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A five-step model for ethically informed decision-making

Finn Arler

Introduction

What is ethical theory good for? One may sometimes wonder, given the facts that some people actually make good decisions without much knowledge of ethical theory, whereas other people make terrible decisions, even though they are quite familiar with these theories. Similarly, in a number of cases people agree about which decisions are decent and appropriate, even though they disagree strongly about ethical theories. On the other hand, in just as many cases people disagree about specific decisions despite the fact that they agree in general about ethical theories.

There seems to be a certain slip between theories and decisions. If this slip is very large, discussions about theories become superfluous or of academic interest at best. If the slip is only small, on the other hand, at least some discussions of theories can be expected to influence practical decisions. This also means that actual decisions, particularly in difficult or unusual cases, can be expected to lead to theoretical discussions and sometimes to revisions of ethical theories. The answer to the question, how large the slip between theory and practical decisions is, has significant consequences on how to teach ethics to students, who will be dealing with ethical questions due to their profession, but who have no particular interest in academic discussions of ethical theories. If the slip is very large, it seems reasonable to drop thorough presentations of theories. If the slip is quite small, on the other hand, and theories play a significant role in decision-making, it becomes much more important to introduce students to ethical theories. The question is just how.

In this this paper I will introduce a five-step model for decision-making that is informed by ethical theory (or by a variety of theories). This way I hope not only to show that

ethical theory do have a role to play, but also to present a cogent way to introduce students (as well as other groups) to ethical theories and their role in decision-making. The five-step model has been developed (and simplified) over some time. It has been used it in relation to teaching of planners and other groups of university students, who have only sparse knowledge of ethical theory.

The model is designed to do two things at the same time. Firstly, it presents a number of fairly basic ethical themes that the students are facing or will be facing in their daily work. Secondly, it intends to make it clearer, which kinds of ethical considerations lie at the bottom of some of the methods, procedures and institutions they will be acquainted with whenever they are trying to handle ethical issues. Not only due to the limited time that is usually reserved for teaching ethics, but also in order to make it part of the students' intellectual backbone, the model must be fairly simple and accessible, and easy to remember and apply.

The model does not directly reflect any actual decision procedures, but it should be close enough to serve its purpose. Nor does it intend to serve as a role model for all kinds of public decisions. Although I do assume it can be helpful in a significant number of situations, it may either be too simple or too complex in others. The initial purpose was didactic. It aimed to make people, who are or will be involved in decision processes, aware of a variety of ethical aspects that turn up in different parts of the processes. Once developed, however, I have found the model quite helpful myself as a reference and checklist that I can return to, when dealing with complex ethical issues of various sorts. I hope others will find it helpful this way, too.

At the end of this paper, I shall return to the question of the role of theories, but just a few words may be helpful for a start. First of all, I do not try to defend one specific ethical theory like, say, Kantian deontology, virtue ethics, utilitarianism, or perfectionism, even though I find some theories more helpful than others. I tend to think of myself as an ethical pluralist, who find reasonable ideas about non-reducible values (e.g. happiness, freedom, beauty, autonomy, friendship, love, depth, meaningfulness, and quality improvement), obligations (to oneself, one's family, friends, neighbours,

nation, international community, future generations, members of other species, etc.), virtues (self-control, justice, solicitousness, patience, scrupulousness, courage, etc.), applicable points and principles (e.g. golden rule, fairness, equity, universalization, and impartiality) and reasonable methods and procedures (e.g. consequence assessment, stakeholder participation, and deliberation) developed in several mutually supplementary, complementary and sometimes (actually or apparently) competing theories.

Pluralism must not be confused with relativism, at least not as this word is traditionally understood. The pluralism I uphold is certainly not relativist in the sense that anything goes anywhere at any time. Nor does it say that all theories or approaches are equally good, or that they should all be included without further argument. On the other hand, pluralism can actually be called relativist in another, almost opposite sense: the worth of each theory's principles and recommendations may be relative to specific situations, where decisions need to be made – sometimes points and values highlighted in one theory are more relevant than those emphasized by another – or in the sense that relative to a specific situation there may be a limited spectrum of relevant values, good reasons, and applicable procedures to be retrieved from each of the theories.

I will not exclude the possibility of boiling all the most reasonable values and points in partly competing theories down to a single theory concentrate. I actually find that a number of standard textbook divergences between theories often are sharpened much further than needed; strawmaning is a widespread academic practice. Some may even consider the model presented here a first step in the production of a complex theory integrating a variety of considerations highlighted by other theories. If so, it is only a small initial step, though, and the ambition has not been to undertake a systematic integration of apparently conflicting values and obligations, principles and assumptions that hold prominent positions in significant ethical theories, but only to present an easily accessible model that highlights the most important elements that typically are relevant when complex ethical issues need to dealt with.

Why ethics?

Ethics are practical. The purpose is to give reasonable answers to questions about what to do. Not in a merely pragmatic sense, where goals are already settled in detail, and all that remains are technicalities, but in a broader sense where both goals and means are up for discussion. The overall purpose is to identify actions, projects, rules, plans, institutions, etc., which can be justified with reasons that one believes ought to be universally acceptable under a given set of circumstances. The core of ethics, and the starting point of ethical theory, is justifying one's actions, projects, etc. to oneself as well as to others. In order to do this properly, one has to use the same arguments in both cases, i.e., one cannot use special standards for oneself or for people close to oneself.

This does not mean that one's arguments fail, if it turns out to be impossible to convince everybody else or even the majority about their validity. The point is only that one must believe that everybody, who seriously tries to understand and evaluate one's arguments, ought to acknowledge them as convincing or at least acceptable. Otherwise one has to change either the arguments or the actions. Sometimes it is necessary to stand up against a majority, who are not convinced by the arguments. This is a fine occasion to reconsider one's own reasons and conclusions, of course, but if one still finds the arguments convincing, one must have the courage to keep on defending the conclusions that follow from them.

The point of view in ethics is that of *impartiality* in the sense that one should not use special arguments for oneself, nor for one's relatives, nor for other people one is particularly fond of, but recognize the same standards for everyone. Unless, of course, one has separate reasons for making distinctions that one seriously believe that everybody else ought to endorse, too, or at least accept. The same point can also be expressed in terms of *universalization*: one must be prepared to accept that whenever one decides to do something, on the basis the best arguments available, everybody else, who is similar in all relevant respects, should be allowed (sometimes: committed) to act similarly for similar reasons in similar situations. Four qualifications need to be made here.

Firstly, impartiality towards persons should not be confused with *neutrality* towards conceptions of the good. One may be firmly convinced, for instance, that scientific research and artistic expression are such basic parts of the good life in a (modern) society that they should be furthered by public means, and yet be impartial in judgments about which persons are most capable of carrying out these activities in a qualified way. Similarly, one may support the protection of certain wilderness areas or buildings of high cultural significance, even if one has little personal interest in them and hardly know anybody, who would spend time visiting them.

It is sometimes claimed that the state only can remain impartial, if it stays completely neutral to all conceptions of the good (Rawls 1971; Raz 1986; Kymlicka 2002), and that the weighing of people's conceptions of the good, or rather: of the preferences that spring from these, should be left to individuals' own choices, which are processed in apolitical regulatory mechanisms, first of all the market. This assertion is far from neutral itself, however, but rest on non-neutral assumptions. A claim that all prioritisations ought to be left to consumers' choices, and processed on the market, is based on a fairly controversial conception of how a good society must be organised. Not only does it ignore that democratic procedures, through which political prioritisations are laid down, can be constructed in impartial ways as well, and yet end up supporting policies that are closer to certain conceptions of the good than to others. It also disregards the very possibility of arguing about values in impartial ways, probably because values are confused with person-related preferences.

Secondly, as indicated already, impartiality does not imply that all persons (or all organisms for that matter) should be treated in exactly the same manner, no matter how different they may happen to be in various respects. That would be absurd. All that is implied by impartiality is that whatever differences one recognizes in one's treatment of other people, one should be able to justify these differences as relevant and appropriate using arguments that one believe that everybody ought to accept. The arguments for different treatment should never be biased in a way that systematically favours certain groups before others.

Thirdly, one has to distinguish between two kinds of impartiality (cf. Wenz 1988; Barry 1995). *First order impartiality* means that an actor should treat all persons equally, no matter how their relation to the actor may happen to be. This kind of impartiality is implausible in most cases. If, for instance, you want to give birthday presents to your children, first order impartiality demands you to give birthday presents to every human being in the world. Or, to take another example, if a country decides to support its weakest members, it should be prepared to support the weakest members of all societies.

Second order impartiality, on the other hand, only demands that differences in your treatment of other people must be justified with arguments that you believe everybody ought to accept. If you only give birthday presents to your own children, you should accept it as a general rule that everybody is allowed to give birthday presents to his or her own children without being committed to give presents to everybody else. Similarly, if a country supports the weakest members of its own national community to a much larger extent than citizens of other countries, it should accept parallel arrangements in other countries as well.

Fourthly, we should separate the two kinds of ethics, which the German philosopher Karl-Otto Apel have called Ethics A and Ethics B respectively (Apel 1973). *Ethics A* deals with principles that are appropriate under ideal circumstances, where everybody is willing to act in accordance with such reasonable principles, assuming that others will do likewise. *Ethics B*, on the other hand, deals with situations, where this is not the case, i.e., where some actors only have eye for their own narrow self-interest and are willing to sacrifice principles that work against their immediate interest. This forces other actors to think in more strategic ways, for instance, to search for arrangements that are favourable to the obstinate parties. When such arrangements are not satisfactory from an impartial point of view, actors need to consider how far they dare act as if the ideal circumstances, which they find it worth to further, were already established. This involves a risk that needs to be taken into account, and nobody can be expected to move far beyond everybody else.

Beside impartiality and universalization a number of other general criteria are used in ethical argumentation, but these are typically the same as for other kinds of argumentation. Ethical argumentation parallels science in its demand for consistency and coherence, for precision and sensitivity to difference, as well as for relevance and appropriateness.

It is often asked what motivation one may have to take impartial or universalisable considerations into account instead of simply acting selfishly. One could call attention to the fact that even from a selfish point of view it is quite often favourable to think in terms of impartiality in order to avoid other people's negative reaction, and that it would therefore be advantageous to develop this way of thinking as a habit (Hare 1981). In a number of cases, however, e.g. the treatment of future generations and other species, this would not be the case, because they would not be able to hurt current people (Hume 1751/1966; Barry 1989; Arler 1996). The motivation must be of a different kind.

The best answer is undoubtedly that self-respect is a fundamental need in human lives, and that self-respect (similar to respect from others) demands that one can defend one's actions with arguments that everybody else ought to accept as reasonable and sufficient.

Environmental ethics

Environmental ethics is the part of ethics that is concerned with the good and the right in relation to human impacts on our actual and/or future environment. This is quite a broad subject area, which overlaps with several other kinds of ethics (e.g., bioethics, social ethics, or international ethics). Environmental ethics are never sharply separated from ethics in general by some sort of insuperable barrier.

One point does become more obvious in environmental ethics than in most traditional discussions of ethics, though. When environmental issues are at stake, it is often not sufficient to ask, whether one's actions can be justified before an audience that only includes one's contemporary fellow citizens. One must further include not only people from other nations and cultures, but also people from distant generations, and even, in principle, members of other species. When live discussions take place about

environmental issues, future people and members of other species often need to be represented somehow by current advocates, either directly by people taking on this role or indirectly as scrutinizing representatives of certain standpoints in our inner dialogues. The very question how and to what extent future generations and other species ought to be taken into consideration has been a recurring issue in environmental ethics.

The main purpose of environmental ethics is to make ethical evaluations of decisions that may lead to serious short term or long term changes in the environment of humans. This is the case in relation to various kinds of decisions:

- *projects* (fx would a new bridge be a good idea?),
- *technologies* (fx should we allow GMO-crops?),
- *plans* (fx do the new nature plans focus on the right issues?)
- *rules* (fx in which cases is the Polluter Pays Principle the right rule to use?)
- *laws* (fx is EU's Water Framework Directive too demanding?)
- *social models* (fx can modern market societies ever become sustainable?)
- *methods* (fx should we use CBA or LCA when weighing environmental consequences?)

These are all complex issues, and one cannot expect to be able to find one right solution to each problem simply by knowing ethical theory. Many decision makers are not even aware that the decisions they make can properly be termed ethical. Quite often they see ethics as a rather peripheral aspect that comes last in line after the much more important economic, political, social or military aspects. What is seldom realised is that these apparently different aspects are actually various ways of applying ethics, or, to put it more mildly, that ethics is there all along, even when one discusses these other aspects.

Ethical theories and the five-step model

Let us now turn to ethical theories and their roles in decision-making. I hope to show that the – from a pluralist point of view: complementary – contributions from some main ethical theories are best understood and employed using a five-step model that reflect, or rather: stylises processes in actual decision-making. This model can also work as backbone for checklists of relevant ethical aspects in specific cases. It is not only intended to be useful as a heuristic advice intended to raise general awareness about

ethical theories and concerns. It may also serve as guidance for policy-advisors and decision-makers in their effort to make ethically informed decisions without being forced to make some aprioric choice of theory.

The model starts with a situation, where there is a need for decision making in some complex case, where more than one solution is possible, because several goods are at stake and a number of considerations seems relevant but point in different directions. Ethics work permanently behind the scene, but explicit ethical debates become particularly important in difficult decision-making cases marked by internal or external conflict.
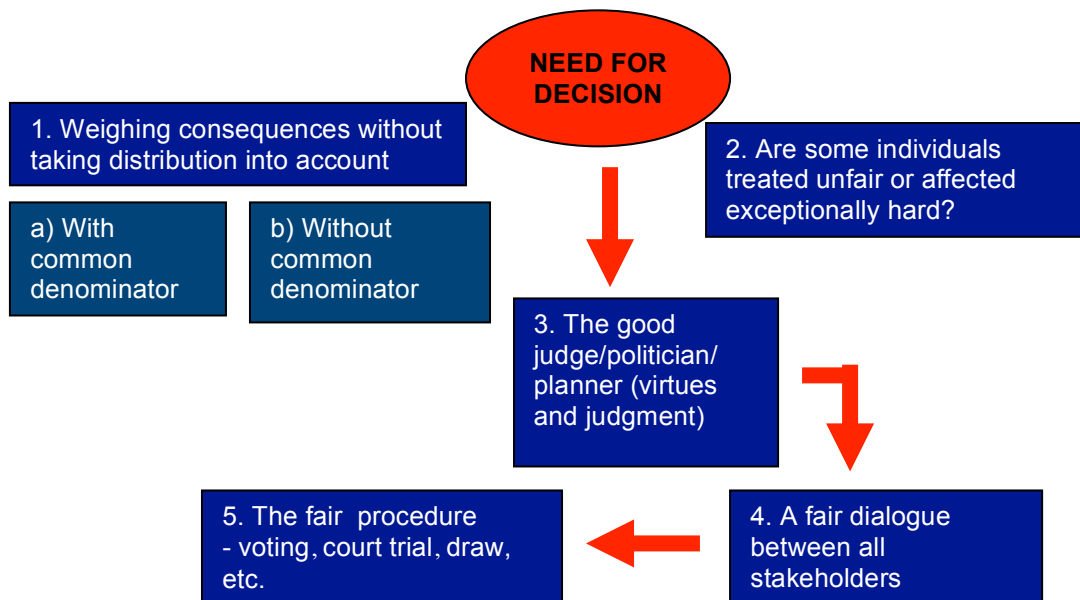

NEED FOR DECISION

1. Weighing consequences without taking distribution into account

a) With common denominator

b) Without common denominator

2. Are some individuals treated unfair or affected exceptionally hard?

3. The good judge/politician/ planner (virtues and judgment)

4. A fair dialogue between all stakeholders

5. The fair procedure - voting, court trial, draw, etc.

Figure XX. The five-step model of ethically informed decision-making.

Step 1. Assessment of consequences

The first step in the model, assessing consequences, is an important element in all ethical theories, but is particularly focused on in *consequentialist* or *teleological* theories. The purpose here is to identify and weigh the various consequences that are likely to occur in order to find the solution, which either maximizes or optimizes the total of good consequences (and/or minimizes the bad consequences) of an action, a rule, a law, a method etc. This analysis is seldom easy, because consequences typically

come out in very different shapes. Building a road, for instance, may save time by making it easier and more comfortable to come from A to B, and this may attract workplaces and industry, but it is also likely to disturb neighbours and influence wildlife, change local traffic patterns, cause or prevent accidents, change emission levels, etc.

If it were possible to compare all these different kinds of consequences using only one common denominator, which is neutral to people's varied subjective conceptions of the good, it would make assessments of consequences much easier. Consequentialists have therefore come up with a number of suggestions about denominators they expect will match people's intuitions. The first of these is *pleasure*, *happiness*, *well-being* or *welfare* suggesting that what counts in the end is subjective states of human beings (or of sensitive animals in general). In order for a decision to be good, it must be good or pleasant for someone, who then becomes happier.

Even if one accepts this controversial premise, and further, as recommended by Jeremy Bentham, abstracts from differences in personal circumstances and individual sensibilities (Bentham 1789/1996), it is still not easy to weigh the broad variety of consequences that occur in complex cases with impacts appearing over long periods of time. States of happiness are notoriously difficult to measure, as Bentham's followers noticed (Jevons 1888), and even though one can sometimes do with ordinal (more or less) values rather than numerical cardinal values in simpler cases, complex cases seem to demand more precise measures, because several separate considerations are at stake at the same time.

It has therefore been suggested to use *preference satisfaction* either as a) a proxy for happiness, which then remains the final measure, or b) as an independent criterion (Singer 1993). If preference satisfaction is used as a *proxy*, the idea is that if people get their preferences satisfied happiness is likely to result. The stronger the preference, the more happiness can be expected to follow, when it is satisfied. If preference satisfaction is used as an *independent criterion*, it must be underlined that it does not always lead to happiness. A junkie may have strong preferences for drugs, for instance, even though he

or she knows perfectly well that it is likely to end in misery (Pareto 1927/1971). Theorists who defend preference satisfaction as an independent criterion would typically one of two arguments, either i) most people's preferences are after all fairly considered, and on average more preference satisfaction will lead to more happiness (Marshall 1920/1946), or ii) there are other goals than happiness related to the pursuit of preference satisfaction, first of all freedom to choose (Sen 1987). When more preferences are satisfied, more people will be capable of having some of their dreams come true, even if a fraction of these fulfilled dreams causes more misery than happiness.

But is it easier to measure preference satisfaction than happiness? The answer can hardly be positive, unless one accepts one further assumption, which already Bentham defended, namely that the total amount of possible preference satisfaction relies on the total purchasing power of people as consumers. If a society is wealthy, more people can have their preferences satisfied and are therefore more likely to feel free and/or be happy (Bentham 1887). Consequently, economic wealth becomes a measurable proxy for preference satisfaction, which again may be a proxy for happiness and freedom. If this is true, and if happiness and freedom are the ultimate goals, economic growth must be a main, maybe even *the* main (deduced) goal in society.

Some reservations have to be made, though, before this conclusion can be accepted. Firstly, no matter whether happiness, freedom or preference satisfaction itself is the goal, it will not be possible to maximize the totality of good consequences for individuals, if means, capacities or opportunities are distributed very unevenly. The marginal value of means and opportunities, measured in terms of economic value, will inevitably be diminishing the further one gets beyond a certain minimum level. This means that in order to maximize happiness, freedom, or satisfaction of preferences, the goal of maximizing economic wealth at least has to be combined with a reasonable distribution of this wealth.

Secondly, commodities bought on the market cannot satisfy all individual preferences, nor can all kinds of goods be obtained from the use of money (e.g. Walzer 1983, Sandel

2012). This is not only the case with supreme goods like love, friendship, life and death, or with public goods like scientific truth, political influence, and public offices, but also with important goods like free time, which often disappears in the struggle for wealth, or biodiversity and other kinds of environmental goods that are often threatened by an expansions of economic activities. These goods all have some kind of economic value, of course, but they are treated as externalities, not only because there are no actual markets where they are up for sale, or because they are difficult to monetize on virtual markets, but because something basic in human life is betrayed if they are bought and sold on the market.

Thirdly, it is hard to talk about happiness, well-being, preference-satisfaction, or economic wealth as major goals, if people are happy and feel good for all the wrong reasons, or if the preferences they pursue are unconsidered and lead in bad directions. Likewise, it is a very constrained kind of freedom one enjoys, if it is used to achieve goods that one would never pursue if one had had just a little time for calm and sober reflection. It is important to leave plenty of room for mistakes, and we certainly all need to be tolerant about the way people choose to live, but this cannot imply that one must always keep the door closed to rational discussion about worthwhile life goals. Even some utilitarians agree about this, and therefore only want to measure satisfaction of informed desires in their accounts of consequences, although this obviously undermines any insistence on neutrality (Griffin 1986).

Happiness, preference satisfaction and economic value are not the only candidates for neutral measures. Yet another apparently neutral measure has been used, particularly in the healthcare sector (e.g. Weinstein et al. 2009, Nord et al. 2009): QALYs, *quality adjusted life years* (or HALYs: health adjusted life years, or DALYs: disability adjusted life years). A fully healthy person's life year counts as one, whereas sick, injured or disabled people's life years count for less, dependent on the seriousness of their decease or injury.

The point is that we should always try to maximize the total number of QALYs when making decisions about allocation of economic and other resources to various sectors or

projects. The closer a person's life gets to a baseline state of full quality, the more it counts, and society should therefore try to avoid injuries or eventually upgrade injured lives, particularly of younger persons, where upgrading have more durable effects than on older people. According to these standards, improving younger lives will have first priority in the health care system, even though it was the elderly people who built the system in the first place. By default, fairness and equity are absent from these calculations; distributive criteria like equality or desert have no place in this system.

The weighing of consequences does not necessarily depend on the use of neutral quantitative measures, though, nor is maximisation the only possible goal to use when consequences are assessed. Instead, one may proceed by making *qualitative* assessments on two levels. Firstly, one can try to consider which kinds of basic goods or values are needed in order to lead a good life from cradle to grave, almost no matter what else one's conception of the good includes. Apart from food, shelter, security, and other kinds of physical goods, obvious candidates are mutual recognition, social inclusion, personal relationships, beautiful surroundings, meaningfulness, education, etc. If the consequences of a project are likely to do damage to one or more of these basic values, it should be avoided. If, on the other hand, the consequences of the project are neutral to or enhance the basic goods, it should be allowed or even furthered.

Secondly, in addition to stating the basic requirements of a good life for everybody, one could set up a number of non-neutral goals that one expect to qualify the good life in society even further. One could argue, for instance, that curiosity, reflectivity and virtuosity are virtues that should be encouraged, and that establishing institutions for sciences and arts will bring life in society to a higher and more desirable level. This does not necessarily make people happier in any easily measurable sense. Practising science and art is dependent on discipline, and it may for this reason alone disturb other parts of life. It can also be terribly annoying, if a problem is hard to crack. Still, one can argue, as John Stuart Mill famously did, that it is preferable to be a dissatisfied Socrates than a happy pig, because human development is the most meaningful goal one can come up with (Mill 1957).

Step 2. Justice, care and rights

Consequentialism occurs in many forms, but it is more often concerned with the total impact, an action, a project, or a rule has, than with the distribution of consequences on individuals. In economics, for instance, the widely used Kaldor-Hicks criterion says that an action should be furthered, if the gains from the action can, in principle, compensate all losses, but that compensations need not actually be provided. Other kinds of ethics are more oriented toward the destiny of individuals, however, and are much more hesitant in cases of sacrificing individuals' well-being for the common good.

Some of the main concepts in ethical theories, which focus on the fate of individuals, are human rights, equity, fairness and justice (e.g. Rawls 1971; Dworkin 1977; Barry 1989; Griffin 2008). It is not enough that the social pool of goods is growing due to a project or a rule, if it leaves some individuals significantly worse off. It is not always enough that a larger pool gives loosing individuals better chances to improve their situation in the future. Nor is a project acceptable if it leads to an unfair distribution of goods and damages. As Rawls has put it: consequentialists often forget to take seriously the distinction between people.

If, for instance, a calculus indicates that the total economic outcome would be larger (primarily to the advantage of few shareholders and managers), if heavily polluting industries are not forced to improve their environmental standards, but instead are placed in countries, where local people are willing to work for low salaries despite the significant risks, the unfair allocation of costs and benefits would alarm ethicists, whose main focus is on human rights, justice, and equity.

Often ethical theories that focus on justice, care and rights of individuals can be seen as complementary to consequentialist accounts. One does not have to rely on any comprehensive theory of individuals' rights in order to find it appropriate to take the distribution of good and bad consequences into account. Measured in terms of total impact it may be a good idea, for instance, to catch young healthy people and use them in medical experiments that are assumed to help saving of hundreds of lives. Consequentialists have argued that this is only a good idea, if it is done in secrecy,

because otherwise fear would spread in society. Most people, however, whether they rely on specific rights-oriented theories or not, would be appalled more directly by the practice and try to stop it immediately. The harm done to innocent and involuntarily involved people would be much too serious to be acceptable.

One should be careful not to exaggerate the difference between consequentialism and ethical theories focusing on individuals, though. There is a great deal of care for individuals in consequentialism, too. Take economics again, where a basic individualist assumption is that there is no common good apart from the aggregation of individual goods (or preference satisfactions). If we take utilitarianism in general, it is based on the fundamental premise that everybody has an equal right to have his or her feelings and/or preferences included in the total account. Everybody should count for one and nobody for more than one (Singer 1993). Most utilitarians are also aware of the law of diminishing value of incremental income or wealth, saying that poor people get more happiness out of an extra amount of money than rich people do. A more equal distribution of money and goods therefore contributes positively to total happiness. Finally, qualitatively oriented consequentialists, who care more about the quality of life in society than about quantities of money or goods, would certainly be upset, if major injustices are among the inevitably consequences of otherwise reasonable decisions.

It is also important to notice that situations are seldom as clear-cut as in the medical experiment example just mentioned. It is not always obvious which potential victims are entitled to extra protection. Nor is it always easy to determine how serious damages on individuals have to be in order to be worth a special protecting effort. For instance, most people would agree that in order to reduce inconveniences for the immediate neighbours, road building in urban areas implies setting up noise barriers. On the other hand, it is a matter of controversy whether special considerations should be shown to distant neighbours of wind turbines, just because the sight of moving wings disturbs them.

Bridges for crossing animals are even more controversial, because not everybody accepts animals, at least not wild animals, as proper objects for care (cf. e.g. Attfield

1983/1991; Regan 1983; Taylor 1986; O'Neill 1996; Arler 2009). Or take the likely future disappearance of land due to sea level change caused by climate change. The needs of the people, who own the land, are seldom even mentioned, when road projects are discussed. This is partly due to the fact that the connection between the new road and the flooding of distant islands is anything but straightforward. Another reason is that they live so far away in both space and time that it may be controversial whether they should be considered as participants of our morally binding community, or at least how far our obligations can be towards distant people (cf. e.g. Beitz 1979; Miller 1995 and 2007; Rawls 1999; Caney 2005). If the criterion is that one should select projects that help the worst off people, no matter where they live in space and (current and future) time, money used on road building could often be used better elsewhere.

Step 3. Virtues, judgement and reflective equilibrium

We have seen so far that there are at least two traditions of ethics, one focusing mainly on the total outcome, the other one focusing rather on justice and the rights of individuals. We do not have to do more than scratch the surface before it becomes obvious that there are a number of similarities across the two traditions, and that each tradition includes sub-traditions with highly different approaches based on divergent assumptions. Intense philosophical analysis may lead to a reduction of the number of competing serious approaches, but even if this happens, it is quite unlikely that everybody will end up agreeing on a single universal ethical approach or method that makes it possible to solve all ethical dilemmas or conflicts whenever they occur.

We are thus faced with a certain amount of theoretical pluralism or at least a plurality of approaches and considerations. Different theories and approaches appear in the decision making process with each their specific set of reasonable points and suggestions for principles and methods, but none of them are capable of convincing everybody once and for all in a way that makes other positions superfluous. How do we proceed then? Basically, what is needed is an instance that is capable of doing two things. Firstly it must be able to identify reasonable points from the various theoretical approaches that are relevant to the specific case at hand, and then, secondly, it must be capable of weighing these points in a suitable way. This instance cannot be some unique device

relying on one particular method, because we have already seen that methods are based on controversial assumptions that are in need of corrections from other approaches.

The only instance that we may actually rely on is the good judge, politician, or planner, i.e., a human being who possesses the necessary skills and virtues that make it possible for him or her to weigh and judge a plurality of arguments arriving from different theories in complex situations. This is the basic point in *virtue ethics*: ethics are not a game for automatons, at the end of the day it all comes down to judgments made by sensitive reasoning human beings. In order to qualify these judgments it is necessary not only to know the relevant facts, opinions, and potential obligations related to a case. One must also develop virtues that make it possible to deal with complex issues in a proper way.

Which kinds of virtues are we talking about? Some virtues are of a general nature, such as self-control, critical self-knowledge, carefulness and honesty. Courage is important in cases of conflict. Temperance, prudence, moderation and a refined sense of justice are particularly important, when ethical questions are at stake. Some virtues are important in order to keep morality free from rigid moralism: tolerance, generosity, magnanimity, taste, humour, openness and an appropriate dose of cheerfulness. Wisdom is a virtue that sums up a number of important character traits. A person, who possesses an adequate amount of these virtues, is likely to have a sufficient amount of judgment to balance different kinds of considerations.

What does a person with sufficient virtues and judgment do, when he or she weighs arguments, claims and considerations? The most important element is the search for coherence between all well-considered arguments and claims that are relevant in specific cases. This includes bits and pieces from both ethical and scientific theories, one believes to be valid, principles that usually appear acceptable in use, empirical facts about the specific case, experiences and considered judgments from similar cases, intuitions related to possible consequences, etc. If the considered claims and judgments are so much in conflict that a coherent combination is out of the question, it will be necessary to adjust one or more of the beliefs or intuitions, until a fairly stable balance

has been established. This is what Rawls has called establishing or restoring a 'reflective equilibrium' (Rawls 1971).

When decisions are made in complex situations, one seldom has time enough to reconsider all relevant theoretical and normative factors. In particular, it is not possible to reconsider all ethical theories that back up reasonable claims, values, and principles. So one may end up using various types of reasons that all appear suitable to the case and can be applied in a non-contradictory way, even though they are normally highlighted by conflicting theories. The various reasons may be incommensurable in the sense that there is no common denominator to measure them against each other, but this does not mean that they are incomparable (Bernstein 1983; Griffin 1986, chp. V).

It would be a mistake to believe that reasons only derive validity from general theories and lose all credibility, if one discards theories that underlines them in particular. If this were the case, theories would be like closed bubbles with impervious surfaces, and it would be impossible to argue across theories. Theories are better understood as diverse ways of organising reasons, most of which appear in different shape in alternative theories and by and large save their relevance, even if certain theoretical constructions break down. People's happiness does not stop being relevant just because one has dropped hedonistic utilitarianism as an all-encompassing theory.

A pluralist reflective equilibrium solution may seem dissatisfactory, if one seeks a comprehensive theory fully equipped with a few foundational premises, from which one can deduce a consistent and well-considered set of values and principles that can be applied easily and coherently on all occasions. Reflective equilibrium works fine on a pluralist platform, however, with a differentiated mix of reasons, values, and obligations with a varied background. This platform may actuality turn out to be less fragile than a platform designed from a single consistent, yet fallible theory, unless, of course, this theory itself turns out to be so complex and differentiated that it is hard to distinguish from pluralist approaches.

A recurring critique against virtue ethics is that it is not virtues but only arguments that one relies on, when decisions are made. This is partly true, but arguments never turn up in easily recognisable preformed chunks that make it easy for anyone to apply and weigh them in specific situations. Patience, sensitivity, carefulness, and scrupulousness are necessary virtues, if one wants to get the arguments right. Creativity and reflectivity are needed to refine reasons in order to restate and combine apparently contradictory claims. Without tolerance and openness one is likely to overlook important, but strangely expressed points. If a refined sense of justice is lacking, it is hard to believe that a variety of needs, wants and claims, which are not immediately commensurable, can be balanced in a proper way. Taste and humour bring more than just superficial elegance and wit to solutions that may otherwise be dismissed.

However important individuals' virtues and weighing ability are, even the best judge must face his or her own limitations. Nobody can know all relevant arguments in a particular case. Nor can one single person be aware of all points of views, all needs, all wishes. Even the best reasons seldom lead smoothly into obvious conclusions. Too many 'burdens of judgment' (Rawls 1993) hinder different people from ending up with the very same conclusions in complex cases, no matter how reasonable they all proceed. Moreover, it may not be an easy task to find the best judge with moral integrity and the right combination of virtues. And even if it were possible to select a few persons, who are better than the rest to evaluate reasons and to weigh considerations, it would be extremely risky to entrust them with decision power in a broad variety of complex cases. Human beings are fragile creatures, and power corrupts all too easily, if it is left without opposing forces. So we have to move on to a fourth step.

Step 4. Stakeholder dialogue
We have seen so far that there are a variety of ethical theories with diverse suggestions for rules and methods, and even though most people would agree that each of the theories represents important aspects and considerations, none of them seems able to beat the rest and be crowned as final champion. Pluralism of theories as well as of considerations is difficult, however, and virtues are needed in order to be able to judge and weigh various kinds of deliberation. But if even the most virtuous person cannot be

entrusted with full decision power, because he or she cannot know all relevant aspects of complex cases, how do we proceed?

The next step is carried through as a dialogue, where all stakeholders (and, if relevant, selected experts) are invited, firstly, to present arguments, viewpoints, needs and aspirations that they believe to be relevant in the specific case, and secondly, to take part in a common evaluation process, where arguments and considerations are tried and weighed against each other in a common search for reflective equilibrium in a specific case. This exchange of arguments, commands and requests broadens the horizon from that of the singular decision maker, who was in focus in Step 3. It also brings much stronger feelings, engagement and commitments into the debate than is possible in the more detached atmosphere of inner dialogues. There is an obvious advantage related to this: people are more engaged and therefore also more observant in cases that mean a lot to them. This commitment can be a major weakness as well, however. In heated debates it is more difficult to keep one's mind cool. When strong feelings and personal interests are at stake, it becomes more difficult to make fair judgments of opponents' arguments.

A basic point in Jürgen Habermas' account of dialogue or discourse ethics (Habermas 1983) is that the completion of stakeholder dialogues legitimizes their outcome, whatever this happens to be, as long as certain basic rules are observed (cf. also Alexy 1978). Firstly, all partakers should participate on equal terms. This means that everybody should be allowed to present their own points of view and bring attention to their own needs and wishes. Secondly, as all participants should only be convinced by arguments: they should try to reduce the influence of irrelevant matters like personal interest, mutual attractions, impression of status, or fear of power. Everybody should avoid the use of force, fraud and manipulation. Thirdly, everybody should strive to reach a common consensus. The participants should always aim for coherence, consistency and correctness.

Public debates do not render inner dialogues superfluous, though, nor do they dispense with the need for development of virtues among the participants. As long as heated feelings together with unavoidable inequalities and instances of force and fraud enter

the discourse, the final results, if there are any, cannot carry as heavy a burden of proof as some discourse ethicists want them to (Arler 1991; Scanlon 1998). It is undoubtedly an excellent idea to involve as many stakeholders as possible in decision-making processes, but these processes can never be so clean in terms of equality, impartiality and rationality that an actually achieved consensus among the attending participants guarantees full legitimacy of the outcome. Reaching consensus would in itself be the exception rather than the general rule in complex cases. A fifth step is needed then in order to reach legitimate conclusions.

Step 5. Procedures

If consensus is difficult to reach in stakeholder dialogue, or if the consensus reached is unreliable due to asymmetric power relations, we will have to move to yet another level. On this final level, Step 5, formal procedures are introduced: negotiations, voting, polls, trials, and in some cases even draws. Rawls has distinguished between three kinds of procedural justice (Rawls 1971, chp. 14). Perfect procedural justice occurs when there are independent criteria for a reasonable solution, and a specific procedure can give the desired outcome. This is seldom the case. Imperfect procedural justice occurs when an independent criterion exists, but it is impossible to design rules that guarantee correct results. This is the case in criminal trials. In pure procedural justice no independent criterion is available, but if the procedure is carried through properly, the outcome is fair. This is the case, for instance, with voting procedures.

What can formal procedures do that could not be done on the first four levels? First of all, procedures can stop quarrels, at least temporarily, by specifying universally acceptable ways to reach decisions despite reasonable disagreement about substantial matters. When procedures have been designed beforehand in serene argument-driven sequences and through processes that are commonly accepted, they function as reliable backstops that can put an end to conflict-ridden decision-making processes.

It is worth remembering that the basic points introduced on each of the previous levels have not been redundant, but still do their job in this final round. Firstly, if the procedures themselves were not constructed on the basis of points that turn up in

theories used on previous steps, they could never be accepted as backstops. Democratic procedures, for instance, build on ethical assumptions such as individual citizens' equal right to participate in decision making and to have his or her needs and aspirations taken into consideration. Similarly, law court procedures are based on the assumptions that all citizens are equally entitled to fair and impartial treatment, that arguments should count independently from status and purchasing power, etc.

Secondly, the main ethical content of the cases, which in the end have to be resolved through formal procedures, has already been uncovered in the first four steps. The consequences have been surveyed and analysed, questions of justice and distribution have been considered, involved parties have tried to weigh the different considerations in order to reach reflective equilibrium, discussions have taken place and conflicts have in many cases been boiled down to reasonable disagreement. In standard sequences of decision-making, formal procedures are mainly needed in grey zones, where impartial evaluations of arguments can no longer clearly separate black areas of unjustifiable claims from white areas of inescapable truths.

Sometimes there is no settled final procedure to put an end to conflicts. This is the case, for instance, when there is reasonable disagreement about which of the existing procedures on different levels that ought to be used (e.g. Arler 2012). When such cases occur in well-organized democratic societies, law courts usually have the formal competence to settle the dispute, though. In others cases democratic assemblies can fill the gap and settle the conflict by passing a law.

When decisions are formed through reasonable procedures, which are backed up by a large majority of citizens, their legitimacy is high. It is never complete, though. In almost all political cases at least one minority disagrees with the decision, and quite often this minority continues its efforts to change it, even though the procedural setup behind the decision is respected. Civil disobedience only seldom occurs in democratic societies, but when it does, it is because the result from procedures seems so illegitimate and unacceptable to a group of people, measured by standards they believe everybody

ought to accept, that it overrules the legitimacy that springs from compliance with commonly accepted procedures.

These phenomena show that there is nothing ultimate about the procedures in Step 5. It is always possible to return to one of the previous steps before moving upwards again. In complex cases with significant public attention no decision will be taken without procedures as a final step, even though all the important ingredients in the case may already be settled before the last confirmation.

Checklist of issues to be scoped out before decisions are made

1. Consequences

Which consequences can be expected? Which consequences count? Consequences for whom? For how long? How should the various consequences be weighed? Which values are affected? Can common denominators be used? How can the best consequences be achieved?

2. Justice and rights

Who are the relevant stakeholders? Do all persons/animals/organisms count? Equally? Are all relevant stakeholders taken into account? Are relevant claims on consideration respected? Are all stakeholders treated in a fair and just manner?

3. Virtues, judgment and reflective equilibrium

Have I found the right balance between different claims? Have I been sufficiently diligent, just, courageous, etc. in my judgment? Am I too superficial, too selfish, too cowardly, or too impatient? Do I listen to arguments, or do I only act out of habit?

4. Stakeholder dialogue

Have all stakeholders been heard? Have all stakeholders been involved, and are their contributions taken sufficiently into account? Have groups of people or organisms that cannot participate in dialogues been properly represented by advocates?

5. Procedures

Are decisions made through fair procedures? Are the decisions made in a democratic manner? What does this exactly mean? Do the procedures contain systematic flaws and inequalities?

The role of theories

Let us return now to the original question: What can general ethical theories do for decision makers who are dealing with complex environmental issues? First of all, they can be helpful for anybody who tries to get an overview of the relevant ethical elements in a case. Checklists like the one shown in the text box are informed by ethical theories and can be quite useful in complex cases with a number of considerations to take into account. This also means, secondly, that they can make decision makers aware of important issues they may have missed. Even the best decision makers will inevitably

overlook certain elements, which some professional ethicists may have worked on and tried to bring into attention through their theories. The debate on sustainability and sustainable development, for example, has certainly been informed by more or less specialised discussions on ethics.

Thirdly, ethical theories may help decision makers in making their justifications both more coherent and more sensitive to differences. In the debates surrounding ethical theories a lot of differentiations are made and various suggestions for integration presented. This can obviously be helpful for observant decision makers, too. I do write "may help" quite deliberately, though, because abstract debates about ethical theories can also be quite confusing and extremely time consuming, if one is more interested in solving real world problems than in keeping discussions going about some nitty-gritty details.

Fourthly, ethical theories have already been applied in construction of methods and procedures that are used, for instance, in law, in economics, in public voting and election procedures, in parliamentary rules, or in court trials. These methods and procedures often become much more understandable, once the ethical arguments behind them are presented as parts of more comprehensive theoretical constructions, and their strengths and weaknesses become more apparent.

Ethical theories cannot in themselves determine the outcome of a conflict. Cases are usually too complex. A plurality of approaches and considerations that typically are highlighted by different theories is relevant in almost all interesting cases, and a reasonable equilibrium between the various claims and considerations can hardly be reached, unless one is willing to involve more than one theoretical perspective.

It should also be remembered, however, that quite often disagreements are more related to the facts and interpretations involved in a case than to general ethical norms and values. Aristotle even asserted that once an agreement about the factual elements in a case has been established, conflict will quickly disappear, because people seldom disagree on general principles and values (Aristotle 1968). He may have expressed this

insight a bit too crude and simplistic, but it is very important to remember that factual details become much more important when one is practising applied ethics rather than discussing ethical theory.

References

Alexy, R.: "Eine Theorie des praktischen Diskurses," in: W. Oelmüller (ed.): *Normenbegründung, Normendurchsetzung*, Paderborn 1978

Apel, K.-O.: *Transformation der Philosophie*, bd. 2, Frankfurt a. M.: Suhrkamp 1973

Aristotle: *Nicomachean Ethics*, London: Heinemann, 1968

Arler, F.: "Diskursmoral," in: *Omkring dømmekraften*, ph.d.-thesis, Aarhus 1991: 178-227 (http://people.plan.aau.dk/~arler/manuskripter/Finn%20Arler%20ph%20d%20-afhandling.pdf)

Arler, F.: "Two Concepts of Justice," *Human Ecology Review* **3** (1), 1996: 63-76

Arler, F.: *Biodiversitet. Videnskab kultur etik*, vol. II, Aalborg University Press 2009

Arler, F.: "Landscape democracy in a globalizing world - the case of Tange Lake," in: *Landscape Research*, 36 **4**, 2011, 487-507

Attfield, R.: *The Ethics of Environmental Concern*, Athens & London: The University of Georgia Press 1983/1991

Barry, B.: *Theories of Justice*, London: Harvester-Wheatsheaf 1989

Barry, B.: *Justice as Impartiality*, Oxford University Press 1995

Beitz, C.R.: *Political Theory and International Relations*, Princeton: Princeton University Press, 1979

Bentham, J.: *An Introduction to the Principles of Morals and Legislation* (1789), eds. J.H. Burns, H.L.A. Hart & F. Rosen, Oxford: Clarendon Press 1996

Bentham, J.: *Theory of Legislation*, ed. E. Dumont, London: Trübner & Company, 1887

Bernstein, R.J.: *Beyond Objectivism and Relativism: Science, Hermeneutics, and Praxis*, University of Pennsylvania Press, Philadelphia, PA 1983

Broome, J.: *Ethics out of Economics*, Cambridge University Press 1999

Caney, S.: *Justice Beyond Borders: A Global Political Theory*, Oxford University Press, 2005

Dworkin, R.: *Taking Rights Seriously*, London: Duckworth 1977

Griffin, J.: *Well-being. Its meaning, measurement, and moral importance*, Oxford: Clarendon Press 1986

Griffin, J.: *On Human Rights*, Oxford University Press 2008

Habermas, J.: "Diskursethik," in: *Moralbewusstsein und kommunikatives Handeln*, Frankfurt am Main: Suhrkamp 1983

Hare, R.M.: *Moral thinking: its levels, method, and point*, Oxford: Clarendon Press, 1981

Hume, D.: *An Enquiry Concerning the Principles of Morals* (1751), La Salle, Illinois 1966

Jevons, W.S.: *The Theory of Political Economy*, Third Edition, London: Macmillan and Co. 1888

Kant, I.: *Anthropologie in pragmatischer Hinsicht*, Hamburg: Felix Meiner Verlag 1980

Kymlicka, W.: *Contemporary Political Philosophy. An Introduction*. Oxford: Oxford University Press 2002

Marshall, A.: *Principles of Economics*, 1890, 1920^8, London: Macmillan 1946

Mill, J.S.: *Utilitarianism*, London: Bobbs Merrill Co. 1957

Miller, D.: *On Nationality*. Oxford University Press, 1995

Miller, D.: *National Responsibility and Global Justice*, Oxford University Press 2007

Nord, E., N. Daniels, M. Kamlet: "QUALYs: Some Challenges," *Value in Health* **12** (Suppl. I), 2009: 10-15

O'Neill, J.: *Ecology, Policy and Politics. Human Well-Being and the Natural World*, London: Routledge 1993

Pareto, Vilfredo: *Manual of Political Economy* (1909, 1927), London and Basingstoke: Mac-Millan 1971

Rawls, J.: *A Theory of Justice*, Cambridge, Mass.: Harvard University Press 1971

Rawls, J.: *Political Liberalism*, New York: Columbia University Press 1993

Rawls, J.: *The Law of Peoples*, Cambridge: Harvard University Press, 1999

Raz, J.: *The Morality of Freedom*. London: Oxford University Press 1986

Regan, T.: *The Case for Animal Rights*, Berkeley/Los Angeles: University of California Press 1983

Sandel, M.: *What Money Can't Buy. The Moral Limits of Markets*, London: Allan Lane 2012

Scanlon, Th.: *What We Owe to Each Other*, Cambridge, Mass.: Belknap Press of Harvard University Press, 1998

Sen, A.: *On Ethics and Economics*, Oxford: Basil Blackwell, 1987

Sidgwick, H.: *The Methods of Ethics*, 7. ed., London: MacMillan & Co. 1963

Singer, P.: *Practical ethics*, Cambridge University Press 1993

Taylor, P.: *Respect for Nature*, Princeton University Press 1986

Walzer, M.: *Spheres of Justice*, New York: Basic Books, 1983

Weinstein, M. C., G. Torrance A. McGuire: "QALYs: The Basics," *Value in Health* **12** (Suppl. I), 2009: 5-9

Wellmer, A.: *Ethik und Dialog*, Frankfurt a. M.: Suhrkamp 1986

Wenz, P. S.: *Environmental Justice*, Albany: State University of New York Press 1988