some of the most difficult questions contemporary humans face. The point is that we do not apply a special ethics to science when such questions arise. Likewise, we should not apply a special ethics to business when the circumstances of business produce difficult ethical questions. Wicks (1995) supports the idea that we should view the examinations of ethical issues in other aspects of life as models for our own examinations in business ethics. He does this by arguing that we should take seriously, and learn from, the fundamental similarities between business ethics and medical ethics.

²² There are many different aspects to the disagreement on this subject. They include, but are not limited to, the classic debate over whether moral judgments are derived from feelings or from reason (see Hume, 1975 and 1978 and Kant, 1964), the claim that moral judgments should be based on the consequences of acts or rules (see Brandt, 1963 and Mill, 1957), and the claim that moral rules spring from guiding principles that are chosen under specially described circumstances (see Gauthier, 1986 and Rawls, 1971).

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