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other engineers may not be able to make the necessary changes immediately because of budget or schedule, or at all because changes that they have already made bar the improvement in question. Engineers may also find an alternative way to achieve the same end. For these reasons (and perhaps others), nuclear plants, however alike at birth, tend to grow into noticeably different individuals, much as biological plants do.

Some people, especially philosophers, seem to think of those who stayed on at Fukushima — those who, for example, worked in the dark in cold waist-high radioactive water to restart the generators — as engaged in “supererogatory” conduct, that is, as engaged in conduct above and beyond what morality requires. The engineers I have discussed this with seem to view the conduct as heroic but required (supposing the “workers” in question to be engineers). An engineer who left when needed would have acted unprofessionally; he would have failed as an engineer even if he left to save his life or look after his family. Engineering sometimes requires heroism (a significantly higher standard than proposed in Alpern 1983) — or so the engineers I have talked with about this seem to think.

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References


A Pluralist Ethical Decision-making Procedure

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Abstract

This paper claims that the use of several moral tests to assess the ethics of a new policy is unavoidable. All the efforts to make credible a methodological monism — by critical or reductionist strategies — have been unsuccessful; moreover, it must be acknowledged that even if there were a single test, when applied successively or by different people it would usually give divergent results. The main aim of the paper is to propose a pluralist procedure of ethical decision-making, using a set of proper ethical tests (such as utilitarian, Kantian, Christian, principalist and casuist) in the frame of an “ethical Delphi” procedure intended to make the assessment of a supposed variety of verdicts. This pluralist testing process, made by moral experts, is only a fraction of a more complex procedure intended to deliver social sanction for a new moral policy. This longer procedure also shows that the adoption of a new moral policy, rule or law is not only a question of passing a strict ethical test, but also a political (i.e. multi-criterial) decision. In general, the adoption of a new moral rule does not rely solely on an ethical test, but is essentially the outcome of a complicated social agreement. That is why in academic applications of the usual moral tests we do not take a moral decision on a new case, but merely simulate it.

Key words: ethical decision-making, ethical pluralism, ethical Delphi, pluralist model

Decisions about the moral value of an action, rule or public policy cannot be reduced to a verdict resulting from the application of traditional tests based on the major ethical theories, despite the fact that handbooks still unanimously support this view. The history of ethical test results is more one of surprises than one of predictability. You would expect, for instance, that people who adopt the same moral doctrine do this in order to approach issues in the same way, including the moral assessment of actions. We all believe that this is the main reason it is useful to embrace the same moral creed. Therefore it seems strange to find that several members of the Romanian Parliament, all active supporters of Christian morality, assessed the legalization of prostitution in opposing ways. On the other hand, it is also strange that two people who adopt different ethical theories — precisely because they offer distinct explanations of moral phenomena — can frequently assess actions in the same manner. When a utilitarian and a Kantian — or a follower of Christian ethics and one of Muslim ethics — debate issues, it is somehow surprising to see them judging situations in the same way in most cases, despite the fact they declare themselves to be supporters of opposing ethical beliefs. Are these beliefs really opposing? In general, it appears that use of tests based on distinct or even opposing theories, such as utilitarianism and Kantianism, can result in different verdicts, but in most cases it results in convergent ones (Kantian and utilitarian moral duties are, ultimately, the same). On the other hand, if we adopt the single theory and apply the same test repeatedly to the same action we usually get similar results, but some divergent ones also appear (see the cases of divergent utilitarian assessments of the same case given as examples in the textbooks).
The Unavoidability of Ethical Pluralism

My answer is that if ethical decision-making procedures were to avoid ensuring a verdict’s uniqueness and thus the overall internal consistency of moral assessments. However, there is no algorithmic ethical test. It is acknowledged that ethical decision-making procedures are not conclusive, in the sense that any verdict is merely probable and therefore reversible. This is because during any test procedure a number of internal factors undermine the uniqueness of the verdict or, in the absence of two tests, may generate a spontaneous convergence of verdicts. Among these factors we may mention the probabilistic character of the consequences, the unavoidably subjective selection of the relevant effects, the equally subjective selection of the decision procedure from a class of methods of the same type (for example, there are several utilitarian procedures), the abs absence of Kant’s principles of application, the deliberate avoidance of testing rival moral frameworks or any of the systematic processes of import and social issues. These include, for instance, new laws with moral content, public policies, and new technologies with a global impact. The big question in both the integrity approach and my approach is: how can such a scheme be implemented and enforced? Before trying to answer this question, we must consider some additional reasons for suggesting that a kind of methodological pluralism is preferable in some cases, for example, ethical theories, the so-called “disagreement” that exists between moral philosophers concerning the profile of a genuine moral theory; this contrasts with the hope for a universal rational agreement nurtured by all supporters of what he calls the “dominant conception of morality” (Kantianism, utilitarianism, contractualism and their various combinations):

The “dominant conception of morality” is the view that the rules of morality are such as every rational agent would accept them. In this sense, ‘applied ethics’ is concerned with the application of these universal principles (for example, ethical principles and theories peculiar to particular social spheres, the usual expectation being that the disagreements between principles automatically mirror the disagreements between the principles in applied ethics assessments. (MacIntyre 2008, 50)

This irreducible pluralism of moral theories, views and methods has little chance of being eliminated. However, contrary to the view that plurality of methods inevitably entails plurality of verdicts, it has been proved that people with different ethical views may easily reach the same solution when they are put together to solve practical problem. MacIntyre gives as an example the story of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, which prove that the disagreement in principles (in the theories or ethical views adopted by members of the team), instead of generating a similar disagreement in their assessment of the case, was compatible with a practical agreement. The Belmont Commission is another good example of a pluralistic group of ethical decision-makers, including people with various ethical involvements who, instead of spending their time in an unending dispute around the best moral theory, rapidly arrived at a convergence of opinion and agreement in a common verdict. How can this happen? The answer is an algorithmic method.

MacIntyre sees three possible explanations for the commissioners’ straightforward agreement. The first is that adoption of conflicting or rival moral principles may, surprisingly and unexpectedly, lead to the same verdict in the field of applied ethics. There is nothing new in this statement, but the question is: how is such a thing possible? We could use this example to wonder whether the so-called gap between traditional and modern perspectives (the distinct explanations they give to moral phenomena) is as great as has been assumed, since their assessment outcomes are similar rather than conflicting. The second explanation is that the members of this assessment agreement did not actually apply their own principles (or theories, or ethical views); in fact, they judged the matter not following the principles they claimed to adopt, but in the light of particular cases, in which the facts were casuists without knowing it. This implicit use of the same method explains the convergence of results. Finally, the third explanation, to which MacIntyre
Convergence Induced: The Ethical Delphi

What I want to propose here is to be even more systematic and to develop a tool that is able to make opinions cohere. This can be based on the “Delphi method”. From this, an “ethical Delphi” was obtained by a group of specialists in the frame of a European research project on “ethics and biotech”, and which was designed to lead to a modification of this latter: a methodological ethical Delphi. In its original form, this test does not include any moral theory or ethical method for assessing, for example, a new biotechnology: using an ethnocentricized Delphi “it is not possible to directly deduce from the data analysis the ethical acceptability, or otherwise, of any proposed biotechnology” (Millar et al. 2006, 10).

This is not a method to discover in facts the supposed ethical difficulties raised by a new biotechnology, but one focused on a pluralist and expert assessment of the moral acceptability of an already formulated public policy concerning that biotechnology.

Now, suppose we succeeded in assessing such a policy, using several ethical tests and making the evaluators’ opinions converge using an ethical Delphi. How should we proceed to socially impose the new moral policy, starting from the belief that morality is a social product and that a moral rule is a device required by society to protect some of its most important values? Is social recognition and acceptance determined only by the rational criteria included in the ethical tests or should something more be added? My suggestion is that social recognition (homologation) of a new moral rule as a dominant one in comparison with other ethical methods – which remains the basic decision and last instance, a political decision – is not a method to discover in facts the supposed ethical acceptability of any moral theory or ethical method for assessing, for example, a new biotechnology.

The first of MacIntyre’s points is not an explanation of why the convergence occurs but a finding: we know that competing ethical principles are applied, and their application is not an entirely rational process. The explanations and the convergence are supplementary elements, I suggest, as parts of the pluralist test and not as a mere aid to be used occasionally.
the principles of equality, solidarity and responsibility; as well as some form of welfare, precautionary and vulnerability principles) (see UNESCO 2003, Preamble). The group worked in a typical principalist manner (see Article 1), the criterion of moral acceptability being “internal consistency” with the moral principles accepted and “external consistency” with other moral rules concerning human rights. It also pursued consistency to the international law, sometimes by broadening the meaning of confidentiality and consent, so that the regulation cannot be imposed unless the legislation of the country allows it (DHGD, 2003). The expert group proposed a number of general philosophical options concerning human nature, freedom and responsibility (as opposed to biological reductionism, for example), in the light of which the document was conceived. The first draft of the document was issued in November 2002 and it was sent to the IBC to be analysed. Overall, there were seven meetings of the expert group, but they did not have the last word in the social and political approval of the Declaration: this belonged to a political group, representing all stakeholders.

To ensure coverage of the positions of all parties in the document, the draft was submitted to a public debate. The public character of a moral regulation and the requirement for it to be accepted by society at large (not imposed in a paternalistic way) seemed to be a necessary condition for the decision-making process – a necessary condition of its morality. This reminds us of Kant. The document stresses that: “States should endeavour to involve society at large in the decision-making process concerning broad policies for the collection, processing, use and storage of human genetic data” (UNESCO 2003, Article 6). In this way, through the possibility of public advice and eventually to capture in the document the variety of interests, from the level of states to that of individual researchers or NGOs. The pluralism of this approach was also useful: this decision-making process, which may benefit from international experience, should ensure the free expression of various viewpoints” (Article 6). The steps of this exercise of democratic transparency were reflected in the final consultation through a questionnaire, plus a special meeting; a public hearing, in which a variety of organizations and individuals were free to express their views; and an assessment by the UNESCO Executive Board. During all these processes the “weight” of the document was established: it would be a “declaration”, so it had no legal force but only moral influence. Thereafter, the document was reviewed by a “Committee of Experts” of the Commission. Finally, after going through all these filters in the process of social approval, adoption by the UNESCO General Conference followed, on October 16, 2003. This was essentially a political decision; i.e. one acknowledging that – in addition to the ethical requirements – the new rule must “meet the needs and interests of the states”, which are not only moral but also “economic and commercial”, bio-medical and legal (UNESCO 2003, Preamble). The conference showed a “spirit of tolerance” and received unanimous approval by applause for the Declaration. Being a moral rule, this has to be sanctioned by the final draft (P1) of the public debate, in the case of disobedience. This motivational feelings must be “taught” – an objective that the Declaration provides for in Article 24, as a further task of all Member States.

A Model for Ethical Decision-making: A Scheme for Adopting a New Law or Public Policy

What is the general scheme of the process of ethical decision-making suggested by this example? Suppose, in principle, that we are confronting not a normal situation, but an “extraordinary” one; i.e. we want to introduce a new rule in a code of conduct (one disputed by others), or to resolve a moral dilemma which raises questions for the same group of specialists. This drafting group (GPDE), organized through a public debate, took the task of elaborating a new public policy on a controversial issue arising from several public concerns and complaints. The deployment diagram of the process of moral decision-making seems to be the following: there is a corporate or political decision-makers (GPDE), a group meant to represent the whole society (or the whole organization), which is able to give a final verdict. This group, composed of politicians or other public representatives, will inevitably judge by multiple criteria (including moral, economic, religious, political and strategic ones), as well as rational and irrational factors, and will accept or reject P2 together with the RM. It will also establish the weight of this new regulation (is it a law or only a political directive?), what kind of penalties are appropriate to impose on the project (PD). This drafting group (GPDE) will prepare the first draft (P1) of the public debate policy. This draft is then subjected to an extensive and lengthy process of public debate (PD). This is not just a democratic exercise but a necessary condition for the moral acceptability of the project, which has to meet two requirements: i) the requirement of publicity (the new moral regulation has to be self-imposed by the various objections, not imposed by others), ii) the requirement of autonomy (the new moral regulation has to be self-imposed by the various objections, not imposed by others) (see UNESCO 2003). But GPDE is not a provider of final moral verdicts. Its activity aims at applying moral tests to a given case. Its main objectives are to identify the divergence and convergence of several expert moral assessments and to identify the roots of their disunity; to provide a professional basis for the final ethical decision, which is a “political” one; to provide a map of the moral problem; to provide a map of the moral problem under discussion for the use of political leaders and politicians who will take the final decision; and in general to encourage systematic and professional ethical thinking in the moral assessment of the main practical issues.

It may be objected that the presence of GDP suggests that whether a rule is moral or not depends on its approval or rejection by society and not by an objective ethical test. Or that the moral rule is a particular public policy, designed to address the specific case of a political group, and not only from technical ethical reasons such as “maximization of utility” or “respect for human dignity”, and similar. One may ask what Richard Hare (1993) does when he applies the “moral test” method and similar. One may ask whether the Hare’s rule of moral test method is appropriate in the present cases: does he establish the moral character of the case? In fact, he only simulates a part of the process of moral assessment, conceived as a social phenomenon.

We must consider whether this scheme contains a mix of ethical and non-ethical procedures, the latter risking an alteration of the moral substance of the project. Despite appearance, the first part of the scheme (the considered non-ethical) has an obvious connection with ethics: identifying and formulating a moral problem, establishing the conditions of public and autonomy in the question of its ethical test. Both these conditions are dependent on the previously adopted moral rules. What follows is also an ethical step: the application of typical ethical tests (GPDE) and the writing of a moral report (RM) which gives a final verdict on the moral character of a new rule or policy. Finally, at the level of GDP a new evaluation occurs; this uses both ethical and non-ethical criteria, but the presence of the non-ethical criteria does not affect the moral nature of P2. This means that GDP should not be seen as a group involved in ethical assessment, but as one meant to socially approve and impose a new moral rule, guided by moral and non-moral criteria. The requirement of publicity is applied to the final moral rule made by the GPDE (whether the new moral rule or policy or not of its moral assessment) is that it is always done on non-moral criteria too. It may also be objected that the procedure is too
complicated. In fact, it is no more complicated than the procedure used for the adoption of any important juridical law. And I believe that the ethical decision-making procedures have to be detached from their traditional handbook simplicity if we believe in their social utility. In current circumstances, when the usefulness of applied ethics is often denied, it seems to me essential to enhance its credibility by a mature development of its procedures, such as that described above.

The Pluralist Ethical Decision-making Group

The procedure of methodological pluralism that I am proposing here requires us to recognize all the tests derived from the great theories and all the decision-making frameworks independent of theories, and to give them an equal chance in the evaluation process; i.e. to use all of them inside a pluralistic ethical decision-making group (GPDE). This group should be composed of experts who know the investigated field well and who are also able to handle a moral decision method or know how to apply a general ethical doctrine or moral gestalt (such as the Christian one). An important step in such a process is the setting up of a panel of experts which knows the facts and is able to apply one of the following ethical decision-making methods:

• Here’s utilitarian method (or other utilitarian procedures);
• the principle method;
• the ethical matrix;
• moral casuistry;
• Christian ethics;
• other ethical decision-making methods (such as the Kantian method, the ethics of care, virtue ethics, and so on).

How could we systematically coordinate such a heterogeneous decision-making group, characterized by divergent ethical views? Some would probably say that this process takes place spontaneously, as in the case of the Belmont Commission shows. But none of its members is left to his or her own devices, and therefore it is preferable to control the process. We can do this, I suggest, by making the assessment team work under the procedure called the methodological ethical Delphi – a method that helps the group members to reduce the dispersion of their assessments and ultimately to propose a final (provisional) solution. As we have seen, the ethical Delphi is an “iterative participatory process between experts that views and comments on ethical issues. The method is structured around the notion of a virtual committee where the exchange of ideas is conducted remotely through a series of opinion exchanges” (Miliar et al. 2006, 5). What this method can provide is a “map” of the experts’ opinions on the ethical acceptability of a new policy but it cannot provide definitive judgments. More specifically, it helps to identify areas of consensus and diversity from the experts’ points of view, to encourage ethical reflection and provide a rational basis for making ethical decisions. Practically, the GPDE could be structured by this principle basis, by funneling the process which becomes functional on demand. It has to have a monitor or coordinator (M) with experience and moral insight. M’s task is to coordinate the activities of the panel, allowing the group to reach a consensus; it is a final result from outside, but self-imposed (pace Kant). To be self-imposed it must be known and publicly discussed. Public debate is an early step in the decision-making process. This can be carried out through press releases, manuals, consensus conferences, and similar. The democratic accreditation of the new rule is not a political facade, but a necessary condition of its morality. Moral rules are public rules and a necessary condition of the existence of an ethical code is to be public. Therefore, to complete an ethical decision-making process we need to set up a second group, often consisting of not experts but of politicians, responsible for the public opinion and the publicity of the panel (the statistical trend of opinions in the panel), on other moral considerations, on M’s own moral wisdom and power of persuasion, and also on the phatic supplement in evaluating their obvious. It explains why the members of the group can reach a common result although they remain supporters of their initial divergent moral beliefs and principles.

The various methods of ethical decision-making mentioned above provide a strictly moral evaluation of the new rule or policy, regarded from various moral perspectives. None of them is conclusive. To reach a consensus does not mean reaching the correct result. The ethical Delphi, which is meant to generate convergence of opinions in conjunction with the set of ethical tests, only helps us to find areas of clearer structural of the more serious problem under discussion and to offer the political team a solid basis for decision-making. It identifies those topics that the group of experts considers important for the moral decision and various priorities and may support the policy-makers by enhancing their moral creativity and capacity for ethical decision-making when faced with complex moral issues in situations of incomplete or disputed information. This evaluation process of undertaking the same act using several methods produces a strictly ethical verdict signed by the monitor; this moral decision is finalized in a report submitted to S. This report is most often decisive for any case that the group of experts considers important for the moral decision – and therefore it is preferable to control the process, even if the technical ethical verdict is negative. For example, it is known that prostitution is rejected by Kant, therefore, the decision is negative; nonetheless, prostitution is legally permitted in many countries (for economic, medical or political reasons, for example, rather than moral ones). By invoking distinct regulatory criteria on a moral basis, the process may arrive at a result that is the opposite of that given by a purely ethical test.

Moreover, a moral rule is a rule imposed by society (politicians) by agreement; however, it is not imposed from outside, but self-imposed (pace Kant). To be self-imposed it must be known and publicly discussed. Public debate is an early step in the decision-making process. This can be carried out through press releases, manuals, consensus conferences, and similar. The democratic accreditation of the new rule is not a political facade, but a necessary condition of its morality. Moral rules are public rules and a necessary condition of the existence of an ethical code is to be public. Therefore, to complete an ethical decision-making process we need to set up a second group, often consisting of not experts but of politicians, responsible for the public opinion and the publicity of the panel (the statistical trend of opinions in the panel), on other moral considerations, on M’s own moral wisdom and power of persuasion, and also on the phatic supplement in evaluating their obvious. It explains why the members of the group can reach a common result although they remain supporters of their initial divergent moral beliefs and principles.

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a new scientific research or technology be assessed with the long-term potential consequences in view, even where uncertainty in the light of current science (the “precautionary principle”).

Moreover, to have a moral character the process of adopting a new policy ought to be autonomous: that is, it should not come from outside (from “rulers” or the staff of a company), but from inside (from the will of all the members of a country or organization). A code of ethics is morally imposed not by a paternalistic procedure but by one which is assumed freely and autonomously (L’Etang 1992). This reminds us again of Kant: the typical moral model is the internal sanction. Which brings us to another important point: an ethical code should be public. Moral evaluation issues should be moved from the narrow circle of experts to the public arena: they must be debated in a transparent manner with those affected by them. In a successful democracy the citizens’ attitudes should be known by the rulers and the rulers’ intentions known by those governed (the principle of transparency or publicity). This process may be left in the hands of hazard or it may be managed rationally.

Regarding the moral assessment of actions, policies and similar, the most objective human point of view is that of a certain moral theory or method, but the combined points of view of several theories or methods used for the benefit – and with the democratic participation – of a large number of people.

Concluding Remarks

The issues approached in this article do not belong to ethics in a narrow sense, nor to the practice of public policy among a group with divergent views on topics that have an ethical dimension but are not at hand. The type of research that is intended to show how ethics could be introduced in the practice of public policy among a group with divergent moral views: they belong to applied ethics. Arguably, not to applied ethics, the process of research is the academic sense, but to what is now the new applied ethics as it is practised in specialized centres offering services to the non-academic public. Part of this new applied ethics – to which the main topic of my article belongs – is “ethics management” among those organizations that make policies at the global, regional or national levels. It tries to introduce ethics there where they are most lacking. Currently, public policies at these high levels usually lack a genuine moral dimension; in many cases it is only claimed, at best: consider how laws are adopted in parliament. Moreover, we live not only in a world with precarious means of enforcing morality, but also with a plurality of systems of moral values, where several ethical theories and meta-theories are cultivated simultaneously by various groups of moral philosophers:

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The world where several methods of ethical decision-making, several ethical tools and a variety of ethical frameworks are used at the same time. This article tries to offer an answer to the question: how can we manage this diversity? My answer is: a virtual ethical pluralist Delphi group inserted in a larger decision-making structure focused on cultivating the moral dimension of a new law or public policy.

I have stressed those moments in the decision-making process where various known ethical principles manifest themselves, such as the principle of publicity, autonomous adoption of a new policy, normative consistency and democratic participation. The kernel of the process is the GPDE. The moral content of a public policy or law should be carefully identified and treated as it deserves during the decision-making process. Finally, I propose that we should think more attentively, contrary to an academic practice which isolates the “ethical tests” in their theoretical technicality, that in the last instance, a real moral decision is a question of social agreement, and in some cases a political decision. Morality is a social institution, not a private choice.

As for the GPDE, I see it as an expert group functioning on not following “theoretical” background: imagine the members of the group using not simplistic ethical tests (such as the calculation of consequences, the causistic comparison of a new case with the basic model, the Kuhnian paradigm, or similar), as if they are grounded on ethical theories; instead, they use as a test a kind of Kuhnian paradigm, including several devices (including theories, fragments of theories, principles at different levels, the usual tests, paradigmatic examples, relevant analogies, ethical explanations which are not theories, and their own phronesis formed by using a given at hodos) that could be used when and where needed. In short, they use a moral paradigm, which gives them a kind of gestalt for judging all concrete cases. Instead of the utilitarian test we shall have the utilitarian paradigm. In fact, this is the way we function as moral evaluators. If we are Kantians, we see the moral world in Kantian colours. The theologian in the group will, for example, firmly claim the immorality of abortion (which is obvious in his gestalt), while the utilitarian may support the morality of abortion (which is also obvious in his gestalt), and a doctor with religious sensitivity will adhere to the views of the theologian, and so on. The question is: how can we make compatible these various assessments in order to obtain a coherent single verdict? Of course, the coherentist procedure of rational critique and rational compromise will be one of the mechanisms to obtain a “reflective equilibrium”, but it is hard to believe that we could force members of the group to make their views compatible only by rational argument. We cannot reach an “overlapping consensus” if the members of the group are not determined to adhere, at least in part, to the views of the others. This supposes a “change of paradigm”, a gestalt switch, which is difficult and essentially irrational process, the result of an intense and common activity of convincing partners by using both rational and irrational (persuasive) means. The moral discourse is used in this case, at least partly, as an instrument of persuasion, (in the emotivist meta-ethical tradition). And the result may be the adoption of one of the paradigms, or of a partly modified one. This could explain why a text as that of the Oviedo Convention on cloning was finally written in a Kantian style and not in another. In this approach, an ethical decision such as the setting up of a new moral rule is not a completely rational process. The result of this negotiation will be a verdict which is never final.

Of course, not all ethical decision-making tools are like those proposed in this article. This is a large scale one and, generally, ethical tools are relative to the context. Members of the community of applied ethicists are called to elaborate such instruments in accordance with various organizational and individual contexts, all of which fall under the form of a hierarchy of procedures. The individual methods of ethical decision-making may serve, for instance, the institutional formation of an ethical mind among all the employees.

To conclude, imagine at one extreme the moral philosopher with her ethical and meta-ethical complex problems, without a great interest in application; then a philosopher with her ethical and meta-ethical complex problems, without a great interest in application; then a middle ground populated by applied ethicists of various kinds (among them managers of ethics, makers of methods, builders of ethical codes, specialists in ethical training and the formation of ethical thought); and at the other extreme the interested users of these new products originating in ethics – the managers and personnel of various organizations and the public at large who participate in specific ways in the contemporary game of applied ethics. The professional applied ethicist has the issues and try to help. Using what? Not the Nicomachean Ethics or the articles of Prichard on intuitionism, but an appropriate “ethical toolbox”.

This article was intended as another tool in this ethical toolbox.

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