THE USE OF THE "ETHICAL TRIANGLE" IN MILITARY ETHICAL DECISION MAKING

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ABSTRACT

The United States Army's current doctrinal ethical decision making model is unsuited for current military operations and provides little basis for ethical challenges in military operations today. This paper describes the current doctrinal ethical decision making model and proposes a pragmatic model that integrates three approaches to ethics: principles based ethics, consequences based ethics, and virtues based ethics.

BACKGROUND

In May 1968 soldiers of Charlie Company, 11th Infantry Brigade of the Americal Division entered the village of My Lai in Vietnam and within three hours over 500 civilians had been massacred. This horrible memory of the United States Army at war was again remembered in 2004 as the case of the Abu Ghraib prison in Iraq exposed atrocities that continue to be an embarrassment for the military. The war in Iraq has also had a number of high profile cases that relate to ethical behavior, such as the court-martial for six reservists who had "scrounged" vehicles to deliver supplies to troops in the field and the scene of a marine reacting to a perceived threat and subsequently killing an unarmed Iraqi prisoner in a mosque in Fallujah.

Public Administration and Management
Volume Eleven, Number 1, pp. 22-43
2006

In all of these cases, the public has had widely different opinions of how to treat the military involved in the incidents. For Lieutenant Calley and those involved in My Lai, many in the public viewed the actions of Charlie Company as understandable because of the nature of the war in 1968 – everyone seemed to be the enemy, and the "search and destroy" missions of that time were based upon intelligence that indicated the enemy was using hamlets such as My Lai for refuge. As a result, the punishment for all of those involved in My Lai was very light or nonexistent; Lieutenant Calley was the only one convicted but he only served three days in prison and was pardoned by President Nixon after serving three and a half years on "house arrest" (Appy 2004). For the recent cases in Iraq, the reaction has been mixed in the public, from widespread support for the marine in Fallujah and the reservists who "scrounged" vehicles, to disgust at the Abu Ghraib cases and calls for the courts-martial to go higher up the chain of command. Of course, these cases are still on-going, so the final results are still to be determined.

These highly publicized cases admittedly involve only a small portion of the military involved in combat, but they are also widely discussed not only in the press but also in the military. The reactions to these cases indicate a need for a closer look at the ethical decision making processes of the military.

THE ARMY'S CURRENT ETHICAL DECISION MAKING MODEL

The United States Army prides itself on being a "value–based" institution with the admonition in its doctrine to "do what's right." In the Army's leadership manual, it states that "your character helps you know what is right; more than that, it links that knowledge to action.

Character gives you the courage to do what is right regardless of the circumstances or the consequences" (Department of the Army 1999, 1-6). The leadership manual continues with the list of "values" that define character for soldiers using the acronym LDRSHIP: loyalty, duty, respect, selfless service, honor, integrity, and personal courage. Although I agree that all soldiers should possess these traits, I prefer to think of these as virtues rather than values. None of these virtues is more important than the others; all soldiers are expected to embody all of these traits as part of their character. Values, however, indicate a relative worth or importance – and I would find it hard to characterize one of the Army "values" as worth more than the others. All are virtues that are part of character.

The Army's leadership manual describes the process of how to "link knowledge to action" in a description of an Ethical Decision Making Model, or EDMM. This rather simplistic model includes the following four steps (Department of the Army 1999, 4-8):

Define the problem
Know the relevant rules
Develop and evaluate courses of action
Choose the course of action that best represents Army values

The first step, defining the problem, is described as the "hardest step in solving any problem" (Department of the Army 1999, 4-9). How to define the problem is not described, other than defining the problem precisely and getting the details. In the section on problem solving in the manual there is some additional guidance for identifying the problem, including addressing the root cause of the problem, knowing that there may be more than one thing

contributing to a problem, and identifying the end state – how you want things to look after a decision is made. There is, however, a caveat in another section of the manual about defining problems of character and ethics in terms of conflicts between Army values (Department of the Army 1999, 2-23):

Some people try to set different Army values against one another, saying that a problem is about loyalty versus honesty or duty versus respect. Leadership is more complicated than that; the world isn't always black and white. If it were, leadership would be easy and anybody could do it. However, in the vast majority of cases, Army values are perfectly compatible; in fact, they reinforce each other.

The first step in the Army's Ethical Decision Making Model, therefore, already has ambiguity for those in an ethical dilemma. An ethical dilemma, by its very nature, places the moral decision maker in a situation with competing virtues or values; in a true ethical dilemma, two or more of the possible solutions have merit and ethical support. If an actor is placed in a situation where there is only one ethical answer, it isn't a dilemma – it's a case of having the moral courage to do what is obvious. The fact is that the values themselves can sometimes come into conflict with each other – a situation that is the basis of ethical dilemmas. Such dilemmas never involve a choice between "right" versus "wrong," but rather a choice between two apparent "rights." Hence dilemmas essentially consist of competing values that we consider important, but which we cannot simultaneously honor (Roetzel 2003).

To bring clarity to an ethical dilemma, it is useful to define the problem – the ethical dilemma – in terms of a "right versus right" conflict. There are four common "right

versus right" dilemmas that can be used to define the problem – truth versus loyalty, individual versus community, short term versus long term, and justice versus mercy (Kidder 1995). Defining ethical dilemmas in these terms is difficult at first, but this process helps to define the problem and set up the testing of the problem against ethical standards. To define a problem in terms of "right versus wrong" either defines a problem that isn't an ethical dilemma – or, worse yet, pre-defines the solution to the problem since one virtue or value is stated in a positive way while the other virtue or value is stated in a negative way.

Four Common "Right versus Right" Ethical Dilemmas

Truth versus Loyalty
Individual versus Community
Short term versus Long term
Justice versus Mercy

Figure 1. Common Ethical Dilemmas

Steps two through four in the Army's Ethical Decision Making Model also add ambiguity to the situation. "Knowing the rules" is an important step, but it should not precede identification of the possible courses of action that can be chosen in an ethical dilemma. Based upon a quick analysis of an ethical dilemma, there will normally be two obvious courses of action; to do something or to not do something. Keeping these two options in mind – while being open to a possible, unthought-of alternative "third choices" (such as „win-win" possibilities or no decision at all), should help set the stage for testing the actions that appear to be obvious.

THREE ALTERNATIVE BASES FOR ETHICS

Once an actor has defined the problem in terms of "right versus right" and identified the obvious courses of action, these courses of action should be tested against three completely different criteria for ethical decision making. They are: principles or the rules-based approach; consequences or the utilitarian approach; and virtues. These are the three basic schools of thought for ethics, which are worthy of further study for clarification.

The Ethical Triangle: Which of the ethical philosophies are the most useful – principles or rule-based ethics, consequences or the utilitarian-based ethics, or virtues-based ethics? Which one of the philosophies is the best fit for human behavior? All three appear to have some merit; all three can be used for decision-making as "distinct filters that reveal different aspects of a situation requiring an ethical choice" (Svara 1995, 38-39). To only consider one of the different theoretical bases runs the risk of being one-sided in analysis. Whether principles, consequences, or virtue provide the true reasons for ethical decision-making, all three of the theories and their lineage are useful for gaining insight into the complexity of ethical decision-making.

Principles-based ethics: Principles, or rule-based ethics, has one primary philosopher that rises as the strongest voice – Immanuel Kant. Principle-based ethics is defined in many ways, but one general definition is that one should not act according to the consequences of an action, but instead according to agreed-upon or settled values and principles (Svara 1995, 35-36). Kant ([1785] 1959, 17) states that "the moral worth of an action does not lie in the effect in which is expected from it or in any principle of action which has to borrow its motive from this expected

effect." From this emphasis on moral worth – regardless of the consequences of actions – Kant derives one categorical imperative: "Act as if the maxim of your action was to become a universal law of nature." Morality is found in following rules that are absolute with no exceptions, come what may – and by following this imperative, society and individuals will be better off (Rachels 1999, 122). Man knows, in Kant's view, what is right and moral and merely has to choose to do what is right – just as he would have others do in the same situation.

Thomas Hobbes' social contract theory did not go as far as Kant in his philosophy of following rules without exception, but is generally accepted as a principles or rules-based approach. Hobbes' view was that people have a common knowledge of natural laws – of the principles that all should understand. His writings described the theory that there is a "natural law" in which man's nature is determined by the sum of all his experiences and abilities – yet as a result of these experiences there is a common understanding of what is right and wrong. Hobbes ([1651] 1958, 109) defines natural law, or a law of nature, as "a precept or general rule, found out by reason, by which a man is forbidden to do what is destructive of his life or takes away of preserving the same…" Because of this common understanding, written laws and agreements in society should be based upon a rational self-interest to benefit all for a peaceful society. Knowing these common laws, coupled with mutual trust in others, provides an incentive for all to cooperate in a consistent, principled manner.

When looking at ethical dilemmas through the "lens" of principles, or rule-based ethics, consideration must be made for the rules that exist – or should exist. The consequences of actions are not considered – but the

principles related to the actions one makes in response to the ethical dilemma. Kant's categorical imperative, "Act as if the maxim of your action was to become a universal law of nature," should help to focus the decisions made using this approach. The key questions to ask when considering the principles or rules-based approach would be "what rules exist" and "what are my moral obligations?"

Consequence-based ethics: The second general basis for ethics is consequence-based ethics, or utilitarianism, which is closely aligned with the philosopher John Stuart Mill. Ethical decisions determined under this basis are made on the likely consequences or results of the actions. "Decisions are judged by their consequences depending on the results to be maximized – security, happiness, pleasure, dignity, and the like" (Frederickson 1997, 167-168) The utility of an action, or how that action produces happiness, is "the ultimate appeal on all ethical questions" that is "grounded on the permanent interests of man" according to Mill ([1859] 1978, 10).

Both Georg W.F. Hegel and David Hume are considered utilitarians. Hume is considered to be an ethical subjectivist, which holds that right and wrong are relative to the attitudes of each individual – morality is a matter of sentiment rather than fact (Rachels 1999, 39). Hegel ([1821] 1996, 113) emphasized the consequences of actions as a part of the actions themselves. He stated the principle "judge an act by its consequences, and make them the standard of what is right and good," which, according to Hegel ([1821] 1996, 127), provides the basis for law.

... by the theft of a bread a property is no doubt injured. Still, if the act was the means of prolonging life, it would be wrong to consider it as ordinary theft. If the man whose life is in danger were not allowed to preserve himself, he

would be without rights; and since his life is refused him, his whole freedom is denied to him also… Hence only the need of the immediate present can justify a wrong act. Yet the act is justified, because the agent, abstaining from it, would commit the highest wrong, namely, the total negation of his realized freedom.

Friedrich Nietzsche may also be considered a utilitarian, but a flawed utilitarian – a hedonistic, selfish utilitarian. Nietzsche provides perhaps the most disturbing theory of ethics – not only because of its implications for society, but because of its apparent appeal to many. Nietzsche did not believe that there is a universal definition of a "good man," but instead each man should be different with different traits (Rachels 1999, 185). Nietzsche (1956, 160) defines "good" not in terms of a person"s relationship with others, but rather in terms of the person"s relationship to himself. He writes that ethical philosophers look for good in the wrong place: "the judgment „good" does not originate with those to whom the good has been done. Rather it was the „good" themselves, that is to say the noble, mighty, highly placed, and high-minded who decreed themselves and their actions to be good… "

When looking at ethical dilemmas through the "lens" of consequence-based ethics, or utilitarianism, consideration must be made for who wins and who loses – the consequences of actions are the prime considerations. John Stuart Mill should help to focus the decisions made using this approach: "Do what produces the greatest good for the greatest number." Key questions to ask when considering the consequence-based ethics or utilitarianism would be "what gives the biggest bang for the buck" and "who wins and loses?"

Virtue-based ethics: Plato and Aristotle provided the first ethics theory – virtue, or in today's political language, "character matters." The focus in virtue ethics is not on "what one should do" but rather "what kind of person should one be?" Good character, or virtues, is central to virtue theory (Ellin 1995, 185). According to Plato (1941, 199), men must be given the right instruction on what is good: "… given the right instruction, it must grow to the full flower of excellence; but if a plant is sown and reared in the wrong soil, it will develop every contrary defect." Morality and virtue are skills learned from others – not theoretical knowledge, but knowledge put into practice (Ellin 1995, 10-12).

Aristotle emphasized virtue as desirable for society so that all may become good citizens and law-abiding people. This human goodness is not goodness of body, but of the soul. Aristotle describes virtues in two categories: intellectual and moral. For example, Wisdom and Understanding are considered intellectual virtues, while Liberality and Temperance are moral virtues. All of these virtues are gained through knowledge and application of the virtues – by exercising and actually doing virtuous acts (Aristotle 1976, 90).

Virtue-based ethics differs from principles-based and consequence-based ethics in several basic ways. First, virtue based ethics is based upon learning from others rather than by the individual coming to the realization of what is ethical; this process is learned from others. Second, in applying principles-based and consequence-based ethics, there is a right answer and a wrong answer. For example, in Kantian principles-based ethics, your actions are guided by what is or should be the law for everyone; in consequence-based ethics, your actions are

guided by what gives the greatest benefit to the greatest number.

In virtue-based ethics, it's not that easy – there is a middle ground known as the *golden mean*. Virtues, by their very nature, have to be applied in a judicious manner. For example, it is necessary to have confidence, but one can have an excess of confidence (rashness) or a defect of confidence (cowardice); the *golden mean* of confidence is courage. One can have an excess of shame (bashfulness), a defect of shame (shamelessness), and a *golden mean* of modesty (Thiroux 1998, 70). Learning how to have the *golden mean* of a particular attribute is a lifetime endeavor, learned from others and experience.

When looking at ethical dilemmas through the "lens" of virtue-based ethics, consideration must be made for what a virtuous person would do. The Golden Rule can be used to focus the decisions made using this approach: "Do to others what you would have them do to you." Key questions to ask when considering virtues-based ethics would be "what would my mom think?" or "what if my actions showed up on the front page of the newspaper?" For some, the question could be the popular question among some Christians of "what would Jesus do?"

AN ALTERNATIVE ETHICAL DECISION MAKING MODEL

An alternative model to the Army's ethical decision making model would include the following steps:

Define the problem (ethical dilemma) in terms of right vs. right
Consider alternative courses of action
Test the courses of action against the "ethical triangle"

1. Principles-based ethics
2. Consequences-based ethics
3. Virtue-based ethics

Consider additional alternative courses of action (such as „win-win" possibilities or no decision at all)

Choose the course of action that best represents Army values

Implement the course of action

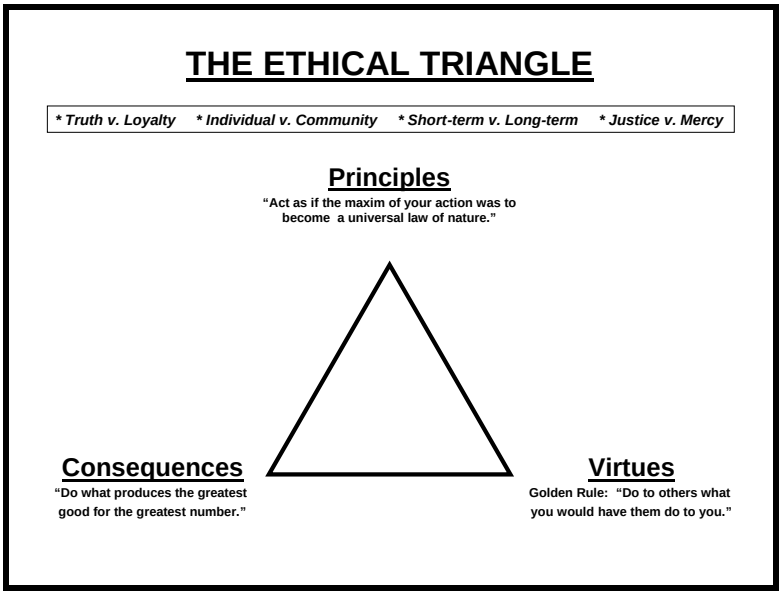

Figure 2. The "Ethical Triangle" EDMM

The first step is to identify the problem, the ethical dilemma, in terms of right versus right. Again, this is necessary to provide clarity to the dilemma while ensuring that a predetermined decision is not made. The four dilemmas listed cover just about every ethical dilemma – and some ethical situations may include one or more of the dilemmas. Stating the problem in this format will help to test the actions that should be taken.

The second step, as mentioned earlier, is to determine the possible actions. There will probably be two obvious responses – to do or not do some action. Of course, this is not the dilemma – these courses of actions are responses to the dilemma. It is important during this step to realize and even hope for a possible alternative third response to the dilemma.

The third step is to examine the two alternative courses of action through the lens of the three ethical systems. The most methodical means to do that is to first look through principles-based ethics, then consequences-based ethics, and finally through virtues-based ethics. Generally, the principles will be relatively easy, while the consequences will not be as easy – particularly when you look at all of the potential second- and third-order effects of actions. Because virtues-based ethics uses discretion to determine the "golden mean," it can serve as the integrating approach to ethics.

The fourth step is to step back and see if a "third" response, or an alternative course of action has presented itself (such as „win-win" possibilities or no decision at all). Going through the process may indicate that there is another answer rather than the two courses of action initially determined. This will not always be true, but it's best to step back and see if there is another alternative.

The fifth step is that a choice has to be made. That choice should be made based upon an analysis using all three of the ethical systems – but, in the end, the choice is also made in the context of the organizational climate and culture, as well as the professional values of the organization.

The final step is implementation. This is where the rubber meets the road; by this time, the choice should be well thought out. The judgments that military leaders at all ranks make on a daily basis – especially in combat – imply a necessary level of discretion in determining the "right thing to do" in ethical decision making (Wilson 1887). Military leaders are more than implementers of policy, but are also charged with "support for the realization of democratic principles" and commitment to obeying the law (Svara 1999). This is particularly true when decisions need to be made quickly and involve lives – and when there is no "top cover" guaranteed for the decisions made. Due to the nature of warfare today, the high level of discretion for ethical choices will be made by leaders at all levels (officers and non-commissioned officers) of military leadership. Putting ethical decisions into action requires moral character.

Heinz and the Druggist: Let me provide an example to work through the ethical decision making model. This scenario is a common scenario that is used in many tests for moral development (Kohlberg 1963, 19):

A woman was near death from a unique kind of cancer. There is a drug that might save her. The drug costs $4,000 per dosage. The sick woman's husband, Heinz, went to everyone he knew to borrow the money and tried every legal means, but he could only get together about $2,000. He asked the doctor scientist who discovered the drug for a discount or let him pay later. But the doctor scientist refused.

Should Heinz break into the laboratory to steal the drug for his wife?

The first step in the "Ethical Triangle EDMM" is to identify the problem, the ethical dilemma, in terms of right versus right. One possible answer would be the issue of individual versus community. Heinz has an obligation to do what he can for his wife (individual), but he also has an obligation to uphold community laws. Another possible answer would be long term versus short term. Heinz wants to save his wife as a short term immediate answer, but he should also be concerned that the price of the drug doesn't go up (because of theft) so that others will be saved in the long term.

For the second step, Heinz has tried a number of possible courses of action, such as trying to borrow the money and asking for discounts. He has only two obvious answers at this point – break into the laboratory or not break into the laboratory and watch his wife die. At this point, he does not see any other alternatives.

The third step is to test his courses of action against the different "lens" of the ethical triangle. He follows these in order: principles-based ethics, consequences-based ethics, and virtues-based ethics.

The principles-based answer is relatively easy. The law says that he should not break in; and even if the law didn't say that, he would have a moral obligation to respect the property of the scientist. He would expect others to respect his right to property as well. He has an obligation to do what he can for his wife, but he considers the fact that as a moral actor, he isn't the one killing his wife, nor is it the druggist – it's the cancer. If he broke into the laboratory, he would be the actor. From a principles-based response, he concludes the answer is to not break into the laboratory.

The consequences-based response is much more difficult. Heinz has a lot of unknowns in this area. First of all, he doesn't know if the drug will cure his wife; he only knows that it "might" save her. He also doesn't know if he'll be caught or not; if he is caught, he doesn't know if the jury would give him mercy because of his motivation, or if they would "throw the book" at him. After he thinks about it a bit, he realizes that even if he's not caught, he would be the prime suspect, especially if his wife is cured "miraculously." The police would know that he was the one who stole the drug… He doesn't know if the price of the drug would go up for others with similar cancers, nor does he know how many lives that would actually mean. The more Heinz thinks about it, the greater the number of potential consequences he has to consider. Heinz loves his wife dearly, though, so he concludes that her life is worth saving in spite of the consequences.

Finally, Heinz looks at the virtues based approach. Being a regular church-goer, he asks himself the question "what would Jesus do?" Heinz rejects that quickly – Jesus might possibly heal his wife on the spot and wouldn't bother with a drug, he muses to himself. He also realizes that in this case he cannot answer this question firmly without lots of speculation. What would his father do in the same situation? He respected his father, and his father always seemed to do the right thing. It would be tough telling his father that he broke into a laboratory, but perhaps his father would understand. If Heinz was caught, how would he feel if his picture was on the front page of the paper? What would other people he respects do in these circumstances?

Heinz doesn't have a magic answer that comes to him – but regardless of the answer he comes up with, he has thought it through. He understands the rules, has

weighed the consequences, and has considered what a virtuous person would do in these circumstances.

Major Smith and the Car Bomb: Let me provide another example to work through the ethical decision making model. This scenario is a fictional example but one that resonates closely to the reality for military leaders because of the context of the time dimension in a combat situation and the potential consequences of the ethical choice to be chosen:

You are Major Smith, the new Operations Officer for the 1st Infantry Brigade, just having joined the unit in the last week. Things have not been going well for the Brigade in the last month, with a number of soldiers having been killed – including your predecessor, a good friend – by Improvised Explosive Devices (IEDs) set by local insurgents. The Brigade is deployed throughout a major city, patrolling the streets. As the senior man on duty, you get a call from one of the company commanders, who reports he just caught an insurgent leader; the company commander says the insurgent leader is bragging that a car bomb has been set to go off in the next 30 minutes and said "there's nothing you can do about it." The company commander says he is prepared to do some „serious persuasion" to find out where the bomb is. "All of the interrogators are gone, and I know the new directives say they have to do all interrogations by the book – but time is running out. I know how to make a man squeal, so I can get the information. These attacks have to come to an end. Request guidance, sir."

What should Major Smith do?

Major Smith has as a truth-versus-loyalty dilemma. The truth is that the new directives are very specific about

the conduct of interrogations, and he has an obligation to follow those rules – rules that were established for good reasons. But he also has an obligation of loyalty to the soldiers in his command who are at risk right now, as well as the civilians in the city who are also at risk. If he gets the information about the location of the bomb in the next ten minutes, he can probably avert a disaster; if he waits to do things the right way, more people will die. He can either tell the company commander to stop or he can tell the company commander to do what it takes.

From a principles-based approach, the answer is easy. The rules state that only interrogators can do the interrogation, and it's obvious that if the company commander does an interrogation he's not going to use legal means. From a consequences-based approach, it is complicated. The best thing that could happen if the interrogation is authorized is that one insurgent gets hurt and a lot of lives are saved; but, that's only if the information is correct and the timing is right to get everyone out of the area of the bomb. Careers could be in jeopardy based on the interrogation and the conscious decision to violate the rules; Major Smith has an aversion to the term "careerism" but he would still like to see the next promotion – and he certainly doesn't want to be testifying before Congress in the near future. A report of torture of the insurgent could hit the press within the hour and only play in the hands of the insurgents who want to embarrass the United States military. From a pure consequences-based approach, he feels that he should authorize the interrogation; the math says one tortured insurgent versus the lives of many, although he realizes that it a short-term approach to the problem. From a virtues-based approach, he's heard commanders and senior officers in the past take both approaches – the approach always upholding the "rule of law" and honor, while others have

taken the road of "soldiers first, mission always." The conflict goes even further: his dad would probably understand if they did what it took, but his mother would be horrified at the prospect of her son taking actions tantamount to authorizing torture. Either way, at least some of the results of his actions right now will probably be in the paper tomorrow. What headline will it be?

CONCLUSION

Following the "ethical triangle" ethical decision making model is not an automatic process; it requires understanding and practice before it is mastered. Nonetheless, it is designed to provide a methodology for coming to an answer to an ethical dilemma that is well-thought out and supportable. The "ethical triangle" ethical decision making model does provide a better model than the simplistic Army model that merely states that the decision should be made based on the course of action that "best represents Army values." Applying the model to a variety of ethical dilemmas and testing the model against those dilemmas (such as My Lai and Abu Ghraib) helps to master the necessary "ethical fitness" for application in the real world.

Every time you make a serious moral judgment, you become that judgment; every time you issue a command, you not only tell your subordinates what to do but what to be. That is why, in the horrible circumstances in which you or your soldiers might find yourselves in the months ahead in a world seemingly gone morally mad, I trust in you because of the moral compass which is yours from your education, your experience, your expertise. You do on the basis of your information; you are on the basis of your formation. Ethics, in the final analysis, is caught, not taught (Toner 2002, 334).

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